

HOUSE FINANCE COMMITTEE
March 10, 2022
9:01 a.m.

9:01:03 AM

CALL TO ORDER

Co-Chair Merrick called the House Finance Committee meeting to order at 9:01 a.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Kelly Merrick, Co-Chair
Representative Dan Ortiz, Vice-Chair via teleconference
Representative Ben Carpenter
Representative Bryce Edgmon
Representative DeLena Johnson
Representative Andy Josephson
Representative Bart LeBon
Representative Sara Rasmussen
Representative Steve Thompson via teleconference
Representative Adam Wool

MEMBERS ABSENT

None

ALSO PRESENT

Representative Andy Josephson, Sponsor; Elise Sorum-Birk, Staff, Representative Andy Josephson; Chad Hutchison, State Director, University of Alaska; Senator Peter Micciche, Sponsor; Anna Brawley, Senior Associate Agnew-Beck Consulting.

SUMMARY

HB 229 ALASKA HIGHER EDUCATION INVESTMENT FUND

HB 229 was HEARD and HELD in committee for further consideration.

SB 9 ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

SB 9 was HEARD and HELD in committee for further consideration.

Co-Chair Merrick reviewed the agenda for the morning.

#hb229

HOUSE BILL NO. 229

"An Act relating to the Alaska higher education investment fund; and relating to the Alaska Student Loan Corporation."

9:01:37 AM

Co-Chair Merrick invited the bill sponsor to the table.

9:01:52 AM

REPRESENTATIVE ANDY JOSEPHSON, SPONSOR, explained that in 2012 the legislature created a higher education investment fund and populated it with Alaska Scholarship Fund. Since then, the legislature had taken out about \$25 million per year. More recently the state funded Washington, Wyoming, Alaska, Montana, and Idaho (WWAMI) with dollars from the fund.

9:11:46 AM

Representative Carpenter wondered how the constitutional requirement that stated that the legislature could not designate funds for a specific purpose integrated with the legislation.

Representative Josephson indicated the protection of the armor would be applied to the reverse sweep. The funds would not be dedicated.

Representative Josephson turned the meeting to his staff.

9:14:27 AM

ELISE SORUM-BIRK, STAFF, REPRESENTATIVE ANDY JOSEPHSON, introduced the PowerPoint Presentation: "HB 229 - Protecting the Alaska Higher Education Investment Fund." She began with reviewing the sectional analysis on slide 2:

Section 1- Allows the Alaska Student Loan Corporation powers needed to manage the HEIF.

Section 2- Allows the Alaska Student Loan Corporation to create a subsidiary for the express purpose of administering the HEIF and related programs.

Section 3- Moves the Alaska education grant account into the Alaska Student Loan Corporation.

Section 4- Moves the Alaska performance scholarship award account

Section 6- Establishes the Alaska Higher Education Investment Fund as a separate fund in the Alaska Student Loan Corporation.

Section 8- Relates to Powers and Duties of the Commissioner of Revenue

Sections 5, 7, 9, 10, 11, 12, 13 and 14- Rename the fund- Adding the word "trust."

[9:16:26 AM](#)

Ms. Sorum-Birk continued to slide 3 to review the warnings and market value of the Higher Education Investment Fund. She thought everyone was aware of the performance of the fund and why it was valuable. She would not elaborate, as it was self-explanatory. She discussed the timeline of events related to the Higher education Investment Fund on slide 4.

Ms. Sorum-Birk continued to slide 5. She reviewed a summary of principles from the Hickel V. Cowper case:

- Two main parameters:
 - "available for appropriation"
 - In the General Fund
- Relating to "available for appropriation"- "must include all funds over which the legislature has retained power to appropriate" AND "which are not available to pay expenditures without further legislative appropriation"
- For trust receipts the amount appropriated by the legislature IS the amount available for appropriation
 - This category includes federal funds, funds given to the state for specific purposes by private entities AND appropriations from trust account
 - Notably "amounts appropriated by the legislature out of other funds within executive agencies for the purpose of administering these

funds, under explicit statutory authority may also be treated as a type of trust receipt" (revolving loan funds)

- Monies of public corporations are treated similarly to trust receipts
- Excludes illiquid assets, funds expendable without further legislative appropriation, or funds validly appropriate

Ms. Sorum-Birk presented the notable changes that would result from the passage of the bill on slide 6":

The HEIF, the Alaska Education Grant account and Alaska Performance Scholarship account are relocated out of the general fund and into the Alaska Student Loan Corporation. Allows the Alaska Student Loan Corporation to create a subsidiary specifically for managing HEIF and associated funds. Language is added to clarify that these are all "separate funds" For the scholarship and grant funds, language is added to clarify that these funds are available without further appropriation. Medical education (WWAMI) is added to the statutory uses of the HEIF.

