

HOUSE FINANCE COMMITTEE
February 23, 2024
8:36 a.m.

8:36:46 AM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 8:36 a.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative DeLena Johnson, Co-Chair
Representative Julie Coulombe
Representative Mike Cronk
Representative Alyse Galvin
Representative Sara Hannan
Representative Andy Josephson
Representative Dan Ortiz
Representative Will Stapp
Representative Frank Tomaszewski

MEMBERS ABSENT

Representative Bryce Edgmon, Co-Chair

ALSO PRESENT

Representative George Rauscher, Sponsor; Ryan McKee, Staff,
Representative George Rauscher; Rod Arno, Policy Director,
Alaska Outdoor Council and Former Member, CACFA;
Representative Stanley Wright, Sponsor; Rachael Gunn,
Staff, Representative Stanley Wright; Representative Kevin
McCabe, Sponsor; Julie Morris, Staff, Representative Kevin
McCabe.

PRESENT VIA TELECONFERENCE

Ashlee Adoko, Director, Office of Project Management and
Permitting, Department of Natural Resources; Jen Griffis,
Vice President of Policy and Advocacy, Alaska Children's
Trust; Tracy Reno, Financial Examiner, Division of Banking
and Securities, Department of Commerce, Community and
Economic Development; Rob Schmidt, Director, Division of

Banking and Securities, Department of Commerce, Community and Economic Development; Pam Leary, Director, Treasury Division, Department of Revenue.

SUMMARY

HB 83 CITIZEN ADVISORY COMM ON FEDERAL AREAS

HB 83 was HEARD and HELD in committee for further consideration.

HB 145 LOANS UNDER \$25,000; PAYDAY LOANS

HB 145 was HEARD and HELD in committee for further consideration.

HB 174 STATE FUND FIDUC DUTY:SOCIAL/POL INTEREST

HB 174 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the meeting agenda. He noted the meeting had a hard stop at 9:55 a.m.

#hb83

HOUSE BILL NO. 83

"An Act reestablishing the Citizens' Advisory Commission on Federal Management Areas in Alaska; and providing for an effective date."

[8:38:43 AM](#)

Co-Chair Foster noted the bill had last been heard in May 2023. He asked the sponsor to provide a review of the legislation.

REPRESENTATIVE GEORGE RAUSCHER, SPONSOR, thanked the committee for hearing the bill. He relayed that the bill would reestablish the Citizens' Advisory Commission on Federal Areas (CACFA) in Alaska, which sunset in 2021. The bill set a new sunset date of June 30, 2031. The commission was comprised of ten public members, one senator, and one representative who reflected the diversity of users of federal land in Alaska and were appointed by the governor and legislature. He stated that CACFA had operated for decades as an independent and impartial source for

information and a center for advocacy on statehood, Alaska Native Claims Settlement Act (ANCSA), and Alaska National Interest Lands Conservation Act (ANILCA) issues impacting all Alaskans. He stated that CACFA helped Alaskans navigate through complex regulations and worked with federal agencies to ensure congressional intent was implemented with respect to Alaska's interests. He asked his staff to review changes to the bill resulting from work that took place over the interim.

8:41:00 AM

RYAN MCKEE, STAFF, REPRESENTATIVE GEORGE RAUSCHER, shared that Alaska Federation of Natives (AFN) and Native Peoples Action (NPA) had shared their concerns over the summer with the bill sponsor. In response to the concerns, the sponsor was proposing several changes. The first change clarified that the establishment of CACFA within the Department of Natural Resources (DNR) was for administrative purposes only. The sponsor's office had received concern that by housing the commission within DNR it was viewed as another branch of the department. The intent was for CACFA to operate autonomously with its own decision making power. The second change would add language clarifying that CACFA would determine which matters it would hear and consider. The goal was to clarify that the commission acted on its own behalf and not on behalf of the department. The third change would require that the public members of the commission represent all four Alaska judicial districts, with no more than three members from each of the districts. The goal was to ensure fair representation throughout Alaska. The fourth change would require at least one member of the commission to be enrolled in a federally recognized tribe and another member to be a shareholder in an ANCSA corporation. The goal was to ensure representation from rural Alaska. The fifth change would move the bill's effective date from July 1, 2023, to July 1, 2024.

