



Testimony of
The Honorable Denise L. Nappier
Treasurer, State of Connecticut

Appropriations Committee Public Hearing
S.B. No. 285, AAC THE MACBRIDE PRINCIPLES

March 19, 2012

Good morning Senator Harp, Representative Walker, Senator Kane and Representative Miner and members of the Appropriations Committee. Thank you for the opportunity to testify in support of S.B. 285, An Act Concerning The MacBride Principles.

This bill gives the Treasurer greater discretion in divesting investments in companies that fail to adopt the MacBride principles and sunsets the requirement for such divestures after January 1, 2020.

Enacted in 1984, Conn. General Statute §3-13h, requires the Treasurer to engage with companies in which Connecticut Retirement Plans and Trust Funds (CRPTF) have invested that conduct business in Northern Ireland and have not implemented the MacBride Principles, which relate to nine religious freedoms and employment rights in Northern Ireland.

Currently, the statute is a mandatory divestment statute. That means if the company refuses to implement the principles, the Treasurer is required to divest CRPTF's holdings in the company. The bill would eliminate the mandatory divestment language, while still authorizing divestment in the exercise of the Treasurer's discretion.

The mandatory scheme under Connecticut's MacBride law is unlike other Connecticut statutes authorizing, but not requiring, the Treasurer to divest

from holdings based upon statutory criteria, such as the Sudan law, Connecticut General Statute §3-21e, and the Iran law, Connecticut General Statute §3-13g, amended just last session. In each of those statutes, the Treasurer retains discretion to determine whether or not divestment is warranted on a case by case basis.

This approach—retaining discretion—was crucial to my support of the Sudan law in 2006, and to the amendment of the Iran law in 2011. It was considered integral to the Treasurer's role as principal fiduciary of the CRPTF that the ultimate decision on whether or not to divest should remain with the Treasurer. Accordingly, the amended MacBride statute would represent a consistent approach under Connecticut law in statutes directing the Treasurer to consider investment restrictions. It should also be noted that the discretionary scheme set forth in the amendment is far more likely to pass muster under the U.S. Constitution, if challenged as interference the foreign policy powers of the federal government, since the amended statute does not mandate a particular outcome that could be inconsistent with the foreign policy of the United States.

The flexibility embodied in this amendment also reflects the intention of the original MacBride supporters, which was to end religious discrimination in employment in Northern Ireland by encouraging companies doing business there to adopt policies supporting religious freedom of workplace opportunity—but not to harm the economy by encouraging companies to withdraw from Northern Ireland.

The proponents urged pension plans to lobby companies doing business in Northern Ireland to adopt the MacBride principles and lobbied state legislatures to pass legislation that provided for the investment of funds only in companies that adopted the principles. Thus, the incentive was to adopt the principles or face the loss of future investments. Connecticut's law went further, requiring divestment entirely. The amendment would eliminate the

mandatory divestment language, which the original MacBride campaign did not advocate.

S.B. 285 also adds a "sunset" provision, calling for the law to be automatically repealed on January 1, 2020 unless extended by the legislature. This also is consistent with the approach taken in Connecticut's Sudan and Iran laws, although in a somewhat different form. Currently, the U.S. government has imposed economic sanctions on both Sudan and Iran. Connecticut's Sudan and Iran laws "sunset" when the federal sanctions are repealed. The existence of a termination provision is also a key factor in the Constitutional analysis of state laws that may impinge of the federal government's foreign policy powers.

Since Northern Ireland is not subject to federal economic sanctions like Sudan and Iran, the insertion of a "sunset" date provides the necessary termination provision. Should the Connecticut legislature determine prior to 2020 that there continues to be a need for the MacBride statute, it can extend the sunset provision.

Since Connecticut enacted the MacBride statute, the peace process in Northern Ireland has put an end to the majority of the violence there, and the country's employment laws largely embody the principles of nondiscrimination and employment opportunity set out in the MacBride Principles. Despite this improvement, we must remain vigilant. I will continue to enforce the MacBride Principles and this bill in no way alters my commitment to do so.

For these reasons, I ask for your favorable consideration of Raised Bill 285. Thank you for your time. I would be happy to answer any questions.

