

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS**

March 17, 2004

7:02 a.m.

**MEMBERS PRESENT**

Representative Mike Hawker, Chair  
Representative Bruce Weyhrauch, Vice Chair  
Representative Vic Kohring  
Representative Dan Ogg  
Representative Norman Rokeberg  
Representative Ralph Samuels  
Representative Peggy Wilson  
Representative Max Gruenberg  
Representative Carl Moses

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Paul Seaton  
Representative John Harris

**COMMITTEE CALENDAR**

HOUSE BILL NO. 236

"An Act imposing a tax on employment; and providing for an effective date."

- MOVED CSHB 236(W&M) OUT OF COMMITTEE

HOUSE BILL NO. 298

"An Act relating to the distribution of appropriations from the Alaska permanent fund under art. IX, sec. 15(b), Constitution of the State of Alaska, and making conforming amendments; and providing for an effective date."

- MOVED CSHB 298(W&M) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 236

SHORT TITLE: EMPLOYMENT TAX FOR EDUCATION

SPONSOR(S): REPRESENTATIVE(S) WILSON

04/02/03 (H) READ THE FIRST TIME - REFERRALS  
 04/02/03 (H) W&M, FIN  
 04/10/03 (H) W&M AT 7:00 AM HOUSE FINANCE 519  
 04/10/03 (H) -- Meeting Canceled --  
 04/16/03 (H) W&M AT 7:00 AM HOUSE FINANCE 519  
 04/16/03 (H) Heard & Held/Subcommittee assigned  
 04/16/03 (H) MINUTE(W&M)  
 01/28/04 (H) W&M AT 7:00 AM HOUSE FINANCE 519  
 01/28/04 (H) Heard & Held  
 01/28/04 (H) MINUTE(W&M)  
 02/11/04 (H) W&M AT 7:00 AM HOUSE FINANCE 519  
 02/11/04 (H) -- Meeting Canceled --  
 02/13/04 (H) W&M AT 7:00 AM HOUSE FINANCE 519  
 02/13/04 (H) -- Meeting Canceled --  
 03/10/04 (H) W&M AT 7:00 AM HOUSE FINANCE 519  
 03/10/04 (H) -- Meeting Canceled --  
 03/17/04 (H) W&M AT 7:00 AM HOUSE FINANCE 519

**BILL: HB 298**

SHORT TITLE: DISTRIBUTIONS OF APPROPS FROM PERM FUND

SPONSOR(S): WAYS & MEANS

05/05/03 (H) READ THE FIRST TIME - REFERRALS  
 05/05/03 (H) W&M, FIN  
 05/06/03 (H) W&M AT 7:00 AM HOUSE FINANCE 519  
 05/06/03 (H) Heard & Held  
 05/06/03 (H) MINUTE(W&M)  
 05/08/03 (H) W&M AT 7:00 AM HOUSE FINANCE 519  
 05/08/03 (H) Heard & Held  
 05/08/03 (H) MINUTE(W&M)  
 05/14/03 (H) W&M AT 7:00 AM HOUSE FINANCE 519  
 05/14/03 (H) -- Meeting Canceled --  
 03/17/04 (H) W&M AT 7:00 AM HOUSE FINANCE 519

**WITNESS REGISTER**

DAN DICKINSON, Director  
 Tax Division  
 Department of Revenue  
 Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 236 and answered questions.

MARY HAKALA, Member  
 Alaska Kids Count  
 Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of HB 236.

ROGER GAY

Big Lake, Alaska

POSITION STATEMENT: Testified during the discussion of HB 236.

BOB BARTHOLOMEW, Chief Operating Officer

Alaska Permanent Fund Corporation

Department of Revenue

Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of HB 298 and answered questions.

KEVIN RITCHIE, Executive Director

Alaska Municipal League

Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of HB 298 and answered questions.

#### **ACTION NARRATIVE**

#### **TAPE 04-13, SIDE A**

Number 0001

**CHAIR MIKE HAWKER** called the House Special Committee on Ways and Means meeting to order at 7:02 a.m. Representatives Hawker, Samuels, Kohring, Weyhrauch, Wilson, Moses, and Ogg were present at the call to order. Representatives Rokeberg and Gruenberg arrived as the meeting was in progress. Representatives Seaton and Harris were also present.

#### HB 236-EMPLOYMENT TAX FOR EDUCATION

Number 0150

CHAIR HAWKER announced that the first order of business would be HOUSE BILL NO. 236, "An Act imposing a tax on employment; and providing for an effective date."

CHAIR HAWKER informed the committee of his intent to move both HB 236 and HB 298 out of committee and on to the [House Finance Committee] after discussion and public testimony today.

Number 0219

REPRESENTATIVE WILSON, sponsor of HB 236, moved to adopt the proposed committee substitute (CS) for HB 236, Version 23-

LS0921\V, Kurtz, 3/16/04, as the working document. There being no objection, Version V was before the committee.

CHAIR HAWKER noted the arrival of Representative Gruenberg.

REPRESENTATIVE WILSON read from the sponsor statement for CSHB 236. For many years ... Alaska had [a school tax] that was paid by all employed persons in the state. She continued to read:

The money went into the general fund and became a portion of the dollars legislators earmarked for education. However, when Alaska thought that they were rich beyond their wildest dreams and the supply of oil money, of course, would never end, the school tax was repealed, and so, this is just trying to bring back a school tax.

This bill imposes a \$100 education tax to be paid by all employed persons, self-employed or regularly employed, who earn more than \$600 in Alaska. This is a way to assure that all persons who earn money in Alaska pay something for the services that they all receive. It's a way to collect some money from the 18.2 percent of workers who work in this state, earn their living here, but reside and spend it somewhere else.

This bill contains a trigger. We talked about several different things last time. The education tax would be imposed only in calendar years following the June 30 fiscal year end when the cash balance in the Constitutional Budget Reserve Fund [CBRF] is less than \$1.5 billion. The tax would be suspended in subsequent calendar years following the June 30 fiscal end, when the cash balance of the CBRF is greater than \$2.5 billion. So, the trigger is if it falls below \$1.5 billion it goes into effect, and if money's coming in and we've replenished that fund, which we're supposed to be doing, which we have not been doing up to this point, but, when that happens, then it would be automatically suspended until a time would come when we would need it again.

The tax would be deposited into the state's general fund and accounted for separately. The legislature may then appropriate the amounts collected under this section for education. The Department of Revenue

[DOR] projects that the annual earnings from this would be approximately \$43 million.

Number 0536

CHAIR HAWKER noted that there is a new fiscal note from DOR and asked that it be distributed to the members. He said the sectional analysis provided is a more technical analysis of the individual sections of the proposed CS.

Number 0555

REPRESENTATIVE WEYHRAUCH directed a question to Representative Wilson about employees such as students who live outside the state but return to work for seasonal employment in the summer, who don't make in excess of \$600 a year. He asked if they would be taxed on earnings made outside the state.

REPRESENTATIVE WILSON answered that the tax would be on earnings made in Alaska at a rate of zero percent on the first \$600 they would earn, 10 percent on the next thousand, and zero percent on any other earnings. If they were making \$650, it would be 10 percent of that amount, which would be \$65, she explained.

CHAIR HAWKER clarified the issue in terms of nexus [the power of a state to tax extraterritorial entities]. If the student has nexus to Alaska, if there is an Alaska nexus to the taxpayer, then the tax would be collected, he said.

REPRESENTATIVE WILSON added that if the student is a resident, the tax would be collected.

Number 0737

CHAIR HAWKER reviewed the major changes in the bill from the previous version. He stated that wages were easy to quantify for state residents, but a mechanism was needed to capture earnings from self-employment: fishers, doctors, lawyers, and others who operate as independent contractors, sole proprietors, or subchapter-S corporations or partnerships. He explained that after much deliberation, a simple definition of "self-employment net income" was determined, which is a clearly defined term in the Internal Revenue Code (IRC) under Title 26, Chapter 2, Section 1402(a), "Net earnings from self-employment". Net earnings from self-employment means "if you've got to fill out a social security self-employment form in a federal 1040, the net earnings from self-employment, which is gross income derived by

an individual, less allowable deductions, become the taxable line." That would include independent contractors and partnership income. A key point of the net earnings from self-employment Internal Revenue Service (IRS) definition is that it has extensive provisions that take partnership income and back off passive income such as rents, royalties, and interest, he explained. He said it was a tried and tested definition and opined it was a good basis for capturing [income] from self-employed individuals. He emphasized that that was the major change in [the proposed CS].

Number 1027

CHAIR HAWKER explained some of the smaller changes to the bill. The "collars" were defined at \$1.5 and \$2.5 billion. The employers will continue to be responsible for collecting from wage-earning employees. A new section provides for a sanction by DOR to make employers post a bond to assure payment for the withholding, if an employer is not good at remitting the payment in a timely fashion. The [proposed CS] indicates that self-employed individuals must remit individually to themselves. If any individual subject to this tax pays more than \$100 by operation of multiple employers or by their own contributions, DOR shall refund [that amount of overpayment], he said. There is a provision that requires anyone hiring a self-employed individual who has to file with the federal government informational reports, the 1099 reporting, to file copies with DOR for cross-checking and audit purposes. The bill clearly indicates that the disposition is for education, which is very timely, he opined. Last, definitions have been cleaned up and referenced to specific sites of the IRC, he said.

CHAIR HAWKER noted the arrival of Representative Rokeberg.

Number 1244

REPRESENTATIVE WILSON expressed her appreciation for the work done by Representative Hawker on the proposed CS, especially for making it understandable to taxpayers.

CHAIR HAWKER thanked Representative Wilson for her assistance on the bill.

Number 1319

REPRESENTATIVE WEYHRAUCH inquired about the "kick-in" in the proposed CS, and wondered why it just doesn't say, "When it is less than \$2.5 billion."

REPRESENTATIVE WEYHRAUCH, in reply to a request from Representative Wilson, restated his question and said it is now written as having a floor and a ceiling. He suggested just having a floor.

REPRESENTATIVE WILSON replied that part of the reason is to let the people of the state realize that [Alaska] can reach a point where the tax is no longer needed, and that is a better selling point. It also helps the legislators realize that there is some leeway because the CBRF is supposed to be replenished during good times, she added.

REPRESENTATIVE WEYHRAUCH said, "So, this is an educational provision rather than a management provision."

REPRESENTATIVE WILSON said it is both.

CHAIR HAWKER compared it to a thermostat regulating temperature in a room. He said, "There is a point at which the furnace kicks on, but there is also a zone, in there, where the heat fluctuates before the furnace kicks off again. In this case, it's providing a window of area there that allows for the fact that this is a very dynamic world with a lot of other economic variables in it." He acknowledged Representative Rokeberg's term of art, "It's a collar on ranges subject to judgment."

