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Nebraska Retirement Systems Committee  
February 09, 2016

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[LB1069]

The Committee on Nebraska Retirement Systems met at 12:00 p.m. on Tuesday, February 9, 2016, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1069. Senators present: Mark Kolterman, Chairperson; Al Davis, Vice Chairperson; Mike Groene; Rick Kolowski; Brett Lindstrom; and Heath Mello. Senators absent: None.

SENATOR KOLTERMAN: (Recorder malfunction)

SENATOR HAAR: (Exhibit 1) My name is Ken Haar. I represent District 21; that's H-a-a-r. We'll begin today...I'd like to tell you a little bit about the Nebraska...the history of the Nebraska Legislature when it comes to divestment. A bit about divest-invest, what it means, how fossil fuels are losing value, and why I believe that divest-invest is consistent with fiduciary responsibilities. In 1980, the Legislature adopted LR43 which called for the State Investment Council to review the list of corporations and banks which invest in South Africa and remove them from the list approved for investment by the state. This of course was a time when apartheid was big on the national scene. In 1984, the Legislature passed LB553 which required divestment of all funds from companies doing business in South Africa. Nebraska was one of the first states to take this action. And actually 26 states finally took this action which certainly had some effect on apartheid in South Africa. In 1990 when I was on the Lincoln City Council, in '91 the city of Lincoln adopted resolutions requiring divestiture of city funds from South Africa. And I have a copy of those resolutions in front of me and it was signed...it was approved unanimously by the Lincoln City Council: Gutgsell, Haar, Hemple, Minnick, Seng, Wilson, and a Mike Johanns who was at that time on the Lincoln City Council. The divestment campaign has been widely hailed as being an important component in the campaign that led to the end of apartheid in 1994. A little bit about divest-invest. These campaigns are based on the concept of using capital markets to create social change and provide returns for investors at the same time. According to Tom Van Dyck of the Social Venture Network, 90 companies are responsible for 65 percent of the carbon dioxide in the atmosphere. Desmond Tutu of South Africa has said climate change has become the human rights challenge of our time. It is responsible for many of the challenges the impoverished face including loss of life, lack of food, forcing migration, and the spread of disease. The divest-invest movement around fossil fuels is rapidly growing. With over \$3.4 trillion pledged to remove investments from fossil fuels by the end of 2015. More than 500 entities have pledged divestment in some form at the present time and the number is growing. Entities which have pledged divestment include the Rockefeller Brothers Fund, Norwegian Sovereign Wealth Group, World Council of Churches, Lutheran World Federation, the University of California, and Stanford University. And just to give you an idea how this is growing, I passed out a spreadsheet showing the 500 entities now that have pledged divestment in some form. Looking at page 3, for example, you'll notice that there are a lot of cities that have jumped into

Nebraska Retirement Systems Committee  
February 09, 2016

---

this. And actually a lot of these as I look through them are faith based which is really quite interesting. I also passed out the article then about Norway confirming the \$900 billion of pledge to divest. In 2015, the state of California passed SB185 which requires divestment from companies that derive 50 percent or more of their revenue from mining coal used in the production of electricity. This legislation provides direction for the California Public Employees Retirement System and the California State Teachers Retirement System representing 2.4 million retirees. These are the country's two largest retirement funds with more than \$500 billion in assets. Less than 1 percent of the two funds is currently invested in coal. The bill's sponsor Kevin de Leon stated, quote, coal is losing value quickly and investing in coal is a losing proposition for our retirees. It's a nuisance to public health and it's inconsistent with our values as a state on the forefront of efforts to address global climate change. On the other side of the coin are efforts to increase investments in clean energy. The International Energy Agency estimates that another \$36 trillion is needed in investments in renewable energy and energy efficiency by 2050; \$500 billion per year until 2020 and \$1 trillion per year thereafter. Renewable energy investments are rapidly increasing in value. The clean energy business is growing at twice the rate of the economy as a whole. For example, the fact that renewable generation facilities do not have fuel costs or costs of environmental compliance means that the return on investment can be much more reliably predicted or determined for years in advance. Investments in fossil fuel are becoming increasingly risky. I talked briefly about what I feel is a moral imperative. But now we're coming to the risk involved in fossil fuel investments. Coal companies in particular are losing value. According to a report by the Natural Resources Defense Council in 2015, 26 coal companies including Patriot Coal, Alpha Natural Resources, and Walter Energy had gone bankrupt in recent years. In January 2016, Arch Coal which is the second largest coal company in the U.S. filed for Chapter 11 bankruptcy protection. This bankruptcy is intended to allow the company to shed itself of more than \$4.5 billion in long-term debt. Between 2009 and 2014 while the Dow Jones Industrial Average rose by an average of 69 percent, the coal sector index lost 76 percent of its value. A major portion of the lost value was a result of lower costs of natural gas, but costs of environmental compliance and transportation costs also play a role. And of course the Clean Power Plan which we've heard a lot about lately will play a role in that. Oil companies have also been hurt by the recent drop in oil prices. Crude oil was trading at over \$100 a barrel in June 2014. It is currently around \$30 a barrel. According to an August 2015 report by Bloomberg, energy companies have lost \$1.3 trillion in value from June 2014 to July 2015 with oil companies driving much of that decline. So prudent investors must be forward-looking and incorporate information related to emerging risks, to the value of the portfolio and opportunities to become more resilient. Current declines in the value of fossil fuel stocks should provide enough reason to divest. In addition to the climate impacts of fossil fuels, the negative health impacts may provide an additional reason to divest. Fiduciaries are acting prudently when they consider the direct costs of fossil-dependent portfolio and the likely resilience and collateral benefits of clean energy investment. And you've received a copy of the bill which basically asks that we look at our investments to see how invested we are in fossil fuels and also how much

