

CHAPTER 149

GOVERNMENT - STATE

HOUSE BILL 07-1184

BY REPRESENTATIVE(S) Romanoff, Kerr A., Witwer, Madden, Balmer, Benefield, Borodkin, Butcher, Carroll M., Carroll T., Casso, Cerbo, Curry, Fischer, Frangas, Gallegos, Garcia, Gardner B., Gardner C., Gibbs, Green, Hicks, Hodge, Jahn, Kefalas, Kerr J., Labuda, Levy, Looper, Lundberg, Marostica, Marshall, Massey, May M., McFadyen, McGihon, McKinley, McNulty, Merrifield, Mitchell V., Primavera, Riesberg, Roberts, Rose, Solano, Sonnenberg, Soper, Stafford, Stephens, Summers, Swalm, Todd, Vaad, Buescher, Cadman, King, Lambert, Peniston, Rice, and Weissmann;
 also SENATOR(S) Groff, Bacon, Fitz-Gerald, Gordon, Hagedorn, Harvey, Kester, Kopp, May R., Mitchell S., Morse, Penry, Renfroe, Romer, Schwartz, Shaffer, Tapia, Tochtrop, Tupa, Ward, Wiens, Williams, Windels, Boyd, Isgar, Johnson, Keller, Sandoval, and Spence.

AN ACT

CONCERNING DIVESTMENT ACTION BY CERTAIN GOVERNMENTAL ENTITIES AGAINST COMPANIES FINANCIALLY INVOLVED WITH THE GOVERNMENT OF SUDAN, AND REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 54.8
Sudan Divestment by Public Pension Plans

24-54.8-101. Legislative declaration - post-enactment review. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

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

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

(c) ON SEPTEMBER 21, 2004, ADDRESSING THE UNITED NATIONS GENERAL

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

ASSEMBLY, PRESIDENT GEORGE W. BUSH AFFIRMED THE SECRETARY OF STATE'S FINDING AND STATED, "AT THIS HOUR, THE WORLD IS WITNESSING TERRIBLE SUFFERING AND HORRIBLE CRIMES IN THE DARFUR REGION OF SUDAN, CRIMES MY GOVERNMENT HAS CONCLUDED ARE GENOCIDE".

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

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

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

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

(h) THE DARFUR CRISIS REPRESENTS THE FIRST TIME THE UNITED STATES GOVERNMENT HAS LABELED ONGOING ATROCITIES AS GENOCIDE.

(i) THE FEDERAL GOVERNMENT HAS IMPOSED SANCTIONS AGAINST THE GOVERNMENT OF SUDAN SINCE 1997. THESE SANCTIONS ARE MONITORED THROUGH THE UNITED STATES TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL, ALSO KNOWN AS "OFAC".

(j) ACCORDING TO A FORMER CHAIR OF THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION, THE FACT THAT A FOREIGN COMPANY IS DOING MATERIAL BUSINESS WITH A COUNTRY, GOVERNMENT, OR ENTITY ON OFAC'S SANCTIONS LIST IS, IN THE SEC STAFF'S VIEW, SUBSTANTIALLY LIKELY TO BE SIGNIFICANT TO A REASONABLE INVESTOR'S DECISION ABOUT WHETHER TO INVEST IN THAT COMPANY.

(k) SINCE 1993, THE UNITED STATES SECRETARY OF STATE HAS DETERMINED THAT SUDAN IS A COUNTRY WHOSE GOVERNMENT HAS REPEATEDLY PROVIDED SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM AND THEREBY RESTRICTED UNITED STATES ASSISTANCE, DEFENSE EXPORTS AND SALES, AND FINANCIAL AND

OTHER TRANSACTIONS WITH THE GOVERNMENT OF SUDAN.

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

(m) IN RESPONSE TO THE FINANCIAL RISK POSED BY INVESTMENTS IN COMPANIES DOING BUSINESS WITH A TERRORIST-SPONSORING STATE, THE FEDERAL SECURITIES AND EXCHANGE COMMISSION ESTABLISHED ITS OFFICE OF GLOBAL SECURITY RISK TO PROVIDE FOR ENHANCED DISCLOSURE OF MATERIAL INFORMATION REGARDING SUCH COMPANIES.

(n) THE CURRENT SUDAN DIVESTMENT MOVEMENT ENCOMPASSES NEARLY ONE HUNDRED UNIVERSITIES, CITIES, STATES, AND PRIVATE PENSION PLANS.

(o) COMPANIES FACING SUCH WIDESPREAD DIVESTMENT PRESENT FURTHER MATERIAL RISK TO REMAINING INVESTORS.

(p) IT IS A FUNDAMENTAL RESPONSIBILITY OF THE COLORADO GENERAL ASSEMBLY TO DECIDE WHERE, HOW, AND BY WHOM FINANCIAL RESOURCES IN ITS CONTROL SHOULD BE INVESTED, TAKING INTO ACCOUNT NUMEROUS PERTINENT FACTORS.

(q) IT IS THE PREROGATIVE AND DESIRE OF THE STATE OF COLORADO, IN RESPECT TO INVESTMENT RESOURCES IN ITS CONTROL AND TO THE EXTENT REASONABLE, WITH DUE CONSIDERATION FOR, AMONG OTHER THINGS, RETURN ON INVESTMENT, ON BEHALF OF ITSELF AND ITS INVESTMENT BENEFICIARIES, NOT TO PARTICIPATE IN AN OWNERSHIP OR CAPITAL-PROVIDING CAPACITY WITH ENTITIES THAT PROVIDE SIGNIFICANT PRACTICAL SUPPORT FOR GENOCIDE, INCLUDING CERTAIN FOREIGN COMPANIES PRESENTLY DOING BUSINESS IN SUDAN.

