

## MATERIAL SUPPORTING THE AGENDA

### VOLUME XLVIIa

This volume contains the Material Supporting the Agenda furnished to each member of the Board of Regents prior to the meetings held on:

September 3, 1999  
November 10-11, 1999  
January 5, 2000  
January 14, 2000  
February 9-10, 2000

The material is divided according to the standing committees and the meetings that were held and is color coded as follows:

White paper - for documentation of all items that were presented before the deadline date.

Blue paper - Executive Session

Yellow paper – for documentation of items submitted after the deadline date for inclusion in the Agenda (late items) and distributed to members of the Board of Regents prior to the meeting.

Material distributed at the meeting as additional documentation is not included in the bound volume. If the Executive Secretary was furnished a copy, then that material goes into the appropriate subject file.

**Special Meeting  
Board of Regents  
The University of Texas System  
Ninth Floor, Ashbel Smith Hall, 201 W. 7th Street  
Austin, Texas  
September 3, 1999 – 9:30 a.m.  
(Via Telephone Conference Call)**

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**AGENDA**

- A. ROLL CALL AND CALL TO ORDER**
  
- B. CONSIDER ACTION ON RECOMMENDATIONS**
  - 1. U. T. Board of Regents: Proposed Open Meeting Policy Statement for The University of Texas Investment Management Company Effective Immediately**
  
  - 2. U. T. Board of Regents: Proposed Amendments to the Investment Policy Statement for the Permanent Health Fund, Delegation of Authority to Enter into Investment Management Services Agreement, and Ratification of Actions Taken by UTIMCO Officers**
  
- C. ADJOURNMENT**

OFFICE OF THE BOARD OF REGENTS  
THE UNIVERSITY OF TEXAS SYSTEM  
Austin, Texas

August 31, 1999

SPECIAL MEETING NO. 924

TO: Members of the Board of Regents

Chairman Donald L. Evans  
Vice-Chairman Tom Loeffler  
Vice-Chairman Rita C. Clements  
Regent Woody L. Hunt  
Regent Charles Miller  
Regent Patrick C. Oxford  
Regent A. W. "Dub" Riter, Jr.  
Regent Raul R. Romero  
Regent A. R. (Tony) Sanchez, Jr.

1. U. T. Board of Regents: Proposed Open Meeting Policy Statement for The University of Texas Investment Management Company Effective Immediately

RECOMMENDATION

The Chancellor recommends that the U. T. Board of Regents approve the Open Meeting Policy Statement for The University of Texas Investment Management Company ("UTIMCO"), effective immediately, as set out on Pages 3 - 5.

BACKGROUND INFORMATION

At the August 12, 1999 meeting of the U. T. Board of Regents, Chairman Evans recommended that the UTIMCO Board of Directors conduct its business in open meetings. This recommendation was endorsed by the U. T. Board of Regents whereupon Chairman Evans directed Chancellor Cunningham to develop a policy reflecting the position of the U. T. Board of Regents.

The UTIMCO Open Meeting Policy Statement proposed by Chancellor Cunningham has been reviewed by the U. T. System Office of General Counsel and the Executive Secretary to the Board of Regents and is consistent in substantial respects with the policies followed by the U. T. Board of Regents. The proposed policy allows greater flexibility for the UTIMCO Board of Directors to participate in meetings via telephone or videoconference and to hold briefing sessions on private investment matters as allowed by State law for the Texas Growth Fund.

## THE UNIVERSITY OF TEXAS INVESTMENT MANAGEMENT COMPANY

### OPEN MEETING POLICY STATEMENT

The University of Texas Investment Management Company ("UTIMCO") is a private nonprofit corporation that has contracted with the Board of Regents of The University of Texas System (the "Board of Regents") to serve as an investment manager for the assets of the Permanent University Fund (the "PUF") and other funds under the control and management of the Board of Regents. Although UTIMCO is not subject to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code ("TOMA"), the Board of Directors of UTIMCO (the "Board") recognizes that the public has a valid interest in the meetings of the Board being open to the public. Accordingly, the Board shall henceforth convene in open meetings consistent with the procedures set forth below.

