

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Bill No. 147, Page 4, Section 86.200, Line 118, by inserting after all of said section
2 and line the following:

3
4 "105.693. 1. As used in this section, the following terms mean:

5 (1) "Board", the governing board or decision-making body of a system that is authorized by
6 law to administer the system;

7 (2) "Control":

8 (a) The same meaning as such term is defined in the Investment Company Act of 1940, 15
9 U.S.C. Section 80a-2(a); or

10 (b) Involvement in an entity's governance structure, monitoring, or internal human resources
11 decisions consistent with the objectives set out in the Opinion on Strengthening the United Front
12 Work of the Private Economy in the New Era issued by the General Office of the Central Committee
13 of the Chinese Communist Party (2020) or a successor or similar document;

14 (3) "Divest", a sale, redemption, replacement, or any other activity that terminates an
15 investment;

16 (4) "Fund", the retirement benefit fund of a system;

17 (5) "Investment", any investment, as such term is defined in section 105.687, that the board
18 or system is authorized to make;

19 (6) "Person", an individual or entity;

20 (7) "Restricted entity", the following, including wholly-owned subsidiaries, majority-owned
21 subsidiaries, parent companies, and affiliates that exist for profit-making purposes:

22 (a) Any person, other than a U.S. person, as the term "U.S. person" is defined in 15 CFR
23 772.1, that is identified for the People's Republic of China on the Entity List, Supplement No. 4 to
24 15 CFR 744, as a person reasonably believed to be involved, or to pose a significant risk of being or
25 becoming involved, in activities contrary to the national security or foreign policy interests of the
26 United States until the End-User Review Committee of the Bureau of Industry and Security in the
27 United States Department of Commerce determines that the person no longer meets that criteria and
28 removes the person from the list;

29 (b) Any person that:

Action Taken _____ Date _____

1 a. The United States Secretary of Defense has listed as a Communist Chinese military
 2 company operating directly or indirectly in the United States or in any of its territories or
 3 possessions under Section 1237 of the Strom Thurmond National Defense Authorization Act of
 4 Fiscal Year 1999, P.L. 105-261, as amended by Section 1233 of P.L. 106-398 and Section 1222 of
 5 P.L. 108-375, 50 U.S.C. Section 1701 note, until such time as the United States Secretary of Defense
 6 removes the person from such list;

7 b. The United States Secretary of Defense, in consultation with the United States Secretary
 8 of the Treasury, determines is a Communist Chinese military company operating directly or
 9 indirectly in the United States or in any of its territories or possessions and therefore lists as such
 10 under Section 1237 of the Strom Thurmond National Defense Authorization Act of Fiscal Year
 11 1999, P.L. 105-261, as amended by Section 1233 of P.L. 106-398 and Section 1222 of P.L. 108-375,
 12 50 U.S.C. Section 1701 note, until such time as the United States Secretary of Defense removes the
 13 person from such list; or

14 c. The United States Secretary of the Treasury publicly lists as meeting the criteria in
 15 Section 1237(b)(4)(B) of the Strom Thurmond National Defense Authorization Act of Fiscal Year
 16 1999, P.L. 105-261, as amended by Section 1222 of P.L. 108-375, 50 U.S.C. Section 1701 note, or
 17 publicly lists as a subsidiary of a person already determined to be a Communist Chinese military
 18 company, until the United States Secretary of the Treasury determines that the person no longer
 19 meets that criteria and removes the person from such list;

20 (c) Any organization or citizen that is identified by the appropriate government agencies to
 21 be required by the National Intelligence Law of the People's Republic of China (2017), as amended
 22 in 2018, or any successor to support, assist, and cooperate with the state intelligence work of the
 23 People's Republic of China and keep the secrets of the national intelligence work of the People's
 24 Republic of China; or

25 (d) Any person that is listed on the Specially Designated Nationals and Blocked Persons
 26 List published by the Office of Foreign Assets Control of United States Department of the Treasury;

27 (8) "Restricted investment product", an investment product that:

28 (a) Is managed by one or more persons:

29 a. That are not employed by the system; and

30 b. In which the system on behalf of the fund owns investments together with investors other
 31 than the system; and

32 (b) Holds investments in a restricted entity;

33 (9) "System", any state or local public retirement system or plan established by the state or
 34 any political subdivision or instrumentality of the state for the purpose of providing plan benefits for
 35 elected or appointed public officials or employees of the state or any political subdivision or
 36 instrumentality of the state.

