

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

April 3, 2018

3:18 p.m.

MEMBERS PRESENT

Representative Jonathan Kreiss-Tomkins, Chair
Representative Gabrielle LeDoux, Vice Chair
Representative Chris Tuck
Representative Adam Wool
Representative Chris Birch
Representative DeLena Johnson
Representative Gary Knopp

MEMBERS ABSENT

Representative Andy Josephson (alternate)
Representative Chuck Kopp (alternate)

COMMITTEE CALENDAR

PRESENTATION(S): OVERVIEW OF PERMANENT FUND PROPOSALS

- HEARD

HOUSE BILL NO. 407

"An Act relating to the duties of the Alaska Public Offices Commission; clarifying the limits on making, accepting, and reporting certain cash campaign contributions; relating to campaign finance reporting by certain groups; relating to the identification of certain campaign communications; increasing the time the Alaska Public Offices Commission has to respond to a request for an advisory opinion; repealing a reporting requirement for certain contributions; relating to propositions and initiative proposals; and providing for an effective date."

- HEARD & HELD

SENATE CONCURRENT RESOLUTION NO. 17

Proclaiming April 2018 as Sexual Assault Awareness Month.

- HEARD & HELD

CS FOR SENATE BILL NO. 163 (STA)

"An Act relating to commercial motor vehicles."

- HEARD & HELD

APPROVAL OF INTRODUCTION OF POTENTIAL COMMITTEE LEGISLATION

HOUSE BILL NO. 83

"An Act relating to new defined benefit tiers in the public employees' retirement system and the teachers' retirement system; providing certain employees an opportunity to choose between the defined benefit and defined contribution plans of the public employees' retirement system and the teachers' retirement system; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 407

SHORT TITLE: APOC; CAMPAIGN CONTRIBUTIONS/REPORTING

SPONSOR(S): STATE AFFAIRS

03/26/18 (H) READ THE FIRST TIME - REFERRALS
03/26/18 (H) STA, FIN
04/03/18 (H) STA AT 3:15 PM GRUENBERG 120

BILL: SCR 17

SHORT TITLE: APRIL 2018:SEXUAL ASSAULT AWARENESS MONTH

SPONSOR(S): MEYER

02/16/18 (S) READ THE FIRST TIME - REFERRALS
02/16/18 (S) STA
02/27/18 (S) STA AT 3:30 PM BUTROVICH 205
02/27/18 (S) Moved SCR 17 Out of Committee
02/27/18 (S) MINUTE(STA)
02/28/18 (S) STA RPT 5DP
02/28/18 (S) DP: MEYER, WILSON, GIESSEL, COGHILL, EGAN
03/01/18 (S) TRANSMITTED TO (H)
03/01/18 (S) VERSION: SCR 17
03/05/18 (H) READ THE FIRST TIME - REFERRALS
03/05/18 (H) STA
03/22/18 (H) STA AT 3:15 PM GRUENBERG 120
03/22/18 (H) -- Rescheduled to 3/23/18 at 8:45 am --
03/23/18 (H) STA AT 8:45 AM GRUENBERG 120
03/23/18 (H) -- Rescheduled from 3/22/18 --
03/29/18 (H) STA AT 3:15 PM GRUENBERG 120
03/29/18 (H) <Bill Hearing Canceled>

04/03/18 (H) STA AT 3:15 PM GRUENBERG 120

BILL: SB 163

SHORT TITLE: DEFINITION OF COMMERCIAL MOTOR VEHICLES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/26/18 (S) READ THE FIRST TIME - REFERRALS
01/26/18 (S) TRA, STA
03/01/18 (S) TRA AT 1:30 PM BUTROVICH 205
03/01/18 (S) Heard & Held
03/01/18 (S) MINUTE(TRA)
03/06/18 (S) TRA AT 1:30 PM BUTROVICH 205
03/06/18 (S) Moved SB 163 Out of Committee
03/06/18 (S) MINUTE(TRA)
03/07/18 (S) TRA RPT 1DP 1NR 1AM
03/07/18 (S) NR: STEDMAN
03/07/18 (S) DP: EGAN
03/07/18 (S) AM: WILSON
03/13/18 (S) STA AT 3:30 PM BUTROVICH 205
03/13/18 (S) Moved CSSB 163(STA) Out of Committee
03/13/18 (S) MINUTE(STA)
03/14/18 (S) STA RPT CS 4DP 1NR SAME TITLE
03/14/18 (S) DP: MEYER, GIESSEL, COGHILL, EGAN
03/14/18 (S) NR: WILSON
03/21/18 (S) TRANSMITTED TO (H)
03/21/18 (S) VERSION: CSSB 163(STA)
03/22/18 (H) READ THE FIRST TIME - REFERRALS
03/22/18 (H) TRA, STA
03/27/18 (H) TRA AT 1:15 PM BARNES 124
03/27/18 (H) Moved CSSB 163(STA) Out of Committee
03/27/18 (H) MINUTE(TRA)
03/28/18 (H) TRA RPT 5DP 1NR
03/28/18 (H) DP: KOPP, CLAMAN, NEUMAN, WOOL, STUTES
03/28/18 (H) NR: SULLIVAN-LEONARD
04/03/18 (H) STA AT 3:15 PM GRUENBERG 120

BILL: HB 83

SHORT TITLE: TEACHERS & PUB EMPLOYEE RETIREMENT PLANS

SPONSOR(s): KITO

01/27/17 (H) READ THE FIRST TIME - REFERRALS
01/27/17 (H) L&C, STA, FIN
03/25/17 (H) L&C AT 1:00 PM BARNES 124
03/25/17 (H) Heard & Held
03/25/17 (H) MINUTE(L&C)
04/12/17 (H) L&C AT 3:15 PM BARNES 124
04/12/17 (H) Scheduled but Not Heard

04/14/17	(H)	L&C AT 3:15 PM BARNES 124
04/14/17	(H)	Scheduled but Not Heard
04/19/17	(H)	L&C AT 3:15 PM BARNES 124
04/19/17	(H)	<Bill Hearing Canceled>
02/16/18	(H)	L&C AT 3:15 PM BARNES 124
02/16/18	(H)	Heard & Held
02/16/18	(H)	MINUTE(L&C)
02/17/18	(H)	L&C AT 1:00 PM BARNES 124
02/17/18	(H)	Heard & Held
02/17/18	(H)	MINUTE(L&C)
02/19/18	(H)	L&C AT 3:15 PM BARNES 124
02/19/18	(H)	Moved HB 83 Out of Committee
02/19/18	(H)	MINUTE(L&C)
02/21/18	(H)	L&C RPT CS(L&C) 4DP 2DNP
02/21/18	(H)	DP: STUTES, WOOL, JOSEPHSON, KITO
02/21/18	(H)	DNP: SULLIVAN-LEONARD, BIRCH
03/20/18	(H)	STA AT 3:15 PM GRUENBERG 120
03/20/18	(H)	-- MEETING CANCELED --
03/27/18	(H)	STA AT 3:15 PM GRUENBERG 120
03/27/18	(H)	Heard & Held
03/27/18	(H)	MINUTE(STA)
03/29/18	(H)	STA AT 3:15 PM GRUENBERG 120
03/29/18	(H)	<Bill Hearing Canceled>
04/03/18	(H)	STA AT 3:15 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE JENNIFER JOHNSTON

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced an overview of Permanent Fund proposals.

ROBERT ERVINE, Staff
Representative Jennifer Johnston
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Co-presented a PowerPoint on "Overview of Permanent Fund Proposals."

REID MAGDANZ, Staff
Representative Johnathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Co-presented PowerPoint on "Overview of Permanent Fund Proposals."

DAVID TEAL, Director
Legislative Finance Division
Legislative Agencies and Offices
Juneau, Alaska

POSITION STATEMENT: Answered questions during the Presentation(S): Overview of Permanent Fund Proposals.

CATHY SCHLINGHEYDE, Staff
Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a sponsor statement and section-by-section analysis of HB 407 on behalf of House State Affairs Standing Committee, prime sponsor.

HEATHER HEBDON, Executive Director
Alaska Public Offices Commission (APOC)
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 407.

EDRA MORLEDGE, Staff
Senator Kevin Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor of SCR 17, Senator Kevin Meyer.

DANIEL BYRD, Chief, Commercial Vehicle Enforcement
Anchorage Office, Division of Measurement Standards & Commercial Vehicle Enforcement
Department of Transportation & Public Facilities (DOT&PF)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of SB 163.

JOHN BINDER, Deputy Commissioner
Office of the Commissioner
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 163.

EDRIC CARRILLO, Staff
Representative Sam Kito
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented the committee substitute (CS) for HB 83 on behalf of Representative Kito, prime sponsor.

CHRIS CAIRNS, Staff

Information Technology

Juneau School District;

Representative

Alaska Public Employees Association (APEA)

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 83.

ALICIA HUGHES-SKANDIJS, Member

Alaska State Employees Association (ASEA)

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 83.

TIM PARKER, President

NEA-Alaska

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 83.

ACTION NARRATIVE

[3:18:40 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:18 p.m. Representatives Kreiss-Tomkins, Knopp, Wool, LeDoux, Birch, Johnson were present at the call to order. Representative Tuck arrived as the meeting was in progress.

PRESENTATION(S): Overview of Permanent Fund Proposals

[3:20:07 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be a presentation, entitled "Overview of Permanent Fund Proposals."

[3:20:18 PM](#)

REPRESENTATIVE JENNIFER JOHNSTON, Alaska State Legislature, stated today's presentation resulted from three legislators holding a rather robust discussion on the Permanent Fund (PF) and the method the legislature would use to address the fund

going forward. Although the proposals used three very different approaches, each of the three methods was right. All three legislators agreed that the fund should be preserved for the future. Each proposal used different structures and differed in whether the changes should be made in the Alaska Constitution or in statute. She stated the overarching goal of these three legislators was to maintain the PF for future generations.

[3:22:03 PM](#)

ROBERT ERVINE, Staff, Representative Jennifer Johnston, Alaska State Legislature, introduced himself.

REID MAGDANZ, Staff, Representative Johnathan Kreiss-Tomkins, Alaska State Legislature, introduced himself.

[3:22:25 PM](#)

MR. ERVINE said the presentation prepared by himself and Mr. Magdanz highlighted critical decision points facing the legislature regarding the PF. There seemed to be consensus in the legislature that the earnings reserve fund would play some role in solving the budget crisis either this year or next year. During the last committee hearing, the committee heard from the CEO of the Alaska Permanent Fund Corporation (APFC), Angela Rodell, and the director of the Legislative Finance Division (LFD), David Teal. They framed the discussion in a thorough manner. He referred to a diagram on the first slide of his PowerPoint, titled "Overview of Permanent Fund Proposals," which described two sections of the presentation to orient legislators: a discussion on the draw amount and secondly on the distribution and dividends. The smaller boxes represented themes that would be discussed in more detail. He offered to provide members with a broader perspective and Mr. Magdanz would provide more detail.

