

1 AN ACT concerning State government, which may be cited as  
2 the Act to End Atrocities and Terrorism in the Sudan.

3 **Be it enacted by the People of the State of Illinois,**  
4 **represented in the General Assembly:**

5 Section 5. The Deposit of State Moneys Act is amended by  
6 changing Section 22.5 and by adding Section 22.6 as follows:

7 (15 ILCS 520/22.5) (from Ch. 130, par. 41a)

8 Sec. 22.5. Permitted investments. The State Treasurer may,  
9 with the approval of the Governor, invest and reinvest any  
10 State money in the treasury which is not needed for current  
11 expenditures due or about to become due, in obligations of the  
12 United States government or its agencies or of National  
13 Mortgage Associations established by or under the National  
14 Housing Act, 1201 U.S.C. 1701 et seq., or in mortgage  
15 participation certificates representing undivided interests in  
16 specified, first-lien conventional residential Illinois  
17 mortgages that are underwritten, insured, guaranteed, or  
18 purchased by the Federal Home Loan Mortgage Corporation or in  
19 Affordable Housing Program Trust Fund Bonds or Notes as defined  
20 in and issued pursuant to the Illinois Housing Development Act.  
21 All such obligations shall be considered as cash and may be  
22 delivered over as cash by a State Treasurer to his successor.

23 The State Treasurer may, with the approval of the Governor,  
24 purchase any state bonds with any money in the State Treasury  
25 that has been set aside and held for the payment of the  
26 principal of and interest on the bonds. The bonds shall be  
27 considered as cash and may be delivered over as cash by the  
28 State Treasurer to his successor.

29 The State Treasurer may, with the approval of the Governor,  
30 invest or reinvest any State money in the treasury that is not  
31 needed for current expenditure due or about to become due, or  
32 any money in the State Treasury that has been set aside and

1 held for the payment of the principal of and the interest on  
2 any State bonds, in shares, withdrawable accounts, and  
3 investment certificates of savings and building and loan  
4 associations, incorporated under the laws of this State or any  
5 other state or under the laws of the United States; provided,  
6 however, that investments may be made only in those savings and  
7 loan or building and loan associations the shares and  
8 withdrawable accounts or other forms of investment securities  
9 of which are insured by the Federal Deposit Insurance  
10 Corporation.

11 The State Treasurer may not invest State money in any  
12 savings and loan or building and loan association unless a  
13 commitment by the savings and loan (or building and loan)  
14 association, executed by the president or chief executive  
15 officer of that association, is submitted in the following  
16 form:

17 The ..... Savings and Loan (or Building  
18 and Loan) Association pledges not to reject arbitrarily  
19 mortgage loans for residential properties within any  
20 specific part of the community served by the savings and  
21 loan (or building and loan) association because of the  
22 location of the property. The savings and loan (or building  
23 and loan) association also pledges to make loans available  
24 on low and moderate income residential property throughout  
25 the community within the limits of its legal restrictions  
26 and prudent financial practices.

27 The State Treasurer may, with the approval of the Governor,  
28 invest or reinvest, at a price not to exceed par, any State  
29 money in the treasury that is not needed for current  
30 expenditures due or about to become due, or any money in the  
31 State Treasury that has been set aside and held for the payment  
32 of the principal of and interest on any State bonds, in bonds  
33 issued by counties or municipal corporations of the State of  
34 Illinois.

35 The State Treasurer may, with the approval of the Governor,  
36 invest or reinvest any State money in the Treasury which is not

1 needed for current expenditure, due or about to become due, or  
2 any money in the State Treasury which has been set aside and  
3 held for the payment of the principal of and the interest on  
4 any State bonds, in participations in loans, the principal of  
5 which participation is fully guaranteed by an agency or  
6 instrumentality of the United States government; provided,  
7 however, that such loan participations are represented by  
8 certificates issued only by banks which are incorporated under  
9 the laws of this State or any other state or under the laws of  
10 the United States, and such banks, but not the loan  
11 participation certificates, are insured by the Federal Deposit  
12 Insurance Corporation.

