

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

May 3, 2019

1:22 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Gabrielle LeDoux, Vice Chair
Representative Chuck Kopp
Representative Louise Stutes
Representative Adam Wool
Representative Laddie Shaw
Representative David Eastman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 123

"An Act relating to electric-assisted bicycles."

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 18

Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund and to appropriations from the Alaska permanent fund.

- FAILED TO MOVE OUT OF COMMITTEE

HOUSE BILL NO. 110

"An Act relating to the transfer of a title to a boat on the death of the owner; relating to the transfer of a title to a vehicle, including certain manufactured homes and trailers, on the death of the owner; allowing a person to act for the surviving spouse of a decedent to enforce liability against real property transferred at death; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 115

"An Act relating to absentee voting; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 123

SHORT TITLE: ELECTRIC-ASSISTED BICYCLES

SPONSOR(s): REPRESENTATIVE(s) WOOL

04/05/19	(H)	READ THE FIRST TIME - REFERRALS
04/05/19	(H)	TRA, JUD
04/16/19	(H)	TRA AT 1:00 PM BARNES 124
04/16/19	(H)	Heard & Held
04/16/19	(H)	MINUTE(TRA)
04/18/19	(H)	TRA AT 1:00 PM BARNES 124
04/18/19	(H)	Moved HB 123 Out of Committee
04/18/19	(H)	MINUTE(TRA)
04/22/19	(H)	TRA RPT 4DP
04/22/19	(H)	DP: STORY, TALERICO, DRUMMOND, WOOL
05/03/19	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: HJR 18

SHORT TITLE: CONST AM: PERMANENT FUND; POMV; EARNINGS

SPONSOR(s): REPRESENTATIVE(s) KREISS-TOMKINS

04/24/19	(H)	READ THE FIRST TIME - REFERRALS
04/24/19	(H)	STA, JUD, FIN
04/25/19	(H)	STA AT 3:00 PM GRUENBERG 120
04/25/19	(H)	Heard & Held
04/25/19	(H)	MINUTE(STA)
04/30/19	(H)	STA AT 3:00 PM GRUENBERG 120
04/30/19	(H)	Heard & Held
04/30/19	(H)	MINUTE(STA)
05/01/19	(H)	JUD AT 1:00 PM GRUENBERG 120
05/01/19	(H)	<Bill Hearing Canceled>
05/02/19	(H)	STA AT 3:00 PM GRUENBERG 120
05/02/19	(H)	Moved HJR 18 Out of Committee
05/02/19	(H)	MINUTE(STA)
05/03/19	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: HB 110

SHORT TITLE: VEHICLES/BOATS: TRANSFER ON DEATH TITLE

SPONSOR(s): REPRESENTATIVE(s) SPOHNHOLZ

03/25/19	(H)	READ THE FIRST TIME - REFERRALS
03/25/19	(H)	STA, JUD
04/11/19	(H)	STA AT 3:00 PM GRUENBERG 120

04/11/19	(H)	Scheduled but Not Heard
04/18/19	(H)	STA AT 3:00 PM GRUENBERG 120
04/18/19	(H)	Heard & Held
04/18/19	(H)	MINUTE(STA)
04/23/19	(H)	STA AT 3:00 PM GRUENBERG 120
04/23/19	(H)	Moved CSHB 110(STA) Out of Committee
04/23/19	(H)	MINUTE(STA)
04/24/19	(H)	STA RPT CS(STA) NT 5DP 2NR
04/24/19	(H)	DP: WOOL, SHAW, STORY, KREISS-TOMKINS, FIELDS
04/24/19	(H)	NR: VANCE, LEDOUX
05/03/19	(H)	JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

ANNE RITGERS, Staff
 Representative Adam Wool
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Summarized the provisions of HB 123 on behalf of Representative Wool, the prime sponsor.

CARY SHIFLEA
 Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 123.

WILLIAM HARRINGTON
 Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 123.

KEVIN HIGGINS, Assistant Attorney General
 Labor & State Affairs Section
 Civil Division
 Department of Law
 Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 123.

REPRESENTATIVE JONATHAN KREISS-TOMKINS
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Introduced HJR 18 as prime sponsor.

KEVIN MCGOWAN, Staff
 Representative Jonathan Kreiss-Tomkins
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented on HJR 18 on behalf of Representative Kreiss-Tomkins, the prime sponsor.

ALEXEI PAINTER, Fiscal Analyst
Legislative Finance Division
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HJR 18.

MEGAN HOLLAND, Staff
Representative Ivy Spohnholz
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced and presented on HB 110 on behalf of Representative Spohnholz, the prime sponsor.

REPRESENTATIVE IVY SPOHNHOLZ
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 110 as prime sponsor.

ACTION NARRATIVE

[1:22:36 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:22 p.m. Representatives Stutes, Wool, Shaw, and Claman were present at the call to order. Representatives Eastman, LeDoux, and Claman arrived as the meeting was in progress.

HB 123-ELECTRIC-ASSISTED BICYCLES

[1:23:05 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 123, "An Act relating to electric-assisted bicycles."

