

HOUSE FINANCE COMMITTEE  
May 6, 2019  
2:35 p.m.

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CALL TO ORDER

Co-Chair Wilson called the House Finance Committee meeting to order at 2:35 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Tammie Wilson, Co-Chair  
Representative Jennifer Johnston, Vice-Chair  
Representative Dan Ortiz, Vice-Chair  
Representative Ben Carpenter  
Representative Andy Josephson  
Representative Gary Knopp  
Representative Bart LeBon  
Representative Kelly Merrick  
Representative Colleen Sullivan-Leonard  
Representative Cathy Tilton

MEMBERS ABSENT

None

ALSO PRESENT

Grey Mitchell, Director, Worker's Compensation Division, Department of Labor and Workforce Development; Lynn Gattis, Staff, Representative Tammie Wilson; Paloma Harbour, Administrative Services Director, Department of Labor and Workforce Development, Office of Management and Budget; Representative Jonathan Kreiss-Tompkins, Bill Sponsor; David Teal, Director, Legislative Finance Division.

PRESENT VIA TELECONFERENCE

None

SUMMARY

HB 31        APPROP: EARNINGS RESERVE TO PERM FUND

CSHB 31(FIN) was REPORTED out of committee with four "do pass" recommendations, one "do not pass" recommendation, two "no recommendation" recommendations, and four "amend" recommendations.

HB 68 LABOR STDRS/SAFETY; WORKER COMPENSATION

HB 68 was HEARD and HELD in committee for further consideration.

#hb68

HOUSE BILL NO. 68

"An Act relating to the division of labor standards and safety; relating to the division of workers' compensation; establishing the division of workers' safety and compensation; and providing for an effective date."

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Vice-Chair Johnston MOVED to ADOPT proposed committee substitute for HB 68, Work Draft 31-GH1049\U(Marx, 05/03/19) (copy on file).

There being NO OBJECTION, it was so ordered.

Co-Chair Wilson invited the department to the testifier table. The committee would hear from the department and a review of the committee substitute would follow.

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GREY MITCHELL, DIRECTOR, WORKER'S COMPENSATION DIVISION, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, relayed that the bill merged the Division of Worker's Compensation together with the Division of Labor Standards and Safety. The divisions shared complimentary missions and functions. One division worked to prevent accidents, and the other worked to provide compensation for lost wages and medical costs if there was an injury. Merging the two divisions made good sense in many ways. The department was cognizant of the critical rolls each division played. The merger bill would not impact any of the legal or regulatory duties of either division. He aimed to take advantage of position

vacancies and explore opportunities to streamline processes wherever possible.

Mr. Mitchell continued that the fiscal note reflected streamlining in a couple of areas. The merger would flatten the management structure and labor standards and safety by reclassifying the division director to a deputy director position. The new position would focus on the new division's inspection, consultation, and enforcement functions. It would allow for a middle management reduction in the Alaska Occupational Safety Health (OSHA) component. He expected to see additional opportunities to consolidate and share administrative duties between the division as the merger matured. The merger would not happen over night but would be carefully developed over time. The bill did not propose to change any of the functions of the two divisions. He expected it to produce opportunities as the year progressed to share resources and to be more efficient and effective moving forward delivering the services of the two divisions.

Co-Chair Wilson asked her staff to further discuss the bill.

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LYNN GATTIS, STAFF, REPRESENTATIVE TAMMIE WILSON, review the changes in the bill. On page 7, lines 20-22, "grandparent" was added to AS 23.10.330(a) - exempted employment which would allow a child to work in a business that was owned and operated by a parent or a grandparent under the section. She referred next to page 7, line 26. The number "17" was changed to "16" to remove authorization of a work requirement for a 16 year old. On page 8, line 3 "5:00 a.m. to 9:00 p.m." was changed to "7:00 a.m. to 9:00 p.m." defining the time during the day that a 14 year old or 15 year old child could perform work outside of school hours. She continued to page 8, lines 8-15 which added a new section to redefine the conditions and hours during a day that a 14 year old or 15 year old child could perform work between June 1 and ending the first Monday of September of each year as 7:00 a.m. to 10:00 p.m. She completed reviewing the changes.

Representative Knopp asked about the period beginning June 1 and ending on the first Monday of September each year. He clarified that kids would not be allowed to work

starting in September. Co-Chair Wilson indicated there were two times designated for youth ages 14-15 to be able to work during school. They would be able to work from 7:00 a.m. to 9:00 p.m. When they were not in school they would be allowed to work from 7:00 a.m. to 10 p.m.

