

MINUTES
SENATE FINANCE COMMITTEE
March 14, 2001
9:12 AM

TAPES

SFC-01 # 39, Side A
SFC 01 # 39, Side B
SFC 01 # 40, Side A

CALL TO ORDER

Co-Chair Dave Donley convened the meeting at approximately 9:12 AM.

PRESENT

Senator Dave Donley, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Jerry Ward, Vice Chair
Senator Loren Leman
Senator Gary Wilken
Senator Alan Austerman
Senator Lyman Hoffman
Senator Donald Olson

Also Attending: SENATOR RICK HALFORD; SENATOR RANDY PHILLIPS; DAN SPENCER, Director, Division of Administrative Services, Department of Administration; DEL SMITH, Deputy Commissioner, Department of Public Safety; CANDACE BROWERS, Program Coordinator, Department of Corrections

Attending via Teleconference: From Anchorage: ROBERT BUTTCANE, Legislative and Administrative Liaison, Division of Juvenile Justice, Department of Health and Social Services; GEORGE TAFT, Director, Scientific Crime Detection Laboratory; JENNIFER RUDINGER, Executive Director, Alaska Civil Liberties Union; From Bethel: JOAN HAMILTON; DEAN GUANELI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law; CANDACE BROWERS, Program Coordinator, Department of Corrections

SUMMARY INFORMATION

HB 117-SUPPLEMENTAL APPROPRIATIONS: FAST TRACK

The Committee adopted a committee substitute, considered three

amendments but adopted none. The bill reported from Committee.

SB 99-DNA REGISTRATION OF BURGLARS

The Committee heard from the sponsor, the Department of Health and Social Services, the Department of Public Safety, the Alaska Civil Liberties Union and other interested parties. The Committee adopted a fiscal note and the bill was reported from Committee.

SB 105-VICTIMS' RIGHTS/ PRISONER'S PFD

The Committee heard from the sponsor, the Department of Law and the Department of Corrections. Three amendments were adopted and the bill was reported from Committee.

SB 93-ARCTIC WINTER GAMES TEAM ALASKA TRUST

The Committee adopted a committee substitute and the bill was reported from Committee.

#HB117

CS FOR HOUSE BILL NO. 117(FIN) am
"An Act making supplemental and other appropriations; and providing for an effective date."

Co-Chair Donley detailed the changes in a new proposed committee substitute, Version "X". He noted that changes made at the previous hearing for this bill are incorporated into the proposed committee substitute. In addition he listed.

Section 12(a), (b) and (c) - Change the effective dates of several appropriations including Section 12(a), (b) and (c) to the year 2002, at the request of the Administration. This is consistent with other appropriations.

Section 10(b) - Added \$43,000 at the request of Co-Chair Kelly to address an emergency relating to clothing at the Youth Corps program at the Alaska Military Academy.

Section 14(e) - Gives authorization to accept \$422,000 federal funds as a grant through the Department of Transportation and Public Facilities for Fairbanks Downtown Transit and Cultural Integration Planning at the request of Senator Wilken. No general funds are involved in this item. This is to address the requirements of the federal Clean Air Act and is necessary to continue receiving federal highway funds.

Co-Chair Kelly moved to adopt 22-GH1085\X as a working draft. There was no objection and it was ADOPTED.

Amendment #7: This amendment makes the following changes to the previous committee substitute.

Delete:

Section 4	Department of Environmental Conservation
	\$26,000 general funds for temporary personnel
Section 5 (d)	Department of Fish and Game
	\$43,900 general funds for temporary personnel
Section 8(b)	Department of Law
	\$150,000 general funds for legal services
Section 11 (a)	Department of Natural Resources
	\$75,000 general funds for gas royalty study
Section 11 (b)	Department of Natural Resources
	\$30,000 general funds for gas pipeline supply-side study
Section 11 (c)	Department of Natural Resources
	\$50,000 general funds for Alaska North Slope gas sales (reservoir studies)
Section 11 (f)	Department of Natural Resources
	\$293,600 general funds for State Pipeline Coordinator's Office
Section 12 (c)	Department of Revenue
	\$25,000 general funds for study of state's fiscal regime for ANS gas development
Total	\$693,500 general funds

Insert:

Add a new bill section to read:

Sec. __. DEPARTMENT OF NATURAL RESOURCES. The sum of \$693,500 is appropriated from the general fund to the Department of Natural Resources for gas pipeline development and related activities for the fiscal years ending June 30, 2001 and June 30, 2002.

