



Hundredth Legislature - Second Session - 2008
Introducer's Statement of Intent
LB 992

Chairperson: John Synowiecki
Committee: Nebraska Retirement Systems
Date of Hearing: February 19, 2008

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 992 is intended to demonstrate Nebraska's disapproval of the Sudanese Government by instructing the Nebraska Investment Council to divest from Sudanese Companies or companies doing substantial business in Sudan. Divestment does not apply to investment accounts that are employee directed.

The following details the reasons for why divestment from Sudan is desirable and appropriate. On July 23, 2004, the United States Congress declared that "the atrocities unfolding in Darfur, Sudan, are genocide." On September 9, 2004, the United States Secretary of State told the United States Senate Foreign Relations Committee that "genocide has occurred and may still be occurring in Darfur" and "the Government of Sudan and the Janjaweed bear responsibility." On September 21, 2004, addressing the United Nations General Assembly, the President of the United States affirmed the Secretary of State's finding and stated, "[A]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide."

On December 7, 2004, the Congress noted that the genocidal policy in Darfur has led to reports of "systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves." Also on December 7, 2004, the Congress found that "the Government of Sudan has restricted access by humanitarian and human rights workers to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter."

On September 25, 2006, the Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan." On September 26, 2006, the United States House of Representatives stated that "an estimated 300,000 to 400,000 people have been killed by the Government of Sudan and its Janjaweed allies

since the [Darfur] crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad."

The Darfur crisis represents the first time the United States Government has labeled ongoing atrocities a genocide. The United States Government has imposed sanctions against the Government of Sudan since 1997. These sanctions are monitored through the United States Treasury Department's Office of Foreign Assets Control (OFAC). According to a former chair of the United States Securities and Exchange Commission (SEC), "the fact that a foreign company is doing material business with a country, government, or entity on OFAC's sanctions list is, in the SEC staff's view, substantially likely to be significant to a reasonable investor's decision about whether to invest in that company." Since 1993, the Secretary of State has determined that Sudan is a country the government of which has repeatedly provided support for acts of international terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan.

A 2006 House of Representatives report states that "a company's association with sponsors of terrorism and human rights abuses, no matter how large or small, can have a materially adverse result on a public company's operations, financial condition, earnings, and stock prices, all of which can negatively affect the value of an investment." In response to the financial risk posed by investments in companies doing business with a terrorist-sponsoring state, the Securities and Exchange Commission established its Office of Global Security Risk to provide for enhanced disclosure of material information regarding such companies.

The current Sudan divestment movement encompasses nearly one hundred universities, cities, states, and private pension plans. Companies facing such widespread divestment present further material risk to remaining investors. It is a fundamental responsibility of the State of Nebraska to decide where, how, and by whom financial resources in its control should be invested, taking into account numerous pertinent factors; it is the prerogative and desire of the State of Nebraska, in respect to investment resources in its control and to the extent reasonable, with due consideration for, among other things, return on investment, on behalf of itself and its investment beneficiaries, not to participate in an ownership or capital-providing capacity with entities that provide significant practical support for genocide, including non-United States companies doing business in Sudan.

Sections 1 to 25 of this act should remain in effect only insofar as they continue to be consistent with, and do not unduly interfere with, the foreign policy of the United States as determined by the United States Government. Mandatory divestment of state funds from certain companies is a measure that should be employed sparingly and judiciously. A congressional and presidential declaration of genocide satisfies this high threshold.

Principal Introducer:

Senator Bill Avery