

HOUSE FINANCE COMMITTEE
April 06, 2004
2:08 P.M.

TAPE HFC 04 - 77, Side A
TAPE HFC 04 - 77, Side B
TAPE HFC 04 - 78, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 2:08 P.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Mike Chenault
Representative Eric Croft
Representative Hugh Fate
Representative Richard Foster
Representative Mike Hawker
Representative Reggie Joule
Representative Carl Moses
Representative Bill Stoltze

MEMBERS ABSENT

Representative Kevin Meyer, Vice-Chair

ALSO PRESENT

Representative Max Gruenberg; Pete Ecklund, Staff,
Representative Bill Williams; Vanessa Tondini, Staff,
Representative Lesil McGuire; Doug Wooliver, Administrative
Attorney, Alaska Court System; Cheryl Frasca, Director,
Division of Management & Budget, Office of the Governor;
Bruce Tangeman, Legislative Analyst, Legislative Finance
Division

PRESENT VIA TELECONFERENCE

none

SUMMARY

HB 227 An Act increasing the jurisdictional limit for small claims and for magistrates from \$7,500 to \$10,000; increasing the jurisdictional limit of district courts in certain civil cases from \$50,000 to \$75,000; and amending Rule 11(a)(4),

Alaska District Court Rules of Civil Procedure, relating to service of process for small claims.

CS HB 227 (JUD) was reported out of Committee with a "do pass" recommendation and with indeterminate note #1 by the Alaska Court System.

HB 298 An Act relating to the distribution of appropriations from the Alaska permanent fund under art. IX, sec. 15(b), Constitution of the State of Alaska, and making conforming amendments; and providing for an effective date.

CS HB 298 (FIN) was reported out of Committee with a "no recommendation" and with a new zero note by the Department of Revenue and zero note #1 by the Department of Revenue.

HJR 9 Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

CS HJR 9 (FIN) FAILED to MOVE out of Committee.

HJR 26 Proposing amendments to the Constitution of the State of Alaska relating to and limiting appropriations from and inflation proofing the Alaska permanent fund by establishing a percent of market value spending limit.

CS HJR 26 (FIN) was reported out of Committee with "individual recommendations" and with a new zero note by the Office of the Governor and zero note #2 by the Department of Revenue.

SB 289 An Act extending the termination date of the special education service agency; and providing for an effective date.

SB 289 RESCINDED Committee action in adopting a Letter of Intent. SB 289 was reported out of Committee on April 5, 2004.

#SB289

SENATE BILL NO. 289

An Act extending the termination date of the special education service agency; and providing for an effective date.

Representative Stoltze MOVED to RESCIND Committee action taken in adopting a Letter of Intent for SB 289. There being NO OBJECTION, action was RESCINDED.

Representative Stoltze MOVED to WITHDRAW the Letter of Intent. There being NO OBJECTION, the letter was withdrawn.

Co-Chair Williams stated that the House Finance Committee respectively requests that the Legislative Budget and Audit Committee (LBA) authorize the Division of Legislative Audit to conduct a performance audit of the Special Education Service Agency. The audit should utilize the sunset criteria established in AS 44.66.050© for evaluating the agency's performance. Additionally, the audit should measure the progress made by the agency to the recommendations made in the most recent sunset review. (Audit Control No. 05-20026-04). The audit should be completed and available to the Legislature by January 2008.

The Committee RESCINDED action taken on SB 289 in adopting the Letter of Intent. SB 289 was reported out of Committee on April 5, 2004.

#HJR26

HOUSE JOINT RESOLUTION NO. 26

Proposing amendments to the Constitution of the State of Alaska relating to and limiting appropriations from and inflation proofing the Alaska permanent fund by establishing a percent of market value spending limit.

Co-Chair Harris MOVED to WITHDRAW the previous MOTION to MOVE adoption of Amendment #3, #23-LS1006\V, Cook, 3/22/04. There being NO OBJECTION, the motion was withdrawn.

Co-Chair Harris MOVED to ADOPT work draft version #23-LS1006\Z, Cook, 4/6/04, as the version of the bill before the Committee.

