

**ALASKA STATE LEGISLATURE**  
**HOUSE STATE AFFAIRS STANDING COMMITTEE**

April 7, 2005

8:05 a.m.

**MEMBERS PRESENT**

Representative Paul Seaton, Chair  
Representative Carl Gatto, Vice Chair  
Representative Jim Elkins  
Representative Bob Lynn  
Representative Jay Ramras  
Representative Berta Gardner  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 86

"An Act establishing in the office of the ombudsman a state executive branch employee fraud, waste, and abuse report hotline program."

- HEARD AND HELD

HOUSE BILL NO. 144

"An Act authorizing an advisory vote on whether income of the Alaska permanent fund in the earnings reserve account should be used for a community dividend program."

- MOVED CSHB 144(STA) OUT OF COMMITTEE

HOUSE BILL NO. 201

"An Act relating to an application for a permanent fund dividend for a member of the armed forces of the United States serving on active duty outside of the state; and providing for an effective date."

- MOVED CSHB 201(STA) OUT OF COMMITTEE

HOUSE BILL NO. 177

"An Act relating to employee and employer contributions to the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

- MOVED HB 177 OUT OF COMMITTEE

HOUSE BILL NO. 191

"An Act relating to defined contribution systems for members of the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 238

"An Act relating to contribution rates for employers and members in the defined benefit plans of the teachers' retirement system and the public employees' retirement system and to the ad-hoc post-retirement pension adjustment in the teachers' retirement system; requiring insurance plans provided to members of the teachers' retirement system, the judicial retirement system, the public employees' retirement system, and the former elected public officials retirement system to provide a list of preferred drugs; relating to defined contribution plans for members of the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 86

SHORT TITLE: OMBUDSMAN HOTLINE

SPONSOR(S): REPRESENTATIVE(S) MEYER

01/19/05 (H) READ THE FIRST TIME - REFERRALS  
01/19/05 (H) STA, JUD  
04/07/05 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 144

SHORT TITLE: ADVISORY VOTE ON COMMUNITY DIVIDEND

SPONSOR(S): REPRESENTATIVE(S) THOMAS

02/14/05 (H) READ THE FIRST TIME - REFERRALS  
02/14/05 (H) STA, FIN  
03/08/05 (H) STA AT 8:00 AM CAPITOL 106  
03/08/05 (H) Heard & Held  
03/08/05 (H) MINUTE(STA)  
04/07/05 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 201

SHORT TITLE: PERM. FUND DIVIDEND APPS OF MILITARY

SPONSOR(S): REPRESENTATIVE(S) CHENAULT

03/04/05 (H) READ THE FIRST TIME - REFERRALS  
03/04/05 (H) MLV, STA  
03/17/05 (H) MLV AT 1:00 PM CAPITOL 124  
03/17/05 (H) Moved Out of Committee  
03/17/05 (H) MINUTE(MLV)  
03/18/05 (H) MLV RPT 6DP  
03/18/05 (H) DP: THOMAS, GRUENBERG, CISSNA, ELKINS,  
MCGUIRE, LYNN  
03/29/05 (H) STA AT 8:00 AM CAPITOL 106  
03/29/05 (H) Heard & Held  
03/29/05 (H) MINUTE(STA)  
04/05/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/05/05 (H) <Pending Referral><Bill Postponed>  
04/07/05 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 177

SHORT TITLE: STATE EMPLOYEE RETIREMENT CONTRIBUTIONS

SPONSOR(S): REPRESENTATIVE(S) KELLY

02/25/05 (H) READ THE FIRST TIME - REFERRALS  
02/25/05 (H) STA, FIN  
03/22/05 (H) STA AT 8:00 AM CAPITOL 106  
03/22/05 (H) Heard & Held  
03/22/05 (H) MINUTE(STA)  
03/29/05 (H) STA AT 8:00 AM CAPITOL 106  
03/29/05 (H) Scheduled But Not Heard  
03/31/05 (H) STA AT 8:00 AM CAPITOL 106  
03/31/05 (H) Heard & Held  
03/31/05 (H) MINUTE(STA)  
04/02/05 (H) STA AT 10:00 AM CAPITOL 106  
04/02/05 (H) Scheduled But Not Heard  
04/05/05 (H) STA AT 8:00 AM CAPITOL 106  
04/05/05 (H) Scheduled But Not Heard  
04/07/05 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

REPRESENTATIVE KEVIN MEYER

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 86.

LINDA LORD-JENKINS, Ombudsman

Anchorage Office  
Office of the Ombudsman  
Alaska State Legislature  
Anchorage, Alaska

POSITION STATEMENT: Answered questions on behalf of the Office of the Ombudsman during the hearing on HB 86.

MIKE PAWLOWSKI, Staff  
to Representative Kevin Meyer  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Answered questions on behalf of Representative Meyer, sponsor of HB 86.

REPRESENTATIVE BILL THOMAS  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: As sponsor of HB 144, noted the changes incorporated into Version F.

BILL ROLFZEN, Local Government Specialist  
Municipal Assistance, National Forest Receipts, Fish Tax, PILT -  
Juneau Office  
Division of Community Advocacy  
Department of Commerce, Community, & Economic Development  
Juneau, Alaska

POSITION STATEMENT: Answered questions on behalf of the department during the hearing on HB 144.

KEVIN RITCHIE  
Alaska Municipal League (AML)  
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of AML in support of HB 144.

ERICH DeLAND, Staff  
to Representative Mike Chenault  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of Representative Chenault, sponsor of HB 201.

