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S.B. No. 253

A BILL TO BE ENTITLED

AN ACT

relating to investment prohibitions and divestment requirements  
for certain investments of public money.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 404.024(b), Government Code, is amended  
to read as follows:

(b) Subject to Chapter 2270, state ~~[State]~~ funds not  
deposited in state depositories shall be invested by the  
comptroller in:

(1) direct security repurchase agreements;

(2) reverse security repurchase agreements;

(3) direct obligations of or obligations the principal  
and interest of which are guaranteed by the United States;

(4) direct obligations of or obligations guaranteed by  
agencies or instrumentalities of the United States government;

(5) bankers' acceptances that:

(A) are eligible for purchase by the Federal  
Reserve System;

(B) do not exceed 270 days to maturity; and

(C) are issued by a bank whose other comparable  
short-term obligations are rated in the highest short-term rating  
category, within which there may be subcategories or gradations  
indicating relative standing, including such subcategories or  
gradations as "rating category" or "rated," by a nationally

1 recognized statistical rating organization, as defined by 15 U.S.C.  
2 Section 78c [~~Rule 2a-7 (17 C.F.R. Section 270.2a-7)~~, promulgated  
3 ~~under the Investment Company Act of 1940 by the Securities and~~  
4 ~~Exchange Commission~~];

5 (6) commercial paper that:

6 (A) does not exceed 270 days to maturity; and

7 (B) except as provided by Subsection (i), is  
8 issued by an entity whose other comparable short-term obligations  
9 are rated in the highest short-term rating category by a nationally  
10 recognized statistical rating organization;

11 (7) contracts written by the treasury in which the  
12 treasury grants the purchaser the right to purchase securities in  
13 the treasury's marketable securities portfolio at a specified price  
14 over a specified period and for which the treasury is paid a fee and  
15 specifically prohibits naked-option or uncovered option trading;

16 (8) direct obligations of or obligations guaranteed by  
17 the Inter-American Development Bank, the International Bank for  
18 Reconstruction and Development (the World Bank), the African  
19 Development Bank, the Asian Development Bank, and the International  
20 Finance Corporation that have received the highest long-term rating  
21 categories for debt obligations by a nationally recognized  
22 statistical rating organization;

23 (9) bonds issued, assumed, or guaranteed by the State  
24 of Israel;

25 (10) obligations of a state or an agency, county,  
26 city, or other political subdivision of a state;

27 (11) mutual funds secured by obligations that are

1 described by Subdivisions (1) through (6) or by obligations  
2 consistent with Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated  
3 by the Securities and Exchange Commission, including pooled funds:

4 (A) established by the Texas Treasury  
5 Safekeeping Trust Company;

6 (B) operated like a mutual fund; and

7 (C) with portfolios consisting only of  
8 dollar-denominated securities;

9 (12) foreign currency for the sole purpose of  
10 facilitating investment by state agencies that have the authority  
11 to invest in foreign securities;

12 (13) asset-backed securities, as defined by the  
13 Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section  
14 270.2a-7), that are rated at least A or its equivalent by a  
15 nationally recognized statistical rating organization and that  
16 have a weighted-average maturity of five years or less; and

17 (14) corporate debt obligations that are rated at  
18 least A or its equivalent by a nationally recognized statistical  
19 rating organization and mature in five years or less from the date  
20 on which the obligations were "acquired," as defined by the  
21 Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section  
22 270.2a-7).

23 SECTION 2. Section [2256.017](#), Government Code, is amended to  
24 read as follows:

25 Sec. 2256.017. EXISTING INVESTMENTS. Except as provided by  
26 Chapter 2270, an [~~A~~] entity is not required to liquidate  
27 investments that were authorized investments at the time of

1 purchase.

2 SECTION 3. Section 2256.024(a), Government Code, is amended  
3 to read as follows:

4 (a) The authority granted by this subchapter is in addition  
5 to that granted by other law. Except as provided by Subsection (b)  
6 and Section 2256.017, this subchapter does not:

7 (1) prohibit an investment specifically authorized by  
8 other law; or

9 (2) authorize an investment specifically prohibited  
10 by other law.

11 SECTION 4. Chapter 806, Government Code, is transferred to  
12 Subtitle F, Title 10, Government Code, redesignated as Chapter 2270  
13 of that subtitle, and amended to read as follows:

14 CHAPTER 2270 [~~806~~]. PROHIBITION ON INVESTING PUBLIC MONEY IN  
15 CERTAIN INVESTMENTS [~~INVESTMENT IN SUDAN~~]

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 2270.0001 [~~806.001~~]. DEFINITIONS. In this chapter:

18 (1) "Active business operations" means all business  
19 operations that are not inactive business operations.

20 (2) [~~"Business operations" means engaging in commerce~~  
21 ~~in any form in Sudan, including by acquiring, developing,~~  
22 ~~maintaining, owning, selling, possessing, leasing, or operating~~  
23 ~~equipment, facilities, personnel, products, services, personal~~  
24 ~~property, real property, or any other apparatus of business or~~  
25 ~~commerce.~~

26 [~~(3)~~] "Company" means a sole proprietorship,  
27 organization, association, corporation, partnership, joint

1 venture, limited partnership, limited liability partnership,  
2 limited liability company, or other entity or business association  
3 whose securities are publicly traded, including a wholly owned  
4 subsidiary, majority-owned subsidiary, parent company, or  
5 affiliate of those entities or business associations, that exists  
6 to make a profit.

7           (3) "Designated foreign terrorist organization" means  
8 an organization designated as a foreign terrorist organization by  
9 the United States secretary of state as authorized by 8 U.S.C.  
10 Section 1189.

