

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

February 8, 2002

1:05 p.m.

MEMBERS PRESENT

Representative Norman Rokeberg, Chair
Representative Scott Ogan, Vice Chair
Representative Jeannette James
Representative John Coghill
Representative Kevin Meyer
Representative Albert Kookesh

MEMBERS ABSENT

Representative Ethan Berkowitz

COMMITTEE CALENDAR

HOUSE BILL NO. 332

"An Act extending the termination date of the Council on Domestic Violence and Sexual Assault; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 15

Proposing amendments to the Constitution of the State of Alaska relating to inflation- proofing the permanent fund.

- HEARD AND HELD

HOUSE BILL NO. 243

"An Act relating to sexual assault or abuse of a minor."

- MOVED CSHB 243(JUD) OUT OF COMMITTEE

SENATE BILL NO. 183

"An Act relating to public interest litigants and to attorney fees; and amending Rule 82, Alaska Rules of Civil Procedure."

- BILL HEARING POSTPONED

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 321

"An Act relating to the purpose for crime victims' compensation; and limiting the factors that may be considered in making a

crime victims' compensation award in cases of sexual assault or sexual abuse of a minor."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 332

SHORT TITLE:EXTENDING COUNCIL ON DOMESTIC VIOLENCE

SPONSOR(S): REPRESENTATIVE(S)BUNDE

Jrn-Date	Jrn-Page		Action
01/16/02	1981	(H)	READ THE FIRST TIME - REFERRALS
01/16/02	1981	(H)	JUD, FIN
01/16/02	1981	(H)	REFERRED TO JUDICIARY
02/08/02		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HJR 15

SHORT TITLE:CONST. AM: PERMANENT FUND

SPONSOR(S): RLS BY REQUEST OF LEG BUDGET & AUDIT

Jrn-Date	Jrn-Page		Action
02/14/01	0316	(H)	READ THE FIRST TIME - REFERRALS
02/14/01	0316	(H)	JUD, FIN
02/14/01	0316	(H)	REFERRED TO JUDICIARY
10/19/01		(H)	JUD AT 11:00 AM Anch LIO Conf Rm
10/19/01		(H)	Heard & Held
10/19/01		(H)	MINUTE(JUD)
02/04/02		(H)	JUD AT 1:00 PM CAPITOL 120
02/04/02		(H)	Scheduled But Not Heard
02/08/02		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 243

SHORT TITLE:VERIFY AGE REQD FOR DEFENSE IN SEX CRIMES

SPONSOR(S): REPRESENTATIVE(S)DYSON

Jrn-Date	Jrn-Page		Action
04/10/01	0930	(H)	READ THE FIRST TIME - REFERRALS
04/10/01	0930	(H)	JUD
04/25/01		(H)	JUD AT 1:00 PM CAPITOL 120
04/25/01		(H)	Heard & Held
04/25/01		(H)	MINUTE(JUD)
01/23/02		(H)	JUD AT 1:00 PM CAPITOL 120

01/23/02 (H) Heard & Held/Subcommittee
assigned
MINUTE(JUD)
02/08/02 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE CON BUNDE
Alaska State Legislature
Capitol Building, Room 501
Juneau, Alaska 99801
POSITION STATEMENT: Sponsor of HB 332.

SUSAN SCUDDER, Executive Director
Council on Domestic Violence and Sexual Assault (CDVSA)
Department of Public Safety (DPS)
PO Box 111200
Juneau, Alaska 99811-1200
POSITION STATEMENT: During discussion of HB 332, spoke in
support of extending the sunset date and responded to questions.

DEL SMITH, Deputy Commissioner
Office of the Commissioner
Department of Public Safety (DPS)
PO Box 111200
Juneau, Alaska 99811-1200
POSITION STATEMENT: During discussion of HB 332, spoke in
support of extending the sunset date and responded to questions.

JAMES WELCH, Chief of Police
City of Fairbanks
911 Cushman Street
Fairbanks, Alaska 99701
POSITION STATEMENT: Testified in support of HB 332.

BRENDA STANFILL, Executive Director
Interior Alaska Center for Non-Violent Living (IAC)
717 9th Avenue
Fairbanks, Alaska 99701
POSITION STATEMENT: Testified in support of HB 332.

WINIFRED KELLY
Tundra Women's Coalition (TWC)
PO Box 2785
Bethel, Alaska 99559
POSITION STATEMENT: Testified in support of HB 332.

ARLEATA SNELL
PO Box 3121
Bethel, Alaska 99559
POSITION STATEMENT: Testified in support of HB 332.

BURT COTTLE, Mayor
City of Valdez
PO Box 307
Valdez, Alaska 99686
POSITION STATEMENT: Testified in support of HB 332.

CATHERINE VAARA, Executive Director
Advocates for Victims of Violence (AVV)
PO Box 524
Valdez, Alaska 99686
POSITION STATEMENT: Testified in support of HB 332.

GRACE BROOKS, Executive Director
Sitkans Against Family Violence (SAFV)
PO Box 6136
Sitka, Alaska 99835
POSITION STATEMENT: Testified in support of HB 332.

DEB KNAFF
Sitkans Against Family Violence (SAFV)
PO Box 6136
Sitka, Alaska 99835
POSITION STATEMENT: Testified in support of HB 332 and noted
that she would be faxing a letter from Louise Howitzer (ph) to
the committee.

DAWN COYKENDALL
407 Vestovia Street
Sitka, Alaska 99835
POSITION STATEMENT: Testified in support of HB 332.

GINGER BAIM, Director
Safe and Fear-Free Environment (SAFE)
PO Box 94
Dillingham, Alaska 99576
POSITION STATEMENT: Testified in support of HB 332.

JILL SIMPSON, Executive Director
Cordova Family Resource Center (CFRC)
PO Box 863
Cordova, Alaska 99574
POSITION STATEMENT: Testified in support of HB 332.

NANCY SCHEETZ-FREYMILLER, Public Member
Council on Domestic Violence and Sexual Assault (CDVSA)
420 Kayak Drive
Anchorage, Alaska 99515
POSITION STATEMENT: Testified in support of HB 332.

BILL MILLER, Deputy Chief
Domestic Violence Coordinator
Anchorage Police Department (APD)
Municipality of Anchorage
4501 South Bragaw Street
Anchorage, Alaska 99508
POSITION STATEMENT: Testified in support of HB 332.

PATTI SWENSON, Staff
to Representative Con Bunde
Alaska State Legislature
Capitol Building, Room 501
Juneau, Alaska 99801
POSITION STATEMENT: During discussion of HB 332, responded to
questions on behalf of the sponsor, Representative Con Bunde.

CLARK S. GRUENING, Member
Alaska Permanent Fund Corporation Board of Trustees
217 Second Street, Suite 204
Juneau, Alaska 99801
POSITION STATEMENT: Provided comments on HJR 15 and responded
to questions.

ROBERT D. STORER, Executive Director
Alaska Permanent Fund Corporation (APFC)
PO Box 25500
Juneau, Alaska 99802-5500
POSITION STATEMENT: Provided comments on Version C of HJR 15
and responded to questions.

JIM KELLY, Director of Communications
Alaska Permanent Fund Corporation (APFC)
PO Box 25500
Juneau, Alaska 99802-5500
POSITION STATEMENT: Provided comments during discussion of HJR
15 and responded to questions.

RONALD W. LORENSEN, Attorney
Simpson, Tillinghast, Sorensen & Longenbaugh
One Sealaska Plaza, Suite 300

Juneau, Alaska 99801

POSITION STATEMENT: Speaking as counsel to the Alaska Permanent Fund Corporation, provided comments and responded to questions regarding HJR 15.

