SENATE BILL NO. 161

INTRODUCED BY B. MOLNAR, K. REGIER, L. DEMING

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING BOARD OF INVESTMENT LAWS; LIMITING STATE INVESTMENT IN FOREIGN ADVERSARIES; AND MANDATING DIVESTMENT FROM FOREIGN ADVERSARIES.”

WHEREAS, it is not in the best interests of Montanans serving in active duty to invest in adversary nations’ economic or military capacity; and

WHEREAS, it is inconceivable the Montana government would invest its retirement contributions in those that will oppose America on the field of battle; and

WHEREAS, it is important to invest in the Montana economy; and

WHEREAS, it is important that Montana take a leadership role in not investing in companies that habitually commit human rights violations; and

WHEREAS, Montana should invest only in companies in which a thorough scrutiny has been completed; and

WHEREAS, owning shares in companies that are not in the above groups but that own companies that are in the above groups is just as wrong regardless of the profit motive; and

WHEREAS, Montana owns shares in about 1,100 of these companies; and

WHEREAS, in February 2020 Montana had $11,191,219 invested in Russian firms; and

WHEREAS, in September 2022 Montana holdings in Russian firms was about $31,113, mainly in Rubles, which is a substantial loss; and

WHEREAS, in February 2020 Montana had $102,191,219 invested in Chinese holdings; and

WHEREAS, those investments are now worth $83,000,000, which is only 0.0035% of our Chinese holdings, not including Hong Kong; and

WHEREAS, if President Trump had not acted at the time, Montana would still be invested in the China National Nuclear Corporation, which refines the nuclear material used to make the atomic bombs sitting atop China’s intercontinental ballistic missiles aimed at the United States.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Foreign adversary noninvestment and divestment. (1) The board may not invest in any security listed on an exchange in a jurisdiction in which the public company accounting oversight board:

(a) has not conducted an inspection of a registered public accounting firm required by federal law; and

(b) is prevented from conducting an inspection required by federal law because of a law or policy of an authority in the jurisdiction.

(2) The board shall consult with the securities and exchange commission on a biennial basis in order to ensure compliance with subsection (1).

(3) The board shall divest from securities in which investment is precluded by subsection (1):

(a) when divestment can be achieved without a loss of capital or revenue; or

(b) whenever prudent.

(4) As used in this section, the following definitions apply:

(a) "Board" means the Montana board of investments.

(b) "Registered public accounting firm" has the meaning provided in 15 U.S.C. 7201 as of August 4, 2022.

NEW SECTION. Section 2. Promoting better investments. (1) The board of investments shall work with similar boards and state entities that invest state funds to promote international funds that do not include investments that are not compliant with the Sarbanes-Oxley Act of 2002 or investments in companies that are in or belong to foreign adversaries.

(2) As used in this section, "foreign adversary" means any foreign government or foreign nongovernment person determined by the secretary of commerce to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or the security and safety of the people of the United States for the purposes of sections (3)(a) and (3)(b) of Executive Order
NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 17, chapter 6, part 2, and the provisions of Title 17, chapter 6, part 2, apply to [sections 1 and 2].

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