

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

29 from the divestment requirement and the investment
30 prohibition to certain indirect holdings in actively
31 managed investment funds; requiring the board to request
32 that the managers of such investment funds consider
33 removing scrutinized companies from the fund or create a
34 similar fund that excludes such companies; requiring the
35 board to file a report with the Board of Trustees of the
36 State Board of Administration and the Legislature within a
37 specified period after creation of each scrutinized
38 companies list; requiring the annual filing of an updated
39 report; requiring that all such reports be made available
40 to the public; requiring that the report include certain
41 information; providing for the expiration of the act;
42 exempting the board from certain statutory or common law
43 obligations; authorizing the board to cease divesting or
44 to reinvest in certain scrutinized companies if the value
45 for all assets under management by the board becomes equal
46 to or less than a specified amount; requiring the board to
47 provide a written report to the Board of Trustees of the
48 State Board of Administration and the Legislature before
49 such reinvestment; requiring that the report contain
50 certain information; requiring semiannual updates to such
51 reports when applicable; providing for severability;
52 providing an effective date.

53
54 WHEREAS, on July 23, 2004, the United States Congress
55 declared that "the atrocities unfolding in Darfur, Sudan, are
56 genocide," and

57 WHEREAS, on December 7, 2004, the United States Congress
58 noted that the genocidal policy in Darfur has led to reports of
59 "systematic rape of thousands of women and girls, the abduction
60 of women and children, and the destruction of hundreds of
61 ethnically African villages, including the poisoning of their
62 wells and the plunder of their crops and cattle upon which the
63 people of such villages sustain themselves," and

64 WHEREAS, on December 7, 2004, Congress found that "the
65 Government of Sudan has restricted access by humanitarian and
66 human rights workers to the Darfur area through intimidation by
67 military and security forces, and through bureaucratic and
68 administrative obstruction, in an attempt to inflict the most
69 devastating harm on those individuals displaced from their
70 villages and homes without any means of sustenance or shelter,"
71 and

72 WHEREAS, on September 25, 2006, Congress reaffirmed that
73 "the genocide unfolding in the Darfur region of Sudan is
74 characterized by acts of terrorism and atrocities directed
75 against civilians, including mass murder, rape, and sexual
76 violence committed by the Janjaweed and associated militias with
77 the complicity and support of the National Congress Party-led
78 faction of the Government of Sudan," and

79 WHEREAS, on September 26, 2006, the United States House of
80 Representatives stated that "an estimated 300,000 to 400,000
81 people have been killed by the Government of Sudan and its
82 Janjaweed allies since the crisis began in 2003, more than
83 2,000,000 people have been displaced from their homes, and more
84 than 250,000 people from Darfur remain in refugee camps in

85 Chad," and

86 WHEREAS, the Darfur crisis represents the first time the
87 United States Government has labeled ongoing atrocities as
88 genocide, and

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

93 WHEREAS, according to a former chair of the United States
94 Securities and Exchange Commission, "the fact that a foreign
95 company is doing material business with a country, government,
96 or entity on OFAC's sanctions list is, in the SEC staff's view,
97 substantially likely to be significant to a reasonable
98 investor's decision about whether to invest in that company,"
99 and

100 WHEREAS, since 1993, the United States Secretary of State
101 has determined that Sudan is a country whose government has
102 repeatedly provided support for acts of international terrorism,
103 and, as a result, the United States has restricted assistance,
104 defense exports, defense sales, financial transactions, and
105 various other transactions with the Government of Sudan, and

106 WHEREAS, a 2006 report by the United States House of
107 Representatives states that "a company's association with
108 sponsors of terrorism and human rights abuses, no matter how
109 large or small, can have a materially adverse result on a public
110 company's operations, financial condition, earnings, and stock
111 prices, all of which can negatively affect the value of an
112 investment," and

113 WHEREAS, in response to the financial risk posed by
114 investments in companies doing business with a state that
115 sponsors terrorists, the Securities and Exchange Commission
116 established its Office of Global Security Risk to provide for
117 enhanced disclosure of material information regarding such
118 companies, and

119 WHEREAS, the current Sudan divestment movement encompasses
120 nearly 100 universities, municipalities, states, and private
121 pension plans, and

