



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3494

Introduced 2/9/2024, by Sen. Jason Plummer

SYNOPSIS AS INTRODUCED:

New Act

Creates the Foreign Adversary Divestment Act. Defines "foreign adversary" as the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, or any other entity deemed to be a foreign adversary by the Governor in consultation with the Director of the Illinois Emergency Management Agency and Office of Homeland Security. Provides that all State-managed funds and local-managed funds are prohibited from holding investments in any foreign adversary, State-owned enterprise of a foreign adversary, company domiciled within a foreign adversary, or company owned or controlled by a foreign adversary, State-owned enterprise of a foreign adversary, company domiciled within a foreign adversary, or other entity within a foreign adversary. Provides that all State-managed funds and local-managed funds are prohibited from investing or depositing public funds into any bank that is domiciled or has its principal place of business in a foreign adversary. Requires all State-managed funds to immediately in good faith begin divestment of prohibited holdings under the Act. Provides that total divestment must be achieved by January 1, 2026, or 2 years after the effective date of the Act, whichever is earlier. Requires the Illinois State Board of Investment to identify companies subject to the Act and to include those companies in a list of restricted companies to be distributed to each State-managed fund and local-managed fund. Makes other changes. Contains a severability provision.

LRB103 39064 MXP 69201 b

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Foreign Adversary Divestment Act.

6 Section 5. Purpose. The purpose of this Act is to ensure
7 that Illinois public investment moneys are not put at risk in
8 countries of concern and do not fund the development of the
9 military technologies and surveillance tools of foreign
10 adversaries that impede the furthering of Illinois' interests
11 and the interests of the United States of America, by
12 requiring the divestment of public pension moneys, university
13 endowment funds, and other funds from foreign adversaries.

14 Section 10. Definitions. In this Act:

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

22 "Divestment" means the sale or otherwise contractual end

1 of any current or planned investments.

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

5 "Foreign adversary" means the People's Republic of China,
6 the Russian Federation, the Islamic Republic of Iran, the
7 Democratic People's Republic of Korea, the Republic of Cuba,
8 the Venezuelan regime of Nicolas Maduro, or the Syrian Arab
9 Republic, or any other entity deemed to be a foreign adversary
10 by the Governor in consultation with the Director of the
11 Illinois Emergency Management Agency and Office of Homeland
12 Security.

13 "Investment" means any transfer of funds in any active or
14 passive, direct or indirect structure that seeks to generate
15 revenue or accomplish any other gain, including nonmonetary
16 gain.

17 "Official government capacity" means any role, elected or
18 appointed, in a government or its subsidiaries.

19 "State-managed fund" means any short-term or long-term
20 investment structure that is State-managed, State-run,
21 State-controlled, or otherwise overseen by the State, a State
22 agency, or any political subdivision within the State or
23 agency controlled by the same, in which the State or
24 subdivision has primary discretion over or vested interest in.
25 Nothing in this definition shall be construed to not apply to
26 any fund that is subject to the purview or direction of the

1 State or applicable subdivision, and populated, wholly or in
2 part, with State funds, but managed by a third-party entity,
3 such as a fiduciary. This includes, but is not limited to:

4 (1) public pension funds, public retirement systems,
5 or other State-sponsored funds that are sponsored,
6 maintained, or contributed to or required to be
7 contributed to by the State or any unit of local
8 government within the State, or any subsidiaries thereof;

9 (2) municipal, county, or other unit of local
10 government or municipal entity investment funds, rainy day
11 funds, or other political subdivision-controlled
12 investment structures; and

13 (3) university or college endowments, trusts, or other
14 structures that constitute, in whole or in part, a public
15 institution of higher education's investable assets.

16 "State-owned enterprise" means any company owned or
17 controlled, in whole or in part, by a government or by
18 individuals acting in official government capacities in any
19 form.

20 Section 15. Prohibition on investments.

21 (a) All State-managed funds and local-managed funds are
22 prohibited from holding investments in any foreign adversary,
23 State-owned enterprise of a foreign adversary, company
24 domiciled within a foreign adversary, or company owned or
25 controlled by a foreign adversary, State-owned enterprise of a

1 foreign adversary, company domiciled within a foreign
2 adversary, or other entity within a foreign adversary.

3 (b) All State-managed and local-managed funds are
4 prohibited from investing or depositing public funds into any
5 bank that is domiciled or has its principal place of business
6 in a foreign adversary.

7 Section 20. Requirement of divestment.

8 (a) All State-managed funds are required to immediately in
9 good faith begin divestment of any holdings prohibited under
10 subsection (a) of Section 15. Total divestment must be
11 achieved by January 1, 2026, or 2 years after effective date of
12 this Act, whichever is earlier.

13 (b) For purposes of this Section, "total divestment" means
14 reducing the value of prohibited investments to no more than
15 0.05% of the market value of all assets under management by a
16 State-managed fund or local-managed fund.

17 Section 25. State investment audit.

18 (a) No later than 6 months after the effective date of this
19 Act, the Illinois State Board of Investment shall identify all
20 companies that are State-owned enterprises of, are domiciled
21 within, whose primary affairs are conducted within, or whose
22 majority ownership is held within a foreign adversary, and
23 include those companies in a list of restricted companies to
24 be distributed to each State-managed fund or local-managed

1 fund. These efforts include, but are not limited to, the
2 following:

3 (1) reviewing and relying on publicly available
4 information regarding companies that are State-owned
5 enterprises of, are domiciled within, whose primary
6 affairs are conducted within, or whose majority ownership
7 share is held within a foreign adversary, including
8 information provided by non-profit organizations, research
9 firms, and government entities;

10 (2) contacting asset managers and fund managers
11 contracted by a State-managed fund that invest in
12 companies and in funds that are State-owned enterprises
13 of, are domiciled within, whose primary affairs are
14 conducted within, or whose majority or plurality ownership
15 share is held within a foreign adversary;

16 (3) contacting other institutional investors that have
17 divested from or engaged with companies that are
18 State-owned enterprises of, are domiciled within, whose
19 primary affairs are conducted within, or whose majority
20 ownership share is held within a foreign adversary; and

21 (4) retaining an independent research firm to identify
22 companies that are directly or indirectly investment
23 holdings of a State-managed fund or local-managed fund
24 that are State-owned enterprises of, are domiciled within,
25 whose primary affairs are conducted within, or whose
26 majority or plurality ownership share is held within a

1 foreign adversary.

2 Section 30. Investment responsibility. Nothing in this Act
3 shall be construed to inhibit, conflict, impede, or otherwise
4 interfere with any applicable State or federal law or required
5 financial safeguards, fiduciary requirements, and other sound
6 investment criteria that any State-managed fund is subject to,
7 unless abiding by those safeguards, requirements, or criteria
8 would result in a State-managed fund or local-managed fund
9 investing in a foreign adversary in violation of this Act.

10 Section 97. Severability. The provisions of this Act are
11 severable under Section 1.31 of the Statute on Statutes.