

HOUSE FINANCE COMMITTEE
April 14, 2004
1:55 P.M.

TAPE HFC 04 - 82, Side A
TAPE HFC 04 - 82, Side B
TAPE HFC 04 - 83, Side A
TAPE HFC 04 - 83, Side B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:55 P.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Kevin Meyer, Vice-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

None

ALSO PRESENT

Representative Harry Crawford; Jay Hardenbrook, Staff to Representative Crawford; Representative John Coghill; Eddy Jeans, Manager, School Finance and Facilities Section, Department of Education and Early Development; Representative Cheryll Heinze; Kelly Hepler, Director, Division of Sport Fish, Department of Fish and Game; Rob Bentz, Deputy Director, Division of Sport Fish, Department of Fish and Game; Eric Yould, Executive Director, Alaska Power Association; Bob Bartholomew, Chief Operating Officer, Alaska Permanent Fund Corporation, Department of Revenue;; Caryl McConkie, Tourism Development, Division of Trade and Development, Department of Community & Economic Development; Jim Smith, Superintendent, Galena City Schools; Pete Ecklund, Staff to Representative Williams; Bob Bartholomew, Chief Operating Officer, Alaska Permanent Fund Corporation, Department of Revenue,

PRESENT VIA TELECONFERENCE

Ralph Lindquist, Dean of Students, Nenana Living center, Nenana; Morgan Dunker, Student, Nenana Living Center,

Nenana; Afton Brinkman, Student, Nenana Living Center,
Nenana; Don Johnson, Guide, Soldotna

SUMMARY

HJR 46 Proposing amendments to the Constitution of the State of Alaska relating to the principal of the Alaska permanent fund; limiting appropriations from the Alaska permanent fund to amounts equal to that part of the market value of the fund that exceeds the principal based on an averaged percent of the fund market value.

HJR 46 was REPORTED out of Committee with individual recommendations and with two fiscal impact notes.

HJR 47 Proposing amendments to the Constitution of the State of Alaska relating to the principal of the Alaska permanent fund; limiting appropriations from the Alaska permanent fund to amounts equal to that part of the market value of the fund that exceeds the principal based on an averaged percent of the fund market value; and permitting appropriations from the permanent fund only for costs of administering the fund, a program of dividend payments for state residents, and public education.

HJR 47 was REPORTED out of Committee with individual recommendations and with two fiscal impact notes.

HB 425 An Act relating to funding for school districts operating secondary school boarding programs, to funding for school districts from which boarding students come, and to inoperative school districts; and providing for an effective date.

HB 425 was heard and HELD in Committee for further consideration.

HB 452 An Act relating to licensing and regulation of sport fishing services operators and fishing guides; and providing for an effective date.

CSHB 452(FIN) was REPORTED out of Committee with individual recommendations and two fiscal impact notes.

HB 512 An Act establishing the Hydrogen Energy Partnership in the Department of Community and Economic Development; requiring the commissioner of community and economic development to seek

public and private funding for the partnership; providing for the contingent repeal of an effective date; and providing for an effective date.

HB 512 was heard and HELD in Committee for further consideration.

HB 553 An Act relating to investments of the Alaska permanent fund and to the income of and appropriations from the Alaska permanent fund and making conforming amendments; relating to the determination of net income of the mental health trust fund; and providing for an effective date.

CSHB 553(FIN) was REPORTED out of Committee with individual recommendations and no fiscal impact notes.

#hb425

HOUSE BILL NO. 425

An Act relating to funding for school districts operating secondary school boarding programs, to funding for school districts from which boarding students come, and to inoperative school districts; and providing for an effective date.

REPRESENTATIVE JOHN COGHILL explained that current provisions are expanded under HB 425 allowing a district to receive a stipend for a student to travel to attend a secondary boarding school that began before January 1, 2004. He noted that Sitka's Mt. Edgecumbe is a boarding school under a different statute. Galena, Nenana and Bethel have a broad range of boarding school options. HB 425 allows students to choose between a school in their district or a boarding school option. Representative Coghill noted that it is a change in policy, which the fiscal note reflects. The bill adds a sunset date of 2009 and protects smaller districts from being dropped from the critical 10-student Average Daily Membership (ADM) count if students leave to go to boarding school. The boarding schools in Nenana, Bethel and Galena offer cultural, social and educational changes and possibilities for students.

Representative Coghill explained that Section 1 requires the secondary school boarding program to have been operating by January 1, 2004. Section 2 relates to the student count being less than the minimum of ten, and Section 3 is the repealer.

Representative Coghill pointed out that Nenana's and Galena's actual capacities are lower than the figures shown on the second page of fiscal note Component No. 148. The

Bethel school students are not all within a single boarding home.

