

**ALASKA STATE LEGISLATURE  
HOUSE STATE AFFAIRS STANDING COMMITTEE**

January 29, 2009  
8:05 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Paul Seaton, Vice Chair  
Representative Carl Gatto  
Representative Craig Johnson  
Representative Peggy Wilson  
Representative Pete Petersen

**MEMBERS ABSENT**

Representative Max Gruenberg

**COMMITTEE CALENDAR**

HOUSE BILL NO. 5

"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."

- HEARD AND HELD

HOUSE BILL NO. 45

"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."

- HEARD AND HELD

HOUSE BILL NO. 92

"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; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 42

"An Act establishing the Legislative Study Group on the Establishment of an Immediate Online Political Campaign Reporting System; and directing the study group to prepare a report on the possibility of creating an immediate online state political campaign reporting system."

- BILL HEARING POSTPONED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 5

SHORT TITLE: DIVEST INVESTMENTS IN SUDAN

SPONSOR(s): REPRESENTATIVE(s) LYNN

01/20/09 (H) PREFILE RELEASED 1/9/09  
01/20/09 (H) READ THE FIRST TIME - REFERRALS  
01/20/09 (H) STA, FIN  
01/27/09 (H) STA AT 8:00 AM CAPITOL 106  
01/27/09 (H) <Bill Hearing Rescheduled to 01/29/09>  
01/29/09 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 45

SHORT TITLE: DIVEST INVESTMENTS IN SUDAN

SPONSOR(s): REPRESENTATIVE(s) GARA, GARDNER, PETERSEN, KERTTULA

01/20/09 (H) PREFILE RELEASED 1/9/09  
01/20/09 (H) READ THE FIRST TIME - REFERRALS  
01/20/09 (H) STA, FIN  
01/27/09 (H) STA AT 8:00 AM CAPITOL 106  
01/27/09 (H) <Bill Hearing Rescheduled to 01/29/09>  
01/29/09 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 92

SHORT TITLE: DIVEST INVESTMENTS IN SUDAN

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/28/09 (H) READ THE FIRST TIME - REFERRALS  
01/28/09 (H) STA, FIN  
01/29/09 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

DIRK MOFFATT, Staff  
Representative Bob Lynn  
Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Presented HB 5 on behalf of Representative Lynn, prime sponsor.

REPRESENTATIVE LES GARA  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 45 as co-prime sponsor.

PATRICK GALVIN, Commissioner  
Department of Revenue  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 92 on behalf of the House Rules Standing Committee, sponsor by request of the governor.

JERRY BURNETT, Deputy Commissioner  
Department of Revenue  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 92 on behalf of the House Rules Standing Committee, sponsor by request of the governor.

MICHAEL J. BURNS, Executive Director  
Permanent Fund Corporation  
Department of Revenue  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the combined hearing of HB 5, HB 45, and HB 92.

#### **ACTION NARRATIVE**

[8:05:33 AM](#)

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:05 a.m. Representatives Johnson, Seaton, Wilson, Peterson, and Lynn were present at the call to order. Representative Gatto arrived as the meeting was in progress.

HB 5-DIVEST INVESTMENTS IN SUDAN

HB 45-DIVEST INVESTMENTS IN SUDAN

HB 92-DIVEST INVESTMENTS IN SUDAN

[8:06:12 AM](#)

CHAIR LYNN announced the order of business was the combined hearing of:

HOUSE BILL NO. 5, "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."

HOUSE BILL NO. 45, "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."

HOUSE BILL NO. 92, "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; and providing for an effective date."

CHAIR LYNN announced that public testimony would not be heard until the next hearing on the aforementioned bills.

[8:08:20 AM](#)

DIRK MOFFATT, Staff, Representative Bob Lynn, Alaska State Legislature, presented HB 5 on behalf of Representative Lynn, prime sponsor. He read his testimony as follows:

On December 31, 2007, President Bush signed in to law U.S. Senate Bill S.2271, the Sudan Accountability Divestment Act, and it became Public Law 110-174. In Section 3 of the Public Law 110-174, the U.S. Government gives support and authority to the state and local governments to divest investments in Sudan. In Section 7 of the same law, the U.S. Government encourages other countries to adopt similar divestment measures to stop Sudan from committing genocide and oppressing its people. This is the first time in history that the U.S. Government has passed a law recognizing genocide while it's still occurring.

