

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

April 4, 2002

8:06 a.m.

MEMBERS PRESENT

Representative John Coghill, Chair
Representative Jeannette James
Representative Hugh Fate
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

Representative Gary Stevens
Representative Peggy Wilson

COMMITTEE CALENDAR

HOUSE BILL NO. 487

"An Act relating to fireworks; and providing for an effective date."

- HEARD AND HELD

SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 14

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

- HEARD AND HELD

HOUSE BILL NO. 509

"An Act relating to Alaska children's trust registration plates; and providing for an effective date."

- MOVED CSHB 509(STA) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 487

SHORT TITLE: FIREWORKS REGULATION

SPONSOR(S): REPRESENTATIVE(S) KOHRING

Jrn-Date	Jrn-Page		Action
02/19/02	2319	(H)	READ THE FIRST TIME - REFERRALS

02/19/02	2319	(H)	STA, FIN
02/19/02	2319	(H)	REFERRED TO STATE AFFAIRS
04/02/02		(H)	STA AT 8:00 AM CAPITOL 102
04/02/02		(H)	Heard & Held
04/02/02		(H)	MINUTE(STA)
04/04/02		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HJR 14

SHORT TITLE:CONST. AM: PERMANENT FUND

SPONSOR(S): REPRESENTATIVE(S)CRAWFORD

Jrn-Date	Jrn-Page		Action
02/14/01	0316	(H)	READ THE FIRST TIME - REFERRALS
02/14/01	0316	(H)	STA, JUD, FIN
04/17/01		(H)	STA AT 8:00 AM CAPITOL 102
04/17/01		(H)	Scheduled But Not Heard
04/19/01		(H)	STA AT 8:00 AM CAPITOL 102
04/19/01		(H)	Heard & Held
04/19/01		(H)	MINUTE(STA)
04/28/01		(H)	STA AT 9:00 AM CAPITOL 102
04/28/01		(H)	<Bill Postponed>
03/22/02	2643	(H)	SPONSOR SUBSTITUTE INTRODUCED
03/22/02	2643	(H)	READ THE FIRST TIME - REFERRALS
03/22/02	2643	(H)	STA, JUD, FIN
04/04/02		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 509

SHORT TITLE:ALASKA CHILDREN'S TRUST LICENSE PLATES

SPONSOR(S): LABOR & COMMERCE

Jrn-Date	Jrn-Page		Action
03/22/02	2644	(H)	READ THE FIRST TIME - REFERRALS
03/22/02	2644	(H)	STA, FIN
04/04/02		(H)	STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

BRIDGET BUSHUE, Fire Marshal
 Fire Prevention Division
 Anchorage Fire Department
 100 East Fourth Avenue

Anchorage, Alaska 99501-9510

POSITION STATEMENT: Testified on HB 487.

CHUCK HARRIGAN

Alaska Pyrotechnic Guild
(No address provided)

POSITION STATEMENT: Testified on HB 487.

GRIZ SMITH, President

Alaska Pyrotechnic Guild, Inc. (APGI)
(No address provided)

POSITION STATEMENT: Testified on HB 487.

GARY POWELL, Director/State Fire Marshal
Division of Fire Prevention
Department of Public Safety
5700 East Tudor Road
Anchorage, Alaska 9507-1225

POSITION STATEMENT: Testified on HB 487.

REPRESENTATIVE ERIC CROFT

Alaska State Legislature
Capitol Building, Room 400
Juneau, Alaska 99801

POSITION STATEMENT: Testified as cosponsor of HJR 14.

JIM KELLY, Director of Communications

Alaska Permanent Fund Corporation
Department of Revenue
PO Box 2550

Juneau, Alaska 99802-5500

POSITION STATEMENT: Testified on HJR 14.

AMY ERICKSON, Staff

to Representative Lisa Murkowski
Alaska State Legislature
Capitol Building, Room 408
Juneau, Alaska 99801

POSITION STATEMENT: Presented HB 509 on behalf of the sponsor.

MARY MARSHBURN, Director

Division of Motor Vehicles
Department of Administration
3300B Fairbanks Street

Anchorage, Alaska 99503

POSITION STATEMENT: Testified in support of HB 509.

GLENN GODFREY, Commissioner

Department of Public Safety;
Board Member, Alaska Children's Trust

PO Box 111200
Juneau, Alaska 99811-1200
POSITION STATEMENT: Testified in support of HB 509.

ACTION NARRATIVE

TAPE 02-36, SIDE A
Number 0001

CHAIR JOHN COGHILL called the House State Affairs Standing Committee meeting to order at 8:06 a.m. Representatives Coghill, James, Fate, and Crawford were present at the call to order. Representative Hayes arrived as the meeting was in progress.

HB 487 - FIREWORKS REGULATION

Number 0056

CHAIR COGHILL announced that the first order of business would be HOUSE BILL NO. 487, "An Act relating to fireworks; and providing for an effective date."

