

Part 3 Investment Fund

49-11-301 Creation -- Board to act as trustees of the fund -- Commingling and pooling of funds -- Interest earnings -- Funded ratio.

- (1)
 - (a) There is created a common trust fund known as the "Utah State Retirement Investment Fund" for the purpose of enlarging the investment base and simplifying investment procedures and functions.
 - (b) The Utah State Retirement Investment Fund may sue and be sued in its own name.
- (2)
 - (a) The board shall act as trustees of the Utah State Retirement Investment Fund and, through the executive director, may commingle and pool the funds and investments of any system, plan, or program into the Utah State Retirement Investment Fund, if the principal amounts of the participating funds do not lose their individual identity and are maintained as separate trust funds on the books of the office.
 - (b)
 - (i) In combining the investments of any fund, each of the participating funds shall be credited initially with its share of the total assets transferred to the Utah State Retirement Investment Fund.
 - (ii) The value of the transferred assets shall be calculated in accordance with generally accepted accounting principles.
 - (c) Subsequent transfers of additional capital from participating funds shall be credited similarly to its respective trust account.
 - (d) The income or principal or equity credit belonging to one participating fund may not be transferred to another, except for the purpose of:
 - (i) actuarially recommended transfers in order to adjust employer contribution rates for an employer that participates in both contributory and noncontributory systems; or
 - (ii) transfers which reflect the value of service credit accrued in different systems during a member's career.
- (3) The assets of the funds are for the exclusive benefit of the members, participants, and covered individuals and may not be diverted or appropriated for any purpose other than that permitted by this title.
- (4)
 - (a) Interest and other earnings shall be credited to each participating fund on a pro rata equity position basis.
 - (b)
 - (i) A portion of the interest and other earnings of the common trust fund may be credited to a reserve account within the Utah State Retirement Investment Fund to meet adverse experiences arising from investments or other contingencies.
 - (ii) Each participating fund shall retain its proportionate equity in the reserve account.
- (5)
 - (a) The actuarial funded ratio of the systems may reach and be maintained at 110%, as determined by the board's actuary using assumptions adopted by the board, before the board is required to certify a decrease in contribution rates.
 - (b) Except as provided in Subsection (6), the board may not increase contribution rates to attain an actuarial funded ratio greater than 100%.

- (6)
- (a) The cost of any amendment to this title shall be included in the final contribution rates adopted and certified by the board in accordance with Subsections 49-11-102(14) and 49-11-203(1)(l).
 - (b) If a preliminary certified contribution rate approved by the board prior to an annual general session or special session of the Legislature was maintained at a previous year's level that is higher than the contribution rate calculated by the board's actuary for that year in accordance with Subsection (5)(a), the board's final certified contribution rate shall be the sum of the actuarially determined costs from any amendment to this title during the general session or special session and the preliminary certified contribution rate.

Amended by Chapter 10, 2018 General Session

49-11-302 Board duties with respect to fund.

- (1) The board:
- (a) shall review and establish the asset allocation of the Utah State Retirement Investment Fund for investment, and with the executive director, shall determine the method of investing the funds;
 - (b) through the executive director:
 - (i) shall invest the money in the Utah State Retirement Investment Fund; and
 - (ii) may provide for the holding, purchasing, selling, assigning, transferring, and disposing of any of the securities and investments in which any of the money of the Utah State Retirement Investment Fund is invested.
- (2) Fees for all services shall be paid from the interest earnings of the Utah State Retirement Investment Fund.
- (3) Title to real estate or any other fund investment may be:
- (a) held in the name of the Utah State Retirement Investment Fund; or
 - (b) held in another name or names as determined by the board.

Renumbered and Amended by Chapter 250, 2002 General Session

49-11-303 Fund investment standard -- Prudent investor rule.

The fund shall be invested in accordance with the prudent investor rule established in Title 75, Chapter 7, Part 9, Utah Uniform Prudent Investor Act.

Amended by Chapter 116, 2005 General Session

49-11-304 Administrative costs -- Payable from fund.

General administrative costs of operating the office shall be assessed to the systems, plans, programs, and funds on a pro rata basis and shall be paid from earnings of the Utah State Retirement Investment Fund.

Renumbered and Amended by Chapter 250, 2002 General Session

49-11-305 Self-insurance option -- Purchase of liability insurance.

- (1) The office may self insure and may purchase commercial insurance in any amount.
- (2) The office may also purchase excess commercial insurance above the limits provided by the Governmental Immunity Act against any:

- (a) risk created or recognized by the Governmental Immunity Act; or
- (b) other action for which the board, office, or any of its employees, may be held liable.

