

HOUSE FINANCE COMMITTEE  
April 9, 2001  
1:39 P.M.

TAPE HFC 01 - 76, Side A  
TAPE HFC 01 - 76, Side B  
TAPE HFC 01 - 77, Side A  
TAPE HFC 01 - 77, Side B  
TAPE HFC 01 - 78, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:39 P.M.

MEMBERS PRESENT

Representative Bill Williams, Co-Chair  
Representative Eldon Mulder, Co-Chair  
Representative Con Bunde, Vice-Chair  
Representative Eric Croft  
Representative John Davies  
Representative Carl Moses  
Representative John Harris  
Representative Bill Hudson  
Representative Ken Lancaster  
Representative Jim Whitaker

MEMBERS ABSENT

Representative Richard Foster

ALSO PRESENT

Representative Lisel McGuire; Representative Fred Dyson;  
Representative Joe Green; Representative Pete Kott;  
Representative Chenault; Kevin Jardell, Staff,  
Representative Joe Green; Rod Arno, Alaska Outdoor Council,  
Palmer; Pam LaBolle, President, Alaska State Chamber of  
Commerce; Greg Persson, Public Safety Employees Association  
(PSEA); Tim Navarre, President, Kenai Peninsula Borough  
Assembly; David Katzeek, Juneau; Mako Haggerdy, Homer; Al  
McKinley, Sr., Alaska Native Brotherhood, Juneau; Vernon  
Marshall, Executive Director, NEA - Alaska; Kathryn Kurtz,  
Attorney, Legislative Affairs Agency; Craig Persson, Public  
Safety Employees Association, Fairbanks; Alfred McKinley,  
Sr., Alaska Native Brotherhood, Juneau; Barbara Huff-  
Tucknus, Director, Legislative and Governmental Affairs for  
the Teamsters, Juneau.

PRESENT VIA TELECONFERENCE

James Jordan, Executive Director, Alaska State Medical  
Board, Anchorage; Debbie Ossiander, Chugach High School,

Anchorage School Board, Anchorage; Brooke Miles, Alaska Public Officers Commission (APOC), Anchorage; Steven Conn, Executive Director, Alaska Public Interest Research Group, Anchorage; James Price, Kenai; Richard Van Hattan, President, Correctional Officers Bargaining Unit, Kenai; Dwight Nissen, Delta Junction; Roy Gilbertson, Mayor, Delta Junction.

#### SUMMARY

HB 99 An Act relating to school discipline and safety programs; and providing for an effective date.

CS HB 99 (HES) was reported out of Committee with a "do pass" recommendation and with a new zero fiscal note by Department of Education & Early Development.

HB 113 An Act relating to health care insurance payments for hospital or medical services; and providing for an effective date.

CS HB 113 (HES) was reported out of Committee with a "do pass" recommendation and with zero fiscal notes by Department of Community & Economic Development dated 3/07/01 and the Department of Administration.

HB 149 An Act relating to correctional facility space and to authorizing the Department of Corrections to enter into an agreement to lease facilities for the confinement and care of prisoners within the Kenai Peninsula Borough.

CS HB 149 (FIN) was reported out of Committee with "individual recommendations" and with fiscal notes by the Department of Corrections dated 3/22/01 and the Department of Revenue.

HB 177 An Act placing certain special interest organizations within the definition of 'group' for purposes of Alaska's campaign finance statutes; providing a contingent amendment to take effect in case subjecting these organizations to all of the statutory requirements pertaining to groups is held by a court to be unconstitutional; requiring certain organizations to disclose contributions made to them and expenditures made by them; requiring disclosure of the true source of campaign contributions; and providing for an effective date.

CS HB 177 (STA) was reported out of Committee with "individual recommendations" and with a fiscal

note by the Department of Administration dated 3/22/01.

HB 194 An Act relating to fees for commercial fishing licenses and permits; and providing for an effective date.

HB 194 was POSTPONED for a hearing at a later date.

HCR 13 Relating to the nonresident fee differential for commercial fishing permits and licenses.

HCR 13 was POSTPONED for a hearing at a later date.

#HB99

HOUSE BILL NO. 99

An Act relating to school discipline and safety programs; and providing for an effective date.

REPRESENTATIVE LESIL MCGUIRE commented that violence in Alaska's schools has recently been brought into the community spotlight as a result of serious physical altercations between students. The fights have been violent resulting in severe bodily harm. Education requires our children to learn how to live in society through the acceptance of rules and community values.

Representative McGuire stated that HB 99 would be a tool available to schools to help confront both violent and non-violent conflicts. HB 99 would amend Title 14 of the Alaska Statutes to include policies that would initiate student conflict-resolution curriculum providing methods of nonviolent resolution and mediation for student conflict. HB 99 would seek to recognize and enforce existing behavior standards by giving students alternatives for solving problems besides the use of violence. By integrating that way of learning into the schools core curriculum, policies would be targeted at helping students resolve problems before they escalate.

Representative McGuire pointed out the zero fiscal note submitted by the Department of Education & Early Development.

Representative Harris asked if the legislation would cause unfounded mandate expenditures to the local school districts. Representative McGuire stated that it would not have that effect. She noted the direct contrast with the language in the previous bill and pointed out the program requiring the policies had been removed. Representative McGuire noted that three of the schools already have

policies in place pertaining to the reporting of school conflict. That inclusion will waive them out of the stipulation.