***Open Meetings Requirement.*** Every regular, special or called meeting of the Board shall be open to the public, except as provided by this policy statement.

***Meeting.*** A meeting of the Board occurs when there is any deliberation between a quorum of the members of the Board, or between a quorum of the members of the Board and another person, during which the business or operations of UTIMCO is discussed or considered, or during which the Board takes formal action. Notwithstanding the provisions for executive sessions and sessions for private investments discussed below, any and all final action taken by the Board will be taken in an open meeting. The term "meeting" will not include the gathering of a quorum of the Board at a social function unrelated to the business or operations of UTIMCO, or the attendance by a quorum of the Board at a regional, state or national convention or workshop, if formal action is not taken and any discussion of the business or operations of UTIMCO is incidental to the social function, convention or workshop.

***Quorum.*** A quorum of the Board will consist of the number of members of the Board required under UTIMCO's bylaws for the consideration of any matter regarding the business or operations of UTIMCO.

***Minutes.*** The Board shall prepare and maintain minutes of each open meeting. The minutes must state the subject of each deliberation of the Board and indicate vote, order, decision, or other action taken. The minutes of an open meeting shall be available for public inspection and copying on reasonable notice during regular business hours of UTIMCO.

***Deliberation.*** For the purposes of this policy statement, "deliberation" means a verbal exchange between the members of the Board, or between the members of the Board and another person, concerning an issue within the scope of the business or operations of UTIMCO.

**Notice.** UTIMCO shall give written notice of the date, hour, place and subject of each open meeting held by the Board. At least 72 hours before the scheduled time of the meeting, UTIMCO shall cause such notice to be (i) posted on UTIMCO's website, (ii) provided to the Executive Secretary to the Board of Regents, and (iii) provided to members of the news media requesting notice of meetings.

**Emergency Meetings or Additions to Agenda.** In an emergency, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which notice has been posted in accordance with this policy statement is sufficient if it is posted for at least two hours before the meeting is convened. An emergency exists only if immediate action is required of the Board because of a reasonably unforeseen situation. The notice or supplemental notice shall clearly identify the emergency. A representative of UTIMCO will notify the members of the news media who have requested notice of the emergency meeting or emergency item by telephone prior to the meeting.

**Telephone and Videoconference.** Members of the Board may participate in any meeting via telephone conference call or video transmission. The open portions of a meeting are required to be audible, and visible if by videoconference, to the public at the location specified in the notice. Also, the location of the meeting shall be set up to provide two-way communication during the entire meeting, and the identity of each participant at the meeting must be clearly stated prior to speaking.

**Advisory Committees.** Advisory committees of the Board are not subject to this policy statement. Advisory committees are committees that are comprised of less than a quorum of the Board and that do not have any decision-making authority. All Board deliberations and decisions on subjects reviewed by an advisory committee will be accomplished in an open meeting of a quorum of the Board, unless specifically otherwise authorized in this policy statement.

**Executive Session.** Unless otherwise authorized by this policy statement, an executive session of a quorum of the Board may be conducted as a closed meeting. An "executive session" of the Board may include: (1) consultations with UTIMCO's attorney regarding pending or contemplated litigation or a settlement offer, or any matter which may compromise the duty of the attorney to UTIMCO under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas; (2) deliberations of a negotiated contract for a prospective gift or donation to UTIMCO or the Board of Regents if deliberation in an open meeting would have a detrimental effect on the position of UTIMCO or the Board of Regents in negotiations with a third person; (3) deliberations about directors, officers and employees of UTIMCO, including the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a director, officer or employee, or the hearing of a complaint or charges against a director, officer or employee; and (4) deliberations regarding the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of UTIMCO in negotiations with a third person. UTIMCO shall keep a certified agenda of the proceedings of each executive session, except for a private consultation with UTIMCO's attorney. The presiding officer of the executive session shall

certify that an agenda kept is a true and correct record of the proceedings. The certified agenda must include: (1) a statement of the subject matter of each deliberation; (2) a record of any further action taken; and (3) an announcement by the presiding officer at the beginning and the end of the executive session indicating the date and time. Any final action, decision, or vote on a matter deliberated in an executive session under this policy statement may only be made in an open meeting that is held in compliance with the notice provisions of this policy statement.

