

HOUSE FINANCE COMMITTEE
March 27, 2003
1:37 PM

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CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:37 PM.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Kevin Meyer, Vice-Chair
Representative Mike Chenault
Representative Mike Hawker
Representative Bill Stoltze
Representative Carl Moses
Representative Jim Whitaker
Representative Eric Croft
Representative Richard Foster
Representative Reggie Joule

MEMBERS ABSENT

None

ALSO PRESENT

Representative Norman Rokeberg; Mark Davis, Director, Division of Banking and Securities, Department of Community and Economic Development; Joanne Gibbens, Division of Family and Youth Services, Department of Health and Social Services; Ernesta Ballard, Commissioner, Department of Environmental Conservation; Tom Chapple, Director, Division of Air and Water Quality, Department of Environmental Conservation; Marilyn Crocket, Alaska Oil and Gas Association; Zach Warwick, Staff, Sen. Gene Therriault.

PRESENT VIA TELECONFERENCE

Pad Awen, Executive Director, Resource Development Council;
Steve Mulder, Assistant Attorney General, Department of Law.

SUMMARY

HB 11 "An Act relating to deposits to the Alaska permanent fund from mineral lease rentals,

royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), federal mineral revenue sharing payments received by the state from mineral leases, and bonuses received by the state from mineral leases, and limiting deposits from those sources to the 25 percent required under art. IX, sec. 15, Constitution of the State of Alaska; and providing for an effective date."

HB 11 was REPORTED out of Committee with a "do pass" recommendation and three previously published fiscal notes from the Department of Revenue (#1, zero; #2 & #3, fiscal impact).

HB 159 "An Act relating to the frequency of examinations of certain persons licensed to engage in the business of making loans of money, credit, goods, or things in action; repealing the requirement for a state examination and evaluation of the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date."

HB 159 was REPORTED out of Committee with a "do pass" recommendation and a new fiscal impact note from Department of Community and Economic Development.

HB 160 "An Act relating to the emission control permit program; relating to fees for that program and to the accounting of receipts deposited in the emission control permit receipts account; and providing for an effective date."

Committee Substitute HB 160 (FIN) was REPORTED out of Committee with a "do pass" recommendation and a new zero fiscal note from Department of Environmental Conservation.

HB 166 "An Act relating to adoptions that include a subsidy payment by the state; eliminating annual review of the subsidy paid by the state after adoption of a hard-to-place child has occurred; and providing for an effective date."

HB 166 was HEARD and HELD.

CSSB 20(FIN)

"An Act relating to the Board of Marine Pilots and to marine pilotage; extending the termination date of the Board of Marine Pilots; and providing for an effective date."

CSSB 20 (FIN) was REPORTED out of Committee with a "do pass" recommendation and one impact fiscal note #1 DCED.

#HB160

HOUSE BILL NO. 160

"An Act relating to the emission control permit program; relating to fees for that program and to the accounting of receipts deposited in the emission control permit receipts account; and providing for an effective date."

ERNESTA BALLARD, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION testified in support of the legislation. She read from prepared testimony as follows:

Mr. Chairmen and members of the committee, thank you for the opportunity to testify today on behalf of the Governor's air permit reform legislation, HB 160.

Governor Murkowski is committed to enhancing Alaska's economy through resource development. He is equally committed to protecting Alaska's environment. It is not an either/or proposition. A strong economy will generate the revenue base to continue funding our important regulatory programs. Without a strong economy we cannot hope to have a strong government.

Over the last 30 years, we have learned much about the environmental and health hazards associated with air pollution. We have also learned much about emission control technologies, air modeling and protective ambient air standards. Through national and state legislation we have recognized our shared value of environmental protection along with the many other core values that form the framework for government regulatory programs. Environmental protection is not incompatible with resource development. Rather, it is as fundamental a component of resource development as are labor and worker safety laws.

Governor Murkowski and members of his Cabinet recognize that Alaska's laws taken together form the framework for a successful resource development strategy. Environmental laws are one of the many equally important pieces of the public policy mosaic. They are no more, and no less important. This bill will improve the process and function of underlying state policy to protect the environment. It does NOT change the protective standards already in place and administered by the Department through existing regulation.

Through DEC's proposed FY 04 budget we intend to sharpen our focus on our core responsibilities. House Bill 160 is essential to achieving the results promised in our budget proposal. HB 160 achieves permit reform. As you can see - reform requires attention to detail. The bill is long with many reference changes. Reform means re-engineering the way we do business. These proposed changes in law will substantially change the mechanisms of permitting. Moreover, the bill makes way for many more changes that we can accomplish through revised regulations. The ultimate result will be a timely, predictable and rational program that will meet business and development needs without sacrificing air quality.

