

HOUSE FINANCE COMMITTEE
April 25, 2001
1:48 PM

TAPE HFC 01 - 95, Side A
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TAPE HFC 01 - 96, Side A
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CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:48 PM.

MEMBERS PRESENT

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

MEMBERS ABSENT

None

ALSO PRESENT

Nico Bus, Administrative Services Manager, Division of Support Services, Department of Natural Resources; Dan Branch, Assistant Attorney General, Department of Law; Catherine Reardon, Director, Division of Occupational Licensing, Department of Community and Economic Development; Elmer Lindstrom, Special Assistant, Department of Health and Social Services; Mike Livingston, Anchorage Police Department; Kurt Parkan, Deputy Commissioner, Department of Transportation and Public Facilities; John Bitney, Legislative Liaison, Alaska Housing Finance Corporation, Department of Revenue.

PRESENT VIA TELECONFERENCE

Mike Livingston, Anchorage Police Department; Sharon Young, Anchorage; Brian Rogers, Fairbanks; David Braun, Healy; Linda Paganelli, Healy; Nancy Bale, Anchorage; Dick Mylius, Anchorage; Larry Jones, Executive Director, Board of Parole; Joe Fields, President, Kantishna Holdings Inc., Anchorage; Mary Kaye Hession.

SUMMARY

HB 49 "An Act extending the termination date of the Board of Parole; and providing for an effective date."

CSHB 49 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a previously published zero fiscal note (#1) by the Department of Corrections.

HB 108 "An Act relating to the accounting for and appropriation of fees for recording and related services by the Department of Natural Resources; and providing for an effective date."

HB 108 was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal impact note (#1) by the Department of Natural Resources.

HB 191 "An Act authorizing financing for certain public transportation projects; giving notice of and approving the entry into, and the issuance of revenue obligations that provide participation in, lease-financing agreements for those transportation projects; and providing for an effective date."

HB 191 was heard and HELD in Committee for further consideration.

HB 228 "An Act relating to the offense of selling or giving tobacco to a minor, to the accounting of fees from business license endorsements for tobacco products, to the disclosure of certain confidential cigarette and tobacco product information, to notification regarding a cigarette manufacturer's noncompliance with the tobacco product Master Settlement Agreement, to business license endorsements for sale of tobacco products, to citations and penalties for illegal sales of tobacco products; and providing for an effective date."

CSHB 228 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with and with and a previously published zero fiscal note (#1) by the Department of Revenue; and three previously published fiscal impact notes (#2, #3, and #4): Department of Law, Department of Health and Social Services and Department of Community and Economic Development.

HB 234 "An Act relating to the financing of construction and renovation of certain public facilities; and providing for an effective date."

HB 234 was heard and HELD in Committee for further consideration.

HB 244 "An Act relating to a grant of state land to the Denali Borough for a railroad and utility corridor and a railroad development project; repealing provisions relating to a grant of a right-of-way of land for a railroad and utility corridor to the Alaska Industrial Development and Export Authority; and providing for an effective date."

CSHB 244 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal impact (#1) note by the Department of Natural Resources.

#hb49

HOUSE BILL NO. 49

"An Act extending the termination date of the Board of Parole; and providing for an effective date."

LARRY JONES, EXECUTIVE DIRECTOR, BOARD OF PAROLE testified in support of the legislation. He noted that the Board of Parole supports the extension of the sunset date to June 30, 2006. The Board is made up of five citizen members and is tied to every element of the justice system. He stressed the importance of the Parole Board and emphasized that it represents the most humanized aspect of the criminal justice system. Parole is not a right; it is a discretion and the privilege of parole rests solely with the Parole Board. Public safety is the number one factor in considering parole. He observed that the state of Alaska saves between \$10 - \$12 million dollars in hard bed costs by allowing prisoners to go into the public sector with close supervision.

Vice-Chair Bunde observed that the Legislative Budget and Audit Committee report supports a longer extension. Mr. Jones agreed that a longer extension would be useful. He emphasized that extensive financial review is unnecessary due to the size of the Board. He explained that the Board chose a 2006 review date based on its past experiences. He pointed out that Alaska has a constitutional mandate for a parole system. He said that an increase to 2010 would be welcomed.

