

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1086 Session of 2007

INTRODUCED BY SHAPIRO, DeWEESE, BASTIAN, BELFANTI, BENNINGHOFF, BOYD, CALTAGIRONE, COHEN, CONKLIN, COX, CURRY, CUTLER, DeLUCA, DePASQUALE, D. EVANS, FABRIZIO, FLECK, FRANKEL, FREEMAN, GALLOWAY, GIBBONS, HENNESSEY, HERSHEY, HESS, KAUFFMAN, KENNEY, KING, KORTZ, KULA, LEACH, LENTZ, MAHONEY, MANDERINO, MANN, METCALFE, MICOZZIE, MUNDY, MURT, MYERS, NAILOR, M. O'BRIEN, PARKER, PETRI, PETRONE, RAPP, READSHAW, REED, REICHLEY, ROHRER, SCHRODER, SHIMKUS, McILVAINE SMITH, M. SMITH, SOLOBAY, STEIL, STURLA, SURRA, R. TAYLOR, TRUE, VEREB, WALKO, WANSACZ, WATSON, YOUNGBLOOD, YUDICHAK, DENLINGER, PALLONE, SIPTROTH, MOYER, PASHINSKI AND MENSCH, APRIL 16, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 24, 2008

AN ACT

1 ~~Amending the act of April 9, 1929 (P.L.343, No.176), entitled,~~ <—
2 ~~as amended, "An act relating to the finances of the State~~
3 ~~government; providing for the settlement, assessment,~~
4 ~~collection, and lien of taxes, bonus, and all other accounts~~
5 ~~due the Commonwealth, the collection and recovery of fees and~~
6 ~~other money or property due or belonging to the Commonwealth,~~
7 ~~or any agency thereof, including escheated property and the~~
8 ~~proceeds of its sale, the custody and disbursement or other~~
9 ~~disposition of funds and securities belonging to or in the~~
10 ~~possession of the Commonwealth, and the settlement of claims~~
11 ~~against the Commonwealth, the resettlement of accounts and~~
12 ~~appeals to the courts, refunds of moneys erroneously paid to~~
13 ~~the Commonwealth, auditing the accounts of the Commonwealth~~
14 ~~and all agencies thereof, of all public officers collecting~~
15 ~~moneys payable to the Commonwealth, or any agency thereof,~~
16 ~~and all receipts of appropriations from the Commonwealth,~~
17 ~~authorizing the Commonwealth to issue tax anticipation notes~~
18 ~~to defray current expenses, implementing the provisions of~~
19 ~~section 7(a) of Article VIII of the Constitution of~~
20 ~~Pennsylvania authorizing and restricting the incurring of~~
21 ~~certain debt and imposing penalties; affecting every~~
22 ~~department, board, commission, and officer of the State~~
23 ~~government, every political subdivision of the State, and~~

~~certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," prohibiting investments in corporations doing business in countries which sponsor terrorism.~~

PROVIDING FOR DIVESTITURE BY THE STATE TREASURER, THE STATE EMPLOYEES' RETIREMENT SYSTEM AND THE PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM OF INVESTMENTS IN COMPANIES DOING BUSINESS IN IRAN AND SUDAN. <—

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

~~Section 1. The act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is amended by adding a section to read: <—~~

~~Section 301.2. Prohibition of Terrorism related Investments. (a) The General Assembly finds that foreign terrorists and those organizations and countries that shelter, harbor and support them pose a grave threat to the security and well being of all the citizens and institutions of this Commonwealth. As such, it is imperative that the assets of the fund be prudently managed and invested, as more particularly set forth in subsections (b), (d) and (e), to ensure that foreign terrorists and those organizations and countries that shelter, harbor and support them derive no benefit from the investments.~~

~~(b) On and after the effective date of this section, the board shall not invest in the stocks, securities or other obligations of any entity engaged in business with a state sponsor of terror. In the event the board becomes aware that it has invested in violation of this subsection, the board shall immediately move to divest itself of the investment in a prudent manner.~~

~~(c) The board shall permit investments in an entity:~~

~~(1) that engages in the provision of goods and services that~~

1 ~~relieve human suffering or promote health or religious,~~
2 ~~spiritual, educational, humanitarian or journalistic activities;~~
3 ~~or~~

4 ~~(2) that conducts commercial transactions in any country~~
5 ~~identified as a state sponsor of terror pursuant to a permit or~~
6 ~~license issued by the United States Government or the United~~
7 ~~Nations and is exempt from divestment and exclusion.~~

8 ~~(d) Within ninety days of the effective date of this section~~
9 ~~and at least annually thereafter, the board shall complete a~~
10 ~~comprehensive review of its investments to determine compliance~~
11 ~~with the requirements of subsection (b). The board shall provide~~
12 ~~the General Assembly with a copy of the comprehensive review~~
13 ~~annually. In the event the board becomes aware that is has~~
14 ~~invested in violation of this section, then the board shall~~
15 ~~immediately move to divest itself of the investment in a prudent~~
16 ~~manner.~~

17 ~~(e) All existing and future investment managers retained by~~
18 ~~the board on or after the effective date of this section who~~
19 ~~invest in the name of the system shall be notified by the board~~
20 ~~of their obligation to conduct their investment activities on~~
21 ~~behalf of the board in a manner designed to comply with the~~
22 ~~requirements of subsection (b).~~

23 ~~(f) As used in this section:~~

24 ~~"Entity" shall include a corporation, partnership, limited~~
25 ~~liability company, business trust, other association, government~~
26 ~~entity, other than the United States of the America and the~~
27 ~~states that comprise it, estate, trust, foundation or natural~~
28 ~~person.~~

29 ~~"State sponsor of terror" shall include:~~

30 ~~(1) a country identified by the Office of Foreign Assets~~

1 ~~Control in the United States Department of the Treasury as~~
2 ~~sponsoring terrorist activities; or~~
3 ~~(2) a country designated by the United States Department of~~
4 ~~State as having repeatedly provided support for acts of~~
5 ~~international terrorism.~~

6 ~~Section 2. This act shall take effect in 60 days.~~

7 SECTION 1. SHORT TITLE. ←

8 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE PROTECTING
9 PENNSYLVANIA'S INVESTMENTS ACT.

10 SECTION 2. FINDINGS AND DECLARATIONS.

11 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

12 (1) IN 2001, THE UNITED STATES SECURITIES AND EXCHANGE
13 COMMISSION DETERMINED THAT COMPANIES WITH BUSINESS OPERATIONS
14 IN TERRORIST-SPONSORING STATES ARE EXPOSED TO A SPECIAL RISK
15 CATEGORY KNOWN AS GLOBAL SECURITY RISK, WHICH IS THE RISK TO
16 SHARE VALUE AND CORPORATE REPUTATION STEMMING FROM THE
17 INTERSECTION OF A PUBLICLY TRADED COMPANY'S INTERNATIONAL
18 BUSINESS ACTIVITIES AND SECURITY-RELATED CONCERNS, SUCH AS
19 TERRORISM AND WEAPONS PROLIFERATION.

20 (2) IN RESPONSE TO THE FINANCIAL RISK POSED BY
21 INVESTMENTS IN COMPANIES DOING BUSINESS WITH A STATE THAT
22 SPONSORS TERRORISTS, THE SECURITIES AND EXCHANGE COMMISSION
23 ESTABLISHED ITS OFFICE OF GLOBAL SECURITY RISK TO PROVIDE FOR
24 ENHANCED DISCLOSURE OF MATERIAL INFORMATION REGARDING SUCH
25 COMPANIES.

