

MINUTES
SENATE FINANCE COMMITTEE
May 04, 2001
10:52 AM

TAPES

SFC-01 # 95, Side A
SFC 01 # 95, Side B

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 10:52 AM.

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 Donny Olson
Senator Lyman Hoffman

Also Attending: SENATOR JOHN COWDERY; KURT PARKAN, Deputy Commissioner, Department of Transportation and Public Facilities; DEVON MITCHELL, Debt Manager, Treasury Division and Executive Director, Alaska Municipal Bond Bank Authority, Department of Revenue; DENISE HENDERSON, staff to Representative Pete Kott; GUY BELL, Director, Division of Retirement and Benefits, Department of Administration; TIM ROGERS, Legislative Program Coordinator, Municipality of Anchorage; JIM NORDLUND, Director, Division of Public Assistance, Department of Health and Social Services; REPRESENTATIVE JOHN COHGILL, JR.; AV GROSS;

Attending via Teleconference: From Anchorage: DAVID EBERLE, PE, Regional Director, Central Region, Department of Transportation and Public Facilities;

SUMMARY INFORMATION

SB 218-AIRPORTS:BONDS/CONSTR.FUND/FACILITY CHARG

The Committee heard from the sponsor, the Department of

Transportation and Public Facilities and Department of Revenue. The bill moved from Committee.

HB 242-TRS & PERS REEMPLOY & MED BENEFITS; COLA

The Committee heard from the sponsor, the Department of Administration and the Municipality of Anchorage. A committee substitute was adopted and the bill was held in Committee.

HB 142-AK TEMP. ASSISTANCE PROGRAM AMENDMENTS

The Committee heard from the Senate Health Education and Social Services Committee and the Department of Health and Social Services. The bill moved from Committee.

HB 193-MODIFIED BLANKET PRIMARY ELECTION

The Committee heard from the sponsor and a former state Attorney General.

HB 234-TOBACCO SETTLEMENT: BONDS & SMOKING PROGRAM

This bill was not in Committee in time for the scheduled hearing and therefore was not heard.

#SB218

CS FOR SENATE BILL NO. 218(TRA) am

"An Act relating to international airports revenue bonds and requiring that the spending plan for the International Airports Construction Fund include information about the amounts spent during the previous fiscal year for cost overruns on certain projects and the identification of time delays on certain projects; relating to customer facility charges to fund facilities in airports to be constructed without using international airport revenue bonds; and providing for an effective date."

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

SENATOR JOHN COWDERY testified that the bill raised the limit of the bonding authority of the airports to \$477,900,000. He reminded the Committee of legislation from a few sessions back related to airport bonds, which he said, was on-going. He shared that "all the airlines" support SB 218. He pointed out this legislation requires no tax dollars and instead, the airlines would contribute from

their revenues generated from landing fees.

Senator Austerman noted that the cost of the project at the Ted Stevens International Airport in Anchorage has continued to "spiral up" and he wanted to know if this legislation would apply to the existing project and related cost overruns or toward a new project. He pointed out that although the revenue for these bonds is not received through taxes, the landing fees are considered a business expense and the cost is passed along to the consumer in the ticket prices.

Senator Cowdery answered that this bill does not apply to previous projects, but rather new projects. He noted that the airports in both Fairbanks and Anchorage would qualify for funding under this legislation. He stated that the purpose of this legislation is to utilize the revenues collected from landing fees by the airlines for new projects. Otherwise, he explained, these revenues would be spent on the existing upgrade project. He noted this legislation allows the funds to be received earlier than the fifteen years it would take if not for this legislation.

KURT PARKAN, Deputy Commissioner, Department of Transportation and Public Facilities, added that this legislation provides for a bonding package to fund the annual capital improvement project (CIP) at the airport system. He explained this package was agreed upon during the previous year's negotiations between the airlines and the department in which the airlines requested a five-year CIP for their consideration and the authority to issue bonds to fund these improvements rather than the current method of "cash funding" the projects each year.

