

MINUTES
SENATE FINANCE COMMITTEE
1st Special Session
June 23, 2004
10:48 AM

TAPES

SFC-04 1st SS #3, Side A
SFC 04 1st SS #3, Side B
SFC 04 1st SS #4, Side A
SFC 04 1st SS #4, Side B

CALL TO ORDER

Co-Chair Gary Wilken convened the meeting at approximately 10:48 AM.

PRESENT

Senator Gary Wilken, Co-Chair
Senator Lyda Green, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Ben Stevens
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: SENATOR GARY STEVENS; SENATOR BERT STEDMAN; SENATOR RALPH SEEKINS; SENATOR TOM WAGONER; SENATOR GENE THERRIAULT; JOE GILBERTSON, Commissioner, Department of Health and Social Services; JOHANNA BALES, Manager, Cigarette and Tobacco Products Excise Tax Program, Department of Revenue, CHERYL FRASCA, Director, Office of Management and Budget, Office of the Governor; JIM BALDWIN, Senior Assistant Attorney General, Opinions, Appeals, & Ethics Section, Department of Law

Attending via Teleconference: There were no teleconference participants.

SUMMARY INFORMATION

SB1001-TOBACCO TAX; LICENSING; PENALTIES

The Committee heard from the Department of Health and Social Services and the Department of Revenue. The bill reported from

Committee.

SJR103-CONST AM: APPROPRIATION LIMIT

The Committee heard from the Office of Management and Budget and the Department of Law. Five amendments were considered with three being adopted. The bill reported from Committee.

SCR101-FISCAL GAP APPROP FROM EARNINGS RESERVE

The Committee heard a presentation from the sponsor. The bill was held in Committee.

#sb1001

SENATE BILL NO. 1001

"An Act relating to taxes on cigarettes and tobacco products, to tax stamps on cigarettes, to forfeiture of cigarettes and of property used in the manufacture, transportation, possession, or sale of unstamped cigarettes, to accounting for and use of part of the proceeds of the additional cigarette tax, and to licenses and licensees under the Cigarette Tax Act; relating to unfair cigarette sales; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated that this bill would increase the current cigarette excise tax by one dollar per pack and increase the tax on other tobacco products. It would also designate a portion of the tax revenues to support smoking education, tobacco use prevention and tobacco control programs.

Senator Bunde noted that the bill is similar to a Senate bill heard during the Twenty-Third Legislative Session. The few minor changes include: the re-inclusion of the tobacco product floor stock tax that was eliminated from the Session bill due to concern that it might encourage product stock piling and thereby reduce revenue; and the re-inclusion of the taxes on other tobacco products. This language was excluded from the Session bill due to concern that it would encourage the use of "substitute" cigarettes in order to avoid the tax. The Session bill was altered in the House of Representatives in that they amended language to pro-rate the amount of the tax. To that point, he declared that the Legislature should do all it could do to "increase sticker shock" by increasing the tax by one dollar rather than gradually imposing the tax, as he

agreed with studies that have shown that an increase in the price of cigarettes reduces smoking.

JOEL GILBERTSON, Commissioner, Department of Health and Social Services, stated that the Administration proposed the tobacco tax increase and the other changes proposed in the bill "largely because of the public health impact that tobacco is causing on this State and the public health benefits" that would be generated from the tax increase. "Tobacco is the leading cause of death," disability, and chronic illness in the State and is recognized by the Department as the State's "number one public health threat," specifically to the State's children. The 1997 tobacco tax increase resulted in a 30-percent reduction in cigarette consumption. There is a "direct correlation between increasing price and decreasing consumption of tobacco products," specifically usage by young Alaskans and individuals with limited resources. The results of a 2003 Department youth risk behavior survey compared to its 1995 survey substantiate the fact that the 1997 tobacco tax increase had an impact on tobacco usage as youth consumption of tobacco products has declined by 50-percent in that time period. "A good portion of that decrease" is attributed to the tax increase. In addition, the Department's tobacco enforcement efforts have also been effective as the illegal sale of tobacco products to minors have reduced from 30.2 percent to ten percent. This is one of the lowest rates in the nation. Were the proposed tax increase enacted, the Department predicts a 15-percent decline in the number of youth smokers. This would equate to 1,800 young Alaskans "being saved from a premature death" attributed to smoking. The Department predicts that 3,500 Alaskans would quit smoking were the tax increase implemented. Of that number, 800 would be saved from a smoking related death. IN addition, 850 babies would be spared from exposure to maternal smoking during the next five years. The tax increase would result in a decrease in the number of Alaska Natives who smoke. Currently, 44-percent of Alaska Natives smoke. This is double the percent of non-Native smokers.

Commissioner Gilbertson shared that a 1998 Department study indicated that tobacco products usage costs the State \$270 million, or \$400 per person. \$133 million of the \$270 million is direct medical expenses such as hospital care, nursing home care, and pharmacy costs. This expense directly affects health care premiums. It has been determined that 15-percent, or \$20 million, of the State's Medicaid program's medical expenses are tobacco related. The Tobacco Master Settlement Agreement was initially instituted to fund the costs to states resulting from tobacco consumption. He encouraged the Committee to support this legislation.

Co-Chair Green asked regarding "the proposed distribution" of the

revenue that would be generated by this tax.

Commissioner Gilbertson estimated that approximately four million dollars would be provided to the Department's Tobacco Use Education and Cessation Fund program, which is currently primarily funded by the Tobacco Master Settlement Agreement (MSA).

JOHANNA BALES, Manager, Cigarette and Tobacco Products Excise Tax Program, Department of Revenue, explained that, currently, a portion of the revenue raised by the State's tobacco tax is provided to the School Fund and a portion is provided to the General Fund. This bill proposes that the entire revenue generated from the tax increase be deposited into the General Fund. Under this proposal, 8.9 percent, or approximately four million dollars, of the tobacco tax revenue that is deposited in the General Fund would be designated, annually, to support the Tobacco Use Education and Cessation Fund program. Currently, 20-percent of the MSA, which has historically averaged between four and five million dollars annually, is directed to support that program. Were this legislation adopted, the Program could receive approximately eight or nine million dollars in funding. Eight million dollars is the minimum amount specified for the program by the national Centers for Disease Control and Prevention (CDC).

Commissioner Gilbertson stated that this is the minimum amount recommended for Alaska as specified in the CDC "Best Practices for States" guidelines.

Co-Chair Green interjected that the monetary range specified by the CDC was between eight and \$17 million. Therefore, she asked whether the CDC might apply pressure for further increases. Her preference would be that, rather than increasing the funding for the Tobacco Use Education and Cessation Fund program, the revenue be utilized to support the Department of Health and Social Services' tobacco associated Medicaid expenses. She asked whether the increased funding for the Tobacco Use Education and Cessation Fund program would increase or replace existing funding.

