

HOUSE FINANCE COMMITTEE

April 6, 2017

1:35 p.m.

1:35:47 PM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 1:35 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Les Gara, Vice-Chair  
Representative Jason Grenn  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Dan Ortiz  
Representative Lance Pruitt  
Representative Steve Thompson  
Representative Cathy Tilton  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Paul Labolle, Staff, Representative Neal Foster; Kevin Worley, CFO -Division of Retirement and Benefits, Department of Administration; Kathie Wasserman, Executive Director, Alaska Municipal League, Anchorage; Laura Stidolph, Staff, Representative Adam Wool; Heather Fair, Chief of Right-of-Way, Department of Transportation; Representative Scott Kawasaki, Sponsor; Kaci Schroeder, Assistant Attorney General, Criminal Division, Department of Law; Representative Zach Fansler, Sponsor; Paloma Harbour, Admin Services Director, Department of Labor; Jerry Burnett, Deputy Commissioner, Treasury Division, Department of Revenue.

PRESENT VIA TELECONFERENCE

Jon Korta, Mayor, City of Galena, Galena; Shanda Huntington, City Manager/Clerk - City of Galena, Galena; Hilary Martin, Legislative Legal, Juneau.

SUMMARY

HB 47 MUNICIPAL PERS CONTRIBUTIONS/INTEREST

HB 47 was HEARD and HELD in committee for further consideration.

HB 127 CRIM. CONV. OVERTURNED: RECEIVE PAST PFD

HB 127 was HEARD and HELD in committee for further consideration.

HB 131 RELOCATION ASSISTANCE FOR FED. PROJ/PROG

HB 131 was HEARD and HELD in committee for further consideration.

HB 141 AK WORKFORCE INVESTMENT BOARD; FUNDS

HB 141 was REPORTED OUT of Committee with a "do Pass" recommendation and with three new fiscal impact notes from Department of Labor and Workforce Development and with two previously public fiscal notes: FN1 (EED) and FN4 (UA).

Co-Chair Foster reviewed the agenda for the day.

#hb47

HOUSE BILL NO. 47

"An Act requiring certain municipalities with a population that decreased by more than 25 percent between 2000 and 2010 that participate in the defined benefit retirement plan of the Public Employees' Retirement System of Alaska to contribute to the system an amount calculated by applying a rate of 22 percent of the total of all base salaries paid by the municipality to employees of the municipality who are active members of the system during a payroll period; authorizing the administrator of the defined benefit retirement plan of the Public Employees' Retirement System of Alaska to reduce the rate of interest payable by certain municipalities that are delinquent in transmitting employee and employer contributions to

the retirement plan; and providing for an effective date."

Co-Chair Seaton invited Co-Chair Foster to join his staff at the table to present his bill.

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PAUL LABOLLE, STAFF, REPRESENTATIVE NEAL FOSTER, read the sponsor statement:

HB 47 seeks to correct an unintended consequence of the PERS "salary floor" established in SB 125 of the 25th Legislature.

SB 125 changed the PERS system from a multiple employer plan to a cost share plan. It transferred the individual liability of the 160 PERS employers and consolidated it so that all the employers share in that liability.

SB 125 also created what is commonly referred to as the 2008 salary floor. This requires employer's contribute 22% of annual salaries or 22% of FY08 salaries, whichever is greater. The floor was instituted to ensure that the system could not be "gamed" by discouraging employers from replacing PERS employees with contract hires to reduce their base contribution to the system.

Some municipalities have found themselves under the 2008 floor through no fault of their own. A large change in population results in a reduced tax base, which affects the services a city can provide. As that financial reality drives a city to downsize, current law exacerbates this problem by keeping their PERS contribution at the 2008 level. This bill targets the communities whose population has dropped by more than 25% since the previous census.

HB 47 will address this issue in two ways:

1. Establish a new floor of FY 2012 for communities whose population decreased by more than 25% between 2000 and 2010.
2. Allows the PERS administrator to negotiate penalty interest rates on delinquent payments.

HB 47 does not intend to repeat the "2008 floor" debate but to correct one of the unintended consequences caused by the arbitrary line that debate created.

