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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 [€]. 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.