

1                                   A bill to be entitled  
2           An act relating to investments of the State  
3           Board of Administration; creating the  
4           "Protecting Florida's Investments Act";  
5           creating s. 215.442, F.S.; providing reporting  
6           requirements for the executive director of the  
7           State Board of Administration; requiring the  
8           State Board of Administration to publish  
9           certain quarterly reports on its website;  
10          creating s. 215.473, F.S.; providing  
11          legislative findings; providing definitions;  
12          requiring the State Board of Administration to  
13          identify all companies in which public moneys  
14          are invested that are doing certain types of  
15          business in or with Sudan and Iran; requiring  
16          the board to create and maintain certain  
17          scrutinized companies lists that name all such  
18          companies; requiring the board to periodically  
19          contact all scrutinized companies and encourage  
20          them to refrain from engaging in certain types  
21          of business in or with Sudan or Iran; requiring  
22          the board to inform scrutinized companies of  
23          their status as a scrutinized company and to  
24          ask for clarification as to the nature of each  
25          company's business activities; providing that a  
26          company may be removed from the list under  
27          certain conditions; providing for  
28          reintroduction of a company onto the list;  
29          requiring the board to divest of all publicly  
30          traded securities of a scrutinized company  
31          under certain conditions; providing exceptions

1 to the divestment requirement; prohibiting the  
2 board from acquiring securities of scrutinized  
3 companies that have active business operations;  
4 providing exceptions to the investment  
5 prohibition; providing an additional exception  
6 from the divestment requirement and the  
7 investment prohibition to certain indirect  
8 holdings in actively managed investment funds;  
9 requiring the board to request that the  
10 managers of such investment funds consider  
11 removing scrutinized companies from the fund or  
12 create a similar fund that excludes such  
13 companies; requiring the board to file a report  
14 with the Governor, the Legislature, and  
15 Attorney General within a specified period  
16 after creation of each scrutinized companies  
17 list; requiring the annual filing of an updated  
18 report; requiring that all such reports be made  
19 available to the public; requiring that the  
20 report include certain information; providing  
21 for the expiration of the act; requiring  
22 certain information to be included in the  
23 investment policy statement; authorizing the  
24 board to cease divesting or to reinvest in  
25 certain scrutinized companies if the value for  
26 all assets under management by the board  
27 becomes equal to or less than a specified  
28 amount; requiring the board to provide a  
29 written report to the Governor, the  
30 Legislature, and Attorney General before such  
31 reinvestment; requiring that the report contain

1 certain information; requiring semiannual  
2 updates to such reports when applicable;  
3 providing for severability; providing an  
4 effective date.

5  
6 WHEREAS, on July 23, 2004, the United States Congress  
7 declared that "the atrocities unfolding in Darfur, Sudan, are  
8 genocide," and

9 WHEREAS, on December 7, 2004, the United States  
10 Congress noted that the genocidal policy in Darfur has led to  
11 reports of "systematic rape of thousands of women and girls,  
12 the abduction of women and children, and the destruction of  
13 hundreds of ethnically African villages, including the  
14 poisoning of their wells and the plunder of their crops and  
15 cattle upon which the people of such villages sustain  
16 themselves," and

17 WHEREAS, on December 7, 2004, Congress found that "the  
18 Government of Sudan has restricted access by humanitarian and  
19 human rights workers to the Darfur area through intimidation  
20 by military and security forces, and through bureaucratic and  
21 administrative obstruction, in an attempt to inflict the most  
22 devastating harm on those individuals displaced from their  
23 villages and homes without any means of sustenance or  
24 shelter," and

25 WHEREAS, on September 25, 2006, Congress reaffirmed  
26 that "the genocide unfolding in the Darfur region of Sudan is  
27 characterized by acts of terrorism and atrocities directed  
28 against civilians, including mass murder, rape, and sexual  
29 violence committed by the Janjaweed and associated militias  
30 with the complicity and support of the National Congress  
31 Party-led faction of the Government of Sudan," and

1           WHEREAS, on September 26, 2006, the United States House  
2 of Representatives stated that "an estimated 300,000 to  
3 400,000 people have been killed by the Government of Sudan and  
4 its Janjaweed allies since the crisis began in 2003, more than  
5 2,000,000 people have been displaced from their homes, and  
6 more than 250,000 people from Darfur remain in refugee camps  
7 in Chad," and