Representative Lancaster noted that there was a small concern regarding overseeing parolees by the Board and/or the Administration.

Mr. Jones explained that all parolees are under the jurisdiction of the Board, but supervision is conducted by the Department of Corrections. Only about 4 percent of revocation hearings are discretionary parolees. Mandatory parolees are released without personal interaction with the Parole Board. The supervision provided by the department is sufficient in the mind of the Board.

Vice-Chair Bunde MOVED to ADOPT Amendment 1: delete "2006" and insert "2008". There being NO OBJECTION, it was so ordered.

Representative Hudson MOVED to report CSHB 49 (FIN) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 49 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a previously published zero fiscal note (#1) by the Department of Corrections.

#hb108

HOUSE BILL NO. 108

"An Act relating to the accounting for and appropriation of fees for recording and related services by the Department of Natural Resources; and providing for an effective date."

NICO BUS, ADMINISTRATIVE SERVICES MANAGER, DIVISION OF SUPPORT SERVICES, DEPARTMENT OF NATURAL RESOURCES testified in support of the legislation. The legislation would change the funding source for the state recorder's operations from program receipts to receipts supported services. He observed that HB 418 provided authorization for use of customer receipts to support their programs. He emphasized the difficulty of the Recorder's Office to compete with other programs within the Department of Natural Resources. The Recorder's Office generates approximately \$4 million dollars in receipts. The operating costs for the Recorder's Office is approximately \$2.4 million dollars.

Vice-Chair Bunde questioned if customers are being charged too much if revenues generate more than the cost of operations. He added that the legislation would take the legislation out of the appropriation process. Mr. Bus responded that the change would retain the requirement for annual legislative authorization. He clarified that recording is one responsibility of the office and archiving is another. There are many records that have not been archived. Storage adds to the costs. Municipalities that have stored records over the years are returning books that must be stored to the state of Alaska. He noted that the alternative is to close offices.

Representative Hudson noted that there are records dating back to the 1800's. He spoke in support of placing the program under receipts supported services.

In response to a question by Representative Lancaster, Mr. Bus explained that the Palmer Office is moving from a 15-year lease. The increase in population over the past 15 years has resulted in an overcrowded facility. The lease cost was only .70 cents, since it was negotiated 15 years ago. They now have to pay current market value. The office requires more square footage at increased cost. In addition, the office has inherited equipment from the Alaska Court System that has no maintenance agreements. All documents presented to the recorder's office must be returned via mail to the customer. Postal fee increases have added to increased cost.

Representative Harris noted that there are three offices operated by the Alaska Court System: Seward, Valdez and Glennallen. Court activities receive priority in these offices. Mr. Bus stressed the need to identify personnel to fulfill this function. The Department of Natural Resources operates the other 11 offices.

In response to a question by Representative Harris, Mr. Bus clarified that since the implementation of the State's Recorder's Office Index System they have provided a daily on-line transfer index without missing a day.

Vice-Chair Bunde maintained that funding for the Recorder's Office should be considered with all other expenditures. Mr. Bus responded that detailed expenditures are submitted to the legislature. Funds are not dedicated and must receive legislative authorization. The purpose is to present their true needs within the competition of the entire department. Co-Chair Mulder pointed out that there is a lot of activity in the Nome office, yet it was the first office cut.

Representative John Davies noted that the fundamental policy question is should they be in the category of receipts supported services. He acknowledged that the service generates a lot of fees and the customers are frustrated because the service cannot be advanced in appropriate ways. The legislation would take away the artificial cap issue and allow decisions to be based on the proper level of service.

Vice-Chair Bunde maintained that the budget for the Recorder's Office would be increased from \$2.4 to \$4 million dollars by the passage of the bill. Representative John Davies argued that subcommittees would still review the funding, but that the arbitrary cap would be removed.

Representative Hudson stressed that the change would allow better bookkeeping. Services would be tied to revenues. He

pointed out that [under the current system] general fund expenditures are reduced to an agency that is earning its own keep.

