

**Representative Julie Fisher** proposes the following substitute bill:

**RETIREMENT SYSTEM DIVESTMENT**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Julie Fisher**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ requires the Retirement Office to include data designed to explain the extent to which public fund investments in scrutinized companies are being prevented;
- ▶ requires the Retirement Office to prevent the investment of public funds 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 in a scrutinized company; and
- ▶ making technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2010.

**Utah Code Sections Affected:**



26 AMENDS:

27 **49-11-306**, as enacted by Laws of Utah 2009, Chapter 54

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

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

31 **49-11-306. Definitions -- Scrutinized Companies Investment Report -- Content --**  
32 **Reporting -- Exceptions.**

33 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

57 (i) are subject to or liable for sanctions under Public Law 104-172, the Iran Sanctions  
58 Act of 1996, as amended; and

59 (ii) involve the maintenance of:

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

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

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

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

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

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

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

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

77 (a) are present[-]; and

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

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

82 (6) Beginning, July 1, 2010, using the most current list assembled under Subsection  
83 (2), the office shall prevent the investment of public funds in a scrutinized company:

84 (a) for public funds managed within the office, by not investing in a scrutinized  
85 company; and

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

87 (i) for existing contracts, by requesting that no more investments be made in a

88 scrutinized company; and

89 (ii) for future contracts, by stipulating in the contract that no new investments may be  
90 made in a scrutinized company.

91 [~~6~~] (7) The provisions of this section do not apply to:

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

93 or

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

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

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

97 Section 2. **Effective date.**

98 This bill takes effect on July 1, 2010.

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**H.B. 286 1st Sub. (Buff) - Retirement System Divestment**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this may result in additional costs to the Utah Retirement System of \$24,000 one-time in FY 2010 and \$34,000 ongoing in FY 2011. Annual revenue losses to Utah Retirement System's current portfolio of investments is estimated at \$9,000,000. This bill may limit future investments by the Utah Retirement Systems and as a result may affect its ability to maximize returns, which in turn may affect existing unfunded liabilities or future contribution rates.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.