8           WHEREAS, the Darfur crisis represents the first time  
9 the United States Government has labeled ongoing atrocities as  
10 genocide, and

11           WHEREAS, the Federal Government has imposed sanctions  
12 against the Government of Sudan since 1997. These sanctions  
13 are monitored through the United States Treasury Department's  
14 Office of Foreign Assets Control (OFAC), and

15           WHEREAS, according to a former chair of the United  
16 States Securities and Exchange Commission, the fact that a  
17 foreign company is doing material business with a country,  
18 government, or entity on OFAC's sanctions list is, in the SEC  
19 staff's view, substantially likely to be significant to a  
20 reasonable investor's decision about whether to invest in that  
21 company, and

22           WHEREAS, since 1993, the United States Secretary of  
23 State has determined that Sudan is a country whose government  
24 has repeatedly provided support for acts of international  
25 terrorism, and, as a result, the United States has restricted  
26 assistance, defense exports, defense sales, financial  
27 transactions, and various other transactions with the  
28 Government of Sudan, and

29           WHEREAS, a 2006 report by United States House of  
30 Representatives states that "a company's association with  
31 sponsors of terrorism and human rights abuses, no matter how

1 large or small, can have a materially adverse result on a  
2 public company's operations, financial condition, earnings,  
3 and stock prices, all of which can negatively affect the value  
4 of an investment," and

5 WHEREAS, in response to the financial risk posed by  
6 investments in companies doing business with a state that  
7 sponsors terrorists, the Securities and Exchange Commission  
8 established its Office of Global Security Risk to provide for  
9 enhanced disclosure of material information regarding such  
10 companies, and

11 WHEREAS, the current Sudan divestment movement  
12 encompasses nearly 100 universities, municipalities, states,  
13 and private pension plans, and

14 WHEREAS, companies facing such widespread divestment  
15 present further material risk to remaining investors, and

16 WHEREAS, it is a fundamental responsibility of the  
17 State of Florida to decide where, how, and by whom financial  
18 resources in its control should be invested, taking into  
19 account numerous pertinent factors, and

20 WHEREAS, it is the prerogative and desire of the State  
21 of Florida, with respect to investment resources in its  
22 control and to the extent reasonable, with due consideration  
23 for return on investment on behalf of the state and its  
24 investment beneficiaries, not to participate in an ownership  
25 or capital-providing capacity with entities that provide  
26 significant practical support for genocide, including certain  
27 non-United States companies presently doing business in Sudan,  
28 and

29 WHEREAS, a resolution of the United Nations Security  
30 Council imposes sanctions on Iran for its failure to suspend  
31 its uranium-enrichment activities, and

1           WHEREAS, the United Nations Security Council voted  
2 unanimously for an additional embargo on Iranian arms exports,  
3 which is a freeze on assets abroad of an expanded list of  
4 individuals and companies involved in Iran's nuclear and  
5 ballistic missile programs, and calls for nations and  
6 institutions to bar new grants or loans to Iran except for  
7 humanitarian and developmental purposes, and

8           WHEREAS, Iran's financial ability to pay its debts to  
9 foreign entities involved in the petroleum-energy sector  
10 amounting to more than \$20 million is put at risk by the Iran  
11 and Libya Sanctions Act embargo and sanctions, and

12           WHEREAS, foreign entities have invested in Iran's  
13 petroleum-energy sector despite United States and United  
14 Nations sanctions against Iran, and

15           WHEREAS, all United States and foreign entities that  
16 have invested more than \$20 million in Iran's energy sector  
17 since August 5, 1996, are subject to sanctions under United  
18 States law pursuant to the Iran and Libya Sanctions Act of  
19 1996, and

20           WHEREAS, the United States renewed the Iran and Libya  
21 Sanctions Act of 1996 in 2001 and 2006, and

22           WHEREAS, while divestiture should be considered with  
23 the intent to improve investment performance and, by the rules  
24 of prudence, fiduciaries must take into account all relevant  
25 substantive factors in arriving at an investment decision, and

