

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3222

By: West (Kevin)

AS INTRODUCED

An Act relating to state government; creating the Firearm Industry Discrimination Elimination Act of 2024; defining terms; exempting certain entities from provisions of act due to statutory obligations; providing indemnification for certain entities; prohibiting certain persons and entities from entering into a lawsuit with state or state affiliate; providing any person entering a lawsuit against state or state affiliate pursuant to this act be subject to certain costs and fees; requiring State Treasurer to maintain list of certain financial companies; establishing provisions for Treasurer action pursuant to act; requiring written verification be submitted by certain financial companies; requiring written notice be provided to certain financial companies; providing that certain financial companies cease certain boycotts by certain date; requiring sale, redemption, divestment, or withdrawal of certain securities; establishing schedule for sale, redemption, divestment, or withdrawal of certain securities; establishing limitations on divestment and divestment schedule; requiring report to certain public officials upon delay of divestment schedule; requiring report to certain public officials upon decision to cease divestment from certain financial company; prohibiting acquisition of securities from certain financial companies; providing for publishing of report by state governmental entities to certain public officials; requiring state governmental entities to receive written verification from certain companies before entrance into certain contracts; amending Section 2, Chapter 231, O.S.L. 2022 (74 O.S. Supp. 2022, Section 12002) and Section 3, Chapter 231, O.S.L. 2022 (74 O.S. Supp. 2022, Section 12003),

1 which relates to the Energy Discrimination  
2 Elimination Act of 2022; modifying exemption;  
3 removing certain causes of action; modifying  
4 procedure; providing for codification; and providing  
5 an effective date.

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

7 SECTION 1. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 12011 of Title 74, unless there  
9 is created a duplication in numbering, reads as follows:

10 This act shall be known and may be cited as the "Firearm  
11 Industry Discrimination Elimination Act of 2024".

12 SECTION 2. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 12012 of Title 74, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. As used in the Firearm Industry Discrimination Elimination  
16 Act of 2022:

17 1. "Boycott firearm companies" means, without an ordinary  
18 business purpose, refusing to deal with, terminating business  
19 activities with, or otherwise taking any action that is intended to  
20 penalize, inflict economic harm on, or limit commercial relations  
21 with a company because the company:

22 a. engages in the manufacturing, distribution, or sale of  
23 firearms, ammunition, or firearm accessories; or  
24  
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1           b.    does business with a company described by subparagraph  
2                   a of this paragraph;

3           2.    "Company" means a for-profit sole proprietorship,  
4 organization, association, corporation, partnership, joint venture,  
5 limited partnership, limited liability partnership, or limited  
6 liability company, including a wholly-owned subsidiary, majority-  
7 owned subsidiary, parent company, or affiliate of those entities or  
8 business associations, that exists to make a profit;

9           3.    "Direct holdings" means, with respect to a financial  
10 company, all securities of that financial company held directly by a  
11 state governmental entity in an account or fund in which a state  
12 governmental entity owns all shares or interests;

13           4.    "Financial company" means a publicly traded financial  
14 services, banking, or investment company;

15           5.    "Indirect holdings" means, with respect to a financial  
16 company, all securities of that financial company held in an account  
17 or fund, such as a mutual fund, managed by one or more persons not  
18 employed by a state governmental entity, in which the state  
19 governmental entity owns shares or interests together with other  
20 investors not subject to the provisions of this act. The term does  
21 not include money invested under a plan described by Section 401(k)  
22 or 457 of the Internal Revenue Code of 1986;

23           6.    "Listed financial company" means a financial company listed  
24 by the Treasurer;

1       7. "State governmental entity" means all state retirement  
2 systems; and

3       8. "Treasurer" means the State Treasurer or their designee.

4       B. With respect to actions taken in compliance with the Firearm  
5 Industry Discrimination Elimination Act of 2024, including all good-  
6 faith determinations regarding financial companies as required by  
7 this act, specifically Section 12013, a state governmental entity  
8 and the Treasurer are exempt from any conflicting statutory or  
9 common law obligations including any obligations with respect to  
10 making investments, divesting from any investment, preparing or  
11 maintaining any list of financial companies, or choosing asset  
12 managers, investment funds, or investments for the state  
13 governmental entity's securities portfolios.

