

HOUSE FINANCE COMMITTEE
April 26, 2001
1:53 P.M.

TAPE HFC 01 - 97, Side A
TAPE HFC 01 - 97, Side B
TAPE HFC 01 - 98, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:53 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 Richard Foster
Representative John Harris
Representative Bill Hudson
Representative Ken Lancaster
Representative Jim Whitaker

MEMBERS ABSENT

None

ALSO PRESENT

Eddy Jeans, Manger, School Finance and Facilities Section, Department of Education and Early Development; Pam LaBolle, President, Alaska State Chamber of Commerce, Juneau; Bill Cramer, Acting Director, Unemployment Insurance Division, Department of Labor and Workforce Development; Denise Henderson, Staff, Representative Pete Kott; Jerry Luckhaupt, Legislative Legal, Legislative Affairs Agency; Nancy Weller, State, Federal & Tribal Relations, Division of Medical Assistance, Department of Health and Social Services; Karen Perdue, Commissioner, Department of Health and Social Services; Rebecca Nance-Gamez, Deputy Commissioner, Department of Labor and Workforce Development; Don Etheridge, Alaska State AFL-CIO, Juneau; Kim Garner, Director, Division of Finance, Department of Administration.

PRESENT VIA TELECONFERENCE

Katelyn Markley, Development Specialist, Alaska Industrial Development & Export Authority (AIDEA), Department of Commerce & Economic Development, Anchorage.

SUMMARY

HB 58 An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date.

CS HB 58 (L&C) was reported out of Committee with a "do pass" recommendation and with a fiscal note #1 by the Department of Labor and Workforce Development, #2 by the Department of Administration and #4 by the University of Alaska.

HB 65 An Act relating to a new optional group of persons eligible for medical assistance who require treatment for breast or cervical cancer; and providing for an effective date.

CS HB 65 (HES) was reported out of Committee with a "do pass" recommendation and with a fiscal note #1 by the Department of Health & Social Services dated 1/16/01.

HB 125 An Act relating to unlawful and indecent viewing and photography and to civil damages and penalties for that viewing and photography.

CS HB 125 (FIN) was reported out of Committee with "individual" recommendations and with a zero fiscal note by #1 Department of Law dated 4/20/01, zero #2 by the Alaska Court System dated 4/20/01, and fiscal impact note #3 by the Department of Administration dated 4/20/01.

HB 175 An Act making an appropriation to the Alaska Industrial Development and Export Authority for power projects; and providing for an effective date.

HB 175 was HEARD and HELD in Committee for further consideration.

#HB191

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 RESCHEDULED for a hearing at a later date.

#HB234

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 RESCHEDULED for a hearing at a later date.

#

HB 238 An Act relating to the power transmission intertie fund of the Alaska Energy Authority.

HB 238 was HEARD and HELD in Committee for further consideration.

#HB260

HB 260

An Act requiring the owners or operators of certain passenger vessels operating in the marine waters of the state to register the vessels; establishing information-gathering, record keeping, and reporting requirements relating to the vessels' gray water and sewage; prohibiting the discharge of untreated sewage from the vessels unless exempted; placing limits on discharges of treated sewage and gray water from the vessels unless exempted; establishing a commercial passenger vessel coastal protection fund; establishing a fee on commercial passenger vessels, that are not exempt from the fee, for each voyage during which the vessels operate in the marine waters of the state based on the overnight accommodation capacity of the vessels determined with reference to the number of lower berths; establishing penalties for failure to comply with certain laws relating to the vessels; authorizing the Department of Environmental Conservation to encourage and recognize superior environmental protection efforts related to commercial passenger vessels; authorizing exemptions from some laws relating to discharges from the vessels and from the fee requirements related to the vessels; requiring a report from the Department of Environmental Conservation concerning matters relating to the vessels; and providing for an effective date.

HB 260 was RESCHEDULED for a hearing at a later date.

#HB125

HOUSE BILL NO. 125

An Act relating to unlawful and indecent viewing and photography and to civil damages and penalties for that viewing and photography.
providing for an effective date.

DENISE HENDERSON, STAFF, REPRESENTATIVE PETE KOTT, stated that HB 125 would amend Alaska Statute 09.68 by adding a section that creates protection for victims of improper viewing and/or photography. The bill establishes the parameters for what is considered to be improper viewing or photography.

Ms. Henderson added that the bill would prohibit the transmission of pictures or video images over the Internet without the consent of the subject or the parents, if the subject was a minor. The bill would also prohibit any monetary gain to be had by the perpetrators of crimes as well as imposing stiff monetary fines.