#### **ACTION NARRATIVE**

**CHAIR PAUL SEATON** called the House State Affairs Standing Committee meeting to order at [8:05:46 AM](#). Representatives Gatto, Elkins, Lynn, Ramras, Gardner, and Seaton were present at

the call to order. Representative Gruenberg arrived as the meeting was in progress.

HB 86-OMBUDSMAN HOTLINE

8:06:19 AM

CHAIR SEATON announced that the first order of business was HOUSE BILL NO. 86, "An Act establishing in the office of the ombudsman a state executive branch employee fraud, waste, and abuse report hotline program."

8:07:15 AM

REPRESENTATIVE KEVIN MEYER, Alaska State Legislature, testifying as sponsor of HB 86, told the committee that a constituent who works for the federal government indicated that that entity has a fraud, waste, and abuse program, in which employees can anonymously report and fraud, waste, or abuse, in order that it may be investigated and appropriate action may be taken. He said HB 86 would establish a similar method for state employees.

REPRESENTATIVE MEYER said currently, under the state's whistle blower laws, a state employee who wants to raise a concern must first speak to his/her supervisor. The proposed bill would allow that employee to call a hotline. He indicated that the state ombudsman would receive that information and report it to "us" through the normal reporting process. He commented, "We're constantly trying to reduce [state] spending where we can, and I think a program like this can give us some ideas that we may not have ever thought of." He noted that Oregon saved \$4.3 million by introducing a similar program. He said he believes there are a lot of good state employees who want to do what's right, but don't want to jeopardize their jobs.

8:10:26 AM

REPRESENTATIVE LYNN said the military has a "suggestion program," which is similar. He pondered whether some kind of award could be offered. For example, if a person's reporting fraud saves the state a certain amount of money, that person could be given a percentage of the money.

8:10:55 AM

REPRESENTATIVE MEYER responded that he thinks that is an excellent idea, and he said he would need more time to explore how that money would be measured.

[8:11:36 AM](#)

LINDA LORD-JENKINS, Ombudsman, Anchorage Office, Office of the Ombudsman, Alaska State Legislature, in response to a question from Representative Gatto, said the office has a total staff of seven: the ombudsman, an administrative staff person, four investigators, and one intake officer. She added that she has requested additional staff "in this funding cycle."

[8:12:05 AM](#)

REPRESENTATIVE RAMRAS asked for an estimate of savings to the state.

[8:12:23 AM](#)

MIKE PAWLOWSKI, Staff to Representative Kevin Meyer, Alaska State Legislature, testifying on behalf of Representative Meyer, sponsor of HB 86, responded that he is not certain he would [be able to make that estimate], because it is difficult to surmise where savings would be made. He said he thinks Oregon is a good example. He said he is not sure the money is as important as the confidence the bill could give back to people.

[8:13:14 AM](#)

REPRESENTATIVE RAMRAS asked Mr. Pawlowski if he would describe HB 86 as an empowerment bill.

[8:13:22 AM](#)

PAWLOWSKI said he would.

[8:13:52 AM](#)

MS. LORD-JENKINS said the legislation is compatible with the Office of the Ombudsman.

[8:14:59 AM](#)

MS. LORD-JENKINS, in response to Chair Seaton, reviewed her recommendations for the bill. First, she suggested that the proposed legislation be amended so that the hotline include the

legislative and judicial branches of government. Second, she recommended that the municipalities be removed from the hotline jurisdiction, because the ombudsman can contract with them to provide services.

[8:16:24 AM](#)

MS. LORD-JENKINS, in response to Chair Seaton, detailed where these suggested changes can be found in a memorandum she sent to Chair Seaton [included in the committee packet].

[8:17:23 AM](#)

MS. LORD-JENKINS said her third recommendation relates to a timeframe. She stated that currently, the ombudsman takes into account the timelines of a complaint; under regulations, a complaint is considered to be timely if it has been filed within a year of the complainant's last action to try to rectify the complaint. The proposed legislation would eliminate that time frame. She said:

I've recommended that, at the very least, ... if it is the intent of the legislature to extend timeframes, that ... [they] only be extended for the fraud aspect of the hotline reporting. And I recommended that (indisc. -- coughing) possibly consider the timeframes to be equal to those of the statute of limitations in Alaska, which is five years. However, when considering general issues of ... waste and abuse, [I recommended] that we stick to the existing ombudsman timeframes of one year.

[8:19:14 AM](#)

MS. LORD-JENKINS, in response to a question from Chair Seaton, confirmed that she is saying it is good to have timeframes so that somebody doesn't call the ombudsman to complain about something that happened eight years ago, for example. She said that does happen and it's impractical for the ombudsman's office "to even think about investigating." She offered further details. She added, "I think that if you want to extend the timeframe regarding fraud - which generally ... would be considered a criminal matter - ... you [would] match the timeframes to the criminal statute of limitations."

[8:20:32 AM](#)

MS. LORD-JENKINS directed attention to page 2, beginning on line 24, which is language that would exempt the existing provision in [AS] 24.55 regarding judicial appeal. The existing statute says that ombudsman action does not extend any judicial appeal process available to a complainant. She recommended, "If the legislation intends to extend any relevant judicial appeal, then HB 86 should specifically be amended to reflect that intention."

[8:21:50 AM](#)

CHAIR SEATON asked, "If this did extend judicial appeal, and yet it's totally anonymous, ... how would you handle that?"