In Sudan, the situation is dire. More than 400,000 people have been killed, an additional 2.5 million have been forced from their homes, and untold thousands of women and children have been raped and abducted since Sudan began sponsoring attacks on

innocent civilians on Darfur. Alaska should not invest money in ... Sudan until the Sudanese Government ends its policy of genocide.

HB 5 mandates targeted divestment and prohibits future divestment of the state-managed PFD [and] pension fund[s] in targeted companies that do business in Sudan. The overall objective of this legislation is to pressure Sudan economically until it ends its genocide in Darfur. The State of Alaska can do this with slim to no impact on our fund manager's wise investment mandate to invest principle while maximizing total return. Alaska has very little invested in Sudan, and it's important to note that none of the targeted companies in Sudan are American.

U.S. Senator Sam Brownback said, "We've said often, 'never again,' and taken up the pledge of 'not on our watch.' We also need to take of the pledge, 'Not on our dime.'" To date, 27 states already divest assets from companies doing business with the government of Sudan. Alaska is the forty-ninth state to join the Union; it should not be the last to say no to genocide, "Not on our dime."

[8:11:39 AM](#)

REPRESENTATIVE GATTO asked how one judges when genocide has ended.

MR. MOFFATT responded that genocide [in Sudan] was declared by the United States Government, and it will be the federal government that declares when it no longer is happening.

[8:12:27 AM](#)

REPRESENTATIVE SEATON expressed his concern that the intent and scope of the bill be clarified for the record.

CHAIR LYNN responded that the bill is strictly limited to the government of Sudan. If the U.S. were to declare genocide in another nation, that would be a matter to be considered separately.

[8:16:11 AM](#)

REPRESENTATIVE JOHNSON directed attention to language on page 2, beginning on line 5, which read: "The board shall prepare and update on a quarterly basis a scrutinized companies list." He asked if it would be possible for a copy of that list to be given to the committee "in advance."

MR. MOFFATT said he would endeavor to make that happen.

[8:17:10 AM](#)

REPRESENTATIVE WILSON directed attention to the language on page 2, lines 18-22, which read:

(b) A company may not be included on the scrutinized companies list if

(1) its primary purpose in Sudan is to provide humanitarian goods or services, services of a purely clerical or reporting nature, or food, clothing, or consumer goods that do not include oil-related activities, mineral extraction activities, or power production activities"

REPRESENTATIVE WILSON asked if that includes guns.

CHAIR LYNN asserted that the whole idea behind the bill is not to punish the people the bill would be aimed at helping.

REPRESENTATIVE WILSON expressed concern that the bill not promote the delivery of weaponry to those responsible for the genocide.

MR. MOFFATT responded that the companies that would not be targeted would be companies that provide services, such as gas stations, to the people of Sudan. He stated his belief that the sponsor does not support the importation of military "material" into Sudan. In response to a follow-up question, he said he would find the section in the bill that would support that.

[8:19:45 AM](#)

REPRESENTATIVE PETERSEN noted that there is background information in the committee packet which includes a list of companies that would be divested if HB 5 were to pass.

REPRESENTATIVE SEATON directed attention to a legislative research report in the committee packet, report number 09.109, dated January 23, 2009. The Alaska Permanent Fund Corporation

and other state stock holdings subject to divestment are listed in a chart on page 4 of the report, he noted.

[8:20:58 AM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, testifying as co-prime sponsor of HB 45, said that he and Chair Lynn have worked for a considerable time on the issue before the committee, and it doesn't matter so much which of the bills move forward, as long as one of them does. He said it would be fine for HB 92 to move ahead.

REPRESENTATIVE GARA, in response to Representative Wilson's previous question, said there is a specific exemption in the bill that states that the permanent fund cannot be invested in companies involved in the supply of military equipment to the Sudanese Government. He indicated that this has to do with the reference to "mineral extraction activities," because the Sudanese Government basically gets money for its military from its oil extraction.

[8:23:05 AM](#)

REPRESENTATIVE GARA, regarding the request for the list that would be used by the Permanent Fund Corporation, confirmed Representative Seaton's observation that the companies that would be impacted by the bill are listed in the aforementioned legislative research report, and the effect of divestment would be on less than one-tenth of one percent of the permanent fund holdings. He stated, "The [Alaska] Retirement [Management] Board doesn't invest in any of these companies ..., and they've been sympathetic to this effort all along; it's the Permanent Fund [Corporation] that has disagreed with us so far." He added, "But we don't have the list, because the bill requires that the ... Permanent Fund [Corporation] create the list." He said the corporation could borrow a third-party list being used by other states. He noted that there are 30 other states that are in the process of divesting from Sudan.

