

**As Reported by the House Financial Institutions, Real Estate and
Securities Committee**

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Sub. H. B. No. 151

Representatives Mandel, Jones

**Cosponsors: Representatives Adams, Aslanides, Barrett, Brinkman, Bubp,
Budish, Carmichael, Collier, Combs, DeGeeter, Dodd, Dolan, Flowers, Gibbs,
Goyal, Hite, Latta, Mallory, McGregor, J., Patton, Peterson, Schindel, Setzer,
Uecker, Wagner, Wagoner, Webster, Wolpert, Zehringer**

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A B I L L

To amend sections 135.143, 148.04, 3305.01, 3305.02, 1
and 3334.02 and to enact sections 137.01 to 137.09 2
of the Revised Code to specify procedures for 3
divesting investments a public investor holds in 4
directly held publicly traded companies conducting 5
specified types of business in the Islamic 6
Republic of Iran and the Republic of the Sudan and 7
to prohibit public investors from investing in 8
such a company and to authorize the Ohio public 9
deferred compensation board, the alternative 10
retirement program, and the Ohio college savings 11
program to offer a terror-free investment option. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 135.143, 148.04, 3305.01, 3305.02, 13
and 3334.02 be amended and sections 137.01, 137.02, 137.03, 14
137.04, 137.05, 137.06, 137.07, 137.08, and 137.09 of the Revised 15
Code be enacted to read as follows: 16

Sec. 135.143. (A) The treasurer of state may invest or 17
execute transactions for any part or all of the interim funds of 18
the state in the following classifications of obligations: 19

(1) United States treasury bills, notes, bonds, or any other 20
obligations or securities issued by the United States treasury or 21
any other obligation guaranteed as to principal and interest by 22
the United States; 23

(2) Bonds, notes, debentures, or any other obligations or 24
securities issued by any federal government agency or 25
instrumentality; 26

(3) Bonds and other direct obligations of the state of Ohio 27
issued by the treasurer of state and of the Ohio public facilities 28
commission, the Ohio building authority, and the Ohio housing 29
finance agency; 30

(4)(a) Written repurchase agreements with any eligible Ohio 31
financial institution that is a member of the federal reserve 32
system or federal home loan bank or any recognized United States 33
government securities dealer, under the terms of which agreement 34
the treasurer of state purchases and the eligible financial 35
institution or dealer agrees unconditionally to repurchase any of 36
the securities that are listed in division (A)(1), (2), or (6) of 37
this section and that will mature or are redeemable within ten 38
years from the date of purchase. The market value of securities 39
subject to these transactions must exceed the principal value of 40
the repurchase agreement by an amount specified by the treasurer 41
of state, and the securities must be delivered into the custody of 42
the treasurer of state or the qualified trustee or agent 43
designated by the treasurer of state. The agreement shall contain 44
the requirement that for each transaction pursuant to the 45
agreement, the participating institution or dealer shall provide 46
all of the following information: 47

(i) The par value of the securities;	48
(ii) The type, rate, and maturity date of the securities;	49
(iii) A numerical identifier generally accepted in the securities industry that designates the securities.	50 51
(b) The treasurer of state also may sell any securities, listed in division (A)(1), (2), or (6) of this section, regardless of maturity or time of redemption of the securities, under the same terms and conditions for repurchase, provided that the securities have been fully paid for and are owned by the treasurer of state at the time of the sale.	52 53 54 55 56 57
(5) Securities lending agreements with any eligible financial institution that is a member of the federal reserve system or federal home loan bank or any recognized United States government securities dealer, under the terms of which agreements the treasurer of state lends securities and the eligible financial institution or dealer agrees to simultaneously exchange similar securities or cash, equal value for equal value.	58 59 60 61 62 63 64
Securities and cash received as collateral for a securities lending agreement are not interim funds of the state. The investment of cash collateral received pursuant to a securities lending agreement may be invested only in such instruments specified by the treasurer of state in accordance with a written investment policy.	65 66 67 68 69 70
(6) Various forms of commercial paper issued by any corporation that is incorporated under the laws of the United States or a state, which notes are rated at the time of purchase in the two highest categories by two nationally recognized rating agencies, provided that the total amount invested under this section in any commercial paper at any time shall not exceed twenty-five per cent of the state's total average portfolio, as determined and calculated by the treasurer of state;	71 72 73 74 75 76 77 78

(7) Bankers acceptances, maturing in two hundred seventy days 79
or less, which are eligible for purchase by the federal reserve 80
system, provided that the total amount invested in bankers 81
acceptances at any time shall not exceed ten per cent of the 82
state's total average portfolio, as determined and calculated by 83
the treasurer of state; 84

(8) Certificates of deposit in eligible institutions applying 85
for interim moneys as provided in section 135.08 of the Revised 86
Code, including linked deposits as provided in sections 135.61 to 87
135.67 of the Revised Code, agricultural linked deposits as 88
provided in sections 135.71 to 135.76 of the Revised Code, and 89
housing linked deposits as provided in sections 135.81 to 135.87 90
of the Revised Code; 91

(9) The state treasurer's investment pool authorized under 92
section 135.45 of the Revised Code; 93

