

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE

April 26, 2001
3:40 p.m.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Randy Phillips, Vice Chair
Senator Drue Pearce
Senator Bettye Davis

MEMBERS ABSENT

Senator Rick Halford

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 27
Relating to an Alaska National Guard Armory in Juneau.
MOVED SJR 27 OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 27(MLV)
Supporting the erection of monuments in Alaska, Russia, and Canada
to commemorate the World War II lend-lease program between the
United States and the Union of Soviet Socialist Republics.
HEARD AND HELD

SENATE JOINT RESOLUTION NO. 13
Proposing amendments to the Constitution of the State of Alaska
relating to inflation- proofing the permanent fund.
HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SJR 27 - No previous action recorded.

HJR 27 - No previous action recorded.

SJR 13 - No previous action recorded.

WITNESS REGISTER

Jessie Kiehl
Staff to Senator Elton
Alaska State Capitol, Room 115
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced SJR 27

Keith Gerkin
Director of Facilities
University of Alaska Southeast (UAS)
11120 Glacier Highway
Juneau, AK 99801
POSITION STATEMENT: Testified on SJR 27

Leona Oberts
Staff to Representative Chenault
Alaska State Capitol, Room 432
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced HJR 27

Clark Gruening
Chairman
Alaska Permanent Fund Board
P.O. Box 25500
Juneau, AK 99802-5500
POSITION STATEMENT: Testified on SJR 13

Jim Kelly
Director of Communication
Alaska Permanent Fund Corporation
P.O. Box 25500
Juneau, AK 99802-5500
POSITION STATEMENT: Testified on SJR 13

ACTION NARRATIVE

TAPE 01-22, SIDE A
Number 001

CHAIRMAN GENE THERRIAULT called the Senate State Affairs Committee meeting to order at 3:40 p.m. Present were Senators Davis, Phillips and Chairman Therriault.

The first order of business was SJR 27.

#SJR 27

SJR 27-NATIONAL GUARD ARMORY IN JUNEAU

JESSIE KIEHL, staff for Senator Elton, extended the Senator's regrets for missing the meeting. The resolution expresses the legislature's support to the federal government for the new National Guard Armory facility in Juneau. The current armory must move because it sits on Alaska Mental Health Trust land and they plan to redevelop the property. The guard proposes working with the University of Alaska Southeast (UAS) on a joint facility that will

meet many recreational needs for the university and the guard's needs for a mustering and training facility. It would be cost efficient to have a joint facility.

The federal reviewing and scoring process for this and other similar projects begins soon. Although this project stands an excellent chance for approval, an expression of legislative support would improve its chances.

CHAIRMAN THERRIAULT said the last paragraph of the sponsor statement talks about a 1998 legislative appropriation. He asked whether any federal funds have been received.

MR. KEIHL was not sure whether any federal funds had been received but there was a state appropriation of about \$1.6 million, a portion of which was spent and another portion allocated upon initial site design and preparation.

CHAIRMAN THERRIAULT asked when the state appropriation occurred and whether the 1998 appropriation was from the general fund.

MR. KEIHL said he discussed the \$1.6 million appropriation with Carol Carroll from the Department of Military and Veterans Affairs and Department of Natural Resources and Niko Bus from the Department of Natural Resources.

CHAIRMAN THERRIAULT questioned the need for the resolution since monetary support had already been given: Was it needed before the federal process could begin? He also wanted to know what type of expense could be expected, what the blending of funds would be for a joint project and whether this project would obligate the next year's capital budget for future appropriations.

MR. KEIHL said a representative of the university was present and could add to his answer. In response to the first question, he said the resolution is not a precursor to or essential for the federal review of the request for a new armory in Juneau. It does however, provide an expression of the state's interest and support and would be helpful in ranking the project.