26 (3) ACCORDING TO A FORMER CHAIR OF THE SECURITIES AND
27 EXCHANGE COMMISSION, THE FACT THAT A FOREIGN COMPANY IS DOING
28 MATERIAL BUSINESS WITH A COUNTRY, GOVERNMENT OR ENTITY ON THE
29 OFFICE OF FOREIGN ASSETS CONTROL'S (OFAC) SANCTIONS LIST IS,
30 IN THE SECURITIES AND EXCHANGE COMMISSION STAFF'S VIEW,

1 SUBSTANTIALLY LIKELY TO BE SIGNIFICANT TO A REASONABLE
2 INVESTOR'S DECISION ABOUT WHETHER TO INVEST IN THAT COMPANY.

3 (4) A 2006 REPORT BY THE UNITED STATES HOUSE OF
4 REPRESENTATIVES STATES THAT "A COMPANY'S ASSOCIATION WITH
5 SPONSORS OF TERRORISM AND HUMAN RIGHTS ABUSES, NO MATTER HOW
6 LARGE OR SMALL, CAN HAVE A MATERIALLY ADVERSE RESULT ON A
7 PUBLIC COMPANY'S ACTIVITIES, FINANCIAL CONDITION, EARNINGS,
8 AND STOCK PRICES, ALL OF WHICH CAN NEGATIVELY AFFECT THE
9 VALUE OF AN INVESTMENT."

10 (5) IRAN TOPS THE UNITED STATES STATE DEPARTMENT'S LIST
11 OF STATE SPONSORS OF TERRORISM, FUNDING SUCH GROUPS AS HAMAS,
12 HIZBALLAH AND ISLAMIC JIHAD, AS WELL AS FUELING THE
13 INSURGENCY IN IRAQ VIA ITS AL-QUDS FORCE.

14 (6) THE UNITED STATES IMPOSED SANCTIONS ON IRAN BY
15 DESIGNATING THE ISLAMIC REVOLUTIONARY GUARD CORPS, ITS AL-
16 QUDS FORCE AND THREE STATE-OWNED BANKS AS WEAPONS
17 PROLIFERATORS AND SUPPORTERS OF TERRORISM.

18 (7) THE UNITED NATIONS SECURITY COUNCIL HAS THREE TIMES
19 VOTED UNANIMOUSLY TO IMPOSE SANCTIONS ON IRAN FOR ITS FAILURE
20 TO SUSPEND ITS URANIUM ENRICHMENT ACTIVITIES AND CALLED FOR
21 AN EMBARGO ON IRANIAN ARMS EXPORTS, A FREEZE ON ASSETS ABROAD
22 OF AN EXPANDED LIST OF INDIVIDUALS AND COMPANIES INVOLVED IN
23 IRAN'S NUCLEAR AND BALLISTIC MISSILE PROGRAMS AND BARRING NEW
24 GRANTS OR LOANS TO IRAN EXCEPT FOR HUMANITARIAN AND
25 DEVELOPMENTAL PURPOSES.

26 (8) FOREIGN ENTITIES HAVE INVESTED IN IRAN'S PETROLEUM
27 ENERGY SECTOR DESPITE UNITED STATES AND UNITED NATIONS
28 SANCTIONS AGAINST IRAN.

29 (9) ALL ENTITIES THAT HAVE INVESTED MORE THAN
30 \$20,000,000 IN ANY GIVEN YEAR IN IRAN'S ENERGY SECTOR SINCE

1 AUGUST 5, 1996, ARE SUBJECT TO SANCTIONS UNDER UNITED STATES
2 LAW UNDER THE IRAN AND LIBYA SANCTIONS ACT OF 1996 (PUBLIC
3 LAW 104-172, 110 STAT. 1541).

4 (10) THE UNITED STATES RENEWED THE IRAN AND LIBYA
5 SANCTIONS ACT OF 1996 IN 2001 BY ENACTING THE ILSA EXTENSION
6 ACT OF 2001 (PUBLIC LAW 107-24, 115 STAT. 199) AND IN 2006 BY
7 ENACTING THE IRAN FREEDOM SUPPORT ACT (PUBLIC LAW 109-293,
8 120 STAT. 1344).

9 (11) ON JULY 23, 2004, THE UNITED STATES CONGRESS
10 DECLARED THAT "THE ATROCITIES UNFOLDING IN DARFUR, SUDAN, ARE
11 GENOCIDE."

12 (12) ON SEPTEMBER 9, 2004, SECRETARY OF STATE COLIN L.
13 POWELL TOLD THE UNITED STATES SENATE FOREIGN RELATIONS
14 COMMITTEE THAT "GENOCIDE HAS OCCURRED AND MAY STILL BE
15 OCCURRING IN DARFUR" AND "THE GOVERNMENT OF SUDAN AND THE
16 JANJAWEEED BEAR RESPONSIBILITY."

17 (13) ON SEPTEMBER 21, 2004, ADDRESSING THE UNITED
18 NATIONS GENERAL ASSEMBLY, PRESIDENT GEORGE W. BUSH AFFIRMED
19 THE SECRETARY OF STATE'S FINDINGS AND STATED, "AT THIS HOUR,
20 THE WORLD IS WITNESSING TERRIBLE SUFFERING AND HORRIBLE
21 CRIMES IN THE DARFUR REGION OF SUDAN, CRIMES MY GOVERNMENT
22 HAS CONCLUDED ARE GENOCIDE."

23 (14) ON DECEMBER 7, 2004, THE UNITED STATES CONGRESS
24 NOTED THAT THE GENOCIDAL POLICY IN DARFUR HAS LED TO REPORTS
25 OF "SYSTEMATIC RAPE OF THOUSANDS OF WOMEN AND GIRLS, THE
26 ABDUCTION OF WOMEN AND CHILDREN, AND THE DESTRUCTION OF
27 HUNDREDS OF ETHNICALLY AFRICAN VILLAGES, INCLUDING THE
28 POISONING OF THEIR WELLS AND THE PLUNDER OF THEIR CROPS AND
29 CATTLE UPON WHICH THE PEOPLE OF SUCH VILLAGES SUSTAIN
30 THEMSELVES."

1 (15) ALSO ON DECEMBER 7, 2004, CONGRESS FOUND THAT "THE
2 GOVERNMENT OF SUDAN HAS RESTRICTED ACCESS BY HUMANITARIAN AND
3 HUMAN RIGHTS WORKERS TO THE DARFUR AREA THROUGH INTIMIDATION
4 BY MILITARY AND SECURITY FORCES, AND THROUGH BUREAUCRATIC AND
5 ADMINISTRATIVE OBSTRUCTION, IN AN ATTEMPT TO INFLICT THE MOST
6 DEVASTATING HARM ON THOSE INDIVIDUALS DISPLACED FROM THEIR
7 VILLAGES AND HOMES WITHOUT ANY MEANS OF SUSTENANCE OR
8 SHELTER."

9 (16) ON SEPTEMBER 25, 2006, CONGRESS REAFFIRMED THAT
10 "THE GENOCIDE UNFOLDING IN THE DARFUR REGION OF SUDAN IS
11 CHARACTERIZED BY ACTS OF TERRORISM AND ATROCITIES DIRECTED
12 AGAINST CIVILIANS, INCLUDING MASS MURDER, RAPE, AND SEXUAL
13 VIOLENCE COMMITTED BY THE JANJAWEEED AND ASSOCIATED MILITIAS
14 WITH THE COMPLICITY AND SUPPORT OF THE NATIONAL CONGRESS
15 PARTY-LED FACTION OF THE GOVERNMENT OF SUDAN."