122 WHEREAS, companies facing such widespread divestment
123 present further material risk to remaining investors, and

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

128 WHEREAS, it is the prerogative and desire of the State of
129 Florida, with respect to investment resources in its control and
130 to the extent reasonable, with due consideration for return on
131 investment on behalf of the state and its investment
132 beneficiaries, not to participate in an ownership or capital-
133 providing capacity with entities that provide significant
134 practical support for genocide, including certain non-United
135 States companies presently doing business in Sudan, and

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

139 WHEREAS, the United Nations Security Council voted
140 unanimously for an additional embargo on Iranian arms exports,

141 | which is a freeze on assets abroad of an expanded list of
142 | individuals and companies involved in Iran's nuclear and
143 | ballistic missile programs, and calls for nations and
144 | institutions to bar new grants or loans to Iran except for
145 | humanitarian and developmental purposes, and

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

150 | WHEREAS, foreign entities have invested in Iran's
151 | petroleum-energy sector despite United States and United Nations
152 | sanctions against Iran, and

153 | WHEREAS, all United States and foreign entities that have
154 | invested more than \$20 million in Iran's energy sector since
155 | August 5, 1996, are subject to sanctions under United States law
156 | pursuant to the Iran and Libya Sanctions Act of 1996, and

157 | WHEREAS, United States renewed the Iran and Libya Sanctions
158 | Act of 1996 in 2001 and 2006, and

159 | WHEREAS, while divestiture should be considered with the
160 | intent to improve investment performance and, by the rules of
161 | prudence, fiduciaries must take into account all relevant
162 | substantive factors in arriving at an investment decision, and

163 | WHEREAS, the State of Florida is deeply concerned about
164 | investments in publicly traded companies that have business
165 | activities in and ties to Iran's petroleum-energy sector as a
166 | financial risk to the shareholders, and

167 | WHEREAS, by investing in publicly traded companies having
168 | ties to Iran's petroleum-energy sector, the Florida State Board

169 of Administration is putting the funds it oversees at
 170 substantial financial risk, and

171 WHEREAS, divestiture from markets that are vulnerable to
 172 embargo, loan restrictions, and sanctions from the United States
 173 and the international community, including the United Nations
 174 Security Council, is in accordance with the rules of prudence,
 175 and

176 WHEREAS, The Legislature finds that this act should remain
 177 in effect only insofar as it continues to be consistent with and
 178 does not unduly interfere with the foreign policy of the United
 179 States as determined by the Federal Government, and

180 WHEREAS, to protect Florida's assets, it is in the best
 181 interest of the state to enact a statutory prohibition regarding
 182 the investments managed by the State Board of Administration
 183 doing business in Sudan or in Iran's petroleum-energy sector,
 184 NOW, THEREFORE,

185

186 Be It Enacted by the Legislature of the State of Florida:

187

188 Section 1. Section 215.442, Florida Statutes, is created
 189 to read:

190 215.442 Executive director; reporting requirements; public
 191 meeting.--

192 (1) Beginning October 2007 and quarterly thereafter, the
 193 executive director shall present to the Board of Trustees of the
 194 State Board of Administration a quarterly report to include the
 195 following:

196 (a) The name of each equity in which the State Board of

197 Administration has invested for the quarter.

198 (b) The industry category of each equity.

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

203 (3) The State Board of Administration shall publish a copy
 204 of each quarterly report on its website prior to presenting the
 205 report at each quarterly meeting of the board of trustees.

206 Section 2. Section 215.473, Florida Statutes, is created
 207 to read:

208 215.473 Divestiture by the State Board of Administration;
 209 Sudan; Iran.--

210 (1) DEFINITIONS.--As used in this section, the term:

211 (a) "Active business operations" means all business
 212 operations that are not inactive business operations.

213 (b) "Business operations" means engaging in commerce in
 214 any form in Sudan or Iran, including, but not limited to,
 215 acquiring, developing, maintaining, owning, selling, possessing,
 216 leasing, or operating equipment, facilities, personnel,
 217 products, services, personal property, real property, or any
 218 other apparatus of business or commerce.