REPRESENTATIVE GARA stated that probably over 400,000 people have been killed by genocide in Sudan, and now there is a problem of displacement. People are being put into concentration camps where they are dying. The United Nations (UN) has been trying to stop the genocide, but it can only go into a country with that country's consent.

CHAIR LYNN clarified that it was last year when related legislation had no support from the Permanent Fund Corporation. He said he has not had a conversation with those involved with the corporation to determine its present attitude toward the current related bills.

REPRESENTATIVE GARA remarked that short of having the agreement of the Permanent Fund Corporation, proponents of the bill now have the investment expertise and support of the Department of Revenue.

REPRESENTATIVE GARA addressed the question asked by many as to why the bill is limited to investments in companies that support the Sudanese Government. He said, "Many of those other areas are debatable. Some aren't. But the Sudanese situation - that's genocide - and we draw the line at genocide." He said there is debate as to whether China is a productive member of the international community or not. He mentioned problems of feasibility. He related that U.S. Congress has already banned United States companies from operating in Sudan, so there is no worry about the impact to American companies or the American economy.

CHAIR LYNN remarked that the previous and current President and U.S. Congress have all agreed that the situation in Darfur is genocide.

REPRESENTATIVE GARA said the list of companies is small and manageable. U.S. Congress has already set policy and encouraged states to move ahead with divestment. He indicated that divesting from Sudan works not only from the standpoint of policy and feasibility, but also from a humanitarian standpoint.

[8:29:17 AM](#)

REPRESENTATIVE SEATON asked if after the initial quarterly report there would have to be a search through all stock holdings done on a quarterly basis.

REPRESENTATIVE GARA replied that the quarterly report could be a short letter. He said the bill would disallow direct investments in particular companies.

[8:31:08 AM](#)

REPRESENTATIVE GARA, in response to Representative Gatto, credited activist groups such as the Sudan Divestment Taskforce

and savedarfur.org for doing "the yeoman's work" on the issue and bringing it to the attention of the legislature. He directed attention to language [on page 2, beginning on line 5], which read as follows:

The board shall prepare and update on a quarterly basis a scrutinized companies list or, in good faith, rely on a scrutinized companies list generated and duplicated on a quarterly basis by another entity the board determines has suitable expertise.

REPRESENTATIVE GARA said the goal of that part of the bill is to point out the various ways the information can be acquired.

REPRESENTATIVE GATTO remarked on how extensive the list of those involved in this issue is. He expressed concern regarding the difficult nature of enforcing divestiture without every investment somehow becoming connected to each other.

REPRESENTATIVE GARA emphasized that the bill targets the companies that work directly with the Sudanese Government, such as Sinopec and the China National Gas Company. He noted that one company that had been on the list has been removed from it because it divested and donated its mineral extraction equipment to relief efforts in Sudan.

REPRESENTATIVE WILSON said she supports the intent of the bill but questions how it can be carried out. She talked about human nature in finding loopholes to laws. She said she does not understand why U.S. Congress did not take charge rather than leaving it to each state to come up with its own rules and regulations.

REPRESENTATIVE GARA responded that there are statutes to prevent fraud but it still occurs. He stated that passing a bill is not going to stop genocide in Darfur; however, it might force some companies out of the country who support the Sudanese Government, and that would be a good thing. He surmised that most of the other states formulating divestment policy are relying on similar lists; no one is hiring a huge staff to monitor which companies are doing business in Sudan, and Alaska should not either. Representative Gara reiterated that the resulting loss of revenue for the permanent fund investment would be only a small percentage of the money generated by the fund.

REPRESENTATIVE WILSON mentioned footnotes 7 and 8 in a legislative research report in the HB 45 committee packet: report number 09.118, dated January 27, 2009. She ascertained that there would be a representative from the Permanent Fund Corporation invited to testify in an upcoming hearing and said she would wait until then to express her concerns related to the aforementioned footnotes.

[8:41:43 AM](#)

REPRESENTATIVE SEATON brought attention to the bill title of HB 45, which read as follows:

**"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."**

REPRESENTATIVE SEATON said he wants to know if a quarterly report would be required from the retirement systems, annuity plan, and deferred compensation program.