Number 0183

BRIDGET BUSHUE, Fire Marshal, Fire Prevention Division, Anchorage Fire Department, testified via teleconference. She told the committee that there is a wildlands-urban fire problem in Anchorage. Although glad to see the efforts made for requiring some type of fire safety program, fees, and information, she expressed some concerns. The department would like to see a permit requirement for fireworks. House Bill 487 states if there is a fire danger, then fireworks will be banned, but once the fireworks are sold and people have them, there is no mechanism to contact people that have them, other than by public service announcements (PSAs). Currently, when fireworks are advertised on the television, there might be only a two-second blurb in tiny print that says "fireworks are illegal in the municipality of wherever."

MS. BUSHUE suggested a permit process would allow the fire department to contact people with fireworks and let them know not to use them at certain times. Right now in Anchorage, people need to get a permit to burn spruce bark beetle [trees] in their yard; yet fireworks are allowed, which have been proven to be an extreme fire hazard in wildland urban areas like Miller's Reach. Other states have adopted legislation whereby

permits are required, and there are areas where fireworks can be safely discharged. The permit fees pay for the education and for the maintenance of this program.

Number 0373

MS. BUSHUE suggested that when the firework companies advertise, there should be obvious mandatory statements - not just in tiny print - saying they're illegal in the municipality. When the fire department confiscates fireworks over the Fourth of July in Anchorage, the most common statement is, "Well, they're advertised on TV, so I thought it was okay." That has created a major problem, she stated. Ninety-nine percent of the fireworks sold in the [Matanuska-Susitna area] and in Anchorage are a problem. She reiterated that the fire department would like to see the advertising message and some type of records kept on who bought the fireworks. She suggested it be done through some type of permit process.

MS. BUSHUE explained that if there is a burning ban because of high fire danger, the fire department can contact those with [burn] permits and tell them not to burn. There are no provisions in HB 487 for people in Anchorage, where the fireworks are illegal, who buy them in Houston. Some type of formalized permit process would be more efficient in controlling [fireworks].

Number 0561

REPRESENTATIVE JAMES asked Ms. Bushue if the person buying the fireworks would be given the permit.

MS. BUSHUE answered that was correct. She told the members that Honolulu requires a permit; adults have to have fire safety training on how to safely discharge fireworks, and there are areas to discharge fireworks. The permit fees collected pay for that education component.

REPRESENTATIVE JAMES asked if the purpose of the record of the permittees is an opportunity for the department to challenge the seller if something goes wrong.

MS. BUSHUE replied that the purpose of a permit is to educate the adults on safe and proper use of fireworks and to contact them if there is a ban in effect.

Number 0778

REPRESENTATIVE JAMES commented that it seems Ms. Bushue is talking about a problem in a municipality where fireworks are not allowed.

MS. BUSHUE agreed.

REPRESENTATIVE JAMES noted there would be no permits allowed for in the city of Anchorage. It seems to her that problem could be solved by a local ordinance.

MS. BUSHUE said that fireworks are illegal in the municipality, but they are sold in the state. It's the selling of fireworks in Wasilla that is causing a major problem in the municipality. They are not sold in the municipality, but the problem doesn't go away.

CHAIR COGHILL pointed out that HB 487 would put together an advisory committee that would make those kinds of recommendations. A statewide permitting process had not anticipated that problem, so it would be something well within the purview of the advisory committee.

REPRESENTATIVE JAMES asked if fireworks on New Year's Day is as problematic as on the Fourth of July.

MS. BUSHUE answered no, because of the ground cover, but there have been structure fires when fireworks have been stored inside residences. She explained that the risk of a wildfire or forest fire is greatly decreased because of the snow cover.

Number 0997

CHUCK HARRIGAN, Alaska Pyrotechnic Guild, testified via teleconference. He told the committee his nonprofit trade association is interested in the education, training, and safety of its members and the public at large. He referred to Sec. 18.72.101(a) on reduction of insurance requirements. Millions of dollars of insurance is required to produce a show; that is appropriate because if somebody's house is burned down, \$50,000 is not an appropriate amount to rebuild the house.

MR. HARRIGAN referred to Sec. 18.72.035, which essentially restricts what and when people can discharge. There is no distinction between class B and class C [fireworks] in the proposed legislation. He explained that class C [fireworks] are sold over the counter, and class B [fireworks] are what

[professional pyrotechnicians] discharge; however, professional pyrotechnicians discharge class C also. The proposed legislation says bottle rockets can't be used; bottle rockets are used in shows for people who don't have a lot of money but want a show. These are things that can be used in a show to flesh them out a bit, that don't cost a whole lot, and that give the customer the "most bang for the buck."