Our legislative proposal is based on two important developments of the last several years. One was a benchmarking study conducted by the department. We reviewed the funding and workforce allocation in the air programs of states that we consider comparable in workload and complexity to Alaska. Alaska has an unusual air program. Although we have a small population, we have a high number of air permits: as many operating permits as the State of Colorado, and as many major new permits as the state of New Jersey. We discovered in our benchmarking study that we simply have not funded, staffed or organized our program adequately to do the job applicants expect. House Bill 160 and the program increase proposed in the Governor's budget will allow us to remodel our permit program in line with successful programs in other states.

The second development that guided our proposal was the Air Permit Work Group - a stakeholder group convened last year. The Work Group carefully reviewed our program against the federal Clean Air Act and the EPA rules that have been amended several times establishing new programs and control concepts. Our state permitting program has not kept pace with the national regime or the needs of Alaskan communities and industry. The Work Group report is in your packets and the work group recommendations are incorporated into HB 160.

Specifically, this bill:

- Creates a predictable, timely and rational permitting program.
- Changes how we regulate minor sources using more standardized permit conditions based on best management practices. Our present "permit by rule" program works for the oil drilling rigs. We want to expand the concept and apply it to more situations. For our

- population size, we have many more mobile and portable plants and machinery than most states. We need the tools to work with this unusual but essential fleet.
- Exempts sources from permitting to the extent allowed under federal law.
 - Streamlines permitting for the major sources in Alaska by matching our procedures to those in federal rules.
 - Achieves efficiency through adopting federal rules by reference - this will make it much easier for us to permit rural power plants - we will be able to use the so-called "clean unit test" to avoid a detailed site by site technology analysis.

I want to take some time to explain our zero fiscal note. The bill itself does not warrant a significant increase in staffing. However, reform and streamlining alone will not obtain the desired result. On-time permitting in a fast changing resource development climate can only be achieved through a combination of reforming the process and increased staff. Without additional staff, the important changes achieved through the legislation cannot be delivered.

We are asking for an increment in the Governor's FY 2004 Operating Budget to increase staffing for permitting and field functions and to hire contractors to handle fluxes in permitting demands - both critical components to achieving overall success.

The direction in which I am leading the department is based on my commitment to develop sound, understandable standards, spend time in the field and enforce the law when it is necessary to achieve compliance.

I have proposed additional staffing in this program to fulfill my commitment. A well run air permit program is essential to the economic and social well being of our state. I also want you to know that while we are increasing this very important program, we have looked closely at our mission and have reduced our services so that we are only providing those that are essential to our mission of protecting public health and the environment. With this increment as well as several other small increases in core permitting programs the department still has an overall net reduction of 13 positions and \$153,000.

Co-Chair Harris MOVED to adopt the Committee Substitute for HB 160 (FIN), Work Draft (23-GH1059\D). There being NO OBJECTION, it was so ordered.

Co-Chair Harris referred to the fiscal note (#1, DEC, 3/3/03) and asked if the numbers were correct.

Commissioner Ballard clarified that the new fiscal note (3/26/03) was actually a zero fiscal note. She explained that in preparing the initial fiscal note, the department followed instructions to reflect that the amount was included in the FY 04 budget and would therefore be "zeroed out". She noted that a subsequent meeting with Co-Chair Williams' staff clarified that the appropriate course of action was actually to prepare a zero fiscal note.

Co-Chair Harris asked if positions would be added and pointed out that seven new positions reflected in the previous fiscal note did not now appear on the new fiscal note.

Commissioner Ballard responded that new positions were intended to implement the new program. She maintained that the legislation could not be properly implemented without additional staff and that staff needed the new legislation to improve the permitting program.

Co-Chair Harris referred to the previous fiscal note and asked about funds to be received from the Clean Air Protection Fund.

Commissioner Ballard clarified that the Federal Clean Air Protection Act established a permit program, paid for through permit fees. She stated that collected fees would offset the entire cost of the budget request increment. She did not feel it was appropriate for the Department to raise fees in order to upgrade the program.

Co-Chair Harris contended that the previous note was more appropriate. He noted, however, that although the spending was increased, the program did not seem to impact the overall governmental budget.

In response to a question by Co-Chair Harris, Commissioner Ballard responded that the seven new positions would work with existing positions in an entirely new program.

Co-Chair Harris asked for a definition of a major versus a minor source. Commissioner Ballard responded that a major source might be a power plant, whereas a minor source might be an asphalt plant.

Representative Joule asked about the differences between the Committee Substitute and the original bill. Commissioner Ballard deferred to Mr. Chapple. She noted the Department's review and support of the Committee Substitute.

TOM CHAPPLE, DIRECTOR, DIVISION OF AIR AND WATER QUALITY,
DEPARTMENT OF ENVIRONMENTAL CONSERVATION provided

information regarding key changes in the Committee Substitute.

