

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

April 1, 2008

9:04 a.m.

**MEMBERS PRESENT**

Senator Lesil McGuire, Chair  
Senator Gary Stevens, Vice Chair  
Senator Hollis French  
Senator Lyda Green  
Senator Con Bunde

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 198

"An Act extending the statute of limitations for the filing of complaints with the Alaska Public Offices Commission involving state election campaigns; and extending the statute of limitations for prosecutions of violations of the Alaska Election Code."

MOVED SSSB 198 OUT OF COMMITTEE

HOUSE BILL NO. 92

"An Act removing the victims' advocate and the staff of the office of victims' rights from the jurisdiction of the office of the ombudsman in the legislative branch."

MOVED HB 92 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 196(JUD)

"An Act relating to the handling of matters after a person's death."

MOVED SCS CSHB 196(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 351(JUD)

"An Act relating to submission of fingerprints by applicants for a concealed handgun permit; and providing for an effective date."

MOVED CSHB 351(JUD) OUT OF COMMITTEE

SENATE BILL NO. 227

"An Act relating to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska

Supplemental Annuity Plan, and the deferred compensation program for state employees in companies that do business in Sudan, and restricting those investments."

MOVED SB 227 OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 228

"An Act relating to and permitting certain uses and occupancies of real property that do not comply with changes made to municipal land use ordinances."

SCHEDULED BUT NOT HEARD

#### PREVIOUS COMMITTEE ACTION

BILL: SB 198

SHORT TITLE: ELECTION VIOLATIONS: STAT OF LIMITATIONS

SPONSOR(S): SENATOR(S) WIELECHOWSKI, THOMAS

01/16/08	(S)	PREFILE RELEASED 1/4/08
01/16/08	(S)	READ THE FIRST TIME - REFERRALS
01/16/08	(S)	STA, JUD, FIN
03/20/08	(S)	STA AT 9:00 AM BELTZ 211
03/20/08	(S)	Failed To Move Out Of Committee
03/20/08	(S)	MINUTE(STA)
03/28/08	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
03/28/08	(S)	STA, FIN
04/01/08	(S)	STA AT 9:00 AM BELTZ 211

BILL: HB 92

SHORT TITLE: JURISDICTION OF OMBUDSMAN: VICTIMS RTS

SPONSOR(S): REPRESENTATIVE(S) SAMUELS, STOLTZE

01/16/07	(H)	PREFILE RELEASED 1/12/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	STA, FIN
03/20/07	(H)	STA AT 8:00 AM CAPITOL 106
03/20/07	(H)	Scheduled But Not Heard
03/24/07	(H)	STA AT 10:00 AM CAPITOL 106
03/24/07	(H)	Moved Out of Committee
03/24/07	(H)	MINUTE(STA)
03/26/07	(H)	STA RPT 5DP 1DNP
03/26/07	(H)	DP: JOHNSON, JOHANSEN, GRUENBERG, COGHILL, LYNN
03/26/07	(H)	DNP: DOLL
04/03/07	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/03/07	(H)	Moved Out of Committee
04/03/07	(H)	MINUTE(FIN)
04/04/07	(H)	FIN RPT 6DP 4NR

04/04/07 (H) DP: GARA, FOSTER, HAWKER, THOMAS,  
STOLTZE, MEYER  
04/04/07 (H) NR: CRAWFORD, NELSON, KELLY, CHENAULT  
04/13/07 (H) TRANSMITTED TO (S)  
04/13/07 (H) VERSION: HB 92  
04/16/07 (S) READ THE FIRST TIME - REFERRALS  
04/16/07 (S) STA  
05/03/07 (S) STA AT 9:00 AM BELTZ 211  
05/03/07 (S) -- MEETING CANCELED --  
05/09/07 (S) STA AT 9:00 AM BELTZ 211  
05/09/07 (S) Heard & Held  
05/09/07 (S) MINUTE(STA)  
04/01/08 (S) STA AT 9:00 AM BELTZ 211

BILL: HB 196

SHORT TITLE: HANDLING MATTERS AFTER A PERSON'S DEATH  
SPONSOR(S): JUDICIARY

03/14/07 (H) READ THE FIRST TIME - REFERRALS  
03/14/07 (H) JUD  
04/04/07 (H) JUD AT 1:00 PM CAPITOL 120  
04/04/07 (H) Heard & Held  
04/04/07 (H) MINUTE(JUD)  
04/10/07 (H) JUD AT 1:00 PM CAPITOL 120  
04/10/07 (H) Moved CSHB 196(JUD) Out of Committee  
04/10/07 (H) MINUTE(JUD)  
04/11/07 (H) JUD RPT CS(JUD) 5DP 1NR  
04/11/07 (H) DP: GRUENBERG, LYNN, COGHILL, HOLMES,  
RAMRAS  
04/11/07 (H) NR: SAMUELS  
04/20/07 (H) TRANSMITTED TO (S)  
04/20/07 (H) VERSION: CSHB 196(JUD)  
04/23/07 (S) READ THE FIRST TIME - REFERRALS  
04/23/07 (S) L&C, STA, JUD  
02/21/08 (S) L&C AT 1:30 PM BELTZ 211  
02/21/08 (S) Heard & Held  
02/21/08 (S) MINUTE(L&C)  
03/06/08 (S) L&C AT 1:30 PM BELTZ 211  
03/06/08 (S) Moved SCS CSHB 196(L&C) Out of  
Committee  
03/06/08 (S) MINUTE(L&C)  
03/10/08 (S) L&C RPT SCS 3DP SAME TITLE  
03/10/08 (S) DP: ELLIS, BUNDE, DAVIS  
04/01/08 (S) STA AT 9:00 AM BELTZ 211

BILL: HB 351

SHORT TITLE: CONCEALED HANDGUN PERMIT: FINGERPRINTS

SPONSOR(S): REPRESENTATIVE(S) COGHILL

02/06/08 (H) READ THE FIRST TIME - REFERRALS  
02/06/08 (H) JUD, FIN  
02/11/08 (H) JUD AT 1:00 PM CAPITOL 120  
02/11/08 (H) Moved CSHB 351(JUD) Out of Committee  
02/11/08 (H) MINUTE(JUD)  
02/13/08 (H) JUD RPT CS(JUD) 7DP  
02/13/08 (H) DP: DOOGAN, LYNN, COGHILL, DAHLSTROM,  
SAMUELS, HOLMES, RAMRAS  
02/20/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
02/20/08 (H) <Bill Hearing Postponed>  
02/28/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
02/28/08 (H) Moved CSHB 351(JUD) Out of Committee  
02/28/08 (H) MINUTE(FIN)  
02/29/08 (H) FIN RPT CS(JUD) 10DP  
02/29/08 (H) DP: HAWKER, CRAWFORD, JOULE, GARA,  
NELSON, STOLTZE, THOMAS, KELLY, MEYER,  
02/29/08 (H) CHENAULT  
03/12/08 (H) TRANSMITTED TO (S)  
03/12/08 (H) VERSION: CSHB 351(JUD)  
03/14/08 (S) READ THE FIRST TIME - REFERRALS  
03/14/08 (S) STA  
04/01/08 (S) STA AT 9:00 AM BELTZ 211