[1:23:40 PM](#)

REPRESENTATIVE WOOL introduced HB 123 as prime sponsor. He said that the impetus for the bill was an incident during which a constituent was pulled over and told he could not operate an electric-assisted bicycle without a driver's license. Representative Wool noted that motorized vehicles are defined by

statute, but electric-assisted bicycles are not. He said HB 123 would define electric-assisted bicycles and stipulate that they be treated the same as bicycles. He explained that this means an operator would not need a driver's license or helmet and that the electric-assisted bicycle would not need to be registered. He added that a municipality would be allowed the discretion to impose different rules on electric-assisted bicycles.

[1:25:28 PM](#)

ANNE RITGERS, Staff, Representative Adam Wool, Alaska State Legislature, began her PowerPoint presentation [hard copy included in the committee packet]. She addressed slide 1 and said the objective of HB 123 is to regulate electric-assisted bicycles as bicycles, to update statute to reflect technological advances, and to clarify the law for consumers and retailers.

MS. RITGERS addressed slide 2. She said the definition of an electric-assisted bicycle can be found in section 8 of the bill. She explained that an electric-assisted bicycle is a bicycle that is designed to travel with not more than three wheels in contact with the ground, has fully operative pedals for human propulsion, and is equipped with an electric motor that has a power output of not more than 750 watts, provides assistance only when the rider is pedaling, and ceases to provide assistance when the bicycle reaches a speed of 28 miles per hour.

[1:26:45 PM](#)

MS. RITGERS addressed slide 3, which featured a map of the United States displaying the 36 states that have some type of electric bicycle definition in statute. She noted that Alaska is not one of those states.

MS. RITGERS addressed slides 4 and 5, which featured illustrations of electric-assisted bicycles. She highlighted in one photo the battery pack mounted on the main frame and the motor located in the hub. She restated that all electric-assisted bicycles have fully operable pedals. She noted that some electric-assisted bicycles have the battery and motor within the frame, making them appear more like normal bicycles.

MS. RITGERS addressed slide 6, which featured a photo of an electric scooter and a photo of a moped. She clarified that HB 123 draws a distinction between electric-assisted bicycles and

electric scooters or mopeds. She noted that the latter do not have fully operative pedals and have larger gasoline engines.

[1:27:52 PM](#)

REPRESENTATIVE SHAW acknowledged the note made during the presentation about the maximum speed of 29 miles per hour. He noted that there is language on page 3, line 26 that reads "not more than 15 miles an hour." He asked if this is conflicting language.

MS. RITGERS said the definition to which Representative Shaw is referring is of an "electric personal motor vehicle," which is different from an electric-assisted bicycle.

REPRESENTATIVE SHAW thanked her for clarifying that there are two definitions.

[1:28:53 PM](#)

CHAIR CLAMAN asked for an example of an electric personal motor vehicle, defined in section 5 of the bill and in AS 28.90.990(a)(12).

REPRESENTATIVE WOOL said the drafters deduced that the statute refers to a two-wheeled, non-tandem personal vehicle like a Segway.

[1:29:31 PM](#)

REPRESENTATIVE LEDOUX asked if electric-assisted bicycles are currently regulated.

MS. RITGERS said electric-assisted bicycles fall into a gray area because they do not fit any current definitions of a vehicle in Alaska statute. She restated that the purpose of the bill is to clearly define them.

REPRESENTATIVE LEDOUX asked what the problem is that HB 123 is attempting to fix.

REPRESENTATIVE WOOL restated that the bill was conceived after one of his constituents was pulled over while riding an electric-assisted bicycle. He explained that the constituent's driver's license had been revoked and the electric-assisted bicycle being used to commute. He said the constituent was told he could not operate it without a driver's license.

Representative Wool noted that there are motorized vehicle regulations in statute that refer to a 50cc gasoline motor or larger. He said electric motors are not currently defined and HB 123 would fix that. He said the bill would also distinguish between electric-assisted bicycles and other bicycles that do not require pedaling. He said the latter would not be categorized as "e-bikes" under state law. He restated the intention to define electric-assisted bicycles and to treat them like bicycles.

REPRESENTATIVE LEDOUX mused that HB 123 would exclude electric-assisted bicycles from regulation rather than regulate them.

REPRESENTATIVE WOOL stated that HB 123 would define them as a class of bicycle not to be confused with scooters or other motorized vehicles without pedals.

[1:31:47 PM](#)

CHAIR CLAMAN noted that HB 123 would establish a statutory top speed of 28 miles per hour. He asked what happens if the industry decides to change the standard top speed to 30 miles per hour. He asked if they those bicycles would all be treated as motorized vehicles.

REPRESENTATIVE WOOL said there are different classifications of pedal-assisted electric bicycles. Some, he explained, cease to assist when the bicycle reaches 20 miles per hour while others cease at 28 miles per hour. He said if there were a new generation of electric-assisted bicycles that went up to 35 miles per hour with pedal assist, then - assuming HB 123 becomes law - they would be classified in a different category of motorized vehicles where helmets, registration, and a driver's license are required for operation.

[1:32:48 PM](#)

REPRESENTATIVE EASTMAN asked how the passage of HB 123 would affect a situation in which Representative Wool's constituent is pulled over again.

REPRESENTATIVE WOOL remarked that, if the constituent is riding an electric-assisted bicycle that fits the new definition and the police officer is aware of the definition, then there would be no reason why the constituent could not ride his electric-assisted bicycle on roads just like a normal bicycle.