MS. LORD-JENKINS said, "Practically speaking, if it was anonymous, it ... wouldn't be relevant; but we have also recommended that the language of HB 86 be softened at proposed Section 24.55.222(c)," [on page 2, beginning on line 10]. She stated that the proposed legislation prevents the ombudsman from attempting to identify anyone contacting the hotline. She said her recommendation is that the language be changed so that the ombudsman is allowed to inquire about the identity of someone "coming to the hotline" and explain that the ombudsman statute, as it exists currently, keeps confidential the identities of any complainant coming to the ombudsman for action. She added, "We would not decline to act on a complaint if the complainant ... desired anonymity."

[8:24:08 AM](#)

MS. LORD-JENKINS, in response to a question from Chair Seaton, said, based on her experience, that if a complainant presents his/her name to the manager of a hotline program, that name is kept confidential and is not presented to other agencies. She added, "We can only divulge a complainant's name if they specifically authorize us to."

[8:25:17 AM](#)

REPRESENTATIVE GARDNER asked for clarification regarding "extending judicial appeal."

MS. LORD-JENKINS explained, "We don't want our office to be used as a conduit to extend judicial timeframes if it's not appropriate."

CHAIR SEATON said a number of the recommendations are good and he thinks that the bill sponsor would like to talk to the

ombudsman in detail and possibly incorporate those recommendations into a committee substitute. He asked Ms. Lord-Jenkins to work with the sponsor to that end.

[8:27:59 AM](#)

REPRESENTATIVE GATTO offered a scenario in which an employee is not productive, but when that employee is let go, he/she complains to the ombudsman of being a victim of discrimination. He offered further details.

[8:29:20 AM](#)

CHAIR SEATON responded that that relates to the Human Rights Commission and not the Office of the Ombudsman, and he said he wants to ensure the focus is on a fraud, waste, and abuse hotline.

[8:30:11 AM](#)

MS. LORD-JENKINS noted that [the Office of the Ombudsman] does have a provision in statute and regulation that allows for the office to decline complaints that are made in "bad faith." She said the office realizes the potential of someone to abuse the program, but she said she thinks "we're pretty good at detecting that."

[8:31:28 AM](#)

CHAIR SEATON closed public testimony.

[HB 86 was heard and held.]

HB 144-ADVISORY VOTE ON COMMUNITY DIVIDEND

[8:31:52 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 144, "An Act authorizing an advisory vote on whether income of the Alaska permanent fund in the earnings reserve account should be used for a community dividend program."

REPRESENTATIVE GATTO moved to adopt the committee substitute (CS) for HB 144, Version 24-LS0517\F, Cook, 4/6/05, as a work draft. There being no objection, Version F was before the committee.

REPRESENTATIVE BILL THOMAS, Alaska State Legislature, as sponsor of HB 144, noted the changes incorporated into Version F, as follows: On page 1, line 13, the words "up to" were inserted before "\$150,000,000"; and language was added to define an unorganized borough as a borough "where 25 or more people reside as a social unit." He referred to an amendment [that had been moved by Representative Lynn at the previous hearing of HB 144 on March 8 and was left pending], and said that he would support that amendment today.

[8:34:36 AM](#)

CHAIR SEATON asked if a change had been incorporated regarding local tax relief.

[8:34:46 AM](#)

REPRESENTATIVE THOMAS indicated that that would be covered by Representative Lynn's "conceptual amendment."

[8:34:59 AM](#)

CHAIR SEATON asked, "But do we have that on page 2, line 4?"

REPRESENTATIVE THOMAS replied, "Part of it, yeah." He clarified that "Representative Lynn wanted it a little more firm."

[8:35:17 AM](#)

REPRESENTATIVE GATTO, regarding the issue of a social unit, said any group of 25 people could get together and call themselves a social unit to get money.

REPRESENTATIVE THOMAS offered his belief that the terminology is the same as was used before, "during revenue sharing."

REPRESENTATIVE GATTO reiterated his concern regarding the potential for fraud.

REPRESENTATIVE THOMAS said he does not know if fraud "happened last time."

[8:37:16 AM](#)

REPRESENTATIVE LYNN recollected that his amendment had addressed sales tax as well as property tax.

REPRESENTATIVE THOMAS offered his belief that "the main thing was tax relief."

8:38:30 AM

REPRESENTATIVE ELKINS, [regarding the issue of social units], noted that outside his own district there are service districts that have already banded together and have their own water system. He said, "When I first read this, I thought that that's what Representative Thomas was talking about." He suggested that perhaps the language should be spelled out to specify that the group must be organized and recognized by the state in order to apply for money.

REPRESENTATIVE THOMAS pointed out that if an area has water, it is probably within a borough or municipality, and the borough would receive the funds for the service area. In response to a clarification from Representative Elkins that he had been referring to Hollis, Representative Thomas offered his belief that "we'd have them on the unorganized municipality."

CHAIR SEATON said someone from the Department of Commerce, Community, & Economic Development (DCCED) would be available to address the concerns and statements made thus far.

REPRESENTATIVE THOMAS, in response to a question from Representative Gruenberg, reiterated the changes incorporated into Version F, and confirmed that the language regarding "local tax relief" on page 2, line 4 is also a change.

8:41:48 AM

BILL ROLFZEN, Local Government Specialist; Municipal Assistance, National Forest Receipts, Fish Tax, PILT - Juneau Office; Division of Community Advocacy; Department of Commerce, Community, & Economic Development (DCCED), said "social unit" is defined in the regulations that govern the state revenue sharing program, and those regulations have been used for approximately 25 years. He said, "My recollection is we look at: business establishments; density of the population; [and] the ability of residents to move in and out of the community freely, which eliminates communities that might be like religious communes or military bases, and so on." He continued as follows:

Through the years ... we have had new communities ... apply. They have to have either a Native village council or an incorporated nonprofit community

association incorporated under state law, in order to receive that money; and that money funnels through those two organizations for the benefit of the community.