BILL: SB 227

SHORT TITLE: DIVEST INVESTMENTS IN SUDAN

SPONSOR(S): SENATOR(S) FRENCH

01/16/08 (S) READ THE FIRST TIME - REFERRALS  
01/16/08 (S) STA, FIN  
04/01/08 (S) STA AT 9:00 AM BELTZ 211

**WITNESS REGISTER**

MICHELE SYDEMAN, Staff  
to Senator Bill Wielechowski  
Alaska State Legislature

**POSITION STATEMENT:** Presented SB 198

JOYCE ANDERSON, Administrator  
Select Committee on Legislative Ethics  
Anchorage AK

**POSITION STATEMENT:** Answered questions about SB 198.

SENATOR BILL WIELECHOWSKI  
Alaska State Legislature

**POSITION STATEMENT:** Presented SB 198

REPRESENTATIVE BILL STOLTZE  
Alaska State Legislature  
Juneau AK

**POSITION STATEMENT:** Presented HB 92.

REPRESENTATIVE RALPH SAMUELS  
Alaska State Legislature  
Juneau AK

**POSITION STATEMENT:** Presented HB 92.

KATHERINE HANSEN, Interim Director  
Office of Victims Rights  
Anchorage AK

**POSITION STATEMENT:** Answered questions about HB 92.

LINDA LORD-JENKINS, Ombudsman  
Alaska Office of the Ombudsman  
Anchorage AK

**POSITION STATEMENT:** Answered questions about HB 92.

REPRESENTATIVE JAY RAMRAS  
Alaska State Legislature  
Juneau AK

**POSITION STATEMENT:** Presented HB 196.

JANE PIERSON, Staff  
to Representative Ramras  
Alaska State Legislature

**POSITION STATEMENT:** Presented HB 196.

STEVE GREER, Attorney  
Anchorage AK

**POSITION STATEMENT:** Spoke in favor of HB 196.

KAREN LIDSTER, Staff  
to Representative John Coghill  
Alaska State Legislature

**POSITION STATEMENT:** Presented HB 351.

DIXIE HOOD, Family Therapist  
Juneau AK

**POSITION STATEMENT:** Spoke in favor of SB 227.

HELENA FAGAN  
Juneau AK

**POSITION STATEMENT:** Spoke in favor of SB 227.

MICHAEL BURNS, CEO  
Alaska Permanent Fund Corporation  
Juneau AK

**POSITION STATEMENT:** Spoke against SB 227.

PAT GALVIN, Commissioner  
Alaska Department of Revenue  
Juneau AK

**POSITION STATEMENT:** Spoke in favor of SB 227.

DEBORAH BOCK, Volunteer  
Save Darfur Anchorage  
Anchorage AK

**POSITION STATEMENT:** Spoke in favor of SB 227.

MAX CROES  
Sudan Divestment Task Force/Genocide Intervention Network  
Washington D.C.

**POSITION STATEMENT:** Spoke in favor of SB 227.

#### **ACTION NARRATIVE**

**CHAIR LESIL MCGUIRE** called the Senate State Affairs Standing Committee meeting to order at [9:04:14 AM](#). Senators McGuire, Bunde, Stevens, and French were present at the call to order. Senator Green arrived later.

#### **SB 198-ELECTION VIOLATIONS: STAT OF LIMITATIONS**

CHAIR MCGUIRE announced the consideration of SB 198.

[9:04:47 AM](#)

MICHELE SYDEMAN, Staff to Senator Bill Wielechowski, said the sponsor substitute to SB 198 retains the core provisions of the original bill, which extends the statute of limitations for the Alaska Public Offices Commission (APOC) from one year to four. It also repeals a statute governing the Department of Law prosecutions of campaign finance violations. It will have up to five years to carry a criminal prosecution. The following sections of the original bill were deleted based on previous committee discussions: Section 1, which restricted post-election fundraising; Section 3, which limited excess campaign funds that can be given to a political party; and Section 5, which would have increased the civil penalty for lobbyists. Those sections were removed to focus on the core mission.

9:06:40 AM

SENATOR BUNDE asked about the five-year limit, because line 9 says four years.

MS. SYDEMAN said Section 1 changes the APOC statute of limitations to four years, and Section 2 repeals AS15.56.130, which refers to criminal prosecutions of campaign finance laws. There have only been a handful of those in several decades. If the one-year statute is repealed, there is a five-year, more general, statute of limitations for this type of criminal violation that already exists in law.

9:07:44 AM

CHAIR MCGUIRE said there was an amendment from the legislative ethics committee making the bill consistent with the bill supported by APOC. "It was [Ms. Joyce Anderson's] belief that we should make both the ethics statute of limitations and the APOC statute of limitations consistent."

CHAIR MCGUIRE moved Amendment 1, labeled 25-LS1102\L, Bullard, as follows:

Page 1, line 1:

Delete "**extending**"

Insert "**relating to**"

Page 1, line 2, following "**campaigns;**":

Insert "**relating to the statute of limitations for the filing of complaints with the Select Committee on Legislative Ethics;**"

Page 1, lines 5 - 12:

Delete all material and insert:

"\* **Section 1.** AS 15.13.380(b) is amended to read:

(b) A [MEMBER OF THE COMMISSION, THE COMMISSION'S EXECUTIVE DIRECTOR, OR A] person who believes a violation of this chapter or a regulation adopted under this chapter has occurred or is occurring may file an administrative complaint with the commission within five years [ONE YEAR] after the date of the alleged violation. If a member of the commission has filed the complaint, that member may not participate as a commissioner in any proceeding of the commission with respect to the complaint. The commission may consider a complaint on an expedited basis or a regular basis. The time limitations of this subsection do not bar proceedings against a person who

intentionally prevents discovery of a violation of this chapter.

\* Sec. 2. AS 24.60.170(a) is amended to read:

(a) The committee shall consider a complaint alleging a violation of this chapter if the alleged violation occurred within five [TWO] years before the date that the complaint is filed with the committee [AND, WHEN THE SUBJECT OF THE COMPLAINT IS A FORMER MEMBER OF THE LEGISLATURE, THE COMPLAINT IS FILED WITHIN ONE YEAR AFTER THE SUBJECT'S DEPARTURE FROM THE LEGISLATURE]. The committee may not consider a complaint filed against all members of the legislature, against all members of one house of the legislature, or against a person employed by the legislative branch of government after the person has terminated legislative service. However, the committee may reinstitute proceedings concerning a complaint that was closed because a former employee terminated legislative service [OR BECAUSE A LEGISLATOR LEFT THE LEGISLATURE] if the former employee [OR LEGISLATOR] resumes legislative service, whether as an employee or a legislator, within five [TWO] years after the alleged violation. The time limitations of this subsection do not bar proceedings against a person who intentionally prevents discovery of a violation of this chapter."

