

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 16, 2010
8:07 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Craig Johnson

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."

- FAILED TO MOVE HB 241 OUT OF COMMITTEE

HOUSE BILL NO. 292

"An Act relating to grants to victims of a disaster in this state; 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
02/09/10	(H)	Heard & Held
02/09/10	(H)	MINUTE(STA)

02/16/10 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 292

SHORT TITLE: GRANTS TO DISASTER VICTIMS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/10 (H) READ THE FIRST TIME - REFERRALS
01/19/10 (H) MLV, STA, FIN
02/02/10 (H) MLV AT 1:00 PM BARNES 124
02/02/10 (H) Heard & Held
02/02/10 (H) MINUTE(MLV)
02/04/10 (H) MLV AT 1:00 PM BARNES 124
02/04/10 (H) Moved Out of Committee
02/04/10 (H) MINUTE(MLV)
02/05/10 (H) MLV RPT 5DP 1AM
02/05/10 (H) DP: LYNN, T.WILSON, HARRIS, BUCH, GATTO
02/05/10 (H) AM: KAWASAKI
02/16/10 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

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

POSITION STATEMENT: Answered questions during the hearing on HB 241, on behalf of Representative Gatto, prime sponsor.

JERRY BURNETT, Deputy Commissioner
Treasury Division
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 241.

PATRICK GALVIN, Commissioner
Department of Revenue
Juneau, Alaska

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

McHUGH PIERRE, Deputy Commissioner/Chief of Staff
Office of the Commissioner/Adjutant General
Department of Military & Veterans Affairs
Fort Richardson, Alaska

POSITION STATEMENT: Presented HB 292 on behalf of the House Rules Committee, sponsor by request of the governor.

MIKE O'HARE, Deputy Director
Division of Homeland Security/Emergency Management
Department of Military & Veterans Affairs
Fort Richardson, Alaska

POSITION STATEMENT: Offered information regarding HB 292, on behalf of the House Rules Committee, sponsor by request of the governor.

ACTION NARRATIVE

[8:07:23 AM](#)

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Seaton, Gatto, Wilson, Gruenberg, Petersen, and Lynn were present at the call to order.

HB 241-DIVEST INVESTMENTS IN IRAN

[8:08:01 AM](#)

CHAIR LYNN announced that the first 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."

[Before the committee was the committee substitute (CS) for HB 241, Version 26-LS0680\E, Kane, 2/8/10.]

[8:08:41 AM](#)

REPRESENTATIVE GATTO moved to adopt the committee substitute (CS) for HB 241, Version 26-LS0680\S, Kane, 2/15/10, as a work draft.

[8:08:54 AM](#)

REPRESENTATIVE SEATON objected for discussion purposes.

[8:09:04 AM](#)

REPRESENTATIVE GATTO, as prime sponsor of HB 241, directed attention to a memorandum dated 2/15/10 [included in the committee packet], which addresses the changes that were made in

Version S. He reviewed the changes, which would amend AS 37.10.072 as follows: First, Version S would delete the word "all" from Section 1(d), to guard against misinterpreting the statute as a mandate for the Department of Revenue to investigate every publically traded company, as opposed to just those companies relating to Alaska's investment portfolio. Second, to eliminate confusion regarding language in Section 1(j)(1)(B)(v), "gasoline and related products" was changed to "petroleum products". Third, new wording was added in Section 1(j)(3), to more clearly define "direct investment". Under the new language, "direct investment" that would be subject to the \$20 million threshold for scrutiny "directly and significantly contributes to the enhancement of Iran's ability to develop petroleum resources, military equipment, and nuclear capabilities". Fourth, a new provision was inserted in Section 1(j)(9)(B), to clarify that, for the purposes of HB 241, a parent company is only responsible for the practices of a subsidiary or jointly owned company in which it holds a controlling interest. Representative Gatto explained that the provision was designed to address the concern that the bill could be broadly read to include any dealings with a "scrutinized company" or narrowly read to exempt any company that merely formed a subsidiary to administer its interests in Iran.

[8:12:13 AM](#)

THOMAS REIKER, Staff, Representative Carl Gatto, Alaska State Legislature, in response to Representative Gruenberg, said the sponsor and his staff spoke with the bill drafter to ensure that there were no issues regarding federal law, that the bill complies with the Iran Sanctions Act of 1996. Much of the language in the bill came from that federal Act.

[8:13:02 AM](#)

REPRESENTATIVE SEATON removed his objection to the motion to adopt the committee substitute (CS) for HB 241, Version 26-LS0680\S, Kane,2/15/10, as a work draft. [There being no further objection, Version S was before the committee as a work draft.]

[8:13:30 AM](#)

JERRY BURNETT, Deputy Commissioner, Treasury Division, Department of Revenue, stated that his job is to administer the investment policies of the Alaska Retirement Board in relation

to HB 241. He said he is not the fiduciary - the board is, and the board has not taken any position on the proposed legislation. He said when, in the past, the House State Affairs Standing Committee considered the issue of divestment from Sudan, the discussion was about the amount of securities held that would "come under that definition," and it was in the \$13 million-range. As of yesterday, he reported, there were close to a billion dollars of securities that would likely "fall under this list." He said that is out of \$33 billion that is invested. About half of the department's investments are in retirement funds. He said based on the types of current investments, he expects "a higher percentage of this is in retirement funds than in the other." Mr. Burnett told committee members he wants them to know the magnitude of the proposed legislation: approximately \$750,000,000 of funds might have to be divested.