Mr. Chapple referred to Section 12, on page 5 of the Committee Substitute, sub-section (f), pertaining to facilities exempt from permitting. He noted the language change of "exempt or defer", since some federal rules speak of deferring a source if a permit were required at a later point. He also referred to Section 13, line 12 of the same page, pertaining to construction permits. He noted that current statute indicates numbers regarding quantity per year of emission, but left some criteria to regulation. He explained that the changes specified the federal cutoff values, linking it to the federal regulation.

Mr. Chapple also referred to page 7, Section 15 of the bill, line 21, where a new sub-section (2) is added, dealing with monitoring, record keeping and reporting requirements. He noted that the new provisions linked with federal rules about monitoring permits.

Mr. Chapple then referred to Section 25, on page 12, under "General minor permits". He briefly defined these permits, and stated that the section allowed general permits for minor sources. He noted previous confusion over the permit holder. He maintained that the language clarified the permit user.

Mr. Chapple also referred to Section 26 under Temporary operations. He referred to line 27, changing the number from thirty to ten days. He noted that federal rules had not been drafted at the time of the original bill, and that the federal rules now specifies ten days, a time period which also corresponds to industry needs.

Mr. Chapple referred to Section 54, page 23, which defines the term "modification". He noted that the citation was more specific in federal regulations, and that the new language corresponds to federal regulation.

Mr. Chapple referred to Section 59, on page 25, which adds definitions of "major modification" and "major stationary source". He also referred to Section 62, page 25, which adds a new sentence placing a requirement on the department to adopt regulations recently adopted by the Environmental Protection Agency (EPA). He emphasized that the regulations were important to the state of Alaska.

Co-Chair Harris asked if the Department had received statewide feedback from various groups regarding the legislation.

Mr. Chapple responded that they had heard predominantly from the Stakeholder Group, representing the oil and gas and

mining industries, as well as members of the Prince Williams' Sound and Cook Inlet advisory councils. He noted that those parties engaged in substantive discussion about the bill throughout the late summer and early fall.

Co-Chair Harris asked about the differences between the modified Alaskan statute and federal law in terms of emission standards.

Mr. Chapple stated that the bill did not change "out of stack" limits, which still exist along with ground level limits, also known as ambient public health standards. He stated that the bill merely streamlined the process for timely permitting and attained efficiencies by better imitating federal standards. He explained that one efficiency moved "minor sources" from the major source permitting program and created a new, streamlined program.

Mr. Chapple also stated that the Committee Substitute reflected conversations between the Sponsor and the Department, and that provisions had been thoroughly examined by DEC staff and the Department of Law.

MARILYN CROCKET, DEPUTY DIRECTOR, ALASKA OIL AND GAS ASSOCIATION (AOGA) testified in support of the bill. She explained that her organization was a trade association of seventeen oil and gas companies in the state of Alaska. She observed that the oil and gas industry had long been involved in the air permitting process and an active participant in the aforementioned discussions to revise the state's regulatory program. She noted that the revised process allowed timelier permitting and more clearly defined fees. She also observed that the new program more clearly resembles the federal program.

Ms. Crocket noted two changes in the Committee Substitute to which AOGA took exception. She noted a citation error in referring to federal rules: page 25, lines 2 and 5, referring to 40 CFR.165 and .166, should read 51.165 and 51.166.

Representative Foster MOVED to accept the technical changes [CFR 51.165 and CFR 51.166] to the Committee Substitute. There being NO OBJECTION, it was so ordered.

Ms. Crocket also referred to page 7, lines 21-25, pertaining to monitoring and reporting requirements. She noted the new language "but which may be supplemented by additional requirements that". She suggested that the language was not consistent with the recommendations of the Work Group. She noted the great challenge of monitoring and reporting requirements. She observed that Alaska's terrain and climate might sometimes result in additional or other

monitoring requirements. She summarized that the oil and gas industry did not anticipate that the recommendation would add additional monitoring requirements, but rather enhance flexibility to take into account Alaska's situation.

Mr. Chapple noted that the words that were developed in the Work Group were "take into account Alaska's unique conditions". He suggested that a change had occurred in the drafting process. He suggested that the words "supplemented by additional requirements that" be omitted.

Representative Croft suggested "additional or different requirements" as a possible solution.

After further discussion by Committee members, Ms. Crocket suggested that the sentence might read "but which may be modified to take into account this state's unique conditions".

STEVE MULDER, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, testified via teleconference. He stated that either solution would be acceptable, but recommended the option of "additional or different".

Co-Chair Harris recommended the solution of "but which may be modified to take into account", as suggested by Ms. Crocket.

Representative Whitaker asked whether the intent was to establish a limitation as to compliance with record keeping, reporting and monitoring requirements. He speculated that the goals were for specificity and clarity.