Number 1539

CHAIR HAWKER noted specifically that when money is taken from the CBRF in this state, as Representative Wilson said, it is owed back to that fund by the general fund. It is a receivable of that fund, and that is why the language [in the proposed CS] very carefully chooses the words "cash balance" in the CBRF, because the CBRF has a cash balance of \$8-plus billion at all times, made up of a combination of cash and receivables from the general fund, he explained. "So, in this case, we are truly tying to the cash balance in the CBRF, rather than the accountant's value balance in the CBRF," he stated.

REPRESENTATIVE WEYHRAUCH asked, "Could, then, you go through a process of selling equities to bring that cash balance up prior to, well, to determine the June 30 balance, either to avoid the tax or, alternatively, put it into an illiquidity to cash out

from the CBRF to make an illiquid cash balance to impose the tax?"

CHAIR HAWKER deferred to Mr. Dickinson.

Number 1705

DAN DICKINSON, Director, Tax Division, Department of Revenue, said he believes that in the CBRF, most of the money is in cash or cash equivalents and is held in a way such that it will be liquid. "There is a special account which is held in other securities. To be more precise, it could be defined as current asset balance," he explained.

CHAIR HAWKER noted that "cash and cash equivalents" is the commonly used term.

Number 1800

REPRESENTATIVE ROKEBERG said he appreciates the statements about cash and cash equivalents, but opined that CBRF does have other investments and securities. He said he isn't sure that a short-term bond is equivalent to a cash equivalent.

CHAIR HAWKER noted that idea is found in the Statement 312 [of the 2003 "Comprehensive Annual Financial Report" (CAFR)].

REPRESENTATIVE ROKEBERG continued to say that there is a provision for longer-term investments that is statutorily enacted. He recalled several years ago when there was a higher balance in the CBRF and DOR was directed to look at a portion of the CBRF for a longer-term investment to boost the yield somewhat. He said there could also be other securities.

CHAIR HAWKER added, "Requiring the five-year investment horizon."

Number 1900

MR. DICKINSON noted that in Statement 311, which is the combining balance sheet that includes the CBRF, the categories that make up the assets are "cash" and "investments," at \$2 billion, and "due from other funds", at \$5-plus billion. He suggested a more accurate way of reconciling this would be to say "cash investments." He made the point that the bill does not refer to the CAFR, which does not come out until December 15. He said the language Chair Hawker inserted says that the

commissioner will certify [the cash balance] based on the cash balance that is there. He advised looking at the latest KPMG audit to see how those funds are characterized.

Number 1945

REPRESENTATIVE WEYHRAUCH suggested it may just be semantics, because if it is going to be imposed, it is going to be imposed by regulation, not by legislation. He said that the administration is given the authority, once they know what is in the CBRF in the calendar year, and then, in the following year, DOR follows the statutory requirements and sends out the forms for the education tax.

MR. DICKINSON said he believes the conditions are being established by legislation.

REPRESENTATIVE WEYHRAUCH agreed. He explained that the legislature sets the policy and delegates to DOR to send out the tax forms. He emphasized that the legislature does not have to make another legislative determination for delegating to the agency when the CBRF limit goes below \$1.5 billion.

MR. DICKINSON said that is correct.

REPRESENTATIVE WEYHRAUCH mentioned that that was his idea on the sales tax, also.

Number 2104

REPRESENTATIVE OGG remarked:

I kind of like this thought process you've put in of having two levels, one when [the cash balance] drops below a certain level, the legislature making that draw knows that they are now moving to impose a school tax - "income tax," or 10 percent of income - and that the only way to move away from that is to start making those deposits to get that fund back up to \$2.5 billion.

Number 2203

REPRESENTATIVE ROKEBERG thanked the chair for his recognition of the collar methodology, which would benefit the people in the state if the oil prices and natural resources revenues reached a point where there would be an automatic stay of that particular

taxation. It is a policy statement to the people that the legislature recognizes that there should be tax relief when there are other revenue sources available. He said it could be comforting for people to know that there won't be taxes just for taxes' sake.

Number 2316

REPRESENTATIVE ROKEBERG asked for clarification about the cash balance definition as it relates to the statutory revisions of a few years back, concerning the boosting of yield. He wondered if the broader term, "current assents", could be used.

MR. DICKINSON replied that the cash and investments listed in the category used in the CAFR would include both the main fund and the "sub" fund, which has been specially designated to be invested for a longer-term horizon and for a higher rate of return. He said he wanted to look at the audit report issues regarding cash holdings. He said, "I believe if we use cash and investments, or maybe cash and liquid investments, or maybe even specifically, went off and said, investments other than the receivable from the general fund -- there may be a cleaner way of doing it."

Number 2431

CHAIR HAWKER noted that the term "current assets" is not used in government accounting anymore. He suggested coming up with some expansion of that term, and making a conceptual amendment to have "and investment" incorporated in the three necessary places, before the bill goes to the [House Finance Committee].

REPRESENTATIVE WEYHRAUCH asked if that includes cash investment.

CHAIR HAWKER replied that it does. He said the KPMG standalone report of the CBRF may use a slightly different word, and he would like to compare the two and find a balance between the words.

Number 2540

REPRESENTATIVE GRUENBERG reported that HB 466 would eliminate the sub account and if it passes, there would be money in only one account. He asked if Representative Hawker could reference the money in the account as established by statute.

MR. DICKINSON replied that it could be done, but care would have to be taken because accounts in the budgeting system are not like bank accounts.

Number 2636

REPRESENTATIVE SEATON said the collar mechanism is a good idea, but he expressed concern if there was a situation where there is \$2 billion in the CBRF and, at one time, at that amount, the tax is in effect and, at another time, it is not in effect. He said:

It is confusing if you've been below \$1.5 billion, and now you're at \$2 billion in the CBRF, you're taxing people. If you, at some point in time, have been above \$2.5 billion, you take the tax off, and now you're down to \$2 billion and you're not taxing people. You go to \$1.8 billion -- you're not taxing people. It seems to me that the idea of having the trigger is a good mechanism, but I'm not sure about the confusion that you get about sometimes taxing people, and sometimes not taxing people, on the same amount of money in the CBRF.

Number 2745

MR. DICKINSON responded that if there was a single point instead of a collar, it would be equally confusing. If the CBRF hovered around that balance, a tax in year one, no tax in year two, a tax in year three, et cetera, in other words, if the CBRF bounced around the trigger point, it would be more frustrating to people, he opined. If there is a \$1-billion collar and the CBRF stays within that collar, there won't be those kinds of changes, he predicted.

CHAIR HAWKER used the thermostat example again to show that, during the range in which the temperature is declining, the furnace is off until it hits the trigger point. It comes on until it reaches a higher point and then kicks off, so at any given time at the mid-range of the setting, the furnace may be on or off. He termed it a smoothing mechanism. If there was a single point, one penny less than the trigger point would trigger the tax; one penny more, and the tax would go off. He said he found that concept harder to justify than a range in which the revenue mechanism would be applied.

Number 2914

REPRESENTATIVE ROKEBERG offered the wording for a potential amendment which changes, on page 2, line 12, the amount of the floor trigger to \$1 billion rather than \$1.5 billion. He explained the change creates a lower threshold for the imposition of the tax, which would create less tax on the people and create a greater spread between \$1 billion and \$2.5 billion, which should overcome some of the concerns raised by Representative Seaton. He noted that the governor has spoken on this issue, the Conference of Alaskans discussed using the \$1 billion trigger, and the public understands that figure better. He said [the committee] needs to look at the current cash balances, the cash flow, and what may be done in terms of entering the CBRF. He suggested that [the committee] should look at the structural fiscal gap in the \$1-billion range, not the \$1.5-billion range. He remarked that this was supposed to be the "shock absorber" for the future economy. He referred to Mr. Corbus's testimony during the Conference of Alaskans which indicated that the state requires between \$300 million and \$400 million a year just for cash flow needs. Even if the state were flush with money in terms of revenue collection, there needs to be that extra cushion because the cash flow has variable requirements, notwithstanding the fiscal situation, he opined.

Number 3146

CHAIR HAWKER explained that the rationale behind the \$1.5 billion was recognized in the governor's \$1 billion-floor in the CBRF because of the six-month lag period between the measurement date and the effective date of a revenue mechanism. There is the presumption that if there is a continuing draw into the CBRF, that draw would continue for another six months, so that by the time the revenue mechanism actually takes effect, [the amount in the CBRF] may be substantially below the \$1 billion at the time of the draw, he explained. At any given time the "checkbook float" for the state is about \$0.5 billion, and the incremental amount of \$500 million would give the assurance that, at any given time, there would be a \$1-billion cushion in the bank, he surmised.

REPRESENTATIVE ROKEBERG said he appreciated that information, but maintained that there is a difference between \$300 million and \$500 million, and a few million here and there starts adding up. He asked Mr. Dickinson why the cash balance analysis of the CBRF is on June 30 and not July 1. He also asked when the FY 04 budget will be reconciled to see what type of draw will be needed from the CBRF.

Number 3400

MR. DICKINSON answered it is his understanding that there are no cash transfers that occur between June 31 and July 1, and said [the date] is purely an accounting measure. He explained that when DOR prepares the CAFR they can say, "Here, to the penny, was the draw in the CBRF." He said there is a memorandum of understanding between the treasury and the administration to set up a cash efficiency management to make sure there is always enough money in the general fund to make payments. [The general fund] is kept within a \$100 million to \$200 million range, and if it looks as if there will be cash over \$200 million for over 30 days, money from the general fund will be put back into the CBRF. If it looks as if the amount will go below \$100 million, money is taken out of the CBRF. There is no cash difference between June 30 and July 1, and nobody makes a deposit or withdrawal on the last day of the fiscal year or the first day of the new fiscal year, he concluded.

REPRESENTATIVE WEYHRAUCH said, "Didn't we do that last year?"

MR. DICKINSON said he believed a financial adjustment was made on the books.

REPRESENTATIVE ROKEBERG stated that he was mystified by Mr. Dickinson's testimony because he felt there should at least be a year-end date, which would be June 30, when all of the accounting and balance sheets are reconciled to that date to determine if any draws are needed. He said there should be a notional amount, anyway, which is what the Alaska Permanent Fund Corporation uses, and what he calls "windage." He emphasized that the bill needs to be very clear as to the amount of the trigger, and whether or not the draw for that current fiscal year, presumably June 30, has an impact on the balance that is in the CBRF.

Number 3721

CHAIR HAWKER replied that June 30 was chosen because then it does become very empirical and, ultimately, an audited number, which would give the public the greatest assurance and confidence that the books have been reconciled at that point in time.

MR. DICKINSON responded that there are several things going on. For everyone's convenience the tax needs to be on a calendar-year

basis, and there needs to be, for software purposes, a five-month notice period. He explained that on July 31, the [DOR] commissioner will estimate the balance that will show up five months later. He said the money is not segregated in different bank accounts.