[8:15:27 AM](#)

MR. BURNETT, in response to Representative P. Wilson, said he cannot predict whether or not the state would lose money; however, he noted that there would be transaction costs involved - about four cents per share of stock. He said, "If you look at ... an average share price of \$20, as an example, and you have a billion dollars worth of stock, you're looking at two-hundredths of a percent of the cost of the stock." He said it is not a huge cost relative to the value, but potentially this could affect 5 percent of the holdings of the retirement funds that may match the list of companies provided by the bill sponsor. Mr. Burnett stated, "Depending on the size of our holdings here, as you trade anything, if you have to do a forced sale you may not sell it at the best time You might lose some percent of your value as a result of having to do a forced sale." Mr. Burnett emphasized that he is not attempting to influence the committee one way or the other, he just thinks the members should have an idea of the magnitude of what is being considered.

[8:17:42 AM](#)

MR. BURNETT, in response to Representative P. Wilson, said the proposed legislation gives the department 90 days to divest from companies on the list. He said this is a doable timeframe. In response to Representative Petersen, he said there are over 400 matches spread across 30 funds the state manages. In response to a follow-up question, he said he does not recall which would be the largest.

REPRESENTATIVE PETERSEN surmised, "So, if you say there's 400 of them, and we've got \$900 million, chances are we don't have a huge holding in any one particular stock."

MR. BURNETT replied that the holdings are small because the state diversifies for a number of reasons.

[8:20:09 AM](#)

REPRESENTATIVE GATTO said he understands when Mr. Burnett says the state could lose money; however, asking whether or not the state will lose money from divesting is a rhetorical question. He said it may be just as likely that the state would avoid losing money by divesting because "half the free world is selling them." He said his point is that divesting should be done for moral reasons.

[8:21:16 AM](#)

MR. BURNETT relayed that in December 2009, the chief investment officer wrote to a number of active fund managers asking about "holdings that they had on this," because "we perceive a market risk from holding stocks that other people put on their list." He said Representative Gatto is correct that effects could happen in both directions. He reiterated that he is not addressing the good or bad; he is just letting the committee know about the magnitude of the issue.

[8:22:57 AM](#)

REPRESENTATIVE GRUENBERG directed attention to the 90-day provision, which he said does not give the managers of the fund permission to keep funds on the list past 90 days. He concluded that this means "the only thing this prevents you from doing potentially from a financial point of view is making money." He asked Mr. Burnett if he concurs.

MR. BURNETT responded, "I think I agree with you on that."

MR. GRUENBERG said the provision would not prevent the managers of the fund from losing money, because "you'd be getting out of it anyway," but if the managers wanted to keep the stocks for investment reasons, they could not. He asked Mr. Burnett if the managers of the fund would prefer the provision to require "due deliberate speed" rather than a "hard and fast" deadline.

MR. BURNETT said he cannot speak to that issue. He said if the legislature is serious about doing this, some deadlines will have to be put in place. In response to a follow-up question from Representative Gruenberg, he opined that 90 days is long enough, because it starts from the time the list would be finished, not from the time the bill would be signed.

[8:26:02 AM](#)

REPRESENTATIVE PETERSEN asked Mr. Burnett if he looked at the list and recognized any of the companies as ones that are currently doing business in Alaska.

[8:26:19 AM](#)

MR. BURNETT answered yes, but said he cannot speak to which companies they are, since he does not presently have the list with him.

REPRESENTATIVE PETERSEN suggested that the committee may want to consider that if the state divests from companies on the list that are presently doing business within Alaska, those companies may choose to pull out from the state.

[8:26:42 AM](#)

REPRESENTATIVE SEATON directed attention to language beginning on page 2, line 12, midway through line 16, of Version S, which read as follows:

(c) The commissioner shall create and update quarterly, before the first day of the immediately succeeding calendar quarter, a list of scrutinized companies.

(d) The commissioner shall make reasonable efforts to investigate publicly traded companies to determine whether the company is a scrutinized company for the purposes of this section.

REPRESENTATIVE SEATON said he had asked the commissioner of the Department of Revenue to let him know what kind of time frame, burden, or investigative effort would be involved, and at what cost.

[8:28:04 AM](#)

PATRICK GALVIN, Commissioner, Department of Revenue, reported to Representative Seaton that he was advised from the Department of Law that the current standard would allow the Department of Revenue to rely upon primarily the list and should not impose an undue burden in complying with the standard. He noted that since then, the language has improved with the elimination of the word "all" in relation to publicly traded companies.

[8:28:52 AM](#)

REPRESENTATIVE SEATON said a second question he had asked was in regard to language on page 2, line 6, of Version S - "other business structure" - and whether consideration was being given only to stocks of a publicly traded company, or also to a situation in which Alaska is a partner with the company or provides tax credits to a company doing business in the state.