Co-Chair Foster listed individuals available to testify. He invited members to ask questions.

Representative Galvin referenced a letter from Native Peoples Action in the bill packets (copy on file). She thought it sounded like the proposed changes specifically addressed the questions in the letter. She asked if the organization had reassessed and was now comfortable with the change.

Mr. McKee replied that the sponsor's office had not officially received a response.

Representative Hannan asked if there was a draft committee substitute (CS) incorporating the changes reviewed by Mr. McKee.

Mr. McKee replied that there was not a CS for HB 83 that incorporated the changes; however, the Senate had adopted all of the changes in its version of the bill [SB 34], which had reported out of the Senate Finance Committee earlier in the week.

Representative Hannan remarked that without an updated CS an amendment deadline would be a struggle. In addition to an updated CS, she was interested in updated letters from the parties that had previously expressed concerns.

[8:45:44 AM](#)

AT EASE

[8:46:42 AM](#)

RECONVENED

Representative Hannan stated there had been some clearly articulated concerns the past May. She wanted to resolve the issue and clarified she was not doubting the sponsor's office. She wanted to see updated letters from the organizations [that had previously expressed concerns over aspects of the legislation].

Ms. McKee replied that the sponsor's office would contact the organizations to request updated letters. He would provide any responses to the committee.

Co-Chair Foster asked Mr. McKee to put the changes in writing and provide them to the committee. He noted the changes were included in the Senate version of the bill that was coming the committee's way. He remarked that there was uncertainty about whether the committee would get to amendments prior to receiving the Senate version of the bill.

Representative Hannan stated that if the intention was to wait for the Senate version, she did not need the sponsor's

office to chase its tail if the information was expected to come.

Co-Chair Foster explained the intent to get the committee up to speed in anticipation of potentially receiving the Senate version of the bill.

Representative Josephson referenced an AFN letter in members' packets that he believed to be from the previous year (copy on file). He asked how a reader could hear dissenting views in CACFA reports. He remarked that including a member of a federally recognized tribe and an ANCSA member on the commission was to give voice to potentially dissenting views. He cited a Klutina Lake dispute and RS 2477s as an example and stated there would be Alaskans who viewed the issue differently. He did not think an echo chamber kind of report had great value for the reader. He asked if it would be considered not terribly threatening for the reports to include information on the dissenting views of commission members.

[8:50:41 AM](#)

Mr. McKee asked for clarification on the question. He asked if Representative Josephson was asking whether the views of dissenting commission members would be published.

Representative Josephson answered that the information would be part of the online version of the report with an occasional hard copy.

Mr. McKee answered that it would be something the commission would have to discuss. He did not believe the language would be included in the bill.

Co-Chair Foster asked for verification that the bill added two seats including one tribal seat. He asked what the second seat would be.

Mr. McKee replied that the additional seats would include one tribal member and one ANCSA corporation shareholder.

Co-Chair Foster remarked that when he saw the inclusion of the two groups, typically it did not involve a tribal member, but a person representing a tribal organization and someone representing Native corporations as opposed to an

ANCSA shareholder. He asked if there was a reason why the legislation specified a tribal member and shareholder.

Mr. McKee answered that they had worked on a couple of different options. He relayed that the language in the bill was based off the language used by the Senate Finance Committee. The sponsor's office was open to hearing concerns and was trying to address as many of them as possible.

Co-Chair Foster stated he may reach out to organizations in his district about the proposal. He cited Kawerak as an example and explained the tribal consortium may be interested in including someone from its organization versus an individual tribal member who was not necessarily representing the region. He discussed why he believed the bill had merit. He stated that former CACFA chair Charlie Lean was from his district. He explained that the only people who could go to the Serpentine Hot Springs within the national park [in his district] were people with airplanes or helicopters during the summer months. He noted the area was accessible by snow machine during the winter. He stated that only affluent people could visit the area because four wheelers were not permitted. He relayed the distance was only about six miles. He saw CACFA as an organization to help spearhead the possibility for individuals who want to use old trails that had been established as far back as 100 years ago. He understood that each of the trails had to be treated differently, which was where the value of the commission came in.