11           (4) [~~"Complicit" means taking actions that have~~  
12 ~~directly supported or promoted the genocidal campaign in Darfur,~~  
13 ~~including:~~

14                   [~~(A) preventing members of Darfur's victimized~~  
15 ~~population from communicating with each other,~~

16                   [~~(B) encouraging Sudanese citizens to speak out~~  
17 ~~against an internationally approved security force for Darfur, or~~

18                   [~~(C) actively working to deny, cover up, or alter~~  
19 ~~the record on human rights abuses in Darfur.~~

20           [~~(5)~~] "Direct holdings" in a company["] means all  
21 securities of that company held directly by an investing [~~a state~~  
22 ~~governmental~~] entity in an account or fund in which an investing [~~a~~  
23 ~~state governmental~~] entity owns all shares or interests.

24           (5) [~~(6)~~] "Government of Sudan" means the government in  
25 Khartoum, Sudan, which is led by the National Congress Party,  
26 formerly known as the National Islamic Front, or any successor  
27 government formed on or after October 13, 2006, including the

1 ~~coalition National Unity Government agreed upon in the~~  
2 ~~Comprehensive Peace Agreement for Sudan. The term does not include~~  
3 ~~the regional government of southern Sudan.~~

4           ~~(7)~~ "Inactive business operations" means the mere  
5 continued holding or renewal of rights to property previously  
6 operated to generate revenue but not presently deployed to generate  
7 revenue.

8           (6) ~~(8)~~ "Indirect holdings" in a company~~(=)~~ means  
9 all securities of that company held in an account or fund, such as a  
10 mutual fund, managed by one or more persons not employed by an  
11 investing ~~[a state governmental]~~ entity, in which the investing  
12 ~~[state governmental]~~ entity owns shares or interests together with  
13 other investors not subject to this chapter. The term does not  
14 include money invested under a plan described by Section 401(k) or  
15 457 of the Internal Revenue Code of 1986.

16           (7) "Investing entity" means:

- 17                   (A) an entity subject to Chapter 2256;  
18                   (B) the Employees Retirement System of Texas;  
19                   (C) the Teacher Retirement System of Texas; and  
20                   (D) the comptroller with respect to the  
21 comptroller's investment of state funds.

22           (8) ~~(9)~~ "Listed company" means a company listed by  
23 the comptroller under Section 2270.0201 ~~[806.051]~~.

24           (9) ~~(10)~~ ~~"Marginalized populations of Sudan"~~  
25 ~~includes:~~

26                   ~~(A) the portion of the population in the Darfur~~  
27 ~~region that has been genocidally victimized,~~

1                   ~~[(B) the portion of the population of southern~~  
2 ~~Sudan victimized by Sudan's North-South civil war;~~

3                   ~~[(C) the Beja, Rashidiya, and other similarly~~  
4 ~~underserved groups of eastern Sudan;~~

5                   ~~[(D) the Nubian and other similarly underserved~~  
6 ~~groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain~~  
7 ~~regions; and~~

8                   ~~[(E) the Amri, Hamadab, Manasir, and other~~  
9 ~~similarly underserved groups of northern Sudan.~~

10                  ~~[(11) "Military equipment" means weapons, arms,~~  
11 ~~military supplies, and equipment that readily may be used for~~  
12 ~~military purposes, including radar systems or military-grade~~  
13 ~~transport vehicles or supplies or services sold or provided~~  
14 ~~directly or indirectly to any force actively participating in armed~~  
15 ~~conflict in Sudan.~~

16                  ~~[(12) "Mineral extraction activities" includes~~  
17 ~~exploring, extracting, processing, transporting, or wholesale~~  
18 ~~selling or trading of elemental minerals or associated metal alloys~~  
19 ~~or oxides (ore), including gold, copper, chromium, chromite,~~  
20 ~~diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as~~  
21 ~~well as facilitating those activities, including by providing~~  
22 ~~supplies or services in support of those activities.~~

23                  ~~[(13) "Oil-related activities" includes:~~

24                   ~~[(A) owning rights to oil blocks;~~

25                   ~~[(B) exporting, extracting, producing, refining,~~  
26 ~~processing, exploring for, transporting, selling, or trading of~~  
27 ~~oil;~~

1                   ~~[(C) constructing, maintaining, or operating a~~  
2 ~~pipeline, refinery, or other oil-field infrastructure; or~~

3                   ~~[(D) facilitating oil-related activities,~~  
4 ~~including by providing supplies or services in support of the~~  
5 ~~activities, except that the mere retail sale of gasoline and~~  
6 ~~related consumer products is not an oil-related activity.~~

7                   ~~[(14) "Power production activities" means any~~  
8 ~~business operation that involves a project commissioned by the~~  
9 ~~National Electricity Corporation of Sudan or another similar~~  
10 ~~Government of Sudan entity whose purpose is to facilitate power~~  
11 ~~generation and delivery, including establishing power-generating~~  
12 ~~plants or hydroelectric dams, selling or installing components for~~  
13 ~~the project, and providing service contracts related to the~~  
14 ~~installation or maintenance of the project, as well as facilitating~~  
15 ~~those activities, including by providing supplies or services in~~  
16 ~~support of those activities.~~

17                   ~~[(15)]~~ "Scrutinized company" means:

18                   (A) a company that:

19                   (i) ~~[(A)]~~ engages in scrutinized business  
20 operations described by Section 2270.0052 [~~806.002~~]; or

21                   (ii) ~~[(B)]~~ has been complicit in the Darfur  
22 genocide during any preceding 20-month period;

23                   (B) a company that engages in scrutinized  
24 business operations described by Section 2270.0102; and

25                   (C) a company that engages in scrutinized  
26 business operations described by Section 2270.0152.