And for a new community, when they apply we ... send out a survey, they have to answer our questions, [and] we do an investigation. A lot of times we have them do a population head count census, where they have to document every resident in the community. So, we do have procedures in place.

MR. ROLFZEN, in response to a question from Chair Seaton, confirmed that "this is the same standard that has been used through past revenue sharing programs."

[8:43:27 AM](#)

REPRESENTATIVE GATTO asked how the department would address a situation where 5 families live on a remote lake, each not involved in any way with the others, but all united in calling themselves a social unit in order to collect money.

[8:43:46 AM](#)

MR. ROLFZEN answered as follows:

Again, we'd look at: How are they dispersed around the lake; what's the density; are there any business establishments there; [and] do they look like a community [and] act like a community? They'd have to form a nonprofit community association, although that's a fairly simple process.

MR. ROLFZEN spoke of areas that grow over time.

[8:44:50 AM](#)

REPRESENTATIVE GRUENBERG requested a copy of the regulation being discussed.

[8:45:17 AM](#)

REPRESENTATIVE GARDNER asked if there would be anything wrong with 25 individuals coming together and deciding to form a community. She suggested that as long as they met the requirements, it would not necessarily be fraudulent.

MR. ROLFZEN said that's correct. He added for the record that the definition of a social unit is very similar, if not identical, to the definition that the local boundary commission uses when it determines "whether or not there's a community."

[8:46:20 AM](#)

MR. ROLFZEN, in response to a question from Representative Gruenberg, said he would provide a copy of the local boundary commission's definition of social unit, which is defined in another regulation.

REPRESENTATIVE GRUENBERG said he would like to be certain that the legislative history is clear as to which definition the committee may decide to use.

[8:47:57 AM](#)

MR. ROLFZEN, in response to Representative Gatto's reiterated concern about fraud, said there is a public purpose provision in the [Alaska State] Constitution and in statute. When money is received, it has to be for the good of the community as a whole. He indicated that the department would frown on providing a community dividend with that money. He added that that basically would not be allowed. He noted that the 25-person threshold has been in law since 1980, and he said the legislature has the right to increase that number.

[8:48:57 AM](#)

REPRESENTATIVE RAMRAS said, "I'm warm to your bill." He noted that former Governor Walter Hickel has written about community dividends. He stated his concern that if the bill is passed, the communities would absorb the money distributed and still come back and ask the legislature to solve the problem regarding the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS). He asked the sponsor if he would be support amending the bill to require that communities use the money that would be distributed to solve their PERS/TRS problems first.

[8:51:11 AM](#)

REPRESENTATIVE THOMAS directed attention to [the sentence on page 2, lines 4-5, which read]: "The community dividend may be used for local tax relief or for any other public purpose by the

municipality or community." He suggested, "Maybe somewhere in the intent language we could put that in there."

REPRESENTATIVE RAMRAS asked Representative Thomas and the committee to "consider ... [looking] at this as a tool that would be used as a primary tool to cure each individual community's PERS/TRS problem." As a result, he continued, those communities that have a lesser problem would only use a fraction of the community dividend to solve their problems, while those with larger problems, such as the City of Fairbanks, would have to use almost all their dividend money.

REPRESENTATIVE THOMAS responded that he thinks [Representative Ramras' suggestion] would be fine, as long as it is not put into or complicates the actual ballot question. He revealed that he has been speaking with former Governor Walter Hickel about this issue. He said it will be at least two years before the communities can get well.

[8:54:29 AM](#)

CHAIR SEATON indicated that he thinks it's correct to say that the money may be used for tax relief or other public purposes, including fixing "holes" in the retirement system; however, he stated that he doesn't want to leave the impression that the intent is to tell citizens they can no longer come to the legislature and ask for help with problems.

[8:55:54 AM](#)

REPRESENTATIVE RAMRAS indicated that he concurs with Chair Seaton, who, he added, knows better than anyone at the table that the PERS/TRS issue represents a unique problem for the State of Alaska for "the foreseeable horizon." He said he is just considering [HB 144] as a vehicle "to perhaps cure this proportionally." He observed that some communities have handled their PERS problem more responsibly [than others]. He said his own community of Fairbanks has handled the problem less responsibly.

[8:56:31 AM](#)

REPRESENTATIVE ELKINS stated that he thinks the legislature would be wrong to take the ability of the local governing bodies away from "saying how to spend this money." He said, "You want the local governments to be in favor of this issue." Having served on a local municipality, he said it's important to give

the municipalities flexibility, or "this may not be sellable." He added, "And I for one want to see this sell."

8:57:34 AM

CHAIR SEATON said he thinks it's good to get on record that the contributions related to PERS/TRS would be considered "other public purpose".

8:57:52 AM

REPRESENTATIVE GRUENBERG stated his hope that the bill be kept clean, to allow the local government to make the decision. To Mr. Rolfzen, he said the definitions provided are technical and the two regulations look different. He opined that the committee should hear more testimony on the issue, to get some specific legislative history before deciding which definition to use. He noted that in some Native villages there may be "some access that is restricted." He emphasized the importance of being careful before possibly denying some small Native villages access to "these funds."