I urge your support of this legislation.

[1:40:22 PM](#)

Representative Wilson asked whether the bill opened the Public Employees' Retirement System (PERS) and Teachers Retirement System (TRS) to liability issue. Mr. Labolle responded that the bill would "slightly add to the unfunded liability," but eliminated "future exposure" because the qualification period was during a past census. Representative Wilson deduced that the municipalities' contribution would be reduced due to decreased population, but the state remained liable for the retirees, which represented the initial increase in liability. Mr. Labolle responded in the affirmative.

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Representative Ortiz asked Mr. Labolle to provide an example of how the legislation worked. Mr. Labolle used the example of a fish processing plant that closed in a village causing some residents to move away. He assumed that the villages 22 percent contribution rate was \$150 thousand, and the 2008 floor was \$100 thousand. After the plant closure, the villages 22 percent of gross salaries dropped to \$80 thousand, but the village was still statutorily required to pay the \$100 thousand floor. He continued that if the village continued to pay the gross salaries, but was unable to pay the floor amount, the remainder of the difference was considered a delinquent payment subject to a statutory 12 percent interest rate that accrued each year. He related that the state and municipality did not have options to mitigate the debt due to statute. The state was bound by law to charge the 12 percent assessment and indebted municipalities could not declare bankruptcy or dissolve. Representative Ortiz surmised that the bill "moved the floor to a later date, which would presumably be a less burdensome floor" when the population decrease was factored in. Mr. Labolle responded in the affirmative.

Co-Chair Foster pointed out that the situation Mr. Labolle provided was hypothetical. He indicated the committee would

hear testimony from a real situation in Galena where the military base closed.

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Representative Grenn referred to an email from the Division of Retirements and Benefits {Jim Puckett, Division Director (copy on file)} listing the communities that between 2000 and 2010 lost 25 percent of their population as; St. George, Galena, and Pelican. He asked for confirmation. Mr. Labolle responded that 5 communities qualified, but only the three Representative Grenn mentioned were affected. He noted that Atka was already paying above the floor. In addition, the community of Anderson had zero active PERS eligible employees [St. George was also listed.]

Representative Wilson wanted to understand the fiscal note. She reported that the state was required to pay \$129 thousand in the FY 2017 Supplemental Budget bill and an additional \$121 thousand in 2018.

Co-Chair Seaton asked Mr. Worley to come to the table.

[1:47:17 PM](#)

KEVIN WORLEY, CHIEF FINANCIAL OFFICER, DIVISION OF RETIREMENT AND BENEFITS, DEPARTMENT OF ADMINISTRATION, explained that the figures were estimates from the actuary based on the reduced floor that shifted the remaining liability to the state. Representative Wilson asked whether the state was required to deposit the stated amounts in the PERS and TRS funds. Mr. Worley responded that the figures would be an additional state contribution for PERS only.

Co-Chair Seaton asked whether the fiscal note satisfied the statutory requirement that an actuarial analysis was required. Mr. Worley responded in the affirmative.

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Co-Chair Seaton OPENED Public Testimony.

[1:49:35 PM](#)

JON KORTA, MAYOR, CITY OF GALENA, GALENA (via teleconference), spoke in favor of HB 47. He read from a prepared statement:

My name is Jon Korta. I am the mayor of Galena, Alaska. I would like to thank the committee for taking time today so that I may explain the importance of HB47 for communities like Galena that have seen significant population decreases in the last decade.

As you may know, the Galena Forward Operating Location was closed by the United States Air Force. As part of the BRAC process, the Galena FOL closure was effective October 1, 2010, but had been in process for four years. The Air Force base was the main source of employment for Galena residents. Not surprisingly, the base closure resulted in a reduction of the population. In 2000, Galena had 675 residents. In 2010, 470 residents, representing a 30% decline. Galena was again struck by hardship in spring of 2013 when ice dammed the Yukon River and inundated the City, leading to a disaster declaration.

The 2008 "Floor" established by the current law exists to prevent a municipality from gaming the PERS system by contracting out work previously performed by municipal employees in order to avoid making ongoing contributions to PERS. The current minimum PERS contribution is based on the level of salaries that existed in 2008. This purpose does not account for Galena's situation. It was not intended, nor does it contemplate, municipalities with sharply declining populations. HB 47 does not change the PERS policy, but rather recognizes nuance.

