

1 **STATE TREASURER INVESTMENT AMENDMENTS**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Robert M. Spendlove**

5 Senate Sponsor: _____

6
7 **LONG TITLE**

8 **General Description:**

9 This bill directs the state treasurer to invest in the Utah Homes Investment Program.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ creates the Utah Homes Investment Program (the program);
- 13 ▶ directs the state treasurer to invest certain funds into the program;
- 14 ▶ provides for the terms of investment in the program;
- 15 ▶ exempts investments in the program from the Money Management Act; and
- 16 ▶ makes the request for investment and investment agreement private under the

17 Government Records and Access Management Act.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **51-7-2**, as last amended by Laws of Utah 2023, Chapters 139, 242 and 328

25 **63G-2-302**, as last amended by Laws of Utah 2023, Chapters 329, 471

26 **63I-1-251**, as last amended by Laws of Utah 2021, Chapter 64

27 ENACTS:



- 28 [51-12-101](#), Utah Code Annotated 1953
- 29 [51-12-102](#), Utah Code Annotated 1953
- 30 [51-12-201](#), Utah Code Annotated 1953
- 31 [51-12-202](#), Utah Code Annotated 1953
- 32 [51-12-203](#), Utah Code Annotated 1953
- 33 [51-12-204](#), Utah Code Annotated 1953
- 34 [72-2-134](#), Utah Code Annotated 1953



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

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

38 **51-7-2. Exemptions from chapter.**

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

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

44 (b) funds of the Utah State Retirement Board;

45 (c) funds of the Utah Housing Corporation;

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

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

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

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

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

54 (i) the funds in the Navajo Trust Fund;

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

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

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

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

59 Section [26B-1-331](#);

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

61 (o) the Utah fund of funds created in Section [63N-6-401](#)[-]; and

62 (p) the funds invested in the Utah Homes Investment Program from the Transportation

63 Infrastructure General Fund Support Subfund created in Section [72-2-134](#).

64 (2) Except for the funds of the Utah State Retirement Board and the Utah Educational
65 Savings Plan, the funds described in Subsection (1) are not exempt from Subsections
66 [51-7-14](#)(2) and (3).

67 Section 2. Section **51-12-101** is enacted to read:

68 **CHAPTER 12. UTAH HOMES INVESTMENT PROGRAM**

69 **Part 1. General Provisions**

70 **51-12-101. Definitions.**

71 As used in this chapter:

72 (1) "Attainable home" means a residence that costs the purchaser no more than the
73 amount a qualifying residential unit may be purchased:

74 (a) in accordance with Subsection [63H-8-501](#)(6)(e); and

75 (b) at the time the state treasurer invests with a financial institution.

76 (2) "Council" means the Utah Homes Investment Program Oversight Council created
77 in Section [51-12-203](#).

78 (3) "Financial institution" means an entity with which the state treasurer may invest in
79 accordance with Chapter 7, State Money Management Act.

80 (4) "Fund" means the Transportation Infrastructure General Fund Support Subfund
81 created in Section [72-2-134](#).

82 (5) "Political subdivision" means:

83 (a) the municipality in which the attainable home is located; or

84 (b) the county, if the attainable home is located in an unincorporated portion of the
85 county.

86 (6) (a) "Qualified project" means a new construction housing development project in
87 the state for which the developer commits to:

88 (i) offering for sale no fewer than 60% of the total units within the project as attainable
89 homes;

90 (ii) including in the deed of sale for an attainable home a restriction, in favor of the
91 political subdivision, that the attainable home be owner occupied for no fewer than five years;
92 and

93 (iii) having a plan to provide information to potential buyers of attainable homes about
94 the First-Time Homebuyer Assistance Program created in Section [63H-8-502](#).

95 (b) "Qualified project" includes infrastructure within the housing development project.

96 Section 3. Section **51-12-102** is enacted to read:

97 **51-12-102. Reporting.**

98 Before December 31 of each year, the state treasurer shall report to the Executive
99 Appropriations Committee:

100 (1) the dollar amount of investments and the number of financial institutions in which
101 an investment is made in accordance with Part 2, Investment Program; and

102 (2) the information reported in accordance with Subsection [51-12-202](#)(3)(d).