[8:30:21 AM](#)

COMMISSIONER GALVIN replied that the Department of Law advised that a company not on the scrutinized list doing business in Alaska would not create violation of bill, but would create a question as to whether the intent of the bill was being fully established. He acknowledged that is a concern that Representative Petersen just raised.

[8:31:14 AM](#)

REPRESENTATIVE GATTO directed attention to language on page 2, line 14, of Version S, which states that the commissioner "shall make reasonable efforts to investigate publicly traded companies". He asked Commissioner Galvin if he considers the investigation of the lists currently published a reasonable effort or thinks the department would also have to make separate investigations.

[8:32:08 AM](#)

COMMISSIONER GALVIN said the issue the Department of Law raised which caused concern is that the language of the bill that addresses which companies would be on the Alaska scrutinized list is broader than compliance with the federal law. He said because the bill is an amalgam of language from the Sudan divestiture bill and makes reference to the federal divestiture law, it creates an additional standard beyond that of a company described in the federal law. He said the proposed legislation would require further investigation beyond the lists, but he

said he thinks that could be addressed through an amendment allowing the identification of companies that fall under the description of the federal law as companies that fall under the Alaska scrutinized company list.

[8:33:36 AM](#)

COMMISSIONER GALVIN, in response to Representative Gatto, said if the standard for determining whether a company should be on the list or not is the same being applied by others states or entities in the development of their list, then it could be argued that a "reasonable inquiry" would be to examine those lists to find the commonality. He reiterated that an area of concern would be if there is a different standard for the Alaska list. In response to a follow-up question from Representative Gatto, he restated that it is the addition of language apparently from the former Sudan divestiture bill which goes beyond the federal law.

[8:36:06 AM](#)

REPRESENTATIVE P. WILSON directed attention to subsection (d), on page 2, lines 14-17 [text provided previously]. She said the language does not state that the commissioner may make a reasonable effort to investigate the public list that other states have, and she questioned whether it would make a difference to amend subsection (d).

[8:37:23 AM](#)

COMMISSIONER GALVIN responded that he does not think that is really the issue at hand. He opined that the proposed requirement obligating the commissioner to make reasonable inquiries and allowing him/her to utilize existing lists is a reasonable approach by which to establish a standard and allow for a way to comply with that standard. He reiterated that the issue raised by the Department of Law could be addressed either by the House State Affairs Standing Committee or a subsequent committee of referral, to identify the federal law as the controlling aspect of that standard.

[8:38:14 AM](#)

COMMISSIONER GALVIN, in response to Representative P. Wilson, said he does not have a copy of the bill with him, but said it is the section of the bill with the definition of "scrutinized company" which needs to be more narrowly restricted to simply

identify companies that are out of compliance with the federal law.

REPRESENTATIVE P. WILSON noted that the definition of "scrutinized company" begins on page 4, line 24, and continues through page 5, line 1.

[8:39:18 AM](#)

MR. BURNETT pointed out that the definition of "business operations" is found on page 3, beginning on line 12, and he offered his belief that that is the portion of the bill language that was imported from the aforementioned Sudan divestiture bill. He recommended that the committee eliminate the definition of "business operations" and identify the "scrutinized companies" as those engaging in any and all business [operations] that are subject or liable to sanctions under Public Law 104-172.

[8:40:48 AM](#)

REPRESENTATIVE SEATON directed attention to language on page 2, lines 23-31, subsections (e) and (f), which read as follows:

(e) The commissioner shall provide written notice and an opportunity to comment in writing to each company identified as a scrutinized company under (d) of this section.

(f) The commissioner shall add a company identified under (d) of this section to the list of scrutinized companies not earlier than 90 days after providing written notice under (e) of this section, unless the company demonstrates to the commissioner that it does not conduct or have direct investments in business operations in Iran that exceed the \$20,000,000 threshold referred to in Public Law 104-172 (Iran Sanctions Act of 1996), as amended.

REPRESENTATIVE SEATON asked Mr. Burnett if he interprets this language to mean that even if the department relies on a list, it would have to notify each company in writing and give each an opportunity to comment.

[8:41:42 AM](#)

MR. BURNETT said he believes the department would have to identify a potential list, notify the companies and give them a chance to respond, identify a final list, and demand divestiture from all the fund managers based on that list. He said this plan would result in divestiture from any company on the list that is part of the fund, not any company that is not part of the fund. He stated, "We do have more companies that do business in Iran than Sudan, for sure." He remarked, "There's nothing that prevents us from divesting from any company at any time if it's a good business decision."

[8:43:00 AM](#)

REPRESENTATIVE SEATON stated his intention is that the state may abide by a list, while still providing due process under the Constitution of the State of Alaska to the companies involved.

[8:44:47 AM](#)

COMMISSIONER GALVIN clarified that neither the Department of Revenue nor the Alaska Retirement Management (ARM) Board nor the Alaska Permanent Fund Board would have the authority to independently implement a divestiture policy, with regard to Iran, without the statutory authority to do so, which is why a bill, such as HB 241, would be necessary to put in place an Iran divestiture policy.