Senator Hoffman moved for adoption and noted necessary technical changes are necessary to conform to the committee substitute, Version "X".

Senator Ward objected to adoption of the amendment.

Senator Hoffman remarked that the amendment gives the Administration flexibility and that the amount does not change. He reminded the members of an appropriation Arctic Power approved the day prior that gives the organization flexibility to expend the funds in the best manner to secure a natural gas pipeline in Alaska.

Senator Ward spoke to his objection stating that he wants the money to be spent exactly as stipulated in the committee substitute. He surmised that the governor has the same intentions to spend the funds to directly promote the gas line project.

Senator Hoffman countered by comparing this project to that of building a house. He stated that although the floor plan is established beforehand, changes are inevitable and the "customer" should have the ability to make those changes.

Senator Ward maintained his objection.

Senator Olson acknowledged the large amount of funds in question and understood Senator Ward's reservations, but agreed with Senator Hoffman that flexibility must be maintained.

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman and Senator Olson

OPPOSED: Senator Austerman, Senator Leman, Senator Ward, Senator Wilken, Co-Chair Kelly and Co-Chair Donley

ABSENT: Senator Green

The motion FAILED (2-6-1)

The amendment FAILED to be adopted.

Amendment #8: This amendment makes the following changes to the committee substitute.

Delete:

Section 11 (a) Department of Natural Resources
\$75,000 general funds for gas royalty study
Section 11 (b) Department of Natural Resources
\$30,000 general funds for gas pipeline supply-side study
Section 11 (c) Department of Natural Resources
\$50,000 general funds for Alaska North Slope gas sales
(reservoir studies)
Section 11 (f) Department of Natural Resources
\$293,600 general funds for State Pipeline Coordinator's
Office
Total \$448,600 general funds

Insert:

Add a new bill section to read:
Sec. __. DEPARTMENT OF NATURAL RESOURCES. The sum of

\$448,600 is appropriated from the general fund to the Department of Natural Resources for gas pipeline development and related activities for the fiscal years ending June 30, 2001 and June 30, 2002.

Senator Olson moved for adoption.

Senator Ward objected.

Senator Olson again addressed the need for flexibility.

Senator Ward agreed that a certain amount of flexibility is necessary, but thought that there was adequate flexibility in the existing structure.

Co-Chair Donley pointed out concerns raised over the governor naming the task force the Alaska Highway Gas Line Task Force, which appears to establish the route of the proposed pipeline. On the contrary, Co-Chair Donley asserted, the majority of Alaskans prefer an Alaska route. He added that this item is included in the fast track supplemental and that the issue would arise again in the regular supplemental. He stressed that the most urgent issues should be addressed with the fast track. He noted that the governor has a \$400,000 contingency fund, which could be used towards portions of the project if a need arose that did not fit the criteria set forth in the committee substitute.

Senator Hoffman granted that the governor does have the contingency fund, but noted that this amendment does not request additional funds, only to give the flexibility to the funds provided.

Senator Wilken understood and appreciated the request for flexibility, but stated, "The timing is bothering me." He explained this is because of the allocation the Committee approved for Arctic Power the day prior. He stressed he wanted the funds from this amendment to be "targeted" to the state agencies as requested by the agencies.

Senator Hoffman also supported the efforts of the past month but stressed there is no guarantee there would not be changes after the committee substitute is passed.

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman and Senator Olson

OPPOSED: Senator Wilken, Senator Austerman, Senator Lemman, Senator Ward, Co-Chair Kelly and Co-Chair Donley

ABSENT: Senator Green

The motion FAILED (2-6-1)

The amendment FAILED to be adopted.

Amendment #9: This amendment changes Section 1 of the committee substitute to read as follows.

