

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

February 9, 2010

8:13 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 241

"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 Iran, and restricting those investments; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 241

SHORT TITLE: DIVEST INVESTMENTS IN IRAN

SPONSOR(S): REPRESENTATIVE(S) GATTO

04/18/09	(H)	READ THE FIRST TIME - REFERRALS
04/18/09	(H)	STA, FIN
02/09/10	(H)	STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

THOMAS REIKER, Staff
Representative Carl Gatto
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 241 on behalf of Representative Gatto, prime sponsor.

PATRICK GALVIN, Commissioner
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 241.

MICHAEL BURNS, Executive Director
Alaska Permanent Fund Corporation
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 241.

SARAH STEELMAN
Missouri

POSITION STATEMENT: Testified on behalf of herself in support of HB 241.

DAVID GOTTSTEIN
Anchorage, Alaska

POSITION STATEMENT: Testified on behalf of himself during the hearing on HB 241.

ACTION NARRATIVE

[8:13:39 AM](#)

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:13 a.m. Representatives Gatto, Johnson, Wilson, Gruenberg, Petersen, and Lynn were present at the call to order. Representative Seaton arrived as the meeting was in progress.

HB 241-DIVEST INVESTMENTS IN IRAN

[8:13:55 AM](#)

CHAIR LYNN announced that the only order of business was HOUSE BILL NO. 241, "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 Iran, and restricting those investments; and providing for an effective date."

[8:14:26 AM](#)

THOMAS REIKER, Staff, Representative Carl Gatto, Alaska State Legislature, presented HB 241 on behalf of Representative Gatto, prime sponsor. He said Iran is "actively sponsoring insurgency on the ground against U.S. soldiers in Iraq."

[8:15:40 AM](#)

REPRESENTATIVE P. WILSON moved to adopt the committee substitute (CS) to HB 241, Version 26-LS0680\E, Kane, 2/8/10, as a work draft.

REPRESENTATIVE GRUENBERG objected for discussion purposes.

[8:16:03 AM](#)

MR. REIKER stated that the bill would make Americans safer by directing the Department of Revenue to: create a list of scrutinized companies; divest from publicly traded securities of those companies; contact the managers of any comingled investments in which the state has a stake to strongly encourage divestment in Iran; and update the list annually and inform the legislature and the public of any changes to the list. Mr. Reiker said the bar for significant investment would be set at \$20 million. He said this standard was borrowed from the federal government's Iran Sanctions Act of 1996, as well as from various other states' divestment efforts. The funds covered under the bill would be: the Alaska Permanent Fund, the Alaska State Retirement System, the Alaska Supplemental Annuity Plan, and the Alaska Deferred Compensation Program. Regarding the comingled investments, Mr. Reiker said the bill would encourage the state's divestment, but would not mandate it. Based on data from a similar effort by Massachusetts and consideration of the size of Alaska's aggregate investments, it is estimated that HB 241 could result in approximately \$450 million in investment being pulled from Iran. He stated that the proposed legislation is not just a symbolic measure, but is "an active stance against ... people that do not have America's best interest at heart."

[8:18:59 AM](#)

MR. REIKER relayed that Version E brings language in line with existing federal statutes, as well as other state statutes, for example, the use of the term "scrutinized companies" and the inclusion of a \$20 million bar for significant investment. Mr. Reiker said the language on page 4, lines 1-27, was added to comply with the Iran Sanctions Act of 1996. Furthermore, the

language on page 5, lines 7-14, was added to insulate the state against any lawsuits that may emanate out of any lost revenues resulting from the divestment. Mr. Reiker said the bill would be negated if the State department ever removes Iran from a list of state sponsors of terror. It would also be negated if U.S. Congress or the Executive Branch were ever to officially recognize that divestment from Iran is contrary to U.S. foreign policy.

[8:20:55 AM](#)

REPRESENTATIVE GATTO mentioned a previous bill to divest from Sudan because of genocide in Darfur, and he specified that HB 241 has nothing to do with genocide. He said Iran is "awash in oil" but is producing nuclear material. He opined that it is scary that Iran is a country that may be able to arm its allies, particularly because the president of Iran wants to "eliminate Israel from the face of the earth."

[8:23:01 AM](#)

REPRESENTATIVE GATTO said although Iran has oil, it imports approximately 40 percent its gasoline; therefore, sanctioning the import of gasoline and other things needed by the country is a consideration. The proposed legislation is action that can be taken now, rather than standing by and hoping for the best.