[3:23:44 PM](#)

REPRESENTATIVE WOOL recalled during the previous presentation by Ms. Rodell and Mr. Teal the concept of merging the earnings reserve account (ERA) with the corpus of the PF. He asked for further clarification on which square on slide 1 represented that merger.

MR. ERVINE answered that this theme would arise throughout the PowerPoint. He responded that the "Earnings Reserve" box would predominately be the focus of the discussions.

MR. ERVINE directed attention to slide 2, titled "Draw Amount." He stated that fundamentally the conversation about the draw amount was important because it established the long-term goals versus short-term needs and wants. He explained that a smaller draw would mean PF growth but would leave larger deficits, and a larger draw would mean more revenue for public services but potentially could create a larger budget gap in the future.

[3:24:54 PM](#)

MR. MAGDANZ explained that there were two essential ways to decide how to draw funds from the PF. The first and most commonly proposed was the [slide 3, titled,] "Percent of Market Value Approach," often referred to as the POMV. Most of the proposals currently before the legislature took this approach, often used in large wealth funds worldwide, whether funds were university endowments, sovereign wealth funds, or foundation endowments.

[3:25:24 PM](#)

MR. MAGDANZ stated that a POMV approach simply meant the legislature would withdraw a set percentage of the fund's total value each year for spending. Using this approach, the legislature would need to decide the percentage amount to draw. Legislative public discussions and proposals have considered a variety of percentages ranging from 4 percent to 5.25 percent, with most legislative proposals - in the form of bills and amendments to the Alaska Constitution - falling in the 4.75 percent to 5 percent range of the POMV. He underlined that 5 percent has widely been considered the maximum draw rate while still minimizing the risk of reducing the real value of the PF over the long term, he said. As Mr. Ervine said, the decision to lower the draw rate would mean the less money will be available now and in the near term but would equate to greater potential for fund growth over the long term. Whereas higher draw rates would mean more money would be available now, the fund would grow at a slower rate, he said.

[3:26:41 PM](#)

REPRESENTATIVE BIRCH recalled an earlier committee discussion on the education fund. He further recalled a discussion on a POMV approach that indicated that the legislature could potentially erode the corpus or core value of the fund. He shared his understanding that the corpus of the PF was \$40 billion, and the

remainder of the fund resided in the ERA or in the constitutional budget reserve (CBR). He asked whether the core fund amount could be eroded via a POMV draw.

MR. MAGDANZ offered to discuss it more fully later; however, he offered the quick answer was that different things could be done with the principal and still allow the legislature to use a POMV for calculating the draw.

[3:28:14 PM](#)

MR. MAGDANZ directed attention to slide 4, titled "Earnings-Based Draw," which identified another approach to consider when taking a draw. Committee members may be familiar with this approach from the current statutory dividend formula, which uses an earnings-based draw. Instead of taking a portion of the total value of the fund, a portion of the recent earnings would be used. The main distinction between an earnings-based draw and a POMV approach was that more volatile draws occurred with an earnings-based approach because the amount available is more responsive to short-term market conditions. That becomes visible in reviewing how the dividend values have changed over the past 15 years. When the stock market crashed, dividends fell very fast and when the market increased, dividend values rose quickly, he said. Thus, using any portion of the draw to fund the budget would result in a more volatile draw, noting obviously many people wish to avoid volatility.

[3:29:19 PM](#)

MR. MAGDANZ pointed out only two of the proposed [Alaska] constitutional amendments before the legislature propose an earnings-based draw - SJR 1 and HJR 34 - one of which is in this committee. Both proposals take the statutory language for the permanent fund dividend (PFD) and place it in the constitution, he said.

[3:29:39 PM](#)

MR. MAGDANZ turned to slide 5, titled "Lookback Options," noting another consideration when making an overall draw amount is whether to use a lookback period. This simply meant instead of basing the draw on the prior year's fund value or earnings, the draw would be based off the average fund value for the past five years or average earning over the past year. The main effect of using a lookback period was to achieve a more stable funding stream. He directed attention to the chart on slide 5, which

showed some bills or resolutions before the legislature with a five-year lookback. Some proposals do not include a lookback period, he said.

[3:30:22 PM](#)

MR. MAGDANZ directed attention to slide 6, titled "Cap Draw at Prior Year Net Income," stating that many of the proposed constitutional amendments before the legislature included this provision. Essentially, this meant that whatever the draw amount, whether it was set at 4 percent, 4.5 percent, or 5 percent, or even at three-fourths of the earnings, the draw would be limited to no more than what the PF earned in the prior year. The effect of the cap draw at prior year net income was that the legislature could not spend more than the fund earned in the prior year. This provides stronger protection for the fund, he said. However, the legislature would not have any funds available to pay for dividends or any other purposes if the fund had a low return or no return for one year.

[3:31:14 PM](#)

REPRESENTATIVE KNOPP asked, in terms of a cap draw at prior year net income, whether this considered a five-year lookback model. He further asked whether this model would provide more protection for the corpus of the PF.

MR. ERVINE answered that this would not necessarily provide more protection for the corpus, which was already well protected; however, it would provide more protection for the overall value of the fund, such that the value of the fund would not decrease in instances with a downturn in the market.

[3:32:22 PM](#)

REPRESENTATIVE KNOPP wondered if this method would create instability.

MR. ERVINE agreed that was one of the big concerns.

CHAIR KREISS-TOMKINS cautioned that having a cap draw at prior year net income could result in zero dollars for dividends and services with a downturn in the market.

[3:33:00 PM](#)

REPRESENTATIVE TUCK recalled that HJR 23 had a lookback of only one year and the House Finance Committee's new committee substitute (CS) contained a five-year lookback. He asked how that would remove the cap or if there were other changes to HJR 23 that removed the cap.

MR. MAGDANZ responded that he was almost certain that the CS for HJR 23 removed the language relating to the cap on prior-year net income and added a 5-year lookback.

[3:33:48 PM](#)

MR. ERVINE turned to slide 8, titled "Earnings Reserve," noting that currently the PF consisted of the principal and the earnings reserve account (ERA). The principal has been considered "unspendable" and has been perceived to be in the [Alaska] constitution. The legislature can appropriate from the ERA at any point for any purpose, he said.

MR. MAGDANZ turned to slide 9, titled "Maintain ERA and Principal as Separate Accounts," and remarked that this was what Representative Wool previously asked about. The legislature has two options with respect to the ERA. These options would be present if considering a constitutional amendment; however, a statutory draw, such as with SB 26, would retain the status quo regarding the ERA.

MR. MAGDANZ said the first option would be to maintain the ERA and the principal of the PF as separate accounts as they are today. As Representative Birch noted, this has the effect of establishing a floor value for the fund. Whatever the principal amount, it cannot be drawn into, he said. If the fund falls to that amount and the ERA was spent, nothing more than the income spun off in the prior year would be available for spending. He characterized this as creating essentially the tradeoff for maintaining the ERA such that the principal would establish a floor value to the PF that one cannot fall below. For example, if market returns were low and the legislature made draws from the ERA, once the account hits zero, there would not be funds available to pay for dividends or services in times when the state has a deficit.

[3:36:04 PM](#)

REPRESENTATIVE BIRCH related his understanding that the current PF balance was \$65 billion fund, with \$40 billion in the corpus.

He asked whether the difference, the \$25 billion, was all in the ERA.

MR. ERVINE answered that the ERA balance was roughly \$15 billion to \$17 billion and \$40 billion was attributed to the corpus of the fund, with \$10 billion in unrealized gains.

[3:36:37 PM](#)

MR. MAGDANZ turned to slide 10, titled "Combine ERA and Principal into Single Endowment Fund." A second option would be to combine the ERA and the principal of the fund into a single endowment fund, he said. He suggested that was what Representative Birch indicated with his question. He characterized this as a pure endowment or true endowment approach.

[3:37:06 PM](#)

REPRESENTATIVE WOOL recalled Ms. Rodell mentioned that the PF was considered an endowment.

MR. MAGDANZ responded that was the reason for "pure" or "true" because the PF is an endowment. He directed attention to the last bullet point, which read, "Nearly all large funds are managed as a single endowment."

[3:37:45 PM](#)

CHAIR KREISS-TOMKINS interjected that his recollection differed. He recalled that Ms. Rodell indicated the APFC was noted for its prudent investment practices as the best practice in the world, along with New Zealand, not because the PF had an endowment model.

MR. MAGDANZ agreed that matched his recollection. He offered his belief that Ms. Rodell referred to the PF as a sovereign wealth fund, but it was not managed in the investment world as an endowment fund. He offered that the PF distinction between the principal and the earnings was considered a highly unusual accounting approach as compared to other sovereign wealth funds. Management as a single fund was a much more common approach. The main advantage to the PF approach was it would always provide a funding stream, an important aspect to funding programs or dividends.

[3:39:26 PM](#)

MR. MAGDANZ recalled that the management of the fund as a single endowment came up in the discussion of HB 213. In times with a prolonged market downturn, the total fund value could fall lower than in the case of a separate principal, he said. Setting the draw rate - 4 percent to 5 percent - that would allow the fund to be stable or to grow in real terms; however, in the short term in a "pure endowment" model, the fund value could go lower than in models in which the principal was protected.

[3:40:00 PM](#)

MR. ERVINE turned to slide 11, titled "Overview of Permanent Fund Proposals." Under current law, the legislature can appropriate any amount from the ERA for any purpose which was important at the time. Hypothetically, the legislature could appropriate \$5 billion from the ERA this year for the budget and if so, the APFC would need to liquidate the assets to meet the demands for that cash. This has serious implications and consequences when it comes to the management of the fund. Essentially, the APFC must change its investment strategy to allow funds to be available for spending at the "whims" of the legislature, which limits potential future returns and can cause serious problems.

MR. ERVINE turned to slide 12 titled, "Ad-Hoc Draws," stating that prohibiting ad hoc draws is one of the most important ways to ensure sustainability of the ERA and the PF going forward.

[3:41:07 PM](#)

MR. MAGDANZ reminded members that Mr. Teal also spoke somewhat to this choice. As Mr. Ervine said, prohibiting ad hoc draws on the ERA would require a constitutional amendment. One cannot prohibit the legislature from accessing funds from the ERA with a majority vote with a statutory framework. Some of the proposed constitutional amendments continue to allow ad hoc draws and a couple, including one introduced by Representative Kreiss-Tomkins, prohibit them. Some proposals before the legislature would raise the bar for accessing the ERA outside the 4 percent to 5 percent structured draw but leave the funds accessible in certain cases.

[3:42:02 PM](#)

MR. ERVINE turned to slide 13 titled, "Overview of Permanent Fund Proposals," stating that inflation-proofing becomes an

important part of the conversation if ad hoc draws are allowed or disallowed. In the past few years, the legislature has opted not to inflation-proof the PF, which was one of the things Ms. Rodell objected to during her presentation last week.