Section 1. DEPARTMENT OF ADMINISTRATION. The sum of \$195,000 [\$100,000] is appropriated from the general fund to the Department of Administration, division of Alaska longevity programs, pioneers homes, for increased costs for nurses [and nurse's assistants] for the fiscal year ending June 30, 2001.

Senator Olson moved for adoption.

Senator Ward objected.

Senator Olson relayed his experience as a physician regarding the need for qualified nursing staff in the Pioneers' Homes.

Senator Austerman objected to the \$100,000 already appropriated, saying that he thought it poor policy for the legislature to agree to fund salary increases that the Administration contracted without consulting the legislature first. He admitted that the budget cuts over the past five years "got ourselves into this".

Senator Hoffman stated that the intent is to provide services in the facilities and that the state is having difficulty recruiting and retaining nurses. He stressed that the field is competitive and that the Pioneers' Homes are losing staff. He suggested that to deny this request due to the five-year budget philosophy would not alleviate the problem.

Senator Austerman did not disagree that nurses should receive a pay increase. However, he stressed this should be done as part of the regular budget process.

Co-Chair Kelly remarked that the regular budget cycle is the appropriate process to address this issue, and he anticipated it would receive support at that time.

Senator Olson hoped that the Committee, as a responsible body, would act as such, given that many members might someday become residents of the Pioneers' Homes. He spoke to the shortage of doctors and nurses in rural Alaska.

Co-Chair Donley stated, "This issue is really about pay raises." He detailed the governor's supplemental budget request for funds to pay for the pay increases the Department of Administration granted these employees without prior approval from the legislature. He asserted this action equated to "very extraordinary circumstances." He noted that when discussing the matter with the department, he learned that when comparing state salaries to private sector salaries, the department had not taken benefit packages into account. While he expressed that he does support the pay raises for nurses, he opposed the Administration's method in this instance. He assured that the matter would again be addressed during the regular budget cycle. He took Senator Olson's observations to heart.

Co-Chair Donley noted that the provision allowing the funds to be spent on nurses' assistants is not a requirement, but an option to give flexibility for those duties that could be performed by an assistant. He pointed out that sometimes nurses are required to perform some duties for which they are overqualified. He stated these funds could be used to increase nurses' salaries or hire additional nurses. He understood the requested amount is the entire amount needed if all of the existing vacancies were filled.

Co-Chair Donley stated that although the pay raises were necessary, he did not think the manner in which they were granted are appropriate. He wanted to send the message that the actions of the Administration must be "discouraged"

Senator Hoffman requested to hear from the Administration as to the seriousness of the immediate need.

DAN SPENCER, Director, Division of Administrative Services, Department of Administration, clarified that the raise is already being paid to the nurses and that the increased wage would be paid to all new hires as well. He warned that if this request were not granted, some of the vacant positions would have to be held open.

Senator Ward asked if an option of contracting out nursing services was considered before the decision was made to grant the pay raise.

Mr. Spencer responded that this practice is not employed in the Pioneers' Homes, except for some on-call positions. These positions, he described as qualified nurses available for work on short notice.

Senator Ward asked if some services are currently outsourced.

Mr. Spencer affirmed and again told of the on-call part-time

positions that do not include benefits.

Senator Ward asked if any consideration was given to the option of contracting out additional services at a higher salary but without benefits.

Mr. Spencer responded that it was not.

Senator Ward suggested the department do so.

Mr. Spencer understood the point, but noted that approximately half of the on-call positions are vacant.

Senator Ward suggested that if the funds could be put toward funding the outsourced services without providing benefits, the state could become competitive.

Co-Chair Donley pointed out that the appropriation gives \$100,000 and that the estimated cost of the increase is \$43,000 per month, which would be adequate for the remainder of the fiscal year.

Co-Chair Kelly stressed that the situation is not critical given that the matter would be addressed again before the end of the session. Meanwhile, he assured, no staff would go without pay or would be laid off. In addition, he noted that the state would still be competitive because the raises have been granted.

A roll call was taken on the motion.

IN FAVOR: Senator Olson and Senator Hoffman

OPPOSED: Senator Leman, Senator Ward, Senator Wilken, Senator Austerman, Co-Chair Kelly and Co-Chair Donley

ABSENT: Senator Green

The motion FAILED (2-6-1)

The amendment FAILED to be adopted.