(r) IT IS THE JUDGMENT OF THE GENERAL ASSEMBLY THAT THIS ARTICLE SHOULD REMAIN IN EFFECT ONLY INsofar AS IT CONTINUES TO BE CONSISTENT WITH, AND DOES NOT UNDULY INTERFERE WITH, THE FOREIGN POLICY OF THE UNITED STATES AS DETERMINED BY THE FEDERAL GOVERNMENT.

(s) IT IS THE JUDGMENT OF THE GENERAL ASSEMBLY THAT MANDATORY DIVESTMENT OF PUBLIC FUNDS FROM CERTAIN COMPANIES IS A MEASURE THAT SHOULD BE EMPLOYED ONLY UNDER EXTRAORDINARY CIRCUMSTANCES WITH EACH CASE CONSIDERED ON ITS OWN MERITS, AND THAT IN THE CASE OF SUDAN, A CONGRESSIONAL AND PRESIDENTIAL DECLARATION OF GENOCIDE SATISFIES THIS HIGH THRESHOLD.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT STATE AND LOCAL ENTITIES THAT ARE NOT SUBJECT TO THE REQUIREMENTS OF THIS ARTICLE ARE ENCOURAGED TO TAKE VOLUNTARY ACTION TO DIVEST FROM THE COMPANIES SPECIFIED IN THIS ARTICLE.

(3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE DESIRED RESULT OF THIS ARTICLE FOR THE PURPOSE OF POST-ENACTMENT REVIEW IS THAT ALL PUBLIC FUNDS SELL, REDEEM, DIVEST, OR WITHDRAW INVESTMENTS IN SCRUTINIZED COMPANIES WITH ACTIVE BUSINESS OPERATIONS IN SUDAN AND MAINTAIN COMMUNICATION WITH SCRUTINIZED COMPANIES WITH INACTIVE BUSINESS OPERATIONS IN SUDAN, IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

24-54.8-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACTIVE BUSINESS OPERATIONS" MEANS ALL BUSINESS OPERATIONS THAT ARE NOT INACTIVE BUSINESS OPERATIONS.

(2) "BUSINESS OPERATIONS" MEANS ENGAGING IN COMMERCE IN ANY FORM IN SUDAN, INCLUDING ACQUIRING, DEVELOPING, MAINTAINING, OWNING, SELLING, POSSESSING, LEASING, OR OPERATING EQUIPMENT, FACILITIES, PERSONNEL, PRODUCTS, SERVICES, PERSONAL PROPERTY, REAL PROPERTY, OR ANY OTHER APPARATUS OF BUSINESS OR COMMERCE.

(3) "COMPANY" MEANS ANY ENTITY THAT HAS PUBLICLY TRADED SECURITIES AND IS AN ORGANIZATION, ASSOCIATION, CORPORATION, PARTNERSHIP, JOINT VENTURE, LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER ENTITY OR BUSINESS ASSOCIATION, INCLUDING ALL WHOLLY OWNED SUBSIDIARIES, MAJORITY-OWNED SUBSIDIARIES, PARENT COMPANIES, OR AFFILIATES OF SUCH ENTITIES OR BUSINESS ASSOCIATIONS, THAT EXISTS FOR PROFIT-MAKING PURPOSES.

(4) "COMPLICIT" MEANS TAKING ACTIONS DURING ANY PRECEDING TWENTY-MONTH PERIOD THAT HAVE DIRECTLY SUPPORTED OR PROMOTED THE GENOCIDAL CAMPAIGN IN DARFUR, INCLUDING BUT NOT LIMITED TO PREVENTING DARFUR'S VICTIMIZED POPULATION FROM COMMUNICATING WITH EACH OTHER, ENCOURAGING SUDANESE CITIZENS TO SPEAK OUT AGAINST AN INTERNATIONALLY APPROVED SECURITY FORCE FOR DARFUR, ACTIVELY WORKING TO DENY, COVER UP, OR ALTER THE RECORD ON HUMAN RIGHTS ABUSES IN DARFUR, OR OTHER SIMILAR ACTIONS.

(5) "DIRECT HOLDINGS" MEANS ALL PUBLICLY TRADED SECURITIES OF A COMPANY HELD DIRECTLY BY A PUBLIC FUND OR IN AN ACCOUNT OR FUND IN WHICH A PUBLIC FUND OWNS ALL SHARES OR INTERESTS.

(6) "GOVERNMENT OF SUDAN" MEANS THE GOVERNMENT IN KHARTOUM, SUDAN, WHICH IS LED BY THE NATIONAL CONGRESS PARTY, FORMERLY KNOWN AS THE NATIONAL ISLAMIC FRONT, OR ANY SUCCESSOR GOVERNMENT FORMED ON OR AFTER OCTOBER 13, 2006, INCLUDING THE COALITION NATIONAL UNITY GOVERNMENT AGREED UPON IN THE COMPREHENSIVE PEACE AGREEMENT FOR SUDAN, AND DOES NOT INCLUDE THE REGIONAL GOVERNMENT OF SOUTHERN SUDAN.