(10) ~~Debt~~ Except as provided in Chapter 137. of the Revised 94
Code, debt interests, other than commercial paper described in 95
division (A)(6) of this section, rated at the time of purchase in 96
the three highest categories by two nationally recognized rating 97
agencies and issued by corporations that are incorporated under 98
the laws of the United States or a state, or issued by foreign 99
nations diplomatically recognized by the United States government, 100
or any instrument based on, derived from, or related to such 101
interests. All interest and principal shall be denominated and 102
payable in United States funds. The investments made under 103
division (A)(10) of this section shall not exceed in the aggregate 104
twenty-five per cent of the state's total average portfolio, as 105
determined and calculated by the treasurer of state. The 106
investments made under division (A)(10) of this section in debt 107
interests issued by foreign nations shall not exceed in the 108
aggregate one per cent of the state's total average portfolio, as 109
determined and calculated by the treasurer of state. The 110

investments made under division (A)(10) of this section in the 111
debt interests of a single issuer shall not exceed in the 112
aggregate one-half of one per cent of the state's total average 113
portfolio, as determined and calculated by the treasurer of state. 114

The treasurer of state shall invest under division (A)(10) of 115
this section in a debt interest issued by a foreign nation only if 116
the debt interest is backed by the full faith and credit of that 117
foreign nation. For purposes of division (A)(10) of this section, 118
a debt interest is rated in the three highest categories by two 119
nationally recognized rating agencies if either the debt interest 120
itself or the issuer of the debt interest is rated, or is 121
implicitly rated, at the time of purchase in the three highest 122
categories by two nationally recognized rating agencies. 123

(11) No-load money market mutual funds consisting exclusively 124
of obligations described in division (A)(1), (2), or (6) of this 125
section and repurchase agreements secured by such obligations. 126

(12) Obligations of a board of education issued under 127
authority of section 133.10 or 133.301 of the Revised Code. 128

(B) Whenever, during a period of designation, the treasurer 129
of state classifies public moneys as interim moneys, the treasurer 130
of state shall notify the state board of deposit of such action. 131
The notification shall be given within thirty days after such 132
classification and, in the event the state board of deposit does 133
not concur in such classification or in the investments or 134
deposits made under this section, the board may order the 135
treasurer of state to sell or liquidate any of the investments or 136
deposits, and any such order shall specifically describe the 137
investments or deposits and fix the date upon which they are to be 138
sold or liquidated. Investments or deposits so ordered to be sold 139
or liquidated shall be sold or liquidated for cash by the 140
treasurer of state on the date fixed in such order at the then 141
current market price. Neither the treasurer of state nor the 142

members of the state board of deposit shall be held accountable 143
for any loss occasioned by sales or liquidations of investments or 144
deposits at prices lower than their cost. Any loss or expense 145
incurred in making these sales or liquidations is payable as other 146
expenses of the treasurer's office. 147

(C) If any securities or obligations invested in by the 148
treasurer of state pursuant to this section are registrable either 149
as to principal or interest, or both, such securities or 150
obligations shall be registered in the name of the treasurer of 151
state. 152

(D) The treasurer of state is responsible for the safekeeping 153
of all securities or obligations under this section. Any such 154
securities or obligations may be deposited for safekeeping as 155
provided in section 113.05 of the Revised Code. 156

(E) Interest earned on any investments or deposits authorized 157
by this section shall be collected by the treasurer of state and 158
credited by the treasurer of state to the proper fund of the 159
state. 160

(F) Whenever investments or deposits acquired under this 161
section mature and become due and payable, the treasurer of state 162
shall present them for payment according to their tenor, and shall 163
collect the moneys payable thereon. The moneys so collected shall 164
be treated as public moneys subject to sections 135.01 to 135.21 165
of the Revised Code. 166

(G) The treasurer of state and any board of education issuing 167
obligations referred to in division (A)(12) of this section may 168
enter into an agreement providing for: 169

(1) The purchase of those obligations by the treasurer of 170
state on terms and subject to conditions set forth in the 171
agreement; 172

(2) The payment by the board of education to the treasurer of 173

state of a reasonable fee as consideration for the agreement of 174
the treasurer of state to purchase those obligations; provided, 175
however, that the treasurer of state shall not be authorized to 176
enter into any such agreement with the board of education of a 177
school district that has an outstanding obligation with respect to 178
a loan received under authority of section 3313.483 of the Revised 179
Code. 180

(H) For purposes of division (G) of this section, a fee shall 181
not be considered reasonable unless it is set to recover only the 182
direct costs and a reasonable estimate of the indirect costs 183
associated with the purchasing of obligations of a school board 184
under division (G) of this section and any reselling of the 185
obligations or any interest in the obligations, including 186
interests in a fund comprised of the obligations. No money from 187
the general revenue fund shall be used to subsidize the purchase 188
or resale of these obligations. 189

(I) All money collected by the treasurer of state from the 190
fee imposed by division (G) of this section shall be deposited to 191
the credit of the state school board obligations fund, which is 192
hereby created in the state treasury. Money credited to the fund 193
shall be used solely to pay the treasurer of state's direct and 194
indirect costs associated with purchasing and reselling 195
obligations of a board of education under division (G) of this 196
section. 197