103 Section 4. Section **51-12-201** is enacted to read:

104 **Part 2. Investment Program**

105 **51-12-201. Investment opportunities.**

106 (1) A financial institution may request the state treasurer to invest in the financial
107 institution if the financial institution:

108 (a) has identified and approved for financing a qualified project; and

109 (b) requests no more than 75% of the financing for a qualified project.

110 (2) Upon receiving a request from a financial institution, the state treasurer shall
111 submit the request to the council for review.

112 (3) Subject to Subsection (5), the state treasurer shall approve the financial institution's
113 request for investment:

114 (a) (i) unless the state treasurer determines the financial institution does not merit
115 investment under prudent investment practices and the state treasurer's fiduciary duties; or

116 (ii) unless the council determines, by majority vote, either the financial institution or
117 the qualified project is ineligible; and

118 (b) as sufficient money becomes available in the fund in accordance with Subsection
119 [72-2-134](#)(4)(a).

120 (4) The state treasurer's amount of the investment in a financial institution may not

121 exceed 75% of the financing amount for each qualified project the financial institution
122 approves for financing.

123 (5) The state treasurer may not approve a request for investment after December 31,
124 2025.

125 (6) The state treasurer shall notify Utah Housing Corporation of any qualified projects
126 for which the state treasurer makes an investment in a financial institution.

127 Section 5. Section **51-12-202** is enacted to read:

128 **51-12-202. Terms of investment.**

129 (1) The state treasurer shall enter into an investment agreement with a financial
130 institution that the state treasurer approves in accordance with Section [51-12-201](#).

131 (2) The investment agreement shall provide that the financial institution:

132 (a) shall offer loan financing to a developer of a qualified project at a rate no higher
133 than 150 basis points above the federal funds effective rate at the time of the investment;

134 (b) shall repay the amount of investment:

135 (i) with interest at a rate equal to the greater of:

136 (A) the federal funds effective rate at the time of the investment minus 200 basis
137 points; or

138 (B) 0.5%; and

139 (ii) at the earlier of:

140 (A) 24 months from the day on which the investment is made;

141 (B) repayment of the loan financing;

142 (C) the sale of the last home in the qualified project; or

143 (D) June 30, 2027;

144 (c) is responsible for repayment regardless of the completion of the qualified project or
145 the repayment of the financial institution's loan to the developer of the qualified project; and

146 (d) shall report to the state treasurer the total number of housing units and the number
147 of attainable homes each qualified project created.

148 (3) A financial institution may repay the investment earlier than the time period
149 described in Subsection (2)(b)(ii) without penalty.

150 (4) The state treasurer shall deposit the repayment of an investment, including interest,
151 into the fund.

152 Section 6. Section **51-12-203** is enacted to read:

153 **51-12-203. Utah Homes Investment Program Oversight Council.**

154 (1) There is created, within the office of the state treasurer, the Utah Homes Investment
155 Program Oversight Council.

156 (2) The council consists of the following members:

157 (a) the state treasurer, or the state treasurer's designee;

158 (b) the director of the Division of Finance; and

159 (c) the director of the Office of the Legislative Fiscal Analyst, or the director's
160 designee.

161 (3) (a) The council shall review a request from a financial institution within a
162 reasonable time after receiving the request from the state treasurer.

163 (b) The review shall verify that the request is from a financial institution and the
164 project is a qualified project and that neither is disqualified under Section [51-12-204](#).

165 (c) The council shall notify the state treasurer of the results of a review.

166 (4) The council is exempt from the requirements described in Title 52, Chapter 4, Open
167 and Public Meetings Act.

168 Section 7. Section **51-12-204** is enacted to read:

169 **51-12-204. Penalty.**

170 A developer or financial institution that fails to comply with the terms of investment is
171 disqualified from subsequent participation in the Utah Homes Investment Program.

