

HOUSE BILL No. 2739

By Committee on Financial Institutions and Pensions

Requested by Representative Hoheisel

2-7

1 AN ACT concerning state moneys; relating to state-managed funds and
2 state contracts; enacting the countries of concern divestment and
3 procurement protection act; requiring divestment from investments
4 with countries of concern and providing exceptions therefor;
5 prohibiting investments, deposits or contracts with any bank or
6 company domiciled or with a principal place of business in a country of
7 concern; indemnifying state-managed funds with respect to actions
8 taken in compliance with such act; providing an expiration date for
9 such act.

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11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. The provisions of sections 1 through 8, and amendments
13 thereto, shall be known and may be cited as the countries of concern
14 divestment and procurement protection act.

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Sec. 2. As used in this act:

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(a) "Act" means the countries of concern divestment and procurement
17 protection act.

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(b) "Company" means any:

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(1) For-profit corporation, partnership, limited partnership, limited
20 liability partnership, limited liability company, joint venture, trust,
21 association, sole proprietorship or other organization, including any:

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(A) Subsidiary of such company, a majority ownership interest of
23 which is held by such company;

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(B) parent company that holds a majority ownership of such
25 company; and

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(C) other affiliate or business association of such company whose
27 primary purpose is to make a profit; or

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(2) nonprofit organization.

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(c) (1) "Country of concern" means the following:

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(A) People's republic of China, including the Hong Kong special
31 administrative region;

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(B) republic of Cuba;

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(C) islamic republic of Iran;

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(D) democratic people's republic of Korea;

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(E) Russian federation; and

- 1 (F) Bolivarian republic of Venezuela.
- 2 (2) "Country of concern" does not include the republic of China
- 3 (Taiwan).
- 4 (d) "Domicile" means the country where:
- 5 (1) A company is organized;
- 6 (2) a company completes a substantial portion of its business; or
- 7 (3) a majority of a company's ownership interest is held.
- 8 (e) "Person" means an individual.
- 9 (f) "Person owned or controlled by or subject to the jurisdiction or
- 10 direction of a country of concern" means any:
- 11 (1) Person, wherever located, who is a citizen of a nation-state
- 12 controlled by a country of concern, unless such person is a lawful
- 13 permanent resident of the United States; or
- 14 (2) corporation, partnership, association or other organization
- 15 organized under the laws of a nation-state controlled by a country of
- 16 concern.
- 17 (g) "State agency" means any department, authority, bureau, division,
- 18 office or other governmental agency of this state.
- 19 (h) "State-managed fund" means:
- 20 (1) The Kansas public employees retirement fund managed by the
- 21 board of trustees of the Kansas public employees retirement system in
- 22 accordance with K.S.A. 74-4921, and amendments thereto;
- 23 (2) the pooled money investment portfolio managed by the pooled
- 24 money investment board in accordance with article 42 of chapter 75 of the
- 25 Kansas Statutes Annotated, and amendments thereto; and
- 26 (3) any other fund that is sponsored or managed by a state agency.
- 27 Sec. 3. (a) (1) Except as provided in paragraph (2), a state-managed
- 28 fund shall sell, redeem, divest or withdraw all publicly traded securities of
- 29 any country of concern or person owned or controlled by or subject to the
- 30 jurisdiction or direction of a country of concern in accordance with the
- 31 following schedule:
- 32 (A) At least 50% of such assets shall be removed from the state-
- 33 managed fund's assets under management not later than July 1, 2025, or
- 34 one year from the date section 2, and amendments thereto, is amended to
- 35 include such country of concern if amended after July 1, 2024, unless the
- 36 state-managed fund determines that a later date is more prudent based on a
- 37 good faith exercise of the state-managed fund's fiduciary discretion and
- 38 subject to subparagraph (B); and
- 39 (B) 100% of such assets shall be removed from the state-managed
- 40 fund's assets under management not later than January 1, 2026, or one year
- 41 from the date section 2, and amendments thereto, is amended to include
- 42 such country of concern if amended after July 1, 2024.
- 43 (2) If a country of concern takes action to prohibit or restrict the

1 selling, redeeming, divesting or withdrawing of publicly traded securities
2 of any country of concern or person owned or controlled by or subject to
3 the jurisdiction or direction of a country of concern beyond the scheduled
4 removal dates provided in paragraph (1), the state-managed fund shall
5 remove 100% of such assets from the state-managed fund's assets not later
6 than one year from the date that such action is ended by such country of
7 concern.