MR. HARRIGAN explained that a wide variety of products and shells are used out there. The [professionals] would have to comply with a lot of regulations just to put on a show. Already they're under close scrutiny, heavily permitted and licensed with insurance, and they take all safety precautions. There is concern that this is going to make someone less accountable by the insurance requirements and place restrictions on the type of shows that can be done.

Number 1260

CHAIR COGHILL announced his intention of holding HB 487 over to discuss this with the sponsor. He told Mr. Harrigan that he'd brought up some excellent points, and that the bill may need further work to cover all the concerns expressed.

Number 1310

GRIZ SMITH, President, Alaska Pyrotechnic Guild, Inc. (APGI), testified via teleconference. He informed the members that the guild is the state's only manufacturing and display company. It held an emergency meeting on March 9, 2002, to form a consensus of the proposed changes with respect to HB 487. He referred to Sec. 18.72.020(a) and gave the following testimony:

The APGI, the Alaska Pyrotechnic Guild, Inc., feels very strongly that insurance requirements should in no way be reduced but rather should be increased. As an example, ... the Miller's Reach fire was in excess of \$11 million in firefighting costs alone. This does not include the property damage, temporary housing, relief agency expenditures, or any of the numerous costs associated with this disaster. We suggest that a more appropriate level of insurance would be \$5 million in liability coverage, including \$2 million in premise/operation coverage, and increased coverage for bodily injury damage to \$4 million per occurrence. We feel that as infraction has increased the cost of living, medical costs, and replacement values, it is

logical to increase the insurance coverage requirements to reflect this.

Additionally, we feel another point should be raised with regard to the liabilities of the sale of fireworks to the general public. Considering the bartender who serves a customer, then the customer leaves the server's premises, the server has no control over the ensuing actions of the customer, yet can be held accountable in civil and criminal proceedings for the actions of his customer. Should it not be the case of the best interest of similar aggressive parties to be able to pay for the medical expenses or replacement of a dwelling incurred through no fault of their own, other than having the misfortune of being in the proximity of a careless person?

Number 1510

MR. SMITH referred to Sec. 18.72.035 and gave the following testimony:

The APGI disagrees with the wording of this section for several reasons. For a fireworks production company/wholesaler to deliver a show to a customer, the product must be sold and transferred to the sponsor. This section therefore restricts the option that a wholesaler can sell or that a customer can buy to produce the legally permitted show, which often includes both class C and class B pyrotechnic devices of many types, which are now not necessarily aerial. No distinction is made of types or classes in this language. While the APGI recognizes the intent [of] the language is to address the dry season potential for fire, we feel the language is too broad in scope and restrictive to professionally produced shows for professional pyrotechnics are already required to comply with the plethora of laws and regulations set down by the USDOT [United States Department of Transportation], the BATF [Bureau of Alcohol, Tobacco and Firearms], NFPA [National Fire Protection Association], USCG [United State Coast Guard], the Alaska Department of Public Safety, and local agencies. We feel restrictions of this nature may only lead to further restriction of our already highly regulated trade and the manner in which we are

permitted to display fireworks for the enjoyment of the people of Alaska.

Number 1600

MR. SMITH referred to Sec. 18.72.045 and gave the following testimony:

Many different types of violations occur all the time by unscrupulous display operators - for an example, using a rented box van without any placards to transport fireworks. The APGI feels that the amendment should address more than just a violation of this chapter. It should include a provision/regulation authorizing the enforcement of any and all applicable federal, state, municipal, borough, and community rules and regulations with regard to the purchase, sale, manufacture, transportation, and other activities relating to fireworks. For an example, if a violation of a DOT regulation occurred in the North Slope Borough, this could be difficult in regard to the reporting of enforcement of it. The APGI believes the state fire marshal's office should have the authority to investigate all DOT, NFPA, and ATF, et cetera, violations. This should not be a problem, as the agency has already adopted the laws and regulations of these agencies as policies.

Number 1690

Additionally, the APGI believes a \$1,000 fine is minimal. The fine should be increase to \$5,000 per occurrence. The APGI agrees with this amendment with clarification and a larger fine. We propose the amendment read as follows: "a regulation that includes; subject to any and all state, federal, borough, city, and community laws, rules and regulations pertaining to the purchase, sales, manufacturing, transportation, storage, and display of fireworks by any and all federal and state regulations that a person or persons who recklessly violates the provision in this chapter is liable after notice and opportunity for a hearing to the State of Alaska for a civil penalty of \$5,000 or more each violation."

MR. SMITH referred to Sec. 18.72.080 and gave the following testimony:

The APCI agrees with and supports the formation of a fireworks advisory committee as described in this amendment. The APCI would like to thank you for the opportunity to express our opinions and concerns on this matter. We commend you on the intent of this legislation to make our industry safer for all Alaskans. We recognize that the legislators' time in session is limited and valuable, and believe that an amended bill which addresses our concerns will enable the language to withstand potential unconstitutional challenges with regard to restriction of trade.