27                   ~~[(16) "Social development company" means a company~~



1 ~~whose primary purpose in Sudan is to provide humanitarian goods or~~  
2 ~~services, including medicine or medical equipment, agricultural~~  
3 ~~supplies or infrastructure, educational opportunities,~~  
4 ~~journalism-related activities, information or information~~  
5 ~~materials, spiritual-related activities, services of a purely~~  
6 ~~clerical or reporting nature, food, clothing, or general consumer~~  
7 ~~goods that are unrelated to oil-related activities, mineral~~  
8 ~~extraction activities, or power production activities.~~

9 ~~[(17) "State governmental entity" means the Employees~~  
10 ~~Retirement System of Texas or the Teacher Retirement System of~~  
11 ~~Texas.~~

12 ~~[(18) "Substantial action" means adopting,~~  
13 ~~publicizing, and implementing a formal plan to cease scrutinized~~  
14 ~~business operations within one year and to refrain from any such new~~  
15 ~~business operations, undertaking significant humanitarian efforts~~  
16 ~~on behalf of one or more marginalized populations of Sudan, or,~~  
17 ~~through engagement with the Government of Sudan, materially~~  
18 ~~improving conditions for the genocidally victimized population in~~  
19 ~~Darfur.]~~

20 Sec. 2270.0002 [~~806.002~~. ~~SCRUTINIZED BUSINESS OPERATIONS.~~

21 ~~A company engages in scrutinized business operations if:~~

22 ~~[(1) the company has business operations that involve~~  
23 ~~contracts with or providing supplies or services to the Government~~  
24 ~~of Sudan, a company in which the Government of Sudan has any direct~~  
25 ~~or indirect equity share, a Government of Sudan-commissioned~~  
26 ~~consortium or project, or a company involved in a Government of~~  
27 ~~Sudan-commissioned consortium or project, and:~~

1                   ~~[(A) more than 10 percent of the company's~~  
2 ~~revenues or assets linked to Sudan involve oil-related activities~~  
3 ~~or mineral extraction activities, less than 75 percent of the~~  
4 ~~company's revenue or assets linked to Sudan involve contracts with~~  
5 ~~or provision of oil-related or mineral extracting products or~~  
6 ~~services to the regional government of southern Sudan or a project~~  
7 ~~or consortium created exclusively by that regional government, and~~  
8 ~~the company has failed to take substantial action; or~~

9                   ~~[(B) more than 10 percent of the company's~~  
10 ~~revenue or assets linked to Sudan involve power production~~  
11 ~~activities, less than 75 percent of the company's power production~~  
12 ~~activities include projects whose intent is to provide power or~~  
13 ~~electricity to the marginalized populations of Sudan, and the~~  
14 ~~company has failed to take substantial action; or~~

15                   ~~[(2) the company supplies military equipment in Sudan,~~  
16 ~~unless:~~

17                   ~~[(A) the company clearly shows that the military~~  
18 ~~equipment cannot be used to facilitate offensive military actions~~  
19 ~~in Sudan; or~~

20                   ~~[(B) the company implements rigorous and~~  
21 ~~verifiable safeguards to prevent use of that equipment by forces~~  
22 ~~actively participating in armed conflict, including:~~

23                   ~~[(i) using post-sale tracking of the~~  
24 ~~equipment by the company;~~

25                   ~~[(ii) obtaining certification from a~~  
26 ~~reputable and objective third party that the equipment is not being~~  
27 ~~used by a party participating in armed conflict in Sudan; or~~

1                   ~~[(iii) selling the equipment solely to the~~  
2 ~~regional government of southern Sudan or any internationally~~  
3 ~~recognized peacekeeping force or humanitarian organization.~~

4           ~~[Sec. 806.003. SOCIAL DEVELOPMENT COMPANY.~~  
5 ~~Notwithstanding any other law, a social development company that is~~  
6 ~~not complicit in the Darfur genocide is not a scrutinized company.~~

7           ~~[Sec. 806.004].~~ EXCEPTION. Notwithstanding any other law,  
8 a company that the United States government affirmatively declares  
9 to be excluded from its federal sanctions regime relating to Sudan,  
10 its federal sanctions regime relating to Iran, or any federal  
11 sanctions regime relating to a designated foreign terrorist  
12 organization is not subject to divestment or investment prohibition  
13 under this chapter.

14           Sec. 2270.0003 [~~806.005~~]. OTHER LEGAL OBLIGATIONS. With  
15 respect to actions taken in compliance with this chapter, including  
16 all good faith determinations regarding companies as required by  
17 this chapter, an investing [~~a state governmental~~] entity is exempt  
18 from any conflicting statutory or common law obligations, including  
19 any obligations with respect to making investments, divesting from  
20 any investment, preparing or maintaining any list of companies, or  
21 choosing asset managers, investment funds, or investments for the  
22 [~~state governmental~~] entity's securities portfolios.

23           Sec. 2270.0004. INAPPLICABILITY OF CERTAIN REQUIREMENTS  
24 INCONSISTENT WITH FIDUCIARY RESPONSIBILITIES AND RELATED DUTIES.  
25 An investing entity described by Section 2270.0001(7)(B) or (C) is  
26 not subject to a requirement of this chapter if the entity  
27 determines that the requirement would be inconsistent with the

1 entity's fiduciary responsibility with respect to the investment of  
2 entity assets or other duties imposed by law relating to the  
3 investment of entity assets, including the duty of care established  
4 under Section 67, Article XVI, Texas Constitution.