REPRESENTATIVE ROKEBERG returned to his original question whether the draw was attributable to June 30 or July 1. He said:

It seems to me that you're actually making the drawdowns on a cash flow basis as you identify what's actually happening as a practical matter. This particular legislation would have you jump another hurdle here, in terms of that, is all I'm getting at. I was wondering if the effect is if the amount that we want to use as a trigger would take into effect that current fiscal year of June 30 impact on the draw of the CBR [Constitutional Budget Reserve]. That's what I'm driving at.

MR. DICKINSON replied that he thought it would be fairly immaterial which [date] is used, and the reason that June 30 is used is, "Five months later you could say, here's the CAFR, there's the date, June 30."

REPRESENTATIVE ROKEBERG said, "If you're going to use a notional amount at the end of July to make the calculation, it may not be consistent with the report anyway, though, right? And that would just expose your judgment, good or poor, because it wouldn't necessarily be consistent with the audit."

MR. DICKINSON said that was a good point. He added, "It probably won't hit exactly on, but hope would be that it would be very close. You'd probably have a lot of explaining to do about why it wasn't exactly on, especially if the difference moved it from one to the other."

REPRESENTATIVE ROKEBERG added, "Or you missed it by \$50 or \$100 million like you mentioned."

MR. DICKINSON added, "Or if it flipped you on one side or the other of a measuring line."

CHAIR HAWKER suggested the committee move on if Representative Rokeberg was finished with his comments.

REPRESENTATIVE ROKEBERG replied that he would be offering an amendment soon.

Number 4100

REPRESENTATIVE OGG asked for clarity about how much tax someone with an income of \$650 would pay.

REPRESENTATIVE WILSON explained that \$600 is cut off as if it didn't exist, and then \$601 would be taxed at 10 percent of \$1, or 10 cents, and [the tax on \$650 would be \$5].

REPRESENTATIVE OGG said that clarifies one point. He said he appreciated the time and effort put into getting the self-employed people into the bill. He wondered about the "coupon clippers, dividend folks, or people who are just landowners."

Number 4219

MR. DICKINSON answered, "We haven't gotten coupon clippers unless they owned part of the company whose coupons they were clipping through a subchapter-S-type arrangement. That is correct. People who are living off of pure investment income would not qualify."

CHAIR HAWKER said that was by intent of the bill drafters.

MR. DICKINSON said it would just be earned income.

REPRESENTATIVE OGG said it appears that someone who received a permanent fund dividend would be excluded, as well as people who just receive rental income. He asked if that was the intent of the bill.

MR. DICKINSON replied that was the effect of the bill. He suggested if a person formed a subchapter-S corporation to hold rental properties, there might be a payment, but said, generally, for pure rental, there would not [be a tax payment].

REPRESENTATIVE OGG asked if a dividend would be taxed if it was a person's sole income.

MR. DICKINSON said it would not be taxed.

CHAIR HAWKER noted that was the intent of the bill and explained that is why the "net earnings from self-employment" definition was chosen, which keeps to earned income as an active services-

type income excluding rentals from real estate, from personal property, et cetera. The idea was not to go after the passive retirement income of elderly folks, nor the bank account income and permanent fund income of children. It was designed for income-generating activities in the state, he concluded.

Number 4400

REPRESENTATIVE OGG remarked that he wanted that information to be clear on the record because he had heard earlier comments that some children should pay a portion of their education if they were receiving a dividend. He said he appreciates the clarity which shows that is not the intent [of the bill].

CHAIR HAWKER opened the meeting to public testimony. He referred to a paragraph in the members' packets from Don Rulian, head of the Alaska Society of CPAs, which expressed Mr. Rulian's comfort, from an accountant's perspective, with the [proposed CS] version of the bill.

Number 4521

MARY HAKALA, Member, Alaska Kids Count, said she is working actively with a large network of concerned parents advocating for increased funding for schools. She said her organization is nonpartisan, parent-initiated, based in Juneau, but a statewide network. She reported that the members of the organization were asked to consider the revenue side of the education equation and voice their preferences to legislators. Parents want excellence in their schools, and to reach that goal it will require even more than the \$80 million-plus that is currently under consideration by the legislature, she opined. She said they realize that new revenue measures are necessary to make that a reality in Alaska. She noted that today she was speaking as an individual, and has a concern with the \$600 threshold in the bill because of the burden it places on college kids and young people who have limited earnings in the summer months.

**TAPE 04-13, SIDE B**

MS. HAKALA continued to say that this population would pay a disproportionate share of the tax. She added, as an adult, she has no problem paying the tax, but would prefer an amendment be made to change the trigger point. She suggested, though she supports the bill, that there are more effective ways to fund education such as revisiting the economic limit factor (ELF) to ensure that Alaskans truly maximize their fair share of oil

profits, enacting the percent of market value (POMV) method to utilize a portion of the permanent fund earnings for services such as education, and initiating a broad-based state income tax that is not regressive. She thanked the committee for their time.

Number 4502

REPRESENTATIVE SEATON said he has heard many comments from people who are willing to pay taxes for education, and pointed out that the way the bill is structured now, the tax would not be collected because there is a \$1.5 billion cutoff and [the CBRF] is above that. He asked Ms. Hakala if she thinks the situation the state is in now would benefit from a tax for education.

MS. HAKALA said her opinion is that there must be some mechanism put into place so that income begins to be generated in the near term.

Number 4354

ROGER GAY from Big Lake testified as follows:

Article 1, Section 1, of the state constitution states that all persons have the natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the state. HB 236 not only deprives the worker of the enjoyment of the rewards of his own industry, but it also imposes an unequal obligation to the people and to the state. Under the equal protection clause, everyone should be subjected to the same tax regardless of their age or their source of income. I don't understand why you want to pick on workers, instead of nonworkers, and turn them into second-class citizens.

Furthermore, this bill is obviously an attempt to circumvent the constitutional provision prohibiting the dedication of funds under Article 9, Section 7. As to this bill suspending the taxes if the CBR exceeds \$2.5 billion, HB 236 basically ensures that the government will never allow the CBR to exceed \$2.5

billion. The government has no incentive to suspend any tax. [HB 236] is not an employment tax, it is an employment penalty. Thank you.

Number 4209

REPRESENTATIVE KOHRING responded, "Amen, thank you, good job, and I agree with you."

CHAIR HAWKER asked if there was any further public testimony. Hearing none, he announced that public testimony was closed. He asked for consideration of amendments.

Number 4100

REPRESENTATIVE ROKEBERG moved to adopt Conceptual Amendment 1, on page 2, line 12, after the word "than", to change \$1.5 billion to \$1 billion.

CHAIR HAWKER objected for purposes of discussion.

REPRESENTATIVE ROKEBERG stated that he thinks the \$1-billion amount is a more realistic floor trigger mechanism, given the current amount in the CBRF, and given the prospective demands for the CBRF in the near term. It also would lower the trigger point at which the tax would be imposed. He said he believes, from testimony he has heard on other occasions, that the \$1-billion figure is a fair approximation of the amount of shock-absorber cushion the state needs, structurally, as well as for cash flow management issues.

CHAIR HAWKER asked Representative Rokeberg if he envisioned lowering the top end of the collar or keeping it at the same level.

REPRESENTATIVE ROKEBERG replied it is fine as it is.

Number 3936

REPRESENTATIVE SAMUELS, continuing the discussion of the collar issue, predicted that eventually this legislature, or a future legislature, will fix the funding mechanism so the CBRF is not dependent on a cash flow. When that time comes, when money is not being drawn out of the CBRF, he suggested that the tax could be collected for 10 to 15 years at \$43 million a year, not counting the compounded interest, and yet not be needed. He said, "If you never need it, why would you collect the tax?"

REPRESENTATIVE ROKEBERG said it was a good point and he would support an amendment to lower the amount to \$2 billion.

REPRESENTATIVE SAMUELS deferred to those who know the numbers better than he does.

CHAIR HAWKER asked Mr. Dickinson to comment.

Number 3743

MR. DICKINSON replied that it would take many years to build up to \$1.5 billion. He said it is a judgment call, that there are other bills being considered that have the same trigger mechanism in them, and that this tax could never carry the burden. He said he hopes that all the "tools" would have similar triggers.

CHAIR HAWKER said it could be argued that this component, at the current fiscal note of \$40-plus million, would be one of those elements that would keep the budget balanced and allow the state to not have to draw from the CBRF, which is why a collar is needed.

REPRESENTATIVE ROKEBERG emphasized that this particular bill is only one of a number of pieces of legislation. The primary amount of build-up and return from the CBRF, if the POMV were to pass, would be from excess amounts of money spun off from the permanent fund, but more importantly, natural resource revenues that don't have to be utilized. That would be a primary source of funding for any reloading or build-up of the CBRF, he opined. He said a collar speeds up the process and he would not object to an amendment for the \$2-billion amount.

Number 3540

REPRESENTATIVE SAMUELS said he did not mind either lowering it or keeping it and letting the [House Finance Committee] take care of making the triggers all the same.

CHAIR HAWKER asked Representative Samuels if he would like to propose an amendment to [Conceptual Amendment 1].

REPRESENTATIVE SAMUELS replied that he did not know what the numbers would be and suggested that the [House Finance Committee] make all of the trigger points the same.

Number 3514

REPRESENTATIVE SEATON said he was confused because the discussion seems to be saying that the tax is a CBRF-refill tax, rather than an education tax. He characterized the comments he has heard from constituents as being pro-education funding. He said the tax was not quite a dedicated tax and yet was primarily for education, but what he is hearing today is that Alaska does not need money for education, because there is enough money in the CBRF, so Alaska doesn't need the tax. He argued that to take the amount down to \$1 billion means that even if there is less money than is there today, and the CBRF is even drawing less than \$1.5 billion, the tax wouldn't be needed. He said the design of the tax is to fund education, which people have repeatedly said needs more funding, so he suggested raising the floor, instead.

Number 3309

REPRESENTATIVE WILSON asked what the trigger points in the other bills were.

CHAIR HAWKER said he didn't know, and suggested following Representative Samuels' suggestion to have the [House Finance Committee, or House Rules Standing Committee] identify consistent parameters.

REPRESENTATIVE WILSON said she agrees with Representative Seaton's comments and is not comfortable with waiting [for the amount] to get below the \$1-billion amount, because at least that much is needed in the CBRF for insurance for emergency expenses.

Number 3141

REPRESENTATIVE ROKEBERG noted that the idea is to try to develop confidence about taxation between the legislature and the people. He said this bill is not an income tax and is intended to generate additional revenues for the state; the fact that it is a "soft tie" to education is, in part, to alert people to the need for those monies. "The fact is, there has to be a balanced approach in this bill, by delaying its impact until the money is really needed, rather than rushing out when the price of oil is at \$36 a barrel and start laying taxes on people," he opined. He said the legislature has to be very careful not to lose support from the public.