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

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we're invested in clean energy, to create a plan to divest from fossil fuels, invest in clean energy, and then to begin that process of divestment from fossil fuels to the extent consistent with prudent investment strategies. And I want to...we're not asking for the state to lose any money. We're asking for any divestment or investment in clean energy to be consistent with prudent investment strategies and then to make the report to the Legislature and the Governor by December 15, 2016. We do have an amendment and I'd ask that you mark that as an exhibit to this bill. And with that, I would be more than happy to try to answer your questions. [LB1069]

SENATOR KOLTERMAN: Okay. Thank you, Senator Haar. Any questions? Senator Kolowski. [LB1069]

SENATOR KOLOWSKI: I'll ask one. Thank you, Mr. Chair. Senator Haar, is there a phase-in kind of time you'd like to see connected to this movement? Or how quickly would you like to see that turnaround in the sense of accomplishing the mission? [LB1069]

SENATOR HAAR: You don't, we don't state that in the bill and we realize that none of this can happen by just clicking a switch, that it occur over time. But it's a process we need to look to begin. And I saw a report, for example, the other day, because the federal government has extended the federal production tax credit, much of the compliance with the Clean Power Plan because of that extension can happen with renewable energy instead of the way it was looked at originally with mainly switching from coal and natural gas. So we're going to see that renewables play a greater and greater, you know, part in just compliance with the Clean Power Plan; 10, 20 years from now, I think that's what we'll see primarily. [LB1069]

SENATOR KOLTERMAN: Senator Davis. [LB1069]

SENATOR DAVIS: Thank you, Senator Kolterman. Senator Haar, you've used the word fossil fuels but also coal. And fossil fuels is more than coal. So are you... [LB1069]

SENATOR HAAR: You bet. [LB1069]

SENATOR DAVIS: ...focusing strictly on coal or are talking about the whole, broad fossil fuel industry? [LB1069]

SENATOR HAAR: At this point in terms of looking at our portfolio, we're looking at the whole range. Now if you look at, for example...and that's a good question because if you look at these 15 pages of the entities that have pledged to divest, there's a great variety of how people are looking at this. One is full compliance which means everything. Some are partial. Some are just

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

---

coal and tar sands. This is on the last page. It's...the very last page is about the categories. And as this grows, as this movement grows, it has grown enormously in the last few years. You know, we're going to see people reacting in all kinds of ways. But we've been asked to look at the portfolio and see any kind of fossil fuel... [LB1069]

SENATOR DAVIS: All right. [LB1069]

SENATOR HAAR: ...and any kind of renewable energy as well. [LB1069]

SENATOR DAVIS: Thank you. [LB1069]

SENATOR KOLTERMAN: Senator Groene. [LB1069]

SENATOR GROENE: Senator Haar. [LB1069]

SENATOR HAAR: Yes. [LB1069]

SENATOR GROENE: You're comparing South Africa and apartheid to my friends out in Wyoming who mine coal, my friends in the energy business, my friends in West Virginia, the engineers of my train in the largest classification rail yard in the United States who are being laid off because they're not hauling coal. Are you comparing them, those folks, to South Africa? [LB1069]

SENATOR HAAR: My comparison, if you want to call it a comparison, is that we need to move towards a fossil fuel future. And I'm sure we're going to disagree on some points... [LB1069]

SENATOR GROENE: Also, have you heard of Solyndra? They went broke, didn't they. [LB1069]

SENATOR HAAR: They did. [LB1069]

SENATOR GROENE: And what my analysis of the renewable energy is that it's the true believers, the worshipers of the creation who are buying the stocks because they believe in it. None of them are showing a profit. [LB1069]

SENATOR HAAR: Well, that's not true. [LB1069]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

---

SENATOR GROENE: The electric car companies--I can't think of the name of it--is in financial trouble. If it wouldn't be for the government subsidies, most of the wind energy would not be existing. But the people buying the stocks are the true believers. It's just like Holland when they bought the tulips, there's not factual reason to be investing in that stock as a return on investment. So I guess...I'm lecturing here, but what you said... [LB1069]

SENATOR HAAR: (Laugh) That's okay. I'll... [LB1069]

SENATOR GROENE: ...so did you, but so did I. [LB1069]

SENATOR HAAR: I'll lecture back. [LB1069]

SENATOR GROENE: All right. Thanks, Senator. [LB1069]

SENATOR HAAR: Okay. It's a deal. [LB1069]

SENATOR KOLTERMAN: Senator Kolowski, do you have... [LB1069]

SENATOR HAAR: Well, could I respond to that? [LB1069]

SENATOR KOLTERMAN: Oh, I'm sorry. Go ahead. [LB1069]

SENATOR GROENE: Yes, it was a question. [LB1069]

SENATOR HAAR: First of all, I will supply you with some information about the performance of renewable energy stocks. [LB1069]

SENATOR GROENE: I don't want that. I want to see the company's profit-loss statements. That's what I want to see. [LB1069]

SENATOR HAAR: You bet. You bet. [LB1069]

SENATOR GROENE: Not the stocks, the performance of the stocks. [LB1069]

SENATOR HAAR: We'll get some of that information for you. My other point slipped, but it will come back to me. Thank you. [LB1069]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

---

SENATOR KOLTERMAN: Thank you. Any other questions? I thought...Senator Kolowski, did you have a question? Okay, thank you. [LB1069]

SENATOR DAVIS: I've got one more. [LB1069]

SENATOR KOLTERMAN: Senator Davis. [LB1069]