KEITH GERKIN, Director of Facilities for the University of Alaska Southeast, emphasized their support of the resolution and project. Both agencies have been looking for solutions to their independent facility needs. In the last year, they have talked about a joint project and have completed 35 percent of the design work for a facility that would be situated on university property. This is an efficient use of resources because the buildings are very expensive to build and operate and they will get more building by combining

resources than by building individual facilities. The university's share to build the facility will be \$5.3 million and that amount is in its statewide capital multiyear plan. Previously there have been both federal and state general fund appropriations for design work for the Alaska National Guard's portion. This resolution is an effort to get the priority for the construction money from the federal government.

CHAIRMAN THERRIAULT asked if this would then obligate the state to produce the \$5.3 million general fund money.

MR. GERKIN said it would and he thought there was additional match of federal dollars for the National Guard portion. Someone from Military and Veteran's Affairs would be in a better position to talk about the federal monies.

CHAIRMAN THERRIAULT asked what specific facilities the university was looking at.

MR. GERKIN responded they are lacking indoor intramural or organized sporting facilities. Recreational facilities are expected as a part of normal student life and UAS has been trying to fulfill the need for the last 15 years. The current plan is to expand the National Guard's drill hall to the size of a gymnasium. There would be lockers, showers and exercise rooms and a running track that would be used by both user groups. Several classrooms in the facility are in the National Guard plan. Student service areas are planned that would be used to assemble for activities and dances.

In the event of a disaster or National Guard priority, the university would suspend its use temporarily. Both agencies know it takes accommodation to share the facility but they believe they will be getting more than if they build individually so the inconveniences are workable.

SENATOR PHILLIPS asked whether it would include an ice rink.

MR. GERKIN said it would not. In the early 1980s that was in the plan but they have scaled back their proposed recreational facility considerably over the years.

CHAIRMAN THERRIAULT asked for specifics of the cost and source of funds if the project is 35 percent designed.

MR. GERKIN replied the National Guard had a total design in hand when they approached the university about a joint facility. The university and the National Guard made a few modifications to the design to include specific university needs. Costs associated with

planning for the modifications were shared. The university paid one-third of the design modifications and that came to about \$55,000.

CHAIRMAN THERRIAULT apologized for not having had the opportunity to express his questions directly to Senator Elton so the information would be available for the hearing. Nonetheless, he was not ready to act on the resolution until he had a full accounting and clearly understood past appropriations and the potential for future obligations.

SENATOR DAVIS said she could understand wanting more information but since this was just a resolution and didn't obligate any money, she asked why couldn't the information be given later. After all, the legislative session was about to end.

CHAIRMAN THERRIAULT asked whether this was time sensitive due to the process going on with the federal government.

MR. KEIHL replied it would need to pass this year to have an impact on the ranking process.

CHAIRMAN THERRIAULT said he was willing to move it from committee but he would like to see the accounting before he, Senator Pearce and Senator Phillips saw it as members of the rules committee.

MR. KEIHL said they would be happy to provide the information.

Senator Pearce joined the meeting and Chairman Therriault gave her a recap.

CHAIRMAN THERRIAULT asked for amendments. There were none.

He asked for the pleasure of the committee.

SENATOR DAVIS moved SJR 27 and zero fiscal note from committee with individual recommendations and a request that the information be provided to the next committee. There were no objections.

#

#HJR 27

HJR 27-WWII ALASKA-USSR LEND-LEASE MONUMENTS

LEONA OBRITZ, staff to Representative Chenault, explained the resolution supports the erection of bronze cast monuments that will be placed in Fairbanks first, and then in Russia and Canada to commemorate the events that occurred during the World War II lend-lease program.

The Federal Lend-Lease Act was enacted during World War II by President Franklin Delano Roosevelt to establish collaboration between the U.S. and the USSR against Germany and its allies. Under the program, nearly 8,000 aircraft, hauling tons of material and supplies, were flown nearly 9,000 miles from Great Falls, Montana across Canada to Alaska and then to the Union of Soviet Socialist Republics. Many Alaskans worked with Soviet citizens during this time and it is intended that this project will contribute to the further understanding of Russian/American relations and provide new insights into that period of time. The lend-lease program demonstrated that two nations could compromise their views, cultural values and principals enough to achieve a common mutually beneficial goal.