[8:25:01 AM](#)

MR. REIKER, in response to a question from Chair Lynn, offered his understanding that there are approximately 21 other states with similar legislation.

REPRESENTATIVE GATTO added that his staff will find the list of states.

[8:25:36 AM](#)

REPRESENTATIVE JOHNSON noted that the \$20 million threshold has to do with direct investments in business operations in Iran. He asked if importing gasoline is a direct investment.

MR. REIKER said he does not think that importing gasoline would count as the type of significant investment that is targeted by HB 241. He added, "I think you would actually have to have holdings in the nation of Iran, not just do trade with them." In response to a follow-up question, offered his understanding

that none of the significant oil companies doing business in Alaska have been placed on lists in any other state.

REPRESENTATIVE JOHNSON said he would like to see a list of the companies in question.

8:28:11 AM

PATRICK GALVIN, Commissioner, Department of Revenue, specified that he is speaking on behalf of the administration, not in his capacity as trustee of the Permanent Fund Corporation or the Alaska Retirement Management (ARM) Board. He said the Department of Revenue would be responsible for implementing HB 241 if it passes, and he complimented the bill sponsor for crafting the proposed legislation in a manner that would substantially eliminate most of the administrative burden that generally accompanies a divestiture policy; the bill is structured to allow the department to implement it as a compliance function.

8:30:14 AM

REPRESENTATIVE SEATON directed attention to language on page 2, subsections (c) and (d), which outlines that the commissioner would be required to create and update a list of scrutinized companies and investigate all publicly traded companies to figure out if those companies are scrutinized companies, and he asked Commissioner Galvin if he is really saying that doing this would not be "significant."

COMMISSIONER GALVIN noted that he had just received Version E earlier in the morning. Notwithstanding that, he shared his understanding that the sponsor's intent is that there be minimal impact to the department. He said he would study the language to ensure it complies with that intent. He stated his belief that the bill would allow the department to utilize lists and previously prepared investigatory materials to satisfy the standard imposed by statute. He explained that he is speaking more to the intent than to the language in Version.

REPRESENTATIVE SEATON said he would like the department to make that analysis of the language in Version E.

8:33:00 AM

REPRESENTATIVE GATTO, in response to CHAIR LYNN, said the next committee of referral is the House Finance Committee.

[8:33:18 AM](#)

COMMISSIONER GALVIN continued his testimony. He stated that generally the governor would be skeptical of an attempt to mix state policy with any social or political policy; however, the governor recognizes that in certain circumstances, it is necessary for the state, as a member of the Union, to economically isolate nation states that are troubling to the national interest of the U.S., particular where there is an effort to avoid armed conflict through the imposition of economic sanctions. He said the governor will be reviewing HB 241 to determine if it falls under one of those circumstances.

CHAIR LYNN opined that this issue is more about politics and national security than it is social.

COMMISSIONER GALVIN said the governor recognizes that this issue is a matter of national security as well as being related to the advancement of the country's foreign policy.

[8:35:16 AM](#)

REPRESENTATIVE GATTO said quite a few of the weapons that show up in Afghanistan and Pakistan are made in Iran. He opined that the last thing Alaska should be doing is supporting Iran, and investing in the country is supporting that country. He characterized the bill as a moral obligation.

[8:37:38 AM](#)

MICHAEL BURNS, Executive Director, Alaska Permanent Fund Corporation, , in response to Chair Lynn, stated that the board of the corporation has a long-standing position against divestment related to social investing. He said the board has not talked about HB 241 and, thus, does not have a position regarding the bill. He observed that the proposed legislation is different from the aforementioned past legislation regarding Sudan divestiture, and he confirmed that the board did narrowly support the past legislation regarding Sudan. He concurred with Chair Lynn's previous opinion that HB 241 is an issue of politics and national security.

[8:40:01 AM](#)

REPRESENTATIVE PETERSEN noted that there is a zero fiscal note attached to the proposed legislation, but he questioned whether

there may be a charge related to selling stocks, as well as a possible consequence to the state of a loss of revenue.

MR. BURNS responded that at times the board has looked at trading expenses. He stated, "I'm not sure that we have anything that would rise to the \$23 million threshold." He added, "I just don't see that being part of our portfolio, but I haven't seen the list either."

8:41:30 AM

REPRESENTATIVE GATTO asked if the corporation might consider divestiture without legislation in response to "downward pressure on that group of investments" resulting from the action that 21 states have already taken in establishing divestiture.

MR. BURNS said he does not know the answer to that.

