

STATE GOVERNMENT: Lloyd Jones, Chairman; Schyngels and ...

SENATE FILE 2122
BY MANN

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to trade or direct or indirect investments in
2 South Africa by removing the exception made for companies
3 adopting, or companies which are signatories of, the Sullivan
4 principles.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

SF 2122

1 Section 1. Section 12A.2, subsection 6, Code 1987, is
2 amended to read as follows:

3 6. "Doing business in the Republic of South Africa" means
4 conducting or performing manufacturing, assembly or
5 warehousing or other operations within the Republic of South
6 Africa, ~~except that it shall not mean any company which has~~
7 ~~adopted the Sullivan principles and has obtained a performance~~
8 ~~rating in the top two categories of the Sullivan principles~~
9 ~~rating system prepared by Arthur D. Bittle, Inc., or is in~~
10 ~~categories four or five of the rating system. This definition~~
11 ~~also shall not mean any company that has been a signatory of~~
12 ~~the Sullivan principles for at least five years and has~~
13 ~~obtained a performance rating in the top two categories during~~
14 ~~four of the past five years.~~

15 Sec. 2. Section 12A.3, subsection 5, Code 1987, is amended
16 by striking the subsection.

17 EXPLANATION

18 Chapter 12A provides for divestiture of state investments
19 in South African companies and financial institutions and
20 prohibits future investments in those companies and financial
21 institutions. This bill eliminates the exception that allows
22 investment in companies that have adopted the Sullivan
23 principles or have been signatories of those principles.

24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 2122

S-5420

1 Amend Senate File 2122 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 12A.1, Code 1987, is amended
5 by adding the following new unnumbered paragraph:

6 NEW UNNUMBERED PARAGRAPH. The legislature finds
7 that the present government of the Union of Soviet
8 Socialist Republics, (the Soviet Union), through its
9 legally sanctioned policies of repression of internal
10 dissent; restrictions on free emigration and travel;
11 noncompliance with international treaties, including
12 the Geneva Accords, SALT I, and SALT II; abuse of
13 psychiatric hospitals for the imprisonment of
14 political prisoners; use of slave labor in the gulag
15 prison camps; continued hostile occupation of the
16 northern Japanese islands; unlawful occupation of the
17 independent country of Afghanistan and conduct of the
18 Afghan war against civilians; and comprehensive
19 restrictions on freedom of the press, freedom of
20 expression, and freedom of free assembly and
21 association; are violative of both the substance and
22 the intent of Iowa laws protecting individuals from
23 unjust discrimination and Iowa's guarantees of due
24 process, among other rights. Therefore, the
25 legislature intends that state funds and funds
26 administered by the state shall not be invested or
27 deposited in financial institutions or companies, or
28 their subsidiaries or affiliates, making loans to or
29 doing business with or in the Soviet Union."

30 2. Page 1, by inserting after line 14 the
31 following:

32 "Sec. ____ . Section 12A.2, subsection 8, Code 1987,
33 is amended to read as follows:

34 8. "Strategic products or services" means articles
35 designated as arms, ammunition and implements of war
36 in 22 C.F.R. §121, and data processing equipment and
37 computers sold for military or police use, or for use
38 in connection with the pass system as practiced in the
39 Republic of South Africa or the Soviet Union.

40 Sec. ____ . Section 12A.2, Code 1987, is amended by
41 adding the following new subsections:

42 NEW SUBSECTION. 9. "Union of Soviet Socialist
43 Republics" or the "Soviet Union", includes the
44 government, an agency, or an instrumentality of the
45 Soviet Union, including business entities operated by
46 the Soviet Union, and any territory under the
47 administration, legal or illegal, of the Soviet Union,
48 including the individual Socialist Republics and
49 occupied Afghanistan.

50 NEW SUBSECTION. 10. "Doing business in the Soviet

1 Union" means conducting or performing manufacturing,
2 assembling, or warehousing, or other operations within
3 the Soviet Union.

4 NEW SUBSECTION. 11. "Doing business with the
5 Soviet Union" means directly or indirectly supplying
6 strategic products or services for use by the
7 government of the Soviet Union or for use by the
8 military or civil authorities in the Soviet Union.
9 This includes, but is not limited to, transactions
10 carried out through intermediary corporations or
11 business entities operated by the Soviet Union.

12 Sec. _____. Section 12A.3, subsection 1, Code 1987,
13 is amended by adding the following new unnumbered
14 paragraph:

15 NEW UNNUMBERED PARAGRAPH. The treasurer of state
16 shall not invest or deposit funds belonging to the
17 state of Iowa in a financial institution which has
18 made a loan, after July 1, 1988, to the Soviet Union,
19 or in the stocks, securities, or other obligations of
20 such a financial institution or of any company doing
21 business in or with the Soviet Union.