***Executive Session Procedures.*** If an executive session is allowed under this policy statement, the Board may not conduct the executive session unless a quorum of the Board first convenes in an open meeting, whether by physical presence, telephone conference or video transmission, for which notice has been given as required by this policy statement and during which the presiding officer publicly announces that a closed meeting will be held and identifies the subjects to be covered in the executive session.

***Briefing Sessions for Private Investments.*** A quorum of the Board may confer with one or more employees of UTIMCO or with a third party in a closed meeting if the only purpose of the conference is to (i) receive information from the employees of UTIMCO or the third party relating to an investment or potential investment by UTIMCO in (a) a private business entity, if disclosure of the information would give advantage to a competitor, or (b) a business entity whose securities are publicly traded, if the investment or potential investment is not required to be registered under the Securities Exchange Act of 1934, and its subsequent amendments, and if disclosure of the information would give advantage to a competitor; or (ii) question the employees of UTIMCO or the third party regarding an investment or potential investment described above, if disclosure of the information contained in the questions or answers would give advantage to a competitor. During any such conference, members of the Board may only ask questions and receive information and may not deliberate any business of UTIMCO.

2. U. T. Board of Regents: Proposed Amendments to the Investment Policy Statement for the Permanent Health Fund, Delegation of Authority to Enter into Investment Management Services Agreement, and Ratification of Actions Taken by UTIMCO Officers

### RECOMMENDATION

The Board of Directors of The University of Texas Investment Management Company ("UTIMCO") recommends that the U. T. Board of Regents approve:

- a. The amendments, as shown in congressional style on Pages 9 - 10, to the Permanent Health Fund ("PHF") Investment Policy Statement
- b. A delegation of authority to the Chief Executive Officer of UTIMCO to execute an agreement with the Comptroller of Public Accounts to administer, on behalf of the U. T. Board of Regents, any funds assigned by statute to the Comptroller for the creation of public endowment funds pursuant to Chapter 63 of the Texas Education Code
- c. That any actions taken by officers of UTIMCO prior to the date of this meeting that are within the authority conferred hereby are ratified, confirmed and approved in all respects as the act and deed of the U. T. Board of Regents.

### BACKGROUND INFORMATION

The Permanent Health Fund (the "Fund") is an internally managed pooled fund for the collective investment of permanent funds for health related institutions of higher education created, effective August 30, 1999, by Chapter 63 of the Texas Education Code. These permanent health funds consist of:

1. The Permanent Health Fund for Higher Education (\$350 million),
2. Thirteen separate Permanent Funds for Health Related Institutions (\$595 million),

3. The Permanent Fund for Higher Education Nursing, Allied Health, and Other Health Related Programs (\$45 million), and
4. The Permanent Fund for Minority Health Research and Education (\$25 million).

Chapter 63 of the Texas Education Code designates the following institutions as fund administrator:

1. Permanent Health Fund for Higher Education: U. T. Board of Regents
2. Separate Permanent Funds for Health Related Institutions: the governing board of an institution for which such a fund is established or, if the governing board so elects, the Comptroller of Public Accounts (State Comptroller)
3. Permanent Fund for Higher Education Nursing, Allied Health, and Other Health Related Programs: State Comptroller
4. Permanent Fund for Minority Health Research and Education: State Comptroller

Chapter 63 of the Texas Education Code permits the State Comptroller, in turn, to contract with the governing board of any institution that is eligible to receive a grant under Chapter 63 to serve as fund administrator for the Permanent Fund for Health Related Institutions. In late July 1999, the State Comptroller requested that the U. T. Board of Regents, through UTIMCO, serve as administrator for both the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health Related Programs and the Permanent Fund for Minority Health Research and Education. At its August 12, 1999 meeting, the U. T. Board of Regents approved the PHF Investment Policy Statement and authorized the Chief Executive Officer of UTIMCO to execute an agreement with the State Comptroller to administer both these funds, on behalf of the U. T. Board of Regents.