REPRESENTATIVE EASTMAN said it seems the legislature has not given discretion to traffic officers to pull over people for riding electric-assisted bicycles. He asked, "Shouldn't the response just be 'this isn't a vehicle'?"

REPRESENTATIVE WOOL said he thinks there is confusion about vehicles with a motor that should not be treated as motorized vehicles. He restated that electric motors are not directly addressed in statute. He said HB 123 would make 750 watts - about 1 horsepower - the maximum size for electric motors.

REPRESENTATIVE EASTMAN asked how a police officer would be able to tell the difference between a 750-watt motor and something larger or smaller. He asked if there is some sort of visual cue.

REPRESENTATIVE WOOL said he does not have a definitive answer to that question. He said a 2,000-watt motor would make the vehicle larger, heavier, and allow it to go faster. He suggested that a police officer who suspects that an electric-assisted bicycle rider is going too fast could pull the rider over to investigate. He mused that the officer would take a commonsense approach to enforcement.

REPRESENTATIVE EASTMAN asked if there would be a speed limit for electric-assisted bicycles should HB 123 become law.

REPRESENTATIVE WOOL said they would be treated like bicycles and there is no speed limit for bicycles. He said if someone hits 45 miles per hour riding a bicycle down a hill, that is legal. He said the rider should be wearing a helmet, but it is not required by state law. He said the same would apply for electric-assisted bicycles.

[1:36:09 PM](#)

REPRESENTATIVE LEDOUX asked what happened to Representative Wool's constituent who was pulled over.

REPRESENTATIVE WOOL said he does not know. He said he thinks the constituent was forced to walk home. He said he would follow up to get the exact details.

REPRESENTATIVE LEDOUX said she is attempting to figure out whether this is an issue that needs to be addressed in statute, or if it is a matter of ensuring police officers are aware that

a driver's license is not necessary for the operation of an electric-assisted bicycle.

REPRESENTATIVE WOOL said it would be great to ensure police awareness. He said most states have statutes that address electric-assisted bicycles for the purpose of eliminating confusion about what is and isn't a motorized vehicle. He argued that HB 123 would clearly define what is an electric-assisted bicycle.

[1:38:22 PM](#)

CHAIR CLAMAN opened public testimony on HB 123.

[1:38:57 PM](#)

CARY SHIFLEA said he owns an electric bicycle store but is testifying as an individual. He said he has been riding electric bicycles since 2012 and has found that they allow him to get out more than he typically would. He said it is important to clarify the state law and to avoid lumping electric-assisted bicycles with 50cc motors, which he argued would not survive litigation as electric motors do not have a cubic centimeter displacement value. He said he supports aligning state law with the Municipality of Anchorage's electric bicycle law, which he explained HB 123 would do. He said it would also align with the federal definition of what an electric bicycle is through the Consumer Product Safety Act. He noted that an industry standard enacted in 2016 ensures that electric-assisted bicycles are stamped with a class 1, 2, or 3 distinction. He said 90 percent of the electric-assisted bicycle industry is building to the 20 miles per hour limit while only a few are building to the 28 miles per hour limit or higher. He stated that if an electric-assisted bicycle goes faster than 28 miles per hour or has a larger motor than what is deemed fit, then it should be classified as a motor vehicle. He said an electric-assisted bicycle that goes 28 miles per hour or less should be treated like a traditional bicycle.

[1:41:00 PM](#)

WILLIAM HARRINGTON said electric vehicles of all type are "really going gang." He suggested changing the term "bicycle" to "personal wheeled electric vehicle, a PWEV." He noted that electric skateboards and electric scooters are becoming more popular. He said electric-assisted bicycles are not the same as pedal bicycles just like a speed boat is not the same as a

rowboat. He stated that personal injury can only be worse in an accident when a helmet is not worn. He said helmets should be required for use. He asked how many tragic accidents will be necessary before state legislators upgrade safety requirements. He discussed the electric scooter companies Lime and Bird and said their products should be included in the present discussion as they will become more popular in the future. He argued that electric-assisted bicycles should be licensed, registered, and have a state-issued title.

[1:43:05 PM](#)

CHAIR CLAMAN, after ascertaining that no one else wished to testify, closed public testimony on HB 123.

[1:43:30 PM](#)

REPRESENTATIVE LEDOUX asked if police officers should currently be stopping people who ride electric-assisted bicycles.

KEVIN HIGGINS, Assistant Attorney General, Labor & State Affairs Section, Civil Division, Department of Law, said, "That is a much more complicated question than just yes or no." He said the answer depends on the circumstances of the interaction between the officer and the person riding the [electric-assisted bicycle].

REPRESENTATIVE LEDOUX said she does not understand that answer. She said it is either considered a motor vehicle under state law or it is not, regardless of the interaction between the officer and rider.

MR. HIGGINS said the issue stems from the opaque definition of "e-bikes" in statute. He said they are treated as motor vehicles in one section, as motorcycles in another, and as "motor-driven cycles" in yet another. He said they are not currently regulated as bicycles or "off-highway vehicles." He noted that the term "motorized bicycle" appears in some public safety regulations, but that term is never defined. He stated that, as it currently stands, electric-assisted bicycles must be registered and insured.

REPRESENTATIVE LEDOUX asked for confirmation that HB 123 is necessary to clarify whether electric-assisted bicycles should be stopped.