Representative Croft commented that version "Z" would be a "pure percent of market value (POMV) form" of the bill. There being NO OBJECTION, it was adopted.

PETE ECKLUND, STAFF, REPRESENTATIVE BILL WILLIAMS, explained the changes made to the work draft version. He noted that it would be classified as a pure POMV bill and would place all the Permanent Fund into one fund. There would be no distinction between the Earnings Reserve Account and the principle. The bill would appropriate 5% of that amount annually for whatever purposes the Legislature desires. Mr. Ecklund noted the one difference added to Page 2, Line 10, Paragraph (b), a transition section. The language in that section clarifies that if the POMV amendment is adopted in 2004, the POMV mechanism would not come into effect until the FY 2006 budget.

Co-Chair Harris observed that the proposed version of the bill would do nothing to protect the principle in the

Constitution nor would it constitutionally authorize a dividend. It would only provide 5%, regardless. Mr. Ecklund said that was correct and that there would be no distinction between principle and earnings reserve.

Representative Foster MOVED to report CS HJR 26 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes.

Representative Hawker OBJECTED, noting a letter in the file from the Permanent Fund Corporation. (Copy on File). The letter notes withdrawing their request for additional authority for the out reach concepts. He believed it would zero out the fiscal note. Co-Chair Williams agreed. Representative Hawker WITHDREW his OBJECTION.

Representative Fate voiced concern that the bill would erode the ability of the Legislature to raise and allocate funds. He recommended the bill receive full debate on the House Floor.

Representative Foster noted that the MOTION to MOVE the bill from Committee also included the two zero notes from the Department of Revenue and the Office of the Lt. Governor. There being NO further OBJECTION, it was so ordered.

CS HJR 26 (FIN) was reported out of Committee with "individual recommendations" and with a new zero note by the Office of the Governor and zero note #2 by the Department of Revenue.

#HB298

HOUSE BILL NO. 298

An Act relating to the distribution of appropriations from the Alaska permanent fund under art. IX, sec. 15(b), Constitution of the State of Alaska, and making conforming amendments; and providing for an effective date.

Co-Chair Harris MOVED to ADOPT work draft #23-LS1075\C, Cook, 4/6/04, as the version of the bill before the Committee. There being NO OBJECTION, it was adopted.

PETE ECKLUND, STAFF, REPRESENTATIVE BILL WILLIAMS, explained changes made to work draft version "V". Page 3, Section 3, language provides a 5-year rolling average and insures that the Legislature will not eat into the principle and will not remove more from the Permanent Fund real rate of return. He pointed out that Page 3, Line 6, had been amended adding the language: "The first 10 of the 11 fiscal years". That technical change was made to insure that the year-end data would add an additional fiscal year. In that way, by using the 11 years, the Legislature would be able to look back and

take the 10-years in order to have the complete data for using as a comparison.

He pointed out that on Page 3, Line 19, the Committee had previously adopted an amendment indicating that not more than 50% be allocated for public education and that language was left in the draft. Page 5, Line 18, Paragraph 2, provides notification language. The permanent fund check stub indicates that "X" amount of the check goes toward inflation proofing by the Legislature. If the Percent of Market Value is adopted, there will no longer be a principle to inflation proof, only the fund. The language was changed to read:

- (2) Disclose the amount of each dividend attributable to [Income earned by the Permanent Fund from] deposits to that fund required under art.IX, sec. 15. Constitution of the State of Alaska."

Co-Chair Harris stated for the record that he maintains the percentage should be 60% for dividends and 40% to be used for education rather than the proposed 50/50 split. He said that he was not offering that as an amendment but wanted the record to indicate his intent.

Representative Hawker concurred with Co-Chair Harris, stating that he looked forward to continuing the debate. He added, consideration should be made to the possibility of municipal revenue sharing.

Representative Foster MOVED to report CS HB 298 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 298 (FIN) was reported out of Committee with "no recommendation" and with a new zero note by the Department of Revenue and zero note #1 by the Department of Revenue.