SENATOR DAVIS: Or two more I guess. Senator Haar, of these 500, how many are publicly traded...public pension funds like ours? [LB1069]

SENATOR HAAR: Some of them aren't, yeah. [LB1069]

SENATOR DAVIS: Do you know how many there are? [LB1069]

SENATOR HAAR: No, I didn't go through and count which are and which aren't. But certainly...well, you see a lot of government organizations in here. You see a lot of faith-based organizations. But the one I handed out to you on Norway Sovereign Wealth Fund is certainly a huge governmental kind of organization. [LB1069]

SENATOR DAVIS: Of course that \$900 billion was from oil money here. [LB1069]

SENATOR HAAR: (Laugh) Yeah. So we're talking about all fossil fuels. But oh, I know the point I was going to say is Senator Groene makes a good point, that there is subsidy, for example, the federal production tax credit. But without subsidy, we would have no fuel sources at all. If you look at the subsidy that's going into coal, for example, the lifetime subsidy that goes into coal when it comes to mining, finally getting rid of the product, including all of the health costs of burning...and coal is one of the dirtiest fossil fuels. If you'd look at the total cost of fuel including the health costs borne by society in general, it's enormous. And so without subsidy in the form...and many of our traditional fuel sources like coal and oil and natural gas have already been folded into the tax laws so that you don't have to have, quote unquote, subsidies. And then and at least in my opinion, we've gone to war over things like oil and so on. So if you look at the total cost, all of our energy sources are subsidized by society. And so. [LB1069]

SENATOR KOLTERMAN: Senator, are you going to stay to close? [LB1069]

SENATOR HAAR: Yes. Yes, I will. [LB1069]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

---

SENATOR KOLTERMAN: Okay. Thank you. [LB1069]

SENATOR HAAR: Thank you. [LB1069]

SENATOR KOLTERMAN: So we'll take proponents. [LB1069]

JAMES CAVANAUGH: (Exhibit 2) Senator Koltermeier (sic), members of the Retirement Committee, my name is James Cavanaugh. I'm an attorney and registered lobbyist representing the Nebraska chapter of the Sierra Club. I appear today on their behalf in favor of LB1069. We commend Senator Haar for bringing this important piece of legislation to you. The comments that I am handing out kind of give you an overview of which way the wind is blowing, I guess, on this important issue. Everyone from Pope Francis to the recent gathering of international government leaders have pretty much concluded that the question of global warming is, beyond doubt, tied to the use of fossil fuels. And if we are going to look to the future of our planet, we are going to have to wean ourselves from the use of this dangerous source of energy. So fortunately, technology exists and we're well on our way to developing it. All you have to do is drive to Des Moines sometime and count the windmills along the way and you can see that the options for wind and solar are there, in the field, proven, working. I live in Omaha and I make a habit when I commute to Lincoln every day of counting the number of windmill blades that I pass along the way and not a day has gone by in the last four or five years that I've come down here where I haven't counted a windmill blade. And that's just in my hour going and coming from Omaha. So this is an industry that's well on its way to becoming the next generation of energy supply for our nation. We have a proven model in these types of legislation. And Senator Haar referenced the Sullivan Principles which we employed here in the Nebraska to divert our investments from South Africa. I participated in the 1990s in the institution of the MacBride Principles here in Nebraska which diverted our investments from Northern Ireland and helped precipitate the Good Friday Agreement that brought peace to that troubled land after centuries of sectarian strife. Those were used to create change in governments. And I think that they are different...Senator Groene, you make a point that, you know, are you equating apartheid in South Africa with what we are trying to effectuate here? And I don't think that we are. This is a distinctly different kettle of fish. What we're trying to do here are two things: first of all, do some good for the environment by speeding the transition to renewable sources of energy and away from fossil fuels, and secondly and probably most importantly, doing some intelligent investing, investing wisely with our state funds. If you look at--and I do every day because of my retirement account--the stock market and you look at the price of oil and you follow it over the last year, what you find is the oil industry has pretty much crashed. And entire state economies--look to North Dakota--have crashed along with it. You don't have to be a Warren Buffett to see that when oil goes from \$100 a barrel to \$25 a barrel, which by the way is less than the barrel costs, that it's not probably the best investment that you can find in today's stock market. And that's not going to get better. Over time, what you're seeing here in oil and gas and coal and in

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

---

the related industries like railroads are people who are invested in the old forms of energy that we are moving away from. And if we are just using best practices, looking to the future, the same thing that you would do with your own portfolio, you want to look to the new sources of energy which are going to bring us in and through the twenty-first century. That's what this basically says is it's two-stage thing. It says look at it first, study it, come back and make some investment changes so that you are investing in the wisest way that you possibly can looking to the future trends in investments. And this is, you know, related to the fossil fuel industry but only really in terms of what's the best investment for our portfolio. And you would do this in your own investments and I suggest that you do that and in the case of the state's investment as well. So the divestment from companies that are going forward not going to be the main sources of energy for us. And investment in companies that going forward are going to be that main source of energy for us is just good investment philosophy. So we urge you to favorably act on LB1069 and I'd be happy to answer any questions you might have. [LB1069]

SENATOR KOLTERMAN: Questions? Senator. [LB1069]

SENATOR GROENE: Are you independently wealthy? [LB1069]

JAMES CAVANAUGH: Am I? No. [LB1069]

SENATOR GROENE: Well, you seem to be dang sure about investments on energy and what the future is going to be. [LB1069]

JAMES CAVANAUGH: Well, I can read the stock page and I do every day. [LB1069]

SENATOR GROENE: But it fluctuates. All energy does. Corn is at \$3, should we quit producing corn? [LB1069]

JAMES CAVANAUGH: Um-hum. [LB1069]