Renumber the following bill sections accordingly.

Page 2, following line 6:

Insert a new subsection to read:

"(b) AS 24.60.170(a), as amended by sec. 2 of this Act, applies to complaints alleging violations of AS 24.60 that occurred

(1) within two years before the effective date of sec. 2 of this Act; or

(2) on or after the effective date of sec. 2 this Act."

Reletter the following subsection accordingly.

Page 2, line 8:

Delete "sec. 2"

Insert "sec. 3"

There being no objection, Amendment 1 was adopted.

SENATOR FRENCH said Amendment 1 deletes lines 5 through 12, and that is related to APOC. So it restates the APOC provisions and then it adds the ethics provisions; is that how it works?

[9:09:18 AM](#)

JOYCE ANDERSON, Administrator, Select Committee on Legislative Ethics, said Amendment 1 adds the language that the time limits do not bar proceedings against a person who intentionally prevents discovery of a violation. "That has been added for APOC language, and it's also in the ethics statute." It is making it consistent, not only with the statute of limitations for four years, but also with the language in both the ethics and the APOC statutes.

SENATOR FRENCH said Amendment 1 adds to the APOC bill and ethics provision, which makes the two consistent.

MS. ANDERSON said that is correct.

SENATOR GREEN asked, "Does it mean that there's not a limitation of four years?"

MS. ANDERSON said yes, if there was an intentional prevention of discovery. Recent cases included an intentional prevention of discovery of a violation, which could go beyond the four years.

SENATOR STEVENS asked her to explain it.

MS. ANDERSON said if there was a corruption case where the offender intentionally prevented discovery of some act, there would be no statute of limitations. Then both APOC and the ethics committee could initiate a complaint. For example, APOC now has a one-year statute of limitations, and was unable to initiate any kind of investigation regarding [Governor Murkowski's Chief of Staff] Jim Clark. This would have allowed the committee to look at that issue.

[9:12:15 AM](#)

SENATOR BUNDE asked if intentionally preventing discovery is like tampering with evidence in a criminal case.

MS. ANDERSON said it would have to be violation under the code of APOC or ethics, "so it would actually have to be one of the areas of the conflict of interest, or whatever, in the ethics code, and as well as the APOC statutes, which cover campaigning law and financial disclosures."

SENATOR BUNDE asked if the current one-year statute of limitations gets waived for intentional prevention of discovery.

MS. ANDERSON said no.

SENATOR BUNDE said there are honest mistakes. This is about falsifying or destroying evidence.

MS. ANDERSON said that could be an example, but it would be at the discretion of APOC and the ethics committee to look at how egregious it was.

SENATOR BUNDE asked if the decision of whether there was intentional prevention of discovery would be made by the ethics committee.

MS. ANDERSON said yes.

SENATOR BUNDE said he has no question about the present ethics committee, but he might with later committees. Why are you asking for this?

MS. ANDERSON said it has been in the ethics statute for years, and she wants to make things consistent between ethics and APOC. It was added to the APOC statute in some House committees.

[9:15:17 AM](#)

SENATOR BUNDE surmised that it exists in the ethics law, and now it will be in the APOC arena. Who makes the determination if there was intentional prevention of discovery?

MS. ANDERSON said APOC will.

SENATOR BUNDE said, "They become judge, jury, and executioner."

CHAIR MCGUIRE said there was no objection to the amendment, but the committee can continue the debate.

SENATOR GREEN moved to rescind the action on adopting Amendment 1 for the purposes of allowing further debate.

SENATOR FRENCH objected and said the debate can occur on the bill itself or in the context of the rescinding motion. It did happen quickly. He withdrew his objection.

Amendment 1 was rescinded.

CHAIR MCGUIRE moved Amendment 1 again.

SENATOR GREEN objected. If she had known it was in the ethics provision she would have complained. It appears there is no time limit. How can the state have the right to go back and look at something after four years?

[9:17:47 AM](#)

MS. ANDERSON said because it is in statute.

SENATOR GREEN said it isn't in statute. "If you have a four-year time limit, how do you ... have the ability to go back and look and determine if something is wrong? To me it is off the table."

SENATOR FRENCH said it is already in the ethics statute but not APOC. If APOC got a tape from a 1980 election showing a candidate shredding checks and changing names and amounts after a campaign event, APOC would say it is beyond the four years and the offenders would get away with it, but they wouldn't if this were on the books. If it was just someone making a mistake when filling out a form, the case is closed after four years. An honest candidate won't be harassed.

[9:20:28 AM](#)

SENATOR BUNDE said APOC has been helpful to him and he has confidence in the office, but "you do get a group of five people discussing the possibility of an ethics violation and intentionally preventing discovery of a violation, and the ethics area seems ... more of a gray area that would require this group discussion. But now we are going to ... some future APOC. And, who makes that decision, one person?" Could the director of APOC say something was intentional with no statute of limitations? Criminal law has very few offenses without one. He said he is not much of a record keeper. A person that is long-retired will need to keep all APOC records. The ethics committee has five members, but APOC is one person. He understands the goal, but the two organizations are vastly different.

[9:23:03 AM](#)

SENATOR GREEN said Section 1 is vastly different than the sponsor substitute. There has not been enough discussion on this. There are implications she is not comfortable with.

CHAIR MCGUIRE withdrew Amendment 1. She will give Ms. Anderson time to discuss this idea with other members. It goes to the Senate Judiciary Committee next.

SENATOR FRENCH moved to report SB 198 from committee with individual recommendations and attached fiscal note(s).

SENATOR STEVENS objected to hear what the bill does.

CHAIR MCGUIRE said it is Version L, and it is the basic four-year statute of limitations on APOC complaints.

[9:25:47 AM](#)

SENATOR BILL WIELECHOWSKI said the bill goes to the finance committee, not judiciary. It extends the statute of limitations for APOC from one year to four years, and the criminal statute of limitations goes to five years. That is all it does.

SENATOR STEVENS said this bill is very similar to Senator Therriault's bill that already passed out of committee.

SENATOR WIELECHOWSKI said it also extends the criminal statute of limitations.

[9:26:55 AM](#)

SENATOR GREEN asked where it says five years.

SENATOR WIELECHOWSKI said repealing Section 2 makes it five years.

SENATOR BUNDE said it goes to the default of five years.