Representative Knopp did not understand the need for defining the hours. Co-Chair Wilson explained that defined times were necessary because of the Fair Labor Standards act.

Representative LeBon asked if there would be an advantage to moving the dates back to May 20th. Most high school graduation dates fell before May 20th. Co-Chair Wilson relayed that the federal government would not allow it.

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Co-Chair Wilson OPENED Public Testimony.

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Co-Chair Wilson CLOSED Public Testimony.

Co-Chair Wilson invited the department to review the fiscal notes.

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PALOMA HARBOUR, ADMINISTRATIVE SERVICES DIRECTOR, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, OFFICE OF MANAGEMENT AND BUDGET, relayed that fiscal note 1 was for the Workers' Compensation component. It was a zero fiscal note. The department did not anticipate immediate savings in Workers' Compensation as a part of the merger, but it expected out years savings not presently identified. Fiscal note 2 was for the OSHA component where the department was finding savings in some administrative support and some mid-level management. The total savings was \$283,000 of Workers' Safety Compensation Administration account funds.

Representative Knopp was curious about the reduction of \$283,000 in the personal services line. He highlighted that the funds were listed as DGF. He asked if the savings was from inter-agency receipts or program receipts. He asked what would happen to the savings.

Ms. Harbour responded that the funds were designated general funds from the Workers' Safety Compensation Administration account. It was a fee on insurance premiums that went into a DGF account and could go towards Workers' Compensation and safety program administration. It would be a savings to the account and would stay in the account for future year spending.

Representative Knopp asked if there would be any reductions in employer premiums. Ms. Harbour replied that the cost savings would not result in premium savings. However, there had been premium savings which resulted in the revenue going into the account being lower. She indicated the bill would help the state to stay at the lower revenue amount.

Co-Chair Wilson indicated amendments were due to the co-chair's office by May 7, 2019 at 9:00 a.m.

Representative Knopp appreciated the bill, as it represented the department's efforts towards true consolidation and efficiencies.

HB 68 was HEARD and HELD in committee for further consideration.

#hb31

HOUSE BILL NO. 31

"An Act making a special appropriation to the Alaska permanent fund; and providing for an effective date."

[2:46:41 PM](#)

Co-Chair Wilson MOVED to ADOPT Amendment 1 (copy on file):

Page 1, line 4:

Delete "5,500,000,000"

Insert "9,610,000,000"

Adjust funding information accordingly.

Vice-Chair Johnston OBJECTED for discussion.

Co-Chair Wilson deferred to the bill sponsor.

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REPRESENTATIVE JONATHAN KREISS-TOMPKINS, BILL SPONSOR, explained the amendment. The amendment would change the transfer from the Earnings Reserve Account (ERA) to the principle to \$9.61 billion. There were supporting materials that he had tried to disperse to all members. Effectively, the \$9.61 billion figure was premised on the notion of keeping three times the 5.25 percent POMV [percent of market value] draw in the ERA and transferring the remaining cash in the ERA to the principle.

Representative Tilton asked about modeling scenarios from the previous day. She wondered if the amendment was reflected in a new model.

Representative Kreiss-Tompkins responded that two of the models from the moderate bear market represented an \$8 billion transfer and another represented a \$12 billion transfer. He clarified that \$9.61 billion was not specifically modeled but fell between the two.

Representative Josephson referred to the presentation from the bill's previous hearing [A presentation by Representative Kreiss-Tompkins to the House Finance Committee on 4/29/19: "HB 31: \$5.5 billion transfer from the ERA to the Corpus"]. He referred to page 7 of the previous presentation. Representative Kreiss-Tompkins had noted that in a moderate bear market spanning 3 years with an \$8 billion transfer, one scenario reached an amount of \$5 billion. He thought the number would be lower because the transfer would increase by \$1.6 billion. He asked if the legislature should be concerned. He suggested that the dip in the model had to be lower.

Representative Kreiss-Tompkins concurred that the dip would be lower than the \$8 billion model and would be substantially higher than the \$12 billion model from the slide in question. He explained that the thinking behind an amount equal to three times the draw was that it protected a substantial amount of cash forever in the Permanent Fund which he thought was broadly a goal of the legislature. It also struck a balance by leaving significant shock absorption in the ERA. He noted that the third of the 3 supporting documents the committee had charted the balance of the ERA through time from 2000 to 2019. He indicated that the chart was created by his counterpart in the Senate. It showed what the balance of the ERA had been

through time. If \$9.6 billion was transferred from the ERA, approximately \$9 billion would remain in the ERA - well North of the average from 2000 to 2019. He argued that the amount was North of average and the state had done okay through time. He conveyed his thinking in striking a balance. He noted that the ERA had been in the \$2 billion, \$3 billion, and \$5 billion range in the ERA through time.