9:01:00 AM

KEVIN RITCHIE, Alaska Municipal League (AML), said AML urges the committee to move the bill out of committee. He thanked the sponsor of the bill and reiterated that the original concept of this issue belonged to former Governor Walter Hickel. Mr. Ritchie opined that Governor Hickel is a community advocate who reflects the spirit of the [Alaska State] Constitution. Much of the focus of the constitution is on strong communities and making decisions. In that regard, he said, the sharing of funds that belong to everybody in the state really is one of the higher purposes of state government. He said one of the basic principals of the constitution is allowing people in communities to make their own decisions regarding how to provide the best services and meet situations as they arise.

MR. RITCHIE said, "This doesn't say, 'Here's some free money to go do something with'; this is part of the overall structure of state government, which would allow municipalities to ... communicate with the state about needs and issues." He said the state would rightly decide, "We think you can get by with this; we're not going to deal with a particular issue." He said the issue of PERS/TRS might be one of the negotiation discussions with local government. He continued as follows:

Obviously we've not been totally successful in getting state government to do everything we've ever asked. I think there's a very strong bargaining tool there, and that in the future what happens with communities and the community dividend will depend still on that relationship between the state and its communities. However, communities will be more ... active in solving their own problems, and I think that can only be a good thing for the state of Alaska.

MR. RITCHIE said one of the reasons that AML has supported the community dividend concept for so long is because of its belief in strong communities and moving some more of the decision-making ability back down to the community level.

MR. RITCHIE recognized Representative Carl Moses for having introduced a similar bill for many years and being a strong advocate "for this concept." He said one of the reasons this year or next may be an opportune time to bring this issue before the public is that local taxes are becoming a significant issue. At this point, he noted, because there are no state taxes, there are low overall taxes in Alaska, but in many cases there are some of the highest property taxes in the U.S. He added, "In some cases [Alaska ranks] seventeenth in the U.S. in our larger communities." He said he thinks the public is probably willing to consider a plan that could, for the long term, make it possible to provide good schools and local services, [without] increasing property or sales tax. Mr. Ritchie noted that although Alaska is competitive with the rest of the world, the state's cost are higher.

MR. RITCHIE advocated for HB 49 to create a small revenue sharing program. He revealed, "This year you've lost 10 percent of the cities in rural Alaska; they just don't work any more - they don't have meetings [and] they don't provide services." In some cases, he continued, those services are being picked up by tribal organizations or nonprofit groups, but in some cases they don't exist any more. He said public safety has taken a nose dive. During medical emergencies, sometimes people can't get to the airport because of bad roads, or the airport isn't open. He added, "So, we're really seeing suffering in rural Alaska." Mr. Ritchie surmised that by this time next year, if a revenue sharing bill doesn't pass, half of the cities in rural Alaska will be lost. He reported that 10 percent have been lost so far. The Department of Commerce, Community & Economic Development has a list of 17 communities so far in debt that it's unlikely they'll be able to survive, and another 39

communities that have made serious cuts in their local services that affect the public.

MR. RITCHIE reminded the committee that "this is an election," and he asked them to consider what the public would want. He noted that in 1999 an election was held regarding the permanent fund, and that election was a disaster. He said, "If that were to happen to this issue, of course, that would be a disaster for communities." However, he mentioned an election held in 2002 regarding the tax cap. He said, "The tax cap election sort of gets at some of the heart of what we're really talking about in a community dividend." He said it was about being able to build schools, provide good education and good roads, and to keep taxes as low as possible. When that election initiative was originally put on the ballot, polling was conducted, and 70 percent of the people polled thought that limiting taxes through a statewide tax cap was a pretty good idea. After a yearlong campaign, the final election showed a flip in numbers - 70 percent of Alaskans thought it was a bad idea - and [the tax cap] failed in every precinct in the state. He said, "What that required was a huge effort, and we have yet to bring that nucleus together for our communities."

MR. RITCHIE emphasized that that work must be done. He clarified, "If we can't get the communities to buy into that, including schools, business organizations, and so on, then this may not be the right time to bring this forward. And so, we're going to continue working on that and get back to you." Notwithstanding that, he reiterated his recommendation that HB 144 be moved out of committee. Mr. Ritchie reminded the committee that, in a campaign, the public will look to the legislature and the governor for some guidance; therefore, he said he hopes that if the bill passes, it will be with "general support, or at least not active advocacy against it."

[9:10:35 AM](#)

CHAIR SEATON said he thinks the language regarding adjusting for inflation may "raise a huge target for opposition," because some people may say that all the earnings of the fund may be consumed. He asked Mr. Ritchie to comment.

[9:11:47 AM](#)

MR. RITCHIE responded that at this point he doesn't have an opinion to share [from AML], because the organization has not

"run the language." He added, "We will be, hopefully, giving that kind of testimony in the future if it continues forward."

9:12:17 AM

REPRESENTATIVE GRUENBERG said he would like to see the bill move; however, he wants to ensure "this thing is done right." He stated his concern about how the money will really be used and who decides how it will be used. He said he hopes that the committee will keep the bill clean.

9:14:19 AM

REPRESENTATIVE GATTO said Mr. Ritchie hit a nerve when he brought up the statewide tax cap. He said he thinks what defeated the tax cap was that the people in Anchorage, who comprise the largest section of the population, were going to determine how much any other community would be able to tax. He said the issue before the committee is about wanting to give [communities] money and telling them what to do with it, which he said is the same issue [as the tax cap]. He said he is hesitant to put something out to the general population where everyone gets a vote, "even though it determines how any individual community might want to use something that was part of their resources."

9:16:24 AM

MR. RITCHIE concurred with Representative Gatto that the issue during the 2000 tax cap election was one of local control. He said there really is a strong local control feeling in Alaska communities, called independence and pioneer spirit. That spirit is what killed the tax cap election. He agreed that the way to kill an idea is to make it too complex.

