

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**May 06, 2001**  
**9:20 A.M.**

**TAPES**

SFC-01 # 98, Side A  
SFC 01 # 98, Side B  
SFC 01 # 99, Side A  
SFC 01 # 99, Side B

**CALL TO ORDER**

Co-Chair Pete Kelly convened the meeting at approximately 9:20 A.M.

**PRESENT**

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

**Also Attending:** REPRESENTATIVE BRIAN PORTER; REPRESENTATIVE NORMAN ROKEBERG; NICO BUS, Administrative Services Manager, Division of Support Services, Department of Natural Resources; JOHN MANLEY, Staff, Representative John Harris; ELMER LINDSTROM, Special Assistant, Office of the Commissioner, Department of Health and Social Services; CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community and Economic Development; ED SASSER, Tobacco Enforcement Coordinator, Division of Public Health, Department of Health & Social Services; DOUG WOOLIVER, Administrative Attorney, Office of the Administrative Director, Alaska Court System; BRUCE JOHNSON, Commissioner, Department of Education & Early Development; TOM WRIGHT, Staff, Speaker of the House, Representative Brian Porter; MIKE TIBBLES, Staff, Representative Williams.

**Attending via Teleconference:** From Anchorage: BLAIR MCCUNE, Deputy Director, Public Defender Agency, Department of Administration, Anchorage; Lieutenant Dunnagan, Department of Public Safety.

**SUMMARY INFORMATION**

SB 186-MUNICIPAL TAX:PIPELINE PROP/G.O.BOND DEBT

Following discussion, CS SB 186 (FIN) was reported out of Committee with a "do pass" recommendation and with a fiscal note by the Senate Finance Committee and the Department of Revenue.

HB 8-LEGIS.PIONEER ROAD DEVELOPMENT TASK FORCE

Following a brief discussion, SCS CS HB 8(TRA) was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by the Legislative Council, #2 by Department of Transportation & Public Facilities and a new note by the Department of Community & Economic Development.

HB 32-SEX CRIME AND PORNOGRAPHY FORFEITURES

Following clarification, SCS CS HB 32(JUD) was reported out of Committee with "no recommendation" and with fiscal note #1 by the Alaska Court System and #2 by the Department of Public Safety.

HB 71-EDUC. OF DISABLED OR GIFTED CHILDREN

Following discussion, CS HB 71 (FIN)am was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by the Department of Education & Early Development.

HB 76-NEW FACILITIES FOR API

Following the adoption of Amendment #1, SCS CS SS HB 76 (FIN) was reported out of Committee with "no recommendation" and with fiscal note #1 by the House HESS Committee, #2 by Department of Transportation & Public Facilities and #3 by Department of Revenue.

HB 90-MUNICIPAL SCHOOL BOND REIMBURSEMENT

Following discussion, CS HB 90 (FIN) was reported out of Committee with "individual recommendations" and with fiscal note #1 by Department of Education & Early Development.

HB 108-DEPT NATURAL RESOURCES RECORDING FEES

Following discussion, HB 108 was reported out of Committee with a "do pass" recommendation and with a new fiscal note by the Department of Natural Resources.

HB 132-ALCOHOL:LOCAL OPTION/DWI/LICENSING

Following discussion, SCS CS HB 132(FIN) was reported out of

Committee with "no recommendations", a House Letter of Intent, and with new fiscal notes by Department of Corrections (2 total), Department of Law, Department of Health & Social Services (2 total), the Alaska Court System, and the Department of Administration (2 total).

#### HB 172-THERAPEUTIC COURTS/ SUPERIOR COURT JUDGES

Following discussion, SCS CS HB 172(FIN) was reported out of Committee with "no recommendation" and with fiscal notes #2 by the Department of Corrections, #5 by Department of Health & Social Services, #8 by the Department of Law and new notes by the Alaska Court System and the Department of Administration.

#### HB 179-UNDERAGE DRINKING & DRUG OFFENSES

Following introduction and discussion, CS HB 179(FIN) was reported out of Committee with a "no recommendation" and with fiscal notes #2 by the Department of Corrections, #5, #6 & #10 by the Department of Health & Social Services, #8 by Department of Administration, #9 by the Alaska Court System, and #11 by the Department of Law.