Number 1888

GARY POWELL, Director/State Fire Marshal, Division of Fire Prevention, Department of Public Safety, testified via teleconference. He pointed out that the insurance requirements have not changed in the new bill; the existing requirements were exactly the same. Part of the confusion may be that the scope of HB 487 is to address retail fireworks sales and not the pyrotechnic displays; if there is confusion, however, it is probably a good idea to hold it over and clarify the pyrotechnic concerns.

REPRESENTATIVE FATE asked how many members are in the APCI, and how many retailers are in the state.

MR. POWELL replied that there is an average of about 18 retail licenses per year. So far this year, only eight have registered, but typically, there will be more the closer it gets to the Fourth of July.

MR. SMITH told Representative Fate that there are approximately 50 licensed display operators in the state of Alaska.

CHAIR COGHILL announced that HB 487 would be held over. The committee took an at-ease from 8:34 a.m. to 8:35 a.m.

HJR 14 - CONST. AM: PERMANENT FUND

CHAIR COGHILL announced that the next order of business would be SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 14, Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund.

Number 2099

REPRESENTATIVE CRAWFORD, sponsor, said SSHJR 14 is being brought forward with a bit of reluctance because of the possible implications. He and cosponsor Representative Croft feel compelled to do this mainly because of the direction of the talks in the long-term fiscal policy [caucus]. When the long-term fiscal policy caucus was started over a year ago, the talk was about going to the percent of market value payout (POMV) for the permanent fund, and using 1 percent of that 5 percent payout for general fund type spending. As the talks went along, it quickly went to 50 percent of the payout. A week or two ago, it was up to 60 percent of the payout: 40 percent for the operating budget, 20 percent for the capital [budget], and only 40 percent for the dividend.

REPRESENTATIVE CRAWFORD said he feels there needs to be a protection for the dividend. The dividend is one of the state's most important programs. Over the last decade, Alaska has been the only state in the Union in which the bottom 25 percent of people, based on income, haven't lost ground to the top 25 percent. The dividend and its effect is the reason why. The dividend serves so many good purposes throughout the state. It provides a cash economy throughout rural Alaska that wouldn't necessarily be there without it. He said he has been told if the permanent fund is curtailed or taken away, it will damage the economy. He wants to get this discussion out there, he said, and Representative Croft has suggested a way to mitigate the tax consequences.

Number 2306

REPRESENTATIVE ERIC CROFT, Alaska State Legislature, cosponsor of HJR 14, agreed there are people in the state and many legislators who would like to provide reassurance that the dividend program will stay. The most consistent criticism of the 1999 fiscal plan was that there were no sideboards on government's growth or government's access to funds; no limits were defined. He and Representative Crawford had discussed defining limits, which led them to introduce a tax cap, and HJR 14 came out of the discussion. He said, "If you provide a tax cap and you provide a limit on the amount that government can go into the dividend fund, you have effectively constrained the growth by limiting the places they can go." The combination might be a way to give confidence to the public that there are certain limits and to provide a general limitation on how much

government could grow in the "out" years. He said, "It seems to me, it's an important consideration whether you want a fiscal plan or not, or want a specific fiscal plan or not. You can be for something like this solely on protecting the dividend."

REPRESENTATIVE CROFT said he believes a majority of Alaskans and many legislators would like to protect the dividend. The problem is the danger of federal taxation of the dividend.

REPRESENTATIVE CROFT stated that there would probably be two levels of discussion: "Do we want to do this as a policy matter?" and "Even if we want to do it, can we do it in such a way that we can minimize the risk ... or assure ourselves that the risk is small that that taxation would happen?" He told the members that he was asked by Representative Crawford for legal advice to put together ways that would protect it from that taxation issue. He explained that there are sort of three ways to justify the non-tax status [of the corporation], and those ways are encompassed in HJR 14.

Number 2485

REPRESENTATIVE CROFT noted that the permanent fund board pointed out that all of these cases can go on for a long time. If the Internal Revenue Service (IRS) initially ruled that it [the permanent fund] was taxable, then there would be a three- or four-year litigation. To be prudent money managers, they would have to escrow the potential tax liability for those years. He said, "We don't want them to do that, so we've presented an amendment that takes that section [out]."

REPRESENTATIVE CROFT indicated that he had asked Tamara Cook [Director, Legislative Legal and Research Services] to present an amendment that essentially adds two protections. He explained:

The amendment says if the IRS rules that you might be taxable, we're going to suspend this for a while, while that litigation occurs. So, at the most, you have to escrow one year. If it actually determines against us, then it drops out. It's sort of two levels of protection within the constitution. The third protection, if you will, is an attempt to put legislative findings and intent on the record to buttress our potential case if it comes to that.