26           WHEREAS, the State of Florida is deeply concerned about  
27 investments in publicly traded companies that have business  
28 activities in and ties to Iran's petroleum-energy sector as a  
29 financial risk to the shareholders, and

30           WHEREAS, by investing in publicly traded companies  
31 having ties to Iran's petroleum-energy sector, the Florida

1 State Board of Administration is putting the funds it oversees  
2 at substantial financial risk, and

3 WHEREAS, divestiture from markets that are vulnerable  
4 to embargo, loan restrictions, and sanctions from the United  
5 States and the international community, including the United  
6 Nations Security Council, is in accordance with the rules of  
7 prudence, and

8 WHEREAS, the Legislature finds that this act should  
9 remain in effect only insofar as it continues to be consistent  
10 with and does not unduly interfere with the foreign policy of  
11 the United States as determined by the Federal Government, and

12 WHEREAS, to protect Florida's assets, it is in the best  
13 interest of the state to enact a statutory prohibition  
14 regarding the investments managed by the State Board of  
15 Administration doing business in Sudan or in Iran's  
16 petroleum-energy sector, NOW, THEREFORE,

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20 Section 1. This act may be cited as the "Protecting  
21 Florida's Investments Act."

22 Section 2. Section 215.442, Florida Statutes, is  
23 created to read:

24 215.442 Executive director; reporting requirements;  
25 public meeting.--

26 (1) Beginning October 2007 and quarterly thereafter,  
27 the executive director shall present to the Board of Trustees  
28 of the State Board of Administration a quarterly report to  
29 include the following:

30 (a) The name of each equity in which the State Board  
31 of Administration has invested for the quarter.

1        (b) The industry category of each equity.

2        (2) The executive director shall present each  
3 quarterly report at a meeting of the board of trustees, which  
4 shall be open and noticed to the public pursuant to the  
5 requirements of s. 286.011 and s. 24(b), Art. I of the State  
6 Constitution.

7        (3) The State Board of Administration shall publish a  
8 copy of each quarterly report on its website prior to  
9 presenting the report at each quarterly meeting of the board  
10 of trustees.

11        Section 3. Section 215.473, Florida Statutes, is  
12 created to read:

13        215.473 Divestiture by the State Board of  
14 Administration; Sudan; Iran.--

15        (1) DEFINITIONS.--As used in this act, the term:

16        (a) "Active business operations" means all business  
17 operations that are not inactive business operations.

18        (b) "Business operations" means engaging in commerce  
19 in any form in Sudan or Iran, including, but not limited to,  
20 acquiring, developing, maintaining, owning, selling,  
21 possessing, leasing, or operating equipment, facilities,  
22 personnel, products, services, personal property, real  
23 property, or any other apparatus of business or commerce.

24        (c) "Company" means any sole proprietorship,  
25 organization, association, corporation, partnership, joint  
26 venture, limited partnership, limited liability partnership,  
27 limited liability company, or other entity or business  
28 association, including all wholly owned subsidiaries,  
29 majority-owned subsidiaries, parent companies, or affiliates  
30 of such entities or business associations, that exists for the  
31 purpose of making profit.



1        (d) "Complicit" means taking actions during any  
2 preceding 20-month period which have directly supported or  
3 promoted the genocidal campaign in Darfur, including, but not  
4 limited to, preventing Darfur's victimized population from  
5 communicating with each other, encouraging Sudanese citizens  
6 to speak out against an internationally approved security  
7 force for Darfur, actively working to deny, cover up, or alter  
8 the record on human rights abuses in Darfur, or other similar  
9 actions.

10        (e) "Direct holdings" in a company means all  
11 securities of that company that are held directly by the  
12 public fund or in an account or fund in which the public fund  
13 owns all shares or interests.

14        (f) "Government of Iran" means the government of Iran,  
15 its instrumentalities, and companies owned or controlled by  
16 the government of Iran.

17        (g) "Government of Sudan" means the government in  
18 Khartoum, Sudan, that is led by the National Congress Party,  
19 formerly known as the National Islamic Front, or any successor  
20 government formed on or after October 13, 2006, including the  
21 coalition National Unity Government agreed upon in the  
22 Comprehensive Peace Agreement for Sudan, and does not include  
23 the regional government of southern Sudan.