[3:42:27 PM](#)

MR. MAGDANZ turned to slide 14 titled, "Inflation Proofing Transfers: A tricky question," stating that inflation-proofing was one of the more confusing aspects of the PF management structure. Primarily, the importance of inflation-proofing also depended on the other choices being made, for example, in terms of handling the ERA or treating ad hoc draws. He offered to discuss this further in future slides. He clarified when using a POMV draw, there is a distinction between inflation-proofing the entire fund - principal plus ERA - and inflation-proofing the principal itself.

[3:43:16 PM](#)

MR. MAGDANZ turned to slide 15, titled "Scenario: Ad-hoc draws allowed from the earnings reserve," noting there were three scenarios to consider. The first would maintain a line between the principal and the ERA, while allowing ad hoc draws on the ERA, which describes the current situation or for any statutory draw formula, such as with SB 26. The next two scenarios would require a constitutional amendment, he said.

[3:43:55 PM](#)

CHAIR KREISS-TOMKINS emphasized that Mr. Magdanz effectively described the status quo scenario.

MR. MAGDANZ agreed. In this instance, it was critically important that the legislature make inflation-proofing transfers between the ERA and the principal of the fund. This was critically important because the legislature could at any time with 21 votes choose to drain the entire ERA and put it towards any purpose it chose. He questioned whether the legislature would do so.

REPRESENTATIVE JOHNSON answered, "Yes."

[3:44:35 PM](#)

MR. MAGDANZ said he deferred to legislators to decide but suggested it remained a possibility. If one believed in

maintaining the value of the PF for future generations, in this situation, it was essential to inflation-proof the fund, he said.

[3:44:50 PM](#)

REPRESENTATIVE TUCK commented that the corpus of the fund would not be as large as it is today if the legislature had not continually made deposits into the principal. In terms of inflation-proofing, he asked whether, if the ad hoc draw were limited to 4 percent of the POMV, that would be viewed as inflation-proofing the fund.

MR. MAGDANZ answered yes; that the 4 percent ad hoc draw would effectively and "in a very real way" inflation-proof the PF.

MR. MAGDANZ offered his belief that if [the legislature] made ad hoc draws beyond 4 percent it would not "truly" be sufficient to protect the fund by inflation-proofing because any future legislature could choose to exceed the 4 percent limit and draw the fund down further.

[3:45:55 PM](#)

REPRESENTATIVE TUCK added, "Unless there was a constitutional amendment that limits the draw at 4 percent."

MR. MAGDANZ answered that was exactly correct. If there was a constitutional amendment that truly limited any ad-hoc draws to 4 percent, these types of inflation-proofing transfers would be less important. He offered to discuss those types of transfers in the next two scenarios.

[3:46:10 PM](#)

REPRESENTATIVE JOHNSON asked for further clarification on the constitutional amendment and the reason it could not be done by statute. She further asked whether the Alaska Supreme Court has already issued an opinion on that matter.

MR. MAGDANZ answered that the legislature cannot limit ad hoc draws to 4 percent by statute because Alaska's constitution requires all income from the fund to be available for appropriation. He suggested that the statutes could limit the ad hoc draw to 4 percent of the fund; however, if a future legislature decided that in a given year it wanted to draw 4 percent plus another \$1 billion, it could do so.

[3:47:08 PM](#)

REPRESENTATIVE JOHNSON added that the legislature has currently been taking unstructured draws. She related her understanding that to establish this, it must be by constitutional amendment and not by statute.

MR. MAGDANZ emphasized that the point of slide 15 was to stress that without a constitutional amendment, it was important for the legislature to make inflation-proofing transfers from the ERA to the principal to maintain the value of the fund over time.

CHAIR KREISS-TOMKINS answered that it would require a constitutional amendment to create the hard structure.

[3:47:52 PM](#)

REPRESENTATIVE WOOL offered his belief that the key word was "hard structure" because the constitutional amendment [that created the PF] included, "as delegated by law."

MR. MAGDANZ offered his belief that last week's hearing emphasized the existing constitutional language does allow for ad hoc draws, as Representative Johnson pointed out, which is the reason a constitutional amendment would be needed.

[3:48:23 PM](#)

CHAIR KREISS-TOMKINS interjected that would in part amend the language shown [slide 3 of Ms. Rodell's PowerPoint last week depicting Alaska Constitution, Article IX, Section 15].

[3:48:33 PM](#)

REPRESENTATIVE JOHNSON asked whether the corpus was protected in [Alaska's] constitution. She asked for further clarification on this.

MR. ERVINE cautioned that while he was not a constitutional expert, several interpretations about defining the corpus of the fund exist. One definition of the PF would be the 25 percent of the royalties deposited over the past 40 years or approximately \$16 billion. Another definition of the PF would include the additional \$16 billion that the legislature has appropriated for inflation-proofing the fund. Over the past 40 years, the

legislature has also made about \$7 billion in additional appropriations to the corpus of the fund, he said.

[3:49:52 PM](#)

REPRESENTATIVE JOHNSON commented that she had not thought about the additional deposits to the PF and whether to include them as part of the corpus of the fund.

MR. ERVINE stated that the Legislative Legal and Research Services attorneys and the LFD also have had some thoughts about the definition of the corpus of the fund which may provide more clarity.

MR. MAGDANZ added that the most commonly understood definition of the corpus would include all of the above, plus most of the unrealized gains on the assets.

[3:50:48 PM](#)

REPRESENTATIVE LEDOUX asked whether the unrealized gains were part of corpus [of the fund] and not part of the ERA.

MR. MAGDANZ offered his belief that unrealized gains were split between the corpus and ERA. He said that someone with more expertise could correct him.

CHAIR KREISS-TOMKINS offered his belief that the unrealized gains were proportionally split between the ERA and the corpus of the fund.

REPRESENTATIVE LEDOUX asked for further clarification on whether the split between the corpus and the ERA was done statutorily.

MR. ERVINE believed that it was attributed to the general accounting principles and management policy; however, he was unsure.

[3:52:09 PM](#)

REPRESENTATIVE LEDOUX asked for further clarification on what would happen if there were unrealized gains; that means it was not sold. She related a scenario in which a stock that went from \$500,000 to \$750,000 in one year, but was not sold off. The next year the stock prices dropped to \$450,000. She asked how that would work.

MR. MAGDANZ deferred to Representative Johnston.

REPRESENTATIVE JOHNSTON answered that the PF was shored up quarterly so the assets, realized gains, unrealized gains, and liquid assets were known. She quoted the former APFC's CEO, Mike Burns, as saying, "The fund is managed for the very long term." She said in 2009 when the stock market lost over 30 percent, he had said, "That was a very, very long day." She advised that the PF is managed as a whole, so the realized gains and unrealized gains and losses are shored up on a quarterly basis. She indicated that the PF diversification has become more sophisticated as the state has also become more diversified and sophisticated. She said this means the PF does not experience the sharp drops that the fund had when it was managed as a limited investment. She pointed out that the APFC has real estate earnings in Spain, for example. She compared the PF to anyone's 401(k) plan in terms of any realized and unrealized gains.

[3:54:38 PM](#)

REPRESENTATIVE LEDOUX said she grappled with whether it was apportioned, for example, if there was a 100 percent rise and if part of the stock would be placed in the ERA.

REPRESENTATIVE JOHNSTON interjected that it was how it would be allocated; that the stock would be segregated into how much of the 100 percent of the \$40 billion would be deposited into the corpus with the remainder going into the ERA. It becomes more complicated when considering assets that are not as liquid, and non-liquid assets are the ones being invested in over the long term, she said.

[3:55:56 PM](#)

REPRESENTATIVE KNOPP related a scenario in which the APFC had \$1 million in real estate and sold it for \$5 million and split the \$4 million realized gains between the ERA and corpus of the fund.

REPRESENTATIVE JOHNSTON interjected that the realized gains would be deposited into the ERA.

REPRESENTATIVE KNOPP related his understanding that unrealized gains were credited to each account. He his point was whether it would eventually be considered as inflation-proofing the

fund, considering the allocation between the ERA and the corpus of the fund.

MR. MAGDANZ responded that the APFC would indicate that the \$8 billion to \$10 billion attributed to the principal is unrealized gains. The APFC could sell every asset with an unrealized gain and that would have the immediate effect of increasing the ERA balance by \$8 billion to \$10 billion and decreasing the principal by \$8 billion to \$10 billion. He concluded that the unrealized gains currently attributed to the principal truly are not fully protected as part of the principal.

CHAIR KREISS-TOMKINS commented that the ERA of \$16.8 billion could jump up to \$24 billion tomorrow if the APFC chose to do so.

[3:58:14 PM](#)

MR. MAGDANZ directed attention to slide 15, stating that there were options to inflation-proof. In the current scenario, the ERA and the principal are separate, with ad hoc draws allowed. The first option would be statutory inflation-proofing, which was basically the status quo, such that an amount of money is transferred from the ERA to the principal each year that accounts for the effect of inflation on the principal. He stated that two constitutional amendments were before the legislature that make such a transfer mandatory [HJR 34/SJR 1] and for other constitutional amendments it would be an option as it is currently an option.

[3:59:09 PM](#)

MR. MAGDANZ stated that the second approach for inflation-proofing has been called the "waterfall approach," as contained in SB 26. This essentially takes the approach that if the ERA reached a certain size, any money over that amount would be transferred to the principal. In contrast to statutory inflation-proofing, the waterfall approach would prioritize making certain enough funding exists in the ERA to provide a stream of funding to reduce the chance that the ERA would reach a zero balance. At that point, funds would not be available to pay PFDs or for government services, he said. Some people have criticized this approach because it does not represent "true" inflation-proofing since the transfers to the principal are tied to the size of the ERA and not to inflation. If the fund was earning great returns, far more could be transferred to the principal than necessary for inflation-proofing, which might be

a good thing, he said. However, if the fund returns were low, far too little might be transferred to the principal to cover inflation-proofing of the fund.

[4:00:25 PM](#)

MR. MAGDANZ turned to slide 16, titled "Scenario: ERA and Principal combined and managed as a single endowment," which he said Representative Tuck mentioned a few minutes ago. Under this scenario, the ERA and principal are combined and managed as a single fund. This could only be accomplished by a constitutional amendment. And as Representative Tuck said, inflation-proofing the fund would mean setting a draw rate low enough so the earnings of the fund cover both the amount being drawn and the effect of inflation. The formula was simply that the earnings must be greater than or equal to the draw plus inflation and if not, the fund would lose value over time. There would not be a set-aside principal since it would consist of a single fund. That meant that transfers from an ERA to the principal could not happen since that distinction would no longer exist. The only inflation-proofing that matters would be inflation-proofing the entire fund value, he said.