CHAIRMAN THERRIAULT said he found some areas in the resolution where the wording was problematic. On page 1, line 14, he asked whether there was any particular reason for naming Ladd Field.

MS. OBRITZ said it was for historical value. That was the name of the Fairbanks base at that time.

CHAIRMAN THERRIAULT thought it might be more concise to omit specific base names and simply list the cities.

On page 2, lines 5-7, he disagreed that the United States compromised its views, values and principals.

MS. OBRITZ was certain Representative Chenault wouldn't object to omitting reference to compromised views, values and principals.

CHAIRMAN THERRIAULT thought there was time to hold the legislation until the next meeting so work could be done to change the language.

SENATOR PEARCE asked where the Alaska Siberia Research Center was located.

MS. OBRITZ responded it is in Juneau. Mr. Dolitsky is a professor at the University of Alaska Southeast (UAS) and the research center office is in downtown Juneau.

She said Senators Murkowski and Stevens are very supportive of the resolution and about \$400,000 should be forthcoming for the project.

SENATOR PHILLIPS asked if Professor Dolitsky is a World War II veteran.

MS. OBRITZ said his father is.

SENATOR PHILLIPS asked whether military organizations have written in support of the project.

MS. OBRITZ thought they had but none of the letters were in the committee packets.

She said the committee substitute (CS) added President Bush and the Prime Minister of Canada to the list of those who would receive copies of the resolution.

CHAIRMAN THERRIAULT said the areas that need language changes are still in the CS so he asked Ms. Obritz to let Representative Chenault know they would hear the resolution again at the next meeting.

SENATOR PEARCE asked if the Alaska-Siberia Research Center is composed of just one person.

MS. OBRITZ said no, at the back of the packets there should be a list of members who are supporting the project. For example, former Representative John Binkley is a member in support of the project, particularly since his father was a participant. Representative Foster said he grew up in Fairbanks and both his parents were involved in the program.

SENATOR PEARCE couldn't see why funds should be funneled through the research center to build the monuments.

MS. OBRITZ said there was no state funding at this time.

SENATOR PEARCE said she was referring to language on page 2, lines 16-17, that says funds would pass through a non-profit research center.

CHAIRMAN THERRIAULT asked Ms. Obritz if she understood the question of why the money is routed that way. He noted his assumption that the non-profit agency put the proposal together and went directly to Congress and they are simply asking for an expression of legislative support.

MS. OBRITZ nodded.

CHAIRMAN THERRIAULT said the resolution would be held in committee and heard again at the next meeting.

MS. OBRITZ said she would also gather the information on the military groups.

#

#SJR 13

SJR 13-CONST. AM: PERMANENT FUND

CLARK GRUENING, Alaska Permanent Fund Board of Trustees Chair, gave the following testimony in support of SJR 13.

For the last five years, the board of trustees has discussed a notion referred to as a pay out of market value, the endowment model and what could be done to strengthen inflation proofing. The current inflation proofing was passed into statute in 1982 and implemented in 1983.

There is no investment that can be identified as principal in the Permanent Fund, it's a notional concept and it is a figure that does not fluctuate with the market. MR. GRUENING said,

It is simply the amount of oil revenues that are mandated by the constitution plus, what I would call, voluntary either additional contributions under the formula that takes it out of our mineral wealth or by the statute itself that calls for an appropriation and voluntary additional appropriations. Those voluntary appropriations, both inflation proofing and additional appropriations to principal, have totaled a little over \$13 billion.

We are now approaching a time in which the fund may be asked to do more than it is now so you must be clear on the priorities. The trustees feel strongly that the fund is permanent and an inflation-proofing proposal that establishes it in the constitution using the endowment model that has a payout limit is the most effective way to inflation-proof the entire fund.

It's a simple concept but it raises many questions about the impact it may have on statutes. The trustees believe the amendment itself requires no statutory change. This does not mandate a payout; it is a payout limit.

CHAIRMAN THERRIAULT said they had received a memo from Tamara Cook, Director of Legislative Legal & Research Services, with a number of questions. If they weren't answered during the course of the presentation they would address them afterwards.

