

PA12-203

SB0285

Appropriations	3058-3076, 3105-3107	22
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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2012**

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Will the Clerk please call Calendar Number 449.

THE CLERK:

On page 21, Calendar 449, Senate Bill Number 285, AN ACT CONCERNING THE MACBRIDE PRINCIPLES, favorable report by the Committee on Appropriations.

DEPUTY SPEAKER ORANGE:

Representative Henry Genga.

REP. GENGA (10th):

Thank you, Madam Speaker.

Madam Speaker, I rise to ask for acceptance of the joint committee's favorable report and acceptance of the bill.

DEPUTY SPEAKER ORANGE:

The question is acceptance of the joint committee's favorable report and passage of the bill.

Will you remark -- in concurrence with the Senate, sir.

REP. GENGA (10th):

Thank you, Madam Speaker.

This is the MacBride Principles, which are a matter of nine religious principles. And in 1984 the state treasurer was required by legislative act to divest any companies who do business in Northern Ireland and do not abide by these principles. The treasurer is now asking

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us to use the same discretionary authority consistent with her policy for investments in the countries of Iran and Sudan.

Currently, this policy is accepted by many of the organizations who support the principles. The treasurer would like to have this be consistent with all policies within the treasurer's office, consistent with her fiduciary responsibilities.

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

Will you care to remark further on the bill? Will you care to remark further on the bill?

Representative Patricia Dillon.

REP. DILLON (92nd):

Thank you.

Through you, a question to the proponent.

DEPUTY SPEAKER ORANGE:

Please proceed.

REP. DILLON (92nd):

Yes, Madam Speaker.

At the time that this bill was discussed in committee, the discussion was that the sunset was on the bill to flag it for consideration. Under our -- I realize this is way

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far away, but under our current rules, that would be done under program review, but under -- but previously in this session we took up a bill that changed the procedure of program review.

Through you, do you -- how would this be flagged under the sunset provision?

DEPUTY SPEAKER ORANGE:

Representative Genga.

REP. GENGA (10th):

Is the question, how this would be flagged under this other policy?

DEPUTY SPEAKER ORANGE:

Representative Dillon.

REP. DILLON (92nd):

I'm 'sorry, madam.

Could you repeat it?

REP. GENGA (10th):

Is the question how this would be flagged in relation to the other policy you mentioned?

DEPUTY SPEAKER ORANGE:

Representative Dillon.

REP. DILLON (92nd):

Yes. Thank you, Madam Speaker.

I was simply inquiring whether -- how the procedure

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would work if the protocols of the Program Review Committee are changed.

Through you.

DEPUTY SPEAKER ORANGE:

Representative Genga.

REP. GENGA (10th):

I have -- I do not have answer to that question other than this would be consistent with the other policies within the treasurer's office for investments.

DEPUTY SPEAKER ORANGE:

Representative Dillon.

REP. DILLON (92nd):

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Will you care to remark further on the bill? Will you care to remark further on the bill?

If not, staff and guests please come to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call.

Members to the Chamber. The House is taking a roll call vote. Members to the Chamber, please.

DEPUTY SPEAKER ORANGE:

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Have all members voted? Have all members voted?

If all the members have voted, please check the board.
Please check the board to determine if your vote has been properly cast.

If so, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

THE CLERK:

Senate Bill 285 in concurrence with the Senate.

Total Number Voting	149
Necessary for Adoption	75
Those Voting Yea	137
Those Voting Nay	12
Those Absent and Not Voting	2

DEPUTY SPEAKER ORANGE:

The bill passes in concurrence with the Senate.

Will the Clerk please call Calendar Number 431.

THE CLERK:

On page 19, Calendar 431, Senate Bill Number 138, AN ACT ESTABLISHING A TASK FORCE TO STUDY AGING IN PLACE, as amended by Senate "A."

DEPUTY SPEAKER ORANGE:

Representative Joe Serra.

REP. SERRA (33rd):

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I ask that this be moved to the Consent Calendar unless (inaudible). Do you want to speak?

THE CHAIR:

Seeing no objection, so ordered.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Good evening.

THE CHAIR:

Good evening, sir.

SENATOR LOONEY: Madam President, if -- as the next ready item, if the Clerk would call from calendar page 15, Calendar 347, Senate Bill 285.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On page 15, Calendar 347, Senate Bill Number 285, AN ACT CONCERNING THE MACBRIDE PRINCIPLES, favorable report of the Committee on Appropriations.

THE CHAIR:

Good evening, Senator Harp.

SENATOR HARP:

Good evening, Madam Governor -- Madam President.

I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

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The motion is on acceptance and passage.

Will you remark, ma'am?

SENATOR HARP:

Thank you very much. This bill changes statutory language to give the treasurer greater discretion in divestiture decisions regarding the MacBride Principles. The MacBride Principles are a corporate code of conduct for U.S. companies doing business in Northern Ireland.

In 1987, the Connecticut General Assembly passed a requirement to divest the Connecticut retirement plans and trust funds of investments in U.S. companies doing business in Northern Ireland that do not abide by the MacBride Principles, which are designed to address religious discrimination in the workplace, and consist of nine fair employment and affirmative action principles.

Over the past 25 years, the political climate in Northern Ireland has changed. This bill gives greater discretion to the state treasurer and sunsets the requirement for such divestiture after January 1, 2020.

I urge adoption.

THE CHAIR:

Thank you.

Will you remark?

Senator Kane.

SENATOR KANE:

Good evening, Madam President.

THE CHAIR:

Good evening, sir.

SENATOR KANE:

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Through you, a couple questions to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR KANE:

Thank you, Madam President.

Senator Harp, I do remember this bill in the Appropriations Committee, and I believe I voted in favor of it in committee. But a couple questions came up today as we were in caucus screening the bill. And in relation to the invest -- the investments of the treasurer's office and the human rights policies of these countries that we speak about, in this case Northern Ireland, I know we've set the stage many years ago in this bill, and then, of course, had similar policies in Iran and in Africa, I believe, or South Africa.

But my question to you is, this bill, are we lessening the stringency that was created through the MacBride Principles?

Through you.

THE CHAIR:

Senator Harp.

SENATOR HARP:

Thank you very much, Madam President.

Through you, Madam President, basically what we're doing is giving more flexibility to the treasurer around these issues.

Now, I think it is the strongest divestiture law that we have on our books. Other countries where there are ongoing disputes and problems, like Sudan and Iran and other places in the world, we have less stringent divestiture requirements.

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THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

The, originally, when this bill was created -- I believe enacted in 1984 -- you know, we know the history of what took place in Ireland and Northern Ireland. But we believe that those type of things have been lessened or settled since then.

Can you speak to the reasoning for this bill here today in relation to what has taken place in Ireland over the many years?