REPRESENTATIVE FRED DYSON
Alaska State Legislature
Capitol Building, Room 104
Juneau, Alaska 99801

POSITION STATEMENT: Sponsor of HB 243.

ANNE CARPENETI, Assistant Attorney General
Legal Services Section-Juneau
Criminal Division
Department of Law (DOL)
PO Box 110300

Juneau, Alaska 99811-0300

POSITION STATEMENT: During discussion of HB 243 responded to questions.

HEATHER M. NOBREGA, Staff
to Representative Norman Rokeberg
House Judiciary Standing Committee
Alaska State Legislature
Capitol Building, Room 118
Juneau, Alaska 99801

POSITION STATEMENT: During discussion of HB 243 responded to questions.

ACTION NARRATIVE

TAPE 02-13, SIDE A
Number 0001

CHAIR NORMAN ROKEBERG called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives Rokeberg, Ogan, Coghill, Meyer, and Kookesh were present at the call to order. Representative James arrived as the meeting was in progress.

HB 332 - EXTENDING COUNCIL ON DOMESTIC VIOLENCE

Number 0050

CHAIR ROKEBERG announced that the first order of business would be HOUSE BILL NO. 332, "An Act extending the termination date of

the Council on Domestic Violence and Sexual Assault; and providing for an effective date."

Number 0071

REPRESENTATIVE CON BUNDE, Alaska State Legislature, sponsor, explained that HB 332 would extend the Council on Domestic Violence and Sexual Assault (CDVSA) to June 30, 2006. He noted that last [fiscal] year, the CDVSA provided services to over 7,000 Alaskan women and children, giving them safe shelter throughout the state for a total of over 50,000 "shelter nights." He mentioned that an audit conducted by the Legislative Audit Division suggested the sunset extension.

REPRESENTATIVE MEYER asked if it is typical to extend sunsets four years at a time.

REPRESENTATIVE BUNDE said that in his experience, it is.

REPRESENTATIVE OGAN asked whether all of the concerns raised by the Legislative Audit Division's audit have been addressed by the CDVSA.

REPRESENTATIVE KOOKESH, after noting that the sponsor's statement makes reference to providing services for perpetrators, asked what those services entail.

REPRESENTATIVE BUNDE said that there is a "batterers' program" in which perpetrators are encouraged to change their behavior.

Number 0421

SUSAN SCUDDER, Executive Director, Council on Domestic Violence and Sexual Assault (CDVSA), Department of Public Safety (DPS), said that the CDVSA strongly supports the extension of the sunset date. It provides a critical service [pertaining to] the public safety of Alaskans, particularly Alaskan women and children, and provides prevention services to perpetrators of domestic violence. She noted that of the five recommendations made as a result of the audit performed on the CDVSA, one is the extension of the sunset date.

CHAIR ROKEBERG referred to the Legislative Audit Division's Recommendation No. 1, which said: "The legislature should amend the Council on Domestic Violence and Sexual Assault's statutes related to appointment of council members." He asked Ms. Scudder to speak to that issue.

MS. SCUDDER explained that the current statute regarding appointment of council members requires the Alaska Network on Domestic Violence & Sexual Assault (ANDVSA), which is a nonprofit coalition of the programs served by the CDVSA, to submit a list of recommended persons to the governor, and requires the governor to appoint three persons to the council after consultation with the ANDVSA. However, the governor is not required to choose the appointees from the ANDVSA's list; rather, he/she must simply consult with the ANDVSA. She noted that it is fairly standard practice for the governor to consult with the experts in any field when making appointments to boards or commissions. She said that the CDVSA does not feel that the statutes need to be changed since the governor only consults with the ANDVSA and does not have to follow its recommendations regarding appointees; "in fact, precedent shows there have been governors who have appointed people who were not recommended by the [ANDVSA]."

REPRESENTATIVE OGAN referred to the audit's statement that an apparent conflict of interest exists when a council member reviews, evaluates, approves, and monitors a grant to the same non-profit corporation that was responsible for recommending that individual for council membership.

MS. SCUDDER said:

The way that this works is the [ANDVSA] puts out the word to all the programs that there is an opening, and then the programs themselves have a specific protocol that they use - an evaluation process - and they recommend people to the [ANDVSA], and then the [ANDVSA] will recommend people to the governor. The people who are recommended by the individual programs may indeed have had an affiliation with any of those programs in the past. In fact, on our current [council], one of our more recent appointments used to be on the board of STAR [Standing Together Against Rape] in Anchorage, and actually had to resign that position in order to serve on the council. [Because we want to have people who are informed on the issue], ... that same perceived conflict of interest could occur with many people who have served on the council: that they will have had an affiliation with a domestic violence or sexual assault program somewhere in the state at some point in time....

REPRESENTATIVE MEYER asked how the CDVSA interacts with groups like Star.

MS. SCUDDER explained that the CDVSA provides funding to those programs, mostly through federal grants, and then provides oversight of the grants to ensure that the programs are fulfilling all the requirements of the grants.

Number 0740

DEL SMITH, Deputy Commissioner, Office of the Commissioner, Department of Public Safety (DPS), added that the CDVSA, of which he is a member, is intended to serve not only as a funding body, but also as a center of information about related subjects. He noted that the CDVSA does maintain ongoing discussions with the different programs across the state.

CHAIR ROKEBERG referred to the Legislative Audit Division's Recommendation No. 3, which said: "The legislature should amend AS 18.66.050 referring to the council hiring staff, and the council should address personnel issues and promote strong leadership by the executive director." He asked Ms. Scudder to comment.

MS. SCUDDER explained that current statute says that the council shall hire an executive director and staff, but in practice, that is not what happens. The council hires the executive director who then hires the staff; there have not been any cases where the council has directly hired staff.

CHAIR ROKEBERG asked why the CDVSA has not sought a statutory change regarding that issue.

MS. SCUDDER replied that "it hasn't been posing a problem."

MR. SMITH added that although he has been a member of the council for the past seven years and is aware of what the statute says, "it never occurred to me that I wanted to be involved, or [that] any member of the council wanted to be involved in the selection of staff for the executive director." He said that it just seemed like an unnecessary change because, in practice, the council has interpreted the statute to mean that the council hires the executive director who then hires his/her own staff.

CHAIR ROKEBERG remarked that this practice, in essence, is an example of the administration interpreting and following, as it

sees fit, the laws passed by the legislature. He noted, however, that although the current practice is working, the statute should be changed to reflect "reality."

REPRESENTATIVE KOOKESH agreed that the statute should be changed to reflect the current practice. He added that since he puts a lot of faith in the people he hires, if he hired an executive director, for example, he'd expect that executive director to hire the appropriate staff.

CHAIR ROKEBERG noted that the audit does recommend a statutory change to this effect, and that he prefers the administration to follow what the statutes say.

REPRESENTATIVE JAMES said she agrees with Representative Kookesh; when hiring a leader, it is important for that leader to have employees that he/she can work with. She, too, opined that the statute should be changed to reflect current practice.

Number 1016

CHAIR ROKEBERG referred to the Legislative Audit Division's Recommendation No. 4, which said, "The council should address statutory responsibilities that relate to consultation with the Department of Health and Social Services (AS 18.66.050(12)) and other entities and organizations (AS 18.66.050(14))." He asked Ms. Scudder to comment.