Representative McGuire added that there would be policy manual updates distributed to the school districts. Schools would use existing resources to determine if there were problems in their areas. She noted that the bill would help individual school districts to obtain grant application funds.

Vice-Chair Bunde stated that Chugiak High School does have a mediation program in place. He asked if the information that district had gathered would be available to the other districts. Additionally, Vice-Chair Bunde questioned what the charge assessed to each high school would be if the program language were to be added back.

Representative McGuire indicated that there was a movement to create a database and that the materials would be available. She noted that through her office budget, she intended to put together a packet addressing the "Peace-able School Project", which would be sent to every school in the State. The current costs of the Chugiak program runs about \$30 - \$40 thousand dollars per year. The cost to implement the mediation program would be approximately \$8 thousand per year.

Representative Lancaster asked if there would be any financial responsibility to the school districts should problems result. Representative McGuire stated there would not. The districts would not be punished and there would be no ramifications. She advised that through the policy letter and the news channels, the idea has been well received. She acknowledged that an incentive exists. The school districts want to start talking about these concerns.

Vice-Chair Bunde asked if mediation was currently happening in the Alaskan elementary schools. Representative McGuire responded that most of the elementary schools have some sort of mediation control happening. However, kids are coming into the high schools and those trained mediator services are no longer being used. Representative McGuire stressed that Chugiak is an exception. Most high schools are not doing it at this time. She noted that the legislation primarily targets the high school level.

DEBBIE OSSIANDER, (TESTIFIED VIA TELECONFERENCE), ANCHORAGE SCHOOL BOARD, CHUGIACH HIGH SCHOOL, ANCHORAGE, noted that the first priority of every school district is school safety. Ms. Ossiander commented that her school district has been working toward improving conflict resolution for a number of years. Much of the work has been done through federal grant monies, specifically the Federal Safe and Drug

Free Schools. She indicated that the Anchorage School Board supports the proposed legislation and pointed out that the legislation would help districts to access grant funding.

VERNON MARSHALL, EXECUTIVE DIRECTOR, NATIONAL EDUCATION ASSOCIATION (NEA)-ALASKA, noted that NEA does support the passage of HB 99. The issue of school safety has been a top priority for the Union's agenda for many years. He noted that HB 99 would address the importance of developing strategies that hopefully would lead to programs designed to help students cope with aggressive thoughts and feelings. There is currently staff employed to address school safety concerns. Mr. Marshall noted that working with children at an early age addressing these issues of aggression, would be beneficial to all school age children.

Mr. Marshall distributed a packet of material that is used by teachers at in-service trainings throughout the State. [Copy on File].

Vice-Chair Bunde MOVED to report CS HB 99 (HES) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HB 99 (HES) was reported out of Committee with a "do pass" recommendation and with a new zero fiscal note by Department of Education & Early Development.

#HB113

HOUSE BILL NO. 113

An Act relating to health care insurance payments for hospital or medical services; and providing for an effective date.

REPRESENTATIVE JOE GREEN testified that HB 113 would build upon a national trend to develop fair payment provisions that would enable health insurance companies to make sound business decisions while ensuring that patients receive benefit payments in an appropriate time frame. The concept of "prompt pay" legislation has been successfully adopted and implemented by 39 states.

HB 113 requires health insurers to pay benefits within thirty calendar days of receiving a "clean claim". If a payment is not made on time, the insurer would be charged interest on the outstanding claim. HB 113 would also establish a definition for "clean claim" that recognizes an insurance company's need to make payment decisions based upon complete and accurate information.

Vice-Chair Bunde noted that since the legislation indicates that interest would be paid for delayed payments, that

concept indicates that currently, the insurance companies are making money on those payments delayed past thirty days. He asked if it was known what that amount was nationally.

Representative Green explained that there is a presumption by the insurance companies that if they delay payment, they then have use of that money.

Representative Croft asked about the definition of clean claim. He asked if it had been "tested" in other states.

KEVIN JARDELL, STAFF, REPRESENTATIVE JOE GREEN, responded that the definition of "clean claim" has been addressed by many states and is difficult to formulate. He noted that the definition chosen, benefits insurance companies and is broadly written. Physicians requested that "hard" date lines be established. Clean claim terminology comes from the Medicare definition.

Representative Croft asked an alternative definition. Mr. Jardell replied that the American Medical Association (AMA) is agreeable with the proposed definition. He stressed that the intent was not to undermine the viability of insurance companies in Alaska.

Representative Croft asked where the procedures would be outlined regarding whether the insurance companies owe the claim or not. Mr. Jardell replied that the claimant would go through the Insurance Division by filing a complaint. It is the intent that the legislation would make insurance companies develop more efficient methods of paying claims.

Representative Davies referenced Page 4, and asked if the qualifier that precludes timely payments on the claim, apply into propriety as well as circumstances. Mr. Jardell understood that it would not apply to language that resulted from a technical or grammatical error. If the information needed had been included on the claim, then that claim would be a clean claim. Representative Green advised that most of the larger insurance companies insure more than one state and that this language was used by a significant number of states. He stated that it was reasonable.

