

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

HOUSE BILL 1561

By: Duel

AS INTRODUCED

An Act relating to public finance; enacting the Foreign Adversary Divestment Act of 2025; making findings; defining terms; prohibiting certain entities from owning certain investments; prescribing procedures for divestment; prescribing duties for the State Treasurer; providing for construction of act; providing immunity from certain liability for specific pension systems; providing for affirmative defense; providing for codification; and providing an effective date.

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

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

This act shall be known and may be cited as the "Foreign Adversary Divestment Act of 2025".

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

The Foreign Adversary Divestment Act will ensure that Oklahoma public investment dollars are not put at risk in countries of

concern and do not fund the development of the military technologies and surveillance tools of foreign adversaries that impede the furthering of Oklahoma's interests and the interests of the United States of America, by requiring the divestment of public pension dollars and university endowment funds from countries of concern.

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

As used in this act:

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

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

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

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

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

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

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

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

b. city, county, or other local or municipal entity investment funds, "rainy day funds", or other

political-subdivision-controlled investment

structures, and

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

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

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

A. All state and local managed funds are prohibited from holding investments in any:

1. Foreign adversary;
2. State-owned enterprise of a foreign adversary;
3. Company domiciled within a foreign adversary;
4. Company owned or controlled by a foreign adversary;
5. State-owned enterprise of a foreign adversary;
6. Company domiciled within a foreign adversary; or
7. Other entity within a foreign adversary.

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

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

A. All state-managed funds are required to immediately in good faith begin divestment of any holdings prohibited in this act, with total divestment achieved by January 1, 2028, or two (2) years after the effective date of this act, whichever is earliest.

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

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

A. The State Treasurer shall develop a notification system to be able to identify foreign adversaries and countries of particular concern. Such information shall be available to the entities subject to the provisions of this act.

B. No later than six (6) months after the effective date of this act, the entities subject to the provisions of this act shall identify all companies that are state-owned enterprises of, are domiciled within, whose primary affairs are conducted within, or whose majority ownership is held within a foreign adversary, and companies owned or controlled by a foreign adversary. The

identification process shall include, but are not limited to the following:

1. Reviewing and relying on publicly available information regarding companies that are state-owned enterprises of, are domiciled within, whose primary affairs are conducted within, or whose majority ownership share is held within a foreign adversary, including information provided by nonprofit organizations, research firms, and government entities;

2. Contacting asset managers and fund managers contracted by a state-managed fund that invest in companies and in funds that are state-owned enterprises of, are domiciled within, whose primary affairs are conducted within, or whose majority or plurality ownership share is held within a foreign adversary;

3. Contacting other institutional investors that have divested from or engaged with companies that are state-owned enterprises of, are domiciled within, whose primary affairs are conducted within, or whose majority ownership share is held within a foreign adversary; and

4. Retaining an independent research firm to identify companies that are directly or indirectly investment holdings of a state or local fund that are state-owned enterprises of, are domiciled within, whose primary affairs are conducted within, or whose majority or plurality ownership share is held within a foreign adversary.

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

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

SECTION 8.        NEW LAW        A new section of law to be codified in the Oklahoma Statutes as Section 11008 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, "public pension system" means the:

1. Oklahoma Firefighters Pension and Retirement System;
2. Oklahoma Police Pension and Retirement System;
3. Uniform Retirement System for Justices and Judges;
4. Oklahoma Law Enforcement Retirement System;
5. Teachers' Retirement System of Oklahoma; and
6. Oklahoma Public Employees Retirement System.

B. No public pension system shall be liable in any action for damages based upon the loss or alleged loss of value in pension system assets based upon the provisions of this act. The provisions of this subsection shall also be applicable to any action filed naming the governing board of a public pension system, one or more

members of the governing board of a public pension system, or any of its employees as defendants.

C. In any action filed naming a public pension system or any other person described in subsection B of this section as defendants, it shall be a defense to the action that the value of pension system assets increased at any time after the date of the alleged decrease in the value of pension system assets resulting from failure to comply with the provisions of this act. The provisions of this subsection shall be applicable with regard to an increase in the value of pension system assets occurring at any time after such date including the date as of which the action is filed. For purposes of this section, any increase in the value of pension system assets occurring during the pendency of an appeal from a final judgment or other order establishing liability for damages may also be used in defense of the claim for damages and the time period shall be inclusive of any period during which a case is remanded from an appellate court to a district court.

SECTION 9. This act shall become effective November 1, 2025.

60-1-12194          MAH          01/15/25