172 Section 8. Section **63G-2-302** is amended to read:

173 **63G-2-302. Private records.**

174 (1) The following records are private:

175 (a) records concerning an individual's eligibility for unemployment insurance benefits,
176 social services, welfare benefits, or the determination of benefit levels;

177 (b) records containing data on individuals describing medical history, diagnosis,
178 condition, treatment, evaluation, or similar medical data;

179 (c) records of publicly funded libraries that when examined alone or with other records
180 identify a patron;

181 (d) records received by or generated by or for:

182 (i) the Independent Legislative Ethics Commission, except for:

- 183 (A) the commission's summary data report that is required under legislative rule; and
184 (B) any other document that is classified as public under legislative rule; or
185 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
186 unless the record is classified as public under legislative rule;
- 187 (e) records received by, or generated by or for, the Independent Executive Branch
188 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
189 of Executive Branch Ethics Complaints;
- 190 (f) records received or generated for a Senate confirmation committee concerning
191 character, professional competence, or physical or mental health of an individual:
- 192 (i) if, prior to the meeting, the chair of the committee determines release of the records:
193 (A) reasonably could be expected to interfere with the investigation undertaken by the
194 committee; or
195 (B) would create a danger of depriving a person of a right to a fair proceeding or
196 impartial hearing; and
197 (ii) after the meeting, if the meeting was closed to the public;
- 198 (g) employment records concerning a current or former employee of, or applicant for
199 employment with, a governmental entity that would disclose that individual's home address,
200 home telephone number, social security number, insurance coverage, marital status, or payroll
201 deductions;
- 202 (h) records or parts of records under Section [63G-2-303](#) that a current or former
203 employee identifies as private according to the requirements of that section;
- 204 (i) that part of a record indicating a person's social security number or federal employer
205 identification number if provided under Section [31A-23a-104](#), [31A-25-202](#), [31A-26-202](#),
206 [58-1-301](#), [58-55-302](#), [61-1-4](#), or [61-2f-203](#);
- 207 (j) that part of a voter registration record identifying a voter's:
208 (i) driver license or identification card number;
209 (ii) social security number, or last four digits of the social security number;
210 (iii) email address;
211 (iv) date of birth; or
212 (v) phone number;
- 213 (k) a voter registration record that is classified as a private record by the lieutenant

214 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
215 20A-2-204(4)(b);

216 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);

217 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
218 verification submitted in support of the form;

219 (n) a record that:

220 (i) contains information about an individual;

221 (ii) is voluntarily provided by the individual; and

222 (iii) goes into an electronic database that:

223 (A) is designated by and administered under the authority of the Chief Information
224 Officer; and

225 (B) acts as a repository of information about the individual that can be electronically
226 retrieved and used to facilitate the individual's online interaction with a state agency;

227 (o) information provided to the Commissioner of Insurance under:

228 (i) Subsection 31A-23a-115(3)(a);

229 (ii) Subsection 31A-23a-302(4); or

230 (iii) Subsection 31A-26-210(4);

231 (p) information obtained through a criminal background check under Title 11, Chapter
232 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

233 (q) information provided by an offender that is:

234 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
235 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

236 (ii) not required to be made available to the public under Subsection 77-41-110(4) or
237 77-43-108(4);

238 (r) a statement and any supporting documentation filed with the attorney general in
239 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
240 homeland security;

241 (s) electronic toll collection customer account information received or collected under
242 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
243 collected by a public transit district, including contact and payment information and customer
244 travel data;

245 (t) an email address provided by a military or overseas voter under Section
246 20A-16-501;

247 (u) a completed military-overseas ballot that is electronically transmitted under Title
248 20A, Chapter 16, Uniform Military and Overseas Voters Act;

249 (v) records received by or generated by or for the Political Subdivisions Ethics Review
250 Commission established in Section 63A-15-201, except for:

251 (i) the commission's summary data report that is required in Section 63A-15-202; and
252 (ii) any other document that is classified as public in accordance with Title 63A,
253 Chapter 15, Political Subdivisions Ethics Review Commission;

254 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of
255 an incident or threat;

256 (x) a criminal background check or credit history report conducted in accordance with
257 Section 63A-3-201;

258 (y) a record described in Subsection 53-5a-104(7);

259 (z) on a record maintained by a county for the purpose of administering property taxes,
260 an individual's:

261 (i) email address;

262 (ii) phone number; or

263 (iii) personal financial information related to a person's payment method;

264 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
265 exemption, deferral, abatement, or relief under:

266 (i) Title 59, Chapter 2, Part 11, Exemptions;

267 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

268 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

269 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

270 (bb) a record provided by the State Tax Commission in response to a request under
271 Subsection 59-1-403(4)(y)(iii);

272 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual
273 child welfare case, as described in Subsection 36-33-103(3); ~~and~~

274 (dd) a record relating to drug or alcohol testing of a state employee under Section
275 63A-17-1004[-]; and

276 (ee) a request for investment made in accordance with Section 51-12-201 and the
277 investment agreement entered into in accordance with Section 51-12-202.