#HJR9

HOUSE JOINT RESOLUTION NO. 9

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

Co-Chair Harris MOVED to ADOPT work draft #23-LS0435\J, Cook, 4/6/04, as the version of the legislation before the Committee. There being NO OBJECTION, it was so ordered.

PETE ECKLUND, STAFF, REPRESENTATIVE BILL WILLIAMS, explained the changes made from the "E" version, to the "J" version of the bill. Page 1, Line 6, changes the first section of the

bill to reflect the numbers used to calculate either growth in the spending limit or negative numbers in the percentage change to the cost of living or population. The spending cap could increase or decrease. The language provides clarification regarding the spending limit and if it depends on those factors.

Representative Croft questioned using the language "increased or decreased by the lesser of". He asked if it were a negative number, would the number still be used. Mr. Ecklund responded that "lesser of" refers to either calculations under (1) or (2). Representative Croft clarified that if the calculation under #1 produced a decrease by 1% and #2 decreased by 2%, the lesser 2% would be applied. Mr. Ecklund agreed.

Mr. Ecklund noted that language on Page 2, Line 17, incorporates a change taken at the Committee table, providing an appropriation for permanent fund for State residents. Page 2, Line 21, Subparagraph 4, adds new language: "An appropriation to a separate fund or account in the general fund from which expenditures may not be made without an additional appropriation from that separate fund or account". The language would take care of duplicated funds such as the Marine Highway funds and it would not count the appropriations coming out of the fund. It would not double count an appropriation.

Representative Croft asked why they were not being counted as they are spent on the actual votes. Mr. Ecklund corrected his previous statement, noting that they would be counted going into the fund not coming out of the fund. The intent is that the expenditures are only counted once.

Mr. Ecklund continued, Page 2, Line 31, (9), language which clarifies that a State agency can RSA funds between either agencies or within the same agency and that they are not counted twice. Page 3, Line 13, added (14): "An appropriation of dedicated funds". There are six or seven dedicated funds that have been in existence since before the State Constitution was adopted. They would be excluded from the spending limit. He listed those funds:

- Fish and Game Fund
- School Fund
- Cigarette tax
- Second Injury Fund Reserve Account
- Fishermen's Fund
- Public School Fund
- Fishermen's Fund Income

Co-Chair Harris questioned how much had been deposited into those accounts. Mr. Ecklund advised that the balance in those accounts was \$72 million dollars.

Representative Stoltze inquired if Legislative Legal had approved that language. Mr. Ecklund responded that he had not specifically asked about that language but that they had reviewed it and did not "raise a red flag" on the issue.

CHERYL FRASCA, DIRECTOR, DIVISION OF MANAGEMENT & BUDGET, OFFICE OF THE GOVERNOR, understood that the dedicated funds have existed since the time the Constitution was drafted and had been "grandfathered" in.

Mr. Ecklund referenced the change made to Page 3, Lines 23 & 24.

BRUCE TANGEMAN, LEGISLATIVE ANALYST, LEGISLATIVE FINANCE DIVISION, explained the change. He pointed out that since we are in the midst of the FY04 budget and building the FY05 budget, in order to know more precisely what FY06 is going to be, 3.3% was incorporated into the base of FY04 and 3.4, the base for FY05. The numbers are sufficiently high to allow for whatever may happen. The theory is to allow "enough headroom" for FY06.

Representative Stoltze commented that the numbers were "conservatively liberal". He asked Ms. Frasca what other funds beside the general funds had been included in the larger number. Ms. Frasca responded that the total run was \$2.9 billion dollars and would include all the other funds, providing a number of where the State is presently. Mr. Tangeman added that those are general funds and other non-duplicated funds such as the Alaska Marine Highway.

Mr. Ecklund concluded his testimony and pointed out the handouts provided by Legislative Finance Division, which describe how the spending limit and spending base works. (Copy on File). Mr. Tangeman noted that the handout highlights how FY06 was calculated and shows what has been incorporated into the FY06 budget.