5 Sec. 2270.0005. CONFLICT WITH OTHER LAW. To the extent of a  
6 conflict between this chapter and a provision of Chapter 404 or 2256  
7 regarding an investing entity's investments, this chapter  
8 prevails.

9 Sec. 2270.0006 [~~806.006~~]. INDEMNIFICATION OF INVESTING  
10 [~~STATE GOVERNMENTAL~~] ENTITIES, EMPLOYEES, AND OTHERS. In a cause  
11 of action based on an action, inaction, decision, divestment,  
12 investment, company communication, report, or other determination  
13 made or taken in connection with this chapter, the state shall,  
14 without regard to whether the person performed services for  
15 compensation, indemnify and hold harmless for actual damages, court  
16 costs, and attorney's fees adjudged against, and defend:

17 (1) an employee, a member of the governing body, or any  
18 other officer of an investing [~~a state governmental~~] entity;

19 (2) a contractor of an investing [~~a state~~  
20 ~~governmental~~] entity;

21 (3) a former employee, a former member of the  
22 governing body, or any other former officer of an investing [~~a state~~  
23 ~~governmental~~] entity who was an employee or officer when the act or  
24 omission on which the damages are based occurred; [~~and~~]

25 (4) a former contractor of an investing [~~a state~~  
26 ~~governmental~~] entity who was a contractor when the act or omission  
27 on which the damages are based occurred; and

1           (5) an investing entity.

2           Sec. 2270.0007 [~~806.007~~]. NO PRIVATE CAUSE OF ACTION.

3           (a) A person, including a member, retiree, and beneficiary of a  
4 retirement system to which this chapter applies, an association, a  
5 research firm, a company, or any other person may not sue or pursue  
6 a private cause of action against the state, an investing [~~a state~~  
7 ~~governmental~~] entity, an employee, a member of the governing body,  
8 or any other officer of an investing [~~a state governmental~~] entity,  
9 or a contractor of an investing [~~a state governmental~~] entity, for  
10 any claim or cause of action, including breach of fiduciary duty, or  
11 for violation of any constitutional, statutory, or regulatory  
12 requirement in connection with any action, inaction, decision,  
13 divestment, investment, company communication, report, or other  
14 determination made or taken in connection with this chapter.

15           (b) A person who files suit against the state, an investing  
16 [~~a state governmental~~] entity, an employee, a member of the  
17 governing body, or any other officer of an investing [~~a state~~  
18 ~~governmental~~] entity, or a contractor of an investing [~~a state~~  
19 ~~governmental~~] entity, is liable for paying the costs and attorney's  
20 fees of a person sued in violation of this section.

21           Sec. 2270.0008. RELIANCE ON COMPANY RESPONSE. The  
22 comptroller in administering this chapter and an investing entity  
23 may rely on a company's response to a notice or communication made  
24 under this chapter without conducting any further investigation,  
25 research, or inquiry.

26           SUBCHAPTER B. GENERAL PROVISIONS RELATING TO INVESTMENTS IN SUDAN

27           Sec. 2270.0051. DEFINITIONS. In this subchapter:

1           (1) "Business operations" means engaging in commerce  
2 in any form in Sudan, including by acquiring, developing,  
3 maintaining, owning, selling, possessing, leasing, or operating  
4 equipment, facilities, personnel, products, services, personal  
5 property, real property, or any other apparatus of business or  
6 commerce.

7           (2) "Complicit" means taking actions that have  
8 directly supported or promoted the genocidal campaign in Darfur,  
9 including:

10                   (A) preventing members of Darfur's victimized  
11 population from communicating with each other;

12                   (B) encouraging Sudanese citizens to speak out  
13 against an internationally approved security force for Darfur; or

14                   (C) actively working to deny, cover up, or alter  
15 the record on human rights abuses in Darfur.

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

23           (4) "Marginalized populations of Sudan" includes:

24                   (A) the portion of the population in the Darfur  
25 region that has been genocidally victimized;

26                   (B) the portion of the population of southern  
27 Sudan victimized by Sudan's North-South civil war;

1           (C) the Beja, Rashidiya, and other similarly  
2 underserved groups of eastern Sudan;

3           (D) the Nubian and other similarly underserved  
4 groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain  
5 regions; and

6           (E) the Amri, Hamadab, Manasir, and other  
7 similarly underserved groups of northern Sudan.

8           (5) "Military equipment" means weapons, arms,  
9 military supplies, and equipment that readily may be used for  
10 military purposes, including radar systems or military-grade  
11 transport vehicles or supplies or services sold or provided  
12 directly or indirectly to any force actively participating in armed  
13 conflict in Sudan.

14           (6) "Mineral extraction activities" includes  
15 exploring, extracting, processing, transporting, or wholesale  
16 selling or trading of elemental minerals or associated metal alloys  
17 or oxides (ore), including gold, copper, chromium, chromite,  
18 diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as  
19 well as facilitating those activities, including by providing  
20 supplies or services in support of those activities.

21           (7) "Oil-related activities" includes:

22                   (A) owning rights to oil blocks;

23                   (B) exporting, extracting, producing, refining,  
24 processing, exploring for, transporting, selling, or trading of  
25 oil;

26                   (C) constructing, maintaining, or operating a  
27 pipeline, refinery, or other oil-field infrastructure; or

1           (D) facilitating oil-related activities,  
2 including by providing supplies or services in support of the  
3 activities, except that the mere retail sale of gasoline and  
4 related consumer products is not an oil-related activity.