13 The State Treasurer may, with the approval of the Governor,  
14 invest or reinvest any State money in the Treasury that is not  
15 needed for current expenditure, due or about to become due, or  
16 any money in the State Treasury that has been set aside and  
17 held for the payment of the principal of and the interest on  
18 any State bonds, in any of the following:

19 (1) Bonds, notes, certificates of indebtedness,  
20 Treasury bills, or other securities now or hereafter issued  
21 that are guaranteed by the full faith and credit of the  
22 United States of America as to principal and interest.

23 (2) Bonds, notes, debentures, or other similar  
24 obligations of the United States of America, its agencies,  
25 and instrumentalities.

26 (2.5) Bonds, notes, debentures, or other similar  
27 obligations of a foreign government, other than the  
28 Republic of the Sudan, that are guaranteed by the full  
29 faith and credit of that government as to principal and  
30 interest, but only if the foreign government has not  
31 defaulted and has met its payment obligations in a timely  
32 manner on all similar obligations for a period of at least  
33 25 years immediately before the time of acquiring those  
34 obligations.

35 (3) Interest-bearing savings accounts,  
36 interest-bearing certificates of deposit, interest-bearing

1 time deposits, or any other investments constituting  
2 direct obligations of any bank as defined by the Illinois  
3 Banking Act.

4 (4) Interest-bearing accounts, certificates of  
5 deposit, or any other investments constituting direct  
6 obligations of any savings and loan associations  
7 incorporated under the laws of this State or any other  
8 state or under the laws of the United States.

9 (5) Dividend-bearing share accounts, share certificate  
10 accounts, or class of share accounts of a credit union  
11 chartered under the laws of this State or the laws of the  
12 United States; provided, however, the principal office of  
13 the credit union must be located within the State of  
14 Illinois.

15 (6) Bankers' acceptances of banks whose senior  
16 obligations are rated in the top 2 rating categories by 2  
17 national rating agencies and maintain that rating during  
18 the term of the investment.

19 (7) Short-term obligations of corporations organized  
20 in the United States with assets exceeding \$500,000,000 if  
21 (i) the obligations are rated at the time of purchase at  
22 one of the 3 highest classifications established by at  
23 least 2 standard rating services and mature not later than  
24 180 days from the date of purchase, (ii) the purchases do  
25 not exceed 10% of the corporation's outstanding  
26 obligations, ~~and~~ (iii) no more than one-third of the public  
27 agency's funds are invested in short-term obligations of  
28 corporations, and (iv) the corporation is not a forbidden  
29 entity, as defined in Section 22.6 of the Deposit of State  
30 Moneys Act.

31 (8) Money market mutual funds registered under the  
32 Investment Company Act of 1940, provided that the portfolio  
33 of the money market mutual fund is limited to obligations  
34 described in this Section and to agreements to repurchase  
35 such obligations.

36 (9) The Public Treasurers' Investment Pool created

1 under Section 17 of the State Treasurer Act or in a fund  
2 managed, operated, and administered by a bank.

3 (10) Repurchase agreements of government securities  
4 having the meaning set out in the Government Securities Act  
5 of 1986 subject to the provisions of that Act and the  
6 regulations issued thereunder.

7 (11) Investments made in accordance with the  
8 Technology Development Act.

9 For purposes of this Section, "agencies" of the United  
10 States Government includes:

11 (i) the federal land banks, federal intermediate  
12 credit banks, banks for cooperatives, federal farm credit  
13 banks, or any other entity authorized to issue debt  
14 obligations under the Farm Credit Act of 1971 (12 U.S.C.  
15 2001 et seq.) and Acts amendatory thereto;

16 (ii) the federal home loan banks and the federal home  
17 loan mortgage corporation;

18 (iii) the Commodity Credit Corporation; and

19 (iv) any other agency created by Act of Congress.

20 The Treasurer may, with the approval of the Governor, lend  
21 any securities acquired under this Act. However, securities may  
22 be lent under this Section only in accordance with Federal  
23 Financial Institution Examination Council guidelines and only  
24 if the securities are collateralized at a level sufficient to  
25 assure the safety of the securities, taking into account market  
26 value fluctuation. The securities may be collateralized by cash  
27 or collateral acceptable under Sections 11 and 11.1.