Commissioner Gilbertson clarified that this would be "a true increase" in the funding of the State's tobacco control efforts. He characterized Co-Chair Green's remarks as being "very fair and correct" and expressed that initially the dialogue regarding the MSA money included compensating States for their Medicaid program expenses resulting from "tobacco consumption by beneficiaries." This bill would dedicate funds for the State's Tobacco Control program rather than to Medicaid expenses. "That said," while the State has implemented a good Tobacco Control program, its funding level is below the amount designated by the CDC. The increased

level of funding that would be provided to the Tobacco Control program via the Tobacco Use Education and Cessation Fund program must be conducted in an "orderly ramp-up" fashion using Best Practice guidelines. He reviewed the current Program endeavors.

Co-Chair Green asked whether the Tobacco Control program is "a Department run program" that is separate from the media campaign that is conducted by a variety of non-profit organizations.

Commissioner Gilbertson clarified that some of the MSA money supports a variety of Department programs including the Tobacco Enforcement program, which conducts "stings" on the illegal sale of tobacco products to minors by retailers. In addition, MSA funds are utilized by the Department to support the Tobacco Control program that provides grants and contracts. These funds support a variety of endeavors including the media campaign referenced.

Co-Chair Green asked whether funding for the anti-smoking media campaigns might be doubled as a result of this legislation.

Commissioner Gilbertson responded that the total amount available to the Tobacco Control Program is estimated to be "slightly less than double" the current level. How the approximate four million dollar increase would be spent is, of yet, undetermined.

Co-Chair Green asked whether the expectation in the future might be that, as the funds are disbursed in support of various programs, that more funds should be provided to fund the anti-smoking media campaign, as this media funding discussion is a re-occurring one.

Commissioner Gilbertson replied that neither the Governor nor the Department intent to request any further increase in tobacco control funding in the next Legislative Session beyond what is being proposed in this bill. He clarified however, that were this bill enacted, the increased funds generated would require appropriation.

Co-Chair Green asked whether details regarding the disbursement of the new tax revenue are specified in the bill in addition to being detailed in the Department of Health and Social Services fiscal note #3, dated June 22, 2004.

Co-Chair Wilken noted that the Department's fiscal note #3 does not reflect any expenditure in FY 05.

Senator Olson commented that the Senate bill, upon which this legislation was based, did not specify that the generated revenue would support Tobacco Control programs. As a physician, he would

always favor some sort of tobacco control; and therefore, he supports the funding being designated to support Tobacco Control programs.

Ms. Bales pointed out that the revenue disbursement language is located in Section 16 beginning on line 18, page four, of the bill. While this money would be specified for the Tobacco Use Education and Cessation Fund, it does not specify how those funds must be expended.

Co-Chair Green asked for a definition of the Tobacco Use Education and Cessation Fund as "generally defined" within the Department.

Commissioner Gilbertson stated that the Fund, which is established by AS 37.05.580, is the fund in which the MSA funds are deposited each April.

Co-Chair Green asked whether the determination that the MSA funds would be decreasing is the reason this program has been designated as the recipient of the revenue generated by this legislation.

Commissioner Gilbertson responded that the terms of the MSA dictate the level of payout to the States. There has been some indication that the level of funding "might be modestly declining" due to market share conditions of the MSA signatories.

Ms. Bales stated that the expectation is that the Tobacco Use Education and Cessation Fund would receive \$3.6 million MSA funding in the year 2006. During the initial years, the MSA payment was approximately five million dollars. While there has been a decrease in the level of MSA funding, the reason this funding is being proposed is to address the CDC minimum recommendation for the State.

Co-Chair Green declared that the State would never be able to satisfy CDC, and furthermore, CDC recommendations "should never set the standards" for State programs.

Ms. Bales commented that this legislation is a combination of the bill that passed the Senate and the amendments proposed by the House Ways & Means and House Labor & Commerce committees. The House of Representatives exerted tremendous effort in the consideration of the funding provision included in this bill. In addition to specifying how the revenues would be allocated, the bill would also allow individuals to physically transport into the State up to 400 cigarettes per month without incurring any tax. This number would align with federal allowances. In addition, the bill contains penalty language for the violation of cigarette shipping

restrictions and the violation of the unstamped cigarette guidelines; specifies that the one dollar per pack tax increase would not be phased in; would increase the tax level on Other Tobacco products as well as requiring that the tax be paid on these products were individuals to ship these Other Tobacco products into the State for personal consumption. Retailers and Distributors in the State support this shipping provision. In addition, in-State licensees who have a good tax paying record would be allowed to reduce the level of the required bond; minimum pricing and a provision addressing unfair pricing and other components are also addressed in the legislation. The effective date of the bill would be September first, 2004.

Senator Bunde moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

Co-Chair Green did not object, but commented for the record, that she would be "again opposing" this legislation on the Senate floor. Until such a time the State were to impose a broad based tax such as a sales tax, she could not support taxing specific commodities or products. Such taxation is "an inappropriate" manner through which to attempt to change individual's lifestyles or behaviors.

There being no objection, SB 1001 was REPORTED from Committee with \$828,100 fiscal note #1, dated June 15, 2004 from the Department of Revenue; \$206,400 fiscal note #2, dated June 14, 2004 from the Department of Public Safety; and zero fiscal note #3, dated June 22, 2004 from the Department of Health and Social Services.

#SJR103

SENATE JOINT RESOLUTION NO. 103

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

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated that the Senate Rules Committee at the request of Governor Frank Murkowski sponsors this legislation. The bill would repeal and replace the State's Constitution appropriation limit with a spending limit and would establish a moving three-year average as the basis for the application of the limit. The legislation would terminate on July first, 2009.

Senator Dyson asked whether, upon further review, the Office of Management and Budget had identified areas of the bill, other than

those identified and discussed during its first hearing that would require discussion.

CHERYL FRASCA, Director, Office of Management and Budget, Office of the Governor, stated that the concerns raised in the June 22, 2004 hearing on the bill have been addressed. No additional drafting errors were identified.

Senator Dyson reiterated his concern regarding the calculation formula in Section 1, as the language does not appear to support the "no ratchet down" provision that had been specified in SJR 3-CONST AM: APPROPRIATION/SPENDING LIMIT. In this regard, he asked whether eliminating the language "or decrease" in Section 1(a), page one, line nine, would clarify this intent.

Ms. Frasca responded that the "no ratchet down" provision is addressed by the fact that were the formula, which is based upon the lesser of the population/inflation factor as detailed in Section 1(a)(1)(A) and (B) or the change in personal income factor as detailed in Section 1(a)(2), to determine a spending limit lower "than the spending limit from the prior year, then the current year's spending limit" would be implemented. This would continue the "no ratchet down" intention of SJR 3. The affect of eliminating the words "or decrease," as proposed by Senator Dyson, must be determined by the Department of Law.

Senator Dyson further questioned whether the words "by the lesser of" as specified in Section 1(a) on page nine, would be more appropriately included in Section 1(a)(1)(A, line thirteen.

Co-Chair Green commented that the word "or" as specified in Section 1(a)(1)(B), line one, page two, might alleviate Senator Dyson's concern regarding the calculation formula's "no ratchet down" provision, as it would serve to identify whether the formula would be based on the calculation of Section 1(a)(1) or Section 1(a)(2).

Senator Dyson continued to voice concern as to whether the language, as presented, would "preserve" the no ratchet down intent.

