

# HB0572S01 compared with HB0572

~~text~~ shows text that was in HB0572 but was deleted in HB0572S01.

text shows text that was not in HB0572 but was inserted into HB0572S01.

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Representative Robert M. Spendlove proposes the following substitute bill:

## STATE TREASURER INVESTMENT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: {}Robert M. Spendlove**

Senate Sponsor: {}\_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill directs the state treasurer to ~~invest in~~deposit into the Utah Homes Investment Program.{}

#### Highlighted Provisions:

This bill:

- ▶ creates the Utah Homes Investment Program (the program);
- ▶ directs the state treasurer to ~~invest~~deposit certain funds into the program;
- ▶ provides for the terms of ~~investment~~deposit in the program; and
- ▶ exempts ~~investments in~~deposits into the program from the Money Management Act~~; and~~;

~~makes the request for investment and investment agreement private under the Government Records and Access Management Act.~~

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

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

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

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

**63I-1-272**, as last amended by Laws of Utah 2022, Chapter 259

#### ENACTS:

**51-12-101**, Utah Code Annotated 1953

**51-12-102**, Utah Code Annotated 1953

**51-12-201**, Utah Code Annotated 1953

**51-12-202**, Utah Code Annotated 1953

**51-12-203**, Utah Code Annotated 1953

**51-12-204**, Utah Code Annotated 1953

**72-2-134**, Utah Code Annotated 1953

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*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;

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- (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 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 funds ~~{invested in}~~ deposited into the Utah Homes Investment Program from the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134.

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

### **CHAPTER 12. ~~{UTAH HOMES INVESTMENT PROGRAM}~~ Utah Homes Investment Program**

#### **Part 1. General Provisions**

##### **51-12-101. Definitions.**

As used in this chapter:

- (1) "Attainable home" means a residence that costs the purchaser no more than the amount a qualifying residential unit may be purchased~~;~~
- ~~\_\_\_\_\_ (a) } in accordance with Subsection 63H-8-501(6)(e); and~~
- ~~\_\_\_\_\_ (b) } at the time the state treasurer {invests with a financial institution.~~
- ~~\_\_\_\_\_ (2) "Council" means the Utah Homes Investment Program Oversight Council created in Section 51-12-203.~~

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

~~(4) deposits with a qualified depository.~~

(2) "Fund" means the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134.

~~(5)3~~ "Political subdivision" means:

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

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

(4) "Qualified depository" means the same as that term is defined in Section 51-7-3.

~~(6)5~~ (a) "Qualified project" means a new construction housing development project in the state for which the developer:

(i) commits to:

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

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

(C) having a plan to provide information to potential buyers of attainable homes about the First-Time Homebuyer Assistance Program created in Section 63H-8-502; and

(ii) executes a valid agreement with the political subdivision to develop housing meeting the requirements of Subsections (5)(a)(i)(A) and (B).

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

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

### **51-12-102. Reporting.**

(1) The state treasurer shall share the information reported in accordance with Subsection 51-12-202(3)(d) with the governor's office.

(2) Before December 31 of each year, the state treasurer and the governor's office or the governor's office's designee shall report to the ~~Executive Appropriations~~ Legislative Management Committee:

(a) the dollar amount of ~~investments~~ deposits and the number of ~~financial~~

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~~institutions}~~ qualified depositories in which ~~{an investment}~~ a deposit is made in accordance with Part 2, Investment Program; ~~{and}~~

~~(2)}b~~ the information reported in accordance with Subsection 51-12-202(3)(d)~~{,};~~ and  
(c) the impact of the Utah Homes Investment Program on the availability of housing in the state.

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

### Part 2. Investment Program

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

(1) A ~~{financial institution}~~ qualified depository may request the state treasurer to ~~{invest}~~ make a deposit in the ~~{financial institution}~~ qualified depository if the ~~{financial institution}~~ qualified depository:

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

(b) requests no more than ~~{75%}~~ 80% of the financing for a qualified project.

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

~~{ (3)}2~~ Subject to Subsection (~~{5}3~~), the state treasurer shall approve the ~~{financial institution's}~~ qualified depository's request for ~~{investment}~~ deposit:

(a) ~~{(i)}~~ unless the state treasurer determines the ~~{financial institution}~~ qualified depository does not merit ~~{investment}~~ deposit under fiduciary duties and prudent investment practices ~~{and the state treasurer's fiduciary duties; or~~

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

~~— (b) within the parameters of this chapter;~~

(b) in an amount that is equal to the lesser of:

(i) the deposit amount requested;

(ii) \$60,000,000; or

(iii) 50% of the qualified depository's maximum amount of public deposits determined in accordance with Section 51-7-18.1; and

(c) as sufficient money becomes available in the ~~{fund}~~ subfund and in accordance with Subsection 72-2-134(4)(a).

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

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

† (5)3) The state treasurer may not approve a request for ~~investment~~ deposit after December 31, 2025.

(6)4) The state treasurer shall notify Utah Housing Corporation of any qualified projects for which the state treasurer makes ~~an investment~~ a deposit in a ~~financial institution~~ qualified depository.

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

### **51-12-202. Terms of ~~investment~~ deposit.**

(1) The state treasurer shall enter into ~~an investment~~ a deposit agreement with ~~a financial institution that the state treasurer approves~~ an approved qualified depository in accordance with Section 51-12-201.

(2) The ~~investment~~ deposit agreement shall provide that the ~~financial institution~~ qualified depository:

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

(b) shall ~~repay~~ return the amount of ~~investment~~ deposit:

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

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

(B) 0.5%; and

(ii) at the earlier of:

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

(B) repayment of the loan financing;

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

(D) June 30, 2027;

(c) is responsible for ~~repayment~~ return of the amount of the deposit with accrued interest regardless of the completion of the qualified project or the repayment of the ~~financial institution's~~ qualified depository's loan to the developer of the qualified project; and

(d) shall report to the state treasurer the total number of housing units and the number

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of attainable homes each qualified project created.

