

1                   **STATE MONEY MANAGEMENT ACT AMENDMENTS**

2                                   2018 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Jefferson Moss**

5                                   Senate Sponsor: Daniel Hemmert

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies the Utah Labor Code and the State Money Management Act by  
10   amending provisions relating to the state treasurer's investment of certain public funds.

11 **Highlighted Provisions:**

12       This bill:

- 13       ▶ enacts requirements for the state treasurer for investing the assets of the:
  - 14           • Employers' Reinsurance Fund; and
  - 15           • Uninsured Employers' Fund;
- 16       ▶ exempts funds of the Employers' Reinsurance Fund and the Uninsured Employers'  
17   Fund from the requirements of the State Money Management Act;
- 18       ▶ provides that the state treasurer is exempt from the requirement to conduct  
19   investment transactions through a certified dealer;
- 20       ▶ repeals certain investment requirements for the investment of the principal of the:
  - 21           • Employers' Reinsurance Fund; and
  - 22           • Uninsured Employers' Fund; and
- 23       ▶ makes technical and conforming changes.

24 **Money Appropriated in this Bill:**

25       None

26 **Other Special Clauses:**

27       None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **34A-2-702**, as last amended by Laws of Utah 2017, Chapter 109

31 **34A-2-704**, as last amended by Laws of Utah 2013, Chapter 417

32 **51-7-2**, as last amended by Laws of Utah 2017, Chapters 343 and 363

33 **51-7-11**, as last amended by Laws of Utah 2017, Chapter 338

34 ENACTS:

35 **34A-2-706**, Utah Code Annotated 1953

36 REPEALS:

37 **51-7-12.5**, as last amended by Laws of Utah 2013, Chapter 204



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **34A-2-702** is amended to read:

41 **34A-2-702. Employers' Reinsurance Fund -- Injury causing death -- Burial**  
42 **expenses -- Payments to dependents.**

43 (1) (a) There is created an Employers' Reinsurance Fund for the purpose of making a  
44 payment for an industrial accident or occupational disease occurring on or before June 30,  
45 1994. A payment made under this section shall be made in accordance with this chapter or  
46 Chapter 3, Utah Occupational Disease Act. The Employers' Reinsurance Fund has no liability  
47 for an industrial accident or occupational disease occurring on or after July 1, 1994.

48 (b) The Employers' Reinsurance Fund succeeds to all money previously held in the  
49 "Special Fund," the "Combined Injury Fund," or the "Second Injury Fund."

50 (c) The commissioner shall appoint an administrator of the Employers' Reinsurance  
51 Fund.

52 (d) The state treasurer shall be the custodian of the Employers' Reinsurance Fund.

53 (e) The administrator shall make provisions for and direct a distribution from the  
54 Employers' Reinsurance Fund.

55 (f) Reasonable costs of administering the Employers' Reinsurance Fund or other fees  
56 may be paid from the Employers' Reinsurance Fund.

57 (2) The state treasurer shall:

58 (a) receive workers' compensation premium assessments from the State Tax

59 Commission; and

60 (b) invest the Employers' Reinsurance Fund to ensure maximum investment return for  
61 both long and short term investments in accordance with Section [~~51-7-12.5~~] [34A-2-706](#).

62 (3) (a) The administrator may employ, retain, or appoint counsel to represent the  
63 Employers' Reinsurance Fund in a proceeding brought to enforce a claim against or on behalf  
64 of the Employers' Reinsurance Fund.

65 (b) If requested by the commission, the attorney general shall aid in representation of  
66 the Employers' Reinsurance Fund.

67 (4) The liability of the state, its departments, agencies, instrumentalities, elected or  
68 appointed officials, or other duly authorized agents, with respect to payment of compensation  
69 benefits, expenses, fees, medical expenses, or disbursement properly chargeable against the  
70 Employers' Reinsurance Fund, is limited to the cash or assets in the Employers' Reinsurance  
71 Fund, and they are not otherwise, in any way, liable for the operation, debts, or obligations of  
72 the Employers' Reinsurance Fund.