16 (17) ON SEPTEMBER 26, 2006, THE UNITED STATES HOUSE OF
17 REPRESENTATIVES STATED THAT "AN ESTIMATED 300,000 TO 400,000
18 PEOPLE HAVE BEEN KILLED BY THE GOVERNMENT OF SUDAN AND ITS
19 JANJAWEEED ALLIES SINCE THE DARFUR CRISIS BEGAN IN 2003, MORE
20 THAN 2,000,000 PEOPLE HAVE BEEN DISPLACED FROM THEIR HOMES,
21 AND MORE THAN 250,000 PEOPLE FROM DARFUR REMAIN IN REFUGEE
22 CAMPS IN CHAD."

23 (18) ON DECEMBER 31, 2007, PRESIDENT GEORGE BUSH SIGNED
24 THE SUDAN ACCOUNTABILITY AND DIVESTMENT ACT INTO LAW WHICH
25 AUTHORIZES STATE AND LOCAL GOVERNMENT TO DIVEST ASSETS IN
26 COMPANIES THAT CONDUCT BUSINESS OPERATIONS IN SUDAN, AND TO
27 PROHIBIT UNITED STATES GOVERNMENT CONTRACTS WITH SUCH
28 COMPANIES.

29 (19) THE DARFUR CRISIS REPRESENTS THE FIRST TIME THE
30 UNITED STATES GOVERNMENT HAS LABELED ONGOING ATROCITIES A

1 GENOCIDE.

2 (20) THE UNITED STATES GOVERNMENT HAS IMPOSED SANCTIONS
3 AGAINST SUDAN SINCE 1997. THESE SANCTIONS ARE MONITORED
4 THROUGH THE UNITED STATES TREASURY DEPARTMENT'S OFFICE OF
5 FOREIGN ASSETS CONTROL.

6 (21) SINCE 1993, THE UNITED STATES SECRETARY OF STATE
7 HAS DETERMINED THAT SUDAN IS A COUNTRY THE GOVERNMENT OF
8 WHICH HAS REPEATEDLY PROVIDED SUPPORT FOR ACTS OF
9 INTERNATIONAL TERRORISM, THEREBY INCURRING RESTRICTIONS OF
10 UNITED STATES ASSISTANCE, DEFENSE EXPORTS AND SALES, AND
11 FINANCIAL AND OTHER TRANSACTIONS WITH SUDAN.

12 (22) IT IS A FUNDAMENTAL RESPONSIBILITY OF THE
13 COMMONWEALTH TO DECIDE WHERE, HOW AND BY WHOM FINANCIAL
14 RESOURCES IN ITS CONTROL SHOULD BE INVESTED, TAKING INTO
15 ACCOUNT NUMEROUS PERTINENT FACTORS.

16 (23) DIVESTITURE SHOULD BE CONSIDERED WITH THE INTENT TO
17 IMPROVE INVESTMENT PERFORMANCE AND, BY THE RULES OF PRUDENCE,
18 FIDUCIARIES MUST TAKE INTO ACCOUNT ALL RELEVANT SUBSTANTIVE
19 FACTORS IN ARRIVING AT AN INVESTMENT DECISION.

20 (24) THE COMMONWEALTH IS DEEPLY CONCERNED ABOUT
21 INVESTMENTS IN PUBLICLY TRADED COMPANIES THAT HAVE
22 INVESTMENTS IN IRAN AND SUDAN AS A FINANCIAL RISK TO
23 SHAREHOLDERS.

24 (25) ON JULY 6, 2007, THE PENNSYLVANIA HOUSE OF
25 REPRESENTATIVES PASSED HOUSE BILL NO. 1140, PRINTER'S NO.
26 2190, ENTITLED "AN ACT PROHIBITING THE INVESTMENT OF STATE
27 FUNDS IN CERTAIN PRIVATE BUSINESS ENTITIES DOING BUSINESS IN
28 SUDAN; AND PROVIDING INDEMNIFICATION TO CERTAIN PERSONS,"
29 WHICH WOULD PROHIBIT THE INVESTMENT OF STATE FUNDS IN CERTAIN
30 PRIVATE BUSINESS ENTITIES DOING BUSINESS IN SUDAN.

1 (26) BY INVESTING IN PUBLICLY TRADED COMPANIES HAVING
2 INVESTMENTS IN IRAN AND SUDAN, THE STATE TREASURER, THE STATE
3 EMPLOYEES' RETIREMENT SYSTEM AND THE PUBLIC SCHOOL EMPLOYEES'
4 RETIREMENT SYSTEM COULD PUT THE FUND THEY OVERSEE AT
5 FINANCIAL RISK.

6 (27) DIVESTITURE FROM MARKETS THAT ARE VULNERABLE TO
7 EMBARGO, LOAN RESTRICTIONS AND SANCTIONS FROM THE UNITED
8 STATES AND THE INTERNATIONAL COMMUNITY, INCLUDING THE UNITED
9 NATIONS SECURITY COUNCIL, IS IN ACCORDANCE WITH THE RULES OF
10 PRUDENCE.

11 (28) THE GENERAL ASSEMBLY FINDS THAT THIS ACT SHOULD
12 REMAIN IN EFFECT ONLY INsofar AS IT CONTINUES TO BE
13 CONSISTENT WITH AND DOES NOT UNDULY INTERFERE WITH THE
14 FOREIGN POLICY OF THE UNITED STATES AS DETERMINED BY THE
15 FEDERAL GOVERNMENT.

16 (29) TO PROTECT THE COMMONWEALTH'S ASSETS, IT IS IN THE
17 BEST INTEREST OF THE COMMONWEALTH TO ENACT A STATUTORY
18 PROHIBITION REGARDING THE INVESTMENTS IN COMPANIES DOING
19 BUSINESS IN IRAN AND SUDAN MANAGED BY THE STATE TREASURER,
20 THE STATE EMPLOYEES' RETIREMENT SYSTEM AND THE PUBLIC SCHOOL
21 EMPLOYEES' RETIREMENT SYSTEM.

22 SECTION 3. DEFINITIONS.

23 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
24 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
25 CONTEXT CLEARLY INDICATES OTHERWISE:

26 "BOARD." AS DEFINED IN 71 PA.C.S. PT. XXV (RELATING TO
27 RETIREMENT FOR STATE EMPLOYEES AND OFFICERS) OR 24 PA.C.S. PT.
28 IV (RELATING TO RETIREMENT FOR SCHOOL EMPLOYEES).

29 "BUSINESS ACTIVITIES." OWNING OR CONTROLLING PROPERTY OR
30 ASSETS LOCATED IN, HAVING EMPLOYEES OR FACILITIES LOCATED IN,

1 PROVIDING GOODS OR SERVICES TO, HAVING DISTRIBUTION AGREEMENTS
2 WITH, ISSUING CREDIT OR LOANS TO, PURCHASING BONDS OR COMMERCIAL
3 PAPER ISSUED BY, INVESTING IN OR HAVING EQUITY TIES TO OR WITH
4 IRAN, SUDAN OR ANY COMPANY DOMICILED IN IRAN OR SUDAN OR THEIR
5 AFFILIATES.