#### HB 228-SALE OF TOBACCO PRODUCTS

Following discussion, CS HB 228 (FIN) was reported out of Committee with "no recommendation" and with new fiscal notes by the Department of Community & Economic Development, Department of Law, and the Department of Health & Social Services.

#### HB 234-TOBACCO SETTLEMENT: BONDS & SMOKING PROGRAM

Following Committee discussion, SCS CS HB 234(FIN) was reported out of Committee with a "no recommendation" and with two fiscal notes by the Department of Revenue.

#### HB 250-OPERATING BUDGET MISSIONS AND MEASURES

Following discussion, SCS CS HB 250 (FIN) was reported out of Committee with "no recommendation" and with fiscal note #1 by the House Finance Committee.

#HB108

#### HOUSE BILL NO. 108

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

NICO BUS, Administrative Services Manager, Division of Support Services, Department of Natural Resources, indicated that HB 108 would set up an account within the general fund and that it would require the Recorder's Office to submit that annual operating and capital budget for Legislative appropriation. He added that the legislation was patterned after HB 418, in which, similarly situated programs had been switched to a Receipt Support Service funding source.

Mr. Bus commented that the Recorder's Office collects approximately \$4 million dollars in fees from customers. Currently the \$2.4 million dollars in that office is used strictly for that office's business. There are fourteen offices in the State, eleven of which are paid for by that budget. Three of the offices are still located in the Court System. The facility grant is paid for by the Department of Administration. The intent of the bill is to establish a stable funding source.

Co-Chair Kelly noted that last year, the concern had been discussed through SB 119. He inquired if Committee members believed that the request could fall within the category of receipts support services.

Co-Chair Donley questioned the reasons why it had not been transferred into that classification before.

Mr. Bus explained that last year there was legislation which was attempting to change the way that recording in the State is done. Since the legislation has been passed, the Division would like to change the funding source from program receipts to receipt supported services.

Co-Chair Donley asked if the \$150,000 increase would be necessary.

Mr. Bus explained that funding was needed in order to maintain the basic level of operation.

Co-Chair Kelly asked if that had been discussed during the budget process.

Mr. Bus responded that it had been discussed in the budget process and also in Subcommittee. Because of the legislation, a decision was made to address these needs through a fiscal note.

Co-Chair Kelly asked if Senator Leman, who was the Chair of the Natural Resources Subcommittee agreed with that ascertainment.

Senator Leman acknowledged that he did.

Co-Chair Donley referenced the two fiscal notes. He asked if the fiscal note dated April 25<sup>th</sup> would replace the note from February.

Mr. Bus acknowledged that it would.

Co-Chair Donley interjected that he supported changing the fund source, however, thought it should be handled through the subcommittee process.

Co-Chair Kelly observed that the Subcommittee had not prioritized that concern with the understanding that it would be addressed through a fiscal note.

Senator Lemman noted that he did not remember. He agreed to go back and check those conversations and requested an at-ease.

AT EASE 9:30 AM/ 9:42 AM

Senator Lemman stated that the Subcommittee had recommended funding at the Governor's requested level. In the slow-track supplemental, the Subcommittee recommended a \$100 thousand dollar increase. During the Subcommittee process, the increased costs were discussed and it was decided that it should be taken care of through a fiscal note.

Co-Chair Kelly recommended that only \$75,000 of the requested fiscal note be funded.

Co-Chair Donley recommended that in the future, the subcommittees should not structure budgets based on increased requests in the fiscal notes.

Co-Chair Donley moved to adopt a new fiscal note, reflecting the \$75,000 dollar increase. There being no objection, a change to the fiscal note was ADOPTED.

Co-Chair Donley moved to report HB 108 out of Committee with individual recommendations and with the amended fiscal note. There was no objection.

HB 108 MOVED from Committee with a "do pass" recommendation and with a new fiscal note by the Department of Natural Resources.