219 (c) "Company" means any sole proprietorship, organization,
 220 association, corporation, partnership, joint venture, limited
 221 partnership, limited liability partnership, limited liability
 222 company, or other entity or business association, including all
 223 wholly owned subsidiaries, majority-owned subsidiaries, parent
 224 companies, or affiliates of such entities or business

225 associations, that exists for the purpose of making a profit.

226 (d) "Complicit" means taking actions during any preceding
 227 20-month period which have directly supported or promoted the
 228 genocidal campaign in Darfur, including, but not limited to,
 229 preventing Darfur's victimized population from communicating
 230 with each other, encouraging Sudanese citizens to speak out
 231 against an internationally approved security force for Darfur,
 232 actively working to deny, cover up, or alter the record on human
 233 rights abuses in Darfur, or other similar actions.

234 (e) "Direct holdings" in a company means all securities of
 235 that company that are held directly by the public fund or in an
 236 account or fund in which the public fund owns all shares or
 237 interests.

238 (f) "Government of Iran" means the government of Iran, its
 239 instrumentalities, and companies owned or controlled by the
 240 government of Iran.

241 (g) "Government of Sudan" means the government in
 242 Khartoum, Sudan, that is led by the National Congress Party,
 243 formerly known as the National Islamic Front, or any successor
 244 government formed on or after October 13, 2006, including the
 245 coalition National Unity Government agreed upon in the
 246 Comprehensive Peace Agreement for Sudan, and does not include
 247 the regional government of southern Sudan.

248 (h) "Inactive business operations" means the mere
 249 continued holding or renewal of rights to property previously
 250 operated for the purpose of generating revenues but not
 251 presently deployed for such purpose.

252 (i) "Indirect holdings" in a company means all securities

253 of that company that are held in an account or fund, such as a
254 mutual fund, managed by one or more persons not employed by the
255 public fund, in which the public fund owns shares or interests
256 together with other investors not subject to the provisions of
257 this section.

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

259 (k) "Marginalized populations of Sudan" include, but are
260 not limited to, the portion of the population in the Darfur
261 region that has been genocidally victimized; the portion of the
262 population of southern Sudan victimized by Sudan's north-south
263 civil war; the Beja, Rashidiya, and other similarly underserved
264 groups of eastern Sudan; the Nubian and other similarly
265 underserved groups in Sudan's Abyei, Southern Blue Nile, and
266 Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other
267 similarly underserved groups of northern Sudan.

268 (l) "Military equipment" means weapons, arms, military
269 supplies, and equipment that may readily be used for military
270 purposes, including, but not limited to, radar systems,
271 military-grade transport vehicles, or supplies or services sold
272 or provided directly or indirectly to any force actively
273 participating in armed conflict in Sudan.

274 (m) "Mineral-extraction activities" include the exploring,
275 extracting, processing, transporting, or wholesale selling or
276 trading of elemental minerals or associated metal alloys or
277 oxides (ore), including gold, copper, chromium, chromite,
278 diamonds, iron, iron ore, silver, tungsten, uranium, and zinc,
279 as well as facilitating such activities, including providing
280 supplies or services in support of such activities.

281 (n) "Oil-related activities" include, but are not limited
 282 to, owning rights to oil blocks; exporting, extracting,
 283 producing, refining, processing, exploring for, transporting,
 284 selling, or trading of oil; constructing, maintaining, or
 285 operating a pipeline, refinery, or other oil-field
 286 infrastructure; and facilitating such activities, including
 287 providing supplies or services in support of such activities,
 288 except that the mere retail sale of gasoline and related
 289 consumer products is not considered an oil-related activity.

290 (o) "Petroleum resources" means petroleum, petroleum
 291 byproducts, or natural gas.

292 (p) "Power-production activities" means any business
 293 operation that involves a project commissioned by the National
 294 Electricity Corporation (NEC) of Sudan or other similar entity
 295 of the Government of Sudan whose purpose is to facilitate power
 296 generation and delivery, including, but not limited to,
 297 establishing power-generating plants or hydroelectric dams,
 298 selling or installing components for the project, providing
 299 service contracts related to the installation or maintenance of
 300 the project, as well as facilitating such activities, including
 301 providing supplies or services in support of such activities.