[8:55:18 AM](#)

Co-Chair Foster asked the department to review the fiscal note.

ASHLEE ADOKO, DIRECTOR, OFFICE OF PROJECT MANAGEMENT AND PERMITTING, DEPARTMENT OF NATURAL RESOURCES (via teleconference), reviewed the fiscal note from the Department of Natural Resources (DNR) Office of Project Management and Permitting (OPMP), OMB Component Number 2733. The request for \$145,000 in personal services and \$15,000 in services and commodities beginning in FY 25 was for the CACFA executive director housed in OPMP to carry out the intent of the bill. The position would report to the commission and was needed for administrative purposes including standing up and administering the program,

coordinating commission feedback, and response to citizen inquiries and concerns about actions on federal lands. The note included an additional \$30,000 in services starting in FY 27 for legal support, which would be accomplished through a reimbursable services agreement (RSA) from DNR to the Department of Law (DOL). Additionally, the note included an annual request of \$10,000 for travel to hold meetings commensurate with the intent of the bill and its administrative purposes.

Representative Hannan remarked that the fiscal note and bill showed the CACFA executive director as reporting to the commission. She asked who had the human resources responsibility for hiring and firing the executive director position. She asked if the responsibility would reside with the commission or OPMP.

Ms. Adoko answered that she would need to follow up in writing. She believed it would be a combination.

Representative Hannan requested the information in writing. She wondered if the position would be a state employee with state protections and hiring/firing practices or whether it was equally shared and up to the commission.

[8:58:35 AM](#)

Co-Chair Johnson referenced letters in the packet requesting an additional board seat reflective of tribes and [Native] corporations. She asked if it was prompted by something that had happened on the board in the past or if it was an additional request for a board seat because it pertained to federal lands.

Representative Rauscher responded that it was his understanding the additional seats were to make the board have better representation when looking at things as a whole. He stated it was not really directed at anything from the past.

Co-Chair Johnson wanted to make sure it was not in response to something that had taken place in the past.

Co-Chair Foster noted that one of the amendments he had come up with the past year was to address AFN's concern. He thought the concern was about making sure the public would not have free reign to trespass on their private lands. He

remarked that Alaska Native corporations had a substantial amount of land, and they could not monitor it all. He detailed that one of his amendments was to clearly enunciate that CACFA would not try to open up old trails that may cross private lands for the same reason he would not want people driving through his back yard.

Representative Rauscher appreciated the explanation.

Representative Josephson recalled looking at the online version of the [CACFA] report ten years earlier, which he found very professional. He noted that one year ago the supreme court rejected a state attempt to overrule a federal ban on bear baiting on the Kenai National Wildlife Refuge. He elaborated that the issue had gone to the ninth circuit and the supreme court said that the federal government could ban some bear baiting. He explained that the supreme court refused to take the issue up, making it binding. He asked for verification that CACFA would be designed to be informative and not to have a call to arms or express bombast or outrage. He did not want to create a state document that was designed to fire up the masses in a tone that was inappropriate.

Representative Rauscher answered, "No, I do not believe so." He elaborated that the commission was for information gathering for being able to understand all points of view in an argument including ANCSA, ANILCA, or advocacy for a question under debate at a given time. He stated it was not to be used in the way referenced by Representative Josephson.

[9:03:38 AM](#)

Representative Josephson recalled that he had voted to reauthorize the commission in 2013 or 2014.

Representative Tomaszewski asked for an example of a success resulting from the commission in the past.

Representative Rauscher deferred the question to a former member of the board.

ROD ARNO, POLICY DIRECTOR, ALASKA OUTDOOR COUNCIL AND FORMER MEMBER, CACFA, shared that he had served on CACFA until it had lost its funding. He believed one of CACFA's biggest successes pertained to local hire. He elaborated

that when the [U.S.] Department of Interior was hiring individuals to work on the conservation system throughout the state, CACFA had worked to ensure the department had the ability to hire individuals living in those rural areas. He stated it was contested and had gone through the courts. The idea had been that if there were more individuals working for the department who lived on the land next to the federal lands, better decisions would be made than were taking place from directors of the department residing in Washington D.C.