14       C. In a cause of action based on an action, inaction, decision,  
15 divestment, investment, financial company communication, report, or  
16 other determination made or taken in connection with the Firearm  
17 Industry Elimination Act of 2024, the state shall indemnify and hold  
18 harmless for actual damages, court costs, and attorney fees adjudged  
19 against, and defend:

20       1. An employee, a member of the governing body, or any other  
21 officer of a state governmental entity;

22       2. A contractor of a state governmental entity;

23       3. A former employee, a former member of the governing body, or  
24 any other former officer of a state governmental entity who was an  
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1 employee, member of the governing body, or other officer when the  
2 act or omission on which the damages are based occurred;

3 4. A former contractor of a state governmental entity who was a  
4 contractor when the act or omission on which the damages are based  
5 occurred; and

6 5. A state governmental entity.

7 D. 1. A person, including a member, retiree, or beneficiary of  
8 a retirement system to which the Firearm Industry Discrimination  
9 Elimination Act of 2024 applies, an association, a research firm, a  
10 financial company, or any other person shall not sue or pursue a  
11 private cause of action against the state, a state governmental  
12 entity, a current or former employee, a member of the governing  
13 body, or any other officer of a state governmental entity, or a  
14 contractor of a state governmental entity, for any claim or cause of  
15 action, including breach of fiduciary duty, or for violation of any  
16 constitutional, statutory, or regulatory requirement in connection  
17 with any action, inaction, decision, divestment, investment,  
18 financial company communication, report, or other determination made  
19 or taken in connection with this act.

20 2. A person who files suit against the state, a state  
21 governmental entity, an employee, a member of the governing body, or  
22 any other officer of a state governmental entity, or a contractor of  
23 a state governmental entity, is liable for paying the costs and  
24 attorney fees of a person sued in violation of this section.

1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 12013 of Title 74, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. 1. The Treasurer shall prepare and maintain and provide to  
5 each state governmental entity a list of financial companies that  
6 boycott firearm companies. In maintaining the list, the Treasurer  
7 may:

8 a. review and rely, as appropriate in the Treasurer's  
9 judgment, on publicly available information regarding  
10 financial companies including information provided by  
11 the state, nonprofit organizations, research firms,  
12 international organizations, and governmental  
13 entities, and

14 b. request written verification from a financial company  
15 that it does not boycott firearm companies and rely,  
16 as appropriate in the Treasurer's judgment and without  
17 conducting further investigation, research, or  
18 inquiry, on a financial company's written response to  
19 the request.

20 2. A financial company that fails to provide to the Treasurer a  
21 written verification under subparagraph b of paragraph 1 of this  
22 subsection before the sixty-first day after receiving the request  
23 from the Treasurer is presumed to be boycotting energy companies.  
24

1           3. The Treasurer shall update the list annually or more often  
2 as the Treasurer considers necessary, but not more often than  
3 quarterly, based on information from, among other sources, those  
4 listed in subparagraph a of paragraph 1 of this subsection.

5           4. Not later than the thirtieth day after the date the list of  
6 financial companies that boycott energy companies is first provided  
7 or updated, the Treasurer shall file the list with the presiding  
8 officer of each house of the Legislature and the Attorney General  
9 and post the list on a publicly available Internet website.

10          5. The Treasurer may retain third-party consultants to assist  
11 in the implementation of the provisions of this act.

12          B. Not later than the thirtieth day after the date a state  
13 governmental entity receives the list provided under paragraph 1 of  
14 subsection A of this section, the state governmental entity shall  
15 notify the Treasurer of the listed financial companies in which the  
16 state governmental entity owns direct holdings or indirect holdings.

17          C. 1. For each listed financial company identified under  
18 paragraph 1 of subsection A of this section, the state governmental  
19 entity shall send a written notice:

20           a. informing the financial company of its status as a  
21 listed financial company,

22           b. warning the financial company that it may become  
23 subject to divestment by state governmental entities  
24  
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1 after the expiration of the period described by  
2 paragraph 2 of this subsection, and

3 c. offering the financial company the opportunity to  
4 clarify its activities related to companies described  
5 by paragraph 1 of subsection A of this section.