73 (5) (a) If injury causes death within a period of 312 weeks from the date of the  
74 accident, the employer or insurance carrier shall pay:

75 (i) the burial expenses of the deceased as provided in Section [34A-2-418](#); and  
76 (ii) benefits in the amount and to a person provided for in this Subsection (5).

77 (b) (i) If there is a wholly dependent person at the time of the death, the payment by the  
78 employer or the employer's insurance carrier shall be:

79 (A) subject to Subsections (5)(b)(i)(B) and (C), 66-2/3% of the decedent's average  
80 weekly wage at the time of the injury;

81 (B) not more than a maximum of 85% of the state average weekly wage at the time of  
82 the injury per week; and

83 (C) (I) not less than a minimum of \$45 per week, plus:

84 (Aa) \$20 for a dependent spouse; and

85 (Bb) \$20 for each dependent minor child under the age of 18 years, up to a maximum  
86 of four such dependent minor children; and

87 (II) not exceeding:

88 (Aa) the average weekly wage of the employee at the time of the injury; and

89 (Bb) 85% of the state average weekly wage at the time of the injury per week.

90 (ii) Compensation shall continue during dependency for the remainder of the period  
91 between the date of the death and the expiration of 312 weeks after the date of the injury.

92 (iii) (A) The payment by the employer or the employer's insurance carrier to a wholly  
93 dependent person during dependency following the expiration of the first 312-week period  
94 described in Subsection (5)(b)(ii) shall be an amount equal to the weekly benefits paid to the  
95 wholly dependent person during the initial 312-week period, reduced by 50% of the federal  
96 social security death benefits the wholly dependent person:

97 (I) is eligible to receive for a week as of the first day the employee is eligible to receive  
98 a Social Security death benefit; and

99 (II) receives.

100 (B) An employer or the employer's insurance carrier may not reduce compensation  
101 payable under this Subsection (5)(b)(iii) on or after May 5, 2008, to a wholly dependent person  
102 by an amount related to a cost-of-living increase to the social security death benefits that the  
103 wholly dependent person is first eligible to receive for a week, notwithstanding whether the  
104 employee is injured on or before May 4, 2008.

105 (C) For purposes of a wholly dependent person whose compensation payable is  
106 reduced under this Subsection (5)(b)(iii) on or before May 4, 2008, the reduction is limited to  
107 the amount of the reduction as of May 4, 2008.

108 (iv) The issue of dependency is subject to review at the end of the initial 312-week  
109 period and annually after the initial 312-week period. If in a review it is determined that, under  
110 the facts and circumstances existing at that time, the applicant is no longer a wholly dependent  
111 person, the applicant:

112 (A) may be considered a partly dependent or nondependent person; and

113 (B) shall be paid the benefits as may be determined under Subsection (5)(d)(iii).

114 (c) (i) For purposes of a dependency determination, a surviving spouse of a deceased  
115 employee is conclusively presumed to be wholly dependent for a 312-week period from the  
116 date of death of the employee. This presumption does not apply after the initial 312-week  
117 period.

118 (ii) (A) In determining the annual income of the surviving spouse after the initial  
119 312-week period, there shall be excluded 50% of a federal social security death benefit that the  
120 surviving spouse:

121 (I) is eligible to receive for a week as of the first day the surviving spouse is eligible to  
122 receive a Social Security death benefit; and

123 (II) receives.

124 (B) An employer or the employer's insurance carrier may not reduce compensation  
125 payable under this Subsection (5)(c)(ii) on or after May 5, 2008, to a surviving spouse by an  
126 amount related to a cost-of-living increase to the social security death benefits that the  
127 surviving spouse is first eligible to receive for a week, notwithstanding whether the employee  
128 is injured on or before May 4, 2008.

129 (C) For purposes of a surviving spouse whose compensation payable is reduced under  
130 this Subsection (5)(c)(ii) on or before May 4, 2008, the reduction is limited to the amount of  
131 the reduction as of May 4, 2008.