Mr. Chapple clarified that the intent was to be consistent with federal regulations, while allowing flexibility to respond to Alaska's unique conditions.

In response to a question by Representative Whitaker, Mr. Chapple confirmed that this would provide more certainty to applicants as to requirements.

Representative Croft emphasized that the bill did not change the overall standards. He referred to Page 9, which lists the substantive standards, and differentiated this from reporting requirements, which required more flexibility in Alaska.

Co-Chair Harris pointed out that "modify" did not preclude additional requirements.

There being NO OBJECTION, the Committee Substitute was amended to read "but which may be modified to take into account this state's unique conditions" (page 7, lines 24 and 25).

TADD OWEN, EXECUTIVE DIRECTOR, RESOURCE DEVELOPMENT COUNCIL (RDC) testified via teleconference in support the amended version of the Committee Substitute. He read from a prepared statement as follows:

Thank you, Mr. Chairman. For the record my name is Tadd Owens, I am the executive director of the Resource Development Council. RDC is a private, non-profit, business association representing individuals and companies from Alaska's oil and gas, mining, timber, tourism and fisheries industries. Our membership also includes electric utilities, local communities and Native regional and village corporations. RDC's mission is to help grow Alaska's economy through the responsible development of the state's natural resources.

RDC supports the amended version of House Bill 160 and we ask the House Finance Committee to move the legislation forward. I would like to thank DEC for not only establishing a Work Group to evaluate the department's air permitting program, but also for taking action on that group's recommendations. While RDC did not formally participate in the Air Program Work Group, several of our members did and we endorse their recommendations.

Working in cooperation with the regulated community, DEC has successfully addressed many of the air program's major weaknesses and inefficiencies. HB1 60 provides DEC with additional flexibility in administering the air program and it simplifies the permitting process for those in the regulated community.

Specifically, this bill accomplishes the following:

- It allows DEC's program to remain consistent with the federal program on a long-term basis
- It differentiates between major and minor source permits and standardizes the requirements for minor permits
- It restructures the program's fee schedule making the costs more transparent and predictable for applicants

In or view, this legislation will result in more efficient review of permits allowing agency staff more time and resources for the field work necessary to protect Alaska's air quality. HB1 60 also creates a

much more user-friendly process for those in the regulated community. The legislation has RDC's strong support.

HENRIK WESSEL, ENVIRONMENTAL OFFICER, GOLDEN VALLEY ELECTRIC ASSOCIATION testified in support of the Committee Substitute and thanked the Working Group for their recommendations. He noted that his group was a non-profit cooperative serving 90 thousand residents. He commended the legislation for streamlining the permitting process, while still protecting the environment.

Representative Foster MOVED to report CSHB 160 (FIN) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

Committee Substitute HB 160 (FIN) was REPORTED out of Committee with a "do pass" recommendation and a new zero fiscal note from Department of Environmental Conservation.

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#HB11

HOUSE BILL NO. 11

"An Act relating to deposits to the Alaska permanent fund from mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), federal mineral revenue sharing payments received by the state from mineral leases, and bonuses received by the state from mineral leases, and limiting deposits from those sources to the 25 percent required under art. IX, sec. 15, Constitution of the State of Alaska; and providing for an effective date."

REPRESENTATIVE NORMAN ROKEBERG, SPONSOR, testified in support of the bill. He explained that the legislation returns the percentage of all mineral lease royalties and bonuses deposited into the Permanent Fund to the constitutionally mandated 25 per cent.

Representative Rokeberg maintained that the bill would provide Alaska with a source of general fund revenue while staying true to the purposes of the Permanent Fund and the intent of the Constitution. He referred to Article 9, Section 15 of the Alaska State Constitution, which states "At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund".

Representative Rokeberg observed that in 1980 the legislature recognized that the state had "excess revenues". He pointed out that the general fund expenditure during that

legislative session was \$4.07 billion. He speculated that the current budget was roughly one third of that amount.

Representative Rokeberg pointed out the fiscal gap facing the current Legislature. He proposed that the bill would generate approximately \$42 million per year over the next seven years.

Representative Rokeberg speculated that contributions of smaller fields such as Alpine and North Star offset the decline in the production at major fields such as Prudhoe Bay. However he maintained that the replacement of resources was not entirely equitable. He pointed out that Prudhoe Bay was contributing 75 percent into the General Fund and 25 percent into the Permanent Fund.

Representative Rokeberg refuted criticism that the bill was "a raid on the permanent fund". He maintained that the bill merely redirects monies being deposited while taking nothing out of the Permanent Fund. He also maintained that the bill would have little effect on the dividend program, projecting zero impact in the first two years, potentially growing to a \$20 per dividend impact within ten years.

Representative Rokeberg summarized that the bill would diminish the draw on the Constitutional Budget Reserve (CBR) and minimized the need for more general taxation programs.