22 Sec. _____. Section 12A.3, subsection 2, Code 1987,
23 is amended by adding the following new unnumbered
24 paragraph:

25 NEW UNNUMBERED PARAGRAPH. The state board of
26 regents shall not invest or deposit funds belonging to
27 the institutions under the control of the state board
28 of regents in a financial institution which has made a
29 loan, after July 1, 1988, to the Soviet Union, or in
30 the stocks, securities, or other obligations of such a
31 financial institution or of any company doing business
32 in or with the Soviet Union.

33 Sec. _____. Section 12A.3, subsection 3, Code 1987,
34 is amended by adding the following new unnumbered
35 paragraph:

36 NEW UNNUMBERED PARAGRAPH. The department of
37 personnel shall not invest or deposit funds from the
38 Iowa public employment retirement fund in a financial
39 institution which has made a loan, after July 1, 1988,
40 to the Soviet Union, or in the stocks, securities, or
41 other obligations of such a financial institution or
42 of any company doing business in or with the Soviet
43 Union."

44 3. Page 1, by inserting after line 16 the
45 following:

46 "Sec. _____. Section 12A.4, subsection 1, Code 1987,
47 is amended to read as follows:

48 1. The treasurer of state, the state board of
49 regents, and the department of personnel shall make no
50 additional investments of the type prohibited under

1 section 12A.3, with respect to the Republic of South
2 Africa, subsequent to June 30, 1985, or with respect
3 to the Soviet Union, subsequent to June 30, 1988. The
4 sale of securities and investments held by the
5 treasurer of state, the state board of regents, and
6 the department of personnel on July 1, 1985, that are
7 prohibited under section 12A.3, with respect to the
8 Republic of South Africa, shall be completed by July
9 1, 1990, and with respect to the Soviet Union, shall
10 be completed by July 1, 1993, unless prior thereto to
11 the relevant date the general assembly determines that
12 substantial and fundamental progress in establishing
13 human rights policies in the Republic of South Africa
14 or the Soviet Union has occurred, as appropriate.
15 Subject to any such action of the general assembly not
16 less than one-fifth one-fifth of the value of the
17 investments held on July 1, 1985, with respect to the
18 Republic of South Africa, shall be sold in the year
19 beginning July 1, 1988. Subject to subsequent action
20 of the general assembly not less than one-fifth of the
21 value of the investments held on July 1, 1988, with
22 respect to the Soviet Union, shall be sold in the year
23 beginning July 1, 1991.

24 Sec. ____ . Section 12A.4, subsection 2, Code 1987,
25 is amended to read as follows:

26 2. As long as funds remain in investments that
27 would be prohibited under section 12A.3, the
28 treasurer, the board of regents, and the department of
29 personnel shall:

30 a. File with the general assembly, not later than
31 January 20 of each year, a report listing all South
32 Africa-related or Soviet Union-related investments
33 administered by the treasurer, the board of regents,
34 or the department of personnel and their value as of
35 the preceding December 31.

36 b. Exercise their right to vote stock in any
37 election in order to require the company doing
38 business in or with either the Republic of South
39 Africa or the Soviet Union to divest itself of
40 investments in the Republic of South Africa or the
41 Soviet Union, as appropriate, and to cease doing
42 business in or with the Republic of South Africa and
43 the Soviet Union or to prevent the company from
44 entering into any investment or business in or with
45 either the Republic of South Africa or the Soviet
46 Union.

47 Sec. ____ . Section 12A.5, subsection 1, Code 1987,
48 is amended to read as follows:

49 1. The treasurer of state shall maintain a list of
companies that do business in or with either the

1 Republic of South Africa or the Soviet Union. The
2 list shall be developed with reference to information
3 obtained from the United States department of commerce
4 and Arthur D. Little, Inc. and other authoritative
5 sources. The treasurer shall mail written
6 notification to each company on the divestiture list.
7 Sec. _____. Section 12A.5, subsection 2, Code 1987,
8 is amended to read as follows:

9 2. A financial institution or other company
10 ineligible to receive investments or deposits may
11 establish eligibility if documentary evidence is
12 submitted to the treasurer of state. The evidence
13 must be sufficient to establish that the financial
14 institution or company has adopted a written policy
15 that prohibits the lending of its assets to or doing
16 business with either the Republic of South Africa or
17 the Soviet Union. As used in this section,
18 "documentary evidence" includes, but is not limited
19 to, an executed affidavit by an appropriate officer of
20 the financial institution or company, in a form
21 prepared by the treasurer of state, attesting to the
22 fact that the financial institution or company
23 prohibits the lending of its assets or doing business
24 with either the Republic of South Africa or the Soviet
25 Union. The treasurer of state shall attempt to verify
26 compliance by checking sources of information not
27 affiliated with the financial institution."

28 4. Title page, line 2, by inserting after the
29 word "Africa" the following: "or the Soviet Union".