24        (h) "Inactive business operations" means the mere  
25 continued holding or renewal of rights to property previously  
26 operated for the purpose of generating revenues but not  
27 presently deployed for such purpose.

28        (i) "Indirect holdings" in a company means all  
29 securities of that company that are held in an account or  
30 fund, such as a mutual fund, managed by one or more persons  
31 not employed by the public fund, in which the public fund owns

1 shares or interests together with other investors not subject  
2 to the provisions of this act.

3 (j) "Iran" means the Islamic Republic of Iran.

4 (k) "Marginalized populations of Sudan" include, but  
5 are not limited to, the portion of the population in the  
6 Darfur region that has been genocidally victimized; the  
7 portion of the population of southern Sudan victimized by  
8 Sudan's north-south civil war; the Beja, Rashidiya, and other  
9 similarly underserved groups of eastern Sudan; the Nubian and  
10 other similarly underserved groups in Sudan's Abyei, Southern  
11 Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab,  
12 Manasir, and other similarly underserved groups of northern  
13 Sudan.

14 (l) "Military equipment" means weapons, arms, military  
15 supplies, and equipment that may readily be used for military  
16 purposes, including, but not limited to, radar systems,  
17 military-grade transport vehicles, or supplies or services  
18 sold or provided directly or indirectly to any force actively  
19 participating in armed conflict in Sudan.

20 (m) "Mineral-extraction activities" include the  
21 exploring, extracting, processing, transporting, or wholesale  
22 selling or trading of elemental minerals or associated metal  
23 alloys or oxides (ore), including gold, copper, chromium,  
24 chromite, diamonds, iron, iron ore, silver, tungsten, uranium,  
25 and zinc, as well as facilitating such activities, including  
26 providing supplies or services in support of such activities.

27 (n) "Oil-related activities" include, but are not  
28 limited to, owning rights to oil blocks; exporting,  
29 extracting, producing, refining, processing, exploring for,  
30 transporting, selling, or trading of oil; constructing,  
31 maintaining, or operating a pipeline, refinery, or other

1 oil-field infrastructure; and facilitating such activities,  
2 including providing supplies or services in support of such  
3 activities, except that the mere retail sale of gasoline and  
4 related consumer products is not considered an oil-related  
5 activity.

6 (o) "Petroleum resources" means petroleum, petroleum  
7 byproducts, or natural gas.

8 (p) "Power-production activities" means any business  
9 operation that involves a project commissioned by the National  
10 Electricity Corporation (NEC) of Sudan or other similar entity  
11 of the Government of Sudan whose purpose is to facilitate  
12 power generation and delivery, including, but not limited to,  
13 establishing power-generating plants or hydroelectric dams,  
14 selling or installing components for the project, providing  
15 service contracts related to the installation or maintenance  
16 of the project, as well as facilitating such activities,  
17 including providing supplies or services in support of such  
18 activities.

19 (q) "Public fund" means all funds, assets, trustee,  
20 and other designates under the State Board of Administration  
21 pursuant to chapter 121.

22 (r) "Scrutinized active business operations" means  
23 active business operations that have resulted in a company  
24 becoming a scrutinized company.

25 (s) "Scrutinized business operations" means business  
26 operations that have resulted in a company becoming a  
27 scrutinized company.

28 (t) "Scrutinized company" means any company that meets  
29 any of the following criteria:

30 1. The company has business operations that involve  
31 contracts with or provision of supplies or services to the

1 Government of Sudan, companies in which the Government of  
2 Sudan has any direct or indirect equity share, consortiums or  
3 projects commissioned by the Government of Sudan, or companies  
4 involved in consortiums or projects commissioned by the  
5 Government of Sudan, and:

6       a. More than 10 percent of the company's revenues or  
7 assets linked to Sudan involve oil-related activities or  
8 mineral-extraction activities; less than 75 percent of the  
9 company's revenues or assets linked to Sudan involve contracts  
10 with or provision of oil-related or mineral-extracting  
11 products or services to the regional government of southern  
12 Sudan or a project or consortium created exclusively by that  
13 regional government; and the company has failed to take  
14 substantial action; or

15       b. More than 10 percent of the company's revenues or  
16 assets linked to Sudan involve power-production activities;  
17 less than 75 percent of the company's power-production  
18 activities include projects whose intent is to provide power  
19 or electricity to the marginalized populations of Sudan; and  
20 the company has failed to take substantial action.