Co-Chair Williams asked for clarification on the criticism of the bill. Representative Rokeberg reiterated that the bill would withdraw no monies from the Permanent Fund. He conceded that to put less into the Fund might result in lesser output. He maintained that market conditions had much greater impact on the Fund's performance. He drew the analogy that increasing savings while in a deficit might not be prudent management. He suggested that this bill might be a step toward correcting the state's fiscal situation.

Representative Rokeberg suggested that many potential plans for correcting the state's finances, such as possible taxation, had the effect of withdrawing income from the economy, thereby curtailing economic growth. He maintained that since the bill merely redirects funding from investment, it would not have a negative effect on the state's economy.

Representative Croft asked for a distinction to be drawn between not depositing money and depleting the fund. He maintained that failing to place money into the account had the same effect as taking money out.

Representative Rokeberg cited his experience in business and contended that not depositing funds was different than

withdrawing funds. He maintained that if funds were not available, they should not be deposited.

Representative Hawker referred to the debate regarding the difference between long-term fiscal solutions and incremental steps toward a solution. He asked whether the sponsor viewed the legislation as a solution or an increment, and if an increment, whether consideration was given to a long-term solution which did not include this bill.

Representative Rokeberg noted that the legislature in the past had considered this concept as part of a long-range plan. He characterized it as a "common sense" first step in narrowing a fiscal gap. He observed that it only had an impact of \$43 million on the general fund, which he conceded might be an optimistic projection. He suggested that this step presented the least detriment, since it did not implement a "tax" but rather only affected prospective future income.

Representative Whitaker observed that the change from the constitutional requirement from 25 to 50 percent occurred in 1980, when the general fund budget was \$4.07 billion. He maintained that the legislature implemented the change at that time since the funding was not needed. He asked whether the money was needed at this time, with the budget at roughly one third of that in 1980.

Representative Rokeberg maintained that the money is needed, especially considering the fluctuating price of oil. He speculated that if the bill had been in place for the current fiscal year, some \$57 million would have been available to spend in FY03. He maintained that the bill freed funding for use, without the negative impacts of taxes and user fees.

Representative Croft asked how this could extend the life of the CBR. Representative Rokeberg replied that the bill minimized the amount of the draw on the CBR by making more general funds available.

Representative Croft commented that in effect the funds would be moved from the Permanent Fund to the CBR. Representative Rokeberg conceded that this theory was somewhat valid, but pointed out that the money was therefore available in the General Fund. He speculated that the legislature might choose to spend the general funds rather than reserving them in the CBR.

Representative Croft asked if it was the intention to spend the funds or to extend the life of the CBR. Representative Rokeberg responded by pointing out that the current budget contained some recommendations with which he did not agree.

He observed that the Governor maintains a budgetary principal whereby, if the legislature disagrees with a recommendation, they may suggest an alternative that is still in keeping with the Administration's budget goals. He suggested that the bill fit this type of process, and recommended that the legislature would be wise to embrace such a concept for budget making.

Representative Joule asked if Representative Rokeberg would support the revenue being directed to a dedicated fund, which would require a change in the Constitution. Representative Rokeberg acknowledged that some dedicated funds currently function, but noted his own belief in the constitutional principle of avoiding dedicated funds. He clarified that, while the legislature had the ability to choose whether or not to spend the funds, he himself did not advocate spending but rather increased flexibility.

ED MARTIN, SR., SOLDOTNA, testified via teleconference, in opposition to the proposed legislation. He read from prepared testimony (copy on file), maintaining that the bill erodes the dividend program, encourages overspending, and undermines voter's confidence in the legislature.

FRED STURMAN, SOLDOTNA, testified via teleconference in opposition to the bill. He noted that he had not perceived any "cutting of the budget" support from the Legislature. He countered that taking the Permanent Fund was not a viable option. He observed, "everyone seems to want more". He encouraged budget cuts rather than spending.

JAMES PRICE, NIKISKI, testified via teleconference in opposition of HB 11. He commented that the only work currently being done by the Legislature was the proposal of "user fees". He stressed that HB 11 was not a viable solution and speculated that the root of the problem is bringing spending to a workable level.

Representative Croft MOVED to ADOPT Amendment #1:

Page 1, line 6, after Alaska insert:
"and relating to the disposition of permanent fund income"

Page 2, after line 19, a new subsection is added to AS 37.13.145: "(e) AS 37.13.140 and AS 37.13.145 (b) may not be amended unless the amendment is approved a majority of the voters voting on the question."

Co-Chair Williams OBJECTED.

Representative Croft summarized that the Amendment recalled efforts in 1999 to present the concept [fiscal plan] to the

Alaskan people. He suggested that, considering the initiative and referendum power in the state of Alaska, no fiscal plan would succeed without the agreement of the people.