8 (b) A state-managed fund shall not knowingly acquire securities of
9 any country of concern or person owned or controlled by or subject to the
10 jurisdiction or direction of a country of concern.

11 (c) A state-managed fund shall not invest or make a deposit in any
12 bank that is domiciled or has such bank's principal place of business in a
13 country of concern.

14 Sec. 4. (a) The state-managed fund shall divest from any indirect
15 holdings in actively or passively managed investment funds containing
16 publicly traded securities of any country of concern or person owned or
17 controlled by or subject to the jurisdiction or direction of a country of
18 concern. The state-managed fund may submit letters to the managers of
19 each investment fund containing publicly traded securities of any country
20 of concern or person owned or controlled by or subject to the jurisdiction
21 or direction of a country of concern requesting that they remove such
22 publicly traded securities from the fund or create a similar actively or
23 passively managed fund with indirect holdings devoid of such publicly
24 traded securities. If a manager creates a similar fund with substantially the
25 same management fees and substantially the same level of investment risk
26 and anticipated return, the state-managed fund may replace all applicable
27 investments with investments in the similar fund in a time frame consistent
28 with prudent fiduciary standards but not later than the 450th day after the
29 date the fund is created. If a manager does not create such similar fund, the
30 state-managed fund shall divest from such indirect holdings in actively or
31 passively managed investment funds.

32 (b) (1) The provisions of this act shall not apply to any real estate or
33 private equity investment commitment made by a state-managed fund
34 prior to July 1, 2024, or to a real estate or private equity investment
35 commitment made by a state-managed fund prior to the date that section 2,
36 and amendments thereto, is amended to include a country of concern, if
37 amended after July 1, 2024.

38 (2) On and after July 1, 2024, a state-managed fund shall not make
39 any new real estate or private equity investment commitment in companies
40 affiliated with a country of concern.

41 Sec. 5. Not later than the first day of the regular session of the
42 legislature, each year, each state-managed fund shall file a report with the
43 legislature and the Kansas public employees retirement system shall also

1 file such report with the joint committee on pensions, investments and
2 benefits that:

3 (a) Identifies all securities sold, redeemed, divested or withdrawn in
4 compliance with section 3(a), and amendments thereto;

5 (b) identifies amendments to section 2, and amendments thereto, that
6 add or remove a country of concern after the later of July 1, 2024, or the
7 last date such information was reported under this section; and

8 (c) summarizes any changes made under section 4, and amendments
9 thereto.

10 Sec. 6. (a) No state agency shall enter into a contract or agreement to
11 procure goods or services from a company domiciled or with a principal
12 place of business in a country of concern.

13 (b) The provisions of this section shall not apply to any contract or
14 agreement entered into prior to July 1, 2024.

15 Sec. 7. In a cause of action based on an action, inaction, decision,
16 divestment, investment, report or other determination made or taken in
17 compliance with this act, without regard to whether the person performed
18 services for compensation, the state shall indemnify and hold harmless for
19 actual damages, court costs and attorney fees adjudged against members of
20 a state-managed fund or any other officers of such state-managed fund
21 related to the act or omission on which the damages are based and defend
22 the state-managed fund and any of such state-managed fund's current and
23 former employees.

24 Sec. 8. (a) The provisions of this act shall expire on July 1, 2029.

25 (b) On or after July 1, 2028, but before July 15, 2028, the Kansas
26 public employees retirement system shall notify the speaker of the house
27 of representatives, the president of the senate and the chairperson of the
28 joint committee on pensions, investments and benefits that this act is
29 scheduled to expire on July 1, 2029.

30 Sec. 9. This act shall take effect and be in force from and after its
31 publication in the statute book.