CHAIR MCGUIRE said, "We technically had the motion, and it carried and we passed it out." SSSB 198 was moved out of committee with individual recommendations and attached fiscal note(s).

#

The committee took a brief at ease at [9:28:21 AM](#).

**HB 92-JURISDICTION OF OMBUDSMAN: VICTIMS RTS**

[9:30:13 AM](#)

CHAIR MCGUIRE announced the consideration of HB 92.

[9:30:13 AM](#)

REPRESENTATIVE BILL STOLTZE, Alaska State Legislature, said he and Representative Samuels are cosponsors and have been involved with the Office of Victims Rights (OVR) for many years. Representative Samuels was a citizen advocate and Representative Stoltze was on staff with the legislative when the legislation was crafted. It was patterned after the ombudsman office - "as a stand-beside organization." The director of OVR is selected by a

bipartisan process that requires a super majority vote. It is a consensus position like the ombudsman. Last year there was a jurisdictional skirmish between the two offices. The intent for the OVR was to have jurisdiction granted by the legislature. HB 92 clarifies that intent to avoid litigation between one branch of the legislature and another. There are many reasons why the two are separate.

[9:32:32 AM](#)

REPRESENTATIVE RALPH SAMUELS, Alaska State Legislature, concurred, and said the OVR was created as a specialized ombudsman for the victims of crime only. A person can easily see the inherent conflict if one office presided over the other. About 40 percent of complaints to the ombudsman come from jail, and all of the complaints to the OVR come from victims. Creating it was a several-year process, including where to house it. A victim may file against the district attorney, public defender, public safety, or police. He fixed that as a freshman by allowing OVR to look at law enforcement. A complaint from a victim will go against one of the agencies, so the OVR shouldn't be housed in the Department of Law "because you would be complaining against your boss, possibly." "If you put it in the Department of Administration, all roads lead to the commissioner, including the public defender and OPA [Office of Public Advocacy]." It ended up in the legislative branch as a separate ombudsman for victims of crime. The OVR answers to the legislature just like the ombudsmen. There could be a conflict of the same ombudsman representing the rapist and his victim, so he wanted a clear line. It is clearer to the public and the victim to not even have the appearance of a conflict, and that is the purpose of HB 92.

[9:35:37 AM](#)

REPRESENTATIVE STOLTZE said this was the implementing agency for the constitutionally created Victims Rights Amendment. The people of Alaska overwhelmingly endorsed that amendment to Alaska's constitution. There were the inherent problems of the District Attorney's (D.A.) office - they just have a hard time regulating themselves because they are always working hard. This agency was viewed as very important. The substantive difference between the ombudsman and the OVR is the direct link to the constitution.

[9:36:56 AM](#)

SENATOR GREEN said she cosponsored the OVR bill and never heard it called an ombudsman's office. It raises the question of institutional competency when the ombudsman lacks that special

legal knowledge necessary to investigate. She doesn't think there are any limitations on what the ombudsman can do to get assistance. She would prefer not to see "a sentence like that to denigrate another sister agency." [OVR] was placed under the legislature because no one wanted a new line item in their budget. "If you want to address the issue of what can or what should the ombudsman investigate, because I think the genesis of this problem actually has to do with the representation of prisoners." That is the way to address the problem. There is a system of appeals, courts and internal ways to correct it. "I don't know if the Office of Victims Rights ever reports to us, except for their little report they do." Attempts are made each year for the legislature to exert authority over the ombudsman in the budget process, but she doesn't know if that is done with OVR. She would like to hear from both.

9:39:10 AM

KATHERINE HANSEN, Interim Director, Office of Victims Rights, Anchorage, said the OVR has two functions, and one is to act as an ombudsman for victims, and the other is to advocate as a lawyer for crime victims who ask and to provide free legal advice on crime victim issues.

SENATOR GREEN asked if OVR actually goes to court.

MS. HANSEN said yes, and they file briefs and facilitate communication with the prosecutors and the police.

SENATOR GREEN asked if the role is an observer.

MS. HANSEN said crime victims have statutory and constitutional rights. Sometimes OVR will speak on behalf of the victim at bail hearings and at sentencing. "We are not a party, but victims do have a special role in the criminal process."

SENATOR GREEN asked if the court lists OVR as their attorney.

MS. HANSEN said yes.

9:41:25 AM

SENATOR BUNDE asked if a criminal can get a public defender and the state pays for the lawyer, and the OVR balances that with a state-appointed lawyer for a victim without substantial means.

MS. HANSEN said that is a good way to phrase it. The OVR gathers documents and represent the crime victim. It has certified attorneys with prosecution or substantial criminal law

experience. "If they're unhappy with the outcome, then they go to the ombudsman and there is a risk of them getting documents they shouldn't be getting." There also may be confusion of who is making the final decision. When the OVR statutes were drafted, the intent was for a specialized office for crime victims that would have some teeth and would be the final say.

[9:43:02 AM](#)

MS. HANSEN said there are several things that the ombudsman cannot access that OVR can, such as criminal investigation records from cold cases. If a crime victim later asked the ombudsman for a review, the OVR couldn't statutorily turn over that information. There are things that the OVR gets that the ombudsman doesn't. If the ombudsman were investigating OVR, it would be contrary to statute to turn over information.

SENATOR GREEN asked if a person can sign over access to the records.

MS. HANSEN said AS24.55 would have to be substantially revised to allow the ombudsman to oversee the OVR. The easiest and best thing to do for the crime victim is to have the specialized knowledge of the OVR looking at the issues and making the final decision on what action is needed to improve the system and the circumstances for that crime victim. The reason this bill came up is a case with an active criminal investigation that OVR looked at to see if it was viable for prosecution. OVR has that expertise and works with the DA's office on helping to explain that determination to the crime victim. To have a non-lawyer without experience in criminal investigation take it and oversee it would be unhelpful.

[9:45:27 AM](#)

SENATOR FRENCH said he has been thinking about the institutional competence argument. There may be a legitimate issue about whether one agency should oversee another one, but that particular argument is very unpersuasive to him. The DA's office is ultimately the one that decides on whether to prosecute or not, "and ... if you're unhappy with that decision, go complain to an ombudsman." Ombudsmen aren't experts in any single field. They are good at looking at both sides and they tend to make good judgments. They will almost always have to defer to the institutional competence of the agency they are overseeing. The idea that there is a decision too complex for someone else to review is not something he embraces.