6 2. Not later than the ninetieth day after the date the  
7 financial company receives notice under paragraph 1 of this  
8 subsection, the financial company shall cease boycotting firearm  
9 companies to avoid qualifying for divestment by state governmental  
10 entities.

11 3. If, during the time provided by paragraph 2 of this  
12 subsection, the financial company ceases boycotting firearm  
13 companies, the Treasurer shall remove the financial company from the  
14 list maintained under paragraph 1 of subsection A of this section,  
15 and this subsection will no longer apply to the financial company  
16 unless it resumes boycotting energy companies.

17 4. If, after the time provided by paragraph 2 of this  
18 subsection expires, the financial company continues to boycott  
19 firearm companies, the state governmental entity shall sell, redeem,  
20 divest, or withdraw all publicly traded securities of the financial  
21 company, except securities described by subsection E of this  
22 section, according to the schedule provided under subsection D of  
23 this section.

1 D. 1. A state governmental entity required to sell, redeem,  
2 divest, or withdraw all publicly traded securities of a listed  
3 financial company shall comply with the following schedule:

4 a. at least fifty percent (50%) of those assets shall be  
5 removed from the state governmental entity's assets  
6 under management not later than the one-hundred-  
7 eightieth day after the date the financial company  
8 receives notice pursuant to paragraph 1 of subsection  
9 C of this section unless the state governmental entity  
10 determines, based on a good-faith exercise of its  
11 fiduciary discretion and subject to subparagraph b of  
12 this subsection, that a later date is more prudent,  
13 and

14 b. one hundred percent (100%) of those assets shall be  
15 removed from the state governmental entity's assets  
16 under management not later than the three-hundred-  
17 sixtieth day after the date the financial company  
18 receives notice pursuant to paragraph 1 of subsection  
19 C of this section.

20 2. If a financial company that ceased boycotting firearm  
21 companies after receiving notice pursuant to paragraph 1 of  
22 subsection C of this section resumes its boycott, the state  
23 governmental entity shall send a written notice to the financial  
24 company informing it that the state governmental entity will sell,  
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1 redeem, divest, or withdraw all publicly traded securities of the  
2 financial company according to the schedule in paragraph 1 of  
3 subsection D of this section.

4 3. Except as provided by paragraph 1 of subsection D of this  
5 section, a state governmental entity may delay the schedule for  
6 divestment under that subsection only to the extent that the state  
7 governmental entity determines, in the state governmental entity's  
8 good-faith judgment, and consistent with the entity's fiduciary  
9 duty, that divestment from listed financial companies will likely  
10 result in a loss in value or a benchmark deviation described by  
11 paragraph 1 of subsection F of this section.

12 4. If a state governmental entity delays the schedule for  
13 divestment, the state governmental entity shall submit a report to  
14 the Treasurer, the presiding officer of each house of the  
15 Legislature, and the Attorney General stating the reasons and  
16 justification for the delay in divestment by the state governmental  
17 entity from listed financial companies. The report shall include  
18 documentation supporting its determination that the divestment would  
19 result in a loss in value or a benchmark deviation described by  
20 paragraph 1 of subsection F of this section including objective  
21 numerical estimates. The state governmental entity shall update the  
22 report every six (6) months.

23 E. A state governmental entity is not required to divest from  
24 any indirect holdings in actively or passively managed investment  
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1 funds or private equity funds. However, first the state governmental  
2 entity shall submit letters to the managers of each investment fund  
3 containing listed financial companies requesting that they remove  
4 those financial companies from the fund or create a similar actively  
5 or passively managed fund with indirect holdings devoid of listed  
6 financial companies. If a manager creates a similar fund with  
7 substantially the same management fees and same level of investment  
8 risk and anticipated return, the state governmental entity shall  
9 replace all applicable investments with investments in the similar  
10 fund in a time frame consistent with prudent fiduciary standards but  
11 not later than the four-hundred-fiftieth day after the date the fund  
12 is created.

13 F. 1. A state governmental entity may cease divesting from one  
14 or more listed financial companies only if clear and convincing  
15 evidence shows that:

16 a. the state governmental entity has suffered or will  
17 suffer a loss in the value of assets under management  
18 by the state governmental entity as a result of having  
19 to divest from listed financial companies under this  
20 subsection, or

21 b. an individual portfolio that uses a benchmark-aware  
22 strategy would be subject to an aggregate expected  
23 deviation from its benchmark as a result of having to  
24

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1           divest from listed financial companies under this  
2           subsection.