#HB228

CS FOR HOUSE BILL NO. 228(FIN)

"An Act relating to the accounting of fees from business

license endorsements for tobacco products, to the disclosure of certain confidential cigarette and tobacco product information, to notification regarding a cigarette manufacturer's noncompliance with the tobacco product Master Settlement Agreement, to business license endorsements for sale of tobacco products, to citations and penalties for illegal sales of tobacco products; and providing for an effective date."

JOHN MANLEY, Staff, Representative John Harris, advised that Alaska has a problem with the selling of tobacco products to kids. In a recent survey of tobacco retailers initiated by Department of Health & Social Services, it was determined that nearly 2/3 of vendors in rural Alaska sold tobacco products to children, while more than 1/3 of those vendors did in urban Alaska did.

HB 228 seeks to derail some of the ever-growing problems associated with tobacco sales to minors and the consequences that should occur by "beefing" up enforcement of State laws prohibiting those sales to minors.

Mr. Manley continued, the bill would increase revenues from tobacco vendors to help pay for enforcement efforts by raising the fee for a tobacco endorsement on a business license from \$25 to \$100 dollars. It would also require a separate endorsement for each location at which a retailer sells tobacco products. Current law requires only requires one endorsement, regardless of how many locations or outlets a business has in which it can sell tobacco. Mr. Manley concluded that the bill adds language to allow the Department of Revenue to keep better track of compliance with the tobacco settlement.

Co-Chair Kelly understood that there was no language in the bill which kept vendors from being in compliance with federal regulations. He then referenced the fiscal note.

ELMER LINDSTROM, Special Assistant, Department of Health and Social Services, Department of Health and Social Services, stated that the standard non-compliance penalty would be the \$1.5 million dollars which is 40% of the substance abuse block grant. Congress, several months ago, passed legislation that would allow for an alternative penalty. That penalty clarifies that it would be based on the amount of the block grant and the percentage out of compliance. That number could satisfy the penalty. The fiscal note number really reflects the alternative penalty amount and is not an arbitrary figure. He believed that with these resources, the compliance rate could be brought down. He stated that the funds

would be put to good use.

Co-Chair Kelly asked if the amount of funding was associated with the statutes. He asked if the federal government was asking the State to place \$485 thousand dollars into enforcement.

Mr. Lindstrom explained that there is a formula. For every percentage which the State is out of compliance, would be applied against the total block grant. That amount would generate the amount of new resources needed to satisfy the alternative and that is the amount reflected in the fiscal note. He reiterated that those expenditures would be used for good purposes.

Co-Chair Kelly asked how much of the \$487 thousand dollars would be associated with the new law being created.

Mr. Lindstrom advised that those funds would be used for a number of new purposes which relate to the enforcement program. He added that the Department of Health & Social Services portion of the \$487 thousand dollars would fund the activities in the Department of Law related to the suspension of tobacco endorsements and fund all the activities in the Division of Occupational Licensing to pursue those suspensions.

Mr. Lindstrom added that the Department would like to be able to fund merchant education in order to train clerks and retailers to not sell tobacco to minors.

Co-Chair Kelly asked if the enforcement could be funded without the use of statutes.

Mr. Lindstrom agreed it could. He explained that the bill involves many agencies coming to the table to address the situation statewide. He stressed that the bill would be meaningful in streamlining that process in order to have a better enforcement program.

Co-Chair Kelly thought that within the bill, the fiscal note would be creating the statute.

Senator Green inquired the process used to determine the State's compliance rate.

Mr. Lindstrom advised that under federal law, the State of Alaska is required every year to get a random sample from outlets, paid for endorsement for their business license to sell tobacco. A random sample is taken from that database and then the Division is charged with providing a compliance check. The State works with the local police departments; it hires minors to go and attempt to

buy tobacco. He reiterated that the compliance rate statewide is unacceptable at 34%. The goal and target is 20%.

Senator Green inquired if Alaska uses the same procedures as other states.

Mr. Lindstrom thought that it was. He clarified that it is what is required under federal law. However, how it is addressed probably varies from state to state.