Ms. Frasca expressed that language in SJR 3 might be being confused with HJR 9 language. She clarified that this bill is modeled after HJR 9-CONST AM: APPROPRIATION LIMIT, as amended by this Committee. The Committee could, if desired, amend this bill in order to align it with SJR 3.

JIM BALDWIN, Senior Assistant Attorney General, Opinions, Appeals, & Ethics Section, Department of Law, responded to Senator Dyson's

question regarding the elimination of the words "or decreased" in Section 1(a), on line nine, page one by stating that removal of the words would not harm the "no ratchet down" intent of the bill.

Amendment #3: This amendment eliminates the words "or decreased" in Section 1(a), line nine, on page one.

Senator Dyson moved to adopt Amendment #3.

Co-Chair Green objected for explanation.

Senator Dyson explained that removal of these words would serve to support the intent that the Constitutional spending limit would apply only to the amount that the State's budget could increase. The Constitutional spending limit could not mandate a decrease in the budget. The words proposed for deletion contradict language in Section 1(b) on page two, lines eight and nine.

In response to a comment from Co-Chair Green, Senator Dyson explained that rather than clarifying which of the calculations should be used in the formula, as presented in Section 1(a) and (b), the intent of this amendment is to affirm that the end-product of all the calculations would be that "it would not force a decrease below the last year's appropriation level." A forthcoming amendment would address concerns regarding the components of the calculation.

Co-Chair Wilken expressed that the conflict being addressed by this amendment begins with the words "if the appropriation limit..." on line five, page two in Section 1(b) as it contradicts language in Section 1(a) on line five, page one.

Co-Chair Green removed her objection.

Senator Olson asked for confirmation that the Administration is in agreement that the intent of this legislation is to not allow the budget to be reduced in the out years.

Ms. Frasca stated that the Administration is willing to support a spending limit that would not ratchet down the budget in a situation where the formula calculations might be negative.

There being no further objection, Amendment #3 was ADOPTED.

Senator Dyson asked regarding language in Section 1(a)(1), beginning on line ten, page one as he understood that SJR 3 mandated that the formula for determining a spending limit would be based on the sum of the Consumer Price Index (CPI). The sum of the

CPI would be limited to a growth factor that would not exceed the income of the State's citizens. He asked Ms. Frasca her interpretation of that bill.

Ms. Frasca responded that due to the fact that this legislation was fashioned after HJR 9 as amended by the Senate Finance Committee, she had not reviewed the provisions of SJR 3. She reiterated that the Committee could amend SJR 103.

Senator Dyson stated that the confusion arises from the language that specifies that the calculation would be based on the lesser of CPI and population, as specified in Section 1(a)(1) or the change in personal income of State residents as specified in Section 1(a)(2).

Ms. Frasca clarified that the language specifies that the spending limit calculation would be based on the rate of change of inflation plus the rate of change in population times .75 percent as specified in Section 1(a)(1). This sum would then be compared to the rate of change in personal income as specified in Section 1(a)(2). Whichever is "the least of those two answers would become the adjustment factor for the limit."

Senator Dyson stated that therein lay the confusion, as he understood that both HJR 9 and SJR 3 based their calculation on the growth in population and the lesser of the CPI or the growth in Alaskans' income.

Co-Chair Wilken recalled that the Committee had removed the personal income component from those calculations.

Senator Dyson agreed, but clarified that the Committee had incorporated language specifying that the CPI component could not exceed the growth in personal income.

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Senator Dyson continued that this provision was included to alleviate fears that otherwise "a huge escalator" might result that would undermine "that budget discipline."

Co-Chair Wilken asked, therefore, whether the language in SJR 103 mirrors that as adopted in SJR 3 by the Committee.

Ms. Frasca "assumed" that it does not. She reiterated that the language presented in SJR 103 is mirrored after HJR 9, as amended

by the Senate Finance Committee. She stated that the Committee could alter the bill's language.

Senator Dyson acknowledged. He clarified that the population component and the sum of the lesser of the CPI or income growth were the key elements in SJR 3. He asked regarding the Administration's decision to mirror the components of HJR 9 as opposed to SJR 3.

Ms. Frasca responded that an extensive review of which bill's calculation factors would be the best was not conducted, as the Administration determined that, since both HJR 9 and SJR 3 contained the same variables, either approach would arrive "almost to the same place." It used the HJR 9 bill as it had processed further than SJR 3. Therefore, she stated that the weight placed on one variable over another would be the Committee's preference. The Administration would support either approach.

Senator Dyson voiced the desire that the legislation would advance from Committee after some forthcoming alternations.

Conceptual Amendment #4: This amendment replaces language in Section 1(a)(1)(A) and (2) beginning on line 11, page one through page two, line four, with Section 1(a)(1) and (2) language beginning on line eleven, page one through Section 1(a)(2) ending on line three, page two of CS SJR 3(FIN). This language reads as follows.

(1) the percentage rate of change in the Consumer Price Index for all urban consumers for the Anchorage metropolitan area compiled by a federal agency during the two calendar years preceding the calendar year during which the immediately preceding fiscal year began, but not to exceed the percentage change in personal income of State residents during the two calendar years preceding the calendar year during which the immediately preceding fiscal year begins; plus

(2) the percentage rate of change in the State population during the two calendar years preceding the calendar year during which the immediately preceding fiscal year began compiled by a State department.

In addition, this amendment inserts the words "per capita" into the new language of Section (a)(1) preceding the words "personal income of State residents..".

Senator Dyson moved to adopt Conceptual Amendment #4.

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Senator Dyson stated that the inclusion of this language would clarify the intent of the Committee regarding the formula.

There being no objection, Amendment #4 was ADOPTED.

Amendment #1: This amendment inserts a new paragraph into the bill in Section 1(c) on page three, line 21 as follows.

(15) an appropriation for elementary or secondary public school operations.

Senator Hoffman moved to adopt Amendment #1.

Senator B. Stevens objected.

Senator Hoffman explained that this "simple amendment" would remove K-12 education expenditures from the spending limit provision.

[NOTE: Co-Chair Green assumed chair of the meeting.]

Co-Chair Green stated that the result of this amendment would be that education spending would not be controlled via the Constitutional spending limit, were one imposed.

Senator Hoffman expressed that education spending limits would be decided by the Legislature. The Governor could veto Legislative decisions that were considered excessive in this regard.

Senator B. Stevens disagreed with Senator Hoffman's comment that this is a simple amendment, as, were it adopted, it would result in the dollar amounts specified in Section 2(a)(1) and (2) on lines one and two, page four being re-calculated. Specifically, it would remove \$800 million from those numbers. Were education excluded, it would serve to double the maximum spending limit established by the formula. "It is not a simple amendment."

Senator Bunde commented that while education is one of the important services provided by the State, it is not "the only one." Because it is the largest annual State expenditure, it would be inappropriate to exclude it from the spending limit. Doing so would make the spending limit "meaningless".

Senator Hoffman stated, in response to Senator B. Stevens concern, that were the amendment adopted, the numbers in Section 2(a)(1) and (2) could be addressed with a technical amendment. He disagreed that the omission of education from the spending limit would double

the amount.