3           2. A state governmental entity may cease divesting from a  
4 listed financial company as provided by this section only to the  
5 extent necessary to ensure that the state governmental entity does  
6 not suffer a loss in value or deviate from its benchmark as  
7 described by paragraph 1 of this subsection.

8           3. Before a state governmental entity may cease divesting from  
9 a listed financial company only as allowed under this section, the  
10 state governmental entity shall provide a written report to the  
11 Treasurer, the presiding officer of each house of the Legislature,  
12 and the Attorney General setting forth the reason and justification,  
13 supported by clear and convincing evidence, for deciding to cease  
14 divestment or to remain invested in a listed financial company. The  
15 state governmental entity shall update the report required by this  
16 subsection semiannually, as applicable.

17           4. This section does not apply to reinvestment in a financial  
18 company that is no longer a listed financial company.

19           G. Except as provided in subsection F of this section, a state  
20 governmental entity shall not acquire securities of a listed  
21 financial company.

22           SECTION 4.       NEW LAW       A new section of law to be codified  
23 in the Oklahoma Statutes as Section 12014 of Title 74, unless there  
24 is created a duplication in numbering, reads as follows:  
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1 A. Not later than January 1 of each year, each state  
2 governmental entity shall file a publicly available report with the  
3 Treasurer, the presiding officer of each house of the Legislature,  
4 and the Attorney General that:

5 1. Identifies securities sold, redeemed, divested, or  
6 withdrawn in compliance with subsection D of Section 3 of this act;

7 2. Identifies prohibited investments under subsection F of  
8 Section 3 of this act; and

9 3. Summarizes any changes made under subsection E of Section 3  
10 of this act.

11 B. The Attorney General may bring any action necessary to  
12 enforce the Firearm Industry Discrimination Elimination Act of 2024.

13 SECTION 5. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 12015 of Title 74, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. As used in this section only of the Firearm Industry  
17 Discrimination Elimination Act of 2024, "governmental entity" means  
18 a state agency or political subdivision of this state.

19 B. 1. Except for paragraph 4 of this subsection, this section  
20 applies only to a contract that:

21  
22 a. is between a governmental entity and a company with  
23 ten or more full-time employees, and  
24  
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1           b.    will pay a company One Hundred Thousand Dollars  
2                   (\$100,000.00) or more over the term of the contract  
3                   that is to be paid wholly or partly from public funds  
4                   of the governmental entity; provided, however, the  
5                   provisions of this paragraph shall apply separately to  
6                   all companies in a multiple party contract.

7           2.    Except as provided by paragraph 4 of this subsection, a  
8 governmental entity shall not enter into a contract with a company  
9 for goods or services unless the contract contains a written  
10 verification from the company that it:

11           a.    does not boycott firearm companies, and

12           b.    will not boycott firearm companies during the term of  
13                   the contract.

14           3.    Except as provided by paragraph 4 of this subsection, a  
15 governmental entity shall not enter into a contract for goods or  
16 services with a listed financial company under Section 3 of this  
17 act.

18           4.    Paragraphs 2 and 3 of this subsection shall not apply to:

19           a.    a governmental entity that determines the requirements  
20                   of paragraphs 2 or 3 of this subsection are  
21                   inconsistent with the governmental entity's  
22                   constitutional or statutory duties related to the  
23                   issuance, incurrence, or management of debt  
24

1 obligations or the deposit, custody, management,  
2 borrowing, or investment of funds, and

3 b. a contract for which a governmental body determines  
4 the supplies or services to be provided are not  
5 otherwise reasonably available from a company that is  
6 not a listed financial company under Section 3 of this  
7 act.

8 SECTION 6. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 12016 of Title 74, unless there  
10 is created a duplication in numbering, reads as follows:

11 Section 5 of the Firearm Industry Discrimination Elimination Act  
12 of 2024 applies only to a contract entered into on or after the  
13 effective date of this act. A contract entered into before that  
14 date is governed by the law in effect on the date the contract was  
15 entered into, and the former law is continued in effect for that  
16 purpose.