Representative Whitaker observed that the revenues would be used to provide better service where they are earned. The legislation would provide a structural change, by dedicating them to the department where they are produced. He pointed out that the same argument could be made in the Division of Oil and Gas and expressed concern that the dedication may not be in the best interest [of the Legislature].

Mr. Bus argued that workload is directly related to the customer's action.

Representative Harris spoke in support of the legislation. He noted the number of complaints from the public sector regarding the level of service. The Legislature would still have to approve the funds, but it would not be counted against the general fund component. He maintained that accountability would continue through the budgeting process.

Representative John Davies argued that the legislation does not create a dedicated fund. He felt that it is more of an issue of fund source: a different type of program receipt. It would be a sub account in the General Fund and expenditures would not be automatic.

Representative Whitaker asked if there is a current document backlog. Mr. Bus noted that the statutes require 24 hour indexing. The problem occurs after the indexing. There is a backlog in archiving. There are rooms full of information that is not available to the public because it must be filmed and digitized. He discussed means to reduce the backlog.

Representative Whitaker summarized that there is a backlog of work that could be solved with an allocation of funds. Mr. Bus observed that capital project funding has been requested for the past several years. The funds have not been sufficient to keep up with the level of work. Capital requests have been funded. If the legislation were passed the level of funding would remain at \$2.5 million dollars unless the court offices were included. The Recorders' Office has requested additional operational funding, which has not always been received.

Co-Chair Mulder summarized that the issue differs from past functions because it makes more money than the cost of operations. He expressed confidence that the subcommittee chair would watch expenditures and added sympathy for user groups that want a timely product for their fee.

Vice-Chair Bunde maintained that the department would still request additional funds. He argued against passage of the legislation.

Representative Foster MOVED to report HB 108 out of Committee with the accompanying fiscal note. Vice-Chair Bunde OBJECTED.

A roll call vote was taken on the motion to Move HB 108 from Committee.

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

Representative Moses was absent from the vote.

The MOTION PASSED (9-1).

HB 108 was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal impact note (#1) by the Department of Natural Resources.

#hb228

HOUSE BILL NO. 228

"An Act relating to the offense of selling or giving tobacco to a minor, to the accounting of fees from business license endorsements for tobacco products, to the disclosure of certain confidential cigarette and tobacco product information, to notification regarding a cigarette manufacturer's noncompliance with the tobacco product Master Settlement Agreement, to business license endorsements for sale of tobacco products, to citations and penalties for illegal sales of tobacco products; and providing for an effective date."

Members were provided with Amendment 1, 22LS0797\J.1, Ford, 4/25/01 (copy on file).

Representative Harris spoke in support of the legislation. He observed that the state of Alaska received a federal penalty that resulted in the loss of \$1.5 million dollars in federal receipts because it was out of compliance with the federal regulations for the sale of tobacco products to minors. The state needs to maintain a 20 percent success rate. He explained that the legislation stiffens the penalty for selling tobacco to a minor. Business license fees for endorsement of tobacco sales would be increased. The fiscal note is \$487 thousand dollars.

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Representative Harris concluded that the legislation would allow the state to retain the \$1.5 million dollars in federal funds.

ELMER LINDSTROM, SPECIAL ASSISTANT, DEPARTMENT OF HEALTH AND SOCIAL SERVICES spoke in support of HB 228. He noted that the legislation responds to federal noncompliance for federal fiscal year 1999. In the absence of the bill and the attached funding, the state of Alaska would lose \$1.5 million dollars from its federal substance abuse block grant. These funds would come out of treatment of alcohol abuse. Substance Abuse dollars are being held hostile for enforcement activities related to the sell of tobacco to minors. The department appealed the penalty. While the appeal was pending Congress passed legislation allowing for an alternative penalty. The alternative penalty allows states to put the amount of funding reflected in the fiscal note into new tobacco enforcement resources to satisfy the federal fiscal year 1999 Synar penalty [the federal Synar Amendment requires sales to minors to be less than 20 percent]. The legislation would give support to enforcement and allow the noncompliance numbers to be reduced. Currently, 34 percent of minors that attempted to purchase tobacco were successful.