[8:45:55 AM](#)

REPRESENTATIVE GRUENBERG asked whether there is any possible legal argument a company could use to say it has some right to "some kind of relief" that is granted under HB 241. He questioned whether it should be specified in the bill that companies would not have that right to a hearing, for example.

[8:47:57 AM](#)

COMMISSIONER GALVIN responded that the issue is not so much one of due process. He said this is a matter of fairness. He opined that if a company is going to be identified publicly as being unworthy of Alaska's investment, the state owes that company the right to say that the state got the facts wrong and to prove that the company does not belong on the list. He said he thinks there may [emphasis on "may"] be some exposure with regard to slander or liable or some sort of interference "with their other contractual relationships" if the proposed law is followed. For that reason, he said, it is in the interest of

the state to ensure that the department has provided those companies with the opportunity to clarify whether or not they belong on the list.

REPRESENTATIVE GRUENBERG said the board of a targeted company may be concerned about everybody dumping its stock. He said he hopes that the bill sponsor seriously considers including language in the bill that would prevent a company from using Alaska as a forum to justify its actions and not only delay the process, but also "gum up the works in other states."

CHAIR LYNN said, "They could challenge that; we can't tell somebody else what their rights are."

REPRESENTATIVE GRUENBERG emphasized, "We can tell them what their rights are under this Act, absolutely. We do it all the time; we limit liability."

[8:51:12 AM](#)

REPRESENTATIVE GATTO returned to the comment made by Commissioner Galvin that without statutory authority, the boards determining which stocks to buy or sell would have no authority to make a policy regarding divestiture from Iran, and he said it is understandable. However, he asked if that same board of directors, upon observing that those companies on scrutinized lists are "having a downward pressure from many states, the federal government, and from other companies," would be able to make a policy without statutory authority that maintains that those stocks are risky because they are more likely to lose value than to gain value.

[8:52:17 AM](#)

COMMISSIONER GALVIN said the answer, in general, would be yes; if it was determined there would be likely market movement in regard to certain stocks, the boards could utilize that as a way to avoid companies that have that type of risk profile. He noted that beyond the Iran divestiture issue, there is a tremendous amount of other movement towards divestiture policies for a variety of reasons that would have to also be scrutinized and evaluated to determine whether they would have a legitimate impact on the market.

[8:53:50 AM](#)

COMMISSIONER GALVIN, in response to a question from Representative Gatto as to whether the federal government would prohibit states from investing in companies that invest in Iran, offered his understanding that the furthest U.S. Congress has gone in imposing divestiture is in language that shielded states from actions under prudent investor requirements associated with a Sudan divestiture policy. He said the language stated there was a safe harbor for imposing a divestiture policy that was to be protected under federal law. He concluded, "I guess it's possible; although you have to think about federalism constitutional issues there."

[8:55:15 AM](#)

REPRESENTATIVE GATTO remarked that the embargo with Cuba shows that the federal government has the ability to impose restrictions on the whole country.

COMMISSIONER GALVIN offered his understanding that a requirement similar to that for Cuba is in place for Iran, which is why there is no direct investment by American companies in Iran or materials supplied from the U.S. to Iran.

[8:56:00 AM](#)

CHAIR LYNN stated his wish to have any necessary amendments made and a motion made to move HB 241 today.

[8:56:33 AM](#)

REPRESENTATIVE SEATON said HB 241 proposes a sanction on "a company," and he said he anticipates that to be problematic and asked the commissioner to comment.

CHAIR LYNN said he wonders if any other state has addressed this question.

[8:57:47 AM](#)

COMMISSIONER GALVIN told Representative Seaton that the department did utilize the Department of Law extensively in developing the process that is used here, because it was borrowed from the Sudan divestiture bill. He said the Department of Law advised that the Department of Revenue include a provision to ensure it meets its obligations to the companies that may be on the list. He said he does not think the department specifically received the conclusion that there

was a constitutional right to due process; however, he said he thinks it was an issue of ensuring that the department did not expose itself unnecessarily to claims either of that nature or other violations of their rights. In response to Chair Lynn's question as to whether other states have addressed this issue in their divestiture legislation, he said he is not aware of other states' processes on this issue. He asked Mr. Burnett if he knew of any other states that have addressed this question.

CHAIR LYNN noted that Mr. Burnett shook his head no.

REPRESENTATIVE SEATON questioned if not allowing a company the opportunity to change would be removing the main impetus of the bill to have companies change their behavior.

CHAIR LYNN commented that he does not think the proposed legislation is directed toward changing the behaviors of different companies, but rather is an issue of national security.

[9:00:15 AM](#)

COMMISSIONER GALVIN responded that the whole purpose of a divestiture policy is to keep companies from providing support for the targeted country. The intent, therefore, would not necessarily be to do so solely through divestiture action, because a divestiture of stock does not directly affect the company itself. It is the act of placing a company on a list and putting it up for public scrutiny as a company that is engaged in what the U.S. considers to be improper behavior that is an attempt to motivate that company's behavioral change. For that reason, he said, he supports Representative Seaton's comment that if the purpose of the proposed bill is to hold companies up to that kind of scrutiny and to give them the opportunity to change their behavior and prove they should no longer be on the list, then the state should probably provide those companies with the means for "making the change in behavior effective for that purpose."