9:17:38 AM

REPRESENTATIVE GATTO said, "It stems from this concept of the permanent fund dividend. He asked everyone to imagine distributing the permanent fund dividend (PFD) and then specifying on what people can and cannot spend it.

9:18:00 AM

CHAIR SEATON pointed out that the only place in the bill that specifies how the money can be spent occurs on page 2, lines 4-5. He asked Representative Gatto, "Is your interpretation that

it may be used for any public purpose?" He also asked, "You're not saying that you would want these to be used for private purposes, are you?"

[9:18:22 AM](#)

REPRESENTATIVE GATTO explained that his concern is that that language can be used by individuals who are good at defining what a public purpose is.

[9:20:28 AM](#)

REPRESENTATIVE GATTO voiced a concern that the 25 people could all belong to one family, and he suggested that it is possible that the state may be handing out \$25,000 a year to a family of 25 living in a remote location.

MR. ROLFZEN concurred that that scenario could take place; there is nothing in the bill saying that group of 25 people has to be comprised of separate families.

[9:22:30 AM](#)

REPRESENTATIVE GRUENBERG reiterated his concern regarding the definitions of phrases in the bill. In response to a question from Chair Seaton, he emphasized that he has no desire to change a word of the related regulations.

CHAIR SEATON suggested including a letter of intent, which would state the committee's intent to maintain the definition of revenue sharing currently used [by DCCED].

[9:24:29 AM](#)

REPRESENTATIVE GRUENBERG clarified that he wants to determine what the committee means in the bill by the phrase "social unit". He said he wants Mr. Ralston to "walk us through these two regulations and point up any differences." He said the committee must determine "which one we want to reference," which will take time.

CHAIR SEATON responded that the committee could do that after it considers amendments.

REPRESENTATIVE GRUENBERG asked Mr. Ralston to provide the committee with a "side by side" analysis.

CHAIR SEATON said that a committee vote may be necessary to see "if we want to go there." He said currently there are a number of programs that are administered by the state addressing revenue sharing, community dividends, and fish taxes, and he does not want to get into revamping what a social unit is in the state. He stated his preference is for the committee to use the definition that has been used for years for the revenue sharing program.

REPRESENTATIVE GRUENBERG said the people voting on this issue will need to know what it means.

CHAIR SEATON indicated that simplifying the regulation beyond what's adopted in regulation is beyond the scope of the bill. He said he would accept a motion from the committee to "either look at changing that or adopting those."

[9:28:41 AM](#)

MR. ROLFZEN, in response to Chair Seaton, confirmed that the regulation found in 3AC.130.093 is used for the funding programs, including revenue sharing, capital-matching grants, and financial aide programs. He said the Local Boundary Commission (LBC)] regulation is used infrequently, almost exclusively in conjunction with forming a borough, where it is necessary to have two bonafide communities within an area.

CHAIR SEATON closed public testimony.

[9:29:44 AM](#)

REPRESENTATIVE GATTO moved Conceptual Amendment 1 as follows:

On page 1, line 13:  
Delete "adjusted for inflation"

On page 2, lines 12-13:  
Delete "adjusted for inflation"

CHAIR SEATON asked if there was any objection to Conceptual Amendment 1. There being none, Conceptual Amendment 1 was adopted.

[9:30:39 AM](#)

REPRESENTATIVE LYNN moved to adopt Conceptual Amendment 2 as follows [original punctuation provided, including some handwritten changes]:

Page 2, Line 4 [sic] at the end of sentence ad [sic] the sentence:

"however a municipality that levies property taxes shall use no less than 20% of the Community Dividend proceeds to lower property taxes or for sales tax relief.

**TEXT TO READ:**

The community dividend may be used for local tax relief or for any other public purpose by the municipality or community, however a municipality that levies property taxes shall use no less than 20% of the Community Dividend proceeds to lower property taxes and or for sales tax relief.

REPRESENTATIVE ELKINS objected to Conceptual Amendment 2. He said he likes the overall amendment, but he has problems "telling the local unit how to spend this money." He said he thinks the 20 percent ties the hand of the local municipality to use its judgment.

REPRESENTATIVE LYNN responded that he thinks "it" serves the public purpose of not taxing homeowners out of their homes. He said the earnings from the permanent fund belong to everyone in Alaska, not just to the municipalities. He said he thinks there ought to be sideboards that would ensure that at least 20 percent of the fund would go into helping Alaskans keep their homes. He said people can understand property and sales taxes.

CHAIR SEATON noted that there are a number of communities that get property tax from the pipeline or a pump station. He asked, "Does this mean that 20 percent of this money would have to go back to reimbursing the oil company for the property tax on the pipeline, since the pipeline is the predominate piece of property that flows through those communities?"

REPRESENTATIVE LYNN said he doesn't have an answer to that question.

REPRESENTATIVE GRUENBERG said: "This would get money to only some people in the state: those people who dwell in

municipalities that have local taxes. It doesn't get any money to the people in the bush who don't have local taxes and probably need the money even more than a lot of people in our districts ...."

REPRESENTATIVE GATTO remarked that if a property tax is zero and 20 percent is applied to that, "then you can't do what's required in the amendment."

REPRESENTATIVE LYNN moved an amendment to Conceptual Amendment 2, so that if there is no property or sales tax in place, then the entire amount would go to the municipality.

CHAIR SEATON objected to the amendment to Conceptual Amendment 2. He said Conceptual Amendment 2 seems to read that it would only be for those communities that have a sales tax or municipal tax already.