Ms. Henderson summarized that HB 125 would ban a practice known simply as "up-skirting or down-blousing". The Internet has made the practice more common with web sites posting images and buying pictures from high tech peeping toms and telling users where to buy hidden cameras. Those web sites basically promote the practice as well as encourage it. The bill is designed to protect the privacy of all the residents in the State of Alaska.

Vice-Chair Bunde asked if the legislation resulted from an extension of an existing problem in the Mat-Su Valley. Ms. Henderson acknowledged that it had. There were no previous civil statutes which allowed people to file for civil liabilities in these cases.

Representative Davies referenced Page 2, Line 5, and asked what "viewed and photographed" meant. Ms. Henderson explained that a problem exists with using photographs and then posting them on the Internet.

Representative Davies asked if the fine would be \$5,000 per day for each day the photograph was up. Ms. Henderson replied that was correct.

Representative Davies reiterated concerns with language on Page 2, Line 5. He requested more information regarding the class of penalty it would be.

JERRY LUCKHAUPT, LEGISLATIVE LEGAL, LEGISLATIVE AFFAIRS AGENCY, explained that the language refers to a part of a civil penalty. It stipulates that each day that a person is viewed and photographed, there would be a separate \$5,000 penalty. Earlier in that provision, the language provides for a \$100 dollar accounting for each photograph made. There are different alternatives provided and the legislation provides for a separate scheme for each day that the viewing takes place. A Class A misdemeanor provides for a \$5,000 fine. In Section 2, a new crime, improper viewing, is made which would be a Class A misdemeanor. The maximum

penalty for that would be one year in jail and a \$5,000 dollar fine.

Representative Davies pointed out that the fine would be assessed each day that the person was viewed or photographed improperly. He asked what the phrase "photograph was viewed" would encompass. Mr. Luckhaupt explained that language was drafted in order to provide the concept of the fine for the viewing or photographing.

Representative Davies reiterated his concern with the Class A misdemeanor and the associated penalty. He suggested that a cap be placed on the amount. A Class C felony typically has a \$50,000 dollar fine which he thought was too much.

Representative Davies MOVED to ADOPT an amendment to Page 2, Lines 4 & 5, including an "up to" amount perhaps in the neighborhood of \$15,000 dollars. Co-Chair Williams OBJECTED for discussion.

Representative Whitaker asked why the penalty should be reduced.

Representative Davies WITHDREW his MOTION.

Representative Croft commented on language indicated on Page 2, Lines 8-12, regarding the concealed camera. He stated that under the bill, it would be a crime for knowingly and "surreptitiously" viewing inside a house. Mr. Luckhaupt stated that that the surreptitiously viewing would be a viewing that is unnatural and suspicious. Discussion followed on the meaning of "surreptitiously". Mr. Luckhaupt noted that the dictionary definition of surreptitious viewing would be something like hiding from behind a bush peering through the blinds. Representative Croft questioned if the person in the interior of the house would determine if it was surreptitious or not.

Vice-Chair Bunde referenced language on Page 2, Lines 3-4, and asked about the civil penalty. He questioned if the case could be taken on contingency. Mr. Luckhaupt advised that the penalty was provided under the civil scheme in the first section of the bill. The first penalty would be the person's actual damages, Page 1, Line 10; there would be a penalty placed on the person for every picture they produced from the illegal viewing and there would be a penalty placed on them for \$5,000 for each day that they do the action. He stressed that the penalty was designed in order to encourage people not to partake in the conduct.

Vice-Chair Bunde noted that the upper limit of the fine would be determined in Court. Mr. Luckhaupt stated that the victim of the offense, the plaintiff, would have to prove

how many days that person had been illegally viewed or photographed.

Vice-Chair Bunde asked if the fine would be mandatory. Mr. Luckhaupt advised that it would not be a typical criminal situation. The Court would impose the fine and penalties. He emphasized that it is important to provide some incentive that the person not engage in the illegal videotaping.

Representative Davies commented that most people do not know the law even though they have a general moral sense that the behavior is improper. He argued that ending up with a \$3 million dollar fine could create a very bad situation. He urged that a limit be placed on the crime. He emphasized that the legislation provides for no limit.

Co-Chair Williams questioned the limit for civil actions. Mr. Luck advised that there is not a limit. In such a case, other provisions and damages suffered by the person could be unlimited.

Ms. Henderson noted that the discussion was being focused on the monetary amount indicated in the bill. She insisted that there is no monetary cap which can be placed on a person's privacy. Representative Davies agreed, however, pointed out that there is no way to determine the value of "privacy"; the way that is usually used to determine it is by setting a class of penalty. He stated that the question is: "Does this crime equal ten felonies?" He stressed that there must be some kind of rational used in determining the penalty scheme.