Through you.

THE CHAIR:

Senator Harp.

SENATOR HARP:

Through you, Madam President.

When the bill was initially passed, it was based upon the MacBride Principles that were enacted in Northern Ireland in 1984. It was passed here, I believe, in 1987.

And at that particular time in Northern Ireland there was a lot of religious discrimination that occurred and a lack of religious freedom that we enjoy here in this country. And the thought was that they wanted to assure that -- that companies who do business -- U.S. companies who do business in Ireland would abide by those principles to assure that religious freedom existed and that everyone who was -- could apply for and work in a workplace there, very similar to some of the rules that we have here.

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Senator Kane.

SENATOR KANE:

Thank you, Madam President.

And in doing so, we've basically instructed our treasurer to invest in countries that abide by these principles.

Through you.

THE CHAIR:

Senator Harp.

SENATOR HARP:

Through you, Madam President.

In this particular case, it was precisely and specifically for Northern Ireland. And these principles are part of the code of conduct in Northern Ireland, so that it doesn't really translate to other countries in the world.

Through you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

And that's what leads me to my question. I guess the question came up -- is, under the current policy, it says that the treasurer "shall" divest. And I believe this language changes it to "may."

Through you.

THE CHAIR:

Senator Harp.

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SENATOR HARP:

Thank you very much.

Through you, Madam President.

Yes, it says "may."

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

And -- and the reason I ask the question is, again, the concern that came up is the original bill or the original policy was to say that the treasurer shall divest in countries that don't follow the MacBride Principles. This bill now says the treasurer may. So are we lessening that policy?

Through you.

THE CHAIR:

Senator Harp.

SENATOR HARP:

Thank you very much.

We are basically giving the treasurer greater discretion to make decisions around divestiture, and that we are not requiring her to, so that she can make a decision on a case-by-case basis.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

So in that case then, are we not ourselves following

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those basic principles that were set forth because we are giving the treasurer that discretion, as opposed to taking a policy or making a policy statement which says we will not -- we shall not divest in countries that don't abide by these principles.

So now, are we -- by -- by making it "may", we are taking those principles -- we're still -- they're still they are, obviously, but we are taking them or giving them not as much weight by giving the treasurer greater discretion.

Through you.

THE CHAIR:

Senator Harp.

SENATOR HARP:

Thank you.

Through you, Madam President.

It's my understanding from testimony that we heard during the public hearing on this bill that the original MacBride employment laws largely embodied principles of nondiscrimination and employment set out in the MacBride Principles. However, the incentive was to adopt the principles and did not -- even at that time was not advocated by the advocates to require entire divestiture, based upon the history that was given us in the public hearing.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

And do we give the treasurer the same discretion -- you mentioned the Sudan and Iran. Do we give the treasurer that same discretion?

Through you.

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THE CHAIR:

Senator.

SENATOR HARP:

Thank you very much.

Yes. As a matter of fact, for Sudan and Iran, the law basically indicates that the treasurer has the discretion to take action on a case-by-case basis.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Just as an aside, I guess, do you know if we do well with our investments in these countries?

Through you.

THE CHAIR:

Senator Harp.

SENATOR HARP:

Thank you very much.

My understanding is that our Connecticut retirement plans and trust funds do very well.

THE CHAIR:

Senator Kane.

SENATOR KANE:

And would it be recommended, through you, Madam President, that we instill these type of policies in all our investments?

Through you.

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THE CHAIR:

Senator Harp.

SENATOR HARP:

Thank you very much.

I think that we -- once we understand what's going on in that particular country, need to take a look at them on a case-by-case basis.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. And I thank Senator Harp for answers.

There was some questions, as I said, that came up during the screening process today. And quite honestly, during the Appropriations Committee as well, there were eight no votes in committee with similar questions. So I appreciate Senator Harp for her answers.

Thank you.

THE CHAIR:

Thank you.

Will you remark further? Will you remark further?

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

Through you, I have a couple questions for the proponent of the bill.

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Please proceed, sir.

SENATOR KELLY:

Can you identify what the principles are?

THE CHAIR:

Senator Harp.

SENATOR HARP:

Through you, Madam President.

I will get them because they are in the bill there. The principles are as follows: Increasing representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical and technical jobs; two, providing adequate security for the protection of minority employees at the workplace and while traveling to and from work; three, banning provocative religious or political emblems from the workplace; four, publicly advertising all job openings and making special recruitment efforts to attract applicants from underrepresented religious groups; five, lay off recall and termination procedures which do not, in practice, favor particular religious groupings; six, abolishing job reservations, apprenticeship restrictions and differential employment criteria which discriminate on the basis of religious or ethnic origin; seven, developing training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of minority employees; eight, establishing procedures to assess, identify and actively recruit minority employees with potential for further advancement; and nine, appointing a senior management staff member to oversee the company's affirmative-action efforts and the setting up of timetables to carry out affirmative-action principles.

Through you, Madam President.

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Senator Kelly.

SENATOR KELLY:

Thank you, Senator.

Do we have any empirical data on the record -- through you, Madam President -- do you have any empirical data or objective information that says that religious intolerance does not exist in Northern Ireland?

THE CHAIR:

Senator Harp.

SENATOR HARP:

Through you, Madam President.

I do not. I would imagine as long as there are people who see things differently, that there might be religious intolerance. But what I think has happened, because it's become a part of the code of conduct, a part of their laws, it is now illegal in Northern Ireland to do that.

I think prior to our passage, it was not. It was just a code of conduct that, actually, I think the fact that we had divestiture helped to assure that it would become part of their code, and now it is. And so there are legal remedies if those things occur.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Through you, Madam President.

When you indicate that those things are now outlawed, can you explain more fully what those things are?

THE CHAIR:

Senator Harp.

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SENATOR HARP:

Thank you, Madam President.

I apologize. I didn't hear his question.

THE CHAIR:

Senator Kelly, could you repeat your question for the Senator, please.

SENATOR KELLY:

Yes, Madam President.

I'm a little unclear as to what the things you were referring to that are now outlawed.

THE CHAIR:

Senator Harp.

SENATOR HARP:

Thank you.

Through you, Madam President.

The things that are now outlawed that -- are basically the principles that I just read into the record.

Through you, Madam President.

And it was brought to my attention too that, in the eighties, when there was a lot of strife in Northern Ireland, the religious minority had no representation in their government, and now they are well represented in their government.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

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Has the unification of Ireland occurred?

Through you, Madam President.

THE CHAIR:

Senator Harp.

SENATOR HARP:

Thank you, Madam President.

Through you.

No, it has not.

THE CHAIR:

Well, not since we got into the Chamber. We don't know.

Senator Kelly.

SENATOR KELLY:

Thank you.