Vice-Chair Bunde spoke in support of enforcement, but questioned how it would affect small communities. Mr. Lindstrom stressed the need for rural enforcement. He observed that in communities with less than 9 outlets, by and large small rural communities, 61 percent of the time minors were able to purchase tobacco. He observed that youth flown in from Anchorage were able to purchase tobacco in these small rural communities.

Mr. Lindstrom discussed the fiscal notes. He explained that the fiscal notes from the Department of Community and Economic Development, Occupational Licensing and the Department of Law are interagency receipts that are included in the Department of Health and Social Services' \$487.9 thousand dollar fiscal note. The general fund appropriation would be made to the Department of Health and Social Services and they would contract for the services needed to complete enforcement activities.

MIKE LIVINGSTON, DETECTIVE, ANCHORAGE POLICE DEPARTMENT testified via teleconference in support of the legislation. He has conducted tobacco compliance checks since 1997. He suggested the addition of language on page 3, line 19: or an agent or an employee working under the endorsement of an agent. He emphasized the need for education.

Co-Chair Mulder pointed out that the language in subject (1) on page 3 is modified by subsection (d) on page 3. He concluded that an agent would be responsible for a violation

the agent or the employee of the agent. Mr. Livingston pointed out that the wording is included in subsections (2) and (3) and argued that subsection (1) would be further clarified by its inclusion.

DAN BRANCH, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW testified that the trigger was contained in the previous section, but that the additional language would make it clear.

He observed that an amendment to section 6, subsection (1) would clarify the concern.

Mr. Branch agreed that subsection (d) is the trigger to subsection (1) on page 3. He acknowledged that the inclusion of the language recommended by Mr. Livingston would further clarify that if a person has not had a prior violation or their clerk has not had a prior violation then they would be treated as a first offender. He discussed Amendment 1 (copy on file.) He suggested that the amendment would resolve the problem by clarifying that if there were no prior offense or penalties under paragraph (2) - (4) they would be treated as a first offender and receive the 20-day minimum provision. The intent was to make sure that people were covered that had prior offenses older than 24 months. Those with offenses older than 24 months would be treated as first offenders.

Mr. Branch further discussed amendment 1. He noted that the Title 11 provides that vending machines cannot be used for the sale of tobacco except in bars and employee break rooms where they are not accessible to minors. Owners must adequately supervise the use of the machines. The amendment would clarify that vending machine owners would have to have an endorsement to place a vending machine in a bar. The bar owner would also have to have an endorsement. Vendor machine companies only have to buy one endorsement for all their vending machines. Other vendors of tobacco would have to have an endorsement for each location where tobacco is sold. Additional language on line 27, page 4 would clarify that, during the period of suspension, a vending machine owner could not operate a vending machine at the location that the offense took place. The machine in violation would be taken out of service during the period of suspension and could not be used in another location. The original legislation would have taken all of the vendor's machines out of business for the period of the suspension. This provision was removed in House Judiciary. Amendment 1 is a compromise, which strikes a fair balance and ensures that the vending machine owner could not take the machine to another location in order to continue making money.

Representative Harris MOVED to ADOPT Amendment 1. There being NO OBJECTION, it was so ordered.

Co-Chair Mulder MOVED to change the funds source on fiscal note #3 to tobacco settlement funds. There being NO OBJECTION, it was so ordered.

Representative Foster MOVED to report CSHB 228 (FIN) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 228 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with and a previously published zero fiscal note (#1) by the Department of Revenue; and three previously published fiscal impact notes (#2, #3, and #4): Department of Law, Department of Health and Social Services and Department of Community and Economic Development.

#hb191

HOUSE BILL NO. 191

"An Act authorizing financing for certain public transportation projects; giving notice of and approving the entry into, and the issuance of revenue obligations that provide participation in, lease-financing agreements for those transportation projects; and providing for an effective date."

