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Nebraska Retirement Systems Committee  
January 27, 2011

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[LB303 LB474]

The Committee on Nebraska Retirement Systems met at 12:10 p.m. on Thursday, January 27, 2011, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB303 and LB474. Senators present: Jeremy Nordquist, Chairperson; LeRoy Louden, Vice Chairperson; Lavon Heidemann; Russ Karpisek; Heath Mello; and Dave Pankonin. Senators absent: None.

SENATOR NORDQUIST: Good afternoon. We'll begin the hearing for today's Retirement Systems Committee. Just a few reminders: Please turn off your cell phone and pagers. If you're testifying, please fill out a testifier's sheet and hand it in the box in front of our committee clerk. There is a sign-in sheet in the back if you wish to fill that out. We will take the introductory statement and then proponents, opponents, and then neutral testimony. We have two bills today. Before we begin, we'll introduce our committee clerk who is Trisha Clark; to my left would be Kate Allen our committee counsel; our page today is Lisa. And we'll start over here on my left with the senator from District 1 to do self-introductions. [LB303]

SENATOR HEIDEMANN: Senator Lavon Heidemann, District 1, southeast Nebraska. [LB303]

SENATOR PANKONIN: Dave Pankonin, District 2. I live in Louisville. [LB303]

SENATOR NORDQUIST: And Jeremy Nordquist, Chair. District 7, downtown and south Omaha. [LB303]

SENATOR KARPISEK: Russ Karpisek, District 32. [LB303]

SENATOR MELLO: Heath Mello, District 5, south Omaha and Bellevue. [LB303]

SENATOR NORDQUIST: All right. And I think Senator Louden will be joining us here shortly. We will go ahead with and hear the opening on LB303. And welcome, Senator McCoy. [LB303]

SENATOR MCCOY: Well, thank you, Chairman Nordquist and members of the Retirement Systems Committee. I am Beau McCoy, that's B-e-a-u M-c-C-o-y, and I represent the 39th District in the Legislature. And I'm here today to introduce to you LB303, which seeks to end the requirement of the Nebraska Investment Officer to compile a list of corporations that do business in Northern Ireland. Specifically, the list includes corporations whose stocks or obligations the State Investment Officer has invested in the state funds. The Nebraska Investment Officer must determine if those corporations have taken the steps to follow the MacBride Principles in the last year. In short, LB303 seeks to outright repeal Section 72-1246.06, 72-1246.07, and 72-1246.08.

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LB303 is not a statement for or against the MacBride Principles in Northern Ireland--and those, just in short, are nine fair employment principles that were set forth and written by Nobel Laureate Sean MacBride. I really believe now is the proper time to bring LB303 to save a little money. It's \$8,500 from the cash fund, and Jeff States will follow me here in a moment and can elaborate a little bit more on that. It's certainly not a large amount, but as a number of you know, being on the Appropriations Committee: every little bit counts. Going back a little bit to kind of give a little bit of a historical perspective, LB705 was introduced by Senator Hall in 1993 and then was amended into LB1066 in 1994 on the floor. And LB1066 was introduced by Senator Chambers, which was repealing the divest South Africa legislation that had been put into place in I believe 1984. And just as there was an appropriate time to end the divestment of South Africa, I believe now is the proper time to end limiting investments in Northern Ireland. Doing some research on this, we discovered that there was the Belfast Agreement or Good Friday Agreement that was signed in 1998 which really outlined a number of those same human rights principles that were set forth in the MacBride Principles and which certainly seem, through that, that some very broad steps have been taken to change the situation in Northern Ireland, including on September 26, 2005, when it was announced that the Provisional Irish Republican Army had completely decommissioned its arsenal of weapons and, quote, put them beyond use, end quote. And I believe now is the time to end these restrictions and I would wrap up with that and take any questions if there are any. [LB303]

SENATOR NORDQUIST: Thank you, Senator McCoy. I would like to introduce Senator Loudon who is joining us, the Vice Chair of the committee from District 49. At this time we'll take any questions for Senator McCoy. Senator Pankonin. [LB303]

SENATOR PANKONIN: Thank you, Chairman Nordquist. Senator McCoy, I think...I'm sure in your research also you found out that how tough it is for the State Investment Officer and the state investment function to try to separate these...this out. It does cost money because, you know, funds...it's very hard to do in our modern global economic network to preclude certain investments that may have subsidiaries...there's just so many. It's so complicated that it's very, very tough to do. But I am curious why you brought this bill. Did someone come to you or one just looking at things, or how did it come about? [LB303]