Sec. 137.01. As used in this chapter: 198

(A) "Active business operations" means all business 199
operations that are not inactive business operations. 200

(B) "Business operations" means engaging in commerce in any 201
form in Sudan or Iran, including by maintaining, selling, 202
acquiring, developing, owning, possessing, operating, or leasing 203
equipment, facilities, personnel, products, services, personal or 204

real property, or any other apparatus of business or commerce. 205

(C) "Company" means a sole proprietorship, organization, 206
association, corporation, partnership, joint venture, limited 207
partnership, limited liability partnership, limited liability 208
company, business association, or other entity, including any 209
wholly-owned subsidiary, majority-owned subsidiary, parent 210
company, or affiliate of any of those types of entities, that 211
exists for the purpose of making a profit. 212

(D) "Complicit" means taking actions during any preceding 213
twenty-month period that directly support or promote the genocidal 214
campaign in the Darfur region of Sudan, including, but not limited 215
to, preventing members of the population of the Darfur region of 216
Sudan negatively affected by genocide from communicating with each 217
other; encouraging Sudanese citizens to speak against the 218
internationally approved security force that provides aide to the 219
Darfur region; actively working to deny, cover up, or alter the 220
record on human rights abuses in Darfur; or other similar actions. 221

(E) "Direct holdings" means all stocks or bonds of a company 222
held directly by a public investor or held in an account or fund 223
of which the public investor owns all of the shares or interests. 224

(F) "Government of Iran" means the Islamic republic of Iran, 225
its instrumentalities, and companies owned or controlled by the 226
government of Iran. 227

(G) "Government of Sudan" means the government in Khartoum, 228
Sudan, that is led by the national congress party, formerly known 229
as the national Islamic front, or any successor government formed 230
on or after October 13, 2006, including the coalition national 231
unity government agreed upon in the "2005 Comprehensive Peace 232
Agreement," and does not include the regional government of 233
southern Sudan. 234

(H) "Inactive business operations" means those business 235

operations conducted by a company that involve only the continued 236
holding or renewal of rights to property that, at one time, was 237
used for the purpose of generating revenue for the company but is 238
not presently used for such purpose. 239

(I) "Indirect holdings" means all stocks and bonds of a 240
company that are not direct holdings and are held in an account or 241
fund in which the public investor owns shares or interests 242
together with other investors not subject to the provisions of 243
this chapter, as well as any private equity fund, private equity 244
fund-of-funds, venture capital fund, hedge fund, hedge 245
fund-of-funds, real estate fund or other investment vehicle that 246
is not publicly traded, mutual funds, and pooled or securitized 247
investment vehicles. 248

(J) "Iran" means the Islamic republic of Iran. 249

(K) "Marginalized populations of Sudan" includes, but is not 250
limited to, all of the following: 251

(1) The portion of the population in the Darfur region that 252
has been negatively affected by genocide; 253

(2) The portion of the population of southern Sudan 254
negatively affected by the civil war that occurred between the 255
north and south regions of Sudan; 256

(3) The Beja, Rashidiya, and other similarly underserved 257
groups of eastern Sudan; 258

(4) The Nubian and other similarly underserved groups in the 259
Abyei, southern blue Nile, and Nuba mountain regions of Sudan; 260

(5) The Amri, Hamadab, Manasir, and other similarly 261
underserved groups of northern Sudan. 262

(L) "Military equipment" means weapons, arms, military 263
supplies, and equipment including, but not limited to, radar 264
systems, or military-grade transport vehicles, that readily may be 265

used for military purposes; or supplies or services sold or 266
directly or indirectly provided to any force actively 267
participating in armed conflict in Sudan. 268

(M) "Mineral extraction activities" include exploring, 269
extracting, processing, transporting, or wholesale selling or 270
trading of elemental minerals or associated metal alloys or 271
oxides, also known as ore, including gold, copper, chromium, 272
chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and 273
zinc; and includes facilitating such activities, including by 274
providing supplies or services in support of such activities. 275

(N) "Oil-related activities" includes, but is not limited to, 276
owning rights to oil blocks; exporting, extracting, producing, 277
refining, processing, exploring for, transporting, selling, or 278
trading of oil; constructing, maintaining, or operating a 279
pipeline, refinery, or other oil-field infrastructure; or 280
facilitating such activities, including by providing supplies or 281
services in support of such activities. "Oil-related activities" 282
does not mean engaging in only the retail sale of gasoline and 283
related consumer products. 284

(O) "Petroleum resource" means petroleum, petroleum 285
byproducts, or natural gas. 286

(P) "Power production activities" means any business 287
operation that involves a project commissioned by the national 288
electricity corporation of Sudan or other similar entity of the 289
government of Sudan whose purpose is to facilitate power 290
generation and delivery, including, but not limited to, 291
establishing power-generating plants or hydroelectric dams, 292
selling or installing components for a project, providing service 293
contracts related to the installation or maintenance of a project, 294
or facilitating any of these activities, including by providing 295
supplies or services in support of such activities. 296