Mr. Lindstrom interjected that there are several aspects of the bill waiting for the master tobacco settlement.

Senator Green questioned if this year's fiscal request would represent that which was intended to be used for next year.

Mr. Lindstrom stated that it would be an annual federal requirement. He thought that the State would likely be found in non-compliance next year, based on the check from last fall. Until the concern is addressed, this will continue to be an annual problem. The federal government is getting more rigorous in defining the law.

AT EASE 10:01 AM/10:10 AM

Senator Green asked if the report regarding the location data had been distributed.

Mr. Lindstrom noted that he would research that and would provide the information to Committee members.

Senator Austerman asked why there had been no change in the compliance.

Mr. Lindstrom explained that Alaska simply has not enforced the statues consistently. Because there are so many agencies involved, making progress in any given year, is dependent on personalities. Some police are attempting to make it work. He stressed that there must be interest on the local level. And the State has not done a very good job.

Senator Green voiced frustration that laws adopted six to seven years ago are not currently being enforced, and now, more funding was being requested for further enforcement. She did not foresee a change unless law enforcement becomes more aggressive.

LIEUTENANT DUNNAGAN, Department of Public Safety, testified via teleconference from Anchorage and offered to answer questions of

the Committee. He noted that the Department of Public Safety has taken up a new interest in the problem. Presently, officers do write tickets to juveniles that are smoking, however, it is "hit and miss" based on the attitude of certain officers. He believed that this was a correctable problem.

Co-Chair Donley referenced fiscal note #4, Department of Community & Economic Development. He asked about the FY02 change in revenues requesting additional licensing fees.

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community and Economic Development, explained that the bill changes the law to require each outlet to have an endorsement. Current law provides for each business to have only one endorsement. Under the proposed bill, each business will need five endorsements. She stated that the Division will be busy selling more endorsements.

Ms. Reardon pointed out that the first section of the bill clarifies that the receipts would be deposited and that the Division would not be spending those receipts.

Senator Donley inquired where they would be deposited.

Mr. Lindstrom pointed out that in the Department of Health & Social Services fiscal note, in the out years, those designated receipts would be indicated as revenue.

Co-Chair Donley asked if that was intended to reduce what was taken from the tobacco settlement.

Mr. Lindstrom explained that originally, it had been submitted as general funds. The House Finance Committee changed that to the Tobacco Settlement Funds.

ED SASSER, Tobacco Enforcement Coordinator, Division of Public Health, Department of Health & Social Services, noted that at present time, the State does not know how many tobacco vendors there are. The police departments do maintain a database. The bill would help the State to identify who is selling tobacco statewide. The endorsement fee would assist with enforcement activity by increasing revenue. The enforcement authority in the bill would help the State cover the areas that the troopers cannot get to. It would be most efficient to continue to contract with the police departments throughout the State as they are currently doing the best job. It has not been the intent to create a new infrastructure. Mr. Sasser pointed out that the State is starting to see good results. He believed that there are certain

methodologies that the State can use for a statewide tobacco enforcement program to bring it into a compliance ratio.

Co-Chair Donley offered a motion to report CS HB 228(FIN) out of Committee with individual recommendation and with the accompanying fiscal notes.

Senator Leman indicated that the fiscal notes show the expense as on going. He asked what would happen if Alaska reached its' goal of 20%.

Mr. Lindstrom believed that the State could make good progress in the future. Enforcement is only one piece of a comprehensive tobacco control program. When the State does not need to spend the money on enforcement, there are other elements of a control program that would suggest to be appropriate and that the Legislature would be able at that time to revisit the issue. He assumed that for the next few years, the requested amount would be the level of expenditure needed.

Co-Chair Donley withdrew his motion to move the bill from Committee. There being no objection, the motion was withdrawn.

Co-Chair Kelly recommended a sunset clause so that the bill would come before the Committee for review at a certain time.

Senator Leman reiterated his concerns, questioning how the out-years could create the best use of the State's money.

Mr. Lindstrom acknowledged that point was well taken.