Representative Stapp asked about the role CACFA played in helping Alaskans navigate through the federal permitting process. He considered the time and effort spent at a state and individual level on permits that ultimately failed because of missed details. He asked how the commission had assisted with the process.

Mr. Arno replied that the public had the opportunity to bring issues to CACFA if they were having problems with permitting or access. He elaborated that CACFA had been able to work with DNR and DOL to try to simplify the DNR permitting process as much as possible. The idea was for the public to come to CACFA and not for CACFA to be sitting there coming up with things that were inconsistent with the federal law governing the conservation system unit areas.

Representative Stapp asked if it was fair to say there were plenty of regular Alaskans who came to talk to CACFA on permitting issues that DNR may not have ever known about.

Mr. Arno responded affirmatively. He cited trapper cabins on federal lands as an example. He expounded that CACFA had been able to try to work through a policy change to establish that trappers with traplines could have winter cabins for safety reasons.

[9:08:28 AM](#)

Co-Chair Foster set an amendment deadline of March 4 at 5:00 p.m.

HB 83 was HEARD and HELD in committee for further consideration.

#hb145

HOUSE BILL NO. 145

"An Act relating to loans in an amount of \$25,000 or less; relating to deferred deposit advances; and providing for an effective date."

9:09:05 AM

Co-Chair Foster invited the sponsor and his staff to the table.

REPRESENTATIVE STANLEY WRIGHT, SPONSOR, introduced the bill with prepared remarks.

Payday loans with astronomical interest rates of up to 521.4 percent, rates that turn a lifeline into a chain, were not legal in Alaska until 2004. Despite dire warnings from consumer protection groups back then, exemptions for payday lenders were made. Twenty years down the road, we have seen the worst consequences from this oversight come to fruition, harming the most vulnerable members of our population. Payday loans, marketed as an instant solution to a short-term emergency, are structured as a debt trap by design. HB 145 removes the exemptions that have allowed such predatory practices to flourish unchecked. This legislation will align the interest rates and fees of payday loans with those charged by traditional banks, restoring fairness and equity to our lending laws. Today, we have a chance to right that wrong and ensure that no Alaskan has to suffer under the burden of predatory interest rates ever again.

9:10:58 AM

RACHAEL GUNN, STAFF, REPRESENTATIVE STANLEY WRIGHT, discussed the legislation with prepared remarks:

The stark reality is that more than half of Alaskans live paycheck to paycheck. For many, the margin between managing daily expenses and a financial catastrophe is razor thin.

Ms. Gunn shared that her background was in tourism, sales, mining, and fishing. She detailed that her first paid sick day was working for the legislature the previous session. She continued with prepared remarks:

And when life inevitably happens, as it does every year thousands of residents in our community, folks turn to payday loans.

Interest rates for these payday loans average 421 percent. This is because the rate is not set by the friendly competition of the market, but by an exemption for these payday lenders crafted in Alaska statute in 2004. At that time, consumer protections groups warned us of the consequences of this exemption. It's a rate so astronomical that it's hard to fathom - but if you paid that interest rate on a \$300,000 house, you'd be paying \$1.6 million yearly for the 30-year term of the loan.

You don't need a credit history to access a payday loan, you just show up with a paystub and your bank account details. The average payday loan taken out in Alaska is \$440. If the average person taking out a payday loan doesn't have the money saved to cover the expense in the first place, it is unlikely they will have the money to pay the loan back in two weeks they might not even be able to cover the exorbitant interest that is due in that time. The average time it takes the average Alaskan to pay off this loan is five months, and these folks access payday loans five times a year.

Payday loans target folks locked out of the regular consumer borrowing markets - perhaps due to poor credit history or no credit history at all - they can borrow the money they need to avoid the immediate crisis and default at incredibly high rates. Payday loans cost Alaskans \$29 million a year. 68 percent of these payday loans are taken out online, and the majority of brick and mortar payday loan shops, which are concentrated in economically depressed parts of our cities, are not incorporated in our state.