[4:01:38 PM](#)

MR. MAGDANZ turned to slide 17, titled "Scenario: ERA remains separate, but ad hoc draws prohibited," which he referred to as a "hybrid scenario." Under this scenario a line would be maintained between the ERA and the principal of the fund. A constitutional amendment would be passed to prohibit ad hoc draws. He said a constitutional amendment would state that 4.75 percent of the fund value or 5 percent of the fund value would be available to draw every year; however, the draw could only come from the ERA. He said that it was worth noting that in this case the inflation-proofing discussion closely resembled the pure endowment scenario. This was because, as Representative Tuck mentioned, if the draw amount was established in the [Alaska] constitution, not allowing the legislature to exceed it, provides inflation-proofing for the entire fund - the ERA and the principal. He reiterated that the draw amount functions as the inflation-proofing mechanism.

MR. MAGDANZ indicated that the legislature could still transfer funds from the ERA to the principal but that would only accomplish raising the minimum floor value of the fund. He said if funds were transferred from the ERA to the principal and the market had a downturn, the ERA would reach a zero balance and

hit a fiscal cliff, in which funds would not be available. If transfers were made that point would be hit sooner, and if transfers were not made, the fiscal cliff would be hit later, he said.

[4:03:16 PM](#)

CHAIR KREISS-TOMKINS asked to attempt a summary statement. He said that the ERA, the corpus, and inflation-proofing from one to the other was somewhat complicated. He offered his belief that one could make things work, but it could over engineer the structure that the state has inherited. He argued that one could accomplish the same ends through a more elegant and simplified structure, which was through an endowment structure. He indicated those represented the two paths forward to create a POMV sovereign wealth fund. He asked whether that was approximately accurate.

MR. ERVINE said that he was absolutely right but there was a potential perception problem with the pure endowment model for those concerned about spending down the principal or corpus of the fund in a pure endowment model over time. He characterized that as an obstacle.

MR. MAGDANZ stated if ad hoc draws were allowed for more than the percentage that was set, it was really important to make inflation-proofing transfers. If ad hoc draws were prohibited, making transfers between the ERA and the principal was less critical, he said.

[4:04:45 PM](#)

REPRESENTATIVE WOOL imagined that one would need "a parachute" for situations in which ad hoc draws were prohibited, and the principal could not be touched due to constitutional prohibitions, but a catastrophe drained the ERA.

MR. MAGDANZ responded that was exactly why some people advocate for the pure endowment approach since it was the only way to avoid the situation where the ERA was depleted, and the fiscal cliff point was hit. He hoped savings were "stashed" elsewhere. The proponents of the pure endowment approach would argue that it would eliminate the possibility of running into the fiscal cliff.

[4:06:47 PM](#)

REPRESENTATIVE WOOL related his understanding that it was possible to get to that point - the fiscal cliff - with the pure endowment approach with one fund, but it would take much longer to get there plus there would be time to change the percentage rate.

MR. ERVINE said it was important to point out that draining the overall value 5 percent of the time assumed there would not be any return.

REPRESENTATIVE TUCK reminded members that the parachute could be a revenue bond in an emergency situation. He offered his belief that leaving funds in the principal meant that the state would be earning more money from the principal than the cost of revenue bonds. He characterized it as "making money off of our money" if the state issued a revenue bond. He further thought it would be beneficial to have a structure for the financial community to assess and have enough confidence in the state's fiscal plan to loan money.

[4:08:15 PM](#)

REPRESENTATIVE TUCK offered one scenario would be to have a constitutional draw and put more money back into the principal of the PF. He related his understanding that putting money into the ERA was a realized gain or loss. He asked whether there really is a need to put funds back into the principal with a structured draw since the fund would be "trued up" quarterly.

MR. MAGDANZ referred to slide 17 and noted that if a constitutional draw rate cannot be exceeded, it was not incredibly important to make transfers from the ERA to the principal since that would only serve to increase some floor value that one could never fall below.

[4:09:26 PM](#)

CHAIR KREISS-TOMKINS added that as the prime sponsor of an amendment to move \$5.5 billion from the ERA to the principal, that there was not any value in doing that if there "is no cheating allowed." He explained that with a structured, sustainable draw, the legislatures cannot grab an extra couple billion dollars to balance the budget. If that "cheating" was prohibited, there would not be any value in making those transfers, he said.

[4:09:55 PM](#)

REPRESENTATIVE TUCK related his understanding that if the legislature went to a pure endowment model, it would not offer those protections.

CHAIR KREISS-TOMKINS answered that a pure endowment model set up in the [Alaska] constitution would also not allow any cheating since the sustainable draw would be established and it could not be exceeded.

REPRESENTATIVE TUCK related his understanding that the draw would be spelled out in the endowment.

CHAIR KREISS-TOMKINS added that was true so long as it was in the [Alaska] constitution as statutes can be "cheated on."

[4:10:21 PM](#)

MR. ERVINE turned to slide 19, titled "The Prudent Investor Rule," which Ms. Rodell touched on in her presentation. It essentially stated that the APFC would act prudently in the same manner that an institutional investor of sound mind and intelligence would invest to maximize returns and also meet future demands on the fund. He said there might need to be a discussion about including this framework in any constitutional amendment. This was important to prevent potential political pressure to invest in projects that may benefit Alaska in a way that is different from actually just providing returns to the state, he said. He recalled someone mentioned last week that Alberta had invested its permanent fund in government buildings and now the province has a lot of nice buildings.

MR. MAGDANZ remarked that Alberta does not have a permanent fund.

[4:11:43 PM](#)

REPRESENTATIVE TUCK recalled that Alberta had attempted to do a developmental bank system, which was one reason it encountered problems.

[4:11:54 PM](#)

MR. MAGDANZ turned to slide 20, titled "Notes on Constitution vs. Statute," which summarized some of the high-level differences between the two approaches. He indicated a statutory approach would be easier to change since it could be

done by a majority vote of the legislature, whereas with a constitutional approach would be more difficult to change since it would require 2/3 vote of each house of the legislature, plus passage with a majority of voters of the state of Alaska in a general election ballot. Second, with a statutory approach more policy options would be available since more complicated formulas could be written and specific numbers could be used. Whereas with a constitutional amendment, the rules must be simple; such that it would not be possible to write an eight-page constitutional amendment. Finally, as Chair Kreiss-Tomkins previously mentioned, with a statutory approach, the rules could be broken at will by the legislature through the budget process; whereas rules set in the [Alaska] constitution could not be broken. For example, the 120-day legislative session length set in the [Alaska] constitution represents a hard stop, and although there may be political costs to going past 90 days set in statute, it would be legally allowed, and the legislature could break the rule.

[4:13:34 PM](#)

REPRESENTATIVE LEDOUX related the formula for calculating the PFD has been disregarded at will.

MR. MAGDANZ agreed that was another example; that it would be necessary to put the formula into the [Alaska] constitution if one wanted a formula that the legislature could not disregard at will.

[4:13:57 PM](#)

REPRESENTATIVE BIRCH related his understanding that it was not possible to put a payment provision in the [Alaska] constitution. He said he was not an advocate of putting a dividend distribution in the [Alaska] constitution; and, in fact, he thought "it is a terrible idea."

MR. MAGDANZ responded that there have been legal questions raised as to whether that was possible. He stated that Representative Kreiss-Tomkins's office has done some research into that and some lawyers have said "you could" and some have said it would be "risky to very risky" to do so. He acknowledged that there was disagreement in the legal community on that matter.

REPRESENTATIVE BIRCH recalled that the earnings from the PF go to the general fund (GF) and obviously it was incumbent upon the

legislature to do an allocation. He also pointed out that one aspect about using statutory language was that some have said that that the dividend represents breaking the law since it uses a fund allocation; however, budgets change prior year statutes all the time. The legislature could always supplement the statute by writing a new one.

MR. MAGDANZ answered that the legislature could always write a new statute to change it. In terms of breaking the law, the legislature at times does not change the statute and just functionally changes statute through the budget process, which sometimes makes people concerned.

[4:16:44 PM](#)

REPRESENTATIVE LEDOUX asked for further clarification on the comment that the lawyers disagreed and said it is "risky or very risky" as a policy consideration or whether it was questionable as to constitutional validity.

MR. MAGDANZ answered that some lawyers would say that if the legislature proposed a constitutional amendment that required a dividend payment at a set figure, that the courts could potentially take that constitutional amendment off the ballot because it would constitute a revision of the [Alaska] constitution rather than an amendment.

CHAIR KREISS-TOMKINS said that from his perspective a dividend should be in the [Alaska] Constitution. He said of all the attorneys that he has spoken with, there could be a risk of false equivalents; that his impression has been that there is a much larger cluster of legal thought that if the constitutional language read "the dividend shall be paid," that there would be a very strong argument for upholding it. He felt it was important to put that in the record.

[4:18:27 PM](#)

REPRESENTATIVE LEDOUX offered her belief that it was a different question as to whether it needed to happen via a constitutional amendment or through a constitutional convention, which is what she believed Mr. Magdanz implied.

CHAIR KREISS-TOMKINS responded a question of amendment versus revision.

MR. MAGDANZ answered yes; that was the legal question he had heard regarding putting the dividend in the constitution via an amendment to [Alaska's] constitution. There have been some lawyers who believe that under case law precedent that it would require going to a constitutional convention to put a specified dividend in the [Alaska] Constitution. He noted that the concern about putting a dividend in the constitution is that it infringes on legislature's powers of appropriation and the governor's power to veto these other sections of the [Alaska] constitution. One thing Representative Kreiss-Tomkin's office has noted was that the current constitutional language that created the permanent fund provides for a dedicated stream of revenue into the permanent fund - at least 25 percent of oil and mineral royalties. Obviously, that also infringes on the legislature's ability to appropriate and the governor's power to veto those royalty funds. The legislature cannot fail to appropriate those funds and the governor cannot veto that transfer. He pointed out that there was some precedent in leaning that way as well.

[4:20:15 PM](#)

REPRESENTATIVE LEDOUX related her understanding that was all done through the amendment process as opposed to a constitutional convention process. She asked for further clarification.

MR. MAGDANZ answered that was correct; however, lawyers would also point out that the case law on which they are making their determinations came about twenty years after the PF constitutional amendment was put on the ballot in 1976. The case [Bess v. Ulmer] being cited was decided in 1999.

CHAIR KREISS-TOMKINS said that any argument that would be made against putting a POMV or a PFD in the constitution could also be directed at the PF itself. If someone was saying that putting POMV or dividend in the constitution would constitute a constitutional revision instead of a constitutional amendment, the same argument and logic would say that the PF itself represents a constitutional revision as maybe itself constitutionally questionable.

MR. MAGDANZ answered that he has had lawyers tell him that as well.

[4:21:33 PM](#)

REPRESENTATIVE KNOPP wondered what the legislature was striving to prevent or fix. He said that obviously the legislature was seeking to preserve the PF, and inflation-proofing, a structured draw, stopping the ad hoc draws, as well as prevent statutory changes were part of that process. He noted that every legislature could make statutory changes and do something different. One goal was to seek stability, he said. He related that when the legislature discusses putting the PFD in the [Alaska] constitution that it might be necessary to discuss the best benefit to residents, since the constitution does not specify PFD. He wondered if there was a proposal to put the PFD in the [Alaska] Constitution, if the legislature should have a broader discussion on infrastructure projects or capital projects would create more benefits and jobs that a PFD payout would. He further wondered if the legislature should even consider services that the public demands. He wondered if that should be part of the discussion.