REPRESENTATIVE COGHILL interjected to suggest that Recommendation No. 4 and Recommendation No. 5, which said: "Council members and the executive director should consult with the Department of Education and Early Development, school district representatives, and grantees who have worked toward curriculum development to create a comprehensive standardized curriculum to be used within the schools across the state," could be rolled into a "communication discussion between agencies."

CHAIR ROKEBERG offered Ms. Scudder the opportunity to address both recommendations together.

MS. SCUDDER said that Recommendation No. 4 asked that the council work with the Department of Health & Social Services (DHSS) on the training of healthcare professionals in identifying and treating cases of domestic violence and sexual assault. She explained that the council has had a role in this [training]; the DHSS has an ongoing program - The Alaska Family

Violence Prevention Project - and at its inception as a ten-state test program, the CDVSA sat on the program's advisory board. She said she is not sure "exactly what happened in the audit on that," but the healthcare professionals in Alaska are receiving training on these issues already. She added that the CDVSA was at the table when this program was first set up, can certainly take a more active role in the ongoing process of the program, and will do that with the DHSS.

MS. SCUDDER mentioned that the second part of [Recommendation No. 4] pertains to mandatory training for certain types of employees - including employees of the court, judges, and private employees - on issues of domestic violence. She explained that the CDVSA has also had a role in that training through one of the grants that it administers - the "Violence Against Women Act" grant - and one of the portions of that training this year is to have judges receive training on domestic violence issues. Thus, she assured the committee, some of this aspect of Recommendation No. 4 is already being addressed, and the CDVSA will take a look at the training to ensure that it is comprehensive and meets the needs [of participants].

Number 1153

MS. SCUDDER said that Recommendation No. 5 pertained to working with the Department of Education and Early Development (EED) to develop a statewide curriculum on domestic violence and sexual assault issues. She explained that historically, the CDVSA has left it to the individual programs funded by the CDVSA to [create] curriculums that are tailored to their regions. She reiterated that the activity recommended in the audit is happening; the programs are in the schools, but the curriculum has not been [created] by the CDVSA. She noted that the CDVSA will, however, gather the materials that are already being used around the state, and will work with the EED to come up with at least a base model that school districts can use if they want to - but, once again, letting the individual programs in the [different] areas add information that is specific to those areas to ensure that cultural and other local, relevant issues are addressed.

CHAIR ROKEBERG asked whether curriculum requirements are a matter of federal law.

MS. SCUDDER said she did not know. In response to a question pertaining to what is taught in the classroom regarding sexual

assault and domestic violence, she explained that the recommendation of the CDVSA is to start age-appropriate education in the school system; part of the solution is breaking a cycle, and part of breaking a cycle is education.

MR. SMITH added that what is intended of the curriculum in the schools is to break the cycle of violence, to teach that violence is not the answer to resolving problems; that is what the curriculum is focused on, not necessarily on sex education.

REPRESENTATIVE JAMES asked whether any assertiveness training/education is being offered.

MS. SCUDDER said yes; in the programs throughout the state, counseling services are offered to victims of domestic violence and sexual assault, and part of those services include empowering people so that they can become stronger advocates for themselves.

Number 1387

REPRESENTATIVE OGAN mentioned that for years, he'd served on the "public finance subcommittee," noting that at the time, that subcommittee felt that the batterers' issue was not receiving enough emphasis. He said he is disappointed to see, years later, that the audit is pointing out the same weaknesses regarding the batterers' program, and he surmised that perhaps this issue is not a priority for the council.

MS. SCUDDER countered that the CDVSA funds seven community-based, nonprofit batterers' programs, and three [batterers'] programs in the prisons. So it is not that batterers' issues aren't being addressed, she added; "it is fairly new to the council - we've only been doing this for three years - but it is something that we are addressing."

REPRESENTATIVE OGAN opined that a lot of things done by the CDVSA merely address the problem after the fact. He also opined that the batterers' program is the one preventative program that goes to the root of the problem. He suggested that more money, time, and resources should be spent on the people who are perpetrating these crimes, rather than on just trying to make the victims whole.

MR. SMITH confirmed that initially, the CDVSA was not spending anything on the batterers' programs; then the CDVSA was able to spend \$200,000 and now it spends \$360,000. He added his belief

that there is a recommendation/request for funds in the governors budget this year as well. He explained that the problem is that "you've got to spend out of both pockets for a while." He continued:

I want to break the cycle of violence, as every member does that's involved in this, and certainly batterers' intervention and changing their behavior is an appropriate approach. But I cannot leave women on the street who are not protected. So I need to spend money on shelters also. I'd spend every dime you're willing to give us for batterers' intervention, in addition to what we already get.

Number 1563

JAMES WELCH, Chief of Police, City of Fairbanks, testified via teleconference and stated simply that the Fairbanks Police Department (FPD) is in support of extending the sunset for the CDVSA because the council performs some very important and necessary work throughout Alaska and because the council's support and guidance are needed throughout the law enforcement community.

Number 1599

BRENDA STANFILL, Executive Director, Interior Alaska Center for Non-Violent Living (IAC), testified via teleconference. She noted that the IAC has a community-based batterers' intervention program as well as a program in the prison. She spoke in support of extending the sunset for the CDVSA, noting that she has been with her organization for six years and thus has had an opportunity to see what the CDVSA has accomplished. She said that the IAC definitely appreciates the support and oversight provided by the CDVSA; "they come in every two years, at least, go through our records, make sure we're doing what we say we're going to be doing, [and], in addition to that, they're great at providing support when we're having issues."

Number 1673

WINIFRED KELLY, Tundra Women's Coalition (TWC), testified via teleconference, asking the committee to extend the sunset on the CDVSA. She said that the CDVSA funds programs that are very important and much needed in Alaska. She relayed that although CDVSA-funded programs have many success stories, the TWC is still receiving calls from victims who need services; in 2001,

for example, 718 crisis calls were taken, and 1,969 shelter nights were provided. She noted that in the Yukon-Kuskokwim Delta, the TWC is a strong community resource that provides necessary education and outreach services, in addition to crisis intervention services. She extended her thanks to Representative Bunde for sponsoring HB 332, and to the committee for holding the hearing on it.

Number 1734

ARLEATA SNELL testified via teleconference, asking the committee to extend the sunset on the CDVSA. Speaking as a victim of domestic violence, she noted that it is very important for communities to have safe places for victims and their families to go to.

Number 1765

BURT COTTLE, Mayor, City of Valdez, testified via teleconference in support of extending the sunset on the CDVSA. He recounted that he has lived in Valdez for 28 years; has worked in the police department for 22 years, 8 years as chief of police; has served on the city council for 3 years, 2 years as mayor; and has spent 2 years on the board of Advocates for Victims of Violence (AVV). Speaking as both the mayor and as a private citizen, he said that he and the citizens of Valdez support the AVV in the following ways: The city of Valdez, in 1998 and 1999, donated \$215,000 for the purchase and building of a new domestic violence shelter; the city has funded \$37,000 per year for the past 15 years-plus; in 2001, two local fundraisers were held that raised over \$85,000 to "pay off the building here in town"; and United Way, for the past 10 years-plus, has donated \$30,000-\$40,000 each year towards domestic violence issues. He noted that when he travels to Juneau in his capacity as mayor, he stops by the CDVSA and speaks with them directly to ensure that Valdez is doing everything possible to curb domestic violence. In conclusion, he stated that domestic violence has not ended, and that simply throwing people in jail is not sufficient, since there has been no intervention. He added that the CDVSA is part of that intervention.