Mr. Parkan detailed the funding for these projects include the costs of environmental procedures, securing taxiways and equipment purchases. He pointed out the general annual CIP is unrelated to the on-going terminal upgrade project with the exception of four projects that are similar to the terminal project but were not part of the original project's "scope". He referred to a letter from the Department of Transportation and Public Facilities to Senator Cowdery that identifies these key projects.

Mr. Parkan shared that the agreement upon this debt financing method for CIP projects was reached because the airlines wanted some certainty as to their annual costs. He noted that under the current system, the airlines incur "spikes" in landing fees, which would not happen under the proposed method. He informed this is a method of financing utilized for many airports across the country.

Senator Austerman asked the status of the existing five-year

terminal upgrade project.

Mr. Parkan responded that the proposed bond package in this legislation would fund the first two years of the five-year CIP plan; the first year being FY 01. He explained that approximately \$142,000,000 would be added to existing debt to cover these costs.

Senator Austerman asked if the legislature would then return to this issue within three years to consider authorizing an increase to the bonding limit for this project.

Mr. Parkan affirmed a second request would be made to issue bonds to fund the final three years of the CIP project.

Senator Ward asked if any projects contained in this bond proposal replace any of the anticipated bond proposals under the extension of the airport bonds.

Mr. Parkan answered a question of Senator Ward, repeating that the proposed bond package contains no projects that are currently part of the on-going airport extension and upgrade project. He relayed testimony he gave to the Senate Transportation Committee stating that there are several proposed projects that relate to the on-going terminal upgrade, but that do not replace a current project. He explained these projects were not included in the original expansion but are planned to coincide with the current terminal projects. He gave an example of hazardous material asbestos abatement, noting the extent of the asbestos found when the upgrade construction began was not anticipated. He said \$5 million has been incorporated into the proposed bond package to address asbestos removal. He noted an access control system, a medium voltage project and some furnishings, are other projects related to, but not replacements of, the on-going terminal upgrade project.

Senator Ward asked if Senator Cowdery has the same understanding of this legislation as Mr. Parkan testified.

Senator Cowdery reminded that he has been working on this matter for several years and had sponsored the legislation authorizing bond issuance for the original terminal expansion and upgrade project. He told that the department had estimated the amount of asbestos that might be present, however much more was found during demolition. He stated it was not his intention to "pay for anything that we'd authorized before" however, there were cost overruns with the on-going project.

Senator Ward opined, "That's the heart of the thing." He emphasized the \$5 million cost overrun was not due to earthquakes, footings,

etc. He qualified he was unsure if the overruns were a result of fast-tracking the project. He stressed he wanted to ensure the proposed bond package is not funding mistakes that were made during the original project. He was concerned if this were so, it would not be possible to identify and rectify those mistakes.

Mr. Parkan understood Senator Ward's concerns and noted that this legislation does not cover any of the costs associated with the delays encountered over the permitting and errors in seismic design work. He expressed the intent to provide full disclosure of the four or five proposed projects that are related to the terminal project to the legislature. He assured that the remaining projects in the bond package are unrelated to the terminal upgrade and could not be changed because the bonds would be issued specific to those projects. He informed that the department has relayed the same assurances to the airline companies.

Senator Cowdery continued that he understood the problems with the terminal upgrade project are eight to nine months old and are related to delays. He recalled that during legislation authorizing bond issuance for the terminal project, the department assured that \$10 million of insurance was purchased to cover any delays. He was uncertain whether \$10 million would be adequate to cover all the costs and he did not know where the remaining funds would come from. He surmised that Senator Ward was concerned that funds from the new bond package would be utilized to cover these.

Senator Hoffman requested a copy of the list of proposed projects in the bond package.

Mr. Parkan distributed a letter the department sent to the Senate Transportation Committee. [Copy on file.]

Senator Austerman expressed concern, saying he did not support moving the bill from Committee without documentation that shows the projects funded in the original bond package, and the proposed projects that would be funded through this legislation.

Mr. Parkan responded that the letter should address Senator Austerman's concerns. He stated the "whole purpose of this package is as a result of the airlines' request that we use debt financing for the annual CIP."