[9:22:03 AM](#)

Ms. Sorum-Birk reviewed what HB 229 would not change and offered what adjustments could be made to the legislation on slide 7:

Overall structure of how the fund is currently administered under statute including the:

- 7 percent draw annually
- The division of the 7 percent draw- 1/3 to grant fund and 2/3 to the scholarship fund
- The annual draw requiring appropriation by the legislature from the HEIF to the scholarship and grant funds.

Potentially friendly amendments could include

- Reassessing the amount of the draw- a smaller draw with smoothing

- Adjusting the division of the draw to ensure a portion goes to WWAM

[9:23:16 AM](#)

Representative Josephson commented that friendly amendments on the slide were doable. He thought time was of the essence concerning passing the legislation. He thought it offered a road map for going forward.

Vice-Chair Ortiz asked if the armor Representative Josephson described protect the appropriations made in 2015. /He thought the legislature might readdress needs in the future looking to the fund for assistance.

Representative Josephson thought programs he had mentioned were good and fell under the umbrella of education.

Ms. Sorum-Birk added that there were two different ways of structuring the funds. The bill would allow the legislature to maintain its control over how the monies were spent.

Vice-Chair Ortiz asked why the money would need to specifically assigned.

Representative Josephson indicated that the other body had a bill that indicated the HEIF was a separate account. However, he did not think it was enough of a step. By moving the fund outside of the general fund, it would not be subject to the reverse sweep provision.

[9:28:33 AM](#)

Representative Edgmon noted that the state would soon be in a position where the state would be coming into additional revenues from oil. He wanted to contemplate capitalizing the fund more.

Representative Josephson noted 5 percent was more sustainable. The fund had done well at 7 percent. He suggested there was no reason the bill should not be moved to the governor by Monday.

[9:32:04 AM](#)

Representative LeBon asked if there was invited testimony of the bill in the current meeting.

[9:32:48 AM](#)

CHAD HUTCHISON, STATE DIRECTOR, UNIVERSITY OF ALASKA, indicated the University was very supportive of the legislation. He noted President Parnell was one of the supporters. The university thought the creation of a separate fund would create stability.

Mr. Hutchison relayed some statistics having to do with WWAMI and certain other grants. He noted that WWAMI was particular to the University.

[9:36:49 AM](#)

Representative LeBon noted the Superior court ruled against the three students. He wondered if there was an appeal to the ruling.

Mr. Hutchison replied in the affirmative.

Representative LeBon wondered if the court decision would be decided in time to be reflected in the budget under consideration.

Mr. Hutchison responded that the ruling would probably be too late for the current budget cycle.

Representative LeBon asked if the \$25 million would be the correct figure.

Mr. Hutchison concurred with Representative LeBon's figure.

Representative LeBon offered that a "plan B" could be to fund that figure and wait out the court ruling.

Mr. Hutchison responded that it could be a plan B.

[9:38:55 AM](#)

Representative Edgmon s wondered how the University would be impacted in terms of recruitment and retention of students at the University. He thought the legislation was a move towards stability.

Representative Carpenter noted that the drafters of the state constitution felt it was important that the state not set up pools of money that would be dedicated to a specific purpose.

[9:42:12 AM](#)

Representative Josephson remarked that dedicated funds had been created since statehood.

Representative Edgmon appreciated the comments by Representative Carpenter. He thought it was interesting about hearing about the history of the legislature actions.

Co-Chair Merrick thanked the presenters for bringing the bill forward.

HB 229 was HEARD and HELD in committee for further consideration.

[9:44:26 AM](#)

AT EASE

[9:50:09 AM](#)

RECONVENED

#sb9

CS FOR SENATE BILL NO. 9 (FIN)

"An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to common carrier approval to transport or deliver alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

Co-Chair Merrick invited Senator Micciche to the table to present SB 9. She noted that the hearing was strictly an introduction to the bill.