Representative Croft inquired the difference between the three-year average growth and the three-year growth. Mr. Tangeman explained that the average growth would be 4% a year. Unfortunately, that would be applied to a base year average three years ago, providing a 4% increase over the amount appropriated three years ago. That would work out to be 1.3% a year, carry forward. If there is accumulative growth, it would be $4\% + 4\% + 4\% = 12\%$, and would be applied to the base year of three years ago. That should allow a more realistic growth rate.

Mr. Ecklund pointed out that the blue line on the chart reflects that number. The language is very tightly written. There is an amendment that will change the manner in which growth is calculated. The language addresses the ceiling so that future legislatures do not have to appropriate up to the ceiling. Given the three-year rolling base could affect it, if less than the ceiling was appropriated.

Co-Chair Williams interjected that there are amendments that will change the bill. He added that he had been working with the sponsor of the bill. Co-Chair Williams requested that Mr. Ecklund continue with the overview.

Mr. Ecklund referenced Page 1, Line 4, Section 1, which clarifies that if the spending limit were passed, it would repeal the current spending limit on the books. Page 1, Line 6, the appropriation limit, should not exceed the earliest three of the four fiscal years preceding that fiscal year and increased or decreased by the lesser of. He stated that the average of the fiscal years would be used as the base. Page 1, Line 10, 50% of the sum of the annual rate of change and the cost of living for three calendar years would adjust the base. For FY 06, the calendar years 2001, 2002, & 2003, would average out the rate of change and cost of living and then take 1/2 of that average. That number would be added to the percentage equal to the percent rate of change. In a calendar year, one would take the average, by 1/2 and then adjust the base by that amount.

Page 2, Line 1, (2), explains that the average rate of change in personal income of State residents for three calendar years preceding the calendar year during which the immediate preceding fiscal year began. The calculated adjustment of cost of living and State population cannot exceed the rate of change in personal income. If personal incomes are declining or flat, the base cannot be adjusted up even if the cost of living is rising. The ceiling would be the State income for residents.

Page 2, Line 5, Section ©, is the accident section. If for some reason the Legislature needed to exceed the determined spending limit, they could do that by 2% if they got a 2/3 vote in both bodies. If they needed to exceed that amount by 4%, they would need a 3/4 vote in each body. The Legislature could address that through a separate piece of legislation. Mr. Ecklund advised that accident of the limit must be an exception, not the rule. It would not be built into the base for following years.

Page 2, Line 15, lists items outside the spending limit. Paragraph 1, the appropriation to the Alaska Permanent Fund, cannot fall under the spending limit. Mr. Ecklund listed all the calculations made under (a) and (c) of that section.

#(1) through #(15), Page 2, Lines 15-31 and Page 3, Lines 1-14.

Mr. Ecklund continued, Page 3, Line 15, Section 2, adding a new Section #30, providing the transition language. He read the language on Page 3, Lines 17-22. The legislation inserts (1) fiscal year 2004 equals \$3,300,000,000; and (2) fiscal year 2005 equals \$3,400,000,000. Section (b), Line 25 clarifies that if the voters pass the amendment, it would reappear on the ballot in 2010.

Co-Chair Harris referenced Page 2, Line 5, ©, and asked if it could exceed the amount that would be calculated with the increase by no more than 2% if there was a 2/3 majority vote of both bodies and 3/4 vote for a 4% increase. He inquired if there was any provision that would allow the Legislature to exceed the 4% in case of some event other than a natural disaster. Mr. Ecklund emphasized that it is a hard cap, 4%, and cannot exceed what the spending limit is.

Co-Chair Harris commented that there should be an option for a super majority to have ability to spend above and beyond the constitutional limit. He asked what would happen if more money had to be spent because some event occurring, requiring the State to spend above that amount. Mr. Ecklund replied that as currently written, 4% is the maximum that can exceed, absent a natural disaster.

Co-Chair Harris did not think that was good public policy. He admitted that it should be difficult to access but noted that sometimes there are "tough" choices that must be made by the elected officials. He recommended that there be some sort of "escape" valve.

Representative Stoltze admitted that the legislation attempted to address all concerns without creating too many loopholes.

Co-Chair Harris asked if it would make sense to indicate a compromise of a 3% increase with 2/3 vote and if a 3/4 vote occurs, then the legislation could address very important needs. Representative Stoltze pointed out that there could be a special election for voter approval if that should happen.