Senator Austerman did not oppose this method of financing, but stressed he did not have enough information to make a decision regarding the bill.

Senator Lemman questioned the fiscal note from the Department of

Revenue. He wanted to know if the sale of these bonds was considered in relationship to a \$52,000 request for the FY 02 budget.

DEVON MITCHELL, Debt Manager, Treasury Division and Executive Director, Alaska Municipal Bond Bank Authority, Department of Revenue, answered that the \$52,000 is a FY 01 Supplemental budget request related to the Alaska Municipal Bond Bank Authority, which he informed is a separate entity.

Senator Lemman next asked why the travel and contractual services were funded with general funds.

Mr. Mitchell replied these expenses are anticipated prior to the issuance of the bonds and are to cover the costs of the efforts to market and sell the bonds.

Senator Lemman asked if the Department of Revenue recovers these funds after bonds are sold.

Mr. Mitchell answered it does not.

Co-Chair Donley asked if the Department of Transportation and Public Facilities testimony is that none of the bonding proceeds would be used to pay for corrections to the problems experienced to date with the terminal project.

Mr. Parkan referred to material distributed that lists those proposed projects that are related to the terminal upgrade. [Copy on file.] He clarified some of the proposed projects, such as with the hazardous materials are related to the on-going project.

Co-Chair Donley asked how the additional costs, related to compliance with building codes, that are part of the terminal project are being paid.

DAVID EBERLE, PE, Regional Director, Central Region, Department of Transportation and Public Facilities, testified via teleconference from Anchorage as the project manager on the terminal upgrade project. He stated that the deficiency corrections are being funded from the overall program contingency, which he said is part of the original program. He noted the department has an insurance policy to cover design flaws and that a claim would be filed. He assured of the department's intent of "vigorously pursuing recovery of those costs" but cautioned this would take time.

Co-Chair Donley asked if all the legal fees related to the problems with the terminal project were covered under the insurance policy

or if there would be a supplemental budget request the next session.

Mr. Eberle answered that the legal fees are currently funded from the existing project's budget. He stated that how much of these costs are recovered depends upon the bids submitted for the remaining work on the project and subsequently, whether there is a supplemental budget request.

Senator Ward asked for an explanation of the insurance policy and the process of determining the responsible party and recovering expenses from that party.

Mr. Eberle detailed that insurance policy was purchased to "cover the entire project" and explained it covers any design errors or omissions related to the engineering work. He shared that the design firms are denying responsibility, which he said is standard. He stated that the insurance company has been notified of the intent to file the claim. He stressed the department intends to pursue the responsible party with assistance from the Attorney General's Office and outside counsel. He estimated it would be two years before the matter is concluded.

Senator Ward asked if the department is also accounting for the cost of lost revenue due to delay of the project in its claim. He noted the additional retail and airline space the expansion is to provide.

Mr. Eberle responded that those costs could be calculated after the terminal is operational and revenue is earned.

Senator Ward requested an estimate of the amount of lost revenue, particularly for the nine months to date that the opening has been delayed. He understood that exact figures could not be calculated but wanted an estimate within \$400 to \$500.

Senator Austerman referenced the letter from the Department of Transportation and Public Facilities listing the \$8.7 million for the projects that relate to the terminal upgrade. He noted there is a remaining amount of \$134,200,000 and asked if for a detail of the planned expenditures of these funds.

Mr. Parkan noted that this item is included in the governor's proposed FY 02 Capital Budget legislation and stated he would provide that information. He noted some projects are partially funded through federal international airport improvement funds, others are bond funded and a few are revenue-funded projects. He pointed out environmental expenses could not be funded with bond

revenues because they are not considered an asset. He shared that the bond revenue would be used for state match of the federal funds.

Senator Austerman requested identification of this information in relation to the bill.

AT EASE 11:14 AM / 11:17 AM

Senator Austerman asked why this bill was not introduced earlier in the legislative session since the projects are contained in the capital budget.