37 2. After August 28, 2025, a system shall not knowingly invest in a restricted entity or a
 38 restricted investment product and shall divest any investment that the system has on behalf of a fund
 39 in accordance with this section.

1 3. Before December 1, 2025, and at least annually on or before December first of each
2 subsequent year, the board shall make a good faith effort to identify all restricted entities and
3 restricted investment products in which the system holds an investment. The board may use an
4 independent research firm to assist the board.

5 4. (1) If the board determines after a review under subsection 3 of this section that the
6 system has investments in a restricted entity or a restricted investment product, the board shall
7 establish a plan to divest the investment and complete the divestment as soon as financially prudent.
8 Except as provided in subdivision (2) of this subsection, the investment shall be divested no later
9 than August 28, 2026.

10 (2) The investment may be divested after August 28, 2026, but shall be divested no later
11 than August 28, 2028, if the board finds that the following conditions exist:

12 (a) The divestment of the investment by August 28, 2026, would result in the system
13 incurring aggregate transaction costs in excess of five hundred thousand dollars;

14 (b) The selling of global public equity interests would result in a loss on secondary markets;
15 or

16 (c) The divestment of the investment by August 28, 2026, would otherwise fail to comply
17 with federal or state law or other legal obligations.

18 5. Prior to divesting any commingled fund required by this section in which the divestment
19 would result in a realized loss, the staff of the system shall notify the board and if, within two
20 business days, a majority of the trustees of the board object, no further action shall be taken until a
21 special or regular meeting of the board.

22 6. The board shall determine whether to cease or defer divestment in the entity or product
23 initiated under this section and resume investment in the entity or product during any period in
24 which the entity or product has not returned to being a restricted entity or restricted investment
25 product if any of the following conditions are met:

26 (1) The entity or product meets or exceeds the rules and standards of the Public Company
27 Accounting Oversight Board and the Sarbanes-Oxley Act of 2002, P.L. 107-204, 116 Stat. 745; or

28 (2) The board determines that a fund has holdings in a passively managed commingled fund
29 that includes a restricted entity and the estimated cost of divestment of the commingled fund is
30 greater than ten percent of the total value of the restricted entities held in the commingled fund.

31 7. (1) On or before December 31, 2025, and annually on or before December thirty-first of
32 each subsequent year, the board shall submit a report to the general assembly.

33 (2) The report shall include at least the following information, as of the date of the report:

34 (a) A copy of the restricted entity list;

35 (b) All publicly traded securities sold, redeemed, divested, or withdrawn in compliance with
36 this section;

37 (c) All commingled funds that are exempted from divestment under subsection 5 or 6 of this
38 section; and

39 (d) Any progress made under subsection 6 of this section.

1 8. With respect to actions taken in compliance with this section, including all good faith
2 determinations regarding restricted entities and restricted investment products, the board and the
3 system are exempt from any conflicting statutory or common law obligations, including any
4 obligations with respect to choice of asset managers, investment fiduciaries, investment funds, or
5 investments for fund investment portfolios.

6 9. The state and any political subdivision of the state; its officers, agents, and employees;
7 and the board and employees of a system shall be immune from civil liability for any act or
8 omission related to the removal of an asset from a fund under this section and are entitled to
9 indemnification from the system for all losses, costs, and expenses, including reasonable attorney's
10 fees, associated with defending against any claim or suit relating to an act authorized under section.

11 10. (1) Notwithstanding any provision of law to the contrary, the provisions of this section
12 do not apply to investments in private market funds.

13 (2) Notwithstanding any provision of law to the contrary, the provisions of this section do
14 not apply to indirect holdings in actively managed investment funds.

15 (3) If a manager or investment fiduciary creates a similar actively managed investment fund
16 without the restricted entities, the board shall replace all applicable investments with the
17 investments in the similar actively managed investment fund within a period consistent with prudent
18 investing standards."; and

19
20 Further amend said bill by amending the title, enacting clause, and intersectional references
21 accordingly.