The amendment affects only communities that suffered a minimum 25% decline in population between 2000 and 2010, like Galena. To put that in perspective, the 25% threshold would represent the loss of 75,000 people from Anchorage or 8,000 people from Juneau. What would happen to Fairbanks if the Borough's population declined by 30,000, while at the same time seeing the closure of Eielson and Fort Wainwright? The demand for municipal administrative and public services would decline sharply; so would the municipality's ability to provide these services having lost the region's economic driver.

HB 47, which moves the floor year from 2008 to 2012 for the communities that experienced these huge losses, does not provide a "loophole" allowing Galena or any other community with a similar population loss

between 2000 and 2010 to "game" the system now or in the future. The 2008 floor for these communities is replaced with a 2012 floor. Galena's budgeted payroll for FY 2015 is above the 2012 amount for 17 employees.

Galena's circumstances are not a result of any choice the city made. The base closure and concomitant loss of close to 1/3 of the city's population was entirely involuntary. The relationship between a declining population and declining payroll is clear: fewer residents = fewer public employee = lower public payroll. Based on the 2008 floor, Galena is required to pay an amount owed by a city substantially larger than Galena. Galena's required PERS contribution approaches half of the City's entire payroll.

Galena's FY 2008 salary total was \$1,513,365.19 for 36 employees. Therefore, Galena's annual minimum PERS contribution is \$332,940. In FY 2012 Galena's payroll was \$765,776 for 17 employees. That is the year this amendment would move the floor to for cities that saw a 25% decrease in population between 2000 and 2010. Under the 2008 floor, Galena's annual minimum PERS contribution is nearly half of the City's entire payroll costs.

For Galena, the difference in PERS contributions between the 2008 "floor" and FY 2012 actual payroll is \$164,000. This difference will continue going forward creating an ever-increasing obligation. By statute, any amount unpaid accrues interest at 12%. This ever-increasing obligation adds to an already stressed situation. The City's financial situation was so severe in FY 2011 that it required a low interest loan through the Alaska Municipal Bond Bank to deal with a severe cash flow crisis that was preventing them from being able to secure fuel for heat and electricity. Simply put, if Galena cannot pay its bills, the lights go out in Galena.

The 2008 Floor is, overall, a sound piece of legislation, furthering sound policy, but it does not account for all situations. It does not account for cities that have suffered massive population contractions. This amendment furthers the underlying policy goals of the regulatory structure: It helps ensure that municipalities are able to continue

contributing to PERS, while recognizing that a city cannot, and should not, have to make the contribution of a city that has a significantly larger population. Recognizing that Galena is not the same city it was before the base closed and 30% of its population moved away is simply good policy, policy that helps ensure that Galena continues to contribute to PERS and that the lights stay on.

Recognizing the reality of sharply declining populations is a worthy amendment and is just plain fair.

Thank you for your time this morning. I would be happy to answer any questions you may have.

1:56:13 PM

SHANDA HUNTINGTON, CITY MANAGER/CLERK - CITY OF GALENA, GALENA (via teleconference), read a prepared statement:

My name Shanda Huntington and I am the city manager for Galena, Alaska. Before serving as the city manager, I served as the city clerk for 6 years. I was also born in Galena, grew up there, and raised my children in Galena. I would like to follow up on Mayor Korta's testimony with information relating to Galena's population decline, the base closure, and the effects on city payroll and finances.

As Mayor Korta said, the air force base officially closed in 2010, following a multi-year drawdown. In 1990, before base realignment, Galena's population was 847. Galena has always been a small city and the base was the driver of economic activity. According to the 2000 census, the number of residents, which does not include all of the Air Force personnel, was 675. That number had dropped to 470 with the 2010 census. 205 people may not sound like a lot, but it represents a 30% decrease in the city's resident population between the two censuses. 30% of residents moved away, but the decline in the city's economic activity was much greater. Without the base, the decline in demand for city services was disproportionate to the population decrease.