SENATOR GROENE: We should stop producing corn? [LB1069]

JAMES CAVANAUGH: Um-hum. [LB1069]

SENATOR GROENE: Thank you. [LB1069]

SENATOR KOLTERMAN: Senator Davis. [LB1069]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

---

SENATOR DAVIS: So just for levity's purpose here, but perhaps Senator Groene and I would like to introduce a bill, asks our Investment Council to divest from hog production, for example. (Laughter) Would that be an appropriate thing to do? [LB1069]

JAMES CAVANAUGH: Well, I'd defer to you fellas on livestock. [LB1069]

SENATOR KOLTERMAN: Let it go. Senator Davis, let it go. (Laughter) [LB1069]

SENATOR DAVIS: But my point really is this. What you're asking us to do is make a decision. Our responsibility is to look out for the pension recipients in the state, make sure the fund is healthy. What you're asking us to do is to use the leverage that this committee has to force investment decisions on the Investment Council which I just don't feel comfortable with. That's why they're there. Michael and the Investment Council want to do some investing in alternative energy I think that would be great. But they need to be able to demonstrate that that's going to be productive. [LB1069]

JAMES CAVANAUGH: And you know, I think you're right in that your prime directive is to get the best investment...return on your investment. That's your charge. I'd tell you that there's a couple precedents for what we're asking you to do that would be important for you to look at. First of all, the Sullivan Principles that were employed by the state of Nebraska in the South African incident, and secondly, the MacBride Principles which were employed by the state of Nebraska in the Northern Ireland instance didn't lose us a nickel. So you can do both what you're talking about, get the best investments for the state's investment, and some constructive investment in the environment and still have it be a very, very wise investment from a return-on-your-investment point of view. And I'd ask you to go back and look and talk to the Investment Council people on this. What was the impact on our investment, because it was not negative and it wasn't neutral. It was positive when we employed this for social change and we're not talking about social change now. We're not denigrating anybody in the oil or gas industry. We're talking about it from an environmental point of view but from a wise investment point of view and you'll find that that is a wise investment and it was in both of those instances. [LB1069]

SENATOR DAVIS: Thank you. [LB1069]

SENATOR KOLTERMAN: Thank you. Any other questions? Senator Kolowski. [LB1069]

SENATOR KOLOWSKI: Mr. Cavanaugh, in a summary basis looking at South Africa's situation or the Northern Ireland situation which we all saw and lived through, all those time periods, this is no different because it's another moral decision. It's not just an economic decision. And if we

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

---

don't make the right moral decision, we'll have to answer to ourselves and perhaps to others in our future depending on how we feel about the issue of climate change, is it real or not real, we can have debates about all that and talk till the cows come or the pigs come home, it doesn't matter which one. And we have a moral decision to make. Are we going to do that or not do that? And hopefully divest ourselves of a direction that is not sustainable in our world because of what's happening. If you've traveled anywhere in the world and seen the results of what's happening to the changing temperatures and the world impact of fossil fuels, you'll know what I'm talking about. If you haven't done that or you just poo-poo it all, that's your choice. But I'd like to know where my grandkids are going to be in their future and their kids beyond them because we are at the point of a moral decision. And to only call it an economic decision would be wrong. [LB1069]

JAMES CAVANAUGH: I couldn't agree more. And you know, when I referenced Pope Francis' recent encyclical, I mean, you're absolutely right. What he said and what you say are pretty identical. And there is the economic side of it. [LB1069]

SENATOR KOLOWSKI: Sure. [LB1069]

JAMES CAVANAUGH: But the moral side of it I think trumps all. And you know, if you've got children and grandchildren, this should not be a close call because the environment we leave them is already going to be compromised by what we've done in terms of burning fossil fuels. And all we're saying is do a couple of things smart. Do, for the investment portfolio, it's a smart thing. But do it, as you say, more importantly for the future. And I don't think anybody who makes this decision will look bad in history for having made it. [LB1069]

SENATOR KOLOWSKI: We had--one more sidebar if I may--we had someone from Berkshire Hathaway on windmills a short time ago that talked to our committee and there is certain companies out there that have not thrown their money away on losing projects. And I think they are way ahead of the game on what they're doing and where they have done it and what they're going to continue to do in the future to capitalize on wind power, solar power, or whatever else is taking place. And we can do this. There's ways that can happen. But we've got to be smart and invest wisely and watch the markets and see what happens. [LB1069]

JAMES CAVANAUGH: You're absolutely right. [LB1069]

SENATOR KOLTERMAN: Thank you, Senator Kolowski. [LB1069]

SENATOR KOLOWSKI: Thank you. [LB1069]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

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SENATOR KOLTERMAN: Mr. Cavanaugh, thank you. Just for the record, my name is Kolterman, not Koltermeier. But that's all right. [LB1069]

JAMES CAVANAUGH: I sit corrected, Senator Kolterman. [LB1069]

SENATOR KOLTERMAN: That's all right. We've known each other a long time. [LB1069]

JAMES CAVANAUGH: We have. I apologize. [LB1069]

SENATOR KOLTERMAN: I'm sorry. Do you have a question? [LB1069]

SENATOR LINDSTROM: Thank you, Mr. Chairman. I just want to make two points. One, most retirement plans in this country have ExxonMobil inside of it. And two, if you go by the Buffett theory or model, now would be probably a good time to buy energy stocks, particularly in the oil sector because it's low. Buy low, sell high. You've probably heard it a million times. So I...that's what I subscribe to a little bit more. [LB1069]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. [LB1069]