20 states have capped interest rates for these kinds of loans at 36 percent. Active duty military members and their dependents are federally protected from predatory rates. Once the member separates, they no longer enjoy that protection. One Texas study shows that while less than one in ten people in the general

population took out a payday loan to cover expenses, that rate jumped to half of the veteran population.

[9:13:34 AM](#)

Ms. Gunn relayed that one of the big players that devised the loophole for interest rates in 2004 no longer operated in Alaska, but the company left a legacy in CourtView and small claims court of 18,809 cases. She stated that Alaska's Permanent Fund Dividend (PFD) was a lifeline for its most vulnerable populations and when the state was able to garnish the PFD to pay the predatory lenders, it was removing the most basic lifeline that people relied on. She concluded her prepared remarks:

HB 145 removes the exemptions for these payday lenders under the small loans act, and it flattens the interest rates for these types of loans at 36 percent. It creates an anti-evasion provision so that predatory online lenders can't use rent-a-bank schemes posing as financial institutions in states with lax banking regulations to utilize loopholes to target Alaskans.

[9:14:44 AM](#)

Representative Wright added that many individuals were being affected across the state and it was hurting the state's economy. He explained that the funds collected [by the payday lenders] did not remain in Alaska. He remarked that nine times out of ten the money was going to another unnamed state. The situation hurt the most vulnerable Alaskans and the state's economy.

Co-Chair Foster noted that the bill was currently in its first hearing and there would be no public testimony or fiscal note review during the present meeting.

Representative Ortiz thanked the sponsor for bringing the bill forward. He stated the \$29 million per year cost to Alaskans from payday loans was an astounding statistic. He asked how the number had been calculated.

Ms. Gunn replied that there was a good amount of data available. She deferred the question to Jen Griffis with the Alaska Children's Trust.

JEN GRIFFIS, VICE PRESIDENT OF POLICY AND ADVOCACY, ALASKA CHILDREN'S TRUST (via teleconference), asked for a restatement of the question.

Representative Ortiz restated his above question.

[9:17:46 AM](#)

Ms. Griffis replied that she would provide an answer in writing.

Co-Chair Foster listed additional testifiers available for questions.

Representative Coulombe thanked the sponsor for bringing the bill forward. She asked if the legislation put a cap on the interest rate.

Representative Wright replied that the cap was 36 percent.

Representative Coulombe asked why veterans were more vulnerable than others to the situation. She observed veterans' numbers were double that of others.

Ms. Gunn responded that many individuals joining the military were young and once their service was complete they were starting over without much oversight or family guidance. She stated that younger individuals, older individuals on a fixed income, and recently separated military members were all seeking out the loans. She stated that the loans were targeted to the most vulnerable, low income members of the population.

Representative Coulombe asked if there was a sense that the companies located themselves outside of military installations. She asked if there was evidence the companies were targeting military members.

Representative Wright replied affirmatively. There were companies located outside the base in his district. He stated it was astonishing to know the companies preyed on certain groups. He stated it was where the clientele was.

[9:20:56 AM](#)

Co-Chair Johnson remarked that there was a place for many types of things in the market. She asked if the bill would

reduce the amount of money available for people to borrow. She recalled when she was young and unable to pay for things out of pocket and the need for quick access to funds. She stated that she would have been much more likely to use something like payday loans than something she knew she could pay off. She understood what the bill sponsor was saying about the cycle of lending, but she also recognized that people could make their own decisions.

Ms. Gunn responded that 68 percent of all payday loans were being taken out online. She relayed there were credit unions offering small loans products with reasonable terms, providing more access to small loans than ever. Much of what was seen with the [payday loan] locations were the convenience and education in the areas. She added that 20 states had capped the interest rate at 36 percent for payday lenders. She stated that the small loan market was alive and well in those states.

Co-Chair Johnson asked if any businesses would be put out of business as a result of the bill.

Ms. Gunn answered that the sponsor did not anticipate any businesses incorporated in Alaska would be put out of business as a result of the bill. She could not answer whether any out of state incorporated businesses would continue to do business. She explained that for the payday lenders currently operating in Alaska, payday loans accounted for 10 to 15 percent of their business. The lenders were primarily pawn shops with other products. The sponsor did not anticipate that reducing the "astronomical interest rates" down to 36 percent would put any of the businesses out of business.