5           (8) "Power production activities" means any business  
6 operation that involves a project commissioned by the National  
7 Electricity Corporation of Sudan or another similar government of  
8 Sudan entity whose purpose is to facilitate power generation and  
9 delivery, including establishing power-generating plants or  
10 hydroelectric dams, selling or installing components for the  
11 project, and providing service contracts related to the  
12 installation or maintenance of the project, as well as facilitating  
13 those activities, including by providing supplies or services in  
14 support of those activities.

15           (9) "Social development company" means a company whose  
16 primary purpose in Sudan is to provide humanitarian goods or  
17 services, including medicine or medical equipment, agricultural  
18 supplies or infrastructure, educational opportunities,  
19 journalism-related activities, information or information  
20 materials, spiritual-related activities, services of a purely  
21 clerical or reporting nature, food, clothing, or general consumer  
22 goods that are unrelated to oil-related activities, mineral  
23 extraction activities, or power production activities.

24           (10) "Substantial action" means adopting,  
25 publicizing, and implementing a formal plan to cease scrutinized  
26 business operations within one year and to refrain from any such new  
27 business operations, undertaking significant humanitarian efforts



1 on behalf of one or more marginalized populations of Sudan, or,  
2 through engagement with the government of Sudan, materially  
3 improving conditions for the genocidally victimized population in  
4 Darfur.

5 Sec. 2270.0052. SCRUTINIZED BUSINESS OPERATIONS IN SUDAN.

6 A company engages in scrutinized business operations in Sudan if:

7 (1) the company has business operations that involve  
8 contracts with or providing supplies or services to the government  
9 of Sudan, a company in which the government of Sudan has any direct  
10 or indirect equity share, a government of Sudan-commissioned  
11 consortium or project, or a company involved in a government of  
12 Sudan-commissioned consortium or project and:

13 (A) more than 10 percent of the company's  
14 revenues or assets linked to Sudan involve oil-related activities  
15 or mineral extraction activities, less than 75 percent of the  
16 company's revenue or assets linked to Sudan involve contracts with  
17 or provision of oil-related or mineral extracting products or  
18 services to the regional government of southern Sudan or a project  
19 or consortium created exclusively by that regional government, and  
20 the company has failed to take substantial action; or

21 (B) more than 10 percent of the company's revenue  
22 or assets linked to Sudan involve power production activities, less  
23 than 75 percent of the company's power production activities  
24 include projects whose intent is to provide power or electricity to  
25 the marginalized populations of Sudan, and the company has failed  
26 to take substantial action; or

27 (2) the company supplies military equipment in Sudan,

1 unless:

2 (A) the company clearly shows that the military  
3 equipment cannot be used to facilitate offensive military actions  
4 in Sudan; or

5 (B) the company implements rigorous and  
6 verifiable safeguards to prevent use of that equipment by forces  
7 actively participating in armed conflict, including:

8 (i) using post-sale tracking of the  
9 equipment by the company;

10 (ii) obtaining certification from a  
11 reputable and objective third party that the equipment is not being  
12 used by a party participating in armed conflict in Sudan; or

13 (iii) selling the equipment solely to the  
14 regional government of southern Sudan or any internationally  
15 recognized peacekeeping force or humanitarian organization.

16 Sec. 2270.0053. SOCIAL DEVELOPMENT COMPANY.  
17 Notwithstanding any other law, a social development company that is  
18 not complicit in the Darfur genocide is not a scrutinized company  
19 under Section 2270.0001(9)(A).

20 SUBCHAPTER C. GENERAL PROVISIONS RELATING TO INVESTMENTS IN IRAN

21 Sec. 2270.0101. DEFINITIONS. In this subchapter:

22 (1) "Business operations" means engaging in commerce  
23 in any form in Iran, including by acquiring, developing,  
24 maintaining, owning, selling, possessing, leasing, or operating  
25 equipment, facilities, personnel, products, services, personal  
26 property, real property, or any other apparatus of business or  
27 commerce.

1           (2) "Military equipment" means weapons, arms,  
2 military supplies, and equipment that readily may be used for  
3 military purposes, including radar systems and military-grade  
4 transport vehicles.

5           Sec. 2270.0102. SCRUTINIZED BUSINESS OPERATIONS IN IRAN. A  
6 company engages in scrutinized business operations in Iran if:

7           (1) the company has business operations that involve  
8 contracts with or providing supplies or services to the government  
9 of Iran, a company in which the government of Iran has any direct or  
10 indirect equity share, a consortium or project commissioned by the  
11 government of Iran, or a company involved in a consortium or project  
12 commissioned by the government of Iran; or

13           (2) the company supplies military equipment to Iran.

14           SUBCHAPTER D. GENERAL PROVISIONS RELATING TO INVESTMENTS IN  
15           CERTAIN FOREIGN TERRORIST ORGANIZATIONS

16           Sec. 2270.0151. DEFINITIONS. In this subchapter:

17           (1) "Business operations" means engaging in commerce  
18 in any form, including by acquiring, developing, maintaining,  
19 owning, selling, possessing, leasing, or operating equipment,  
20 facilities, personnel, products, services, personal property, real  
21 property, or any other apparatus of business or commerce.

22           (2) "Terroristic equipment" means weapons, arms,  
23 military supplies, and equipment that readily may be used for  
24 terroristic purposes or activities.