Representative Hudson asked if the "clean claim" would be impacted by Medicare's delay response. Representative Green replied that the legislation would apply between the insured and the insurance company.

JAMES JORDAN, (TESTIFIED VIA TELECONFERENCE), EXECUTIVE DIRECTOR, ALASKA STATE MEDICAL ASSOCIATION, ANCHORAGE, testified that the Alaska State Medical Association does support the proposed legislation. He stated that "clean claim" definition included in the bill is based on Medicare's definition. Currently, there are regulations

being adopted on the federal level, which deal with the confidentiality of medical records and information for the payment of health insurance claims. In enacting that bill, Mr. Jordan stated that there would be an activation of regulations. It is anticipated that the State Division of Insurance will adopt regulations defining what a clean claim is.

Representative Davies asked how to read Subsection K, Page 4, the qualifier of timely payments. He asked if that would be in reference to all three clauses, the defect, the impropriety and the circumstance. Mr. Jordan replied that it would.

Representative Hudson MOVED to report CS HB 113 (HES) out of Committee with individual recommendations and with the accompanying fiscal note. Representative Harris OBJECTED in order to ask about all the fiscal notes. Representative Green stated that they were all zero. Representative Harris WITHDREW his OBJECTION.

There being NO further OBJECTION, it was so ordered.

CS HB 113 (HES) was reported out of Committee with a "do pass" recommendations and with zero fiscal notes by Department of Administration and Department of Community & Economic Development dated 3/07/01.

#HB177

HOUSE BILL NO. 177

An Act placing certain special interest organizations within the definition of 'group' for purposes of Alaska's campaign finance statutes; providing a contingent amendment to take effect in case subjecting these organizations to all of the statutory requirements pertaining to groups is held by a court to be unconstitutional; requiring certain organizations to disclose contributions made to them and expenditures made by them; requiring disclosure of the true source of campaign contributions; and providing for an effective date.

REPRESENTATIVE PETE KOTT pointed out that in 1999, the Alaska Supreme Court in American Civil Liberties Union (ACLU) versus State upheld Alaska's ban on political contributions and independent expenditures by corporations and labor unions. The Court also held that entities must be allowed to make independent expenditures if:

- They could not participate in business activities;
- They have no shareholders who have a claim on corporate earnings; and

- They are independent from the influence of business corporations.

The Court suggested that entities, which meet those criteria, must be permitted to make political contributions.

Representative Kott stated that CS HB 177 (STA) clarifies that non-group entities that meet that criteria may make contributions and independent expenditures. The legislation would subject those groups to the same rules, including contribution limits and reporting requirements as other groups that participate in political campaigns.

Representative Whitaker inquired who would be excluded. Representative Kott replied that it would only exclude non-group entities that fall into the categories listed in Subsection 2.

**TAPE HFC 01 - 77, Side B**

Representative Kott noted that the only group that the legislation excludes now would be the Alaska Conservation Voters (ACV).

Representative Whitaker asked the intent of the bill. Representative Kott replied that it was specifically to preclude ACV from making the contributions they made in the past and to preclude any other non-group entities from "falling into" that category. Representative Whitaker understood that the bill would create a "level playing field" and close an existing loophole.

Representative Davies asked if Subsection 5 would be amended to AS 15.13.400. He asked the operational sentence that precedes that reference.

KATHRYN KURTZ, ATTORNEY, LEGISLATIVE LEGAL AND RESEARCH SERVICES, LEGISLATIVE AFFAIRS AGENCY, explained that the first sentence of paragraph 5 would be the definition that currently exists for "group". That section provides all the definitions of that area of the campaign finance law. Every time "group" is used, it would mean what it used to mean, plus the language added in the legislation. The language would add that group entity to meet the criteria.

Representative J. Davies understood that language would not exclude the Alaska Oil and Gas Association (AOGA) as a special interest organization.

Ms. Kurtz responded that the bill would include those entities. She noted that the case driving the legislation

is the case of the Massachusetts Citizens for Life. Entities that fit into that category would be included. The definition appears elsewhere in interpreting judicial decisions. She stated that the language was very restrictive about the types of groups that would fit within it.

Representative Davies asked how "C" was different than "B". Representative Kott replied that "C" had been derived from case law and clearly identifies those groups that can be included as long as they do not meet the categories. Outside of that, he did not know the difference.

Representative J. Davies asked the types of groups that would not be "swept in" by the language of Section C.

BROOKE MILES, (TESTIFIED VIA TELECONFERENCE), ALASKA PUBLIC OFFICIERS COMMISSION (APOC), ANCHORAGE, advised that the Campaign Disclosure Law prohibits contributions from corporations and business education partnerships. In the ACLU case, the Alaska Supreme Court declined to prohibit non-group entities that met the three-part arrangement. Last summer, APOC delegated regulations permitting certain non-profit corporations to qualify for activities in election campaigns. To date, only one group has qualified, and that is the Alaska Conservation Voters (ACV).

Ms. Miles continued, the legislation would change and override APOC's current regulation in a couple of significant ways. The first way concerns disclosure. The legislation would require groups that participate to disclose their contribution activity differently than current regulations require. They could still transfer to a political account; it would have to meet all the filters in Alaska State law. The contributions coming into the non-group entity would have to be from individuals in the amount of \$500 dollars or less or from another political group giving \$1,000 dollars. She continued that the disclosure reports would require that they show what money had been transferred.