Co-Chair Kelly offered a motion to move SCS CS HB 117 (FIN), 22-GH1085\X, from Committee.

There was no objection and the bill MOVED from Committee.

Co-Chair Donley thanked George Utermohle of the Division of Legal and Research Services and drafter of HB 117, for his efforts.

AT EASE 9:50 AM / 10:03 AM

[Note: Portion of audio tape is blank as tape machine was not turned off.]

SFC 01 # 39, Side B 10:03 AM

Co-Chair Kelly chaired the remainder of the meeting.

#SB99

SENATE BILL NO. 99

"An Act relating to the DNA identification registration system."

This was the first hearing for this bill in the Senate Finance Committee.

SENATOR RICK HALFORD testified that this legislation expands the DNA database to include DNA samples of burglars. He noted other states have done this and have found a significant increase in cross-referencing matches and the value of the database in further convictions.

Senator Halford qualified he is reluctant to support the further computer classification of people. However, once a person becomes part of the criminal justice system, he surmised that person has given away a great deal of their privacy rights. He pointed out there is a correlation between burglary and "the next level of crimes."

Senator Halford reiterated the intent of this legislation is to update, upgrade and increase the number of convictions using the DNA system.

Co-Chair Kelly added he learned from the writings of John Douglas, the original Federal Bureau of Investigations (FBI) profiler who also started the Bureau's Special Crimes Unit, that almost every serial murderer has burglary in their background. Co-Chair Kelly stated there is something about the crime of burglary that is a gateway to more heinous crimes.

Senator Austerman noted the current 12-month backlog of work for the state crime laboratory and asked why there was no fiscal note cost associated with this legislation considering the extra work it would create.

Senator Halford suggested the Committee ask the Department of Public Safety for an estimate of the cost to implement this legislation.

Co-Chair Kelly agreed.

ROBERT BUTTCANE, Legislative and Administrative Liaison, Division of Juvenile Justice, Department of Health and Social Services, testified via teleconference from Anchorage in support of the bill. He stated that the division perceives burglary as a "gateway crime". He noted the division has processes in place to collect DNA samples and transmit them to the state laboratory.

GEORGE TAFT, Director, Scientific Crime Detection Laboratory, testified via teleconference from Anchorage to inform that the department would receive federal funding to cover the cost increase.

JENNIFER RUDINGER, Executive Director, Alaska Civil Liberties Union, testified via teleconference from Anchorage in opposition to the bill. She referenced written testimony she had submitted. [Copy on file.] She stressed that the Alaska Civil Liberties Union (ACLU) does not oppose technology, but noted that fingerprinting only gives identification information, while DNA gives the government much more information. She pointed out the high value Alaskans place on privacy, noting there is a privacy clause in the state constitution. She assured that the ACLU position is not that DNA sampling should never be used, but only that it is used when justified, which she stated does not include identifying those who may become more serious offenders in the future. She noted the difference between crimes against property and those against persons. She cited a newspaper article that claims the recidivism rate for burglars is only 15 percent. She stated this does not demonstrate an adequate need to justify the means. She spoke to a house bill that goes even further and provides the collection of DNA samples for relatives of missing persons. She did not doubt that Senator Halford and Representative Murkowski have good intentions but that the ACLU is concerned with setting a precedent of retaining personal data that would provide more and more information as technology continues to advance.

JOAN HAMILTON, testified via teleconference from Bethel, that this legislation reminds her of the sentiments of the 1950s and 1960s when the Natives were considered genetically and intellectually inferior. She spoke of the high percentage of Natives in the Alaska prison system. She suggested further investigation of the correlation between burglary and other, more violent crimes. She asserted she is opposed to this bill and suggested that although

burglary may be considered a gateway crime in the Lower 48, it is not necessarily so in Alaska.

DEL SMITH, Deputy Commissioner, Department of Public Safety responded to Senator Austerman's question regarding the cost of the services. He explained an increment in the proposed FY 02 operating budget addresses evidence collected at crime scenes and processed to compare against the DNA database. He shared the department was successful in receiving federal funding for the next several years to address a backlog of DNA processing. He noted the department has contracted with a private laboratory to perform this work, which he said is a better use of funds than outsourcing crime scene data collection.