MR. HIGGINS said he believes the bill would help clarify things. He highlighted language located in section 3 on page 2, lines 10 through 13. He said the language is important because it would allow the municipalities to develop their own regulations and ensure that local law enforcement knows how to enforce them.

REPRESENTATIVE LEDOUX said she thought the Municipality of Anchorage already has regulations. She asked how it has regulations if HB 123 is necessary to allow it to regulate.

MR. HIGGINS said he is not entirely clear about the Municipality of Anchorage's regulations. He clarified that section 3 would make it explicit "that state regulation could not prohibit the use of an electric-assisted bicycle, but this limitation would not apply to municipal regulation."

[1:47:17 PM](#)

REPRESENTATIVE LEDOUX asked if state law requires the use of a helmet for motorcycle riders.

MR. HIGGINS said he believes it is not required for people over the age of 18.

REPRESENTATIVE LEDOUX asked if there are any rules about bicycle helmets under state law.

MR. HIGGINS answered, "not under state law."

[1:48:15 PM](#)

CHAIR CLAMAN announced that the committee would hold HB 123 for further review.

[1:48:48 PM](#)

The committee took an at-ease from 1:49 p.m. to 1:50 p.m.

HJR 18-CONST AM: PERMANENT FUND; POMV; EARNINGS

[1:49:59 PM](#)

CHAIR CLAMAN announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 18, "Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund and to appropriations from the Alaska permanent fund."

[1:50:26 PM](#)

REPRESENTATIVE JONATHAN KREISS-TOMKINS, Alaska State Legislature, said HJR 18 would do two things. First, he said, it would roll the Permanent Fund earnings reserve account (ERA) into the principal so that the entirety of the Alaska Permanent Fund is constitutionally protected. Second, he said, it would provide for an annual 5 percent of market value (POMV) draw from the new, combined, and constitutionally protected Permanent Fund that cannot be broken and cannot be overdrawn by the legislature.

[1:51:10 PM](#)

KEVIN MCGOWAN, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, said it is worth noting that the Alaska Permanent Fund Corporation has issued four resolutions that mention support for a constitutionalized POMV: Resolutions 00-13, 03-05, 04-09, and 18-04. He quoted Resolution 04-09: "Now, therefore, be it resolved by the Board of Trustees that the Board reaffirms its commitment to a constitutional amendment that provides for protection of the Fund by application of a POMV payout mechanism."

[1:51:56 PM](#)

REPRESENTATIVE EASTMAN asked why this is being presented as an amendment to the Constitution of the State of Alaska.

REPRESENTATIVE KREISS-TOMKINS said there are two reasons, the first of which is that the current structure of the Permanent Fund is susceptible to risk. He said a "rough patch in the economy or the markets" could cause the ERA to dramatically contract and potentially hit zero. He noted that this nearly happened during the Great Recession. He said that, under Senate Bill 26 [Passed during the Thirtieth Alaska State Legislature], a zeroed-out ERA would mean an inability to fully distribute Permanent Fund dividends (PFDs) and/or pay for certain public services. He opined that HJR 18 would resolve the unnecessary risk of having a volatile ERA and simply hoping it can survive market downturns. He said the second reason for introducing a constitutional amendment is for the legislature to resolve never to draw more than a sustainable amount from the permanent fund. He said 5 percent would be the cap and this would forever protect the Permanent Fund.

REPRESENTATIVE EASTMAN asked what he anticipates the impact of the constitutional amendment to be on the PFD.

REPRESENTATIVE KREISS-TOMKINS said there would be no direct impact on the PFD and noted that the PFD is not mentioned in the amendment. He stated he does not mean to pretend that there are not indirect impacts to the PFD. He said, "When we talk about the Permanent Fund [and] ... the state budget, everything is interconnected." He said that, ultimately, HJR 18 would leave it to the Legislature to decide what the PFD should be. He said, if it were the will of the legislature, it could continue to pay the full statutory amount of the PFD. He noted that this year's dividend amount is approximately \$1.9 billion and the 5 percent POMV draw is approximately \$2.9 billion. He said HJR 18 intentionally does not address the question of the PFD. He stated it is not his intent to promote a dividend of a certain size through the amendment. He said his primary concern is that there might not be dividends in coming decades if the Permanent Fund is not fully constitutionally protected.

[1:56:10 PM](#)

CHAIR CLAMAN opened public testimony on HJR 18. After ascertaining that no one else wished to testify, he closed public testimony.

[1:57:05 PM](#)

REPRESENTATIVE EASTMAN highlighted language located in section 3 on page 2, line 8 of HJR 18. He observed that the proposed constitutional amendment would take the unencumbered balance of the ERA, which pays dividends, and deposit it in the corpus. He asked why.

REPRESENTATIVE KREISS-TOMKINS said that section would effectively roll the ERA into the principal of the Permanent Fund. He said it is worth mentioning that the constitutional amendment proposed in HJR 18 would not take effect until June 30, 2022. He said this means the Permanent Fund would remain as currently structured for a few more years, so a future legislature could elect to transfer funds from the ERA to the principal or another account.

REPRESENTATIVE EASTMAN said there is about \$18.4 billion in the ERA. He asked, assuming that amount moves to the corpus and the state operating budget remains similar in size, whether the POMV

draw restriction would effectively reduce the size of the PFD during a down year.