Number 3022

CHAIR HAWKER asked if there was any further discussion of the amendment. He maintained his objection and requested a roll call vote. He said the question before the committee is whether to pass Conceptual Amendment 1, which would change on page 2, line 12, the \$1.5 billion to \$1 billion.

A roll call vote was taken. Representatives Weyhrauch, Kohring, Samuels, Rokeberg, and Hawker voted in favor of Conceptual Amendment 1. Representatives Ogg, Moses, Wilson, and Gruenberg voted against it. Therefore, Conceptual Amendment 1 passed by a vote of 5-4.

Number 2844

REPRESENTATIVE OGG moved to adopt Conceptual Amendment 2 to also include passive income such as rentals from real estate, royalties, and dividends in the bill.

CHAIR HAWKER objected for discussion purposes.

REPRESENTATIVE OGG first declared a conflict of interest because he is a landlord, and then opined that it is not right to let some folks who make money and pay taxes to the federal government not pay this education tax. He stated that the intent of the bill is to have citizens of the state contribute toward education through a school tax. He noted that sometimes employment is passive, but that does not mean a person is not making money. As a landlord, he said he makes repairs, which is physical labor, but because it is passive income it is not going to be included [in the bill]. He concluded by saying, "If you make money in this state, and we're going to go forward with something like this, you should participate."

Number 2731

CHAIR HAWKER stated that the amendment would be, in his opinion, a substantial change of intent in the manner in which the bill was drafted. He remarked, speaking as an accountant, that it would be a fairly complicated and difficult provision to enforce. He questioned what would be targeted: corporate rent payers, or individual citizens' interest earnings, or exemptions for those over 65 years old whose only source of income might be a rental property. He said those issues were considered, but the focus of the bill is on people working for remuneration.

Number 2606

REPRESENTATIVE ROKEBERG agreed that the intention of the bill is for "1099 incomes," or those incomes that are reportable. He mentioned that there currently is no tax on rentals and that [Conceptual Amendment 2] would be a huge change in public policy, and he argued against that change. He said that by pursuing [Conceptual Amendment 2] in this form, business income is not being considered. If there is a business formation above a sole proprietorship or family partnership, there would be 1099 income that would be reportable under this bill, which he said he considers to be adequate.

Number 2446

REPRESENTATIVE GRUENBERG spoke in favor of the amendment. He said the issue is one of fairness, and arguments against the amendment have been fairly technical. He argued that the concept of personal income, as opposed to corporate income, is fairly well defined in the IRC, and it could be drafted to change the definition to include personal income. He called it a drafting issue. "The justification that was given for excluding this type of income was that you don't want to tax elderly people and children," he said. "I'm not sure, constitutionally, if you can draw that distinction, or if there is a question of denial of equal protection."

REPRESENTATIVE GRUENBERG emphasized it was a question of fairness because the means of not taxing children and the elderly is being addressed in the bill by not taxing passive income. He pointed out that there are elderly who work and are getting taxed. The people who are not getting taxed are people who don't work, and they could be people who are not elderly and not children, so the means that is being used is overbroad, he opined. There are people who are escaping the tax who are neither elderly nor children, such as the wealthy who do not work. He said that is not fair and he supports the amendment. He suggested the taxing of rental property is not the issue here, but an education tax is, and the two should not be confused.

Number 2139

REPRESENTATIVE SAMUELS asked Mr. Dickinson about the relationship between rental property and limited liability

corporations (LLCs), and whether an LLC would be responsible for paying the \$100 education tax.

MR. DICKINSON replied:

If you have multiple sources [of income] and one of them is taxable, you'll get the \$100 taken out. So, in some ways, it's very hard for us to figure out who would just have rental income and who wouldn't have anything else. So, I think, in some senses, the notion that folks who have multiple sources, one of them may qualify, the others may not, makes that a very hard number to estimate.

REPRESENTATIVE SAMUELS asked if it was only for the individual. He said:

If I owned a series of apartments and a couple of duplexes or something, and my LLC was the company that got the rent checks, the company is not on the hook for the \$100, so, to me, it is kind of a moot point, almost. We're not talking about that many people that ... have nothing else other than rental income.

MR. DICKINSON suggested that federal filers could be checked to see how many had only Schedule F income. He guessed it would be a fairly small number.

Number 2010

REPRESENTATIVE ROKEBERG noted that self-employed individuals are going to pay tax under this bill if they have an LLC because they would have self-reporting income under a 1099.

MR. DICKINSON said that was correct for LLCs that opted to be partnerships.

REPRESENTATIVE ROKEBERG asked if, typically, the vast majority [of LLCs] select self-employment income.

MR. DICKINSON said he didn't have the numbers in front of him.

REPRESENTATIVE ROKEBERG replied, "I would be surprised if 95 percent of LLCs in the state are S-corps and didn't take it as individual incomes."

CHAIR HAWKER added that was the reason most entities exist. He noted the arrival of Representative Harris, co-chairman of the House Finance Committee.

Number 1700

CHAIR HAWKER strongly maintained his objection to [Conceptual Amendment 2]. He restated the question before the committee:

Shall we adopt a Conceptual Amendment 2, which would be to restructure this bill, and Representative Ogg, I will call attention to the title of the bill which was a limited tax on wages and net earnings from self-employment, to include, in some manner, taxing the folks that earn income solely from real estate investments.

REPRESENTATIVE OGG said his intent was to target employment income that individuals, and not corporations, made. He said it would be in the area of self-employed individuals, and would exclude folks who received income from real estate. He explained that the tax would be determined from federal income tax.

CHAIR HAWKER clarified the amendment: "Your amendment is to restructure the bill to eliminate or change the tax base here from wages and self-employment income, to all income earned by individuals."

Number 1606

REPRESENTATIVE OGG said he was not an accountant, but if that is how it reads from adding in [other self-employment wages], that is his intent.

REPRESENTATIVE GRUENBERG said, as he understands the amendment, it is to include the concept of personal income as defined in the IRC, which would include rental income and other forms of passive income such as dividends.

REPRESENTATIVE OGG added, "And royalties."

Number 1518

CHAIR HAWKER suggested that Representative Ogg's intent is to eliminate the concept, in this bill, of having the revenue base be wages and self-employment income, and change it to being the

much broader concept of personal income, the entire federal taxable income.

REPRESENTATIVE ROKEBERG replied, as a point of order, that the amendment is inappropriate because it is so far-reaching that it almost rewrites the whole bill. He said he was not sure that was Representative Ogg's intention.

CHAIR HAWKER concurred with Representative Rokeberg's point that the amendment would be a complete rewriting of the bill, and asked the maker of the amendment to reconsider it.

Number 1307

REPRESENTATIVE OGG restated his intent, saying it appears to him that people who own real estate are getting by without paying this tax, and spoke of his own personal experience as a landlord. He opined that passive income - rental from real estate, royalties, and dividend income - should be included. He said those who pay federal income tax should also pay an education tax.

REPRESENTATIVE GRUENBERG responded to Representative Rokeberg's point of order. He said he believes the amendment is in order according to Mason's Manual. The fact that it expands the bill is not a valid point of order, he opined.

CHAIR HAWKER asked that the amendment be reduced to writing.

REPRESENTATIVE OGG said he would be happy to write out his amendment and submit it to the chair and perhaps the [House Finance Committee] would take it up.

REPRESENTATIVE OGG withdrew Conceptual Amendment 2.

CHAIR HAWKER announced that Conceptual Amendment 2 by Representative Ogg is withdrawn with the concurrence of the objector.

Number 1027

REPRESENTATIVE ROKEBERG responded to Representative Gruenberg's point and defended his point of order on the basis that the amendment would have taken the head tax, or employment tax, and turned it into an income tax. "It would be removing the bill from the committee and totally changing it," he said.

Number 0940

REPRESENTATIVE WEYHRAUCH moved to adopt Conceptual Amendment 3, page 2, line 11, where the words are "cash balance". He said he is not sure those words adequately cover the intent of the bill. He asked for help with additional wording.

CHAIR HAWKER objected only for discussion purposes, stating he thought it was a good amendment. He suggested the words "and investment" be added to the three places where "cash balance" is mentioned. He suggested the bill drafters find a succinct definition that would "capture the amount of money that appears on the top line in the CAFR."

Number 0830

REPRESENTATIVE WILSON suggested those words be added to lines 11, 15, and 18 [of the proposed CS].

REPRESENTATIVE WEYHRAUCH said it was okay to add it wherever it says "cash balance" in the bill.

Number 0808

CHAIR HAWKER acknowledged the amendment to the amendment and noted that there were no objections. He explained that the amendment would expand the words "cash balance" to be a more-encompassing, technically correct description of "something that gets us to that amount that appears on the first line of the CAFR." He removed his objection to the amendment. He repeated Conceptual Amendment 3, "which is to have in three locations identified, line 11, line 15, and line 18, page 2 of the V version of the bill, where the words 'cash balance' appear, have the concept of cash and investment incorporated into those lines, the specific verbiage to be worked out in coordination with DOR."

CHAIR HAWKER, hearing no further objections, announced that Conceptual Amendment 3 [as amended] was adopted.

REPRESENTATIVE ROKEBERG said there is an intent by the committee and the bill to focus on education, but nothing in the title of the bill seems to indicate that.

Number 0651

REPRESENTATIVE ROKEBERG offered Conceptual Amendment 4, which would add a new Section 1, short title, "Alaska Education and Employment Tax", and then renumber accordingly.

REPRESENTATIVE GRUENBERG objected for purposes of discussion and offered a friendly conceptual amendment to also change the wording in the title of the bill. [The title in Version V read, "An Act imposing a limited tax on wages and on net earnings from self-employment; relating to the administration and enforcement of that tax; and providing for an effective date."]

REPRESENTATIVE ROKEBERG said he has no objection to that idea, but that the amendment was intended to be for a statutory short title so that the people understand the intent [if it becomes law].

Number 0523

REPRESENTATIVE WEYHRAUCH wondered if the words "self-employment", which are contained in the title of the bill now, would change to "employment", or if "self-employment" would be used in the proposed short title.

REPRESENTATIVE ROKEBERG replied that "employment" is both employment and self-employment, and he didn't think the issue needed to be confused in the short title. "We don't want a long title in the short title," he added. "We don't want 'Alaska Self-Employment' in the short title."

REPRESENTATIVE WEYHRAUCH said he understands that, but that the title says self-employment.

REPRESENTATIVE ROKEBERG replied that is why there is a distinction between a short title and a legal, constitutional one.

REPRESENTATIVE GRUENBERG removed his objection to Conceptual Amendment 4.

REPRESENTATIVE OGG asked why it couldn't say "Alaska Education Tax".