Mr. Parkan responded this bill, sponsored by the Senate Transportation Committee is similar to one introduced by the governor in January 2001.

Co-Chair Kelly noted the governor's bill has been in the Senate Finance Committee since the first two weeks of the legislative session.

Senator Ward added that there has been extensive discussion on the matter of funding sources, responsibility for the delays, and whether the terminal expansion project would essentially need to be done twice. He expressed that although it would be at least two years before the responsible party is determined, the citizens would pay the price of the project delays and increased costs.

Senator Ward stressed that Senator Cowdery insisted on the new legislation, not the Senate Transportation Committee, which sponsored it.

Senator Hoffman noted SB 218 lists the amount of \$142.9 million as the bonding authority, but the fiscal note increases this amount by \$5 million. He asked for an explanation.

Mr. Parkan directed attention to a more current fiscal note dated May 2, 2001. He shared that the airline industry requested \$5 million be changed from bond funding to revenue funding, which he said reduces the bond amount. It was determined that this fiscal note was not in possession of the Committee at this time.

Mr. Parkan detailed the \$5 million in question is for the relocation costs of the airlines and was included in the negotiations between the Department of Transportation and Public Facilities and the airline companies.

Co-Chair Donley wanted to know where the funding comes from if it

is not bonded.

Mr. Parkan responded the monies are from the International Airports Revenue fund. He detailed the list of proposed projects attached to the aforementioned letter, explaining the various funding mechanisms for each.

Mr. Eberle established for Co-Chair Donley, that he is not the project manager of the terminal extension project, but rather the overall program director.

Co-Chair Donley shared that he has learned that the project manager of the terminal project is the same project manager of the Alaska Center for the Performing Arts in Anchorage. He asked if this were true.

Mr. Eberle replied that the project manager for the terminal project is a Department of Transportation and Public Facilities employee. He noted a variety of consultants are working under contract with the state on this project. One of those consultants, he informed is Rise Alaska and the owner of this firm had been involved in construction of the performing arts center under a different company name.

Co-Chair Donley asked if the contracts were competitively bid contracts or sole source.

Mr. Eberle answered the proposals are all competitively bid.

Co-Chair Donley shared concerns with others in Anchorage about the cost overruns incurred during construction of the arts center. These concerns, he said, grow because the same contractor responsible for those delays is involved in the airport project.

Mr. Eberle responded that Co-Chair Donley could review the terms of the contract at any time.

Co-Chair Donley expressed he also wanted details of the bid criteria and whether any consideration is given to the past performance of a contractor.

Mr. Eberle stated he would provide the evaluation criteria and the scores given for these bids.

Senator Leman clarified that "contractor" used in this context, applies to professional management, engineers or other technical service providers.

Senator Green pointed out that in the future many of these questions would be answered in accordance to the provisions on page 2 of the committee substitute. These, she explained address reporting requirements of expenditures, cost overruns, etc. She stated her support of these provisions.

Senator Green offered a motion to move from Committee, CS SB 218 (TRA) with \$25,000 fiscal note from the Department of Revenue.

There was no objection and the bill MOVED from Committee.

AT EASE 11:26 AM / 11:39 AM

#HB242

CS FOR HOUSE BILL NO. 242(FIN)

"An Act relating to reemployment of and medical benefits for retired members of the teachers' retirement system and public employees' retirement system; relating to the inclusion of cost-of-living differentials on compensation and benefits under the public employees' retirement system; and providing for an effective date."

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

DENISE HENDERSON, staff to Representative Pete Kott, testified read a statement into the record as follows.

Basically, what House Bill 242 is designed to provide a tool to bring back retired employees into the public service workforce as well as retain those who are about to retire and possibly aide in the further recommendation and recruitment of younger, qualified employees.

The bill itself will make a modest improvement to the Alaska retirement statutes to assist Alaska's public employers in attracting and retaining qualified workers as workforce shortages become more pronounced. Employers throughout the state now are having difficulty in filling certain vacancies and this is occurring at all levels: the teaching, professional, technical and clerical.