REPRESENTATIVE KREISS-TOMKINS said there are two answers to that question: one political, the other mechanical. Mechanically, he said, the answer is no, as HJR 18 would do nothing to affect the size of the dividend. He noted that Representative Eastman's question is premised on the operating budget remaining unchanged. He said that is a question of what the legislature does and what Alaskans want. He spoke to the difference between his personal priorities and those of Governor Michael J. Dunleavy. "But," he continued, "nothing changes from present," as the legislature is currently determining how much money goes to state services and how much goes to PFDs. He stated that, should HJR 18 pass, it would mean that the legislature could not draw an unsustainable amount of money out of the Permanent Fund for any reason - not for dividend funds and not for state services. He said HJR 18 is agnostic in its reasoning; it simply seeks to protect the Permanent Fund from an unsustainable draw.

[2:02:11 PM](#)

REPRESENTATIVE EASTMAN said the PFD is currently calculated based on a 5-year rolling average so one bad year flanked by good years would be averaged out. He suggested that, should HJR 18 pass and PFDs be limited by a sustainable draw, then a down year could result in a small dividend or no dividend at all, regardless of political will, as the rolling average could not be factored.

REPRESENTATIVE KREISS-TOMKINS deferred to Alexei Painter from the Legislative Finance Division. He said, "HJR 18 looks at a 5-year average ... [and would not] change the statutory formula for the dividend, so that would also remain a 5-year average."

[2:04:48 PM](#)

ALEXEI PAINTER, Fiscal Analyst, Legislative Finance Division, Alaska State Legislature, said it is theoretically possible that the dividend calculation would exceed the 5-year moving average of 5 percent, though observed, "I think you would have to be stretching the bounds of realistic investment growth, so that you would have so much realized income that the dividend formula exceeded that 5 percent." He opined that it would be extremely difficult for the Permanent Fund to grow quick enough so that the 5-year average would be insufficient. He noted that

previous down years caused the PFD to decrease much more drastically than the moving average of the balance. For example, he said, during the 2008-2009 recession, the dividend calculation decreased from approximately \$1,800 to about \$800 because the one bad year brought the average down so far. He noted that the value of the Permanent Fund decreased by less than 20 percent during that bad year, so a calculation based on the POMV would be more than adequate to pay for the PFD even if there was a down year. He observed that the dividend will be more volatile than the POMV will be, so bad market issues should not cause any issues.

[2:06:23 PM](#)

REPRESENTATIVE EASTMAN established a hypothetical scenario in which a market crash results in no positive return on the Permanent Fund. He asked how much would be available for payment of a dividend and where the legislature would go for that money.

MR. PAINTER asked him to clarify whether he is referring to the current constitutional construct or--

REPRESENTATIVE EASTMAN interjected that he meant his scenario to occur after the passage of HJR 18.

MR. PAINTER said the 5-year average balance would still be a positive number even if there is one year with no earnings. He commented that changes in earnings should not significantly affect the POMV draw because the draw would be based on balances and not earnings.

REPRESENTATIVE EASTMAN said, "Let's say we have a year like this year [except] we're not making any money because the market crashed." He asked how much would be available to the legislature to spend on the budget "and still draw a dividend from that amount."

MR. PAINTER said, if HJR 18 were in effect, even if the earnings were zero, the POMV draw would be based on balances through the end of fiscal year 2018, so the full POMV draw of \$2.9 billion could still be spent. He said that represents the stability of a POMV draw because there is still a balance available even if there is a downturn in earnings.

[2:09:20 PM](#)

CHAIR CLAMAN asked for verification that HJR 18 would essentially eliminate the ERA and that earnings would simply roll into the Permanent Fund. He continued, "Then ... if there were \$100 billion in the fund and the rate was 5 percent ... then there would be \$5 billion for the legislature to appropriate as it sees fit." He added that the legislature would also have revenue to spend, and from that sum would issue dividends of a value based on its own determination.

MR. PAINTER said that is correct. He said the earnings amount would not be the controlling factor, rather it would be the POMV calculation.

CHAIR CLAMAN asked whether other accounts including the Constitutional Budget Reserve Fund (CBRF) and the Statutory Budget Reserve (SBR) Fund would be counted into the POMV calculation, or if the draw only relates to the funds in the Permanent Fund.

MR. PAINTER said it would only be the balances in the Permanent Fund.

CHAIR CLAMAN asked if it is true that the current POMV calculation includes the "amounts in some of those other funds that the Permanent Fund is managing"

MR. PAINTER said no, Senate Bill 26 specifically excludes from the calculation "the Mental Health Trust money" and others that are managed by the Permanent Fund.

[2:11:21 PM](#)

The committee took a brief at-ease from 2:11 p.m. to 2:12 p.m.

[2:11:57 PM](#)

REPRESENTATIVE LEDOUX noted that she heard HJR 18 in the House State Affairs Standing Committee. She said she would not support any legislation relating to the Permanent Fund until the size of the dividend is determined.

[2:12:25 PM](#)

REPRESENTATIVE EASTMAN opined that HJR 18 attempts to enshrine "budget strategy" and puts off determining the size of the dividend "until everything else has been decided." He said that is concerning to him, as it makes the dividend the lowest of the

legislature's spending priorities. He stated that his constituents believe it should be a high priority.

