

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

April 9, 2009

9:01 a.m.

MEMBERS PRESENT

Senator Linda Menard, Chair
Senator Kevin Meyer, Vice Chair
Senator Hollis French
Senator Albert Kookesh
Senator Joe Paskvan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 37

"An Act relating to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred compensation program for state employees in companies that do business in Sudan, and restricting those investments."

MOVED CSSB 37 (STA) OUT OF COMMITTEE

HOUSE BILL NO. 170

"An Act repealing the authority for day fines."

MOVED HB 170 OUT OF COMMITTEE

HOUSE BILL NO. 139

"An Act providing for an exception to allow drivers of public utility motor vehicles to operate those vehicles with certain screen devices operating and visible to the drivers."

MOVED HB 139 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 37

SHORT TITLE: DIVEST INVESTMENTS IN SUDAN

SPONSOR(S): SENATOR(S) FRENCH

01/21/09	(S)	PREFILE RELEASED 1/9/09
01/21/09	(S)	READ THE FIRST TIME - REFERRALS
01/21/09	(S)	WTI, STA, FIN
04/03/09	(S)	WTI RPT 4DP

04/03/09 (S) DP: MCGUIRE, WIELECHOWSKI, STEVENS,
FRENCH

BILL: HB 170

SHORT TITLE: REPEAL AUTHORITY FOR DAY FINES

SPONSOR(S): REPRESENTATIVE(S) CHENAULT

03/09/09 (H) READ THE FIRST TIME - REFERRALS
03/09/09 (H) JUD
03/27/09 (H) JUD RPT 2DP 3NR
03/27/09 (H) DP: LYNN, RAMRAS
03/27/09 (H) NR: GRUENBERG, COGHILL, DAHLSTROM
04/02/09 (H) TRANSMITTED TO (S)
04/02/09 (H) VERSION: HB 170
04/03/09 (S) READ THE FIRST TIME - REFERRALS
04/03/09 (S) STA, JUD

BILL: HB 139

SHORT TITLE: ALLOW SCREEN DEVICES IN UTILITY VEHICLES

SPONSOR(S): REPRESENTATIVE(S) GATTO

02/18/09 (H) READ THE FIRST TIME - REFERRALS
02/18/09 (H) STA, JUD
03/10/09 (H) STA AT 8:00 AM CAPITOL 106
03/10/09 (H) Moved Out of Committee
03/10/09 (H) MINUTE(STA)
03/12/09 (H) STA RPT 4DP 1NR
03/12/09 (H) DP: SEATON, GRUENBERG, PETERSEN, LYNN
03/12/09 (H) NR: JOHNSON
03/30/09 (H) JUD RPT 3DP 1NR
03/30/09 (H) DP: LYNN, GRUENBERG, RAMRAS
03/30/09 (H) NR: DAHLSTROM
04/03/09 (H) TRANSMITTED TO (S)
04/03/09 (H) VERSION: HB 139
04/06/09 (S) READ THE FIRST TIME - REFERRALS
04/06/09 (S) STA

WITNESS REGISTER

PAT GALVIN, Commissioner
Department of Revenue (DOR)
Juneau AK

POSITION STATEMENT: Spoke in support of SB 37.

MICHAEL BURNS, Executive Director
Alaska Permanent Fund Corporation
Juneau AK

POSITION STATEMENT: Spoke in support of SB 37.

AMY KEARNS, Member
Save Darfur Anchorage
Wasilla AK

POSITION STATEMENT: Spoke in support of SB 37.

DEBORAH BOCK, Member
Save Darfur Anchorage
Anchorage AK

POSITION STATEMENT: Spoke in support of SB 37.

BILL LEIGHTY, Business Owner
Juneau AK

POSITION STATEMENT: Spoke in support of SB 37.

STEVE WOLF
Retired Teacher
Juneau AK

POSITION STATEMENT: Spoke in support of SB 37.