Vice-Chair Bunde asked if the sponsor would consider compromise in that language.

Representative Lancaster agreed that a person could not put a value on their privacy. He believed that society needs a message that the fine would be unlimited. Representative Davies argued that there should be a rational between the penalty scale and the level of the crime.

Ms. Henderson stated that the sponsor would consider amending the language. Vice-Chair Bunde MOVED a conceptual amendment to Page 2, Line 4, inserting "up to" before "\$5,000 a day". Representative Lancaster OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Davies, Harris, Hudson, Moses, Whitaker,
 Bunde

OPPOSED: Foster, Lancaster

Representative Mulder and Representative Croft were not present for the vote.

The MOTION PASSED (7-2).

Representative Whitaker questioned who could be found liable under the language in the bill. Mr. Luckhaupt replied that Section 1 of the bill provides for civil penalties; Section 2 of the bill provides for the criminal penalty for improper viewing of photography and Section 3 of the bill amends the current law for indecent viewing of photography. Section 3 is the portion of the bill addressing the viewing of private exposure of the genitals, anus or female breasts of another person.

Representative Whitaker questioned how much the legislation addressed the person viewing the photographs on the Internet. Mr. Luckhaupt explained that the person that does the viewing, would not be the person prosecuted.

Representative Whitaker inquired the place in the legislation, which precludes a person sitting in his or her own home and viewing. Mr. Luckhaupt referenced language in Sections 2 & 3, Page 2, Line 7.

Representative Whitaker voiced concern that in that language, the person would be held liable for improperly viewing if that person was knowingly viewing. He asked if "surreptitiously" was the key word. Mr. Luck advised that when you are sitting in your own home, you are not viewing a person in his or her own home. Someone that is viewing the person in his or her own home, is the person committing the offense.

Representative Whitaker asked if the person viewing a web cam in the privacy of his or her own home would be precluded. They would be a third party to the production of that site. Mr. Luckhaupt replied that a web cam was a closed circuit. Representative Whitaker stated that he wanted to guarantee that a person watching the web would not be subject to prosecution. Mr. Luckhaupt noted that he did not perceive that person would be guilty of viewing.

Representative Whitaker asked if a person living in Anchorage and viewing a picture produced in Southeast would be subject to prosecution. Mr. Luckhaupt reiterated that he did not believe that they would be subject to prosecution.

Representative Whitaker agreed that it is important to establish the definition of "surreptitiously" viewed. Mr. Luckhaupt suggested that the Committee could draft a Letter of Intent clarifying the meaning of that section and that viewing secondary exposure of photographs or videotape would not be subject to prosecution.

Representative Hudson asked what portion of the bill would preclude someone viewing through the Internet, be held harmless. He understood that the intent of the bill was to address "peeping toms".

Co-Chair Williams stated that HB 125 would be HELD in Committee for further consideration.

TAPE HFC 01 - 97, Side B

#HB65

HOUSE BILL NO. 65

An Act relating to a new optional group of persons eligible for medical assistance who require treatment for breast or cervical cancer; and providing for an effective date.

NANCY WELLER, STATE, FEDERAL & TRIBAL RELATIONS, DIVISION OF MEDICAL ASSISTANCE, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, stated that during the past year, Congress passed legislation to improve health care for women by extending Medicaid coverage for treatment of breast and cervical cancer. In the interest of improving Alaskans' health care, the bill would allow the State to take advantage of this program.

Ms. Weller stated that by opting into this new Medicaid program, uninsured women who have been diagnosed with breast or cervical cancer under a federally financed screening program, would be eligible for treatment. In Alaska, that could mean some 70 women or so per year, who could not otherwise afford cancer treatment, would be able to receive care.

Ms. Weller continued, the federal program began in 1990 when Congress passed the Breast and Cervical Cancer Mortality Prevention Act establishing the Center for Disease Control's (CDC) national breast and cervical cancer early detection program. The CDC program provides grants for screening exams to millions of people who meet eligibility guidelines throughout the country each year, including Alaska. The grantees provide clinical breast exams, pelvic exams and mammograms.

She noted that unfortunately, federal money did not provide for follow-up treatment to any of the uninsured persons diagnosed with cancer, until now. With last year's Breast and Cervical Cancer Prevention and Treatment Act signed into law, states may select a new Medicaid option to cover cancer treatments of uninsured women diagnosed under the CDC early detection program.