REPRESENTATIVE GATTO said he is speaking philosophically. He said he would expect that the action of some in divesting might create pressure in others to do the same.

MR. BURNS responded that "might" is the operative word there.

8:43:12 AM

REPRESENTATIVE SEATON directed attention to language in Section 1, subsection (j), paragraph (1), subparagraph (B), sub-subparagraph (v), which says business operations, under the proposed legislation, would not include operations that "consist of the retail sale of gasoline and related products". He questioned how companies selling gasoline or diesel fuel would be tracked to arrive at an end-point control of retail sale, and he asked if such companies would automatically be put on the aforementioned list.

COMMISSIONER GALVIN responded that he would need to return with a full analysis. Notwithstanding that, he proffered that the structure of the bill would not "capture a situation" in which a producer refines a gasoline product that is then sold to a company outside of Iran and subsequently transported into Iran by that second company and sold. He offered his understanding that the company that makes the final sale in Iran would be the company that would "end up falling into this category."

REPRESENTATIVE SEATON said he wants to know what kind of chain of ownership the commissioner would be required to follow.

COMMISSIONER GALVIN relayed that he will be examining whether a company would be responsible for its subsidiary companies, and he said he would get back to the committee with his conclusions.

REPRESENTATIVE SEATON remarked that a subsidiary company could "totally circumvent" the intent of the bill.

[8:48:46 AM](#)

REPRESENTATIVE GATTO relayed that even though Iran has more difficulty making gasoline, it has refineries and does produce fuel products, which is why the reference to "gasoline and related products" is in the bill.

REPRESENTATIVE SEATON said he would like clarification of the definition of "related products".

[8:50:31 AM](#)

SARAH STEELMAN, testified on behalf of herself in support of HB 241. She related that she is the former state treasurer of Missouri, started "terror-free investing" in Missouri, served on the board of trustees to the State of Missouri's pension plan, and is now the advisor to a private "terror-free portfolio fund." Ms. Steelman stated that when she took office as state treasurer, she was shocked to discover that "we are funding the very enemies that we are fighting" through investments worth billions of dollars and to learn that her predecessor had been using foreign companies as brokers/dealers to invest the state's money. This information spurred her to begin a battle in Missouri to stop taxpayer funding of terrorism. Missouri commenced the first terror-free fund in the country; any country that did business with a sponsor of terrorism was screened out of the portfolio. She stated that those involved in this change proved to the pension fund managers who were skeptical about the returns that the state could make equivalent returns on investment by keeping the same allocations and by increasing holdings in "clean" companies. The state exercised a complete prohibition on companies doing business with terrorist-sponsoring nations and companies. The State of Missouri set up the nation's first terrorism screening policy and divestment procedure for a public pension fund, offered the first "terror-free" mutual fund in the state's college savings plan, and hosted a summit to educate police and firefighters about the fact that their pension plans may be funding the very people who end up attacking the country. She said she also encouraged

every state treasurer across the country to examine their portfolios and make divestments.

MS. STEELMAN said in the last five years, many states have adopted similar policies, and she applauded the Alaska State Legislature for hearing HB 241. She related that both sides of U.S. Congress have passed legislation increasing the sanctions against Iran. The threat posed by Iran has escalated with Iran's ability to obtain nuclear weapons, as well as with its direct threats against America and Israel. She listed Siemens AG and Nokia as examples of companies that help the Iranian revolutionary guard silence the voice of the Iranian people through monitoring and censoring the people's ability to communicate with the Western world.

[8:55:47 AM](#)

MS. STEELMAN said Missouri heard many arguments against this from its fund managers, but they were unfounded. Some of those arguments were that the cost is too high, the task is too difficult, and performance will suffer; however, Ms. Steelman warned that the cost is too high if nothing is done. She opined that it is the responsibility of every American to ensure he/she does not invest in companies that support terror. She reported that Empowerment Financial Group offers a "terror-free" portfolio. She opined that no American dollar should ever end up in "the hand of terror."

MS. STEELMAN, regarding a previous query [from Representative Johnson] regarding which oil companies doing business with Alaska may be on the list, named the French company, Total SA. She said PetroChina Company Limited just signed a \$1.76 zillion oil pact with Iran. She offered her understanding that Royal Dutch Shell was operating in Iran, and she indicated that BP had been operating with Iran, but is no longer.

[8:59:02 AM](#)

DAVID GOTTSTEIN, testified on behalf of himself during the hearing on HB 241. He relayed that he is the Alaska chair of the American Israel Public Affairs Committee, which he described as "an American advocacy group that tries to foster good relations between the United States and Israel - America's staunchest strategic ally and the only true democracy in the Middle East."