REPRESENTATIVE MIKE CHENAULT
Alaska State Legislature
Juneau AK

POSITION STATEMENT: Presented HB 170 as sponsor.

TOM WRIGHT, Staff
to Representative Chenault
Alaska State Legislature
Juneau AK

POSITION STATEMENT: Provided information on HB 170 on behalf of the sponsor.

DOUG WOOLIVER, Administrative Attorney
Alaska Court System
Juneau AK

POSITION STATEMENT: Spoke in support of HB 170.

ALLISON LAFFEN, Staff
to Representative Gruenberg
Alaska State Legislature
Juneau AK

POSITION STATEMENT: Presented HB 139 on behalf of the sponsor.

CURTIS THAYER
ENSTAR Natural Gas
Anchorage AK

POSITION STATEMENT: Spoke in support of HB 139.

ACTION NARRATIVE

9:01:19 AM

CHAIR LINDA MENARD called the Senate State Affairs Standing Committee meeting to order at 9:01 a.m. Senators French, Paskvan, Meyer, and Menard were present at the call to order. Senator Kookesh arrived later.

SB 37-DIVEST INVESTMENTS IN SUDAN

9:02:07 AM

CHAIR MENARD announced the consideration of SB 37.

SENATOR MEYER moved to adopt the proposed committee substitute (CS) to SB 37, labeled 26-LS0240\R, as a working document. There being no objection, Version R was before the committee.

9:03:10 AM

SENATOR FRENCH said the idea of divesting from Sudan has been around since 1997 when the U.S. government imposed sanctions against Sudan. Many states and public entities have decided they can no longer, in good conscience, invest in companies who work in Sudan. Investing money in these companies helps the Sudanese government wage war against its own people. SB 37 gets Alaska's permanent fund out of companies that do business in Sudan that help enable and finance that government in systematically killing thousands and thousands of their own people. There was resistance to this bill last year, mainly based on the idea that the investment world should be in the investment world, and social efforts to change the world should be separate. He feels that there has been progress in convincing the administration that "you can do both." Genocide is different from tobacco, alcohol, and other social ills. There is concern for a slippery slope of divesting from "a nation you don't like, like Iraq or North Korea." But a bright line can be drawn around the topic of genocide. This CS adopts the administration's preferred mechanism for achieving this goal. He appreciates the efforts by the administration.

9:05:53 AM

SENATOR MEYER said he is concerned that the state is going down a slippery slope. How is this different from being concerned about pharmaceutical companies that sell the morning-after pill or tobacco companies that kill thousands of people every year? "You almost get into a value judgment."

SENATOR FRENCH said the systematic killing of a group of human beings by a government is clearly distinct from issues that we may disagree on, such as selling alcohol to minors or selling tainted pharmaceutical products in third world countries. The United Nations, former President Bush, and the U.S. Congress have declared this as genocide, and so "we're in a different moral realm here." The world is nothing but slippery slopes, and every day people make judgments and draw lines. This is unique and is the right thing to do.

[9:08:12 AM](#)

SENATOR MEYER said he appreciates that explanation. The bill becomes effective in 90 days, and the board has said it will stop investing in these companies. Alaska may be losing thousands of dollars by giving the board a timeline. A gradual process, which seems to be happening anyway, might work better.

PAT GALVIN, Commissioner, Department of Revenue (DOR), said the administration is in favor of SB 37. It opposes the activities in Sudan, and it is important for the state to join the chorus of those who recognize the moral imperative to stop the genocide. One thing the state can do is stop investing in the companies that support those activities. Last year, in the same committee, he spoke on Sudan for the first time for the governor. "We were very clear that the governor and the administration supports the concept of divestiture." There were some issues with that bill, and he had asked for an opportunity to work on them. During the interim the administration crafted this CS that divests in a way that avoids the unintended costs of a broad brush approach. He said the administration looked for the things the state could do within its existing authority. The bill also applies to investments under the Department of Revenue and the Alaska Retirement Management (ARM) board. He found that this could not happen with current statute. Even if those three entities wanted to implement a divestiture policy similar to SB 37, "we do not currently have the authority to do so." All decisions had to be based on investment value, hence the bill.