(Q) "Public investor" means the treasurer of state, the state board of deposit, the workers' compensation oversight commission, the administrator of workers' compensation, and the board of each of the state retirement systems. 297
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(R) "Public fund" means the assets included in any fund portfolio that is under the control of, or controlled on behalf of, a public investor. 301
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(S) "Scrutinized active business operation" means active business operations that have resulted in a company becoming a scrutinized company. 304
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(T) "Scrutinized business operations" means business operations that have resulted in a company that meets any of the following criteria: 307
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(1) The company has business operations that involve contracts with or provision of supplies or services to the government of Sudan, companies in which the government of Sudan has any direct or indirect equity share, consortiums or projects commissioned by the government of Sudan, or companies involved in consortiums or projects commissioned by the government of Sudan, and more than ten per cent of the company's revenues or assets linked to Sudan involve oil-related activities or mineral-extraction activities; less than seventy-five per cent of the company's revenues or assets linked to Sudan involve contracts with or provision of oil-related or mineral-extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the company has failed to take substantial action specific to Sudan; or more than ten per cent of the company's revenues or assets linked to Sudan involve power-production activities; less than seventy-five per cent of the company's power-production activities include projects whose intent is to provide power or electricity to the marginalized populations of Sudan; and the 310
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<u>company has failed to take substantial action specific to Sudan.</u>	329
<u>(2) The company is complicit in the Darfur genocide.</u>	330
<u>(3) The company supplies military equipment within Sudan,</u>	331
<u>unless it clearly shows that the military equipment cannot be used</u>	332
<u>to facilitate offensive military actions in Sudan or the company</u>	333
<u>implements rigorous and verifiable safeguards to prevent use of</u>	334
<u>that equipment by forces actively participating in armed conflict.</u>	335
<u>Examples of safeguards include post-sale tracking of such</u>	336
<u>equipment by the company, certification from a reputable and</u>	337
<u>objective third party that such equipment is not being used by a</u>	338
<u>party participating in armed conflict in Sudan, or sale of such</u>	339
<u>equipment solely to the regional government of southern Sudan or</u>	340
<u>any internationally recognized peacekeeping force or humanitarian</u>	341
<u>organization.</u>	342
<u>(4)(a) The company has business operations that involve</u>	343
<u>contracts with or provision of supplies or services to the</u>	344
<u>government of Iran, companies in which the government of Iran has</u>	345
<u>any direct or indirect equity share, consortiums, or projects</u>	346
<u>commissioned by the government of Iran, or companies involved in</u>	347
<u>consortiums or projects commissioned by the government of Iran,</u>	348
<u>and one of the following apply:</u>	349
<u>(i) More than ten per cent of the company's total revenues or</u>	350
<u>assets are linked to Iran and involve oil-related activities,</u>	351
<u>mineral-extraction activities, or petroleum resources;</u>	352
<u>(ii) The company has, with actual knowledge, on or after</u>	353
<u>August 5, 1996, made an investment of twenty million dollars or</u>	354
<u>more, or any combination of investments of at least ten million</u>	355
<u>dollars each, which in the aggregate equals or exceeds twenty</u>	356
<u>million dollars in any twelve-month period, and which directly or</u>	357
<u>significantly contributes to the enhancement of Iran's ability to</u>	358
<u>develop the petroleum resources of Iran;</u>	359

(iii) The company is engaged in business with an Iranian organization labeled as a terrorist organization by the United States government. 360
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(b) Any company that takes substantial action specific to Iran with respect to divisions (T)(4)(a)(i) and (T)(4)(a)(ii) of this section shall not meet the criteria to be deemed a company involved in scrutinized business operations. 363
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(U) "Social development company" means a company whose primary purpose in Sudan is to provide only the following humanitarian goods or services to the people of Sudan: 367
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(1) Medicine or medical equipment; 370

(2) Agricultural supplies or infrastructure; 371

(3) Educational opportunities; 372

(4) Journalistic activities; 373

(5) Information or information materials; 374

(6) Spiritual-related activities; 375

(7) Services of a purely clerical or reporting nature; 376

(8) Food, clothing, or general consumer goods that are unrelated to oil-related activities, mineral extraction activities, or power production activities. 377
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(V) "Substantial action specific to Iran" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations. 380
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(W) "Substantial action specific to Sudan" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations; undertaking humanitarian efforts in conjunction with an international organization, the government of 384
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Sudan, the regional government of southern Sudan, or a nonprofit 389
entity evaluated and certified by an independent third party to be 390
substantially in a relationship to the company's Sudan business 391
operations and of benefit to one or more marginalized populations 392
of Sudan; or, through engagement with the government of Sudan, 393
materially improving conditions for the genocidally victimized 394
population in Darfur. 395

(X) "Sudan" means the republic of the Sudan. 396

Sec. 137.02. (A) Within ninety days after the effective date 397
of this section, each public investor shall make its best efforts 398
to identify all publicly traded companies involved in scrutinized 399
business operations in which the public investor has direct or 400
indirect holdings or could possibly have such holdings in the 401
future. The efforts shall include: 402

(1) Reviewing and relying, as appropriate in the public 403
investor's judgment, on publicly available information regarding 404
companies having business operations in Iran or Sudan, including 405
information provided by nonprofit organizations, research firms, 406
international organizations, and government entities; 407

(2) Contacting asset managers contracted by the public 408
investor that invest in companies having business operations in 409
Iran or Sudan; 410