6 "COMPANY." ANY SOLE PROPRIETORSHIP, ORGANIZATION,
7 ASSOCIATION, CORPORATION, PARTNERSHIP, JOINT VENTURE, LIMITED
8 PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY
9 COMPANY OR OTHER ENTITY OR BUSINESS ASSOCIATION THAT EXISTS FOR
10 THE PURPOSE OF MAKING A PROFIT.

11 "DIRECT HOLDINGS." ALL SECURITIES OF A COMPANY THAT ARE HELD
12 DIRECTLY BY THE PUBLIC FUND OR IN AN ACCOUNT OR FUND IN WHICH
13 THE PUBLIC FUND OWNS ALL SHARES AND INTERESTS.

14 "GOVERNMENT OF IRAN." THE GOVERNMENT OF IRAN AND ITS
15 INSTRUMENTALITIES AND COMPANIES OWNED OR CONTROLLED BY THE
16 GOVERNMENT OF IRAN.

17 "GOVERNMENT OF SUDAN." THE GOVERNMENT IN KHARTOUM, SUDAN,
18 WHICH IS LED BY THE NATIONAL CONGRESS PARTY, FORMERLY KNOWN AS
19 THE NATIONAL ISLAMIC FRONT, OR ANY SUCCESSOR GOVERNMENT FORMED
20 ON OR AFTER OCTOBER 13, 2006, INCLUDING THE COALITION THE
21 NATIONAL UNITY GOVERNMENT AGREED UPON IN THE COMPREHENSIVE PEACE
22 AGREEMENT FOR SUDAN. THE TERM DOES NOT INCLUDE THE REGIONAL
23 GOVERNMENT OF SOUTHERN SUDAN.

24 "INACTIVE BUSINESS ACTIVITIES." THE CONTINUED HOLDING OR
25 RENEWAL OF RIGHTS TO PROPERTY PREVIOUSLY OPERATED FOR THE
26 PURPOSE OF GENERATING REVENUES BUT NOT PRESENTLY DEPLOYED FOR
27 THAT PURPOSE.

28 "INDEMNITEE." EACH CURRENT OR FORMER BOARD MEMBER, DULY
29 APPOINTED DESIGNEE OF A BOARD MEMBER, OFFICER, EMPLOYEE,
30 INCLUDING, WITHOUT LIMITATION, THE ATTORNEYS IN THE OFFICE OF

1 CHIEF COUNSEL THAT SERVE A PUBLIC FUND, AGENT, RESEARCH FIRM OR
2 INVESTMENT MANAGER OF A PUBLIC FUND WHO WAS OR IS A PARTY TO, OR
3 IS THREATENED TO BE MADE A PARTY TO, OR IS OTHERWISE INVOLVED IN
4 ANY PROCEEDING BY REASON OF THE FACT THAT THE PERSON IS OR WAS A
5 BOARD MEMBER, DESIGNEE OF A BOARD MEMBER, OFFICER, EMPLOYEE,
6 AGENT, RESEARCH FIRM OR INVESTMENT MANAGER OF A PUBLIC FUND.

7 "INDIRECT HOLDINGS." ALL SECURITIES OF A COMPANY THAT ARE
8 HELD IN AN ACCOUNT OR FUND, SUCH AS A MUTUAL FUND, MANAGED BY
9 ONE OR MORE PERSONS NOT EMPLOYED BY THE PUBLIC FUND, IN WHICH
10 THE PUBLIC FUND OWNS SHARES OR INTERESTS TOGETHER WITH OTHER
11 INVESTORS NOT SUBJECT TO THE PROVISIONS OF THIS ACT.

12 "IRAN." THE ISLAMIC REPUBLIC OF IRAN.

13 "LIST OF STATE SPONSORS OF TERRORISM." THE LIST OF COUNTRIES
14 DESIGNATED BY THE UNITED STATES SECRETARY OF STATE AS HAVING
15 REPEATEDLY PROVIDED SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM
16 AS REPORTED ANNUALLY IN COUNTRY REPORTS ON TERRORISM IN
17 ACCORDANCE WITH 22 U.S.C. § 2656(F).

18 "MARGINALIZED POPULATIONS OF SUDAN." INCLUDE, BUT ARE NOT
19 LIMITED TO, THE PORTION OF THE POPULATION IN THE DARFUR REGION
20 THAT HAS BEEN GENOCIDALLY VICTIMIZED; THE PORTION OF THE
21 POPULATION OF SOUTHERN SUDAN VICTIMIZED BY SUDAN'S NORTH-SOUTH
22 CIVIL WAR; THE BEJA, RASHIDIYA AND OTHER SIMILARLY UNDERSERVED
23 GROUPS OF EASTERN SUDAN; THE NUBIAN AND OTHER SIMILARLY
24 UNDERSERVED GROUPS IN SUDAN'S ABYEI, SOUTHERN BLUE NILE AND NUBA
25 MOUNTAIN REGIONS; AND THE AMRI, HAMADAB, MANASIR AND OTHER
26 SIMILARLY UNDERSERVED GROUPS OF NORTHERN SUDAN.

27 "MILITARY EQUIPMENT." WEAPONS, ARMS, MILITARY SUPPLIES AND
28 EQUIPMENT THAT MAY BE USED READILY FOR MILITARY PURPOSES,
29 INCLUDING, BUT NOT LIMITED TO, RADAR SYSTEMS OR MILITARY-GRADE
30 TRANSPORT VEHICLES; OR SUPPLIES OR SERVICES SOLD OR PROVIDED

1 DIRECTLY OR INDIRECTLY TO ANY FORCE ACTIVELY PARTICIPATING IN
2 ARMED CONFLICT IN SUDAN.

3 "MINERAL EXTRACTION ACTIVITIES." INCLUDE EXPLORING,
4 EXTRACTING, PROCESSING, TRANSPORTING OR WHOLESALE SELLING OR
5 TRADING OF ELEMENTAL MINERALS OR ASSOCIATED METAL ALLOYS OR
6 OXIDES (ORE), INCLUDING GOLD, COPPER, CHROMIUM, CHROMITE,
7 DIAMONDS, IRON, IRON ORE, SILVER, TUNGSTEN, URANIUM AND ZINC, AS
8 WELL AS FACILITATING SUCH ACTIVITIES, INCLUDING BY PROVIDING
9 SUPPLIES OR SERVICES IN SUPPORT OF SUCH ACTIVITIES.

10 "OIL-RELATED ACTIVITIES." INCLUDE, BUT ARE NOT LIMITED TO,
11 OWNING RIGHTS TO OIL BLOCKS; EXPORTING, EXTRACTING, PRODUCING,
12 REFINING, PROCESSING, EXPLORING FOR, TRANSPORTING, SELLING OR
13 TRADING OF OIL; CONSTRUCTING, MAINTAINING OR OPERATING A
14 PIPELINE, REFINERY OR OTHER OIL FIELD INFRASTRUCTURE; AND
15 FACILITATING SUCH ACTIVITIES, INCLUDING BY PROVIDING SUPPLIES OR
16 SERVICES IN SUPPORT OF SUCH ACTIVITIES, PROVIDED THAT THE MERE
17 RETAIL SALE OF GASOLINE AND RELATED CONSUMER PRODUCTS SHALL NOT
18 BE CONSIDERED OIL-RELATED ACTIVITIES.