REPRESENTATIVE GARA replied that he does not think there is any language in the bill that would require such a report, but said he would look into that. He said the intent is not to regulate mutual funds or investments in mutual funds. In response to a follow-up comment from Representative Seaton, he confirmed that the bill would ban "the boards of the two big entities" from directly investing in corporations that do business in Sudan; ... it would not affect mutual funds at all. In response to another question from Representative Seaton, he reiterated that the bill specifies that it would only affect targeted investments in Sudan - those related to the genocide. The bill, if passed into law, could not be interpreted in a way that would "broaden the investment prohibition aspect to other situations around the world ...."

REPRESENTATIVE SEATON asked Representative Gara to give assurance that the administration could not broaden this legislation once passed into law, without coming back to the legislature for specific legislation.

REPRESENTATIVE GARA confirmed that is correct. He added, "In our bill, the list of companies are called 'scrutinized

companies,' and that's defined as the Sudanese companies on page 5 of the bill."

REPRESENTATIVE SEATON said he wants assurance from the sponsor of each bill that this is the case.

CHAIR LYNN suggested perhaps Representative Seaton may want to formulate an amendment to address his concern.

[8:48:23 AM](#)

REPRESENTATIVE GATTO commented that there are a lot of places in which genocide occurs, such as Cambodia, but the bill only addresses Sudan. He questioned freeing just part of the world from terrorism. He reiterated that he supports the concept of the bill, but thinks it may be like running down a rabbit trail. He asked if the legislation is fashioned to make a point or to "accomplish something on a global basis."

REPRESENTATIVE GARA invited Representative Gatto to view a film or witness material related to the Darfur genocide. He said he thinks doing so will show that "the other evils of the world aside, it's appropriate to do something about this one." This issue is tied for first place in the category of things worthy of acting upon, he concluded.

[8:52:01 AM](#)

REPRESENTATIVE PETERSEN observed that it was an historic occasion when the President and U.S. Congress declared the situation in Darfur as genocide. He explained that it had never been declared before while it was occurring. He directed attention to language on page 6, line 24, which supports Mr. Moffatt's previous statement that either the President of the United States or U.S. Congress will make the decision as to when the genocide has ended.

CHAIR LYNN thanked Representative Gara for his tireless work on the bill.

[8:54:22 AM](#)

PATRICK GALVIN, Commissioner, Department of Revenue, presented HB 92 on behalf of the House Rules Standing Committee, sponsor by request of the governor. He talked about the joint effort being made by the sponsors of HB 5, HB 45, and HB 92 to oppose the activities of the government of Sudan in the Darfur region.

He echoed the remark of previous testifiers that this is an unprecedented situation where genocide is being labeled as such by the government of the United States and by the United Nations, while it is occurring. He relayed the governor's belief that that situation "provides us with a moral imperative to act." One way to take action is through divestment of funds from businesses involved in activities which support the government of Sudan.

COMMISSIONER GALVIN said last year the department testified in support of the concept of a similar bill but expressed concern regarding the mechanism that was being proposed. He explained, "We wanted to be able to achieve the goal and to maximize that result, while also minimizing costs and unintended consequences." With that in mind, he said, HB 92 was crafted. The goal of HB 92 is to achieve the divestiture of the state's funds from companies involved with the Sudanese Government, while also minimizing costs. He pointed out that there is a zero fiscal note in the committee packet. He said the department supports the directive of the legislature, as carried out through the accounting mechanism of the department, rather than burdening the investment managers. He said HB 92 would achieve the same result in a much less costly manner.

[8:58:11 AM](#)

COMMISSIONER GALVIN stated that the administration, in consultation with the Department of Law, has found it does not have the discretion to implement a divestiture policy alone under the current rules and statutes that govern the commissioner of the Department of Revenue, the Alaska Retirement Management (ARM) Board, and the Permanent Fund Corporation. The proposed bill, HB 92, is needed in order to implement this policy, he said. In response to Representative Seaton's previously expressed concern, he said the language of HB 92 is limited to the situation in Sudan and specific companies; it does not provide any sort of gateway for other issues to be used as an investment decision-making process in the future.