REPRESENTATIVE CROFT noted that a legislative letter of findings to accompanying [HJR 14; copy in packets] has been submitted that hopefully would help that case by having the legislature declare, "We are an instrumentality of the state, that we should be considered in that way."

REPRESENTATIVE CROFT referred to a 1998 legal opinion to Jim Baldwin [of the Department of Law] that talks about the development of cases in the last ten years. He said he was heartened by a Michigan educational trust case out of the 6th Circuit [Court of Appeals] that deals with states' setting up educational trusts so people can invest in them and use the money for tuition. The advantage is that it is tax-free. It is set up as a separate corporation in Michigan. The funds came from the individual people putting money in; it was managed by a board. There were a number of similarities to Alaska's [permanent fund] and number of ways Michigan had a more difficult case because it started with separate funds, not state funds like Alaska's. Nevertheless, the 6th Circuit [Court of Appeals] agreed that it was exempt from taxation.

Number 2663

REPRESENTATIVE CROFT said that case should give some solace to Alaska in that it is in the right direction and positive. The IRS didn't like that ruling and fought it, and eventually Congress was compelled to agree that the Michigan case was exempt. He commented that the IRS was so troublesome in this that eventually Congress just authorized educational trusts explicitly to get the IRS off this issue. He told the members that there is a window here, if it's done carefully, to protect the dividend. This doesn't enshrine the current dividend structure. It allows the dividend structure, but it sets a floor of no less than 50 percent. [HJR 14] would enshrine some protection for the dividend, put some general limitations on the growth of state government, and do it in a way, if written right, that will not result in the taxation of the fund, which no one wants.

Number 2715

CHAIR COGHILL asked Representative Croft to explain Amendment 1 before it was offered. Amendment 1, 22-LS0526\0.1, Cook, 3/26/02, read:

Page 2, lines 5 - 8:

Delete all material and insert:

"Section 30. Suspension and Repeal of Subsection. (a) Notwithstanding Section 1 of Article XIII, Section 15(c) of Article IX is suspended on the date of an initial determination by the Internal Revenue Service that all or a portion of the permanent fund is subject to federal taxation. The suspension is terminated on the date Section 15(c) of Article IX is repealed under (b) of this section or 180 days after the date of a final, nonappealable judgment or order by a federal court deciding that no portion of the permanent fund would be subject to federal taxation as a result of the application of Section 15(c) of Article IX.

(b) Notwithstanding Section 1 of Article XIII, Section 15(c) of Article IX is repealed 180 days after the date of a final, nonappealable judgment or order by a federal court deciding that all or a portion of the permanent fund is subject to federal taxation.

(c) In this section, "final, nonappealable judgment or"

Number 2824

REPRESENTATIVE CROFT told the members that Ms. Cook and the permanent fund board had explained that the more the court cases drag on, no one wants to be escrowing money for every year the case goes on. So, the effect of adopting Amendment 1 is to have two levels of protection, and Ms. Cook had separated it into sections (a), (b), and (c) of the amendment. He said he thought the amendment was a good idea to further protect this issue.

Number 2872

JIM KELLY, Director of Communications, Alaska Permanent Fund Corporation (APFC), Department of Revenue, told the committee that the Board [of Trustees of the Alaska Permanent Fund Corporation] looked at the proposals still pending in the legislature relating to the permanent fund, which resulted in the letter signed by Jim Sampson [in the members' packet]. The letter synthesizes where the board stands in terms of all the legislation pending on that subject. Regarding [HJR 14], the board is very supportive of the first 15 lines of the first page; it encourages the passage of that legislation. Regarding the additional language at the end of the bill, he quoted from page 2 the letter, which read in part:

In simple words, the Board is concerned that putting the dividend program into the constitution would put the Fund at risk by jeopardizing its current tax-exempt status. We understand that some legislative members may believe it is possible to draft constitutional language which would mitigate the risk. In our view, the risk/reward benefits are not there.

MR. KELLY noted that this is a very conservative board. Although it deals in the business of risk and return, this is a significant risk. If the desire is to protect the dividend, the board would argue that the best way to protect the dividend is to pass the legislation as originally proposed. The "do nothing" approach to the legislation proposed by the trustees is what puts the dividend at risk, not the concern about whether the dividend program is going to end. It is the most popular program in the state of Alaska and probably in the country, he commented.

TAPE 02-36, SIDE B
Number 2989

MR. KELLY said "In terms of the first part of the bill, the constitutional amendment that would place the new language into the constitution that would limit the payout of the permanent fund income each year to 5 percent of the fund's market value averaged over the last five years. That is the board's best perspective on how to protect the fund; how to completely inflation-proof the fund for future generations." There are several good points about passing that portion of the bill [the first 15 lines], he commented. It allows the people to vote on what should be done to the permanent fund, and it does provide sideboards to future spending.