He concluded that HB 425 would expand the circumstances allowing the boarding school to receive a reimbursement stipend. Under the bill, a student would not have to pass the current entrance standards, which require that his home district does not include a boarding school.

EDDY JEANS, MANAGER, SCHOOL FINANCE AND FACILITIES SECTION, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, stated that the fiscal note totals \$1,179,000 and he explained that page 2 shows how the figure was derived. Galena has the capacity to serve 100 kids, but 8 already qualify for boarding home stipends because they come from the Pribilof Islands and don't have daily access to a secondary program on St. George. He discussed the stipend and costs for the remaining 92 kids at Galena. Mr. Jeans pointed out that these three programs are 180-day, or full term programs.

Mr. Jeans noted that all three programs are currently operating at capacity and the Department would not recruit additional students from schools. He favored the bill's safety net of not penalizing districts for falling below the 10-student ADM minimum while the pilot program is in place.

Co-Chair Harris asked if a school would close if its enrollment dropped below ten students. Mr. Jeans replied that the current Foundation Formula statute provides for adding fewer than 10 students in a community to the smallest community in the district because the revenue drops so low that it forces the district to close the school.

Co-Chair Harris asked if this was part of the Molly Hootch case. Mr. Jeans clarified that it was actually part of SB 36 in which the Legislature set a new threshold minimum of 10 students for a separate site.

Co-Chair Harris asked if the boarding schools such as Mt. Edgecumbe are funded by the ADM like the other State schools. Mr. Jeans affirmed. Co-Chair Harris asked if the boarding schools would receive funding from the Department of Education. Mr. Jeans replied that they receive educational dollars for the children enrolled in their school.

Co-Chair Harris asked if a boarding school receives extra money for the residence. Mr. Jeans reiterated that it is only in the instance of serving children who lack daily access to a secondary school in their community.

In response to a question by Co-Chair Harris, Mr. Jeans affirmed that Nenana has a school with a current enrollment of 138 students, but the enrollment is declining. The space

could handle up to 400 students. Mr. Jeans said that Nenana would not qualify for the boarding home stipend under the current regulation because it provides daily access to a secondary school. He clarified that this bill would expand the boarding home program for a five-year pilot, and allow the Department to reimburse the boarding home stipend for all of the kids attending the Nenana boarding school.

In response to a question by Co-Chair Harris, Mr. Jeans clarified that the round-trip transportation costs and a monthly stipend would be paid for the boarding school students.

Co-Chair Harris questioned if the bill's purpose is to gain more support for independent boarding schools or regional schools. Mr. Jeans did not regard it as the Department of Education advocating for additional boarding schools; instead, it would offer students choices that they currently don't have in their own communities. Unlike Mt. Edgecumbe, the State does not operate the schools in Bethel, Nenana or Galena, which are operated by the independent school districts.

Representative Chenault asked about the analysis by the Nenana Student Living Center (copy on file). Mr. Jeans explained that if it is a smaller school, the State pays a higher instructional cost per child, so the analysis attempts to show the savings to the State through the foundation program of including these kids in a larger population.

In response to a question by Representative Chenault regarding the figures used in the student allocation, Mr. Jeans clarified that the Nenana number includes the boarding school kids rather than the district that the kids came from.

Mr. Jeans pointed out that the current program is in regulation and this legislation would expand opportunities for the kids. The Nenana program has an academic focus, while the Galena program is more vocational in focus and kids can gain certification and enter the workforce later on.

Vice-Chair Meyer asked if boarding schools are similar to charter schools. Mr. Jeans stated that charter school legislation doesn't allow for spending State money on boarding home programs. Vice-Chair Meyer asked if the boarding schools are required to do exit exams and meet the No Child Left Behind requirements. Mr. Jeans affirmed.

Representative Foster asked who currently pays the students' transportation costs. Representative Coghill replied that the parents do.

RALPH LINDQUIST, DEAN OF STUDENTS, NENANA STUDENT LIVING CENTER (NSLC), VIA TELECONFERENCE, NENANA, stated that passage of HB 425 is essential to the survival of the NSLC next year. The NSLC is processing over 150 applications for the 30-35 beds that will be available next year.

MORGAN DUGGERT, STUDENT, NENANA STUDENT LIVING CENTER, VIA TELECONFERENCE, NENANA, stated that the Living Center has improved the number and quality of classes that are offered. She has received scholarship money for college.

AFTON BRINKMAN, STUDENT, NENANA STUDENT LIVING CENTER, VIA TELECONFERENCE, NENANA, explained that he moved from Eagle to Nenana two years ago, which has improved his life. He will be graduating in May. He expressed that he would not have the range of class choices or the opportunities for scholarships back in Eagle.