[4:23:54 PM](#)

MR. MAGDANZ deferred to the legislature to make that decision.

[4:24:05 PM](#)

REPRESENTATIVE TUCK asked whether the discussion should include whether the dividend should continue to be an annual dividend or if it should be a quarterly dividend so the money might be better spent in Alaska's economy.

CHAIR KREISS-TOMKINS agreed that there were half a dozen constitutional amendments currently before the committee, none of which have been heard, including his own proposal. He said these were broader questions relating to how to balance the budget, and the size of the PFD. Further, he stated that he was interested in protecting the real value of the fund for future generations to ensure its growth and to protect the fund. He said it was important that legislatures not "get into the cookie jar" because "it's so hard to raise a tax" or "it's so hard to cut a program" so instead of balancing the budget, the legislature would just "grab a couple billion dollars here" and "a couple billion dollars there," and after a few years find the fund has been depleted by \$10 billion to \$20 billion and thereby lose the real value of the fund.

[4:25:38 PM](#)

REPRESENTATIVE WOOL said some of these issues were being raised because of the state's current fiscal situation. He said there really has not been a lot of flagrant violation of statutes in the prior 30 or 40 years. The past few years drained the CBR and other accounts because the state revenues declined. He said that this ad hoc draw seemed to be a fairly new phenomenon.

REPRESENTATIVE WOOL said it seemed as though the legislature was steering towards a pure endowment model that would address many of the things Representative Knopp mentioned, including ad hoc draws and preserving the fund. He asked how other funds around the world were managed and whether other pure endowment funds were typically constitutional or have a fixed draw or if they were subject to economics. He further asked whether any endowment funds had a payout.

[4:27:16 PM](#)

REPRESENTATIVE JOHNSTON offered her belief that in terms of sovereign wealth funds, Alaska was unique with its dividend. She said she was somewhat familiar with the Norwegian fund that consists of up to 4 percent draw, which she thought was constitutionally guarded. She said that Norway's sovereign wealth fund has yet to draw the full 4 percent.

[4:27:43 PM](#)

CHAIR KREISS-TOMKINS asked whether Mr. Teal knew of any sovereign wealth funds that were established by constitution or in statute.

DAVID TEAL, Director, Legislative Finance Division (LFD), Legislative Agencies and Offices, said that he does not know of another one.

CHAIR KREISS-TOMKINS remarked that it would be good to find out. He advised that he was fairly certain Alaska was the only sovereign wealth fund that pays out a dividend.

[4:28:17 PM](#)

REPRESENTATIVE LEDOUX suggested that places like Abu Dhabi may operate under different rules than in Alaska and might not be concerned about constitutional limitations.

[4:28:41 PM](#)

REPRESENTATIVE JOHNSTON related that statutory or constitutional measures have been considered by three legislators, just as the committee has been considering, as to what would work or what would not work. She pointed out that this is not the first time Alaska has been at this juncture. She recalled that it may have been in the 1980s, that the Murkowski administration considered putting a POMV structure on the ballot. She offered her belief that this was the first time the legislature has gone through so much savings in such a short time. The state has extended the pipeline well beyond its projected life.

REPRESENTATIVE WOOL remarked that he meant since the history of the PF and PFD, it has only been in recent years that the legislature has broken from the statutory formula.

REPRESENTATIVE JOHNSTON agreed.

[4:29:54 PM](#)

MR. ERVINE turned to slide 22, titled "Distribution and Dividends," stating it was important to note that the entire distribution could potentially be optional. The legislature could draw 4 percent or 5 percent and pay a dividend. The equation on slide 22 was fairly simple: the more that goes to the dividend, the less that goes to public services, resulting in a larger deficit that would need to be met by budget cuts or increases in other revenue sources, including - potentially - taxes.

[4:30:59 PM](#)

MR. MAGDANZ turned to slide 23 titled "The 50/50 Plan," stating that as Mr. Ervine mentioned, it was not necessary to do the distribution split side. Instead, one option would let the money flow in and every year in the budget cycle and the legislature could "fight over" how to use the \$2.7 billion from PF earnings. He offered his belief that was what the constitutional amendments and statutory draw formulas before the legislature were intended to prevent. Most legislators seemed to be interested in more of a rules-based structure. This section of the presentation would briefly identify some of the splits. He said that obviously with a statutory draw formula, the rules could be defined in statute or in annual budgets.

[4:31:54 PM](#)

MR. MAGDANZ said that passing a constitutional amendment to use a constitutional draw formula would basically add a tier. One option would define the draw amount in the [Alaska] constitution; for example, 4.75 percent, and determine by statutory formula where the money goes. A second option, as the constitutional amendments before the legislature accomplish, would be to establish in the [Alaska] constitution that some portion of the draw must be paid in dividends. He said both options would be available to the legislature. The 50/50 split simply says that 50 percent of the draw would be directed to dividends and 50 percent would be available for other purposes. He indicated that three proposed constitutional amendments were before the legislature [HJR 34, SJR 1, and SJR 8].

[4:32:41 PM](#)

MR. MAGDANZ turned to slide 24, titled "Other Splits," and outlined common splits. He pointed out the most common proposal before the legislature designates approximately one third of the draw for dividends with the remainder available for public services, fund capitalization, and other purposes. He related that the specific split varied from 25 percent in SB 26 as passed by the Senate to as high as 44 percent of the maximum draw as per Senator Bert Stedman's SJR 9.

[4:33:22 PM](#)

MR. MAGDANZ stated that the legislature could require a minimum dividend, as does Chair Kreiss-Tomkin's resolution, HJR 36, and this committee's resolution [HJR 41]. Obviously, in any of the constitutional amendments additional money could be directed to dividends besides the floor in the constitutional amendment, with the remainder available for public services. He pointed out that some constitutional amendments force that remainder into the GF every year and other ones leave the funds in the PF unless it was appropriated for a specific purpose by the legislature. As Mr. Ervine stated that when considering a split at a time with a large deficit, as is the current situation, the equation for this decision is simple: the more money put into dividends, the more money that must be found from other sources to meet the budget. The other sources of revenue equate to cuts to programs, drawing from other savings accounts - such as the CBR, raising more revenue, or making unstructured draws above the 4.5 percent or 5 percent on the ERA.

[4:34:31 PM](#)

REPRESENTATIVE BIRCH asked whether anyone has proposed a split where the state pays its bills first and any remaining funds would be used for dividends.

MR. MAGDANZ asked to finish the final slide and address his question in a moment.

[4:34:51 PM](#)

MR. MAGDANZ turned to the final slide [slide 25], titled "Revenue Caps," stating another option would be to force money back to the PF or into higher dividends, if revenue - oil revenue - is high. He stated that this was done in SB 26, when oil revenue hits a certain level the PF draw is reduced. He clarified it was a dollar-for-dollar reduction in the Senate version and 80 cents on the dollar in the House version. Although possible, it would be harder to do in a constitutional amendment since the rules must be simple and stand the test of time; however, one could cap the amount of money that can be used for government services at the budget deficit for the fiscal year. The remaining amount could be deposited into the PF or be used for higher dividends.

[4:36:02 PM](#)

MR. MAGDANZ, speaking to Representative Birch's earlier question, said that the legislature could flip the order of payments, such that the first use of PF earnings would be to meet the deficit with the 5 percent draw and any remaining amount, if any, would be used to pay dividends.

REPRESENTATIVE BIRCH acknowledged the legislature has struggled to decide on funding for education, highways, and road maintenance. He said it did not seem unreasonable to expect that the draw would first pay obligations and next pay a dividend.

MR. ERVINE responded that a bill from a prior legislature proposed to do that, which basically used the POMV to meet the budget deficit, repay the CBR, repay the statutory budget reserve fund, and the remainder would go to dividends. He recalled it was House Bill 224 introduced by a former legislator for House District 28. That bill did not have a floor to ensure a dividend would be paid out, which some argued was a flaw; however, some people felt it was a valid approach.

[4:37:45 PM](#)

REPRESENTATIVE TUCK emphasized that one reason the legislature was even considering constitutional amendment for the PF was due to the concern that once government "gets their hands on it," [spending] would never end. The state has had a 30-year history of paying out dividends, but the current situation is different. In the past several years, the statutory formula has been broken, which was noted earlier, in that statutes can be changed. He offered his belief that the PF would not rescue the state and the legislature must consider other measures. He argued the importance of the legislature to constitutionalize the permanent fund if it wants to use the fund to rescue Alaska.

REPRESENTATIVE LEDOUX said she did not understand what Representative Birch meant by "pay your bills first" because until the legislature decides what programs to offer, it does not represent a bill. The legislature could decide to have limited government services and spend a significant amount on a PFD. She offered her belief that would not violate the idea of paying the state's bills first because it identified what the state wants to provide and pay first.

[4:39:40 PM](#)

CHAIR KREISS-TOMKINS thanked the presenters, Mr. Magdanz and Mr. Ervine, for their presentation. He characterized the presentation as an excellent one.

HB 407-APOC; CAMPAIGN CONTRIBUTIONS/REPORTING

[4:40:57 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be HOUSE BILL NO. 407, "An Act relating to the duties of the Alaska Public Offices Commission; clarifying the limits on making, accepting, and reporting certain cash campaign contributions; relating to campaign finance reporting by certain groups; relating to the identification of certain campaign communications; increasing the time the Alaska Public Offices Commission has to respond to a request for an advisory opinion; repealing a reporting requirement for certain contributions; relating to propositions and initiative proposals; and providing for an effective date."

[4:40:30 PM](#)

REPRESENTATIVE KREISS-TOMKINS related that this was a committee bill that was previously discussed. He asked his staff to present an overview of the bill. He reminded members that the bill contained statute changes resulting from the House Finance Subcommittee process.

[4:40:44 PM](#)

CATHY SCHLINGHEYDE, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, reiterated that the bill contained recommendations by the Department of Administration Finance subcommittee.

MS. SCHLINGHEYDE paraphrased the sponsor statement for HB 407, which read as follows [original punctuation provided]:

The Alaska Public Offices Commission (APOC) has seen a 42.4% reduction in UGF since the FY15 management plan, resulting in the loss of six positions. HB 407 would streamline reporting requirements to allow APOC to operate more efficiently within the current budgetary restraints.

HB 407 increases APOC efficiency by also easing the auditing requirements, allowing APOC to exercise discretion when reviewing reports and statements, eliminating duplicative reporting, extending response times for advisory opinions, and extending small campaign reporting exemptions to groups.

In addition to the streamlining measures, HB 407 provides needed clarification by specifying the requirements of "paid for" lines on campaign communications and defining a calendar year for cash contribution limits.

APOC provides an important public service ensuring the enforcement of campaign finance ethics requirements. HB 407 allows APOC to complete their mission more efficiently and cost effectively.