132 (d) (i) If there is a partly dependent person at the time of the death, the payment shall  
133 be:

134 (A) subject to Subsections (5)(d)(i)(B) and (C), 66-2/3% of the decedent's average  
135 weekly wage at the time of the injury;

136 (B) not more than a maximum of 85% of the state average weekly wage at the time of  
137 the injury per week; and

138 (C) not less than a minimum of \$45 per week.

139 (ii) Compensation shall continue during dependency for the remainder of the period  
140 between the date of death and the expiration of 312 weeks after the date of injury.

141 Compensation may not amount to more than a maximum of \$30,000.

142 (iii) The benefits provided for in this Subsection (5)(d) shall be in keeping with the  
143 circumstances and conditions of dependency existing at the date of injury, and any amount paid  
144 under this Subsection (5)(d) shall be consistent with the general provisions of this chapter and  
145 Chapter 3, Utah Occupational Disease Act.

146 (iv) Benefits to a person determined to be partly dependent under Subsection (5)(c):

147 (A) shall be determined in keeping with the circumstances and conditions of  
148 dependency existing at the time of the dependency review; and

149 (B) may be paid in an amount not exceeding the maximum weekly rate that a partly  
150 dependent person would receive if wholly dependent.

151 (v) A payment under this section shall be paid to a person during a person's

152 dependency by the employer or the employer's insurance carrier.

153 (e) (i) Subject to Subsection (5)(e)(ii), if there is a wholly dependent person and also a  
154 partly dependent person at the time of death, the benefits may be apportioned in a manner  
155 consistent with Section 34A-2-414.

156 (ii) The total benefits awarded to all parties concerned may not exceed the maximum  
157 provided for by law.

158 (6) The Employers' Reinsurance Fund:

159 (a) shall be:

160 (i) used only in accordance with Subsection (1) for:

161 (A) the purpose of making a payment for an industrial accident or occupational disease  
162 occurring on or before June 30, 1994, in accordance with this section and Section 34A-2-703;  
163 and

164 (B) payment of:

165 (I) reasonable costs of administering the Employers' Reinsurance Fund; or

166 (II) fees required to be paid by the Employers' Reinsurance Fund;

167 (ii) expended according to processes that can be verified by audit; and

168 (b) may not be used for:

169 (i) administrative costs unrelated to the Employers' Reinsurance Fund; or

170 (ii) an activity of the commission other than an activity described in Subsection (6)(a).

171 Section 2. Section 34A-2-704 is amended to read:

172 **34A-2-704. Uninsured Employers' Fund.**

173 (1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers'  
174 Fund has the purpose of assisting in the payment of workers' compensation benefits to a person  
175 entitled to the benefits, if:

176 (i) that person's employer:

177 (A) is individually, jointly, or severally liable to pay the benefits; and

178 (B) (I) becomes or is insolvent;

179 (II) appoints or has appointed a receiver; or

180 (III) otherwise does not have sufficient funds, insurance, sureties, or other security to  
181 cover workers' compensation liabilities; and

182 (ii) the employment relationship between that person and the person's employer is

183 localized within the state as provided in Subsection (20).

184 (b) The Uninsured Employers' Fund succeeds to money previously held in the Default  
185 Indemnity Fund.

186 (c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for  
187 the obligations of the employer set forth in this chapter and Chapter 3, Utah Occupational  
188 Disease Act, with the exception of a penalty on those obligations.

189 (2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured  
190 Employers' Fund in accordance with this chapter, Subsection [59-9-101\(2\)](#), and Subsection  
191 [34A-2-213\(3\)](#).

192 (b) The commissioner shall appoint an administrator of the Uninsured Employers'  
193 Fund.

194 (c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.

195 (ii) The administrator shall make provisions for and direct distribution from the  
196 Uninsured Employers' Fund.

197 (3) Reasonable costs of administering the Uninsured Employers' Fund or other fees  
198 required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured  
199 Employers' Fund.

200 (4) The state treasurer shall:

201 (a) receive workers' compensation premium assessments from the State Tax  
202 Commission; and

203 (b) invest the Uninsured Employers' Fund to ensure maximum investment return for  
204 both long and short term investments in accordance with Section [~~51-7-12.5~~] [34A-2-706](#).