JIM KELLY, Director of Communications for the Alaska Permanent Fund

Corporation gave the following power point presentation.

SJR 13 accomplishes inflation proofing by limiting the annual payout of fund income to no more than 5 percent of the fund's five-year average market value. They think it accomplishes three things:

1. It protects the purchasing power of the entire fund.
2. It provides the maximum amount of sustainable income to benefit the current and future generations.
3. It minimizes fluctuations in annual payouts.

If the legislature approves SJR 13, the general public approves it in the general election of November 2002 and it goes into effect in February 2003. Over time, the fund will have retained everything it needs to be protected against inflation while the rest of the income would be available for the legislature to use.

The benefits

1. SJR 13 provides constitutional protection, which is different than the existing inflation proofing and therefore enhanced. Although the legislature has done very well during the last 18 years, this is better because it's in the constitution and ensures that it will go on if things change in the future.
2. It maximizes the total amount of fund income which can be paid out in the future and does so in a way that balances the fund's benefits fairly between current and future generations.
3. It increases the likelihood that both the fund's principal and income will continue to grow in perpetuity in both nominal and real, inflation-adjusted dollars. The purchasing power of the principal and the money available to spend will go up.
4. The 5 percent limit is actually higher than the amount that is being paid out now for dividends. If the dividend program continues as it is now, but with the 5 percent limit, there would be about \$175- \$300 million of additional money that could be spent on a sustainable basis and that would grow over time as the fund grew.
5. The market value payout is one that institutions similar to the Permanent Fund use and have used for many years and conforms more to generally accepted accounting principals (GAAP) than what is currently used. This is because generally accepted accounting principals have changed and the statutes haven't.

6. Legislators will know how much money is available from the Permanent Fund every January.

The analysis

Principal and inflation-proofing.

Under SJR 13, both the Fund's principal and the earnings reserve account would be inflation-proofed by constitutional mandate. In addition, there would be two constitutional limits on Permanent Fund spending: (1) principal would continue to be unavailable for appropriation; and (2) appropriations from the earnings reserve account in the future would be limited to no more than 5 percent of the fund's average market value for the past five years. This would provide full inflation-proofing averaged over long periods of time. Accordingly, statutory inflation-proofing transfers to principal would no longer be necessary.

Earnings reserve.

This proposal enhances the earnings reserve by allowing inflation-proofing to accumulate with the constitutional protection against it being spent by a subsequent legislature. It allows money to continue to accumulate in the earnings reserve account which would provide a cushion if there are several poor years in a row. At the beginning of this year the earnings reserve account had \$6.5 billion and it fell to under \$4 billion because of the market decline. In 2003, the fund's five-year average market value is projected at \$28 billion, which would limit the maximum payout that year to no more than \$1.4 billion.

5 percent payout.

The 5 percent limit is chosen for three reasons: (1) 5 percent is on the high end of sustainable payout rate that still maintains the fund's real value; (2) 5 percent allows greater distributions over time than a higher payout; and (3) 5 percent is what the majority of endowments pay out; e.g., 85 percent of all public endowment funds pay out 5 percent or less, and the median payout of endowments, according to a 1999 Greenwich Associates study, is 4.9 percent.

Side B

Five-year averaging.

Under SJR 13, the annual payout may not exceed 5 percent of the

fund's market value averaged over the prior five years, including the fiscal year just ended. This methodology is chosen to dampen volatility and is consistent with the existing statutory five-year averaging provision for computation of the annual dividend.

20-year perspective.

Under SJR 13, if the full 5 percent of the fund's five-year average market value was paid out, the fund would earn \$57 billion of total investment return over the next 20 years, \$28 billion of which would be earmarked for dividends and \$20 billion to inflation-proofing, leaving \$9 billion in residual income available for appropriation. The ending market value of the fund in 2020 would be \$51 billion.

Dividends.

This proposal does not affect the existing dividend program. It should be noted, however, that any future public policy decision to use an additional portion of fund income for any purpose will affect the dividend, as will market volatility, but under SJR 13, these impacts would either be equal or diminished compared to the status quo.