[4:40:58 PM](#)

MS. SCHLINGHEYDE reviewed the section-by-section analysis for HB 407, titled "HB 407 - APOC; Campaign Contributions/Reporting, Sectional Analysis, which read as follows [original punctuation provided]:

Section 1: This section eases the report auditing requirements by removing the word "all." The change allows APOC to strategically select reports and statements to audit.

Section 2: This section inserts "calendar" to clarify confusion on the definition of year in regards to reporting contributions.

Section 3: This section extends the small campaign reporting exemptions to "groups" in addition to individuals. The minimum threshold for groups to report would be raising or expending \$2,500 in a calendar year.

Section 4: This section renumbers the statute to accommodate the changes in Section 3.

Section 5: This section inserts "calendar" to clarify confusion on the definition of year in regards to the cap on candidate's acceptance cash contributions.

Section 6: This section inserts "calendar" to clarify confusion on the definition of year in regards to the cap on donating cash contributions.

Section 7: This section provides standardized rules to ensure the readability of "paid for" lines in campaign communications.

Section 8: This section extends by three days the time allowed for APOC to provide an advisory opinion.

Section 9: This section eliminates duplicative reporting of contributions to ballot initiatives by removing the requirement that donors self-report in addition to the campaign's report.

Section 10: This section sets an effective date of January 1, 2019, after the conclusion of the current election cycle.

[4:41:00 PM](#)

MS. SCHLINGHEYDE said that Section 1 allowed the APOC to have the discretion in report auditing to review specific

documents, not necessarily every document that is submitted. Sections 2, 5, and 6 all insert the word calendar to clarify the definition of year, which has been disputed. Section 3, small campaigns for individuals, have a minimum reporting threshold and this allows groups to have a minimum reporting threshold as well. The minimum threshold for groups to report would be raising or expending \$2,500 in a calendar year.

[4:41:25 PM](#)

MS. SCHLINGHEYDE related that Section 4 was statutory cleanup to renumber based on Section 3. Section 7 specified the requirement for "paid for" lines in campaign communications. Section 8 would extend by three days the time allowed for APOC to issue an advisory opinion due to their decreased staffing capacity.

MS. SCHLINGHEYDE related that Section 9 states that ballot initiative donors do not have to submit duplicative reports when the campaigns were already reporting those contributions, which means APOC only needs to process them once and not twice. Section 10 would set an effective date of January 1, 2019, after the conclusion of the current election cycle.

[4:42:00 PM](#)

REPRESENTATIVE TUCK asked for further clarification on Section 9.

MS. SCHLINGHEYDE responded that for ballot initiatives, the campaign must report donors who contribute above \$500; however, the donors must also fill out a form, form 15-5, and if they do not the donors are subject to fines. Concern has been expressed that APOC must process the reporting twice and must "track down" people who are not aware of the reporting requirement. She said this tended to create excess paperwork with no additional reports.

[4:42:45 PM](#)

REPRESENTATIVE TUCK expressed concern on how one would know someone was reporting unless it was checked on both sides. He also had the same concern that donors might not know the need to do so. He suggested that perhaps there should be a disclosure printed on the donation envelopes, so people would be informed.

MS. SCHLINGHEYDE clarified that this only applied to ballot initiatives and not to other campaign donations.

[4:43:32 PM](#)

REPRESENTATIVE LEDOUX recalled that years ago both candidates and donors had to report; however, most donors did not know they needed to report these donations, so it was ultimately changed. She offered her belief that this was in keeping with regular political campaigns. In fact, she was surprised it had not been changed already. In response to Representative Tuck's earlier concern, she stated that the same logic would apply to regular political campaigns.

REPRESENTATIVE TUCK agreed but otherwise it was by faith. He offered his belief that the reason for a public process was to provide transparency.

[4:44:46 PM](#)

REPRESENTATIVE BIRCH offered he had personal experience with a contributor to a campaign in which the donation was reported and the contributor did not report separately. The information was complete, but it was not reported in duplicate, he said. He offered his belief that it was reasonable to update this.

[4:45:12 PM](#)

REPRESENTATIVE KNOPP referred to Section 8. He said it would not necessarily extend by three days the advisory opinion. He offered his belief that it would double the time by changing the language from 7 days to 10 business days would actually amount to 14 total days. He asked for further clarification as to the reasonableness of the length of time and how time sensitive the opinion would be.

[4:46:05 PM](#)

HEATHER HEBDON, Executive Director, Alaska Public Offices Commission (APOC), Department of Administration, responded that was correct. She said this would extend the requirement for issuing draft advisory opinions by allowing an additional five days. While the APOC understood it could be critical to the requestor, it would reduce unnecessary overtime at the APOC office. She pointed out that the APOC drafts were also reviewed

by the Department of Law (DOL) prior to issuance. She said this change would allow APOC to reduce overtime costs.

[4:46:56 PM](#)

REPRESENTATIVE KNOPP asked for further clarification on whether it would be critical from the individual or organization's perspective that requests an advisory opinion and if any of the advisory opinions would be time-sensitive.

MS. HEBDON answered that it was difficult to answer without specific facts. She said that APOC receives simple and straight-forward questions. The majority of times, the requestor has already contacted staff and has a general idea of which direction the agency was going. This would formalize it and get APOC's approval.

[4:47:56 PM](#)

REPRESENTATIVE KNOPP asked whether it was fair to say that if APOC realized some urgency in the advisory opinion, it would be prioritized.

MS. HEBDON answered absolutely; that just because the bill extended the time to 10 days would not mean the commission could not complete the advisory opinion and have it reviewed by DOL sooner.

[4:48:43 PM](#)

REPRESENTATIVE TUCK referred to Section 3 but decided he did not have a question.

[4:49:00 PM](#)

CHAIR KREISS-TOMKINS announced HB 407 would be held over.

SCR 17-APRIL 2018:SEXUAL ASSAULT AWARENESS MONTH

[4:49:29 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be SENATE CONCURRENT RESOLUTION NO. 17, Proclaiming April 2018 as Sexual Assault Awareness Month.

[4:49:43 PM](#)

EDRA MORLEDGE, Staff, Senator Kevin Meyer, Alaska State Legislature, stated that SCR 17 was a resolution that proclaims April 2018 as Sexual Assault Awareness Month. This was part of a national campaign to raise public awareness about sexual assault and to educate communities and individuals on how to prevent sexual violence.

MS. MORLEDGE stated that Senator Meyer first brought this resolution forward in 2001 when he was a Representative. The reason the sponsor continues to bring forward resolutions on an annual basis rather than to place it in statute permanently was to bring attention to the issue and to continually educate our communities throughout the state.

[4:50:35 PM](#)

MS. MORLEDGE reported that sexual assault statistics nationwide are staggering, such that one in five women have been victims of violent sexual assault during their lifetimes. Unfortunately, those statistics are much higher. In fact, the 2015 Alaska victimization survey reports that one-third of adult women in Alaska have experienced sexual assault.

MS. MORLEDGE informed members that sexual assault was preventable. It represents a public health, criminal justice, and human rights issue. She pointed out the importance of educating the public.

MS. MORLEDGE stated the 2018 sexual assault awareness month campaign has focused on "embrace your voice." She hoped that this resolution would help to strengthen that effort across Alaska.

MS. MORLEDGE offered her belief that members heard the companion bill, HCR 22 last month. She hoped both resolutions would help to educate Alaskans.

[4:51:45 PM](#)

CHAIR KREISS-TOMKINS announced that SCR 17 would be held over.

SB 163-DEFINITION OF COMMERCIAL MOTOR VEHICLES

[4:52:41 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be CS FOR SENATE BILL NO. 163(STA), "An Act relating to commercial motor vehicles."

[4:52:51 PM](#)

The committee took a brief at-ease.

[4:53:02 PM](#)

CHAIR KREISS-TOMKINS asked if Mr. Byrd could present the bill.

[4:53:45 PM](#)

DANIEL BYRD, Chief, Commercial Vehicle Enforcement, Anchorage Office, Division of Measurement Standards & Commercial Vehicle Enforcement, Department of Transportation & Public Facilities (DOT&PF) introduced himself and stated he would try to do so.

CHAIR KREISS-TOMKINS expressed concern about the audio quality for the testifier.

[4:54:04 PM](#)

The committee took a brief at-ease.

[4:54:59 PM](#)

JOHN BINDER, Deputy Commissioner, Office of the Commissioner, Department of Transportation & Public Facilities (DOT&PF) introduced himself. He stated that SB 163 would bring Alaska's definition of commercial motor vehicles into the 21st century and in alignment with the Federal Highways Reauthorization Act of 2012, "Moving Ahead for Progress in the Twenty-First Century Act," commonly referred to as MAP-21.

[4:55:26 PM](#)

MR. BINDER stated that the proposed changes in SB 163 would benefit farmers who transport agricultural commodities or supplies in Alaska because existing restrictions on farm vehicles limit their movement to within 150 miles of their farm. This bill would allow farmers to operate anywhere in Alaska. He stated that MAP-21 made the federal regulations less restrictive than current Alaska statutes. This bill, SB 163, would also propose that transportation of hazardous materials be amended to only apply to (indis.) regardless of the size of the vehicle.

Finally, the definition of school bus would be updated to provide clarity for when school buses are exempt from commercial motor vehicle regulation requirements.

[4:56:18 PM](#)

MR. BINDER offered to provide additional information on the specific sections. Section 1 primarily would relate to the 150-mile rule. This would allow farmers operating their vehicles in support of their farm operations to transport materials anywhere in the state without being limited to the 150-mile radius of their farm.

MR. BINDER stated that Section 2 would primarily relate to the HAZMAT [hazardous materials] portion. Current statute required that certain placards be posted regardless of the amount; however, federal regulation relieved that up to certain quantities, so this would align with federal regulations, he said. For example, an aircraft operator might wish to deliver a drum to a village or a remote residence. Under current law, the operator would need to placard that even though reporting this amount of substance would not normally be required.

[4:57:25 PM](#)

CHAIR KREISS-TOMKINS passed the gavel to Vice Chair LeDoux.

[4:57:30 PM](#)

REPRESENTATIVE KNOPP asked whether 110 gallons of aviation gas would exceed the federal placard amount.

MR. BINDER said that was correct.

REPRESENTATIVE KNOPP asked whether commercial fishermen who use their pickup to carry three drums of fuel, which would equate to 150 gallons, would be affected by the bill given the definition of commercial vehicle in SB 163, would need to comply with weights and measures.

MR. BINDER responded that this bill would relieve the burden because federal regulations are less than state statute and it would allow drivers to transport those quantities without being stopped for commercial purposes.

[5:00:23 PM](#)

REPRESENTATIVE KNOPP referred to [page 2, line 24] in Section 2, "for vehicles used in interstate commerce," and whether that would affect fishing guides hauling their boats containing drums, such that the guides would be subject to commercial vehicle inspections. He asked whether this bill would have any unintended consequences for these fishing guides.