REPRESENTATIVE ROKEBERG replied that it was an employment tax requiring money for education.

Number 0410

REPRESENTATIVE OGG moved to adopt an amendment to Amendment 4, to delete the word "Employment" and just have "Alaska Education Tax".

CHAIR HAWKER asked Representative Rokeberg if he would accept that as a friendly amendment.

REPRESENTATIVE ROKEBERG said he would.

Number 0304

CHAIR HAWKER replied that now Conceptual Amendment 4 says to adopt a short title, "The Alaska Education Tax", as Section 1, and renumber accordingly.

REPRESENTATIVE ROKEBERG mentioned, "We run the risk of a truth-in-advertising claim, if we're not careful. That's the only problem I have with that, because we have a dedicated fund for education."

CHAIR HAWKER asked Representative Ogg if, upon the acceptance of his friendly amendment, he wanted to withdraw his objection.

REPRESENTATIVE OGG withdrew his objection to Conceptual Amendment 4 [as amended].

CHAIR HAWKER clarified that before the committee now is Conceptual Amendment 4, a short-title amendment, which adds a new Section 1 and renumbering accordingly, referring to the bill as "The Alaska Education Tax."

CHAIR HAWKER, hearing no further objections, announced that Conceptual Amendment 4 [as amended] was adopted.

Number 0122

REPRESENTATIVE KOHRING addressed Representative Wilson and voiced a concern about out-of-state workers. He used North Slope workers as an example, and asked what benefits they are getting from state services that would justify this tax. He asked Representative Wilson if she had any research on this issue.

REPRESENTATIVE WILSON replied, "They use our airports."

REPRESENTATIVE KOHRING responded that they are paying for that use through the tickets they purchase.

Number 0003

REPRESENTATIVE WILSON remarked that [the North Slope workers] were not the only out-of-state workers. She maintained that the workers in other parts of the state far exceed the numbers that work on the North Slope.

**TAPE 04-14, SIDE A**

CHAIR HAWKER added, "Use our services and extract our wealth."

Number 0042

REPRESENTATIVE KOHRING replied, "You said, 'far exceed', how does that break out, then?"

REPRESENTATIVE WILSON said she did not have the figures in front of her, but could get them.

REPRESENTATIVE KOHRING requested information about how many dollars would be generated for this tax from out-of-state workers.

Number 0100

CHAIR HAWKER answered Representative Kohring's question by saying, based on the most recent Department of Labor & Workforce Development information, there are approximately 70,000 employees who are not Alaska residents per year in the state. The average salary is around \$15,000 per person, so \$100 from each of the 70,000 would be extracted for the state treasury, he said.

REPRESENTATIVE KOHRING thanked Representative Hawker for the information.

REPRESENTATIVE ROKEBERG asked Representative Hawker if he has discussed this bill with the governor's office, because he understands that they have an amendment for the bill.

CHAIR HAWKER said that it is not "ready for prime time."

Number 0224

REPRESENTATIVE WILSON moved to report CSHB 236, Version 23-LS0921\V, Kurtz, 3/16/04, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE KOHRING objected.

Number 0400

A roll call vote was taken. Representatives Weyhrauch, Ogg, Moses, Wilson, Samuels, Rokeberg, Gruenberg, and Hawker voted in favor of reporting CSHB 236, as amended, out of committee. Representative Kohring voted against it. Therefore, CSHB 236(W&M) was reported out of the House Special Committee on Ways and Means by a vote of 8-1.

HB 298-DISTRIBUTIONS OF APPROPS FROM PERM FUND

[Contains discussion of HJR 26]

Number 0440

CHAIR HAWKER announced that the final order of business would be HOUSE BILL NO. 298, "An Act relating to the distribution of appropriations from the Alaska permanent fund under art. IX, sec. 15(b), Constitution of the State of Alaska, and making conforming amendments; and providing for an effective date." [HB 298 was sponsored by House Special Committee on Ways and Means.]

CHAIR HAWKER explained that HB 298 is a companion bill supporting the POMV constitutional amendment [HJR 26]. He said the last time the bill was before the committee was during the last legislative session.

Number 0456

REPRESENTATIVE WEYHRAUCH moved to adopt the proposed committee substitute (CS) for HB 298, Version 23-LS1075\S, Cook, 3/15/04, as the working document. There being no objection, Version S was before the committee.

CHAIR HAWKER explained the changes in Version S by referring to the sectional analysis. He explained:

[The proposed CS] looks at existing statute, places where it refers to things like the Earnings Reserve Account or using income as a basis for the money

available from the permanent fund, and modifies and adapts that language to the POMV concepts of having the value of the fund be the basis for the amount available for general appropriation each year.

Number 0607

CHAIR HAWKER continued to explain that in Section 1 the Alaska jury list is currently defined as coming from the list of people who apply for "a distribution of Alaska Income," which is an archaic term. The actual list is from the permanent fund dividend (PFD) files, and Section 1 cleans up the language, he said.

CHAIR HAWKER explained that Section 2 defines the statutory duties of the Joint Committee on Legislative Budget and Audit (LB&A). One of the previous duties was to provide investment policy guidance for the "income" from the permanent fund, which had been previously segregated into an earnings reserve account. Now LB&A provides investment policy guidance for the permanent fund, and the income account has been merged into the permanent fund itself, he said.

REPRESENTATIVE GRUENBERG announced that he is "flagging for the committee" Section 2 because he is going to offer an amendment to Section 10, which says this Act only takes effect if the [POMV] amendment to the constitution passes. He said it seems to him that there are sections in the proposed CS that are not dependent upon the passage of the [POMV] amendment. He said Section 1 is not [dependent]. He asked if that would also apply to Section 2. He wondered if they were standalone sections that could be passed even if the [POMV] amendment does not pass.

Number 0810

CHAIR HAWKER concurred that they could stand alone on their own merits.

REPRESENTATIVE GRUENBERG asked if there are any more standalone sections.

CHAIR HAWKER suggested walking through the sections and keeping that idea in mind. He said it is an excellent observation.

CHAIR HAWKER explained that Section 3, subsection (a) is the most operative section in the bill as it relates to the POMV method. He voiced a concern raised by many as POMV was

discussed. People had asked what would happen if the state goes into a period of protracted declining markets and the 5 percent that would be made available under the POMV method actually exceeds the real rate of return for some long period of time. He noted that [Section 3(a)] addresses this issue in statute and creates the statutory limit that "if the average 10-year real rate of return falls below 5 percent, the amount that is appropriated from the fund, which the constitutional amendment states may be up to 5 percent, is limited to the real rate of return that is less than 5 percent." He called it a sidebar in statute that grants relief.

Number 0956

REPRESENTATIVE OGG remarked that he was pleased to see [Section 3, subsection (a)] in [the proposed CS to HB 298]. He asked, in the worst-case scenario, what percentage, under this limitation factor, would be removed from the principal of the permanent fund.

CHAIR HAWKER called on Bob Bartholomew to come forward to testify and help answer questions.

Number 1050

BOB BARTHOLOMEW, Chief Operating Officer, Alaska Permanent Fund Corporation, Department of Revenue replied:

What [Section 3, subsection (a)] was intended to do was try to look at when the real rate of return, which is the return after we retain enough income to offset the effects of inflation, if we don't meet what would become the constitutional spending limit of 5 percent, if over a 10-year period we started to have a real rate of return, this, for example, was 4 percent, that the spending for that year would drop. The spending limit would drop from 5 percent of the market value of the fund to 4 percent.

CHAIR HAWKER remarked, "To the amount we could appropriate."

MR. BARTHOLOMEW continued:

To the amount that could be appropriated out of the permanent fund. And, so, when we talk about what's the worst-case scenario and how would that affect eating into the corpus of the principal of the fund,

we would just have to make some estimates to say, you know, right now there is approximately -- the permanent fund is in three components. There's the accounting record we make of the historical principal contributions into the fund and special appropriations by the legislature and inflation proofing. Today, that's about \$23 billion. Then, there's two other components, currently, of the permanent fund. There's what's called the unrealized earnings account that has about \$3.5 billion in it; then there's the realized earnings, and that has about \$1 billion in it. So, there's three components, and the first two, which is the \$23 billion, the accounting principal number and the unrealized gains, which by the attorney general's opinion is a part of principal -- those two are \$26.5 billion. Then, we said we have \$1 billion in the realized earnings reserve.

Number 1300

When you look at things today, you would have \$1 billion available for appropriation - it's in the realized earnings account - and then that \$3.5 billion can go, if they sell investments, ... into earnings. When you do an assessment of "when would you be eating into the fund," some people use the \$23-billion figure and say you've got to spend down to \$23 billion before you're eating into the corpus. That means we'd have \$4.5 billion available today. So, when you say, "Give me an example," you would have to spend in excess of your real income, \$4.5 [billion], before you would eat into the corpus - what was considered originally under the constitution as far as the original deposits of oil and what they've earned.

I think the intent of this section is to not allow you to eat into that, so the intent is, over a 10-year period, if we've made enough income, we would only spend what we've made. So, I think the intent here is not to eat into the corpus. I could create a scenario that says, in the short term, you might eat into it, but I think, for most practical purposes, this would be the guardrails that that prevented. So, I think for a high percentage of the options or the probabilities of what would be the income of the permanent fund moving forward, you really wouldn't be eating into the corpus of the fund. I don't want to

give a specific number, but it is possible, in the short term, if the markets went down fast enough, that you might spend into that original corpus, or that original \$23 billion. I do think that, with this provision in here, the likelihood of that happening is greatly reduced. I think the worst-case scenario would be fairly small, but it could happen.

Number 1522

REPRESENTATIVE OGG said a lot of folks talk about a market that keeps going down, and that is the great fear. He said he's been in meetings where "you run the averages, we should be okay, and you can take care of those little blips." He said it was his understanding that [Section 3, subsection (a)] is in place so that when there is a long-term slide, money stops being drawn off of the principal. He reminded, "If you're in the short term, you draw into the principal and, of course, you bounce back up." He asked how it figures in during a long period of time, if it was in place all the time, or if the state has to wait for the full 10 years of decline.

Number 1620

MR. BARTHOLOMEW pointed out that it would be in place immediately and a 10-year average would be used. He pulled out a slide as an example to show that if next year there is a down market and the permanent fund loses income for the entire year, which has happened twice in the history of the fund, that loss would be figured in, but it would go to a 10-year average, he explained. The history of the financial market is extremely volatile from year to year, but over the longterm, it is fairly stable, he suggested. He referred to a rolling 10-year real-return graph to show a red, stable line at 5 percent, the target at which the constitution will set the spending limit.

CHAIR HAWKER interjected, "Real return."