Co-Chair Green asked the percentage of General Fund dollars in support of education in the FY 04 budget. She understood that it amounted to between 45 and 50-percent of that budget.

Senator Bunde responded that education spending equated to approximately \$800 million of the State's FY 04 \$2.3 billion budget.

Co-Chair Green understood, therefore, that this amendment would exclude approximately 35-percent of the State's expenditures from the provisions of the limit. This would mean that the remaining 65-percent would be responsible for controlling State spending.

Senator Hoffman stated that consideration should be provided to how the proposed spending limit would have affected education spending this past year, especially in consideration of the projected Public Employees Retirement System (PERS) and Teachers Retirement System (TRS) obligations which are anticipated for a minimum of another three or four years. Therefore, this legislation would establish a spending "knowing full well that ... we have increases on the horizon," directly related to education.

Senator Bunde responded that the spending limit would not prohibit increasing the education budget by \$130 million. What it would say is that priorities must be established, and, were education deemed a priority, the money to support its increased budget "would have to come from another area of State spending." "A finite pot of money" would be available.

Senator Olson declared that while funding for the University of Alaska system is important, K-12 education should be a higher priority as it affects more people in the State. Therefore K-12 funding "should have equal positioning" to that provided the University.

Co-Chair Green expressed that comparing K-12 education to University funding and other exempted components of the spending limit is difficult to do as the K-12 education component does not "generate money that we would even be allowed to exempt. There is nothing to waive." Education is, in a fashion, receiving a waiver, as grants that might be provided "directly to schools" are not included in the proposed spending limit calculation. The University raises its own money; this is different than the 100-percent funding provided to K-12 education.

Senator Dyson recalled that the graphs and models relating to this

issue that were presented during Committee hearings on the Constitutional spending limits during the Twenty-Third Legislative Session, addressed the Committee's concern regarding whether there sufficient flexibility provided by the spending limit proposal to meet projected State government growth relating to the PERS/TRS issue as well as the Department of Health and Social Services projected growth of the State match that would be required in the Medicaid and Medicare programs. These obligations would present challenges but would be doable.

Senator Dyson countered that the argument that K-12 education should be exempt from the spending limit due to the number of people involved could also be applied to ranking investigating and prohibiting crimes against children as a number one priority as the State leads the nation in violations against children. Therefore, what to exempt due to the premise of this numbers' argument, could be a huge discussion. He encouraged a no vote on the amendment, as the fact that the education foundation funding formula, the Constitutional mandate that education be adequately provided for, and the "sympathy" the Legislature has shown in this regard should sufficiently address the issue.

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman and Senator Olson

OPPOSED: Senator Dyson, Senator B. Stevens, Senator Bunde, Co-Chair Wilken and Co-Chair Green

The motion FAILED (2-5)

Amendment #1 FAILED to be adopted.

{NOTE: Co-Chair Wilken assumed chair of the meeting.}

Amendment #2: This amendment inserts a new subsection into Section 2 of the bill, on page three, following line 26 as follows.

- (a) The 2004 amendment relating to an appropriation limit (art. IX, sec. 16) takes effect only if the
 - (1) legislature adopts a resolution proposing an amendment to Section 15 of Article IX to limit appropriations from the Alaska permanent fund based on an averaged percent of the fund market value and to permit appropriations from the fund only for costs of administering the fund, a program of dividend payment for residents of the State established by law, aid to public education, and aid to municipalities and other communities; and

(2) proposed amendment described in (1) of this subsection is placed before the voters of the state at the 2004 general election.

In addition, the words "Contingent Effect" would be inserted into Section 2 on page three, line 26, following "30".

Senator Hoffman moved for the adoption of, and objected to, Amendment #2.

Senator Dyson viewed the amendment "as an effort to come to some accommodation." He would support the Amendment if the sponsor would delete language that would serve to enshrine some of the distribution of the earnings of the Permanent Fund in the Constitution. This language is located in the (a)(1) section of the amendment; specifically "and to permit appropriations from the fund only for costs of administering the fund, a program of dividend payment for residents of the State established by law, aid to public education, and aid to municipalities and other communities". While he is sympathetic to these programs, he does not support them being enshrined in the Constitution.

Senator Hoffman thought that this language was included in SJR 102, and in that regard, he thought that the amendment would serve "to keep the language in compliance with" that resolution. Perhaps further discussion on SJR102-CONST. AM: PERM FUND P.O.M.V.; DIVIDENDS should occur before this amendment is considered.

Amendment-to-Amendment #2: The amendment to the amendment amends language in (a)(1) of the amendment so that the language would read as follows.

(a) The 2004 amendment relating to an appropriation limit (art. IX, sec. 16) takes effect only if the

(1) legislature adopts a resolution proposing an amendment to Section 15 of Article IX to limit appropriations from the Alaska permanent fund based on an averaged percent of the fund market value; and

(2) proposed amendment described in (1) of this subsection is placed before the voters of the state at the 2004 general election.

Senator Bunde moved to Amend Amendment #2. He stated that this would reflect one of the resolutions being presented to the Committee.

Senator Hoffman stated that while he would not object to the amendment to the amendment, he might consider including this

language in SJR 102.

Senator Dyson observed that many Legislators have stated that any discussion of new revenues to the State government should have a Constitutional spending limit as their "cornerstone." He commended Senator Hoffman's efforts in support of adopting a POMV plan. Therefore, he understood that Senator Hoffman's amendment is an effort to establish agreement in order to make that happen. Acceptance of Senator Hoffman's amendment by "those of us who want a spending" limit would indicate a reciprocal willingness that "we would work with you to get the POMV before the people." He applauded the "spirit of that."

Senator Bunde noted that Senator Dyson has stated that there are those who would not "go anywhere without a complete plan." However, the situation has become one in which supporters of the POMV and supporters of a spending limit are waiting for the other to take the first step. This might "indeed be an opportunity for us to step together." He also accepted that there are those who argue that a spending limit would not be considered without addressing how the State would acquire new revenue. That is as valid an argument as that a spending limit would not be accepted without a spending plan. Approval of the amendment to the amendment might provide hope of moving forward.

Senator Hoffman reiterated that his support of the amendment to the amendment and his support of the establishment of a spending limit would be contingent on what occurs with SJR 102.

Senator Dyson understood Senator Hoffman's remarks to be that were an acceptable version of SJR 102 not to advance, Senator Hoffman would not support this legislation, "even as amended." Were that the case, Senator Dyson would offer a motion on the Senate floor "to delete the amendment that we just made." However, he hoped that some common ground would be acquired that would march both sides "forward together."

Senator Olson commended Senator Dyson on his perception that working together might advance a plan. He voiced support of the Governor's proposal as outlined in SJR 102. He reminded that the final decision would be with the voters.

Senator Dyson encouraged the Committee to recognize that methods could be considered that would allow the proposals to be implemented via statutory rather than Constitutional measures. He urged that compromising efforts be exerted.

Co-Chair Green objected to the Amendment-to-Amendment #2.

Co-Chair Green removed her objection to the Amendment-to-Amendment #2.

There being no further objection, the Amendment to Amendment #2 was ADOPTED.