[2:13:14 PM](#)

REPRESENTATIVE Stutes moved to report HJR 18 out of committee with individual recommendations and the attached fiscal notes.

REPRESENTATIVE EASTMAN objected.

A roll call vote was taken. Representatives Shaw, Stutes, and Claman voted in favor of reporting HJR 18 out of committee. Representatives LeDoux and Eastman voted against it. [Lacking the required majority vote of the full committee membership, HJR 18 failed to move out of committee by a vote of 3-2; HJR 18 was brought before the committee again at timestamp 3:07:36 PM.]

HB 110-VEHICLES/BOATS: TRANSFER ON DEATH TITLE

[2:14:14 PM](#)

CHAIR CLAMAN announced that the next order of business would be HOUSE BILL NO. 110, "An Act relating to the transfer of a title to a boat on the death of the owner; relating to the transfer of a title to a vehicle, including certain manufactured homes and trailers, on the death of the owner; allowing a person to act for the surviving spouse of a decedent to enforce liability against real property transferred at death; and providing for an effective date." [Before the committee was CSHB 110(STA) labeled 31-LS0422\U.]

[2:15:10 PM](#)

MEGAN HOLLAND, Staff, Representative Ivy Spohnholz, Alaska State Legislature, introduced HB 110 on behalf of Representative Spohnholz, the prime sponsor, and began the bill presentation. She identified various people available to the committee for questions.

[2:16:14 PM](#)

REPRESENTATIVE IVY SPOHNHOLZ, Alaska State Legislature, said HB 110 would build upon the Uniform Real Property Transfer on Death Act (URPTODA) [House Bill 60, which passed in the Twenty-Eighth Alaska State Legislature], which created the Transfer on Death (TOD) deed. She said HB 110, which is similar to House Bill 273 introduced in the Twenty-Ninth Alaska State Legislature and

carried by the late Representative Max Gruenberg, would extend the TOD concept to titles for vehicles and boats. She explained that HB 110 would allow an Alaskan to submit a form at the Division of Motor Vehicles (DMV) to designate up to two beneficiaries for his/her vehicle or boat. Upon death of the owner, the beneficiary or beneficiaries would provide proof of death to the DMV, submit a form, and pay associated fees to receive a new title in their name or names. She said HB 110 would assist estate planners and simplify the estate planning process so that families can avoid probate and other difficulties related to passing down assets to beneficiaries.

[2:18:16 PM](#)

The committee took an at-ease from 2:18 p.m. to 2:35 p.m.

[2:35:15 PM](#)

REPRESENTATIVE SPOHNHOLZ summarized her introduction from before the at-ease. She explained that she is carrying the legislation at the request of Representative Gruenberg's widow. She said the American Association of Retired Persons (AARP), the Alaska Automobile Dealers Association (AADA), and the Alaska Commission on Aging (ACoA) all support HB 110. She noted that her office has not received any formal opposition to the bill nor was there opposition to House Bill 273.

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REPRESENTATIVE STUTES observed that HB 110 calls for a two-step process. She explained that, if she is the owner of the vehicle, she would submit a form declaring a beneficiary who would then return to the DMV after her death to submit another form and claim the new title.

REPRESENTATIVE SPOHNHOLZ said that is correct. She explained that it would work like any other transfer of asset in which the person bequeathing the asset indicates his/her beneficiary, who then proves the death of the owner to claim the bequeathed asset.

CHAIR CLAMAN asked if the process is different from the transfer of a bank account upon death.

REPRESENTATIVE SPOHNHOLZ said it would require the presentation of a death certificate as well as proof of identification. She

explained that the DMV wants there to be a form to document the process.

[2:38:48 PM](#)

MS. HOLLAND began her PowerPoint presentation [hard copy included in the committee packet] and addressed slide 2. She spoke to the legislative history of HB 110 and similar bills in other state legislatures. She noted that 18 other states have TOD titles for vehicles and 7 authorize TOD titles for boats. She characterized TOD titles as a national trend.

MS. HOLLAND addressed slide 3. She said HB 110 addresses the problem of probate, which can take anywhere from six months to several years and can cost thousands of dollars in legal fees. She noted that Alaska has a few existing remedies for non-probate transfers of property, including joint ownership, which requires a degree of forfeiture of certain ownership rights; an affidavit for collection of personal property, which only applies when the value of all vehicles is \$100,000 or less and when the value of all other personal property owned by the decedent is \$50,000 or less; and a living trust, which involves naming a trustee to manage one's property after death and is more complicated than a traditional will, meaning it is likely to be more expensive. She said HB 110 seeks to avoid the limitations and expenses associated with those options.

[2:41:36 PM](#)

MS. HOLLAND addressed slide 4. She restated that HB 110 would create TOD titles to reduce the need for probate, to provide streamlined estate planning services to Alaskans at little cost to the State of Alaska (SOA), and to expedite the transfer of property to beneficiaries.

MS. HOLLAND addressed slide 5. She noted that the information displayed about the application process corresponds to the earlier answer to Representative Stutes's question.