Ms. Miles advised that it is APOC's expectation that the legislation would result in a proliferation of entities. She stated that they would not be limited to non-profit corporations.

Representative Davies questioned what other groups would be affected. Ms. Miles replied that there have been inquiries from other groups such as "Common Sense Alaska". She stated that the bill would result in more disclosure to the public.

Vice-Chair Bunde understood that the bill would limit current participants to the same limitations that other

political people have to abide by and would allow for more expansion. Ms. Miles replied that was correct.

Vice-Chair Bunde pointed out that his constituents wanted more campaign exposure, rather than less. He noted his support of the bill.

Representative Harris voiced concern with the fiscal notes. Representative Kott believed that only a minimal amount of applications would be submitted. He suggested that the note might be a little high.

Ms. Miles explained that the fiscal note provides for the first year funding for a Regulation Specialist to get on line. Groups cannot walk in to the office without the changes in place. She pointed out that current regulations "go out the door" as soon as the legislation becomes law. APOC believes that there will be a lot of these groups.

Representative Harris recommended zeroing the fiscal note out.

Vice-Chair Bunde referenced the travel aspect of the fiscal note to be used to educate staff. He asked why individual areas should come to Anchorage to be educated. Ms. Miles replied that the common practice is for APOC to go to the communities to educate people regarding the campaign changes. She predicted that there will be substantial impact and it would be difficult for APOC to stay on top of the legislation.

Representative Croft spoke about those groups that fit into Subsection "B". He asked about "groups, individuals and special interest organizations". Ms. Kurtz advised that "person" could be used to describe a labor union or partnership and that the primary difference between "B" and "C" is the phrase "principle purpose". In "C", there could exist an entity whose purpose is educational.

Representative Croft believed that it was appropriate to use "person" rather than individual. Person is a "broader" usage of the concept. Previously, groups were asked to register whose major purpose was to influence an election. He asked how would those persons, whose major concern was not to influence elections, register. Ms. Kurtz acknowledged that was correct if that person was going to be making expenditures regulated under statute.

Representative Croft asked where "special interest organization" would be defined. Ms. Kurtz advised that the bill does not include that definition. All the references to that are included in "C".

Representative Croft asked how it could be characterized. Ms. Kurtz noted that the Court did not want to define that either. A negative definition exists. The prohibition is concerned that it would exclude some groups that should not be excluded based on the three criteria. She noted that there are a few different types of tax-exempt organizations under federal code. Ms. Kurtz understood that a 501C-4 organization could engage in some sort of political activity without jeopardizing their tax-exempt status. The Court has stated that the statutes have to be read to allow entities that fit the definition.

Representative Croft stated that by definition, it would be a group of people that are grouped together to do other things and that end up "grouping" together to engage in political activity. He asked if that was the source of ACLU's discretion opinion. Ms. Kurtz agreed that was an accurate summary of where the ACLU case went.

Vice-Chair Bunde noted that under "B", groups organized for the principle purpose of influencing the outcome of elections. He asked what the percentage of their activity would be and when the principle purpose would be cut off. Ms. Kurtz explained that the Courts had not precisely defined percentage. She added that there was a prohibition elsewhere driving the statutes, which prohibits corporations and unions from contributing. There could be a corporation under "C", that met the criteria, which would not be able to otherwise contribute because it was a corporation. Vice-Chair Bunde stated that the State needs "C" to address activity in political campaigning. The public would be better served by knowing know who is active.

Representative Davies asked for a description of the ACLU case. Ms. Kurtz advised that the ACLU case was a comprehensive challenge to the Alaska Campaign Finance statutes as they were recorded in 1996. The Court upheld virtually all the activities so that these organizations could be included. That definition was used in couple of cases. There are federal cases indicating the federal election and the direct prohibition of corporations. That law was challenged.

Ms. Kurtz stated that the statutes have to be read to allow the particular class of entities to contribute. The prohibition on corporate giving has been justified in the positive. There is a concern of corruption that justifies the restrictions on free speech in campaign financing. There is a concern about the ability to accumulate large quantities of funds that go with corporations that the Courts did not appeal. It applies to groups like those in the federal challenge.

Representative Whitaker questioned if the bill would "level the playing field". Representative Kott replied it would.

STEVEN CONN, (TESTIFIED VIA TELECONFERENCE), EXECUTIVE DIRECTOR, ALASKA PUBLIC INTEREST RESEARCH GROUP, ANCHORAGE, spoke in opposition to the proposed legislation. He submitted that to have a level playing field, it would be important to address campaign finance reform, which would be to protect the political process from an overwhelming influence by corporations. He spoke to the potential of corrupting the process by exacting from politicians, political debts. The Court sought to protect those entities that were explicitly not engaged in "business" activity and with no shareholders. Mr. Conn stated that it would be those entities whose singular purpose and ideas are not connected to business. Those entities would deserve a special exemption if there was a level playing field. He believed that there would be many groups seeking the exclusion. He submitted that there is no question that the Court thought long and hard about the exemption recognizing the powerful impact of business on that process. The Court did define it in the negative.