The American Cancer Society estimated 182,800 new cases of invasive breast cancer and 12,800 new cases of invasive cervical cancer expected to occur among women in the United States during the year, resulting in an estimated 45,400 deaths. As a result of the recent congressional action, diagnosed, uninsured, low-income persons can receive the treatment needed to save their lives. In order to extend the program to Alaskan women, she urged the Committee's action on this legislation.

Vice-Chair Bunde pointed out the letter received by members from Senator Murkowski, encouraging forward movement of the legislation.

In response to Representative Harris' question, Ms. Weller noted that it would be an optional coverage group.

Representative Lancaster questioned if the legislation were to be passed, if anyone would be turned away. Ms. Weller replied that there are a certain number of providers that are enrolled in the screening. If a person has insurance, they would not be eligible for Medicaid.

KAREN PERDUE, COMMISSIONER, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, commented that the Department supports the bill. She urged that the bill be passed out of Committee.

Vice-Chair Bunde MOVED to report CS HB 65 (HES) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HB 65 (HES) was reported out of Committee with a "do pass" recommendation and with a fiscal note #1 by Department of Health & Social Services dated 1/16/01.

#HB58
HOUSE BILL NO. 58

An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date.

REBECCA NANCE-GAMEZ, DEPUTY COMMISSIONER, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, stated that Alaska's economy includes many seasonal industries with employees who rely on their unemployment benefits to fill the gaps between times of work. The current rate of unemployment insurance payments falls short in helping families cover living expenses. Alaska's unemployment insurance provides the lowest percentage of the State's average weekly wage of any state. Alaska's maximum weekly benefit amount of \$248 ranks 50th of the fifty states.

To correct the inadequacy, HB 58 has been transmitted to increase unemployment insurance benefits and then index the benefits to the State's average weekly wage, so that future adjustments would be automatic and synchronized to the State's economy.

Ms. Nance-Gamez commented that under the bill, the maximum weekly benefit amount would increase January 1, 2002, to \$284. Those earning \$31,250 or more per year would be eligible for the maximum benefit. A year later, the maximum weekly benefit amount would be indexed to the average weekly wage in the State for the preceding fiscal year, set at fifty percent of that wage. Based on current projections, the maximum weekly benefit amount in 2003 would be \$320 for those claimants who earned \$35,500 or more. She urged support for the legislation

BILL CRAMER, ACTING ASSISTANT DIRECTOR, UNEMPLOYMENT INSURANCE DIVISION, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, responded to questions by Co-Chair Williams and noted that the State of Alaska is last and that the percentage of the average weekly wage is 32%; the next lowest paying state is Illinois at a 38% replacement of the average weekly wage. The average weekly cost of a living wage increase was in 1996, moving from \$212 to \$248 dollars.

Representative Foster asked the employee and employer percentage being paid. Ms. Nance-Gamez replied that in Alaska, employers pay 80%. New Jersey is the other state that has an employer's contribution.

PAM LABOLLE, PRESIDENT, ALASKA STATE CHAMBER OF COMMERCE, JUNEAU, stated that the increase proposed would increase unemployment compensation by 29% above the present level. Alaska employers would pay the cost of the increase, which would be \$10 million dollars. The Alaska State Chamber of Commerce believes that the increase would be exorbitant. She noted that the State Chamber does oppose the legislation.

Representative Hudson asked the first year cost to the employer. Ms. LaBolle responded that if the increase were \$10 million dollars, the first year increase would be \$3.5 million dollars.

DON ETHERIDGE, ALASKA STATE AFL-CIO, JUNEAU, voiced strong support for the legislation. He noted that the proposed legislation was the number one priority this year for the Union.

KIM GARNERO, DIRECTOR, DIVISION OF FINANCE, DEPARTMENT OF ADMINISTRATION, addressed the fiscal note. She stated that the State of Alaska is a reimbursable employer for

employment insurance purposes. The State pays tax contributions based on the employers experience rating and the employees contribute. The State reimburses the fund for actual payments made to former employees.

Representative Foster MOVED to ADOPT Amendment #1. [Copy on File]. He asked Ms. LaBolle to speak to the amendment. Co-Chair Williams OBJECTED for purposes of discussion.

Ms. LaBolle explained that the amendment would supports the position of the State Chamber of Commerce that an increase only occurs on the first level.

A roll call vote was taken on the motion.

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

Representative Moses was not present for the vote.

The MOTION FAILED (2-8).

Representative J. Davies MOVED to report CS HB 58 (L&C) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 58 (L&C) was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by Department of Labor and Workforce Development, #2 by Department of Administration and #4 by the University of Alaska.