MR. BYRD answered that this bill does not affect compliance requirements for intrastate versus interstate commerce. He explained that currently the federal government has jurisdiction over HAZMAT [hazardous materials] shipments and if the regulations require placards then the regulations would apply. This bill would not change commercial vehicle enforcement or HAZMAT enforcement.

[5:01:51 PM](#)

REPRESENTATIVE KNOPP referred to the definition of school bus under [proposed AS 19.10.399 (15)]. He asked whether that fell under the exemption and further how this provision would affect school buses that have been converted to recreational vehicles and whether these vehicles would be considered commercial vehicles.

MR. BYRD answered that school buses or any commercial vehicle must fit the definition of a commercial vehicle, including gross vehicle weight, the number of passengers, and whether the vehicle would be transporting hazardous materials. The underlying requirement would be that the vehicle must be used in commerce, so school buses used as recreational vehicles would not fall under the definition of commercial vehicle.

[5:02:53 PM](#)

VICE CHAIR LEDOUX returned the gavel to Chair Kreiss-Tomkins.

[5:03:07 PM](#)

REPRESENTATIVE TUCK referred to Section 1, on page 2, lines 4- which removed a description of the vehicle but added "covered" farm vehicles. He asked for further clarification on the meaning of covered farm vehicles and if it meant covered by a tarp or covered by law.

MR. BYRD answered that it meant vehicles covered by the regulation.

[5:03:54 PM](#)

REPRESENTATIVE TUCK referred to the statutory cite for farm vehicles that were covered by this provision. He read, "that are controlled and operated by a farmer; used to transport agricultural products, farm machinery, or farm supplies to or from that farmer's farm..." He wondered if a flat-bed truck would fall under proposed Section 2 since these vehicles can travel anywhere in the state. He asked for further clarification on how to identify the vehicle as "farm vehicles" from those that are not.

MR. BYRD answered that if the vehicle does not have an interstate commerce [ICC] number registration on the vehicle, which typically indicates commerce. He acknowledged that sometimes the same vehicles are used for farm operations and at times for commercial operations. The intent by removing the specificity was to allow farmers to use a variety of vehicles or implements to conduct their farm business without being overly restrictive with the type of vehicle.

[5:05:20 PM](#)

REPRESENTATIVE TUCK expressed concern about vehicles being operated by "other than the farmer." He offered to review what would be included for "covered farm vehicles."

[5:05:55 PM](#)

REPRESENTATIVE LEDOUX asked for the rationale used for distinguishing between commercial vehicles and other vehicles. She was unsure of the reason to exempt farm vehicles from the definition of commercial vehicles.

MR. BINDER deferred to Mr. Byrd.

MR. BYRD offered that the rationale used to exempt "covered farm vehicles" would be to provide relief from regulations through MAP-21. [The exemption] currently applies to all interstate vehicles and this bill would add the exemption for intrastate vehicle traffic. He was unsure of the reason for the exemption for farmers and farm vehicles, noting he could only speculate, so he deferred to the Department of Law or someone else to respond.

[5:07:38 PM](#)

REPRESENTATIVE LEDOUX asked Mr. Binder for the rationale for distinguishing between a commercial vehicle and a non-commercial vehicle and whether it referred to a vehicle size, danger, or other criteria. She asked for further clarification on why farm vehicles would be exempt, which could be used to transport bomb materials.

[5:08:37 PM](#)

MR. BINDER answered that commercial vehicles were larger and carried cargo, so it would require that drivers have extra training. In addition, commercial vehicle regulations also cover vehicle safety, to ensure vehicles are safe, especially if the drivers are transporting passengers or HAZMAT [hazardous materials]. He was unsure of the reason to exempt farm vehicles.

[5:09:06 PM](#)

REPRESENTATIVE LEDOUX said she would like to hear the rationale for exempting farm vehicles.

MR. BINDER responded that farm vehicles currently are exempted and have been for years. This bill would remove the 150-mile radius restriction, which was especially important in Alaska since farmers often need to transport their products for distances that exceed 150 miles.

[5:09:53 PM](#)

REPRESENTATIVE JOHNSON offered her anecdotal response would be that farm vehicles are used on farms and their primary use is for off-highway purposes. Farmers may deliver goods or travel short distances on a highway; however, these vehicles are often slow-moving and are not equipped with signals.

[5:10:43 PM](#)

REPRESENTATIVE LEDOUX related her understanding that Representative Johnson's description would contain farm vehicles within 150 miles of their farms, which seemed appropriate. She expressed concern that farm vehicles would be able to drive anywhere on the road system without being designated as commercial vehicles.

[5:11:17 PM](#)

REPRESENTATIVE TUCK agreed, noting that was his point with respect to removing language on page 2, lines 5-10. He wondered if it would be better to keep the language except for the 150-mile limit. He expressed concern about removing the conditions that limit it to a farmer transporting goods from one place to another and opening it up to anyone. He related a scenario in which a person could operate a produce and dairy business and truck produce without having to obtain a commercial driver's license (CDL). He referred to page 3, lines 6-11, which would remove that language again. He was unsure if coverage was somewhere in statute.

[5:12:24 PM](#)

REPRESENTATIVE KNOPP offered his belief, since he has commercial trucks and while he does not like the regulations, some of the trucks haul 100,000 pounds and should be held to stricter standards. Thus, he understood the reason for commercial vehicle regulations. He offered the rationale for commercial vehicles was these vehicles are being used for commerce every day whereas farm vehicles and transport was seasonal and occasional. In response to Representative Tuck's concern, he mentioned that Section 3 does start to define farm equipment, reading [AS 19.10.399 (14) "covered farm vehicle" means] straight or articulated vehicle..." He continued and paraphrased subparagraph (B), which indicated that it must be operated by the owner or operator of a farm or ranch or employee of a farm or ranch. He argued that this language did not include commerce and characterized it as personal use. He recalled that a few years ago commercial vehicle enforcement started having commercial fishing guides pulling their boats with regular pickups subject to enforcement and requiring them to hold a commercial driver's license (CDL) until the legislature passed an exemption.

[5:14:04 PM](#)

REPRESENTATIVE JOHNSON offered feedback from farmers, including that commercial vehicles cannot obtain "farmer's license plates" since these plates are limited to farmers. She indicated that farm vehicles were already defined.

MR. BINDER acknowledged that he could have directed members to Section 3. He directed attention to school buses, since some buses have been used for commercial operation during the summer months when school is not in session and the buses were not being used for school operations.

[5:16:04 PM](#)

REPRESENTATIVE TUCK related his understanding that school bus drivers must have a CDL requirement if they were transporting students. He asked whether bus drivers who were using school buses for other types of commerce would be exempt under SB 163.

MR. BYRD answered that the commercial driver's license (CDL) program was a federal program. He stated that if bus drivers were hauling 16 or more passengers, they would need CDLs.

[5:17:20 PM](#)

MR. BINDER added that would be for commercial purposes. He asked for further clarification.

MR. BYRD answered that school bus drivers were required to hold CDLs with a passenger endorsement.

[5:17:44 PM](#)

REPRESENTATIVE TUCK referred to page 3, lines 1-2, and read, "the following vehicles meeting the criteria in (A) and (B) and either 2 (C)(i) or (ii) [(A) - (C)] of this paragraph are not commercial motor vehicles:" He said the way he read this language, school buses were commercial vehicles so it would require school bus drivers to hold CDLs. He asked for further clarification on what was being exempted.

MR. BINDER directed attention to page 2, line 25 to current AS 19:10.399(1)(C)(ii), which read, "is designed to transport more than 15 passengers," noting that even though a school bus was designed to carry more than 15 passengers it was not being considered a commercial vehicle while it is being used to transport students for school purposes.

[5:18:52 PM](#)

REPRESENTATIVE TUCK asked for further clarification if school buses were not commercial vehicles the reason for the designation and if federal law requires drivers to hold CDLs to drive school buses.

MR. BINDER responded that additional commercial requirements pertain to vehicles being used in commerce would start to apply, including vehicle maintenance, lighting and marking, depending

on the purpose being used in commerce that do not apply while hauling students.

[5:19:28 PM](#)

REPRESENTATIVE TUCK expressed concern since drivers hauling students to and from school do not need to keep tail lights and markings operational and up to code. It seemed to him school bus drivers should have to meet higher standards not a lesser standard.

[5:20:00 PM](#)

MR. BYRD answered that the commercial vehicle requirements would be the markings, medical certificate, and the name of the company on the side of the bus. He said that the exemptions in the bill would exempt the drivers from safety regulations under federal requirements. He did not believe that drivers were exempt from CDL requirements, but they would be exempt from additional requirements that would apply to commercial vehicles; however, he noted that there was also a school bus inspection program, which was more stringent, more so than commercial vehicle inspections. Those inspections were conducted through the Department of Education and Early Development (DEED). He related his understanding that DEED requires school buses must be inspected twice a year to check vehicle safety, such as brake linings and wiring. He commented that bus drivers were still required to do a walk around inspection to ensure that the bus is in safe operating condition each time they leave to conduct a route.

REPRESENTATIVE TUCK acknowledged that was a policy call.

[5:21:46 PM](#)

CHAIR KREISS-TOMKINS announced that SB 163 would be held over.

Approval of Introduction of Potential Committee Legislation

[5:22:12 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be approval of introduction of potential committee legislation, relating to a Division of Motor Vehicle (DMV) indirect expenditure bill. There have been previous presentations before the committee, and he has circulated with

all members of the committee an outline of this proposed legislation.

[5:22:40 PM](#)

REPRESENTATIVE KNOPP moved that an act relating to the Division of Motor Vehicles as described in this committee hearing, be introduced as a House State Affairs Standing Committee bill. There being no objection, the indirect expenditure bill for the DMV will be brought before the committee.

[5:22:58 PM](#)

CHAIR KREISS-TOMKINS stated that the committee would be presented with a work draft to consider as a starting point.

HB 83-TEACHERS & PUB EMPLOYEE RETIREMENT PLANS

[5:23:07 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be the CS FOR HOUSE BILL NO. 83(L&C), "An Act relating to new defined benefit tiers in the public employees' retirement system and the teachers' retirement system; providing certain employees an opportunity to choose between the defined benefit and defined contribution plans of the public employees' retirement system and the teachers' retirement system; and providing for an effective date."

[5:23:29 PM](#)

EDRIC CARRILLO, Staff, Representative Sam Kito, Alaska State Legislature, read the changes to HB 83 from a document titled, "Explanation of Changes, HB 83, PERs/TRS, Version N to Version T, which read as follows [original punctuation provided]:

Version T includes the following changes to HB 83 version N:

- Broadened the title to refer to more than the new tiers, use the more precise title "Public Employees' Retirement System of Alaska."
- Added a new Sec. 1 at the department's request, making it easier for teachers to return to work after recovering from a disability. The section will allow

TRS to accept a certification of rehabilitation from other states' vocational rehabilitation offices.