MR. BARTHOLOMEW continued, "That's the income after we've accounted for inflation and retained that in the fund." He explained that the last bullet [on the graph] shows where the rolling 10-year period was on June 30, 2003, about 5.3 percent. He said, next year, if that percent moved a whole percent in one year, down to 4.3 percent, the spending limit would immediately drop. There would be a 4.3 percent spending limit under this provision.

MR. BARTHOLOMEW explained that what happened for the 12-month spending period ending December 31 [2003] is the 10-year average was raised by 1 percent to over 6 percent. "That means there is currently a 5 percent spending limit, so the permanent fund is retaining more than it earned, so that in the future years when it goes down, there could be a pretty good down year before it would take us below the 5 percent," he explained. He noted that the effect is immediate, but not dramatic. Each 1 percent is about \$250 million, he concluded.

REPRESENTATIVE OGG thanked Mr. Bartholomew for the clarification.

Number 1947

REPRESENTATIVE ROKEBERG asked why five of the six years immediately preceding the fiscal year are used.

MR. BARTHOLOMEW replied that there are two measurements in [Section 3]. The measurement just mentioned is "when should you spend less than 5 percent, so that's the trigger for that 10-year average of income. He added, "There's a second provision in here which tells you how to calculate the market value that you're going to base your 5 percent against." That is a 5-year average of the total market value of the fund, and the individual volatility of one year doesn't affect it as much when a 5-year average is used, he explained. The clause states to go back six years and then come forward for five years, computing the average. The reason for the "look back" provision is so the legislature will know what is available when they convene in January. Under the current rules where a 5-year average is used, the June 30 date, which hasn't been reached yet, is included, so when the legislature passes the budget, they are basing it on an estimate of how much income is available, he said. This method eliminates projections, he concluded.

CHAIR HAWKER added that the language is identical to, and conforms to, the POMV proposed constitutional amendment.

REPRESENTATIVE ROKEBERG requested spreadsheets and calculations regarding this provision, and suggested that they be part of the bill packet. He voiced a concern about the "rate of inflation" definition. He asked which definition is being used.

Number 2250

MR. BARTHOLOMEW replied that the definition of inflation that is used by the permanent fund is defined in statute and will have to be added to the definitions section of the bill. He noted that Section 9 [of the proposed CS] where AS 37.13.145 is being repealed is where the current definition of inflation proofing resides and will need to be added back in. He said the finance director of DOR has been asked to write up a definition for the national Consumer Price Index (CPI). Since this is an Alaska fund, people have asked why a national CPI is being used. He responded that how the permanent fund is invested is greatly affected by the investments across the United States as well as across the world. He emphasized that using a national CPI is an important piece that DOR recommends adding into the definitions section.

Number 2424

REPRESENTATIVE ROKEBERG said he understands that the attorney general's opinion and/or position now is that the unrealized portion of the permanent fund is available for appropriation. He asked if that is correct.

MR. BARTHOLOMEW replied that it is just the opposite. The opinion of about a year ago regarding the original intent in the definitions of the word "principal" and "what is available for appropriation" stated that it was really driven by the realized income, he explained. He continued:

When we have unrealized gains -- I'll just give you an example: if you own a share of stock in IBM, you bought it for \$50, it's gone up to \$100, and you haven't sold it yet, you have \$50 of unrealized income. Prior to the attorney general's opinion, that money was available for appropriation. And when they did their research, they felt that the original intent when the [provision of the] constitution was adopted by the citizens in 1976 [was] that the definition of income was what we call realized, and that it wouldn't be available for appropriation until you sold that. So, their definition would be, unrealized income is not available for appropriation.

But one of the reasons we recommend changing from the current system to a value-based system is the only difference between that being available and not available is whether the manager that we've hired sells that stock. So, if he sold it tomorrow, it's

available. That number of what's available can really vary, and modern accounting principles have said to get away from that concept of realized and look at the total value of the fund every year, including those unrealized gains, and then make a determination of what you want to make available for appropriation. Unrealized gains or losses are not available for appropriation.

CHAIR HAWKER emphasized that this legislation is effective if, and only if, the POMV endowment method is adopted, and it does not address how the fund currently operates.

Number 2650

REPRESENTATIVE ROKEBERG asked if Chair Hawker is indicating that the market-value determination would make moot the definition of realized and unrealized [gains] when making the calculation.

MR. BARTHOLOMEW answered, "That is correct. We would now look at everything based on the total value of the fund." There wouldn't be a separate pool for principal, unrealized gains, and realized gains, he explained. Now, all of that money is invested the same way, and generally accepted accounting principles (GAAP) account for it all the same way, he said. "We would be getting rid of a 25-year-old archaic statute, in going to the modern endowment accounting," he added.

REPRESENTATIVE ROKEBERG remarked that the definition of "available for appropriation" still has to be dealt with.

MR. BARTHOLOMEW replied that would be Section 3, titled "Appropriations from the fund." This is the section that says 5 percent is going to be spent of the 5-year average of the fund, unless the realized income for that period was not 5 percent, he noted.

Number 2814

CHAIR HAWKER clarified that the constitutional amendment, which is a separate piece of legislation [HJR 26] that was passed out of the House Special Committee on Ways and Means months ago, now sitting in the House Finance Committee, potentially on its way to the House Rules Standing Committee, is the vehicle that defines the 5 percent appropriation authority. That legislation would be a constitutional authority which states that up to 5 percent may be appropriated annually. [The proposed CS] before

the committee creates a statutory sidebar, a parameter that allows for times where the state may choose not to appropriate 5 percent, he said. He emphasized that the bill does not define or make the provision for the 5 percent appropriation.

Number 2900

REPRESENTATIVE ROKEBERG said he understands that information but is trying to get at the definition of "available for appropriation".

MR. BARTHOLOMEW pointed to the first sentence in [Section 3, subsection (a)] where it specifically says the amount available for appropriation is determined under the constitution, and said that is going to be the 5 percent limit, or up to 5 percent of the value of the fund. The guardrails are where it says there is an exception to the 5 percent spending limit if a 5 percent real rate of return has not been earned.

REPRESENTATIVE ROKEBERG asked if the realized gains and unrealized gains were included when calculating the rate of return.

Number 3020

MR. BARTHOLOMEW replied, "No, going forward we would no longer look at it as realized versus unrealized. We would look at, under GAAP, what was the total income of the fund. So, it would be both the cash flow income as well as the appreciation of the assets...."

REPRESENTATIVE ROKEBERG asked, "Why are we going to GAAP rather than GASB [Governmental Accounting Standards Board] here, because the permanent fund acts more or less as a private financial institution?"

MR. BARTHOLOMEW replied that all professional accounting organizations come under GAAP, of which GASB is a subset, and the official rules that determine investment accounting come under GAAP.

CHAIR HAWKER replied that the capstone definition is GAAP and GASB is a subset within it.

REPRESENTATIVE ROKEBERG said it has gotten the permanent fund corporation in trouble before, which is why he was making it clear.

CHAIR HAWKER said, "That is why we are trying to give them the most sheltering umbrella in our definitions."

Number 3159

REPRESENTATIVE WEYHRAUCH remarked that this is a very important bill. He referred to it as up-front pricing because it shows the people what the legislature plans to do if POMV passes. He emphasized that the bill needs to move forward even if the constitutional amendment stalls, because it could be debated on its own merits. He said it is tied to the POMV debate, but it serves as an educational process, as well. He suggested adopting portions of the bill even if the constitutional amendment is not adopted. He said the bill needs to be amended in Section 10 so that Sections 3, 4, 7, and 8 only take effect if the constitutional amendment passes. The other sections should be adopted notwithstanding, he said.

CHAIR HAWKER noted that Representative Gruenberg has expressed those same concerns and has been working on a list of [the sections] for a specific amendment.

Number 3327

REPRESENTATIVE GRUENBERG addressed Representative Samuels and Mr. Bartholomew and asked, if the constitutional amendment does not pass, whether they would still like LB&A to advise concerning the investment policy for the entire fund. He added he thought it was a good idea.

Number 3409

MR. BARTHOLOMEW replied that he thought the [Alaska Permanent Fund Corporation] has always felt it was important to have a good working relationship with the legislature, and LB&A provides the process for that relationship, so he said he supports maintaining it.

REPRESENTATIVE GRUENBERG responded, "Not just the income, but everything."

MR. BARTHOLOMEW replied, "That is correct."

REPRESENTATIVE SAMUELS concurred and said it is a good mechanism for the [Alaska Permanent Fund Corporation] to get its information to the legislative body.

Number 3433

REPRESENTATIVE GRUENBERG said he supports a lot of the concept of POMV, but is not sure he wants it in the constitution. He suggested proposing a statute to achieve the same ends. He wondered if this legislation might be such a statute. He asked Mr. Bartholomew whether provisions in [the proposed CS] could be effected to achieve some of those ends, if they are adopted even if the constitutional amendment does not pass. He asked Representative Hawker if he should propose a conceptual amendment or work on a written amendment to be taken up at a later date.

Number 3635

CHAIR HAWKER replied that it would be more appropriately introduced as a standalone bill. He explained that [HB 298] is a companion piece specifically for the proposed constitutional amendment [HJR 26].

REPRESENTATIVE GRUENBERG suggested that [HB 298] could serve that purpose and have sections that achieve a standalone provision.

CHAIR HAWKER said his personal preference would be not to alter [HB 298] to that extent.

REPRESENTATIVE GRUENBERG asked Mr. Bartholomew, aside from Sections 1 and 2, if there were any other sections that could go into effect even if the constitutional amendment does not pass.

MR. BARTHOLOMEW answered, "Section 5 would be a section that would work unrelated to POMV."

REPRESENTATIVE GRUENBERG asked Mr. Bartholomew to explain what Section 5 does.

MR. BARTHOLOMEW explained:

Section 5 currently has language that assumes ... that we basically expense our entire operating budget the first day of the fiscal year, and then we get to the end of the year, and whatever we really didn't spend, we add that back to income. How that really works is, at the end of each month we expense our actual expenditures. It makes it clear that the source of

revenue for the budget will be the investments, and it deletes the sections of the statutes that talk about adding unused budget back to income.

Number 3877

REPRESENTATIVE GRUENBERG referred to the section as a housekeeping section and asked if there were any other [sections that could go into effect on their own].

MR. BARTHOLOMEW replied that Sections 7 and 8 seem to relate to the Permanent Fund Dividend Division and said he was not familiar with those sections of the statute. He said they seemed to be related to POMV so he assumed they would not be necessary.

CHAIR HAWKER concurred.

REPRESENTATIVE GRUENBERG asked for clarification whether Sections 7 and 8 could be conditional.

MR. BARTHOLOMEW replied that they should be conditional [upon the passage of the constitutional amendment].

Number 4010

REPRESENTATIVE GRUENBERG asked if the only [sections] that would not be conditional are 1, 2, and 5.

CHAIR HAWKER said yes.

REPRESENTATIVE GRUENBERG asked about Section 11. He said he thinks there would need to be a conforming amendment to Section 11.