Mr. Lindquist clarified that kids live at the NSLC but go to school in Nenana.

JIM SMITH, SUPERINTENDENT, GALENA CITY SCHOOLS, stated that he'd been in Galena five years and the school is seven years old. He discussed the residential school program, noting that the boarding school provides 27 jobs for the community with the potential for 100 kids, and it operated with 85 students this year. The scholastic program is successful, with 72% of seniors passing all three portions of the graduation test. Alaska Natives comprise ninety-four percent of the student body. He felt that the strong point is the provision of vocational training. He described the programs, which are voluntary.

Representative Joule commented on the evolution of education in the state, from Native and Non-Native after the eighth grade to the current integration of schools. The State is looking for solutions to its challenges in education, and he anticipates an integrated K-14.

Co-Chair Harris referred to the large fiscal note, and stated that the Co-Chair would like to hold the bill over.

Representative Joule asked if the Administration supports the legislation. Mr. Jeans replied that the State Board hasn't reviewed it yet.

Representative Coghill spoke in support of the fiscal note, and the impact of the funding on "these three communities that have been carrying the weight." He argued for the significant college preparatory work that the three boarding schools offer to students.

HB 425 was heard and HELD in Committee for further consideration.

#hb452

HOUSE BILL NO. 452

An Act relating to licensing and regulation of sport fishing services operators and fishing guides; and providing for an effective date.

REPRESENTATIVE CHERYLL HEINZE explained that years ago she was the owner of a fishing and guiding lodge on the Yentna River and employed four guides, which influenced her introduction of this bill.

Representative Heinze explained that currently Alaska lacks a unified set of standards for sport fish guiding. This makes it difficult to protect fish habitats and ensure the maximum utilization of Alaska's resources. HB 452 is intended to legitimize and protect the sport fishing industry by establishing professional standards and ensuring accurate reporting of guiding activity throughout the state. This legislation will enhance public confidence in the guided sport fishery and the data upon which management decisions are made. HB 452 will establish licensing and reporting requirements for businesses and guides providing sport fishing guide services in fresh and salt waters of Alaska.

Representative Heinze pointed out that the bill establishes two types of licenses: a sport fishing services operator license and a fishing guide license, and establishes minimum requirements and fees for obtaining each license. Under the provisions of the bill, sport fishing service operators must meet licensing, insurance, and other requirements established by the Board of Fisheries. It requires that fishing guides operate under the authority of a sport fishing service operator license, either by holding that license themselves or by being employed by, or under contract with, a holder of a fishing service operator license. The bill also requires that the licensed guide be certified in first aid, have applicable U.S. Coast Guard vessel licenses, and meet other requirements adopted by the Board of Fisheries.

HB 452 establishes reporting requirements, including where guided sport fishing activities are conducted and the quantity of fish harvested. The bill ensures that sensitive information will be kept confidential. Representative Heinze concluded by urging support of the bill.

Co-Chair Harris asked if the Alaska Outdoor Council supports the bill. Representative Stoltze stated that he is the legislative chairman of the Alaska Outdoor Council, which officially opposes the bill.

Co-Chair Harris asked why the Outdoor Council doesn't support the bill. Representative Heinze did not know. Representative Stoltze was unable to answer.

TAPE HFC 04 - 82, SIDE B

Representative Fate referred to the fiscal note, and asked about the corpus of the Fish and Game Fund.

KELLY HEPLER, DIRECTOR, DIVISION OF SPORT FISH, DEPARTMENT OF FISH AND GAME clarified that the fiscal note shows a Department account funded primarily by license sales.

Representative Fate asked if the funds come from the ADF&G revolving loan fund. Mr. Hepler explained that the fees from licensing of guides go directly into the account, which is a uniquely different fund than the revolving loan fund for commercial fishermen.

Vice-Chair Meyer asked if the fees are the same for out of state fishing guides. Mr. Hepler replied that about 25% of the guides are non-residents. The Department of Law advised that ADF&G should evaluate if its program administration costs are higher for non-resident than for resident guides. He stated that the Department cannot verify higher costs, but it can charge differentially under the sport-fishing program, and it requires the non-resident licensed guides to buy sport-fishing licenses.

Representative Chenault asked if the 25% non-resident guides includes fly-in guides, and if they are required to have a license. Mr. Hepler replied that they are required to register if they are actively guiding.

Representative Chenault thought that fresh and saltwater guides are currently required to be licensed and have CPR certification. Mr. Hepler explained that Kenai has special rules because it is under the Department of Natural Resources, Division of Parks. The remainder of the freshwater guides is not under the same provisions. He explained that this bill consolidates other requirements.