[9:50:39 AM](#)

SENATOR PETER MICCICHE, SPONSOR, indicated the bill was brought to him by request. The bill reset Alcohol statutes. The legislature has had a heavy hand in the bill as well as municipalities as well. Alcohol remained the number one abuse substance in the state. Everything in the bill had been vetted and taken significant time to craft.

Representative Edgmon appreciated the senator's comment about alcohol. He stressed that alcohol was the top contributor of social ills in many parts of the state.

[9:55:47 AM](#)

Representative Wool shared that there were many people that used alcohol responsibly. He had made a living with alcohol sales. He argued that alcohol helped Alaska's economy, and brought money and pride to the state. He did not want to treat alcohol as a terrible subject.

[9:58:18 AM](#)

Senator Micciche thought both of the previous comments represented the balance he was talking about. It also did some things that were new such as tracking alcohol sales in rural Alaska. There were communities that had chosen to be dry and bootleggers preside in those locations. The alcohol industry provided employment. The bill was about balance.

Representative LeBon asked if invited testimony would be heard in the current meeting. He also asked if the time could be spent with questions rather than the presentation.

Co-Chair Merrick replied that there would not be invited testimony in the meeting.

Senator Micciche thought many of the questions would be answered within the presentation.

[10:02:03 AM](#)

ANNA BRAWLEY, SENIOR ASSOCIATE AGNEW-BECK CONSULTING, introduced the PowerPoint Presentation: "Alcoholic Beverage Control (ABC) Board Title 4 Review Project: Overview of Senate Bill 9."

Ms. Brawley looked at slide 2, "Why Alcohol Control? Why Title 4?"

- Since repeal of Prohibition in 1933, states are responsible for regulating alcohol manufacture, distribution and sales in its jurisdiction.

- Alcohol is not like other commodities:
 - Intoxicating substance, not appropriate for children
 - Economic incentives to encourage drinking
 - Has social and public costs: law enforcement, health impacts, violence and assaults, driving under influence (DUI)
 - Licensing regulates the market: oversight of sales; prevents underage access (selling to minors); clear enforcement.

- Decades of state and federal law say:
it is in the public interest to regulate alcohol, with a responsible industry and reasonable enforcement.

Ms. Brawley addressed slide 3, "Goals of Title 4 Review Process":

Promote a fair business climate while protecting public health and safety.

1. Create rational regulation for all tiers of the alcohol industry.
2. Limit youth access to alcohol.
3. Promote responsible alcohol use and reduce the harms of overconsumption.
4. Implement changes without negatively impacting existing, responsible operators.

Make Title 4 clear, consistent laws for the ABC Board, licensees and law enforcement.

1. Increase swiftness, proportionality and consistency of penalties.
2. Increase local law enforcement of Title 4.
3. Increase licensee accountability before the ABC Board for Title 4 violations.

Ms. Brawley pointed to slide 4, "Over 120 Stakeholders":

- ABC Board, AMCO (staff)
- Public Safety and Law Enforcement
- Industry
 - Manufacturers
 - Wholesalers
 - Retailers

- Public Health
 - Recover Alaska
 - Department of Health and Social Services
 - Alaska Mental Health Trust Authority
 - Rasmuson Foundation
- Community Advocates
- Local Governments

Ms. Brawley continued to slide 5, "Categories of Recommendations":

1. Alcohol Licenses, Permits and Trade Practices
2. Role and Functions of the ABC Board and Staff
3. Underage Drinking and Youth Access to Alcohol
4. Regulation of Internet Sales of Alcohol
5. Technical or Administrative Law Change

[10:05:11 AM](#)

Ms. Brawley discussed the 3-tier system on slide 6:

The 3-Tier System Alcohol must be manufactured, distributed and sold to the public by different businesses.

This is designed to prevent monopolies.

Ms. Brawley continued to slide 7 which showed the proposed changes.

[10:06:18 AM](#)

Representative Wool asked about the 3-tier system. He commented that it had been established in federal law. He wondered if the system would be eroded in the bill.

Ms. Brawley responded that parts of the system had already gone through substantial change. In one sense it was still in place in the sense that. However, things had been opening up especially in the manufacturing tier.

Ms. Brawley turned to slide 8 which showed the retail tier, she noted that the bill reorganized the licenses for clarification.

Ms. Brawley advanced to slide 9 reflected licenses that were designed to meet certain needs recognizing that the demand was larger than the resident demand.

10:09:45 AM

Ms. Brawley indicated the rest of the presentation reflected policy changes in the bill.