CHAIR HAWKER concurred and said:

We've got this dual condition here, in Sections 10 and 11, at the moment. The entire Act is conditioned, which is Section 10, upon the passage, and emphasize, and a POMV method approved by voters and taking effect, which is really the ultimate condition here. Section 11 is that if those conditions precedent are met, the actual date on which this Act shall take effect is January 1, 2005. There would be some conforming language that would, in the condition precedent, excepting that Sections 1, 2, and 5, and

also in Section 11, indicating that Sections 1, 2, and 5 would take effect immediately.

REPRESENTATIVE GRUENBERG said he would offer that as an amendment later when amendments are taken up.

Number 4142

REPRESENTATIVE ROKEBERG opined that the committee is wasting its time right now, because this bill is contingent on the POMV's passing.

REPRESENTATIVE OGG returned to Section 3 and noted that the permanent fund is different from most funds because 25 percent of revenues from mineral sales, royalties, and leases are included. He asked Mr. Bartholomew how that impacted the 5 percent figure and the 10-year average.

Number 4313

MR. BARTHOLOMEW related that the way it is written now, it completely excludes the effect of the ongoing oil deposits coming into the fund. He explained:

We're measuring the investment real rate of return over 10 years and trying to achieve that 5 percent. During that 10-year period we've continued to receive oil deposits. Historically, that's probably about a 1 percent average. It's declining currently; well, it was declining because production was declining. Prices are high, so it's staying up near what we've been getting over the last 5-8 years. It's approximately between \$200 and \$400 million a year that we've been getting from ongoing oil revenues coming into the permanent fund. Really, what you have is the fund is also growing by the ongoing revenue deposits, and that is not being factored in to what's available for appropriation. That money comes in and earns income, so down the line there is a benefit, but, in the short term, the fund has actually probably grown. Currently, we're at about a 6 percent real rate of return for the last 10 years. Including oil, it's really grown by 7 percent, but currently that's not brought into the equation.

Number 4435

REPRESENTATIVE OGG requested clarification of [Section 3, subsection (b)].

CHAIR HAWKER related that [Section 3, subsection (b)] does provide statute consistent with the current statutory provision that splits the earnings available from the permanent fund, 50 percent to the dividend fund, and 50 percent to the general fund.

CHAIR HAWKER continued to explain [the proposed CS]. He said the balance of the bill relates to "housekeeping" matters such as the market-value provision in Section 4, which provides a statutory mandate in accordance with GAAP.

REPRESENTATIVE GRUENBERG asked if that provision could be effective regardless of the constitutional amendment [passing]. He opined it had value independent of the amendment.

Number 4610

MR. BARTHOLOMEW related that, currently, when the monthly financial statements are done, GAAP is followed to determine market value.

CHAIR HAWKER interjected that the first sentence [of Section 4] refers to Article IX, Section 15(b), of the [Constitution of the State of Alaska]. This section does not currently exist, and would not exist until the POMV amendment is passed, he pointed out.

**TAPE 04-14, SIDE B**

Number 4630

REPRESENTATIVE GRUENBERG suggested excising the first phrase [in Section 4] and beginning with line 22, "the corporation shall determine". He asked [Mr. Bartholomew] if that is current practice.

MR. BARTHOLOMEW replied that it is a requirement under GAAP and so it is calculated, but not used in any of the statutory formulas to determine what is available for appropriation. He said, "It is what we do."

Number 4600

REPRESENTATIVE GRUENBERG asked if there would be any value in having that language in the law, independent of the amendment.

CHAIR HAWKER relayed that the current statute, which would be deleted in this bill, provides that the fund shall be computed annually on the last day of the fiscal year, in accordance with GAAP, excluding any unrealized gains or losses. He emphasized that there could be conflicting statutes if the new section was added without deleting the old one. He mentioned that AS 37.13.140, the income section which is no longer relevant under a market-value approach to distribution, would become archaic.

REPRESENTATIVE GRUENBERG remarked that he thought this was one of the sections that could be kept in, regardless of the constitutional amendment.

CHAIR HAWKER termed the section a housekeeping measure that could work either way.

MR. BARTHOLOMEW pointed out in Section 5 that all of the operating costs for the permanent fund for the 32 staff that are employed, the investment manager fees for the external equity, and bond managers that cost between \$45 million and \$50 million a year would come out of the 5 percent spending limit.

Number 4310

CHAIR HAWKER characterized that decision as being an honest way to show the public that the fund was not being invaded behind closed doors, in any way. All operating funds come out of the 5 percent, he said.

REPRESENTATIVE GRUENBERG he asked if this dialogue is relating to the constitutional amendment.

CHAIR HAWKER replied that Representative Gruenberg is correct. It is statutory clarification to make it very clear that there are "no back doors."

REPRESENTATIVE GRUENBERG said, "Understood, and that's clear on the record."

Number 4232

CHAIR HAWKER related that Section 6 is a housekeeping matter. He explained that the permanent fund also manages the portfolio of the Alaska Mental Health Trust Authority (AMHTA), and because the archaic section, AS 37.13.140, is being deleted, a new section is needed to take its place. He reported that Jeff

Jessee [executive director of AMHTA] is in full agreement with this portion of the bill.

REPRESENTATIVE GRUENBERG said he assumed that AS 37.14 is the mental health trust chapter.

CHAIR HAWKER said that is correct.

REPRESENTATIVE GRUENBERG asked Mr. Bartholomew if he thought there was anything in that chapter now that requires the use of GAAP, and if it could be a standalone provision.

MR. BARTHOLOMEW said, "This is similar to the recent provision. Right now we're required to account for mental health the same way we account for the permanent fund. If you don't change the permanent fund, then we wouldn't want to change the way we account for mental health, so this one would want to be subject to the POMV."

Number 4059

CHAIR HAWKER continued to explain the sections of the proposed CS. He said, "Section 7 is a conforming to the change from income being used and transferred to the dividend fund account, to the money appropriated from, ergo, the amount calculated under a market-value approach." Section 8 is disclosures that are currently required by statute to be included on the stub of a permanent fund check, again, with the language conforming to a market-value approach, he explained.

CHAIR HAWKER noted that in Section 9, the repealers, the three current sections of statute whose operation would conflict with the POMV operation, are very important. The whole purpose of the bill is to replace those three sections, he emphasized. He said AS 37.13.140 defines income and net income of the permanent fund for the purposes of making distributions, and he pointed out that the bill changes to market value, not income. AS 37.13.145 defines the disposition of the income of the permanent fund, inflation proofing, and transfers to the dividend account, which has been superseded by Section 3 of [the proposed CS]. AS 37.13.300(c) is the mental health trust reference that becomes archaic as a result of the operation of the POMV, he concluded.

Number 3905

REPRESENTATIVE SEATON asked about Section 3, subsection (b), and the graph on the rolling 10-year real return. He said he is

concerned that additional money deposited into the fund is not counted as return. He posited that there could be high inflationary pressure at some point in time that would greatly influence the rate of return, and suggested that money from oil resources should be [considered], because the fund could be growing well, and yet drop below the 5 percent line. He said he doesn't think the intent [of the bill] is to look at how particular investments do, but how the fund is doing. He opined that it would be better to include the royalty deposits and any other deposits made from settlements, et cetera, into this calculation.

Number 3728

MR. BARTHOLOMEW reported that he has had many discussions with other legislators on this topic. The question is, "Should we have the spending limit be not only the real rate of return of the investments, but the growth of the fund through the mineral or oil deposits?" He termed it a policy decision of looking at the total value of the fund changing, including deposits, versus just looking at the investment income.

CHAIR HAWKER said, when drafting the bill, he did not want to consider the new money coming in as part of the return on the invested funds, which would allow for substantial investment losses and still appear as if money is being made. He said that idea is inconsistent with the intent of the bill, which is to give the greatest possible assurances of the continued growth of the fund.

REPRESENTATIVE ROKEBERG stated that it is not inconsistent with the market value, market-to-market consideration, if the cash flow of the fund is actually staying level or growing. He said Representative Seaton does have a point. It is a policy call, he added.

CHAIR HAWKER said, "The argument that the idea of the additional 25 percent being deposited each year was that it should, in fact, always be an increment rather than something that we could be using to offset investment losses in determining the amount available." He agreed it is a policy call.

REPRESENTATIVE ROKEBERG added, "Particularly if you're looking at the market value of the whole total fund, rather than just the discrete elements of it."

Number 3515

CHAIR HAWKER pointed out the real issue, saying:

Do we wish the fund only to grow through returns in excess of a real rate of return of 5 percent, or do we want to have the incremental money coming in each year under the 25 percent constitutional provision to the part of fund growth. I think it is a good question. Do we want to prioritize the fund growth or prioritize our ability to access the money in the fund?

REPRESENTATIVE ROKEBERG said the money might be needed to offset Section 3, subsection (a).

CHAIR HAWKER called that section "conservative sidebars."

Number 3440

REPRESENTATIVE SEATON voiced a concern that the discussion is about POMV, and then a sidebar is added to say it is not POMV, it's a percent of investment growth. He said POMV refers to the value of the fund, which includes deposited money. If that money is excluded and the sidebar is added to say the expenditures can only be related to the 10-year rolling average of the investment percentage, minus the inflation, the fund could be growing even though it appears to be below the 5 percent limiting number. He concluded that it seems to be inconsistent.

CHAIR HAWKER clarified that every year when the new money is in the fund, it becomes the basis for the market value for the following year. The money that comes in during the current year is not termed "income of the fund" for purposes of return on investment until the next year when the market value is measured, he explained.

Number 3259

KEVIN RITCHIE, Executive Director, Alaska Municipal League, speaking on behalf of the Alaska Council of Mayors, thanked the committee for its efforts and said a lot more information is filtering down through communities. He reported that the mayors and leaders of Alaska's communities are behind the development of a comprehensive, long-range fiscal plan. He said the committee should have received a letter from the communities encouraging the legislature down this path. He noted that three times as many groups as three months ago signed the letter and

that the breadth of the groups is widening. He mentioned the following groups: AARP, Association of Developmental Disability Providers, Alaska Coal Association, League of Women Voters of Alaska, and virtually every group in Wrangell, which he surmised is a good example of a community that gets together and talks.

MR. RITCHIE related that people of the state, given something to work with, will have very positive discussions to help solve problems. He suggested letting the public know what will get worse if no action is taken, and what will improve if action is taken. He referred to HB 236, the education tax the committee just moved out, and said it clearly states a way of making a moral dedication or commitment to what will get better. He encouraged the committee to continue to think about that.

REPRESENTATIVE OGG thanked Mr. Ritchie for coming and asked for his comments about the 50/50 split and the idea of approaching the bill as a statutory process as opposed to a constitutional process.