Senator Ward asked what happens to the stored DNA information of offenders after they have paid their debt to society.

Mr. Smith noted statutes adopted in 1996 allows collection and retention of a DNA sample for convicted offenders except when the conviction is reversed, in which case, the DNA information is removed from the database. Therefore, he said the DNA information would be retained in most cases.

Senator Ward asked if this is due to a federal requirement.

Mr. Smith responded that there is no federal requirement although Alaska does participate in a national database. He stressed the federal funding referenced above is intended only for the purpose of reducing the backlog. He again referred to the 1996 state law allowing retention of DNA information indefinitely.

Senator Lemman moved to adopt the Department of Administration, Legal and Advocacy indeterminate fiscal note dated March 9, 2001.

There was no objection and the fiscal note was ADOPTED.

Senator Lemman offered a motion to move from Committee SB 99, 22-LS0490\C, with accompanying zero fiscal note from the Department of Public Safety, and aforementioned fiscal note from the Department of Administration.

Without objection, the bill MOVED from Committee.

AT EASE 10:23 AM / 10:24 AM

#SB105

CS FOR SENATE BILL NO. 105(JUD)

"An Act relating to victims' rights; relating to establishing an office of victims' rights; relating to compensation of victims of violent crimes; relating to eligibility for a permanent fund dividend for persons convicted of and incarcerated for certain offenses; relating to notice of appropriations concerning victims' rights; amending Rule 16, Alaska Rules of Criminal Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Senator Halford testified that the criminal justice system represents virtually everyone but the victims and that the judicial process often overwhelms victims. He referred to a ballot initiative earlier passed by a vote of the people to give victims of crime greater consideration in the process. As a result, he stated there has been improvement in the treatment of victims, but that until victims have access to the same legal assistance as other participants, the full intent of the victim's rights law could not be realized.

Senator Halford spoke of legislation the Senate passed in 1998 but did not complete the legislative process to become a law. He added that similar legislation was again passed in 1999 by both the Senate and the House of Representatives, but was vetoed by the governor. The legislation before the Committee, he noted is similar as the previous attempts except the proposed Office of Victim's Rights would operate within the legislative branch, independent from the executive branch. He stressed that in order to provide objective oversight of the Alaska Court System the office must be a part of the either the executive or legislative branches.

Senator Halford expressed support for Co-Chair Donley's proposed amendments.

DEAN GUANELI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law, agreed that compassionate, fair treatment of victims is important in the justice system. He stressed that the Criminal Division has been "in the forefront" of this effort for over 20 years, when it implemented a paralegal program to work with victims and witnesses and help them through the criminal justice process. He noted this program was initially federally funded but is currently funded with state dollars.

Mr. Guaneli testified the department provides federally funded

training for prosecutors and paralegals on how to appropriately deal with victims in sensitive cases, such as sexual assault and child abuse. He detailed the various training conferences held annually.

Mr. Guaneli told of another program that uses volunteers to help make contact with victims. He described the many schedule changes and the difficulty for department staff to keep victims updated on hearing and court dates. He pointed out the main reason the department loses criminal cases is because victims fail to cooperate or are unable to provide "good" testimony.

Mr. Guaneli then informed of brochures the department distributes, in both English and in Native Alaskan languages, relating to crime victim's rights, information regarding sexual assault, what families should know about child sexual abuse, and information for victims of domestic violence. He stressed the department is not required to do this, but does because it helps staff do their job and also because "it's the right thing to do." He noted this effort is also federally funded.

Mr. Guaneli told the Committee the department is currently in litigation defending other laws passed by the legislature that limited "some of the abuses" of defense attorneys and defense investigators regarding victim contact, that have occurred during the investigative portion of criminal cases.