(3) Contacting other institutional investors that have 411
divested from or engaged with companies that have business 412
operations in Iran or Sudan; 413

(4) Reviewing the laws of the United States regarding the 414
levels of business activity that would cause application of 415
sanctions for companies conducting business or investing in 416
countries that are designated state sponsors of terror. 417

(B) Within ninety days after the effective date of this 418

section, each public investor shall create a "scrutinized 419
companies with activities in Sudan list" and a "scrutinized 420
companies with activities in Iran list," consisting of all 421
publicly traded companies identified in division (A) of this 422
section, shall make the lists publicly available, and shall update 423
the lists annually. 424

(C) Notwithstanding the provisions of this chapter, a 425
social-development company that is not complicit in the Darfur 426
genocide is not considered a scrutinized company. 427

(D) The public investor shall engage the companies on the 428
scrutinized companies with activities in Sudan list and the 429
scrutinized companies with activities in Iran list, in which the 430
public investor owns direct or indirect holdings, according to the 431
following: 432

(1) For each company identified in this paragraph that has 433
only inactive business operations, the public investor shall send 434
a written notice informing the company of the requirements of this 435
chapter and encouraging it to continue to refrain from initiating 436
active business operations in Iran or Sudan until it is able to 437
avoid scrutinized business operations. The public investor shall 438
continue such correspondence semiannually. 439

(2) For each company newly identified under this section that 440
has active business operations, the public investor shall send a 441
written notice informing the company of its scrutinized company 442
status and that it may become subject to divestment by the public 443
investor. The notice shall inform the company of the opportunity 444
to clarify its Iran-related or Sudan-related activities and 445
encourage the company, within ninety days, to cease its 446
scrutinized business operations or convert such operations to 447
inactive business operations in order to avoid qualifying for 448
divestment by the public investor. 449

(3) If, within ninety days after the public investors create the lists pursuant to division (B) of this section, a company on either list ceases scrutinized business operations, the public investor shall remove the company from the scrutinized companies with activities in Sudan list and the scrutinized companies with activities in Iran list, and the provisions of this chapter shall cease to apply to that company unless that company resumes scrutinized business operations. If, within ninety days after the public investors create the lists, the company converts its scrutinized active business operations to inactive business operations, the company is subject to all provisions of this chapter relating to inactive business operations. A company may be on both the scrutinized companies with activities in Sudan list and the scrutinized companies with activities in Iran list. A company may be removed from one list but remain on the other list, in which case the company is subject to the provisions of this chapter applicable to the list on which the company remains.

(4) The public investor shall submit letters to the managers of actively managed investment funds containing indirect holdings in companies identified in division (A) of this section that have scrutinized active business operations requesting that they consider removing such companies from the fund or create a similar actively managed fund having indirect holdings devoid of such companies.

Sec. 137.03. (A) Each public investor shall dispose of any direct holdings in publicly traded companies with scrutinized business operations as follows:

(1) If, after the ninety-day period described in division (D)(3) of section 137.02 of the Revised Code the company continues to have scrutinized active business operations, and only while such company continues to have scrutinized active business

operations, the public investor shall sell, redeem, divest, or 481
withdraw all direct holdings in publicly traded securities of the 482
company, except as provided in section 137.04 of the Revised Code, 483
from the public investor's assets under management within twelve 484
months after the ninety-day period described in division (D)(3) of 485
section 137.02 of the Revised Code. 486

(2) If a company that ceased scrutinized active business 487
operations following engagement pursuant to division (D)(3) of 488
section 137.02 of the Revised Code resumes such operations, this 489
division immediately applies, and the public investor shall send a 490
written notice to the company. The public investor also shall 491
immediately reinstate the company on the scrutinized companies 492
with activities in Sudan list or on the scrutinized companies with 493
activities in Iran list, as applicable. 494

(B) The public investor shall not acquire direct holdings in 495
publicly traded companies on the scrutinized companies with 496
activities in Sudan list or the scrutinized companies with 497
activities in Iran list that have active business operations, 498
except as provided in section 137.04 of the Revised Code. 499

(C) If a manager of an actively managed investment fund, in 500
which a public investor has indirect holdings of publicly traded 501
companies that have scrutinized active business operations, has 502
created, pursuant to division (D)(4) of section 137.02 of the 503
Revised Code, a similar actively managed fund devoid of such 504
companies, the public investor shall replace all applicable 505
investments with investments in the similar fund in an expedited 506
time frame consistent with prudent investing standards. 507