[2:42:31 PM](#)

MS. HOLLAND began a sectional analysis of the bill. She addressed slide 6, which focused on sections 1 and 2 of HB 110. She said section 1 would allow for owners of boats for which the Department of Administration (DOA) issues titles to obtain a TOD title. She noted that certain boats are exempt from the titling requirements in AS 05.25.044, including boats less than 24 feet

long, boats federally documented by the United States Coast Guard (USCG), homemade nonmotorized umiaks, and foreign vessels passing through Alaskan waters in less than 90 days. She added that, under AS 05.25.056(f), owners of boats less than 24 feet long are still able to apply for a title through the DMV, so a TOD title would be available to them should HB 110 become law. She explained that section 2 of the bill would add TOD title transfers of boats and vehicles to the existing list of properties that can be transferred outside of probate.

MS. HOLLAND addressed slide 7, which focused on section 3. She explained that section 3 would create the mechanism of TOD titles for boats and vehicles titled through the DMV. She pointed to a photo of a motor home and said the DMV issues titles for some manufactured homes that are transportable without a permanent foundation and have plumbing, heating, and air-conditioning. She said much of the language in section 3 was pulled from or is similar to the Uniform Law Commission's language related to URPTODA, which created the TOD deed. She discussed the processes through which TOD titles would be obtained, changed, or revoked through the DMV and noted that the legislation does not allow for the titles to be altered in any other way. She clarified that the TOD title would automatically be revoked if the vehicle or boat is sold. She said section 3 would also subject TOD titles to the decedent's creditors, contracts, and liens, and lays out how liability would be enforced upon TOD titles. She stated that it would work similar to TOD deeds and that "the debt follows the asset," so the debts and contracts associated with a bequeathed boat would be transferred to the new owner. She said section 3 would also establish that the owner retains full ownership rights until death and that beneficiaries have the right to disclaim interest in the boat or vehicle should they wish not to receive it after the owner's death.

[2:47:02 PM](#)

MS. HOLLAND addressed slide 8, which focused on sections 4 through 6. She said section 4 would clarify that a person acting on behalf of the surviving spouse of the decedent may demand to enforce liability against the decedent's property. She said section 5 would allow customers to authorize the DMV to automatically change their mailing address to match the address used by the United States Postal Service (USPS). She explained that many people who move to a new house change their address through USPS but fail to do so through the DMV, resulting in the DMV receiving a high volume of returned mail. She spoke to the

cost of having to send multiple copies of a document to multiple addresses. She said section 5 is "an efficiency" supported by the [DMV]. She noted that section 5 was added to the bill by the House State Affairs Standing Committee.

[2:48:21 PM](#)

REPRESENTATIVE KOPP identified a 1970s-era vehicle pictured on slide 8. He asked if the vehicle represents how long Representative Gruenberg had been pushing this legislation. After some laughter from the committee, he asked how long Representative Gruenberg had advocated for this legislation.

REPRESENTATIVE SPOHNHOLZ provided some historical context including her understanding that Representative Gruenberg was very active with the Uniform Law Commission as relates to contracts. She provided additional information about URPTODA.

[2:49:53 PM](#)

MS. HOLLAND continued to section 6, which she explained would clearly state that owners of vehicles for which the DMV issues titles may obtain a TOD title.

MS. HOLLAND addressed slide 9, which covered sections 7, 8, and 9. She explained that section 7 would give DOA the authority to develop necessary regulations to implement TOD titles. She said section 8 would apply an immediate effective date to section 7, while section 9 would apply an effective date of July 1, 2020, for all sections other than 7 and 8.

[2:51:00 PM](#)

REPRESENTATIVE EASTMAN asked, assuming HB 110 becomes law, what the differences would be between death transfers for boats versus real estate.

REPRESENTATIVE SPOHNHOLZ answered that the passage of URPTODA [House Bill 60] in 2014 created the TOD deed which allows for the transfer of real property using a deed. She said this is a similar mechanism to the TOD titles proposed in HB 110. She said the idea behind HB 110 is to allow people with smaller estates to avoid the time-consuming probate process when transferring assets. She said a TOD deed would be "just about instant." She established a hypothetical scenario about a family fishing business wherein the elder dies and the younger person would like to assume immediate ownership of the boat.

She said HB 110 would allow the younger person to efficiently take ownership and immediately begin fishing with full responsibility for the boat.

[2:52:47 PM](#)

CHAIR CLAMAN opened public testimony on HB 110. He recognized that there was meant to be an invited testifier from AARP who had previously been present but is currently unavailable. He noted that he would allow her the opportunity to testify in the future. After ascertaining that no one else wished to testify, Chair Claman closed public testimony on HB 110.

[2:54:11 PM](#)

CHAIR CLAMAN noted that a hearing for HB 115 was scheduled for today, but time constraints will prevent the bill from being heard. He announced his intention to hear HB 115 on Monday, May 6.

[2:54:32 PM](#)

REPRESENTATIVE KOPP said he appreciates that HB 110 addresses what can be a major hassle for people. He recognized that this legislation would benefit Alaska's military service members and their families. He spoke to his experience with the probate process and observed that HB 110 introduces concepts that are much needed in Alaska law.

[2:55:27 PM](#)

REPRESENTATIVE EASTMAN asked how the bill distinguishes between those acting in good faith and those who are not.