[9:00:16 AM](#)

COMMISSIONER GALVIN, in regard to [Representative Wilson's] question related to weapons manufacturers, directed attention to page 2, line 28, which specifies the companies to be targeted would be those that conduct or have direct investments in business operations in Sudan. He noted that the definition of "business operations" is found at the bottom of page 3, and

includes "the production of military equipment", and the definition of "military equipment", found on the bottom of page 4, is "weapons, arms, military supplies, and equipment that readily may be used for military purposes". In response to [Representative Gatto's] previously stated concern regarding how the legislature will be able to determine it has achieved the desired result and can lift the requirement that would be imposed by the proposed legislation, noted that there is a repeal of the statute on page 6, line 18. He explained that the repeal could take place as a result of two different situations, both of which rely upon actions of the President and/or Congress in recognizing that the situation in Darfur has changed and is no longer one that requires this type of policy.

[9:02:29 AM](#)

COMMISSIONER GALVIN said the department proposes that the commissioner of the Department of Revenue take on the responsibility to generate for the state the aforementioned list of companies. That list would initially be generated by December 31, [2009], and be renewed each year on December 31. The intent is to stigmatize companies who are placed on the list; however, each company will be given notice that it is going to be placed on the list and has, within 90 days, a chance to provide information to convince the state why the company should not be on the list. The list would be made a part of the department's daily monitoring of the state's investments. He stated his belief that the Permanent Fund Corporation would be able to monitor the list and provide the Department of Revenue with compliance reports on a regular basis. He pointed out that this would be a daily activity, which is in contrast to the quarterly report mentioned in the other bills.

[9:04:48 AM](#)

COMMISSIONER GALVIN said it is accepted among all the bill sponsors that the targets for the divestiture policy are those funds that the state fully controls, which he said is an important distinction within "our investment portfolio." He continued:

There are certain funds -- if we are investing in what's generally referred to as an index fund, where we're trying to match a particular index, then we are basically handing over the types of companies that are going to be in that to those that would match the index. And we're not able to specifically identify

companies and say these are going to be excluded if the whole purpose is to match the index.

Similarly, if we're into what's referred to as a co-mingled fund or co-managed fund, where there are other owners besides the state in that fund, we don't have the contractual right to direct where the investments are going to be. And so, it would only be those funds that we solely have responsibility for that we can direct our manager to take certain steps to divest or not to invest in particular companies.

And this would go to even some of the investment options that are provided for the [deferred compensation] (DC) programs and other similar type situations where we are providing a particular fund. If it's where the state is solely managing that fund, then we will have the opportunity to tell the manager that we do not want them to have funds in these particular companies, and they would comply with that.

[9:06:41 AM](#)

COMMISSIONER GALVIN said reference has been made to the size of the impact of the bill. He said there are proxies by which to measure this, and there are a number of entities that have taken on this task and generated lists. Furthermore, there is a small group of companies that have provided the service of identifying those companies and providing similar lists. He said the department can use that information with respect to its investments within the ARM Board in particular to find out "what would pop up." Having done so with information through the end of calendar year 2008, he reported, there are roughly \$3.5 million [that would be divested], which is, in the grand scheme of things, a small percentage of the total investments. Although that may be a small number, he said, the department believes that both the message and the purpose of stigmatizing the companies is an important function for the State of Alaska.

[9:08:48 AM](#)

COMMISSIONER GALVIN said there have been comments made regarding the Permanent Fund Corporation's view on this issue. Speaking as a trustee of the permanent fund, he expressed his appreciation of Mr. Burns, the executive director of the Permanent Fund Corporation Board, and said the man has been put in a difficult position. He explained that Mr. Burns is working

on behalf of the trustees, and the position of the trustees has always been to avoid this type of social investment policy. Commissioner Galvin said Mr. Burns was just carrying that out. He said he appreciates that Mr. Burns' concern has always been with regard to unintended consequences and costs. He said he thinks Mr. Burns' efforts on this issue have been in keeping with the policy of the Permanent Fund Corporation. He stated his belief that the trustees would likely support HB 92, because of [the zero fiscal note] and the moral imperative associated with it.

[9:10:16 AM](#)

JERRY BURNETT, Deputy Commissioner, Department of Revenue, said the department looks at [HB 92] as a compliance issue. He related that the department's custodial bank is State Street Bank, and that bank has a contractor currently called RiskMetrics Group, a company that has produced the aforementioned list for other states. Mr. Burnett said such a list would be a starting point for the department. Next, letters would be sent to [the companies being targeted], because of due process, and they would have the previously mentioned 90 days in which to respond. The official list would then be completed after that 90 days. That list would then apply to the ARM Board, the commissioner of the Department of Revenue, and the Permanent Fund [Corporation], he said.