Number 1847

CATHERINE VAARA, Executive Director, Advocates for Victims of Violence (AVV), testified via teleconference in support of [extending the sunset on] the CDVSA. She said that the CDVSA has made a significant difference in many people's lives in the

Valdez area, as well as throughout Alaska: saving people, housing them, and helping them to find the resources they need in order to get on with their lives. The CDVSA has had a significant role in terms of expanding public awareness; "they are a voice for us," she said, adding that the CDVSA has also had a significant role in terms of providing technical assistance. She relayed that the CDVSA has supported AVV with its efforts regarding three successful children's programs: the Peacemakers Program specifically addresses bullying issues in schools; the Strong Girls Program addresses issues of self-esteem and advocates for developing strong peer-group support; and a "teen talk group" provides a very significant service for teens in the area. She added that the AVV is currently working with the Valdez Counseling Center in developing a very strong [batterers'] intervention program. She relayed that the CDVSA has been instrumental in providing a marvelous network throughout Alaska, linking up the AVV with 23 other domestic violence programs. She concluded by saying she fully supports the continuance of the CDVSA.

Number 1919

GRACE BROOKS, Executive Director, Sitkans Against Family Violence (SAFV), testified via teleconference in support of extending the sunset of the CDVSA. She said that it is imperative for Alaska to make a stronger commitment to ending violence against women and children, and extending the CDVSA is a way to demonstrate that commitment. She remarked that the CDVSA is able to leverage federal funds, provides technical assistance to the many programs around the state, and, most importantly, provides resources to victims and survivors in order that they may build safe lives for themselves and their children.

Number 1942

DEB KNAFF, Sitkans Against Family Violence (SAFV), testified via teleconference, urging the committee to extend the sunset on the CDVSA so that it may continue working with all the programs around Alaska. With Alaska being such a huge state, the CDVSA has been integral in providing services that keep women and children safe. She noted that she also has a letter from Louise Howitzer (ph) that she will fax to the committee.

Number 1980

DAWN COYKENDALL testified via teleconference in support of extending the sunset on the CDVSA. She noted that as a victim of domestic violence, the CDVSA has been invaluable to her. She recounted that previous to living in Sitka, she lived in Florida but did not receive services there because she was not aware that such services even existed. Now, because she lives in Sitka and because of the CDVSA and the money it provides, she explained that she is able to carry on with her life in a nonviolent environment; awareness of safe shelters through community education has been invaluable to her. She said:

I've had need to use the shelter, I've had need to use their services, and without them I would still be living in a domestically violent situation. Without them I would have not had legal help to protect myself from my husband's violence, I would not have understood what domestic violence really is, and I would not have had the services that have been provided for my husband to make him aware of his own violent acts. I appreciate this council and the funds that they have provided, and I am especially grateful for the safe shelter and the services provided by them.

Number 2060

GINGER BAIM, Director, Safe and Fear-Free Environment (SAFE), testified via teleconference, and noted that SAFE, a domestic violence program, provides services to the entire Bristol Bay region - about 33 villages. She said that she is in support of HB 332 because SAFE depends on the CDVSA to keep the program going. She continued:

As you may have heard, it's been pretty rough out here in Bristol Bay the last few years. The failing of our fishing industry has had a devastating affect on many of our communities, and one measure of that problem is that SAFE provided nearly as many shelter nights in the first quarter of fiscal year [FY] '02 [as] we provided in all of fiscal year '01. In addition to the SAFE shelter, we also have a residential care facility for children, in state custody, that's operated in the same building as our domestic violence program.

We have a Sister's Program, which is a treatment and shelter program set up specifically for women - with

children - who are battered and chemically dependent. We have a fetal-alcohol-syndrome prevention program where we provide childcare for any parent, but particularly for young women who are attempting to go into after-care treatment or evening treatment, [and] we provide childcare and transportation for them. We have an active children's program. We have an active village outreach program; we have at least two trained volunteers in 24 of our 33 villages, and we have four part-time paid advocates in 4 of our villages.

MS. BAIM also said:

Our board of directors consists of many people from our community, including two village residents [from] outside of Dillingham. We depend on the council [in order] to be able to provide these core services; the council's direction and oversight of our programs guarantees the most efficient and effective use of state resources. The council also helps to coordinate the efforts of other state, federal, and local agencies to enhance the safety of victims and to reduce domestic violence. We need them to continue their good work, and I urge you to pass HB 332 out of committee today with your positive support.

Number 2153

JILL SIMPSON, Executive Director, Cordova Family Resource Center (CFRC), testified via teleconference in support of extending the sunset for the CDVSA. She said that the CDVSA is important to the CFRC because the community is isolated and must rely on the CDVSA's funding and support to transport some victims out of the community. She continued:

Many of these people, if they didn't know there was a way out, would not be reporting domestic violence. So they would continue living with it. But, because we're able to offer them support and encouragement and a place to go outside of their community, we are getting a lot more reporting, and [are] able to support these families. The other aspect ... we consider important [is the] work we do in the schools.

We concentrate ... on doing education and prevention; we're in the grade schools doing a bullying-prevention program ... trying to cut down on bullying behavior

and build self-esteem. In the junior high and high schools, we concentrate more on discussion groups and educating students as to relationships and the pattern of domestic violence. A lot of people don't realize what can be called domestic violence, and [by] educating them in relationships as they get into girl/boy relationships a lot more, [we are] therefore coming from a prevention mode and not waiting until it's already happened. ... We rely on the council to support us in this - in these programs - and [to offer] us [the] support to be able to run our office. So I really encourage you to look at extending the council, thank you.

Number 2235

NANCY SCHEETZ-FREYMILLER, Public Member, Council on Domestic Violence and Sexual Assault (CDVSA), testified via teleconference in support of extending the sunset on the CDVSA. She opined that the CDVSA is one of the best models for efficient and effective government. It's efficient in terms of the fact that there are four state departments working together and with various programs on the issues of domestic violence and sexual assault. It's a model that is a leader in coordination and family response. She said that it's effective in the sense that she has seen people from all different political persuasions come together to try to stop domestic violence; she has seen them stop domestic violence by working with victims, by working with men, by working with children, and by dealing with everybody in the community. She noted that she has had women and children come up to her and say "Thank you, I now have a positive future," and she has had men come up to her and say "Thank you, I didn't want to be like this."

Number 2316

BILL MILLER, Deputy Chief, Domestic Violence Coordinator, Anchorage Police Department (APD), Municipality of Anchorage, testified via teleconference, noting that as a representative of the chiefs of police from around Alaska, he is also on the committee that administers the "Violence Against Women Act" grant monies. He said that he is in support of HB 332 for two main reasons. The first has to do with rural law enforcement; [the CDVSA] helps with the distribution of monies from the "follow-up grant" to rural law enforcement and smaller police departments around the state for training in the areas of domestic violence and sexual assault. "As many of you know,

with the smaller departments and the constricted budget, this money and the training that it provides becomes extremely important to those law enforcement officers and the communities that they serve," he noted. The second reason is that [the CDVSA] provides a mechanism for coordination among law enforcement, advocates, and other departments that deal with the victims and the perpetrators of domestic violence and sexual assault. He opined that [the CDVSA] offers a fine example of the mechanism that provides for coordination amongst government agencies.

CHAIR ROKEBERG asked of the sponsor's representative, Patti Swenson, if there was a reason the sponsor did not incorporate the legislative auditor's recommendation to modify the statute as it pertained to the hiring of staff.