Co-Chair Wilson mentioned that someone from the Legislative Finance Division was available for questions.

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Representative Josephson asked how the bill sponsor arrived at the \$9.61 billion figure. Representative Kreiss-Tompkins relayed that the amount was derived with the help of other committee members and broadly consistent with the POMV approach. He pointed to slide 2 of his slide deck: "HB 31 3 Slides." that showed the math behind the amount of \$9.61 billion. He explained that \$8.79 billion was 3 times the 5.25 percent of market value draw based on the FY 20 POMV draw. If it was the amount the legislature wanted to leave in the ERA as a shock absorber (the minimum sufficient balance), everything else would go to the principle of the fund. According to the current account balance for the ERA from the Alaska Permanent Fund Corporation (APFC) the amount would be \$9.61 billion.

Vice-Chair Ortiz supported the idea of putting money into the corpus of the Alaska Permanent Fund. He was aware the number had been derived in consultation with members of the body. He asked if worst-case-scenarios had been reviewed when looking at the new amount. Representative Kreiss-Tompkins replied that he had been cognizant of the potential for market corrections similar to the great depression. The impact would be significant.

Co-Chair Wilson thought Vice-Chair Ortiz wanted more detail about the reason for the number.

Vice-Chair Ortiz clarified his question. He wondered, if the state were to see a significant correction similar to recent major corrections in the market, whether the movement of the \$9.61 billion into the corpus would limit the legislature's ability to pay out a Permanent Fund Dividend (PFD).

Representative Kreiss-Tompkins thought it would be helpful to hear from LFD. He suggested that there would always be the potential [for a major correction in the market] as long as the state had a permanent fund that was structured with an ERA and a principle. The heart of the question was about finding the right balance. He suggested having a true endowment was much safer and sustainable for the state of Alaska. He asserted the reason there was a problem was the same reason he thought the state should move away from the current structure of the Permanent Fund. He continued that unless the state was committed to protect the fund from bottoming out in any scenario, the North Star principle for managing the fund, the legislature should always leave as much cash in the ERA as possible. The downside was that the fund could be raided in the future.

Co-Chair Wilson was unsure who would raid it. She asked Mr. Teal to come to the testifier table to address a smaller amount versus a larger amount.

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DAVID TEAL, DIRECTOR, LEGISLATIVE FINANCE DIVISION, thought Representative Kreiss-Tompkins had answered the question well when he suggested that no one actually knew. He reminded members in 2008 or 2009 the state nearly ran out of earnings reserves which would have meant no dividends would have been paid. It was not until June of that year that it was clear dividends would be paid. It was not merely a remote possibility of running out of money in the ERA. It depended on the earnings.

Mr. Teal relayed that, currently, the ERA balance was very high for a couple of reasons. First, the state had had an earnings recovery period, roughly a 10-year bull market. Also, the state did not inflation-proof for 3 years which was a contributing factor in the high balance of the ERA. He argued that with the current balance the danger was fairly low of running out of reserve balance and of not being able to pay out dividends in the near future. However, the more money taken from the ERA to protect the principle of the fund, the more dangerous it would be for the state to run out of money. There was a risk of not being able to pay out dividends or the POMV draw to the general fund. The consequences of an error would be fairly substantial.

Mr. Teal pointed to the slide with an ERA balance of \$18.4 billion which also included unrealized earnings. He indicated that for the last several years the unrealized gains had been assigned in proportion to principle and to the ERA. He estimated that roughly \$4 billion of the balance was unrealized gains. He explained that because the \$4 billion was unrealized, it could not be spent. He reported that the proper starting point was about \$16.6 billion. He referred to the slide which moved \$9.6 billion. If the legislature was going to move funding over, he thought it should remove the unrealized balance from the amount. He estimated that only \$7.8 billion could be moved. He elaborated that when \$7.8 billion was moved over to the corpus the unrealized gains assigned to the cash moved with it. He suggested it was important to understand that legislators should look at realized earnings rather than the total value of the ERA. He suspected the amendment moved \$2 billion more than Representative Kreiss-Tompkins might want to move. He conveyed the discussion had not occurred. He was unsure about the assignment of unrealized gains.