Number 3000

MR. RITCHIE said he thinks the 50/50 split concept is what is in most people's minds. He called it a "have your cake and eat it too" situation where the permanent fund dividend, at least for the next two years, doesn't go down, but goes up, and then stays stable in an amount that most Alaskans would think would be fairly substantial. At the same time, it provides a very substantial amount of money for doing things in communities that are very important, he noted. He related that [the Alaska Municipal League] does not have an opinion about the statutory-versus-constitutional process.

REPRESENTATIVE OGG inquired if POMV is perceived as a limitation on the legislature's ability to utilize revenues of the permanent fund.

MR. RITCHIE said it seems to him that it is both. It is utilizing revenues not being utilized and, at the same time, placing limits on the utilization of those revenues, which, he opined, are already there to utilize if the legislature so chooses.

Number 2843

REPRESENTATIVE ROKEBERG said there has been some discussion within the committee, particularly by Representative Moses,

about a community dividend program. He asked for Mr. Ritchie's opinion as to why the legislature should consider this idea in light of the lack of vote of confidence by the mayors.

MR. RITCHIE replied he believes that action was in regard to solving the fiscal gap, and he suspects there are a number of legislators, as well, who wonder if the legislature is going to take action on that issue. He said it was not a broad-brushed lack of confidence, which is what got reported. He explained the intent was to stimulate action on the fiscal plan. In terms of the municipal dividend, that concept has been discussed by many people, among them former-Governor Hickel, who believe very strongly in putting authority to make decisions about communities in the hands of people in communities, he related. He said the concept of community dividends is all about taking money that belongs to all Alaskans and allowing them to make decisions on how that money will best benefit their communities.

REPRESENTATIVE ROKEBERG said he assumed that the mayors in the state were having fiscal difficulties along with everyone else.

Number 2637

CHAIR HAWKER agreed that the vote of no confidence was broad-brushed on the legislature and noted that that very morning the committee was meeting at 7:00 a.m., actively involved in addressing [fiscal] issues.

REPRESENTATIVE WEYHRAUCH called the vote of no confidence a "lingering eye-poke" for legislators who have worked hard and long, and he stated his appreciation for the "old-timers." He said he was digressing, and he would like to move this bill.

CHAIR HAWKER asked Mr. Ritchie to take a message back to the mayors and tell them that they were a bit shortsighted and "caused us some grave disappointment and, perhaps, a little loss in confidence in them, as well."

REPRESENTATIVE GRUENBERG addressed his friends in the legislature and asked them to work with the mayors, saying that "we are all Alaskans, and to solve our problems, we must work together."

Number 2330

MR. RITCHIE said he agrees, and the reason he is before the committee today is to say that the legislature is moving forward

in the right direction and the communities are supportive of those efforts. He mentioned that communication is critical and does not always work well. He spoke about the number of small communities that have been in existence for well over a thousand years, that now are feeling a great deal of pain. He encouraged keeping communication open to work together to solve problems.

Number 2234

REPRESENTATIVE KOHRING asked why those communities that have been around for a thousand years are now in such dire need of money now for services, when, as recently as a generation ago, they did fine. He said he has been [in Alaska] 41 years and remembers when Alaska was a state that had good roads, good schools, and public safety at just a fraction of the money available now. "Suddenly we have a major crisis when we're spending far more money than we did, say, 35 years ago," he remarked.

MR. RITCHIE replied that he has thought a great deal about that as well and thinks it is a valid question. In the last 50 years there have been amazing changes in the quality of life throughout Alaska, especially rural Alaska, in terms of decreases in infant mortality, improvement of education, more on-site health clinics, and other basic things. He said the issue is, if those things start deteriorating now, people quite rightfully have come to expect that quality of life, and without those things, there is a great likelihood that there's going to be an exodus out of small communities. He said, "The problem is, small communities are what we think of when we think of rural Alaska and what it stands for. From a practical standpoint, most of our urban communities have as much as a third of their economy based on commerce and providing services." He said the relationship among all the communities in Alaska is a very important part of the economy.

Number 1947

REPRESENTATIVE WILSON told of her experience living in a small town for seven years, and of the closing businesses and exodus of people due to fewer jobs. She described the decline of the hospital as an employer and the chain reaction due to lack of jobs, and she predicted that the town could become a ghost town. She said these are real things that are happening to communities across the state and she imagined the vote of no confidence stemmed from high levels of frustration. She emphasized that [the House Special Committee on Ways and Means] has made a

difference for the last two years. She repeated that there is a lot of frustration in the "real trenches of the real world."

CHAIR HAWKER spoke of viability of communities and, addressing Mr. Ritchie, said he knew the Alaska Municipal League was concerned as well. He stated the mission of [the House Special Committee on Ways and Means], which is cost management and efficiencies, and opined that the viability of individual communities would be an important subset of that discussion.

Number 1712

REPRESENTATIVE OGG said he was pleased to hear that Mr. Ritchie's organization has "opened their eyes," recognizes that this legislature has been working on, [a fiscal plan], and is now applauding the legislature for their efforts. He asked Mr. Ritchie if that is what he is hearing.

MR. RITCHIE replied yes.

REPRESENTATIVE OGG thanked Mr. Ritchie and his organization for their reflection and support of the legislature's efforts.

Number 1606

CHAIR HAWKER thanked Mr. Ritchie, and asked if there was any further public testimony. Hearing none, he closed public testimony.

Number 1552

REPRESENTATIVE ROKEBERG [Started to make a motion to adopt Conceptual Amendment 1 and then withdrew it in order to consult with Mr. Bartholomew about the wording about consumer price index.]

MR. BARTHOLOMEW related that currently in AS 37.13.145(c) the wording United States Consumer Price Index for all urban consumers. He supported continuing to use that measure.

REPRESENTATIVE GRUENBERG suggested that statute be read into the record. He asked if Mr. Bartholomew was referring to AS 37.13.145(c)(1).

MR. BARTHOLOMEW said correct.

Number 1460

REPRESENTATIVE ROKEBERG moved to adopt the aforementioned Conceptual Amendment 1, but requested clarification of the wording.

CHAIR HAWKER clarified that Conceptual Amendment 1 is to have the drafters include as appropriate in this bill, AS 37.13.145(c)(2), paraphrased as appropriate, using the price index that will be read into the record by Representative Gruenberg.

REPRESENTATIVE GRUENBERG pointed out that that is a statute that is going to be repealed in [the proposed CS].

CHAIR HAWKER said correct.

REPRESENTATIVE ROKEBERG said that is why it is a conceptual amendment and is being put back in.

Number 1350

CHAIR HAWKER objected to Conceptual Amendment 1 for discussion purposes. He read, "As currently used for inflation proofing the permanent fund is calculated using the average of the monthly United States Consumer Price Index for all Urban Consumers", which he noted is called the CPI-U.

REPRESENTATIVE ROKEBERG added that he has always used the term "or its equivalent" in case there has ever been a change.

REPRESENTATIVE GRUENBERG asked for clarification of the amendment. He asked if Representative Hawker is suggesting that the entire statute not be repealed.

CHAIR HAWKER paraphrased Conceptual Amendment 1:

The amendment before us would be a conceptual amendment to have the drafters include as additional language some place as appropriate in this Act, language that would define, in relation to rate of inflation as appears on page 3, line 12, that that rate of inflation, the measure, the index for determining that rate of inflation, be the CPI-U or its equivalent and successor index.

MR. BARTHOLOMEW suggested in Section 37.13.900, the definitions section for this provision of statute, adding the definition of inflation.

REPRESENTATIVE ROKEBERG agreed that is where the definition should go so it would be applicable throughout the whole body of the chapter.

Number 1030

CHAIR HAWKER withdrew his objection to Conceptual Amendment 1. There being no objection, Conceptual Amendment 1 was adopted.

Number 1020

REPRESENTATIVE WEYHRAUCH moved to adopt Conceptual Amendment 2, to say that in the conditional-effect portion of the bill, Section 10, that only those sections that are related to POMV be included.

CHAIR HAWKER objected for discussion purposes.

Number 1010

REPRESENTATIVE GRUENBERG offered a friendly amendment to make the motion more detailed.

REPRESENTATIVE WEYHRAUCH agreed.

REPRESENTATIVE GRUENBERG expanded Conceptual Amendment 2 to say, Sections 1, 2, and 5 would not be subject to Section 10. He explained, "So, in other words, the conditional effect would be Sections 3, 4, 6, and 9 of this Act take effect only if an amendment to Article IX .... " He said that language would go on page 6, line 12, which would exempt Sections 1, 2, and 5 from the conditional effect. That is the first part of the amendment, he noted. The second part would be that there be another section added, Section 12, that would give Sections 1, 2, and 5 an immediate effective date.

CHAIR HAWKER suggested that Sections 1, 2, and 5 would not be conditional under either the existing Sections 10 or 11, which would allow the drafters some latitude.

REPRESENTATIVE GRUENBERG agreed.

Number 0903

REPRESENTATIVE OGG objected. He said the bill was crafted to match the POMV and he does not want to go down this road because it all becomes ineffectual if the POMV constitutional amendment does not go into effect. He said he appreciated Representative Gruenberg's desire to address these kinds of issues, but suggested that perhaps there should be separate legislation which he would support.

REPRESENTATIVE GRUENBERG responded that the issue he raised about Sections 1, 2, and 5 may not have been completely considered when this bill was drafted. Those sections are good changes in the law and whether or not the constitutional amendment passes, this bill does have merit, and there is no reason not to move those sections forward anyway.

Number 0649

REPRESENTATIVE ROKEBERG agreed with Representative Ogg and said Sections 1 and 2 are "here by convenience," and he also supported separate legislation for those sections because adding [HB 298] as a companion bill to the constitutional amendment could cause confusion to the public with extra sections to read. He said this issue should be considered during the next hearing of the bill.

CHAIR HAWKER maintained his objection.

A roll call vote was taken. Representatives Weyhrauch, Kohring, Wilson, and Gruenberg voted in favor of Conceptual Amendment 2. Representatives Ogg, Rokeberg, and Hawker voted against it. Representatives Moses and Samuels were absent for the vote. Therefore, Conceptual Amendment 2 was adopted by a vote of 4-3.

Number 0355

REPRESENTATIVE WEYHRAUCH moved to report CSHB 298, Version 23-LS1075\S, Cook, 3/15/04, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE KOHRING objected.

Number 0237

A roll call vote was taken. Representatives Weyhrauch, Ogg, Wilson, Rokeberg, Gruenberg, and Hawker voted in favor of CSHB 298. Representative Kohring voted against it. Representatives

Moses and Samuels were absent for the vote. Therefore, CSHB 298(W&M) was reported out of the House Special Committee on Ways and Means by a vote of 6-1.

CHAIR HAWKER thanked the committee and the permanent fund experts for their participation.

Number 0212

**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at 10:14 a.m.