



Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	1

MR. SPEAKER:

*Your Committee on Government and Regulatory Reform, to which was referred House Bill 1387, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 2, delete lines 3 through 42, begin a new paragraph and insert:
- 2 "SECTION 2. IC 5-10.2-13 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]:
- 5 **Chapter 13. Divestment of Investments in Chinese Companies**
- 6 **Sec. 1. As used in this chapter, "board" refers to the board of**
- 7 **trustees of the Indiana public retirement system established by**
- 8 **IC 5-10.5-3-1.**
- 9 **Sec. 2. As used in this chapter, "divest" means a sale,**
- 10 **redemption, replacement, or any other activity that terminates the**
- 11 **investment.**
- 12 **Sec. 3. As used in this chapter, "fund" refers to any public**
- 13 **pension and retirement funds of the system (as defined in**

1 **IC 5-10.5-1-5).**

2 **Sec. 4. As used in this chapter, "investment" refers to any**
3 **investment that the board or system is authorized to make under**
4 **IC 5-10.5-5 or another law.**

5 **Sec. 5. As used in this chapter, "person" means an individual or**
6 **entity.**

7 **Sec. 6. As used in this chapter, "prohibited investment" refers**
8 **to an investment product that:**

9 **(1) is managed by one (1) or more persons:**

10 **(A) that are not employed by the system; and**

11 **(B) in which the system on behalf of the fund owns**
12 **investments together with investors other than the system;**
13 **and**

14 **(2) holds investments in a restricted entity.**

15 **Sec. 7. As used in this chapter, "restricted entity" refers to any**
16 **business concern or entity:**

17 **(1) for which an entity created in or organized under the laws**
18 **of the People's Republic of China or the Special**
19 **Administrative Region of Hong Kong, or that has significant**
20 **operations in the People's Republic of China or the Special**
21 **Administrative Region of Hong Kong, owns or holds, directly**
22 **or indirectly, not less than twenty percent (20%) of the**
23 **economic interest of the business concern or entity, including**
24 **as equity shares or a capital or profit interest in a limited**
25 **liability company or partnership; or**

26 **(2) that retains, as a member of the board of directors of the**
27 **business concern, a person who is a resident of the People's**
28 **Republic of China.**

29 **Sec. 8. As used in this chapter, "system" has the meaning set**
30 **forth in IC 5-10.5-1-6.**

31 **Sec. 9. After June 30, 2021, the system may not knowingly invest**
32 **in a proinvestment product and shall divest any investment that the**
33 **system has on behalf of a fund in accordance with this chapter.**
34 **Determinations under this chapter are independent of any**
35 **determinations made under IC 5-10.2-9, IC 5-10.2-10, and**
36 **IC 5-10.2-11.**

37 **Sec. 10. Before June 30, 2021, and at least annually before July**
38 **1 of each subsequent year, the board shall make a good faith effort**

1 to identify all restricted entities and prohibited investments in
2 which the system holds an investment. The board may use an
3 independent research firm to assist the board.

4 **Sec. 11.** If the board determines after a review under section 10
5 of this chapter that the system has investments in a restricted
6 entity or a prohibited investment, the board shall establish a plan
7 to divest the investment and complete the divestment as soon as
8 financially prudent. However, the investment must be divested not
9 later than the following:

10 (1) At least fifty percent (50%) of the investment shall be
11 removed from a fund's assets within three (3) years after the
12 board discovers that the investment is in a restricted entity or
13 prohibited investment.

14 (2) At least seventy-five percent (75%) of the investment shall
15 be removed from a fund's assets within four (4) years after
16 the board discovers that the investment is in a restricted
17 entity or prohibited investment.

18 (3) One hundred percent (100%) of the investment shall be
19 removed from a fund's assets within five (5) years after the
20 board discovers that the investment is in a restricted entity or
21 prohibited investment.

22 **Sec. 12.** The board, in consultation with the interim study
23 committee on pension management oversight, may cease
24 divestment in the entity or product initiated under this chapter and
25 resume investment in the entity or product during any period in
26 which the entity or product has not returned to being a restricted
27 entity or prohibited investment if all of the following conditions are
28 met:

29 (1) The United States Secretary of State has issued a
30 determination that the People's Republic of China is in
31 compliance with each of the following:

32 (A) The December 19, 1984, Joint Declaration of the
33 Government of the United Kingdom of Great Britain and
34 Northern Ireland and the Government of the People's
35 Republic of China on the Question of Hong Kong.

36 (B) The Basic Law of the Hong Kong Special
37 Administrative Region of the People's Republic of China.

38 (C) The Uyghur Human Rights Policy Act of 2020.

1 **(D) The December 10, 1948, Universal Declaration of**
2 **Human Rights.**

3 **(E) The December 16, 1966, International Covenant on**
4 **Civil and Political Rights.**

5 **(2) The entity or product meets or exceeds the rules and**
6 **standards of the Public Company Accounting Oversight**
7 **Board and the Sarbanes-Oxley Act of 2002 (Public Law**
8 **107-204).**

9 **Sec. 13. (a) Before November 2, 2021, and annually before**
10 **November 2 of each subsequent year, the board shall submit a**
11 **report in an electronic format under IC 5-14-6 to the executive**
12 **director of the legislative services agency.**

13 **(b) A report submitted by the board under this section must**
14 **include at least the following information:**

15 **(1) All investments in a restricted entity or prohibited**
16 **investment held by the system on behalf of a fund on July 1 of**
17 **that year.**

18 **(2) All actions taken before October 1 of that year to divest**
19 **holdings in restricted entities and prohibited investments.**

20 **(3) All investments held on October 1 of that year in restricted**
21 **entities and prohibited investments and a description of the**
22 **plan to divest the investments.**

23 **The board may include in the report any other information the**
24 **board determines relevant.**

25 **Sec. 14. With respect to actions taken in compliance with this**
26 **chapter, including all good faith determinations regarding**
27 **restricted entities and prohibited investments, the board and the**
28 **system are exempt from any conflicting statutory or common law**
29 **obligations, including any obligations with respect to choice of asset**
30 **managers, investment funds, or investments for fund investment**
31 **portfolios.**

32 **Sec. 15. (a) Both:**

33 **(1) the state and its officers, agents, and employees; and**

34 **(2) a fund or the system and its board members, executive**
35 **director, officers, agents, and employees;**

36 **are immune from civil liability for any act or omission related to**
37 **the removal of an asset from a fund under this chapter.**

38 **(b) In addition to the immunity provided under subsection (a),**

- 1 **both:**
- 2 **(1) the officers, agents, and employees of the state; and**
- 3 **(2) the board members, executive director, officers, agents,**
- 4 **and employees of a fund or the system;**
- 5 **are entitled to indemnification from the fund for all losses, costs,**
- 6 **and expenses, including reasonable attorney's fees, associated with**
- 7 **defending against any claim or suit relating to an act authorized**
- 8 **under this chapter.**
- 9 **Sec. 16. The provisions of this chapter are severable in the**
- 10 **manner provided in IC 1-1-1-8(b)."**
- 11 Delete pages 3 through 6.
- 12 Page 7, delete line 1.
- 13 Page 9, line 27, delete "IC 5-10.2-13-17" and insert
- 14 **"IC 5-10.2-13-15".**
- 15 Renumber all SECTIONS consecutively.
 (Reference is to HB 1387 as introduced.)

and when so amended that said bill do pass.

Representative Miller D