Number 2397

PATTI SWENSON, Staff to Representative Con Bunde, Alaska State Legislature, sponsor, on behalf of the sponsor, explained that Representative Bunde spoke with the executive director of the CDVSA about that recommendation, and at that time, he felt it would not be necessary to incorporate such a change. She added that the sponsor would not object to such a change if it is the will of the committee to amend HB 332.

CHAIR ROKEBERG noted that there is some consensus among the committee that the auditor's recommendation should be incorporated into HB 332. In order to allow the sponsor the opportunity to develop a committee substitute (CS), Chair Rokeberg announced that HB 332 would be held over.

HJR 15 - CONST. AM: PERMANENT FUND

Number 2458

CHAIR ROKEBERG announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 15, Proposing amendments to the Constitution of the State of Alaska relating to inflation-proofing the permanent fund.

CHAIR ROKEBERG called an at-ease from 1:50 p.m. to 1:52 p.m.

TAPE 02-13, SIDE B

Number 2459

REPRESENTATIVE MEYER moved to adopt the proposed committee substitute (CS) for HJR 15, version 22-LS0568\C, Cook, 1/31/02, as a work draft. There being no objection, Version C was before the committee.

CHAIR ROKEBERG noted that Version C merely changes, from 5 percent to 6 percent, the maximum amount that can be appropriated from the permanent fund. He asked for comments regarding this change

Number 2437

CLARK S. GRUENING, Member, Alaska Permanent Fund Corporation Board of Trustees ("the board"), noted that other testifiers would speak more specifically to that change, whereas he preferred to address the purpose of [HJR 15], which is to provide "complete and protected inflation-proofing" for the permanent fund ("the fund"). He explained that [HJR 15] does this by limiting the annual appropriation to 5 percent of the "moving average." Simply speaking, he said, the "projected long-term average earning return of the fund" is 8 percent, whereas inflation is 3 percent; so by only spending 5 percent, the fund retains that 3 percent inflation figure. In an effort to explain why inflation-proofing is so important for the fund, he mentioned that 25 years ago, when the ninth legislature amended the Alaska State Constitution, they knew that although the state would quickly get used to using oil revenue, oil production would decline at some point. Because of this inevitable decline, it made sense to set up a savings account even though, at the time, it was not known exactly what that savings account would be used for, nor what kind of financial situation the state would find itself in.

MR. GRUENING, in response to a question, elaborated that some of the things that could not be foreseen were the rate of oil production and the exact timeframe when the oil money would run out. He said that according to his recollection, the projections of when the money would run out were a lot earlier than has proven to be the case, and this has been due in part to good luck and a lot more oil production than was initially anticipated by the oil companies.

CHAIR ROKEBERG added that to his recollection, it was projected that the state would be out of oil in 2003.

MR. GRUENING confirmed that. "It was very pessimistic," he added. He said that the one point he wanted to bring to the

committee's attention as it looks forward for the next 25 years is that if it could be legislated that an industry produce "X" amount of revenue, the legislature would do so. He recalled a joke that he has heard from time to time regarding a hypothetical piece of legislation that says, "The price of oil will be 'X.'" He posited that what HJR 15 does is the equivalent of taking an industry such as fishing, oil, or tourism, for example, and saying, "You're going to produce this much income over this period of time." Passage of HJR 15 will ensure that over the next 25 years - looking at the oil industry to produce under \$20 billion, and even after the inflation-proofing money is retained - the permanent will produce, for the legislature's and the people's use, more than twice \$20 billion. He stated that in the larger context, inflation-proofing makes "good policy sense." He indicated that the next testifier would speak to the issue of why the appropriation limit should remain 5 percent instead of 6 percent as is proposed in Version C.

Number 2240

ROBERT D. STORER, Executive Director, Alaska Permanent Fund Corporation (APFC), indicated that he would speak briefly about how the APFC and its staff came to the conclusion that 5 percent is the appropriate number to have as an appropriation limit, and about how the Earnings Reserve Account (ERA) functions as a shock absorber for market volatility. He noted that next week, the APFC's consultant will make the yearly presentation before the board wherein it will review the capital market assumptions that the consultant prepares. During the review, the board looks at an array of options, and what they mean to the board is a median expected return over the next five years. "Over the last few years and, in fact, next week, you're going to find our existing asset allocation ... has a median expectation of producing a 5 percent real rate of return, a return that would be 5 percent over the rate of inflation," he said. This is more than coincidence, he warned, it is actually the long-term historical rate of return of what the asset allocation earns.

CHAIR ROKEBERG asked what that amount was. "It was more than 5 percent then, right?"

MR. STORER acknowledged that "the history of the permanent fund is in fact more than 5 percent." He said that it can be looked at two ways: one way is to look at "five years projecting forward," but when he refers to long-term, he said he is actually talking about data since 1926.

CHAIR ROKEBERG asked: "But you just said last year we just got the data, and it was the inflation plus 5 [percent] - which added up to how much, then?"

MR. STORER asked whether he is referring to returns.

CHAIR ROKEBERG indicated he is referring to returns. "I thought you said you met the 5 percent target based on what inflation occurs."

Number 2175

MR. STORER, to clarify that point, said that last year, when there was actually a negative return, the [real rate of] return of the fund was below inflation. He noted that this information segues into another point he wanted to make: When looking at long-term numbers and how they are interpreted, there are periods, sometimes prolonged periods, when that real rate of return can not be achieved, such as happened last year. He pointed out that if members had looked at this same proposal in 1983, when he first came to work for the APFC, they would have disapproved of the measure because the asset allocation for the decade previous to 1983 did not achieve a 5 percent real rate of return. But over the longer term, he noted, the APFC has been able to achieve a return in excess of that 5 percent rate of return.

CHAIR ROKEBERG remarked that it has been closer to 12 percent.

MR. STORER indicated that that is a fair statement; "double digits at least ... over last year." But there are prolonged periods of time, he reiterated, when that goal cannot be achieved, though there are also prolonged periods of time when the return is in excess of that goal. Which is why the ERA is so important, he added. He explained that the permanent fund is divided into two components: the principal, which cannot be touched without a vote of the people, and the ERA, which is, in essence, the profits and the income of the fund realized through the normal market process [and] the unrealized gains through stock and bond appreciation. The ERA is actually the component that absorbs the market volatility, he noted. When the value of the fund goes down because of the market, the principal does not change but the ERA goes down dramatically. He pointed out that the ERA is also the component that allows the legislature to appropriate money for the permanent fund dividend (PFD), for inflation-proofing, et cetera.

CHAIR ROKEBERG remarked that if [HJR 15] is adopted, there wouldn't be an ERA.

MR. STORER said that technically, there would still be an ERA; there would still be a principal that could be measured by ...

CHAIR ROKEBERG interjected, pointing out that all the funds would be commingled, and that there would be no need for an ERA. "That's the whole idea of an endowment, I thought," he added.

Number 2070

MR. STORER acknowledged that the funds would be commingled. He noted, however, that the language pertaining to "principal" still exists in HJR 15; this underscores the importance of having an ERA as a cushion. He said that it could be considered a belt-and-suspenders way of protecting the earnings.

CHAIR ROKEBERG noted that "that's what we have now." If HJR 15 were adopted, however, then future legislatures would be limited to the amount constitutionally stipulated via this legislation. "So we [won't] have an [ERA] that we could dip into," he added.

MR. STORER said: "Not all of it, no."

CHAIR ROKEBERG countered: "We wouldn't have any." There would just be the 6 percent or 5 percent or whatever appropriation limit the legislature stipulates.