Ms. Brawley moved to slide 10 which reflected options for retail portions for manufacturers. The manufacturing license would not be limited to population.

Representative Wool asked if a brewery in the bill would be able to purchase a beverage dispensary license (BDL), and wondered whether the company could buy up all the licenses in a location and sell on their products.

Ms. Brawley indicated it would be theoretically possible. It was something that brew pubs could do currently but did not have production capacity.

Representative Wool was concerned with the possibility of the larger alcohol companies purchasing the state breweries.

Ms. Brawley responded in the affirmative, and stated that it was something prohibited in federal law.

10:14:32 AM

Ms. Brawley advanced to slide 11, "Proposed: Endorsements on Licenses":

Add endorsements to existing licenses, giving businesses flexibility in how to operate, without creating more specific license types. Endorsements would allow sampling on premises, multiple bar rooms, deliveries by package stores, etc.

Ms. Brawley indicated slide 12, "Proposed Endorsements":

- R-7A | Bowling Alley Endorsement
- R-7B | Package Store Shipping Endorsement
- R-7C | Package Store Delivery Endorsement
- R-7D | Package Store Re-Packaging Endorsement
- [R-1] Multiple Fixed Counter Endorsement
- [R-1] Hotel/Motel Endorsement
- [R-1] Large Resort Endorsement
- [R-3] Package Store Sampling Endorsement

- [M-1] Brewery Repackaging Endorsement

Ms. Brawley continued to slide 13 reflecting a proposal of limited free samples for packaging stores. The idea was to open things up common to other states.

Ms. Brawley moved to slide 14, "Standardize Permits":

- R-7F | Beverage Dispensary Caterer's Permit (AS 04.11.230; 3 AAC 304.685)
- R-7G | Restaurant Caterer's Dining Permit (3 AAC 304.680)
- R-7H | Club Caterer's Permit (3 AAC 304.690)
- R-7I | Nonprofit Event Permit (AS 04.11.240)
- R-7J | Art Exhibit Permit (3 AAC 304.697)
- R-7K | Alcoholic Beverage Auction Permit (3 AAC 304.699)
- R-7L | Inventory Resale Permit (Retail Stock Sale License, AS 04.11.200)
- R-7M | Package Store Tasting Event Permit (proposed)
- [2020] | Music Festival Permit (proposed)
- [2020] | Live Music and Entertainment Permit (proposed)

Ms. Brawley reviewed a couple of new proposed permits such as package store tasting events as listed on slide 15.

Ms. Brawley indicated the next few slides dealt with population limits.

Ms. Brawley relayed that in slide 16 that addressed population limits in the current Title 4.

[10:19:05 AM](#)

Ms. Brawley continued to slide 17, "Proposed Seasonal REPL Tourism":

- Seasonal restaurant license
- Available in smaller communities (< 40,000 pop.)
- Same operating requirements and privileges as full-year restaurants (REPL)
- Number of licenses per community determined by formula:
- Season defined as up to 6 months per year, in any combination

- Example: May through September + 1 winter month

Representative Josephson asked if a brewer could use a 6-month license potentially add to their license.

Ms. Brawley responded in the affirmative.

[10:21:19 AM](#)

Representative Josephson wondered whether the "cap" was actually not real.

Senator Micciche replied that bill would allow many other options for business growth.

Representative Wool returned to slide 16 pointed to the green line referencing the license exempt from population. He asked for an explanation.

Ms. Brawley replied that it was to illustrate they still existed in communities.

[10:27:05 AM](#)

Representative Wool He asked if it would be simpler to look at the number of licenses within a borough.

Senator Micciche explained that cities typically had dense populations, so the idea was to recognize that there were under used licenses outside of the city. He was trying to demonstrate that some of the items could be workable.

[10:30:04 AM](#)

Ms. Brawley continued to slide 18 which addressed convenience licenses and applications.

Ms. Brawley advanced to slide 19 which would put in place a means of request in additional licenses.

Representative LeBon wondered if a brewery with a tasting room have the ability to apply for a different license.

Ms. Brawley indicated the city would be the entity to petition for additional licenses, so it would be allowed.

[10:36:23 AM](#)

Representative LeBon used Fairbanks as an example. Fairbanks had a borough. He wondered if additional businesses could open, if might not have food. He wondered if there would be a petition avenue.