MR. BURNETT, in response to a prior question from Representative Seaton regarding the state's Defined Contribution (DC) plan and Supplemental Benefits System (SBS), said the DC plan that is unique to the State of Alaska is comprised of investment options. He said the department would have the authority to direct its managers not to invest with regard to those investment options; however, it would not have that authority in the case of co-mingled funds. Instead, it would notify the managers, let them know who is on the list, and ask - not direct - them to divest.

[9:12:31 AM](#)

REPRESENTATIVE SEATON named some funds, including the Alaska Target 25 Trust and the Alaska Long-Term Balance Funds, and asked if they would be examples of those for which "we control the investment."

MR. BURNETT said he would have to look those up, because they may be made up of "components which are a mix."

[9:13:52 AM](#)

COMMISSIONER GALVIN, in response to a follow-up question from Representative Seaton, said, for example, that the nature of the state's relationship with Brandeis International may be such that it has a separate account within its fund. He continued:

If that is one where we have basically joined in as just one investor in a pool of investors in that particular fund, then it would be one, as Jerry said, that we would be providing them notice and asking them to divest. If it's one where we have a contractual relationship that would provide us with the opportunity to direct them, then we would be directing them.

REPRESENTATIVE SEATON asked the department to bring to the next hearing a listing of the funds and a description of the characteristics of those funds.

COMMISSIONER GALVIN said the department would pull something together.

MR. BURNETT said the department would look into that.

[9:15:40 AM](#)

CHAIR LYNN asked Commissioner Galvin to explain why HB 92 has a zero fiscal note.

COMMISSIONER GALVIN answered:

It goes primarily to that question of passive, co-mingled, and then the nature of the reporting. Our design is to try to make it - as we both indicated - something that would fall into our compliance shop as opposed to something that's going to fall out and become a burden on other parts of our operation. And then the issue with the co-mingled: if we were put in a position where we would have to actually pull out of investment vehicles simply to be able to provide us with the control necessary to implement this policy, then that would have a cost. And so, those are both recognized in the other fiscal notes.

[9:16:53 AM](#)

MR. BURNETT added that there is an ongoing compliance function through which the department gets compliance reports from the custodial bank on a regular basis, and this would be added to that. He indicated that no further staff would be required to just look at one more factor.

CHAIR LYNN asked if there is any language in either HB 5 or HB 45 that the department would like to add to HB 92.

COMMISSIONER GALVIN responded that the department has done so already and produced a bill that it believes maximizes the intent of providing the divestiture, while meeting the structure of the state's investment situation so that the bill can be carried out in the least costly manner.

CHAIR LYNN stated his intent for Alaska to do as much as possible regarding this issue; it does not matter which bill is used as the vehicle, he said.

[9:19:11 AM](#)

REPRESENTATIVE WILSON observed that in the committee packet the bill sponsor has included a comparison of the bills, and the changes made in HB 92 are highlighted. She asked if the list that is made is given at no cost.

MR. BURNETT answered that he is not certain of the cost structure or how it would be incorporated at this point; however, he said the list would not increase the total cost of "our compliance effort."

COMMISSIONER GALVIN clarified that the list will be generated by the commissioner of the Department of Revenue. Lists from other entities will be used as a guide, he said. The list currently being produced by RiskMetrics Group will be used as a starting point.

REPRESENTATIVE WILSON directed attention to the legislative research report, dated 1/27/09, and asked if HB 92 takes care of the concerns mentioned in footnotes 7 and 8.

COMMISSIONER GALVIN said the department believes it does. He offered further details.

[9:22:12 AM](#)

REPRESENTATIVE PETERSEN said he would like the bill, if passed, to be implemented as soon as possible.

COMMISSIONER GALVIN, in response, said the sponsor's intent is to implement the bill as soon as possible; however, it would not be immediate, because of the compliance notice.

[9:23:21 AM](#)

REPRESENTATIVE GATTO observed that HB 92 describes the meaning of business and direct investment and business operations. He then turned to page 4, and noted that [paragraph (3)] lists specifics defining the government of Sudan. He expressed concern that the language would not allow the divestment from Sudan to happen in an uncomplicated manner.

[9:26:11 AM](#)

COMMISSIONER GALVIN returned that it is the precision of the definitions to which Representative Gatto referred that is what will make HB 92 implementable.