JAMES CAVANAUGH: Senator Lindstrom, I wouldn't disagree with that. The Buffett model, as I understand it...and I'm just a poor country lawyer. I'm not an independently wealthy investor. But the Buffett model, as I understand it, is predicated on buy low and then hold it for a very long time. Don't just get in and jump in and jump out and jump in and jump out. [LB1069]

SENATOR LINDSTROM: Well, I'll just point...Goldman Sachs be one example of where he took advantage... [LB1069]

SENATOR KOLTERMAN: I hate to interrupt, but we're not going to solve this today. (Laughter) And we've got to be out of here in 20 minutes. [LB1069]

JAMES CAVANAUGH: Thank you, Senator. [LB1069]

SENATOR LINDSTROM: No, I just... [LB1069]

SENATOR KOLTERMAN: Points well taken both ways. [LB1069]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

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SENATOR LINDSTROM: He does make investments...especially with Goldman Sachs and buying some of the preferreds back in '09 and then turned around and sold them (inaudible)...so I just wanted... [LB1069]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. Thank you, Mr. Cavanaugh. [LB1069]

JAMES CAVANAUGH: Thank you, Senator. [LB1069]

SENATOR KOLTERMAN: Next proponent. [LB1069]

SENATOR GROENE: That advice I'll take. [LB1069]

SENATOR KOLTERMAN: Welcome. [LB1069]

CAROL WINDRUM: (Exhibit 3) Good afternoon. My name is Carol Windrum and I'm a member of First United Methodist Church in Omaha, but today I'm here speaking to you in support of LB1069 on behalf of Nebraska Interfaith Power and Light which is a nonprofit organization whose mission is to facilitate the faith community's response to climate change. I understand my call as a person of faith, to love my neighbor and to care for our earth home. Integrating these values into my personal lifestyle is essential, but I also believe that the role of government is to manage resources and investments in ways that reflect what is best for the common good: love of neighbor and care of the environment upon which we depend for life. And I'm not alone in this thinking. Voices from around the globe are crying out. Scores of religious leaders including Archbishop Desmond Tutu--referred to earlier--and Dr. Nicolae Roddy, who is an associate professor at Creighton University in Omaha, have signed on to a statement in support of fossil fuel divestment and clean energy reinvestment by faith communities. They describe the problem we are facing succinctly, and I quote from their statement: For more than two decades talented leaders, including legislative and shareholder advocates, have implored political and industry leaders to act. Their sound reasoning and humanity's best interests have been subverted by the vast influence of the fossil fuel industry, a massively profitable and influential collection of firms and states. This industry has used its financial power to prevent legislation and binding agreements to reduce carbon emissions spending over \$400,000 per day to lobby the U.S. government alone. It secures unthinkably large government subsidies, \$1.5 billion globally per day according to the International Energy Agency. In 2013, the industry spent over \$600 billion exploring for new fossil fuel reserves, far beyond the \$244 billion invested globally in renewable energy. This level of spending dwarfs the resources that can be mobilized by advocates for a sustainable future. And in the statement I passed out I give you that source. Nebraska Interfaith Power and Light supports LB1069, which

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

---

as you know, will require a review of state investments in fossil fuels and clean energy and begin the process of divestment of fossil fuels and increase investment in clean energy. It is time. It is past time to redirect our resources away from fossil fuel extraction and make positive investments in renewable energy which will foster a healthy, liveable planet and strengthen an economy that is sustainable for people and the land. I'm urging you today on behalf of Interfaith Power and Light to support LB1069 and let our state join the growing national and global movement for a healthy future. Thank you. [LB1069]

SENATOR KOLTERMAN: Thank you. Any questions? Thank you for your testimony. [LB1069]

CAROL WINDRUM: Thank you. [LB1069]

JOAN PHELAN: Hello, my name is Joan Phelan and I'm...this is my first time testifying. I have been a citizen of the Nebraska since 1986 and I've managed to attend hearings and I managed to escape my duty to testify. But this is so important I finally made myself do this. I'm testifying as a private citizen but I also should probably state that as a retired teacher, I'm a beneficiary of the Nebraska Public Employees Retirement System. And I'm not speaking on behalf of that entity obviously, but I mean, I have an interest in how the funds are used. I've been trying to get my mind around divestment from fossil fuels and investment, clean investment, for a few years now. And I'm still not there by any means. But there was an article a couple years ago in The Nation called "The New Abolitionism" that I keep referring to and I wanted to bring a couple of the parallels in this article to your attention. The author Christopher Hayes talks...he compares the political economy of slavery in the pre-Civil War times to the political economy of fossil fuel today. And there are a few strands that I think especially stand out. And one is that when our founding fathers talked about slavery way back during the Revolutionary War, they kind of spoke about it as a necessary evil and they figured it would eventually be phased out and so on. And then as the investment in slaves became larger and larger then people began to speak of it in rosier terms and even saying that some slaves were in some ways more free than free men, like it was a thing of beauty. And I do think I see sort of a parallel with where some of our political discussion is today that that actually has increased the denialism. That's the second really big point that the author makes that I wanted to bring to your attention is the idea of a resource curse which is that the over reliance on a resource--in the case of pre-Civil War, the enslaved human beings--actually stunts economic diversification and development. And one of the points that the author made was that the South in...well, let me go back. In 1860, slaves represented about 16 percent of the total household assets in the entire country, North and South. So in what would be today's dollars, they think about \$10 trillion. And so that obviously made it pretty hard to work against slavery. And now the environmental movement is trying to encourage our fossil fuel companies to leave their assets in the ground. What the author said--and I think this is very interesting--is that back in 1850, the South, he believes, actually had been held back by their

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Nebraska Retirement Systems Committee  
February 09, 2016