Senator Micciche indicated that a tasting room could because it would allow other options that would free up tasting rooms.

[10:39:18 AM](#)

Representative Wool asked how often the business could go to the municipality.

Senator Micciche responded that it was every year.

[10:40:45 AM](#)

Representative Wool stated that the brewery tasting rooms for one in every 3,000. He asked for the current number.

Senator Micciche answered it was currently one in 3,000 for a tasting room, therefore most concerned communities were capped out. He stated that the current bill did not limit manufacturers, and only focused on tasting rooms.

Representative Wool stated that if someone hustled, they could get a brewery tasting room in Fairbanks.

Senator Micciche answered that the bill allowed hundreds of additional tasting rooms throughout the state. If people were interested, they had to submit an application to the ABC Board.

[10:44:18 AM](#)

Representative Wool asked if there had been any brewers opening without a tasting room. He thought many businesses gained money through the retail side.

Senator Micciche answered that 97 percent of the beer brewed in the state was sold in other avenues than tasting rooms. He would follow up with the information.

Ms. Brawley moved to slide 20: Proposed: Option to Relocate Some Licenses from a Borough to a City.

10:46:42 AM

Ms. Brawley turned to slide 21: Proposed: Regulate Trade Practices.

Ms. Brawley advanced to slide 22, "Adjust License Fees to Reflect":

Current ABC Budgetary Needs

- Update license fees fairly across similar license, and collect revenue sufficient to cover the ABC Board and AMCO's required activities:
 - Administration of licenses and permits
 - Education about Title 4 and related regulations
 - Enforcement of Title 4 and related regulations
 - Needed tech upgrade: electronic license renewal system
- ABC Board required to review fees every 5 years.
- See Appendix, Table 2 of the Title 4 Review report for current license fees and proposed changes.

10:48:42 AM

Ms. Brawley turned to slide 23: Proposed: More Accountability for License Fees Allocated to Local Governments.

Ms. Brawley turned to slide 24, "Internet Sales: No Rules + Loopholes":

Alaska is one of the only states with no rules for Internet sales of alcohol.

- Alaska Package Stores cannot sell alcohol online, only via (paper) written orders.
- Alaska Wineries and Package Stores can ship wine to customers in some circumstances, only with paper forms.
- Without state laws restricting online sales, Alaska licenses are restricted, but there are currently no limits on purchases of alcohol online from out-of-state sellers.
- Alaska consumers also do not pay state excise tax on online purchases, as they do on products sold and purchased in state. They also may not be paying local

sales taxes.

Ms. Brawley slide 25 regarding regulating internet alcohol sales.

Representative LeBon asked about the limitation of sales. He used wine as an example. He wondered how many bottles were in a case of wine.

Ms. Brawley responded a case of wine contained 12 bottles.

Representative LeBon asked about the applied limit.

Ms. Brawley clarified that the limit was applied to businesses rather than persons.

Representative Wool surmised that there was no limit overall.

Ms. Brawley agreed, but remarked that shipping would be a practical barrier.

Representative Wool suggested that essentially there was no limit.

Ms. Brawley responded that he was correct but there was currently no limit.

Senator Micciche added that there was currently no limit, and stated that the bill dramatically improved the issue.

Representative Wool commented he supported the verification and ID checking. He was uncertain why it applied to manufacturers.

Representative Carpenter asked if the limit applied to phone orders.

Ms. Brawley replied that a responsible licensee under the bill would note that there would be a record of limit met.

Representative Carpenter clarified that they were talking about annual purchases, not annual limit of purchases over the internet.

Ms. Brawley agreed.

Representative Carpenter would need further clarification.

Senator Micciche stated that the goal was to see whether a person was purchasing a large amount of alcohol. The intent was to stop the illegal distribution of alcohol.

Representative Carpenter asked if the bill would prohibit someone from calling a manufacturer and ordering 4 cases of wine.

Senator Micciche stated that the intent was about a remote order limit.

Representative Carpenter asked that if he had a successful business, then he was limited with purchasing alcohol.

Senator Micciche clarified that it was for people at home.

Ms. Brawley turned to slide 26 which was to regulate common carriers, and would also include deliveries to other entities which was about closing the loophole that currently existed.

Co-Chair Merrick thanked the bill sponsor. She reviewed the agenda for the afternoon.

SB 9 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

[10:59:23 AM](#)

The meeting was adjourned at 10:59 a.m.