[9:01:54 AM](#)

REPRESENTATIVE GRUENBERG said he thinks the committee is flagging this issue, and he expressed his hope that the department will work with the Department of Law to ensure that "this isn't used as a forum by these companies" and to prevent delays from injunctions.

9:02:41 AM

REPRESENTATIVE GRUENBERG stated his assumption that the department would work on an amendment related to the definition language.

COMMISSIONER GALVIN confirmed that is correct.

9:03:06 AM

REPRESENTATIVE GRUENBERG directed attention to language on page 3, lines 9-10, which gives the commissioner authority to adopt regulations under AS 44.62 "to carry out the purposes of the section." He noted that Sections 2 and 3, on page 5, are "directing the retirement boards to comply with this." He stated his assumption that those boards currently have regulatory authority to carry out the purposes of this section, and it is not necessary to put similar language in Sections 2 and 3 as is found in the aforementioned language on page 3, lines 9-10.

9:04:12 AM

MR. BURNETT responded as follows:

Regulations are to ... carry out the purposes in adopting the list. The ... Alaska Retirement Management Board and the Permanent Fund are to follow this list and divest. They shouldn't need specific regulatory authority in this bill. They have regulatory authority for their purposes within their statute, so they would be able to adopt regulations under their general regulatory authority.

9:04:56 AM

REPRESENTATIVE GRUENBERG directed attention to Section 6, on page 6, which would required notice by the Department of Law to the U.S. Attorney General. He remarked that that is unusual, and asked why that requirement is in the proposed legislation.

MR. BURNETT said he is not certain of the answer to that question. Notwithstanding that, he surmised that there may be something in federal law.

REPRESENTATIVE GRUENBERG asked for that information to be provided.

9:07:24 AM

COMMISSIONER GALVIN, in response to Representative P. Wilson, said he does not expect the companies put on the list to respond, because, in general, they will not want to put their activities and involvement in Iran up for public scrutiny. He stated, "Unless ... we have our facts wrong, and they do not have engagement in the activities that led to them being listed by other states, I don't expect to hear back from the company."

9:08:09 AM

REPRESENTATIVE PETERSEN stated his belief that the purpose of the proposed bill is not to punish any of the companies in which the state has invested. He said the reason the U.S. Government has, in the past, put sanctions on another nation has been to effect change in that nation's behavior. He opined that in most cases that has not been very effective; however, starting some sort of military conflict might be a worse alternative.

9:09:48 AM

REPRESENTATIVE GATTO directed attention to language on page 3, lines 12-14, which read as follows:

- (1) "business operations"
 - (A) means power production activities, mineral extraction activities, oil-related activities, or the production of military equipment;

REPRESENTATIVE GATTO noted that the subject of mineral extraction appears again on page 4. He asked Commissioner Galvin if it would be helpful to adopt a conceptual amendment that would delete subparagraph (A) and the related text on page 4. He said he does not want to create additional chores that would require additional personnel, but he wants to ensure that the list is observed.

COMMISSIONER GALVIN said that conceptually "that does bring it closer to alignment with ... the federal Act and would make it easier to implement."

9:11:05 AM

MR. BURNETT suggested removing language in Section 1, subsection (j), paragraphs (1), and paragraphs (3) through (8).

[9:12:52 AM](#)

CHAIR LYNN closed public testimony.

[9:13:01 AM](#)

REPRESENTATIVE GATTO indicated his concurrence with some of the deletions recommended by Mr. Burnett.

[9:13:47 AM](#)

REPRESENTATIVE GATTO moved to adopt Conceptual Amendment 1, to delete the language in subparagraph (A), on page 3, lines 13-14, and the language on page 4, lines 3-23. There being no objection, Conceptual Amendment 1 was adopted.

[9:14:33 AM](#)

REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 2, as follows:

On page 4, line 25:
Following "company"
Delete "engaging in any and all active business
operations that are subject or"

REPRESENTATIVE SEATON explained, "It takes us back to the federal list and eliminates the burden to investigate nonprofit lists and other things."

CHAIR LYNN asked if there was any objection to Conceptual Amendment 2. There being no objection, it was so ordered.

[9:15:53 AM](#)

REPRESENTATIVE GATTO moved to report CSHB 241, Version 26-LS0680\S, Kane, 2/15/10, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

[9:16:16 AM](#)

REPRESENTATIVE SEATON objected. He said there has been mixed information given. For example, he stated that there has been testimony purporting that weapons are being supplied by Iran [to terrorists], and he said there is no evidence to support that. Representative Seaton said he has heard testimony given by

military commanders before the U.S. Congress via C-SPAN that Iran could be much more unhelpful than it currently is. He said the Pakistani side of the border is the one that has nuclear weapons. He stated, "The basis for this bill is evidence that I don't think we have on the table here." He emphasized that he is not speaking in support of Iran; he said he has friends who, 15 years ago, barely escaped Iran. Representative Seaton reiterated that he thinks the committee needs accurate information in order to determine whether to support the proposed legislation.

[9:20:49 AM](#)

REPRESENTATIVE P. WILSON said she does not want the bill to pass out of committee without making changes to the part of the proposed legislation addressing the responsibilities of the commissioner.

