

House Study Bill 41 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON EDUCATION BILL BY
CHAIRPERSON WHEELER)

A BILL FOR

1 An Act prohibiting the state board of regents from investing
2 public moneys in companies that are owned or controlled
3 by Chinese military or government services and including
4 effective date provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 262.14, unnumbered paragraph 1, Code
2 2023, is amended to read as follows:

3 The board may invest funds belonging to the institutions,
4 subject to section 262.14A, chapters 12F, 12H, and 12J, and the
5 following regulations:

6 Sec. 2. NEW SECTION. **262.14A Restrictions on China-related**
7 **investments.**

8 1. As used in this section:

9 *a. "Company"* means a sole proprietorship, organization,
10 association, corporation, partnership, joint venture, limited
11 partnership, limited liability partnership, limited liability
12 company, or other entity or business association, including
13 all wholly owned subsidiaries, majority-owned subsidiaries,
14 parent companies, or affiliates of such entities or business
15 associations, that exists for profit-making purposes.

16 *b. "Direct holdings"* in a company means all securities of
17 a company held directly by the state board of regents or in an
18 account or fund in which the state board of regents owns all
19 shares or interests.

20 *c. "Indirect holdings"* in a company means all securities
21 of a company held in an account or fund managed by one or
22 more persons not employed by the state board of regents, in
23 which the state board of regents owns shares or interests
24 together with other investors not subject to the provisions of
25 this section. Indirect holdings include mutual funds, fund
26 of funds, private equity funds, hedge funds, and real estate
27 funds.

28 *d. "Prohibited company"* means a company that is owned or
29 controlled by Chinese military or government services or their
30 instrumentalities, including the people's liberation army of
31 China or the communist party of China. *"Prohibited company"*
32 includes a company in which the Chinese military or government
33 services or their instrumentalities, including the people's
34 liberation army of China or the communist party of China, own a
35 majority interest, either directly or indirectly.

1 *e.* “*Scrutinized company*” means any company that is owned or
2 controlled by Chinese military or government services or their
3 instrumentalities.

4 2. *a.* On or before July 1, 2023, the state board of regents
5 shall identify or have identified all scrutinized companies
6 in which the state board of regents has direct or indirect
7 holdings and shall create and make available to the public a
8 scrutinized companies list. The state board of regents shall
9 review and update, if necessary, the scrutinized companies list
10 on a quarterly basis thereafter.

11 *b.* In identifying or having identified scrutinized
12 companies, the state board of regents may review and rely,
13 in the best judgment of the state board of regents, on
14 publicly available information and other information that
15 may be provided by nonprofit organizations, research firms,
16 international organizations, and government entities. The
17 state board of regents may also contact asset managers and
18 institutional investors for the state board of regents to
19 identify scrutinized companies based upon industry-recognized
20 lists of such companies that the state board of regents may
21 have indirect holdings in.

22 3. For each company on the scrutinized companies list
23 in which the state board of regents has direct or indirect
24 holdings, the state board of regents shall send or have sent
25 a written notice informing the company of the requirements of
26 this section. The state board of regents or its representative
27 shall continue to provide such written notice on an annual
28 basis if the company remains a scrutinized company.

29 4. The state board of regents shall not acquire publicly
30 traded securities of a prohibited company.

31 5. *a.* The state board of regents shall sell, redeem,
32 divest, or withdraw all publicly traded securities of a
33 prohibited company no later than one hundred eighty days
34 following the date the company becomes a prohibited company.

35 *b.* This subsection shall not be construed to require the

1 premature or otherwise imprudent sale, redemption, divestment,
2 or withdrawal of an investment, but such sale, redemption,
3 divestment, or withdrawal shall be completed as provided by
4 this subsection.

5 6. The state board of regents shall, within thirty days
6 after the scrutinized companies list is created or updated
7 as required by subsection 2, make the list available to the
8 public.

9 7. On October 1, 2024, and each October 1 thereafter, the
10 state board of regents shall make available to the public, and
11 file with the general assembly, an annual report covering the
12 prior fiscal year that includes all of the following:

13 a. The scrutinized companies list as of the end of the
14 fiscal year.