205 (5) (a) The administrator may employ, retain, or appoint counsel to represent the  
206 Uninsured Employers' Fund in a proceeding brought to enforce a claim against or on behalf of  
207 the Uninsured Employers' Fund.

208 (b) If requested by the commission, the following shall aid in the representation of the  
209 Uninsured Employers' Fund:

210 (i) the attorney general; or

211 (ii) the city attorney, or county attorney of the locality in which:

212 (A) an investigation, hearing, or trial under this chapter or Chapter 3, Utah  
213 Occupational Disease Act, is pending;

214 (B) the employee resides; or

215 (C) an employer:

216 (I) resides; or

217 (II) is doing business.

218 (c) (i) Notwithstanding Title 63A, Chapter 3, Part 5, Office of State Debt Collection,  
219 the administrator shall provide for the collection of money required to be deposited in the  
220 Uninsured Employers' Fund under this chapter and Chapter 3, Utah Occupational Disease Act.

221 (ii) To comply with Subsection (5)(c)(i), the administrator may:

222 (A) take appropriate action, including docketing an award in a manner consistent with  
223 Section 34A-2-212; and

224 (B) employ counsel and other personnel necessary to collect the money described in  
225 Subsection (5)(c)(i).

226 (6) To the extent of the compensation and other benefits paid or payable to or on behalf  
227 of an employee or the employee's dependents from the Uninsured Employers' Fund, the  
228 Uninsured Employers' Fund, by subrogation, has the rights, powers, and benefits of the  
229 employee or the employee's dependents against the employer failing to make the compensation  
230 payments.

231 (7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a  
232 condition listed in Subsection (1)(a)(i)(B) is bound by a settlement of a covered claim by the  
233 Uninsured Employers' Fund.

234 (b) A court with jurisdiction shall grant a payment made under this section a priority  
235 equal to that to which the claimant would have been entitled in the absence of this section  
236 against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).

237 (c) The expenses of the Uninsured Employers' Fund in handling a claim shall be  
238 accorded the same priority as the liquidator's expenses.

239 (8) (a) The administrator shall periodically file the information described in Subsection  
240 (8)(b) with the receiver, trustee, or liquidator of:

241 (i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);

242 (ii) a public agency insurance mutual, as defined in Section 31A-1-103, that meets a  
243 condition listed in Subsection (1)(a)(i)(B); or

244 (iii) an insolvent insurance carrier.



245 (b) The information required to be filed under Subsection (8)(a) is:  
246 (i) a statement of the covered claims paid by the Uninsured Employers' Fund; and  
247 (ii) an estimate of anticipated claims against the Uninsured Employers' Fund.  
248 (c) A filing under this Subsection (8) preserves the rights of the Uninsured Employers'  
249 Fund for claims against the assets of the employer that meets a condition listed in Subsection  
250 (1)(a)(i)(B).

251 (9) When an injury or death for which compensation is payable from the Uninsured  
252 Employers' Fund has been caused by the wrongful act or neglect of another person not in the  
253 same employment, the Uninsured Employers' Fund has the same rights as allowed under  
254 Section [34A-2-106](#).

255 (10) The Uninsured Employers' Fund, subject to approval of the administrator, shall  
256 discharge its obligations by:

257 (a) adjusting its own claims; or  
258 (b) contracting with an adjusting company, risk management company, insurance  
259 company, or other company that has expertise and capabilities in adjusting and paying workers'  
260 compensation claims.

261 (11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an  
262 administrative law judge, upon rendering a decision with respect to a claim for workers'  
263 compensation benefits in which an employer that meets a condition listed in Subsection  
264 (1)(a)(i)(B) is duly joined as a party, shall:

265 (i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to  
266 reimburse the Uninsured Employers' Fund for the benefits paid to or on behalf of an injured  
267 employee by the Uninsured Employers' Fund along with interest, costs, and attorney fees; and

268 (ii) impose a penalty against the employer that meets a condition listed in Subsection  
269 (1)(a)(i)(B):

270 (A) of 15% of the value of the total award in connection with the claim; and

271 (B) that shall be deposited into the Uninsured Employers' Fund.