[9:12:05 AM](#)

COMMISSIONER GALVIN said the question of the slippery slope has come up. The administration attempted to isolate the issue of genocide from other types of social investing. This is an unprecedented situation where the United Nations, the State Department, and Congress have labeled the genocide. It is not an issue that is subject to debate. There is unified agreement. The bill focuses divestiture on those investments that the boards or

the commissioner of DOR have control over. "The things that we can mandate are divested from certain companies." Previous versions had a broad brush into investments that "we don't control that closely in terms of the individual companies that may be invested." That would have left them unable to use investment vehicles the state couldn't control, whether they invested in Sudan or not.

[9:14:25 AM](#)

COMMISSIONER GALVIN said the bill exempts those investment vehicles that the state can't control, but he doesn't anticipate that those will have Sudanese-related investments. The CS has support from the permanent fund and ARM boards. Both passed resolutions supporting divestiture in a manner consistent with the bill introduced by the governor, which is consistent with SB 37. The requirement for divestiture within 90 days can be complied with. The structure of the bill is to allow it to be done in a fairly routine manner by the accounting staff. It can be incorporated into normal daily compliance implementation. It can just work into their routines.

SENATOR MEYER said markets are down worldwide, and the state may suffer a loss if it has to be out of these companies in 90 days. He suggested changing the 90-day period to a year. "Would that meet the same purpose of trying to get out of these investments, but yet do it over a gradual period of time so that, hopefully, we don't lose quite as much money?"

[9:17:27 AM](#)

COMMISSIONER GALVIN said he doesn't anticipate that the amount divested will be significant. "Generally we don't participate in a timing issue with regard to individual holdings." They don't hold something with an anticipation of it going up. The 90-day term will not result in a significant risk of a loss.

SENATOR MEYER said the bulk of the state investments will be in the permanent fund. What companies are doing business in Sudan?

COMMISSIONER GALVIN said it is a small number. He has a list of four companies with about \$3.5 million in investments as of December. He is referring only to the ARM board in the DOR, and that is out of \$20 billion in investment. The administration is attempting to have the accounting system implement the divestments, not the managers. "The decision to insure that we don't have any money invested in a particular stock would be one that would become automatic as opposed to one where you would

just be saying, 'Well, let's sell this one next week because I hear something or other.'

9:21:19 AM

MICHAEL BURNS, Executive Director, Alaska Permanent Fund Corporation, Juneau, said this has been a difficult issue for the board for a number of years. "We have a history of being against social investing." The situation in Darfur rises above that in everybody's mind. The other side has always been the slippery slope, and where it may stop. This bill gives friction to that slope with its very tight definition. It has been defined by the U.S. government and international organizations, and it is a specific geography. The bill takes the board out of the decision of which companies should be on the divesting list. His board's tasks are investment policy, risk management, and asset allocation. The legislature's job is to create the public policy. If this is public policy and a list is given to the board, it is absolutely fine. He doesn't want the board meetings taken up with trying to decide what company should be on the list. The commissioner will be responsible for creating the list, and his job will be to enforce it. He doesn't know how much will be divested because there is not yet a list. Different organizations have different lists, but it will not involve a lot of money. He retracted that and said it is a lot of money, but not in the scale of the portfolio. It is probably less than \$20 million depending on what companies are on the list.

9:24:45 AM

SENATOR MEYER said he is surprised because Mr. Burns was adamantly against this bill last year. Mr. Burns mentioned some changes in the bill. What are those changes?

MR. BURNS said the language change includes the tight definition and the defined geography. Most importantly, his board will not be making the decision. The accounting or compliance staff can do the work. The department will come up with the list and notify those on the list to allow them to rebut the claims. It will just be a matter of compliance. The board has many tasks, and an emotional debate is not a good use of its time.

