

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

April 19, 2018

3:32 p.m.

MEMBERS PRESENT

Senator Kevin Meyer, Chair
Senator David Wilson
Senator Cathy Giessel
Senator John Coghill
Senator Dennis Egan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 398

"An Act relating to the allocation and apportionment of income of a public utility for purposes of the Alaska Net Income Tax Act; and providing for an effective date."

- MOVED HB 398 OUT OF COMMITTEE

CS FOR HOUSE CONCURRENT RESOLUTION NO. 19(CRA) AM

Urging Governor Bill Walker to issue an administrative order recognizing a linguistic emergency.

- MOVED SCS CSHCR 19(STA) OUT OF COMMITTEE

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."

- MOVED HB 47 OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 87(FSH)

"An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 398

SHORT TITLE: CORP TAX: PUBLIC UTILITY INCOME ALLOCATION

SPONSOR(s): FINANCE

02/23/18	(H)	READ THE FIRST TIME - REFERRALS
02/23/18	(H)	FIN
04/04/18	(H)	FIN AT 1:30 PM ADAMS ROOM 519
04/04/18	(H)	Moved HB 398 Out of Committee
04/04/18	(H)	MINUTE(FIN)
04/05/18	(H)	FIN RPT 4DP 7NR
04/05/18	(H)	DP: GARA, THOMPSON, SEATON, FOSTER
04/05/18	(H)	NR: WILSON, KAWASAKI, GRENN, PRUITT, ORTIZ, GUTTENBERG, TILTON
04/11/18	(H)	TRANSMITTED TO (S)
04/11/18	(H)	VERSION: HB 398
04/12/18	(S)	READ THE FIRST TIME - REFERRALS
04/12/18	(S)	STA, FIN
04/19/18	(S)	STA AT 3:30 PM BUTROVICH 205

BILL: HCR 19

SHORT TITLE: GOVERNOR: AK NATIVE LANGUAGES EMERGENCY

SPONSOR(s): ORTIZ

02/16/18	(H)	READ THE FIRST TIME - REFERRALS
02/16/18	(H)	CRA
03/06/18	(H)	CRA AT 8:00 AM BARNES 124
03/06/18	(H)	Heard & Held
03/06/18	(H)	MINUTE(CRA)
03/08/18	(H)	CRA AT 8:00 AM BARNES 124
03/08/18	(H)	Moved CSHCR 19(CRA) Out of Committee
03/08/18	(H)	MINUTE(CRA)
03/09/18	(H)	CRA RPT CS(CRA) 5DP

03/09/18 (H) DP: SADDLER, DRUMMOND, LINCOLN,
RAUSCHER, PARISH
03/19/18 (H) TRANSMITTED TO (S)
03/19/18 (H) VERSION: CSHCR 19(CRA) AM
03/21/18 (S) READ THE FIRST TIME - REFERRALS
03/21/18 (S) CRA, STA
04/03/18 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
04/03/18 (S) Heard & Held
04/03/18 (S) MINUTE(CRA)
04/10/18 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
04/10/18 (S) Moved CSHCR 19(CRA) AM Out of Committee
04/10/18 (S) MINUTE(CRA)
04/11/18 (S) CRA RPT 3DP
04/11/18 (S) DP: BISHOP, GARDNER, HOFFMAN
04/17/18 (S) STA AT 3:30 PM BUTROVICH 205
04/17/18 (S) Heard & Held
04/17/18 (S) MINUTE(STA)
04/19/18 (S) STA AT 3:30 PM BUTROVICH 205

BILL: HB 47

SHORT TITLE: MUNICIPAL PERS CONTRIBUTIONS/INTEREST
SPONSOR(s) : FOSTER

01/18/17 (H) PREFILE RELEASED 1/13/17
01/18/17 (H) READ THE FIRST TIME - REFERRALS
01/18/17 (H) CRA, FIN
02/28/17 (H) CRA AT 8:00 AM BARNES 124
02/28/17 (H) Heard & Held
02/28/17 (H) MINUTE(CRA)
03/02/17 (H) CRA AT 8:00 AM BARNES 124
03/02/17 (H) Moved HB 47 Out of Committee
03/02/17 (H) MINUTE(CRA)
03/03/17 (H) CRA RPT 4DP 1NR 1AM
03/03/17 (H) DP: WESTLAKE, DRUMMOND, FANSLER, PARISH
03/03/17 (H) NR: RAUSCHER
03/03/17 (H) AM: SADDLER
04/06/17 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/06/17 (H) Heard & Held
04/06/17 (H) MINUTE(FIN)
04/13/17 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/13/17 (H) Moved HB 47 Out of Committee
04/13/17 (H) MINUTE(FIN)
04/14/17 (H) FIN RPT 5DP 6AM
04/14/17 (H) DP: ORTIZ, GUTTENBERG, GARA, SEATON,
FOSTER
04/14/17 (H) AM: WILSON, KAWASAKI, THOMPSON, TILTON,
GRENN, PRUITT

05/15/17 (H) TRANSMITTED TO (S)
05/15/17 (H) VERSION: HB 47
05/16/17 (S) READ THE FIRST TIME - REFERRALS
05/16/17 (S) STA, FIN
04/05/18 (S) STA AT 3:30 PM BUTROVICH 205
04/05/18 (S) Heard & Held
04/05/18 (S) MINUTE (STA)
04/19/18 (S) STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

BRODIE ANDERSON, Staff
Representative Foster
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided an overview of HB 398.