17 SECTION 7. AMENDATORY Section 2, Chapter 231, O.S.L.  
18 2022 (74 O.S. Supp. 2022, Section 12002), is amended to read as  
19 follows:

20 Section 12002. A. As used in the Energy Discrimination  
21 Elimination Act of 2022:

22 1. "Boycott energy company" means, without an ordinary business  
23 purpose, refusing to deal with, terminating business activities  
24 with, or otherwise taking any action that is intended to penalize,  
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1 inflict economic harm on, or limit commercial relations with a  
2 company because the company:

- 3 a. engages in the exploration, production, utilization,  
4 transportation, sale, or manufacturing of fossil-fuel-  
5 based energy and does not commit or pledge to meet  
6 environmental standards beyond applicable federal and  
7 state law, or
- 8 b. does business with a company described by subparagraph  
9 a of this paragraph;

10 2. "Company" means a for-profit sole proprietorship,  
11 organization, association, corporation, partnership, joint venture,  
12 limited partnership, limited liability partnership, or limited  
13 liability company, including a wholly-owned subsidiary, majority-  
14 owned subsidiary, parent company, or affiliate of those entities or  
15 business associations, that exists to make a profit;

16 3. "Treasurer" means the State Treasurer or their designee;

17 4. "Direct holdings" means, with respect to a financial  
18 company, all securities of that financial company held directly by a  
19 state governmental entity in an account or fund in which a state  
20 governmental entity owns all shares or interests;

21 5. "Financial company" means a publicly traded financial  
22 services, banking, or investment company;

23 6. "Indirect holdings" means, with respect to a financial  
24 company, all securities of that financial company held in an account  
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1 or fund, such as a mutual fund, managed by one or more persons not  
2 employed by a state governmental entity, in which the state  
3 governmental entity owns shares or interests together with other  
4 investors not subject to the provisions of this act. The term does  
5 not include money invested under a plan described by Section 401(k)  
6 or 457 of the Internal Revenue Code of 1986;

7 7. "Listed financial company" means a financial company listed  
8 by the Treasurer; and

9 8. "State governmental entity" means all state retirement  
10 systems.

11 B. With respect to actions taken in compliance with the Energy  
12 Discrimination Elimination Act of 2022, including all good-faith  
13 determinations regarding financial companies as required by this  
14 act, specifically Section 12003, a state governmental entity and the  
15 Treasurer are exempt from any conflicting statutory or common law  
16 obligations including any obligations with respect to making  
17 investments, divesting from any investment, preparing or maintaining  
18 any list of financial companies, or choosing asset managers,  
19 investment funds, or investments for the state governmental entity's  
20 securities portfolios.

21 C. In a cause of action based on an action, inaction, decision,  
22 divestment, investment, financial company communication, report, or  
23 other determination made or taken in connection with the Energy  
24 Discrimination Elimination Act of 2022, the state shall indemnify  
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1 and hold harmless for actual damages, court costs, and attorney fees  
2 adjudged against, and defend:

3 1. An employee, a member of the governing body, or any other  
4 officer of a state governmental entity;

5 2. A contractor of a state governmental entity;

6 3. A former employee, a former member of the governing body, or  
7 any other former officer of a state governmental entity who was an  
8 employee, member of the governing body, or other officer when the  
9 act or omission on which the damages are based occurred;

10 4. A former contractor of a state governmental entity who was a  
11 contractor when the act or omission on which the damages are based  
12 occurred; and

13 5. A state governmental entity.

14 D. 1. A person, including a member, retiree, or beneficiary of  
15 a retirement system to which the Energy Discrimination Elimination  
16 Act of 2022 applies, an association, a research firm, a financial  
17 company, or any other person shall not sue or pursue a private cause  
18 of action against the state, a state governmental entity, a current  
19 or former employee, a member of the governing body, or any other  
20 officer of a state governmental entity, or a contractor of a state  
21 governmental entity, for any claim or cause of action, including  
22 breach of fiduciary duty, or for violation of any constitutional,  
23 statutory, or regulatory requirement in connection with any action,  
24 inaction, decision, divestment, investment, financial company  
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1 communication, report, or other determination made or taken in  
2 connection with this act.

3 2. A person who files suit against the state, a state  
4 governmental entity, an employee, a member of the governing body, or  
5 any other officer of a state governmental entity, or a contractor of  
6 a state governmental entity, is liable for paying the costs and  
7 attorney fees of a person sued in violation of this section.

