AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; investment standards; prohibited investments, Iran; divestment therefrom, conditions and procedures; indemnification and hold harmless provisions.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in sections 1 and 2, and amendments thereto:
(1) "Board" means the board of trustees of the Kansas public employees retirement system;
(2) "company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association that exists for the purpose of making profit;
(3) "direct holdings" in a company means all securities of that company that are held directly by the KPERS fund or in an account or fund in which the KPERS fund owns all shares or interests;
(4) "government of Iran" means the government of Iran, its instrumentalities, and companies owned or controlled by the government of Iran;
(5) "inactive business activities" means the mere continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such purpose;
(6) "indirect holdings" in a company means all securities of that company that are held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the KPERS fund, in which the KPERS fund owns shares or interests together with other investors not subject to the provisions of this act;
(7) "Iran" means the Islamic Republic of Iran;
(8) "KPERS fund" means the Kansas public employees retirement fund created pursuant to the provisions of K.S.A. 74-4921, and amendments thereto;
(9) "petroleum resources" means petroleum or natural gas;
(10) "scrutinized business activities" means business activities that have resulted in a company becoming a scrutinized company;
(11) "scrutinized company" means any company that has, with actual knowledge, on or after August 5, 1996, made an investment of $20 million
or more in Iran's petroleum sector which directly or significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran; and

(12) "substantial action specific to Iran" means adopting, publicizing, and implementing a formal plan to cease scrutinized business activities within one year and to refrain from any such new business activities.

(b) Within 45 days after the effective date of this act, the board shall make the board's best efforts to identify all scrutinized companies in which the KPERS fund has direct holdings or indirect holdings. Such efforts include: (1) Reviewing and relying, as appropriate in the board's judgment, on publicly available information regarding companies that have invested more than $20 million in any given year since August 5, 1996, in Iran's petroleum energy sector, including information provided by nonprofit organizations, research firms, international organizations, and government entities; and

(2) by the first meeting of the board following the 45-day period described in this subsection, assembling all scrutinized companies that fit criteria specified in subsection (a)(10) into a scrutinized companies with activities in the Iran petroleum energy sector list.

The board shall update and make publicly available annually from the effective date of this act the scrutinized companies with activities in the Iran petroleum energy sector list based on evolving information from, among other sources, those listed in this act.

(c) The Kansas public employees retirement system shall adhere to the following procedure for assembling companies on the scrutinized companies with activities in the Iran petroleum energy sector list:

(1) For each company in which the KPERS fund has direct holdings newly identified under subsection (b), the board shall send a written notice informing the company of its scrutinized company status and that it may become subject to divestment by the board. The notice must inform the company of the opportunity to clarify its Iran-related activities and encourage the company, within 90 days, to cease its scrutinized business activities or convert such activities to inactive business activities in order to avoid qualifying for divestment by the board. Such notice shall be sent no later than 135 days after the effective date of this act. If, within 90 days after the board's first engagement with a company pursuant to this paragraph, the company announces by public disclosure substantial action specific to Iran, the board may maintain its direct holdings, but the company shall remain on the scrutinized companies with activities in the Iran petroleum energy sector list pending completion of its cessation of scrutinized business activities.

(2) If, after 90 days following the board's first engagement with a company pursuant to subsection (c)(1), the company has not announced by
public disclosure substantial action specific to Iran, or the board
determines or becomes aware that the company continues to have
scrutinized business activities, the board within 12 months after the
expiration of such 90-day period shall sell, redeem, divest or withdraw all
publicly traded securities of the company from the KPERS fund’s direct
holdings.

(3) If the board determines or becomes aware that a company that
ceased scrutinized business activities following engagement pursuant to
subsection (c)(1) has resumed such activities, the board shall send a
written notice to the company under subsection (c)(1), and (c)(2) also shall
apply. The company also shall be immediately reintroduced onto the
scrutinized companies with activities in the Iran petroleum energy sector
list.

(4) The board shall monitor the scrutinized company that has
announced by public disclosure substantial action specific to Iran and, if
after one year the board determines or becomes aware that the company
has not implemented such plan, within three months after the expiration of
such one year period shall sell, redeem, divest or withdraw all publicly
traded securities of the company from the KPERS fund's direct holdings,
and the company also shall be immediately reintroduced onto the
scrutinized companies with activities in the Iran petroleum energy sector
list.

(5) The board may not acquire securities of companies on the
scrutinized companies with activities in the Iran petroleum energy sector
list.

(6) Notwithstanding the provisions of this act, subsection (c)(2) does
not apply to the KPERS fund's indirect holdings. However, the board shall
submit letters to the managers of any managed investment funds
containing companies on the scrutinized companies with activities in the
Iran petroleum energy sector list that such managers consider removing
such companies from the fund or create a similar actively managed fund
having indirect holdings devoid of such companies. If the manager creates
a similar fund devoid of such securities or if such funds are created
elsewhere, the board shall determine within six months whether to replace
all applicable investments with investments in the similar fund in an
expedited timeframe consistent with prudent investing standards. For the
purposes of this section, a private equity fund is deemed to be an actively
managed investment fund.

(d) The board shall file a report with the joint committee on pensions,
investments and benefits that includes the scrutinized companies with
activities in the Iran petroleum energy sector list within 30 days after the
list is created. This report shall be made available to the public. On an
annual basis thereafter, the board shall file a report which shall be made
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available to the joint committee on pensions, investments and benefits and
the public which includes:

(1) A summary of correspondence with companies engaged by the
board under subsection (c)(1);
(2) all investments sold, redeemed, divested or withdrawn in
compliance with subsection (e)(2);
(3) all prohibited investments under subsection (c)(5);
(4) any progress made under subsection (c)(6); and
(5) a list of all publicly traded securities held directly by this state.

(e) This act expires upon the occurrence of any of the following: (1)
The congress or president of the United States affirmatively and
unambiguously states, by means including, but not limited to, legislation,
executive order, or written certification from the president to congress, that
the government of Iran has ceased to pursue the capabilities to develop
nuclear weapons and support international terrorism;
(2) the United States revokes all sanctions imposed against the
government of Iran; or
(3) the congress or president of the United States affirmatively and
unambiguously declares, by means including, but not limited to,
legislation, executive order, or written certification from the president to
congress, that mandatory divestment of the type provided for in this act
interferes with the conduct of United States foreign policy.

(f) With respect to actions taken in compliance with this act,
including all good faith determinations regarding companies as required by
this act, the Kansas public employees retirement system is exempt from
any conflicting statutory or common law obligations, including any such
obligations with respect to choice of asset managers, investment funds, or
investments for the KPERS fund's securities portfolios.

(g) If any provision of this act or its application to any person or
circumstance is held invalid, the invalidity does not affect other provisions
or applications of the act that can be given effect without the invalid
provision or application, and to this end, the provisions of this act are
severable. The legislature hereby declares that it would have passed this
act and each provision of this act, irrespective of the fact that any one or
more provisions of this act might be declared invalid, illegal,
enforceable or unconstitutional, including, but not limited to, each of the
engagement, divestment and prohibition provisions of this act.

Sec. 2. Present, future and former board members jointly and
individually, state officers and employees, research firms described in
section 1, and amendments thereto, and investment managers under
contract with the Kansas public employees retirement system shall be
indemnified from the state general fund and held harmless by the state
from all claims, demands, suits, actions, damages, judgments, costs,
charges and expenses, including court costs and attorney's fees, and against all liability, losses and damages of any nature whatsoever that these present, future or former board members, officers, employees, research firms or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce or eliminate investments pursuant to section 1, and amendments thereto.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.