Subsequent to the August 12, 1999 meeting, the State Comptroller requested that the U. T. Board of Regents, through UTIMCO, also approve serving as fund administrator for any Chapter 63 fund for which the State Comptroller is the designated administrator, including two separate \$25 million Permanent Health Funds for Higher Education established for the benefit of the University of North Texas Health Science Center at Fort Worth and Baylor College of Medicine.

The Board actions proposed above will amend the August 12, 1999 actions of the U. T. Board of Regents to allow for (a) the inclusion of additional Chapter 63 funds in the PHF Investment Policy Statement and in the Investment Management Services Agreement between the State Comptroller and the U. T. Board of Regents and (b) the administration of these funds as of August 30, 1999.

**THE UNIVERSITY OF TEXAS SYSTEM  
PERMANENT HEALTH FUND  
INVESTMENT POLICY STATEMENT**

**Purpose**

The Permanent Health Fund (the "Fund") is hereby established by the Board of Regents of The University of Texas System (the "Board") as a pooled fund for the collective investment of permanent funds for health-related institutions of higher education created, effective August 30, 1999, by Chapter 63 of the Texas Education Code. These permanent health funds consist of:

- A. The Permanent Health Fund for Higher Education ("PHFHE"), the distributions from which are to fund programs that benefit medical research, health education, or treatment programs at 10 health-related institutions of higher education; [and]
- B. Separate Permanent Funds for Health Related Institutions ("PFHRIs"), the distributions from which are to fund research and other programs[;] at health-related [~~certain U. T. System component~~] institutions of higher education[;] that benefit public health;
- C. The Permanent Fund for Higher Education Nursing, Allied Health, and Other Health Related Programs ("Allied Fund"), the distributions from which are to fund grants to public institutions of higher education that offer upper-level academic instruction and training in the field of nursing, allied health, or other health-related education; and
- D. The Permanent Fund for Minority Health Research and Education ("Minority Fund"), the distributions from which are to fund grants to institutions of higher education, including Centers for Teacher Education, that conduct research or educational programs that address minority health issues or form partnerships with minority organizations, colleges, or universities to conduct research and educational programs that address minority health issues.

The Fund provides for greater diversification of investments than would be possible if each account were managed separately.

**Fund Organization**

The Fund is organized as a mutual fund in which each eligible account purchases and redeems Fund units as provided herein.

## **Fund Management**

Chapter 63 of the Texas Education Code designates: a) the Board as the administrator for the PHFHE; [and] b) the governing board of an institution for which a PFHRI fund is established as the administrator for its own PFHRI, or if the governing board so elects, the Comptroller of Public Accounts ("State Comptroller"), and c) the State Comptroller as the administrator for the Allied Fund and the Minority Fund. It permits the State Comptroller, in turn, to contract with the governing board of any institution that is eligible to receive a grant under Chapter 63. It [Chapter 63] further states that the Board may manage and invest the Fund in the same manner as the Board manages and invests other permanent endowments. It also requires that the administrator invest the funds in a manner that preserves the purchasing power of the funds' assets and distributions. It further requires that the administrator make distributions in a manner consistent with the administrator's policies and procedures for making distributions to the beneficiaries of its own endowments in the case of the PHFHE or the funds themselves in the case of the PFHRI funds.

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xc:   Chancellor Cunningham  
      Executive Vice Chancellor Mullins  
      Executive Vice Chancellor Burck  
      Vice Chancellor Sharpe  
      Vice Chancellor Farabee  
      Vice Chancellor Perry  
      Mr. Thomas G. Ricks  
      Mr. W. O. Shultz