LINDA LORD-JENKINS, Ombudsman, Alaska Office of the Ombudsman, Anchorage, said she appreciates Senator French's comments on institutional competence. There are two attorneys on staff that have been involved in criminal defense issues. The matter that brought this to a head was characterized as whether or not a sexual assault of a young woman was viable for prosecution. The complainant said it had to do with how the police treated the victim. She was fully aware that it wasn't a viable matter because both the alleged victim and the alleged perpetrator were mentally handicapped. Her office assured her that it wouldn't be prosecutable, but she was more concerned about how the victim was handled by the police. Her allegation was that OVR did not go beyond talking to the police. She wanted them to look at how handicapped victims are treated, which is important in today's society. There is a movement to get better treatment for the handicapped and disabled from police officers and the court system. The ombudsman wanted to know from OVR who the investigator talked to. All the accounts are that the victim was re-victimized and kept up almost 24 hours being interrogated, and she had very limited communication capabilities and she was not allowed to have a family member with her. The interrogation started at three a.m. The complainant alleged it was not reasonable treatment of a handicapped victim. "We wanted to know what the non-attorney investigator looked at and talked to. We do understand that there are records that we don't have statutory access to, but we also do not provide records that we acquire from any agency to any complainant."

[9:50:05 AM](#)

MS. LORD-JENKINS said that is a longstanding policy. If they want records from agencies her office directs them to file an open record request, but it does not act as a conduit. "We mark the records that we get from complainants and agencies, so that simply does not happen." OVR was modeled after the ombudsman statute. Her concern is that OVR statute does not allow OVR to provide specific information about its investigations to the legislature. The statute provides for confidentiality, and she believes OVR does have access to that statute. If her office doesn't have oversight over OVR, then who does?

SENATOR BUNDE asked about other cases where the ombudsman felt a need to review the activities of OVR.

MS. LORD-JENKINS said there was one other case dealing with a person who felt he was a crime victim. Her office referred him to OVR and he said that OVR had not responded reasonably. He alleged that he was turned over to the troopers by OVR. "He did

not provide sufficient information. There were a lot of issues there, but we did ask the questions. We have not conducted any formal investigations of OVR as defined in our statutes." Since HB 92 was filed the ombudsman has been referring complainants to the director and to the bill sponsors. "We said if you have a problem with how OVR is responding, these two people are very interested in OVR and they would be good people for you to also talk to. But we route them through the process first."

9:53:00 AM

SENATOR BUNDE said he encouraged her to do that. The legislature has an ombudsman role for their constituents. He asked about the ombudsman having the perpetrator and the victim under its jurisdiction and working at cross purposes.

MS. LORD-JENKINS said 25 percent of the ombudsman caseload is inmates complaining about the Department of Corrections. Less than 0.5 percent might be filed against a prosecuting attorney. It is possible that the ombudsman would get a defendant and a victim, but that has never happened. If there were a conflict, she would assign one to one office and the other to another office and put up a wall between them. When the ombudsman gets complaints, the people have attorneys and there is a court process, "and we route them to their attorneys." If there is a complaint that the attorney is not adequately representing them, the ombudsman has no jurisdiction over a private attorney and a limited review of a public defender. The ombudsman has no access to attorney/client records, but the client can waive that privilege. The allegation would have to be incompetence and abuse of discretion. "We do route people to the court process if they believe that their attorney is not representing them adequately. We tell them they have the option of filing an ineffective assistance of council motion." But the ombudsman doesn't go in and address whether or not in-court representation is adequate. She has questions whether the bar association does that.

MS. LORD-JENKINS said she has a legal opinion that was generated by in-house council asking if the bar association actually does respond to ineffective assistance complaints. The conclusion is that they generally don't respond well because of limited staff time. If there was a complaint from a defendant that OVR was acting inappropriately, "and I think that's what we might be getting at here. I think that I would probably decline that because OVR has a statutory obligation to represent crime victims." There are a lot of in-court solutions to defendant

complaints of OVR acting improperly. She can't fathom an instance where that might happen.

[9:57:09 AM](#)

SENATOR BUNDE asked if this disagreement evolved out of one incident.

MS. LORD-JENKINS said that is her assessment. Prior to this disagreement the ombudsman office requested records from OVR regarding a complaint against the DA's office. OVR was unable to resolve the questions that a burglary victim had, but OVR had documents on the case. The victim authorized the ombudsman to obtain the documents, and OVR initially declined and then sought a legal opinion. Legislative Legal Services opined that the ombudsman did have the right to request the documents. OVR then provided them. It was evidence at that point; it wasn't criminal records, but it was information that her office needed. The ombudsman didn't have a complaint against OVR. "We periodically get comments/complaints about OVR, and generally, like we do many complaints, we route people into their process, and frequently they don't come back because their process has resolved their complaints."

[9:59:13 AM](#)

SENATOR BUNDE said he is confused because she said she cannot have complete access to information at OVR, but she can if the victim provides a release?

MS. LORD-JENKINS said she believes that attorney-client privilege belongs to the client, and the client can waive that. If OVR has records of active criminal complaints, OVR has argued that it cannot provide the records to the ombudsman. She won't argue with that, but there are some records that she could get, like OVR records of contact with the complainant - notes from interviews with complainants. In her view, those would not be classified as criminal investigation records. "I believe that we have access to those."

SENATOR BUNDE asked if she would like to have oversight of OVR even though she cannot get complete information.

MS. LORD-JENKINS said she believes she has oversight over OVR. All agencies should have oversight. If the ombudsman is removed, OVR will have no oversight. That is why she is opposing HB 92.

[10:01:16 AM](#)

CHAIR MCGUIRE said the OVR is staffed with attorneys that have a professional code of conduct. The bar oversees that system.

REPRESENTATIVE SAMUELS said he sees there being two ombudsman offices. If a victim doesn't like an OVR decision, the ombudsman is saying they will make a decision, but where does it stop if that decision is unacceptable? There is no oversight over the ombudsman. He gets complaints about the ombudsman all of the time. "And quite frankly I look at most of them, and it's sour grapes - they did the investigation and you didn't get your way." It is similar at the OVR and he views them as sister agencies. HB 92 is simply saying they are separate agencies. If it is set up that the ombudsman gets complaints about OVR, then there will have to be something set up for complaints about the ombudsman. He wholeheartedly agrees with Senator Green's remark.

[10:03:08 AM](#)

SENATOR GREEN said it did not sound like the ombudsman was questioning the work of OVR, but just what was observed at the police station. "Maybe they don't consider that their purview." Are we addressing a problem that doesn't exist?

CHAIR MCGUIRE said there is the ombudsman investigating the victim's ombudsman, and who investigates them? It is circular.

REPRESENTATIVE SAMUELS said he has had legislation that would give in-court standing to OVR but couldn't get past the legal tangling of evidentiary rule. He was constantly trying to get access for the victims into the system. He was [personally involved] in the system before there was OVR, and he didn't go to the ombudsman; he would yell at Susan Parks. There was no avenue of where a victim could go to get legal advice without hiring an attorney.

SENATOR GREEN said that problem is solved.