302 (q) "Public fund" means all funds, assets, trustees, and
 303 other designates under the State Board of Administration
 304 pursuant to chapter 121.

305 (r) "Scrutinized active business operations" means active
 306 business operations that have resulted in a company becoming a
 307 scrutinized company.

308 (s) "Scrutinized business operations" means business

309 operations that have resulted in a company becoming a
 310 scrutinized company.

311 (t) "Scrutinized company" means any company that meets any
 312 of the following criteria:

313 1. The company has business operations that involve
 314 contracts with or provision of supplies or services to the
 315 Government of Sudan, companies in which the Government of Sudan
 316 has any direct or indirect equity share, consortiums or projects
 317 commissioned by the Government of Sudan, or companies involved
 318 in consortiums or projects commissioned by the Government of
 319 Sudan, and:

320 a. More than 10 percent of the company's revenues or
 321 assets linked to Sudan involve oil-related activities or
 322 mineral-extraction activities, less than 75 percent of the
 323 company's revenues or assets linked to Sudan involve contracts
 324 with or provision of oil-related or mineral-extracting products
 325 or services to the regional government of southern Sudan or a
 326 project or consortium created exclusively by that regional
 327 government, and the company has failed to take substantial
 328 action; or

329 b. More than 10 percent of the company's revenues or
 330 assets linked to Sudan involve power-production activities, less
 331 than 75 percent of the company's power-production activities
 332 include projects whose intent is to provide power or electricity
 333 to the marginalized populations of Sudan, and the company has
 334 failed to take substantial action.

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

336 3. The company supplies military equipment within Sudan,

337 unless it clearly shows that the military equipment cannot be
338 used to facilitate offensive military actions in Sudan or the
339 company implements rigorous and verifiable safeguards to prevent
340 use of that equipment by forces actively participating in armed
341 conflict. Examples of safeguards include post-sale tracking of
342 such equipment by the company, certification from a reputable
343 and objective third party that such equipment is not being used
344 by a party participating in armed conflict in Sudan, or sale of
345 such equipment solely to the regional government of southern
346 Sudan or any internationally recognized peacekeeping force or
347 humanitarian organization.

348 4. The company has business operations that involve
349 contracts with or provision of supplies or services to the
350 Government of Iran, companies in which the Government of Iran
351 has any direct or indirect equity share, consortiums or projects
352 commissioned by the Government of Iran, or companies involved in
353 consortiums or projects commissioned by the Government of Iran
354 and:

355 a. More than 10 percent of the company's total revenues or
356 assets are linked to Iran and involve oil-related activities or
357 mineral-extraction activities, and the company has failed to
358 take substantial action; or

359 b. The company has, with actual knowledge, on or after
360 August 5, 1996, made an investment of \$20 million or more, or
361 any combination of investments of at least \$10 million each
362 which in the aggregate equals or exceeds \$20 million in any 12-
363 month period, that directly or significantly contributes to the
364 enhancement of Iran's ability to develop the petroleum resources

365 of Iran.

366 (u) "Social-development company" means a company whose
 367 primary purpose in Sudan is to provide humanitarian goods or
 368 services, including medicine or medical equipment; agricultural
 369 supplies or infrastructure; educational opportunities;
 370 journalism-related activities; information or information
 371 materials; spiritual-related activities; services of a purely
 372 clerical or reporting nature; food, clothing, or general
 373 consumer goods that are unrelated to oil-related activities;
 374 mineral-extraction activities; or power-production activities.

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

379 (w) "Substantial action specific to Sudan" means adopting,
 380 publicizing, and implementing a formal plan to cease scrutinized
 381 business operations within 1 year and to refrain from any such
 382 new business operations; undertaking humanitarian efforts in
 383 conjunction with an international organization, the Government
 384 of Sudan, the regional government of Southern Sudan, or a
 385 nonprofit entity evaluated and certified by an independent third
 386 party to be substantially in a relationship to the company's
 387 Sudan business operations and of benefit to one or more
 388 marginalized populations of Sudan; or, through engagement with
 389 the Government of Sudan, materially improving conditions for the
 390 genocidally victimized population in Darfur.