Co-Chair Williams provided members with a proposed committee substitute, work draft, 22-LS0766\F, Cook 4/25/01 (copy on file.) He noted that the proposed committee substitute would provide funding at approximately the same level as the previous year's appropriation of \$350 million dollars. [The legislation uses Garvee Bonds to support highway projects]

KURT PARKAN, DEPUTY COMMISSIONER, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES testified in support of the legislation. He noted that the Department of Transportation and Public Facilities' proposal would have funded \$425 million dollars worth of projects. The legislation proposes projects totaling \$379 million dollars. All projects included in the Garvee package must be Statewide Transportation Improvement Program (STIP) eligible.

Representative John Davies observed that projects in Fairbanks did not follow the Borough's priority list. Co-Chair Williams observed that his office discussed projects with the department. Mr. Parkan noted that the Borough's fifth priority, a \$10 million dollar project for roads and trails, was removed from the committee substitute.

In response to a question by Vice-Chair Bunde, Mr. Parkan reviewed changes to the proposed Anchorage projects: project #11 was reduced from \$500 to \$420 thousand dollars; project #12 was increased from \$500 to \$700 thousand dollars; and project #17 was increased from \$56 million to \$58,180

million. These changes reflect the actual cost of the projects. A \$9 million dollar Seward Highway project recommended by the department was not included. The department did not include an additional \$15 million dollar project for Abbott Loop North Extension, which was included in the proposed committee substitute. He did not know where the project was on the STIP but observed that there is currently an east Anchorage study underway to look at this part of the city. Once the study is done the long-range transportation plan would be modified. This would affect the outcome of the project. Projects need to be completed within five years of the sale of the bonds.

HB 191 was heard and HELD in Committee for further consideration.

#hb234

HOUSE BILL NO. 234

"An Act relating to the financing of construction and renovation of certain public facilities; and providing for an effective date."

Co-Chair Williams provided members with a proposed committee substitute, work draft 22-LS0863\0, Cook, 4/25/01(copy on file). He observed that the legislation would fund ports and harbors, public schools, and the University of Alaska with tobacco securitizations. He noted that bonding language for ports and harbors was added by the Senate and objected to by communities.

Vice-Chair Bunde noted that he was working on an amendment to utilize the 20 percent that had not been securitized as a revenue stream for tobacco cessation programs.

Representative Croft expressed support for Vice-Chair Bunde's proposal. He also observed that the legislation contains funding for ports and harbors and stated that he was more comfortable with using the funding to support major maintenance and school construction.

JOHN BITNEY, LEGISLATIVE LIAISON, ALASKA HOUSING FINANCE CORPORATION (AHFC), DEPARTMENT OF REVENUE spoke to the proposal to use the remaining funds for tobacco cessation programs. He explained that North Tobacco Securitization Corporation is a subsidiary of AHFC. The main question to evaluate is whether or not the bonds are taxable or tax exempt. Projects included in the legislation are tax-exempt. He thought that the cessation programs would be at a taxable rate, which would lower the yield.

Co-Chair Mulder observed that the proposed committee substitute proposes \$127 million dollars and questioned if the number was realistic based on a 40 percent revenue sale.

Mr. Bitney clarified that the debt schedule runs to 2041, which is longer than one used for the \$93 million dollars appropriated in FY01. He thought that the number was doable. The schedule matches the legislation, which was \$250 thousand dollars more than the Governor's. He acknowledged that the coverage ratio is considered thin.

HB 234 was heard and HELD in Committee for further consideration.

#hb244

HOUSE BILL NO. 244

"An Act relating to a grant of state land to the Denali Borough for a railroad and utility corridor and a railroad development project; repealing provisions relating to a grant of a right-of-way of land for a railroad and utility corridor to the Alaska Industrial Development and Export Authority; and providing for an effective date."

Co-Chair Williams provided members with a proposed committee substitute, work draft 22-LS0850\) Cook, 4/23/01 (copy on file).

