

MINUTES
SENATE FINANCE COMMITTEE
April 28, 2001
10:22 A.M.

TAPES

SFC-01 # 90, Side A
SFC 01 # 90, Side B

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 10:22 A.M.

PRESENT

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

Also Attending: SENATOR RICK HALFORD; REPRESENTATIVE GARY STEVENS; KAREN PERDUE, Commissioner, Department of Health and Social Services; MARY MCDOWELL, Commissioner, Commercial Fisheries Entry Commission (CFEC), Department of Fish & Game, Juneau; STEVE WHITE, Assistant Attorney General, Department of Law.

SUMMARY INFORMATION

SB 165-EDUCATION TAX ON EMPLOYMENT

Following discussion, the bill was held in Committee.

SB 198-STATEWIDE SUICIDE PREVENTION COUNCIL

Following limited discussion, CS SB 198 (HES) was reported out of Committee.

HB 194-COMMERCIAL FISHING LICENSE & PERMIT FEES

Following Committee discussion, CS HB 194 (FIN) was reported out of

Committee.

#SB198

CS FOR SENATE BILL NO. 198(HES)

"An Act establishing the Statewide Suicide Prevention Council; and providing for an effective date."

SENATOR RICK HALFORD explained that SB 198 would establish a statewide suicide council made up of fifteen private and public members representing rural and urban Alaska. There would be two members from both the House and the Senate and the Governor would appoint eleven members, including experts in substance abuse and mental health, as well as people who have been directly impacted by suicide and who work with youth across the State.

Senator Halford reiterated that suicide is an on-going epidemic in many parts of the State, especially in rural Alaska, and currently the numbers are at an all time peak. The council would focus on finding ways to reduce suicide rates, broaden public awareness of the suicide warning signs, and enhance suicide prevention services and programs throughout the State. He pointed out that the suicide prevention council has bi-partisan support throughout the Senate.

KAREN PERDUE, Commissioner, Department of Health and Social Services, noted that the Department supports the proposed legislation. She indicated that the fiscal note was a responsible projection of the anticipated costs. She offered to answer questions of the Committee.

Senator Green asked if the fiscal note represented a fourteen or fifteen member board.

Commissioner Perdue commented that fourteen was an error and that it should indicate a fifteen-member board.

Senator Green moved to report CS SB 198 (HES) from Committee with individual recommendations and with the accompanying fiscal note. There being no objection, it was so ordered.

CS SB 198 (HES) MOVED from Committee with a "do pass" recommendation and with fiscal note #1 by Department of Health & Social Services.

#SB165

SENATE BILL NO. 165

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

SENATOR AUSTERMAN stated that SB 165 would impose a tax of \$100 dollars a year on each employed individual ages 19 years and older, and would include self-employed persons. Under the bill, the employer would deduct \$50 dollars from the employee's salary on each of their first two regular payrolls after January 1 of the calendar year. A provision would be added to prevent the tax from being taken out more than one time when the employee provides proof to their new employer that the tax has been satisfied. The tax would be deposited into the State's general fund, however, accounted for separately. The amounts would be appropriated for education only. Senator Austerman reiterated that education is under funded.

Co-Chair Kelly responded that he liked the concept, as it had no provisions for income.

Senator Austerman noted that there had been recommendations that the tax be taken from the Permanent Fund Dividend. He acknowledged that there are a number of ideas floating around as to when and how to tap that \$100 dollars.

Senator Hoffman opposed a check being taken from the Permanent Fund Dividend as there are many people working in the State that do not collect the dividend.

Senator Leman commented that the Permanent Fund check off would work to help reduce the cost of an administration fee collection. He agreed that the law should extend beyond those that collect the dividend.

Senator Ward asked if there had been consideration given to privatizing the action and perhaps using a head tax.

Senator Austerman replied that had not been considered.

Senator Ward supported the State placing a constitutional spending limit before the voters. He inquired how the amount had been determined.

Senator Austerman replied that the number had been "picked out of the air" with consideration to Senator Wilkins's SB 1.

Senator Wilken mentioned that each year his office undertakes a survey to 10,000 constituents. Five percent of the people, who

responded, thought that a \$200 school tax was favorable. He noted that he had an amendment, pending arrival, and asked that the bill be held until that time. He suggested that the bill might focus effort on equal treatment for education throughout the State. Co-Chair Kelly thought the bill would help to organize Alaska to pay part of the way for education.