Mr. Conn added, that a concern exists that those who chose to participate in the non-business entity might be subject to retaliation with sanctions leveled. There are certain reasons why the Court awarded immunities. He encouraged the Committee to contemplate those concerns. The Court's decisions should not be modified. The exclusion is focused on one specific group.

ROD ARNO, ALASKA OUTDOOR COUNCIL, PALMER, voiced support for the proposed legislation. He noted that there are groups who advocate against the Alaska Outdoor Council. One of those groups is the Alaska Conservation Foundation and its umbrella groups, the Alaska Conservation Alliance and the Alaska Conservation Voters. He pointed out that APOC has indicated that there is no regulations making the ACV register disclosures. He stated that the Alaska Outdoor Council would like a "level playing field".

**TAPE HFC 01 - 77, Side A**

PAM LABOLLE, PRESIDENT, ALASKA STATE CHAMBER OF COMMERCE, spoke in support of the legislation. She maintained that it would require certain special interest organizations to disclose contributions received and expenditures made for campaigns, and to disclose the true source of the campaigning contributions.

Ms. LaBolle stated that Alaska voters deserve to know who the contributors are and in which states those individuals

reside who are trying to persuade Alaskans to support their cause. She maintained that there is no reason that promoters should hide behind their funding sources.

Vice-Chair Bunde MOVED to report CSHB 177 (STA) out of Committee with individual recommendations and with the accompanying fiscal notes.

There being NO OBJECTION, it was so ordered.

CS HB 177 (STA) was reported out of Committee with "individual recommendations" and with a fiscal note by Department of Administration dated 3/22/01.

#HB149

HOUSE BILL NO. 149

An Act relating to correctional facility space and to authorizing the Department of Corrections to enter into an agreement to lease facilities for the confinement and care of prisoners within the Kenai Peninsula Borough.

Co-Chair Mulder noted that the Subcommittee had met to discuss HB 149 and the proposed committee substitute, 22-LS0436\R, Luckhaupt, 4/03/01, resulted from the Subcommittee's work.

Representative Hudson MOVED to ADOPT the work draft as the document before the Committee. There being NO OBJECTION, it was adopted.

REPRESENTATIVE CHENAULT, the sponsor of the bill, spoke in support of the proposed committee substitute. He noted that there had been modifications made to the original bill.

Co-Chair Mulder stated that the bill would provide some certainty in relationship to the size, scope and costs of the project. The status quo in Arizona was \$65 dollars a day. In order to provide a comparable facility in Alaska, the cost would be approximately \$135 a day. Recognizing that this would result in additional costs, the State wanted to make sure that jobs would be well paying, the care would be comparable, and that the Borough was satisfied with the proposal. He stated that it was anticipated that the cost would be 20% less than the average in all-State facilities, ranging somewhere around \$89 dollars per day. The per diem cost excludes the contracts outside the State. He pointed out that it would be 18 - 20 percent below the State rate.

Representative Lancaster referred to the level of care compared to Arizona. Co-Chair Mulder felt that the level of care and custody would be comparable.

Representative Lancaster understood that the site had not yet been selected. Representative Chenault stated that the site selection would not hinder the project. Co-Chair Mulder noted that there is a tentative contract signed at this point. He noted that he was comfortable with the numbers and emphasized that there was support from the Kenai Borough.

TIM NAVARRE, PRESIDENT, KENAI PENINSULA BOROUGH ASSEMBLY, discussed the Boroughs participation in the site selection. He stressed that the majority of the Kenai Assembly favors the site at Wildwood.

Representative Hudson questioned if there had been a public process to discuss concerns. Mr. Navarre noted that a resolution had been adopted. The landowner brought the consideration before the public and the Assembly. There were no objections to the request for qualification (RFQ), the competitive bid process award. He noted that there have been three hearings and that the Planning Commission has a hearing scheduled. The issue will be back before the Assembly on April 17, 2001.

Co-Chair Mulder noted that there have been some questions regarding the bid process. Mr. Navarre stated that there were four bids on the RFQ and an evaluation team to evaluate the proposals. He stated that the top two proposals tied. The team recommended a meeting with the Assembly in Executive Session. The Assembly was unanimous in its selection. After 30 days, there was no objection to the process. He reiterated that the process had been fair and equitable.

Representative Harris asked if Mr. Navarre was comfortable that \$89 dollars a day per bed could be achieved. He asked if the majority of local residents were comfortable with a private prison. Mr. Navarre affirmed the price. He added that some locals would prefer a State institution, however, felt that the public would be satisfied with a private facility as long as the mitigation issues had been "flushed out" to assure adequately trained staff at a comparable wage. At that point, the citizens would support the prison.

Representative Harris questioned if this would be a pilot project. He asked if there would be an open bidding process that would allow unions and local companies to participate. Mr. Navarre stressed that the Borough supports the use of local union labor.

Representative Hudson noted that there would be a State lease amortized over time and questioned if there would be a tax benefit for the Borough to have a private versus State facility. Mr. Navarre responded that negotiations are open for lease acquisition. The Borough would own the building,

but it could be sold to the State of Alaska after 20 years. There is a Borough ordinance that projects over \$10 million dollars would receive a 50% percent break discount on property tax. He added that there could be some low interest loans. He stated that the Borough has agreed to take less in lieu of taxes.