Co-Chair Johnson asked if it was an interest rate or an advance fee.

Ms. Gunn responded that the exemption for payday lenders was brought about from SB 272 in 2004. She stated there had been warnings from AARP, AKPRIG [Alaska Public Interest Research Group], and Catholic charities about what the exemption could cause in Alaska. She stated that the average interest rate was 421 percent up to a maximum exceeding 500 percent. She stated that the businesses were charging the maximum allowed under the statutory exemption. She stated it was not an interest rate set by the market.

[9:24:17 AM](#)

Co-Chair Johnson asked if it was actually an interest rate. She thought it seemed like a cash advance fee as opposed to an interest rate.

Ms. Gunn referenced others available to answer questions. She referenced a provision related to the Small Loans Reform Act in the legislation and explained that setting the interest rate at 36 percent was for transparency. Currently, the interest rate was compounding and customers were charged for the interest on the loan and the principal and balance. She stated it is an interest rate. She deferred additional details to the Division of Banking and Securities.

Co-Chair Johnson relayed that she could ask further questions offline.

Representative Tomaszewski referenced the statement that payday loans could be done online. He asked if the bill would prevent online companies out of state [from providing the loans in Alaska]. He asked how it would be regulated in order to prevent individuals from using the same service online that was currently offered in brick and mortar stores.

[9:26:43 AM](#)

Ms. Gunn answered there was an anti-evasion provision in the bill that would create a safe harbor. She explained that lenders charging an Alaskan an interest rate above 36 percent had to play by Alaska's rules. There was no regulation if a business was charging under 36 percent.

Representative Stapp looked at the analysis in the packet and noted that currently there were licensing fees for 19 Deferred Deposit Advance (DDA) lenders. He asked if the out of state lenders paid the licensing fees.

Ms. Gunn deferred the question to the Division of Banking and Securities.

Representative Stapp stated that the [licensing] fee was currently \$3,000. He suggested that the state licensing fee could be increased to \$100,000, which would likely make

businesses change their behavioral practices. He asked to hear from the department.

[9:28:23 AM](#)

TRACY RENO, FINANCIAL EXAMINER, DIVISION OF BANKING AND SECURITIES, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT (via teleconference), answered that everyone currently paid a licensing fee. She stated that because the bill removed the exemption for payday lenders or deferred deposit advances, they would try to mesh the loan into the Small Loan Company Act, which would require amendments to make it work. She explained that companies would pay the annual renewal fees through the online nationwide multistate licensing system as all small loan companies currently did. She noted there were 12 current licensed locations with 7 approved companies all out of state. Three of the companies had branches in Alaska and there was one website and one mobile app. The fees paid were annual renewals and would be done just like the small loan companies if the bill went through and removed the Deferred Deposit Advance Act.

Representative Stapp asked for verification there was a separate licensing fee. He stated his understanding that if the bill moved forward the companies would be rolled under the existing license fee. He considered that there were 19 businesses engaged in the activity under a separate license fee. He asked if increasing the renewal fee from \$3,000 to \$100,000 per year would net revenue for the state and change behavior.

Ms. Reno answered that the maximum loan amount was \$500 or less with a 14-day advance maximum. She assumed that the fee would put the businesses out of business. She stated that the businesses could not make enough money on a \$500 loan to stay in business with a \$100,000 annual fee.

Representative Stapp asked for verification that the [payday lender] businesses would have a different license if the bill passed.

Ms. Reno responded affirmatively.

[9:31:12 AM](#)

Representative Hannan pointed out that the fiscal notes indicated that some businesses may choose to move to the

new type of licensure. She asked if there would still be a remaining licensure the businesses could operate under. She referenced the language in the fiscal note specifying that some DDA licenses may choose to apply for licensure under the Alaska Small Loans Act, which was where the cap of 36 percent was located. She remarked it was the loophole the bill was trying to close, but the language in the fiscal note seemed to indicate businesses would still have the ability to operate under their current licensure.