28 (Source: P.A. 92-546, eff. 1-1-03; 92-851, eff. 8-26-02;  
29 revised 9-19-02.)

30 (15 ILCS 520/22.6 new)

31 Sec. 22.6. Prohibited deposits.

32 (a) Notwithstanding any other provision of law, the State  
33 Treasurer shall not deposit any funds into or otherwise  
34 contract with any financial institution unless an expressly  
35 authorized officer of that financial institution annually

1 certifies, in the manner and form established by the Treasurer,  
2 that the financial institution has implemented policies and  
3 practices that require loan applicants to certify that they are  
4 not forbidden entities.

5 (b) For the purposes of this Section:

6 "Company" is any entity capable of affecting commerce,  
7 including but not limited to (i) a government, government  
8 agency, natural person, legal person, sole proprietorship,  
9 partnership, firm, corporation, subsidiary, affiliate,  
10 franchisor, franchisee, joint venture, trade association,  
11 financial institution, utility, public franchise, provider of  
12 financial services, trust, or enterprise; and (ii) any  
13 association thereof.

14 "Forbidden entity" means any of the following:

15 (1) The government of the Republic of the Sudan and any  
16 of its agencies, including but not limited to political  
17 units and subdivisions;

18 (2) Any company that is wholly or partially managed or  
19 controlled by the government of the Republic of the Sudan  
20 and any of its agencies, including but not limited to  
21 political units and subdivisions;

22 (3) Any company (i) that is established or organized  
23 under the laws of the Republic of the Sudan; or (ii) whose  
24 principal place of business is in the Republic of the  
25 Sudan;

26 (4) Any company (i) identified by the Office of Foreign  
27 Assets Control in the United States Department of the  
28 Treasury as sponsoring terrorist activities; or (ii)  
29 fined, penalized, or sanctioned by the Office of Foreign  
30 Assets Control in the United States Department of the  
31 Treasury for any violation of any United States rules and  
32 restrictions relating to the Republic of the Sudan that  
33 occurred at any time following the effective date of this  
34 Act; and

35 (5) Any company who has failed to certify under oath  
36 that it does not own or control any property or asset

1 located in, have employees or facilities located in,  
2 provide goods or services to, obtain goods or services  
3 from, have distribution agreements with, issue credits or  
4 loans to, purchase bonds or commercial paper issued by, or  
5 invest in (i) the Republic of the Sudan; or (ii) any  
6 company domiciled in the Republic of the Sudan.

7 Notwithstanding the foregoing, the term "forbidden entity"  
8 shall exclude companies, except agencies of the Republic of the  
9 Sudan, who are certified as Non-Government Organizations by the  
10 United Nations, or who engage solely in (i) the provision of  
11 goods and services intended to relieve human suffering or to  
12 promote welfare, health, religious and spiritual activities,  
13 and education for humanitarian purposes or otherwise; or (ii)  
14 journalistic activities.

15 (c) In addition to any other penalties and remedies  
16 available under the law of Illinois and the United States, any  
17 transaction between a financial institution and a company that  
18 violates the provisions of this Act shall be void or voidable,  
19 at the joint discretion of the Treasurer and the financial  
20 institution.

21 (d) This Section does not apply to (a) linked deposits made  
22 by the Treasurer into financial institutions in return for that  
23 institution's commitment to provide, through loans or other  
24 financial support, agreed benefits in projects undertaken in  
25 the community; and (b) the purchase of depository, custodial,  
26 processing, and advisory services that are necessary to fulfill  
27 the Treasurer's obligations and responsibilities.