SENATOR McCOY: No, I'd have to say this came about with some fantastic research by my staff. Quite honestly, over the interim we were researching some subject material for another bill that we didn't actually end up introducing, and ran across this and started to ask some questions of the Legislative Research Office and the Fiscal Office and obviously the Investment Office, and discovered that this existed and had been there for, obviously, a long time. And it appeared to be not being used at all and thought that in light of our budget situation it seemed to be something that, while very minor, definitely needed to be taken care of. [LB303]

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SENATOR PANKONIN: Well, thank you for doing that and thanks to your staff for researching. And I do think the political-religious situation in Northern Ireland, I'm sure it's not perfect, but it is a lot better than it was at one time and that's obviously part of the equation here. So thank you. [LB303]

SENATOR McCOY: Thank you. [LB303]

SENATOR NORDQUIST: Yeah. And just you and I talked as you were introducing this bill that, along the lines of what you're just talking with Senator Pankonin. The request made to the Clerk, do you have the exact time? It's been a number of years before a request has been made for this report? Did you...is that right? [LB303]

SENATOR McCOY: I...yeah, I think we did. And I apologize... [LB303]

SENATOR NORDQUIST: Okay. That's all right. [LB303]

SENATOR McCOY: I can't remember off the top of my head, but it's been a long time is my knowledge, since this...yeah, since a request has been made. [LB303]

SENATOR NORDQUIST: That anyone has even requested a copy of the report, so. [LB303]

SENATOR McCOY: Yeah. [LB303]

SENATOR NORDQUIST: Okay. Great. [LB303]

SENATOR McCOY: Clearly. [LB303]

SENATOR NORDQUIST: And no other questions? Thank you. [LB303]

SENATOR McCOY: Thank you. [LB303]

SENATOR NORDQUIST: We'll take proponent testimony. [LB303]

JEFF STATES: And I don't know that I need to do this. I'm Jeff States, it's J-e-f-f, States, S-t-a-t-e-s. [LB303]

SENATOR NORDQUIST: Maybe if you'd...just real quick, just to make sure we get your name on the record... [LB303]

JEFF STATES: Okay, for the mike. Sure. [LB303]

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SENATOR NORDQUIST: ...and whatever you're handing out. [LB303]

JEFF STATES: And I am currently the Nebraska State Investment Officer. I'm here as a proponent of the legislation primarily because I think we agree with the senator's position that the timing is right. This is no longer a strong hot-button issue with respect to the corporate governance arena. From a proxy voting standpoint and directing corporations, this is an item that no longer appears and hasn't for several years on ballot initiatives because it has been dealt with fairly effectively in other means. The report has been done on an annual basis for a number of years. It's an \$8,500 cost for some research as well as staff time. But we concur with our belief that the report, although it's being generated, is no longer, you know, being requested or utilized, and we certainly in our office haven't received inquiries or calls related to the report on this issue for a number of years. And so we feel that it has been addressed. The intent was to encourage good corporate behavior by U.S. corporations. And the report we generated shows that there has been substantial compliance with the various principles and is represented it's just no longer necessary in order to promote that environment. [LB303]

SENATOR NORDQUIST: Okay, great. Thank you for being here. Any questions for Mr. States? Senator Mello. [LB303]

SENATOR MELLO: Just looking at it, and I think it's just for the record so we know: the savings is cash funds; it's not something that we can utilize for the General Fund. Wouldn't that be correct, Mr. States? [LB303]

JEFF STATES: Senator, that's correct. Yes. [LB303]

SENATOR MELLO: Okay. Okay, thank you. [LB303]

SENATOR NORDQUIST: Great. Thank you. Oh. Senator Louden. [LB303]

SENATOR LOUDEN: Yes. Well, at the present time do you have any investments that are on there? I guess have you been doing it...have been adhering to this statute? [LB303]

JEFF STATES: Senator, we adhere to the statute to the extent that it requires us to report, and so we identify the corporations that we have investments in that do business in Northern Ireland, or in Ireland, and then from the data that we have to the extent we can identify those companies that have complied with the MacBride Principles or adopted them, and a smaller number either that haven't or that we can't determine. We have, to date, done nothing beyond that except to identify those corporations. And part of the rationale for not doing more has been the fact that we, in statute 72-1239.01, have separate legislation adopted in '96 that says, "No assets of the retirement