GUY BELL, Director, Division of Retirement and Benefits, Department of Administration detailed the bill, noting that Sections 1,2,4 and 6 - relate to the teachers retirement system. He pointed out these sections contain segments equivalent to those in SB 149, that

passed the Senate a week prior.

Mr. Bell detailed Section 1, which permits school districts to hire retired teachers after a declaration of a shortage or an anticipated shortage by a school district. He shared that this section also allows those retired teachers an option of continuing to receive their retirement benefits during their return to teaching, but no longer accrue an additional benefit during their return. He pointed out there is a sunset provision of the year 2006 to these provisions. He qualified that a proposed committee substitute changes this date to the year 2005.

Mr. Bell informed that Section 6 relates to a "modest enhancement" to medical benefits for Tier II teachers. He explained this is designed as a retention plan in that it provides full medical coverage paid by the Teachers Retirement System (TRS) after 25 years of teaching. He noted that currently a teacher is allowed to retire after 25 years, but does not become eligible to receive medical benefits until age 60, when the system pays half of the costs. He also noted there is a "modest" cost to the TRS fund of .17 percent. He calculated the additional cost based on a \$40,000 annual salary to be \$68 per teacher per year.

Mr. Bell next addressed Sections 7 and 8, which makes equivalent changes to the Public Employees Retirement System (PERS). He listed this applies to state as well as political subdivision, such as municipal government employees, peace officers, professional and technical employees, and "other workers."

Mr. Bell stated that Section 10 similar provides similar enhancement of medical benefits to public employees as TRS employees, as detailed above.

Mr. Bell concluded with Section 11, which simplifies the method the geographic pay differential is included in the calculation of a retirement benefit and applies to state employees. He shared this is related to legislation adopted in 1986, which required employees hired after that date to spend at least 50 percent of their time in a pay differential area in order for the pay differential to be included in the calculation of their retirement benefits. He noted this legislation also included a provision requiring a comparable amount or "equivalent steps" in the total service to qualify for the retirement pay differential. He stressed the confusing second portion is hard to interpret and explain to members, which makes career planning difficult. He relayed concerns from the Alaska State Troopers and the Department of Fish and Game because these agencies tend to transfer employees across the state during their careers. He stated that HB 242 changes the geographic pay

differential provision to only require an employee to spend at least 50 percent of their career in a pay differential area to qualify for the increased benefits in their retirement.

Senator Austerman asked if this legislation applies to employees who retired under the Retirement Incentive Plan (RIP) or other early retirement efforts.

Mr. Bell answered that this bill specifically prohibits an early retiree from returning to work and also does not allow such employees to receive these additional considerations. He explained an employee must have a "full service" retirement in order to qualify for the added benefits.

Co-Chair Kelly announced that because members have not had ample opportunity to review this legislation, he planned to keep it in the Committee.

Senator Lemman moved to adopt CS HB 242, 22-LS0885\J as a working draft.

Co-Chair Kelly asked if the sponsor supported the committee substitute.

Ms. Henderson answered yes.

Without objection, the committee substitute was ADOPTED.

TIM ROGERS, Legislative Program Coordinator, Municipality of Anchorage, testified in support of the bill. He told of the "brain drain" of qualified teachers and the economic necessity for teachers to retire from teaching and work in a second career rather than continue to teach.

Co-Chair Kelly ordered the bill HELD in Committee.

AT EASE 11:52 AM / 11:56 AM

#HB142

SENATE CS FOR CS FOR HOUSE BILL NO. 142(HES)
"An Act relating to the Alaska temporary assistance program;
and providing for an effective date."

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

Senator Green indicated this legislation allows the Department of Health and Social Services to reduce benefits during the months of July, August and September for two-parent families participating in the Alaska Temporary Assistance Program (ATAP). She discussed how this relates to out-dated language from the discontinued welfare assistance program that was included in ATAP when it was created. She assured, "This is the piece they need. This is all they need this year" in order for the department to be in compliance.

