



OFFICE OF THE
ATTORNEY GENERAL



OFFICE OF THE
STATE TREASURER



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STATE AUDITOR

News Release

**For Immediate Release
December 15, 2021**

Attorney General Sean Reyes, State Treasurer Marlo Oaks and State Auditor John Dougall Lead 23 States in Letter Opposing Proposed Department of Labor Rule That Puts Retirement Savings at Risk

23 States Join Letter Commenting on the Proposed Department of Labor Rule

Salt Lake City, UTAH – Utah Attorney General Sean Reyes, State Treasurer Marlo Oaks and State Auditor John Dougall were joined by state attorneys general and financial officers representing 23 states in a letter commenting on a proposed Department of Labor rule that would fundamentally alter fiduciary standards in the United States designed to protect employee interests in their retirement investments above all other considerations.

The proposed rule change entitled, Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights (EBSA-2021-0013-0001), would provide plan sponsors and investment managers a safe harbor to environmental, social and governance (ESG) investment strategies in retirement plans as a default option. ESG funds focus on social causes and political goals when investing assets thereby eroding the traditional fiduciary obligation owed to beneficiaries. The proposed rule would also permit fiduciaries to vote proxies in ways that support ESG goals contrary to shareholder interests.

The letter states: “It is our position that social and political issues should not be considered by fiduciaries in employee retirement savings investment decisions. We are not opposed to any person or entity considering ESG or other social factors when investing their own money; individuals and companies may promote social causes through their investments to the extent they desire. But we are opposed to investment managers and employers being encouraged or mandated to consider ESG factors and protected from legal action when they do.”

“Ensuring the retirement security of American workers should remain the single focus of investment managers. Enacting good public policy should remain a political function. By mixing these two we lose the fiduciary standard that is a cornerstone of retirement law and protects plan participants against unscrupulous or misaligned interests,” Utah Attorney General Sean D. Reyes said. “Blurring the separation of politics and fiduciary obligations is exactly what the proposed rule would do. It is irresponsible and unhelpful to average American workers who are already underfunding their retirement.”

“Investment managers should focus on their expertise – creating returns for American workers saving for retirement. Political agendas should not be enforced through investment managers. The proposed rule would politicize retirement savings plans rather than preserve the fiduciary loyalty owed to plan participants who are counting on financial returns to fund their retirement,” Utah Treasurer Marlo M. Oaks said. “Politics needs to be handled by elected officials. Investment managers and activist shareholders are not accountable to voters. Using hard earned retirement money to further political agendas is costly to participants and undermines our political process. This should not be a partisan political issue.”

Utah Auditor John Dougall said, “Activists are pressuring businesses to impose Environmental, Social, and Corporate Governance (ESG) considerations. These social agendas too often financially disenfranchise business owners and weaken management’s duty to act in the best interest of all shareholders.”

The letter can be found on the State Treasurer’s website at: <https://treasurer.utah.gov/wp-content/uploads/Prudence-and-Loyalty-DOL-Rule-Comment-Letter-Amended.pdf>.

About the Office of the Attorney General

The Office of Utah Attorney General was set up in 1850 when Utah was still a territory. Since the admission of Utah as a state on January 4, 1896 the Attorney General has been an independently elected constitutional officer of the executive branch and serves four-year terms. The Attorney General must be at least 25 years old at the time of their election, be admitted to practice before the State Supreme Court and a member of the Utah State Bar in good faith. For more information, see attorneygeneral.utah.gov.

About the Office of the State Treasurer

The Office of the State Treasurer performs a broad array of functions that are critical to the banking, investment management and financing operations of state agencies and local governments throughout Utah. The office orchestrates the state’s cash collection, concentration, disbursement and investment processes and carefully manages banking, brokerage and custodial relationships to ensure that banking operations are conducted in an efficient, secure and cost-effective manner. The office administers and manages the \$25 billion Public Treasurers’ Investment Fund, which provides daily liquidity to state agencies and more than 700 local governmental entities throughout Utah. The office also manages several longer-term investment portfolios, and a portfolio of statutorily required government escrow accounts. Office staff assists the State Treasurer with the issuance of the state’s general obligation and lease revenue bonds. The State Treasurer is a Constitutional Officer of the State of Utah, elected by the state’s citizens every four years. The role of the State Treasurer is authorized in Article VII, Section 15 of the Utah Constitution. For more information, see treasurer.utah.gov.

About the Office of the State Auditor

The Office of the State Auditor provides Utah taxpayers and government officials with an independent assessment of financial operation, statutory compliance, and performance management for state and local government. Specific activities of the Office include performing financial audits, conducting federal funds compliance audits, providing local government oversight, conducting agency and program performance audits, performing fraud and compliance audits, and operating the State Auditor Hotline for citizens to report suspected financial issues or improprieties. These capabilities strengthen Utah State Government and help taxpayers have confidence in the integrity of Utah’s government agencies. The Office also provides interactive graphical tools to help taxpayers and policymakers gain greater insight into governmental financial activities. The State Auditor is a Constitutional Officer of the State of Utah, elected by the state’s citizens every four years. The role of the Utah State Auditor is authorized in Article VII, Section 15 of the Utah Constitution. For more information, see auditor.utah.gov.

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