[9:36:57 AM](#)

REPRESENTATIVE ELKINS said he thinks the local municipalities know when they need to fix the potholes that affect everybody in the community, or give property tax relief. The sideboards, he said, will limit [the municipality's] ability to function as a free unit.

[9:38:03 AM](#)

REPRESENTATIVE LYNN withdrew the amendment to Conceptual Amendment 2.

[9:38:31 AM](#)

REPRESENTATIVE GRUENBERG said Version F would require that community dividends go to two types of locations: municipalities that are incorporated in some manner, and social units that are not. Under Conceptual Amendment 2, the only people who would get cash back or relief are those in incorporated areas. He observed that [Conceptual Amendment 2] is saying, "We're not giving you cash, but we're reducing your taxes so you'll have more cash in your pockets." The individuals would get the money if they live in a municipality; however, there is no similar mechanism for people who live in a social unit.

[9:40:50 AM](#)

A roll call vote was taken. Representative Lynn voted in favor of Conceptual Amendment 2. Representatives Gardner, Gruenberg, Elkins, and Seaton voted against it. [Representatives Gatto and Ramras said "pass" and were not asked to vote again.] Therefore, Conceptual Amendment 2 failed.

CHAIR SEATON offered his understanding that there was a question before the committee regarding [his previously suggested] letter of intent, which he said would specify that the legislature intends for the definitions that have been used for municipal revenue sharing and other tax sharing purposes to be the definitions that will be used for "this dividend." He clarified that that language would not be put into the proposition to the voters, but it would be a clear indication of which definition the legislature is using.

[9:41:57 AM](#)

REPRESENTATIVE GRUENBERG reiterated that he would like Mr. Rolfzen to briefly discuss the difference in regulations.

[9:42:24 AM](#)

CHAIR SEATON, as a matter of procedure, moved to send the letter of intent as previously outlined.

[9:42:58 AM](#)

CHAIR SEATON, in response to a question from Representative Gruenberg, clarified that the letter of intent would note that the definition to be used would be that of DCCED, which is 3 AAC 130.093, rather than LBC's definition from 3 AAC 110.920.

GRUENBERG objected [to the motion to include the letter of intent], for purposes of discussion.

[9:43:25 AM](#)

MR. ROLFZEN said he does not deal with the LBC definition. Regarding the revenue-sharing distribution, he listed considerations as follows: density of population, school enrollment, voter enrollment, and issues to indicate that families are acting on a community level versus on an individual level. He indicated that another section of the regulation addresses whether an area is accessible by the public and for what purpose the area is used. For example, it would be determined if the people are there strictly for purposes of

their employment, such as in a cannery or logging camp. Another question would be whether the community is exclusive and only admits those of a certain religion. Mr. Rolfzen concluded, "So, these are all factors we look at very carefully in determining whether or not they're eligible."

CHAIR SEATON illustrated an example whereby a piece of property is owned by someone and used as a ranch, and no one else could buy property there. He surmised that that ranch "wouldn't qualify under these definitions," because it is entirely private property.

MR. ROLFZEN answered that's correct.

REPRESENTATIVE GRUENBERG said he can foresee public access being restricted for at least two reasons: One, because legally nobody had the right to get on the property; or two, because the property is physically isolated, surrounded by a refuge, or has "an unworkable air field." He offered examples whereby access would be restricted at least part of the year. He asked, "Would that be restricted within the meaning of this regulation?"

[9:47:28 AM](#)

MR. ROLFZEN answered, "I would say, 'Absolutely not,' if it's a temporary restriction based on natural circumstances and so on." In response to a question from Representative Gruenberg, he confirmed he is talking about a legal restriction.

[9:47:39 AM](#)

REPRESENTATIVE GRUENBERG asked questions pertaining to the difference in language between the LBC and DCCED definitions and made a suggestion to consider a change in phrasing.

[9:48:28 AM](#)

CHAIR SEATON interjected that Mr. Rolfzen does not represent the LBC, and he stated his intent to "go to the question" regarding the motion to include the letter of intent.

[9:48:55 AM](#)

REPRESENTATIVE GARDNER, regarding the [DCCED] definition of a social unit, noted that it does not address the number of people. She said, "So, our bill that says '25 or more people' would be '25 or more people' in a community as defined in this."

MR. ROLFZEN answered that's correct. He said the population threshold is set in statute, so "they would absolutely have to have at least 25 year-round residents in order to get to the point where we would actually even look at the social unit definition."

[9:49:37 AM](#)

REPRESENTATIVE GRUENBERG clarified that he wanted to know which of the two regulations the committee would "look at."

CHAIR SEATON stated that what the committee has before it is the [DCCED] regulations that are used for all tax and municipal revenue sharing. He said the letter of intent that he has proposed would go forward and say: "Those are the regulations we are going to use." He said Representative Gruenberg could [uphold his objection].

REPRESENTATIVE GRUENBERG responded, "No, I'm not."

CHAIR SEATON asked if there was any further objection to the letter of intent. [No further objections were stated and the letter of intent was treated as adopted.]

[9:50:20 AM](#)

REPRESENTATIVE GATTO moved Amendment 3 as follows:

On page 2, line 1:  
Delete "25"  
Insert "50"

REPRESENTATIVE GATTO explained that he wanted the number to be higher in order to avoid "some amount of abuse" that he said he suspects would occur.

REPRESENTATIVE GRUENBERG objected. He asked the sponsor if there were any groups that would be excluded as a result of [Amendment 3].