Senator Wilken interjected that perhaps the State should ask \$100 dollars for organized Alaska and \$400 dollars for unorganized Alaska. He pointed out that there is statutory ability to charge each area differently.

Senator Hoffman claimed that would not be fair and that he assumed that the amendment would not achieve what Senator Wilken intended.

Senator Wilken stated that he wanted to address those that are not paying for their share of the education costs.

Senator Olson commented that he would not support the concept proposed by Senator Wilken.

Co-Chair Kelly interjected that in his district, an education tax, is the only tax that is supported.

Co-Chair Donley agreed, however, pointed out that a \$100 dollar tax would only address five percent of the fiscal gap.

Co-Chair Kelly agreed with Co-Chair Donley.

Senator Austerman stated that the legislation was not introduced to solve the fiscal gap, but instead to create a discussion point regarding education funding. He added that the entire issue on the education gap would take much more than the proposed bill to address.

Senator Wilken reiterated that a Permanent Fund check off in the Rural Education Attendance Areas (REAA) could work.

Co-Chair Kelly noted that SB 165 would be HELD in Committee for further consideration.

AT EASE 10:50 AM/10:55 AM

#SB194

CS FOR HOUSE BILL NO. 194(FIN)

"An Act relating to fees for commercial fishing licenses and

permits; and providing for an effective date."

REPRESENTATIVE GARY STEVENS stated that HB 194 would repeal current statute that requires the Commercial Fisheries Entry Commission (CFEC) to charge non-resident fishers three times the amount charged a resident fisher and would replace it with a provision that gives CFEC the authority to charge non-resident fishers as close as is practicable to the maximum amount allowed by law.

By passing the legislation, CFEC would discontinue the practice of charging three to one and instead would charge the maximum amount that is allowed by law. Starting in January, CFEC would calculate the fee differential based on the two budget categories that the court has allowed. The Department of Law is hopeful that they will prevail in their appeal and once the court makes its final ruling, CFEC would be able to include some of the other four budget categories into the formula. He added that the bill will strengthen the State's position in the current court case.

Senator Green asked if the court case was not passed, will the State owe \$22 million dollars.

Representative Stevens explained that if the State is not allowed any additional categories through the court system, the State is facing a pay back of \$22 million dollars. Alaska has been charging out-of-state fishermen more than in-state fishermen.

Senator Green asked who is the "we".

Representative Stevens replied that the "we" is the State of Alaska and the CFEC and that the State is being sued.

Senator Green clarified that the State is the entity that will be liable if the class action suit is lost.

Senator Wilken asked what the reduced fee count was.

Representative Stevens explained that was a fee allowed at a reduced level for those that live at poverty level.

Senator Wilken asked who was the impoverished non-resident commercial fisherman.

Representative Stevens replied that the criteria was quite explicate through CFEC documentation. He requested that question be deferred to the CFEC Commissioner. He added that there are only a limited number of fishermen in that category.

Senator Wilken referenced the proposed amounts, to which the bill recommends that the rates be raised. He asked if it would be essential to stay within the 3 to 1 category.

Representative Stevens countered that the intent is to get away from the 3 to 1 rating.

Senator Austerman interjected that the "poverty" question also applies to sport fishermen.

Representative Stevens noted that poverty level was based on household income, assets, and financial resources.

Senator Hoffman voiced concern that through the legislation, in all cases, residents would be increased and in all other cases, non-residents would be decreased. He asked if there was any possible way to hold residents 'harmless'.

Representative Stevens explained that the legislation would no longer make the 3-1 ratio available. It would be based on other categories. The United Fishermen of Alaska (UFA) are fully in agreement with the resident fees. The money going into the CFEC, will be used for the commercial fisheries. He added that the legislation was a recommendation from the fishermen of Alaska.

Senator Hoffman pointed out that the only increases were to the poverty category.

Representative Stevens acknowledged that was true and the reason for that increase was that CFEC was paying into the fisherman fund more than they are receiving from those peoples.

Senator Austerman explained that part of the issue is how much money the State puts into the management of their fisheries.

MARY MCDOWELL, Commissioner, Commercial Fisheries Entry Commission (CFEC), Juneau, offered to answer questions of the Committee.

Senator Olson asked when the fees were first implemented.