Representative Hawker referred to the language on page 4, line 3, "satisfies all additional requirements adopted in regulation by the Board of Fisheries" and asked what additional requirements are contemplated. Mr. Hepler said there might be requirements for zoning, such as on the Kenai River, or harvest recording. The Legislature would limit the Board of Fish to the enforcement of the fishing regulations. Representative Hawker expressed concern that the open-ended language would place the Board of Fisheries in a regulation-making role, with geographical differences within the state.

ROB BENTZ, DEPUTY DIRECTOR, DIVISION OF SPORT FISH, DEPARTMENT OF FISH AND GAME, explained that the intent of the language on line 3, page 4 is to request locations where the guides intend to operate and to give them some choices.

Co-Chair Harris asked if the fiscal note is adding four new and one part-time positions. Mr. Hepler affirmed, and the positions would handle the administration of the large number of licenses and provide data summaries to the Board of Fisheries.

Co-Chair Harris pointed out that this bill would expand the scope and size of government. Mr. Hepler agreed that it would. Co-Chair Harris asked about the increase in revenues in the next few fiscal years. Mr. Hepler replied that the Department prorated the number of guides over five years. Co-Chair Harris noted that it shows a decrease in costs from FY05 to FY06. Mr. Hepler replied that there are initial capital startup costs and personnel increases. In response to a question by Co-Chair Harris, Mr. Hepler explained that the \$10 thousand travel budget is for meetings with the guides or in Juneau, and it is not in the current budget.

Representative Chenault asked in relation to the required reports for guides whether fish tickets would be required for fresh and saltwater fishing. Mr. Hepler said that the intent was to keep it a sport fishing bill and not bring commercial fishing into it. The question is whether the language is so broad that it needs to be amended. He offered to discuss it with staff and suggest a committee substitute by the sponsor if the Department believes it poses a problem.

Representative Chenault commented that as a resource management tool, he thought the Department would want to track the real catch numbers from guided and non-guided fishing.

Representative Croft asked how sport-fishing guides are regulated now. Mr. Hepler explained that when a similar, more broadly written bill did not pass the Legislature, the ADF&G looked at revising regulatory language outside of a statute change. The ADF&G wanted to register guides and improve reporting in saltwater, which led to the saltwater logbook. The guides are still required to have a business license and to meet Coast Guard requirements. He said that the only difference in this bill is guide licensing to get the freshwater report information.

In response to a question by Representative Croft, Mr. Hepler said that a large segment of the guiding industry is not saltwater-based. There is no direct reporting from the Kenai, Susitna Basin, Copper Basin and Bristol Bay. He

explained that it is a Board of Fish violation to operate a guiding business without registering with the Department.

In response to a question by Representative Croft, Mr. Hepler said that the Department currently could only track the saltwater guide activity in an area. The bill would provide reporting in fresh water, set misdemeanor fines for not registering and reporting, and regulate the guiding industry statewide.

Mr. Bentz commented that the numbers are currently inaccurate and the bill would also require information on where the activities are taking place.

Co-Chair Harris MOVED to ADOPT Amendment #1. Co-Chair Williams objected.

Mr. Bentz explained that Amendment #1 has two parts.

Amendment #1 reads:

Page 6, line 16, following "board.": Insert "The department and the board may adopt by regulation requirements for timely submission of reports required under this section or under regulations adopted by the department or board."

Page 6, line 31, following "AS 16.40.270(e)": Insert "or who knowingly fails to comply with a requirement for timely submission of reports required by a regulation adopted under AS 16.40.280(b)"

Mr. Bentz read the language on page 6, line 16. Co-Chair Harris asked why it is needed. Mr. Bentz replied that when Representative Heinze discussed the bill with Legislative Legal, Mr. Utermohle recommended this language for legal reasons even though it seems redundant.

Mr. Bentz explained that part two of Amendment #1, page 6, line 31 would change the reporting time period of the operator. Currently the logbook program is on a weekly basis and he commented that an operator could be late for circumstantial reasons. If this wording is not included on line 31, one tardy report would fall under (a) which would change the penalty from a violation to a Class A misdemeanor, and would change the fine from a maximum of \$500 to a maximum of \$10,000 and one year in jail. He stated that the Department supports these changes in the amendment.

Co-Chair Williams removed his objection. Amendment #1 was adopted.

Representative Foster referred to the fourth paragraph of the letter from the Kenai River Professional Guide Association (copy on file) in which the Association states that it already pays fees to the Department of Natural Resources (DNR). Mr. Hepler explained that to guide on the Kenai River, which is a park, currently requires payments to DNR of \$450 by residents and \$1350 by non-residents. If it is a concern of the guides, it could be brought before the Legislature. Mr. Hepler thought fees might be split between the DNR and his own Department.