The committee took an at-ease from [9:21:57 AM](#) to [9:22:48 AM](#).

[9:22:55 AM](#)

REPRESENTATIVE SEATON removed his objection to the motion to report CSHB 241, Version 26-LS0680\S, Kane, 2/15/10, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GATTO withdrew his motion to report CSHB 241, Version 26-LS0680\S, Kane, 2/15/10, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

[9:23:49 AM](#)

REPRESENTATIVE P. WILSON moved to adopt Conceptual Amendment 3, as follows:

On page 2, line 15:

Following "whether the company is a scrutinized company"

Delete "for the"

Insert "on a list of any of the states"

On page 2, lines 16-22:

Delete all material

[9:24:50 AM](#)

REPRESENTATIVE SEATON objected for discussion purposes. He offered his understanding that a previous motion resulted in making a scrutinized company one that is liable to sanctions under federal law. Adding other states' [lists], he opined, would increase the burden of the commissioner of the Department of Revenue to "balance between different companies."

REPRESENTATIVE P. WILSON asked, "So, we just need to delete that whole section then?"

REPRESENTATIVE GATTO said, "We've already made..."

REPRESENTATIVE P. WILSON interjected, "But this contradicts that."

REPRESENTATIVE GATTO responded, "I don't see it that way."

[9:26:00 AM](#)

REPRESENTATIVE PETERSEN suggested the following language: "determine whether the company is on the federal list".

REPRESENTATIVE SEATON agreed that a period could be placed after "scrutinized company", since that term has already been defined as a company on the federal list, and all subsequent language, as outlined in Conceptual Amendment 3, could be deleted.

[9:26:43 AM](#)

MR. REIKER related that there is no federal list, only federal criteria with which companies should be scrutinized. States create their own lists based on that federal criteria. He relayed that currently Florida, Ohio, and Utah have the most expansive lists.

REPRESENTATIVE P. WILSON maintained her motion to adopt Conceptual Amendment 3.

[9:27:41 AM](#)

REPRESENTATIVE SEATON removed his objection.

REPRESENTATIVE GATTO asked if the word "scrutinized" includes the states' lists.

MR. REIKER responded yes.

[9:28:10 AM](#)

REPRESENTATIVE GATTO objected to Conceptual Amendment 3 for clarification.

[9:28:23 AM](#)

REPRESENTATIVE P. WILSON restated the changes proposed in Conceptual Amendment 3.

REPRESENTATIVE GATTO remarked that it is scrutinized companies that are on the list of any of the states; therefore, the inserted language in Amendment 3 is redundant.

REPRESENTATIVE SEATON said he does not think it would be redundant, because among the language that would be deleted by Conceptual Amendment 3 is paragraph (1), which lists nonprofit organizations, research firms, and international organizations as sources for lists that could be used by the commissioner. He said Conceptual Amendment 3 would narrow the breadth of the issues that the Department of Revenue would have to consider.

[9:29:52 AM](#)

REPRESENTATIVE GRUENBERG [nodded]. He offered his understanding that "that's defined in Title I."

[9:30:03 AM](#)

REPRESENTATIVE P. WILSON noted that with Conceptual Amendment 3, the language would read as follows:

(d) The commissioner shall make reasonable efforts to investigate publicly traded companies to determine whether the company is a scrutinized company on a list of any other state.

REPRESENTATIVE GRUENBERG noted that the term "state" is defined in AS 01.10.060(13).

REPRESENTATIVE GATTO removed his objection to Conceptual Amendment 3.

[9:31:13 AM](#)

MR. REIKER said it is important for paragraph (1) to remain in the bill. He explained that other states use two nonprofit organizations and two research firms to determine which companies should be on the list, and although Alaska could change its list to match, "that could be challenged, because they're using research firms and nonprofit organizations."

[9:31:58 AM](#)

CHAIR LYNN reminded everyone that this is a conceptual amendment.

[9:32:08 AM](#)

REPRESENTATIVE GATTO clarified that the language that would be deleted through Conceptual Amendment 3 would include paragraph (1).

[9:32:38 AM](#)

REPRESENTATIVE GRUENBERG interpreted Mr. Reiker's comments to mean that if two non-profit organizations and two research firms agree, than a company will be put on that state's list. However, he offered a hypothetical situation in which another state passes a law that does not use the same procedure, which means that state could add a number of companies [to its list] that are not on the recognized list. He said that could be problematic.

[9:33:47 AM](#)

REPRESENTATIVE P. WILSON commented that she thinks the commissioner is smart enough to not use a list that is wildly erratic.

[9:34:01 AM](#)

CHAIR LYNN asked if there was any further objection to Conceptual Amendment 3. No further objection was stated; therefore, Conceptual Amendment 3 was adopted.

[9:34:12 AM](#)

REPRESENTATIVE GATTO moved to report CSHB 241, Version 26-LS0680\S, Kane, 2/15/10, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

[9:34:29 AM](#)

REPRESENTATIVE SEATON objected.

[9:34:33 AM](#)

REPRESENTATIVE PETERSEN said although the adopted amendments improved the proposed legislation, he does not think HB 241 is quite ready to move. He said he would like to get feedback from Legislative Legal and Research Services.