CHRISTINE MARASIGAN, Staff
Senator Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided an overview of the committee substitute for HCR 19.

REPRESENTATIVE DAN ORTIZ
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HCR 19.

XH'UNEI LANCE TWITCHELL, representing self
Juneau, Alaska

POSITION STATEMENT: Testified in support of HCR 19.

DAVID ROBERT BOXLEY, representing self
Metlakatla, Alaska

POSITION STATEMENT: Testified in support of HCR 19.

PAULETTE MARY MORENO, Grand Vice President
Alaska Native Sisterhood Grand Camp
Juneau, Alaska

POSITION STATEMENT: Testified in support of HCR 19.

BRANDON SPANOS, Deputy Director
Tax Division
Alaska Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 398.

ACTION NARRATIVE

[3:32:53 PM](#)

CHAIR KEVIN MEYER called the Senate State Affairs Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators Wilson, Egan, Coghill, Giessel, and Chair Meyer.

HB 398-CORP TAX: PUBLIC UTILITY INCOME ALLOCATION

[3:34:20 PM](#)

CHAIR MEYER announced the consideration of House Bill 398 (HB 398).

[3:34:52 PM](#)

BRODIE ANDERSON, Staff, Representative Foster, Alaska State Legislature, Juneau, Alaska, provided an overview of HB 398 as follows:

House Bill 398 addresses foregone revenue and provides the state with the ability to capture new revenue in Alaska corporate income tax through the elimination of the public utility exemption for water's-edge reporting.

A brief history on how we got this piece of legislation introduced. Back in 2004, legislation was passed that required both the Department of Revenue and Legislative Finance to create a report on indirect expenditures and the amount of foregone revenue not captured by the state. The first indirect expenditure report was submitted in 2015, in that report it identified a list of indirect expenditures within the Department of Revenue that should be terminated; then last year in the FY18 budget process, House Finance Subcommittee for the Department of Revenue reviewed these indirect expenditures and recommended that the House Finance Committee offer legislation that eliminates these indirect expenditures. House Bill 398 repeals a specific exemption from the recommendations offered in both of those reports.

The indirect expenditure repealed in House Bill 398 is the public utility exemption and it was selected for the following reason: It did not meet the legislation

intent and it was felt that it provided a loophole by allowing multi-state corporations operating a public utility in Alaska to choose their apportionment method that is complementary to providing the lowest tax liability possible for the corporation.

Typically, multi-state corporations use three-factor formula for apportionment, this formula uses three fractions represented by ratios of the company's property, payroll and sales within the taxing state, this one being Alaska, to their total property payroll and sales within the United States or water's edge. The three ratios are multiplied together to produce a percentage of the company's total taxable income to be allocated to the taxing state, Alaska; this only applies to all non-oil-and-gas corporations, for oil-and-gas corporations we use a formula based on their Alaskan profits and their worldwide profits.

The Department of Revenue cannot indicate the amount of potential new revenue captured because the small amount of taxpayers utilizing the exemption, they are required to keep that tax information confidential due to the size of the tax pool, they have indicated though that there will be new revenue if this passes according to their fiscal note provided to members in their packet.

[3:37:51 PM](#)

CHAIR MEYER asked Mr. Anderson to review the sectional analysis for HB 398.

MR. ANDERSON reviewed the sectional analysis as follows:

Section 1

Adds a new section, AS 43.20.146, which removes the exemption of the multistate public utilities from water's-edge reporting from within the Multistate Tax Compact.

Section 2 & Section 3

Are uncodified law dealing with the applicability of the effective date and transition language for the regulations that would be drafted not to be in effect until January 1, 2019.

Section 4

The effective date which applies to Section 1 and Section 2 of the bill is January 1, 2019.

[3:39:03 PM](#)

At ease.

[CHAIR MEYER set HB 398 aside until later in the meeting.]

HCR 19-GOVERNOR: ALASKA NATIVE LANGUAGES EMERGENCY

[3:40:24 PM](#)

CHAIR MEYER announced the consideration of House Concurrent Resolution 19 (HCR 19).

[3:42:05 PM](#)

At ease.