Co-Chair Harris MOVED to report CSHB 452 (FIN) out of Committee with individual recommendations and the attached fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 452(FIN) was REPORTED out of Committee with individual recommendations and two fiscal impact notes.

#hb512

HOUSE BILL NO. 512

An Act establishing the Hydrogen Energy Partnership in the Department of Community and Economic Development; requiring the commissioner of community and economic development to seek public and private funding for the partnership; providing for the contingent repeal of an effective date; and providing for an effective date.

JAY HARDENBROOK, STAFF TO REPRESENTATIVE CRAWFORD, testified in support of HB 512. He observed that hydrogen does not occur naturally on earth in its pure form, and it is a means of containing energy rather than an energy source. The potential sources for hydrogen are water, oil, natural gas, coal, geothermal and wind, all of which occur in Alaska.

Mr. Hardenbrook noted that the bill provides a structure to allow the State to accept grants from both private and public sources. He referred to the fiscal note reflecting \$71,000 for the Department of Community & Economic Development.

Representative Stoltze asked if the local energy task force discussed fuel cells. Mr. Hardenbrook observed that the State of Alaska has one of the largest operational fuel cells in the United States, located at the Anchorage Airport. He noted that it is relatively cost effective given the high costs for fuel oil, natural gas and electricity. Alaska is unique in the hydrogen market because its power costs are high and it has a great supply of potential energy for hydrogen. He concluded that by establishing this partnership, Alaska could be a test project for the rest of the U.S.

In response to a question by Representative Hawker, Mr. Hardenbrook explained that if there are not sufficient funds through grants the partnership provision would be removed.

Representative Hawker asked the time that is needed to secure funding. Mr. Hardenbrook replied that the partnership would be dissolved in 2009. He felt that there would be sufficient grants to continue beyond next year.

CARYL MCCONKIE, TOURISM DEVELOPMENT, DIVISION OF TRADE AND DEVELOPMENT, DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT, explained that the fiscal note would only support the first year while the funding is being secured. The Department would work with the University of Alaska, which has completed some research, and with the Energy Task Force and the Energy Authority.

Representative Hawker noted the repealer clause of 2009 to secure stand-alone funding, and he asked if the State would be required to continue support if the funding is insufficient. Ms. McConkie explained the Department's assumption that if funding were not available, the project would be discontinued.

Representative Fate questioned if the viability of the partnerships had been researched. Mr. Hardenbrook noted that California has been successful with fewer resources and lower energy costs than Alaska. The conclusion was reached that the State of Alaska would be successful.

Representative Fate questioned if "the cart is before the horse" since the gas pipeline is not yet a reality. Hardenbrook responded that hydrogen could be made from other technologies, including hydrogen from coal. Alaska has more coal reserves than the rest of the United States combined.

Representative Fate acknowledged that the technology exists but pointed out that it is currently expensive.

Representative Hawker questioned what would happen if outside revenue sources fail. Mr. Hardenbrook noted that the sunsets are the repealers in Section 6 that would allow reevaluation by the Legislature in 2009.

Representative Hawker suggested that additional language be used to clarify what would happen to the agency if outside funding is not secured or ceases to be available. Mr. Hardenbrook deferred to the bill drafter.

Representative Croft referred to Section 5, which would prevent the provisions to take effect without funding. He pointed out that if the funding never takes place, the provisions would be repealed in 2009.

In response to a question by Representative Croft, Mr. Hardenbrook noted that hydrogen is more stable than gasoline and can be transported by pipeline or tanker, or liquefied. Alaska has an abundance of zeolites [secondary minerals] with a honeycomb structure used to trap hydrogen.

In response to a question by Representative Hawker, Ms. McConkie stated that the Department has not taken a position on the bill.

ERIC YOULD, EXECUTIVE DIRECTOR, ALASKA POWER ASSOCIATION (APA), stated that he represents the electric utility industry in Alaska. He spoke in support of the legislation and stressed that new energy resources are needed. Hydrogen can be produced through fossil fuels or water.

TAPE HFC 04 - 83, Side A

Mr. Yould noted that there has not been sufficient economic incentive to further the technology. The State of Alaska possesses a number of renewable resources in large quantities that represent an indigenous resource that could be developed. While hydrogen would not be developed in the near future, the fuel cell industry is an emergent technology. He noted that hydrogen could also be burned in internal combustion engines. He concluded that the APA supports the bill. If the partnership were not put in place, it would fall to the individual interests to back the technology.