So we still have a divided Ireland that has British influence in the north. And there are issues -- and I would -- I would say that when the MacBride Principles were adopted, we had a situation in Northern Ireland that was bloody. There was active and hostile aggression between the Catholic and -- and Protestant citizens.

Since the adoption of the MacBride Principles, that bloodshed has been reduced. It would seem to me that -- and we're not talking about centuries. We're talking about, maybe, 20 years since the eighties to this time. That we've given these principles an opportunity to perform. And during their performance, that hostility has declined. I would think that we would want to disturb that and not displace something that is -- is working.

Thomas Paine once said that an army of principles will

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penetrate where an army of soldiers cannot. These principles are founded in human and civil rights. They have stood the test of time. They are working. I believe they need to be given the opportunity to continue to work. And why would we want to relax something that's presently working?

We don't have empirical data that says, in the absence of these principles, peace will prevail. There's nothing here that says that, quite the contrary. I shouldn't say quite the contrary. I misspoke at that point.

I heard earlier Senator Roraback talk about serendipity. We looked through these bills. It came up on the agenda this week. I saw the MacBride Principles. We talked about it on Monday. I went home and I received a letter from Father Sean McManus, who is one of the founding members of Amnesty International, was a leader in creating the MacBride Principles. And I just thought that there was something there that, here we're talking about the MacBride Principles, and yet, that issue I received in my mailbox that same day.

To me, the issues in Northern Ireland are real. This year, when we were in commerce, a bill came before the committee that talked about discrimination of the unemployed. And a speaker used the Irish experience as the reason that you'd want to adopt a law of that nature. Because employers use to put in the doors in America, NIAA, no Irish need apply. These are stories that I heard from my grandparents.

Okay. My great-grandfather was from Armagh, which is the north. He was Protestant. He married my grandmother, who was Catholic. But he did it here in America because there it's not allowed at that time. I'm not saying that things aren't better. But when you have a law that works and saves human life, why would we want to abandon that. I don't know. It doesn't make sense.

This is a simple policy. It's not like we're asking the treasurer to digest all of our money. But when it comes to companies doing business in Northern Ireland, what is wrong with that policy.

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I also heard in committee that we do a good job with our investments. So I don't even see the information that says that we need to divest in order to improve the return. It just seems that we're doing this for gratuitous purposes. And from my perspective, I disagree with that.

Thank you, Madam President.

THE CHAIR:

Thank you, Senator.

Will you remark? Will you remark?

Senator McKinney.

Good evening, sir.

SENATOR MCKINNEY:

Good evening, Madam President.

Madam President, if I could ask a question, through you, to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR MCKINNEY:

Thank you.

Through you, Madam President.

Senator Harp, as I heard you bring out the bill, I believe, as I understand it now, the treasurer does not have flexibility. If companies have not adopted the MacBride Principle, the treasurer of the State of Connecticut cannot make investments in those companies.

Is that correct, as we sit under current law?

Through you, Madam President.

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THE CHAIR:

Senator.

SENATOR HARP:

Through you, Madam President.

Yes, that is correct.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you.

And through you, Madam President, do we have any other instances where the treasurer is prohibited strictly from making investments similar to the current one?

Through you, Madam President.

THE CHAIR:

Senator Harp.

SENATOR HARP:

Through you, Madam President.

We were told during the public hearing that, no, that this one was the strictest divestiture law that we have on the books.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, and I thank the chairwoman of the Appropriations Committee for answers.

Madam President, this obviously is not an easy

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decision, maybe, for many of us. It's one that brings together a confluence of very different things that don't often work together. One is perhaps an issue of morality or civil rights.

When I was in college, we went through issues with apartheid and investments in South Africa in the eighties. And at the same time, the obligation of a fiduciary -- and that obligation of a fiduciary is try to maximize return in the best and safest possible way, especially with public funds, according to certain formulas, as our investment. And the question is, should those investments be blind to the companies that they're investing in?

And if you're going to start having these restrictions, why -- which it was important to me to find out if we have others of these. Where -- you know, where do you draw that line? Do we invest in the tobacco, cigarette companies? Do we invest in alcohol companies? Do we invest in, you know, companies that make a product that we might find offensive as individuals, or a majority of us from Connecticut, for example? Oil companies, you know, that instead of, you know, cleaner energy companies, for example.

So these are very difficult questions. And I've often believed that there they're -- they're good debates to have. But at the end of the day, I -- I tend to fall down on the side of giving the fiduciary the flexibility necessary to invest our dollars as the fiduciary sees fit. And that's why, at the end of the day, I would be supportive of the measure before us.

Having said that, though, Madam President, because the underlying bill talks about the ability of the treasurer to make investments on behalf of the State of Connecticut, I believe the Clerk is in possession of an amendment, LCO Number 3849. I ask that he call the amendment and seek leave to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

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LCO Number 3849, Senate Amendment Schedule A, offered
by Senators McKinney and Fasano.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

I move adoption of the amendment and seek leave to summarize.

THE CHAIR:

The motion is on adoption.

Please proceed, sir.

SENATOR MCKINNEY:

Thank you.

Madam President, this is an idea that I first discussed and had a conversation with former colleague Senator Bill Nickerson, from Greenwich, and his many years of work on behalf of his constituents and our caucus as the ranking member of the Finance Committee. And it is an issue that has come up from time to time. And that is the fact, in Connecticut, our treasurer has really unique and extraordinary powers individually to make investments on behalf of our retirement system.

What this amendment would do would be to create a board of trustees of the Connecticut retirement and trust funds. That board would include as voting members the treasurer of the State of Connecticut, the secretary of the Office of Policy and Management, the chairperson of the IAC, the Investment Advisory Council, as well as four members of the public who would be appointed for set terms of office.

Those four members of the public would each have to have, as a minimum, 15 years of experience in the

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direct management analysis or supervision of investments, of pension or endowment assets of which five of those years would be experienced at a senior level with assets of a minimum of \$1 billion or more.

This essentially says that we have one person who's responsible for making investments of billions of dollars. That's an extraordinary power. Not to say that it hasn't been used well. So this is not a criticism of any past or current treasurer that we have in the State of Connecticut. But a -- a position that there is probably a better way to do this.

It struck me at one point, Madam President, recently -- and there are -- there are, Madam President, there are other details of the amendment, certainly with respect to people who are appointed, no members of -- no two members of the public could work for the same firm or company. Those members who are appointed to the board from the public could not have any contracts or business with, and the companies they're affiliated with could not have any contracts or business with the State of Connecticut during their term or for several years after. So all of those safeguards are in place.

But, you know, the -- the idea to -- to come back with this -- this proposal, which I've argued on the Senate floor years ago, struck me when my last appointment to the investment advisory committee, whose term was up, sent me a very lengthy e-mail seeking not to be reappointed. An extraordinary gentlemen, very intelligent, was very successful in the financial industry and retired -- wanted to give back to state, to his community and volunteer. I had appointed him to the Investment Advisory Council. His skill sets to be a member of the council were perfect.