Co-Chair Kelly recommended that the Committee zero out the fiscal note for the out years.

Co-Chair Donley thought that the Administration would use the fiscal notes to their advantage. He agreed that they should be zeroed out. Senator Donley recommended adding a Letter of Intent on the Senate Floor, which would state that if the State comes into compliance, the program should be phased out.

Senator Leman interjected if it was not phased out, it should then be revisited to determine if that would be the best use of the State's money.

SFC 01 # 98, Side B 10:27 AM

Co-Chair Kelly recommended zeroing out the fiscal note and adding a Letter of Intent.

Senator Green thought that the penalty was still in "limbo".

Mr. Lindstrom advised that the federal requirements are evolving. He thought that perhaps over time, the component could be made into a separate category.

Senator Austerman noted that if the Legislation required an annual report, then the concern would come back to the Legislature every year.

Co-Chair Kelly thought that would be addressed in Intent Language.

Co-Chair Kelly MOVED to zero out the fiscal note for FY2005 and draft intent language for the Senator floor.

Co-Chair Donley referenced fiscal note #2, pointing out a civil position which he thought could be phased out. He pointed out that there currently are two employees within the Division of Occupational Licensing.

AT EASE 10:35 AM/ 10:36 AM

Co-Chair Donley moved that all spending portions of the fiscal notes, #5, #4, #2, be zeroed out for FY2005. There being no objection, the motion was ADOPTED.

Co-Chair Donley inquired if there currently were personnel working on the tobacco endorsements.

Ms. Reardon replied there are.

Co-Chair Donley questioned the necessity of adding a new clerk.

Ms. Reardon explained that volume was being increased. She stated that it would be "good" if the Division became more proactive, stressing that to date, the Division has been very passive.

Co-Chair Donley thought the position would be a more appropriate part-time position.

Ms. Reardon suggested that "might" be true. She thought that the Division would need a two-year position because first, there would be the need for the multiple endorsements. She pointed out that half of all the businesses would need to have their endorsements within the second year. She acknowledged that once everyone had

signed up, there would probably be less work in the out years.

Co-Chair Donley asked if the fiscal note could designate the investigator only in the out years. He reiterated the recommendation for a temporary position only.

Ms. Reardon commented that the program could be re-evaluated by the Legislature in the out years.

Co-Chair Donley offered a motion to the Division of Occupational Licensing, Department of Community & Economic Development fiscal note, to delete the two positions in the out years from FY2005 on, reduce the two full-time position to one for the years FY2002-2004, and add a temporary position for FY2002 & 2003. He added that language should be inserted to indicate that the Legislature is adding the temporary position to assist with the outreach database with anticipation that once that database is built, then one person would be able to address it.

Ms. Reardon commented that there will be convictions for sales to minors after FY2005. If the State has any need to respond to convictions, she would not be able to bill the applications. She stressed that the Division needs to be able to bill the tobacco business license program for any enforcement activity.

Co-Chair Donley restated the motion.

There being no objection, fiscal note #4 was AMENDED.

Co-Chair Kelly requested that Senator Leman draft the Letter of Intent.

Co-Chair Kelly read proposed language for a Letter of Intent:

"It is the intent of the Legislature that the Department of Health & Social Services annual report its progress in meeting federal compliant standards to reduce tobacco sales to minors."

Co-Chair Donley moved to report CS HB 228(FIN) out of Committee with individual recommendations and with the amended fiscal notes. There being no objection, it was so ordered.

CS HB 228 (FIN) MOVED from Committee with "no recommendation" and with new fiscal notes by the Department of Community & Economic Development, Department of Law, and the Department of Health & Social Services.

AT EASE 10:45 AM/10:47 AM

#HB172

SENATE CS FOR CS FOR HOUSE BILL NO. 172(JUD)

"An Act relating to therapeutic courts for offenders; to the authorized number of superior court judges; and amending Rule 35, Alaska Rules of Criminal Procedure."

HOUSE SPEAKER REPRESENTATIVE BRIAN PORTER explained that HB 172 would establish two therapeutic court pilot projects in Anchorage and Bethel. The courts are designed to serve as working models for the development of other similar courts throughout the State.