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reliance on slavery, that they hadn't moved into the sort of industrial era. They had 26 percent of the railroad mileage, 14 percent of the canal mileage, 18 percent of the manufacturing and that it was declining and that some of that even carried over into the early twentieth century. So the other aspect of the fossil fuel extraction is that I think we finally have reached this point where, as some of the previous speakers said, it's not as good of an economic investment as it was, that there are stranded assets, that the industry globally spends \$1.8 billion a day on exploration, and that as the value of the fossil fuels declines, that that is not a viable business model. So again, as a private citizen and I should say as a mother and soon-to-be grandmother, I would be so thrilled if the state of Nebraska would look at this moral question of climate change and how the state can make a difference. I think that we could move toward more economic growth, more innovation. I believe that a lot of our fossil fuel costs now are subsidized at various government levels. And I would...I think that we could unleash a lot of innovation. I think that we could...well, we could do the right thing by our planet and I think we'd even be doing the right thing by our own Nebraska scientists who have studied climate change. [LB1069]

SENATOR KOLTERMAN: Thank you for your testimony. For the record, could you spell your name, please? [LB1069]

JOAN PHELAN: Joan, J-o-a-n, Phelan, P-h-e-l-a-n. [LB1069]

SENATOR KOLTERMAN: Thank you. I forgot to ask you to do that ahead of time. Any questions? [LB1069]

JOAN PHELAN: Thank you. [LB1069]

SENATOR KOLTERMAN: Again, thank you for your testimony. [LB1069]

TIM FICKENSCHER: (Exhibit 4) Hello, my name is Tim Fickenscher and I, too, am a retired teacher. [LB1069]

SENATOR KOLTERMAN: Can you spell your name, please? [LB1069]

TIM FICKENSCHER: It is...it took me a long time to learn how to spell it. F-i-c-k-e-n-s-c-h-e-r. I am speaking in support of LB1069 because I'm worried about the students that I've taught and the world that they're inheriting, that they have to fix it because we haven't. I'm a member of a church in Omaha that's divested of its fossil fuel resources and they're also...they have a group that's working to lower their carbon footprint. I'm also attending a meeting in May because I have some other retirement money that I'm encouraging them to divest of fossil fuels also. Part

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

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of our call is to leave a livable planet for our children and our grandchildren and for ourselves. And we need to accept responsibility that fossil fuels are changing our present environment. Climate change is here. We keep hearing reports about weird weather and we need to keep it from getting worse. In Nebraska, our land and our water are precious resources, so are the people who live in Nebraska and the global community also deserves to be recognized as precious too. LB1069 is a way to start the process of helping...protecting from environmental climate change. It's also working toward a positive future with the sustainable...for a sustainable future. So I would ask that you support LB1069. Thank you. [LB1069]

SENATOR KOLTERMAN: Thank you, Mr. Fickenscher. Any questions? Thank you for your testimony. How many do we have in support yet? One? Two? Okay. We've got five minutes and we've got to have...I think I'm going to take your name for the record and I'm going to ask that opponents speak next. I apologize, but we're on a time crunch here. We've got to be out for Agriculture Committee here. So please bring in both copies of those that want to testify and we'll put your name down in support. Could I have the blue copies of the people? And again, I apologize. It's just a matter of we don't have enough time. I'm going to read into the record. (Exhibits 7-9) We have one here, Sally Herrin is testifying...has a written letter of support; and we have Tim Rinne, Nebraskans for Peace and is here to support the bill; John Atkeison, EnergyLinc is here in support. Okay, those are the other two. Now those that are opposed, please come forward. [LB1069]

MICHAEL WALDEN-NEWMAN: (Exhibit 5) Mr. Chairman, members of the committee, my name is Michael Walden-Newman; that's M-i-c-h-a-e-l, last name W-a-l-d-e-n-N-e-w-m-a-n. I'm the State Investment Officer with the Nebraska Investment Council. I'm here to oppose LB1069. The first thing I want to do though is I want to thank Senator Haar and his staff for being truly gracious and reaching out to us when they were crafting the bill. They didn't have to do that. They knew we would get a copy of it probably for a fiscal note. But they didn't wait for that day. They reached out and we had a good conversation in person and some follow-up e-mails about how to actually put the language in the bill so that we as the Investment Council could implement the legislation if you passed it. Some of those considerations were I explained that everyone knows, and no more than you, that this money is Nebraskans' money. And our managers that we've engaged to take care of that money and the money we manage in-house can...will do what we tell them to do. But they cannot implement a sentiment. They need to, in cases like this, need to have a list of the companies that we're going to divest from and/or...and a list or a clear definition of companies that we should be investing in, in terms of clean energy and they were receptive to some suggested definitions, a refinement of definitions from me so that we were clear when we talked about divesting from fossil fuels that we were talking about, I suggested, exploration and production companies versus clothing manufacturers who manufacture clothing that maybe most of us are wearing that, in fact, either contains fossil fuels or fossil fuels are used in those factories to produce that food and clothing. And so again, I just