And when I asked him why he didn't want to be reappointed, he said he was completely frustrated with the fact that the Investment Advisory Council has no power. And I said, well, what do you mean by that, give me an example. And he said, we had, as a council, talked about, discussed and debated an issue. And unanimously -- unanimously made a recommendation to the treasurer which was disregarded and the opposite decision was made.

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Now, when you appoint individuals who have this experience, whose experience and knowledge in industry we're relying on and using to help inform and benefit our treasurer who's making investments of billions of dollars of public money, I understand that there can be disagreements. But when the council unanimously believes there's a certain thing that should -- should or shouldn't be done with respect to investments, and -- and one person could disagree, albeit a good person who's elected by the people, I think -- I think that speaks to a potential danger or flaw in our system.

Again, Madam President, this is in no way, shape or form a statement against the current treasurer or past treasurers of the State of Connecticut. I think I have a lot of respect for our current treasurer. She has always had -- we've always had a good relationship.

I just think that having a board of trustees be responsible for managing our retirement and trust funds is a -- is a -- provides a better safeguard for those public monies than our current system. And therefore, Madam President, offer this amendment.

Thank you very much.

THE CHAIR:

Thank you, Senator.

Senator Harp.

SENATOR HARP:

Thank you very much.

I rise to oppose this amendment. I don't know that there have been any real problems with the investments that have occurred. I know that the treasurer has the constitutional responsibility to provide this role and is the sole fiduciary of the state. And for a matter that is so -- so fundamentally is in opposition of the constitutional role, and is such a significant change, I would have hoped that we could have had a public

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hearing to vet this matter. And since there was no public hearing, we don't know the impact on the constitutional role that the treasurer provides.

I would urge rejection of this amendment, and when the roll is taken, that it be taken -- well, that when we vote, that it be taken by roll call.

Thank you very much.

THE CHAIR:

So ordered.

Senator Boucher.

SENATOR BOUCHER:

Thank you very much, Madam President.

Madam President, I rise to support the amendment. It is an idea that has been floated here for many, many, many years. In fact, my experience with the treasurer's office goes back to some of the early days when Chris Burnham was our state treasurer. And when he left it -- that position -- by the way, very highly regarded, had done a very good job. That was his number one suggestion to the Legislature as a departing state treasurer not running again.

His number one suggestion to us was that we change this particular role that he had to one of a voting board of trustees, voting members, that is done in 95 percent of all other states in the country. In fact, we are the outlier, the anomaly.

And when he left, he was concerned about things that could happen or could go wrong. And, in fact, they did. I think some of us remember the very next person taking that particular role was a -- a treasurer by the name of Silvester. And that brought to some very negative light upon the treasurer's office for a period of years.

So in -- particularly these days, when we have a very complex investment environment -- in fact, there is such volatility in the markets these days that the

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volatility index, that's used widely in the industry, ranges widely, from not only week to week or month to month, but from day to day, where we have one to 200 point swings at any given time, making even the most expert investment professionals in this country and around the world in a -- in a situation where they are fairly uncertain of what the future has to hold in the marketplace.

You have investments now that are so widespread in international funds, emerging market funds. You have commodities and you have hedge funds. You have real estate funds. You have private capital, private equity funds that are very complex in a constantly changing economic environment. So it does, oftentimes, in most investment committees around the country, you will find that they have populated their boards themselves with individuals with an expertise not just in investment in general, but in each one of these very particular investment vehicles or funds.

It is critical that that kind of broad range expertise is brought to bear on our state's investments. And it also reduces the fiduciary risk that one person would have, whoever might be in that particular office. And I think that it would behoove the state to protect their interests by giving this kind of support to that very, very important role that -- that we have in the State of Connecticut.

And for that reason, I really support the Senator's very good amendment.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark?

Senator Frantz.

SENATOR FRANTZ:

Thank you, Madam President.

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I stand in favor of this amendment and let me tell you why. I think it's a terrific amendment. I want to thank Senator McKinney for bringing this to us here tonight.

And the reason why I think it's such a good amendment is we've got a whole lot of catching up to do with respect to our pension funds, not just the big one, but the teachers pension fund and some other funds as well.

The latest number is 46 percent funded for the overall state workers' pension fund. That is one of the worst in -- in the nation. We need tremendous performance to organically catch up to where we need to be. Once you get below 65, 66 percent funded, it becomes almost mathematically impossible to catch up with that nugget, which is growing everyday, because of the obligations that we have to retired state workers.

So we need the very best advice that the treasurer can get. I know that she is constrained by the risk profile that we must maintain as a fiduciary for all of the retirees of the State of -- of Connecticut. But we have to have more people who have investment experience within her universe to give her advice from time to time that is actually acted upon.

We have some incredible people right here in the State of Connecticut. We are known, or were known anyway, as the hedge fund capitol of the world, at least for a while. There's some brilliant minds. You have people like Ray Dalio. You have Stevie Cohen. You have James -- James Adams. You have -- you have people like Paul Ghaffari. You have these people who are absolutely brilliant.

And in your investment portfolio, particularly on the equity side, all you need is one good idea every two or three years, the next Facebook, for example. And believe it or not, the two other people, cofounders of that concept of that company, are from Connecticut. And that's all it takes to have outsized performance.

And at 45, 46 percent funded in the big pension fund, we're talking billions and billions of dollars we need to make up over the next few years, otherwise, we're

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in real trouble. That could be our fiscal catastrophe. And I know that none of us want to have to deal with that because it's going to be a very difficult one to -- to deal with.

So, Senator McKinney has a very good idea here. I -- and, Senator Harp, you mentioned before that there was no public hearing for this. That is true. I did, last year, try to introduce a bill which was going to put someone with investment experience on the investment advisory council.

Surprisingly, of the eight members or ten members on that board, no one had formal investment experience. I was shocked when I learned that. So I went to the Appropriations Committee and -- and made the plea that we should have at least one person there with some significant experience in -- in equity management or -- or fixed income or both. Take your pick. And it was essentially, kind of, laughed out by the -- the crowd in the room that day, which was very unfortunate. It -- it showed that there was a resistance to this element that could be of tremendous help to the State of Connecticut in this area.

So I think this is a great amendment. I think that it should go forward. And I urge my colleagues to support it.

Thank you, Madam -- Madam President.

THE CHAIR:

Thank you very much.

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Madam President.

I stand in strong support of this amendment, and I thank Senator McKinney for reminding us that this idea had been brought forth in the past and had been discussed at length.