Residual income available for appropriation.

Except in the case of extraordinarily good financial markets, the 5 percent limit set by SJR 13 is above what is required to pay dividends per current law, leaving a residual amount available for appropriation. If the entire 5 percent was paid out, the residual amount is expected to range from \$175-\$300 million per year in a median case, growing over time as the Fund grows. Because of the mechanics of the existing statutory dividend formula, however, if the dividend is extraordinarily high in any one year, the amount of the residual could be reduced to zero.

MR. GRUENING said there is a sincere desire to have a full discussion about the legislation. The concept of a permanent fund had been around many years before the ninth legislature acted and they took two years to discuss and review it. He commented,

If the 22nd legislature passed this, this would be the most significant addition to our constitution since the permanent fund original amendment. I can't think of anything that would leave a greater legacy for the people of Alaska than this; but that's something that they have to be convinced of.

This not only requires a two-thirds vote of each body, it also requires a majority vote. The political effort and review that needs to be expended is perhaps greater than with the original amendment. Although the concept is simple, it is not an easy decision even though the impact would be profound and deeply appreciated by Alaskans.

SENATOR PHILLIPS asked whether there was an expectation that the legislation would be moved this session and if it passed through both bodies would the corporation and trustees be in charge of educating the public.

MR. KELLY said they were selling the idea now and would continue to sell it as long as it has a chance of passage.

SENATOR PHILLIPS asked whether they would be taking credit for the plan rather than giving that credit to the legislature.

MR. GRUENING responded it is their plan but the legislature would have to take a two-thirds ownership in the plan at some point.

SENATOR PHILLIPS pointed out that in 1976 there was a legislative proposal to form the permanent fund, and this time the concept is coming from the Alaska Permanent Fund Corporation and Alaska Permanent Fund Board of Trustees, not the legislature. It should be clear that it is their idea and the legislature is simply giving them the opportunity to defend it. "If it goes sour, I don't want to hear it was my team that did this."

MR. KELLY said they like this proposal, and they have been studying it intensively for the last five years and discussing it for much longer than that. Of course there may be unintended and unknown consequences but the board is unanimously and strongly in support of the proposal.

CHAIRMAN THERRIAULT said he has had a number of discussions with both presenters and he wanted to briefly touch on them so they would be a matter of record.

First, Tamara Cook, the Director of Legislative Legal and Research Services, noted that in drafting the resolution there were a number of exceptions to standard drafting procedures with regard to the title, the contents and the way information is shown.

The title says the resolution is relating to inflation-proofing the permanent fund and it does not really do that. It does not make appropriations to the permanent fund. In fact, testimony today was that statutes that make a yearly appropriation might not be

advisable to continue.

There was some confusion about whether or not a copy of the memorandum from Ms. Cook was sent to Mr. Gruening or Mr. Kelly.

MR. KELLY said inflation-proofing does not appear in current statutes. The proposal will provide for the effects of inflation in a statutory formula. It provides for the effects of inflation by limiting the payout to 5 percent. Over the next 75 years they believe the fund will earn 8.25 percent and inflation will average 3.25 percent.

CHAIRMAN THERRIAULT remarked that individuals with a knowledge of "how this works" know that there is a computation done on a yearly basis on the consumer price index (CPI) then an appropriation is made to offset that erosion. He was not sure whether they proposed that statute stay in place and the computation and appropriation continue to be made to the principal on a yearly basis or whether they want to ensure a healthier buffer in the earnings reserve instead.

