

## Testimony on Targeted Sudan Divestment

Senate Finance Committee

Alexa Malishchak, Senior National Field Organizer, Sudan Divestment Task Force

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Senator Browne and Committee Members,

Thank you for the opportunity to address you today. The Finance Committee has a significant opportunity to help bring an end to a genocide while in progress for the first time in history.

As the coordinating entity for the Sudan divestment movement, the Sudan Divestment Task Force, a project of the Genocide Intervention Network, is actively involved in dozens of successful and developing targeted Sudan divestment campaigns around the world at the university, asset manager, city, state, and national levels. Our organization has developed a unique approach to shareholder engagement and divestment, focusing its efforts on the most problematic companies in Sudan. This approach, termed “targeted divestment,” helps to maximize impact on the Sudanese government, while minimizing potential impact on both innocent Sudanese civilians and on investment returns.

The US Congress and President have declared that genocide is occurring in the Darfur region of western Sudan – the first time in history that the federal government has declared a genocide while in progress. There are now twenty-two states that have adopted policies to divest their holdings from companies facilitating these atrocities – fifteen of these states under the narrowly targeted model of HB1140. These include some of the largest public pension systems in the country – California, Texas, and New York among them. The cities of Philadelphia and Pittsburgh have also already divested their holdings in these key companies, and over half a dozen Pennsylvania colleges and universities have either divested their holdings or are working on doing so.

The Sudanese government has a long history of susceptibility to economic pressure, with a foreign debt nearly as large as its GDP. The government has repeatedly responded to economic pressure in the past. Yet the regime has faced little in the way of economic consequences for its perpetuation of genocide in Darfur. Indeed, even while sponsoring genocide, it has managed to attract substantial foreign investment.

Ironically, the number of companies propping up this genocidal regime is relatively limited. While there are over 500 multinationals operating in Sudan, only two to three dozen of these play a truly detrimental role in the country. HB 1140 targets only those few dozen companies.

The emerging Sudan divestment movement has already caught the attention of the Sudanese government, which has spent considerable time and energy attacking the campaign. Several major companies operating in Sudan, including Rolls Royce, Schlumberger, and La Mancha, have recently announced plans to alter or end their business operations in Sudan in response to the divestment movement. Prominent foreign policy experts and think tanks which do not generally support blanket sanctions, including the International Crisis Group and Human Rights Watch, have all endorsed surgically targeted sanctions on the Sudanese regime, calling them a critical tool for influencing the behavior of the Sudanese government and bringing long-term peace and security to the region.

HB 1140 would require the Public School Employees' Retirement System and the State Employees' Retirement System to engage with and possibly divest from a very small subset of companies currently operating in Sudan. The companies, in aggregate, fail to compromise a significant portion of any major international index. The highest-offending companies that are targeted by the narrow criteria of the bill are those that have a business relationship with the Sudanese government or government-created project, fail to benefit civilians outside of government-controlled circles, fail to reasonably address the genocide through corporate action, and have proven unresponsive to repeated attempts at shareholder engagement.

PSERS and SERS have an important obligation to manage retirement assets in a financially prudent manner. Recognizing this obligation, HB 1140 was designed in close consultation with fiduciaries, asset managers, and legal counsel, allowing the state to dissociate itself from genocide while safeguarding PSERS' and SERS' portfolios.

The bill, which has been developed in close consultation with one of the nation's top law firms, is squarely within constitutional limits. The bill was written after an extensive legal analysis of a divestment case in Illinois, in order to address the primary concerns of the litigants. In particular, HB 1140 is benchmarked to federal sanctions to ensure its compliance with federal foreign policy. Furthermore, the targeted Sudan divestment model has received support from state pension funds that have traditionally opposed mandated divestment.

The bill limits PSERS' and SERS' financial risk in many key ways.

All company research, template letters, and other pertinent information needed to implement this bill's research and engagement provisions are available free of charge, thereby minimizing administrative burdens on PSERS and SERS.

The bill limits the number of companies targeted to those warranting "scrutiny," representing only a very small fraction of PSERS' and SERS' total holdings. According to a screen performed by PSERS and SERS in July, the total amount of holdings subject to divestment under this legislation would be \$137 million, or less than 0.2% of total holdings for the two funds.

Moreover, the bill does not target all companies in a particular sector, from a particular country, or of a particular size – meaning that, for companies that are subject to divestment, comparable alternative investments are readily available.

The bill does not mandate divestment from certain types of investments, including private equity and actively-managed commingled funds, that have caused the most problems with divesting fiduciaries.

The bill allows PSERS and SERS to attempt to change company behavior through an expedited engagement process prior to the enactment of any divestment. PSERS and SERS are given 15 months to engage the scrutinized companies and to complete divestiture of companies unresponsive to engagement.

And if, at any point during the divestment process, the total value of the PSERS or SERS portfolio drops below 99.51% of the portfolio's expected value without divestment, PSERS or SERS is allowed to relax the bill's divestment requirements and reinvest in certain companies.

Regarding divestment from other countries, it is our recommendation that any such legislation remain separate from HB1140. Combining the issues may weaken the impact of the legislation on the behavior of targeted companies and states. Keeping other-country divestment in separate legislation ensures that a clear message is sent to 1. The highest-offending foreign companies in Sudan, who are given specific timetables for changing their behavior in specific ways before divestment is undertaken. Companies need to understand exactly what is asked of them in order to respond. 2. Asset managers creating funds that are free of companies that are facilitating the genocide in Sudan. 3. The Sudanese government which continues to fund and sponsor the atrocities in Darfur.

Divesting from targeted companies doing business in Sudan will demonstrate that Pennsylvania will not allow its pension funds to facilitate genocide, while simultaneously putting much-needed pressure on the government of Sudan - pressure that has already caught the attention of Sudan's government and changed company behavior. HB1140 provides a safe, widely-adopted means to ensure that genocide does not occur on Pennsylvania's dime. Thank you.