Commissioner McDowell replied that the fees currently charged have been in place for at least twenty years. The individual fisheries between those categories changes often. She acknowledged that the original fees are somewhat dated.

Senator Leman stated that there are no provisions for the increased value for the Alaska fisheries. He thought someone in the high

value fisheries receives a greater value and should pay more for the use of the facilities. He added that the biggest disparity is for the child crewmember going from \$5 dollars to \$140 dollars. He asked if that was a direction of the Court.

Commissioner McDowell explained that the legislation could make a policy call on all the fees indicated. In the case of other permit costs, the bill has been drafted to allow the State to tack on the most cost possible for every non-resident fee.

Senator Lemman clarified that the Court stated that the State could not tack on the differential on the bases of the value of the fishery.

Commissioner McDowell clarified that the State could charge less than that if the Legislature chooses to do it. The State has opted to tack on the most possible, in every fee class. She commented that was optional.

Senator Lemman maintained that the Court had seriously erred.

Commissioner McDowell acknowledged that the hope is that the Courts will agree with the State so that all categories would be allowed.

Senator Lemman asked if the listing of categories include investments which the State has made through corporations such as Alaska Industrial Development Export Authority (AIDEA).

SFC 01 # 90, Side B 11:16 AM

Senator Lemman referenced capital expenditures used to support the fishing industry as measured by annual depreciation.

Commissioner McDowell answered that the Office of Management and Budget and the Department of Law combed through the budget and attempted to find everything conceivable that could be problematic.

Senator Hoffman questioned how much currently was being collected with the fee structure in place and what is the anticipated amount that will be collected thorough the proposed legislation.

Commissioner McDowell referenced the two fiscal notes. She pointed out that there would be a "slight" gain in overall revenue received from non-residents through the bill. She added that the bill does not bring in fewer revenues from non-residents, but instead shuffles the burden down. There will be a slight reduction in the

high-end charge permits.

Senator Hoffman requested information be provided to the Committee regarding the number of residents and non-residents in each of the classes. He claimed that information was important for the Committee to make a decision.

Commissioner McDowell offered to provide that information.

Senator Leman remembered that the Court did not use the denominator that the State recommended.

Commissioner McDowell acknowledged that was correct.

Senator Leman asked if that issue was under appeal. He believed that either the court misunderstood or misrepresented the reality.

Co-Chair Donley agreed with Senator Leman that the judge involved in the case did a very poor job. He added that Judge Michalski should be held responsible for his "terrible" legal performance in that case.

Senator Austerman recommended that the bill be moved from Committee and then find a way to highlight the work of those specific judges during their re-election time.

Co-Chair Kelly commented that the court decision is flawed and that the bill would help to address those concerns.

Senator Wilken repeated his question of what an impoverished non-resident would be.

Commissioner McDowell explained that is defined in regulations used at this time. Regulations that were used in the past did not have eligibility standards. She referenced Page 6, Line 6, and noted the use of the asset caps.

Senator Wilken recommended investigating the public policy of that group. He asked what would happen if that language was deleted.

Commissioner McDowell noted that the Department of Law advised that the State would probably be challenged by not offering that option to non-residents.

Senator Austerman pointed out that was not the issue with this bill and that concern should be addressed in separate legislation.

Senator Austerman moved to report CS HB 194 (FIN) out of Committee

with individual recommendations and with the accompanying fiscal notes.

Senator Leman objected in order to take testimony by the Department of Law.

STEVE WHITE, Assistant Attorney General, Department of Law, referenced the Carlson Case. He noted that he had argued that case to the Supreme Court last time. He offered to answer questions of the Committee.

Co-Chair Donley asked the possibility of success if the legislation followed recommendations made by Senator Wilken.

Mr. White stated that it was a policy call whether to eliminate the entire fee schedule for everyone. If it was limited to only non-residents, then there would be an equal protection problem with the same magnitude that the State is currently having.

Senator Wilken requested that the Department of Law submit a written defense for the poverty section of the bill.

Mr. White explained that there would be no legal implication if the poverty section were removed for both the residents and the non-residents.

There being no further objections, CS HB 194 (FIN) MOVED from Committee with "no recommendations" and with fiscal note #3 by Department of Fish & Game and #4 by Department of Fish & Game, CFEC.

ADJOURNMENT

Co-Chair Pete Kelly adjourned the meeting at 11:32 A.M.