In response to a question by Representative Lancaster, Mr. Navarre discussed liability. He noted that liability has two issues:

- The building and revenue bonds; and
- Prisoner escape.

If the State defaulted, the lenders would be responsible. Then the investors could end up with the facility and prisoner security would then be negotiated. The final contract would require insurance to indemnify.

CRAIG PERSSON, PUBLIC SAFETY EMPLOYEES ASSOCIATION, FAIRBANKS, testified in opposition to HB 149. He spoke in support of minimal hiring and training standards equal to the Department of Corrections.

JAMES PRICE, (TESTIFIED VIA TELECONFERENCE), KENAI, testified in opposition to the legislation. He stressed that the Borough would be responsible for financial support. He stated that it was premature to say that the public supported the concept, as there have not been any public hearings to date. He recommended that there is a need for a feasibility study and that the project should not move forward without that study, as it would not be in the best interest of the public or the State.

Vice-Chair Bunde asked if Mr. Price would oppose a public financed prison in that area. Mr. Price commented that there would be better "safe guards" with a public State prison. He noted that he would not be opposed to a public prison.

Representative Harris suggested that Page 3, Section 3, addressed Mr. Price's concern.

RICHARD VAN HATTAN, (TESTIFIED VIA TELECONFERENCE), PRESIDENT, CORRECTIONAL OFFICERS BARGAINING UNIT, KENAI, testified in opposition to the legislation. He pointed out that the intent was to save the State money. He stressed that the legislation limits the contract to a third party in the Kenai Peninsula. He believed that there would be more support if it was not limited to a third party.

Mr. Van Hatten did not think it was fair to compare the cost of running a prison in Kenai to one in Nome. He pointed out

that the Department of Corrections is currently having difficulty obtaining qualified personnel. He did not think it would be possible to hire qualified people with the lowered standards. Mr. Van Hatten thought that issues such as the sewage treatment and the water service were questionable.

DWIGHT NISSEN, (TESTIFIED VIA TELECONFERENCE), DELTA JUNCTION, identified his concern with the \$19 dollars a day difference, the \$5.5 million dollars with no guarantee that the rate would stay. He added that the whole State should be consulted if the citizens of Alaska want prisons to become private industry.

ROY GILBERTSON, (TESTIFIED VIA TELECONFERENCE), MAYOR, DELTA JUNCTION, voiced concern that the State of Alaska currently has an obligation to the City of Delta Junction. He pointed out that the State needs to help Delta Junction get out from under the lawsuit currently pending because of HB 53.

Representative Hudson asked what was pending. Mr. Gilbertson explained that there was a lawsuit filed against the City of Delta Junction. The property has never been available at Fort Greeley and they were not able to go offsite. The City is suing for funds in the amount of \$2.4 million dollars. He requested that these costs be taken care of.

Representative Davies asked if the City of Delta Junction could build an 800-bed facility under the \$89 dollar terms proposed in HB 149. He asked if they would be interested in doing that and would it eliminate the lawsuit. Mr. Gilbertson responded that it could be built, however, was not sure of the support.

Co-Chair Mulder noted that testimony had been taken from Delta Junction. He observed that there had not been any consensus for a facility to be built there. He noted that the lawsuit is the greatest concern. Co-Chair Mulder noted that financial relief could not be provided within the confines of the legislation. Co-Chair Mulder advised that he would speak with Senator Stevens about the debt concern for the City of Delta Junction. Mr. Gilbertson interjected that Cornell is a participant in the lawsuit against the City of Delta Junction because of Allvest, Inc., and noted that they would appreciate any help they could get.

DAVID KATZEEK, JUNEAU, spoke in support of the legislation. He pointed out that rehabilitation reduces recidivism. He addressed the amount that the State of Alaska currently spends on sending their prisoners to Arizona.

**TAPE HFC 01 - 77, Side B**

Mr. Katzeek stressed the hardship of sending Alaska Natives to Arizona where they cannot benefit from the support of their families for rehabilitation. He felt that the State of Alaska would benefit from the legislation. He emphasized that money flows to other states.

Representative Davies shared the speaker's concern in regards to moving prisoners out of State, but stressed that the legislation would replace the smaller State operated prisons with one large private facility in Kenai. He inquired if the legislation would result in additional rehabilitation treatment.

Mr. Katzeek believed that the bill would be the first step. He acknowledged that a community effort was needed to address the issues of concern. He stressed that if the facility is located in Alaska, it will require a community effort in getting involved.

MAKO HAGGERDY, HOMER, stated that he disagreed with Mr. Navarre. He stated that only 40 percent of the local residents want a private prison and that 60 percent feel that it is the State's responsibility to house and care for prisoners. He acknowledged the need to return prisoners to the State of Alaska and recommended the removal of the third party debate. He believed that the third party contractors have complicated the issue.

ALFRED MCKINLEY, SR., ALASKA NATIVE BROTHERHOOD, JUNEAU, spoke in support of bringing the prisoners back to the State of Alaska. He observed that building the facility would provide jobs and infrastructure for the State. He asked if the State of Alaska could be reimbursed for medical expenses.