REPRESENTATIVE JEANETTE JAMES, SPONSOR testified in support of the legislation. She observed that the legislation would implement a northern [rail] access into Denali National Park. It would go approximately 40 miles from Healy to the edge of the park. The access would be through state lands. The proposal has been around for approximately nine years. Legislation was passed in 1998 to allow Alaska Industrial Development and Export Authority (AIDEA) to bond for the project. The bonding did not occur. The 1998 legislation would have transferred 40,000 acres within a 90,000-acre corridor to the Denali Borough to be used in the lands selection. The lands remaining after selection would have been returned to the state. The land transfer did not occur. She concluded that it makes more sense to determine the location of the right-of-way prior to the land transfer and to assure that there are no existing interests in the corridor. Under the proposed committee substitute a survey would occur prior to the land transfer. After the route is determined approximately 3,500 acres would be transferred to the Denali Borough and would become part of their borough entitlement from the state. She acknowledged objections to the legislation. She noted that there are concerns that additional access is not needed or that a southern route could be used.

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In response to a question by Representative Davies, Representative James clarified that the lands would be disposed under the same proposal as entitlements. She

pointed out that an environmental impact statement would be needed before a railroad could be built. Land would be disposed as part of the Denali Borough's state entitlement. The borough has 45,000 acres in entitlements, of which approximately 20,000 have been received.

MARY KAYE HESSION, DEPARTMENT OF NATURAL RESOURCES. ANCHORAGE, testified via teleconference. She noted that the bill requires the Department of Natural Resources to transfer up to 3,500 acres of state land to the Denali Borough for a future railroad towards Kantishna. In order to reach Kantishna, the railroad will need to continue west across National Park lands. The Borough and the private Kantishna Holdings Inc. would work to identify and survey a railroad route across this land.

The proposed committee substitute takes care of many of department's concerns regarding the original bill, and is a more efficient approach than the original bill. In particular, the department supports inclusion of the land as part of the Borough's existing municipal land entitlement.

Ms. Hession observed that Department of Natural Resources believes that more effort is needed to determine the best access route into the North Side of Denali National Park, and a railroad in this corridor may or may not be the best approach. The Department of Natural Resources is aware of two other planning efforts that should be coordinated with the railroad project. The Department of Transportation and Public Facilities is slated to receive \$1.5 million in federal funding for an Environmental Assessment of the North Side access. This effort is the subject of an appropriation for the state matching funds, which is contained in Senate Bill 3. The National Park Service has also invited the state to participate in a study of North side access issues and alternatives. The proposed railroad route would cross National Park Service land and cannot be built without National Park Service concurrence. The Department of Natural Resources believes that it is essential to work with the National Park service to achieve an agreed upon access plan for Denali National Park. She emphasized that no unilateral state or borough effort can achieve access into the park, unless the National Park Service is a participant in the process.

Ms. Hession noted that the department's second concern regards what rights the bill grants to Kantishna Holdings, Inc. Once the corridor is identified, the implication is that Kantishna Holdings, Inc., would have the exclusive right to build a railroad in the corridor. The department believes that the land should be conveyed to the Borough so that other uses or developers could make use of the land as well, not only for the purpose of enabling Kantishna Holdings, Inc. to develop a railroad and related facilities,

as stated in Section 1(a).

Ms. Hession discussed the Department of Natural Resources' fiscal note. The department would need to provide land status information, identify valid existing rights, and participate in the corridor selection process. Costs associated with the actual land transfer were included for FY 2006.

Representative John Davies questioned if the conveyance would involve a best interest finding. Ms. Hession explained that the conveyance for land entitlements is basically the same as the normal state land disposal process. A draft decision would receive public review and comment before a final decision is made. The most significant difference would be in regards to the transfer of the deed, which would not occur before changes to the Tanana Basin Area Plan were made. The public comment process is nearly identical.

Representative Croft referred to subsection (d) on page 2, line 14. He noted that other provisions of AS 29.65 do not apply. He questioned what public process would apply. Ms. Hession responded that the public process is primarily contained AS 38. Under subsection (d) the Department of Natural Resources would not have to check the classification of the land for the grant program. She did not know what other provisions of Title 29 would be exempted by the language. There are no exemptions on Title 38, which governs public notice and comment.