For FY 2008, the current floor year, Galena's salary total was \$1,513,365.19 for 36 employees. Therefore, Galena's annual minimum PERS contribution is \$332,940. In FY 2012, the amended floor year, Galena's payroll was \$765,776 for 17 employees. Between FY 2008 and FY 2012, Galena's payroll was cut in half, reflecting the decrease in population and in economic activity. Galena's current annual minimum PERS contribution of \$332,940 is nearly half of the City's FY 2012 total payroll costs. Allowing a floor year of 2012 for cities that experienced a drastic decrease in population changes Galena's annual minimum contribution to \$168,940.

For Galena, the difference in PERS contributions between the 2008 floor and FY 2012 actual payroll is \$164,000. This difference will continue going forward creating an ever-increasing obligation. By statute, any amount unpaid accrues compounded interest at 12%. This ever-increasing obligation adds to an already stressed situation. The City's financial situation was so severe in FY 2011 that it required a low interest loan through the Alaska Municipal Bond Bank to deal with a severe cash flow crisis that was preventing us from being able to secure fuel for heat and electricity. Simply put, if Galena can't pay its bills, the lights go out in Galena.

Reasonably adjusting the floor year for severely impacted cities does not mean that the cities will pay the minimum amount only. Modifying the floor year changes Galena's minimum annual contribution from \$332,940 to \$168,940; the actual contribution may be higher. For FY 2013, Galena would in fact pay more than that amended minimum. For FY 2013, Galena added one employee, for a total payroll of \$895,784.53. For FY 2013, Galena's contribution would have been above the 2012 floor by approximately \$30,000.

HB 47 simply recognizes that reality of drastic population decreases experienced by some Alaska cities, using a clearly defined metric: a 25% decrease in population according the 2000 and 2010 censuses.

The base closure has been very difficult for Galena. As previously noted, Galena required a low interest loan through the Alaska Municipal Bond Bank to secure fuel for heat and electricity in FY 2011. In the last

several years, Galena's finances have stabilized and there are even indicators of recovery after the catastrophic decline. We cannot say what will happen to Galena's population long-term, but we believe that we have turned a corner in terms of population and finances.

The City of Galena is adjusting to a new reality following the base closure and loss of 30% of the population. This legislation is one part of that adjustment. I became city manager during a difficult period for the City. Our finances have stabilized somewhat over the last several years. Requiring the City of Galena to pay to PERS a contribution owed by a much larger city weakens Galena, and threatens its ability to provide any contribution to PERS. We are cautiously optimistic that the City will become stronger and even grow over time. If and when Galena becomes the city it was in 2008, the city will be required to make a PERS contribution commensurate with that size and payroll, and will do so gladly, but it's not that city right now and the oversized PERS contribution inhibits it from becoming so.

Recognizing the reality of drastically declining populations is a matter of simple fairness. The amendment recognizes this and ultimately promotes the goals of PERS: ensuring that Alaska municipalities continue to contribute their fair share to the system.

I would like to thank the committee for taking time today so that I may explain the importance of this amendment for communities like Galena that have seen significant population decreases in the last decade.

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KATHIE WASSERMAN, EXECUTIVE DIRECTOR, ALASKA MUNICIPAL LEAGUE, ANCHORAGE, spoke in support of HB 47. She reported that the league had been working on the issue for several years. She was the previous mayor of Pelican, Alaska. She relayed an example when the local cold storage facility was purchased by Kake Tribal, subsequently went bankrupt resulting in the city's 2008 floor dramatically decreasing due to population loss. She emphasized that the 12 percent assessment was incredibly high. She voiced that in some instances municipalities fall into a situation where they

could never get out of the debt. The league offered its full support of HB 47.