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systems..."--and you probably know this, I mean--"shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives." And so we felt we needed to comply. But to go further, particularly since we delegate all of our equity investing, public equity investing to external managers, would interfere with their ability just to exercise their best fiduciary decision to, you know, invest the funds for the returns of the retirement system. So we don't go further to try and direct them or take action. [LB303]

SENATOR LOUDEN: Okay. Thank you. [LB303]

SENATOR NORDQUIST: All right, thank you. Seeing no other questions, thank you. Any additional proponent testimony? Seeing none, any opponent testimony? Seeing none, any neutral testimony? Seeing none, Senator McCoy, would you care to close? Senator McCoy waives closing. That will conclude the hearing on LB303. Thank you. And our legal counsel Kate Allen will open on the next bill, LB474, introduced by the Retirement Systems Committee. [LB303 LB474]

KATE ALLEN: (Exhibit 1) Good afternoon, Chairman Nordquist and committee members. My name is Kate Allen, that's K-a-t-e A-l-l-e-n, and I am legal counsel for the Retirement Committee and will introduce LB474 on behalf of the committee today. In 1998, legislation was passed requiring 12 governmental entities to annually file defined contribution plan reports and file actuarial analyses of defined benefit plans every four years. Annual reports must be filed with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee by December 31. The Public Employees Retirement Board is required to prescribe the form of the report and to notify the committee of the failure of any governmental entity to file such reports. If a plan contains no current active participants, the entity may file in place of the report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits and the sources and amount of funding for such benefits. According to the hearing transcript, the intent of this requirement was to put in place a monitoring system so the condition of the plans could be reviewed and to establish centralized repositories in case any member of the public wants to review information about the various plans. The governmental entities that are directed to comply with this mandate include the Nebraska Association of Resources Districts, Wyuka Cemetery, metropolitan cities, Metropolitan Transit Authority, the Metropolitan Utility District, primary-class cities, first-class cities' police officer and firefighter plans, first- and second-class cities and villages, counties with population greater than 150,000, county medical and multiunit facilities, and city and county local boards of health. LB474 directs these entities to submit these required reports with the Auditor of Public Accounts and eliminates the requirement to submit reports to the Nebraska Retirement Systems Committee. The bill also removes the Public Employees Retirement Board's duty to annually notify the Retirement Committee if any governmental entity fails to file its report. There is an amendment to the bill which is included in your notebook, and there are copies available

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over here on the table as well. The Auditor's Office contacted me a few days ago and asked for an amendment to specify that the Auditor may, but is not required to, prepare a written review of the reports filed by each of the political subdivisions in this bill. The reason for this amendment is because under the Auditor's statute in Section 84-304.02, the Auditor is required to prepare a written review of each audit, accounting, or financial report required to be filed by a political subdivision of the state and is also required to mail a copy of that report to the political subdivision and accountant who prepared the report. The language in this amendment gives the Auditor the option to provide a written report regarding these particular pension reports. Auditor Foley is here today to testify in support of the bill and I'd be glad to respond to any questions. [LB474]

SENATOR NORDQUIST: Thank you, Kate. Are there any questions from the committee? Seeing none, thank you. We will take proponent testimony. [LB474]

MIKE FOLEY: Thank you, Chairman Nordquist, members of the committee. For the record, my name is Mike Foley, F-o-l-e-y, Auditor of Public Accounts, here today in support of LB474. I just want to say for the record that, over the years I've been involved in Nebraska politics, I've been involved in a number of hot-button issues and this bill is certainly in keeping with my reputation, so. Seriously though, we are already receiving audit reports, budget reports from all those political subdivisions. It just makes good sense that these retirement reports would also be filed with my office. So with the amendment that Ms. Allen described to you, we're in full support of the bill. Thank you. [LB474]

SENATOR NORDQUIST: Great. Thank you. Any questions for the Auditor? Seeing none, thank you for being here. [LB474]

MIKE FOLEY: Thank you, Mr. Chairman. [LB474]

SENATOR NORDQUIST: Any additional proponent testimony? Seeing none, any opponent testimony? Seeing none, any neutral testimony? Seeing none, that will conclude the hearing on...oh, and then there will be no closing, and that will conclude the hearing on LB474. Thank you. [LB474]