15 b. A summary of all written notices sent as required by
16 subsection 3 during the fiscal year.

17 c. All investments sold, redeemed, divested, or withdrawn as
18 provided in subsection 5 during the fiscal year.

19 8. With respect to actions taken in compliance with this
20 section, including all good-faith determinations regarding
21 companies as required by this section, the state board of
22 regents shall be exempt from any conflicting statutory
23 or common law obligations, including any such obligations
24 with respect to choice of asset managers, investment funds,
25 or investments for the state board of regents' securities
26 portfolios.

27 9. The requirements of subsections 2 through 7 shall not
28 apply if the United States Congress or president of the United
29 States, through legislation or executive order, declares that
30 mandatory divestment of the type provided for in this section
31 interferes with the conduct of United States foreign policy.

32 Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate
33 importance, takes effect upon enactment.

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EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill prohibits the state board of regents from
3 investing public moneys in companies that are owned or
4 controlled by Chinese military or government services.

5 The bill defines "company" as any entity or business
6 association, including all subsidiaries, parent companies, or
7 affiliates of such entities or business associations, that
8 exist for profit-making purposes. The bill defines "direct
9 holdings" in a company as all securities of a company held
10 directly by the state board of regents or in an account or
11 fund in which the state board of regents owns all shares or
12 interests. The bill defines "indirect holdings" in a company
13 as all securities of a company held in an account or fund
14 managed by one or more persons not employed by the state board
15 of regents, in which the state board of regents owns shares
16 or interests together with other investors not subject to
17 the provisions of this new Code section 262.14A. The bill
18 defines "prohibited company" as a company that is owned or
19 controlled by Chinese military or government services or
20 their instrumentalities, including the people's liberation
21 army of China or the communist party of China. The bill
22 defines "scrutinized company" as any company that is owned or
23 controlled by Chinese military or government services or their
24 instrumentalities.

25 The bill requires the state board of regents to identify
26 all scrutinized companies in which the state board of regents
27 has direct or indirect holdings on or before July 1, 2023.
28 Additionally, the bill requires the state board of regents to
29 create and make available to the public a scrutinized companies
30 list and review and update the list on a quarterly basis.
31 The bill authorizes the state board of regents to review and
32 rely on publicly available information and information from
33 other sources when identifying scrutinized companies. The
34 bill requires the state board of regents to send notice to
35 all companies on the scrutinized companies list on an annual

1 basis informing the company of the requirements of the new Code
2 section.

3 The bill prohibits the state board of regents from acquiring
4 publicly traded securities of a prohibited company. The bill
5 requires the state board of regents to sell, redeem, divest, or
6 withdraw all publicly traded securities of a prohibited company
7 no later than 180 days following the date the company becomes a
8 prohibited company.

9 The bill requires the state board of regents, within 30 days
10 after the scrutinized companies list is created or updated,
11 to make the list available to the public. Additionally, the
12 bill requires the state board of regents to make available to
13 the public and file with the general assembly an annual report
14 beginning October 1, 2024, and each October 1 thereafter.

15 The bill provides that, with respect to actions taken in
16 compliance with new Code section 262.14A, the state board
17 of regents shall be exempt from any conflicting statutory
18 or common law obligations, including any such obligations
19 in respect to choice of asset managers, investment funds,
20 or investments for the state board of regents' securities
21 portfolios.

22 The bill provides that the provisions related to the
23 creation of a scrutinized companies list, divestment of
24 publicly traded securities of a prohibited company, and
25 reporting shall not apply if the United States Congress
26 or president of the United States declares that mandatory
27 divestment of the type provided for in new Code section 262.14A
28 interferes with the conduct of United States foreign policy.

29 The bill modifies Code section 262.14 to impose these same
30 restrictions on the state board of regents' investments of
31 moneys belonging to the state university of Iowa, including
32 the university of Iowa hospitals and clinics, the Iowa
33 state university of science and technology, including the
34 agricultural experiment station, the university of northern
35 Iowa, the Iowa braille and sight saving school, the Iowa school

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1 for the deaf, the Oakdale campus, and the university of Iowa
2 hospitals and clinics' center for disabilities and development.
3 The bill takes effect upon enactment.