

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

April 25, 2023

6:32 p.m.

MEMBERS PRESENT

Representative Ben Carpenter, Chair
Representative Jamie Allard
Representative Tom McKay
Representative Kevin McCabe
Representative Cathy Tilton
Representative Andrew Gray
Representative Cliff Groh

OTHER LEGISLATORS PRESENT

Representative Dan Ortiz
Representative Will Stapp
Representative Julie Coulombe
Representative Dan Saddler

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 109

"An Act reducing the corporate net income tax rate; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 110

"An Act relating to the Alaska permanent fund; relating to permanent fund dividends and the dividend fund; transferring the dividend program from the Department of Revenue to the Alaska Permanent Fund Corporation; relating to the duties of the Department of Revenue; relating to the duties of the Alaska Permanent Fund Corporation; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 109

SHORT TITLE: REDUCE CORP. NET INCOME TAX RATE

SPONSOR(S): REPRESENTATIVE(S) CARPENTER

03/13/23	(H)	READ THE FIRST TIME - REFERRALS
03/13/23	(H)	W&M, FIN
03/22/23	(H)	W&M AT 6:00 PM DAVIS 106
03/22/23	(H)	Scheduled but Not Heard
03/27/23	(H)	W&M AT 6:00 PM DAVIS 106
03/27/23	(H)	Heard & Held
03/27/23	(H)	MINUTE(W&M)
04/12/23	(H)	W&M AT 6:00 PM DAVIS 106
04/12/23	(H)	Heard & Held
04/12/23	(H)	MINUTE(W&M)
04/25/23	(H)	W&M AT 6:00 PM DAVIS 106

BILL: HB 110

SHORT TITLE: PERM FUND; XFER DIVIDEND PROG TO APFC

SPONSOR(S): REPRESENTATIVE(S) CARPENTER

03/13/23	(H)	READ THE FIRST TIME - REFERRALS
03/13/23	(H)	W&M, FIN
03/27/23	(H)	W&M AT 6:00 PM DAVIS 106
03/27/23	(H)	Scheduled but Not Heard
03/29/23	(H)	W&M AT 6:00 PM DAVIS 106
03/29/23	(H)	Heard & Held
03/29/23	(H)	MINUTE(W&M)
04/24/23	(H)	W&M AT 6:00 PM DAVIS 106
04/24/23	(H)	Heard & Held
04/24/23	(H)	MINUTE(W&M)
04/25/23	(H)	W&M AT 6:00 PM DAVIS 106

WITNESS REGISTER

ALLEN STRAH, representing self

Eagle River, Alaska

POSITION STATEMENT: Testified in opposition to HB 109.

DAVID LESLIE, representing self

Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 109.

PHILLIP MOSER, representing self

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 109.

PETER VAN FLEIN, representing self

Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 109.

KENDRA BROUSSARD, Staff
Representative Ben Carpenter
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 110, Version R, on behalf of Representative Carpenter, prime sponsor.

EMILY NAUMAN, Director
Legislative Legal Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 110, Version R.

DEVEN MITCHELL, CEO
Alaska Permanent Fund Corporation
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 110, Version R.

ACTION NARRATIVE

[6:32:06 PM](#)

CHAIR BEN CARPENTER called the House Special Committee on Ways and Means meeting to order at 6:32 p.m. Representatives McCabe, Gray, Groh, and Carpenter were present at the call to order. Representatives Allard, McKay, and Tilton arrived as the meeting was in progress.

HB 109-REDUCE CORP. NET INCOME TAX RATE

[6:32:54 PM](#)

CHAIR CARPENTER announced that the first order of business would be HOUSE BILL NO. 109, "An Act reducing the corporate net income tax rate; and providing for an effective date."

[6:33:09 PM](#)

CHAIR CARPENTER opened public testimony on HB 109.

[6:33:41 PM](#)

ALLEN STRAH, representing self, expressed the opinion that the bill is "offensive," because the state would be leveraging Alaskans with the lost revenue from the corporate tax cuts. He said that, until oil subsidies are eliminated, there should be no talk of taxing citizens of the state. He argued that a sales tax would be a regressive tax on residents, while a progressive income tax would be more reasonable, as with this option everyone who makes a living in Alaska would be paying their share.

[6:36:13 PM](#)

DAVID LESLIE, representing self, expressed the opinion that the idea of proposing tax cuts to corporations while the poor pay [sales] tax is "offensive" to the residents of the state. He argued that such a tax would have huge implications for the Alaska native community, especially those who live in rural areas. He suggested that there could also be financial implications for women and the LGBTQ community. He opined that the tax has the largest implications for the most marginalized groups in Alaska.