MR. KELLY stated that the spending limit makes sure that the fund is going to be completely protected for the future, and that the income it will be able to produce for every year in the future will grow in real dollar terms, but it also ensures that there will be a significant amount of money to debate about how to use in future years, which maybe won't happen if this kind of a limit isn't established.

MR. KELLY explained that in the last 25 years, the permanent fund has produced about \$25 billion worth of income. A large portion of that has been put back into the fund to grow and protect against inflation. About \$10 billion to \$11 billion has been paid out. Over the next 25 years, if the fund is protected

in the way that the trustees are proposing, the amount of money that would be available for distribution is probably four times that amount - \$40 billion, which is a large number all by itself. It's also twice as much as can be expected from oil according to the projections from the Department of Revenue. So, it is the single largest source of money that the state has, and this is the way to protect and ensure it.

Number 2863

CHAIR COGHILL asked Mr. Kelly to comment on enshrining the 50 percent payout constitutionally.

MR. KELLY said the board has never varied on that point. It's the board's job to protect the money and to grow the income; it's the legislature's job to decide how to use the income.

CHAIR COGHILL referred to Section 2 of SSHJR 14, Section 30 of Amendment 1, and asked if the board had studied that issue.

MR. KELLY answered that the amendment hasn't been looked at, but the board did look at the sponsor substitute for HJR 14 at its meeting. It didn't have the benefit of its legal counsel, so the resolution wasn't reviewed as thoroughly. He noted that the board's position hasn't changed much over the years. This issue has been before it for a long time, and the risk is such that it advises going forward without it.

Number 2790

MR. KELLY said one of the concerns that legislators have expressed to the board this year is that they were afraid that the citizens wouldn't be very supportive of this proposal; they would consider it to be tinkering with the permanent fund. He called attention to a vote taken in Anchorage two days ago. Proposition No. 4 was before the voters to amend the municipal charter to basically do the same thing to their trust fund that is being proposed to be done to the state's permanent fund. The voters supported it by a 70-percent margin. He noted that the board believes that if this were placed before the voters, there would be a lot of support for it.

Number 2685

REPRESENTATIVE FATE asked if there is a spreadsheet that projects into the future what the permanent fund corpus would be

provided it went to the 5 percent of the last five years on percent of market value.

MR. KELLY answered that there is such a spreadsheet, but he didn't have it with him.

REPRESENTATIVE FATE asked if the spreadsheet reflects the possible legislation of reducing it back to 25 percent instead of 50 percent.

MR. KELLY replied that the one they have does not. He asked Representative Fate if he was asking about just the principal or total funds.

REPRESENTATIVE FATE said the principal.

MR. KELLY said there is a spreadsheet that relates to that.

REPRESENTATIVE FATE requested that a copy be sent to his office.

Number 2598

REPRESENTATIVE CRAWFORD moved to adopt Amendment 1 [text provided previously].

REPRESENTATIVE FATE objected. He said he has a problem with the whole concept. Even though this may mitigate the problem of IRS taxation, there has been no testimony to assure that. He said he isn't sure voting on the amendment is the way to go if the legislation isn't either going to get out of committee or pass at all. He said it seems to him that "they're putting the cart before the horse."

REPRESENTATIVE CROFT reiterated that Amendment 1 adds another level of protection. If this committee chooses not to pass the resolution out, he encouraged the committee to clean it up and get it in the best form. This goes some way toward meeting those concerns, although whether it goes all the way is a legitimate disagreement.

REPRESENTATIVE JAMES said she doesn't have a problem amending the resolution. She agreed with Representative Fate on the conclusion of this piece of legislation. She said it seems to her that the dividend is the first thing to talk about in even getting a fiscal plan. She acknowledged that there are lots of solutions and concerns about the dividend, and this bill is one suggestion. She said she would like to see every suggestion in

a row, and talk about them all. She agrees there won't be a conclusion to this issue in this legislative session, but she said the public needs to be fully informed.

Number 2450

A roll call vote was taken. Representatives Crawford, Hayes, James, and Coghill voted for Amendment 1. Representative Fate voted against it. Therefore, Amendment 1 was adopted by a vote of 4-1.

CHAIR COGHILL said the broader question is how to proceed as a policy matter, not only with the 5 percent issue, which has had some discussion in this committee, but on enshrining it in the constitution - at least 50 percent of the amount appropriated under this 5 percent payout during the fiscal year. He is reluctant to do that, he said. The only advantage that he can see is the fact that then it would go before the voters, and they would be faced with what to do with the dividend, rather than having the "dirty rascals down in Juneau" do it. He said he thinks that the tax question begs so strongly, and there are other avenues to getting that question out; he would speak against it.

Number 2381

REPRESENTATIVE CRAWFORD agreed the question has been there for a number of years. He said he believes in putting the language in. If it's wrong, the question will be decided, and then he'll rest the case. He said he doesn't believe that it puts the fund at risk if the constitutional amendment the people vote on states that if the IRS rules this is taxable and the courts agree, then it'll be dropped from the constitution. He would like to have this question answered not only for his children but his grandchildren. Due to the dividend, his children are going to be able to go to college and start life out without being in debt. He would like that for his grandchildren as well.