Mr. Yould recommended minor changes to the bill. On page 2, lines 2-3, after "including sufficient geothermal energy" he suggested adding "hydropower, tidal power, wind and other." Around line 21, page 2, he would include "the electric utility industry," which would have vested interest in seeing the technology move forward. He noted that the Alaska Energy Task Force has also taken a strong stand in support of hydrogen technology.

Representative Fate asked if Mr. Yould had projected when the hydrogen industry would benefit the electrical companies. Mr. Yould replied that hydrogen technology is not on the immediate horizon and it has been emerging for 30 years. Fuel cells are the technology of the future and hydrogen will fuel the world technology in the distant future. He provided statistics, and discussed Cook Inlet reserves.

Representative Hawker questioned if the industry could fund a fellowship grant to the University to provide the needed leadership. Mr. Yould thought the various groups, including the task force, could do it in partnership.

Representative Hawker commented that he would like to change Fiscal Note #2 to reflect indeterminate numbers. He asked if the Department would consider changing the source from the General Fund to Receipt supported services.

Representative Hawker proposed a conceptual amendment to change Fiscal Note #2, DCED dated 2/24/04 to reflect indeterminate numbers for FY06, FY07, FY08 and FY09. He also proposed that the funding source for FY 05 be under receipt-supported services, with funding contingent on finding third-party funding.

Vice-Chair Meyer OBJECTED for purposes of discussion.

Ms. McKonkie agreed that she would work with the Department to revise the fiscal note as proposed by Representative Hawker. She stated that it would require finding outside funding for the first year. An additional staff position to secure that funding would be needed.

Representative Hawker commented that the fiscal note lacks clarity regarding future needs. He doubted that soliciting industry would require a lot of effort on the Department's part. Ms. McKonkie replied that it wasn't likely the program could be up and running in a year's time, with the current staff "maxed out" in the existing grant programs. She expressed that the Department would need guaranteed first year funding in the current fiscal note.

Vice-Chair Meyer asked what would happen to the staff if the program were discontinued after the first year. Ms. McKonkie said that some programs are only funded for a year at a time. The proposed program would require an expertise not currently in the Department, and it must at least estimate a portion of the staff time. In response to a question by Vice-Chair Meyer, Ms. McKonkie explained that recruitment would be tied to a person's experience in industry.

Regarding extended year funding, Ms. McKonkie stated that if the funding were there, the activities would continue. The Department did not estimate beyond the first year.

Representative Hawker reiterated doubt that the current Department staff in various programs would not have time to solicit public funding. Ms. McKonkie explained that there is expertise in those areas, but this fiscal note reflects the DCED implementing the bill. Representative Hawker expressed hesitation in creating additional staffing when the Legislature is on verge of stabilizing fiscal policies.

Vice-Chair Meyer removed his objection to the conceptual amendment.

Representative Hawker explained that FY06, FY07, FY08 and FY09 are really indeterminate numbers rather than zero, because of potential federal receipts. Rather than pure General Fund in 2005, he proposed to set it up as receipt-supported services so that it is not a General Fund appropriation.

Representative Fate asked Representative Hawker if his first conceptual amendment also included third party funding. Representative Hawker affirmed.

Representative Chenault suggested allowing the DCED to provide a revised fiscal note and a response to the Committee's concerns.

Representative Hawker withdrew his amendment.

HB 512 was heard and HELD in Committee for further consideration.

#hjr46

HOUSE JOINT RESOLUTION NO. 46

Proposing amendments to the Constitution of the State of Alaska relating to the principal of the Alaska permanent fund; limiting appropriations from the Alaska permanent fund to amounts equal to that part of the market value of the fund that exceeds the principal based on an averaged percent of the fund market value.

Co-Chair Harris summarized that in addition to the Percent of Market Value (POMV) provision, the legislation would incorporate in a constitutional amendment the value of \$22,988,000,000 plus deposits made between June 30, 2003 and the date of the principal is determined.

PETE ECKLUND, STAFF, CO-CHAIR WILLIAMS, noted that the intent is to define principal. Any deposits after June 30, 2003 will increase the principal. The principal would be protected and could not be appropriated. Only the value of the fund that exceeds the principal amount could be appropriated. He noted that the principal amount as of February 29, 2004, was \$23,195,500,500.

Co-Chair Harris questioned if the Earnings Reserve Account would remain.

BOB BARTHOLOMEW, CHIEF OPERATING OFFICER, ALASKA PERMANENT FUND CORPORATION, DEPARTMENT OF REVENUE, provided information relating to the legislation. He clarified that there would be an account that would record the value in excess of principal. He did not know what the account would be called. Income or value from investments earned above principal would be accounted for.