272 (b) An award under this Subsection (11) shall be collected by the administrator in  
273 accordance with Subsection (5)(c).

274 (12) The state, the commission, and the state treasurer, with respect to payment of  
275 compensation benefits, expenses, fees, or disbursement properly chargeable against the

276 Uninsured Employers' Fund:

277 (a) are liable only to the assets in the Uninsured Employers' Fund; and

278 (b) are not otherwise in any way liable for the making of a payment.

279 (13) The commission may make reasonable rules for the processing and payment of a  
280 claim for compensation from the Uninsured Employers' Fund.

281 (14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits  
282 under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers'  
283 Fund may assess all other self-insured employers amounts necessary to pay:

284 (A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed  
285 in Subsection (1)(a)(i)(B) occurring;

286 (B) the expenses of handling covered a claim subsequent to a condition listed in  
287 Subsection (1)(a)(i)(B) occurring;

288 (C) the cost of an examination under Subsection (15); and

289 (D) other expenses authorized by this section.

290 (ii) This Subsection (14) applies to benefits paid to an employee of:

291 (A) a self-insured employer, as defined in Section [34A-2-201.5](#), that meets a condition  
292 listed in Subsection (1)(a)(i)(B); or

293 (B) if the self-insured employer that meets a condition described in Subsection  
294 (1)(a)(i)(B) is a public agency insurance mutual, a member of the public agency insurance  
295 mutual.

296 (b) The assessments of a self-insured employer shall be in the proportion that the  
297 manual premium of the self-insured employer for the preceding calendar year bears to the  
298 manual premium of all self-insured employers for the preceding calendar year.

299 (c) A self-insured employer shall be notified of the self-insured employer's assessment  
300 not later than 30 days before the day on which the assessment is due.

301 (d) (i) A self-insured employer may not be assessed in any year an amount greater than  
302 2% of that self-insured employer's manual premium for the preceding calendar year.

303 (ii) If the maximum assessment does not provide in a year an amount sufficient to  
304 make all necessary payments from the Uninsured Employers' Fund for one or more self-insured  
305 employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid portion shall be  
306 paid as soon as money becomes available.

307 (e) A self-insured employer is liable under this section for a period not to exceed three  
308 years after the day on which the Uninsured Employers' Fund first pays benefits to an employee  
309 described in Subsection (14)(a)(ii) for the self-insured employer that meets a condition listed in  
310 Subsection (1)(a)(i)(B).

311 (f) This Subsection (14) does not apply to a claim made against a self-insured employer  
312 that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection  
313 (1)(a)(i)(B) occurred before July 1, 1986.

314 (15) (a) The following shall notify the division of any information indicating that any  
315 of the following may be insolvent or in a financial condition hazardous to its employees or the  
316 public:

317 (i) a self-insured employer; or

318 (ii) if the self-insured employer is a public agency insurance mutual, a member of the  
319 public agency insurance mutual.

320 (b) Upon receipt of the notification described in Subsection (15)(a) and with good  
321 cause appearing, the division may order an examination of:

322 (i) that self-insured employer; or

323 (ii) if the self-insured employer is a public agency insurance mutual, a member of the  
324 public agency mutual.

325 (c) The cost of the examination ordered under Subsection (15)(b) shall be assessed  
326 against all self-insured employers as provided in Subsection (14).

327 (d) The results of the examination ordered under Subsection (15)(b) shall be kept  
328 confidential.

329 (16) (a) In a claim against an employer by the Uninsured Employers' Fund, or by or on  
330 behalf of the employee to whom or to whose dependents compensation and other benefits are  
331 paid or payable from the Uninsured Employers' Fund, the burden of proof is on the employer or  
332 other party in interest objecting to the claim.

333 (b) A claim described in Subsection (16)(a) is presumed to be valid up to the full  
334 amount of workers' compensation benefits claimed by the employee or the employee's  
335 dependents.

336 (c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative  
337 proceeding under the authority of the commission.