(D) Notwithstanding any other provisions of sections 137.01 508
to 137.09 of the Revised Code, a public investor may cease any 509
divestment required by this section and may reinvest in companies 510
on the scrutinized companies with activities in Sudan list or the 511
scrutinized companies with activities in Iran list from which it 512

divested if clear and convincing evidence shows that the value of 513
all assets under management by the public investor becomes equal 514
to or less than ninety-nine and one-half per cent, or at least 515
less than fifty basis points, of the hypothetical value of all 516
assets under management by the public investor assuming no 517
divestment for any company had occurred under this section. 518
Cessation of divestment, reinvestment, or any subsequent ongoing 519
investment authorized by this division is limited to the minimum 520
steps necessary to avoid the contingency set forth in this 521
division or that no divestment of any company is required for less 522
than fair value. For any cessation of divestment, reinvestment, or 523
subsequent ongoing investment authorized by this section, the 524
public investor shall provide a written report, in advance of 525
initial reinvestment, to the president of the senate and the 526
speaker of the house of representatives, and updated semiannually 527
thereafter for as long as the public investor continues to act 528
pursuant to this division, setting forth the reasons and 529
justification, supported by clear and convincing evidence, for the 530
public investor's decisions to cease divestment, reinvest, or 531
remain invested in companies having scrutinized active business 532
operations. This division does not apply to reinvestment in 533
companies on the grounds that they have ceased to have scrutinized 534
active business operations. 535

Sec. 137.04. (A) A company that is headquartered in the 536
United States and that complies with all relevant United States 537
foreign trade controls relating to Iran or Sudan is not subject to 538
divestment or the investment prohibition pursuant to section 539
137.03 of the Revised Code. 540

(B) The provisions and requirements of this chapter do not 541
apply to any private holdings of a public investor. 542

Sec. 137.05. (A) Each public investor shall file a report 543

with the president of the senate, the speaker of the house of 544
representatives, the minority leader of the senate, the minority 545
leader of the house of representatives, the Ohio retirement study 546
council, and the workers compensation council that includes the 547
scrutinized companies with activities in Sudan list and the 548
scrutinized companies with activities in Iran list within thirty 549
days after the list is created and within thirty days after the 550
list is updated pursuant to section 137.02 of the Revised Code. 551
The public investor shall make the report available to the public. 552

(B) Each public investor shall file a report annually, which 553
shall be made available to the public, to the president of the 554
senate, the speaker of the house of representatives, the minority 555
leader of the senate, the minority leader of the house of 556
representatives, the Ohio retirement study council, and the 557
workers compensation council, and send a copy of that report to 558
the United States presidential special envoy to Sudan and the 559
United States presidential special envoy to Iran, or an 560
appropriate designee or successor, which includes: 561

(1) A summary of correspondence with companies engaged by the 562
public investor under division (D) of section 137.02 of the 563
Revised Code; 564

(2) All investments sold, redeemed, divested, or withdrawn in 565
compliance with section 137.03 of the Revised Code; 566

(3) All prohibited investments under division (B) of section 567
137.03 of the Revised Code; 568

(4) Any progress made under division (D)(4) of section 137.02 569
of the Revised Code and division (C) of section 137.03 of the 570
Revised Code; 571

(5) A list of all publicly traded securities held directly by 572
the public investor. 573

Sec. 137.06. (A) If any of the following occur, a public investor shall no longer assemble the scrutinized companies with activities in Sudan list, shall cease engagement and divestment of such companies, and may reinvest in such companies as long as such companies do not satisfy the criteria for inclusion in the scrutinized companies with activities in Iran list: 574
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(1) Congress or the president of the United States determines that the government of Sudan has sufficiently halted the genocide in the Darfur region for at least twelve months. 580
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(2) The federal government revokes all sanctions imposed against the government of Sudan. 583
584

(3) Congress or the president of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this chapter interferes with the conduct of United States foreign policy. 585
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(4) Congress or the president of the United States declares that the government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons. 589
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(B) If any of the following occur, a public investor shall no longer assemble the scrutinized companies with activities in Iran list and shall cease engagement, investment prohibitions, and divestment. The public investor may reinvest in such companies as long as such companies do not satisfy the criteria for inclusion in the scrutinized companies with activities in Sudan list: 595
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(1) Congress or the president of the United States determines that the government of Iran has ceased to acquire weapons of mass destruction and support international terrorism; 601
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(2) The federal government revokes all sanctions imposed 604
against the government of Iran. 605

(3) Congress or the president of the United States declares 606
that mandatory divestment of the type provided for in this act 607
interferes with the conduct of United States foreign policy. 608

Sec. 137.07. The attorney general shall enforce the 609
provisions of this chapter and the attorney general or the 610
attorney general's designee may bring an action in court to 611
enforce this chapter. 612

Sec. 137.08. A public investor is not liable for breach of 613
the public investor's fiduciary duty to the public fund for which 614
that public investor has the authority to invest assets if the 615
public investor complies in good faith with the requirements of 616
this chapter. If the public investor made determinations in good 617
faith regarding the status of a company as required under this 618
chapter, the members are not liable in an action for libel or 619
slander. All former, present, or future public investors and 620
members of any boards of all public investors and all officers, 621
employees, and agents of such boards shall be indemnified, whether 622
jointly or severally, for all claims, demands, suits, actions, 623
damages, judgments, costs, charges, and expenses, including court 624
costs and attorney's fees, and against all liability, losses, and 625
damages of any nature that such board members, officers, 626
employees, or agents may incur by reason of any decision to 627
restrict, reduce, or eliminate investments in companies doing 628
business in Iran or Sudan. A board member, officer, employee, or 629
agent of a public investor shall be indemnified through the public 630
fund in which the public authority has the authority to invest. In 631
any action pursuant to this chapter, any state retirement board 632
has any rights granted in section 109.98 of the Revised Code and 633
the workers' compensation oversight commission has any rights 634

granted in section 109.981 of the Revised Code. 635

Sec. 137.09. Except as otherwise specified in this chapter or 636
as otherwise specified by the general assembly, this chapter 637
prevails over sections 135.143, 145.11, 742.11, 3307.15, 3309.15, 638
4123.44, and 5505.06 of the Revised Code and all other laws that 639
conflict with this chapter. 640

