

HB0509S01 compared with HB0509

~~{deleted text}~~ shows text that was in HB0509 but was deleted in HB0509S01.

inserted text shows text that was not in HB0509 but was inserted into HB0509S01.

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~~{UTAH}~~ Representative Joseph Elison proposes the following substitute bill:

STATE SOVEREIGNTY PERMANENT FUND

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joseph Elison

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the ~~{Utah}~~ State Sovereignty Permanent Fund.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the ~~{Utah}~~ State Sovereignty Permanent Fund; and
- ▶ provides for the investment and distribution of the ~~{Utah}~~ State Sovereignty Permanent Fund.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

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Utah Code Sections Affected:

AMENDS:

51-7-2, as last amended by Laws of Utah 2023, Chapters 139, 242 and 328

ENACTS:

51-12-101, Utah Code Annotated 1953

51-12-102, Utah Code Annotated 1953

51-12-103, Utah Code Annotated 1953

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

Section 1. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

(1) Except as provided in Subsection (2), the following funds are exempt from this chapter:

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

(b) funds of the Utah State Retirement Board;

(c) funds of the Utah Housing Corporation;

(d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-802;

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

(f) the State Post-Retirement Benefits Trust Fund;

(g) the funds of the Utah Educational Savings Plan;

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

(i) the funds in the Navajo Trust Fund;

(j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(k) the funds in the Employers' Reinsurance Fund;

(l) the funds in the Uninsured Employers' Fund;

(m) the Utah State Developmental Center Long-Term Sustainability Fund, created in

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Section 26B-1-331;

(n) the funds in the Risk Management Fund created in Section 63A-4-201; ~~[and]~~

(o) the Utah fund of funds created in Section 63N-6-401 ~~{.}~~; and

(p) the State Sovereignty Permanent Fund created in Section 51-12-102.

(2) Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan, the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).

Section ~~{1}~~2. Section **51-12-101** is enacted to read:

CHAPTER 12. ~~{UTAH}~~STATE SOVEREIGNTY PERMANENT FUND **51-12-101. Definitions.**

As used in this chapter:

(1) "Division" means the Division of Finance created in Section 63A-3-101.

(2) (a) "Principal" means money deposited into the ~~{Utah}~~State Sovereignty Permanent Fund in accordance with Section 51-12-102.

(b) "Principal" does not include interest earned on any money in the ~~{Utah}~~State Sovereignty Permanent Fund.

(3) "Revenue growth" means the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(a) the estimated amount of ongoing General Fund and Income Tax Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(b) the amount of ongoing appropriations from the General Fund and the Income Tax Fund in the current fiscal year.

Section ~~{2}~~3. Section **51-12-102** is enacted to read:

51-12-102. ~~{Utah}~~State Sovereignty Permanent Fund -- Creation~~{-- Investment}~~
-- Distribution.

(1) There is created ~~{a Utah}~~the State Sovereignty Permanent Fund which consists of:

(a) revenue growth appropriated in accordance with the formula described in Subsection (2);

(b) subject to Subsection (5), interest earned on any money in the ~~{Utah}~~State Sovereignty Permanent Fund; and

(c) additional money appropriated by the Legislature.

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(2) Beginning on July 1, 2025, the Legislature shall annually appropriate revenue growth for the next fiscal year into the ~~{Utah}~~State Sovereignty Permanent Fund as follows:

(a) 1% of revenue growth in year one;

(b) in each of the following eight fiscal years, a percentage equal to the percentage deposited the immediately preceding fiscal year, plus an additional 1% of revenue growth; and

(c) 10% of revenue growth in year 10 and each fiscal year thereafter.

(3) The division shall track the amount of revenue growth appropriated to the ~~{Utah}~~State Sovereignty Permanent Fund from the General Fund and Income Tax Fund, respectively.

(4) If there is insufficient revenue growth to comply with Subsection (2), the Legislature shall appropriate to the ~~{Utah}~~State Sovereignty Permanent Fund any revenue growth that remains available after any constitutional and statutory deposit requirements created before July 1, 2025, are fulfilled.

(5) The state treasurer shall:

(a) (i) hold all money described in Subsection (1); and

(ii) in ~~{the same manner provided for in Title 51, Chapter 7b, Part 2, State Treasurer Investment Duties}~~accordance with Section 51-12-103, invest the money for the benefit of the people of the state in perpetuity; and

(b) distribute annually to the division the earnings from the investment of the ~~{Utah}~~State Sovereignty Permanent Fund as follows:

(i) before July 1, 2040, 100% into the ~~{Utah}~~State Sovereignty Permanent Fund; and

(ii) after July 1, 2040:

(A) 50% into the General Fund or Income Tax Fund; and

(B) 50% into the ~~{Utah}~~State Sovereignty Permanent Fund.

(6) The Legislature may appropriate all or a portion of the ~~{Utah}~~State Sovereignty Permanent Fund principal only by the affirmative vote of two-thirds of all the members elected to each chamber of the Legislature.

Section 4. Section 51-12-103 is enacted to read:

51-12-103. State Sovereignty Permanent Fund -- Investment.

(1) The state treasurer shall:

(a) invest money in the State Sovereignty Permanent Fund with the goals of, in order of

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priority:

(i) providing for growth of the principal; and

(ii) fund stability;

(b) invest and manage the State Sovereignty Permanent Fund assets as a prudent

investor would by:

(i) considering the purpose, terms, distribution requirements, and other circumstances of the State Sovereignty Permanent Fund; and

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

(c) deposit the interest or other revenue earned from the investment of the State Sovereignty Permanent Fund in accordance with Section 51-12-102.

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

(3) In determining whether the state treasurer has met the standard of care of a prudent investor under Subsection (1), the judge or finder of fact shall:

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

(b) evaluate the state treasurer's investment and management decisions respecting individual assets not in isolation, but in context of a whole portfolio that is part of an overall investment strategy that has risk and return objectives reasonably suited to the State Sovereignty Permanent Fund.

(4) The state treasurer may:

(a) before distributing any earnings under Section 51-12-102, deduct from the earnings any administrative costs incurred in managing State Sovereignty Permanent Fund assets;

(b) employ professional asset managers to assist in the investment of State Sovereignty Permanent Fund assets; and

(c) provide compensation to asset managers only from earnings generated by the State Sovereignty Permanent Fund's investments.

Section ~~3~~5. **Effective date.**

This bill takes effect on May 1, 2024.