Ms. Reno responded that it was her understanding that the bill would completely repeal the Deferred Deposit Advance Act (the payday lending act); that current license type would go away completely. The businesses would be able to apply for a small loan company license, which would allow them to lend \$25,000 or less under usury. She explained that if a business chose to go over usury (around 10.5 percent depending on the day), it would be required to get a small loan company license. She stated it depended on the type of business a company was doing. She elaborated that if a business chose to apply for a small loan company act license in Alaska with restrictions on the interest rate, the rate would decrease from around 400 percent (depending on the specific program) to 36 percent.

Representative Hannan asked what the legal structure would be to prevent someone from going online and using a non-licensed Alaska predatory loan company.

Ms. Reno answered that the department was normally alerted when someone had a complaint. She explained that occasionally when someone had a problem the division was able to investigate and do searches online when it had the capacity. Additionally, the division was alerted by other states. She relayed it was typically word of mouth until someone brought an issue to the division's attention.

Representative Hannan asked for verification that the division had investigatory staff to look into and shut down predatory lending by non-licensed providers in Alaska if the legislation became law.

Ms. Reno agreed. She deferred the question to the director for additional detail.

[9:34:41 AM](#)

ROB SCHMIDT, DIRECTOR, DIVISION OF BANKING AND SECURITIES, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT (via teleconference), answered that unlicensed activity in any of the division's program areas was a fact of life and the division routinely took action against people engaging in unlicensed activity. He assured committee members that if the bill passed and the division discovered someone was providing loans at an annualized interest rate over 500 percent, the department would pursue and enforce the matter.

Representative Hannan stated she was supportive of the bill, and she wanted to ensure the legislature was closing any online loopholes.

Co-Chair Foster thanked the sponsor for the presentation.

HB 145 was HEARD and HELD in committee for further consideration.

#hb174

HOUSE BILL NO. 174

"An Act restricting fiduciary actions by a fiduciary of a state fund, the Alaska Retirement Management Board, and the Alaska Permanent Fund Corporation Board that have the purpose of furthering social, political, or ideological interests."

[9:35:55 AM](#)

Co-Chair Foster welcomed the bill sponsor and listed individuals available to testify.

REPRESENTATIVE KEVIN MCCABE, SPONSOR, introduced the bill with prepared remarks:

HB 174 prioritizes the financial or pecuniary interests of beneficiaries when managing state funds, ensuring responsible investment decisions focus solely on the financial gain. The bill strengthens efforts to establish a sustainable long-term fiscal plan for Alaska by eliminating external social, political, or ideological goals from investment considerations. It will align Alaska with a growing number of states introducing legislation that emphasizes responsible investment management and fiscal responsibility. It

prohibits practices like board stacking and ensures that members of key boards prioritize financial gain and refrain from advancing external interests. Passage of HB 174 signifies a significant step forward in responsible investment management for Alaska, safeguarding citizens financial interest for the state's long-term benefit. With the bill's passage, Alaskans can trust that their financial interests are being protected, contributing to confidence in the state's management and fostering a stable economic environment. My hope is that it will fortify the development of a durable, sustainable, long-term fiscal strategy for the state, devoid of transient trends or influences.

Representative McCabe continued with prepared remarks:

Investing in sustainable funds that prioritize ESG goals is supposed to help improve environmental and social sustainability of business practices. Unfortunately, close analyses suggests that its not only not making much difference to companies' actual ESG performance, but it may actually be directing capital into poor business performers and poor business models.

[9:38:52 AM](#)

JULIE MORRIS, STAFF, REPRESENTATIVE KEVIN MCCABE, reviewed the sectional analysis (copy on file):

Section 1 amends AS 37.10.071 to require fiduciaries of state funds to prioritize the financial interests of beneficiaries when investing public funds. This prohibits consideration of social, political, or ideological factors in investment decisions.

Section 2 amends AS 37.10.220 to require the Alaska Retirement Management board to prioritize the financial interests of beneficiaries when investing public funds. This prohibits consideration of social, political, or ideological factors in investment decisions.

Section 3 amends AS 37.10.220 to require the Alaska Permanent Fund Corporation board to prioritize the financial interests of beneficiaries when investing

public funds. This prohibits consideration of social, political, or ideological factors in investment decisions.