MR. GRUENING noted that the part that doesn't change in HJR 15 is the concept of protecting the principal. Once "principal" is defined, the rest is earnings reserve or whatever the legislature wants to call it, he added. That aspect of the statute doesn't get repealed by HJR 15, so that difference between that notional number of principal - which is simply what has gone in by constitutional mandate plus what the legislature, over the last 25 years, has put in voluntarily, which amounts to \$7 billion - and the market value is what is currently available for appropriation. He remarked that HJR 15 doesn't change the concept that once all that is left is just the principal, either through spending or market volatility, then there is no spending, period.

CHAIR ROKEBERG asked: "At the 5 percent figure, all things being equal right now, what would that dollar amount be?"

MR. STORER offered that it would be about \$1.2 billion.

CHAIR ROKEBERG asked what the amount would be at 6 percent.

MR. STORER said that it would be about \$1.5 billion.

CHAIR ROKEBERG asked what amount of the "unencumbered earnings reserve" could be paid out in 2003, for example, "if we wanted to dip into the [ERA], that's over and above the PFD and inflation?"

Number 1914

MR. STORER said that the projection is that the APFC will earn about 8 percent on June 30, after the liability of the PFD is encumbered and after inflation-proofing. This should leave about \$3 billion in the ERA, the projected amounts of about 8 percent earnings and about 3 percent inflation, he noted.

CHAIR ROKEBERG remarked that he has heard numbers ranging between \$175 million to \$200 million a year as the profit.

MR. STORER clarified that the "residual" is about \$175 million to \$300 million; "we use a range because of our components."

REPRESENTATIVE JAMES noted that the remark that HJR 15 is not changing a certain portion of the statute is incorrect; HJR 15 stipulates that all income from the permanent fund shall be deposited into the permanent fund rather than in the general fund as is currently required. She said:

So you are making the permanent fund, in total, a permanent fund. And I assume that this means that the appropriations shall be limited to 6 percent but it doesn't say [that] no other appropriations from the permanent fund may be made. But what you're allowing us, then, is to appropriate from the permanent fund itself. Isn't that correct?

MR. GRUENING pointed out that when he is speaking of the market value of the fund, he is referring to the principal and the earnings reserve, so in a sense, right now, because of the current statutory language that sets up the ERA, the money does go into the permanent fund.

REPRESENTATIVE JAMES said that she disagrees with that statement because it is not [put into the] permanent [fund], it is [put

into the] general [fund]; all of the state's income is currently put into the general fund.

CHAIR ROKEBERG indicated that he, too, disagrees with Mr. Gruening's statement.

MR. GRUENING acknowledged that HJR 15 would change it from the way it is done now. Under current statute, money is deposited into the ERA, which sets up the mechanism. But in terms of what the APFC manages, it's the total amount, including the ERA. "And when you take a percent of market value, it includes the total market value - principal and earnings reserve," he said.

Number 1792

REPRESENTATIVE JAMES sought confirmation that it is true that when the permanent fund is managed, when part of it is permanent and part of it isn't, there could be a difference in the way that some of [the money] is "deposited," and thus the portion that is not permanent might be invested a little differently.

MR. STORER explained that APFC manages the permanent fund with a single asset allocation; in terms of managing the assets of the fund there's no distinction between the principal and the earnings reserve. He noted that if HJR 15 were to pass, that management style would continue.

CHAIR ROKEBERG sought confirmation that the APFC does "manage for payouts," such as the PFD.

MR. STORER acknowledged that there is a cash-flow issue and that is part of the whole asset-allocation development.

REPRESENTATIVE JAMES asked whether the 5 percent figure that Mr. Storer is advocating for would then be the only amount available for liquidation in order to have cash available.

MR. STORER said:

We would basically manage the fund as we do now, which has, to date, the dividend, [and] you can expect to average about 4 percent, and so that cash requirement's nominally more in terms of managing a \$25 billion fund. And so that certainty, if you will, would allow us to maintain the stock exposure that we have. If the payout were to increase dramatically,

then we might consider managing the fund more conservatively to meet the cash-flow needs.

REPRESENTATIVE JAMES said that she does not know whether she is more comfortable with a 6 percent or with a 5 percent limitation. She added, however, that she is not comfortable with the fact that "if we do this and we don't change the way we calculate the permanent fund dividend, that's all that ever gets paid - or mostly all that ever gets paid." She said that she is not willing "to go there until we've made some changes in how we allocate the permanent fund dividend over the long period ...; in fact, I'm not sure the current calculation we have even works with this situation because of the way the statutory language is."

Number 1639

CHAIR ROKEBERG noted that they would have to leave the existing statutory language in until the voters get a chance to vote on a constitutional amendment. He said that he would not be averse to changing the current "statutory regime" because he thinks it's broken.

REPRESENTATIVE JAMES remarked that she has a plan.

CHAIR ROKEBERG asked how much was paid out in PFDs last year.

MR. STORER said \$1.182 [billion].

CHAIR ROKEBERG asked how much the inflation-proofing was.

MR. STORER said roughly \$700 million.

CHAIR ROKEBERG surmised, then, that the 5 percent figure wouldn't have been sufficient for last year's inflation-proofing and PFDs.

MR. STORER said that is correct.

CHAIR ROKEBERG said that depending on the level of inflation, if the 5 percent figure is adopted, there is still the risk that the dividend would have to be reduced and that there would be nothing available for the legislature to appropriate. He said that was his rationale for raising the appropriation limit to 6 percent. He asked whether the \$7 billion that the legislature has voluntarily placed into the principal is "nominal dollars or growth dollars."

MR. GRUENING said it is actual dollars.

CHAIR ROKEBERG surmised, then, that "the growth is more than half." For those that are concerned that the permanent fund has not been inflation-proofed enough, he said that he would suggest instead that the legislature has "inflation-proofed the kitchen sink; we have inflation-proofed every dime and dollar in every nook and cranny of the permanent fund - we've over-inflation-proofed it." The legislature has added fully half of the permanent fund's whole value, he noted, "by nominal direct dollar deposits" and the appreciation of those dollars. He said:

If we look at the integers of what can really be the proper endowment amount, in my ... opinion we could probably go 50 years at 6 percent and wouldn't eat up what we've already got inflation-proofed in there now. I'd love to see some numbers on that in a model. I think we've already inflation-proofed it so far ahead that ... to say that we [should] just stick here at the old conservative 5 percent rate - and leaving us nothing on table for maneuver-room - is ridiculous, because we've already [done] our job over and over again, as the legislature, and being responsible to the public. ... I'm a firm believer, gentlemen, in your endowment plan and your recommendation, but to tie the legislature's hands in this manner, when we already have done the good job of protecting it, is, I think, a false economy and not good, given the financial circumstances we're going into. In other words, I can't believe that we could sell this to the public, and even our own colleagues here, if we have such a miniscule amount. That's my opinion.

Number 1484

JIM KELLY, Director of Communications, Alaska Permanent Fund Corporation (APFC), to clarify, said:

Any discussion about how much money needs to be inflation-proofed isn't included in the \$1.2 billion. We will make \$2 billion in this coming year, and the money that would be available would be made available for dividends and any other public use that you'd have, and that would be out of the \$1.2 billion. In this fiscal year that's coming up, the dividend is

going to be right around [\$1] billion, so there would, in fact, be close to \$250 million available for another use.

MR. KELLY said that the more important point has to do with the long-term, and although part of it is about inflation-proofing, the other part of it, as Mr. Gruening points out, is about producing a sustainable income stream. "And if your intent, Mr. Chairman, is to produce as much money as possible from the permanent fund, over the next 25 years you will get more money at a 5 percent limit than you will with a 6 percent limit," he stated.