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Representative Guttenberg wondered about the ability to collect what a city owed for a liability. He related a prior conversation with Michael Lamb, [Interim Executive Director and Chief Financial Officer, Alaska Energy Authority, Department of Commerce, Community and Economic Development] who was "instrumental" in a prior settlement agreement. He relayed that Mr. Lamb stated a community would never be able to pay off its indebtedness to PERS. He stated that communities were paying through a formula, but it was unknown whether the payments were underpayments or overpayments. He asked whether the statement was accurate. Ms. Wasserman responded in the affirmative. She spoke of a historical arbitrary percentage that had been decided between the league and the Senate Finance Committee. She acknowledged that some communities might be overpaying, and some were likely underpaying. Representative Guttenberg commented that the purpose of the bill was to ensure that payments could continue and were made more affordable. Ms. Wasserman explained that the bill did not provide relief from the liability, but simply moved the floor and adjusted the interest. The municipality still owed the principal of their past debt.

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Representative Pruitt asked whether Ms. Wasserman expected other cities coming to the legislature requesting adjustments in the future. Ms. Wasserman replied in the negative. She explained that wages continued to increase, and the floor issue will likely resolve itself in the future. She deemed that it would be very difficult to revert further than 2008 due to inflation. Representative Pruitt commented that the municipalities were asking the state to take on more of its burden. He wondered if the rest of the league's membership was supportive of the bill. Ms. Wasserman thought the other member communities were supportive. However, every municipality was waiting for the state to address the "termination studies and the PERS floor," which were the larger issues. She claimed that the legislation was only a temporary fix for communities that were in a desperate situation. She was still working on

additional legislation to provide a more permanent fix for the larger issues.

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Co-Chair Seaton CLOSED Public Testimony.

Co-Chair Foster indicated amendments were due on the following Monday by 5:00 PM.

HB 47 was HEARD and HELD in committee for further consideration.

#hb131

HOUSE BILL NO. 131

"An Act relating to relocation assistance for federally assisted public construction and improvement projects and programs; and providing for an effective date."

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LAURA STIDOLPH, STAFF, REPRESENTATIVE ADAM WOOL, read from a prepared statement:

In front of you is House Bill 131 "Federal Relocation Assistance Programs/Projects" which will bring Alaska into compliance with Federal law concerning reimbursement for relocation expenses incurred by individuals or businesses that were displaced due to a federally-funded highway, bridge, or facilities project. Alaskans deserve to be fairly compensated in these circumstances. HB131 will also protect Alaska's 500+ million dollar annual allocation of Federal Highway Administration funding by bringing the state into compliance.

In 2012, Congress relaxed the eligibility criteria and increased the maximum reimbursement limits for State's relocation assistance payment programs when they passed their transportation authorization and funding bill, the Moving Ahead for Progress in the 21st Century Act, aka MAP-21. Prior to MAP-21, the payment rates had not been changed for 30 years.

These changes went into effect October 1, 2014. Unfortunately, Alaska Statute continues to reflect the more stringent eligibility criteria and the smaller maximum reimbursement limits.

During the second half of the 29<sup>th</sup> Alaska Legislature, this inconsistency between state and federal law was nearly fixed. Language similar to HB 131 was proposed and passed the House unanimously. It passed through the Senate State Affairs and Senate Finance. However, the bill was held in Senate Rules and never calendared for a Senate floor vote.

HB 131 assures Alaskans that their Legislature wants them to be compensated the same as a resident of any other state.

Thank you for the opportunity to present this bill on behalf of the House Transportation Committee. Heather Fair, the Department of Transportation & Public Facilities' Statewide Right-of-Way Chief, is here to answer any questions you may have.

- Property acquisition and therefore the subsequent displacement of individuals and relocation of their homes/businesses is the exception, not the norm. Our engineers work hard to design projects in a manner such that we do not encroach upon private property.
- Relocation assistance payments are reimbursements for actual, documented relocation expenditures. If a party does not have the means to relocate themselves up front, there is a hardship program that will help with the cost.
- The new payment amounts created in federal law are maximums;
- The payments we do make are a mix of approximately 91% federal funding and 9% state funding.

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Representative Wilson asked whether the federal government also compensated for the lost property. Ms. Stidolph indicated that the bill only dealt with relocation costs. Representative Wilson asked whether the federal government

addressed property loss under another component of the program. Ms. Stidolph deferred to the Department of Transportation and Public Facilities (DOT) for the answer.