8 ~~3. A state governmental entity shall not be subject to any~~  
9 ~~requirement of this act if the state governmental entity determines~~  
10 ~~that such requirement would be inconsistent with its fiduciary~~  
11 ~~responsibility with respect to the investment of entity assets or~~  
12 ~~other duties imposed by law relating to the investment of entity~~  
13 ~~assets.~~

14 SECTION 8. AMENDATORY Section 3, Chapter 231, O.S.L.  
15 2022 (74 O.S. Supp. 2022, Section 12003), is amended to read as  
16 follows:

17 Section 12003. A. 1. The Treasurer shall prepare and maintain  
18 and provide to each state governmental entity a list of financial  
19 companies that boycott energy companies. In maintaining the list,  
20 the Treasurer may:

- 21 a. review and rely, as appropriate in the Treasurer's  
22 judgment, on publicly available information regarding  
23 financial companies including information provided by  
24 the state, nonprofit organizations, research firms,

1 international organizations, and governmental  
2 entities, and

3 b. request written verification from a financial company  
4 that it does not boycott energy companies and rely, as  
5 appropriate in the Treasurer's judgment and without  
6 conducting further investigation, research, or  
7 inquiry, on a financial company's written response to  
8 the request.

9 2. A financial company that fails to provide to the Treasurer a  
10 written verification under subparagraph b of paragraph 1 of this  
11 subsection before the sixty-first day after receiving the request  
12 from the Treasurer is presumed to be boycotting energy companies.

13 3. The Treasurer shall update the list annually or more often  
14 as the Treasurer considers necessary, but not more often than  
15 quarterly, based on information from, among other sources, those  
16 listed in subparagraph a of paragraph 1 of this subsection.

17 4. Not later than the thirtieth day after the date the list of  
18 financial companies that boycott energy companies is first provided  
19 or updated, the Treasurer shall file the list with the presiding  
20 officer of each house of the Legislature and the Attorney General  
21 and post the list on a publicly available Internet website.

22 5. The Treasurer may retain third-party consultants to assist  
23 in the implementation of the provisions of this act.  
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1 B. Not later than the thirtieth day after the date a state  
2 governmental entity receives the list provided under paragraph 1 of  
3 subsection A of this section, the state governmental entity shall  
4 notify the Treasurer of the listed financial companies in which the  
5 state governmental entity owns direct holdings or indirect holdings.

6 C. 1. For each listed financial company identified under  
7 paragraph 1 of subsection A of this section, the state governmental  
8 entity shall send a written notice:

9 a. informing the financial company of its status as a  
10 listed financial company,

11 b. warning the financial company that it may become  
12 subject to divestment by state governmental entities  
13 after the expiration of the period described by  
14 paragraph 2 of this subsection, and

15 c. offering the financial company the opportunity to  
16 clarify its activities related to companies described  
17 by paragraph 1 of subsection A of this section.

18 2. Not later than the ninetieth day after the date the  
19 financial company receives notice under paragraph 1 of this  
20 subsection, the financial company shall cease boycotting energy  
21 companies to avoid qualifying for divestment by state governmental  
22 entities.

23 3. If, during the time provided by paragraph 2 of this  
24 subsection, the financial company ceases boycotting energy  
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1 companies, the Treasurer shall remove the financial company from the  
2 list maintained under paragraph 1 of subsection A of this section,  
3 and this subsection will no longer apply to the financial company  
4 unless it resumes boycotting energy companies.

5 4. If, after the time provided by paragraph 2 of this  
6 subsection expires, the financial company continues to boycott  
7 energy companies, the state governmental entity shall sell, redeem,  
8 divest, or withdraw all publicly traded securities of the financial  
9 company, except securities described by subsection E of this  
10 section, according to the schedule provided under subsection D of  
11 this section.