[10:05:23 AM](#)

REPRESENTATIVE SAMUELS said it was solved, but now we allow people to bypass OVR's decisions. "You will end up, over time, deteriorating that. And maybe it will never happen again ... but I think we're better safe than sorry with drawing the line right now and saying we've got two agencies."

SENATOR GREEN asked when OVR began to be called an ombudsman.

REPRESENTATIVE STOLTZE said the term was used frequently, and it was modeled after the ombudsman statute. That was the intent.

The constitutional amendment was passed in 1994, and the ombudsman office wasn't effective implementing it because it didn't have the expertise. OVR was not only an ombudsman but almost a foreign language translator for victims. The defendant had an attorney, "and certainly the prosecutor was there, but they were on a roll of -- sometimes dealing a lot with a victim was counterproductive in many ways." But it is important, given the constitutional amendment. "This was really to bring the victim out of the shadow of justice." Creating the separate agency was the only way to do that.

[10:07:53 AM](#)

SENATOR BUNDE said it is a turf battle, and he moved to report HB 92 from committee with individual recommendations and attached fiscal note(s). There being no objection, HB 92 passed out of committee.

#### **HB 196-HANDLING MATTERS AFTER A PERSON'S DEATH**

[10:08:48 AM](#)

CHAIR MCGUIRE announced the consideration of HB 196. [Before the committee was CSHB 196(JUD).]

The committee took a brief at ease at [10:09:06 AM](#).

[10:10:11 AM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, said HB 196 is an excellent update on wills and related material. It is a little esoteric. Concerns of Senator Bunde were taken care of in the Senate Labor and Commerce committee. The issue of anatomical gifts is related, and he is prepared to roll HB 420 into HB 196.

[10:12:30 AM](#)

JANE PIERSON, Staff to Representative Ramras, said HB 196 clarifies and updates Alaska statute governing estates. It provides a penalty clause for contesting a will or instituting other proceedings even if probable cause exists. This will align wills with revocable trusts, which are often used in wills. It amends AS13.16.680 (a) to change the statement in an affidavit to be used by a decedent's successor to collect personal property in a small estate. It was changed in the previous committee with an amendment by Senator Bunde. It will raise the limit from \$15,000 to \$100,000 for personal property. It will also count for \$100,000 in vehicles. The bill also lays out protections for benefits paid under life insurance and retirement plans, so debtors cannot get into that money.

10:14:39 AM

CHAIR MCGUIRE said Version K includes anatomical gifts. She declared a conflict because she has a bill on the Senate side.

SENATOR BUNDE moved to adopt the committee substitute (CS), labeled 25-LS0447\K, as the working document. Hearing no objections, Version K was before the committee.

CHAIR MCGUIRE said her father is on the Life Alaska board and advocates organ and tissue donations.

10:15:46 AM

STEVE GREER, Attorney, Anchorage, said Section 1 of HB 196 conforms to current trust laws. Sections 2 and 3, which are the subjects of the labor and commerce amendment, raise the amount whereby it is not necessary to go through a probate process. Currently if someone dies with more than \$15,000, it has to go through probate, and that was entirely too low. It is \$50,000 in Oregon with a provision for real estate. Washington has a provision dealing solely with personal property, and that is \$100,000. There is concern that by raising it to \$100,000, it could be abused by beneficiaries. For example, a bad brother goes into a bank with the affidavit and gets the money to himself. But that affidavit procedure cannot occur until at least 30 days after death, and someone could be appointed as a personal representative by then and render the affidavit procedure moot. A person can go back to the court and get a personal representative appointed and get an order to turn the money over. But if the money is gone, it is gone. It was felt that it was a bit high, and \$50,000 is an amount that everyone can live with, although no one really objects to the higher amount. Section 4 is very important, and he gave an example of a person with a business calamity who had life insurance for a spouse and child. Currently, if the money is paid directly it would be exempt from creditor claims, but if the money is paid to a minor child in trust, there is no provision protecting those proceeds. So Section 4 fills that void in law.

10:19:43 AM

SENATOR FRENCH said Section 1 makes Alaska consistent with trusts, but it is reversing a long-standing provision.

MR. GREER said Section 1 is really a penalty clause. For example, if "a decedent wanted to leave property solely to one child to the exclusion of the other child ... but they're leaving the child who isn't to receive as much, let's say a sum of \$25,000. What this does, if the decedent chose to include a

incontestability clause, which says that if the person who is to receive the lesser amount -- and this was the choice of the decedent -- were to contest this thing, and if they were to lose ... then they are being put to the test because they very well may lose the \$25,000 amount that they would otherwise receive. On the other hand, if it turns out that the will was done fraudulently or under duress, and the will is thrown out, then, of course, this clause doesn't apply at all." California has a similar provision. This was part of Alaska's uniform probate code that was enacted in the early 1980s, and there have been many, many changes made in the code by other states. "We have decided this year that ... we should bring this in line with our present trust statutes, which have been brought current with other states."

[10:22:08 AM](#)

SENATOR FRENCH asked why it wouldn't apply. The bill says it will apply even if probable cause exists. "If I institute proceedings because I think there's been fraud, and a judge finds there's probable cause to support my belief that there's been fraud," it says the penalty provision is enforceable.

MR. GREER said in that case, the will would be thrown out, and the incontestability clause would have no force at all. Probable cause and winning the case are two different standards. A person who contested and lost would be penalized for having brought that cause of action. It is meant to prevent needless and miscellaneous litigation that sometimes occurs when people don't get what they think they are entitled to.

SENATOR FRENCH said he still has great concerns. It seems to prevent people from having an opportunity to have their claims heard, and it makes them walk away when there is probable cause to believe there is something wrong with the will.

[10:24:24 AM](#)

MR. GREER said he does his estate planning through revocable trusts and not wills. "I would like to avoid the whole probate process to begin with." He is part of a group trying to keep Alaska's laws current with other states. The group wanted to make will laws conform to trust laws. He understands Senator French's point and can't dispute it. But there is a protective provision. It does put the aggrieved party to the test. If they have a strong case and prevail, the will gets thrown out. It is meant to prevent cases brought about for harassment or to try to hold the estate hostage.

CHAIR MCGUIRE said it is a difficult issue, and she noted the business of attracting individuals who want enforceability in wills. It is likely that they want the provisions to be as enforceable as possible. Mr. Greer would like to draw more business to Alaska and stay competitive with other states. But if you were the person who didn't get what you thought you should, you wouldn't like this provision.

[10:26:52 AM](#)

SENATOR BUNDE said it is a turf battle. The final wishes of the deceased should have precedence. Someone in a dysfunctional family should be able to write someone out of a will.

SENATOR BUNDE moved to report the Senate committee substitute to HB 196, labeled 25-LS0447\K, from committee with individual recommendations and attached fiscal note(s). There being no objection, SCS CSHB 196 (STA) passed out of committee. The committee took a brief at-ease at [10:28:57 AM](#).