Co-Chair Williams disagreed. He expressed his belief that it was wrong in 1998 and 1999 to send this message to the people. He recalled that when the initial bill was presented to the Senate and the Governor, the House had agreed that there would not be a vote by the people. He further recalled that at that time, the Governor and the Senate recommended that the bill receive a public vote. He maintained that HB 11 did not represent a "raid" on the Permanent Fund.

Representative Rokeberg echoed comments made by Co-Chair Williams. He proposed that the amendment claims unconstitutional delegations of authority. He pointed out that the amendment would require a constitutional amendment for implementation.

Representative Stoltze observed that the amendment practically represented a non-binding advisory vote and suggested that it be presented in that way to voters for full disclosure of its true function.

Co-chair Harris objected to the amendment. He commented that the Legislature could conceivably ask the public every year about budgetary spending. He strongly expressed his belief that this did not present good public policy.

Representative Croft maintained that the dividend was established to generate public support for the Permanent Fund by giving people "a stake in" the fund. He noted that this resulted in a public sense of ownership. He proposed that this sense of ownership must be recognized. He agreed that the legislature could change statute, which made it not "legally binding", however he maintained that the amendment helped establish an important principal.

Co-Chair Harris asserted that the people of Alaska voted on the constitutionally mandated 25 percent [permanent fund deposit]. He pointed out that when the legislature changed the amount to 50 percent in adopting the statute, they did not ask for another public vote. He maintained that the circumstances at that time were different than today. He proposed that the current Legislature must now determine if the additional, statutorily mandated 25 percent might be shifted into the general fund.

A roll call vote was taken on the motion.

IN FAVOR: Moses, Stoltze, Croft, Joule

OPPOSED: Myer, Whitaker, Foster, Hawker, Williams, Harris
Representative Chenault was not present for the vote.

The MOTION FAILED (4-6).

Representative Foster MOVED to report HB 11 out of Committee with individual recommendations and with the accompanying fiscal note.

Representative Croft OBJECTED.

Representative Croft observed that the effect of the bill, assuming that it did not increase current spending levels, was to transfer \$43 million per year that would have gone into the Permanent Fund into the CBR. He asserted that this proposition did not make sense.

Representative Croft noted that the Permanent Fund historically earned 9.5 percent, with projected long-term earnings of 8 percent. He contrasted that the CBR earned 6 percent annually, since up to half of that fund could be withdrawn at any time. He summarized that the net effect of the bill would either be to spend the funds on government or to transfer it to another account with lower earnings. He maintained that this was not good public policy.

Co-Chair Williams contended that one must consider the best use of funds for the state of Alaska. He stated his belief that the bill would allow additional tools to advocate the best fiscal interest of the people. He pointed out the history leading to the current budget reductions, and noted the lack of change in management of the state's financial resources. He maintained that the rejection of the House plan in 1998 by the Senate and a subsequent vote of the people contributed to the current financial difficulties.

Co-Chair Harris noted that the bill might be one in a series of steps aimed at balancing the budget based on true revenues. He pointed out the distinction between the CBR and general fund monies: use of the CBR requires a three-quarter vote of both sides of the legislature. He speculated that use of the CBR might result in a more partisan budget process. He stressed that the money would go to the general fund and not the CBR.

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Co-Chair Harris went on to observe that expenditure of general fund monies required only a simple majority of both bodies. He noted his opinion that Alaska was the only state that required a three quarter vote to spend certain types of funding. He maintained that the bill facilitated the addition of \$40 to \$50 million of General fund revenue

without requiring a three quarter vote. He suggested that the bill would enable a balanced budget without such a vote.

Co-Chair Harris also stated his desire to create mechanisms that did not require a state income tax. He maintained that a tax would not improve economic growth. He proposed that the bill encouraged economic growth without a tax. He contended that the bill did not severely impact Alaskans, resulting in only an eventual \$20 reduction to dividend payments.

Co-Chair Harris stressed that the bill intended to balance the budget, and not to increase spending as had been implied.

Representative Stoltze thanked Representative Rokeberg for his work in introducing the bill. He expressed his caution about the bill but his willingness to discuss the issues.

Representative Whitaker suggested that the primary debating points related to the actions of the 1980 Legislature, which was operating with a more than \$4 billion budget. He maintained that current spending was significantly lower and that funds were needed to meet the now \$2 billion budget.

Representative Joule noted his continued support of the legislation. He suggested, however, that at some point discussion must occur regarding generating broad based state revenue and the fate of the Permanent Fund. He expressed disappointment that these discussions were not occurring. He speculated that the bill could be part of a package of legislation aimed at addressing these issues. He exhorted the Majority to show leadership in beginning these discussions.

Representative Rokeberg thanked public testifiers and concurred with Co-Chair Harris in not wishing to institute taxation. He suggested that the bill presented a viable alternative.