MR. GRUENING responded that is a legislative decision. Currently there is not a 5 percent payout. The only payout that is taking place is for the dividend. That may change at some point and when it does, there will be statutes that deal with that change. The priority in the statutes now is the dividend and inflation-proofing. The trustees have taken no position on not inflation-proofing under the statute. As long as no more than 5 percent is paid out, you are inflation-proofing the entire fund including the earnings reserve and principal. This proposal could be passed now and the current statutes could stay unchanged. However, at the point at which other payouts are designed, if they stay within the 5 percent there is no need to additionally pay it into principal because you would be reducing the earnings reserve. This is a warning given when there are plans to appropriate money from the earnings reserve to principal. There was a House bill that deposited \$250 million. There was a desire by some to deposit more. The board's analysis is that would have created a situation in which the dividend would have been affected. The same applies if this amendment was in place; the board would give their projections of what would happen as a result of any action including appropriating a large sum out of the fund to the constitutional budget reserve. That entire amount is available for appropriation, not just the realized portion. Once the amendment is in place they want to be clear that this would no longer be an option. Just 5 percent of the market value would be available. With this in mind, they haven't taken an official position on that and they aren't likely to do so. It's a legislative decision.

CHAIRMAN THERRIAULT noted that the trustees have been advised to stay clear of policy decisions so he understands the reluctance to take a stand. However, this would trigger a number of consequences that the legislature would have to deal with.

MR. KELLY responded the legislature wouldn't have to deal with consequences any more if this was passed than they do today. Nothing has changed except the amount of money that may be removed from the fund.

MR. GRUENING said what will really trigger events are external to the fund. For instance, what will be done if the constitutional budget reserve is near exhaustion? What will be done to reorder the priorities to deal with this? This will need to be addressed regardless of passage of the legislation. The proposal does not drive this situation - it's already there. Because the trustees want the permanent fund to be permanent, this proposal should be in place.

SENATOR PHILLIPS noted they said it would not affect the dividend but wondered whether there might not be some circumstances where it would be affected.

MR. KELLY said if there is the 5 percent payout and the dividend formula is left in place there is one circumstance in which the dividend would be affected. If there are a number of extraordinarily good years such as we just experienced, there is a limit on how high the dividend can grow. However, analysis shows that, at that point, the dividend would be between \$3,000 and \$4,000 per person. If people were getting that size dividend there probably won't be complaints because there was the 5 percent limit.

SENATOR PHILLIPS pointed out there were lots people that envisioned \$4,000 dividends.

MR. KELLY said this doesn't mean you can't have \$4,000 dividends. This gives the assurance there will be dividends that grow over time as long as the fund grows.

MR. GRUENING said this goes to the question of inner-generational equity and generations are addressed in the statutes. The maximum sustainable yield of a fisheries stock is a workable analogy even though the investment field is more predictable than the scientific predictions of fisheries stocks. If you take six percent of the stock rather than five percent, you can get more fish for awhile. However, over the long term you'll pay for this in the outer years.

The permanent fund will take care of everyone now and our children and grandchildren so we're looking at other generations. If we look beyond our immediate needs to our children and grandchildren this will look like a good idea. Even if your only support for the fund is the fact that it gives a dividend, this makes sense. It's not tied to a fiscal plan but to the idea you can get the maximum distributions over time by limiting the payout to a reasonable level.

CHAIRMAN THERRIAULT said,

The question about the 5 percent limiting the size of the dividend is the product of the fact that if you have a 5 percent maximum payout and you have a separate calculation that is the 5 year rolling average of the realized earnings, you might have one that obligates you or computes more money than you have money to pay.

MR. KELLY said that is correct.

MR. GRUENING agreed but said that is a very rare situation.

MR. KELLY said it is not only rare, it only happens on the top end not the bottom end.

CHAIRMAN THERRIAULT commented that principal was not included in the wording on page 1, line 9 & 10 that says, "All income from the permanent fund shall be deposited in the permanent fund." He noted they don't want it in the principal.

MR. KELLY said that is correct. They define permanent fund as it is by statute, which is the principal and the earnings reserve account.

For 20 years they have said there are two parts to the permanent fund. There is the principal and there is the income. Principal is defined as (1) oil revenues, (2) inflation-proofing and (3) special appropriations. Everything else is earnings reserve account and available for appropriation.

CHAIRMAN THERRIAULT asked about the possibility of principal erosion if 5 percent of the value was withdrawn on a yearly basis and there was a consecutive number of flat or negative years. Page 1, line 8 of the resolution says, "principal of which shall be used only for those income-producing investments" while another part of the constitution says you may have a draw of up to 5 percent of the value. There could be situations in which those two are in conflict and in drawing up to 5 percent there could be an erosion of the

principal. He was not sure the language on line 8 is strong enough to prevent the erosion of principal value. Of course, the longer money is put into the earnings reserve portion of the permanent fund the less potential there would be for erosion of principal. Individual Alaskans might look at this as a departure from what they are accustomed to.