#### **HB 351-CONCEALED HANDGUN PERMIT: FINGERPRINTS**

CHAIR MCGUIRE announced consideration of HB 351. [Before the committee was CSHB 351(JUD).]

[10:30:27 AM](#)

KAREN LIDSTER, Staff to Representative John Coghill, said there is new technology so the statutory requirement of two sets of fingerprints in applying for a concealed handgun permit is no longer necessary. One set is all that the Department of Public Safety (DPS) needs. The DPS asked that the fingerprints be submitted on their form rather than the FBI-approved card.

[10:31:17 AM](#)

SENATOR FRENCH asked if it is one set of ten fingers.

MS. LIDSTER said yes.

SENATOR GREEN moved to report HB 351 from committee with individual recommendations and attached fiscal note(s). There being no objection, CSHB 351(JUD) passed out of committee.

#### **SB 227-DIVEST INVESTMENTS IN SUDAN**

CHAIR MCGUIRE announced the consideration of SB 227.

[10:32:27 AM](#)

SENATOR FRENCH, Sponsor, said SB 227 is as easy to understand as any Sunday school lesson. There is genocide happening in Sudan. Genocide is the deliberate extermination of ethnic or national groups. The U.S. State Department and President Bush have called it genocide, and it is being conducted by the Sudanese government. Tens of thousands of human beings have been murdered. Our duty is clear. We must not allow any Alaska dollars to further this terror. SB 227 takes the approach of targeted divestment. Divestment works. In 1997 the United States declared sanctions against the Sudanese government and got them to drop their support for terrorists and to cooperate on counter-terrorism. The focus in this bill is on companies with active business operations in Sudan. Not one U.S. company is doing business there and hasn't since 1997 when sanctions were put into place. Fourteen states including Texas, Arizona, Kansas, Florida, and North Carolina have targeted divestment laws aimed at Sudan. Detractors acknowledge the righteousness of the cause but point to two problems. One is a slippery slope: if Sudan, why not tobacco or South Africa? But this case is not that one. There is a large difference between genocide and smoking cigarettes. We should all agree not to invest in companies that are helping a government kill their own citizens. The second argument is that it will cost money. Costs are wildly overstated. No one at this table would knowingly invest in a company that is sponsoring genocide. Why do so as a state?

[10:34:48 AM](#)

DIXIE HOOD, Family Therapist, Juneau, said she has been the beneficiary of the permanent fund dividend, and she supports humanitarian concerns over possible profits. The international boycott in South Africa helped end apartheid. She supports restricting state investments in Sudan until human rights abuses in Darfur have stopped and not resumed for 12 months.

[10:36:15 AM](#)

HELENA FAGAN, Juneau, said the facts in Sudan are clear. She will give a brief history of her family to point out her personal devotion to this cause. Her mother lived in the Lodz ghetto of Poland and was then moved to Auschwitz and Bergen-Belsen. Her great grandparents were gassed in a truck and dumped in the mass graves of Chelmno. Her grandfather died in a work camp. Her grandmother died in the Auschwitz gas chambers. Her mother is part of a network of survivors who worked to create the holocaust memorial in Portland, Oregon. Ms. Fagan traveled with her mother to all the death camps in Poland and collected soil to deposit in the foundation of the memorial. The soil holds ashes and bones fragments. The mass grave sites she saw

were as large as football fields. Her mother spoke publically many times about her experiences, including for Pillars of America. Every time she spoke she had nightmares, but she continued so that people -- especially young people -- could hear what happens when hatred grows and is fed by indifference.

MS. FAGAN said her mother is 78 and has decided that she is done speaking. "So I figure that now it's my turn to speak." Indifference killed her family as much as hatred did. Her grandfather tried to get his family out of Poland for years, and nobody would help. The United States wouldn't let him in even though he had money and appropriate paperwork. Her mother was allowed to enter America many months after she was liberated from Bergen-Belsen on a stretcher and too emaciated to stand. During the past month, while people are killed in Darfur, she has heard state leaders speak of why they hesitate to support SB 227. The director of the permanent fund says that financial gain is his directive, and by divesting someone else will just buy in. "But I also believe that we can have financial gain without contributing to suffering, and I believe that we must not be indifferent to genocide and hatred."

10:39:50 AM

MS. FAGAN said when she told her mother that she was testifying, her mother thought she was wasting her time. She wants the committee to prove her wrong and pass SB 227.

10:40:40 AM

MICHAEL BURNS, CEO, Alaska Permanent Fund Corporation, Juneau, said he sincerely appreciates the motivation that led to this bill and is profoundly disturbed by the incomprehensible situation in Darfur. It is the legislature's prerogative to direct investments of the permanent fund, and if asked to divest it will do so. He said to think carefully. In 30 years the fund has been invested for the financial benefit of Alaskans. Placing a social investment directive on the fund would be a significant change to the core mission. The prudent course is to make investment decisions based only on economics. "After the question of prudence is the question of efficacy. We are concerned by the prospect of placing a socially motivated directive on the permanent fund that will have some costs when we have not seen definitive proof that these divestment efforts are or have been effective." He provided a review the effects that divestment from South Africa had on the decision to end apartheid. Those researchers said it was other forms of pressure that caused the South African government to change. The U.S. treasury and state department are trying to bring an end to

genocide in Darfur. SB 227 is a significant decision that will impact Alaska's investments well into the future.

[10:43:12 AM](#)

MR. BURNS said the two departments spoke to the Senate Banking Committee in Washington. The common theme was that individual divestment policies at the state level will hinder their efforts. Studies of the sovereign wealth funds of the world rank the permanent fund in the upper decile for best practices, including making investment decisions only on financial grounds.

SENATOR BUNDE asked about the constitutional language from which Mr. Burns takes his direction. There is other legislation that considers assets of the state not available for initiatives. Assets are supposed to be used for the good of Alaskans.

MR. BURNS said the constitution only requires the protection of the corpus and that 25 percent of the revenue goes to the permanent fund. Everything else is statutory, which now is to invest for maximum return while protecting the principal.

[10:46:33 AM](#)

SENATOR FRENCH asked if he has read some of the divestment materials. Three companies have changed operations in Sudan as a result of divestment. One is CHC Helicopter Corporation -- the largest provider of helicopter services in the global offshore oil and gas industry. It recently ceased all business operations in Sudan because of concerned investors. The other is Rolls Royce, which sells oil equipment to Sudan. It announced its decision to leave citing increasing humanitarian concerns. Siemens pledged to pull out of the country because of divestment. The Brookings Institute said: In the view of some analysts divestment campaigns may prove more effective than sanctions. He asked if that changes Mr. Burns' view of efficacy.