(7) "INACTIVE BUSINESS OPERATIONS" MEANS THE MERE CONTINUED HOLDING OR RENEWAL OF RIGHTS TO PROPERTY PREVIOUSLY OPERATED FOR THE PURPOSE OF GENERATING REVENUES BUT NOT PRESENTLY DEPLOYED FOR THAT PURPOSE.

(8) "INDIRECT HOLDINGS" MEANS ALL PUBLICLY TRADED SECURITIES OF A COMPANY HELD IN AN ACCOUNT OR FUND, SUCH AS A MUTUAL FUND, MANAGED BY ONE OR MORE PERSONS NOT EMPLOYED BY THE PUBLIC FUND, IN WHICH THE PUBLIC FUND OWNS SHARES OR INTERESTS TOGETHER WITH OTHER INVESTORS NOT SUBJECT TO THE PROVISIONS OF THIS ARTICLE.

(9) "MARGINALIZED POPULATIONS OF SUDAN" MEANS POPULATIONS INCLUDING BUT NOT LIMITED TO THE PORTION OF THE POPULATION IN THE DARFUR REGION THAT HAS BEEN GENOCIDALLY VICTIMIZED; THE PORTION OF THE POPULATION OF SOUTHERN SUDAN VICTIMIZED BY SUDAN'S NORTH-SOUTH CIVIL WAR; THE BEJA, RASHIDIYA, AND OTHER SIMILARLY UNDERSERVED GROUPS OF EASTERN SUDAN; THE NUBIAN AND OTHER SIMILARLY UNDERSERVED GROUPS IN SUDAN'S ABYEI, SOUTHERN BLUE NILE, AND NUBA MOUNTAIN REGIONS; AND THE AMRI, HAMADAB, MANASIR, AND OTHER SIMILARLY UNDERSERVED GROUPS OF NORTHERN SUDAN.

(10) "MILITARY EQUIPMENT" MEANS WEAPONS, ARMS, MILITARY SUPPLIES, AND EQUIPMENT THAT READILY MAY BE USED FOR MILITARY PURPOSES, INCLUDING BUT NOT LIMITED TO RADAR SYSTEMS OR MILITARY-GRADE TRANSPORT VEHICLES, OR SUPPLIES OR SERVICES SOLD OR PROVIDED DIRECTLY OR INDIRECTLY TO ANY FORCE ACTIVELY PARTICIPATING IN ARMED CONFLICT IN SUDAN.

(11) "MINERAL EXTRACTION ACTIVITIES" MEANS ACTIVITIES INCLUDING EXPLORING, EXTRACTING, PROCESSING, TRANSPORTING, OR WHOLESALE SELLING OR TRADING OF ELEMENTAL MINERALS OR ASSOCIATED METAL ALLOYS OR OXIDES, INCLUDING GOLD, COPPER, CHROMIUM, CHROMITE, DIAMONDS, IRON, IRON ORE, SILVER, TUNGSTEN, URANIUM, AND ZINC, AS WELL AS THE FACILITATION OF SUCH ACTIVITIES, INCLUDING THE PROVISION OF SUPPLIES OR SERVICES IN SUPPORT OF SUCH ACTIVITIES.

(12) "OIL-RELATED ACTIVITIES" MEANS, BUT NEED NOT BE LIMITED TO, OWNING RIGHTS TO OIL BLOCKS; EXPORTING, EXTRACTING, PRODUCING, REFINING, PROCESSING, EXPLORING FOR, TRANSPORTING, SELLING, OR TRADING OF OIL; CONSTRUCTING, MAINTAINING, OR OPERATING A PIPELINE, REFINERY, OR OTHER OILFIELD INFRASTRUCTURE; AND THE FACILITATION OF SUCH ACTIVITIES, INCLUDING THE PROVISION OF SUPPLIES OR SERVICES IN SUPPORT OF SUCH ACTIVITIES. "OIL-RELATED ACTIVITIES" DOES NOT INCLUDE THE MERE RETAIL SALE OF GASOLINE AND RELATED CONSUMER PRODUCTS.

(13) "POWER PRODUCTION ACTIVITIES" MEANS ANY BUSINESS OPERATION THAT INVOLVES A PROJECT COMMISSIONED BY THE NATIONAL ELECTRICITY CORPORATION OF SUDAN OR OTHER SIMILAR GOVERNMENT OF SUDAN ENTITY WHOSE PURPOSE IS TO FACILITATE POWER GENERATION AND DELIVERY, INCLUDING BUT NOT LIMITED TO ESTABLISHING POWER-GENERATING PLANTS OR HYDROELECTRIC DAMS, SELLING OR INSTALLING COMPONENTS FOR THE PROJECT, PROVIDING SERVICE CONTRACTS RELATED TO THE INSTALLATION OR MAINTENANCE OF THE PROJECT, AS WELL AS THE FACILITATION OF SUCH ACTIVITIES, INCLUDING THE PROVISION OF SUPPLIES OR SERVICES IN SUPPORT OF SUCH ACTIVITIES.

(14) "PUBLIC FUND" MEANS THE STATE TREASURER, THE BOARD OF DIRECTORS OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION CREATED IN ARTICLE 51 OF THIS TITLE, THE STATE DEFERRED COMPENSATION COMMITTEE CREATED PURSUANT TO

ARTICLE 52 OF THIS TITLE, THE COLORADO COUNTY OFFICIALS AND EMPLOYEES RETIREMENT ASSOCIATION CREATED PURSUANT TO ARTICLE 54 OF THIS TITLE, THE BOARD OF DIRECTORS OF THE FIRE AND POLICE PENSION ASSOCIATION CREATED IN ARTICLE 31 OF TITLE 31, C.R.S., THE BOARD OF DIRECTORS OF THE REGIONAL TRANSPORTATION DISTRICT CREATED IN ARTICLE 9 OF TITLE 32, C.R.S., AND THE BOARD OF TRUSTEES OF THE DENVER PUBLIC SCHOOL RETIREMENT SYSTEM CREATED PURSUANT TO PART 2 OF ARTICLE 64 OF TITLE 22, C.R.S.