278 (2) The following records are private if properly classified by a governmental entity:

279 (a) records concerning a current or former employee of, or applicant for employment
280 with a governmental entity, including performance evaluations and personal status information
281 such as race, religion, or disabilities, but not including records that are public under Subsection
282 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

283 (b) records describing an individual's finances, except that the following are public:

284 (i) records described in Subsection 63G-2-301(2);

285 (ii) information provided to the governmental entity for the purpose of complying with
286 a financial assurance requirement; or

287 (iii) records that must be disclosed in accordance with another statute;

288 (c) records of independent state agencies if the disclosure of those records would
289 conflict with the fiduciary obligations of the agency;

290 (d) other records containing data on individuals the disclosure of which constitutes a
291 clearly unwarranted invasion of personal privacy;

292 (e) records provided by the United States or by a government entity outside the state
293 that are given with the requirement that the records be managed as private records, if the
294 providing entity states in writing that the record would not be subject to public disclosure if
295 retained by it;

296 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
297 created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a
298 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

299 (g) audio and video recordings created by a body-worn camera, as defined in Section
300 77-7a-103, that record sound or images inside a home or residence except for recordings that:

301 (i) depict the commission of an alleged crime;

302 (ii) record any encounter between a law enforcement officer and a person that results in
303 death or bodily injury, or includes an instance when an officer fires a weapon;

304 (iii) record any encounter that is the subject of a complaint or a legal proceeding
305 against a law enforcement officer or law enforcement agency;

306 (iv) contain an officer involved critical incident as defined in Subsection

307 76-2-408(1)(f); or

308 (v) have been requested for reclassification as a public record by a subject or
309 authorized agent of a subject featured in the recording.

310 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
311 records, statements, history, diagnosis, condition, treatment, and evaluation.

312 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
313 doctors, or affiliated entities are not private records or controlled records under Section
314 63G-2-304 when the records are sought:

315 (i) in connection with any legal or administrative proceeding in which the patient's
316 physical, mental, or emotional condition is an element of any claim or defense; or

317 (ii) after a patient's death, in any legal or administrative proceeding in which any party
318 relies upon the condition as an element of the claim or defense.

319 (c) Medical records are subject to production in a legal or administrative proceeding
320 according to state or federal statutes or rules of procedure and evidence as if the medical
321 records were in the possession of a nongovernmental medical care provider.

322 Section 9. Section 63I-1-251 is amended to read:

323 **63I-1-251. Repeal dates: Title 51.**

324 (1) Subsection 51-7-2(1)(p), relating to the Transportation Infrastructure General Fund
325 Support Subfund created in Section 72-2-134, is repealed July 1, 2027.

326 (2) Title 51, Chapter 12, Utah Homes Investment Program, is repealed July 1, 2027.

327 Section 10. Section 72-2-134 is enacted to read:

328 **72-2-134. Transportation Infrastructure General Fund Support Subfund.**

329 (1) There is created within the Transportation Investment Fund of 2005 a subfund
330 known as the "Transportation Infrastructure General Fund Support Subfund."

331 (2) The subfund consists of:

332 (a) appropriations by the Legislature;

333 (b) interest earned on the fund; and

334 (c) repayments made in accordance with Section 51-12-201.

335 (3) (a) The subfund shall earn interest.

336 (b) Interest earned on money in the subfund shall be deposited into the subfund.

337 (4) (a) The state treasurer shall invest up to \$300,000,000 from the subfund in

338 accordance with Title 51, Chapter 12, Utah Homes Investment Program.

339 (b) Notwithstanding Subsection (4)(a), the state treasurer may otherwise invest funds
340 described in Subsection (4)(a) if funds are available after qualified projects are approved under
341 Section [51-12-201](#).

342 Section 11. **Effective date.**

343 This bill takes effect on May 1, 2024.