Division of the Budget
Landon State Office Building
900 SW Jackson Street, Room 504
Topeka, KS 66612

Kansas
Division of the Budget

Phone: (785) 296-2436
adam.c.proffitt@ks.gov
http://budget.kansas.gov

Adam C. Proffitt, Director

Laura Kelly, Governor

March 1, 2024

The Honorable Nick Hoheisel, Chairperson
House Committee on Financial Institutions and Pensions
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Hoheisel:

SUBJECT: Fiscal Note for HB 2739 by House Committee on Financial Institutions and Pensions

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2739 is respectfully submitted to your committee.

HB 2739 would require all state-managed funds to sell, redeem, divest, or withdraw all publicly traded securities of any country of concern, or person owned or controlled by or subject to the jurisdiction or direction of a country of concern (person of concern). The bill would define a country of concern to include: the People's Republic of China, including the Hong Kong Special Administrative Region; the Republic of Cuba; the Islamic Republic of Iran; the Democratic People's Republic of Korea; the Russian Federation; and the Bolivarian Republic of Venezuela. The bill would provide that: (1) not later than July 1, 2025, at least 50.0 percent of assets would be removed from the state-managed fund's assets under management; and (2) not later than January 1, 2026, 100.0 percent of assets would be removed from the state-managed fund's assets under management. The bill would outline allowable deviations from these dates, under certain outlined conditions.

The bill would prohibit any state-managed fund to knowingly acquire securities of any country of concern or person of concern. Also, a state-managed fund could not invest or make a deposit in any bank that is domiciled or has such bank's principal place of business in a country of concern.

The bill would require state-managed funds to divest from any indirect holdings in actively or passively managed investment funds containing publicly traded securities of any country of concern or person of concern. Any state-managed fund may submit letters to the managers of each investment fund containing publicly traded securities of any country of concern or person of concern requesting that they remove 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 would create a similar fund with substantially the same management fees and substantially the same level of investment risk and anticipated return, a state-managed fund 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 450th day after the date the fund is created. If a manager does not create a similar fund, the state-managed fund would divest from indirect holdings in actively or passively managed investment funds.

The provisions of the bill would not apply to any real estate or private equity investment commitment made by a state-managed fund prior to July 1, 2024, or to a real estate or private equity investment commitment made by a state-managed fund, as outlined in the bill. On and after July 1, 2024, a state-managed fund could not make any new real estate or private equity investment commitment in companies affiliated with a country of concern.

Each state-managed fund would be required to file a report with the Legislature no later than the first day of the regular session of the Legislature each year. In addition, KPERS would be required to file a report with certain required information with the Joint Committee on Pensions, Investments, and Benefits.

The bill would provide that no state agency could enter into a contract or agreement to procure goods or services from a company domiciled or with a principal place of business in a country of concern; however, this provision would not apply to any contract or agreement entered prior to July 1, 2024.

The bill would provide that the state would indemnify and hold harmless for actual damages, court costs, and attorney fees adjudged against members of a state-managed fund, or any other officers of a state-managed fund related to the act or omission on which the damages would be based. The state would defend the state-managed fund and any of a state-managed fund's current and former employees.

The provisions of the bill would expire on July 1, 2029. On or after July 1, 2028, but before July 15, 2028, KPERS would be required to notify the Speaker of the House of Representatives, the President of the Senate, and the Chairperson of the Joint Committee on Pensions, Investments and Benefits that the bill would be scheduled to expire on July 1, 2029.

The Pooled Money Investment Board (PMIB) reports that the enactment of HB 2739 would not have a fiscal effect, as PMIB does not have any investments as outlined in the bill. The Office of Procurement and Contracts in the Department of Administration indicates that the enactment of the bill would have no fiscal effect.

The State Treasurer reports that any costs associated with the enactment of the bill would be negligible and could be accomplished with the agency’s existing budget resources. The agency would assume that the bill would not affect the various consumer investment programs sponsored by the agency, including the Kansas 529 Education Plan and Kansas ABLE Savings Plan.

KPERS reports that the enactment of the bill would require the divestment of holdings in China, including Hong Kong, over a two-year period. As of December 31, 2023, KPERS has approximately $256.9 million in public market securities in China, which represents less than 1.0 percent of the total KPERS assets. The agency states that the bill's provisions that would allow a two-year period of divestiture would allow the KPERS Board of Trustees to manage any associated divestiture risks; however, there would be trading costs to liquidate these holdings and reinvest in other public market securities. The agency estimates these trading costs to be approximately $680,000 over the two-year period of divestiture. KPERS notes that the bill would not be expected to affect the long-term investment return assumptions currently used by the actuary. Any fiscal effect associated with HB 2739 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,

Adam C. Proffitt
Director of the Budget

cc: Joel Oliver, Pooled Money Investment Board
Jarod Waltner, KPERS