REPRESENTATIVE CRAWFORD said Alaskans hold the subsurface mineral rights in common, not individually, and the dividend goes out to people in common, without respect to income or anything else. Being a citizen of Alaska gives one the right to that income. He would like that renewable dividend to benefit many generations to come.

Number 2259

REPRESENTATIVE JAMES acknowledge that she, too, wants to maintain a healthy dividend over the long term. If there is agreement how to do it, it can be done statutorily. She agreed with Representative Crawford that it has been a big boon to the low-income people in the state. But the demographics show that there are more low-income people now than there were before. There is some anecdotal information and some real cases where it shows that people have come to Alaska for that very reason, she noted.

REPRESENTATIVE JAMES commented that she didn't have any problem with helping "our" disabled and poor; there is an obligation to do that. She said she doesn't want to take care of those from other states. She said she doesn't believe that Alaska should become a magnet state for that reason. People should come to Alaska because it is a great place to live.

REPRESENTATIVE JAMES said she believes that a dividend can be maintained over the long term. It is the very first thing that needs to be addressed before dealing with a fiscal plan. The dividend is the issue that has kept the legislature in the direction it's going, which is a very hurting position.

Number 2170

REPRESENTATIVE JAMES commented that there are nearly tears in the eyes of people who are trying to provide K-12 education in Alaska without sufficient funding. To hold this issue hostage, which is what's being done, is painful to her, she commented. She said she believes that the permanent fund was set up so that the money wouldn't be blown; it would be saved for some future time when there wouldn't be enough money for things the state needs.

REPRESENTATIVE JAMES explained that when Alaska was made a state, the federal government disagreed that Alaska would ever be able to support itself; that is the reason the federal government gave the subsurface rights to the state, and the state can't give them away. The state needs them to support not only the poor and disabled people, but also those who are able and working and expanding their abilities to get some place in their lives. There needs to be a way of balance and support over the long term.

Number 2105

REPRESENTATIVE JAMES acknowledged that one of the reasons it is so difficult to get a fiscal plan is because "which comes first, the chicken or the egg?" If something isn't done soon to increase the economic activity and create wealth in Alaska, she said, "We'll just funnel ourselves down into a little pit, and we'll never be able to see out over the top of the hole." The big picture has to be looked at. The state needs to spend time, money, and effort to create new opportunities for people, and the state needs to wean itself off dependency on the federal government.

REPRESENTATIVE JAMES declared that Alaska is a great state. There are huge resources, the environment can be protected, and the old and young can be taken care of, if people can work together on this issue. She stated that the permanent fund dividend is what is holding them back. She has heard for ten years that same fear in every single legislator this year that "we have to keep giving this money away to them; otherwise, we cannot make a decision on how we should go forward. She commented, "If we don't figure out how to do that soon - and I don't have an answer, I have lots of ideas - ... but if we don't get that idea solved first, we'll never get to the next part."

Number 2016

REPRESENTATIVE JAMES said she is not willing to put a constitutional amendment before the public [for a vote]. She commented, "Of course it's popular when you're giving a check in October! Who wouldn't like that? The only people we're hearing that don't like it are the people who want to have money in the education and other important issues. Those are the people that [say], 'I'll give up my dividend in a heartbeat if we can just get some money,' and we can't get some money until we deal with the dividend issue." Something that seems compatible to the public must be done, she indicated. These issues need to be discussed with the public this summer before the election so people know what the consequences will be of these decisions.

REPRESENTATIVE JAMES assured the members that they will be able to get there. They are all trying to do the right thing; they just may not all be on the same page. She added that she doesn't want to discount the makers of this legislation or anyone else who comes to testify. It is a tough issue that has to be faced.

Number 1915

REPRESENTATIVE HAYES stated that he supports moving this bill from committee because there are not any attorneys on the House State Affairs Standing Committee. There are a few more safeguards in going to the House Judiciary Standing Committee and House Finance Committee. He would like to see more discussion on this bill in the other committees, he commented.

REPRESENTATIVE FATE indicated that wasn't sure whether he was willing to go forward as a policy issue, not whether or not it should go to another committee. He wondered whether 5 percent of the last five years' average of the POMV would be enough for the state to grow or keep up with growth if it should occur. Alaska has been subsisting under a low-growth economy. He sees [HJR 14] as holding back the kind of economic expansion that is needed, he noted. This is his fear as a policy matter. Alaska can't stay stagnant. The economy needs to be increased. He said he's afraid that this bill, with these strictures, will just maintain it.