338 (17) A partner in a partnership or an owner of a sole proprietorship may not recover  
339 compensation or other benefits from the Uninsured Employers' Fund if:

340 (a) the person is not included as an employee under Subsection 34A-2-104(3); or

341 (b) the person is included as an employee under Subsection 34A-2-104(3), but:

342 (i) the person's employer fails to insure or otherwise provide adequate payment of  
343 direct compensation; and

344 (ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission  
345 over which the person had or shared control or responsibility.

346 (18) A director or officer of a corporation may not recover compensation or other  
347 benefits from the Uninsured Employers' Fund if the director or officer is excluded from  
348 coverage under Subsection 34A-2-104(4).

349 (19) The Uninsured Employers' Fund:

350 (a) shall be:

351 (i) used in accordance with this section only for:

352 (A) the purpose of assisting in the payment of workers' compensation benefits in  
353 accordance with Subsection (1); and

354 (B) in accordance with Subsection (3), payment of:

355 (I) reasonable costs of administering the Uninsured Employers' Fund; or

356 (II) fees required to be paid by the Uninsured Employers' Fund; and

357 (ii) expended according to processes that can be verified by audit; and

358 (b) may not be used for:

359 (i) administrative costs unrelated to the Uninsured Employers' Fund; or

360 (ii) an activity of the commission other than an activity described in Subsection (19)(a).

361 (20) (a) For purposes of Subsection (1), an employment relationship is localized in the  
362 state if:

363 (i) (A) the employer who is liable for the benefits has a business premise in the state;

364 and

365 (B) (I) the contract for hire is entered into in the state; or

366 (II) the employee regularly performs work duties in the state for the employer who is  
367 liable for the benefits; or

368 (ii) the employee is:

369 (A) a resident of the state; and

370 (B) regularly performs work duties in the state for the employer who is liable for the  
371 benefits.

372 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
373 commission shall by rule define what constitutes regularly performing work duties in the state.

374 Section 3. Section **34A-2-706** is enacted to read:

375 **34A-2-706. Investment of Employers' Reinsurance Fund and Uninsured**  
376 **Employers' Fund.**

377 (1) The state treasurer shall invest the assets of the Employers' Reinsurance Fund  
378 created under Section [34A-2-702](#) and the Uninsured Employers' Fund created under Section  
379 [34A-2-704](#) with the primary goal of providing for the stability, income, and growth of the  
380 principal.

381 (2) Nothing in this section requires a specific outcome in investing.

382 (3) The state treasurer may deduct any administrative costs incurred in managing fund  
383 assets from earnings before distributing the earnings.

384 (4) (a) The state treasurer may employ professional asset managers to assist in the  
385 investment of the assets of the funds.

386 (b) The treasurer may only provide compensation to asset managers from earnings  
387 generated by the funds' investments.

388 (5) (a) The state treasurer shall invest and manage the assets of the funds as a prudent  
389 investor would by:

390 (i) considering the purposes, terms, distribution requirements, and other circumstances  
391 of the funds; and

392 (ii) exercising reasonable care, skill, and caution in order to meet the standard of care  
393 of a prudent investor.

394 (b) In determining whether the state treasurer has met the standard of care of a prudent  
395 investor, the judge or finder of fact shall:

396 (i) consider the state treasurer's actions in light of the facts and circumstances existing  
397 at the time of the investment decision or action, and not by hindsight; and

398 (ii) evaluate the state treasurer's investment and management decisions respecting  
399 individual assets:

400 (A) not in isolation, but in the context of a fund portfolio as a whole; and  
401 (B) as a part of an overall investment strategy that has risk and return objectives  
402 reasonably suited to the funds.

403 Section 4. Section **51-7-2** is amended to read:

404 **51-7-2. Exemptions from chapter.**

405 The following funds are exempt from this chapter:

406 (1) funds invested in accordance with the participating employees' designation or  
407 direction pursuant to a public employees' deferred compensation plan established and operated  
408 in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

409 (2) funds of the Utah State Retirement Board;

410 (3) funds of the Utah Housing Corporation;

411 (4) endowment funds of higher education institutions;

412 (5) permanent and other land grant trust funds established pursuant to the Utah  
413 Enabling Act and the Utah Constitution;

414 (6) the State Post-Retirement Benefits Trust Fund;

415 (7) the funds of the Utah Educational Savings Plan;

416 (8) funds of the permanent state trust fund created by and operated under Utah  
417 Constitution, Article XXII, Section 4;

418 (9) the funds in the Navajo Trust Fund; [~~and~~]

419 (10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account[~~;~~];

420 (11) the funds in the Employers' Reinsurance Fund; and

421 (12) the funds in the Uninsured Employers' Fund.