Amendment #2, as Amended, was before the Committee.

A roll call was taken on the motion to adopt Amendment #2, as amended.

IN FAVOR: Senator Olson, Senator Bunde, Senator Dyson, and Senator Hoffman

OPPOSED: Senator B. Stevens, Co-Chair Green, and Co-Chair Wilken

The motion PASSED (4-3)

Amendment #2, as Amended was ADOPTED.

Amendment #5: This amendment inserts a new paragraph into Section 1, subsection (d) on page three, following line 21 as follows.

(15) an appropriation to fund State employee retirement benefits.

Senator Hoffman moved to adopt Amendment #5 and objected for discussion. He stated that in consideration of the concern raised in opposition to Amendment #1 that eliminating K-12 education funding from the spending limit would be too large a component, this amendment would remove a smaller component of K-12 funding; specifically that funding specific to the K-12 PERS/TRS obligations.

Senator Hoffman removed his objection.

Co-Chair Wilken objected for further discussion.

Co-Chair Green remarked that the State would experience some unanticipated expense every year. While PERS/TRS expenses are currently an issue, in a few years it would be something else. For that reason, the inclusion of "hot button issues of the time" would not be a wise move.

Co-Chair Wilken recalled that a forecast was developed that reflected the PERS/TRS expenses for FY 06 and FY 07. He asked Senator Dyson to speak to that point.

Senator Dyson stated that the projection models depicted that forward education expenses could be absorbed within the spending limit, as proposed. This surprised many.

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman and Senator Olson

OPPOSED: Senator Bunde, Senator B. Stevens, Senator Dyson, Co-Chair Green, and Co-Chair Wilken

The motion FAILED (2-5)

Amendment #5 FAILED to be adopted.

Co-Chair Wilken asked for confirmation that the exemptions provided to the University of Alaska in SJR 3 and HJR 9 remain intact in this legislation.

Ms. Frasca assured Co-Chair Wilken that the exemptions provided to the University are contained in the bill.

Senator Dyson moved to report the bill, as amended, from Committee, with individual recommendations and accompanying fiscal note.

There being no objection, CS SJR 103(FIN) was REPORTED from Committee with the Division of Elections \$1,500 fiscal note #1, dated June 18, 2004.

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#scr101

SENATE CONCURRENT RESOLUTION NO. 101

Relating to offsetting the projected annual general fund revenue shortfall through equal appropriations from the constitutional budget reserve fund and the earnings reserve account.

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Green re-convened the meeting. She commented that the State should be considering a variety of methods through which to address its fiscal concerns. This legislation is such a proposal.

Co-Chair Wilken, the bill's sponsor, presented a power point presentation titled "Building the Bridge, the Power of Earnings, An alternate Solution" [copy on file]. An editorial titled "Stick with Democracy" [copy on file] from the Anchorage Daily News, dated June 14, 2004 and an email [copy on file] from Governor Walter Hickel were also provided.

Co-Chair Wilken mentioned that Governor Frank Murkowski's election campaign focused on the message of "hope." Co-Chair Wilken stated that he campaigned on a message of responsibly developing Alaska to create jobs ... to fill our fiscal gap with money derived from resource development. He is concerned that his message might have been forgotten, as other things have taken priority.

Co-Chair Wilken voiced being skeptical that the public would approve a fiscal plan were one presented in the upcoming November general election. His plan would present an alternative plan to bridge the fiscal gap that the State would experience between now and the time when new natural resource revenues become available. It is difficult to accept that there is a fiscal problem when the State is experiencing such things as near-record high employment, the price of North Slope crude oil is hovering around \$30 to \$40 per barrel, there are high bank deposit levels, and low bankruptcy levels. The people of the State "are pretty content." Therefore it is difficult to expect that people would support changing or understanding the POMV proposal that would provide revenue to the State and would alter the manner in which the Permanent Fund Dividend check would be determined.

Co-Chair Wilken commented that the first chart in his presentation, titled "So, where's the problem?" identifies that the FY 05 \$7,600,000,000 Total Operating and Capital budget is comprised of \$3,010,000,000 in federal funding, \$1,260,000,000 of Permanent Fund money for inflation proofing and the Permanent Fund Dividend checks, \$937,000,000 in Statutorily restricted money, and \$150,000,000 in Trust/Dedicated money that the Legislature could not alter. The chart also denotes a projected Constitutional Budget Reserve (CBR) draw of \$372,000,000 based upon an average crude oil price of \$28 per barrel. The fiscal gap lies within the \$1,960,000,000 general fund component of the budget. The general fund is currently 70 to 80-percent funded by oil and gas revenue. The goal over the next few years is to increase General Fund revenues.

Co-Chair Wilken noted that the chart titled "...and what's the problem?" reflects the difference in the General fund revenues and the expenditures for FY 1990 through FY 2006 as well as the projected State spending through FY 2020. The State expends more

than it receives in revenues.

Co-Chair Wilken stated that the chart titled, "...but things can change quickly, for the good and for the bad" depicts various budget scenarios were the price of North Slope crude oil to range between \$12 and \$44 per barrel. The higher the price, the more General Fund revenue is received. The FY 05 budget is based on a \$28.30 per barrel price forecast and a \$372,000,000 budget fiscal gap is projected. Were the price of oil to decrease to \$22 per barrel, a \$750,000,000 fiscal gap would result. Currently a surplus in revenue is being generated as the price is in the \$39 per barrel price range. However, he warned that this price would not continue, as things could change quickly.

Co-Chair Wilken continued that things have changed, as the chart titled "...And they have" depicts.

- The CBR has been used to fill the fiscal gap
- Approximately \$5,5 billion has been withdrawn.
- The state has deposited \$5.6 billion and earned \$2 billion in interest.

Co-Chair Wilken noted that the chart titled "for example" depicts the CBR balance and CBR draws for FY 94 through FY 04. It states the following.

- CBR draw 9 out of 11 years
- Average draw \$350 million
- Current balance \$2.1 billion

Co-Chair Wilken noted that were the current per barrel price to continue, the projected FY 05 CBR draw would not be required. He cautioned however that the CBR would erode in the future, as the State "does not feed it like we used to."

Co-Chair Wilken noted that, as supported by the comments listed on the chart titled "... but Alaska is a resource state", Alaska is a resource State and there are new revenue possibilities.

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Co-Chair Wilken stated that the chart titled "... and a bridge is needed, From today to Development" depicts the FY 05 budget and the projected budget shortfalls that would occur until new revenue resources are generated, beginning in the year 2011, from such

things as the completion of the proposed gas pipeline and new oil field developments. How the State would address its budget deficit until that time is the question to which there are a multitude of answers.

Co-Chair Wilken stated that some options through which to address the fiscal deficit are depicted in the "Several pots of Money" fact sheet. These would include: reducing State spending; instituting an income tax, a corporate tax, and a sales tax; utilizing the CBR increasing user fees and taxes on such things as tobacco to generate other revenues. He stressed that while these revenue sources would generate some money, it would not be significant enough to support the State's budget. Another source must be generated in the interim, as these sources and the CBR could not adequately support the State's annual budget deficit.