[9:35:18 AM](#)

REPRESENTATIVE GRUENBERG said he told the sponsor he would vote to move the bill, but said he thinks it needs a lot of work.

CHAIR LYNN, in response to a question from Representative Petersen, offered his understanding that the final committee of referral for HB 241 is the House Finance Committee.

[9:36:38 AM](#)

REPRESENTATIVE SEATON said he does not think the House State Affairs Standing Committee should be sending substantive issues to the House Finance Committee to decide. Another issue he pointed out is that while the bill proposes divestiture, the state would still be able to have a partnership with the same companies.

[9:37:27 AM](#)

REPRESENTATIVE GATTO said the proposed bill has been thoroughly reviewed and amended, and has been made easy for the commissioner; it is not a difficult bill. He related that Secretary of State Hillary Clinton has said Iran is on its way to becoming a military dictatorship. He said he does not think anyone sitting on the committee would say that Iran just wants "some peaceful nuclear energy." He said he cannot support sitting idly and hoping that things go well "over there." He stated that the only effect of the bill would be that the investments that may earn or lose money would have to be switched to other investments that could earn or lose money.

[9:40:08 AM](#)

CHAIR LYNN said as co-sponsor of HB 241, he thinks the proposed legislation is both practical and moral. He said the practical

basis is that "they" are apparently involved in a nuclear weapons program, which is a direct threat to [the United States]. He said "they" have threatened to annihilate Israel, and if an attempt was made to do so, the U.S. would be dragged into the middle of World War III. Regarding the issue of morality, Chair Lynn said everything he has heard or read has shown that "they" are taking action that directly affects U.S. Troops in Iran. He said he thinks HB 241 is a small step toward national security. Chair Lynn asked, "Would we be having this same discussion about divesting investments in the railroad that took Jews to Auschwitz?" He said he thinks this is the same basic issue.

[9:41:49 AM](#)

A roll call vote was taken. Representatives Gatto, Gruenberg, and Lynn voted in favor of reporting for HB 241, Version 26-LS0680\S, Kane, 2/15/10, as amended, out of committee with individual recommendations and the accompanying fiscal notes. Representatives Seaton, Wilson, and Petersen voted against it. Therefore, the proposed committee substitute (CS) for HB 241, Version 26-LS0680\S, Kane, 2/15/10, as amended, failed to be reported out of committee by a vote of 3-3.

REPRESENTATIVE GRUENBERG moved to form a subcommittee.

REPRESENTATIVE GATTO objected.

REPRESENTATIVE GRUENBERG withdrew the motion to form a subcommittee.

HB 292-GRANTS TO DISASTER VICTIMS

[9:43:07 AM](#)

CHAIR LYNN announced that the final order of business was HOUSE BILL NO. 292, "An Act relating to grants to victims of a disaster in this state; and providing for an effective date."

[9:43:43 AM](#)

McHUGH PIERRE, Deputy Commissioner/Chief of Staff, Office of the Commissioner/Adjutant General, Department of Military & Veterans Affairs, presented HB 292 on behalf of the House Rules Committee, sponsor by request of the governor. He said the department gives out two disaster-related grants. One is for public assistance, for example, to cover public utilities or

city infrastructure after a declared disaster. The other grant is given to individual households and has a cap of \$5,000. That cap has not changed since 1977. Mr. Pierre noted that \$5,000 in 1977 is equal to \$18,000 in 2010. The proposed bill would adjust the amount of the cap to connect it with the consumer price index; it would be half of what the federal government gives out during a disaster, which he opined is a reasonable amount of money. Mr. Pierre deferred to Mr. O'Hare for further details.

[9:45:26 AM](#)

MIKE O'HARE, Deputy Director, Division of Homeland Security/Emergency Management, Department of Military & Veterans Affairs, offered information regarding HB 292, on behalf of the House Rules Committee, sponsor by request of the governor. He stated that the proposed legislation would modernize the individual assistance grant program to the current economy. He said the department set up a multi-agency task force to determine what, if any, increase is needed. The [task force] was comprised of a diverse group of individuals, including those from: the Department of Commerce, Community, & Economic Development, the Department of Health and Social Services, Alaska Voluntary Organizations Active in Disaster (AKVOAD), the Alaska Housing Finance Corporation, the American Red Cross, the United States Department Agriculture (USDA), and rural organizations. The model formulated by the task force would make the grant cap half of the federal individual assistance, which fluctuates with the economy through the consumer price index. Currently, the maximum for the federal individual assistance grant is approximately \$30,000; therefore, the proposed grant from the State of Alaska would be approximately \$15,000.

[9:47:37 AM](#)

MR. O'HARE said this proposed legislation came about after the devastating floods in Interior Alaska in 2009, which affected 40 communities along the Yukon-Kuskokwim Rivers. These residents, he reported, received federal individual assistance up to the \$30,000 maximum. He said there were approximately 30 victims of the disaster in those communities who were not eligible because they were not in that federally declared zone, and all the State of Alaska was able to give those people was \$5,000, which was insufficient. Mr. O'Hare reiterated that under the proposed legislation, during a state-declared disaster, the governor would be allowed to provide up to half the [amount of the

federal] individual assistance grant program to those affected in the disaster.