30 5. Title page, line 4, by inserting after the
31 word "principles" the following: "and prohibiting the
32 treasurer of state from purchasing a security issued
33 by or depositing money in a financial institution
34 participating in loans to the Soviet Union,
35 prohibiting funds of the Iowa public employee's
36 retirement system or institutions controlled by the
37 state board of regents from being invested or
38 deposited in financial institutions or companies which
39 invest in or do business with or in the Soviet Union,
40 providing for divestiture of the investments, and
41 providing for civil penalties".

42 6. By renumbering as necessary.

SENATE FILE 2122

S-5541

1 Amend Senate File 2122 as follows:

2 1. Page 1, by inserting after line 16 the
3 following:

4 "Sec. ____ . Section 12A.4, subsection 1, Code 1987,
5 is amended to read as follows:

6 1. The treasurer of state, the state board of
7 regents, and the department of personnel shall make no
8 additional investments of the type prohibited under
9 section 12A.3 subsequent to June 30, 1985. ~~The sale~~
10 ~~of securities and investments held by the treasurer of~~
11 ~~state, the state board of regents, and the department~~
12 ~~of personnel on July 17, 1985 that are prohibited under~~
13 ~~section 12A.3 shall be completed by July 17, 1990,~~
14 ~~unless prior thereto the general assembly determines~~
15 ~~that substantial and fundamental progress in~~
16 ~~establishing human rights policies in the Republic of~~
17 ~~South Africa has occurred. Subject to any such action~~
18 ~~of the general assembly not less than one-fifth of the~~
19 ~~value of the investments held on July 17, 1985 shall be~~
20 ~~sold in the year beginning July 17, 1988. The~~
21 divestment advisory council established under
22 subsection 3 shall identify all investments prohibited
23 by this chapter, estimate the financial impact of
24 implementation of this chapter, and develop a plan for
25 bringing state investments into compliance with this
26 chapter no later than June 30, 1993. The plan for
27 compliance shall be submitted to the general assembly
28 by January 15, 1989. Unless the general assembly
29 disapproves of the plan by resolution, divestment and
30 reinvestment under the plan shall commence on July 1,
31 1989. Progress in carrying out any proposed
32 modifications of the plan shall be reported to the
33 general assembly by the divestment advisory council
34 each January, through January 1994.

35 Sec. 4. Section 12A.4, Code 1987, is amended by
36 adding the following new subsection:

37 NEW SUBSECTION. 3. A five-member divestment
38 advisory council is established. The council shall
39 serve through January 1994 and shall be composed of
40 the treasurer of state or the treasurer's designee, a
41 representative named by the state board of regents, a
42 representative named by the investment board of the
43 Iowa public employees' retirement system, and two
44 members of the public appointed by the governor. The
45 treasurer or the treasurer's designee shall serve as
46 the chairperson of the council."

S-5541
Filed March 24, 1988

BY JEAN LLOYD-JONES

STATE OF IOWA

FISCAL NOTELSB No. 8125SStaff ID. DPW

REQ. BY SENATOR LLOYD-JONES SENATE FILE 2122

In compliance with a written request received March 7, 1988, a fiscal note for SENATE FILE 2122 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2122 eliminates the exception that allows investment in companies doing business in South Africa that have adopted the Sullivan Principles or have been signatories of those principles.

ASSUMPTIONS

- A. Of the 192 U.S corporations that have exposure in South Africa, at least 19 have manufacturing or other operations within the State of Iowa. The holdings in these companies would have to be liquidated. These include:
- a. American Home Products Corp.
 - b. Bandag Inc.
 - c. Borden Inc.
 - d. Cargill Inc.
 - e. Caterpillar Tractor Co.
 - f. Champion Spark Plug Co.
 - g. Deere and Co.
 - h. Donaldson Co. Inc.
 - i. E. I. Du Pont de Memours and Co.
 - j. Fruehauf Corp.
 - k. The Goodyear Tire and Rubber Co.
 - l. Harnischfeger Corp.
 - m. Monsanto Co.
 - n. Parker Hannifin Corp.
 - o. Raytheon Co.
 - p. Tenneco Inc.
 - q. Tokheim Corp.
 - r. USC Corp.
 - s. Upjohn Co.
- B. The rate of return from this change in investment policy is estimate to range from 0.5% to 0.9% across the various portfolio holdings.
- C. Most high quality commercial paper issuers will be affected and prohibited. Also, Bankers Acceptance issuers.
- D. The bill may be interpreted to apply to cities with more than 8,000 population. If this interpretation were adopted it would also restrict their investment options and reduce their interest earnings.
- E. The retirement program for regent employees covered under TIAA-CREFF would not be required to divest as all other state administered retirement programs would be under the bill. This would cause a disparity of earnings potential among pension systems for differing groups using state monies and restrict future earning and benefits among those which were forced to divest.

FISCAL EFFECT: Investments made by the Board of Regents, IPERS, IPORS, Judicial Retirement System and the Treasurer's Office all would be impacted by