#HB175

HOUSE BILL NO. 175

An Act making an appropriation to the Alaska Industrial Development and Export Authority for power projects; and providing for an effective date.

Representative Lancaster MOVED to ADOPT the committee substitute HB 175 (FIN), 22-LS0705\R, Cramer, 4/26/01, as the version of the bill before the Committee. There being NO OBJECTION, it was adopted as the working document.

Representative Lancaster explained the changes made to the proposed version of the legislation.

Vice-Chair Bunde inquired the cost to the State.

TAPE HFC 01 - 98, Side A

KATELYN MARKLEY, (TESTIFIED VIA TELECONFERENCE), DEVELOPMENT SPECIALIST, ALASKA INDUSTRIAL DEVELOPMENT & EXPORT AUTHORITY (AIDEA), DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT, ANCHORAGE, explained that if the Committee decided to look into compound interest for the next twenty years, a number could be determined. She added that AIDEA does not use general fund money, and as such, it would not be a direct cost to the State.

Representative Lancaster thought that some project involved with Power Cost Equalization (PCE) would have some amount to offset the interest.

Representative Hudson understood that the balance would be taken from the Railbelt Energy Fund. Representative Lancaster stated that was not correct. The total would be \$101 million dollars which would come out of the Capital Budget Reserve (CBR). Vice-Chair Bunde discussed the cost of inflation which would be "eaten".

Representative Whitaker spoke to the cost of lost earnings and then taking no action. He urged that all factors be taken into consideration, as well as taking no action.

Representative Croft asked the significance of putting it into the Railbelt Energy Fund since that is not the funding source. Representative Lancaster advised that could pay back the Railbelt Energy Fund. Representative Harris responded that was the intent, but it was not the manner in which the bill had been written. He proposed that the drafting of the bill should be scrutinized.

Representative Croft referenced Page 3, the lapse provisions, which would lapse back into the CBR. He asked where the loans would be paid. Representative Lancaster commented that the payback would be to the Railbelt Energy Fund.

Representative Hudson asked further clarification regarding the \$100 million dollar loan being paid back to the Railbelt Energy Fund. Representative Lancaster replied that was the intent.

Vice-Chair Bunde stated that HB 175 would be HELD in Committee for further consideration.

#HB238
HOUSE BILL NO. 238

An Act relating to the power transmission intertie fund of the Alaska Energy Authority.

Representative Lancaster stated that HB 238 was the mechanism that the Department of Law recommended to change

the statute to allow AIDEA to receive the funds and have the authority to spend those funds.

HB 238 was HELD in Committee for further consideration.

#HB125

HOUSE BILL NO. 125

An Act relating to unlawful and indecent viewing and photography and to civil damages and penalties for that viewing and photography.

Representative Foster MOVED to report HB 125 out of Committee with individual recommendations and with the attached fiscal notes. Representative Croft OBJECTED.

Representative Croft stressed that a \$5,000 fine to look out of window was not appropriate and allowed for too broad of a net. He stated that it is the job of the Legislature to write precise language in criminal code. He urged that more time be allowed to address the proposed language. He emphasized that vague language should not be accompanied by a Letter of Intent to clarify it.

Vice-Chair Bunde pointed out that if adults were viewing pornography from their own homes, they would not be charged.

Ms. Henderson advised that HB 125 was an excellent bill. She maintained that everyone deserves the right to protect their personal privacy. Through the legislation, if the right of privacy were violated, then there would be a civil avenue to address it.

Representative Croft reiterated his concerns. There is a category of conduct that is inappropriate in the action of viewing, clothed or unclothed. Mr. Luckhaupt stated if you could see someone and the blinds were open, that would not be surreptitious viewing. It could be contained within the use of the term or device. He noted that it was not his intent that the "view" would be an expectation of privacy. Someone who is not aware that they are being viewed could be "surreptitiously" viewed.

Representative Croft referenced Page 2, Line 28, the "private exposure". He reiterated that the "surreptitious" viewing is not clear language. He reiterated that Section 1 was fine, however, Section 2 was problematic.

Representative Croft WITHDREW his OBJECTION and noted that he would work on an amendment for the House Floor. There being NO further OBJECTIONS, the legislation was adopted.

CS HB 125 (FIN) was adopted with a "individual recommendations" and with fiscal notes by the #1-Department

of Law dated 4/20/01, #2-the Alaska Court System dated 4/20/01, and #3-Department of Administration dated 4/20/01.
#

ADJOURNMENT

The meeting was adjourned at 3:35 P.M.