Co-Chair Wilken stated that his proposal would involve utilizing \$1,500,000,000 in realized earnings of the four billion dollars in unrealized and realized earnings that are available to the Legislature in the Permanent Fund. The CBR is projected to terminate in the year 2009 as depicted in the chart titled, "and why not just the CBR?"

Co-Chair Wilken continued that, based on current projections, the CBR would be unavailable to assist in building the bridge to the time when new revenue resources come on line. Referring to the chart titled, "but what if..." he noted that were the Legislature to split "the future fiscal gaps with equal contributions from the Constitutional Budget Reserve and the Earnings Reserve Account," a fiscal bridge could be built that would extend the life of the CBR through the year 2012. This revenue proposal is depicted in the chart titled " ... and we build a bridge".

Co-Chair Wilken noted that the Permanent Fund, the Division of Legislative Finance, and the Office of Management and Budget provided the numbers depicted in the charts.

Co-Chair Wilken stated that the answer to the question of whether the Earnings Reserve Account could be utilized in this manner is yes, as substantiated on the fact sheet titled, "but can we?"

The Earnings Reserve Account, a result of wise investment of our Permanent Fund, has been and is still available to the legislature by a majority vote of 21-11.

Co-Chair Wilken noted that an enormous amount of information is available on the Permanent Fund website as depicted in the sheet titled " PF financial projections say...". This information includes

such things as that the Fund projects a 7.38 percent return and a realized Earnings Account amount of \$740 million in FY 04. The chart depicts that the Legislature, if it so desired, could access approximately four billion dollars from the Permanent Fund in realized and unrealized funds.

Co-Chair Wilken voiced being surprised as the number of people who confuse the Earnings of the Permanent Fund with the Principal of the Fund. As denoted on the sheet titled "...our Fund and our Earnings", the Permanent Fund is comprised of "two distinct pots of money:" the Principal of the Fund, valued at \$23.5 billion, is protected by the Constitution; however, the Earnings Reserve Account, valued at \$1.5 billion, is available to the Legislature by a majority vote. The Principal receives 25-percent of oil revenues, and special deposits could be received from the Earnings Reserve Account. The Earnings Reserve Account is the account from which Permanent Fund Dividends, inflation proofing of the Principal account, and other expenditures are made. While some decry that using the ERA would be a raid on the Permanent Fund, this is not the case. Those people "should know better." His proposal is to utilize the ERA, matched with an equal portion of the CBR, to fund the fiscal deficit until new resource revenues transpire.

Co-Chair Wilken read the information on the sheet titled " ... the Earnings Reserve the crown jewel of Alaska's Fiscal Future."

- Only Legislature in America deciding how to manage \$27 billion for 640,000 people
- Every minute, every hour, every day, the world helps build Alaska by
 - Investing in corporate America
 - Investing in America's society
 - Investing in America's future
- The Earnings Reserve Account is an abutment to our Bridge to Development.

Co-Chair Wilken referred to the chart titled " ... but what about my check if you use the Earnings Reserve?", as it specifies how citizens' PFDs might be affected by addressing the State's fiscal deficit with a 50/50 split from the ERA and the CBR. Based on Permanent Fund financial projections, a \$550 million fiscal gap that would be addressed by a \$275 million draw from the CBR and a \$275 million from the ERA for the next five years: would not reduce the level of the PFD the first year; would decrease it by three dollars the second year; and would serve to decrease one's PFD by \$32 the fifth year. The cumulative affect of this would amount to a total five-year decrease of \$64. He pointed out that the average

CBR draw has been \$350 million.

Co-Chair Wilken noted that the chart titled " ... how does this compare to the status quo" reflects what the projected amount of the PFD would be in the forthcoming years based on projections. Were \$275 million removed from the ERA to support the budget deficit for the next ten years, the FY 2014 dividend would amount to \$2,057 as opposed to being \$2,177 were the ERA not utilized.

Co-Chair Wilken stated that the chart titled " ... and to the suggested POMV method" indicates that, were the proposed Percent of Market Value plan (POMV) adopted, the FY 2009 PFD check would amount to \$1,151 rather than \$1,889 as proposed in his plan and \$1,319 in FY 2014 under the POMV as opposed to \$2,057 under his plan. "This is a powerful slide" as were the POMV plan adopted, citizens PFDs would be significantly affected as compared to his 50/50 ERA/CBR proposal.

Co-Chair Wilken noted that while a State Income Tax might raise \$275 million, the sheet titled "but is this the best way? Let's compare other revenue sources" depicts that it would cost each Alaskan \$1,059. A State Sales Tax might raise \$275 million at a cost of \$1,035 to that same person. Utilizing \$275 million from the Earnings Reserve Account would cost that Alaskan \$12. These amounts reflect information based on the second year of implementation and Department of Revenue projections for a married person with two children and a \$57,000 adjusted gross income.

Co-Chair Wilken continued that the chart titled, " ... and what about over time" depicts the cumulative cost to a family of four for these three options through the year FY 2014. The cost in FY 2014 would be \$9,531, \$9,315, and \$1,940 for implementation of an income tax, sales tax, or use of the ERA proposals, respectfully.

Co-Chair Wilken stated that the chart titled, "but does this help the CBR" reflects the fact that were only half of the amount of the fiscal deficit funded by the CBR, the CBR's life could be extended almost an additional three years. Total funding of the Fiscal deficit and the 50/50 CBR/ERA split portion impact to the CRB is reflected on this chart.

Co-Chair Wilken stated that the effect of removing money from the ERA is depicted in the chart titled " ... and what about the ERA." While it would affect the ERA balance that balance would reflect growth when the projected new resource revenues begin.

Co-Chair Wilken read the following information.

" ... a brief comparison ..."
POMV Method verses Build the Bridge.

POMV Method	Build the Bridge
1) Amount of PFD more predictable	1) Amount of PFD follows the market
2) More negative impact on your PFD	2) Less negative impact on your PFD
3) Perm Fund principal may be impacted	3) Perm Fund Principal protected
4) Perm Fund draw for state services is automatic	4) Earnings used only if necessary for state services

"... let's use it only when we need it ..."

- Build the Bridge Plan demands spending accountability because...
- the Earnings Reserve Account is the people's money and
- each legislator must answer to the public on how much was spent from the Earnings Reserve to fund state services.

"lets summarize .. The Build the Bridge Plan"

- Recognizes Alaska's natural resource potential and opportunity for jobs
- Recognizes the power of the Earnings Reserve - the crown jewel of a fiscal plan
- Bridges the State of Alaska revenue needs until development can occur
- Establishes accountability by forming a spending partnership with all voters

" ... and now the challenge to our governor and to the Legislature"

- It's time to recognize the power of the Earnings Reserve.
- It's time to have the courage, when needed, to use the Earnings Reserve
- We're elected to work hard, get smart, and make the right decisions for the people of Alaska,
- That's why we're here...

Co-Chair Wilken concluded his presentation.

Senator Dyson asked whether the management plan proposed by the POMV could be incorporated with the revenue stream provided via the 50/50 CBR/ERA proposal.

Senator Bunde interjected that the POMV plan would not recognize there being an ERA.