25           Sec. 2270.0152. SCRUTINIZED BUSINESS OPERATIONS WITH  
26 DESIGNATED FOREIGN TERRORIST ORGANIZATION. A company engages in  
27 scrutinized business operations with a designated foreign

1 terrorist organization if:

2 (1) the company has business operations that involve:

3 (A) a contract with or providing supplies or  
4 services to a designated foreign terrorist organization;

5 (B) a company in which a designated foreign  
6 terrorist organization has any direct or indirect equity share;

7 (C) a consortium or project commissioned by a  
8 designated foreign terrorist organization; or

9 (D) a company involved in a consortium or project  
10 commissioned by a designated foreign terrorist organization; or

11 (2) the company supplies terroristic equipment to a  
12 designated foreign terrorist organization.

13 Sec. 2270.0153. LIST OF DESIGNATED FOREIGN TERRORIST  
14 ORGANIZATIONS. (a) The comptroller shall prepare and maintain a  
15 list of designated foreign terrorist organizations.

16 (b) The comptroller shall maintain the list by updating the  
17 list as necessary to reflect changes in the list of foreign  
18 organizations designated as foreign terrorist organizations by the  
19 United States secretary of state as authorized by 8 U.S.C. Section  
20 1189.

21 (c) Not later than the 30th day after the date the  
22 comptroller first prepares or updates the list of designated  
23 foreign terrorist organizations as required by this section, the  
24 comptroller shall:

25 (1) file the list with the presiding officer of each  
26 house of the legislature and the attorney general; and

27 (2) post the list on the comptroller's Internet

1 website.

2 SUBCHAPTER E [~~B~~]. DUTIES REGARDING INVESTMENTS

3 Sec. 2270.0201 [~~806.051~~]. LISTED COMPANIES. (a) The  
4 comptroller shall prepare and maintain[~~, and provide to each state~~  
5 ~~governmental entity,~~] a list of all scrutinized companies. The  
6 list must be categorized according to:

7 (1) companies that are scrutinized companies under  
8 Section 2270.0001(9)(A);

9 (2) companies that are scrutinized companies under  
10 Section 2270.0001(9)(B); and

11 (3) companies that are scrutinized companies under  
12 Section 2270.0001(9)(C).

13 (b) In maintaining the list of scrutinized companies under  
14 Subsection (a), the comptroller may review and rely, as appropriate  
15 in the comptroller's judgment, on publicly available information  
16 regarding companies with business operations in Sudan, in Iran, or  
17 with designated foreign terrorist organizations, as applicable,  
18 including information provided by the state, nonprofit  
19 organizations, research firms, international organizations, and  
20 governmental entities.

21 (c) [~~(b)~~] The comptroller shall update the list of  
22 scrutinized companies under Subsection (a) annually or more often  
23 as the comptroller considers necessary, but not more often than  
24 quarterly, based on information from, among other sources, those  
25 listed in Subsection (b) [~~(a)~~].

26 (d) The comptroller shall:

27 (1) provide each list prepared or updated under this

1 section to each investing entity; and

2 (2) post each list on the comptroller's Internet  
3 website.

4 (e) [~~(c)~~] Not later than the 30th day after the date a [the]  
5 list of scrutinized companies is [~~first~~] provided [~~or updated~~], the  
6 comptroller shall file the list of scrutinized companies with the  
7 presiding officer of each house of the legislature and the attorney  
8 general.

9 (f) For purposes of the prohibitions and duties under this  
10 chapter, the date the comptroller posts on the comptroller's  
11 Internet website a list of scrutinized companies under this section  
12 is considered the date the comptroller receives notice of the list.

13 Sec. 2270.0202 [~~806.052~~]. IDENTIFICATION OF INVESTMENT IN  
14 LISTED COMPANIES. Not later than the 30th day after the date an  
15 investing [~~a state governmental~~] entity receives a [the] list  
16 provided under Section 2270.0201 [~~806.051~~], the [~~state~~  
17 ~~governmental~~] entity shall notify the comptroller of the listed  
18 companies in which the [~~state governmental~~] entity owns direct or  
19 indirect holdings.

20 Sec. 2270.0203 [~~806.053~~]. NOTICE TO LISTED COMPANY ENGAGED  
21 IN INACTIVE BUSINESS OPERATIONS. For each listed company  
22 identified under Section 2270.0202 [~~806.052~~] that is engaged in  
23 only inactive scrutinized business operations, the investing  
24 [~~state governmental~~] entity shall send a written notice informing  
25 the company of this chapter and encouraging the company to continue  
26 to refrain from initiating active business operations in Sudan, in  
27 Iran, and with designated foreign terrorist organizations until it

1 is able to avoid being considered a listed company. The investing  
2 [~~state governmental~~] entity shall continue the correspondence as  
3 the entity considers necessary, but is not required to initiate  
4 correspondence more often than semiannually.

5 Sec. 2270.0204 [~~806.054~~]. ACTIONS RELATING TO LISTED  
6 COMPANY ENGAGED IN ACTIVE BUSINESS OPERATIONS. (a) For each  
7 listed company identified under Section 2270.0202 [~~806.052~~] that is  
8 engaged in scrutinized active business operations, the investing  
9 [~~state governmental~~] entity shall send a written notice informing  
10 the company of its listed company status and warning the company  
11 that it may become subject to divestment by investing [~~state~~  
12 ~~governmental~~] entities.

13 (b) The notice shall offer the company the opportunity to  
14 clarify its Sudan-related, Iran-related, or designated foreign  
15 terrorist organization-related activities, as applicable, and  
16 shall encourage the company, not later than the 90th day after the  
17 date the company receives notice under this section, to either  
18 cease all [~~its~~] scrutinized business operations as described by  
19 Sections 2270.0052, 2270.0102, and 2270.0152, or convert such  
20 operations to inactive business operations in order to avoid  
21 qualifying for divestment by investing [~~state governmental~~]  
22 entities.