Co-Chair Harris noted that 5 percent of the earnings would be the maximum amount that could be appropriated in any one year. Mr. Bartholomew explained that there would be a two-step process: calculate based on the total value of the Fund a five percent payout; and determine if there is enough in the account to make the appropriation. The payout would be reduced if there were insufficient funds to an amount above principal.

In response to a question by Vice-Chair Meyer, Mr. Bartholomew observed that the Alaska Permanent Fund Corporation Board had not met on the new proposal, but observed that it would meet their number one priority to establish a spending limit. A proposal that retains principal would be a workable solution. Short-term drops in the stock market could reduce what is available for spending, which would remove the benefit of a stable, predictable payout amount.

Vice-Chair Meyer observed that if the average earnings were only 2 percent, there would only be 1 percent for government and 1 percent for dividends. He noted that people want at least \$1,000. He questioned if the pure POMV method would provide the safest manner to insure a \$1,000 dividend. Mr. Bartholomew agreed and noted that [the constitutional protection of the principal] adds the risk of less than a full payout during a short-term down market.

Vice-Chair Meyer asked how many years the Fund has been below the 5% threshold in earnings. Mr. Bartholomew observed that the balance in the account has been less than 5 percent a couple of times "intra-year" or during the year. However, there was a rally during 2003, the year in which they were most at risk, and funds were available to pay the 5%. He observed that, last year, the amount in the available spending account of the Permanent Fund grew by \$3.5 billion, which is more than enough to fund a 5 percent payout.

Vice-Chair Meyer supported the "pure" Percent of Market Value method; at times earning 12-15% so he believes in long run, always would get average 8%. He thought this method would be "separate buckets" and would be easier to explain to the voters.

Mr. Bartholomew observed that the Permanent Fund is invested as one fund. It is not separated into buckets of principle and the value above principal. There is one pool of money, which is only treated differently for accounting purposes. He observed that under HJR 26, it would be accounted and invested as one fund.

Representative Croft asked re the new language on page 1, lines 13-15 through line 2, page 2 and asked if envision it would rise over time. Mr. Bartholomew, said under this

proposal it would be accounted for under what is not principal, and it is not envisioned to appropriate it for inflation-proofing while not losing that option. Appropriations from any source would go into the principal.

Representative Croft asked what would happen to the 3 percent used for inflation proofing; would it be appropriated each time. Mr. Bartholomew understood that the 3 percent, which would be retained over time to offset inflation, would be kept in the Permanent Fund. Under the proposal it would be accounted for in the account that is not principle. There is no intent to annually appropriate a portion of this to principal, but the option of a special appropriation would remain. Any appropriation from any source or an appropriation of earnings within the Fund would be principal.

Representative Croft asked if a deposit to the Fund would be an appropriation made to the principal. Mr. Ecklund explained that the constitutional 25 percent royalties occur automatically under subsection (1). Subsection (2) applies to any other appropriation to principal. Since June 30, 2003 there have been appropriations to the principal for inflation proofing. Any appropriation, along with the 25 percent automatic deposits will help the Fund grow.

Mr. Bartholomew observed that the 25 percent automatic deposits are between \$200 and \$400 million. The FY04 fiscal year is anticipated to be about \$350 million. Last year's appropriation under the current law was \$400 million.

MR. Ecklund explained that the payout is limited to five percent of the 5-year average of the earnings. Any accruing of profits or value that rises would be in excess of principal. The spending appropriation limit would still be up to 5%. A future legislature could put money back into the principal.

Representative Croft asked if the January 30, 2004 principal amount was with realized gain. Mr. Bartholomew clarified that it is without both the realized and unrealized gains. Under the proposal, both the realized and unrealized earnings would start in the account that is not principal.

Representative Croft asked if there was an opinion by Attorney General Renkes that the realized gains should be included in the principal amount. Mr. Bartholomew affirmed, result of that opinion was the realized earnings went into available to spend account and the unrealized gains and losses were attributed to the principal. The proposal would go back to the definition used prior to the Attorney General's opinion, which placed all earnings accounted for outside of that principal.

Co-Chair Harris MOVED to report HJR 46 out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HJR 46 was REPORTED out of Committee with individual recommendations and with two fiscal impact notes.

#hjr47

HOUSE JOINT RESOLUTION NO. 47

Proposing amendments to the Constitution of the State of Alaska relating to the principal of the Alaska permanent fund; limiting appropriations from the Alaska permanent fund to amounts equal to that part of the market value of the fund that exceeds the principal based on an averaged percent of the fund market value; and permitting appropriations from the permanent fund only for costs of administering the fund, a program of dividend payments for state residents, and public education.

TAPE HFC 04 - 83, Side B

Co-Chair Williams explained that HJR 47 includes a soft enshrinement.