Representative Croft noted that the legislation provides the grant for the purpose of supporting economic development by Kantishna Holdings, Inc. He asked what would occur if the legislation were passed and the Denali Borough decided that they wanted to deal with another entity. Ms. Hession acknowledged that the department is concerned that the Boroughs' hands might be tied and its ability to deal with a competitor or use the land for other purposes would be limited. The department's hope was that the Borough government would have as much freedom as possible to use their municipal land entitlement.

Representative James noted that the Kantishna Holdings, Inc. is a private rural corporation that was developed specifically for the project. They would provide the money and own and operate the project.

DAVID BRAUN, HEALY, testified via teleconference in opposition to HB 244. He maintained that the Borough is trying to pull a "fast one." He maintained that the bill has very little to do with a railroad. It is only a vehicle for the Denali Borough to bypass state government, and acquire real estate that has previously been denied them. "This railroad will likely not get built for economic and

political reasons, but the Borough Assembly will still get land in the wolf townships that they have coveted for many years."

Mr. Braun questioned why the land is being handled differently from other entitlements. He pointed out that the first draft of HB 244 was not available until the Borough Assembly meeting of April 7, 2001. He maintained that the bill has moved at an accelerating pace. He asserted that the spirit of the 24-hour rule has been violated. He disagreed with statements that only those who live in the area are opposed to the plan. "The State of Alaska itself has kept development out of these townships for decades. There have been no public hearings on the matter; Representative James has said that she will meet with the public in the summer to reassure us - after it is all done. I would ask you to remember your own response when the Federal Government imposes its will on the State of Alaska."

Mr. Braun argued that it is not clear that developing the wolf townships is in the best economic interests of the state. He stated that many residents and tourists have no interest in the national park experience and felt that many more people visit the Wolf Townships than are turned away by the parks bus system.

Co-Chair Williams stated that he did not think that the legislation would pass during the first session of the 22nd Legislature.

Representative Croft summarized that the Borough has request the land in the past and that requirements on land entitlements have prevented them from getting it. He asked what were the Borough's prior attempts to get the land and what prevented them from receiving the land. Mr. Healy recalled statements at Borough meetings that the borough had been blocked from applying for selection of the lands.

Representative Croft summarized that the Denali Borough had asked for the land as an entitlement in the past and that some section of the law regarding entitlements prohibited them from getting it. Mr. Braun stated that it was suggested that the land was off limits to the Borough selection process. Representative James acknowledged that politics were involved.

LINDA PAGANELLI, HEALY, testified via teleconference in opposition to the legislation. She stated that she supported efforts to address solutions to park access, she does not support the North Access contained in HB 244. She stressed that the North Access proposal speculates that the route will continue through the National Park to Kantishna and that the demand will exist for year around operation, that 350-900 permanent jobs will be created and that the present

40 mile rail route, which would provide minimum opportunity for mountain or wildlife view will provide visitors with a satisfactory experience. She maintained that a demonstrated need for the north access should be clearly defined and a route that best serves the state's interest should be identified. The Department of Natural Resources, National Park Service and the United States Congress recognize that the area in question serves as an important habitat for wildlife. She asserted that the lands should remain in public ownership and not be transferred to the Borough for purposes of economic development. Changes to the Tanana Basin Area Plan should follow procedures as outlined in statute. She expressed concern that the legislation grants sole rights for project development to one company. She questioned where the state of Alaska's interest is in bestowing this "sweetheart deal" and a legislatively mandated seat at the planning table to Kantishna Holdings, Inc. There are safeguards in the Alaska State Constitution to protect citizens from individuals that may be serving their own self-interest by providing a legislative guarantee to a specified contractor. The Denali Borough government has no planning experience. Local government officials would be relying on a private consulting firm and developer with their own undisclosed agendas. She questioned if Kantishna Holdings, Inc. would be able to make good on their claim that zero public funds would be needed. She asked what would occur if the company abandons the project. She recommended that the legislation contain a sunset date as discussed in the House Transportation Committee hearing on April 17, 2001, which would allow the land to revert back to the state if no development occurs by a specific date.