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Representative Hawker commented that it is important to not constrain future legislatures but to keep the legislation effective. There is no language to accommodate extraordinary circumstances. He recommended an additional

provision as an identification of extraordinary circumstances.

Representative Fate commented that might cause problems for an electorate passage. Co-Chair Williams pointed out that legislation provides a new spending cap. The current cap is not working.

Representative Chenault referenced items #5 & #6, asking if a project could be bonded. If the State intended to be a part of the gas line project, could the State then use Railroad bonds or general obligation (GO) bonds. He thought that would work without addition of the new language. Co-Chair Williams agreed.

Representative Croft noted that the capital had not been excluded. Mr. Ecklund acknowledged that was correct.

Representative Croft referenced the chart, asking if the blue average growth line, represents the State at this time. Mr. Ecklund acknowledged that line was the current representation.

Representative Croft pointed out that the manner in, which the language was previously written would have limited it to a 2/3% growth. It could stabilize there when inflation is increasing 3% every year. Mr. Ecklund reiterated that the current version is tightly written.

Representative Croft asked what kind of public policy sense does that make. Mr. Ecklund advised that there is an amendment, addressing that concern. Representative Croft stressed that capping it at 2% or 3% does not work as costs continue to grow. He thought that each scenario would guarantees that every year, the State will be getting behind a point or two.

Co-Chair Harris MOVED to ADOPT amended Amendment #8, #23-LS0435\J.1, Cook, 4/6/04. (Copy on File).

Mr. Ecklund explained that the amendment would average \$110 million dollars per year potential growth to the spending cap.

Representative Hawker questioned if the numbers listed were annual numbers or the average of the previous three years. Mr. Tangeman responded that they were based on the numbers from the preceding three years. Representative Hawker emphasized that the chart only represents "modeling" and that it would only be 3% per year inflation. He commented that the average of 3% per year would be nine, the same as population growth. The formula is interpreted as averaging the two changes together. He believed that the amendment would move the State in the right direction.

There being NO OBJECTION, Amendment #8 was adopted.

Representative Croft reiterated that with the proposed scenario, each year the State will be moving 1% further behind on public service spending. The charts always make the future look even and smooth and the past appears jagged. He asked if the changes to personal income would be used in calculating the spreadsheets. Mr. Tangeman explained that personal income had not been included in the graph and that it is higher than the percentages currently being analyzed. He added that assumes 3% with 1% growth and if the numbers decrease, the limit could decrease. Representative Croft pointed out that information provided would be the maximum of what could be allowed at the 3%, 1% scenario. He inquired if the numbers were available from 15 years moving backward on inflation, population and personal income changes. Mr. Tangeman said they are. Representative Croft questioned why 15 years was not being used.

Representative Croft MOVED to ADOPT Amendment #4. (Copy on File). Representative Stoltze OBJECTED.

Representative Croft explained that the amendment would remove the spending cap concept and replaces it with a tax cap. It would be a tax prohibition. An income or sales tax could not be added without a vote of the people. He questioned why government should be restricted in such things as building new schools, stressing that government should be restricted in its ability to tax. He observed that if he had capped his personal expenses right out of college that would have "tied his hands" when his employment improved. There should be a balance between revenues and expenditures.

Representative Stoltze spoke against the amendment, stating that it provides a wide deviation from the growth of possible taxes.

Representative Hawker acknowledged that the amendment makes sense. The power to appropriate should be limited to the revenue available. He stated that he would support the amendment if it were revised deleting reference to personal income or sales tax and instead was to prohibit "a tax" without a vote of the people. He questioned if the amendment could accomplish Representative Croft's goal.

Representative Joule pointed out that there is no long-range fiscal plan. He spoke against the implementation of a personal income or sales tax, however, mentioned that if one were needed, it is the obligation of the Legislature to make that decision.