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HEATHER FAIR, CHIEF OF RIGHT-OF-WAY, DEPARTMENT OF TRANSPORTATION, asked for clarification of the question. Representative Wilson asked whether the federal government had a program that paid fair market value for displaced property owners. Ms. Fair answered in the affirmative. She indicated that the federal government placed the guidelines in the "Uniform Act." She noted that MAP-21 updated the Uniform Act specific to relocation. The department met federal requirements via state statute to compensate for acquisition of property separate from relocation. Representative Wilson asked whether the state was currently in compliance with federal acquisition regulations. Ms. Fair responded in the affirmative.

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Vice-Chair Gara commented that the cost of the relocation compensation was absorbed when the legislature funded capital projects. He asked whether the higher compensation rate warranted an indeterminate fiscal note. Ms. Fair replied that the state contributed roughly 9 percent to the federal government's 91 percent contribution on federal projects. She shared that the department tried to minimize impacts on Alaskan families, businesses, and farms when designing projects. The department had run some numbers on known projects and determined that the state's share equaled about \$12 thousand.

Representative Pruitt noticed that the fiscal note was retroactive to 2014. He wondered about the fiscal aspect of the retroactivity. Ms. Fair answered that the state's contribution was less than a "few thousand dollars" in retroactive payments. She was uncertain whether the state had paid the recipients or if the money was set aside. Since the state was currently out of compliance with MAP-21, the state was not able to make the payments and comply with state law at the same time.

Representative Ortiz wondered to what extent the legislation remedied a potential problem in the future. He asked whether a significant amount of people in the past

had access to relocation benefits. Ms. Fair responded that the bill affected less than 12 people.

Vice-Chair Gara asked whether the bill increased the number of people eligible for compensation. Ms. Fair responded that the legislation increased eligibility because the federal government "relaxed" the requirements. However, currently the eligibility in Alaska did not increase.

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Representative Wilson surmised that the state would owe more money for the retroactive payments, even if the amount was small. Ms. Fair responded that she was correct. However, she reiterated that she was uncertain whether the retroactive payments were made because, so few people were affected.

Representative Kawasaki wanted to challenge the zero fiscal note. He referred to the document in the members files titled "DOT&PF's Proposed Bill for Relocation Assistance Program Compliance" (copy on file). He mentioned several of the increases listed in the document that included:

- Increases maximum reestablishment expense payment from \$10,000 to \$25,000
- Increases maximum amount of the fixed payment for nonresidential moves from \$20,000 to \$40,000
- Increases maximum purchase price differential for homeowners from \$22,500 to \$31,000

Representative Kawasaki thought that the increases "seemed like a lot." He recognized that the state's share was roughly 9 percent but thought the amount could add up for future projects. He asked her to speak to the potential cost increases of projects in the future. He thought recipients would request the highest level of reimbursement. Ms. Fair responded that the reimbursements were based on actual expenses. She agreed that if a project DOT was unable to redesign had high impacts, it was possible that the state's 9 percent share could be costly. She determined that it was impossible to know regarding projects that were 3 to 5 years away from construction. She stressed that the department always endeavored to minimize impacts.

[2:24:49 PM](#)

Co-Chair Foster OPENED Public Testimony.

Co-Chair Foster CLOSED Public Testimony.

Co-Chair Foster requested that amendments be submitted by Monday at 5:00 pm.

HB 131 was HEARD and HELD in committee for further consideration.

#hb127

HOUSE BILL NO. 127

"An Act relating to a permanent fund dividend for an individual whose conviction has been vacated, reversed, or dismissed; and relating to the calculation of the value of the permanent fund dividend by including payment to individuals eligible for a permanent fund dividend because of a conviction that has been vacated, reversed, or dismissed."

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Representative Wilson referred to page 1, line 10 and read the following:

...individual's conviction is vacated or reversed, and  
(1) the charges on which the conviction was based are later dismissed; or  
(2) the individual is retried and found not guilty.

Representative Wilson wondered whether the language meant that if a conviction had been merely vacated a person was not eligible under the bill.