(15) "PUBLICLY TRADED SECURITIES" MEANS OWNERSHIP INTEREST OR DEBT INSTRUMENTS THAT ARE CURRENTLY TRADED ON A SECURITIES EXCHANGE THAT IS OFFICIALLY RECOGNIZED, SANCTIONED, OR SUPERVISED BY A GOVERNMENTAL AUTHORITY OF THE COUNTRY IN WHICH THE MARKET IS LOCATED OR CURRENTLY TRADED THROUGH THE UNITED STATES OVER-THE-COUNTER MARKET THAT IS REFLECTED BY THE EXISTENCE OF AN INTERDEALER QUOTATION SYSTEM.

(16) "SCRUTINIZED COMPANY" MEANS A COMPANY THAT MEETS ANY OF THE FOLLOWING CRITERIA:

(a)(I) 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; PROJECTS OR CONSORTIUMS COMMISSIONED BY THE GOVERNMENT OF SUDAN; OR COMPANIES INVOLVED IN PROJECTS OR CONSORTIUMS COMMISSIONED BY THE GOVERNMENT OF SUDAN; AND

(II) (A) MORE THAN TEN PERCENT OF THE COMPANY'S REVENUES OR ASSETS LINKED TO SUDAN INVOLVE OIL-RELATED ACTIVITIES OR MINERAL EXTRACTION ACTIVITIES; LESS THAN SEVENTY-FIVE PERCENT OF THE COMPANY'S REVENUES OR ASSETS LINKED TO SUDAN INVOLVE CONTRACTS WITH OR THE 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; OR

(B) MORE THAN TEN PERCENT OF THE COMPANY'S REVENUES OR ASSETS LINKED TO SUDAN INVOLVE POWER PRODUCTION ACTIVITIES; LESS THAN SEVENTY-FIVE PERCENT 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 COMPANY HAS FAILED TO TAKE SUBSTANTIAL ACTION;

(b) THE COMPANY IS COMPLICIT IN THE DARFUR GENOCIDE; OR

(c) THE COMPANY SUPPLIES MILITARY EQUIPMENT WITHIN SUDAN, UNLESS IT CLEARLY SHOWS THAT THE MILITARY EQUIPMENT CANNOT BE USED TO FACILITATE OFFENSIVE MILITARY ACTIONS IN SUDAN OR THE COMPANY IMPLEMENTS RIGOROUS AND VERIFIABLE SAFEGUARDS TO PREVENT USE OF THAT EQUIPMENT BY FORCES ACTIVELY PARTICIPATING IN ARMED CONFLICT, SUCH AS THROUGH POST-SALE TRACKING OF SUCH EQUIPMENT BY THE COMPANY, CERTIFICATION FROM A REPUTABLE AND OBJECTIVE THIRD PARTY THAT SUCH EQUIPMENT IS NOT BEING USED BY A PARTY PARTICIPATING IN ARMED CONFLICT IN SUDAN, OR SALE OF SUCH

EQUIPMENT SOLELY TO THE REGIONAL GOVERNMENT OF SOUTHERN SUDAN OR ANY INTERNATIONALLY RECOGNIZED PEACEKEEPING FORCE OR HUMANITARIAN ORGANIZATION. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, A SOCIAL DEVELOPMENT COMPANY THAT IS NOT COMPLICIT IN THE DARFUR GENOCIDE SHALL NOT BE CONSIDERED A SCRUTINIZED COMPANY.

(17) "SOCIAL DEVELOPMENT COMPANY" MEANS A COMPANY WHOSE PRIMARY PURPOSE IN SUDAN IS TO PROVIDE HUMANITARIAN GOODS OR SERVICES, INCLUDING MEDICINE OR MEDICAL EQUIPMENT, AGRICULTURAL SUPPLIES OR INFRASTRUCTURE, EDUCATIONAL OPPORTUNITIES, JOURNALISM-RELATED ACTIVITIES, INFORMATION OR INFORMATION MATERIALS, SPIRITUAL-RELATED ACTIVITIES, SERVICES OF A PURELY CLERICAL OR REPORTING NATURE, FOOD, CLOTHING, OR GENERAL CONSUMER GOODS THAT ARE UNRELATED TO OIL-RELATED ACTIVITIES, MINERAL EXTRACTION ACTIVITIES, OR POWER PRODUCTION ACTIVITIES.

(18) "SUBSTANTIAL ACTION" 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 SIGNIFICANT HUMANITARIAN EFFORTS ON BEHALF OF ONE OR MORE MARGINALIZED POPULATIONS OF SUDAN; OR MATERIALLY IMPROVING CONDITIONS FOR THE GENOCIDALLY VICTIMIZED POPULATION IN DARFUR THROUGH ENGAGEMENT WITH THE GOVERNMENT OF SUDAN.