The therapeutic courts are designed to:

- Assist offenders toward lasting sobriety;
- Protect society from alcohol and drug related crime;
- Provide prompt payment of restitution to victims;
- Encourage effective interaction and use of resources among criminal justice and community agencies; and
- Reduce long-term costs relating to arrest, trial and incarceration.

The pilot projects would be implemented through joint efforts of the Court System, Department of Law, the Public Defender Agency, the Department of Corrections, the Department of Health & Social Services and other agencies in accordance with a mutually agreed upon plan. The courts are to use existing public agencies, medical and treatment services, housing and other public, private and non-profit community services as well. The Bethel pilot project is designed to coordinate services with municipal and local entities, taking into consideration local resources and cultural traditions, to facilitate rehabilitation.

Co-Chair Donley asked for assurance that should the therapeutic courts go away that the number of judges would decrease. He questioned how the bill would address that mechanism.

Representative Porter understood that the pilot program would sunset.

Co-Chair Donley asked which section of the bill provided for the sunset reference.

Representative Porter noted that the language was located on Page 2, Line 7.

Co-Chair Donley reiterated his concern that when the pilot program ends, that there is no language which repeals the additional judges.

Representative Porter reiterated that it was his understanding that the positions would stay in effect until the sunset date. He recommended that the Courts address that concern.

Co-Chair Kelly advised that the fiscal note indicates that the positions stay "out into the future". He recommended that it be revised.

DOUG WOOLIVER, Administrative Attorney, Office of the Administrative Director, Alaska Court System, explained that now, the way the bill reads, the judges would remain in statute. If the Legislature wanted to sunset those positions, the language would need to change. It is difficult to "un-seat" a sitting judge. If the statute was changed, when a positions opens, it would not be filled.

Co-Chair Donley recommended that a sunset provision be placed into Section 2 of the bill.

Representative Porter commented that it would be a policy of whether to place that language into the bill now or wait until the end of the three years and bring it back for legislative approval.

Co-Chair Donley advised that it would take another bill to make that change.

Mr. Wooliver discussed that the Court System supports HB 172. The bill builds upon the pioneering work that Judge Wannamaker has done in the district court with misdemeanor DWI's (Driving While Intoxicated) and applies that work to felonies on DWI's. It will address those persons with serious drinking problems who have not responded to the current system. Both Anchorage and Bethel already have more felony filings than they can handle. Bethel is the most overwhelmed court in the State of Alaska handling over twice the number of cases per judge. The extra work that comes with the therapeutic model would be too much for the State to handle.

Mr. Wooliver added that if the two judges were brought in, the benefit would be much broader than just the therapeutic courts work and would allow all felony cases to work through the process more quickly. He encouraged members to pass the bill from Committee.

AT EASE 11:00 AM / 1:21 PM

Co-Chair Kelly advised that there was an amendment being drafted for the bill.

Mr. Wooliver reminded Committee members that the Superior Court position in Bethel is actually an upgrade of an existing district court position. The funding offsets that which was provided for the district court judge.

Co-Chair Kelly clarified that the \$486,000 was a net amount "over and above", and would not create something new but rather upgrade the current district court judge.

Mr. Wooliver affirmed that information.

Co-Chair Kelly stated that HB 172 would be HELD in Committee for further consideration.

#HB90

CS FOR HOUSE BILL NO. 90(FIN)

"An Act relating to reimbursement of municipal bonds for school construction; and providing for an effective date."

Co-Chair Kelly commented that HB 90 was the technical fix to the bonds, which had been authorized by the communities. A problem with the date, prohibited action from being taken.

Co-Chair Kelly referenced Page 5, Line 5, the language "or 10".

Senator Hoffman noted that a proposed pending amendment would add two schools in the Seward area, Akutan and False Pass. He reiterated that the amendment was still pending. He advised that those communities had already built their schools.