Senator Dyson acknowledged that point, but stated that the POMV could provide a revenue stream that could, on some basis, provide a revenue stream that could support the 50/50 CBR/ERA proposal.

Co-Chair Wilken asked for further clarification.

Senator Dyson stated that a portion of the five-percent income provided by POMV for distribution could be utilized, perhaps to fund the Dividend and/or to support the CBR. He asked that, at some point, the Administration provide a response to this suggestion.

Senator Bunde characterized Co-Chair Wilken's proposal as being "thoughtful, logical" and reasonable. He asked how the Legislature might further this proposal.

Co-Chair Wilken responded that SCR 101 provides some of this detail. He is willing to compromise and would support any method chosen by the Legislature to further the concept. While he is unsure as to whether the proposal could be placed in law, he wished to provide citizens a method through which to approach the fiscal deficit without having the proposal being subject to the risk of failure as a ballot question. We should not take a chance, and as a Legislature, we should represent our constituents and take the responsibility for addressing the situation. The plan he has proposed is "a viable plan" that would save citizens' money. He declared that "POMV is flawed mechanically and it is flawed at the ballot box as it is not going to pass."

Senator Bunde agreed that two messages must be sent: one relating to the Legislature and one to the investment community. He noted that were a plan adopted either in Resolution or in Statute, a forthcoming Legislature could either "abide by that or ignore it." A psychological issue exists regarding spending a large portion of the earnings of the Permanent Fund. The only prevention to change is public and political pressure. The financial market would also desire that a fiscal plan be adopted in this State. "They seem to want something on paper" that would reassure them that "the rules would not change cavalierly." He stated that were the Legislature to support this proposal, the methodology to support it would be furthered.

Co-Chair Wilken stated that of the various options available through which to address the budget deficit, use of the ERA would be his first choice. Were that removed from the equation, the other options would move closer to the forefront. However, those options

would have more impact on financial and business communities than the plan proposed in SCR 101, as it would eliminate the threat of an income tax, a sales tax, and changes in corporate tax structure. These entities should be reminded that the use of the State's assets would be a better option than "going to their pockets." The Standard & Poors national credit rating analyst's message was that the State is not "judged on what you are going to do," but "on what you have done." Alaska has exceeded other states in terms of its assets and liquid assets, with only the inclusion of the CBR rather than the entire Permanent Fund assets. He stated that when the State's fiscal crisis is addressed, "this place would hum" just as it did in 1999.

Senator Bunde understood that regardless of whether a solution to the fiscal situation is addressed via Statute or Resolution, action on the part of the Legislature would speak louder than words. The Legislature must act.

Co-Chair Wilken stressed that the State would be faced with a \$500 million deficit for several years. Oil must continue at a price of \$33.80 per barrel in order for the State to have a balanced budget in FY 05. It is difficult to predict the price of oil in future years. He reiterated that his plan would cost residents less than a one-dollar decrease in their Permanent Fund dividend in FY 06. The Legislature must have the courage to address the issue.

Senator Hoffman found the presentation interesting, but noted that some of the "soft points" would include the fact that due to oil price volatility a one billion dollar CBR balance must be maintained. A \$2.3 billion budget is flat spending. It is a known consideration that the PERS and TRS obligation would amount to one-third of a billion dollars over the next eleven years. Other expense levels are unknown. He stated that when \$270 million was withdrawn from the CBR in FY 02, its balance dipped to almost zero. This could have jeopardized the PFD. The effect on the monies available for PFD would also be an area of concern. Under the current status quo system the Permanent Fund balance in FY 2015 would be \$45 billion. He asked regarding the level of the FY 2015 Fund were this proposal adopted. The POMV plan would result in an eight million dollar reduction in the Fund. Another concern would be, as alluded to by Senator Bunde, how to assure the public that the Permanent Fund Dividend would be protected, were this proposal furthered. This is the primary reason that the Legislature has not voted to utilize the ERA to date.

Co-Chair Green reminded that there is no guarantee that there would be a PFD payment each year. The payment "is based on performance of the investment fund." If it is a guaranteed payment, it should not

be called a Dividend.

Senator Hoffman agreed that, while this is true under the current scenario, it would not be true were the POMV plan adopted.

Co-Chair Green declared that it would be difficult to declare that there would always be a dividend payment, regardless of what occurs with the Fund.

Co-Chair Wilken agreed that Senator Hoffman's CBR concern is valid. Everything being presented today is based on projections. While a lot of negative things could occur, a lot of good things could occur as well. The Permanent Fund balance is expected to be \$43 billion in 2014. It should be clarified that the \$100 million FY 02 amount referred to by Senator Hoffman, related to realized earnings resulting from three years of negative earnings. It should also be noted that there was, at that time, in excess of \$1.1 billion in unrealized earnings. If need be, some of the unrealized earnings could be sold to support the payment of a Dividend. While "there is no guarantee in investments," the investments over time "have been very successful."

Senator Hoffman stated that in order to access the ERA Fund, assurance must be provided that the Dividend would be protected. Otherwise, the question would be how many Legislators would provide the required vote.

Co-Chair Wilken responded that that might be true, and thereby, access of the ERA might not occur for a few years as the options are reviewed. Senator Hoffman is talking about enshrining the Permanent Fund Dividend in the Constitution. He opined that paying a Dividend Check is not one of the top four priorities of State Government. It would be number five in his view, behind public safety, public health, public education, and transportation. Therefore, he could not support enshrining the payment of a Dividend check in the Constitution.

Senator Hoffman responded that State voters should make this decision.

Senator B. Stevens agreed, "that the POMV concept as presented, is flawed." Were it exclusively a money management tool it would not be flawed. The Permanent Fund Board of Trustees have supported the POMV proposal for numerous years; however, their position "is solely based on one thing alone", and that is enshrining inflation proofing of the Permanent Fund. Legislators have been convinced to raise spending levels in order to allow inflation proofing to be enshrined. However, "the premise is flawed because the Legislature

has never not fully funded inflation proofing of the Permanent Fund under the current formula." The current dilemma is that in order to fund the State's essential services, inflation proofing of the Fund must occur first. "Then you can enshrine the Dividend, and" were any funds left, they could be used to fund other things. This argument is flawed as the AS 37 Statutes "have never been not been fulfilled." He argued that it has been "over-inflation proofed." Now that the State has reached a budgetary point to which some of the Permanent Fund money should be accessed, the Legislature might be required "to break our philosophical positions" by being required to enshrine inflation proofing and the PFD in the Constitution, "even though we have never not done it." He voiced support for Co-Chair Wilken's comment that, were it deemed necessary, the Legislature could access the money in the ERA. The POMV concept approach being presented is flawed.

Senator B. Stevens stated that while Co-Chair Wilken has presented another alternative to the problem, the true nature of the problem must be determined. Some opine that the State is "not spending enough money so we need to get to the Dividend; others say that, "we don't have enough money to spend so we have to get to the Dividend." Both of these approaches are incorrect, as the State has more money, in excess reserve, than most governments on the planet.