24-54.8-103. Identification of companies. (1) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, A PUBLIC FUND SHALL MAKE ITS BEST EFFORTS TO IDENTIFY ALL SCRUTINIZED COMPANIES IN WHICH THE PUBLIC FUND HAS DIRECT OR INDIRECT HOLDINGS OR COULD POSSIBLY HAVE SUCH HOLDINGS IN THE FUTURE. SUCH EFFORTS MAY INCLUDE, AS APPROPRIATE IN THE PUBLIC FUND'S JUDGMENT:

(a) REVIEWING AND RELYING ON PUBLICLY AVAILABLE INFORMATION REGARDING COMPANIES WITH BUSINESS OPERATIONS IN SUDAN, INCLUDING INFORMATION PROVIDED BY NONPROFIT ORGANIZATIONS, RESEARCH FIRMS, INTERNATIONAL ORGANIZATIONS, AND GOVERNMENT ENTITIES;

(b) CONTACTING ASSET MANAGERS CONTRACTED BY THE PUBLIC FUND THAT INVEST IN COMPANIES WITH BUSINESS OPERATIONS IN SUDAN; AND

(c) CONTACTING OTHER INSTITUTIONAL INVESTORS THAT HAVE DIVESTED FROM OR ENGAGED WITH COMPANIES THAT HAVE BUSINESS OPERATIONS IN SUDAN.

(2) BY THE FIRST MEETING OF A PUBLIC FUND FOLLOWING THE NINETY-DAY PERIOD DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE PUBLIC FUND SHALL ASSEMBLE ALL IDENTIFIED SCRUTINIZED COMPANIES INTO A SCRUTINIZED COMPANIES LIST.

(3) A PUBLIC FUND SHALL UPDATE THE SCRUTINIZED COMPANIES LIST EVERY SIX MONTHS BASED ON EVOLVING INFORMATION FROM, AMONG OTHER SOURCES, THOSE LISTED IN SUBSECTION (1) OF THIS SECTION.

(4) A PUBLIC FUND MAY ENGAGE A RESEARCH FIRM OR ORGANIZATION THAT OFFERS SERVICES RELATED TO THE SCREENING OF COMPANIES THAT HAVE BUSINESS

OPERATIONS IN SUDAN TO PERFORM ALL OR PART OF THE TASKS REQUIRED IN THIS SECTION. IT SHALL BE REASONABLE AND SUFFICIENT FOR A PUBLIC FUND TO RELY ON INFORMATION AND WORK PRODUCT OBTAINED FROM SUCH RESEARCH FIRM OR ORGANIZATION.

24-54.8-104. Required actions. (1) Engagement. A PUBLIC FUND SHALL ADHERE TO THE FOLLOWING PROCEDURES FOR COMPANIES ON THE SCRUTINIZED COMPANIES LIST:

(a) THE PUBLIC FUND SHALL IMMEDIATELY DETERMINE THE COMPANIES ON THE SCRUTINIZED COMPANIES LIST IN WHICH THE PUBLIC FUND OWNS DIRECT OR INDIRECT HOLDINGS.

(b) FOR EACH COMPANY IDENTIFIED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) WITH ONLY INACTIVE BUSINESS OPERATIONS, THE PUBLIC FUND SHALL SEND A WRITTEN NOTICE INFORMING THE COMPANY OF THIS ARTICLE AND ENCOURAGING IT TO CONTINUE TO REFRAIN FROM INITIATING ACTIVE BUSINESS OPERATIONS IN SUDAN UNTIL IT IS ABLE TO AVOID SCRUTINIZED BUSINESS OPERATIONS. THE PUBLIC FUND SHALL CONTINUE SUCH CORRESPONDENCE ON A SEMI-ANNUAL BASIS.

(c) FOR EACH COMPANY NEWLY IDENTIFIED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) WITH ACTIVE BUSINESS OPERATIONS, THE PUBLIC FUND SHALL SEND A WRITTEN NOTICE INFORMING THE COMPANY OF ITS SCRUTINIZED COMPANY STATUS AND THAT IT MAY BECOME SUBJECT TO DIVESTMENT BY THE PUBLIC FUND. THE NOTICE SHALL OFFER THE COMPANY THE OPPORTUNITY TO CLARIFY ITS SUDAN-RELATED ACTIVITIES AND SHALL ENCOURAGE THE COMPANY, WITHIN NINETY DAYS, TO EITHER CEASE ITS SCRUTINIZED BUSINESS OPERATIONS OR CONVERT SUCH OPERATIONS TO INACTIVE BUSINESS OPERATIONS IN ORDER TO AVOID QUALIFYING FOR DIVESTMENT BY THE PUBLIC FUND.

(d) IF, WITHIN NINETY DAYS FOLLOWING THE PUBLIC FUND'S FIRST ENGAGEMENT WITH A COMPANY PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (1), THAT COMPANY CEASES SCRUTINIZED BUSINESS OPERATIONS, THE COMPANY SHALL BE REMOVED FROM THE SCRUTINIZED COMPANIES LIST AND THE PROVISIONS OF THIS SECTION SHALL CEASE TO APPLY TO IT UNLESS IT RESUMES SCRUTINIZED BUSINESS OPERATIONS. IF, WITHIN NINETY DAYS FOLLOWING THE PUBLIC FUND'S FIRST ENGAGEMENT, THE COMPANY CONVERTS ITS SCRUTINIZED ACTIVE BUSINESS OPERATIONS TO INACTIVE BUSINESS OPERATIONS, THE COMPANY SHALL BE SUBJECT TO THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (1).

