

PROPOSED COUNCIL SUBSTITUTE FOR COUNCIL/COMMITTEE PURPOSES

Bill No. **PCSCB for HB 703 and HB 1431**

**COUNCIL/COMMITTEE ACTION**

ADOPTED  (Y/N)  
ADOPTED AS AMENDED  (Y/N)  
ADOPTED W/O OBJECTION  (Y/N)  
FAILED TO ADOPT  (Y/N)  
WITHDRAWN  (Y/N)  
OTHER

1 **Council/Committee hearing bill:** Government Efficiency &  
2 Accountability Council  
3 The **Government Efficiency & Accountability Council** offered the  
4 following:

5  
6 **Proposed Council Substitute**

7 Remove the entire bill and insert:

8 A bill to be entitled

9 An act relating to investments managed by the State Board  
10 of Administration; providing legislative findings;  
11 creating s. 215.442, F.S.; creating reporting requirements  
12 for the Executive Director of the State Board of  
13 Administration; creating s. 215.473, F.S.; providing  
14 definitions; requiring the State Board of Administration  
15 to identify all companies doing certain types of business  
16 in or with Sudan and Iran in which public moneys are  
17 invested; requiring the board to create and maintain  
18 certain scrutinized companies lists which names all such  
19 companies; requiring the board to periodically contact all  
20 scrutinized companies and encourage them to refrain from  
21 engaging in certain types of business in or with Sudan or  
22 Iran; requiring the board to inform scrutinized companies  
23 of their status as a scrutinized company and to ask for

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24 clarification as to the nature of each company's business  
25 activities; providing that a company may be removed from  
26 the list under certain conditions; providing for  
27 reintroduction of a company onto the list; requiring the  
28 board to divest of all publicly traded securities of a  
29 scrutinized company under certain conditions; providing  
30 exceptions to the divestment requirement; prohibiting the  
31 board from acquiring securities of scrutinized companies  
32 that have active business operations; providing exceptions  
33 to the investment prohibition; providing an additional  
34 exception from the divestment requirement and the  
35 investment prohibition to certain indirect holdings in  
36 actively managed investment funds; requiring the board to  
37 request that the managers of such investment funds  
38 consider removing scrutinized companies from the fund or  
39 create a similar fund that excludes such companies;  
40 requiring the board to file a report with the Governor,  
41 the Legislature, and Attorney General within a specified  
42 period after creation of each scrutinized companies list;  
43 requiring the annual filing of an updated report;  
44 requiring that all such reports be made available to the  
45 public; requiring that the report include certain  
46 information; providing for the expiration of the act;  
47 exempting the board from certain statutory or common law  
48 obligations; authorizing the board to cease divesting or  
49 to reinvest in certain scrutinized companies if the value  
50 for all assets under management by the board becomes equal  
51 to or less than a specified amount; requiring the board to  
52 provide a written report to the Governor, the Legislature,  
53 and Attorney General before such reinvestment; requiring  
54 that the report contain certain information; requiring

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55 semiannual updates to such reports when applicable;  
56 providing an effective date.  
57

58 WHEREAS, on July 23, 2004, the United States Congress  
59 declared that "the atrocities unfolding in Darfur, Sudan, are  
60 genocide," and

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

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

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

83 WHEREAS, on September 26, 2006, the United States House of  
84 Representatives stated that "an estimated 300,000 to 400,000  
85 people have been killed by the Government of Sudan and its  
86 Janjaweed allies since the crisis began in 2003, more than

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87 2,000,000 people have been displaced from their homes, and more  
88 than 250,000 people from Darfur remain in refugee camps in  
89 Chad," and

90 WHEREAS, the Darfur crisis represents the first time the  
91 United States Government has labeled ongoing atrocities as  
92 genocide," and

93 WHEREAS, the Federal Government has imposed sanctions  
94 against the Government of Sudan since 1997. These sanctions are  
95 monitored through the United States Treasury Department's Office  
96 of Foreign Assets Control (OFAC)," and

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

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

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

117 WHEREAS, in response to the financial risk posed by  
118 investments in companies doing business with a state that

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119 sponsors terrorists, the Securities and Exchange Commission  
120 established its Office of Global Security Risk to provide for  
121 enhanced disclosure of material information regarding such  
122 companies," and

123 WHEREAS, the current Sudan divestment movement encompasses  
124 nearly 100 universities, municipalities, states, and private  
125 pension plans," and

126 WHEREAS, companies facing such widespread divestment  
127 present further material risk to remaining investors," and

128 WHEREAS, it is a fundamental responsibility of the State of  
129 Florida to decide where, how, and by whom financial resources in  
130 its control should be invested, taking into account numerous  
131 pertinent factors," and