391 (2) IDENTIFICATION OF COMPANIES.--

392 (a) Within 90 days after the effective date of this act,

393 the public fund shall make its best efforts to identify all
394 scrutinized companies in which the public fund has direct or
395 indirect holdings or could possibly have such holdings in the
396 future. Such efforts include:

397 1. Reviewing and relying, as appropriate in the public
398 fund's judgment, on publicly available information regarding
399 companies having business operations in Sudan, including
400 information provided by nonprofit organizations, research firms,
401 international organizations, and government entities.

402 2. Contacting asset managers contracted by the public fund
403 that invest in companies having business operations in Sudan.

404 3. Contacting other institutional investors that have
405 divested from or engaged with companies that have business
406 operations in Sudan.

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

411 (b) By the first meeting of the public fund following the
412 90-day period described in paragraph (a), the public fund shall
413 assemble all scrutinized companies that fit criteria specified
414 in subparagraphs (1)(t)1., 2., and 3. into a "Scrutinized
415 Companies with Activities in Sudan List" and shall assemble all
416 scrutinized companies that fit criteria specified in
417 subparagraph (1)(t)4. into a "Scrutinized Companies with
418 Activities in the Iran Petroleum Energy Sector List."

419 (c) The public fund shall update and make publicly
420 available each quarter the Scrutinized Companies with Activities

421 in Sudan List and the Scrutinized Companies with Activities in
 422 the Iran Petroleum Energy Sector List based on evolving
 423 information from, among other sources, those listed in paragraph
 424 (a).

425 (d) Notwithstanding the provisions of this section, a
 426 social-development company that is not complicit in the Darfur
 427 genocide is not considered a scrutinized company under
 428 subparagraph (1)(t)1., subparagraph (1)(t)2., or subparagraph
 429 (1)(t)3.

430 (3) REQUIRED ACTIONS.--The public fund shall adhere to the
 431 following procedure for assembling companies on the Scrutinized
 432 Companies with Activities in Sudan List and the Scrutinized
 433 Companies with Activities in the Iran Petroleum Energy Sector
 434 List:

435 (a) Engagement.--

436 1. The public fund shall immediately determine the
 437 companies on the Scrutinized Companies with Activities in Sudan
 438 List and the Scrutinized Companies with Activities in the Iran
 439 Petroleum Energy Sector List in which the public fund owns
 440 direct or indirect holdings.

441 2. For each company identified in this paragraph that has
 442 only inactive business operations, the public fund shall send a
 443 written notice informing the company of this section and
 444 encouraging it to continue to refrain from initiating active
 445 business operations in Sudan or Iran until it is able to avoid
 446 scrutinized business operations. The public fund shall continue
 447 such correspondence semiannually.

448 3. For each company newly identified under this paragraph

449 that has active business operations, the public fund shall send
450 a written notice informing the company of its scrutinized
451 company status and that it may become subject to divestment by
452 the public fund. The notice must inform the company of the
453 opportunity to clarify its Sudan-related or Iran-related
454 activities and encourage the company, within 90 days, to cease
455 its scrutinized business operations or convert such operations
456 to inactive business operations in order to avoid qualifying for
457 divestment by the public fund.

458 4. If, within 90 days after the public fund's first
459 engagement with a company pursuant to this paragraph, that
460 company ceases scrutinized business operations, the company
461 shall be removed from the Scrutinized Companies with Activities
462 in Sudan List and the Scrutinized Companies with Activities in
463 the Iran Petroleum Energy Sector List, and the provisions of
464 this section shall cease to apply to that company unless that
465 company resumes scrutinized business operations. If, within 90
466 days after the public fund's first engagement, the company
467 converts its scrutinized active business operations to inactive
468 business operations, the company is subject to all provisions
469 relating to inactive business operations. A company may be
470 removed from one list but remain on the other list, in which
471 case the company shall be subject to the provisions applicable
472 to the list on which the company remains.

473 (b) Divestment.--

474 1. If, after 90 days following the public fund's first
475 engagement with a company pursuant to paragraph (a), the company
476 continues to have scrutinized active business operations, and

477 only while such company continues to have scrutinized active
478 business operations, the public fund shall sell, redeem, divest,
479 or withdraw all publicly traded securities of the company,
480 except as provided in paragraph (d), from the public fund's
481 assets under management within 12 months after the company's
482 most recent appearance on the Scrutinized Companies with
483 Activities in Sudan List or on the Scrutinized Companies with
484 Activities in the Iran Petroleum Energy Sector List.