9:26:47 AM

SENATOR MEYER said the legislature has intervened in the past regarding investing in futures, commodities, and other high-risk items. "It just seems like it makes your job that much more difficult when we go out there and say, 'Maximize the return to our shareholders ... but only invest here, here, and here.'" If Mr. Burns doesn't think this bill is tying his hands, "then I'm

fine with it." If the goal is to get out of Sudan, maybe the state could do it gradually to save a few thousand dollars.

MR. BURNS noted the issue of market timing. It could cost the state money, but it could actually be the very best day to sell. He thanked the legislature for untying the board's hands in 2005 regarding the statutory investment list. "We think we've been able to make some progress." The market has moved against it, but there is a better structure. "We still have a lot of things we don't do by policy." He noted bond ratings and concentrations in any stock. This is another compliance issue that the staff can do, but the board is not creating the threshold for being in or out. That takes time and is where the costs would be buried. Enforcing a rule is not expensive, but being the decider is.

[9:29:41 AM](#)

SENATOR FRENCH thanked Mr. Burns for bringing his skills to this. With his help something can be done.

SENATOR PASKVAN said this comes down to state policy on genocide. Over 10 years ago the federal government determined that genocide was occurring. The state has not taken any action in those 10 years. "I am willing for the state of Alaska to lose money to make clear its opposition to proven genocide." The market timing issues are irrelevant. He said he would even cleanse the funds of the 10 years profit from the genocide.

CHAIR MENARD said this bill intends to send a strong message.

[9:31:34 AM](#)

AMY KEARNS, Member, Save Darfur Anchorage, Wasilla, said her group has been working with the legislature to get this bill passed. She thanked the legislators for introducing the bill and for the CS that eliminates a fiscal note. Passing this is more critical now with recent events in Sudan with aid workers being ousted from the country. The people of Darfur now have even less protection. There are people living in Alaska from Darfur who fled because of the genocide. Some of the atrocities are truly horrific. She suggested taking a moment to think about those events. Women in refugee camps have to make a decision to go get firewood knowing that men are waiting to rape them. Men would be killed if they were to go get the firewood. This is so far from our personal experiences. The United States turned its back on the Rwanda genocide of 1994. George Bush said, "Not on our watch." "We have an obligation to fulfill that promise."

[9:35:11 AM](#)

DEBORAH BOCK, Member, Save Darfur Anchorage, Anchorage, said her group has spoken with hundreds of Alaskans about the genocide and have yet to meet a single private citizen who does not support immediate divestment from Sudan. Two dozen people from Darfur have been resettled in Anchorage by the state department. They are strong advocates for divestment. Those few members of the legislature who are opposed are out of touch with constituents.

BILL LEIGHTY, Business Owner, Juneau, said he would like to speak to Senator Meyer's concerns. About 20 years ago he listened to a prosecutor from the Nuremburg trials speak about the quandary of what kind of punishment was appropriate for people who were responsible for the murder of millions. He came to the conclusion that the only thing humans could do was to ask that international law be so firm and so powerful that this behavior is prevented in the future. It has been inadequate; we still have genocide in several places in the world. It is impractical to go to Sudan or to prevent China from buying oil from Sudan. It seems like SB 37 is all that Alaskans can do. The root causes for markets being down is the lack of attention to the larger context in which these markets operate. We thought, in our splendid isolation, that everything was under control. So we are suffering in international matters like the genocide. In lacking any other punishment, pass this bill. It is financial tokenism, but it is an important matter of principle.

[9:39:32 AM](#)

STEVE WOLF, Juneau, said he is a retired teacher. He applauded Senator French's testimony. He appreciates Senator Meyer's concerns. When his high-minded teenaged son comes home from college, he would like to tell him Alaska divested from Darfur.

SENATOR FRENCH moved to report the CS to SB 37, labeled 26-LS0240\R, from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 37(STA) moved out of committee.

[9:41:20 AM](#)

The committee took a brief at-ease.