21       2. The company is complicit in the Darfur genocide.

22       3. The company supplies military equipment within  
23 Sudan, unless it clearly shows that the military equipment  
24 cannot be used to facilitate offensive military actions in  
25 Sudan or the company implements rigorous and verifiable  
26 safeguards to prevent use of that equipment by forces actively  
27 participating in armed conflict. Examples of safeguards  
28 include post-sale tracking of such equipment by the company,  
29 certification from a reputable and objective third party that  
30 such equipment is not being used by a party participating in  
31 armed conflict in Sudan, or sale of such equipment solely to

1 the regional government of southern Sudan or any  
2 internationally recognized peacekeeping force or humanitarian  
3 organization.

4 4. The company has business operations that involve  
5 contracts with or provision of supplies or services to the  
6 Government of Iran, companies in which the Government of Iran  
7 has any direct or indirect equity share, consortiums, or  
8 projects commissioned by the Government of Iran, or companies  
9 involved in consortiums or projects commissioned by the  
10 Government of Iran and:

11 a. More than 10 percent of the company's total  
12 revenues or assets are linked to Iran and involve oil-related  
13 activities or mineral-extraction activities; and the company  
14 has failed to take substantial action; or

15 b. The company has, with actual knowledge, on or after  
16 August 5, 1996, made an investment of \$20 million or more, or  
17 any combination of investments of at least \$10 million each,  
18 which in the aggregate equals or exceeds \$20 million in any  
19 12-month period, and which directly or significantly  
20 contributes to the enhancement of Iran's ability to develop  
21 the petroleum resources of Iran.

22 (u) "Social-development company" means a company whose  
23 primary purpose in Sudan is to provide humanitarian goods or  
24 services, including medicine or medical equipment;  
25 agricultural supplies or infrastructure; educational  
26 opportunities; journalism-related activities; information or  
27 information materials; spiritual-related activities; services  
28 of a purely clerical or reporting nature; food, clothing, or  
29 general consumer goods that are unrelated to oil-related  
30 activities; mineral-extraction activities; or power-production  
31 activities.

1           (v) "Substantial action specific to Iran" means  
2 adopting, publicizing, and implementing a formal plan to cease  
3 scrutinized business operations within 1 year and to refrain  
4 from any such new business operations.

5           (w) "Substantial action specific to Sudan" means  
6 adopting, publicizing, and implementing a formal plan to cease  
7 scrutinized business operations within 1 year and to refrain  
8 from any such new business operations; undertaking  
9 humanitarian efforts in conjunction with an international  
10 organization, the government of Sudan, the regional government  
11 of Southern Sudan, or a nonprofit entity evaluated and  
12 certified by an independent third party to be substantially in  
13 a relationship to the company's Sudan business operations and  
14 of benefit to one or more marginalized populations of Sudan;  
15 or, through engagement with the Government of Sudan,  
16 materially improving conditions for the genocidally victimized  
17 population in Darfur.

18           (2) IDENTIFICATION OF COMPANIES.--

19           (a) Within 90 days after the effective date of this  
20 act, the public fund shall make its best efforts to identify  
21 all scrutinized companies in which the public fund has direct  
22 or indirect holdings or could possibly have such holdings in  
23 the future. Such efforts include:

24           1. Reviewing and relying, as appropriate in the public  
25 fund's judgment, on publicly available information regarding  
26 companies having business operations in Sudan, including  
27 information provided by nonprofit organizations, research  
28 firms, international organizations, and government entities;

29           2. Contacting asset managers contracted by the public  
30 fund that invest in companies having business operations in  
31 Sudan; or

1       3. Contacting other institutional investors that have  
2 divested from or engaged with companies that have business  
3 operations in Sudan.

4       4. Reviewing the laws of the United States regarding  
5 the levels of business activity that would cause application  
6 of sanctions for companies conducting business or investing in  
7 countries that are designated state sponsors of terror.

