

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
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3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 488

6
7 H.P. 368

House of Representatives, February 8, 1985

8 Referred to the Committee on State Government and ordered printed.
9 Sent up for concurrence. Ordered sent forthwith.

10 EDWIN H. PERT, Clerk

Presented by Representative Baker of Portland.

11 Cosponsored by Speaker Martin of Eagle Lake, Representative Richard
of Madison and Senator Matthews of Kennebec.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Divest State Money from Businesses
18 Investing in South Africa and Namibia.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1. 5 MRSA §135, first ¶, as amended by PL
23 1983, c. 588, §1, is further amended to read:

24 The Treasurer of State may deposit the moneys,
25 including trust funds of the State, in any of the
26 banking institutions or trust companies or state or
27 federal savings and loan associations or mutual sav-
28 ings banks organized under the laws of this State or
29 in any national bank or banks or state or federal
30 savings and loan associations located therein, except
31 as provided in chapter 161. When there are excess
32 moneys in the State Treasury which are not needed to
33 meet current obligations he may, with the concurrence
34 of the State Controller or the Commissioner of Fi-
35 nance and Administration and with the consent of the
36 Governor, invest such amounts in bonds, notes, cer-

1 tificates of indebtedness or other obligations of the
2 United States of America which mature not more than
3 24 months from the date of investment or in repur-
4 chase agreements secured by obligations of the United
5 States of America which mature within the succeeding
6 24 months, prime commercial paper or banker's accept-
7 ances. The Treasurer of State may participate in the
8 securities loan market by loaning state-owned bonds,
9 notes or certificates of indebtedness of the Federal
10 Government, provided that the loans are fully collat-
11 eralized by treasury bills or cash. The Treasurer of
12 State shall seek competitive bids for investments ex-
13 cept when, after a reasonable investigation, it ap-
14 pears that an investment of the desired maturity is
15 procurable by the State from only one source. Inter-
16 est earned on such investments of moneys shall be
17 credited to the respective funds, except that inter-
18 est earned on investments of special revenue funds
19 shall be credited to the General Fund of the State.
20 Interest earned on funds of the Department of Inland
21 Fisheries and Wildlife shall be credited to that
22 fund. This section shall not prevent the deposit for
23 safekeeping or custodial care of the securities of
24 the several funds of the State in banks or safe de-
25 posit companies in this State or any other state, nor
26 the deposit of such state funds as may be required by
27 the terms of custodial contracts or agreements as may
28 be hereafter negotiated in accordance with the laws
29 of this State. All custodial contracts and agreements
30 shall be subject to the approval of the Governor.

31 Sec. 2. 5 MRSA §138, first ¶, as amended by PL
32 1979, c. 127, §20, is further amended to read:

33 The Treasurer of State, with the approval of the
34 Commissioner of Finance and Administration, the Bank
35 Superintendent and the Attorney General, shall invest
36 all permanent funds held in trust by the State in
37 such securities as are legal investments for savings
38 banks under Title 9-B, except as provided in chapter
39 161. This section shall not apply to the fund of the
40 Employees' Retirement System or the fund arising from
41 the lands reserved for public uses.

42 Sec. 3. 5 MRSA §139, first ¶, as amended by PL
43 1979, c. 127, §21, is further amended to read:

1 The Treasurer of State, with the approval of the
2 Commissioner of Finance and Administration, the Bank
3 Superintendent and the Commissioner of Educational
4 and Cultural Services, shall invest and reinvest the
5 principal of all funds derived or that may be derived
6 from the sale and lease of lands reserved for public
7 uses in accordance with the laws of the State govern-
8 ing the investment of funds of savings banks, as enu-
9 merated in Title 9-B, except as provided in chapter
10 161.

11 Sec. 4. 5 MRSA §1061, sub-§1, as amended by PL
12 1979, c. 127, §34, is amended to read:

13 1. Duties of board of trustees. The members of
14 the board of trustees shall be the trustees of the
15 several funds created by this chapter and shall be
16 authorized to cause such funds to be invested and re-
17 invested in accordance with the prudent man rule sub-
18 ject to periodic approval of the investment program
19 by the trustees , except as provided in chapter 161.

20 The board of trustees may apply any funds derived
21 from investments, including profits on the sale of
22 investments, which are considered by the board to be
23 in excess of actuarial requirements for the proper
24 funding of the reserves, to reduce or eliminate the
25 contributions required of either the member or the
26 employer, or both, to the Survivors' Benefit Fund, or
27 those contributions the member is required to make to
28 the Retirement Allowance Adjustment Fund, or a combi-
29 nation of both of these funds. The board may distrib-
30 ute such funds, by resolution, and in such manner as
31 it deems fair and equitable to both the member and
32 the employer.

33 Sec. 5. 5 MRSA c. 161 is enacted to read:

34 CHAPTER 161

35 DIVESTITURE OF STATE FUNDS

36 §1951. Republic of South Africa; Namibia

37 After July 1, 1986, no state funds, including
38 trust funds of the state and funds created pursuant
39 to chapter 101, may be:

1 1. Banks and financial institutions. Invested
2 or remain invested or be deposited or remain depos-
3 ited in any bank or financial institution which di-
4 rectly or through its subsidiaries has outstanding
5 loans or existing lines of credit to:

6 A. The Republic of South Africa or its instru-
7 mentalities; or

8 B. Namibia or its instrumentalities; or

9 2. Corporations; companies. Invested or remain
10 invested in the stocks, securities or other obliga-
11 tions of any corporation, company or subsidiary of
12 any corporation or company doing business in or with:

13 A. The Republic of South Africa or its instru-
14 mentalities; or

15 B. Namibia or its instrumentalities.

16 §1952. Review of investments

17 Prior to July 1, 1986, the Treasurer of State and
18 the Board of Trustees of the State Retirement System
19 shall review state investment policies and current
20 investments to determine those investments which are
21 in violation of section 1951.

22 STATEMENT OF FACT

23 The purpose of this bill is to divest current and
24 prohibit future investments of state funds by the
25 Treasurer of State and the State Retirement System
26 Board of Trustees in any financial institutions, com-
27 panies, corporations or subsidiaries which extend
28 credit to or do business with the Republic of South
29 Africa or Namibia, which is currently occupied by
30 South Africa. Under this bill, divestment shall be
31 completed July 1, 1986.

32 The Republic of South Africa practices a policy
33 of racial segregation, known as apartheid, which dis-
34 criminate against blacks, who comprise almost 3/4 of
35 the country's population, persons of mixed race and
36 Asian South Africans. These groups are denied South

1 African citizenship and face severe limitations on
2 the freedoms of speech and movement. Segregation ex-
3 tends to, among other areas, education, housing and
4 public facilities.

5 State divestment will bring economic pressure
6 upon those firms affected by the divestment proceed-
7 ings to demand changes in the economic, social and
8 political arenas of South Africa and Namibia. Four
9 states, Connecticut, Maryland, Massachusetts and Ne-
10 braska, and almost a dozen cities have already passed
11 some form of divestment laws regarding pension and
12 other government funds in South Africa.

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