19 "POWER PRODUCTION ACTIVITIES." BUSINESS OPERATIONS THAT
20 INVOLVE A PROJECT COMMISSIONED BY THE NATIONAL ELECTRICITY
21 CORPORATION (NEC) OF SUDAN OR OTHER SIMILAR GOVERNMENT OF SUDAN
22 ENTITY WHOSE PURPOSE IS TO FACILITATE POWER GENERATION AND
23 DELIVERY, INCLUDING, BUT NOT LIMITED TO, ESTABLISHING POWER-
24 GENERATING PLANTS OR HYDROELECTRIC DAMS, SELLING OR INSTALLING
25 COMPONENTS FOR THE PROJECT, PROVIDING SERVICE CONTRACTS RELATED
26 TO THE INSTALLATION OR MAINTENANCE OF THE PROJECT, AS WELL AS
27 FACILITATING SUCH ACTIVITIES, INCLUDING BY PROVIDING SUPPLIES OR
28 SERVICES IN SUPPORT OF SUCH ACTIVITIES.

29 "PROCEEDING." ANY THREATENED, PENDING OR COMPLETED ACTION,
30 SUIT OR PROCEEDING, INCLUDING, WITHOUT LIMITATION, AN ACTION,

1 SUIT OR PROCEEDING BY OR IN THE RIGHT OF A PUBLIC FUND, RELATING
2 TO COMPLIANCE WITH ANY INVESTMENT LIMITATIONS IMPOSED BY
3 STATUTE, WHETHER CIVIL, CRIMINAL, ADMINISTRATIVE, INVESTIGATIVE
4 OR THROUGH ARBITRATION.

5 "PUBLIC FUND." ANY OF THE FOLLOWING:

6 (1) THE STATE EMPLOYEES' RETIREMENT FUND ESTABLISHED
7 PURSUANT TO 71 PA.C.S. PT. XXV (RELATING TO RETIREMENT FOR
8 STATE EMPLOYEES AND OFFICERS).

9 (2) THE PUBLIC SCHOOL EMPLOYEES' RETIREMENT FUND
10 ESTABLISHED PURSUANT TO 24 PA.C.S. PT. IV (RELATING TO
11 RETIREMENT FOR SCHOOL EMPLOYEES).

12 (3) ANY COMMONWEALTH FUND ADMINISTERED BY THE STATE
13 TREASURER.

14 "SCRUTINIZED BUSINESS ACTIVITIES." BUSINESS ACTIVITIES THAT
15 HAVE RESULTED IN A COMPANY BECOMING A SCRUTINIZED COMPANY.

16 "SCRUTINIZED COMPANY." ANY OF THE FOLLOWING:

17 (1) ANY FOREIGN COMPANY THAT HAS BUSINESS ACTIVITIES
18 WITH A VALUE OF AT LEAST \$20,000,000 IN IRAN IN ANY 12-MONTH
19 PERIOD, OR THAT HAS SUPPLIED MILITARY EQUIPMENT TO THE
20 GOVERNMENT OF IRAN, OR THAT HAS KNOWINGLY AND WILLFULLY
21 VIOLATED UNITED STATES EXPORT CONTROLS WITH RESPECT TO IRAN.

22 (2) ANY FOREIGN COMPANY THAT MEETS THE CRITERIA SET
23 FORTH EITHER IN SUBPARAGRAPH (I) OR (II):

24 (I) THE COMPANY HAS BUSINESS OPERATIONS THAT INVOLVE
25 CONTRACTS WITH OR PROVISION OF SUPPLIES OR SERVICES TO
26 THE GOVERNMENT OF SUDAN, COMPANIES IN WHICH THE
27 GOVERNMENT OF SUDAN HAS ANY DIRECT OR INDIRECT EQUITY
28 SHARE, GOVERNMENT OF SUDAN-COMMISSIONED CONSORTIUMS OR
29 PROJECTS, OR COMPANIES INVOLVED IN GOVERNMENT OF SUDAN-
30 COMMISSIONED CONSORTIUMS OR PROJECTS; AND

1 (A) MORE THAN 10% OF THE COMPANY'S REVENUE OR
2 ASSETS LINKED TO SUDAN INVOLVE OIL-RELATED ACTIVITIES
3 OR MINERAL EXTRACTION ACTIVITIES; LESS THAN 75% OF
4 THE COMPANY'S REVENUES OR ASSETS LINKED TO SUDAN
5 INVOLVE CONTRACTS WITH OR PROVISION OF OIL-RELATED OR
6 MINERAL EXTRACTING PRODUCTS OR SERVICES TO THE
7 REGIONAL GOVERNMENT OF SOUTHERN SUDAN OR A PROJECT OR
8 CONSORTIUM CREATED EXCLUSIVELY BY THAT REGIONAL
9 GOVERNMENT; AND THE COMPANY HAS FAILED TO TAKE
10 SUBSTANTIAL ACTION SPECIFIC TO SUDAN; OR

11 (B) MORE THAN 10% OF THE COMPANY'S REVENUES OR
12 ASSETS LINKED TO SUDAN INVOLVE POWER PRODUCTION
13 ACTIVITIES; LESS THAN 75% OF THE COMPANY'S POWER
14 PRODUCTION ACTIVITIES INCLUDE PROJECTS WHOSE INTENT
15 IS TO PROVIDE POWER OR ELECTRICITY TO THE
16 MARGINALIZED POPULATIONS OF SUDAN; AND THE COMPANY
17 HAS FAILED TO TAKE SUBSTANTIAL ACTION SPECIFIC TO
18 SUDAN.

19 (II) THE COMPANY SUPPLIES MILITARY EQUIPMENT WITHIN
20 SUDAN, UNLESS IT CLEARLY SHOWS THAT THE MILITARY
21 EQUIPMENT CANNOT BE USED TO FACILITATE OFFENSIVE MILITARY
22 ACTIONS IN SUDAN OR THE COMPANY'S IMPLEMENTS RIGOROUS AND
23 VERIFIABLE SAFEGUARDS TO PREVENT USE OF THAT EQUIPMENT BY
24 FORCES ACTIVELY PARTICIPATING IN ARMED CONFLICT, FOR
25 EXAMPLE, THROUGH POST-SALE TRACKING OF SUCH EQUIPMENT BY
26 THE COMPANY, CERTIFICATION FROM A REPUTABLE AND OBJECTIVE
27 THIRD PARTY THAT SUCH EQUIPMENT IS NOT BEING USED BY A
28 PARTY PARTICIPATING IN ARMED CONFLICT IN SUDAN, OR SALE
29 OF SUCH EQUIPMENT SOLELY TO THE REGIONAL GOVERNMENT OF
30 SOUTHERN SUDAN OR ANY INTERNATIONALLY RECOGNIZED

1 PEACEKEEPING FORCE OR HUMANITARIAN ORGANIZATION.
2 THE TERM DOES NOT INCLUDE A FOREIGN COMPANY THAT IS A SOCIAL
3 DEVELOPMENT COMPANY.

4 "SOCIAL DEVELOPMENT COMPANY." A COMPANY WHOSE PRIMARY
5 PURPOSE IN IRAN OR SUDAN IS TO PROVIDE HUMANITARIAN GOODS OR
6 SERVICES, INCLUDING MEDICINE OR MEDICAL EQUIPMENT, AGRICULTURAL
7 SUPPLIES OR INFRASTRUCTURE; EDUCATIONAL OPPORTUNITIES;
8 JOURNALISM-RELATED ACTIVITIES; INFORMATION OR INFORMATION
9 MATERIALS; SPIRITUAL-RELATED ACTIVITIES; SERVICES OF A PURELY
10 CLERICAL OR REPORTING NATURE; FOOD, CLOTHING OR GENERAL CONSUMER
11 GOODS.