CHAIR ROKEBERG mentioned that he "would also be interested in seeing that, because you're talking about building the critical mass, so 5 percent of 200 is bigger than 5 percent of 100."

MR. KELLY acknowledged that it is a "math thing and it has to do with compounding." But over time, when more money is paid out, there is less money to invest in the future, and so less is produced, he noted. He continued:

I can tell you that over a 25-year period - and with the permanent fund we try to think of it in terms of generations, which is 35 years, 65 years, 100 years ... - you're going to get more money.

CHAIR ROKEBERG pointed out a picture located on the back wall of the committee room. He said that it is "from about 1886 and it's of Liberty being strangled to death by taxes; that's where we're at today, we're about ready to be strangled to death by taxes." He said he didn't know if there is time to build a critical mass, and fiddle while Rome burns, without using some permanent fund earnings of one nature or another. He noted that although he doesn't disagree with Mr. Kelly's point, it is a matter of how much patience "we" have.

Number 1356

REPRESENTATIVE KOOKESH asked the representatives from the APFC and the board whether "the 5 percent is supportable by you all." He said that although he understands Chair Rokeberg's position regarding 6 percent, he doesn't automatically support that figure and would like to hear the representatives' viewpoint.

MR. GRUENING said: "It's on the aggressive side, [though] we believe it's supportable."

MR. STORER said:

We concluded that given our existing statutes that limit the amount of money we can invest in the equity market, ... a 5 percent was on the high end of achievable; it's aggressive but we believe we can achieve that goal and still ensure that the permanent fund is inflation-proofed well into the future. Recognizing, because of market volatility, that certain years you would not make (indisc.--coughing), and certain years you would make considerably more than that sum.

CHAIR ROKEBERG surmised, then, that the APFC would be able to "guarantee the basic valuation of the fund's ability to produce a real dollar, not nominal dollar, in the future; so your future income stream would be consistent.

MR. STORER said that is correct.

CHAIR ROKEBERG added that that does not take into account any market volatility or economic volatility the state may face; "therefore, it's like the permanent fund will be this solid, growing rock ... of financial stability, as the state goes bankrupt - potentially." He said that that is how he is interpreting the testifiers' comments.

MR. KELLY advised members not to forget that [the permanent fund] is going to be producing \$2 billion a year of income - or \$1.250 billion - which is going to be in excess of any other source of income in the state. "It's twice as large as your next largest source of income," he added.

CHAIR ROKEBERG said he agrees, adding that he wants to make sure it remains a bountiful source of income.

Number 1228

REPRESENTATIVE MEYER, referring to the memorandum from the APFC in members' packets, asked how increasing the appropriation limit in HJR 15 to 6 percent would impact the amount available to help fill the fiscal gap.

MR. STORER, after noting that the dividend formula would remain the same, said that there could be between \$375 million and \$550

million available for appropriation. He reminded members, however, that ultimately, if more is taken "off the table," there would be some diminishment of the dividend over time, though that impact would be relatively small.

REPRESENTATIVE JAMES remarked that the legislature is attempting to fill a \$900 million hole this year, and to fill even half of that with taxes is going to have a huge impact on Alaska's economy, "to suck that out of the people's pockets." She also remarked that Alaska is going to have to "grow our economy," which is going to take money. "You don't get anywhere without investing in something; we need to probably spend some more money, ... and so, quite frankly, I don't want to have my hands tied right now," she added. She said that although she likes the concept of HJR 15, she has concerns about going that route at this time.

REPRESENTATIVE COGHILL stated: It's available now. He also mentioned that it wasn't going to be easy to go to the people and convince them to vote to allow the legislature to appropriate from the permanent fund.

CHAIR ROKEBERG remarked that HJR 15 would protect the permanent fund much better than it is being protected now, since the current "statutory regime is broken." If there is an extended period of "negative markets," and if there are not adequate amounts in the ERA, it may result in not being able to pay a dividend, he predicted.

Number 1041

MR. KELLY said that there is no doubt that HJR 15 adds a level of protection to the permanent fund. Even using the 6 percent figure, it is still a limit on how much can be appropriated from the fund, he noted, and is a tighter limit than what exists right now, which is none. Right now, the legislature can appropriate all \$3 billion that's in the permanent fund's ERA, and that would be that; HJR 15 at least limits that ability. He noted that the APFC has spoken to people in different communities throughout the state and there has been a great deal of support for the notion of a constitutional amendment that would limit the annual payout of the permanent fund earnings and that would ensure that that money is "at as high a level as possible for as long as possible"; that's something that resonates with the people.

REPRESENTATIVE JAMES asked whether, during those conversations, the APFC told people that "all of this was going to go to permanent fund dividends - or most of it."

MR. KELLY replied that there is a long-standing tradition at the APFC that the trustees do not opine on issues of what should be done with that money, and "we've just never crossed that line."

REPRESENTATIVE COGHILL asked how the payout and the fund's valuation would be affected should there be another recession such as the one that occurred in the early '70s when "we did get into double-digit inflation."

MR. STORER posited that it could limit the amount that could be paid out. He said that there are two questions: If we get into double-digit inflation, then what happens to the financial markets, and how long would they both perform "in the manner that they did." He remarked that "we" didn't even experience double-digit inflation in the '70s; it was actually rather short-lived, and more like 6 to 8 percent. A prolonged double-digit inflation combined with a bear-equity market, which would have some impact on the bond market as well, would create the biggest problem, he noted. The problem of lower earnings combined with higher inflation could exist, he added, regardless of whether [HJR 15] passes; however, [HJR 15] would allow a consistent level of appropriation so that the needs of the state could be met in such an environment.

REPRESENTATIVE COGHILL said that his point is that the legislature would still be limited to 5 percent of whatever the value of the fund is, and people might view it differently in that kind of situation.

Number 0740

REPRESENTATIVE MEYER relayed that a constituent of his had mentioned that back when the permanent fund was started, no one had ever dreamed that it would one day be worth \$25 billion, and had proposed that some of that money could be used to close the fiscal gap. Representative Meyer surmised that in his constituent's opinion, \$25 billion was enough; he posited that it might be time to question how big the permanent fund should get. Are "we" going to be here 20 years from now with a fund that's worth \$75 billion, he asked.

CHAIR ROKEBERG offered that it is a question of whom the fund should benefit: "you, or your grandchildren?"

REPRESENTATIVE MEYER said that the question for him is, "At what point is enough, enough: when has it grown enough, and when should we start using it for something?"

MR. GRUENING remarked that Representative Meyer has brought up a point regarding the way inflation-proofing is done now: it actually is taken from the earnings reserve and placed into the principal, where it can't be spent. Under [HJR 15], that money would actually be retained and become part of that total market value, which is another way of saying it inflation-proofs the whole fund.

MR. KELLY noted that he'd received a call from a reporter who asked, "What if you stopped inflation-proofing; ... what would be the impact in 25 years?" Mr. Kelly explained that although the fund will still be \$25 billion, the value of the dollars paid out - in dividends or anything else - would shrink at the rate of inflation. So in 25 years, that \$25 billion would be the equivalent of \$6 billion in today's dollars, which would not be good for either "you, or your grandchildren," if inflation-proofing is discontinued.