Mr. Guaneli summarized that the Department of Law "is doing a very good job" in its relationship with victims. He stated that he has listened to previous testimony from victims complaining about their treatment in the judicial system and that he has researched these instances. He concluded that in each case, the department did everything it could have done to ensure the victim's rights were guaranteed. He suggested that because these cases involved family members of murder victims, there was significant stress and trauma for these people during the criminal justice proceedings. He stated that in these instances, victims often take out their frustrations with the government agency they have the most contact with. He recommended counseling for these victims rather than another attorney.

Mr. Guaneli was concerned that with the passage of this legislation, there would be an expectation that victims would have an attorney in all cases. He stressed that even though the jurisdiction of the proposed office is narrow in that it is limited to felony cases and misdemeanor crimes against persons, there are still 5,000 to 6,000 of these cases each year.

Mr. Guaneli suggested efforts could be better spent in the collection of court ordered restitution to victims. He stressed that the court does not enforce these orders well, that the Department of Law has a system for collecting court-ordered fines, and that this system could be applied to collecting victim restitution as well.

Mr. Guaneli mentioned the governor has introduced separate legislation dealing with victim's rights.

Co-Chair Kelly asked if this bill interferes with the governor's bill and if it diverts funds from other victim services.

Mr. Guaneli replied this legislation would not interfere and would not divert funds. However, he relayed testimony given to the Senate Judiciary Committee expressed concerns that if there were limited resources, budget reductions would be made to other programs such as the Council on Domestic Violence and Sexual Assault (CDVSA).

Co-Chair Kelly surmised that since the proposed Office of Victim's Rights would be a part of the Legislature's budget, he did not think other programs would be affected.

Co-Chair Kelly was unclear why the Administration opposed the bill.

Mr. Guaneli did not oppose the legislation, but had concerns about the costs to the public.

Co-Chair Kelly asked if there would be additional cost to the Department of Law.

Mr. Guaneli answered there would not.

Co-Chair Kelly reminded that the governor vetoed a similar bill the year before and asked if he would veto this legislation as well.

Mr. Guaneli could not speak for the governor, but noted concerns with the previous legislation related to the location of the proposed office within the Department of Law and the conflicts that could arise because of this. He stated this has been resolved in the current legislation.

Senator Austerman asked if this bill would result in any cost savings to the Department of Law.

Mr. Guaneli did not anticipate any savings, but qualified it was possible if the victims' advocate took on some functions currently performed by the department, such as explaining the criminal

justice process to victims. He stated this could save the department some time.

Senator Hoffman noted the concerns expressed that there would be more cases than could be handled by the two attorneys and one paralegal position proposed for the Office of Victims' Rights. If this is the case, he asked how the department would prioritize the services.

Mr. Guaneli replied that this office would not be located within the Department of Law but rather in the legislative branch.

Co-Chair Donley asked the witness' opinion on proposed Amendment #1.

Mr. Guaneli responded the amendment appears to change the law to provide that defendants and defense attorneys could not comment about victims who fail to appear to testify in a criminal proceeding. He opined, "It is a good idea." He shared this would prevent defense attorneys from making statements in court such as "well the victim didn't testify so that means it must not be a very important case." He did not think these statements would influence a judge's decision, but that it is uncertain how it would impact a jury's deliberation. He spoke to the courage required of some victims to appear. He stated that this amendment does not infringe on any constitutional rights. He supported the amendment.

CANDACE BROWERS, Legislative Liaison and Program Coordinator, Department of Corrections, stressed that the department takes its obligation to serve victims very seriously. She gave as examples, victim conferences held across the state, and victim impact classes. She explained these classes are targeted toward offenders to attempt to make them understand the effects of their crimes on victims as well as their own families and the community at large. She also pointed out the department works closely with private non-profit agencies. She told of the implementation and enhancement of the Vine System, an electronic notification for victims.

Ms. Browsers continued, informing the Committee the department has hired a Victims Service Coordinator through a grant from through the CDVSA, to provide sensitivity to victim's needs training throughout the state for Department of Corrections personnel.

Ms. Browsers explained the proposed Office of Victim's Rights would be funded through the use of permanent fund dividend (PFD) funds. She stated that this program adds another allocation tier to the convict PFD withholdings, which she detailed, is labor intensive to process. She pointed out a Department of Corrections fiscal note

includes an additional staff position to handle the additional workload.

