

January 31, 2023

Sens. Mark Meek, Brian Boquist, Lynn Findley
Jeff Golden and Kayse Jama
Oregon Senate Finance and Revenue Committee
900 Court St NE
Salem, OR 9730

RE: Written Testimony in Support of Senate Bill 541

Chair Meek and Members of the Committee:

I am an Oregon citizen and am currently an employee of the Oregon Department of Environmental Quality where I have worked for the past 27 years. I urge you to support passage of SB 541, which would require the Oregon Investment Council to conduct a human rights analysis when making decisions regarding investment of public employee retirement funds.

I hope to enjoy a comfortable retirement in the not too distant future. I have as strong an interest as any Oregonian in ensuring that public employee retirement funds are wisely invested. I also understand and share concerns that investment returns be sufficient to meet the current and future liabilities of the Oregon Public Employee Retirement Fund. An investment strategy that turns a blind eye to human rights concerns does not and cannot result in maximum return on investment, as evidenced by the consequences of OIC's decision to invest \$233 million in taxpayer dollars into a private equity fund that owns the majority stake in the Israeli spyware firm, the NSO Group.ⁱ

The use of NSO's "Pegasus" spyware program by governments against journalists, union leaders and political dissidents has led to widespread condemnation, including by US Senator Ron Wydenⁱⁱ, and NSO's "blacklisting" by the US Dept of Commerce because Pegasus has "enabled foreign governments to conduct transnational repression, which is the practice of authoritarian governments targeting dissidents, journalists and activists outside of their sovereign borders to silence."ⁱⁱⁱ

The blacklisting of NSO and the negative publicity the company has received risks a total loss of Oregon's \$233 million investment. Moody's downgraded NSO eight levels below investment grade, citing low revenue, ongoing lawsuits against the company, and severe risk of default.^{iv} According to the Financial Times, Berkeley Research Group, the private equity firm now managing Oregon's investment in NSO, has determined that equity in NSO is "valueless."^v

The reputational, financial, and legal risks of investing in companies committing or complicit in human rights violations are widely recognized and routinely taken into account by investment managers for public pension funds.^{vi} That what are commonly referred to as "ESG" or environmental, social, and governance factors are important elements in reducing investment risk is well documented in a November 18, 2022 letter signed by nineteen state attorneys general, including Oregon's Ellen Rosenblum, which states: "A rigorous consideration of ESG factors to evaluate Value—the risk and reward of a potential investment— not Values—a subjective preference as to whether a given business or entity merits investment based on the nature of its business—can provide significant financial benefits to investors."^{vii}

It is important to note this bill does not limit in any way the discretion of the OIC in choosing investments. If OIC chose to invest in another company implicated in human rights abuses, it would be free to do so. What SB 541 would ensure is that the OIC makes informed decisions regarding human rights related risk in investment decisions, reducing the risk that it makes another costly blunder as it did in the case of NSO.

SB 541 increases the probability that Oregon will not again become complicit in human rights abuses by an investee, which is not only the smart thing to do as a financial fiduciary, but is the right thing to do. In my job, I draft, manage and litigate administrative enforcement cases brought by DEQ. When negotiating resolutions to DEQ enforcement actions, I often say to the Respondent that because we are the state, DEQ's goal is not to win all cases, but to get to a result that serves the public interest. Investing in companies like the NSO group does not serve the public interest and would, I believe, be abhorrent to most Oregonians. When Oregon demonstrates indifference to basic human rights it undermines respect for the rule of law and humanitarian principles that the state exists to promote.

Sincerely,

Jeff Bachman
Portland, Oregon

ⁱ [US unions condemn 'unacceptable' Oregon pension fund link with NSO | US news | The Guardian](https://www.theguardian.com/world/2022/jan/17/oregon-public-pension-fund-gave-blessing-to-nso-group-deal-sources-suggest)
<https://www.theguardian.com/world/2022/jan/17/oregon-public-pension-fund-gave-blessing-to-nso-group-deal-sources-suggest>

ⁱⁱ [Sen. Wyden says Oregon should divest from spyware company | AP News](#)

ⁱⁱⁱ <https://www.commerce.gov/news/press-releases/2021/11/commerce-adds-nso-group-and-other-foreign-companies-entity-list>

^{iv} [Israel's NSO Group at risk of 'defaulting' on \\$500m after US blacklisting | The Times of Israel](#)

^v [EY valued NSO Group at \\$2.3bn months before emergency bailout | Financial Times \(ft.com\)](#)

^{vi} [ESG Investing and Public Pensions: An Update \(bc.edu\)](#)

^{vii} [ESG Letter Final 11.18.22.pdf \(dc.gov\)](#)