12 "SUBSTANTIAL ACTION SPECIFIC TO IRAN." ADOPTING, PUBLICIZING
13 AND IMPLEMENTING A FORMAL PLAN TO CEASE SCRUTINIZED BUSINESS
14 ACTIVITIES WITHIN ONE YEAR AND TO REFRAIN FROM ANY SUCH NEW
15 BUSINESS ACTIVITIES IN IRAN.

16 "SUBSTANTIAL ACTION SPECIFIC TO SUDAN." ADOPTING,
17 PUBLICIZING AND IMPLEMENTING A FORMAL PLAN TO CEASE SCRUTINIZED
18 BUSINESS OPERATIONS WITHIN ONE YEAR AND TO REFRAIN FROM ANY SUCH
19 NEW BUSINESS OPERATIONS; UNDERTAKING SIGNIFICANT HUMANITARIAN
20 EFFORTS IN CONJUNCTION WITH AN INTERNATIONAL ORGANIZATION, THE
21 GOVERNMENT OF SUDAN, THE REGIONAL GOVERNMENT OF SOUTHERN SUDAN
22 OR A NONPROFIT ENTITY AND EVALUATED AND CERTIFIED BY AN
23 INDEPENDENT THIRD PARTY TO BE SUBSTANTIAL IN RELATIONSHIP TO THE
24 COMPANY'S SUDAN BUSINESS OPERATIONS AND OF BENEFIT TO ONE OR
25 MORE MARGINALIZED POPULATIONS OF SUDAN; OR THROUGH ENGAGEMENT
26 WITH THE GOVERNMENT OF SUDAN, MATERIALLY IMPROVING CONDITIONS
27 FOR THE GENOCIDALLY VICTIMIZED POPULATION IN DARFUR.

28 "SUDAN." THE DEMOCRATIC REPUBLIC OF SUDAN.

29 SECTION 4. IDENTIFICATION OF COMPANIES.

30 (A) BEST EFFORT.--WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF

1 THIS SECTION, A PUBLIC FUND SHALL MAKE ITS BEST EFFORT TO
2 IDENTIFY ALL SCRUTINIZED COMPANIES IN WHICH THE PUBLIC FUND HAS
3 DIRECT OR INDIRECT HOLDINGS. A PUBLIC FUND SHALL, AT A MINIMUM,
4 REVIEW AND RELY, AS APPROPRIATE IN THE PUBLIC FUND'S JUDGMENT,
5 ON PUBLICLY AVAILABLE INFORMATION REGARDING FOREIGN COMPANIES
6 THAT HAVE SCRUTINIZED BUSINESS ACTIVITIES, INCLUDING INFORMATION
7 PROVIDED BY NONPROFIT ORGANIZATIONS, RESEARCH FIRMS,
8 INTERNATIONAL ORGANIZATIONS AND GOVERNMENT ENTITIES.

9 (B) ASSEMBLY.--BY THE FIRST MEETING OF A PUBLIC FUND
10 FOLLOWING THE 30-DAY PERIOD UNDER SUBSECTION (A), THE PUBLIC
11 FUND SHALL ASSEMBLE ALL SCRUTINIZED COMPANIES THAT FIT THE
12 CRITERIA SPECIFIED IN PARAGRAPH (1) OF THE DEFINITION OF
13 "SCRUTINIZED COMPANY" INTO A SCRUTINIZED COMPANIES WITH
14 ACTIVITIES IN IRAN LIST AND SHALL ASSEMBLE ALL SCRUTINIZED
15 COMPANIES THAT FIT CRITERIA SPECIFIED IN PARAGRAPH (2) OF THE
16 DEFINITION OF "SCRUTINIZED COMPANY" INTO A SCRUTINIZED COMPANIES
17 WITH ACTIVITIES IN SUDAN LIST.

18 (C) UPDATE.--A PUBLIC FUND SHALL, FROM THE EFFECTIVE DATE OF
19 THIS SECTION, ANNUALLY UPDATE AND MAKE PUBLICLY AVAILABLE ITS
20 SCRUTINIZED COMPANIES WITH ACTIVITIES IN IRAN LIST AND
21 SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST BASED ON
22 EVOLVING INFORMATION FROM, AMONG OTHER SOURCES, THOSE LISTED
23 UNDER SUBSECTION (A). IN ADDITION, A PUBLIC FUND SHALL PROVIDE A
24 COPY OF ITS LISTS TO ALL OTHER PUBLIC FUNDS INCLUDING ALL
25 UPDATES.

26 SECTION 5. REQUIRED ACTIONS.

27 (A) PROCEDURE.--A PUBLIC FUND SHALL ADHERE TO THE PROCEDURES
28 UNDER THIS SECTION FOR ASSEMBLING COMPANIES ON ITS SCRUTINIZED
29 COMPANIES WITH ACTIVITIES IN IRAN LIST AND SCRUTINIZED COMPANIES
30 WITH ACTIVITIES IN SUDAN LIST.

1 (B) ENGAGEMENT.--

2 (1) FOR EACH COMPANY ON A PUBLIC FUND'S SCRUTINIZED
3 COMPANIES WITH ACTIVITIES IN IRAN LIST OR SCRUTINIZED
4 COMPANIES WITH ACTIVITIES IN SUDAN LIST IN WHICH THE PUBLIC
5 FUND HAS DIRECT AND INDIRECT HOLDINGS, THE PUBLIC FUND SHALL
6 SEND A WRITTEN NOTICE INFORMING THE COMPANY OF ITS
7 SCRUTINIZED COMPANY STATUS AND SPECIFY THE BUSINESS
8 ACTIVITIES WHICH HAVE RESULTED IN THIS DETERMINATION AND THAT
9 IT MAY BECOME SUBJECT TO DIVESTMENT BY THE PUBLIC FUND. THE
10 NOTICE MUST INFORM THE COMPANY OF THE OPPORTUNITY TO CLARIFY
11 ITS SCRUTINIZED BUSINESS ACTIVITIES AND ENCOURAGE THE
12 COMPANY, WITHIN 90 DAYS OF THE DATE OF RECEIPT OF THE NOTICE,
13 TO CEASE ITS SCRUTINIZED BUSINESS ACTIVITIES IN IRAN, SUDAN
14 OR BOTH, OR CONVERT THE ACTIVITIES TO INACTIVE BUSINESS
15 ACTIVITIES IN ORDER TO AVOID QUALIFYING FOR DIVESTMENT BY THE
16 PUBLIC FUND. THE NOTICE SHALL BE SENT NO LATER THAN 120 DAYS
17 AFTER THE EFFECTIVE DATE OF THIS SECTION.

18 (2) IF, WITHIN 90 DAYS OF THE DATE OF RECEIPT OF A
19 NOTICE UNDER PARAGRAPH (1), A COMPANY ANNOUNCES BY PUBLIC
20 DISCLOSURE SUBSTANTIAL ACTION SPECIFIC TO IRAN OR SUBSTANTIAL
21 ACTION SPECIFIC TO SUDAN, THE PUBLIC FUND MAY MAINTAIN ITS
22 HOLDINGS, BUT THE COMPANY SHALL REMAIN ON THE SCRUTINIZED
23 COMPANIES WITH ACTIVITIES IN IRAN LIST OR SCRUTINIZED
24 COMPANIES WITH ACTIVITIES IN SUDAN LIST PENDING COMPLETION OF
25 THE COMPANIES' CESSATION OF SCRUTINIZED BUSINESS ACTIVITIES.
26 FOLLOWING COMPLETION OF A COMPANY'S CESSATION OF SCRUTINIZED
27 BUSINESS ACTIVITIES, THE PUBLIC FUND SHALL REMOVE THE COMPANY
28 FROM ITS SCRUTINIZED COMPANIES WITH ACTIVITIES IN IRAN LIST
29 OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST.