[6:38:19 PM](#)

PHILLIP MOSER, representing self, expressed the opinion that the proposed tax would impact those who live in conditions where every cent counts. He pointed out that in the first ten years of the Willow Project the state will be going into further deficit because of the tax credits associated with the project.

[6:40:03 PM](#)

PETER VAN FLEIN, representing self, stated that a sales tax is the most regressive and expensive form of tax, especially to Alaskans, as it is punitive to rural residents. He added that this would require a new state department. He explained that such a tax would be expensive for businesses to implement. He argued that corporations already do not pay enough income tax, yet they are the most intensive users of infrastructure. He suggested that the greatest gain to the state budget would be to repeal Senate Bill 21 [passed during the Twenty-Eighth Alaska State Legislature].

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The committee took an at-ease from 6:41 p.m. to 6:49 p.m.

[6:49:21 PM](#)

CHAIR CARPENTER, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 109. He announced that HB 109 was held over.

HB 110-PERM FUND; XFER DIVIDEND PROG TO APFC

[Contains discussion of HJR 7]

[6:49:44 PM](#)

CHAIR CARPENTER announced that the final order of business would be HOUSE BILL NO. 110, "An Act relating to the Alaska permanent fund; relating to permanent fund dividends and the dividend fund; transferring the dividend program from the Department of Revenue to the Alaska Permanent Fund Corporation; relating to the duties of the Department of Revenue; relating to the duties of the Alaska Permanent Fund Corporation; and providing for an effective date."

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REPRESENTATIVE MCCABE moved to adopt the proposed committee substitute (CS) for HB 110, labeled, 33-LS0371\R, Nauman, 4/24/23, as a working document.

[6:50:09 PM](#)

REPRESENTATIVE MCCABE objected for the purpose of discussion.

[6:50:34 PM](#)

KENDRA BROUSSARD, Staff, Representative Ben Carpenter, Alaska State Legislature, on behalf of Representative Carpenter, prime sponsor, read the explanation of changes of Version R [included in the committee packet], which read as follows [original punctuation provided]:

New Title has the following words removed,"
transferring the dividend program from the Department
of Revenue to the Alaska Permanent Fund Corporation;"

The CS deletes Sections 2-23, 26-28, 35-45 from HB 110

Section 1

Intent section with no change from HB 110.

Section 2

Section 24 from HB 110.

Section 3

Section 25 from HB 110.

Section 4

Section 29 from HB 110.

Section 5

Section 30 from HB 110.

Section 6

Section 31 from HB 110.

Section 7

Section 32 from HB 110.

Section 8

Section 33 from HB 110.

Section 9

Section 34 from HB 110.

Section 10

Adds new sections to AS 37.13 to establish the dividend fund as a separate fund in the permanent fund corporation. The dividend fund shall be administered and invested by the permanent fund board and will retain any unexpended balances.

Creates a restorative justice account in the dividend fund. The executive director shall transfer from the dividend fund to this account the amount of dividend individuals who have been convicted of a felony would otherwise receive.

The legislature may appropriate amounts from the restorative justice account to the crime victim compensation fund, the office of victim's rights, and grants to nonprofit organizations, department of corrections according to percentage laid out in this section.

Section 10 also adds a new section for the payment of dividends. Each year, the corporation shall pay a permanent fund dividend to each eligible individual. The amount of the dividend is determined by the commissioner of revenue and shall be paid by December 31 of each year.

The board shall transfer every year to the department of revenue amounts that are taken out of the dividend by law, including the dividend raffle.

Section 10 creates a new section under the corporation that requires information received by the corporation related to the permanent fund dividend to be confidential.

Section 11

Adds definitions.

Section 12

Conforming language to direct dividend payment to the estate of an eligible person.

Section 13

Conforming language to direct dividend payments to claimants of levies, garnishments, or other remedies of debt.

Section 14

Conforming language to direct dividend payment to the estate of an eligible person.

Section 15

Conforming language resulting from moving the dividend fund from the department of revenue to the permanent fund corporation.

Section 16

Conforming language resulting from moving the dividend fund from the department to the corporation.

Section 17

Adds a new section requiring the department of revenue to provide the corporation all information necessary for the corporation to distribute funds from the dividend fund.

Section 18

Allows the department of revenue to disclose confidential information the permanent fund corporation for executing the [payment of the dividend.

Section 19

Conforming language resulting from moving the dividend fund from the department to the corporation.

Sections 20-22

Adds definitions.

Section 23

Conforming language resulting from moving the dividend fund from the department to the corporation.

Section 24

Repeals requirements of the department of revenue no longer pertinent.

Section 25

Transition section similar to Section 46 from HB 110.

Section 26

Section 47 from HB 110 that provides a July 1, 2024 effective date.

[6:55:02 PM](#)

REPRESENTATIVE GRAY inquired if Section 10, which covers the creation of a restorative justice account, is new.