485 2. If a company that ceased scrutinized active business
486 operations following engagement pursuant to paragraph (a)
487 resumes such operations, this paragraph immediately applies, and
488 the public fund shall send a written notice to the company. The
489 company shall also be immediately reintroduced onto the
490 Scrutinized Companies with Activities in Sudan List or on the
491 Scrutinized Companies with Activities in the Iran Petroleum
492 Energy Sector List, as applicable.

493 (c) Prohibition.--The public fund may not acquire
494 securities of companies on the Scrutinized Companies with
495 Activities in Sudan List or the Scrutinized Companies with
496 Activities in the Iran Petroleum Energy Sector List that have
497 active business operations, except as provided in paragraph (d).

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

503 (e) Excluded securities.--Notwithstanding the provisions
504 of this section, paragraphs (b) and (c) do not apply to indirect

505 holdings in actively managed investment funds. However, the
506 public fund shall submit letters to the managers of such
507 investment funds containing companies that have scrutinized
508 active business operations requesting that they consider
509 removing such companies from the fund or create a similar
510 actively managed fund having indirect holdings devoid of such
511 companies. If the manager creates a similar fund, the public
512 fund shall replace all applicable investments with investments
513 in the similar fund in an expedited timeframe consistent with
514 prudent investing standards. For the purposes of this section, a
515 private equity fund is deemed to be an actively managed
516 investment fund.

517 (f) Further exclusions.--Notwithstanding any other
518 provision of this section, the public fund, when discharging its
519 responsibility for operation of a defined contribution plan,
520 shall engage the manager of the investment offerings in such
521 plans requesting that they consider removing scrutinized
522 companies from the investment offerings or create an alternative
523 investment offering devoid of scrutinized companies. If the
524 manager creates an alternative investment offering and the
525 offering is deemed by the public fund to be consistent with
526 prudent investor standards, the public fund shall consider
527 including such investment offering in the plan.

528 (4) REPORTING.--

529 (a) The public fund shall file a report with each member
530 of the Board of Trustees of the State Board of Administration,
531 the President of the Senate, and the Speaker of the House of
532 Representatives that includes the Scrutinized Companies with

533 Activities in Sudan List and the Scrutinized Companies with
 534 Activities in the Iran Petroleum Energy Sector List within 30
 535 days after the list is created. This report shall be made
 536 available to the public.

537 (b) At each quarterly meeting of the board of trustees,
 538 the public fund shall file a report, which shall be made
 539 available to the public and to each member of the Board of
 540 Trustees of the State Board of Administration, the President of
 541 the Senate, and the Speaker of the House of Representatives, and
 542 send a copy of that report to the United States Presidential
 543 Special Envoy to Sudan and the United States Presidential
 544 Special Envoy to Iran, or an appropriate designee or successor,
 545 which includes:

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

548 2. All investments sold, redeemed, divested, or withdrawn
 549 in compliance with paragraph (3)(b).

550 3. All prohibited investments under paragraph (3)(c).

551 4. Any progress made under paragraph (3)(e).

552 5. A list of all publicly traded securities held directly
 553 by this state.

554 (5) EXPIRATION.--This section expires upon the occurrence
 555 of all of the following:

556 (a) If any of the following occurs, the public fund shall
 557 no longer scrutinize companies according to subparagraphs
 558 (1)(t)1., 2., and 3. and shall no longer assemble the
 559 Scrutinized Companies with Activities in Sudan List, shall cease
 560 engagement and divestment of such companies, and may reinvest in

561 such companies as long as such companies do not satisfy the
562 criteria for inclusion in the Scrutinized Companies with
563 Activities in the Iran Petroleum Energy Sector List:

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

569 2. The United States revokes all sanctions imposed against
570 the Government of Sudan;

571 3. The Congress or the President of the United States
572 affirmatively and unambiguously states, by means of, including,
573 but not limited to, legislation, executive order, or written
574 certification from the President to the Congress, that the
575 Government of Sudan has honored its commitments to cease attacks
576 on civilians, demobilize and demilitarize the Janjaweed and
577 associated militias, grant free and unfettered access for
578 deliveries of humanitarian assistance, and allow for the safe
579 and voluntary return of refugees and internally displaced
580 persons; or

581 4. The Congress or the President of the United States
582 affirmatively and unambiguously states, by means of, including,
583 but not limited to, legislation, executive order, or written
584 certification from the President to the Congress, that mandatory
585 divestment of the type provided for in this section interferes
586 with the conduct of United States foreign policy.

