

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1294

By: McCall

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7 COMMITTEE SUBSTITUTE

8 An Act relating to public finance; enacting the
9 Foreign Adversary Divestment Act of 2024; stating
10 purpose; defining terms; prohibiting certain actions
11 with respect to investments; requiring certain
12 divestment; imposing duty on State Treasurer;
13 requiring identification of certain entities;
14 providing for scope of enactment; providing for
15 codification; and providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 11001 of Title 62, unless there
19 is created a duplication in numbering, reads as follows:

20 This act shall be known and may be cited as the "Foreign
21 Adversary Divestment Act of 2024."

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 11002 of Title 62, unless there
24 is created a duplication in numbering, reads as follows:

1 The Foreign Adversary Divestment Act will ensure that Oklahoma
2 public investment dollars are not put at risk in countries of
3 concern and do not fund the development of the military technologies
4 and surveillance tools of foreign adversaries that impede the
5 furthering of Oklahoma's interests and the interests of the United
6 States of America, by requiring the divestment of public pension
7 dollars and university endowment funds from countries of concern.

8 SECTION 3. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 11003 of Title 62, unless there
10 is created a duplication in numbering, reads as follows:

11 As used in this act:

12 1. "Company" shall mean any sole proprietorship, organization,
13 association, corporation, partnership, joint venture, limited
14 partnership, limited liability partnership, limited liability
15 company, or other entity or business association, including wholly
16 owned subsidiaries, majority-owned subsidiaries, parent companies,
17 or affiliates of those entities or business associations, that exist
18 for the purpose of making profit;

19 2. "Divestment" shall mean the sale or otherwise contractual
20 end of any current or planned investments;

21 3. "Domicile" shall mean either the country in which a company
22 is registered, where the company's affairs are primarily completed,
23 or where the majority of ownership share is held;

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1 4. "Foreign adversary" shall mean any country designated by the
2 United States Secretary of State as hostile or a Country of
3 Particular Concern (CPC);

4 5. "Investment" shall mean any transfer of funds in any active
5 or passive, direct or indirect structure which seeks to generate
6 revenue or accomplish any other gain, including non-monetary;

7 6. "Official government capacity" shall mean any role, elected
8 or appointed, in a government or its subsidiaries;

9 7. "State-managed fund" shall mean any short- or long-term
10 investment structure which is state-managed, state-run, state-
11 controlled, or otherwise overseen by Oklahoma, a state agency, or
12 any political subdivision within Oklahoma or agency controlled by
13 the same, in which the state or subdivision has primary discretion
14 over or vested interest in. Nothing in this definition shall be
15 construed so as to not apply to any fund which is subject to the
16 purview or direction of Oklahoma or applicable subdivision, and
17 populated, wholly or in part, with state funds, but managed by a
18 third-party entity, such as a fiduciary. This shall include, but is
19 not limited to:

20 a. public pension funds, public retirement funds, or
21 other state-sponsored funds, that is sponsored,
22 maintained, or contributed to or required to be
23 contributed to by Oklahoma or any locality within
24 Oklahoma, or any subsidiaries of such;

1 b. City, county, or other local or municipal entity
2 investment funds, "rainy day funds," or other
3 political subdivision-controlled investment
4 structures; and

5 c. University or college endowments, trusts, or other
6 structure which constitutes, wholly or in part, a
7 public institution of higher education's investable
8 assets; and

9 8. "State-owned enterprise" shall mean any company owned or
10 controlled, in whole or in part, by a government or by individuals
11 acting in official government capacities in any form.

12 SECTION 4. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 11004 of Title 62, unless there
14 is created a duplication in numbering, reads as follows:

15 A. All state and local managed funds are prohibited from
16 holding investments in any foreign adversary, state-owned enterprise
17 of a foreign adversary, company domiciled within a foreign
18 adversary, or company owned or controlled by a foreign adversary,
19 state-owned enterprise of a foreign adversary, company domiciled
20 within a foreign adversary, or other entity within a foreign
21 adversary.

22 B. All state and local managed funds are prohibited from
23 investing or depositing public funds in any bank that is domiciled
24 or has its principal place of business in a foreign adversary.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 11005 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. All state-managed funds are required to immediately in good
5 faith begin divestment of any holdings prohibited in this act, with
6 total divestment achieved by January 1, 2027, or two (2) years after
7 enactment of this act, whichever is earliest.

8 B. For purposes of this section, "total divestment" shall mean
9 reducing the value of prohibited investments to no more than five-
10 hundredths of one percent (0.0005) of the market value of all assets
11 under management by a state or locally managed fund.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 11006 of Title 62, unless there
14 is created a duplication in numbering, reads as follows:

15 A. No later than six (6) months after the effective date of
16 this act, the State Treasurer shall identify all companies that are
17 state-owned enterprises of, are domiciled within, whose primary
18 affairs are conducted within, or whose majority ownership is held
19 within a foreign adversary, and include those companies in a list of
20 restricted companies to be distributed to each state or locally-
21 managed fund. These efforts shall include, but are not limited to
22 the following:

23 a. reviewing and relying on publicly available
24 information regarding companies that are state-owned

1 enterprises of, are domiciled within, whose primary
2 affairs are conducted within, or whose majority
3 ownership share is held within a foreign adversary,
4 including information provided by non-profit
5 organizations, research firms, and government
6 entities;

7 b. contacting asset managers and fund managers contracted
8 by a state-managed fund that invest in companies and
9 in funds that are state-owned enterprises of, are
10 domiciled within, whose primary affairs are conducted
11 within, or whose majority or plurality ownership share
12 is held within a foreign adversary;

13 c. contacting other institutional investors that have
14 divested from or engaged with companies that are
15 state-owned enterprises of, are domiciled within,
16 whose primary affairs are conducted within, or whose
17 majority ownership share is held within a foreign
18 adversary; and

19 d. retaining an independent research firm to identify
20 companies that are directly or indirectly investment
21 holdings of a state or local fund that are state-owned
22 enterprises of, are domiciled within, whose primary
23 affairs are conducted within, or whose majority or
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1 plurality ownership share is held within a foreign
2 adversary.

3 SECTION 7. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 11007 of Title 62, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Nothing in this act shall be construed so as to inhibit,
7 conflict, impede, or otherwise interfere with any required financial
8 safeguards, fiduciary requirements, and other sound investment
9 criteria which any state-managed fund is subject to, nor any
10 applicable state or federal law.

11 SECTION 8. This act shall become effective November 1, 2024.

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