12 D. 1. A state governmental entity required to sell, redeem,  
13 divest, or withdraw all publicly traded securities of a listed  
14 financial company shall comply with the following schedule:

- 15 a. at least fifty percent (50%) of those assets shall be  
16 removed from the state governmental entity's assets  
17 under management not later than the one-hundred-  
18 eightieth day after the date the financial company  
19 receives notice pursuant to paragraph 1 of subsection  
20 C of this section unless the state governmental entity  
21 determines, based on a good-faith exercise of its  
22 fiduciary discretion and subject to subparagraph b of  
23 this subsection, that a later date is more prudent,  
24 and  
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1           b.    one hundred percent (100%) of those assets shall be  
2                removed from the state governmental entity's assets  
3                under management not later than the three-hundred-  
4                sixtieth day after the date the financial company  
5                receives notice pursuant to paragraph 1 of subsection  
6                C of this section.

7           2.    If a financial company that ceased boycotting energy  
8                companies after receiving notice pursuant to paragraph 1 of  
9                subsection C of this section resumes its boycott, the state  
10               governmental entity shall send a written notice to the financial  
11               company informing it that the state governmental entity will sell,  
12               redeem, divest, or withdraw all publicly traded securities of the  
13               financial company according to the schedule in paragraph 1 of  
14               subsection D of this section.

15           3.    Except as provided by paragraph 1 of subsection D of this  
16                section, a state governmental entity may delay the schedule for  
17                divestment under that subsection only to the extent that the state  
18                governmental entity determines, in the state governmental entity's  
19                good-faith judgment, and consistent with the entity's fiduciary  
20                duty, that divestment from listed financial companies will likely  
21                result in a loss in value or a benchmark deviation described by  
22                paragraph 1 of subsection F of this section.

23           4.    If a state governmental entity delays the schedule for  
24                divestment, the state governmental entity shall submit a report to  
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1 the Treasurer, the presiding officer of each house of the  
2 Legislature, and the Attorney General stating the reasons and  
3 justification for the delay in divestment by the state governmental  
4 entity from listed financial companies. The report shall include  
5 documentation supporting its determination that the divestment would  
6 result in a loss in value or a benchmark deviation described by  
7 paragraph 1 of subsection F of this section including objective  
8 numerical estimates. The state governmental entity shall update the  
9 report every six (6) months.

10 E. A state governmental entity is not required to divest from  
11 any indirect holdings in actively or passively managed investment  
12 funds or private equity funds. However, first the ~~The~~ state  
13 governmental entity shall submit letters to the managers of each  
14 investment fund containing listed financial companies requesting  
15 that they remove those financial companies from the fund or create a  
16 similar actively or passively managed fund with indirect holdings  
17 devoid of listed financial companies. If a manager creates a  
18 similar fund with substantially the same management fees and same  
19 level of investment risk and anticipated return, the state  
20 governmental entity ~~may~~ shall replace all applicable investments  
21 with investments in the similar fund in a time frame consistent with  
22 prudent fiduciary standards but not later than the four-hundred-  
23 fiftieth day after the date the fund is created.

1 F. 1. A state governmental entity may cease divesting from one  
2 or more listed financial companies only if clear and convincing  
3 evidence shows that:

4 a. the state governmental entity has suffered or will  
5 suffer a loss in the value of assets under management  
6 by the state governmental entity as a result of having  
7 to divest from listed financial companies under this  
8 subsection, or

9 b. an individual portfolio that uses a benchmark-aware  
10 strategy would be subject to an aggregate expected  
11 deviation from its benchmark as a result of having to  
12 divest from listed financial companies under this  
13 subsection.

14 2. A state governmental entity may cease divesting from a  
15 listed financial company as provided by this section only to the  
16 extent necessary to ensure that the state governmental entity does  
17 not suffer a loss in value or deviate from its benchmark as  
18 described by paragraph 1 of this subsection.

19 3. Before a state governmental entity may cease divesting from  
20 a listed financial company only as allowed under this section, the  
21 state governmental entity shall provide a written report to the  
22 Treasurer, the presiding officer of each house of the Legislature,  
23 and the Attorney General setting forth the reason and justification,  
24 supported by clear and convincing evidence, for deciding to cease  
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divestment or to remain invested in a listed financial company. The state governmental entity shall update the report required by this subsection semiannually, as applicable.

4. This section does not apply to reinvestment in a financial company that is no longer a listed financial company.

G. Except as provided in subsection F of this section, a state governmental entity shall not acquire securities of a listed financial company.

SECTION 9. This act shall become effective November 1, 2024.

59-2-8511            JL            01/16/24