Mr. Teal also suggested that when money was moved from the ERA to the corpus it would require additional inflation proofing. Mr. Teal asserted that moving money over would increase the amount of inflation proofing by approximately \$100 million to \$150 million in the future. In answer to the original question, the more money that was moved into the corpus, the more unsafe it was. He could not predict what the market would do. He had seen the ERA respond to down-turns in the market.

Vice-Chair Johnston suggested that saying the legislature could not divest itself of the realized gains and the ERA perhaps went too far. She supposed that in a spend-thrifty market if there was interest in the funds, the state could divest itself of the realized gains. She asked if she was correct.

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Mr. Teal indicated that it was not the legislature's decision to make, rather it was up to the Alaska Permanent Fund Corporation. It was possible that they could turn unrealized gains into realized gains.

Vice-Chair Johnston asserted that when there was a structured draw the APFC looked at its portfolio and decided how to address the draw. She supposed sometimes it was taking from realized gains and sometimes it was taking from cash. She thought one of the best things about having a structured draw was that the corporation had an opportunity to plan the draw. She noted that anytime the legislature could draw from the ERA with a basic majority vote, APFC had to respond to it to find the cash. She wanted to make clear that once the legislature decided how much it wanted to draw from the ERA, it was up to APFC to come up with the funds, and they needed to come from the ERA.

Mr. Teal suggested that it was possible to do it the way Vice-Chair Johnston stated. However, he thought the law limited the draw to the cash available. Current law stated that dividends would be paid if there was money in the ERA. The Permanent Fund could realize gains, similar to 2008. However, there was not sufficient cash to pay dividends. It was possible that in the last months of the year the corporation might have sold off things making the gains and having available cash. He continued that the way the law read, if there was not sufficient cash in the ERA to pay out the dividends and the POMV draw, the payouts would not occur. The Alaska Permanent Fund Corporation managed cash in realized gains versus unrealized gains.

Vice-Chair Johnston suggested that because of the state's diversified portfolio, there were assets that would be difficult to liquidate for quick access to cash. She thought there was a risk associated with what the legislature was asking of the funds. She asked the maker of the amendment about using 3 times the draw as a measure. She thought that because the market had performed well the following year would be better. She wondered if it would be a good idea to amend the amendment such that 3 times the draw was kept in the ERA (\$9 billion) putting the remainder in the corpus of the fund.

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Representative Kreiss-Tompkins viewed the conceptual amendment as a friendly amendment. He would ultimately defer to the wisdom of the committee. He felt good about the general range of how the cash in the ERA was divided between cash kept in the ERA and cash moved to the

principle for future generations. He also noted that under SB 26 [Legislation passed in 2018 having to do with the Permanent Fund, the dividend, and the earnings of the Permanent Fund] the size of the draw would get proportionately smaller down to 5 percent.

Representative Carpenter was in agreement with adding to the corpus. He thought it made sense to put money into savings. He thought it was important to consider the timing and the amount. He believed it was impossible to assess the risk without answering some other questions concerning spending and revenues in the future - things that would be addressed in a comprehensive fiscal plan. He wondered how the bill fit into a comprehensive fiscal plan for the state.

Representative Kreiss-Tompkins did not think Representative Carpenter's question was unfair. He suggested that in thinking about how many times of a POMV draw might be kept in the ERA, the premise was that the legislature would not take any unstructured draws in the future. Overspending the draw would run crosswise to his thinking. He suggested that if the legislature started thinking it might take more than 5.25 percent of POMV out of the Permanent Fund in the future, it would affect the current conversation and create many other future conversations. He reiterated that his assumption or premise in the current year or in future years, regardless of how it spent it, was that the legislature would not take more than the POMV set forth in SB 26.

Representative Carpenter relayed that the legislature did not have a long-term fiscal plan. The legislature was looking at a snapshot of the current year. In the following year it would be looked at in the same way. He thought the legislature was swinging at a best guess.

Co-Chair Wilson had been looking for a plan for 9 years without finding one. She believed the bill was in front of the committee because there was not a plan in place. The past plan had been to utilize the state's savings no matter how much they dwindled.

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Vice-Chair Johnston MOVED to ADOPT Conceptual Amendment 1 to Amendment 1 (copy on file).

Co-Chair Wilson OBJECTED for discussion.

Vice-Chair Johnston explained that instead of inserting \$9.61 billion she wanted to insert \$8.9 billion.

Co-Chair Wilson spoke to her objection. She did not think anyone felt safe with any amount. She suggested that Vice-Chair Johnston withdraw her motion.