(2) **Divestment.** (a) IF, AFTER NINETY DAYS FOLLOWING A PUBLIC FUND'S FIRST ENGAGEMENT WITH A COMPANY PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION, THE COMPANY CONTINUES TO HAVE SCRUTINIZED ACTIVE BUSINESS OPERATIONS, AND ONLY WHILE SUCH COMPANY CONTINUES TO HAVE SCRUTINIZED ACTIVE BUSINESS OPERATIONS, THE PUBLIC FUND SHALL SELL, REDEEM, DIVEST, OR WITHDRAW ALL PUBLICLY TRADED SECURITIES OF THE COMPANY, EXCEPT AS PROVIDED IN SUBSECTIONS (4) AND (5) OF THIS SECTION, ACCORDING TO THE FOLLOWING SCHEDULE:

(I) AT LEAST FIFTY PERCENT OF SUCH ASSETS SHALL BE REMOVED FROM THE

PUBLIC FUND'S ASSETS UNDER MANAGEMENT BY NINE MONTHS AFTER THE COMPANY'S MOST RECENT APPEARANCE ON THE SCRUTINIZED COMPANIES LIST.

(II) ONE HUNDRED PERCENT OF SUCH ASSETS SHALL BE REMOVED FROM THE PUBLIC FUND'S ASSETS UNDER MANAGEMENT WITHIN FIFTEEN MONTHS AFTER THE COMPANY'S MOST RECENT APPEARANCE ON THE SCRUTINIZED COMPANIES LIST.

(b) IF A COMPANY THAT CEASED SCRUTINIZED ACTIVE BUSINESS OPERATIONS FOLLOWING ENGAGEMENT PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THE SECTION RESUMES SUCH OPERATIONS, PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL IMMEDIATELY APPLY, AND A PUBLIC FUND SHALL SEND A WRITTEN NOTICE TO THE COMPANY. THE COMPANY SHALL ALSO BE IMMEDIATELY PLACED ON THE SCRUTINIZED COMPANIES LIST AGAIN.

(3) **Prohibition.** AT NO TIME SHALL A PUBLIC FUND ACQUIRE DIRECT HOLDINGS IN SECURITIES OF COMPANIES ON THE SCRUTINIZED COMPANIES LIST THAT HAVE ACTIVE BUSINESS OPERATIONS, EXCEPT AS PROVIDED FOR IN SUBSECTIONS (4) AND (5) OF THIS SECTION. PUBLIC FUNDS SHALL NOT UNDERTAKE INVESTMENTS IN AN INDIRECT PASSIVELY MANAGED FUND THAT IS NOT HELD IN THE PUBLIC FUND'S PORTFOLIO AS OF THE EFFECTIVE DATE OF THIS ARTICLE, WHERE THE PASSIVELY MANAGED FUND CONTAINS PUBLICLY TRADED SECURITIES OF A SCRUTINIZED COMPANY WITH ACTIVE BUSINESS OPERATIONS IN SUDAN.

(4) **Exclusion.** NO COMPANY THAT THE UNITED STATES GOVERNMENT AFFIRMATIVELY DECLARES TO BE EXCLUDED FROM ITS PRESENT OR ANY FUTURE FEDERAL SANCTIONS REGIME RELATING TO SUDAN SHALL BE SUBJECT TO DIVESTMENT OR INVESTMENT PROHIBITION PURSUANT TO SUBSECTIONS (2) AND (3) OF THIS SECTION.

(5) **Excluded securities.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, SUBSECTIONS (2) AND (3) OF THIS SECTION DO NOT APPLY TO INDIRECT HOLDINGS IN ACTIVELY MANAGED INVESTMENT FUNDS. A PUBLIC FUND SHALL, HOWEVER, SUBMIT LETTERS TO THE MANAGERS OF SUCH INVESTMENT FUNDS CONTAINING COMPANIES WITH SCRUTINIZED ACTIVE BUSINESS OPERATIONS REQUESTING THAT THEY CONSIDER REMOVING SUCH COMPANIES FROM THE FUND OR CREATE A SIMILAR ACTIVELY MANAGED FUND WITH INDIRECT HOLDINGS DEVOID OF SUCH COMPANIES. IF THE MANAGER CREATES A SIMILAR FUND AND IF THE PUBLIC FUND DETERMINES INVESTMENT IN THE SIMILAR FUND IS CONSISTENT WITH PRUDENT INVESTMENT STANDARDS, THE PUBLIC FUND SHALL REPLACE ALL APPLICABLE INVESTMENTS WITH INVESTMENTS IN THE SIMILAR FUND IN AN EXPEDITED TIME. IN ADDITION, NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, FOR PASSIVELY MANAGED INDIRECT HOLDINGS, IF THE MANAGER DOES NOT REMOVE SUCH COMPANIES OR CREATE A SIMILAR FUND CONSISTENT WITH PRUDENT INVESTMENT STANDARDS BY OCTOBER 1, 2008, OR NINE MONTHS AFTER THE DATE THE PUBLIC FUND FIRST REQUESTS THE MANAGER TO ACT, WHICHEVER IS LATER, THEN THE SCRUTINIZED COMPANIES WITH ACTIVE BUSINESS OPERATIONS SHALL BE REMOVED FROM THE INDIRECT PASSIVELY MANAGED ASSETS OF THE PUBLIC FUND.