[9:51:30 AM](#)

REPRESENTATIVE THOMAS said there is a list of population included in the committee packet. He stated that he does not know of any families with 25 people in them. He indicated that he could trust [DCCED] to implement the regulations. He said,

"In fear of losing ... some of the smaller villages, I guess I would oppose the amendment."

[9:51:50 AM](#)

REPRESENTATIVE THOMAS, in response to a question from Chair Seaton, clarified that he does not have a list of population bases for the unorganized [communities].

[9:53:00 AM](#)

REPRESENTATIVE THOMAS, in response to comments by Representatives Gardner and Gruenberg, reiterated that he opposes [Amendment 3].

[9:53:57 AM](#)

A roll call vote was taken. Representatives Gatto and Lynn voted in favor of Amendment 3. Representatives Gruenberg, Elkins, Ramras, and Seaton voted against it. [Representative Gardner said, "pass" and was not asked to vote again.] Therefore, Amendment 3 failed by a vote of 2-4.

[9:54:05 AM](#)

REPRESENTATIVE GRUENBERG moved to report CSHB 144, Version 24-LS0517\F, Cook, 4/6/05, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 144(STA) was reported out of the House State Affairs Standing Committee.

HB 201-PERM. FUND DIVIDEND APPS OF MILITARY

[9:55:22 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 201, "An Act relating to an application for a permanent fund dividend for a member of the armed forces of the United States serving on active duty outside of the state; and providing for an effective date."

REPRESENTATIVE LYNN moved to adopt the committee substitute (CS) for HB 201, Version 24-LS0674\G, Cook, 4/5/05, as a work draft.

REPRESENTATIVE GRUENBERG objected for discussion purposes.

[9:56:07 AM](#)

CHAIR SEATON noted that the sponsor of the bill had objected "to the amendment."

[9:56:22 AM](#)

ERICH DeLAND, Staff to Representative Mike Chenault, Alaska State Legislature, testifying on behalf of Representative Chenault, sponsor, stated, "We will accept this amendment at this point."

[9:56:37 AM](#)

REPRESENTATIVE GRUENBERG offered Conceptual Amendment 1, which would require the applicant to file an affidavit with the division, "stating that they meet the requirements for that year's PFD, which would be the intent to return." He clarified that it could be filed anytime, including before the person "left the states."

CHAIR SEATON asked if there was any objection to Conceptual Amendment 1.

[9:57:28 AM](#)

MR. DeLAND, in response to Chair Seaton, indicated that the sponsor would support [Conceptual Amendment 1].

[9:57:36 AM](#)

REPRESENTATIVE RAMRAS stated for the record that, if there were more time, he would object to [Conceptual Amendment 1]; however, he emphasized that he is "anxious to get [HB] 201 out of here to protect our troops."

REPRESENTATIVE ELKINS responded, "Amen."

[9:57:54 AM](#)

CHAIR SEATON noted that [there being no objections, Conceptual Amendment 1] was adopted.

CHAIR SEATON moved to adopt [Conceptual] Amendment 2, to add language on page 1, line 12, after the word "eligible", to indicate that the member of the armed forces can be eligible at any time during the application period, not necessarily for the whole period.

MR. DeLAND said the sponsor would support [Conceptual Amendment 2].

CHAIR SEATON announced that there being no objection, [Conceptual Amendment 2] was adopted.

9:59:05 AM

REPRESENTATIVE GATTO directed attention to language on [page 1], line 3, that read, "**eligible for hostile fire or imminent danger pay**". He asked if that phrase is defined in military regulations, "so that it's not someone else's decision, but clearly a military decision."

REPRESENTATIVE GRUENBERG responded, "The answer is 'yes'."

9:59:19 AM

REPRESENTATIVE LYNN stated that he would like to see the bill broadened, but would also like to see it moved from committee.

REPRESENTATIVE LYNN moved to report CSHB 201, Version 24-LS0674\G, Cook, 4/5/05, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 201(STA) was reported out of the House State Affairs Standing Committee.

HB 177-STATE EMPLOYEE RETIREMENT CONTRIBUTIONS

10:00:14 AM

CHAIR SEATON announced that the last order of business was HOUSE BILL NO. 177, "An Act relating to employee and employer contributions to the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

CHAIR SEATON said the bill looks at the distribution of past service costs between employers and employees. He said he knows the full committee is not in agreement over the bill, but nevertheless would like to see the committee move the bill out of the House State Affairs Standing Committee and let the House Finance Committee work on it.

CHAIR SEATON [moved to report HB 177] out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GRUENBERG objected. He explained, "I don't think we're ready to move these pension bills yet."

CHAIR SEATON said the committee would have the "full range of pension elements" before it. He said there are questions about the constitutionality of HB 177 and he would like to see the House Finance Committee work on the bill. In response to a suggestion by Representative Gruenberg that the bill should be heard by the House Judiciary Standing Committee if it has questionable legality, he said that committee's chair could request to hear the bill.

REPRESENTATIVE GRUENBERG said he would remove his objection to moving the bill if the committee clearly states that it wants the bill heard by the House Judiciary Standing Committee prior to its being heard by the House Finance Committee.

REPRESENTATIVE GARDNER concurred.

CHAIR SEATON said, "That will be fine with me."

REPRESENTATIVE GRUENBERG removed his objection.

CHAIR SEATON announced that, there being no further objections, HB 177 was moved out of the House State Affairs Standing Committee with individual recommendations, the accompanying fiscal notes, and a letter to the Speaker of the House requesting a House Judiciary Standing Committee referral.

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:04 a.m.