Sec. 1. Findings and purpose.

(a) The [legislative body] finds that integration of sustainability factors such as corporate governance and leadership, environmental, social, and human capital factors relating to investments is vital for evaluating risk and maximizing the performance of public funds. Public agencies and governments have a duty to recognize, evaluate, and address sustainability factors that are relevant to a risk and return analysis and may therefore affect investment performance. Even though this has long been a component of the fiduciary duty trustees and investment managers owe fund beneficiaries, it has not always been robustly implemented.

(b) The [legislative body] finds that a substantial proportion of the returns generated by diversified portfolios (which include public funds of the State of ________) are attributable to overall market performance, and that sustainability factors can contribute to not just the long-term value of individual investments, but also to the performance of overall portfolios of public funds. Public agencies and governmental units have a duty to recognize, evaluate, and address the risks that are relevant to overall market performance.

(c) It is the purpose of this Act to ensure that public funds comply with their existing fiduciary duty to prudently integrate relevant sustainability factors into their investment decision-making to fulfill their fiduciary duty to maximize long-term risk-adjusted returns to our funds and to contribute to a more just, accountable, and sustainable State of _________.

Sec. 2. Definitions. As used in this Act:

"Financial institution" means a bank, savings bank, or credit union established under the laws of the State of ___________, another state, or the United States of America.

"Governmental unit" has the same meaning as in the _____________ [or use other applicable term under state law]

"Investment decision-making" refers to investment analysis, security and fund selection, portfolio construction, due diligence, selection and retention of external investment managers, and investment stewardship activities (including proxy voting).

"Investment manager" means at least one of the following: (a) registered as an investment adviser under the federal Investment Advisers Act of 1940; (b) registered as an investment adviser under the ___________; (c) a bank, as defined under the Investment Advisers Act of 1940; or (d) an insurance company authorized to transact business in this State, in each case that has the power to manage, acquire, or dispose of any asset of a public agency, pension fund, or governmental unit.

"Investment policy" means a written investment policy adopted by a public agency or governmental unit which addresses safety of principal, liquidity of funds, investment stewardship, and return on investment and which requires that the investment portfolio be structured in such a manner as to provide sufficient liquidity to pay obligations as they come due.

"Public agency" means the State of ___________, the various counties, townships, cities, towns, villages, school districts, educational service regions, special road districts, public water supply districts, fire protection districts, drainage districts, levee districts, sewer districts, housing authorities, [state-specific entities], and all other political corporations or subdivisions of the State of ________, now or hereafter created, whether herein specifically mentioned or not.

"Public funds" means pension funds, current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to or in the custody of any public agency.

"Sustainability factors" means factors that may have a financial impact on the safety or performance of a public fund and which supplement traditional financial accounting factors.

Sec. 3. Development of sustainable investment policy.

(a) Each public agency or governmental unit shall develop, publish, and implement a sustainable investment policy applicable to the management of all public funds under its control. The sustainable investment policy may be incorporated in existing investment policies developed, published, and implemented by a public agency or governmental unit.

(b) The sustainable investment policy shall identify relevant sustainability factors that may impact the performance of individual investments and those that may impact the performance of the fund as a whole to be considered by the public agency or governmental unit as one component of its overall evaluation of investment decisions. Such factors may include factors related to: (1) corporate governance and leadership; (2) the environment; (3) social capital; and (4) human capital.

Sec. 4. Consideration of sustainability factors in investment decision-making.

(a) A public agency or governmental unit shall prudently integrate relevant sustainability factors that may impact the performance of individual investments and those that may impact the performance of the fund as a whole, identified by the agency or unit pursuant to section 3, into its investment decision-making in order to maximize long-term risk-adjusted financial returns and effectively execute its fiduciary duty.

(b) Sustainability factors may, depending on the investment or asset class, include the following:

(1) Corporate governance and leadership factors that may impact the performance of an investment or the fund as a whole, such as the independence of boards and auditors, the qualifications and diversity of corporate directors and executives, risk management and oversight practices, executive compensation structures, transparency and reporting, regulatory and legal compliance, governance and disclosure of political and lobbying expenditures, shareholder rights, and ethical conduct.

(2) Environmental factors that may impact the performance of an investment or the fund as a whole, such as greenhouse gas emissions, air quality, energy management, water and wastewater management, waste and hazardous materials management, and impacts on nature and biodiversity. Environmental factors also include any specific company environmental commitments (including the robustness of targets and their alignment with the goal of limiting global temperature rise to 1.5° C above preindustrial levels), the credibility of energy transition plans, and the quality of climate risk disclosure.

(3) Social factors that impact relationships with key stakeholders, such as customers, local communities, the public, and the government, and that may impact the performance of an investment or the fund as a whole. Social factors include human rights, customer welfare, customer privacy, data security, social impacts of technology, access to and affordability of basic needs such as healthcare and housing, selling practices and product labeling, tax practices, impact of company business and other activities on racial and gender inequality and public health, community reinvestment, incorporation of stakeholder interests into energy transition plans, and community relations.

(4) Human capital factors that recognize that the workforce is an important source of long-term value creation, and that may impact the performance of an investment or the fund as a whole, including factors such as labor practices, the use of temporary and contingent labor, responsible contractor and responsible bidder policies, employee health and safety, employee engagement, diversity and inclusion, incentives and compensation, job loss and impact on job quality

from technology adoption, and compliance with fundamental labor rights of freedom of association, collective bargaining, and the elimination of forced labor, child labor, and employment discrimination.

(c) Sustainability factors may be analyzed in a variety of ways, including but not limited to: (1) financial impacts and risks to individual investments; (2) financial impacts and risks to the fund as a whole; (3) legal, regulatory, and policy impacts and risks; and (4) consistency with industry norms, best practices, and competitive drivers.

(d) No public agency or governmental unit shall engage an investment manager to manage such agency or governmental unit's assets unless the manager discloses prior to entry into an initial investment management contract, and agrees to disclose annually thereafter, (i) how it integrates relevant sustainability factors relating to impacts on the performance of both individual investments and the fund as a whole into each type of decision identified in section 2's definition of investment decision-making and (ii) any sustainability factors included in the public agency or governmental unit's sustainable investment policy that the investment manager has not integrated into any type of investment decision in the preceding twelve months and an explanation for the investment manager's decision not to integrate each such factor. The public agency or governmental unit shall make each such report publicly available on its website no more than 30 days after receipt.

(e) Nothing in this Act prohibits a public agency or governmental unit, or any investment manager engaged to manage such agency or governmental unit's assets, from integrating additional relevant sustainability factors not listed in section 4(b) or its sustainable investment policy into its investment decision-making. This Act shall not apply to financial institution time deposits or financial institution processing services.