CHAIR CARPENTER answered that a restorative justice account already exists; however, Version R would move it to the Alaska Permanent Fund Corporation (APFC).

[6:56:06 PM](#)

REPRESENTATIVE GROH requested an explanation of the numerous sections which were removed from the previous version.

CHAIR CARPENTER answered that the intent of Version R is to simplify the bill, as it proposes to move a portion of the permanent fund program to APFC. He stated that some of the functions of the permanent fund program would remain with the Department of Revenue (DOR). He asked Ms. Nauman which portions of the program would be functionally transferred to APFC.

[6:57:21 PM](#)

EMILY NAUMAN, Director, Legislative Legal Services, Legislative Affairs Agency, explained that the prior version of the proposed legislation would have transferred the entire PFD (permanent fund dividend) program from DOR to APFC. She said that Version R would transfer the responsibility of issuing the check from DOR to APFC.

CHAIR CARPENTER questioned which agency would determine the dividend amount.

MS. NAUMAN answered that the amount of the dividend is currently determined by the legislature by appropriation. She explained that the calculation of what goes out to residents is made by DOR, and Version R would keep the department as the entity to make this calculation, while the payment would be handled by APFC.

[6:59:44 PM](#)

REPRESENTATIVE GROH questioned whether there would be a new fiscal note.

CHAIR CARPENTER responded in the affirmative. He explained that since the entire program is not being moved, there would need to be a new fiscal note, and once developed it would be available to the committee. In response to a follow-up question, he explained the rationale is that the intent of Version R is to provide the statute which HJR 7 would point to, and this would determine how the PFD is paid and how the government's portions of earnings would be paid. It would also help the dedication of funds be insulated from the legislature and the political process.

REPRESENTATIVE GROH questioned what DOR's responsibilities would be.

CHAIR CARPENTER answered that some of the information DOR uses, like personal information, would have to be coordinated with other departments. He said this would make the eligibility determination process easier to maintain, if it stays within DOR, rather than moving it to APFC.

REPRESENTATIVE GROH expressed the understanding that HB 110 and HJR 7 would "dovetail" with each other. He asked what would happen if HJR 7 passed but HB 110 did not.

CHAIR CARPENTER answered that HJR 7, as drafted, would point to a statute to determine the draws from the permanent fund, as well as what the income source would be. He said that if HB 110 did not pass, then HJR 7 would refer to the current existing statute. He asked Ms. Nauman to provide further explanation.

[7:06:18 PM](#)

REPRESENTATIVE GROH reiterated his question.

MS. NAUMAN concurred with Chair Carpenter. She stated that the current law describes the transfer of funds to and from the dividend fund, and this would remain in place; however, it would be considered a "transfer" rather than an "appropriation." She explained that current statutes would cause the PFD to be paid automatically without an annual appropriation, but it would still be paid through the formula in current statute, AS 37.13.145.

CHAIR CARPENTER said that the one obvious difference between the status quo and HRJ 7 is that, with the status quo funds are not transferred, but the legislature appropriates funds. He asked Ms. Nauman about this point.

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MS. NAUMAN explained that Wielechowski v. Alaska, 403 P.3d 1141, (2017), made certain that current statutes are subject to appropriation. She offered her understanding that, historically, the movement of money has always happened with an appropriation, and HJR 7 would change this, but not HB 110, Version R. She said the system of PFDs through appropriations would stay the same, even if Version R is adopted.

CHAIR CARPENTER expressed the understanding the Wielechowski v. Alaska case requires that transfers are appropriations; however, under HJR 7, the fund would be dedicated, and this would be a transfer.

MS. NAUMAN concurred.

[7:11:06 PM](#)

REPRESENTATIVE GRAY commented that HB 110, Version R, would require a movement of responsibilities to APFC. He questioned the effect of Version R on the cost.

CHAIR CARPENTER responded that the fiscal note would answer this question.

[7:11:58 PM](#)

The committee took an at-ease from 7:11 p.m. to 7:12 p.m.

[7:12:24 PM](#)

REPRESENTATIVE GROH asked whether Mr. Mitchell has reviewed Version R.

DEVEN MITCHELL, CEO, Alaska Permanent Fund Corporation, answered that the work draft, Version R, has been reviewed; however, the fiscal impact would still need to be determined. He stated that even though it is a simplification, it would not entail the full removal of the PFD program from DOR and into APFC. He pointed out the requirement that APFC obtain from DOR the eligible applicant list to distribute the PFDs. He said this creates

complexities because PFD payments are related to prior year PFD applications, and eligibility determinations are made throughout the fiscal year. He expressed the understanding that some of the distribution process is outsourced by DOR, some is in-house, and some of it relies on a proprietary data system. He said APFC would need to integrate this work into its programs, which is different because currently APFC does not have a payment distribution system; therefore, it will take time to determine the fiscal impact.