Sec. 148.04. (A) The Ohio public employees deferred 641
compensation board shall initiate, plan, expedite, and, subject to 642
an appropriate assurance of the approval of the internal revenue 643
service, promulgate and offer to all eligible employees, and 644
thereafter administer on behalf of all participating employees and 645
continuing members, and alter as required, a program for deferral 646
of compensation, including a reasonable number of options to the 647
employee for the investment of deferred funds, including life 648
insurance, annuities, variable annuities, pooled investment funds 649
managed by the board, or other forms of investment approved by the 650
board, always in such form as will assure the desired tax 651
treatment of such funds. There may be at least one terror-free 652
investment option, as defined in section 3305.01 of the Revised 653
Code, among the investment options offered to eligible employees. 654
Annually, the board shall prepare, and deliver to the president of 655
the senate and the speaker of the house of representatives a 656
report regarding the board's efforts to identify and provide a 657
terror-free investment option. The members of the board are the 658
trustees of any deferred funds and shall discharge their duties 659
with respect to the funds solely in the interest of and for the 660
exclusive benefit of participating employees, continuing members, 661
and their beneficiaries. With respect to such deferred funds, 662
section 148.09 of the Revised Code shall apply to claims against 663
participating employees or continuing members and their employers. 664

(B) Every employer of an eligible employee shall contract 665

with the employee upon the employee's application for 666
participation in a deferred compensation program offered by the 667
board. Every retirement system serving an eligible employee shall 668
serve as collection agent for compensation deferred by any of its 669
members and account for and deliver such sums to the board. 670

(C) The board shall, subject to any applicable contract 671
provisions, undertake to obtain as favorable conditions of tax 672
treatment as possible, both in the initial programs and any 673
permitted alterations of them or additions to them, as to such 674
matters as terms of distribution, designation of beneficiaries, 675
withdrawal upon disability, financial hardship, or termination of 676
public employment, and other optional provisions. 677

(D) In no event shall the total of the amount of deferred 678
compensation to be set aside under a deferred compensation program 679
and the employee's nondeferred income for any year exceed the 680
total annual salary or compensation under the existing salary 681
schedule or classification plan applicable to the employee in that 682
year. 683

Such a deferred compensation program shall be in addition to 684
any retirement or any other benefit program provided by law for 685
employees of this state. The board shall adopt rules pursuant to 686
Chapter 119. of the Revised Code to provide any necessary 687
standards or conditions for the administration of its programs, 688
including any limits on the portion of a participating employee's 689
compensation that may be deferred in order to avoid adverse 690
treatment of the program by the internal revenue service or the 691
occurrence of deferral, withholding, or other deductions in excess 692
of the compensation available for any pay period. 693

Any income deferred under such a plan shall continue to be 694
included as regular compensation for the purpose of computing the 695
contributions to and benefits from the retirement system of such 696
employee. Any sum so deferred shall not be included in the 697

computation of any federal and state income taxes withheld on 698
behalf of any such employee. 699

(E) This section does not limit the authority of any 700
municipal corporation, county, township, park district, 701
conservancy district, sanitary district, health district, public 702
library, county law library, public institution of higher 703
education, or school district to provide separate authorized plans 704
or programs for deferring compensation of their officers and 705
employees in addition to the program for the deferral of 706
compensation offered by the board. Any municipal corporation, 707
township, public institution of higher education, or school 708
district that offers such plans or programs shall include a 709
reasonable number of options to its officers or employees for the 710
investment of the deferred funds, including annuities, variable 711
annuities, regulated investment trusts, or other forms of 712
investment approved by the municipal corporation, township, public 713
institution of higher education, or school district, that will 714
assure the desired tax treatment of the funds. 715

Sec. 3305.01. As used in this chapter: 716

(A) "Public institution of higher education" means a state 717
university as defined in section 3345.011 of the Revised Code, the 718
northeastern Ohio universities college of medicine, or a 719
university branch, technical college, state community college, 720
community college, or municipal university established or 721
operating under Chapter 3345., 3349., 3354., 3355., 3357., or 722
3358. of the Revised Code. 723

(B) "State retirement system" means the public employees 724
retirement system created under Chapter 145. of the Revised Code, 725
the state teachers retirement system created under Chapter 3307. 726
of the Revised Code, or the school employees retirement system 727
created under Chapter 3309. of the Revised Code. 728

(C) "Eligible employee" means any person employed as a 729
full-time employee of a public institution of higher education. 730

In all cases of doubt, the board of trustees of the public 731
institution of higher education shall determine whether any person 732
is an eligible employee for purposes of this chapter, and the 733
board's decision shall be final. 734