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

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

143 WHEREAS, the United Nations Security Council voted  
144 unanimously for an additional embargo on Iranian arms exports  
145 which is a freeze on assets abroad of an expanded list of  
146 individuals and companies involved in Iran's nuclear and  
147 ballistic missile programs and calls for nations and  
148 institutions to bar new grants or loans to Iran except for  
149 humanitarian and developmental purposes, and

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

154 WHEREAS, foreign entities have invested in Iran's  
155 petroleum-energy sector despite United States and United  
156 Nations sanctions against Iran, and

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

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

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

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

171 WHEREAS, by investing in publicly traded companies having  
172 ties to Iran's petroleum-energy sector, the Florida State Board  
173 of Administration is putting the funds it oversees at  
174 substantial financial risk, and

175 WHEREAS, divestiture from markets that are vulnerable to  
176 embargo, loan restrictions, and sanctions from the United  
177 States and the international community, including the United  
178 Nations Security Council, is in accordance with the rules of  
179 prudence, and

180 WHEREAS, The Legislature finds that this act should remain  
181 in effect only insofar as it continues to be consistent with and

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182 does not unduly interfere with the foreign policy of the United  
183 States as determined by the Federal Government," and

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

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

192 215.442 Executive Director; reporting requirements; public  
193 meeting.--

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

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

200 (b) The industry category of each equity.

201 (2) The executive director shall present each quarterly  
202 report at a meeting of the Board of Trustees, which is open and  
203 noticed to the public pursuant to the requirements of s. 286.011  
204 and s. 24(b), Art. I of the State Constitution.

205 (3) The State Board of Administration shall publish a copy  
206 of each quarterly report on its website prior to presenting the  
207 report at each quarterly meeting of the Board of Trustees.

208 Section 2. Section 215.473, Florida Statutes, is created  
209 to read:

210 215.473 Divestiture by the State Board of Administration;  
211 Iran; Sudan.--

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

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213 (a) "Active business operations" means all business  
214 operations that are not inactive business operations.

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

221 (c) "Company" means any sole proprietorship, organization,  
222 association, corporation, partnership, joint venture, limited  
223 partnership, limited liability partnership, limited liability  
224 company, or other entity or business association, including all  
225 wholly owned subsidiaries, majority-owned subsidiaries, parent  
226 companies, or affiliates of such entities or business  
227 associations, which exists for the purpose of making profit.

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

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

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

243 (g) "Government of Sudan" means the government in  
244 Khartoum, Sudan, which is led by the National Congress Party,



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245 formerly known as the National Islamic Front, or any successor  
246 government formed on or after October 13, 2006, including the  
247 coalition National Unity Government agreed upon in the  
248 Comprehensive Peace Agreement for Sudan, and does not include  
249 the regional government of southern Sudan.

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

254 (i) "Indirect holdings" in a company means all securities  
255 of that company which are held in an account or fund, such as a  
256 mutual fund, managed by one or more persons not employed by the  
257 Public Fund, in which the Public Fund owns shares or interests  
258 together with other investors not subject to the provisions of  
259 this act.

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

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

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

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

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

292 (o) "Petroleum resources" means petroleum, petroleum by-  
293 products, or natural gas.

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

304 (q) "Public Fund" means all funds, assets, trustees, and  
305 other designates under the State Board of Administration  
306 pursuant to s. 121.151.

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

310 (s) "Scrutinized business operations" means business  
311 operations that have resulted in a company becoming a  
312 scrutinized company.

313 (t) "Scrutinized company" means any company that meets any  
314 of the following criteria:

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

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

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

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

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

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

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

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

368 (u) "Social-development company" means a company whose  
369 primary purpose in Sudan is to provide humanitarian goods or

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370 services, including medicine or medical equipment; agricultural  
371 supplies or infrastructure, educational opportunities;  
372 journalism-related activities; information or information  
373 materials; spiritual-related activities; services of a purely  
374 clerical or reporting nature; food, clothing, or general  
375 consumer goods that are unrelated to oil-related activities;  
376 mineral-extraction activities; or power-production activities.

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

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

393 (2) IDENTIFICATION OF COMPANIES.--

394 (a) Within 90 days after the effective date of this act,  
395 the Public Fund shall make its best efforts to identify all  
396 scrutinized companies in which the Public Fund has direct or  
397 indirect holdings or could possibly have such holdings in the  
398 future. Such efforts include:

399 1. Reviewing and relying, as appropriate in the Public  
400 Fund's judgment, on publicly available information regarding  
401 companies having business operations in Sudan, including

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402 information provided by nonprofit organizations, research firms,  
403 international organizations, and government entities;

404 2. Contacting asset managers contracted by the Public Fund  
405 which invest in companies having business operations in Sudan;

406 or

407 3. Contacting other institutional investors that have  
408 divested from or engaged with companies that have business  
409 operations in Sudan.