MR. BURNS said he was not aware and has not seen that report. Embarrassing a government that is taking part in this kind of activity is difficult. They are beyond it. "I don't think we're going to jawbone these people into doing the right thing."

SENATOR FRENCH asked if he disputes it.

MR. BURNS said he didn't he just wasn't aware of it.

SENATOR FRENCH asked him to reconsider in the light of the fact that three major corporations have ceased operations there. If corporations don't help the Sudanese government kill their own

citizens, the government wouldn't be able to do it. He said he means no harm to Mr. Burns, but it is a reality on the planet being done with the help of corporations that supply bolts, trucks, and machinery to keep it going.

[10:49:36 AM](#)

SENATOR BUNDE said the efficacy thing bothers him. His limited understanding is that the weapon of choice for Africa is a machete and doesn't involve Rolls Royce. If Alaska limits its investment will it keep the leaders from having lunch, or will the poor people who are being abused have less food?

MR. BURNS said he was not aware of the two companies that Senator French discussed. If Alaska divested its holdings in the four or five companies, he doesn't know what effect that would have on anything. If Alaska sells, someone else will buy. How does that harm the company and therefore harm the government?

SENATOR BUNDE said he would very much like to see the genocide stop, but it would be boots on the ground by the United Nations and African nations to stop it. Over years, divestment might have an impact. But how many people will die in the interim? There are quicker ways to protect these people.

[10:51:51 AM](#)

SENATOR FRENCH said the bill is not aimed at any company providing humanitarian aid or anyone importing food or lighting. It is targeted divestment.

SENATOR STEVENS asked how Mr. Burns would figure out what companies the fund would divest if this bill passes.

MR. BURNS said there are lists available, but he hasn't thought it through. He would have to deal with the fund's managers. Some holdings are in the index funds. "You're either in an index or you're not in the index." "If you invest in an index fund of the S&P 500, you are in the S&P 500 with billions of other dollars." The S&P 498 has a custom benchmark and that is managed differently at a different expense level. "That's what we tried to reflect in the fiscal note."

SENATOR FRENCH said, "When you use the word S&P you know that this S&P doesn't include any targeted companies." Not a single U.S. company is doing business there.

[10:54:02 AM](#)

MR. BURNS said he should have used AEFA [Europe, Australasia, and Far East index]. "I stand corrected."

PAT GALVIN, Commissioner, Department of Revenue, said the administration supports SB 227. The bill properly reflects a proactive action against genocide in Darfur by divesting in companies that profit from those activities. The situation is an ongoing human tragedy and Alaska has an opportunity to take a stand against those atrocities. Congress and the Department of State have labeled it genocide, and that is an unprecedented situation. "With that legislation there [was] also language that would tend to shield, potentially, the decisions of social investing that may otherwise be subject to potential claims based upon other precedent, and we are working with the Department of Law to look at how that congressional action may affect decisions, absent the passage of this legislation, to allow the administration to actually take certain actions with regard to divestiture that would still be compliant with the state investment laws." There are areas of the legislation that should be amended and he wants to work with the sponsors in the finance committee "to try to eliminate some of the burdens with regard to the machinery of how this bill would affect the divestiture, in order to minimize some of the costs that don't change the core principal of affecting the divestiture of state funds in this manner." There may be some additional language to shield some of the investment decisions that Alaska can't really manage and affect, such as passive investments and some index funds. They should be shielded from this. The administration would like to work with the bill sponsors on it.

[10:57:36 AM](#)

COMMISSIONER GALVIN said it is a difficult decision and the state has avoided it in the past. But the situation in Darfur is unique so the state can avoid a slippery slope and still ensure that state funds are not invested in a way to have any chance of contributing to the suffering in Darfur.

DEBORAH BOCK, Volunteer, Save Darfur Anchorage, said last year Congress passed the Sudan Accountability and Divestment Act prohibiting any company from receiving any contracts with the federal government because of their complicity with the ongoing genocide. The act also encourages states to adopt policies of targeted divestment. It opens the door for every state to divest from the foreign oil, mining and power companies that are providing documented substantial support to the government of Sudan in its genocidal campaign. Currently 24 states have adopted or are considering divestment policies. When Arizona

joined this group last month, all 90 lawmakers supported the legislation. It is now Alaska's turn. SB 227 would require the permanent fund and the Alaska Retirement Management Board to implement targeted divestment, which would mean selling off holdings in companies that have been indentified by multiple international organizations as having documented complicity in the Darfur genocide. "We sell those foreign holdings and purchase holdings in American companies that are genocide free - it's that simple." The permanent fund has about \$22 million invested in six foreign companies that are linked to genocide. China is the majority shareholder of two of them, Sinopec and Hong Kong. China is also the leading small arms dealer to the Sudan government. China sold \$55 million worth of small arms to Sudan from 2003 to 2006 that have been used by the government against its citizens. This is the first time in history that the U.S. Congress and president have labeled genocide while it is occurring. Targeted divestment isn't about sacrificing profits for the greater good. There are many, many genocide-free investments that are equally profitable.

11:01:07 AM

MAX CROES, Sudan Divestment Task Force and Genocide Intervention Network, Washington D.C., said his organization's mission is to power individuals and communities with tools to stop genocide. He said the Sudanese government is a global anomaly; it lacks the ability to produce capital, and it relies solely on foreign corporations for technology and capital to develop its oil. Targeting these corporations effects change inside the country by pressuring the government. It works. Nine corporations have withdrawn or substantially altered their policies inside Sudan. In reference to sovereign wealth funds, some of the largest have elected to adopt investment policies that reflect financial and moral obligations. The Norwegian government pension fund, Australian future fund, and New Zealand superannuation fund are all in this category. Sovereign wealth funds are responsible for preserving their resources for future generations, but they also have responsibility to preserve a world that is good. The permanent fund's actions would not be out of line from similar funds. This is not a permanent policy; there are four sunset provisions including if the genocide ends and if the president or Congress assert that divestment policies interfere with their ability to make foreign policy.

11:04:01 AM

SENATOR FRENCH moved to report SB 227 from committee with individual recommendations and attached fiscal note(s).

SENATOR STEVENS objected to say he wishes he knew more about the Darfur issue. His knowledge of the holocaust is better, and he can't help but think that if we had done something about that in 1941, some of the suffering would have stopped. He questions the legislation, but it is an issue worth discussion, and he is willing to move it to the next committee for that purpose.

CHAIR MCGUIRE said she echoes those thoughts and the slippery slope and how SB 227 would work in a practical sense. But she has woken up at night on this issue, and saying nothing and doing nothing during times of atrocity makes us responsible.

SENATOR STEVENS removed his objection, and SB 227 passed out of committee.

There being no further business to come before the committee, Chair McGuire adjourned the meeting at [11:06:06 AM](#).