(6) **Defined contribution plans.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, PUBLIC FUNDS, WHEN DISCHARGING THEIR RESPONSIBILITY FOR OPERATION OF A DEFINED CONTRIBUTION PLAN, SHALL ENGAGE THE MANAGER OF

THE INVESTMENT OFFERINGS IN SUCH PLANS REQUESTING THAT THEY CONSIDER REMOVING SCRUTINIZED COMPANIES FROM THE INVESTMENT OFFERINGS OR CREATE AN ALTERNATIVE INVESTMENT OFFERING DEVOID OF SCRUTINIZED COMPANIES. IF THE MANAGER CREATES AN ALTERNATIVE INVESTMENT OFFERING AND THE OFFERING IS DEEMED CONSISTENT WITH PRUDENT INVESTOR STANDARDS BY THE PUBLIC FUND, THE PUBLIC FUND SHALL CONSIDER INCLUDING SUCH INVESTMENT OFFERING IN THE PLAN.

(7) **Private equity.** PUBLIC FUNDS SHALL ANNUALLY NOTIFY MANAGERS OF PRIVATE EQUITY ASSETS OF THE PUBLIC FUND THAT PUBLIC POLICY IN COLORADO IS TO AVOID PARTICIPATION IN SCRUTINIZED COMPANIES WITH ACTIVE BUSINESS OPERATIONS IN SUDAN AND REQUEST THE MANAGERS NOT UNDERTAKE ANY INVESTMENTS THAT WOULD CONSTITUTE SUCH OPERATIONS. PRIOR TO INVESTING IN A NEW PRIVATE EQUITY FUND THAT IS NOT IN THE PUBLIC FUND'S PORTFOLIO AS OF THE EFFECTIVE DATE OF THIS ARTICLE, THE PUBLIC FUND SHALL PERFORM DUE DILIGENCE TO PREVENT INVESTMENT IN ANY PRIVATE EQUITY FUND WHERE THE OFFERING MEMORANDUM OR PROSPECTUS IDENTIFIES THE PURPOSE OF THE PRIVATE EQUITY FUND AS INVESTING IN SCRUTINIZED COMPANIES WITH ACTIVE BUSINESS OPERATIONS IN SUDAN.

24-54.8-105. Reporting. (1) A PUBLIC FUND SHALL FILE A PUBLICLY AVAILABLE REPORT TO THE GENERAL ASSEMBLY AND THE OFFICE OF THE ATTORNEY GENERAL THAT INCLUDES THE SCRUTINIZED COMPANIES LIST WITHIN THIRTY DAYS AFTER THE LIST IS CREATED.

(2) ANNUALLY THEREAFTER, A PUBLIC FUND SHALL FILE A PUBLICLY AVAILABLE REPORT TO THE GENERAL ASSEMBLY AND THE OFFICE OF THE ATTORNEY GENERAL AND SEND A COPY OF THAT REPORT TO THE UNITED STATES PRESIDENTIAL SPECIAL ENVOY TO SUDAN, OR ANY SUCCESSOR THERETO, THAT INCLUDES:

(a) A SUMMARY OF CORRESPONDENCE WITH COMPANIES ENGAGED BY THE PUBLIC FUND PURSUANT TO SECTION 24-54.8-104 (1) (b) AND (1) (c);

(b) ALL INVESTMENTS SOLD, REDEEMED, DIVESTED, OR WITHDRAWN IN COMPLIANCE WITH SECTION 24-54.8-104 (2);

(c) ALL PROHIBITED INVESTMENTS UNDER SECTION 24-54.8-104 (3); AND

(d) ANY PROGRESS MADE UNDER SECTION 24-54.8-104 (5).

24-54.8-106. Provisions for repeal. (1) THIS ARTICLE IS REPEALED UPON THE OCCURRENCE OF ANY ONE OF THE FOLLOWING:

(a) THE CONGRESS OR PRESIDENT OF THE UNITED STATES DECLARES THAT THE DARFUR GENOCIDE HAS BEEN HALTED FOR AT LEAST TWELVE MONTHS;

(b) THE UNITED STATES REVOKES ALL SANCTIONS IMPOSED AGAINST THE GOVERNMENT OF SUDAN; OR

(c) THE CONGRESS OR PRESIDENT OF THE UNITED STATES, THROUGH LEGISLATION OR EXECUTIVE ORDER, DECLARES THAT MANDATORY DIVESTMENT OF THE TYPE

PROVIDED FOR IN THIS ARTICLE INTERFERES WITH THE CONDUCT OF UNITED STATES FOREIGN POLICY.

(2) THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES OF THE OCCURRENCE OF ANY OF THE ACTIONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

24-54.8-107. Other legal obligations - immunity. (1) WITH RESPECT TO ACTIONS TAKEN IN COMPLIANCE WITH THIS ARTICLE, INCLUDING ALL GOOD FAITH DETERMINATIONS REGARDING COMPANIES AS REQUIRED BY THIS ARTICLE, A PUBLIC FUND SHALL BE EXEMPT FROM ANY CONFLICTING STATUTORY OR COMMON LAW OBLIGATIONS, INCLUDING ANY SUCH OBLIGATIONS IN RESPECT TO CHOICE OF ASSET MANAGERS, INVESTMENT FUNDS, OR INVESTMENTS FOR THE PUBLIC FUND'S SECURITIES PORTFOLIOS.

(2) WITH RESPECT TO ALL ACTIONS TAKEN IN GOOD FAITH COMPLIANCE WITH THIS ARTICLE, A PUBLIC FUND, ITS BOARD OF DIRECTORS, INDIVIDUAL BOARD MEMBERS, AGENTS, TRUSTEES, OFFICERS, EMPLOYEES, CUSTODIANS, AND FIDUCIARIES SHALL BE IMMUNE FROM ANY LIABILITY.