The proponent of the underlying bill expressed concern

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about what would be the constitutional interaction with this amendment. And reading the State Constitution, Article 4th, Section 23 -- I'm sorry -- Section 22 and Section 24, ironically, the treasurer's duties in the Constitution, as it relates to job description, is only about two and half sentences, which surprised me, frankly. So that tells us that it is statutory duties of the treasurer that would drive this and other investment duties of the office of the treasurer.

And so I believe that this amendment is, in fact, allowable under the state constitution, but it is a good commonsense practice for us to employ. And I hope that this body will support this idea.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

Just briefly, I want to thank Senator McLachlan. I was frantically trying to get help searching through the Constitution on line, and he found it for me. But that is correct. This bill would not, in any way, interfere with the treasurer as a constitutional officer and the Constitution's language and role of the treasurer, which simply says the treasurer shall receive all monies belonging the state and disperse the same as -- same only as he -- should be he or she -- may be directed by law. So -- and then there is another sentence about that. So, clearly, this is not unconstitutional.

And lastly, just so we could be -- have perfect clarification, Senator Harp and I are both correct. This did not have a public hearing this session but it has had several public hearings in years during this

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Legislature before the Appropriations Committee, once introduced by Senator Nickerson, once introduced by a former colleague, Senator Hurley, and -- and some others. So it is a bill that has had public hearings in this Legislature in the past, but not this session.

Thank you, Madam President.

THE CHAIR:

Thank you, Senator.

Will you remark? Will you remark?

If not, Mr. Clerk, will you call for a roll call vote, and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Have all members voted? Have all members voted?

The machine will be closed.

Mr. Clerk, will you call the tally, please.

THE CHAIR:

Senate Amendment Schedule A for Senate Bill 285.

Total Number voting	36
Necessary for adoption	19
Those voting Yea	15
Those voting Nay	21
Those absent and not voting	0

THE CHAIR:

The amendment fails.

Will you remark? Will you remark further?

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Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Madam President.

I stand in opposition to the underlying bill, and -- and just want to share with you a couple of brief ideas that seem to be totally against what this Legislature has demonstrated has been their priority in the three and a half years that I've been here at the state capitol.

The MacBride Principles: Number one, increasing the representation of individuals from under represented religious groups in the workplace. I won't read the whole thing; number 2, providing adequate security for the protection of minority employees at the workplace and while traveling to and from work; three -- and, again, I'm not reading -- this is from state statute. I'm not reading everything -- number 3, banning provocative, religious or political emblems from the workplace; four, publicly advertising all job openings and making special recruitment efforts to attract applicants from underrepresented religious groups; five, layoff, recall and termination procedures which do not, in practice, favor particular religious groupings; six, abolishing job reservations apprenticeship restrictions and differential employment criteria which discriminate on the basis of religion or ethnic origin; seven, develop training programs that will prepare substantial numbers of current minority employees for skilled jobs; eight, establishing procedures to assess, identify and actively recruit minority employees; and nine, appointing a senior management staff member to oversee the company's affirmative-action efforts.

This is how we operate in the United States of America. So I'm confused. Everything I'm reading here is what's expected of us at the State Capitol in Hartford, Connecticut. And we're now telling the state treasurer that we're going to relax this standard so you could go invest somewhere. That doesn't make any sense. I stand opposed.

Thank you, Madam President.

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THE CHAIR:

Thank you. Thank you.

Will you remark? Will you remark?

Seeing none, the machine will be closed -- I mean, open, rather, and the Clerk will call for a roll call vote.

THE CLERK:

Immediate roll call vote has been ordered in the Senate. Senators please return to the Chamber.
Immediate roll call has been ordered in the Senate.

THE CHAIR:

Senator Boucher, since you're in the Chamber and you're the last person.

Okay. Have all members voted?

If all members voted, the machine will be closed and the Clerk will call a tally.

Thank you.

THE CLERK:

Senate Bill 285.

Total Number voting	36
Necessary for passage	19
Those voting Yea	24
Those voting Nay	12
Those absent and not voting	0

THE CHAIR:

The bill passes.

Senator Looney.

SENATOR LOONEY:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**APPROPRIATIONS
PART 10
2897 - 3219**

2012

JONATHAN HARRIS: Good to see you, Madam Chair.
Thank you, Representative Walker, Senator Harp, Senator Kane, members of this committee.

As was said, I am Deputy Treasurer Jonathan Harris. I am here on behalf of our State Treasurer Denise Nappier speaking in support of Senate Bill 285, AN ACT CONCERNING THE MACBRIDE PRINCIPLES. And I brought our Director of Compliance, Shelagh McClure, with us who deals with this statute on a daily basis. If you have -- really need to know the answers, we'll get them from -- we'll get them from Shelagh.

You might know that the MacBride principles are nine fair employment principles that were enacted into statute here in Connecticut in 1984. When conditions on the ground in Northern Ireland were, needless to say a, lot worse, they were horrific at that point in time. And codified in 3-13h, this statute requires the treasurer to engage companies that are doing business in Northern Ireland, and if they do not implement these protections, the MacBride principles, than there is a mandatory divestment. The treasurer shall divest from those companies.

As we know, the political and social improvements that have occurred on the ground in Northern Ireland -- as a matter of fact, all but one of these nine principles are now codified as part of the law of Northern Ireland. And in the State of Connecticut, there are only six companies that are currently on the list of companies in violation or not fully implementing the MacBride principles in -- in Northern Ireland.

So what Senate Bill 285 does is brings the

MacBride statute into the 21st century to match the conditions on the ground in Northern Ireland and give the treasurer the flexibility that is needed. What it does is it changes the mandatory divestment to a discretionary divestment. As we said, conditions have changed so it's -- there's no real danger here by changing that "shall" to a "may". But, more importantly, it brings the MacBride statute into line with our other divestment statutes, Sudan and the Iran statute that you voted on -- you all voted on last year in 2011, which also are discretionary divestment.

And it is also more consistent with the purposes that gave rise to the MacBride principles in this process. Because when MacBride was created, the idea was active engagement, active engagement, to be able to say, company, you're not implementing, what can we do, let's have a dialogue to move you towards implementation. So this is actually consistent because it allows for more of that engagement. There's not the switch that all of a sudden says mandatory divestment.

It's also more consistent with the treasurers' fiduciary duty. Treasurer is the principle fiduciary of the Connecticut Retirement Plans and Trust Funds, six pension funds, eight trust funds. And the treasurer has to be able to balance that duty to grow those funds with other policies and other important things in the world. And this discretion will help her fulfill that role as principle fiduciary, as I said, consistent with the -- with the other two laws.

It's also consistent with all other state and municipal statutes and ordinances dealing with MacBride. Connecticut, I believe -- and Shelagh can confirm -- is the only place where

MacBride is a mandatory divestment. I will tell you also this has a positive -- or will have a positive effect on our vendors, many of whom are small business -- small businesses.