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

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want to thank them for the consideration that they did not have to extend to us. But I sure hope that this committee is not going to support this legislation. I think the starting point should be the investment returns that I've brought and I hesitate to bring investment returns that aren't in fact the final book-of-record returns for the year, but these are from our custodial bank. And the invest...I'm going to talk about pension returns here. You know they have two separate fiscal years. There's the state and county pension plan that runs on a calendar year. Our preliminary figures show that the return for that portfolio was 1.1 percent for the calendar year running from January through this past December. And those same bank records show that the defined benefit plan enjoyed by teachers and law enforcement and judges had a negative return of negative 1.5 percent for their fiscal year that ran from July through December, so the first six months of that fiscal year. So to you, committee members, and to the public in this room and the constituents some of whom are beneficiaries of these plans, my focus you have to know is on providing the best possible returns I can within the acceptable risk set by my council to meet what is the actuarial expectation of return, which is 8 percent. And we've talked about that before. So this is an uphill battle that I'm engaged in. In trying to wrap our arms around this particular bill, I had to understand what the opportunity cost would be to the portfolio in removing part of the investment universe. And I didn't do an analysis of our portfolio in terms of actual holdings but in...because I don't know from day to day what our investment managers will seize as opportunities for our portfolio. I don't know that. If I knew that I'd run the \$22 billion myself. But what I have done then is I've taken what...and I put this in the fiscal note which I'd like to go through so that you understand clearly my fiscal note is what is that opportunity set. And the estimation is that 6 percent to 7 percent of the investment universe of our stock portfolio would be removed through this legislation, probably around 3 percent, less than 5 percent of the bond portfolio. A lot of the money that you can make in talking about new opportunities, if you will, on the green side, those can be made and even in traditional oil and gas production, be it pipelines or other side industries of oil and gas production can be made in alternative spaces whether it be in real estate, in private equity, or even in hedge funds. We have private equity investments currently that are tied to the energy industry. Those are illiquid investments which means that it's not at our discretion to exit those investments on any given day as it is on a stock and bond portfolio that we can sell tomorrow if we believe it's in our best interest. There's a lockup period in those investments that we agreed to when we signed on and to get out of those would cost real money and we estimate the overall transition including those alternatives to divest if we were to do it today to be north of \$20 million. The bill though allows for a period of time. So my plan, should you choose to pass this legislation, would be to take the full amount of time and if you could find in your discussions to even extend that so that I could do a thorough analysis of the impact to the portfolio and report back to you, that's what I would do. So that the while the bill calls for immediate divestiture where we can, frankly as a fiduciary and under the prudent investment rule, I'm just telling you publicly I cannot do that. [LB1069]

SENATOR KOLTERMAN: Okay. [LB1069]



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Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

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MICHAEL WALDEN-NEWMAN: So I will not. Mr. Chairman, I'm thinking that finger is I'm about to get a little light. (Laughter) And it's my...I've only been here a few times. [LB1069]

SENATOR KOLTERMAN: That's why you're investing our money. You're pretty bright. [LB1069]

MICHAEL WALDEN-NEWMAN: Yeah. So, Mr. Chairman, what I want to do is keep our eyes on the rabbit. I'm certain that the discussion and debate on the floor is not going to be about the impact on the investment portfolio solely. I think the debate will also be the decision by the Nebraska Legislature to open up the state law that was passed with due consideration. I'm certain that there would be a prohibition to investments if the sole purpose were for social and economic development reasons. When I brought that up to the senator he was good enough to bring forward the amendment that would exempt from that state law this program. But, Mr. Chairman, I'm here to tell you from past experience in my former life that if you do tamper with this section in Nebraska law--which I find very wise because it does keep you focused on the real purpose of the investment program--and that is for the beneficiaries of these funds including the entire state, that you will see others come knocking. [LB1069]

SENATOR KOLTERMAN: Okay. [LB1069]

MICHAEL WALDEN-NEWMAN: And I'd urge caution there. Mr. Chairman, members of the committee, the testimony today was moving, frankly. But that's not what I'm here to talk about. I'm here to talk about my job which is to protect these assets and I hope you believe the same. [LB1069]

SENATOR KOLTERMAN: Thank you, Michael. Any questions? [LB1069]

SENATOR MELLO: Chairman Kolterman, I'll be very brief because I have another meeting that was scheduled already I have to get to. Director, the question I've got is regardless of anyone's view on the issues regarding climate change or any particular individual's view on certain kinds of energy development, the component of the bill that could help have a discussion move forward is the information your office can provide of this committee, Senator Haar, the public at large in regards to where is the state's investments when it comes to the energy industry? What can you provide this committee and ultimately would provide Senator Haar in regards to the information you can share in regards to how much money the state is investing in a variety of energy-related industries and/or companies, and as you said, looking at some of the language in the bill, being able to differentiate obviously clothing that utilizes some kind of form of energy in comparison to an energy exploration venture and/or private equity that has some kind of energy generation component? [LB1069]

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Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

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MICHAEL WALDEN-NEWMAN: Right. Mr. Chairman, Senator, well, last question first. We've taken care, I believe, of the definitions to remove the clothing aspect by having in the legislation the threshold of how much of their revenue is coming from energy exploration or development solely. But my intention would be that to do exactly that, to come back to the committee to try to quantify, which is very difficult, the opportunity cost in terms of return to the portfolio which is going to be I think almost impossible, but rather is why I'm focusing on this opportunity set in asking that you not reduce the size of the number of arrows I have in my quiver to produce the returns that are expected by the tens of thousands of beneficiaries of these pension plans and the state agencies relying on the state funds we manage in-house, which in fact hold corporate bonds that are issued by energy companies. I don't have any doubt that we could meet the December 16 deadline and I don't know what...like you, I'm trying to set aside the social and moral question and keep myself focused on what is my task here, my public task, not my private task as a human being, but my public task as the State Investment Officer to, with my council, safeguard these assets. [LB1069]

SENATOR MELLO: So you think you...you will be providing this committee some report. The question just is timing of the report and to some extent it's going to be the best that you can...the best report that you can provide us and in regards to a limited amount of time because the bill required you to do a much deeper report by December 16, is that...am I understanding correctly? [LB1069]

MICHAEL WALDEN-NEWMAN: Right. Mr. Chairman, Senator, I'm going to a...exactly right. I am going to bring you the best possible report we can. [LB1069]

SENATOR MELLO: Okay. Okay. [LB1069]