422 Section 5. Section **51-7-11** is amended to read:

423 **51-7-11. Authorized deposits or investments of public funds.**

424 (1) (a) Except as provided in Subsections (1)(b) [~~and (1)(c)~~] through (1)(d), a public  
425 treasurer shall conduct investment transactions through qualified depositories, certified dealers,  
426 or directly with issuers of the investment securities.

427 (b) A public treasurer may designate a certified investment adviser to make trades on  
428 behalf of the public treasurer.

429 (c) A public treasurer may make a deposit in accordance with Section [53B-7-601](#) in a  
430 foreign depository institution as defined in Section [7-1-103](#).

431 (d) The state treasurer is exempt from the requirement to conduct investment  
432 transactions through a certified dealer under Subsection (1)(a).

433 (2) The remaining term to maturity of the investment may not exceed the period of  
434 availability of the funds to be invested.

435 (3) Except as provided in Subsection (4), all public funds shall be deposited or invested  
436 in the following assets that meet the criteria of Section 51-7-17:

437 (a) negotiable or nonnegotiable deposits of qualified depositories;

438 (b) qualifying or nonqualifying repurchase agreements and reverse repurchase  
439 agreements with qualified depositories using collateral consisting of:

440 (i) Government National Mortgage Association mortgage pools;

441 (ii) Federal Home Loan Mortgage Corporation mortgage pools;

442 (iii) Federal National Mortgage Corporation mortgage pools;

443 (iv) Small Business Administration loan pools;

444 (v) Federal Agriculture Mortgage Corporation pools; or

445 (vi) other investments authorized by this section;

446 (c) qualifying repurchase agreements and reverse repurchase agreements with certified  
447 dealers, permitted depositories, or qualified depositories using collateral consisting of:

448 (i) Government National Mortgage Association mortgage pools;

449 (ii) Federal Home Loan Mortgage Corporation mortgage pools;

450 (iii) Federal National Mortgage Corporation mortgage pools;

451 (iv) Small Business Administration loan pools; or

452 (v) other investments authorized by this section;

453 (d) commercial paper that is classified as "first tier" by two nationally recognized  
454 statistical rating organizations, which has a remaining term to maturity of:

455 (i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or

456 (ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);

457 (e) bankers' acceptances that:

458 (i) are eligible for discount at a Federal Reserve bank; and

459 (ii) have a remaining term to maturity of 270 days or fewer;

460 (f) fixed rate negotiable deposits issued by a permitted depository that have a  
461 remaining term to maturity of 365 days or fewer;

462 (g) obligations of the United States Treasury, including United States Treasury bills,  
463 United States Treasury notes, and United States Treasury bonds that, unless the funds invested  
464 are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining  
465 term to final maturity of:

466 (i) five years or less;

467 (ii) if the funds are invested by an institution of higher education as defined in Section  
468 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

469 (iii) if the funds are invested by a public agency insurance mutual, as defined in  
470 Subsection 31A-1-103(7)(a), 20 years or less;

471 (h) obligations other than mortgage pools and other mortgage derivative products that:

472 (i) are issued by, or fully guaranteed as to principal and interest by, the following  
473 agencies or instrumentalities of the United States in which a market is made by a primary  
474 reporting government securities dealer, unless the agency or instrumentality has become private  
475 and is no longer considered to be a government entity:

476 (A) Federal Farm Credit banks;

477 (B) Federal Home Loan banks;

478 (C) Federal National Mortgage Association;

479 (D) Federal Home Loan Mortgage Corporation;

480 (E) Federal Agriculture Mortgage Corporation; and

481 (F) Tennessee Valley Authority; and

482 (ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust  
483 escrow account, have a remaining term to final maturity of:

484 (A) five years or less;

485 (B) if the funds are invested by an institution of higher education as defined in Section  
486 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

487 (C) if the funds are invested by a public agency insurance mutual, as defined in  
488 Subsection 31A-1-103(7)(a), 20 years or less;

489 (i) fixed rate corporate obligations that:

490 (i) are rated "A" or higher or the equivalent of "A" or higher by two nationally  
491 recognized statistical rating organizations;

492 (ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;



- 493 (iii) are publicly traded; and
- 494 (iv) have a remaining term to final maturity of 15 months or less or are subject to a  
495 hard put at par value or better, within 365 days;
- 496 (j) tax anticipation notes and general obligation bonds of the state or a county,  
497 incorporated city or town, school district, or other political subdivision of the state, including  
498 bonds offered on a when-issued basis without regard to the limitations described in Subsection  
499 (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust  
500 escrow account, have a remaining term to final maturity of:
- 501 (i) five years or less;
- 502 (ii) if the funds are invested by an institution of higher education as defined in Section  
503 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less; or
- 504 (iii) if the funds are invested by a public agency insurance mutual, as defined in  
505 Subsection [31A-1-103](#)(7)(a), 20 years or less;
- 506 (k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or  
507 town, school district, or other political subdivision of the state that are payable from  
508 assessments or from revenues or earnings specifically pledged for payment of the principal and  
509 interest on these obligations, including bonds offered on a when-issued basis without regard to  
510 the limitations described in Subsection (7) that, unless the funds invested are pledged or  
511 otherwise deposited in an irrevocable trust escrow account, have a remaining term to final  
512 maturity of:
- 513 (i) five years or less;
- 514 (ii) if the funds are invested by an institution of higher education as defined in Section  
515 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less; or
- 516 (iii) if the funds are invested by a public agency insurance mutual, as defined in  
517 Subsection [31A-1-103](#)(7)(a), 20 years or less;
- 518 (l) shares or certificates in a money market mutual fund;
- 519 (m) variable rate negotiable deposits that:
- 520 (i) are issued by a qualified depository or a permitted depository;
- 521 (ii) are repriced at least semiannually; and
- 522 (iii) have a remaining term to final maturity not to exceed three years;
- 523 (n) variable rate securities that:

524 (i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally  
525 recognized statistical rating organizations;  
526 (B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;  
527 (C) are publicly traded;  
528 (D) are repriced at least semiannually; and  
529 (E) have a remaining term to final maturity not to exceed three years or are subject to a  
530 hard put at par value or better, within 365 days;

531 (ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a  
532 security making unscheduled periodic principal payments other than optional redemptions; and  
533 (o) reciprocal deposits made in accordance with Subsection 51-7-17(4).

534 (4) The following public funds are exempt from the requirements of Subsection (3):

535 [~~(a) the Employers' Reinsurance Fund created in Section 34A-2-702;~~]

536 [~~(b) the Uninsured Employers' Fund created in Section 34A-2-704;~~]

537 [~~(c)~~] (a) a local government other post-employment benefits trust fund under Section  
538 51-7-12.2; and

539 [~~(d)~~] (b) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a  
540 foreign depository institution as defined in Section 7-1-103.

541 (5) If any of the deposits authorized by Subsection (3)(a) are negotiable or  
542 nonnegotiable large time deposits issued in amounts of \$100,000 or more, the interest shall be  
543 calculated on the basis of the actual number of days divided by 360 days.

544 (6) A public treasurer may maintain fully insured deposits in demand accounts in a  
545 federally insured nonqualified depository only if a qualified depository is not reasonably  
546 convenient to the entity's geographic location.

547 (7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall  
548 ensure that all purchases and sales of securities are settled within:

549 (a) 15 days of the trade date for outstanding issues; and

550 (b) 30 days for new issues.

551 Section 6. **Repealer.**

552 This bill repeals:

553 Section 51-7-12.5, **Deposit or investment of the Employers' Reinsurance Fund and**  
554 **Uninsured Employers' Fund -- Authorized deposits and investments -- Asset manager.**

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**