Our managers that we use to place money are required, under this mandatory scheme, to subscribe to a service that lets them know which companies are not in compliance with MacBride. And just take one example, the Connecticut Horizon Fund, which is a fund that Treasurer Nappier set up to favor Connecticut-based managers which tend to be smaller -- smaller businesses, minority owned, women owned, and emerging managers.

The Connecticut Horizon Fund managers, in the aggregate, spend \$100,000 every year to comply with this mandatory MacBride statute. We can centralize it by making it discretionary and save these smaller businesses, our managers, money.

The second piece of the bill is to require a mandatory report to the Investment Advisory Council at least once a year. Treasurer Nappier does this more than once a year. I believe it's quarterly that we -- that we provide the reports. But this law will go on into the future, and perhaps a future treasurer will not think it is as important as Treasurer Nappier, so we want to say you must report on the status of this statute to the Investment Advisory Council.

Finally, this bill adds a sunset provision saying that the law will sunset January 1st of 2020. And this is important to us for two reasons. First, it forces legislative review. We know that sometimes -- and we can see the statutes, even in my relatively brief tenure, those blue books keep on expanding, expanding,

expanding and sometimes we don't take a critical look at what we have on the books and make sure it's working. Sunset provisions provide that impetus for review.

It is also consistent with the Iran and Sudan laws which do have sunset provisions. Now, they're a little bit different in that the sunset is tied to the pulling away of federal sanctions but, nonetheless, operate in the same type of fashion. So the message here is that the treasurer is still extremely committed to the enforcement of the MacBride principles. This is not a step back from that in any way but it is just a much more workable and consistent statute that matches the conditions on the ground.

And just to show you, we're going to have some written testimony that, I believe, we'll hand in at some point today or after the hearing. But we spoke to members of the Irish community including Rich Lawler, who is a nationally known person when it comes to Irish Northern Aid, is involved in the leadership of that national organization, I believe is the president of the Connecticut chapter.

Rich Lawler presented this to his colleagues and they were fine with this statute and the changes that we're trying to be -- trying to make.

REP. WALKER: Thank you. And thank you for your testimony.
Any questions from the committee?

Representative Dillon.

REP. DILLON: Thank you. Good morning. And it's nice to see you.

I haven't spoken to the Hartford area Irish, but I -- I was the major proponent of this, as you probably know. We were also working on the Sullivan principles at the same time. And I guess I wanted to ask you a couple of questions, just because I can't say strongly enough that this was the heaviest lift.

I found members, who were colleagues of mine, shouting at me about their views on the Catholic Church, and all I could say to them, because I have family in -- in (inaudible) was, you know, you don't -- and what I said to you when we discussed this, you don't have to keep kosher to experience anti-Semitism. And in the north, being Catholic is tribal. And now when -- and -- and it's hard to understand quite, unless you've been there.

So I don't see conditions on the ground, given what's going on with the Euro, creating much pressure for -- for any kind of unification on our own. In fact, I -- because the Irish Free State agreed to bail out the Anglo Bank, ironically named, even though they were in pretty good shape, it's now put them at risk, whereas England is not on the Euro. So, actually, being in some of the poorest parts of the north, even if you're Catholic, you're -- you're more protected than if you lived in the free state because you're separate from all mess that's going on.

But -- but this is being written for a long time. And it does depend -- relies very heavily on -- on a moment in time knowing that the bigotry is still there and that there is still a history. I mean, it sounds so bizarre to talk about, being Catholic as a security risk. It goes back to Guy Fox.

I believe David Cameron has made -- has

proposed something to -- to change that. But that prevented employment in -- in major industries in the north. So, I guess, what I want to ask you, having said that, I found this very -- one of the most difficult things I was able to do up here, because of the attitudes of my own colleagues, which I thought were parochial. You know, we didn't really know much about other countries.

I wonder if you could explain, since what we're -- we're looking at is a statement that you're not backtracking but a change from a "shall" to a "may" and a sunset, and the report -- what you envision the report including that would help us to understand what the Treasurer intends to do pursuant to the language change.

DEPUTY TREASURER JONATHAN HARRIS: Well, first of all, Representative Dillon, I was going to say this at the outset, but thank you for your leadership on this. And also, no -- not only did you work on this, but you've also taught me a lot about 12th and 13th century Irish history too over time, so I do -- I do appreciate the -- it -- well, it's been interesting, so -- so I should have recognized you at the beginning. But, I guess, since you're talking about the report, why don't we tell you what we report now, because that's really what we want to -- what we want to codify for future treasurers, future generations.

DIRECTOR SHELAGH MCCLURE: Yeah. It's a quarterly report.

REP. WALKER: Excuse me. Could you just --

DIRECTOR SHELAGH MCCLURE: Oh, I'm sorry.

REP. WALKER: -- identify yourself and move the

microphone closer to you, and identify yourself. Thank you.

DIRECTOR SHELAGH MCCLURE: I'm Shelagh McClure, the Director of Compliance for the Office of the Treasurer.

Currently, there is a quarterly report that is presented to our investment advisory council, and there is no intention to change the timing of the report from this treasurer's perspective.

What is reported is the number of companies that have been contacted. We actually hire a service that does a survey of companies doing business in Northern Ireland, and the company reports to us if they have failed to receive a response to this survey, if, in doing outreach, companies have been nonresponsive, that -- that sort of thing.

Then what we do is, even when we get a report back that a company hasn't been responsive, we undertake an additional effort to contact the company to say to them this is our law, if -- if you've not -- if you're not responsive, we're required to divest, so would you take some time, take a look at these questions, and make sure you answer to us what -- what your policies are and what you have done. And then, based upon that, we -- we either -- if we get no response or if we get a negative response, you know, no, we're not going to talk to you or, no, we're not going to do this, or that sort of thing, then they go on the divestment list and all of our managers are required to divest any holdings they might have in that company. So that's what's reported monthly -- on a quarterly basis, what -- what have been the results of that process.

It's a general proposition because eight of the nine principles are now embodied in the employment law of Northern Ireland. It's unlikely that companies are going to come back to us and say, you know, we're not doing x, y or z. What we tend to find is sometimes companies just don't want to engage. And, frankly, the companies that are on the list right now have tended to be companies that are just unwilling to talk to us.

REP. DILLON: So if you could, I don't believe we did get to the 12th or 13th century, or whatever, we could discuss that fact. But the -- we -- we know, just from living here in the United States that progress sometimes that you think has been made can be challenged just like that. And -- and that's been true for many populations. And -- and so, I -- I don't know what will happen in the six counties. I don't see the bigotry changing much. I do see the economy changed because -- because of England's protection from the Euro mess. And that I think is very, very powerful and it predicts a lot, but that can change.

