

**ALASKA STATE LEGISLATURE**  
**JOINT COMMITTEE ON LEGISLATIVE BUDGET AND AUDIT**

April 8, 2002

6:05 p.m.

**MEMBERS PRESENT**

Senator Gene Therriault, Chair  
Senator Randy Phillips  
Senator Gary Wilken

Representative Hugh Fate, Vice Chair  
Representative Eldon Mulder  
Representative John Harris  
Representative Ken Lancaster

**MEMBERS ABSENT**

Senator Jerry Ward  
Senator Lyman Hoffman  
Senator Dave Donley

Representative Reggie Joule  
Representative John Davies, alternate  
Representative William K. "Bill" Williams

**OTHER LEGISLATORS PRESENT**

Senator Ben Stevens  
Representative Lisa Murkowski

**COMMITTEE CALENDAR**

APPROVAL OF MINUTES  
EXECUTIVE SESSION  
AUDIT REPORTS  
OTHER COMMITTEE BUSINESS

**ACTION NARRATIVE**

TAPE 02-3, SIDE A  
Number 0001

CHAIR GENE THERRIAULT called the Joint Committee on Legislative Budget and Audit meeting to order at 6:05 p.m. Members present at the call to order were Senators Phillips, Wilken, and

Therriault, and Representatives Fate, Harris, and Lancaster. Representative Mulder arrived as the meeting was in progress.

**APPROVAL OF MINUTES**

Number 0053

REPRESENTATIVE FATE moved to approve the minutes from the March 18, 2002, meeting. There being no objection, the minutes were approved as read.

**EXECUTIVE SESSION**

Number 0100

REPRESENTATIVE FATE made a motion to move to executive session for the purpose of discussing confidential audit reports under AS 24.20.301. There being no objection, the committee went into executive session at 6:06 p.m.

Number 0203

REPRESENTATIVE FATE made a motion to bring the committee back into regular, open session. There being no objection, the committee returned to regular session at 6:45 p.m.

**AUDIT REPORTS**

Number 0205

REPRESENTATIVE FATE moved to release the final audit for the Department of Labor & Workforce Development State Training and Employment Program to the public. There being no objection, the final audit was released to the public.

Number 0230

CHAIR THERRIAULT told the committee that there was a question of whether SB 252 "had an extension of the repealer." The governor's bill removes the sunset date, he noted, and puts the program into statute permanently.

**OTHER COMMITTEE BUSINESS**

Number 0300

CHAIR THERRIAULT said there were resolutions in both bodies [of the legislature] dealing with the POV [percent of value] method of payout from the Alaska Permanent Fund. In the [House State Affairs Standing Committee meeting] of the prior week, Representatives Croft and Crawford had introduced amendments to the proposed constitutional amendment that would enshrine the dividend into the constitution. He said the issue of the tax consequences of that had come up in the [Senate State Affairs Committee].

CHAIR THERRIAULT said he had spoken with Senator Halford about going back to the Washington, D.C., law firm with which the [Alaska Permanent Fund Corporation's] trustees contract, in order to get a clarification and update on the legal memos regarding the tax implications of the dividend, and whether the dividend could be guaranteed. He added that after talking to the trustees, he'd concluded it would be a fairly lengthy process, and it would likely exceed the \$25,000 authorization he was allowed as chairman. He asked the committee if members would feel comfortable allowing him to spend more than \$25,000 to answer those questions.

Number 0445

SENATOR PHILLIPS asked if it would be possible to get the advice of the Alaska Permanent Fund Corporation (APFC), which has already been on record saying [a constitutional amendment] could possibly negate the tax-exempt status of the principal of the Alaska Permanent Fund.

CHAIR THERRIAULT said he felt the APFC was happy with that interpretation, but he did not think it would want to raise any questions that might jeopardize that interpretation, because they have effectively been able to say, "We can't do that; there [are] going to be Internal Revenue Service implications." He said he did not know if [the APFC's conclusion] was true. The question might not have been put to the law firm in such a way as to get a clear answer, he suggested.

SENATOR PHILLIPS said the public has great faith in the APFC, and why not just take it at its word until that is challenged? He said enshrining the dividend in a constitutional amendment was new to him.

CHAIR THERRIAULT stated that the issue of whether [enshrining the dividend in statute] is possible keeps coming up. There is no memo from the legal experts one way or the other.

[Legislative Legal and Research Services Division] has said the issue is in a realm it does not deal with, and will not give an opinion.

Number 0629

SENATOR PHILLIPS referred back to a question he'd asked "the permanent fund corporation's lawyer" during a [Senate State Affairs Committee] meeting, when he requested the "Jimmy the Greek odds" on the matter. Senator Phillips recalled the lawyer's answer to be a "90 percent chance that that would not make it."

CHAIR THERRIAULT cited the Washington, D.C., law firm's memo that states it is clearly not a matter of 90 percent.

Number 0656

REPRESENTATIVE MULDER contributed to the discussion by stating, "It seems we've had this conversation" on and off the record with [APFC] as well. Much of it seems to be fairly confidential, he said, and it seems it would need to be a confidential report as well, or a legal memo. [The legislature's] having its own legal opinion would jeopardize that position. He said the only reason he could see asking the question was if "anyone would be foolish enough to consider enshrining this thing in the constitution."

SENATOR PHILLIPS remarked that there would be people trying to do it.

Number 0802

REPRESENTATIVE FATE moved to approve authorization for the chairman to enter into a contract for legal tax advice regarding the permanent fund dividend.

Number 0819

An unidentified member objected to the motion.

Number 0825

SENATOR WARD asked if an amount was ever stated. He asked why it would cost over \$25,000.

CHAIR THERRIAULT said the legal firm is the one the trustees contract with through the Department of Law. He said he thought the figure to be somewhere between \$25,000 and \$50,000.

SENATOR PHILLIPS asked if there was a time crunch for the decision. He suggested holding the issue until the next meeting in order to think about it.

CHAIR THERRIAULT commented that he did not want to push the matter, but it seems to be an issue that keeps being brought up. He said the memos that have been received are anything but clear. He pointed to other states' having tax-exempt approval from the Internal Revenue Service; he said Alaska has a much stronger case.

SENATOR WARD said he was not opposed [to obtaining an outside legal opinion], but it would be just that: an opinion. An opinion would not come from the Internal Revenue Service until it makes a ruling. He said he would like to see some more information on the law firm.

CHAIR THERRIAULT said he could track down some information on what the content of the legal opinion would include.

SENATOR WARD suggested that in the course of researching the matter, it might be found that the legal services could be received for less than \$25,000 because the firm may have already done the work.

REPRESENTATIVE FATE withdrew his motion.

#### **ADJOURNMENT**

There being no further business before the committee, the Joint Committee on Legislative Budget and Audit meeting was adjourned at 6:56 p.m.