REPRESENTATIVE SPOHNHOLZ answered that HB 110 would not affect debt resolution issues. She noted that any responsibility related to money owned on a vehicle would be transferred to the beneficiary, so financial responsibilities could not be circumvented through a TOD title. She added that proof of death is required for an asset to transfer, so "fraud would still be fraud."

REPRESENTATIVE EASTMAN asked a question based on a hypothetical scenario in which a relative with heavy debts dies and bequeaths his truck to a survivor via a TOD title.

REPRESENTATIVE SPOHNHOLZ answered that the purpose of HB 110 is to create an opening for people who do not need to go through the probate process. She said there would still be responsibilities for liabilities if the decedent's estate has liabilities. She suggested that the specifics of Representative Eastman's scenario would be better addressed by a representative from the Department of Law or the Alaska Bar Association's (ABA) Estate Planning & Probate Law section.

[2:58:26 PM](#)

REPRESENTATIVE LEDOUX remarked that she would like to hear testimony from ABA. She said it is her understanding that if an item of property transfers automatically and does not have a lien on it, then it is not part of the estate. She said it would not matter if the estate owes \$500,000 and a \$500,000 boat without liens is automatically bequeathed to a beneficiary, as the beneficiary would not be liable for the debts of the estate.

REPRESENTATIVE SPOHNHOLZ said that is also her understanding. She noted that if there is a debt associated with the boat, then the beneficiary would be responsible for that.

[2:59:47 PM](#)

REPRESENTATIVE LEDOUX asked if there is any cap on the value of what can be automatically transferred. She remarked that the issue is a major policy question of whether an estate and its beneficiaries should be able to avoid [liability]. She established a scenario in which a person operates a fishing enterprise and owns the fishing boat "free and clear," but has many other debts. Upon death, the spouse inherits the boat and does not have to pay those debts.

CHAIR CLAMAN said he believes this bill only applies to boats registered with SOA and specifically exempts vessels registered with USCG. He noted that the typical fishing boat would be registered with USCG and that there are not likely any vessels registered with SOA that are as valuable as the one in Representative LeDoux's scenario.

REPRESENTATIVE LEDOUX said the boat in her hypothetical was just one example. She said there could be items of considerable value that get automatically transferred, leaving the creditors of the estate with nothing to pay the debts owed to them.

MS. HOLLAND said there is no cap in HB 110 for value of vehicles or boats that can be transferred upon death. She stated that creditors can use a boat or vehicle as collateral to ensure debts are payable. She established a scenario in which an expensive car is automatically transferred to a beneficiary and is thus removed from the probate process. In the scenario, she continued, the individual who has died had considerable debts and the value of the decedent's estate is not sufficient to satisfy those allowed claims. She said the creditors would be able to reclaim the value of the debt through the vehicle.

REPRESENTATIVE LEDOUX said she does not believe that is correct.

CHAIR CLAMAN concurred with Representative LeDoux.

[3:03:35 PM](#)

REPRESENTATIVE EASTMAN said there could be scenarios in which vehicles of very high value are transferred. He asked whether HB 110 would clash with federal law as pertains to money/asset transfers. He said he does not want to create a scenario in which an Alaskan who acts in compliance with Alaska law is surprised to find the Internal Revenue Service (IRS) seeking payment.

REPRESENTATIVE SPOHNHOLZ suggested that the question would be better answered by a representative from the National Association of Estate Planners & Councils (NAEPC) or the Alaska Bar Association's (ABA) Estate Planning & Probate Law section. She said there are valid "policy call" discussions to be had. She repeated that the purpose of the bill is not to allow people to avoid responsibility for debts owed, but to find a streamlined way for people with modest assets to avoid the probate process. She addressed the earlier discussion about how fishing vessels tend to be licensed through USCG and said HB 110 deals more with personal use boats. She expressed that she is not clear whether a high-end yacht would or would not be registered with USCG. She suggested bringing in an expert to answer that question. She opined that it would be perfectly reasonable for the committee to decide to place a cap on the value of an asset that is eligible for a TOD title. She said she wants to see a practical way of addressing high-value assets that still allows people who own trailers, small boats, and vehicles to transfer their assets to beneficiaries without the use of an attorney.

[3:06:47 PM](#)

CHAIR CLAMAN observed that part of the goal of estate planning is to "plan ahead" and noted that estate planning attorneys often advise people to transfer moderate and large assets during their lifetime. He spoke about the process of securing loans. He announced that the committee would hold HB 110 for further review.

HJR 18-CONST AM: PERMANENT FUND; POMV; EARNINGS

[3:07:36 PM](#)

REPRESENTATIVE STUTES moved to rescind the committee's previous action on HJR 18.

REPRESENTATIVE EASTMAN objected.

REPRESENTATIVE LEDOUX asked for clarification that rescinding action would mean the committee would vote again on HJR 18.

CHAIR CLAMAN answered yes.

REPRESENTATIVE EASTMAN removed his objection. There being no further objection, HJR 18 was before the committee.

[3:08:36 PM](#)

REPRESENTATIVE STUTES moved to report HJR 18 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE EASTMAN objected.

A roll call vote was taken. Representatives Stutes, Kopp, and Claman voted in favor of moving HJR 18 out of committee. Representatives LeDoux, Eastman, and Shaw voted against it. Therefore, HJR 18 failed to move out of committee by a vote of 3-3.

[3:10:00 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:10 p.m.