23 (c) If, during the time provided by Subsection (b), the  
24 company ceases scrutinized business operations described by that  
25 subsection, the comptroller shall remove the company from the list  
26 of scrutinized companies and this chapter will no longer apply to  
27 the company unless it resumes scrutinized business operations.

1 (d) If, during the time provided by Subsection (b), the  
 2 company converts its scrutinized active business operations to  
 3 inactive business operations, the company is subject to all  
 4 provisions of this chapter relating to inactive business  
 5 operations.

6 (e) If, after the time provided by Subsection (b) expires,  
 7 the listed company continues to have scrutinized active business  
 8 operations, the investing [~~state-governmental~~] entity shall sell,  
 9 redeem, divest, or withdraw all publicly traded securities of the  
 10 company, except securities described by Section 2270.0207  
 11 [~~806.057~~], according to the schedule provided by Section 2270.0206  
 12 [~~806.056~~].

13 Sec. 2270.0205 [~~806.055~~]. ACTIONS RELATING TO LISTED  
 14 COMPANY COMPLICIT IN GENOCIDE. (a) In this section, "complicit"  
 15 has the meaning assigned by Section 2270.0051.

16 (b) For each company identified under Section 2270.0202  
 17 [~~806.052~~] that has been complicit, the investing [~~state~~  
 18 ~~governmental~~] entity shall send a written notice informing the  
 19 company of its listed company status and warning the company that it  
 20 may become subject to divestment by the investing [~~state~~  
 21 ~~governmental~~] entity.

22 (c) [~~(b)~~] The notice must require the listed company to  
 23 refrain from taking any further action that would make it  
 24 complicit.

25 (d) [~~(e)~~] If, after receiving the notice under Subsection  
 26 (b) [~~(a)~~], the listed company takes additional action that makes  
 27 the company complicit, the investing [~~state-governmental~~] entity



1 shall sell, redeem, divest, or withdraw all publicly traded  
2 securities of the company, except securities described by Section  
3 2270.0207 [~~806.057~~], according to the schedule provided by Section  
4 2270.0206 [~~806.056~~].

5 Sec. 2270.0206 [~~806.056~~]. DIVESTMENT OF ASSETS. (a) An  
6 investing [~~A state governmental~~] entity required to sell, redeem,  
7 divest, or withdraw all publicly traded securities of a listed  
8 company shall comply with the following schedule:

9 (1) at least 50 percent of those assets shall be  
10 removed from the investing [~~state governmental~~] entity's assets  
11 under management not later than the 270th day after the date the  
12 company receives notice under Section 2270.0204 [~~806.054~~] or  
13 2270.0205 [~~806.055~~] or Subsection (b); and

14 (2) 100 percent of those assets shall be removed from  
15 the investing [~~state governmental~~] entity's assets under  
16 management not later than the 450th day after the date the company  
17 receives notice under Section 2270.0204 [~~806.054~~] or 2270.0205  
18 [~~806.055~~] or Subsection (b).

19 (b) If a company that ceased scrutinized active business  
20 operations after receiving notice under Section 2270.0204  
21 [~~806.054~~] resumes scrutinized active business operations, the  
22 investing [~~state governmental~~] entity shall send a written notice  
23 to the company informing it that the [~~state governmental~~] entity  
24 will sell, redeem, divest, or withdraw all publicly traded  
25 securities of the scrutinized company according to the schedule in  
26 Subsection (a).

27 (c) An investing [~~A state governmental~~] entity may delay the

1 schedule for divestment under Subsection (a) only to the extent  
2 that the [~~state governmental~~] entity determines, in the [~~state~~  
3 ~~governmental~~] entity's good faith judgment, that divestment from  
4 listed companies will likely result in a loss in value described by  
5 Section 2270.0208(a) [~~806.058(a)~~]. If the [~~a state governmental~~]  
6 entity delays the schedule for divestment, the [~~state governmental~~]  
7 entity shall submit a report to the presiding officer of each house  
8 of the legislature and the attorney general stating the reasons and  
9 justification for the [~~state governmental~~] entity's delay in  
10 divestment from listed companies. The report must include  
11 documentation supporting its determination that the divestment  
12 would result in a loss in value described by Section 2270.0208(a)  
13 [~~806.058(a)~~], including objective numerical estimates. The  
14 investing [~~state governmental~~] entity shall update the report every  
15 six months.

16 Sec. 2270.0207 [~~806.057~~]. INVESTMENTS EXEMPTED FROM  
17 DIVESTMENT. An investing [~~A state governmental~~] entity is not  
18 required to divest from any indirect holdings in actively managed  
19 investment funds or private equity funds. The investing [~~state~~  
20 ~~governmental~~] entity shall submit letters to the managers of  
21 investment funds containing listed companies requesting that they  
22 consider removing those companies from the fund or create a similar  
23 actively managed fund with indirect holdings devoid of listed  
24 companies. If the manager creates a similar fund with  
25 substantially the same management fees and same level of investment  
26 risk, the investing [~~state governmental~~] entity shall replace all  
27 applicable investments with investments in the similar fund in an

1 expedited time frame consistent with prudent fiduciary standards.

2       Sec. 2270.0208 [~~806.058~~]. AUTHORIZED INVESTMENT IN LISTED  
3 COMPANIES. (a) An investing [~~A state governmental~~] entity may  
4 cease divesting from or may reinvest in one or more listed companies  
5 if clear and convincing evidence shows that the value for all assets  
6 under management by the [~~state governmental~~] entity becomes equal  
7 to or less than 99.7 percent of the hypothetical value of all assets  
8 under management by the [~~state governmental~~] entity had the [~~state~~  
9 ~~governmental~~] entity not divested from listed companies under this  
10 chapter.