- Changed Sec. 6 at the department's request to ease potentially burdensome exams for teachers getting a disability pension.
- Changed Sec. 7 at the department's request to allow TRS to accept vocational rehabilitation services in other states for teachers on a disability pension.
- Adjusted Sec. 9 at the department's request to clarify which retiree medical plan applies to teachers who retire in the new DB tier. Also updates the first risk adjustment to health care premiums to 2024, five years after the effective date.
- Removed from Sec. 12, at the Department of Law's request, the requirement that a teacher's spouse agree to the initial choice between the DB and DC plans.
- Adds a new Sec. 13 at the department's request so teachers appointed to disability in the DC plan can receive vocational rehabilitation in other states.
- Conforms Sec. 15 to the new effective date.

[5:26:10 PM](#)

MR. CARILLO continued to read the changes to HB 83 from a document titled, "Explanation of Changes, HB 83, PERS/TRS, Version N to Version T, which read as follows [original punctuation provided]:

- Clarified Sec. 18 language covering non-occupational disability benefits, as requested by the department.
- Changed Sec. 19 at the department's request to allow PERS to accept vocational rehabilitation services in other states for those on a disability pension.
- Adjusted Sec. 20 at the department's request to clarify which retiree medical plan applies to employees who retire in the new DB tier. Also updates the first risk adjustment to health care premiums to 2024, five years after the effective date.

- Removed from Sec. 25, at the Department of Law's request, the requirement that a teacher's spouse agree to the initial choice between the DB and DC plans.
- Adds a new Sec. 26 at the department's request so teachers appointed to disability in the DC plan can receive vocational rehabilitation in other states.
- Sec. 29 has a conforming change to a section number within the bill.
- Sec. 30 has been changed so it does not alter the department's existing regulations process for the retirement systems.
- Section 31 has conforming changes to reflect the appropriate section numbers in the CS.
- Section 32 changes the effective date to July 1, 2019

MR. CARILLO stated those were all the changes to the bill.

[5:27:42 PM](#)

REPRESENTATIVE LEDOUX made a motion to adopt the proposed committee substitute (CS) for HB 83 labeled as 30-LS0315\T, Wayne, 3/30/18, as the work draft. There being no objection, Version T was before the committee.

[5:28:09 PM](#)

REPRESENTATIVE BIRCH said he was opposed to anything that would restore an undefined obligation. He was unsure if there was a fiscal note for the defined benefits (DB) program. He then remarked that there was not a fiscal note. He offered his concern that the state would be "saddled" with liability and long-term obligations, which he characterized as significant. He argued that the state currently has a \$7 billion to \$8 billion unmet obligation. He related his understanding that an evaluation must be completed to determine the cost of the plan. He indicated members would be voting on something unknown. He said he was not supportive of this.

[5:29:13 PM](#)

CHAIR KREISS-TOMKINS offered a note on process. He related his understanding that the fiscal note would be completed when the

bill reached the House Finance Standing Committee. At that point the Department of Revenue (DOR) would run an actuarial analysis, he said. He acknowledged that it does put members in the position of voting on policy issues rather than the fiscal issues. He acknowledged that Representative Birch's comments were noted and appreciated.

REPRESENTATIVE BIRCH said he objected to the policy.

[5:30:54 PM](#)

CHAIR KREISS-TOMKINS opened public testimony on HB 83.

[5:31:23 PM](#)

CHRIS CAIRNS, Staff, Information Technology, Juneau School District; Representative, Alaska Public Employees Association (APEA), testified in support of HB 83. He stated that HB 83 represents a balm to the myriad of uncertainties for public employees. During a bargaining session he reviewed a chart of the number of employees that occupy each cell of the support staffs' salary schedule. He noticed many staff had served 1-6 or 15-25 years of service, but very few had 7-14 years of service. He later confirmed that more than half of all Juneau education support staff had seven or fewer years of service.

MR. CAIRNS said that he could not definitively state this resulted from the 2006 switch from the DB to defined contribution (DC) plan. The timeline certainly fits. He stated that he and his co-workers have frequently discussed the concept of DB plan and the peace of mind it provides. He related at last night's APEA union meeting with the school board, a board member asked besides wages what the biggest challenge employees faced. The vice-president confidently identified the biggest challenge as retention. He stated that the APEA needed to bring back DB plans. Every head nodded in enthusiastic agreement, he said.

[5:33:14 PM](#)

MR. CAIRNS, having spoken to management and labor organizations, offered his belief that nearby areas such as Spokane, Washington, would lure away the best employees. He reported these areas pay as much or more while the cost of living was much less than in Juneau. He also testified that these employers commonly mentioned a DB option as a mitigating enticement.

MR. CAIRNS offered his belief that retaining staff represents the key to doing more with less. Currently, many public employees face this challenge, he said. He predicted that prior mistakes would be repeated, and training will reduce efficiencies due to lost institutional knowledge. As an example, he felt that if he left it would take a new employee replacing him about two to three years to learn the job. It takes time to build the necessary relationships and comprehending the complexities of APEA's mission, process and role. This would not include time to gain technical competencies specific to school district information technology needs or shaping policy and procedures in innovative and productive ways.

[5:34:27 PM](#)

MR. CAIRNS offered that his job was not unique and other public employees would relate to his point of view. As many perceive it, since 2006 the Public Employees Retirement System (PERS) incentivizes five years of service, which coincides with the timeframe when employees have begun to excel at their jobs. He lamented that five years was the most inefficient timeframe in which to lose someone since they have learned their jobs and they leave. He urged members to support HB 83 for these reasons and many more that he does not have time to address. He appreciated committee members' time and thanked them.

[5:35:06 PM](#)

REPRESENTATIVE BIRCH asked whether any private sector employees have a DB program. He recalled previously the sense was that most private sector employees were moving away from it because of the uncertainty of the liability.

MR. CAIRNS responded no. He reported from an information technology perspective that the wage level was less in the public sphere than in the private sector.

[5:36:01 PM](#)

REPRESENTATIVE KNOPP asked for an explanation on the five-year timeframe in terms of [employee retention].

MR. CAIRNS answered that employees receive a 25 percent vestment after 2 years of service and an additional 25 percent every

additional year until the fifth year when employees become vested.

[5:36:34 PM](#)

REPRESENTATIVE KNOPP asked whether employees lacked any incentive to stay after becoming vested at five years.

MR. CAIRNS related that some employees in his department have left citing this as a specific reason.

[5:37:18 PM](#)

ALICIA HUGHES-SKANDIJS, Member, Alaska State Employees Association (ASEA), urged member to support HB 83. She said she considers herself a poster child for the kind of state worker who would benefit from this bill. She identified herself as a Tier IV employee working for the Department of Health and Social Services (DHSS). In September she would become fully vested, she said. She has served as a grants administrator and she loves her work. She feels the programs she serves make a difference and benefit the state. She would like to keep doing this job. She pointed out that the incentive of receiving a pension would play a large role in her decision-making process. In the four years since she has worked for the state, significant turnover has occurred in her office. She reported that when staff reach vesting and leave, it means she must continually train people, which she felt was an inefficient use of staff time. She has experienced trained staff leave. She offered her belief that staff often left at the five-year mark after having built up their resumes. Those who leave after five years or more take institutional knowledge with them which adds to organizational instability, she said.

[5:39:21 PM](#)

MS. HUGHES-SKANDIJS stated that she also serves as a union steward, so she comes into contact with numerous state workers in other departments. She speaks not only on behalf of herself but for many employees who want and support this. She remarked that the five-year vesting often comes up during conversations.

[5:39:52 PM](#)

MS. HUGHES-SKANDIJS stated she grew up in West Virginia before moving to Alaska. They moved away from the DB to DC plan, which lead to turnover problems, retention, quality of employees, and

the cost to the state. She reported that West Virginia did not find it was a cheap way to administer. Not only did they have an unfunded liability, but it was not working out for the state. Since then, West Virginia has returned to a DB plan and 79 percent of public employees switched back. The DB plan was not only better for employees but also better for employers, she said.

[5:40:35 PM](#)

MS. HUGHES-SKANDIJS offered to provide some facts and figures to the committee. She argued a DB plan has perks when best practices were followed due to higher returns and risk sharing. She offered her belief that this reflects the values of this great state to compensate people who provide a lifetime of service to Alaska with stability. She felt these people would continue to participate in the economy when their standard of living was higher at the end of their careers.

[5:41:43 PM](#)

REPRESENTATIVE BIRCH asked whether she had any information of private sector entities that have moved to a DB program. He said he was not aware of any. He expressed concern on unconstrained costs due to actuarial estimates.

[5:42:39 PM](#)

REPRESENTATIVE LEDOUX asked for further clarification on how many of the 49 other states have DC or DB plans.

MS. HUGHES-SKANDIJS offered her belief that Alaska may be the only state without a DB plan for teachers. She further remarked that benefits were better for public safety officers than for educational employees. She was unsure of states that offer DB plans for all employees. She stated that West Virginia does.

[5:43:31 PM](#)

REPRESENTATIVE TUCK asked whether she had social security benefits in West Virginia.

MS. HUGHES-SKANDIJS said she was unsure. She recalled receiving a letter from the Social Security Administration that she had not contributed enough into the system to be eligible to receive social security benefits upon retirement.

REPRESENTATIVE TUCK thanked the two testifiers.

[5:44:18 PM](#)

TIM PARKER, President, NEA-Alaska, stated he was also a former teacher. He said more than half of the educators in Alaska fall into the DC retirement system. This bill would allow them to select a DB plan.

MR. PARKER stated that younger teachers were leaving Alaska in numbers never seen before and replacing them has become more difficult. Last year Alaska had 250 open teaching positions. Last month the job fair that used to attract thousands only had 171 candidates. Over the past 3 years numbers have dropped about 20 percent per year.

[5:45:58 PM](#)

MR. PARKER said that Alaska teachers hired after 2006 have no access to DB plans or to social security benefits. Due to penalties any social security benefits teachers have earned in any previous jobs have been drastically reduced by the government pension offset. He characterized this as creating a crisis in education. Educators have referred to Tier III and Tier IV as the death tiers because they cannot realistically retire on their wages. Many of them have gone onto other states websites to calculate how much more money they need to put into their retirement system monthly in order to retire at age 65. He reported some have said it was up to \$4,000 per month in additional contributions.

[5:46:55 PM](#)

MR. PARKER expressed concern about losing quality educators at such an accelerated rate. He estimated it may cost the state \$20 million per year.

[5:47:11 PM](#)

CHAIR KREISS-TOMKINS announced that some members were receiving only about 50 percent or less of his comments due to the audio quality.

[5:47:47 PM](#)

MR. PARKER offered to submit his comments in writing to the committee. He reported that Alaska's teachers were the only

ones without access to a DB contribution system. He further reported that Alaska was one of only 16 states without access to social security benefits or supplemental benefits, which he felt was a critical point.

[5:48:31 PM](#)

CHAIR KREISS-TOMKINS, after first determining no one wished to testify, closed public testimony on HB 83. He announced that HB 83 would come back before the committee at a later hearing.

[5:48:53 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 5:48 p.m.