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RETIREMENT SYSTEM DIVESTMENT

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by requiring the Utah State Retirement Office to prevent the investment of retirement funds in Iran's petroleum sector.

Highlighted Provisions:

This bill:

→ **► modifies the definition of direct holdings to exclude holdings that are part of a passive indexing investment strategy;** **←**

► requires the Utah State Retirement Office to include data designed to explain the extent to which public fund investments in scrutinized companies are being prevented;

► requires the Utah State Retirement Office to prevent the → [investment of public funds] acquisition of direct holdings ←

in a scrutinized company by adjusting future investment practices within the office and by stipulating in future investment management contracts that no new

→ [investments may be made] direct holdings be acquired ← in a scrutinized company; and

► making technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2011.

Utah Code Sections Affected:

AMENDS:



28 **49-11-306**, as enacted by Laws of Utah 2009, Chapter 54

29

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

31 Section 1. Section **49-11-306** is amended to read:

32 **49-11-306. Definitions -- Scrutinized companies investment report -- Content --**
 33 **Reporting -- Exceptions.**

34 (1) As used in this section:

35 (a) "Active business operations" means all business operations that are not inactive
 36 business operations.

37 (b) (i) "Business operations" means investing, with actual knowledge on or after
 38 August 5, 1996, in Iran's petroleum sector which investment directly and significantly
 39 contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran.

40 (ii) "Business operations" does not include the retail sale of gasoline and related
 41 consumer products.

42 (c) "Company" means any foreign sole proprietorship, organization, association,
 43 corporation, partnership, joint venture, limited partnership, limited liability partnership, limited
 44 liability company, or any other foreign entity or business association, including all
 45 wholly-owned subsidiaries, majority-owned subsidiaries or parent companies or affiliates of
 46 these entities or business associations, that exists for the purpose of making a profit.

47 (d) ~~§~~ **(i)** ~~§~~ "Direct holdings" means all publicly traded equity securities of a company
 47a that are
 48 held directly by the public fund or in an account or fund in which the public fund owns all
 49 shares or interests.

49a ~~§~~ **(ii)** "Direct holdings" does not include publicly traded equity securities of a
 49b company held as part of a passive indexing investment strategy. ~~§~~

50 (e) "Inactive business operations" means the continued holding or renewal of rights to
 51 property previously operated for the purpose of generating revenues but not presently deployed
 52 for that purpose.

53 (f) "Iran" means the Islamic Republic of Iran.

54 (g) "Petroleum resources" means petroleum or natural gas.

55 (h) "Public fund" means the Utah State Retirement Investment Fund created under
 56 Section 49-11-301.

57 (i) "Scrutinized business operations" means any active business operations that:

58 (i) are subject to or liable for sanctions under Public Law 104-172, the Iran Sanctions

59 Act of 1996, as amended; and

60 (ii) involve the maintenance of:

61 (A) the company's existing assets or investments in Iran; or

62 (B) the deployment of new investments to Iran that meet or exceed the threshold
63 referred to in Public Law 104-172, the Iran Sanctions Act of 1996, as amended.

64 (j) "Scrutinized company" means any company engaging in scrutinized business
65 operations.

66 (2) (a) The Utah State Retirement Office shall identify those scrutinized companies in
67 which the public fund has direct holdings. In making the determination, the board shall review
68 and rely on publicly available information regarding companies with business operations in
69 Iran, including information provided by nonprofit organizations, research firms, international
70 organizations, and government entities.

71 (b) The office shall assemble a list of all identified scrutinized companies.

72 (c) The office shall update the list, on an annual basis, with information provided and
73 received from those entities listed in Subsection (2)(a).

74 (3) The office shall prepare an annual report of public fund investments in scrutinized
75 companies.

76 (4) The report shall include amounts and other data and statistics designed to explain
77 the past and current extent to which public fund investments in scrutinized companies:

78 (a) are present[-]; and

79 (b) are being prevented under Subsection (6).

80 (5) The report shall be provided to the governor, the board, the president of the Senate,
81 the speaker of the House of Representatives, and to each member and staff of the Retirement
82 and Independent Entities Committee created under Section 63E-1-201.

83 (6) Beginning July 1, 2011, using the most current list assembled under Subsection (2),
84 the office shall prevent the investment of public funds ~~to~~ **direct holdings** ~~in~~ a scrutinized
84a company:

85 (a) for public funds managed within the office, by not investing in ~~to~~ **direct holdings**
85a **in** ~~to~~

85b a scrutinized

86 company; and

87 (b) for public funds managed by contract by a professional investment manager:

88 (i) for existing contracts, by requesting that no more ~~to~~ **investments be made** ~~in~~ **direct**
88a **holdings be acquired** ~~in~~ in a

89 scrutinized company; and

90 (ii) for future contracts, by stipulating in the contract that no new ~~§~~ → [investments may be
91 made] direct holdings be acquired ←~~§~~ in a scrutinized company.

92 [~~6~~] (7) The provisions of this section do not apply to:

93 (a) money invested in a defined contribution plan as defined under Section 49-11-102;

94 or

95 (b) investments in a company that is primarily engaged in:

96 (i) supplying goods or services intended to relieve human suffering in Iran; or

97 (ii) promoting health, education, religious, welfare, or journalistic activities in Iran.

98 Section 2. **Effective date.**

99 This bill takes effect on July 1, 2011.

Legislative Review Note
as of 11-29-10 9:56 AM

Office of Legislative Research and General Counsel