Co-Chair Donley noted that the Senate Health and Social Services committee substitute does not include all the items mentioned in the governor's transmittal letter. [Copy on file.]

JIM NORDLUND, Director, Division of Public Assistance, Department of Health and Social Services, testified the committee substitute is a "stripped down" version of the bill introduced at the beginning of the session. He informed that the committee substitute contains an "urgent" provision that places the state in compliance with federal Temporary Assistance for Needy Families (TANF) statute that exempts welfare recipients living in certain Alaska Native villages from the 60-month limit on benefits.

[Teleconference equipment temporarily interrupted the meeting.]

Mr. Nordland explained that other provisions contained in the original bill yet removed from the committee substitute, have a deadline of June 2002 and could therefore be postponed.

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Mr. Nordland informed the Committee that the other remaining provision in the committee substitute is in response to a court case challenging statutory language, which had been taken from the laws governing the previous public assistance program, but became ambiguous when incorporated in the ATAP laws. This language addressed the seasonal reduction of benefits to two-parent households. He described the "carried over" language stipulates the department must identify the principal wage earner in a family and the employment status of that wage earner.

Mr. Nordland stressed the legislative and Administrative intent was to require that all two-parent families, with the exception of those with one parent disabled, should have their benefits reduced during the summer months. He explained the rationale was that in two-parent families, one parent should be able to work and also because there are more employment opportunities during the summer

season. However, he continued, the courts did not consider intent but rather the "letter of the law" and ruled that the department had failed to perform an eligibility determination of the principal wage earner and that parent's employment status.

Mr. Nordland stated Section 2 of the committee substitute, "removes that antiquated law" and allows the department to reduce benefits to all able-bodied two-parent families in the summer.

Senator Green offered a motion to move SCS CS HB 142 (HES) from Committee with accompanying Department of Health and Social Services zero fiscal note.

There was no objection and the bill MOVED from Committee.

AT EASE 12:03 PM / 12:05 PM

#HB193

SENATE CS FOR CS FOR HOUSE BILL NO. 193(JUD)

"An Act relating to the primary election and to the nomination of candidates for the general election; and providing for an effective date."

REPRESENTATIVE JOHN COHGILL, JR. shared that he has been following this bill since it was heard in the House State Affairs Committee, which he chairs. He pointed out the most substantive change made to the governor's original version of the bill is the insertion of "to vote the party's ballot if the voter is permitted by the party's bylaws" in Section 3, Subsection b on page 2, line 21 of the committee substitute. He expressed this, "is really getting to the heart of the issue."

Representative Coghill informed that the legislation requires that each political party have a primary election ballot. He compared the Senate Judiciary committee substitute to the House State Affairs committee substitute and alluded to differences regarding the inclusion of nonpartisan and undeclared party candidates.

Representative Coghill relayed that the issue of filing petitions was raised in the Senate Judiciary Committee and pertinent language is contained in Section 5 on beginning on page 3 of the Senate Judiciary committee substitute. He pointed out the June 1 filing date for candidacy and that the petition certification deadline is the date of the primary election.

Representative Coghill expressed the reason he was presenting this bill was due to a commitment he made to the House Judiciary Committee chair.

Representative Coghill emphasized, "I really strongly believe...the party should have the right to select its primary candidate through the primary election selection process." He stated that this committee substitute allows the political parties to chose their candidates, and if they so choose, to invite those who are not affiliated with their party. He said the version of the bill that passed the House of Representative provided that the parties must include the undeclared and nonpartisans unless that party specifically chooses to exclude them.

Representative Coghill opined that this legislation should follow a United States Supreme Court ruling on California Democratic Party vs. Jones, giving the parties the right to chose whether undeclared and nonpartisans are included. "However, I have to confess to you," he qualified, "that I know that my caucus, the other side of the aisle, would much rather favor the mandated open to the 'U's and 'N's and let the parties exclude them if they so wish." He stressed this is a policy call.

Representative Coghill again spoke to the United States Supreme Court case, which resulted from an initiative pertaining to the blanket primary, and where the court found that the blanket primary is unconstitutional and "the right to association was given then, to the parties."