[9:48:39 AM](#)

MR. PIERRE emphasized that the state adheres to a strict and stringent process by which it hands out the grant money. For example, people are not automatically given the maximum amount. Of the households affected in a disaster, about 30 percent receive the maximum allowable amount, which Mr. Pierre reiterated is currently \$5,000. He explained that the money is given in an effort to get people back on their feet to rebuild their homes and lives. He offered further details related to the determination of how much money a person is awarded. A person who has money in the bank and is prepared for a disaster may not receive any money at all, for example.

[9:49:36 AM](#)

MR. O'HARE said the department interviews victims and reviews photographs to determine whether the victim does not have the capability to make him/herself whole again without financial help.

[9:50:24 AM](#)

REPRESENTATIVE GRUENBERG related his understanding that there have been no claims under the state fund since the first of 2010. He then opined that it is not enough to increase the amount given by the state to one half of that given by the federal government. He said the people who need money have been "wiped out" and are left with nothing. He asked why the cap is proposed to be half, and he said he is prepared to offer an amendment to increase the amount to "the maximum."

[9:51:12 AM](#)

MR. O'HARE answered that the concept of state declared disaster is "a smaller version of a federally declared disaster." Furthermore, state declared disasters happen more often. He stated that the concept of giving money is an opportunity to help in part of the process of a victim being whole again.

[9:52:09 AM](#)

MR. PIERRE added that the money the state pays comes through its disaster relief fund, which is not supported by the federal

government. It would not be until a federal disaster is declared that the State of Alaska would receive federal support, and then it would be federal dollars that would be given as individual assistance to the victims. He stated, "A household ... could not double-dip."

REPRESENTATIVE GRUENBERG remarked that the fiscal note is about \$600,000.

[9:52:57 AM](#)

MR. O'HARE, in response to Representative Gruenberg, said the fiscal note is speculative, because disasters cannot be anticipated. He said the fiscal note reflects the increase from the original \$5,000 to an approximate \$15,000. He indicated that in one disaster, only 30-35 percent of applicants qualified for the maximum \$5,000. The aforementioned taskforce has said the best model to follow would be half of the federal amount.

[9:54:46 AM](#)

MR. PIERRE, in response to Representative Gruenberg, emphasized that the numbers of disaster victims affected would not be changed by the proposed legislation. The numbers showing on the fiscal note, he said, have been a good average since 2002. He said changing the amount of the state's grant cap to equal that of the federal grant would double the fiscal note. He related that Alaska experiences 5-6 state disasters per year, and he reiterated that not all of those disasters are eligible for federal assistance. To illustrate his point, Mr. Pierre relayed that in 2009, there were two disasters declared by the President of the United States, while Alaska declared 3-4 state disasters. Mr. Pierre stated that the one federally declared disaster was a mud slide in Kodiak that was "not eligible for individual assistance" - it was "only a public assistance disaster."

MR. PIERRE explained that in some disasters, only public assistance - for roads and utilities - is awarded; public assistance, he reminded the committee, is not awarded for damage of individual homes. The bill addresses those who have experience damage to their homes. He said the department heavily emphasizes being proactive with the community and lending a hand, rather than a full handout. He said there are representatives from the department who travel to communities that typically experience flooding to ask residents if they have

followed prevention tactics. The emphasis is in ensuring the safety of these people.

[9:57:22 AM](#)

MR. PIERRE, in response to Representative Seaton, confirmed that the fiscal note reflects the difference between the current average and the proposed amount.

MR. O'HARE, in response to Representative Seaton, related that in the past two-three years, the Alaska State Legislature had the vision to forward-fund the disaster relief fund. Currently, there are approximately \$100,000 left in that fund. He added that the department must obtain permission from the legislature to spend more than \$1 million per disaster. The department has "a very good measure of capping expenditures" and a responsibility to provide its finance plan to the legislature.

[9:59:27 AM](#)

MR. PIERRE, in response to a concern expressed by Representative Gatto, said the state is not discriminating between rural and urban residents. He explained that there are two types of disasters described in statute: AS 26.26, which addresses natural disasters, and AS 26.44, which addresses economic disasters. He said economic disasters are handled by the Department of Commerce, Community, & Economic Development. Communities that experience disaster file a declaration to the state. The state analyzes the declaration, and, if warranted, holds a disaster policy cabinet to determine whether or not to declare a state disaster based on the local response. The state would ask the federal government for help once it has spent all its resources.

MR. O'HARE, in response to a hypothetical example of a chemical spill disaster offered by Representative Gatto, echoed Mr. Pierre's outline of the steps that would be taken, first by the community, next by the state, and finally by the federal government, as necessary. He stated, "What we're talking about here is ... individual assistance for the recovery of the disaster." If the chemical spill had resulted in the death of family members, the state could give money to help pay for funeral costs. If the hypothetical spill had affected the homes, the grant money could be applied.

[10:03:46 AM](#)

CHAIR LYNN announced that HB 292 was held over.

10:04:24 AM

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:04 a.m.