Representative Croft questioned if the federal government would be paying for the Native inmate medical costs. Mr. McKinley thought that the federal government would reimburse the State for Native medical expenses. Co-Chair Mulder pointed out that the State currently does not receive reimbursement.

BARBARA HUFF-TUCKNUS, DIRECTOR, LEGISLATIVE AND GOVERNMENTAL AFFAIRS FOR THE TEAMSTERS UNION, JUNEAU, pointed out that this is a philosophical issue and one that needs to be debated. She stressed that the legislation would address issues regarding bringing the prisoners back to the State of Alaska. Ms. Tucknus noted for the record that the construction issue should be addressed and asked for assurance that the construction of the building would be a

union project and that jobs would be brought back to the State of Alaska.

Representative Whitaker referred to the Department of Corrections "Cost of Care" sheet. He commented that the numbers indicate that the State is spending an additional \$12 million dollars per year. The legislation indicates that the State is spending an additional \$7.7 million dollars per year. Co-Chair Mulder advised that the number was \$7 million dollars.

Representative Whitaker asked if it was in the State's best interest to spend an additional \$7.7 million dollars per year for the next 20 years. Co-Chair Mulder stated that the issue was whether it was better to bring the prisoners home or not.

Representative Croft MOVED to ADOPT Amendment #1. [Copy on File]. Co-Chair Mulder OBJECTED.

Representative Croft commented that the amendment would provide for a competitive process between anyone that would like to be a part of that bidding process. He acknowledged that it was complicated. He noted that he had rewritten Section 2. The amendment would "holdout" for each area the price of \$89 million dollars. Representative Croft admitted that there is a thread of concern regarding the way the bill is approaching the project. He agreed that it is appropriate that the prisoners come home. He stated that Amendment #1 would open up a competitive bidding process.

Co-Chair Mulder reiterated his objection. He stated that if it works in Alaska, there is greater potential down the road. He stated that the first focus would be further marketing. He added that the project would be a venture opportunity for Kenai. There is concern in providing culturally relative activities. He pointed out the letter of support from the Alaska Federation of Natives (AFN).

Co-Chair Mulder commented that it would be less than the State alternative. He asked at what price is it worthwhile to bring our inmates home. The Kenai Borough is satisfied that they will be able to track those people.

Representative Davies spoke to the issue of culturally appropriate care. The State system has not been either in the way of or prohibiting the culturally active care for the inmates. He stressed that the fundamental problem is with alcohol treatment.

Representative J. Davies asked, "What does it mean to bring the prisoners home". The legislation will bring the prisoners from out of state to Alaska, but what about the prisoners that are spread throughout the State and not near

their support structures. He noted his support for the idea that other areas throughout the State bid. He voiced his concern that the proposal had been subjected to the competitive pressures of the market place.

Co-Chair Williams commented that the legislation would be good for the State. He acknowledged that it would be good to get the prisoners closer to their family areas; however, local areas are often hesitant to discuss building prisons. He projected that the State is going to need more prisons.

Representative Hudson voiced his support for the Kenai Prison project. He pointed out that one facility already is located in that area. He suggested that it would be "special" to have a pre-sentencing facility and a prison facility with "special" programs for the inmates. He reiterated that that legislation is the "right way to go". He noted that he opposed Amendment #1.

Representative Whitaker asked the process that lead to the proposal. Co-Chair Mulder replied that the Kenai Assembly was contacted by KNA with the idea and asked for a sole source. The Borough said no and went out for an RFQ. They received four responses back. The full assembly made the single selection. The process has been ongoing for one month.

Representative Whitaker stated that it is clear that the Borough followed a procedure, which was appropriate. He questioned, however, the procedure that the State has followed in the process. He noted that this is a matter of public trust and that the State should be cautious.

Representative Croft expressed that the Kenai Peninsula Borough did a great job for what they had been asked to do as a borough. They were not representing the State's interest; they represented Kenai's interests. Page 11 lists what the points were awarded for and that none of those points encompass any aspect of costs. He did not question Kenai's choice of a partner; however, that differs from the State determining who is the best and the cheapest. Kenai will contract with the State for beds. The Legislature must make sure that the process is competitive.

Representative Croft stressed that this is "sole sourcing". He spoke to the advantages to competition. He emphasized that this is "government defining what might be the right price". He did not know if the partnerships could happen in other areas.

**TAPE HFC 01 - 78, Side A**

Representative Croft stated that the fundamental problem with the legislation assumes that South Central is "home". The amendment would allow all other areas to bid. The amendment would bring competition to State government.

Vice-Chair Bunde noted that people throughout the State do not want to have prisons in their area. There will be opportunities to have more prisons located in other places of the State in the future if this one works.

A roll call vote was taken on the motion.

IN FAVOR: Davies, Moses, Croft, Whittaker  
OPPOSED: Harris, Hudson, Lancaster, Bunde, Williams,  
Mulder

Representative Foster was not present for the vote.

The MOTION FAILED (4-6).

Representative Croft MOVED to ADOPT Amendment #2. [Copy on File]. Representative Croft explained that the amendment would add the language:

"This applicability section does not affect the authority of the commissioner of Corrections to designate the correctional facility to which a prisoner is assigned" to Page 3, Line 16."