587 (b) If any of the following occurs, the public fund shall
588 no longer scrutinize companies according to subparagraph

589 (1) (t)4. and shall no longer assemble the Scrutinized Companies
590 with Activities in the Iran Petroleum Energy Sector List and
591 shall cease engagement, investment prohibitions, and divestment.
592 The public fund may reinvest in such companies as long as such
593 companies do not satisfy the criteria for inclusion in the
594 Scrutinized Companies with Activities in Sudan List:

595 1. The Congress or the President of the United States
596 affirmatively and unambiguously states, by means of, including,
597 but not limited to, legislation, executive order, or written
598 certification from the President to the Congress, that the
599 Government of Iran has ceased to acquire weapons of mass
600 destruction and support international terrorism;

601 2. The United States revokes all sanctions imposed against
602 the Government of Iran; or

603 3. The Congress or the President of the United States
604 affirmatively and unambiguously declares, by means including,
605 but not limited to, legislation, executive order, or written
606 certification from the President to the Congress, that mandatory
607 divestment of the type provided for in this section interferes
608 with the conduct of United States foreign policy.

609 (6) OTHER LEGAL OBLIGATIONS.--With respect to actions
610 taken in compliance with this section, including all good faith
611 determinations regarding companies as required by this section,
612 the public fund is exempt from any conflicting statutory or
613 common law obligations, including any such obligations with
614 respect to choice of asset managers, investment funds, or
615 investments for the public fund's securities portfolios.

616 (7) REINVESTMENT IN CERTAIN COMPANIES HAVING SCRUTINIZED

617 ACTIVE BUSINESS OPERATIONS.--Notwithstanding any other provision
618 of this section to the contrary, the public fund may cease
619 divesting from certain scrutinized companies pursuant to
620 paragraph (3)(b) or reinvest in certain scrutinized companies
621 from which it divested pursuant to paragraph (3)(b) if clear and
622 convincing evidence shows that the value of all assets under
623 management by the public fund becomes equal to or less than
624 99.50 percent, or 50 basis points, of the hypothetical value of
625 all assets under management by the public fund assuming no
626 divestment for any company had occurred under paragraph (3)(b).
627 Cessation of divestment, reinvestment, or any subsequent ongoing
628 investment authorized by this section is limited to the minimum
629 steps necessary to avoid the contingency set forth in this
630 subsection or that no divestment of any company is required for
631 less than fair value. For any cessation of divestment,
632 reinvestment, or subsequent ongoing investment authorized by
633 this section, the public fund shall provide a written report to
634 each member of the Board of Trustees of the State Board of
635 Administration, the President of the Senate, and the Speaker of
636 the House of Representatives in advance of initial reinvestment,
637 updated semiannually thereafter as applicable, setting forth the
638 reasons and justification, supported by clear and convincing
639 evidence, for its decisions to cease divestment, reinvest, or
640 remain invested in companies having scrutinized active business
641 operations. This section does not apply to reinvestment in
642 companies on the grounds that they have ceased to have
643 scrutinized active business operations.

644 Section 3. If any provision of this act or its application

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645 to any person or circumstance is held invalid, the invalidity
646 does not affect other provisions or applications of the act that
647 can be given effect without the invalid provision or
648 application, and to this end the provisions of this act are
649 severable. The Legislature hereby declares that it would have
650 passed this act and each provision of this act, irrespective of
651 the fact that any one or more provisions of this act might be
652 declared invalid, illegal, unenforceable, or unconstitutional,
653 including, but not limited to, each of the engagement,
654 divestment, and prohibition provisions of this act.

655 Section 4. This act shall take effect upon becoming a law.