8       (b) By the first meeting of the public fund following  
9 the 90-day period described in paragraph (a), the public fund  
10 shall assemble all scrutinized companies that fit criteria  
11 specified in subparagraphs (1)(t)1., 2., and 3. into a  
12 "Scrutinized Companies with Activities in Sudan List" and  
13 shall assemble all scrutinized companies that fit criteria  
14 specified in subparagraph (1)(t)4. into a "Scrutinized  
15 Companies with Activities in the Iran Petroleum Energy Sector  
16 List."

17       (c) The public fund shall update and make publicly  
18 available quarterly the Scrutinized Companies with Activities  
19 in Sudan List and the Scrutinized Companies with Activities in  
20 the Iran Petroleum Energy Sector List based on evolving  
21 information from, among other sources, those listed in  
22 paragraph (a).

23       (d) Notwithstanding the provisions of this act, a  
24 social-development company that is not complicit in the Darfur  
25 genocide is not considered a scrutinized company under  
26 subparagraph (1)(t)1., subparagraph (1)(t)2., or subparagraph  
27 (1)(t)3.

28       (3) REQUIRED ACTIONS.--The public fund shall adhere to  
29 the following procedure for assembling companies on the  
30 Scrutinized Companies with Activities in Sudan List and the  
31

1 Scrutinized Companies with Activities in the Iran Petroleum  
2 Energy Sector List:

3 (a) Engagement.--

4 1. The public fund shall immediately determine the  
5 companies on the Scrutinized Companies with Activities in  
6 Sudan List and the Scrutinized Companies with Activities in  
7 the Iran Petroleum Energy Sector List in which the public fund  
8 owns direct or indirect holdings.

9 2. For each company identified in this paragraph that  
10 has only inactive business operations, the public fund shall  
11 send a written notice informing the company of this act and  
12 encouraging it to continue to refrain from initiating active  
13 business operations in Sudan or Iran until it is able to avoid  
14 scrutinized business operations. The public fund shall  
15 continue such correspondence semiannually.

16 3. For each company newly identified under this  
17 paragraph that has active business operations, the public fund  
18 shall send a written notice informing the company of its  
19 scrutinized company status and that it may become subject to  
20 divestment by the public fund. The notice must inform the  
21 company of the opportunity to clarify its Sudan-related or  
22 Iran-related activities and encourage the company, within 90  
23 days, to cease its scrutinized business operations or convert  
24 such operations to inactive business operations in order to  
25 avoid qualifying for divestment by the public fund.

26 4. If, within 90 days after the public fund's first  
27 engagement with a company pursuant to this paragraph, that  
28 company ceases scrutinized business operations, the company  
29 shall be removed from the Scrutinized Companies with  
30 Activities in Sudan List and the Scrutinized Companies with  
31 Activities in the Iran Petroleum Energy Sector List, and the



1 provisions of this act shall cease to apply to that company  
2 unless that company resumes scrutinized business operations.  
3 If, within 90 days after the public fund's first engagement,  
4 the company converts its scrutinized active business  
5 operations to inactive business operations, the company is  
6 subject to all provisions relating to inactive business  
7 operations. A company may be removed from one list but remain  
8 on the other list, in which case the company shall be subject  
9 to the provisions applicable to the list on which the company  
10 remains.

11 (b) Divestment.--

12 1. If, after 90 days following the public fund's first  
13 engagement with a company pursuant to paragraph (a), the  
14 company continues to have scrutinized active business  
15 operations, and only while such company continues to have  
16 scrutinized active business operations, the public fund shall  
17 sell, redeem, divest, or withdraw all publicly traded  
18 securities of the company, except as provided in paragraph  
19 (d), from the public fund's assets under management within 12  
20 months after the company's most recent appearance on the  
21 Scrutinized Companies with Activities in Sudan List or on the  
22 Scrutinized Companies with Activities in the Iran Petroleum  
23 Energy Sector List.

24 2. If a company that ceased scrutinized active  
25 business operations following engagement pursuant to paragraph  
26 (a) resumes such operations, this paragraph immediately  
27 applies, and the public fund shall send a written notice to  
28 the company. The company shall also be immediately  
29 reintroduced onto the Scrutinized Companies with Activities in  
30 Sudan List or on the Scrutinized Companies with Activities in  
31 the Iran Petroleum Energy Sector List, as applicable.