A roll call vote was taken on the motion.

IN FAVOR: Whitaker, Foster, Hawker, Joule, Meyer, Harris, Williams

OPPOSED: Moses, Stoltze, Croft

Representative Chenault was not present for the vote.

The motion PASSED (7-3).

HB 11 was REPORTED out of Committee with a "do pass" recommendation and three fiscal impact notes from the Department of Revenue(#1, zero; #2 & #3, fiscal impact).

#cssb20

CS FOR SENATE BILL NO. 20(FIN)

"An Act relating to the Board of Marine Pilots and to marine pilotage; extending the termination date of the Board of Marine Pilots; and providing for an effective date."

Co-Chair Williams noted that public testimony had been previously concluded.

Co-Chair Harris MOVED to report CSSB 20 (FIN) out of Committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, it was so ordered.

CSSB 20 (FIN) was REPORTED out of Committee with a "do pass" recommendation and one fiscal note #1 DCED.

#hb159

HOUSE BILL NO. 159

"An Act relating to the frequency of examinations of certain persons licensed to engage in the business of making loans of money, credit, goods, or things in action; repealing the requirement for a state examination and evaluation of the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date."

MARK DAVIS, DIRECTOR, DIVISION OF BANKING AND SECURITIES, DEPARTMENT OF REVENUE, testified in support of the bill. He spoke to the two statutory changes contained in the bill. The first change alters the Banking Code, Title Six. The second change pertains to the State Code, Title 44.

Mr. Davis explained that the change to the Bank Code lengthens the exam time for small loan companies from twelve to eighteen months. He noted that this was the only provision of the Banking Code that required an annual examination. He emphasized that, even with the change, the Division would perform more frequent examinations if needed.

Mr. Davis explained the change to Title 44 eliminating the provision for a qualitative examination for the Alaska Commercial Fishing and Agricultural Bank (CFAB). He noted that since CFAB is a cooperative, it is required by statute to prepare an annual audit that is provided to the legislature. He also stated that when Title 44 was enacted, CFAB operated using state funds, which it was required to repay. He pointed out that CFAB currently operates with no state funds. He also noted that the deleted provision would

still make CFAB subject to a full legislative audit, as well as the annual audit by outside auditors.

Mr. Davis further noted that the fees charged by the banking section of the Division do not cover the costs of the examination. Mr. Davis pointed out that the fees leave a deficit of \$350 thousand. He noted that by statute the banking fees could not discriminate between state and federal institutions, and must be charged equally. He maintained that a shortfall would exist as long as the legislature required fee equanimity.

Mr. Davis clarified the difference between the audited report and the banking exam. He noted that the outside audit report would inform the legislature on the loan portfolio by major category, specifying loan performance and payment history.

Mr. Davis summarized that the Division was requesting an exemption from examination under Title 44. He expressed his belief that with the statutory audits required, adequate fiscal provisions were already in place.

Mr. Davis also noted that the Division had no enforcement powers with regard to the examination, since it was included under Title 44. He explained that if a problem arose in the examination, the Division could not address it.

Representative Croft asked how much of the fiscal note was attributed to each section of the bill. Mr. Davis responded that the CFAB examination required ten days, and that savings were realized by freeing up the bank for other business during that time.

Representative Croft questioned whether the change to eighteen months represented the greatest cost savings. Mr. Davis noted that the savings came essentially from eliminating one position. He speculated that the new schedule enabled an efficiency of service.

In response to a question by Representative Croft, Mr. Davis stated that examination fees were charged to CFAB of \$2.6 thousand. He also noted that the additional ten days in the current cycle created a loss of \$6 thousand, as well as the loss of potential paid service to a state bank or credit union. He stressed that as a cooperative, CFAB did not receive money from the public, and focused on other cooperatives.

Representative Hawker asked for a distinction in organization between CFAB and commercial banks or credit unions, and whether that difference was part of the justification for the requested exemption.

Mr. Davis noted that CFAB was created by the legislature, set up as a cooperative in AS 44.81.014, and required to follow a set structure. He referred to 44.81.200, which requires the bank to provide an audited financial statement to the legislature each year, including discussion of bank circumstances, operating, and "any other information that the Board believes to be of interest to the Governor, the legislature and to the public". He summarized that the bank was required to self regulate.

Mr. Davis noted that in 1985, problems occurred with the bank and examiners were asked to complete a report. He suggested that the statute set forth for this purpose in 1987 should have contained a sunset provision. He proposed that the structure of the bank, along with special reporting requirements, made the bill appropriate.

Representative Croft MOVED to Adopt Amendment #1:

Page 1, Line 13, DELETE:

"*Sec.2. AS 44.81.270(d) is repealed."