And -- and I could talk a bit more about why I would be very guarded about this, but -- but I'm sure that it would test your patience. Based on what I know from the ground, there may be -- it may be that the Hartford Irish people have different sources of information. But -- but I'm -- I'm concerned about making a judgment based in the -- in the -- for a long time, and based on the current conditions. And -- and that's -- it's an act of trust.

So take a look at it. But what you've told us, basically, is that you're already providing the report so that that -- you're

not going to tell us anything new then. And it's simply going to say, well, we sold this, we bought this, but we won't necessarily know very more -- much about what changes you're making in your actions, based on the change in the statute. Is that fair to say?

DIRECTOR SHELAGH MCCLURE: I think that the decision to put the reporting requirement in the statute is to make sure that after this treasurer is no longer the treasurer, if the future treasurer might not have her same level of commitment, that there still is a requirement that at least once a year there is a report. So it's not -- it's not really intended to change anything that we do right now, it's more -- we sort of view this more of a protection. And, in fact, it is part of our other -- the laws, with respect to Sudan and Iran, have that minimum requirement in it as well. That there is a once a year report to the investment advisory council so that they're aware of what activities are going on within the treasurer's office on those particular initiatives.

REP. DILLON: Thank you. And South Africa is parallel?

DIRECTOR SHELAGH MCCLURE: I have to say, the South Africa law had been repealed by the time I started in the treasurer's office. So -- so I don't have any experience under that.

REP. DILLON: But the ground really changed there because the -- the Sullivan principles --

DIRECTOR SHELAGH MCCLURE: Uh-huh.

REP. DILLON: -- really didn't -- they may have even been a problem, I think. But that -- that was a very dramatic change, much more so

than other places. And the Sullivan principles have been written decades -- before we even enacted them. But we'll take a look. Thanks.

REP. WALKER: Thank you.

Representative Kirkley-Bey followed by Representative Holder-Winfield.

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: Approximately how much money do we have invested in Ireland?

DIRECTOR SHELAGH MCCLURE: I don't know the answer.

DEPUTY TREASURER JONATHAN HARRIS: The -- we can get that for you. I don't know the specific --

REP. KIRKLEY-BEY: Do you know what the rate of return is?

DEPUTY TREASURER JONATHAN HARRIS: I can tell you, rates of return over various -- over various periods for the entire CRPTF but I cannot tell you the types of investments and the returns on those specific ones, but I can -- we can provide that information.

REP. KIRKLEY-BEY: That would be nice. Thank you Jonathan.

REP. WALKER: Thank you.

Representative Holder-Winfield.

REP. HOLDER-WINFIELD: Thank you. I guess I -- I don't necessarily understand everything that's going on in the conversation that's happened. But, I guess, I have a

couple of questions that might clarify for me.

So one of the concerns is that there are companies -- you need the flexibility to be able to engage. And you said that there were some companies -- you said that eight of the nine principles are codified already in -- in the law where these companies exist. And yet, you have six, I believe you said, that you can't get engagement with. I'm not -- I'm not sure what happens when you change the law that gives you that -- the type of engagement you need, so if you could clarify that for me.

DEPUTY TREASURER JONATHAN HARRIS: Well, if companies are not going to engage then, I mean, at some point, the treasurer will exercise her discretion and I'm sure there will be divestment in those companies. But we're not just talking about the six companies. We're just -- we want a living statute that's able to deal with the conditions on the ground. So there could very well be a case where, to be able to make sure that the companies are acting in the way that this body, the way that Connecticut law wants them to conduct themselves in Northern Ireland, that we need to do some additional engagement before the mandatory divestment on this statute.

Again, a mandatory divestment that is not in any other state statute, not in any other municipal ordinance, not in our Iran law, not in our Sudan law, so we're not, like, going out on a limb and creating some kind of, you know, whacked out (inaudible) --

REP. HOLDER-WINFIELD: I'm -- I'm not suggesting that. I'm just trying to figure out to whom does this apply. Because if it's not the six and others already -- I'm just trying to

figure out where it applies.

DEPUTY TREASURER JONATHAN HARRIS: Well, it would apply if there was a company that was doing business in Northern Ireland that we have investments in, we find out through our service that they are not in compliance with MacBride statutes, and that they're -- that they're -- the -- the (inaudible) --

REP. HOLDER-WINFIELD: So -- so the concern is about what may happen, as opposed to something that's currently going on or something you envision going on in the near future.

DEPUTY TREASURER JONATHAN HARRIS: Yeah. It's not -- there's not one problem here that we're trying to -- that we're trying to get around, or trying to fix with this particular statute. We just want to, again, make it flexible because it makes sense to make it flexible. And, again, it's more consistent with the treasurer's fiduciary duty where she has to balance a lot of different factors when determining where to place state dollars. This is just one of the factors, an important one, and her commitment shows that she believes that's important.

As a matter of fact, Representative Dillon could probably to -- attest to, she received an award, probably, you know, eight, ten years ago, for her commitment to these principles, and to this statute. So we're just trying to -- to make appropriate changes to bring in line with other law and to make it make sense.

REP. HOLDER-WINFIELD: And could you tell me -- I understand your -- the discussion about "may" and "shall" and -- and how you see the value of changing "may" to "shall", but you -- you indicated that changing "may" to "shall" also

makes this law actually act in a way that it was originally intended.

I'm just wondering why then it was created with the word "shall" there. Do you know?

DEPUTY TREASURER JONATHAN HARRIS: I have not looked back at the legislative history in 1984, but -- or in that time. But I would tell you something that, based upon legislative history that I have read, just in general, I don't know if the answer would be necessarily there.

REP. HOLDER-WINFIELD: And I can appreciate that, sitting where I sit.

DIRECTOR SHELAGH MCCLURE: The one thing I would say, from the reading that I had, there was a real issue in Northern Ireland that engagement was the -- a critical part of this process. That there was a concern about driving business out of Northern Ireland by a mandatory scheme. And it was -- the economy being fragile. The idea that companies might leave rather than come into compliance with these principles with -- there was a real attempt to try to balance that, because there was a -- an underlying concern about the economy.

So the -- the idea was that they really were trying to have this engagement process and hopefully even companies that might have initially been resistant, to bring them around eventually. But once you've divested, you kind of lose your leverage. So I think that that was the original sponsor's idea was that -- to -- to press the engagement to try to get companies to come around to adopting the principles.

REP. HOLDER-WINFIELD: And thank you for that.

And finally, the sunset provision which eliminates this action that sunsets attached to is effectively the whole law. I don't understand. I heard you talk about how it would cause us to do a review, but there's nothing that requires us to do anything. Is there?

DEPUTY TREASURER JONATHAN HARRIS: Same as any other sunset provision, so it would not require you to do anything now.