Senator B. Stevens stated that he is one of several fiscal conservatives who view the level of State services as being adequate to the demands presented by the State's citizens. It is common knowledge that aligns with Co-Chair Wilken in support of utilizing the ERA when the time comes, after inflation proofing and funding of the Dividend has occurred.

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Senator B. Stevens stated that there is money available and such usage would have minimum effect on the Dividend payout.

Senator B. Stevens suggested some changes to the presentation. The chart titled "... and a bridge is needed" which depicts the potential Future Oil and Gas revenue based on the Spring 2004 Revenue Forecast, could provide a few alternate scenarios to reflect how significant the fiscal deficit would be, particularly "as projections become more conservative as the years out expand." In addition, the Chart titled " ... and what about the ERA?" should include a projection of the Permanent Fund corpus balance in addition to the ERA balance.

Senator Hoffman commented in regards to Senator B. Stevens's claim that the Legislature "has never not inflation proofed and never not" funded a Dividend. Since it would appear that these things would continue to be done, why not allow the people to vote on whether or not to enshrine the Dividend in the Constitution. This would "remove the politics" regarding how to spend the rest of the earnings, as it would eliminate citizens' fear that the Dividend would be negatively affected.

Senator B. Stevens stated that Senator Hoffman omitted his comment that in times of excess revenue, the Legislature super-funded the corpus of the Fund. Now is the time to utilize a portion of the ERA to provide public services.

Senator Bunde stressed that Alaska's physical resources, being finite, would be gone someday. When that occurred and were the Dividend enshrined in Constitution, the citizens of the State would be required to pay such things as an income tax in order to support it. Demographics project that in ten or fifteen years, the smallest component of the State's population would be the 30 to 50 year olds. This "most productive age group" would be the taxpayers who would be required to support the large group of Dividend recipients. He quoted that "the democracy is doomed when the public realizes they could vote themselves money from the public treasury." That is what enshrinement would do. He hoped that, on the other hand, the State would not resemble "the miser who died with his mattress stuffed full of money."

Senator Dyson voiced appreciation for the efforts exerted by Co-Chair Wilken to develop an alternate method through which to address the fiscal gap.

Co-Chair Wilken acknowledged his staff person, Sheila Peterson, for her efforts in developing the presentation.

Co-Chair Green expressed that public questions regarding this proposal could be directed to Co-Chair Wilken and his staff.

Co-Chair Green asked Senator Hoffman to further explain the intention of enshrining the Dividend in the Constitution: specifically whether the intent is to insure that a payment would be made, regardless of the State's fiscal situation or whether the calculation mechanism for the dividend would be enshrined.

Senator Hoffman responded that Co-Chair Wilken's presentation reflects that, in 2014, new resource revenues would be deposited into the Fund. Proper management of the Fund would insure continued funding for Dividends.

Co-Chair Green understood therefore that the desire is to guarantee the Dividend rather than to establish a formula.

CHERYL FRASCA, Director, Office of Management and Budget, stated that while the Administration had a copy of Co-Chair Wilken's presentation, until today, they had not received the benefit of his accompanying narrative. While she could question some aspects of the proposal's "practical application", she noted that she had not been able to confer with the Governor in regards to his perspective.

Co-Chair Green requested that Ms. Frasca present her remarks and, at a later date, provide comments from the Governor.

Ms. Frasca spoke to her concerns, including: the Administration's desire to retain a one billion dollar CBR balance to provide "some cushion" to the budget were oil prices to drop dramatically whereas Co-Chair Wilken has presented the alternate idea that the ERA be used for this purpose; what would happen were the fiscal deficit to exceed \$550 million: would the direction be to impose an additional income source or remove more funds from the CBR or the ERA. This is a concern, as, in forward years, the fiscal deficit would exceed those of the past. Another concern about implementing this proposal as opposed to the POMV is that the POMV model is less volatile in terms of the payout and would be easier to budget. The volatile fund sources through which to address the fiscal deficit under Co-Chair Wilken's proposal would include the stock market and the current volatility of the price of oil.

Co-Chair Green asked how the volatility of the price of oil and the stock market differs from the current situation.

Ms Frasca responded that while it does not differ from the current situation, it would affect the ability to provide a long-term solution of fiscal stability. Part of the Administration's goal is to develop a mechanism that would "fund future services with stability." Due to wide swings in the stock market and the investments of the Permanent Fund, the current Fund's earnings income payout calculation is not as stable, going forward, as the methodology proposed in POMV.

Ms. Frasca noted that another concern evolves around whether flat spending, going forward, is a realistic approach upon which to base future budgetary projections.

Ms. Frasca also asked whether, as a manner in which to be accountable to the voters regarding how programs are funded, the

intention would be to utilize the ERA as a fund source that could be directly identified as the fund source for new programs that might be developed such a new funding for schools, public safety officers, or transportation.

Senator Bunde agreed with Senator B. Stevens that the Permanent Fund Trustees support the POMV concept, as it would provide a mechanism through which to guarantee inflation proofing of the Fund. The only reason that the Legislature would support POMV is that it would provide a predictable revenue source. "The only reason that you would need a predictable revenue source would be that you are going to use that to fund government." On a public policy basis, "it is not critical to the State that Dividends be predictable." While POMV would supply a predictable funding source, it might be a tool that is unacceptable to the public. This brings us back to determining what would be possible, and that would include accessing the ERA.

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SENATOR GENE THERRIAULT opined that the Permanent Fund Board of Trustees' support of the POMV is appropriate because insuring that inflation proofing of the Permanent Fund must continue in order to protect its value over time, as it is the appropriate action of their role as fiduciaries of the Fund.

Senator Therriault noted that the importance placed on SJR 9 and HJR 3 during the Legislative Session is interesting, as those pieces of legislation are not being discussed anymore. The sponsor of HJR 3 commented that protection of the purchasing power of the Permanent Fund was the paramount thing that the Legislature should protect. When it was pointed out that HJR 3 did not provide protection to such things as the inflation proofing of the Fund, support of the bill diminished.

Senator Therriault stated that currently the argument evolves around two things: one is that protection of the PFD is being sought; and secondly, the "growing realization" that the POMV plan is the sensible thing to do as inflation proofing the Fund is the "appropriate" mechanism through which to protect the purchasing power of the Fund. "Unfortunately," these two approaches have become linked together. Nonetheless, he supported the development of a mechanism that would protect the purchasing value of the assets of the Fund as well as providing a predictability "or smoothing affect" of the size of the Dividend in the future as it infuses a substantial amount of money into the economy.

Senator Therriault applauded Co-Chair Wilken's efforts in

developing an alternative proposal. He has some suggestions to the plan that he would discuss separately with Co-Chair Wilken. He agreed that the Legislature has the ability to access millions of dollars in funding.

Co-Chair Green commented that the Legislature "is cursed" because it does not utilize the ERA, which is a viable funding source. Because it does utilize the ERA, an alternate approach would be to implement an income tax.

Senator Olson commented that while there are a number of mechanisms being discussed through which to address the fiscal gap, "the reality" is that until the time when the public is guaranteed that the Permanent Fund Dividend is protected, the public would not support a plan.

The bill was HELD in Committee.

#

ADJOURNMENT

Co-Chair Green adjourned the meeting at 03:30 PM