(D) "Electing employee" means any eligible employee who 735
elects, pursuant to section 3305.05 or 3305.051 of the Revised 736
Code, to participate in an alternative retirement plan provided 737
pursuant to this chapter or an eligible employee who is required 738
to participate in an alternative retirement plan pursuant to 739
division (C)(4) of section 3305.05 or division (F) of section 740
3305.051 of the Revised Code. 741

(E) "Compensation," for purposes of an electing employee, has 742
the same meaning as the applicable one of the following: 743

(1) If the electing employee would be subject to Chapter 145. 744
of the Revised Code had the employee not made an election pursuant 745
to section 3305.05 or 3305.051 of the Revised Code, "earnable 746
salary" as defined in division (R) of section 145.01 of the 747
Revised Code; 748

(2) If the electing employee would be subject to Chapter 749
3307. of the Revised Code had the employee not made an election 750
pursuant to section 3305.05 or 3305.051 of the Revised Code, 751
"compensation" as defined in division (L) of section 3307.01 of 752
the Revised Code; 753

(3) If the electing employee would be subject to Chapter 754
3309. of the Revised Code had the employee not made an election 755
pursuant to section 3305.05 or 3305.051 of the Revised Code, 756
"compensation" as defined in division (V) of section 3309.01 of 757
the Revised Code. 758

(F) "Provider" means an entity designated under section 759

3305.03 of the Revised Code as a provider of investment options 760
for an alternative retirement plan. 761

(G) "Terror-free investment option" means an account or fund 762
that excludes from its portfolio any company that is involved in 763
scrutinized business operations as defined in section 137.01 of 764
the Revised Code. 765

Sec. 3305.02. An alternative retirement program is hereby 766
established in accordance with this chapter for the purpose of 767
providing to eligible employees the opportunity of participating 768
in an alternative retirement plan as an alternative to 769
participating in a state retirement system. The employer is the 770
sponsor of each alternative retirement plan offered under this 771
chapter. 772

Each alternative retirement plan offered under this program 773
shall be a defined contribution plan qualified under section 401 774
(a) of the Internal Revenue Code that provides retirement and 775
death benefits through investment options. The options shall be 776
offered to electing employees pursuant to group or individual 777
contracts, and certificates issued under group contracts⁷. The 778
options may include a terror-free investment option and may 779
include life insurance, annuities, variable annuities, regulated 780
investment trusts, pooled investment funds, or other forms of 781
investment, at the option of each electing employee. 782

Notwithstanding this chapter, any retirement plan established 783
by a public institution of higher education prior to March 31, 784
1997, as an alternative to participating in any state retirement 785
system may continue in effect and be modified without regard to 786
this chapter for all employees at the public institution eligible 787
to participate in the plan. 788

Sec. 3334.02. (A) In order to help make higher education 789

affordable and accessible to all citizens of Ohio, to maintain 790
state institutions of higher education by helping to provide a 791
stable financial base to these institutions, to provide the 792
citizens of Ohio with financing assistance for higher education 793
and protection against rising tuition costs, to encourage saving 794
to enhance the ability of citizens of Ohio to obtain financial 795
access to institutions of higher education, to encourage 796
elementary and secondary students in this state to achieve 797
academic excellence, and to promote a well-educated and 798
financially secure population to the ultimate benefit of all 799
citizens of the state of Ohio, there is hereby created the Ohio 800
college savings program. The program shall consist of the issuance 801
of college savings bonds and the sale of tuition units. 802

(B) The provisions of Chapter 1707. of the Revised Code shall 803
not apply to tuition units or any agreement or transaction related 804
thereto. 805

(C) To provide the citizens of Ohio with a choice of 806
tax-advantaged college savings programs and the opportunity to 807
participate in more than one type of college savings program at a 808
time, the Ohio tuition trust authority shall establish and 809
administer a variable college savings program as a qualified state 810
tuition program under section 529 of the Internal Revenue Code. 811
The program shall allow contributors to make cash contributions to 812
variable college savings program accounts created for the purpose 813
of paying future tuition and other higher education expenses and 814
providing variable rates of return on contributions. The program 815
shall offer contributors a reasonable number of options for the 816
investment of contributed funds among which may be at least one 817
terror-free investment option, as defined in section 3305.01 of 818
the Revised Code. The Ohio tuition trust authority annually shall 819
prepare, and deliver to the president of the senate and the 820
speaker of the house of representatives a report regarding the 821

board's efforts to identify and provide a terror-free investment 822
option. 823

(D) A person may participate simultaneously in both the Ohio 824
college savings program and the variable college savings program. 825

Section 2. That existing sections 135.143, 148.04, 3305.01, 826
3305.02, and 3334.02 of the Revised Code are hereby repealed. 827

Section 3. The sections and items of law contained in this 828
act, and their applications, are severable. If any section or item 829
of law contained in this act, or if any application of any section 830
or item of law contained in this act, is held invalid, the 831
invalidity does not affect other sections or items of law 832
contained in this act and their applications that can be given 833
effect without the invalid section or item of law or application. 834

Section 4. It is the finding of the General Assembly of the 835
state of Ohio that the Islamic Republic of Iran and the Republic 836
of the Sudan are guilty of advocating genocide, and are unstable 837
and high risk investment locations, and therefore, the General 838
Assembly of the state of Ohio establishes the requirements of this 839
act. 840