410 4. Laws of the United States regarding the levels of  
411 business activity that would cause application of sanctions for  
412 companies conducting business or investing in countries that are  
413 designated state sponsors of terror.

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

422 (c) The Public Fund shall update and make publicly  
423 available the Scrutinized Companies with Activities in Sudan  
424 List and the Scrutinized Companies with Activities in the Iran  
425 Petroleum Energy Sector List quarterly based on evolving  
426 information from, among other sources, those listed in paragraph  
427 (a).

428 (d) Notwithstanding the provisions of this act, a social-  
429 development company that is not complicit in the Darfur genocide  
430 is not considered a scrutinized company under subparagraph  
431 (1)(t)1., subparagraph (1)(t)2., subparagraph (1)(t)3., or  
432 subparagraph (1)(t)4.

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433 (3) REQUIRED ACTIONS.--The Public Fund shall adhere to the  
434 following procedure for assembling companies on the Scrutinized  
435 Companies with Activities in Sudan List and the scrutinized  
436 Companies with Activities in the Iran Petroleum Energy Sector  
437 List:

438 (a) Engagement.--

439 1. The Public Fund shall immediately determine the  
440 companies on the Scrutinized Companies with Activities in Sudan  
441 List and the Scrutinized Companies with Activities in the Iran  
442 Petroleum Energy Sector List in which the Public Fund owns  
443 direct or indirect holdings.

444 2. For each company identified in this paragraph which has  
445 only inactive business operations, the Public Fund shall send a  
446 written notice informing the company of this act and encouraging  
447 it to continue to refrain from initiating active business  
448 operations in Sudan or Iran until it is able to avoid  
449 scrutinized business operations. The Public Fund shall continue  
450 such correspondence semiannually.

451 3. For each company newly identified under this paragraph  
452 which has active business operations, the Public Fund shall send  
453 a written notice informing the company of its scrutinized  
454 company status and that it may become subject to divestment by  
455 the Public Fund. The notice must inform the company of the  
456 opportunity to clarify its Sudan-related or Iran-related  
457 activities and encourage the company, within 90 days, to cease  
458 its scrutinized business operations or convert such operations  
459 to inactive business operations in order to avoid qualifying for  
460 divestment by the Public Fund.

461 4. If, within 90 days after the Public Fund's first  
462 engagement with a company pursuant to this paragraph, that  
463 company ceases scrutinized business operations, the company  
464 shall be removed from the Scrutinized Companies with Activities

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465 in Sudan List and the Scrutinized Companies with Activities in  
466 the Iran Petroleum Energy Sector List and the provisions of this  
467 act shall cease to apply to that company unless that company  
468 resumes scrutinized business operations. If, within 90 days  
469 after the Public Fund's first engagement, the company converts  
470 its scrutinized active business operations to inactive business  
471 operations, the company is subject to all provisions relating to  
472 inactive business operations. A company may be removed from one  
473 list but remain on the other list, in which case the company  
474 shall be subject to the provisions applicable to the list on  
475 which the company remains.

476 (b) Divestment.--

477 1. If, after 90 days following the Public Fund's first  
478 engagement with a company pursuant to paragraph (a), the company  
479 continues to have scrutinized active business operations, and  
480 only while such company continues to have scrutinized active  
481 business operations, the Public Fund shall sell, redeem, divest,  
482 or withdraw all publicly traded securities of the company,  
483 except as provided in paragraph (d), from the Public Fund's  
484 assets under management within 12 months after the company's  
485 most recent appearance on the Scrutinized Companies with  
486 Activities in Sudan List or on the Scrutinized Companies with  
487 Activities in the Iran Petroleum Energy Sector List.

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



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496 (c) Prohibition.--The Public Fund may not acquire  
497 securities of companies on the Scrutinized Companies with  
498 Activities in Sudan List or the Scrutinized Companies with  
499 Activities in the Iran Petroleum Energy Sector List which have  
500 active business operations, except as provided in paragraph (d).

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

506 (e) Excluded securities.--Notwithstanding the provisions  
507 of this act, paragraphs (b) and (c) do not apply to indirect  
508 holdings in actively managed investment funds. However, the  
509 Public Fund shall submit letters to the managers of such  
510 investment funds containing companies that have scrutinized  
511 active business operations requesting that they consider  
512 removing such companies from the fund or create a similar  
513 actively managed fund having indirect holdings devoid of such  
514 companies. If the manager creates a similar fund, the Public  
515 Fund shall replace all applicable investments with investments  
516 in the similar fund in an expedited timeframe consistent with  
517 prudent investing standards. For the purposes of this section, a  
518 private equity fund is deemed to be an actively managed  
519 investment fund.