Representative Croft stated that he would support an amendment to prohibit a tax on individual Alaskans. He felt that a spending cap was poor public policy. He recounted that members have indicated support that it could be necessary to ensure the use of the Permanent Fund. He argued against tying the hands of future legislatures. Representative Croft maintained that the power to tax should be taken before the power to appropriate.

Representative Stoltze stated that his motivation is not tied to the to Percent of Market Value or other issues.

Representative Hawker stressed that there is no quid pro quo. He maintained that the issue is the basis of credibility in the eyes of the public. He felt that legislators make the best decision that they can based on the facts before them. He observed that the Legislature lacks a certain amount of credibility before the public and that the legislation would be a referendum by the public. He thought that the public perception is that the Legislature wants to go "on a wild spending spree" and viewed the legislation as a cooling off bill. The bill provides State voters "comfort" while legislators are making spending decisions. The sunset provision is critical to the bill. He did not think that the bill should be characterized as binding future legislatures.

A roll call vote was taken on the motion.

IN FAVOR: Croft, Chenault, Moses
OPPOSED: Stoltze, Fate, Foster, Hawker, Williams,
Harris

Representatives Meyer and Joule were absent from the vote.

The MOTION FAILED (3-8).

Representative Croft advised that Amendments #5, #6 and #7 had been incorporated into the committee substitute presently before the Committee.

Representative Stoltze MOVED to report CS HJR 9 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. Representative Croft OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Chenault, Hawker, Stoltze, Harris, Williams
OPPOSED: Croft, Fate, Foster, Moses

Representative Joule and Vice Chair Meyer were not present for the vote.

The MOTION FAILED (5-4).

HJR 9 was HELD in Committee.

#HB227

HOUSE BILL NO. 227

An Act increasing the jurisdictional limit for small claims and for magistrates from \$7,500 to \$10,000; increasing the jurisdictional limit of district courts in certain civil cases from \$50,000 to \$75,000; and amending Rule 11(a)(4), Alaska District Court Rules of Civil Procedure, relating to service of process for small claims.

VANESSA TONDINI, STAFF, REPRESENTATIVE LESIL MCGUIRE, advised that the jurisdictional limit for district courts was last raised in 1990 when the Legislature raised the limit from \$35,000 to \$50,000 dollars. By raising the jurisdictional limit from \$50,000 to \$100,000, HB 227 will allow for increases in inflation and provide increased flexibility for litigants regarding whether to file in district court or superior court.

Ms. Tondini added that the jurisdictional limit on small claims court and magistrate court was last raised in 1997 when the Legislature raised the limit from \$5,000 to \$7,500 dollars. Small claims court offers many advantages over district court to private litigants, including less formal discovery requirements, reduced filing fees, and relaxed evidentiary rules. The bill would increase the limit to \$10,000 dollars. She added that the bill would also remove prohibitions against the district court hearing claims for false imprisonment, libel, slander, and malicious prosecution. The restrictions were adopted shortly after statehood. District court judges are well qualified and there is no reason to prohibit them from hearing these types of cases.

Ms. Tondini concluded that the bill would expand small claims jurisdiction over out-of-state defendants. Under current law, small claims actions against out-of-state defendants may only be brought under the landlord-tenant act or under AS 09.05.020, which authorizes service of process against owners or operators of motor vehicles involved in an accident in the State. The bill would authorize small claims jurisdiction over out-of-state defendants under traditional long-arm principles. The expanded long-arm jurisdiction is limited to district court judges. Magistrates would continue to be limited by the standards set forth in current law.

REPRESENTATIVE MAX GRUENBERG offered to answer questions of the Committee.

Co-Chair Harris asked what the benefits of the legislation would be. Representative Gruenberg replied that it would become more simple and faster than district court.