REP. HOLDER-WINFIELD: Right. So --

DEPUTY TREASURER JONATHAN HARRIS: It would bring it to -- what my experience has been that sunset provisions tend to flag issues and bring them to the attention to the Legislature. And again, this is consistent also with our two other statutes.

And I would say, I didn't want to get into kind of an esoteric argument on foreign policy, powers of state versus federal government, but there is -- there is somewhat of tension here because the state under this statute is taking action which could be deemed to be interfering with the federal government's foreign relation's power. So the notion of having some sort of end in sight where you have to review it, I think is consistent with being careful not to interfere with that relationship.

REP. HOLDER-WINFIELD: Thank you.

DEPUTY TREASURER JOHNATHAN HARRIS: There is a benefit there as well, as -- as is the discretionary part too because there might be some overwriting foreign policy issues that,

you know, a mandatory divestment could interfere with and there could be ultimately a constitutional challenge, as to the state exercising a power that is rightfully in the hands of the federal government.

REP. HOLDER-WINFIELD: Thank you.

REP. WALKER: Thank you. And I -- Senator Harp reminded me that we believe that PRI does a review of all sunseting as it -- as it, as they -- as we go forward with different laws every year, so I think that is probably very important.

Any other, for the first time person just find out, anybody for the first time? Okay.

Representative Dillon.

REP. DILLON: Thank you. And I really don't have another, except that as one of the original sponsors, I want to represent what we were talking about.

Number one that the primary concern when we were negotiating it was about the investment/disinvestment; that there would be a positive investment. Number two, there are powerful companies right here within the State of Connecticut that use the foreign policy issue, they then brought people up from the English consulate, because the legal status of what you call Northern Ireland is not clear. England claims it, and yet sometimes then they require you to use a passport to leave there. It varies. And so there is a whole complicated thing there that I realize might blur your eyes and you can belittle it, but the reality is it's complicated. It's very complicated, and it can flash like that. But the major concern and Representative Smkoko

was the Chair of Finance at that time and worked together on the language was to put in the investment piece. The "shall" was never in debate -- in dispute partly because of people right here in -- in -- who have influence at the state capitol.

So if that should be refuted, I think that's fine, but it really wasn't -- even though this foreign policy issue was used, that wasn't really what mattered. What mattered was company's right here, who didn't want to have to be bothered with that really and that was kind of troubling when you -- when you listen to what they have to say, you know, not in public but about it.

Thank you.

REP. WALKER: Thank you.

Representative Miner.

REP MINER: Thank you, Madam Chairman. I just have a, I guess, a general question. This seems to speak specifically to Northern Ireland, and do we have similar principals that dictate our investments in other nations in the world?

DEPUTY TREASURER JONATHAN HARRIS: Well, we do have --

REP MINER: Other than the ones listed here.

DEPUTY TREASURER JONATHAN HARRIS: We do have a law about divestment in Sudan, and also a law amended beefed up to reflect the Sudan statute last year on Iran. So those are two other divestment statutes.

REP. MINER: But -- but beyond that, as I read page 2 of this piece of legislation, there are

nine principles that we hold corporations doing business in Northern Ireland to. Do we have similar principles in the other nations of the world when we make investments?

DEPUTY TREASURER JONATHAN HARRIS: No those -- they're not principles like this. This was, you know, something that was unique to -- to Northern Ireland actually, created by a Nobel Laureate, Sean McBride, back in the early eighties and so this is -- this is unique to the situation. I will say, again, that of the nine principles all but one are now codified under the law of Northern Island. The only one that's not is adequate security for the protection of minority employees both at the workplace while traveling to and from work. That's the only one that's actually not codified at this point in time.

REP MINER: The -- the reason for my questions weren't whether or not these were good goals for anyone to have, but whether they put us in a position with our investments where we may have other more lucrative opportunities to place our money, and but for these restrictions are kind of left to a lesser pool of investments. Do you know whether that's the case?

DEPUTY TREASURER JONATHAN HARRIS: But for the restrictions could elaborate on that?

REP. MINER: Well, it seems to me that when -- when you have the ability to make investments and don't put restrictions on those investments in terms of how people run a corporation, it may be that you actually get more money for your money. But when you put restrictions on what a company can do and dictate how they have to operate, once again setting aside whether I agree with the principles or not, it seems to

me that you may not have the same ability to earn on those investments. Is that?

DEPUTY TREASURER JONATHAN HARRIS: Yeah, theoretically, I mean as a hypothetical that's true, and that's why flexibility is important here so that the Treasurer can, you know, can actually fulfill her fiduciary duty to try to maximize the investments for the state pension plans and trust funds while, at the same time, making sure, to the extent possible, that we use our financial powers as a state to effectuate good policies in other -- in other areas such as Northern Ireland.

So that's the balancing and that's really -- thank you Representative Miner, you hit kind of the heart of why it's important to go to a discretionary scheme here, so we can have that ability to -- to work actively, engage, try to move things forward on the ground but also make sure we earn appropriate returns for our retirees and trust funds.

REP. MINER: And then the last thing is to the extent that the state has certain, I guess, responsibility, if not authority to invest teacher's retirement, teacher's pension, is that treated similarly? Do we have the same rules in place even though they may not be specific to state assets, if they're someone else's assets that we have control over, they come under the same rules?

DEPUTY TREASURER JONATHAN HARRIS: Yeah, it's -- it's all the Connecticut retirement plans and trust funds, six pension funds including the teacher's pension fund and eight trust funds that we manage in what's known as the Combined Investment Funds like with basically, mutual funds that we use that have all different types of investments. I could show you it

someday. It took me about a year to understand it, but I'm sure it will take you a lot less time Representative Miner, but that's -- that's how it works. So it goes through -- it goes through -- it goes through all of the -- our investments, yes.

REP MINER: Okay.

DEPUTY TREASURER JONATHAN HARRIS: I mean, for all of the pension funds.

REP. MINER: Thank you.

REP. WALKER: Thank you.

And, and I guess, you know, that is the -- that's the dilemma that you -- you talk about because we have the opportunities, I'm sure, to invest in a lot of things but ethically and the commitment that we have to humanitarian existence is something that is part of our foundation, so it -- I understand that, you know, there probably are opportunities to invest in some sweat mills or whatever, you know, but that's not the types of corporations that we, as a state, want to exemplify as who's our partner. So it is -- we have to be careful but I do think that, you know, it's something that we have to look into so I do appreciate all that you are doing.

Any other questions or comments?

Thank you, sir, and thank you ma'am for your testimony.

DEPUTY TREASURER JONATHAN HARRIS: Thank you very much.

REP. WALKER: Next we have, now we go over the public hearing component. Leanne Connolly,



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.