Renumbered and Amended by Chapter 250, 2002 General Session

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

(1) As used in this section:

- (a) "Active business operations" means all business operations that are not inactive business operations.
 - (b)
 - (i) "Business operations" means investing, with actual knowledge on or after August 5, 1996, in Iran's petroleum sector which investment directly and significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran.
 - (ii) "Business operations" does not include the retail sale of gasoline and related consumer products.
 - (c) "Company" means any foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or any other foreign entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries or parent companies or affiliates of these entities or business associations, that exists for the purpose of making a profit.
 - (d)
 - (i) "Direct holdings" means all publicly traded equity securities of a company that are held directly by the public fund or in an account or fund in which the public fund owns all shares or interests.
 - (ii) "Direct holdings" does not include publicly traded equity securities of a company held as part of a passive indexing investment strategy.
 - (e) "Inactive business operations" means the continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for that purpose.
 - (f) "Iran" means the Islamic Republic of Iran.
 - (g) "Petroleum resources" means petroleum or natural gas.
 - (h) "Public fund" means the Utah State Retirement Investment Fund created under Section 49-11-301.
 - (i) "Scrutinized business operations" means any active business operations that:
 - (i) are subject to or liable for sanctions under Public Law 104-172, the Iran Sanctions Act of 1996, as amended; and
 - (ii) involve the maintenance of:
 - (A) the company's existing assets or investments in Iran; or
 - (B) the deployment of new investments to Iran that meet or exceed the threshold referred to in Public Law 104-172, the Iran Sanctions Act of 1996, as amended.
 - (j) "Scrutinized company" means any company engaging in scrutinized business operations.
- (2)
- (a) The Utah State Retirement Office shall identify those scrutinized companies in which the public fund has direct holdings. In making the determination, the board shall review and rely on publicly available information regarding companies with business operations in Iran, including information provided by nonprofit organizations, research firms, international organizations, and government entities.

- (b) The office shall assemble a list of all identified scrutinized companies.
- (c) The office shall update the list, on an annual basis, with information provided and received from those entities listed in Subsection (2)(a).
- (3) The office shall prepare an annual report of public fund investments in scrutinized companies.
- (4) The report shall include amounts and other data and statistics designed to explain the past and current extent to which public fund investments in scrutinized companies:
 - (a) are present; and
 - (b) are being prevented under Subsection (6).
- (5) The report shall be provided to the governor, the board, the president of the Senate, the speaker of the House of Representatives, and to each member and staff of the Retirement and Independent Entities Committee created under Section 63E-1-201.
- (6) Beginning July 1, 2011, using the most current list assembled under Subsection (2), the office shall prevent the investment of public funds direct holdings in a scrutinized company:
 - (a) for public funds managed within the office, by not investing in direct holdings in a scrutinized company; and
 - (b) for public funds managed by contract by a professional investment manager:
 - (i) for existing contracts, by requesting that no more direct holdings be acquired in a scrutinized company; and
 - (ii) for future contracts, by stipulating in the contract that no new direct holdings be acquired in a scrutinized company.
- (7) The provisions of this section do not apply to:
 - (a) money invested in a defined contribution plan as defined under Section 49-11-102; or
 - (b) investments in a company that is primarily engaged in:
 - (i) supplying goods or services intended to relieve human suffering in Iran; or
 - (ii) promoting health, education, religious, welfare, or journalistic activities in Iran.

Amended by Chapter 352, 2011 General Session

49-11-307 Report on funded status -- Study of compensation.

- (1)
 - (a) The office shall report the funded status of the Utah State Retirement Investment Fund to the Retirement and Independent Entities Committee created under Section 63E-1-201.
 - (b) The report under Subsection (1)(a) shall be made at least annually or as requested by the committee.
- (2)
 - (a) If the Utah State Retirement Investment Fund reaches a funded status of 100%, the office shall make a report to that effect.
 - (b) The report shall be provided to the governor, the board, the president of the Senate, the speaker of the House of Representatives, and to each member and staff of the Retirement and Independent Entities Committee created under Section 63E-1-201.
- (3) Upon receipt of the report under Subsection (2)(b), the committee shall conduct a study on participating employee compensation and benefits to determine the need for adjustments in retirement benefits, salary, and other benefits for the recruitment and retention of a qualified workforce.
- (4) The committee shall report any findings and recommendations to the Legislative Management Committee.

Enacted by Chapter 266, 2010 General Session