28 Section 10. The Illinois Pension Code is amended by adding  
29 Section 1-110.5 as follows:

30 (40 ILCS 5/1-110.5 new)

31 Sec. 1-110.5. Certain prohibited transactions.

32 (a) A fiduciary of a retirement system or pension fund  
33 established under this Code shall not transfer or disburse  
34 funds to, deposit into, acquire any bonds or commercial paper

1 from, or otherwise loan to or invest in any entity unless the  
2 company charged with managing the assets of the retirement  
3 system or pension fund, at no additional cost to the fiduciary,  
4 certifies to the fiduciary, in the manner and form established  
5 by the Treasurer, that:

6 (1) the fund managing company has not loaned to,  
7 invested in, or otherwise transferred any of the retirement  
8 system or pension fund's assets to a forbidden entity any  
9 time after the effective date of this Act;

10 (2) at least 60% of the retirement system or pension  
11 fund's assets are not invested in forbidden entities at any  
12 time more than twelve months after the effective date of  
13 this Act;

14 (3) at least 100% of the retirement system or pension  
15 fund's assets are not invested in forbidden entities at any  
16 time more than eighteen months after the effective date of  
17 this Act.

18  
19 (b) For purposes of this Section:

20 "Company" is any entity capable of affecting commerce,  
21 including but not limited to (i) a government, government  
22 agency, natural person, legal person, sole proprietorship,  
23 partnership, firm, corporation, subsidiary, affiliate,  
24 franchisor, franchisee, joint venture, trade association,  
25 financial institution, utility, public franchise, provider  
26 of financial services, trust, or enterprise; and (ii) any  
27 association thereof.

28 "Forbidden entity" means any of the following:

29 (1) The government of the Republic of the Sudan and any of  
30 its agencies, including but not limited to political units  
31 and subdivisions;

32 (2) Any company that is wholly or partially managed or  
33 controlled by the government of the Republic of the Sudan  
34 and any of its agencies, including but not limited to  
35 political units and subdivisions;

36 (3) Any company (i) that is established or organized under

1 the laws of the Republic of the Sudan; (ii) whose principal  
2 place of business is in the Republic of the Sudan;

3 (4) Any company (i) identified by the Office of Foreign  
4 Assets Control in the United States Department of the  
5 Treasury as sponsoring terrorist activities; or (ii)  
6 fined, penalized, or sanctioned by the Office of Foreign  
7 Assets Control in the United States Department of the  
8 Treasury for any violation of any United States rules and  
9 restrictions relating to the Republic of the Sudan that  
10 occurred at any time following the effective date of this  
11 Act; and

12 (5) Any publicly traded company who has been identified by  
13 an independent researching firm that specializes in global  
14 security risk as being a company that owns or controls  
15 property or assets located in, has employees or facilities  
16 located in, provides goods or services to, obtain goods or  
17 services from, has distribution agreements with, issue  
18 credits or loans to, purchase bonds or commercial paper  
19 issued by, or invest in (i) the Republic of the Sudan; or  
20 (ii) any company domiciled in the Republic of the Sudan;  
21 and

22 (6) Any non publicly-traded company that fails to submit to  
23 the fund managing company an affidavit sworn under oath in  
24 which an expressly authorized officer of the company avers  
25 that the company (i) does not own or control any property  
26 or asset located in the Republic of the Sudan; and (ii) did  
27 not transact commercial business in the Republic of the  
28 Sudan.

29 Notwithstanding the foregoing, the term "forbidden entity"  
30 shall exclude companies, except agencies of the Republic of the  
31 Sudan, who are certified as Non-Government Organizations by the  
32 United Nations, or who engage solely in (i) the provision of  
33 goods and services intended to relieve human suffering or to  
34 promote welfare, health, religious and spiritual activities,  
35 and education humanitarian purposes or otherwise; or (ii)  
36 journalistic activities.

1       (c) In addition to any other penalties and remedies  
2       available under the law of Illinois and the United States, any  
3       transaction that violates the provisions of this Act shall be  
4       void or voidable, at the sole discretion of the fiduciary.

5       Section 90. Term; construction. The provisions of this  
6       amendatory Act of the 94th General Assembly shall have full  
7       force and effect until such time as the government of the  
8       United States, through Executive Order or otherwise, rescinds  
9       Executive Order 13067, or until such time as these provisions  
10      are repealed or modified by the General Assembly. This  
11      amendatory Act of the 94th General Assembly shall be construed  
12      under the laws of the State of Illinois and, where applicable,  
13      the laws of the United States.

14      Section 99. Effective date. This Act takes effect 7 months  
15      after becoming law.