

STATE OF KANSAS

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SENATE CHAMBER

MR. PRESIDENT:

I move to amend **SB 291**, As Further Amended by Senate Committee, on page 1, in line 24, by striking "6" and inserting "9";

On page 2, in line 4, after "(4)" by inserting ""Entity" means a partnership, association, trust, joint venture, corporation, group, subgroup or other non-United States governmental organization.

(5);

On page 3, following line 22, by inserting:

"(9) (A) "Foreign adversary" means any government or nongovernment person determined to be a foreign adversary pursuant to 15 C.F.R. § 7.4, as in effect on July 1, 2023, except as otherwise provided by paragraph (2).

(B) Upon any occasion when 15 C.F.R. § 7.4 is amended after July 1, 2023, the attorney general may, in the attorney general's sole discretion, adopt rules and regulations to add or remove a government or nongovernment person from the definition of "foreign adversary" but only after giving due consideration to the risks to state and national security and the economic costs and benefits of such action.";

Also on page 3, following line 27, by inserting:

"(12) "Person" means an individual or entity.

(13) "Person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary" means:

(A) Any person, wherever located, who acts as an agent, representative or employee, or

any person who acts in any other capacity at the order, request or under the direction or control, of a foreign adversary or of a person whose activities are directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in majority part by a foreign adversary;

(B) any person, wherever located, who is a citizen or resident of a nation-state controlled by a foreign adversary, unless such person is a dual citizen of the United States and a foreign adversary;

(C) any corporation, partnership, association or other organization organized under the laws of a nation-state controlled by a foreign adversary; or

(D) any corporation, partnership, association or other organization, wherever organized or doing business, that is owned or controlled by a foreign adversary.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 5, following line 12, by inserting:

"New Sec. 4. (a) The board shall sell, redeem, divest or withdraw all publicly traded securities of any foreign adversary or person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary in accordance with the following schedule:

(1) At least 50% of those assets shall be removed from the system's assets under management not later than one year after the effective date of this act or one year from the date 15 C.F.R. § 7.4 is amended to include such foreign adversary if amended after July 1, 2023, unless the board determines that a later date is more prudent, based on a good faith exercise of the board's fiduciary discretion and subject to paragraph (2); and

(2) 100% of such assets shall be removed from the system's assets under management not later than 18 months after the effective date of this act or one year from the date 15 C.F.R. § 7.4 is amended to include such foreign adversary if amended after July 1, 2023.

(b) The system may not acquire securities of any foreign adversary or person owned by,

controlled by or subject to the jurisdiction or direction of a foreign adversary.

New Sec. 5. The board shall divest from any indirect holdings in actively or passively managed investment funds or private equity funds containing publicly traded securities of any foreign adversary or person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary. The board shall submit letters to the managers of each investment fund containing publicly traded securities of any foreign adversary or person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary requesting that they remove such publicly traded securities from the fund or create a similar actively or passively managed fund with indirect holdings devoid of such publicly traded securities. If a manager creates a similar fund with substantially the same management fees and substantially the same level of investment risk and anticipated return, the board may replace all applicable investments with investments in the similar fund in a time frame consistent with prudent fiduciary standards but not later than the 450<sup>th</sup> day after the date the fund is created. If a manager does not create such similar fund, the board shall divest from such indirect holdings in actively or passively managed investment funds or private equity funds.

New Sec. 6. Not later than the first day of the regular session of the legislature, each year, the board shall file a report with the treasurer, the president of the senate, the speaker of the house of representatives and the attorney general that:

(a) Identifies all securities sold, redeemed, divested or withdrawn in compliance with section 4(a), and amendments thereto;

(b) identifies all prohibited investments under section 4(b), and amendments thereto;  
and

(c) summarizes any changes made under section 5, and amendments thereto.";

And by renumbering sections accordingly;

On page 1, in the title, in line 17, before "providing" by inserting "directing the board of trustees of the Kansas public employees retirement system to divest from investments with foreign adversaries;"

Senator \_\_\_\_\_