30 (C) DIVESTMENT.--

1 (1) IF, AFTER 90 DAYS FOLLOWING THE EFFECTIVE DATE OF
2 RECEIPT OF THE NOTICE UNDER SUBSECTION (B)(1), A COMPANY HAS
3 NOT ANNOUNCED BY PUBLIC DISCLOSURE SUBSTANTIAL ACTION
4 SPECIFIC TO IRAN, SUBSTANTIAL ACTION SPECIFIC TO SUDAN OR
5 BOTH AS SPECIFIED IN THE NOTICE, OR THE PUBLIC FUND
6 DETERMINES OR BECOMES AWARE THAT THE COMPANY CONTINUES TO
7 HAVE SCRUTINIZED BUSINESS ACTIVITIES, THE PUBLIC FUND, WITHIN
8 15 MONTHS AFTER THE 90-DAY PERIOD, SHALL SELL, REDEEM, DIVEST
9 OR WITHDRAW FROM ITS DIRECT AND INDIRECT HOLDINGS ALL
10 SECURITIES OF THE COMPANY.

11 (2) IF A PUBLIC FUND DETERMINES OR BECOMES AWARE THAT A
12 COMPANY THAT CEASED SCRUTINIZED BUSINESS ACTIVITIES FOLLOWING
13 ENGAGEMENT UNDER SUBSECTION (B) HAS RESUMED THE ACTIVITIES,
14 THE PUBLIC FUND SHALL SEND A WRITTEN NOTICE TO THE COMPANY
15 UNDER SUBSECTION (B), AND THE COMPANY SHALL BE IMMEDIATELY
16 REINTRODUCED ONTO THE PUBLIC FUND'S SCRUTINIZED COMPANIES
17 WITH ACTIVITIES IN IRAN LIST OR SCRUTINIZED COMPANIES WITH
18 ACTIVITIES IN SUDAN LIST.

19 (3) A PUBLIC FUND SHALL MONITOR A SCRUTINIZED COMPANY
20 THAT HAS ANNOUNCED BY PUBLIC DISCLOSURE SUBSTANTIAL ACTION
21 SPECIFIC TO IRAN, SUBSTANTIAL ACTION SPECIFIC TO SUDAN OR
22 BOTH. IF AFTER ONE YEAR THE PUBLIC FUND DETERMINES OR BECOMES
23 AWARE THAT THE COMPANY HAS NOT IMPLEMENTED THE PLAN, WITHIN
24 SIX MONTHS AFTER THE EXPIRATION OF THE ONE-YEAR PERIOD, THE
25 PUBLIC FUND SHALL SELL, REDEEM, DIVEST OR WITHDRAW FROM ITS
26 DIRECT AND INDIRECT HOLDINGS ALL SECURITIES OF THE COMPANY.

27 (D) PROHIBITION.--A PUBLIC FUND MAY NOT ACQUIRE SECURITIES
28 OF A COMPANY ON ITS SCRUTINIZED COMPANIES WITH ACTIVITIES IN
29 IRAN LIST OR SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN
30 LIST.

1 (E) EXCLUDED SECURITIES.--NOTHING IN THIS ACT SHALL APPLY TO
2 THE PUBLIC FUND'S HOLDINGS IN ALTERNATIVE INVESTMENTS.

3 SECTION 6. REPORTING.

4 (A) REPORT TO UNITED STATES ATTORNEY GENERAL.--WITHIN 30
5 DAYS OF THE PASSAGE OF THIS ACT, ADMINISTRATORS OF THE PUBLIC
6 FUND SHALL FILE A WRITTEN REPORT TO THE UNITED STATES ATTORNEY
7 GENERAL DETAILING THE REQUIREMENTS CONTAINED IN THIS ACT.

8 (B) DUTY OF PUBLIC FUND.--A PUBLIC FUND SHALL, WITHIN 30
9 DAYS OF THE CREATION OF ITS SCRUTINIZED COMPANIES WITH
10 ACTIVITIES IN IRAN LIST AND SCRUTINIZED COMPANIES WITH
11 ACTIVITIES IN SUDAN LIST, PROVIDE A REPORT TO THE GOVERNOR, THE
12 PRESIDENT PRO TEMPORE OF THE SENATE, THE SPEAKER OF THE HOUSE OF
13 REPRESENTATIVES AND EACH MEMBER OF THE BOARDS OF THE STATE
14 EMPLOYEES' RETIREMENT SYSTEM AND PUBLIC SCHOOL EMPLOYEES'
15 RETIREMENT SYSTEM THAT INCLUDES THE ITEMS REQUIRED UNDER
16 SUBSECTION (B). THE REPORT SHALL BE MADE AVAILABLE TO THE
17 PUBLIC.

18 (C) CONTENTS.--THE REPORT UNDER SUBSECTION (A) SHALL INCLUDE
19 THE MOST RECENT SCRUTINIZED COMPANIES WITH ACTIVITIES IN IRAN
20 LIST AND SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST AND
21 ALL OF THE FOLLOWING:

22 (1) A SUMMARY OF CORRESPONDENCE WITH COMPANIES ENGAGED
23 BY THE PUBLIC FUND UNDER SECTION 5.

24 (2) ALL INVESTMENTS SOLD, REDEEMED, DIVESTED OR
25 WITHDRAWN IN COMPLIANCE WITH SECTION 5(C).

26 (3) ALL PROHIBITED INVESTMENTS UNDER SECTION 5(D).

27 (4) A LIST OF ALL PUBLICLY TRADED SECURITIES HELD BY THE
28 PUBLIC FUND.

29 SECTION 7. EXPIRATION.

30 (A) RECURRENCE OF INVESTMENT IN IRAN.--A PUBLIC FUND SHALL

1 HAVE NO OBLIGATIONS UNDER THIS ACT WITH RESPECT TO A COMPANY
2 ENGAGED IN BUSINESS ACTIVITIES IN IRAN UPON THE OCCURRENCE OF
3 ANY OF THE FOLLOWING:

4 (1) IRAN DOES NOT APPEAR ON THE LIST OF STATE SPONSORS
5 OF TERRORISM.

6 (2) THE PRESIDENT OR CONGRESS OF THE UNITED STATES,
7 THROUGH LEGISLATION OR EXECUTIVE ORDER, DECLARES THAT
8 MANDATORY DIVESTMENT OF THE TYPE PROVIDED FOR IN THIS ACT
9 INTERFERES WITH THE CONDUCT OF UNITED STATES FOREIGN POLICY.

10 (B) RECURRENCE OF INVESTMENT IN SUDAN.--A PUBLIC FUND SHALL
11 HAVE NO OBLIGATIONS UNDER THIS ACT WITH RESPECT TO A COMPANY
12 ENGAGED IN BUSINESS ACTIVITIES IN SUDAN UPON THE OCCURRENCE OF
13 ANY OF THE FOLLOWING:

14 (1) THE PRESIDENT OR CONGRESS OF THE UNITED STATES
15 DECLARES DARFUR GENOCIDE HAS BEEN HALTED FOR AT LEAST 12
16 MONTHS.