1           (c) Prohibition.--The public fund may not acquire  
2 securities of companies on the Scrutinized Companies with  
3 Activities in Sudan List or the Scrutinized Companies with  
4 Activities in the Iran Petroleum Energy Sector List that have  
5 active business operations, except as provided in paragraph  
6 (d).

7           (d) Exemption.--A company that the United States  
8 Government affirmatively declares to be excluded from its  
9 present or any future federal sanctions regime relating to  
10 Sudan or Iran is not subject to divestment or the investment  
11 prohibition pursuant to paragraphs (b) and (c).

12           (e) Excluded securities.--Notwithstanding the  
13 provisions of this act, paragraphs (b) and (c) do not apply to  
14 indirect holdings in actively managed investment funds.  
15 However, the public fund shall submit letters to the managers  
16 of such investment funds containing companies that have  
17 scrutinized active business operations requesting that they  
18 consider removing such companies from the fund or create a  
19 similar actively managed fund having indirect holdings devoid  
20 of such companies. If the manager creates a similar fund, the  
21 public fund shall replace all applicable investments with  
22 investments in the similar fund in an expedited timeframe  
23 consistent with prudent investing standards. For the purposes  
24 of this section, a private equity fund is deemed to be an  
25 actively managed investment fund.

26           (f) Further exclusions.--Notwithstanding any other  
27 provision of this act, the public fund, when discharging its  
28 responsibility for operation of a defined contribution plan,  
29 shall engage the manager of the investment offerings in such  
30 plans requesting that they consider removing scrutinized  
31 companies from the investment offerings or create an

1 alternative investment offering devoid of scrutinized  
2 companies. If the manager creates an alternative investment  
3 offering and the offering is deemed by the public fund to be  
4 consistent with prudent investor standards, the public fund  
5 shall consider including such investment offering in the plan.

6 (4) REPORTING.--

7 (a) The public fund shall file a report with each  
8 member of the Board of Trustees of the State Board of  
9 Administration, the President of the Senate, and the Speaker  
10 of the House of Representatives that includes the Scrutinized  
11 Companies with Activities in Sudan List and the Scrutinized  
12 Companies with Activities in the Iran Petroleum Energy Sector  
13 List within 30 days after the list is created. This report  
14 shall be made available to the public.

15 (b) At each quarterly meeting of the Board of Trustees  
16 thereafter, the public fund shall file a report, which shall  
17 be made available to the public and to each member of the  
18 Board of Trustees of the State Board of Administration, the  
19 President of the Senate, and the Speaker of the House of  
20 Representatives, and send a copy of that report to the United  
21 States Presidential Special Envoy to Sudan and the United  
22 States Presidential Special Envoy to Iran, or an appropriate  
23 designee or successor, which includes:

24 1. A summary of correspondence with companies engaged  
25 by the public fund under subparagraphs (3)(a)2. and 3.;

26 2. All investments sold, redeemed, divested, or  
27 withdrawn in compliance with paragraph (3)(b);

28 3. All prohibited investments under paragraph (3)(c);

29 4. Any progress made under paragraph (3)(e); and

30 5. A list of all publicly traded securities held  
31 directly by this state.

1           (5) EXPIRATION.--This act expires upon the occurrence  
2 of all of the following:

3           (a) If any of the following occur, the public fund  
4 shall no longer scrutinize companies according to  
5 subparagraphs (1)(t)1., 2., and 3. and shall no longer  
6 assemble the Scrutinized Companies with Activities in Sudan  
7 List, shall cease engagement and divestment of such companies,  
8 and may reinvest in such companies as long as such companies  
9 do not satisfy the criteria for inclusion in the Scrutinized  
10 Companies with Activities in the Iran Petroleum Energy Sector  
11 List:

12           1. The Congress or President of the United States,  
13 affirmatively and unambiguously states, by means including,  
14 but not limited to, legislation, executive order, or written  
15 certification from the President to Congress, that the Darfur  
16 genocide has been halted for at least 12 months;

17           2. The United States revokes all sanctions imposed  
18 against the Government of Sudan;

19           3. The Congress or President of the United States  
20 affirmatively and unambiguously states, by means including,  
21 but not limited to, legislation, executive order, or written  
22 certification from the President to Congress, that the  
23 government of Sudan has honored its commitments to cease  
24 attacks on civilians, demobilize and demilitarize the  
25 Janjaweed and associated militias, grant free and unfettered  
26 access for deliveries of humanitarian assistance, and allow  
27 for the safe and voluntary return of refugees and internally  
28 displaced persons; or

29           4. The Congress or President of the United States  
30 affirmatively and unambiguously states, by means including,  
31 but not limited to, legislation, executive order, or written

1 certification from the President to Congress, that mandatory  
2 divestment of the type provided for in this act interferes  
3 with the conduct of United States foreign policy.