Ms. Browers reiterated Mr. Guaneli's comment that victim restitution could be better enforced. She noted that the withholding of PFD from convicted felons to fund the proposed office would result in less money available for restitution, child support, etc.

SFC 01 # 40, Side A 10:51 AM

Amendment #1: This amendment changes language in the title to read as follows.

An Act relating to victim's rights; relating to establishing an office of victims' rights; relating to the authority of litigants and the court to comment on the crime victim's choice to appear or testify in a criminal case; relating to compensation of victims of violent crimes; relating to eligibility for a permanent fund dividend for persons convicted of an incarcerated for certain offenses; relating to notice of appropriations concerning victims' rights; amending Rules 16 and 30 Alaska Rules of Criminal Procedure, Rule 9, Alaska Delinquency Rules, and Rule 501, Alaska Rules of Evidence; and providing for an effective date.

This amendment also inserts a new bill section on page 2, following line 10 of the committee substitute to read as follows.

Sec. 3. AS 12.61 is amended by adding a new section to article 2 to read:

Sec. 12.61.200. Comment not permitted. (a) The decision of the crime victim to testify or appear at a criminal case is not a proper subject of comment by judge or counsel.

(b) Upon request, a party against the jury might draw an adverse inference from the failure of a crime victim to appear or testify is entitled to an instruction that no inference may be drawn therefrom.

This amendment also inserts a new bill section on page 15, following line 10 of the committee substitute to read as follows.

Sec. 17. The uncodified law of the State of Alaska is amended by adding a new section to read:

COURT RULE AMENDMENT. AS 12.61.200, added by sec. 3 of this Act, has the effect of amending Rule 30, Alaska Rules of

Criminal Procedure, relating to instructions to the jury.

This amendment also inserts a new bill section on page 2, following line 10 of the committee substitute to read as follows.

Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 12.61.200, added by sec. 3 of this Act, is not intended to interfere with any constitutional rights and applies only to the extent permitted by the United States Constitution and the Constitution of the State of Alaska.

Co-Chair Donley noted this amendment relates to defendants "making a big deal" over victims who do not appear in court. He shared that he has learned that some defense attorneys are doing this. He stressed that it requires a big effort for some victims to participate in the judicial process.

[Note: No motion was made to adopt the amendment, no objections were made to the amendment, and it was not declared adopted. However, the amendment was incorporated into the final Senate Finance Committee substitute.]

Amendment #2: This amendment increases compensation limits from \$30,000 and \$50,000. The amended language on page 2 lines 11 through 21 reads as follows.

Sec. 3. AS 18.67.130(c) is amended to read:

(c) Compensation may not be awarded under this chapter in an amount in excess of \$40,000 [\$25,000] per victim per incident. However, in the case of the death of

(1) a victim who has more than one dependent eligible for compensation, the total compensation that may be awarded as a result of that death may not exceed \$80,000; the [\$40,000 THE] board may prorate the total awarded among those dependents according to relative need; or

(2) two or more victims in the same incident who jointly have a dependent eligible for compensation, the total compensation that may be awarded as a result of those deaths may not exceed \$50,000.

New Text Underlined [UNDERLINED TEXT BRACKETED]

Co-Chair Donley explained this amendment increases the inflationary amount of money available to the victims of crime through the Violent Crimes Compensation Board. He moved for adoption.

There was no objection and the amendment was ADOPTED.

Amendment #3: This amendment inserts a new subparagraph to AS

43.23.028(a) in Section 10 of the committee substitute. The new language reads as follows.

(5) nonprofit victim's rights organizations for grants for services to crime victims

Co-Chair Donley explained this amendment adds to the list of potential uses of money the state receives from the withheld PFDs of felons and certain misdemeanants. He stated this amendment adds a fifth category and gives the legislature discretion to use some of the funds as grants for nonprofit victims' rights organizations.

After asking if there was any objection to adoption of the amendment, no objection was raised, and Co-Chair Kelly ordered the amendment ADOPTED. [Note: There was no formal motion to adopt the amendment.]