There being NO OBJECTION, the amendment was adopted.

Representative Croft MOVED to ADOPT Amendment #3. [Copy on File]. Co-Chair Mulder OBJECTED for the sponsor's explanation.

Representative Croft explained that the amendment would insert the language:

"But including the capital costs for construction of the facility, including debt service" to Page 2, Line 3."

Co-Chair Mulder WITHDREW his OBJECTION.

Representative Davies MOVED to ADOPT Amendment #4. [Copy on File]. Co-Chair Mulder OBJECTED.

Representative Davies commented that he was concerned about the standards contained in the committee substitute, specifically the capitalization and the per diem costs. He assumed that the State would be 10% above for construction. He referenced Page 2 of the Amendment, which indicates the per diem rate if 18% was saved over the State's costs. Representative J. Davies noted that until the capitalization

costs are known, the State does not know how much money would be left on the table. He requested that the Committee determine the numbers before awarding the contract.

Co-Chair Mulder stated that the amendment addresses the work and deliberations of the Subcommittee. He commented that the State's interest is to "get the best deal possible", while at the same time providing for a comparable level of care and the culturally relevant programs. Understanding that fact, if the State achieves a 10% savings, then that is considered a "good deal". He argued that the spreadsheet provided by Department of Corrections numbers could be questioned into eternity.

Co-Chair Mulder advised that the Subcommittee determined the closed comparison with the Anchorage facility, which costs about \$135 dollars per day. He suggested that it would amount to approximately a 30% savings. He believed that was sufficient to base bringing the inmates home. He reminded members that there is a desire for economic activity on the Kenai Peninsula and the concept would provide good paying jobs.

Representative Croft advised that Amendment #4 was the "flip side" to Amendment #1. He voiced concern with the process that is being established. He believed that there should be a process of determining what the price should be competitively. He stated that there needs to be a market place comparison including the ethics of business. Otherwise, those numbers should be "rigorous". Representative Croft stated that there has been a superficial discussion regarding the issue and he believed that the Committee had not chosen the "best" number.

Co-Chair Williams advised that two numbers are known. He reiterated that people in Alaska are concerned with the costs; however, they want to get the prisoners back to Alaska and the facility built. Co-Chair Williams surmised that where ever the facility is built, it will be full as soon as it is completed. He believed that other facilities would need to be built in the near future.

Representative Davies emphasized that most of these prisoners belong in treatment programs and not in prisons. He reiterated that the process has not been a competitive one. He questioned why there has not been greater House Finance Committee scrutiny for the State of Alaska.

A roll call vote was taken on the motion.

IN FAVOR:           Davies, Moses, Croft, Hudson  
OPPOSED:           Harris, Lancaster, Whitaker, Bunde, Williams,  
                          Mulder

Representative Foster was not present for the vote.

The MOTION FAILED (4-6).

Representative Davies WITHDREW Amendment #5. [Copy on File].

Representative Croft MOVED to ADOPT Amendment #6. [Copy on File]. Co-Chair Mulder OBJECTED.

Representative Croft stated that the amendment would add language to Page 2, Line 7, after "index,":

"It is also the intent of the Legislature that the Department of Corrections not sign any agreement for a private prison until the litigation regarding the Delta prison has been finally resolved".

Representative Croft believed that the language of the amendment would provide the State with a "clean slate" before moving forward.

Co-Chair Mulder suggested that the amendment would confuse two separate issues. He maintained that Cornell, Inc., has no interest in Allvest, Inc. and has no interest in the lawsuit. It is purely Allvest, Inc. that has the lawsuit with Delta Junction. The issue is not tied to Kenai.

Representative Harris agreed that the issues are separate and did not think that the legislation should be tied together. He spoke in support of resolving the litigation and believed that the amendment could "kill" the proposed bill.

Representative Lancaster asked if the State was named in any of the lawsuits. Co-Chair Mulder replied it was not.

Representative Whitaker asked if Section 4 repealed the agreement with Delta Junction, would the State be held harmless. Co-Chair Mulder stated the State would be held harmless. He understood the relationship that Cornell, Inc., and Allvest, Inc., had in Delta Junction, was that the contact between Delta and Allvest, Inc., existed. Cornell, Inc., had an option to operate the facility. They were not a signer on that contract.

Representative Whitaker questioned if all parties including Delta would hold the State harmless. Co-Chair Mulder replied it would because the State was not a signer on that contract.

Representative Croft discussed that there is a relationship with that entity. He stated that whether Cornell was involved or not was not important, as it was only intent

language. Before the new operations are started, there must be clarification.

A roll call vote was taken on the motion.

IN FAVOR: Davies, Moses, Croft, Whittier  
OPPOSED: Harris, Hudson, Lancaster, Bunde, Williams,  
Mulder

Representative Foster was not present for the vote.

The MOTION FAILED (4-6).

Co-Chair Mulder noted the fiscal notes by Department of Revenue and Department of Corrections.

Co-Chair Mulder MOVED to report CS HB 149 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 149 (FIN) was reported out of Committee with "individual recommendations" and with a fiscal note by the Department of Revenue and a note dated 3/22/01 by Department of Corrections.

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ADJOURNMENT

The meeting was adjourned at 5:25 P.M.