(3) A ~~{financial institution}~~ qualified depository may ~~{repay}~~ return the ~~{investment}~~ deposit earlier than the time period described in Subsection (2)(b)(ii) without penalty.

(4) The state treasurer shall deposit the ~~{repayment}~~ return of the amount of ~~{an investment}~~ the deposit, including interest, into the fund.

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

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

~~— (1) There is created, within the office of the state treasurer, {~~ **Penalty.**

A developer or a qualified depository that fails to comply with the terms of deposit is disqualified from subsequent participation in the Utah Homes Investment Program ~~{ Oversight Council.~~

~~— (2) The council consists of the following members:~~

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

~~— (b) the director of the Division of Finance; and~~

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

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

~~— (b) The review shall verify that the request is from a financial institution and the project is a qualified project and that neither is disqualified under Section 51-12-204.~~

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

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

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

**51-12-204. { Penalty.**

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

~~— Section 8. Section 63G-2-302 is amended to read:~~

~~— 63G-2-302. Private records.~~

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- ~~—— (1) The following records are private:~~
- ~~—— (a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;~~
- ~~—— (b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;~~
- ~~—— (c) records of publicly funded libraries that when examined alone or with other records identify a patron;~~
- ~~—— (d) records received by or generated by or for:~~
  - ~~—— (i) the Independent Legislative Ethics Commission, except for:~~
    - ~~—— (A) the commission's summary data report that is required under legislative rule;~~
    - ~~and~~
    - ~~—— (B) any other document that is classified as public under legislative rule; or~~
    - ~~—— (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;~~
  - ~~—— (e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;~~
  - ~~—— (f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:~~
    - ~~—— (i) if, prior to the meeting, the chair of the committee determines release of the records:~~
      - ~~—— (A) reasonably could be expected to interfere with the investigation undertaken by the committee; or~~
      - ~~—— (B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and~~
      - ~~—— (ii) after the meeting, if the meeting was closed to the public;~~
    - ~~—— (g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;~~
    - ~~—— (h) records or parts of records under Section 63G-2-303 that a current or former~~



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~~employee identifies as private according to the requirements of that section;~~

~~—— (i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;~~

~~—— (j) that part of a voter registration record identifying a voter's:~~

~~—— (i) driver license or identification card number;~~

~~—— (ii) social security number, or last four digits of the social security number;~~

~~—— (iii) email address;~~

~~—— (iv) date of birth; or~~

~~—— (v) phone number;~~

~~—— (k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);~~

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

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

~~—— (n) a record that:~~

~~—— (i) contains information about an individual;~~

~~—— (ii) is voluntarily provided by the individual; and~~

~~—— (iii) goes into an electronic database that:~~

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

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

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

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

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

~~—— (iii) Subsection 31A-26-210(4);~~

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

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### Systems:

- ~~\_\_\_\_\_ (q) information provided by an offender that is:~~
  - ~~\_\_\_\_\_ (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and~~
  - ~~\_\_\_\_\_ (ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);~~
  - ~~\_\_\_\_\_ (r) a statement and any supporting documentation filed with the attorney general;~~
- Exception to credit union lending requirements.

Notwithstanding any provision of Title 7, Chapter 9, Utah Credit Union Act, or any other applicable statute requiring membership in the credit union by a borrower, a state or federally chartered credit union may make a loan to a developer of a qualified project and may request a deposit in accordance with {Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

- ~~\_\_\_\_\_ (s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;~~
- ~~\_\_\_\_\_ (t) an email address provided by a military or overseas voter under Section 20A-16-501;~~
- ~~\_\_\_\_\_ (u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;~~
- ~~\_\_\_\_\_ (v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:~~
  - ~~\_\_\_\_\_ (i) the commission's summary data report that is required in Section 63A-15-202; and~~
  - ~~\_\_\_\_\_ (ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;~~
- ~~\_\_\_\_\_ (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;~~
- ~~\_\_\_\_\_ (x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;~~
- ~~\_\_\_\_\_ (y) a record described in Subsection 53-5a-104(7);~~

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~~— (z) on a record maintained by a county for the purpose of administering property taxes; an individual's:~~

~~— (i) email address;~~

~~— (ii) phone number; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~— (i) depict the commission of an alleged crime;~~

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

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

~~— (iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or~~

~~— (v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;~~

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

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

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

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

~~— (c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical~~

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records were in the possession of a nongovernmental medical care provider.

~~Section 9~~ Sections 51-12-201 and 51-12-202.

Section 8. Section **63I-1-251** is amended to read:

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

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

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

Section 9. Section 63I-1-272 is amended to read:

**63I-1-272. Repeal dates: Title 72.**

(1) Subsection 72-2-121(9), which creates transportation advisory committees, is repealed July 1, 2022.

(2) Section 72-2-134 is repealed July 1, 2027.

~~(2)~~ (3) Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2025.

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

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

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

(2) The subfund consists of:

(a) appropriations by the Legislature;

(b) interest earned on the fund; and

(c) ~~repayments~~ returns of the amounts of deposit with accrued interest made in accordance with Section ~~51-12-201~~ 51-2-202.

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

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

(4) (a) The state treasurer shall ~~invest~~ deposit up to \$300,000,000 from the subfund in accordance with Title 51, Chapter 12, Utah Homes Investment Program.

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

(5) On June 30, 2027, the Division of Finance shall transfer any balance in the subfund

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into the Transportation Investment Fund of 2005.

Section 11. **Effective date.**

This bill takes effect on May 1, 2024.