24-54.8-108. Reinvestment in certain companies with scrutinized active business operations. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A PUBLIC FUND MAY CEASE DIVESTING FROM CERTAIN SCRUTINIZED COMPANIES PURSUANT TO SECTION 24-54.8-104 (2) OR REINVEST IN CERTAIN SCRUTINIZED COMPANIES FROM WHICH IT DIVESTED PURSUANT TO SECTION 24-54.8-104 (2) IF CLEAR AND CONVINCING EVIDENCE SHOWS THAT THE VALUE FOR ALL ASSETS UNDER MANAGEMENT BY THE PUBLIC FUND BECOMES EQUAL TO OR LESS THAN NINETY-NINE AND ONE-HALF PERCENT, OR FIFTY BASIS POINTS, OF THE HYPOTHETICAL VALUE OF ALL ASSETS UNDER MANAGEMENT BY THE PUBLIC FUND ASSUMING NO DIVESTMENT FOR ANY COMPANY HAD OCCURRED UNDER SECTION 24-54.8-104 (2). CESSATION OF DIVESTMENT, REINVESTMENT, OR ANY SUBSEQUENT ONGOING INVESTMENT AUTHORIZED BY THIS SECTION SHALL BE STRICTLY LIMITED TO THE MINIMUM STEPS NECESSARY TO AVOID THE CONTINGENCY SET FORTH IN THIS SECTION. FOR ANY CESSATION OF DIVESTMENT, REINVESTMENT, OR SUBSEQUENT ONGOING INVESTMENT AUTHORIZED BY THIS SECTION, THE PUBLIC FUND SHALL PROVIDE A WRITTEN REPORT TO THE GENERAL ASSEMBLY AND THE OFFICE OF THE ATTORNEY GENERAL IN ADVANCE OF INITIAL REINVESTMENT, UPDATED SEMI-ANNUALLY THEREAFTER AS APPLICABLE, SETTING FORTH THE REASONS AND JUSTIFICATION, SUPPORTED BY CLEAR AND CONVINCING EVIDENCE, FOR ITS DECISIONS TO CEASE DIVESTMENT, REINVEST, OR REMAIN INVESTED IN COMPANIES WITH SCRUTINIZED ACTIVE BUSINESS OPERATIONS. THIS SECTION HAS NO APPLICATION TO REINVESTMENT IN COMPANIES ON THE GROUND THAT THEY HAVE CEASED TO HAVE SCRUTINIZED ACTIVE BUSINESS OPERATIONS.

24-54.8-109. Costs - responsibility of public fund. EACH PUBLIC FUND SHALL BE RESPONSIBLE FOR BEARING THE COSTS OF COMPLYING WITH THE PROVISIONS OF THIS ARTICLE, AND THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE OR EXPEND ANY MONEYS TO ASSIST A PUBLIC FUND IN BEARING SUCH COSTS.

24-54.8-110. Enforcement. THE ATTORNEY GENERAL IS CHARGED WITH ENFORCING THE PROVISIONS OF THIS ARTICLE AND, THROUGH ANY LAWFUL DESIGNEE, MAY BRING SUCH ACTIONS IN COURT AS ARE NECESSARY TO DO SO.

24-54.8-111. Severability. IF ANY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SUB-SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, WORD, OR OTHER PROVISION OF THIS ARTICLE OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS FOUND TO BE INVALID, ILLEGAL, UNENFORCEABLE, OR UNCONSTITUTIONAL, THE PROVISION IS HEREBY DECLARED TO BE SEVERABLE AND THE REMAINDER OF THIS ARTICLE SHALL REMAIN EFFECTIVE AND FUNCTIONAL NOTWITHSTANDING THE INVALIDITY, ILLEGALITY, UNENFORCEABILITY, OR UNCONSTITUTIONALITY. THE COLORADO GENERAL ASSEMBLY HEREBY DECLARES THAT IT WOULD HAVE PASSED THIS ARTICLE, INCLUDING EACH SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SUB-SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, WORD, AND OTHER PROVISION IRRESPECTIVE OF THE FACT THAT ANY SUCH PROVISION WOULD BE DECLARED INVALID, ILLEGAL, UNENFORCEABLE, OR UNCONSTITUTIONAL, INCLUDING, BUT NOT LIMITED TO, THE ENGAGEMENT, DIVESTMENT, AND PROHIBITION PROVISIONS OF THIS ARTICLE.

SECTION 2. 24-51-201 (1), Colorado Revised Statutes, is amended to read:

24-51-201. Public employees' retirement association - creation. (1) There is hereby created the public employees' retirement association, for the purpose of providing the benefits and programs specified in this article, which shall be a body corporate with the right to sue and be sued and the right to hold property for its use and purposes. Notwithstanding the applicability of ARTICLE 54.8 OF THIS TITLE AND sections 2-3-103, 24-4-103, 24-6-202, and 24-6-402, C.R.S., as provided for in this article, the association shall not be subject to administrative direction by any department, commission, board, bureau, or agency of the state. The association is an instrumentality of the state.

SECTION 3. Accountability. Two years after this act becomes law and in accordance with section 2-2-1201, Colorado Revised Statutes, the legislative service agencies of the Colorado General Assembly shall conduct a post-enactment review of the implementation of this act utilizing the information contained in the legislative declaration set forth in section 1 of this act.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 2007