REPRESENTATIVE SCOTT KAWASAKI, SPONSOR, relayed that the bill was not necessarily introduced to address the Fairbanks Four. He voiced that the bill was intended to address anyone who was wrongfully convicted and incarcerated and was denied the ability to receive a Permanent Fund Dividend (PFD). He deferred any questions regarding the Fairbanks Four to the Department of Law. He noted that he had a copy of the agreement between Attorney General Craig Richards and the individuals known as the Fairbanks Four.

Representative Wilson believed that the Fairbanks Four would not be eligible under the bill. She cited previous testimony from the individual members of the Fairbanks Four who testified in favor of the bill.

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HILARY MARTIN, LEGISLATIVE LEGAL, JUNEAU (via teleconference), did not know the answer to the question.

Representative Wilson repeated the question.

KACI SCHROEDER, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF LAW, replied that the Fairbanks Four would fall under the bill because the convictions were vacated, and the charges were dismissed. Representative Wilson asked for verification that all the charges against the Four were dismissed. Ms. Schroeder replied in the affirmative.

Representative Thompson asked about the difference between overturned, dismissed, and vacated. Ms. Schroeder answered that all the judgements were vacated in the case of the Fairbanks Four. She added that vacated and reversed meant to annul. The words were used interchangeably.

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Representative Guttenberg pointed to page 1, line 10 after the word "reversed" in the bill and asked if the comma was considered an Oxford comma that separated the clauses. Ms. Schroeder replied in the affirmative.

Representative Pruitt asked how many people were eligible under the provisions in the bill. Ms. Schroeder did not have the data. She believed the bill sponsor had the exact numbers. Representative Pruitt spoke of a previous situation when the governor had the ability to pardon people. He wondered whether previously pardoned people had the ability to claim their dividend. Ms. Schroeder responded that the bill did not include pardons. She deferred the question to the Department of Revenue.

Representative Kawasaki relayed the difficulty to obtain data regarding the issue and that DOL did not track the information, however, he discovered that the Court System produced some data for a similar bill in the 29th

legislature. He reported that the number showed that 19 to 23 individuals between the years 2011 and 2015 were eligible.

Representative Pruitt believed that the bill was retroactive to 1982 at the start of the PFD distribution. He wondered if the sponsor had any idea how many individuals would be eligible since 1982. He also asked whether the bill provided for interest accrual. Representative Kawasaki answered that the bill did not contain a provision applying interest to the retroactive payments. He added that DOR would determine the value of the PFD for each year the individual applied for and DOL would decide eligibility. The bill provided for an application period of 120 days after the bill was signed into law. Representative Pruitt asked whether the appropriations would come out of the Earnings Reserve Account (ERA) of the Permanent Fund. Representative Kawasaki answered that the money would be paid from a specific "Reserve for Prior Year Dividend Liabilities." He explained that DOR established the reserve account for circumstances when prior year dividends were owed, which was why the fiscal note was zero.

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Representative Pruitt commented that prisoners PFDs were applied to health care costs or victim's compensation and the funds were already spent. He asked whether any future "conflicts" might arise from the issue that the funds were already spent and used money from the reserve account for compensation. Representative Kawasaki thought it was a policy call. He believed that a person who went to jail and was wrongfully convicted was a victim. He contended that the legislation was for the wrongfully convicted. Representative Pruitt wanted to understand any ancillary fiscal effects of the bill. He agreed that if a person was wrongfully convicted their life was disrupted. He wanted to ensure that the reserve fund would be the absolute source of the reimbursement funding. Representative Kawasaki reiterated that the issue was a policy call. He believed that when a person was placed in jail and wrongfully convicted the state owed the victims something. He pointed out that the individual was denied the benefit of applying for the PFD.

Representative Pruitt requested that DOR answer the question. He merely wanted to understand the fiscal ramifications from the bill.

2:41:45 PM

JERRY BURNETT, DEPUTY COMMISSIONER, TREASURY DIVISION, DEPARTMENT OF REVENUE, responded that in 1982 the incarcerated population in Alaska could apply for a PFD until sometime in the 1990s so the retroactivity did not go back that far. He confirmed that the money would be paid for out of the Reserve for Prior Year Dividends, which was calculated each year on a statistical basis. He thought the number of people the legislation would affect was "not significant relative to the amount of money reserved each year." He delineated that the reserve funding was used to pay for situations such as upheld appeals from the Office of Administrative Hearings, Commissioner's Office, or by the Courts. He reiterated that the bill would cover an "insignificant" number of people relative to the total number of appeals.