MR. GRUENING responded that they have discussed this question and it is critical to the promotion of the proposal that they intend to have no repeal or impairment of the prohibition that exists now. Principal may not be spent. If there were any way to make this clearer than it is now then he would be in favor of the change. They don't want to lose any protection and they haven't changed the wording. The discussion of whether there is a conflict tends to come up in groups of attorneys and if enough attorneys work on writing the amendment there is a great possibility that most people won't be able to understand what has been written. They would like to keep it as simple and straightforward as possible but if there is doubt about their clear intention they would be open to changing the wording. They did not touch the word principal, it still exists.

CHAIRMAN THERRIAULT said the percentage that is dedicated by the constitution, the 25 percent and any deposits made into principal by the legislature to this point, including inflation-proofing and any future oil revenues. It would include inflation-proofing if we kept the statute that did the computation and the deposits but not inflation-proofing if it was just the retention of earnings.

MR. KELLY said he understands it the way they do. For the record, there are two limits: the first limit that cannot be breached is you cannot invade principal; and second, you cannot payout more than 5 percent of the market value. If there was a conflict between the two limits, there would be less money to pay out and the principal would still be protected.

MR. GRUENING said he doesn't believe they have received a copy of the memo by Tamara Cook. He may have seen a copy in Chairman Therriault's office but they don't have a copy in their files.

CHAIRMAN THERRIAULT said they would make sure a copy was sent. He noted there was some tension between legislative counsel, permanent fund counsel and the drafters.

MR. GRUENING replied it was in a different area.

CHAIRMAN THERRIAULT agreed and added style was also questioned. He wanted to work toward ensuring that principal would still be

protected even in the unlikely situation there is a conflict between the allowable 5 percent draw and where that money could come from. He didn't know whether there was so much discussion in the House that they deemed it unworkable.

MR. GRUENING said they didn't see the two as in conflict but they would be happy to look at the memo.

CHAIRMAN THERRIAULT said the memo also pointed out the difficulties involved for the amendment to "spring into effect in the middle of a fiscal year" and she [Ms. Cook] suggested adding a July 1, 2003 effective date. "Otherwise, for part of the year the legislature will be able to appropriate fund income, while at the end of the same year it will have access to an amount based on market value of the fund."

MR. KELLY said he had thought of that as well. The voters would approve this in November and it would go into effect 90 days later, which would be some time in February. The legislature meets in January and the constitutional amendment won't be in effect. Until that moment, everything in the earnings reserve account could be withdrawn.

CHAIRMAN THERRIAULT said there is a real potential problem with that. If the earnings reserve, which is the cushion that is depended upon, is either transferred into principal or transferred into the constitutional budget reserve before the effective date for the new language, there would be a very real problem because there might be no earnings reserve to provide the cushion to keep from invading principal.

MR. KELLY said the problem is not with the methodology because it continues to work. The problem is if you choose to do that you will have put yourself at significant risk. If you did that, you would have to be content living with the earnings for that year even if they were negative.

CHAIRMAN THERRIAULT said that's if the language on page 1, line 8 supercedes the language about the 5 percent draw. Otherwise, that potential conflict between the 5 percent allowable draw and whether that can invade principal will be heightened because the cushion might not be there anymore.

MR. GRUENING said that exists now regardless of whether or not the amendment becomes part of the constitution. It's theoretically possible but hopefully won't ever occur.

CHAIRMAN THERRIAULT said he would like this proposal to be considered at the same time as the resolution sponsored by Senator

Ward that deals with the permanent fund. The resolution is currently in the finance committee and unlikely to move out this session. He would like to hear from committee members about the issues and questions that have been raised before they reconsider the resolution as a committee.

#

The meeting was adjourned at 5:05 p.m.