

1                   **STATE MONEY MANAGEMENT ACT AMENDMENTS**

2                                   2014 GENERAL SESSION

3                                   STATE OF UTAH

4                   **Chief Sponsor: Rich Cunningham**

5                   Senate Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies the State Money Management Act by amending provisions relating to  
10 the requirements for and reports on the investment of public funds.

11 **Highlighted Provisions:**

12           This bill:

13           ▶ requires the state treasurer to include in the state treasurer's report at the end of each  
14 fiscal year on the State School Fund a comparison of the fund's internal rate of  
15 return with benchmark rates of return for the previous year, three years, and five  
16 years for the same asset classes; and

17           ▶ requires the public treasurer to consider protection of principal during periods of  
18 financial market volatility when depositing and investing public funds.

19 **Money Appropriated in this Bill:**

20           None

21 **Other Special Clauses:**

22           None

23 **Utah Code Sections Affected:**

24 AMENDS:

25           **51-7-9.5**, as enacted by Laws of Utah 2002, Chapter 237

26           **51-7-17**, as last amended by Laws of Utah 2013, Chapter 388



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

29 Section 1. Section **51-7-9.5** is amended to read:

30 **51-7-9.5. State School Fund report.**

31 (1) The state treasurer shall prepare a report at the end of each fiscal year on the State  
32 School Fund created in Utah Constitution Article X, Section 5.

33 (2) The report shall include the following information:

34 (a) the name of each asset within the fund and the fair market value of each asset as of  
35 June 30;

36 (b) the amount and date of each contribution to the fund during the fiscal year;

37 (c) a balance sheet for the most recently completed fiscal year and the previous fiscal  
38 year;

39 (d) the fund's internal rate of return for the previous year, three years, and five years  
40 and a comparison of the fund's internal rate of return with benchmark rates of return for the  
41 previous year, three years, and five years for the same asset classes;

42 (e) a summary of the asset allocation policy for the fund;

43 (f) a description of the fund income, including amounts distributed and amounts  
44 retained; and

45 (g) expenses in dollars and as a percent of fund assets.

46 (3) The state treasurer shall submit the report to the Education Interim Committee by  
47 October 1 of each year.

48 Section 2. Section **51-7-17** is amended to read:

49 **51-7-17. Criteria for investments.**

50 (1) As used in this section:

51 (a) "Affiliate" means, in relation to a provider:

52 (i) an entity controlled, directly or indirectly, by the provider;

53 (ii) an entity that controls, directly or indirectly, the provider; or

54 (iii) an entity directly or indirectly under common control with the provider.

55 (b) "Control" means ownership of a majority of the voting power of the entity or  
56 provider.

57 (2) (a) A public treasurer shall consider and meet the following objectives when  
58 depositing and investing public funds:

59 (i) safety of principal and protection of principal during periods of financial market  
60 volatility;

61 (ii) need for liquidity;

62 (iii) yield on investments;

63 (iv) recognition of the different investment objectives of operating and permanent  
64 funds; and

65 (v) maturity of investments, so that the maturity date of the investment does not exceed  
66 the anticipated date of the expenditure of funds.

67 (b) A public treasurer shall invest the proceeds of general obligation bond issues, tax  
68 anticipation note issues, and funds pledged or otherwise dedicated to the payment of interest  
69 and principal of general obligation bonds and tax anticipation notes issued by the state or a  
70 political subdivision of the state in accordance with:

71 (i) Section 51-7-11; or

72 (ii) the terms of the borrowing instrument applicable to those issues and funds, if those  
73 terms are more restrictive than Section 51-7-11.

74 (c) A public treasurer shall invest the proceeds of bonds other than general obligation  
75 bonds and the proceeds of notes other than tax anticipation notes issued by the state or a  
76 political subdivision of the state, and all funds pledged or otherwise dedicated to the payment  
77 of interest and principal of those notes and bonds:

78 (i) in accordance with the terms of the borrowing instruments applicable to those bonds  
79 or notes; or

80 (ii) if none of those provisions are applicable, in accordance with Section 51-7-11.

81 (d) A public treasurer may invest proceeds of bonds, notes, or other money pledged or  
82 otherwise dedicated to the payment of debt service on the bonds or notes in investment  
83 agreements if:

84 (i) the investment is permitted by the terms of the borrowing instrument applicable to  
85 those bonds or notes or the borrowing instrument authorizes the investment as an investment  
86 permitted by the State Money Management Act;

87 (ii) either the provider of the investment agreement or an entity fully, unconditionally,  
88 and irrevocably guaranteeing the provider's obligations under the investment agreement has  
89 received a rating of:

90 (A) at least "AA-" from S&P or "Aa3" from Moody's for investment agreements having  
91 a term of more than one year; or

92 (B) at least "A-1+" from S&P or "P-1" from Moody's for investment agreements  
93 having a term of one year or less;

94 (iii) the investment agreement contains provisions approved by the public treasurer that  
95 provide that, in the event of a rating downgrade of the provider or its affiliate guarantor, as  
96 applicable, by either S&P or Moody's below the "A" category or its equivalent, or a rating  
97 downgrade of a nonaffiliate guarantor by either S&P or Moody's below the "AA" category or  
98 its equivalent, the provider must, within 30 days after receipt of notice of the downgrade:

99 (A) collateralize the investment agreement with direct obligations of, or obligations  
100 guaranteed by, the United States of America having a market value at least equal to 105% of  
101 the amount of the money invested, valued at least quarterly, and deposit the collateral with a  
102 third-party custodian or trustee selected by the public treasurer; or

103 (B) terminate the agreement without penalty and repay all of the principal invested and  
104 the interest accrued on the investment to the date of termination; and

105 (iv) the public treasurer receives an enforceability opinion from the legal counsel of the  
106 investment agreement provider and, if there is a guarantee, an enforceability opinion from the  
107 legal counsel of the guarantor with respect to the guarantee.

108 (3) (a) As used in this Subsection (3), "interest rate contract" means interest rate  
109 exchange contracts, interest rate floor contracts, interest rate ceiling contracts, or other similar  
110 contracts authorized by resolution of the governing board or issuing authority, as applicable.

111 (b) A public treasurer may:

112 (i) enter into interest rate contracts that the governing board or issuing authority  
113 determines are necessary, convenient, or appropriate for the control or management of debt or  
114 for the cost of servicing debt; and

115 (ii) use its public funds to satisfy its payment obligations under those contracts.

116 (c) Those contracts:

117 (i) shall comply with the requirements established by council rules; and

118 (ii) may contain payment, security, default, termination, remedy, and other terms and  
119 conditions that the governing board or issuing authority considers appropriate.

120 (d) Neither interest rate contracts nor public funds used in connection with these

121 interest rate contracts may be considered a deposit or investment.

122 (4) A public treasurer shall ensure that all public funds invested in deposit instruments  
123 are invested with qualified depositories within Utah, except:

124 (a) for deposits made in accordance with Section 53B-7-601 in a foreign depository  
125 institution as defined in Section 7-1-103;

126 (b) reciprocal deposits, subject to rules made by the council under Subsection  
127 51-7-18(2); or

128 (c) if national market rates on instruments of similar quality and term exceed those  
129 offered by qualified depositories, investments in out-of-state deposit instruments may be made  
130 only with institutions that meet quality criteria set forth by the rules of the council.

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**Legislative Review Note**  
as of 1-29-14 11:23 AM

**Office of Legislative Research and General Counsel**