MR. GOTTSTEIN read his testimony as follows:

The United States, along with The West, is under attack by Radical Islam. Those trying to convert us or to destroy our way of life are using every means at their ... disposal to attack us in their Holy War against us. Terrorist incidents seem to be reported almost weekly from around the world, almost all rooted in Radical Islam - not ordinary Islam, but Radical Islam - that unfortunately controls most of the Muslim world. Recent arrests in Houston, Denver, and Brooklyn these last few months alone, along with the Fort Hood massacre, and now the Christmas Day thwarted airline suicide attempt, all point to the fact that we are under siege even on American soil. Even though Al Qaeda, the Taliban, and the other Radical Islamic movements spreading terror and death across the Middle East and Asia, are a loose collection organizationally, they all embrace jihad, or Holy War, against the West, and that makes their collective arsenal deadly and sizable.

At the heart of the Radical Islamic movement, and the most dangerous, is Iran. That is because the intersection of their vast oil wealth controlled by a Radical Islamic government ... determined to develop nuclear weapons has allowed them to become dangerously close to completing their decades-long march to join the nuclear club. Almost every week, including this week, ... we hear about their progress. The prospects of a nuclear Iran, capable of launching intercontinental ballistic missiles as far away as Europe, with Israel clearly in its sights, and the danger of them spreading weapons to their allies, along with for sure starting a nuclear arms race in the region, all has to be balanced against the far reaching negative consequences should military action need to be used to derail Iran's weapons program. The only good outcome is that we get Iran to change their behavior and stop weapons development.

... Our arsenal of tools to cause that change include[s] diplomacy, sanctions, blockades, and then military action. Diplomacy hasn't, and isn't likely to work. That leaves sanctions as the appropriate tool at this time: a peaceful approach. Sanctions have in the past had mixed results for sure; however,

recent revelations about the advancement and state of Iran's nuclear weapons program necessitate our using all peaceful means possible to solve the problem before having to consider harsher actions. The hope is that a collection of enhanced sanctions, including State divestitures, and the passage of the Iran Sanctions Act passed just two weeks ago at the Federal level, intended to thwart an already weak economy, including the importation of refined petroleum products, representing 40 percent of their domestic fuel use, might push the rulers to change their behavior.

[9:03:52 AM](#)

MR. GOTTSTEIN diverged from his written testimony to discuss the two distinct Acts in Congress that were combined: the Divestiture Program that was in the Iran Sanctions Act, first passed in 1996; and the Iran Refined Petroleum Sanctions Act, which was an attempt to limit the importation of refined products into Iran. Now that both are passed, President Barack Obama has the authority to take measures, such as declaring that it is illegal to insure fuel tankers that are bringing refined products to Iran. The divestiture, he explained, has to do with companies that are engaged in the development and enhancement of the Iranian regime's ability to garner money through the enhancement of that country's oil fields; it has nothing to do with the importation of the refined products. He said the only impact to the State of Alaska would be that "one day the state would own shares in a company and the next day it wouldn't." Transaction costs would be minimal. It would not change any relationship that "the state or any other third party would have with that company," he said.

[9:05:56 AM](#)

MR. GOTTSTEIN returned to his written testimony, which he read as follows:

During a period of intense public pressure as a result of [the] stolen election last June, there is an extraordinary opportunity to influence things positively and hopefully avoid the need for a discussion about military options. President Amahdinejad, a self-proclaimed holocaust denier, clearly has in his sights the wiping of Israel off the face of the planet, which, if he were to try and

accomplish through nuclear means, would have devastating and calamitous economic consequences worldwide as the oil rich Middle East would turn into a firestorm.

As respected legislators, you are most often consumed by the onslaught of requests you get from constituents, groups, and colleagues - especially during the shortened legislative session - all of which pretty much have to do with local and/or statewide issues. Seldom, however, are you asked to grapple with national issues. But today is different. Today you have the opportunity to join in the most serious war effort since the defeat of the Nazis and the Soviet Union, by joining forces with all our men and women in uniform who are deeply engaged in the war against Radical Islam and their tactics of terror. Twenty other states have already directed their investment pools [to divest from international companies that are engaged in Iranian oil and gas development].

[9:07:03 AM](#)

MR. GOTTSTEIN asked the committee to support legislature calling for the divestiture of stocks within the Permanent Fund, as well as the Budget Reserve Account, the latter of which he said is not addressed in HB 241. He said the proposed legislation would protect fiduciaries from deviating from rules regarding unbiased investing. He opined that it is critical to U.S. national security.