[3:42:51 PM](#)

CHAIR MEYER called the committee back to order.

[3:42:55 PM](#)

SENATOR GIESSEL moved to adopt the Senate committee substitute (CS) for CSHCR 19, version 30-LS1402\T, as the working document.

[3:43:08 PM](#)

CHAIR MEYER announced hearing no objection, the Senate CS was before the committee. He asked Ms. Marasigan to explain the changes.

[3:43:18 PM](#)

CHRISTINE MARASIGAN, Staff, Senator Meyer, Alaska State Legislature, Juneau, Alaska, provided the following overview of the Senate CS for CSHJR 19:

After the meeting on Tuesday, I consulted with Senator Coghill's office, Senator Giessel's office, and Representative Ortiz's staff and the following changes were made: On page 1, line 2 and on page 2, line 24 the following language was added: the urgent need for language revitalization efforts.

CHAIR MEYER noted that he meant to object to hear the changes. He asked if there were other changes in the bill.

MS. MARASIGAN answered no, just at the beginning and end of the bill.

[3:44:25 PM](#)

CHAIR MEYER removed his objection and announced that the Senate CS was before the committee. He asked Representative Ortiz if he was satisfied with the changes.

[3:44:52 PM](#)

REPRESENTATIVE DAN ORTIZ, Alaska State Legislature, Juneau, Alaska, sponsor of HCR 19, replied as follows:

I'm not going to oppose the CS that was put before you for HCR 19; with that said, language loss is a serious problem in the communities I represent and beyond. The district I represent is home to three of the state's Native languages: Tlingit, Haida, and Tsimshian; two of these languages, Haida and Tsimshian have fewer than 10 fluent speakers left in the state, Tlingit has less than 100 speakers. We recognize the people carrying the languages and thank them for their hard work. If the CS brings us to a step closer to revitalizing these languages, then I fully support the CS.

[3:46:18 PM](#)

CHAIR MEYER announced that the committee will hear invited testimony. He noted that the testifiers were chosen on behalf of the individuals attending the committee meeting.

[3:46:50 PM](#)

XH'UNEI LANCE TWITCHELL, representing self, Juneau Alaska, testified in support of HCR 19. He disclosed that he is the Assistant Professor-Alaska Native Languages for the University of Alaska Southeast. He disclosed that he speaks and teaches the Tlingit language. He said he has spent a good portion of his life studying the root causes of language death in Alaska as well as effective measures of language revitalization. He noted that Sarah Dybdahl, Director for the Central Council of Tlingit & Haida Indian Tribes of Alaska's Cultural Heritage & Education program, suggested in October to the Alaska Native Language Preservation and Advisory Council that the governor declare a state of emergency for native languages. He asserted that Alaska natives that work on Alaska native languages daily understand what is going on. He said he has seen Alaska native languages creep closer and closer to language death.

He recounted the historical decline in Alaska Native speakers. He said he questioned the use of "urgency" rather than "emergency" in the resolution. He continued as follows:

We are asking you to move this forward. If changing a word and saying, "Well, it's not quite an emergency," if that's your stance, then that is fine.

MR. TWITCHELL said there was no need to debate and asked legislators to, "talk to them."

[3:55:09 PM](#)

CHAIR MEYER commented that committee members were very respectful in what the testifiers were hoping to do. He said he guessed that the bill would move out of committee.

[3:56:27 PM](#)

DAVID ROBERT BOXLEY, representing self, Metlakatla, Alaska, testified in support of HCR 19. He revealed that he was 36 years old and when he was born there were 150 fluent speakers of his language in his village and currently there were 5 fluent speakers. He said the efforts to revive his language has been met with modern-world problems that are not of Alaska natives' choosing. He noted that he is part of a non-profit organization in Metlakatla to revive the Tsimshian language. He continued as follows:

Whether we argue about the semantics of a couple of words at this moment is not going to benefit our hopes, but I do want to reiterate that if there was ever a reason to call something an emergency, I can't think of a better reason.

[4:00:11 PM](#)

PAULETTE MARY MORENO, Grand Vice President, Alaska Native Sisterhood Grand Camp, Juneau, Alaska, testified in support of HCR 19. She emphasized that words are important and asked that the resolution be passed because Alaska natives have everything to lose.

[4:05:07 PM](#)

At ease.

[4:08:02 PM](#)

CHAIR MEYER called the committee to order.

[4:09:08 PM](#)

SENATOR GIESSEL moved to report SCS CSHCR 19(STA), version 30-LS1402\T from committee with individual recommendations and attached zero fiscal note.

[4:09:22 PM](#)

CHAIR MEYER announced that being no objection the motion carried.

[4:09:29 PM](#)

At ease.