Vice-Chair Johnston WITHDREW Conceptual Amendment 1 to Amendment 1.

Representative LeBon asked Mr. Teal if the risk profile for the Permanent Fund had changed much over the previous 10 years. He was aware that the fund had grown. However, he wondered about the mix and whether the state was managing the fund basically the same way as 10 years prior.

Mr. Teal responded was aware that certain things had been changed about 4 or 5 years prior. The corporation had an investment manager that had changed asset allocations which changed the state's risk profile. The Alaska Permanent Fund Corporation was currently more invested in privately placed investments and still had several real estate investments in other non-liquid investments. He could not answer whether the profile was riskier or less risky. He confirmed that the profile had changed to a certain degree.

Representative LeBon admitted his question was not fair. He asserted he was more comfortable with \$8 billion.

Co-Chair Wilson agreed with Representative LeBon's figure.

Mr. Teal suggested that the risk involved could be controlled by the legislature to a great extent because it had control over inflation proofing. If there was a down market, the legislature could skip inflation proofing the fund in any given year immediately increasing the ERA balance by about \$1 billion. It was a dynamic situation that legislators could control as long as a crash did not happen all in one year. He suggested that if a crash occurred all in one year, it would be too late for the legislature to respond.

Representative Sullivan-Leonard asked about inflation proofing. She thought the legislature had put in \$950

million for inflation proofing in the prior year. She asked if Mr. Teal recalled the amount being proposed in the current year. Mr. Teal replied that the current year's inflation-proofing amount was estimated to be about \$943 million.

Representative Sullivan-Leonard commented that she had been comfortable with \$5.5 billion. She was not comfortable with \$9.61 billion. She would be comfortable with adding \$943 million to \$5.5 billion.

Vice-Chair Ortiz thought, based on the wide variation of figures that had been looked at, the real issues were protecting the Permanent Fund for future generations and distributing a PFD. He thought the best course of action would be to merge the two funds and limit the legislature to a constitutional POMV draw. He thought there would be significant discussion as to what percentage of the draw would go to services versus the PFD.

Co-Chair Wilson responded that, although she appreciated Vice-Chair Ortiz's suggestion, it was not the bill before the committee currently. Co-Chair Wilson clarified that the proposal was a one-time move of funds into the corpus.

Representative Kreiss-Tomkins responded affirmatively.

Co-Chair Wilson asked if there was a figure members around the table were comfortable with.

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Representative LeBon MOVED to ADOPT Conceptual Amendment 1 [Conceptual Amendment 2] to Amendment 1.

Representative Josephson OBJECTED.

Representative LeBon explained Conceptual Amendment 2 to Amendment 1 which would insert \$8 billion rather than \$9.61 billion on line 3 of Amendment 1.

Representative Josephson explained that he would be more comfortable with the figure of \$7 billion after hearing comments from Representative Sullivan-Leonard regarding inflation proofing.

Co-Chair Wilson argued that inflation proofing could be taken out of the operating budget if the amendment passed which would result in the same \$8 billion figure. She thought it would be the intent of the legislature that if the bill passed, it would no longer be looking at the combined amount.

Representative Josephson MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Johnston, Knopp, LeBon, Ortiz, Wilson, Foster  
OPPOSED: Josephson, Merrick, Sullivan-Leonard, Tilton, Carpenter

The MOTION PASSED (6/5). Conceptual Amendment 2 to Amendment 1 was ADOPTED.

Co-Chair Wilson indicated that Amendment 1 as amended was before the committee.

Representative Carpenter OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Johnston, Knopp, LeBon, Ortiz, Sullivan-Leonard, Josephson, Foster, Wilson  
OPPOSED: Merrick, Tilton, Carpenter

The MOTION PASSED (8/3). Amendment 1 as amended was ADOPTED.

Vice-Chair Johnston MOVED to report CSHB 31(FIN) out of Committee with individual recommendations and the accompanying fiscal note.

Representative Carpenter OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Knopp, LeBon, Ortiz, Sullivan-Leonard, Josephson, Johnston, Wilson, Foster  
OPPOSED: Tilton, Carpenter, Merrick

The MOTION PASSED (8/3).

CSHB 31(FIN) was REPORTED out of committee with four "do pass" recommendations, one "do not pass" recommendation, two "no recommendation" recommendations, and four "amend" recommendations.

Co-Chair Wilson reviewed the agenda for the following day at 9:00 a.m.

#

ADJOURNMENT

3:26:07 PM

The meeting was adjourned at 3:26 p.m.