11       (b) An investing [~~A state governmental~~] entity may invest in  
12 a listed company as provided by this section only to the extent  
13 necessary to ensure that the value of the assets managed by the  
14 [~~state governmental~~] entity does not fall below the value described  
15 by Subsection (a).

16       (c) Before an investing [~~a state governmental~~] entity may  
17 invest in a listed company under this section, the [~~state~~  
18 ~~governmental~~] entity must provide a written report to the presiding  
19 officer of each house of the legislature and the attorney general  
20 setting forth the reason and justification, supported by clear and  
21 convincing evidence, for its decisions to cease divestment, to  
22 reinvest, or to remain invested in a listed company.

23       (d) The investing [~~state governmental~~] entity shall update  
24 the report required by Subsection (c) semiannually, as applicable.

25       (e) This section does not apply to reinvestment in a company  
26 that has ceased to be a listed company.

27       Sec. 2270.0209 [~~806.059~~]. PROHIBITED INVESTMENTS. Except

1 as provided by Sections 2270.0002 [~~806.004~~] and 2270.0208  
2 [~~806.058~~], an investing [~~a state governmental~~] entity may not  
3 acquire securities of a listed company.

4 SUBCHAPTER F [E]. EXPIRATION; REPORT; ENFORCEMENT

5 Sec. 2270.0251 [~~806.101~~]. EXPIRATION OF CHAPTER. This  
6 chapter expires September 1, 2037 [~~on the earliest of:~~

7 [~~(1) the date on which the United States Congress or~~  
8 ~~the president of the United States declares that the Darfur~~  
9 ~~genocide has been halted for at least 12 months;~~

10 [~~(2) the date on which the United States revokes its~~  
11 ~~sanctions against the Government of Sudan; or~~

12 [~~(3) the date on which the United States Congress or~~  
13 ~~the president of the United States, through legislation or~~  
14 ~~executive order, declares that mandatory divestment of the type~~  
15 ~~provided for in this chapter interferes with the conduct of United~~  
16 ~~States foreign policy].~~

17 Sec. 2270.0252 [~~806.102~~]. REPORT. Not later than December  
18 31 of each year, each investing [~~state governmental~~] entity shall:

19 (1) file a publicly available report with the  
20 presiding officer of each house of the legislature and[~~7~~] the  
21 attorney general[~~7~~, ~~and the United States presidential special envoy~~  
22 ~~to Sudan~~] that:

23 (A) [~~(1)~~] identifies all investments sold,  
24 redeemed, divested, or withdrawn in compliance with Section  
25 2270.0206 [~~806.056~~];

26 (B) [~~(2)~~] identifies all prohibited investments  
27 under Section 2270.0209 [~~806.059~~]; and

1           (C) [~~3~~] summarizes any changes made under  
2 Section 2270.0207; and

3           (2) file a report with the United States presidential  
4 special envoy to Sudan that identifies investments in Sudan  
5 identified in the report as required by Subdivisions (1)(A) and (B)  
6 and summarizes any changes made under Section 2270.0207 related to  
7 those investments [~~806.057~~].

8           Sec. 2270.0253 [~~806.103~~]. ENFORCEMENT.       The attorney  
9 general may bring any action necessary to enforce this chapter.

10          SECTION 5. Chapter 807, Government Code, is repealed.

11          SECTION 6. (a) On the effective date of this Act, all  
12 powers, duties, and functions of the State Pension Review Board  
13 under Chapter 807, Government Code, as repealed by this Act, are  
14 transferred to the comptroller of public accounts.

15          (b) All of the following that relate to a power, duty, or  
16 function transferred under Subsection (a) of this section are  
17 transferred to the comptroller of public accounts on the effective  
18 date of this Act:

19               (1) all obligations and contracts;

20               (2) all property and records in the custody of the  
21 State Pension Review Board;

22               (3) all funds appropriated by the legislature and  
23 other money;

24               (4) all complaints, investigations, or contested  
25 cases that are pending before the State Pension Review Board,  
26 without change in status; and

27               (5) all necessary personnel.

1           (c) A rule, policy, or form adopted by or on behalf of the  
2 State Pension Review Board that relates to a power, duty, or  
3 function transferred under Subsection (a) of this section becomes a  
4 rule, policy, or form of the comptroller of public accounts on the  
5 transfer of the related power, duty, or function and remains in  
6 effect:

7                   (1) until altered by the comptroller of public  
8 accounts; or

9                   (2) unless it conflicts with a rule, policy, or form of  
10 the comptroller of public accounts.

11           (d) An action brought or proceeding commenced before the  
12 date of a transfer under this section, including a contested case or  
13 a remand of an action or proceeding by a reviewing court, is  
14 governed by the laws and rules applicable to the action or  
15 proceeding before the transfer.

16           SECTION 7. Not later than September 1, 2017, the  
17 comptroller of public accounts shall prepare the initial list of  
18 designated foreign terrorist organizations as required by Section  
19 2270.0153, Government Code, as added by this Act.

20           SECTION 8. Not later than October 1, 2017, the comptroller  
21 of public accounts shall:

22                   (1) prepare an updated list of scrutinized companies  
23 required by Section 2270.0201, Government Code, as added by this  
24 Act;

25                   (2) provide the list to each investing entity, as  
26 defined by Section 2270.0001, Government Code, as added by this  
27 Act; and

1           (3) post the list on the comptroller's Internet  
2 website.

3           SECTION 9. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect on the 91st day after the last day of the  
8 legislative session.