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300 SW TENTH AVENUE ▪ SUITE 24-E ▪ TOPEKA, KS 66612 ▪ (785) 296-2321

MEMORANDUM

To: House Committee on Financial Institutions and Pensions

From: Office of Revisor of Statutes

Date: March 4, 2024

Subject: **HB 2739 - Enacting the countries of concern divestment and procurement protection act, requiring state-managed funds to divest from investments with countries of concern with exceptions, prohibiting investments, deposits or contracts with any bank or company domiciled or with a principal place of business in a country of concern, indemnifying state-managed funds with respect to actions taken in compliance with such act and providing an expiration date for such act.**

House Bill No. 2739 enacts eight new sections of law to be known as the countries of concern divestment and procurement protection act.

Section 1 provides the name and citation of the act.

Section 2 provides definitions used throughout the act.

"Country of concern" means the following:
(1) People's republic of China, including the Hong Kong special administrative region;
(2) republic of Cuba;
(3) islamic republic of Iran;
(4) democratic people's republic of Korea;
(5) Russian federation; and
(6) Bolivarian republic of Venezuela.
"Country of concern" does not include the republic of China (Taiwan).

"State-managed fund" means:

(1) The Kansas public employees retirement fund managed by the board of trustees of the Kansas public employees retirement system in accordance with K.S.A. 74-4921, and amendments thereto;

(2) the pooled money investment portfolio managed by the pooled money investment board in accordance with article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto; and

(3) any other fund that is sponsored or managed by a state agency.

Section 3 requires a state-managed fund to sell, redeem, divest or withdraw all publicly traded securities of a country of concern with at least 50% of such assets removed from the state-managed fund not later than July 1, 2025, unless a later date is more prudent based on a good faith exercise of the state-managed fund's fiduciary discretion, and 100% of such assets shall be removed not later than January 1, 2026. If a country of concern takes action to prohibit or restrict the divesting of publicly traded securities, the state managed fund shall remove those assets not later than one year from the date such action is ended by the country of concern. This section also prohibits a state-managed fund from knowingly acquiring securities of any country of concern and from investing or depositing in any bank domiciled or with a principal place of business in a country of concern.

Section 4 requires 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. An exception exists for any real estate or private equity investment commitment made by a state-managed fund prior to July 1, 2024. On and after July 1, 2024, a state-managed fund shall not make any new real estate or private equity investment commitment in companies affiliated with a country of concern.

Section 5 requires each state-managed fund to file a report annual with the legislature and KPERS shall also file such report with the joint committee on pensions, investments and benefits that:

(1) Identifies all securities sold, redeemed, divested or withdrawn in compliance with section 3;

(2) identifies amendments to section 2, that add or remove a country of concern; and

(3) summarizes any changes made under section 4.

Section 6 prohibits a state agency from entering into a contract or agreement after July 1, 2024, to procure goods or services from a company domiciled or with a principal place of business in a country of concern.

Section 7 provides indemnification for actions taken in compliance with this act by members or officers of a state-managed fund.

Section 8 provides an expiration date for the act of July 1, 2029. In July 2028, KPERS shall 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 act is scheduled to expire on July 1, 2029.