

HOUSE BILL NO. 241

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GATTO, Ramras

Introduced: 4/18/09

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain investments of the Alaska permanent fund, the state's**
2 **retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred**
3 **compensation program for state employees in companies that do business in Iran, and**
4 **restricting those investments; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 37.10 is amended by adding new sections to read:

7 **Sec. 37.10.072. Iran divestment.** (a) The commissioner or a fiduciary of a
8 fund subject to this title may not invest in and shall cause the fund to divest ownership,
9 if any, in the publicly traded securities of a company that the commissioner places on
10 a list of companies that conduct or have direct investments in business operations in
11 Iran. Divestment of an ownership interest in a company shall occur within 90 days
12 after it is placed on the list created and updated under (c) of this section if the
13 investment is managed by the commissioner or fiduciary. On or before January 31 of
14 each year, if a fund has investments managed by an outside investment manager, the

1 fiduciary shall direct the investment manager not to invest in and to divest, within 90
2 days after receiving the direction, ownership, if any, in the publicly traded securities of
3 a company that the commissioner places on a list of companies that conduct or have
4 direct investments in business operations in Iran.

5 (b) If an investment in a fund under (a) of this section is managed as a
6 commingled investment or other business structure in which the fund is not the sole
7 owner of the investment interest or if the investment is an index fund, the provisions
8 of (a) of this section do not apply. The commissioner shall require that, on or before
9 January 31 of each year, the fiduciary submit letters to the managers of commingled
10 investments requesting the managers to consider removing from the commingled
11 investment any company on the list of companies that conduct or have direct
12 investments in business operations in Iran.

13 (c) The commissioner shall create and update annually on or before
14 December 31 a list of companies that conduct or have direct investments in business
15 operations in Iran.

16 (d) The commissioner shall make reasonable efforts to investigate all publicly
17 traded companies to determine whether the company conducts or has direct
18 investments in business operations in Iran. In conducting the investigation, the
19 commissioner may use the following:

20 (1) credible publicly available information regarding companies with
21 active business operations compiled by nonprofit organizations, research firms,
22 international organizations, and government entities;

23 (2) information supplied by institutional investors that have divested
24 from companies that conduct or have direct investments in business operations in Iran.

25 (e) The commissioner shall provide written notice and an opportunity to
26 comment in writing to each company identified as a company that conducts or has
27 direct investments in business operations in Iran under (d) of this section.

28 (f) The commissioner shall add a company identified under (d) of this section
29 to the list of companies that conduct or have direct investments in business operations
30 in Iran not earlier than 90 days after providing written notice under (e) of this section,
31 unless the company demonstrates to the commissioner that it does not conduct or have

1 direct investments in business operations in Iran.

2 (g) The commissioner shall make every effort to avoid erroneously adding a
3 company to the list of companies that conduct or have direct investments in business
4 operations in Iran. The commissioner shall verify that the company conducts or has
5 direct investments in business operations in Iran before adding it to the list of
6 companies that conduct or have direct investments in business operations in Iran.

7 (h) Annually, on or before January 31, the commissioner shall advise the
8 president of the senate, the speaker of the house of representatives, and, if the position
9 has been established, the United States presidential special envoy for Iran, of the
10 companies on the list of companies that conduct or have direct investments in business
11 operations in Iran.

12 (i) If the federal government excludes a company from its present or any
13 future federal sanctions relating to Iran, the company is exempt from the divestment
14 requirements and the investment prohibitions in this section.

15 (j) The commissioner may adopt regulations under AS 44.62 to carry out the
16 purposes of the section.

17 (k) In this section,

18 (1) "business operations"

19 (A) means all business operations that are not inactive business
20 operations;

21 (B) does not include operations that the company can
22 demonstrate

23 (i) are conducted under a license from the United States
24 Department of the Treasury, Office of Foreign Assets Control, or are
25 expressly exempted from licensure under federal law;

26 (ii) consist of providing goods or services to the
27 population of Iran;

28 (iii) consist of providing goods or services to an
29 internationally recognized peacekeeping force or humanitarian
30 organization;

31 (iv) consist of providing goods or services that are used

only to promote health or education; or

(v) have been voluntarily suspended;

(2) "commissioner" means the commissioner of revenue;

(3) "Government of Iran" means the government of the Islamic Republic of Iran or its instrumentalities or political subdivisions and companies owned or controlled by the Islamic Republic of Iran;

(4) "inactive business operations" means the continued holding or renewal of rights to property previously operated for the purpose of generating revenue but not presently deployed for that purpose.

Sec. 37.10.073. Divestment exemptions and immunity. For actions taken, or inaction done in good faith, in compliance with AS 37.10.072, the commissioner of revenue, a fiduciary, an agent, attorney, trustee, officer, employee, staff, custodian, research firm, or investment manager under contract of the commissioner of revenue or the fiduciary, and board members complying with AS 37.10.220 or AS 37.13.120 are

(1) exempt from a conflicting state statutory or common law obligation, including an obligation with respect to choice of an asset manager, investment fund, or investment for the securities portfolio of the public fund; and

(2) immune from liability under state or local law.

* **Sec. 2.** AS 37.10.220 is amended by adding a new subsection to read:

(d) The board shall comply with AS 37.10.072.

* **Sec. 3.** AS 37.13.120 is amended by adding a new subsection to read:

(f) The board shall comply with AS 37.10.072.

* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REPEAL. Section 1 of this Act; AS 37.10.072, 37.10.220(d); and AS 37.13.120(f) are repealed on the earliest of the day after

(1) Iran is removed from the United States Department of State's list of countries that have been determined to repeatedly provide support for acts of international terrorism; or

(2) the United States Congress or the President of the United States, through

1 legislation or executive order, declares that the Iran divestment authorized in AS 37.10.072
2 interferes with the conduct of United States foreign policy.

3 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 REPORT. (a) Within 30 days after creating the list described in AS 37.10.072(c), the
6 commissioner of revenue shall submit the list to the legislature.

7 (b) Not later than January 31 of each year, the commissioner of revenue shall submit a
8 report to the legislature that must include

9 (1) a copy of the most recent list created under AS 37.10.072(c);

10 (2) a summary of correspondence with companies on the list described in
11 AS 37.10.072(c);

12 (3) a list of all investments sold, redeemed, divested, or withdrawn in
13 compliance with AS 37.10.072(a); and

14 (4) a summary of correspondence with managers of commingled investments
15 described in AS 37.10.072(b).

16 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 NOTICE. Not later than 30 days after the enactment of this Act, the Department of
19 Law is directed to submit written notice to the Attorney General of the United States
20 describing this Act.

21 * **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).