[9:30:01 AM](#)

REPRESENTATIVE JOHNSON directed attention to page [5], line [2], [subparagraph (B)], which states that military equipment "includes radar systems or military-grade transport vehicles, supplies, or services sold or provided directly to a force actively participating in armed conflict in Sudan". He described a scenario in which the United States supports Southern Sudan in a hypothetical war against Northern Sudan, and pointed out that that may result in Alaska not being able to invest in a company that makes helicopters that are involved in the hypothetical war. He suggested a need for the definition of Sudan to be clarified.

COMMISSIONER GALVIN responded that he believes the language of the bill addresses that concern. He said he would show Representative Johnson where that language appears. He explained that the ultimate definition is business that supports the government of Sudan; therefore, if the U.S. were to provide military equipment to Southern Sudan, it would be excluded from the definition of the government of Sudan.

REPRESENTATIVE JOHNSON said he plans to look into that.

[9:32:55 AM](#)

REPRESENTATIVE SEATON directed attention to the language on page 2, line 28, which read, "companies that conduct or have direct investments in business operations in Sudan." He pointed out that it does not say, "with the government of Sudan." He said he wants to ensure clarity.

COMMISSIONER GALVIN responded, "We'll make sure that that's the case."

[9:34:40 AM](#)

MICHAEL J. BURNS, Executive Director, Permanent Fund Corporation, Department of Revenue, confirmed the previous statement made by Commissioner Galvin that the Permanent Fund Corporation Board's longstanding position is against social investing. He noted that the board will be discussing this issue in its upcoming meeting on February 18 and 19.

MR. BURNS emphasized that the board will abide by the legislature's policy in this matter. He indicated that he thinks the bill does as good a job with regard to definitions and geography. Regarding index funds and co-mingled funds, he said, "It would be expensive for us and very awkward for us to try to control those processes." He suggested the committee may want to consider exchange traded funds, which he explained are a small, but focused type of index fund. When those stocks are purchased, he said, "You buy the basket - you don't buy individuals in there."

MR. BURNS relayed that the most important issue for the corporation relates to how the commissioner would come forth with the aforementioned list and the responsibility that the corporation would have to monitor whether its investments comply with the list. He stated, "We really don't want to be in the list business. We're busy enough trying to make the right investments."

[9:39:00 AM](#)

COMMISSIONER GALVIN, in response to Chair Lynn, said he does not feel the committee needs to wait until the board meets before it hears these bills again. He said he would bring forward any concerns before the committee's next meeting.

[9:40:07 AM](#)

REPRESENTATIVE WILSON referred again to footnote [7], to the last sentence, which read, "Gary Bader, chief investment officer, Alaska Department of Revenue, expressed his belief that Alaska funds would likely perform substantially worse after divestment." She asked if Mr. Burns would like to comment.

MR. BURNS remarked that that is the first time he has seen that.

COMMISSIONER GALVIN noted that Gary Bader works for him as the chief investment officer for the treasury. He stated, "I believe what he was referring to was that the structure of the bill that was introduced last year dealt with requiring the state to basically pull out of a number of our co-managed funds and potentially our index funds, and that that, in itself, would result in a potential loss of investment revenue." In response to Chair Lynn, he confirmed that Mr. Bader had been referring to last year's bill. He added that he is not sure where "those comments" are from, but speculated they might have been from personal conversations held by a staff member with Mr. Bader; therefore, he said, they are not on-the-record but are simply observations.

[9:42:34 AM](#)

REPRESENTATIVE PETERSEN asked Commissioner Galvin to clarify if he thinks the exchange-traded funds should be added to the list of mutual-type funds over which there is no control.

MR. BURNS said he does not think that type of fund is specifically referenced, and he said he would like to get back to the committee on the subject.

[9:43:15 AM](#)

REPRESENTATIVE SEATON related that he is much more comfortable with the process that the Commissioner of Revenue has established regarding the list and the 90-day period that would be given to the companies to come into compliance.

[9:43:54 AM](#)

CHAIR LYNN said he is encouraged by what he has heard during the testimony on HB 5, HB 45, and HB 92. He expressed his willingness to work together with the governor to get the desired legislation passed.

COMMISSIONER GALVIN expressed his thanks to Chair Lynn for bringing the issue forward. He stated that the governor and her entire administration feel strongly about the issue.

[HB 5, HB 45, and HB 92 were held over.]

[9:45:05 AM](#)

CHAIR LYNN discussed the upcoming calendar.

[9:45:16 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:45 a.m.