Representative Coghill emphasized the Senate Finance Committee is the last forum to determine whether the inclusion of undeclared and nonpartisans is mandated or optional. He stated this is to "protect the party's right to associate freely and put forth a candidate that they so chose." He noted that the House State Affairs committee substitute would also be acceptable because it allows a political party to exclude.

Representative Coghill told how the political parties could be required to submit their by-laws to the Division of Elections, stating whether they would include the undeclared and nonpartisans. He noted another option would be to default to exclusion unless the political parties specified otherwise. He stressed that he wanted the Senate Finance Committee to make this determination because he understood that a closed ballot is "a major policy call in the State of Alaska."

Representative Coghill commented that the blanket primary system has not worked well for the political party system. He summarized,

"should we allow the parties to chose their own candidates?" He pointed out that undeclared and nonpartisan comprise a large portion of voters in the state. This legislation, he stated, would require these voters to make a choice as to whether they wish to be "involved in the party or lobby the party to allow them to vote on their primary ballot." He remarked, "I think that's right. I think that's proper."

Senator Wilken asked if the Senate Judiciary committee substitute excludes undeclared and nonpartisan unless specifically allowed in the political party's by-laws, and that a draft committee substitute, prepared by the testifier, includes undeclared and nonpartisan unless specifically excluded in the party's by-laws.

Representative Coghill affirmed.

Senator Wilken established that the draft committee substitute contains similar language as the House State Affairs committee substitute, which passed the House of Representatives.

Representative Coghill reaffirmed and noted the draft committee substitute contains language from the Senate Judiciary committee substitute pertaining to petitions for candidacy.

Senator Ward asked if a party could restrict a member of another party from voting its ballot.

Representative Coghill affirmed.

Senator Hoffman asked how voters registered as undeclared or nonpartisan would vote in the primary if the political parties decided to exclude them. He predicted some would become angry if they could not participate in the primary election.

Representative Coghill agreed and said this is a policy call. He noted that undeclared and nonpartisan voters have had the opportunity to choose candidates from political parties without joining that party. He read from the Supreme Court ruling "the voters desire to participate does not become more weighty simply because the state supports it." He continued reading, "the voter who feels himself disenfranchised should simply join the party that may put him to a hard choice but it is not a state-imposed restriction upon his freedom, of association that is... Whereas compelling party members to accept the selection of nominees is a state-imposed restriction upon theirs."

Senator Olson asked about instances where several candidates from one party have filed, but few, if any have filed for another party.

He asked if there is a mechanism to address this.

Representative Coghill replied, "That's what the general election process is all about." He stated that one party should have the right to select from several candidates of its party even if there are no other candidates outside that party

AVRUM GROSS testified in Juneau as chair of "a taskforce to rewrite the state's primary laws after it became clear that the existing law was unconstitutional." He listed the taskforce membership as including all the former lieutenant governors of the state, both Republican and Democrat, and two former Attorneys General. He described the taskforce's charge to draft legislation addressing the matter.

Mr. Gross detailed the issues was because Alaska had a blanket primary, which he defined as one ballot containing all candidates from all political parties and thus allowing voters to select a candidate from any party for each office regardless of the voter's party affiliation. He noted that the U.S. Supreme Court, in California Democratic Party versus Jones, ruled that a party could chose to restrict the people who could vote for its candidates in the primary election. He informed there has to be a mechanism whereby the state recognized the desire of the parties to limit the people who could participate in selecting its candidates.

Mr. Gross relayed that the taskforce heard testimony from the political parties, then drafted a law that was "as close to the existing law as we could" and yet incorporate the Supreme Court decision. The resulting legislation, he said, proposes a "modified blanket primary law", which provides that a ballot lists all the candidates from all the parties and was available to any voter unless a party decided in its by-laws that it did not wish certain people to participate in the selection of that party's candidates.