Vice-Chair Gara did not see a provision for notifying someone who was released from wrongful incarceration included in the bill. He thought 120 days was a short period of time for people who were trying to piece their lives together after release. He felt that a year was fairer. Representative Kawasaki replied that the previous committee engaged in discussion over the time period but did not want to offer an amendment to lengthen the amount of time. He announced that he would honor the will of the committee. Vice-Chair Gara commented that he wanted the sponsor to decide whether to offer the amendment.

Co-Chair Foster asked members to submit their amendments by 5:00 pm, Monday, 10, 2017.

HB 127 was HEARD and HELD in committee for further consideration.

#hb141

HOUSE BILL NO. 141

"An Act relating to allocations of funding for the Alaska Workforce Investment Board; and providing for an effective date."

[2:46:42 PM](#)

REPRESENTATIVE ZACH FANSLER, SPONSOR, reminded the committee that the bill was a funding mechanism for technical and vocational education programs set to sunset on June 30, 2017. He furthered that HB 141 included a five-year renewal extending it through June 30, 2022. He noted that during the prior hearing several questions were asked. He had distributed a memo with answers in response to committee member questions [Memo "House Bill 141 Questions" (copy on file)].

Representative Wilson asked about the constitutionality of a private school receiving some of the funding.

[2:49:53 PM](#)

PALOMA HARBOUR, ADMIN SERVICES DIRECTOR, DEPARTMENT OF LABOR, was not aware of any constitutional restrictions or violations. She referred to the memo and noted that the answers listed the federal requirements regarding use of the fund and specified that there were no federal requirements regarding use of employee contributions to unemployment programs. She reminded committee members that the state requirements were statutes enacted by the legislature. Representative Wilson asked whether private schools were required to meet state standards to qualify for the funding. Ms. Harbour was unable to answer the question but remembered that the list of eligible recipients were placed in state statute. Representative Wilson commented that there were certain restrictions on uses of general funds for education. She deemed that since the funding was generated by unemployment funds, restrictions regarding type of institution did not apply. Ms. Harbour responded that the funds became designated state general funds.

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Vice-Chair Gara asked whether the bill covered the same training institutions at the same amounts as in years prior to the sunset. Representative Fansler replied that the same 10 institutions would receive the same amount of funding they received in prior years. Vice-Chair Gara commented that the Constitution did stipulate that private funds were prohibited for use for public education. He was not concerned about any constitutional issues over the funding.

Co-Chair Foster asked Vice-Chair Gara to review the bill's fiscal notes.

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Vice-Chair Gara reviewed the fiscal notes for HB 141. He noted the new Department of Labor and Workforce Development (DLWD) fiscal impact note appropriated for Employment Training Services in the amount of \$408 thousand in designated general funds (DGF). He cited the new Department of Labor and Workforce Development fiscal impact note allocated to Workforce Development in the amount of \$4.2 million DGF. He reported that another new Department of Labor and Workforce Development fiscal note was appropriated to the Alaska Vocational Technical Center (AVTEC) in the amount of \$2 million DGF. He turned to the previously published fiscal notes: FN4 (UA) for the University of Alaska in the amount of \$5.3 million DGF and a previously published fiscal notes: FN1 (EED) for the Department of Education and Early Development in the amount of \$478 thousand DGF.

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Co-Chair Seaton MOVED to report HB 141 out of Committee with individual recommendations and the accompanying fiscal notes.

There being NO OBJECTION, it was so ordered.

HB 141 was REPORTED OUT of Committee with a "do Pass" recommendation and with three new fiscal impact notes from Department of Labor and Workforce Development and with two previously published fiscal notes: FN1 (EED) and FN4 (UA).

Co-Chair Foster reviewed the agenda for the following day.

Co-Chair Foster recessed the meeting to a call of the chair [Note: the meeting never reconvened].

#

ADJOURNMENT

[2:58:42 PM](#)

The meeting was adjourned at 2:58 p.m.