SENATOR KOLTERMAN: Senator Groene. [LB1069]

SENATOR GROENE: You don't have to do that report. That's just something you're doing voluntarily because if we don't pass this, there's no demand for a report, right? [LB1069]

MICHAEL WALDEN-NEWMAN: Mr. Chairman, Senator, that's correct. [LB1069]

SENATOR GROENE: And then do you invest in any overall funds, the whole stock market funds? [LB1069]

MICHAEL WALDEN-NEWMAN: Mr. Chairman, Senator, I'm glad you brought that up. It buys me a little more time with the chair. [LB1069]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

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SENATOR GROENE: Well, I mean, the Fortune 500... [LB1069]

MICHAEL WALDEN-NEWMAN: We in fact do have index funds. [LB1069]

SENATOR GROENE: That's what I mean. [LB1069]

MICHAEL WALDEN-NEWMAN: We do have index funds that broadly invest across... [LB1069]

SENATOR GROENE: So would we have to divest from those funds because they have one stock in there that might have been an oil company? [LB1069]

MICHAEL WALDEN-NEWMAN: Mr. Chairman, that's my interpretation of the bill. And furthermore, we invest cheaply and have passive investments that cost very little to the portfolio. To invest in a specialized fund that has...that is a divested fund, if you will, or construct one will be much more expensive. [LB1069]

SENATOR GROENE: So my summary is we're divesting in more than just opportunities of individual companies. We're losing the opportunity to invest in a lot of funds that just might have one of those companies in it, right? [LB1069]

MICHAEL WALDEN-NEWMAN: Mr. Chairman, Senator, that's correct. [LB1069]

SENATOR GROENE: Thank you. [LB1069]

SENATOR KOLTERMAN: All right. Thank you, Mr. Walden. [LB1069]

MICHAEL WALDEN-NEWMAN: Thank you. [LB1069]

SENATOR KOLTERMAN: Other opponents. For the record, Senator Mello was here and he's now gone. [LB1069]

ORRON HILL: (Exhibit 6) Good afternoon, Chairman Kolterman, Retirement Systems Committee members. My name is Orron Hill, O-r-r-o-n H-i-l-l, I'm the legal counsel for the Public Employees Retirement Board and I'm here to testify in opposition to LB1069 at the PERB's direction. Much of our testimony has already been covered so I'll cut to the chase. The PERB does not believe it is appropriate to tie the Investment Council's hands when it comes to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

---

investment of our members' assets that are held in trust and for which we hold a fiduciary duty. We believe that the subject matter experts of the Investment Council and SIO and his staff are very well acquainted with the investment structure and put into place a good investment protocol that will ensure our members' assets are protected. And we would ask that the committee vote no on advancing LB1069 to the General File. Subject to your questions, that concludes my testimony. [LB1069]

SENATOR KOLTERMAN: Thank you, Orron. Any questions? Thank you very much. How many are here yet to oppose? Can I see hands? Neutral? Okay. [LB1069]

JOE KOHOUT: Chairman Kolterman and members of the Retirement Systems Committee, Joe Kohout appearing today...K-o-h-o-u-t, appearing today as registered lobbyist for the American Petroleum Institute. Much of the testimony that I have in front of me has been covered in some way, shape, or form by the two testifiers in front of me. I would just note a couple of things and that is that in terms of API, about a year ago commissioned a study, it's a Sonecon study, that analyzed 17 different pension funds...17 different states and found that oil and gas stocks strongly outperformed other assets. On average they comprised 4 percent of fund holdings but accounted for 8 percent of the financial returns over an eight-year period at a time of both vigorous expansion and deep recession. U.S. pension fund managers clearly believe oil and gas stocks are good, very good investments. They own 28.9 percent of all the oil and gas stocks. A similar effort was attempted in Vermont and the state treasurer and her advisory group chose not to adopt divestiture in part because they believed it would have cost their system between \$2 million and \$8.5 million in the first year and \$8 million to \$12 million every year thereafter. Of particular note, a discussion that occurred at Harvard when it came to the question of divestiture, the president of Harvard found that it was troubling to require divestiture when we...when this...from an entire class of stocks that we rely on their products on a daily basis. So with that, the American Petroleum Institute would ask that the committee not advance LB1069. And a closing note, Senator Lindstrom--and I texted my wife to make sure this was okay that I brought this up--but a few weeks ago when...and those of you who know my wife know that she's really a wallflower but (laughter) she looked at me when some of the prices were down and said we're buying more. And so to that extent I don't question it. I just said, okay. Whatever you want, Dear. So with that, I'll end my testimony and try to answer any questions. [LB1069]

SENATOR KOLTERMAN: Thank you. Any questions? Senator Haar, your time to close. And for those that couldn't testify, this morning I came from a hearing that had 16 that couldn't testify because of time and so I apologize. Again, we're subject to a time crunch here. [LB1069]

SENATOR HAAR: Thank you very much. I'll make this brief. We've started the discussion and time, as we go into the future, will certainly march this forward. I'd just like to say that

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Transcriber's Office

Nebraska Retirement Systems Committee  
February 09, 2016

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transitions are always painful, energy transitions. In 1890, there were 150,000 horses in New York City. Equestrian was the second largest industry and it was primarily owned by the railroads. And if you were an enterprising young man you could stand on one side of the street corner and shovel across for whoever could pay for that. The car took over quite quickly, so it's coming. I think this is not only the right thing to do, but we'll see in the near future that it makes dollars and cents. So thank you very much. Appreciate it. [LB1069]

SENATOR KOLTERMAN: Thank you, Senator Haar, for your patience and understanding. Any questions? This hearing is closed. Thank you. [LB1069]