Mr. Gross detailed the taskforce's recommendation to have ballots that contain the candidates from all parties not excluded by a specific political party. He gave an example, saying if the Democratic Party determined that members of the Republican Party should not vote for their candidates, no Democratic candidates would appear on the ballot available for Republican voters. However, he continued, candidates from other political parties that have not made such a decision with regard to the Republican Party, would appear on the ballot available to Republican voters in addition to the Republican candidates. He explained that all ballots would contain candidates from all parties except for ballots available to a party in which another party has determined should not be allowed to vote for its candidates. In this manner,

he said, candidates from some parties could appear on more than one ballot.

Mr. Gross surmised that this method recognizes the Supreme Court case, by allowing parties to limit the people who vote for its candidates. However, he pointed out, this does not prohibit people from voting for candidates of different parties in some races if that party allowed them to. He emphasized this retains the blanket primary.

Mr. Gross expressed the taskforce's intent to encourage the maximum amount of public participation in the primary election process to the extent that parties do not prohibit it. He shared the taskforce's understanding that the more races a voter is allowed to participate in, the more encouraged they would be to vote in the primary election.

Mr. Gross told the Committee that the version of the bill passed by the House of Representatives is no longer a blanket primary. Instead, he stated, the House State Affairs committee substitute establishes a set of closed primaries, each party having its own ballot. He pointed out that the only voters who can receive a ballot are members of the political party or those who that party has determined are allowed that ballot. He stressed that this method does not allow nonpartisan and undeclared voters to participate in different primary races. He explained that the only candidates a nonpartisan or undeclared voter can chose are from the one party included on the ballot. He added that this applies to all races.

Mr. Gross noted the governor had no input in the original legislation other than introducing what the taskforce drafted to the legislature. He stated, "We thought a closed primary system would really shut down the process and not encourage people to participate." He remarked that even with the current blanket primary system, voter participation has reduced and as a result, "we were fundamentally opposed--and I mean Republicans and Democrats alike on this commission, this isn't a partisan effort-- to setting up a closed primary. That was the universal view of the commission."

Mr. Gross asserted the House State Affairs committee substitute is a "seriously restricted bill. It changes the primary system of Alaska radically." He stated it is, "giving parties control over the system; control not mandated by the Supreme Court." In addition, he said, "This is a totally different concept." He expressed that besides affecting voter participation, "in the end the state sets up the process by which candidates are nominated for

the general election. If the state sets it up, it should allow, it seems to me, the maximum number of citizens to participate in that process." He remarked that the committee substitute instead minimizes citizen participation by discouraging their participation in the primary system. He stated, "You can do this in the name of partisan politics if you want, but at the same time, the voters don't have any other way to make their views known."

Mr. Gross pointed out that over sixty percent of the voters in Alaska are not registered to a political party. He stressed that the task force objected to a primary system directed only for political parties, and that encourages voters to join parties they otherwise do not want to join.

Senator Austerman referenced language inserted to Section 6, on page 4, line 31 and page 5, lines 1 and 2 of the Senate Judiciary committee substitute. This language reads as follows.

(17) if the candidacy is for the office of the governor, the name of the candidate for lieutenant governor running jointly with the candidate for governor.

New Text Underlined

Senator Austerman asked the witness to comment on this language.

Mr. Gross replied that the taskforce never addressed this matter.

Representative Coghill noted this was not included in earlier versions of the bill and that he had no knowledge of any discussions on the matter. He explained the language relates to provisions for a candidate seeking nomination by petition and stipulates that a gubernatorial and lieutenant governor candidate are listed together on a filing petition.

Senator Ward asked if undeclared and nonpartisan voter could vote any ballot under this bill.

Representative Coghill responded that the parties would chose which voters could receive a ballot containing that party's candidates.

Senator Wilken asked which version of the bill Mr. Gross supports.

Mr. Gross responded he supports the original bill that was introduced by the governor in the House of Representatives, which he pointed out is completely different than any version here.

Co-Chair Kelly ordered the bill HELD in Committee.

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ADJOURNMENT

Co-Chair Pete Kelly recessed the meeting at 12:31 PM.