REPRESENTATIVE GROH questioned the possible operational impact of Version R, as it relates to the corporation's mission to invest the permanent fund. He questioned whether this would change if APFC is also in charge of distributing PFDs.

MR. MITCHELL responded this would not impact existing operations; however, resources would be required to implement the proposed legislation.

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REPRESENTATIVE GRAY expressed the understanding that without a constitutional amendment the legislature would still appropriate the fund; therefore, the PFD is not protected. Furthermore, with a constitutional amendment, all the money would be left with DOR to issue PFDs, as it is currently being protected by the constitution. He theorized that without an amendment, the money would not be protected.

MS. NAUMAN answered that he is correct in the assumption that, without an amendment, no matter where the dividend appropriation statute structure is, this amount will ultimately be subject to appropriation every year by the legislature. She said that Version R would move the dividend fund out of DOR and into APFC, as well as the administrative task of paying out PFDs, and this would happen regardless of whether a constitutional amendment is adopted. She explained that if legislation like HJR 7 passes, the transfer of funding for dividends would happen subject to statute, so even if it appears to be not subject to an appropriation, it would still be somewhat under the control of the legislature, in that the legislature can change statute and change the amount or the way the distribution amount is calculated.

REPRESENTATIVE GRAY expressed the opinion that the proposed legislation would be needed to protect the money for dividends; moreover, if the state only had the constitutional amendment,

but left the money at DOR, then the legislature could still use this money.

MS. NAUMAN responded that this is incorrect. She explained that the current statute still contains the word "transfer," and this means the proposed legislation would not be required to effectuate an automatic PFD.

REPRESENTATIVE GRAY asked that, if the state approves a constitutional amendment which directs that PFDs must be paid by formula, then it does not matter where the fund is, it must be used for dividends.

MS. NAUMAN answered that this is correct, and she explained that because at this point it would not matter whether the dividend fund is housed in DOR or APFC, the money would be used in accordance with the constitution.

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REPRESENTATIVE MCCABE commented that HJR 7 would require a PFD be paid; however, it would not address the amount, as the payment formula comes from statute. He suggested that, if the legislature approves only HJR 7, then the money could still be spent down, and the legislature could still use it. He expressed the understanding that a formula was specifically not put into the constitution.

CHAIR CARPENTER remarked that this question was more directed to HJR 7, and not Version R, and the purpose of HJR 7 would be to adopt a statute which would define what the PFD would be. He explained that [under the provision of HJR 7] the PFDs would come from the Earnings Reserve Account, and then the statute would lay out that the fund could only be transferred, not appropriated. He continued that the reserve account would be moved out of the general fund to APFC; therefore, this would take away the ability that the fund is appropriated; it would be money which could only be moved by statute, which is not an appropriation.

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REPRESENTATIVE MCCABE withdrew his objection.

[7:24:04 PM](#)

REPRESENTATIVE GRAY objected. He offered his understanding that there needs to be a statute to determine a formula for the PFD. He argued that, for the PFD money to be protected, there needs to be a constitutional amendment. He said having APFC take over the payment of PFDs would not achieve the goal of protecting the money. He objected and argued that if the state wants to do a 50/50 percent of the market value (POMV) split, then it should do it, but parts of Version R are unnecessary.

[7:25:11 PM](#)

The committee took an at-ease from 7:25 p.m. to 7:26 p.m.

[7:26:22 PM](#)

REPRESENTATIVE GRAY withdrew his objection.

[7:26:31 PM](#)

REPRESENTATIVE MCCABE relayed that the Fiscal Policy Working Group suggested that everything should be moved together, and the legislation should not be "cherry picked." He observed that the committee is working on a complete fiscal policy, and it will be difficult to move all the pieces together. He said that the constitution would prohibit all the pieces being put in an omnibus bill.

[7:28:17 PM](#)

CHAIR CARPENTER stated that the intention is not to rush an agreement on Version R.

[7:28:45 PM](#)

CHAIR CARPENTER announced that there being no further objection, Version R was before the committee as a working document.

[7:29:08 PM](#)

REPRESENTATIVE GROH stated that he has followed the work of the Fiscal Policy Working Group and expressed the understanding that the pieces of a fiscal plan would need to move together. He continued that the argument over the PFD needs to end by establishing a constitutional provision; however, the other risk which must be addressed is the legislature's ability to overdraw the fund. He explained that this is why he made comments during

the last meeting regarding HJR 9 being left behind. He expressed the hope to see revenue measures on the House floor.

[HB 110, Version R, was held over.]

[7:31:01 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at 7:31 p.m.