[9:08:33 AM](#)

CHAIR LYNN, after ascertaining that there was no one else to testify, closed public testimony.

[9:08:54 AM](#)

REPRESENTATIVE SEATON said he thinks that in some respects this issue is beyond the committee's level of expertise. For example, he said he wants to ensure that the committee does not indict an entire religion.

CHAIR LYNN said radical Islam is the issue, and he expressed concern about national survival. He stated that the issue

before the committee is to figure out what Alaska can do to add to national security, and divestiture is one step.

[9:11:08 AM](#)

REPRESENTATIVE JOHNSON stated concern that the proposed legislation would not have much effect and is merely a "feel-good" bill. He opined that to have an effect, Alaska must quit doing business with the companies that do business with Iran, not just divest from those companies. Notwithstanding that, Representative Johnson said if the committee can do a little bit of good it should, and he said he would not hold up the bill. In response to Chair Lynn, he said he would be behind the bill if he thought it would increase national security, but he does not think it will do harm.

[9:12:42 AM](#)

REPRESENTATIVE PETERSEN said he has long supported nuclear nonproliferation; therefore, he will support the bill even if there is only a chance that divestiture will help.

[9:13:21 AM](#)

REPRESENTATIVE GRUENBERG said he wants to see the bill move along.

[9:13:35 AM](#)

REPRESENTATIVE SEATON echoed Representative Johnson's point that it is questionable how much good the bill would do in asking the state to divest from certain companies while continuing to have business contacts with those companies. He said he hopes the committee will receive more information on the questions that have been raised.

[9:15:02 AM](#)

REPRESENTATIVE JOHNSON questioned if doing business with companies on the watch list makes the State of Alaska a candidate for the watch list.

[9:15:35 AM](#)

REPRESENTATIVE P. WILSON observed that out of 36 companies on the list, 9 are based in Malaysia and 6 in China. She indicated that the committee needs to give more thought to where the

companies are located. She said the State of Alaska partners with many companies, and she wants to know what the ramifications of the bill may be on those partnerships.

REPRESENTATIVE SEATON reviewed the information that had been requested thus far. He said he is not opposing the consideration of HB 241, but wants the information for consideration.

[9:19:06 AM](#)

COMMISSIONER GALVIN, in response to Chair Lynn, estimated that he could have the requested information available for the committee in a week.

[9:19:35 AM](#)

CHAIR LYNN, in response to Representative Gruenberg, said he does not want to entertain questions related to the aforementioned past legislation on divestiture from Darfur.

[9:20:52 AM](#)

CHAIR LYNN ascertained from the bill drafter that legal opinions would be available in about a week.

[9:21:31 AM](#)

REPRESENTATIVE GATTO said he thinks there is no end to the number of details to research. He emphasized that two-thirds of those serving in the military are killed by "improvised explosive devices" that are manufactured in Iran. That alone, he opined, is enough of a reason [to support HB 241]. He said the bill is not intended as a way to destroy Iran, but it would do something toward preventing the losses the U.S. is experiencing. He encouraged the committee to pass the legislation now and revisit it if it turns out to be ineffective; however, he predicted that the result of the proposed legislation would be helpful rather than hurtful. He asked each legislator to think about whether or not he/she would be willing to not value a stock that supports a terrorist organization.

[9:25:22 AM](#)

REPRESENTATIVE GATTO, in response to Representative Gruenberg, indicated that Version E would make the bill "easier" as it relates to the investments of corporations.

REPRESENTATIVE GRUENBERG removed his objection to the motion to adopt the committee substitute (CS) for HB 241, Version 26-LS0680\E, Kane, 2/8/10, before the committee as work draft. [No further objection was stated, and Version E was treated as before the committee.]

REPRESENTATIVE GATTO asked the committee to question why BP and Total SA would remove their investments in Iran if divestiture had no effect.

[9:26:15 AM](#)

REPRESENTATIVE PETERSEN said the reason could be political; however, he suggested one reason may be that it may be dangerous for employees to be working in Iran.

The committee took an at-ease from [9:27:17 AM](#) to [9:27:28 AM](#).

[9:27:35 AM](#)

CHAIR LYNN expressed his basic support of the proposed legislation.

[9:28:22 AM](#)

CHAIR LYNN announced that HB 241 was held over.

[9:29:17 AM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:29 a.m.