HB 170-REPEAL AUTHORITY FOR DAY FINES

[9:45:00 AM](#)

CHAIR MENARD announced the consideration of HB 170.

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, said HB 170 repeals the authority for day fines, which were called for in HB 119 that passed in 1994. The court system created a committee to establish the fine schedule, but it found several problems with the implementation of the fine and recommended that the legislature solve the problems. Those problems included not knowing what misdemeanors were included; time delays associated with the judge making written findings; determining defendant income; conflicts with ordering substance abuse treatment; concerns over the levels of fines; and the time allowed to pay the fines. Legislation was introduced, but not passed, that addressed the court's issues with the day fines. Without the changes, courts cannot implement the day-fine provisions. Occasionally there is a law that doesn't work, and it is the duty of the legislature to eliminate it.

[9:47:57 AM](#)

SENATOR FRENCH asked about the original intent of the bill's sponsor. Was it to create bigger fines and less jail time?

TOM WRIGHT, Staff, to Representative Chenault, Alaska State Legislature, said the original bill was introduced by Representatives Foster and Ulmer. The intent was to rectify some problems, and the court made recommendations that never worked.

SENATOR FRENCH said, "That was my read of their report. Their report back was sort of like a throwing up of their hands. We can't make this work unless the legislature takes more action. It's never happened." He prosecuted a lot of misdemeanors for six years, and he never saw a day fine imposed. They are sitting on the books taking up space. It is good to reduce the clutter.

[9:49:36 AM](#)

SENATOR KOOKESH asked what a day fine is.

MR. WRIGHT said there is a definition from 1993. Day fines are also called structured fines or unit fines. They are immediate sanctions that allow the court to fine an offender based on the type of offense and offender's ability to pay. It is based on a person's gross daily income.

CHAIR MENARD said the word is misleading to the general public.

DOUG WOOLIVER, Administrative Attorney, Alaska Court System, said the court doesn't take positions on substantive legislation, but it has no objection to removing a statute that hasn't ever worked.

[9:51:28 AM](#)

SENATOR MEYER moved to report HB 170 from committee with individual recommendations and attached fiscal note(s). There being no objection, HB 170 moved out of committee.

The committee took a brief at-ease.

[9:52:08 AM](#)

HB 139-ALLOW SCREEN DEVICES IN UTILITY VEHICLES

[9:53:08 AM](#)

CHAIR MENARD announced the consideration of HB 139.

ALLISON LAFFEN, Staff to Representative Max Gruenberg, Alaska State Legislature, said her office has been working with Representative Gatto on HB 139. It corrects an oversight in HB 88 of 2008, which prohibits vehicle drivers from having a screen device operating within their view when the car is in motion. Exceptions were made for cell phones, GPS devices, and for the Department of Transportation, but it failed to make an exception to public utility companies. These companies need screen devices for data acquisition and to receive emergency information.

CURTIS THAYER, ENSTAR Natural Gas, Anchorage, said ENSTAR supports HB 139, which will clarify statute. Public utilities use data acquisition in meter readings and for gas leaks and fire. Municipal Light and Power, Chugach Electric, and Golden Valley Electric support HB 139. "We believe it was just an oversight last year when the original bill was passed."

SENATOR FRENCH asked if the bill stopped the company from using the screen devices.

MR. THAYER said it did not, but a clarification is needed. The vehicles drive slowly down the street and electronically receive meter information. If there is a discrepancy the van will pull off and check the meter.

[9:57:25 AM](#)

SENATOR FRENCH asked if the company has received any tickets.

MR. THAYER said no.

SENATOR MEYER said it is frustrating to have to pass a bill to correct one passed last year. Are there other screen device users to be addressed, like the Anchorage Police Department?

MS. LAFFEN said she is not aware of any others.

SENATOR MEYER moved to report HB 139 from committee with individual recommendations and attached fiscal note(s). There being no objection, HB 139 passed out of committee.

9:59:12 AM

The meeting was adjourned at 9:59 a.m.