REPRESENTATIVE MEYER indicated that he is hopeful that "someday we will have [Arctic National Wildlife Refuge] (ANWR) open, we'll have another 'Prudhoe Bay,' we'll have a gas pipeline," and then as more money becomes available, it can again be used to inflation-proof the permanent fund. He posited that adoption of [HJR 15] would definitely tie the legislature's hands.

Number 0565

REPRESENTATIVE OGAN asked whether HJR 15 would change the way PFDs are distributed and whether any statutes related to that distribution would need to be changed.

MR. KELLY indicated that HJR 15 would not change the way PFDs are distributed and no statutory changes would be needed.

CHAIR ROKEBERG said he disagrees; "we would have to make statutory changes to reflect [changes created by] the constitutional amendment.

REPRESENTATIVE OGAN asked what would be the payout of the PFD, under HJR 15, if the statutes don't change.

MR. KELLY said that the [PFD] projection for the following year is a little bit under \$1 billion - under the existing statutes - and that is also what it would be under HJR 15. The [PFD] statute wouldn't change and wouldn't need to change; the amount that would be needed to pay the PFD falls well within the 5 percent limit proposed by HJR 15.

CHAIR ROKEBERG asked whether the PFD would be around \$1,300 to \$1,400.

MR. KELLY said that it is not yet that low although it moves down towards \$1,400 over several years.

Number 0441

REPRESENTATIVE JAMES said that according to her understanding, "even though this fund is a total fund, you still know what the earnings are, and the [PFD] is calculated on the average of the last five years of earnings." So she is assuming, she said, that even if "you had all the permanent fund in as a permanent fund, you could still identify what those earnings were over the last five years and average it." She suggested, however, that "it goes on to say ..., 'or half of the earnings reserve', which is ever smaller, and now we don't have an earnings reserve anymore [under HJR 15]; it's all permanent [fund], with an allocation for us to appropriate." That's not the same thing, she argued, adding that if it is the 5 percent, the amount "in that pot" is reduced to half - instead of almost all, as indicated the APFC representatives. "So it either can't be done at all, or it greatly changes the way we do it, in one fell swoop," she said.

CHAIR ROKEBERG said that that is why he believes a statutory change is needed, "because, number one, there's statutory requirements for inflation-proofing, which would be obviated by the adoption of [HJR 15]; so because inflation-proofing is internalized and automatic, ... those provisions for inflation-proofing need to be repealed." He noted that "the rest of the mechanics of the fund would have to be adjusted also, to reflect the reality of the payout, because right now it says, 'the general fund', and that creates the earnings reserve," whereas [HJR 15] would change it to say, "permanent fund", which to him means that "the earnings reserve goes away."

MR. GRUENING pointed out that actually, the legislature appropriates funds in each year's budget for inflation-proofing. He added that there was an attorney general's opinion - "back in

the 'Dave Rose days'" - that indicated that such inflation-proofing is automatic, but the legislature was of a contrary opinion.

Number 0263

RONALD W. LORENSEN; Attorney; Simpson, Tillinghast, Sorensen & Longenbaugh; noted that he has been counsel to the APFC for over five years. He said that his interpretation of [HJR 15] is that it would not change the present distinction between what is principal and what is income - earnings reserve. He said that the reason for this interpretation can be found in Section 1 of HJR 15, which says that the principal into which all funds are deposited shall only be used for certain purposes. It is the following sentence in Section 1 that stipulates what happens to income, he explained, adding that although HJR 15 says that income shall be deposited into the permanent fund, it does not automatically become principal; income is still income, so for accounting purposes, the principal continues to be accounted for as principal, and the income is accounted for as income by accruing it in what has been designated by the legislature as the ERA. He advised the committee not to assume that just changing where the income goes - from general fund to permanent fund - by itself, turns income into principal, which is inviolate.

REPRESENTATIVE COGHILL asked whether what is currently done with unrealized gains would change under HJR 15.

MR. LORENSEN said that the simple answer is that unrealized gains, under accepted accounting principles, are required to be accounted for as income; under HJR 15, they would continue to be treated in the same manner for purposes of the five-year market value, which is as income and not as principal. He pointed out that for purposes of calculating the PFD, only realized income is considered, not unrealized income.

REPRESENTATIVE COGHILL remarked that he is referring to the value upon which the 5 percent limitation is based, so he is wondering at what point do [unrealized gains] discount that value.

MR. LORENSEN said that under the 5-percent-of-market-value approach, the market value would be based on generally accepted accounting principles (GAAP), which say that unrealized gains are included as income; hence they would be part of the total value.

REPRESENTATIVE JAMES asked whether this means that at any given time, the APFC could calculate how much is in the ERA, and if so, whether [that calculation] would include the unrealized gains.

MR. LORENSEN said yes.

TAPE 02-14, SIDE A
Number 0001

CHAIR ROKEBERG closed the public hearing on HJR 15. He indicated that he would like to see either Version C or the original version of HJR 15 move from committee.

REPRESENTATIVE JAMES indicated that she is not willing to move either version at this point in time.

CHAIR ROKEBERG announced that HJR 15 would be held over.

HB 243 - VERIFY AGE REQD FOR DEFENSE IN SEX CRIMES

Number 0140

CHAIR ROKEBERG announced that the last order of business would be HOUSE BILL NO. 243, "An Act relating to sexual assault or abuse of a minor."

Number 0242

REPRESENTATIVE MEYER moved to adopt the proposed committee substitute (CS) for HB 243, version 22-LS0770\C, Luckhaupt, 2/1/02, as a work draft. There being no objection, Version C was before the committee.

CHAIR ROKEBERG moved to adopt Conceptual Amendment 1:

Page 1, line 7:
Delete "and in good faith"

CHAIR ROKEBERG explained that the language he recommends deleting is language that is used in business, and isn't used in the criminal code.

REPRESENTATIVE FRED DYSON, Alaska State Legislature, sponsor, objected. He explained that the aforementioned language was part of what the subcommittee developed. He told the committee

that Representative Berkowitz felt that the language was a good idea.

CHAIR ROKEBERG informed the committee that he has a note from [his staff] that Representative Berkowitz changed his mind in regards to the need for the language.

REPRESENTATIVE MEYER remarked that if Representative Berkowitz didn't feel strongly about the language, then perhaps the sponsor wouldn't either.

Number 0483

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), remarked that her first reaction to the amendment is that "and in good faith" is used in civil law, and is probably subsumed within "reasonably", anyway.

REPRESENTATIVE DYSON asked if Chair Rokeberg meant to say that after the subcommittee meeting, Representative Berkowitz changed his mind and agreed that "and in good faith" shouldn't be included.

HEATHER M. NOBREGA, Staff to Representative Norman Rokeberg, House Judiciary Standing Committee, Alaska State Legislature, noted that after the subcommittee meeting, which she attended, she spoke with Representative Berkowitz who, upon further reflection, felt that use of the aforementioned language was a bad idea. She agreed that the rationale was that the language is used in civil law, and would be redundant [when used with "reasonably"].

REPRESENTATIVE DYSON removed his objection to Conceptual Amendment 1.

CHAIR ROKEBERG announced, for the record, that Representative Berkowitz's staff wasn't present during the aforementioned conversation and thus couldn't comment.

CHAIR ROKEBERG asked whether there was any objection to Conceptual Amendment 1. There being no objection, Conceptual Amendment 1 was adopted.

Number 0697

REPRESENTATIVE OGAN moved to report the proposed committee substitute (CS) for HB 243, version 22-LS0770\C, Luckhaupt, 2/1/02, as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 243(JUD) was reported from the House Judiciary Standing Committee.

ADJOURNMENT

Number 0738

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:49 p.m.