520 (f) Further exclusions.--Notwithstanding any other  
521 provision of this act, the Public Fund, when discharging its  
522 responsibility for operation of a defined contribution plan,  
523 shall engage the manager of the investment offerings in such  
524 plans requesting that they consider removing scrutinized  
525 companies from the investment offerings or create an alternative  
526 investment offering devoid of scrutinized companies. If the  
527 manager creates an alternative investment offering and the

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528 offering is deemed by the Public Fund to be consistent with  
529 prudent investor standards, the Public Fund shall consider  
530 including such investment offering in the plan.

531 (4) REPORTING.--

532 (a) The Public Fund shall file a report with each member  
533 of the Board of Trustees of the State Board of Administration,  
534 the President of the Senate, and the Speaker of the House of  
535 Representatives that includes the Scrutinized Companies with  
536 Activities in Sudan List and the Scrutinized Companies with  
537 Activities in the Iran Petroleum Energy Sector List within 30  
538 days after the list is created. This report shall be made  
539 available to the public.

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

549 1. A summary of correspondence with companies engaged by  
550 the Public Fund under subparagraphs (3) (a)2. and 3.;

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

553 3. All prohibited investments under paragraph (3) (c); and

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

555 5. A list of all publicly traded securities held directly  
556 by this state.

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

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559 (a) If any of the following occur, the Public Fund shall  
560 no longer scrutinize companies according to subparagraphs  
561 (1)(t)1., 2., and 3. and shall no longer assemble the  
562 Scrutinized Companies with Activities in Sudan List, shall cease  
563 engagement and divestment of such companies, and they may  
564 reinvest in such companies as long as such companies do not  
565 satisfy the criteria for inclusion in the Scrutinized Companies  
566 with Activities in the Iran Petroleum Energy Sector List:

567 1. The Congress or President of the United States, through  
568 legislation or by executive order, respectively, revokes all  
569 sanctions imposed against the Government of Sudan; or

570 2. The Congress or President of the United States, through  
571 legislation or by executive order, respectively, declares that  
572 mandatory divestment of the type provided for in this act  
573 interferes with the conduct of United States foreign policy.

574 (b) If any of the following occur, the Public Fund shall  
575 no longer scrutinize companies according to subparagraph  
576 (1)(t)4. and shall no longer assemble the Scrutinized Companies  
577 with Activities in the Iran Petroleum Energy Sector List and  
578 shall cease engagement, investment prohibitions, and divestment.  
579 The Public Fund may reinvest in such companies as long as such  
580 companies do not satisfy the criteria for inclusion in the  
581 Scrutinized Companies with Activities in Sudan List:

582 1. The Congress or President of the United States, through  
583 legislation or by executive order, respectively, revokes all  
584 sanctions imposed against the government of Iran; or

585 2. The Congress or President of the United States, through  
586 legislation or by executive order, respectively, declares that  
587 mandatory divestment of the type provided for in this act  
588 interferes with the conduct of United States foreign policy.

589 (6) OTHER LEGAL OBLIGATIONS.--With respect to actions  
590 taken in compliance with this act, including all good faith

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591 determinations regarding companies as required by this act, the  
592 Public Fund is exempt from any conflicting statutory or common  
593 law obligations, including any such obligations with respect to  
594 choice of asset managers, investment funds, or investments for  
595 the Public Fund's securities portfolios.

596 (7) REINVESTMENT IN CERTAIN COMPANIES HAVING SCRUTINIZED  
597 ACTIVE BUSINESS OPERATIONS.--Notwithstanding any other provision  
598 of this act to the contrary, the Public Fund may cease divesting  
599 from certain scrutinized companies pursuant to paragraph (3) (b)  
600 or reinvest in certain scrutinized companies from which it  
601 divested pursuant to paragraph (3) (b) if clear and convincing  
602 evidence shows that the value of all assets under management by  
603 the Public Fund becomes equal to or less than 99.50 percent, or  
604 50 basis points, of the hypothetical value of all assets under  
605 management by the Public Fund assuming no divestment for any  
606 company had occurred under paragraph (3) (b). Cessation of  
607 divestment, reinvestment, or any subsequent ongoing investment  
608 authorized by this act is limited to the minimum steps necessary  
609 to avoid the contingency set forth in this subsection or that no  
610 divestment of any company is required for less than fair value.  
611 For any cessation of divestment, reinvestment, or subsequent  
612 ongoing investment authorized by this act, the Public Fund shall  
613 provide a written report to each member of the Board of Trustees  
614 of the State Board of Administration, the President of the  
615 Senate, and the Speaker of the House of Representatives in  
616 advance of initial reinvestment, updated semiannually thereafter  
617 as applicable, setting forth the reasons and justification,  
618 supported by clear and convincing evidence, for its decisions to  
619 cease divestment, reinvest, or remain invested in companies  
620 having scrutinized active business operations. This act does not  
621 apply to reinvestment in companies on the grounds that they have  
622 ceased to have scrutinized active business operations.

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Section 3. This act shall take effect July 1, 2007.