[9:39:52 AM](#)

Representative McCabe thanked Co-Chair Foster for hearing the bill. He noted individuals were available for questions.

Co-Chair Foster stated it was the first bill hearing and there would be no public testimony or fiscal note review during the meeting.

Representative Ortiz remarked that the bill raised some interesting questions in relationship to the status quo. He asked if it was the bill sponsor's position that the Alaska Permanent Fund Corporation (APFC) did not have enough autonomy to operate in the manner envisioned by the legislation. He asked if there was an existing problem.

Representative McCabe responded that he did not believe the current [APFC] board was hamstrung by the issue or was investing in any environmental social governance (ESG) companies simply for ESG policy. He used ExxonMobil as an example and stated that it had a robust ESG policy, but the company also made money. He believed the pertinent question was whether a company made money. He stated that if the answer was yes, APFC could invest in the company. He relayed there was no intent to limit what APFC could invest in. However, if a company did not make money because of its ESG policies or merely focused on ESG, like a Solyndra style, APFC should not invest in it and the guidance appeared in the bill.

[9:42:31 AM](#)

Representative Ortiz stated his understanding that the primary mission of APFC was to invest in the long-term interest of the fund and its Alaskan beneficiaries. Consequently, he asked for verification that APFC would likely not invest in a company such as Exxon if it was not making money because of its ESG policies.

Representative McCabe answered affirmatively. He stated that the APFC board, under its current structure, was investing for maximum investment. However, he had seen

evidence that other boards around the country were embracing the ESG mindset and investing more for social, environmental, and governmental factors ahead of fiscal factors. He explained that the bill communicated to APFC and the state's retirement system that the money belonged to the state and beneficiaries and the funds should be invested for maximum risk adjusted performance. The bill specified that ESG would not be the top priority when making investments. He stated the focus should be on maximizing investments because retirees depend on the funds. He stated that retirees could not eat or live off of an investment in Solyndra, but they could eat or live off an investment in Exxon.

[9:44:38 AM](#)

Representative Hannan asked whether Alaska Retirement Management Board (ARMB) had any considerations or investment efforts for any companies based on ESG policies.

PAM LEARY, DIRECTOR, TREASURY DIVISION, DEPARTMENT OF REVENUE (via teleconference), replied that ARMB and other fiduciaries followed the fiduciary standard in AS 37.10.071. She explained that the standard had been around for a very long time and was more stringent than every other state. She explained the standard had served the state well because anytime ARMB had been approached for investments for or against something, it had to stick to its statutes. She elaborated that ARMB did not consider factors other than what was in the sole financial interest of beneficiaries as required in statute. There was already an existing sole financial interest statute and ARMB and other fiduciaries had not followed any ESG or anti-ESG investments other than those that had strictly financial benefits to the funds.

Representative Hannan stated her understanding that under current statute the state may not base invest decisions on anything but the financial basis of investments and the consideration of ESG policies was not an element that could be allowed for state investment funds.

Ms. Leary responded affirmatively.

Representative McCabe replied that they had seen a number of states with similar laws on the books specifying they were not supposed to consider ESG; however, he stated that

the long-term effect of ESG such as carbon credits and carbon taxes would eventually be profit making. He remarked that there were ways around the law that he was concerned about. He wanted to ensure the direction from the legislature to ARMB and APFC was clear that it was only interested in financial gain for the funds. He stated there was also some evidence that some companies publicly embrace ESG as a cover for poor business performance. He cited a recent report authored by Ryan Flugum of the University of Northern Iowa and Matthew Souther of the University of South Carolina specifying that when managers underperformed earnings expectations set by analysts, they often publicly talked about their focus on ESG; however, when returns exceeded expectations the managers made few public statements related to ESG. He believed there were 119 different laws throughout the states being considered based on ESG investing. He stated that ESG was a newer term since the law in Alaska statute.

[9:49:27 AM](#)

Representative McCabe thanked the committee for hearing the bill. He thought it was time to update the state's statutes with newer investment terms and strategies.

HB 174 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the schedule for the afternoon meeting.

#

ADJOURNMENT

[9:50:14 AM](#)

The meeting was adjourned at 9:50 a.m.