17 (2) THE UNITED STATES REVOKES ALL SANCTIONS IMPOSED
18 AGAINST THE GOVERNMENT OF SUDAN.

19 (3) THE PRESIDENT OR CONGRESS OF THE UNITED STATES
20 DECLARES THAT THE GOVERNMENT OF SUDAN HAS HONORED ITS
21 COMMITMENTS TO CEASE ATTACKS ON CIVILIANS, DEMOBILIZE AND
22 DEMILITARIZE THE JANJAWEEED AND ASSOCIATED MILITIAS, GRANT
23 FREE AND UNFETTERED ACCESS FOR DELIVERIES OF HUMANITARIAN
24 ASSISTANCE AND ALLOW FOR THE SAFE AND VOLUNTARY RETURN OF
25 REFUGEES AND INTERNALLY DISPLACED PERSONS.

26 (4) THE PRESIDENT OR CONGRESS OF THE UNITED STATES,
27 THROUGH LEGISLATION OR EXECUTIVE ORDER, DECLARES THAT
28 MANDATORY DIVESTMENT OF THE TYPE PROVIDED FOR IN THIS ACT
29 INTERFERES WITH THE CONDUCT OF UNITED STATES FOREIGN POLICY.

30 SECTION 8. CONFLICT WITH OTHER LAWS.

1 A PUBLIC FUND MAY PERFORM ANY ACTION NECESSARY TO COMPLY WITH
2 THIS ACT, NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW,
3 INCLUDING, BUT NOT LIMITED TO, ANY FIDUCIARY OR PRUDENT
4 INVESTING RESPONSIBILITIES AS PRESCRIBED IN 24 PA.C.S. § 8521
5 (RELATING TO MANAGEMENT OF FUND AND ACCOUNTS) AND 71 PA.C.S. §
6 5931 (RELATING TO MANAGEMENT OF FUND AND ACCOUNTS) AND ANY
7 OBLIGATIONS OF A PUBLIC FUND WITH RESPECT TO CHOICE OF ASSET
8 MANAGERS, INVESTMENT FUNDS OR INVESTMENTS FOR THE PUBLIC FUND'S
9 SECURITIES PORTFOLIOS.

10 SECTION 9. INDEMNIFICATION.

11 (A) GENERAL RULE.--EACH INDEMNITEE SHALL BE INDEMNIFIED AND
12 HELD HARMLESS BY THE COMMONWEALTH FOR ALL GOOD FAITH ACTIONS
13 TAKEN BY THE INDEMNITEE AND FOR ALL GOOD FAITH FAILURES TO TAKE
14 ACTION, REGARDLESS OF THE DATE OF ANY SUCH ACTION OR FAILURE TO
15 TAKE ACTION, IN CONNECTION WITH ATTEMPTS TO COMPLY WITH ANY
16 INVESTMENT LIMITATIONS IMPOSED BY STATUTE AGAINST ALL EXPENSE,
17 LIABILITY AND LOSS, INCLUDING, WITHOUT LIMITATION, ATTORNEY
18 FEES, JUDGMENTS, FINES, TAXES, PENALTIES AND AMOUNTS PAID OR TO
19 BE PAID IN SETTLEMENTS REASONABLY INCURRED OR SUFFERED BY THE
20 INDEMNITEE IN CONNECTION WITH ANY PROCEEDING.

21 (B) ADVANCE PAYMENT.--THE RIGHT TO INDEMNIFICATION PROVIDED
22 IN THIS SECTION SHALL INCLUDE THE RIGHT TO HAVE THE EXPENSES
23 REASONABLY INCURRED BY THE INDEMNITEE IN DEFENDING ANY
24 PROCEEDING PAID BY THE COMMONWEALTH IN ADVANCE OF THE FINAL
25 DISPOSITION OF THE PROCEEDING UPON THE RECEIPT BY THE
26 COMMONWEALTH OF A WRITTEN UNDERTAKING BY THE INDEMNITEE TO
27 REFUND THE AMOUNTS SO ADVANCED IF IT IS ULTIMATELY DETERMINED
28 THAT THE INDEMNITEE IS NOT ENTITLED TO INDEMNIFICATION UNDER
29 THIS SECTION.

30 (C) PERSONS ENTITLED.--INDEMNIFICATION PURSUANT TO THIS

1 SECTION SHALL CONTINUE AS TO AN INDEMNITEE WHO HAS CEASED TO BE
2 A BOARD MEMBER, DESIGNEE OF A BOARD MEMBER, OFFICER OR EMPLOYEE
3 OF A PUBLIC FUND AND SHALL INURE TO THE BENEFIT OF SUCH PERSON'S
4 LEGAL REPRESENTATIVES, HEIRS, EXECUTORS AND ADMINISTRATORS.

5 (D) REIMBURSEMENT TO PUBLIC FUNDS.--TO THE EXTENT THAT THE
6 COMMONWEALTH DOES NOT MAKE ANY INDEMNIFICATION PAYMENTS,
7 INCLUDING ANY ADVANCEMENT OF LEGAL FEES AND EXPENSES, WITHIN 30
8 DAYS OF DEMAND THEREFOR, A PUBLIC FUND SHALL MAKE SUCH PAYMENT
9 AND THE COMMONWEALTH SHALL REIMBURSE THE PUBLIC FUND.

10 (E) CONSTRUCTION.--THE REPEAL, EXPIRATION OR AMENDMENT OF
11 ANY PROVISION OF THIS SECTION SHALL NOT LIMIT THE RIGHTS OF ANY
12 INDEMNITEE TO INDEMNIFICATION, INCLUDING ADVANCEMENT OF
13 EXPENSES, WITH RESPECT TO ANY ACTION OR FAILURE TO ACT OCCURRING
14 PRIOR TO THE EFFECTIVE DATE OF SUCH REPEAL OR AMENDMENT.

15 SECTION 10. REIMBURSEMENT.

16 AFTER THE END OF THE FISCAL YEAR OF EACH PUBLIC FUND, THE
17 PUBLIC FUND SHALL SUBMIT TO AND THE SECRETARY OF THE BUDGET
18 SHALL CERTIFY THE DETERMINATION OF THE NET LOSSES, IF ANY, COSTS
19 AND EXPENSES INCURRED BY THE PUBLIC FUND AS A RESULT OF
20 COMPLIANCE WITH THE PROVISIONS OF THIS ACT, AND THE COMMONWEALTH
21 SHALL PROMPTLY REIMBURSE THE PUBLIC FUND FOR THOSE LOSSES, COSTS
22 AND EXPENSES FROM THE GENERAL FUND. IF THE PUBLIC FUND ACCRUES
23 NET GAINS AS A RESULT OF COMPLIANCE WITH THE PROVISIONS OF THIS
24 ACT, THE GAINS SHALL FIRST BE OFFSET AGAINST THE COSTS AND
25 EXPENSES OF COMPLIANCE WITH THIS ACT DURING THE PREVIOUS FISCAL
26 YEAR AND ANY BALANCE SHALL BE OFFSET AGAINST THE COSTS AND
27 EXPENSES OF COMPLIANCE AND ANY NET LOSSES INCURRED IN FUTURE
28 FISCAL YEARS.

29 SECTION 11. SEVERABILITY.

30 IF ANY PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON

1 OR CIRCUMSTANCES IS HELD INVALID, THE INVALIDITY SHALL NOT
2 AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ACT THAT CAN BE
3 GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

4 SECTION 12. EFFECTIVE DATE.

5 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.