FISCAL NOTE
HOUSE BILL NO. 1469
LC# 23.0466.04000
01/27/2023

1 - State Fiscal Effect

Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2021-2023 Biennium		2023-2025 Biennium		2025-2027 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				$10,281,911		$10,281,911
Appropriations				$10,281,911		$10,281,911

2 - County, City, School District, and Township Fiscal Effect

Identify the fiscal effect on the appropriate political subdivision.

	2021-2023 Biennium	2023-2025 Biennium	2025-2027 Biennium
Counties			
Cities			
School Districts			
Townships			

3 - Bill and Fiscal Impact Summary

Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).

HB 1469 defines specific criteria around the investment of public funds and the allowable factors involved in selecting specific investment objectives and in the administration of proxy voting. It also requires SIB establish a list of ineligible financial institutions based on certain actions.

4 - Fiscal Impact Sections Detail

Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.

Section 1 of the bill defines the terms "fiduciary", "non-pecuniary factor", "pecuniary factor", and "plan" as they relate to the investment of public funds. It also goes on to require that any fiduciary investing public funds must only do so by taking into account pecuniary factors and may not take into account any non-pecuniary factors when evaluating an investment or discharging its duties with respect to such funds.

In addition, it goes on to require that no proxy voting authority be granted to any individual unless that individual is following guidelines consistent with the fiduciary's requirement to act only on pecuniary factors and that all shares held directly or indirectly may be voted only in the pecuniary interest of the plan.

Currently, all financial contracts entered into by the SIB are for the exclusive benefit of each client fund it is investing on behalf of. Its objective is to obtain the maximum return for the appropriate level of risk as determined by the client fund. In doing so, the SIB specifically precludes the inclusion of any non-pecuniary factors in any of its investment evaluations as doing so would contradict the exclusive benefit rule and would put them in breach of contract with all 28 client funds for which it currently administers investments.

The same can be said for the SIB's proxy voting process. All votes made on behalf of SIB client funds are made under the guidelines consistent with its obligation to act only on pecuniary factors and for the exclusive benefit of the client funds. Therefore, the provisions set forth in section 1 are consistent with current SIB practice and would not cause a specific fiscal impact. There may be some contracting difficulties as it does amend the prudent investor rule language in NDCC 21-10-07 and as such may cause some uniformity issues with other plans across the financial industry as the prudent investor rule is standard in many contracts.

Section 2 of the bill requires the SIB to establish and maintain a list of financial institutions not eligible to receive investments of state funds based on the institutions intended furtherance or promotion of a non-pecuniary factor or factors that conflict with the state's energy or agriculture industries.

This requirement would require the addition of two FTE to establish and maintain said list. These two positions would also be needed to determine appropriate criteria for inclusion on the ineligible list and then to continually monitor the thousands of financial institutions across the world to determine whether or not they should be included. The addition of these two FTE would cost $379,525 in salaries and benefits per biennium. As explained further in the below sections, the contents of this list may cause significantly greater fiscal impacts.

5 - Revenues Detail

For information shown under state fiscal effect in 1 or 2, please explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

6 - Expenditures Detail

For information shown under state fiscal effect in 1 or 2, please explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

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As the determination of specific intent is subjective in nature, it is uncertain how many institutions would be ultimately included in this ineligible list. If the criteria was such that has been raised in committee hearings on bills with similar topics, it could very well include all institutional investment managers currently engaged by the SIB. If that were to happen, the SIB would be required to divest all funds from external managers and would require 100% internal investment management. Doing this would significantly increase the need for internal staffing as currently 100% of the investments are externally managed. RIO would have to significantly expand its investment and operations teams to administer all of the internal investment activities.

As a comparison, the South Dakota Investment Council has a very similar amount of assets under management as the SIB and manages the vast majority of its investments internally with a total of 35 investment and operations FTE. Similar structure for the SIB would necessitate an additional 25 FTE (20 investment professionals across a variety of asset categories, 3 investment accountants, and two admin positions) to administer all investments internally. The addition of these FTE would conservatively cost an additional $8,652,386 per biennium in salaries and benefits and would require significant operating expenditures to support the additional workforce. If this were to be required, the SIB estimates and increase in $9,902,386 of special fund expenditures per biennium.

The estimated additional expenditures for this bill would range from the $379,525 for the establishment and monitoring of the list to, potentially, $10,281,911 for the 100% internalizing of the SIB investment program if the list prohibits investment with most or all of the available investment managers.

7 - Appropriations Detail

For information shown under state fiscal effect in 1 or 2, please explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.

As spelled out above, the establishment and monitoring of said list would require additional appropriations of $379,525 and two FTE. Beyond that, if the list necessitates moving the management of all investments internally an additional $9,902,386 and 25 FTE would be required to facilitate the internal investment of all funds under management.

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Date Prepared: 01/27/2023