Pete Ecklund explained that the first portion of HJR 47 is the same as HJR 46. He noted that HJR 47 has a purposes section not included in HJR 46. Co-Chair Williams observed that the legislation was based on work by Senator Therriault, but that he would prefer not to have a purposes section. He felt that the legislature would be giving up the legislature's power of appropriation and could be challenged in court.

Mr. Ecklund observed that some of the details would be included in a statutory bill (HB 553).

Representative Hawker questioned if community dividends would be included. Mr. Ecklund could not respond.

Representative Hawker stated that he would continue to pursue clarification on the inclusion of community dividends.

Co-Chair Harris MOVED to report HJR 47 out of Committee with the accompanying fiscal notes.

Representative Croft OBJECTED. He spoke in opposition to the legislation. He pointed out that the legislation would not implement POMV and would not offer protections to dividends or guarantee additional money for public education. He questioned what the legislation would buy.

Representative Croft WITHDREW his OBJECTION. There being NO OBJECTION, it was so ordered.

Representative Fate expressed his concern but noted that he would allow the bill to move.

Representative Hawker acknowledged concerns, but felt that the bill should be forwarded.

Vice-Chair Meyer stated that he did not support the legislation but added that he would also support its movement.

Representative Joule questioned if it is possible to see each proposal compared.

HJR 47 was REPORTED out of Committee with individual recommendations and with two fiscal impact notes.

#hb553

HOUSE BILL NO. 553

An Act relating to investments of the Alaska permanent fund and to the income of and appropriations from the Alaska permanent fund and making conforming amendments; relating to the determination of net income of the mental health trust fund; and providing for an effective date.

PETE ECKLUND, STAFF TO REPRESENTATIVE WILLIAMS, observed that the legislation is similar to HB 298, which was previously moved from Committee. He discussed differences between HB 298 and HB 553. He observed that Section 3 of HB 553 directs the Alaska Permanent Fund Corporation to use the prudent-investor rule while investing that value of the Fund in excess of principal.

BOB BARTHOLOMEW, CHIEF OPERATING OFFICER, ALASKA PERMANENT FUND CORPORATION, DEPARTMENT OF REVENUE, further explained that statutory directions regarding how money in excess of principal is invested would be repealed. The statutory list of allowed investments would apply. The authority of how to invest the balance in excess of principal is currently in AS 37.13.145, which is being repealed. A portion of AS 37.13.145 would be brought into HB 553: (a) This section applies to investment of fund principal and all other amounts in the fund

Mr. Ecklund noted that the Committee might want to change "general fund" to "public education" on line 20, page 3. He further explained that the cost of operating the Corporation would be before the split occurred. Then not more than 50 percent could be to the General Fund [subsequently amended by the Committee to read: "public education"] and not more than 50 percent could be appropriated for dividends.

Section 5 is the same as HB 298.

Mr. Ecklund discussed page 4, lines 1 and 2. He noted that the section is basically the same as language contained in HB 298, with the exception of the: The revenue generated by the fund's investments must be identified as the source of the operating budget of the corporation and shall be included in the state's operating budget under AS 37.07.

The only other difference from HB 298 was on page 5: disclose the amount of each dividend attributable to [INCOME EARNED BY THE PERMANENT FUND FROM] appropriations to the permanent fund.

Representative Hawker MOVED to delete "general fund" and insert "public education" on line 20, page 3, in order to conform to HB 298. There being NO OBJECTION, it was so ordered.

Mr. Ecklund noted that the effective date might need to be changed to June 30, 2005. Co-Chair Williams noted that it could be changed on the House Floor if necessary.

Co-Chair Harris MOVED to report HB 553 out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 553(FIN) was REPORTED out of Committee with individual recommendations and no fiscal impact notes.

#hb452

HOUSE BILL NO. 452

An Act relating to licensing and regulation of sport fishing services operators and fishing guides; and providing for an effective date.

DON JOHNSON, GUIDE, SOLDOTNA, spoke against HB 452. He stated he has expressed his objection to the legislation with the sponsor. He observed that had provided written testimony. He felt that the legislation would place unnecessary restrictions. He maintained that creating similarly situated subclasses within the general sport fish class would create illegal exclusive fishery rights. He claimed that the legislation attempts to grant non-guided anglers exclusive fishing rights over guided anglers. He maintained that it is unconstitutional to create regulations designed to establish exclusive fishery rights between similarly situated residents.

Representative Chenault asked for further documentation regarding groups opposing the legislation.

Mr. Johnson further argued against the legislation and maintained that its passage would end in litigation.

HB 425 was heard and HELD in Committee for further consideration.

#

ADJOURNMENT

The meeting was adjourned at 4:47 PM