HB 398-CORP TAX: PUBLIC UTILITY INCOME ALLOCATION

[4:14:13 PM](#)

CHAIR MEYER called the committee back to order. He announced the committee's continuation of the hearing on HB 398.

SENATOR WILSON asked if there is opposition to the bill.

MR. ANDERSON replied that the bill has not received opposition. He confirmed from previous hearings in the House Finance Committee that the bill will not affect the state's nonprofit-public utilities, strictly multi-state corporations that have a public utility within Alaska's boundaries. He detailed that approximately one to five corporations might be impacted.

CHAIR MEYER asked if the corporations that will be adversely impacted know that HB 398 was working through the process.

MR. ANDERSON replied that he has contacted specific lobbyists that have contracts within some of the multi-state corporations to figure out whether they would be impacted and what type of opposition might come against HB 398. He disclosed that he has not received opposition notification from the corporations.

[4:17:46 PM](#)

BRANDON SPANOS, Deputy Director, Tax Division, Alaska Department of Revenue, Anchorage, Alaska, confirmed that he has spoken with specific taxpayers on the legislation's impact. He assumed that those impacted the most know about HB 398.

CHAIR MEYER said he was concerned that the corporations currently receiving the tax exemption will pass the added cost from the legislation on to Alaskan. He asked if the Regulator Commission of Alaska (RCA) has oversight.

MR. SPANOS explained that the RCA does not regulate all utilities. He pointed out that telecommunications used to be regulated, but currently falls under that utility definition.

CHAIR MEYER remarked that he questioned Mr. Sponos' response. He said he believed that the RCA does have regulatory oversight and noted that he had dealt with a bill that addressed the topic.

MR. SPANOS admitted that he was not an expert in the regulation field.

4:20:04 PM

CHAIR MEYER pointed out that HB 398 has a zero fiscal note. He asked if the hope is the state will get some money back.

MR. ANDERSON answered yes. He explained that the fiscal note reflects an increase of some sort due to the potential change in tax liability for corporations utilizing the exemption.

CHAIR MEYER noted that Mr. Anderson mentioned that the normal process is a three-step process and the affected corporations do not have to meet the three-step process.

MR. ANDERSON answered correct. He detailed as follows:

Back when we first wrote the Alaska Corporate Tax Code, banking organizations, financial organizations and public utilities, multi-state corporations, were exempt. In the '80s, Alaska removed financial organizations but at that point no public utility was utilizing this exemption so when the Department of Revenue removed the exemption, it did not come under the radar that public utilities had an exemption.

So, we fast forward until I believe the document from the Department of Revenue said about 10 to 15 years ago, public utilities or at least a couple started to utilize the exemption and that's why they felt that they needed a statutory change rather than a regulatory change to get rid of this exemption and that's with water's-edge reporting for calculating all other multi-state corporations use water's-edge reporting where you compare, you create the formula for your Alaska sales, payroll and property against your U.S. or water's-edge sales, payroll and property, and then out of that the percentage is calculated for you Alaska tax liability; that formula, that percentage is exempt for public utilities that are multi-state corporations because of the exemption and as long as it is in line with what Department of

Revenue agrees with, they can calculate their own apportionment.

[4:22:22 PM](#)

CHAIR MEYER opened and closed public testimony.

[4:22:48 PM](#)

SENATOR GIESSEL moved to report HB 398, version 30-LS1231\D from committee with individual recommendations and attached zero fiscal note.

[4:23:01 PM](#)

CHAIR MEYER announced that being no objection, the motion carried.

[4:23:04 PM](#)

At ease.

HB 47-MUNICIPAL PERS CONTRIBUTIONS/INTEREST

[4:25:20 PM](#)

CHAIR MEYER called the committee back to order and announced the consideration of House Bill 47 (HB 47). He noted that the bill has an updated fiscal note.

[4:26:41 PM](#)

PAUL LABOLLE, Staff, Representative Foster, Alaska State Legislature, Juneau, Alaska, announced his availability to address questions regarding the updated fiscal note for HB 47.

CHAIR MEYER said the Senate Finance Committee will address the bill's fiscal note. He explained that the Senate State Affairs Committee is more concerned from a policy standpoint and a legitimate policy question was previously brought up. He remarked that there may be concern that a precedent will be set; however, he conceded that the sponsor of HB 47 and Mr. Labolle presented a good case.

[4:27:53 PM](#)

SENATOR GIESSEL moved to report HB 47, version 30-LS0281\A from committee with individual recommendations and attached fiscal note.

[4:28:03 PM](#)

CHAIR MEYER announced that there being no objection, the motion carried.

4:28:08 PM

At ease.

4:28:36 PM

CHAIR MEYER called the committee back to order.

4:29:37 PM

There being no further business to come before the committee, Chair Meyer adjourned the Senate State Affairs Standing Committee at 4:29 p.m.