"This amendment keeps the requirement for the [Alaska Commercial Fishing and Agricultural Bank] CFAB to submit to annual bank examinations. The argument for not holding CFAB to this standard is the perception that the requirement is overly redundant, that CFAB is subject to independent audit or legislative audit, should one be requested.

CFAB puts forth that the requirement is not overly redundant; that the independent audit only looks at their financial situation, and the bank examiners make sure CFAB is adhering to statute. CFAB argues the bank examinations help them with their accountability to their board (two members of which are appointed by the Governor) and their members and CFAB pays for the examination.

Although the Legislature could request Legislative Budget on a regular basis. This last one occurred in 1995."

Representative Croft observed that Section 1 of the bill was an appropriate cost savings. He maintained that Section 2 pertained to the CFAB examination, and referred to a letter from CFAB, which expressed a desire for this service. He suggested that the entity should continue to receive a service that they valued. He pointed out that by retaining Section 1, the majority of the savings was still available.

Co-Chair Williams asked if CFAB could pay for its own outside examiner. Mr. Davis reiterated that CFAB was

required by statute to have an outside auditor. He suggested that CFAB could expand the scope of the audit to include their loan portfolios. He suggested that such an audit could help evaluate the potential of these portfolios. He noted that bank examiners did not traditionally perform such an evaluation. He stated that he did not support the Amendment.

Representative Stoltze asked if a sunset might be an alternative to deleting the requirement. He suggested giving two years for the requirement to lapse if a problem arose that necessitated an examination.

Mr. Davis emphasized the legislative audit as a mechanism for effectively addressing any potential problems.

In response to questions by Co-Chair Harris, Mr. Davis clarified that the CFAB examination period would not be extended to eighteen months, but that the cycle pertained only to small loan companies. He stated that for CFAB the bill addressed their annual examination requirement, which is separate from the annual legislative audit.

Representative Hawker recalled a circumstance in the early 1980's during the time when CFAB was subject to an outside audit only, and asked if the outside audit identified circumstances that resulted in the addition of a bank examination by the legislature.

Mr. Davis stated that the Division was invited in 1985 to report on the viability of the bank. He observed that the outside auditors identified problems. He explained that the Division turned to bank examiners to help address the potential crisis for the State and for the other investors.

Representative Hawker recalled that the examiners were viewed as an effective tool of the state, even though the examiners did not traditionally involve themselves in a cooperative with a limited loan portfolio such as CFAB. He observed that the examination was voluntary and limited. He echoed previous concern that the legislation was not sunsetted, and expressed confusion as to why the bank desired additional regulation.

Representative Croft contended that CFAB was requesting the oversight. He suggested that it was unwise to wait until a serious problem arose to engage an outside examiner. He pointed out that CFAB desired the service and was willing to pay for a portion of it.

Co-Chair Williams concurred with the Sponsor that Section 2 was a viable cost savings.

A roll call vote was taken on the motion to ADOPT Amendment #1.

IN FAVOR: Joule, Croft, Harris

OPPOSED: Meyer, Stoltze, Whitaker, Foster, Hawker, Williams

The MOTION FAILED (3-6).

Representative Foster MOVED to report HB159 out of Committee with individual recommendations and the accompanying fiscal note.

HB 159 was REPORTED out of Committee with a "do pass" recommendation and a new fiscal impact note from the Department of Community and Economic Development.

#hb166

HOUSE BILL NO. 166

"An Act relating to adoptions that include a subsidy payment by the state; eliminating annual review of the subsidy paid by the state after adoption of a hard-to-place child has occurred; and providing for an effective date."

JOANNE GIBBENS, DIVISION OF FAMILY AND YOUTH SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (DHSS), testified in support of the bill. She explained that the bill would repeal a current statute requiring DHSS to conduct an annual review of subsidy amounts being paid to subsidize adoption and guardianship. She noted that the payments were both federally and statutorily required and designed to assist parents who adopt or become legal guardians of children with special needs.

Ms. Gibbens noted that the original intent of the statute was to provide cost containment. She noted that the annual review did not generally result in cost containment, but rather in increases in the amount of subsidies awarded, as well as department staff time. She proposed that the elimination of the annual review process created savings by providing cost containment to existing subsidy amounts, and by eliminating staff time to process annual reviews and unnecessary follow ups for subsidy inquiry requests. She noted that the projected annual savings was \$185 thousand of general funds. She emphasized that the elimination of the annual review process did not eliminate the right of adoptive parents or guardians to request a review of their subsidy.

Representative Stoltze asked if the savings occurred in the cost of reviews or of the actual payments. He asked for a differentiation of these savings at the next hearing.

Co-Chair Harris asked if these adoptive parents would be notified that it would now be their responsibility to request a review of their payments.

Ms. Gibbens responded that families currently communicated regularly with the division about their financial needs.

HB 166 was HEARD AND HELD.

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ADJOURNMENT

The meeting was adjourned at 4:00 PM