- Section 1 increases the jurisdictional limit of district courts from \$50,000 to \$100,000 dollars.
- Sections 2 increases the jurisdictional limits of the small claims court from \$7,500 to \$10,000 dollars.
- Section 3 extends the jurisdiction of the district court to include claims for false imprisonment, libel, slander and malicious prosecution.
- Section 4 increases the jurisdictional amount for claims heard by magistrates from \$7,500 to \$10,000 dollars.
- Section 5 precludes magistrates from hearing cases brought under the expanded small claims jurisdiction over out-of-state defendants provided for in Section 6 of the bill. Magistrates would continue to be able to hear claims against out-of-state defendants only under the landlord-tenant act or in accordance with the AS 09.05.20 relating to service of process on nonresident owner or operator of motor vehicle.
- Section 6 amends District Court Rule 11(a) to allow suits in small claims court against out-of-state defendants under traditional long-arm jurisdictional authority.
- Section 7 provides that Sections 5 and 6 of the bill only take effect if the court rule changes in Section 6 of the bill receive the two-thirds majority vote of each house required by art. IV, sec. 15 of the Alaska Constitution.

Representative Hawker asked if to date, there had been a compelling argument against the legislation.

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DOUG WOOLIVER, ADMINISTRATIVE ATTORNEY, ALASKA COURT SYSTEM, stated that the Court is neutral on the bill. There are potential down sides in making the proposed changes. The bill is consistent with the Courts overall philosophy. Section 1 raises the juristical limit of district court to \$100,000 dollars, which the court does not object to. Sections 2 & 4 raise from \$7,500 dollars to \$10,000 dollars, the jurisdictional limit for small claims courts. Judges are split if that is a good idea or not. The concerns are if that change is necessary, it is a lot of money to have at

stake and that most people cannot avail themselves of that amount.

Mr. Wooliver continued, another category of complaint of a more serious nature is claims up to \$10,000 dollars are consistent with the purpose of small claims court. The purpose in general is to move many small claims more quickly through. He pointed out that the higher the claim amount, the more tenaciously the cases are fought, which could be a potential downside. Also, related to that, the same things that make it easier to sooth somebody in the small claims court, can make it easier to loose in that arena. It would be a trade off between speed, efficiency and due process. Several judges are concerned that with the higher jurisdictional limit, the more likely it is that the unsophisticated defendants are going to loose. It is true that they have the option for more formal district court action. Many people do not understand the distinctions or the benefits between the two types of courts.

Regarding the limit of \$10,000 dollars, he advised that most judges and magistrates are comfortable moving to that level, however, it needs to be understood that defendants can loose out in the process. The other significant change deals with more out-of-state defendants in the small claims court. That does not create new problems but it would be moving into a more informal process. Out-of-state defendants are frequently more time consuming.

Mr. Wooliver reiterated that the Alaska Court System is neutral on the bill. He pointed out that more and more people are coming to court without attorneys.

Co-Chair Harris referenced the interminent fiscal note from the Alaska Court System. Mr. Wooliver clarified that the Alaska Court System does not know the impact. Small claims courts are easier, faster and cheaper for litigants but not necessarily for the Court System. There could be more court effort involved. Co-Chair Harris did not think the fiscal impact would be much.

Representative Stoltze thought that increasing the amount to \$10,000 dollars would increase caseloads and that there would be more court action. Mr. Wooliver pointed out that the last two times that the jurisdiction rate was raised for small claims, the courts did not see a spike in those files.

Representative Fate commented on damage recovery and problems associated with that in the lower jurisdiction courts. Mr. Wooliver was not aware of the connection between those two factors. He acknowledged it would be interesting to see if there was a correlation between the amount in small court and recovery percentages.

Representative Fate believed that recovery could become problematic and thought it could be predicated on the amount at stake.

In response to Representative Fate, Representative Gruenberg advised that all the bill does is to clarify that the decision can be brought to either small claims court, district and/or superior court. The judgment will remain the same.

Representative Croft pointed out that small claims court are generally handled without lawyers and the situation is more relaxed. Lawyer fees can get high quickly. If the amount discussed was under \$7,500 dollars, the person previously, could stay in the small claim court venue. Small claims court is the simplified place for people to go without having to hire an attorney.

Representative Foster MOVED to report CS HB 227 (JUD) out of Committee with individual recommendations and with the accompanying fiscal note.

CS HB 227 (JUD) was reported out of Committee with a "do pass" recommendation and with indeterminate note #1 by the Alaska Court System.

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ADJOURNMENT

The meeting was adjourned at 4:02 P.M.