In response to a question by Vice-Chair Bunde, Representative James noted that the Borough has a bed tax and a severance tax on the Usibelli Coal Mine.

NANCY BALE, ANCHORAGE, testified via teleconference in opposition to the legislation. She pointed out that the legislation does not provide a safeguard against the building of roads as a consequence of railroad construction and subsequent development. The land grant of 3,500 acres would be in violation of the Tanana Basin Area Plan recommendation is accompanied by no covenants prohibiting the building of roads associated with economic development. There is no guarantee of a best interest finding. She maintained that development would be inevitable once the corridor is open.

Ms. Bale referred to the North Access Feasibility Study of 1997. The cost of building a railroad according to the document is staggering. She maintained that a more cost effective hotel/development scheme along the Parks Highway would involve less potential resource damage, more control and less expenditure of state funds. She urged legislators

to evaluate the Parks Highway corridor first. The State of Alaska is at this time embarking on a study of this corridor. "Let us step back and have a look at what already needs fixing and comprehensive planning, with public involvement, before we fund a private contractor with a giveaway of sensitive lands."

In response to a question by Vice-Chair Bunde, Ms. Bale explained that the land in question is a feedlot for the park caribou and their predators. There are no controls on the legislation.

JOE FIELDS, PRESIDENT, KANTISHNA HOLDINGS INC., ANCHORAGE testified in support. He stated that it is still their intent not to use public money on the construction site. Government has proposed bringing money to the project. He stressed that they are trying to create a public/private relationship and provide environmental access to the community. The public process would be fully utilized. The proposal would generate new economic development. He stressed that the intent is to create new economic development in a region that was bypassed by the pipeline and missile defense proposals.

In response to a question by Vice-Chair Bunde, Mr. Fields noted that the Denali Borough Assembly expressed support through a resolution passed in 1993. On April 18 [2001] the Assembly expressed unanimous support for the proposal. He added that the current road is a corridor between two wilderness areas of the Park. The park road serves approximately 4,000 of 6.4 million acres. The south side development proposal would not provide any access into the Park.

Representative James pointed out that there was a \$1.32 million dollar federal appropriation available for an EIS study. The Senate has included funding in the operating budget to provide the state match.

Representative Foster MOVED to ADOPT proposed committee substitute, work draft 22-LS0850\) Cook, 4/23/01. There being NO OBJECTION, it was so ordered.

Representative Hudson MOVED to ADOPT Amendment 1 provided by Representative James (copy on file.) Amendment 1 would Eliminate "By September 1 2002" on page 1, line 14; insert "except where needed for construction or for environmental considerations or for required ancillary facility development" on page 2, line 2 and replace " September 1 2002" with "upon the submission of the survey" There being NO OBJECTION, it was so ordered.

Representative Croft expressed concern with the language "purpose of supporting economic development in the borough

by enabling Kantishna Holdings, Inc. and its successors and assigns in interest." He felt that the language would allow litigation based on a challenge to the purpose and would provide difficulties if a further partnership were engaged.

Representative James understood Representative Croft's concerns but did not share them.

Representative Croft spoke in support of the deletion. He stressed that it would provide a broader authority and make it less susceptible to challenge. Representative Croft MOVED to Adopt Amendment 2: delete "for the purpose of supporting economic development in the borough by enabling Kantishna Holdings, Inc. and its successors and assigns in interest" on page 1, lines 9 - 11.

Representative John Davies questioned why would state land be provided for the purpose of design. Representative Whitaker noted that there are significant costs associated with the design aspect of the project and suggested that the land should be available as assurance.

Representative Foster OBJECTED to Amendment 2.

Representative James did not think that the amendment would kill the bill, but stated that she would prefer to leave the language in the legislation.

Representative Croft WITHDREW Amendment 2.

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Representative Foster MOVED to report CS out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 244 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal impact (#1) note by the Department of Natural Resources.

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ADJOURNMENT

The meeting was adjourned at 4:45 p.m.