ROBERT BUTTCANE, Legislative and Administrative Liaison, Division of Juvenile Justice, Department of Health and Social Services, testified via teleconference from Anchorage about 1998 changes in the delinquency chapter to require the department to hold juvenile offenders accountable. He said this was intended to prevent repeated behavior, to restore victims and communities "to wholeness", to protect the public, to develop competency in juveniles so they become protected.

Mr. Buttane stated that with this change, the department shifted from an "offender focus" system exclusively concerned with the issues related to rehabilitation of juvenile offenders. The focus, he remarked, broadened to incorporate public safety concerns as well as the restoration of victims. He detailed how an informal adjustment case could not be closed until victim restitution concerns have been addressed.

Mr. Buttane pointed out that victims have a right to be informed of, and present at, any formal proceedings. He noted that although this statute gives victims the right to testify during the delinquency disposition phase of proceedings, increasingly courts are allowing victims to make statements during detention, hearing reviews as well as during parts of adjudication.

Mr. Buttane stated that victims are a specific identified group allowed access to information about the offenders and the offender's parents. He pointed out that victims also receive notification when offenders are to be released from a juvenile institutional treatment program.

Mr. Buttane assured that any failure by the department to ensure

victims receive the aforementioned considerations is only because of insufficient resources. He cautioned that the creation of the ombudsman-type office is a concern since the limited resources occasionally result in a victim "falling through the cracks" and this fact is already known. He stressed that this is not intentional.

Mr. Buttane stressed that the department's research has shown that victims mostly want to be listened to and to have an opportunity to tell their story. He emphasized this desire goes beyond making a statement on the witness stand during a delinquency proceeding. He said victims have a need for someone to fully understand and acknowledge that they have been wronged by the act of another person. He noted this is what probation officers and grief counselors within the department provide and that a new group of clients have been incorporated into the juvenile justice system.

Mr. Buttane stressed that victim impact classes have had the most success in getting offenders to understand the consequences of their actions and have been most effective in rehabilitating juvenile offenders.

Mr. Buttane testified he supports any legislation that provides advocacy and victim services. He added that after victims feel they have been heard, they next want to be compensated for their loss. He commented that any effort in getting restitution to these victims is important.

Mr. Buttane had specific questions about language in the bill. He referred to the authority of the Office of Victim's Advocacy provided in Section 5, page 5 line 28 and suggested clarification of whether jurisdiction extends to juvenile delinquency cases. He noted that language elsewhere in the bill speaks to juvenile delinquency and he asserted that the same accesses and privileges should be afforded to victims of a juvenile offense.

Mr. Buttane then referred to page 9, line 19, relating to immunity for the victim advocate and voiced concern that this level of immunity could be so high that if there was abuse, that person could not be held accountable.

Mr. Buttane asserted the justice system is better "for having moved victims to center stage."

Co-Chair Kelly and Mr. Buttane established that language in some portions of the bill explicitly outlines the inclusion of juvenile offenders under the jurisdiction of the Office of Victim's Rights, although it is not contained in all pertinent sections.

Co-Chair Kelly noted this technical change does not alter the intent of the bill and could be made in the Senate Rules Committee.

Mr. Buttane qualified the existing language could be adequate, but requested that it be verified.

Co-Chair Kelly assured this would be done.

Co-Chair Donley offered a motion to move CS SB 105, 22-LS0219\F as amended from Committee with a \$47,000 fiscal note from the Department of Corrections, a \$63,900 fiscal note from the Legislature and zero fiscal notes from the Department of Law and the Department of Revenue.

Without objection the bill MOVED from Committee.

#SB93

SENATE BILL NO. 93

"An Act relating to the Arctic Winter Games Team Alaska trust; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

SENATOR RANDY PHILLIPS spoke to a proposed committee substitute and noted the only changes are technical corrections made at the request of the Department of Revenue.

Co-Chair Donley offered a motion to adopt CS SB 93, 22-LS0566\J as a working draft.

The committee substitute was ADOPTED without objection.

Co-Chair Donley offered a motion to report CS SB 93, 22-LS0566\J from Committee with a zero fiscal note from the Department of Revenue.

There was no objection and the bill MOVED from Committee.

#

ADJOURNMENT

Co-Chair Kelly adjourned the meeting at 11:08 AM