4 (b) If any of the following occur, the public fund  
5 shall no longer scrutinize companies according to subparagraph  
6 (1)(t)4. and shall no longer assemble the Scrutinized  
7 Companies with Activities in the Iran Petroleum Energy Sector  
8 List and shall cease engagement, investment prohibitions, and  
9 divestment. The public fund may reinvest in such companies as  
10 long as such companies do not satisfy the criteria for  
11 inclusion in the Scrutinized Companies with Activities in  
12 Sudan List:

13 1. The Congress or President of the United States  
14 affirmatively and unambiguously states, by means including,  
15 but not limited to, legislation, executive order, or written  
16 certification from the President to Congress, that the  
17 government of Iran has ceased to acquire weapons of mass  
18 destruction and support international terrorism;

19 2. The United States revokes all sanctions imposed  
20 against the government of Iran; or

21 3. The Congress or President of the United States  
22 affirmatively and unambiguously declares, by means including,  
23 but not limited to, legislation, executive order, or written  
24 certification from the President to Congress, that mandatory  
25 divestment of the type provided for in this act interferes  
26 with the conduct of United States foreign policy.

27 (6) INVESTMENT POLICY STATEMENT OBLIGATIONS.--The  
28 public fund's actions taken in compliance with this act,  
29 including all good faith determinations regarding companies as  
30 required by this act, shall be adopted and incorporated into  
31

1 the public fund's investment policy statement (the IPS) as set  
2 forth in s. 215.475.

3 (7) REINVESTMENT IN CERTAIN COMPANIES HAVING  
4 SCRUTINIZED ACTIVE BUSINESS OPERATIONS.--Notwithstanding any  
5 other provision of this act to the contrary, the public fund  
6 may cease divesting from certain scrutinized companies  
7 pursuant to paragraph (3)(b) or reinvest in certain  
8 scrutinized companies from which it divested pursuant to  
9 paragraph (3)(b) if clear and convincing evidence shows that  
10 the value of all assets under management by the public fund  
11 becomes equal to or less than 99.50 percent, or 50 basis  
12 points, of the hypothetical value of all assets under  
13 management by the public fund assuming no divestment for any  
14 company had occurred under paragraph (3)(b). Cessation of  
15 divestment, reinvestment, or any subsequent ongoing investment  
16 authorized by this act is limited to the minimum steps  
17 necessary to avoid the contingency set forth in this  
18 subsection or that no divestment of any company is required  
19 for less than fair value. For any cessation of divestment,  
20 reinvestment, or subsequent ongoing investment authorized by  
21 this act, the public fund shall provide a written report to  
22 each member of the Board of Trustees of the State Board of  
23 Administration, the President of the Senate, and the Speaker  
24 of the House of Representatives in advance of initial  
25 reinvestment, updated semiannually thereafter as applicable,  
26 setting forth the reasons and justification, supported by  
27 clear and convincing evidence, for its decisions to cease  
28 divestment, reinvest, or remain invested in companies having  
29 scrutinized active business operations. This act does not  
30 apply to reinvestment in companies on the grounds that they  
31 have ceased to have scrutinized active business operations.

1           Section 4. If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 invalidity does not affect other provisions or applications of  
4 the act that can be given effect without the invalid provision  
5 or application, and to this end the provisions of this act are  
6 severable. The Legislature hereby declares that it would have  
7 passed this act and each provision of this act, irrespective  
8 of the fact that any one or more provisions of this act might  
9 be declared invalid, illegal, unenforceable or  
10 unconstitutional, including, but not limited to, each of the  
11 engagement, divestment, and prohibition provisions of this  
12 act.

13           Section 5. This act shall take effect upon becoming a  
14 law.

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