MR. KELLY responded to Representative Fate that 1 percent of the fund's market value of \$25 billion is \$250 million, so 5 percent is \$1 billion, 250 million. Last year a little over a billion dollars was paid out for dividends. At the very least, it is an increase that allows for an increased payment compared to what is done now, he said. The 5 percent was chosen because it is on the high end of achievable for what the fund can accomplish with the asset allocation that it already has in the statutes.

Number 1688

MR. KELLY explained that there could be a 6, 7, or 8 percent payout, but the question would be, "Would that give you more money over time?" The answer is, "It would not." If there were even a 6 percent payout over the next 25 years, less money would be paid out than with a 5 percent payout. He said 5 percent is a balance. It is a number that balances the distribution of the benefits of the permanent fund between the current generation and the future generations. If a higher percentage is paid out over the next 10 or 15 years, more money will be put in the economy, but then future generations will get quite a bit less. He said 5 percent is the way to pay out the most amount of money; it is the way for individuals to get the most benefit out of the permanent fund and to add the most money to the economy. Every dollar of permanent fund income paid out is new money into the state. It is like an industry, so those dollars need to be maximized. This proposal maximizes those dollars, he noted, and there is no doubt about that over the long term.

REPRESENTATIVE FATE asked if there would be a reduction of the dividend under [this legislation] compared with the present time.

MR. KELLY said yes.

REPRESENTATIVE FATE commented that his point is that this money, combined with a broad-based tax, will fill the gap but really won't do a great deal to increase the infrastructure so needed to expand the economy. "We'll just stay the same way we are now as we proceed into the future," he said.

MR. KELLY said how the money is divvied up is the legislature's business. But even if it were to be 50-50 between the dividends and the government, \$40 billion dollars could be expected over the next 25 years. Half of that, if it were paid out for government, would be \$20 billion, which is equal to the amount to be expected from oil over 25 years. The permanent fund is big, he commented, but it is not able to do all things. It is not going to be able to solve all the state's problems, but it can, through taking this step [HJR 14], ensure that its future income stream will be there. It can give \$20 billion over 25 years to use for government to promote economic development.

Number 1405

CHAIR COGHILL announced that HJR 14 would be held over.

HB 509 - ALASKA CHILDREN'S TRUST LICENSE PLATES

Number 1363

CHAIR COGHILL announced that the final order of business would be HOUSE BILL NO. 509, "An Act relating to Alaska children's trust registration plates; and providing for an effective date."

Number 1302

AMY ERICKSON, Staff to Representative Lisa Murkowski, Alaska State Legislature, presented HB 509 on behalf of Representative Murkowski, sponsor. She explained that HB 509 makes Alaska children's trust license plates available to any commercial or non-commercial passenger vehicle, truck, bus, van, or motor home. The original version included motorcycles, which was not the intent of the sponsor. The motorcycle plates are too small to accommodate the standard-sized plate, so the proposed

committee substitute excludes motorcycles and includes commercial and non-commercial vehicles.

CHAIR COGHILL moved to adopt CSHB 509, version 22-LS1641\C, Ford, 4/1/02, as the working document. There being no objection, Version C was before the committee.

Number 1244

MS. ERICKSON told the committee that the bill makes one minor change to Alaska Statute to allow the Alaska children's trust to market trust plates to commercial motor vehicle owners. Current statutes only allow owners of non-commercial vehicles to apply for the plates. This mirrors the structure of the University of Alaska plates program. The small change in statute will allow the trust to respond positively to requests by industry and private business to purchase the plates for their fleet vehicles and to market sales to an additional 56,000 vehicle owners who support the mission and activities of the Alaska children's trust. This could boost the trust by \$5,650,000 for prevention of neglect and child abuse. There is a one-time-only \$100 fee for the plates.

MS. ERICKSON explained that the trust was established by the legislature in 1988, and it is a savings account dedicated to funding community-based projects to eliminate child abuse and neglect. The trust fund grows through gifts, bequests, corporate and individual contributions, legislative appropriations, federal funds, sales of heirloom marriage and birth certificates, and the children's trust plates. Passage of HB 509 will greatly expand the children's trust savings account and the ability to fund projects through grants. She encouraged the committee's support.

Number 1115

MARY MARSHBURN, Director, Division of Motor Vehicles, Department of Administration, testified via teleconference. She informed the committee that there are no costs associated with HB 509 because the plates are already on hand. She expressed support for the proposed committee substitute.

Number 1068

GLENN GODFREY, Commissioner, Department of Public Safety; Board Member, Alaska Children's Trust, testified via teleconference. He added his support to this bill. Any support for additional

funding to help protect Alaska's children is appreciated, he said.

Number 1031

REPRESENTATIVE JAMES moved to report CSHB 509 [version 22-LS1641\C, Ford, 4/1/02] out of committee with individual recommendations and the attached fiscal note. There being no objection, CSHB 509(STA) was reported out of the House State Affairs Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:30 a.m.