Amendment #1: Senator Hoffman moved to adopt. [Copy on File]. He noted a technical change to Amendment #1 on Page 2, Line 22, deleting "350" and inserting "290" and deleting "372" and inserting "305".

Co-Chair Donley objected to Amendment #1. He asked if there was a revised fiscal note indicating the cost of the change.

Senator Hoffman remembered that the cost would be 70% of the requested \$1.1 million dollars for Akutan and \$1.4 million dollars for False Pass School.

Co-Chair Donley recommended that the amendment be proposed on the Senate Floor.

Senator Hoffman agreed and WITHDREW the motion to pass Amendment #1.

Co-Chair Donley moved to report CS HB 90 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being no objection, it was so ordered.

CS HB 90 (FIN) MOVED from Committee with "individual recommendations" and with fiscal note #1 by Department of Education & Early Development.

AT EASE 1:30 PM / 1:35 PM

#SB186

SENATE BILL NO. 186

"An Act establishing a limit on the general obligation debt that may be authorized and issued by home rule and general law municipalities; and providing for an effective date."

Co-Chair Donley pointed out the new fiscal note. He moved the note from the Senate Finance Committee dated 5/5/01 for adoption. There being no objection, it was ADOPTED.

Co-Chair Donley moved to adopt committee substitute #22-LS0851\F, Cook, 5/4/01 and report it out of Committee with individual recommendations and with the adopted amended fiscal note.

Senator Olson objected. He stated that the bill was complex and voiced concerned with the consequences of the legislation. He noted that ex-Attorney General Avrum Gross has stated that the bill would have a negative impact on the North Slope and the capital improvement projects.

Senator Olson pointed out that presently, there are three villages that do not have running water or flush toilets. There are four villages that have incomplete water and sewer projects. He worried about the negative effects of the proposed legislation and reiterated his opposition to passage of the bill.

A roll call was taken on the motion.

IN FAVOR: Green, Leman, Ward, Wilken, Donley, Kelly  
OPPOSED: Hoffman, Olson

Senator Austerman was not present for the vote.

The motion PASSED (6-2).

CS SB 186 (FIN) MOVED from Committee with a "do pass" recommendation and with fiscal notes by the Senate Finance Committee and the Department of Revenue.

AT EASE 1:40 PM / 1:51 PM

#HB250

CS FOR HOUSE BILL NO. 250(FIN)

"An Act relating to missions and measures to be applied to certain expenditures by the executive branch of state government and the University of Alaska from the state operating budget for the fiscal year ending June 30, 2002; and providing for an effective date."

Amendment #1: Senator Lemman moved to adopt [Copy on File]. The amendment would insert language: "Investment returns expressed in terms of most recent 5-year and 1-year averages measured against performance benchmarks."

There being no objection, Amendment #1 was ADOPTED.

Amendment #2: Senator Lemman moved to adopt [Copy on File].

Co-Chair Donley explained that Amendment #2 would encourage that the ASMI (Alaska Seafood Marketing Institute) program maximize Alaska resident employment. It would also encourage the Division of Libraries, Archives, and Museums to facilitate the transfer of library services and training to local governments. Additionally, the amendment would suggest that the Alaska Postsecondary Commission try to maintain competitive rates. The amendment would request that the Division of Sport Fish, Department of Fish & Game change the language measuring "success".

There being no objection, Amendment #2 was adopted.

SFC 01 # 99, Side A 2:03 PM

Senator Lemman moved to report SCS CS HB 250 (FIN) out of Committee with individual recommendations and with the accompanying zero

fiscal note. There being no objection, it was so ordered.

SCS CS HB 250 (FIN) MOVED from Committee with "no recommendation" and with a House Finance fiscal note #1.

HB71

CS FOR HOUSE BILL NO. 71(FIN) am  
"An Act relating to the education of children with disabilities and of gifted children; relating to the Governor's Council on Disabilities and Special Education; and providing for an effective date."

Senator Green stated that HB 71 was a bill requested by the Governor. Federal education regulations took effect in May 1999. The bill would amend inconsistent components of the State's statutes to bring Alaska into compliance with the current federal special education mandates, including emphasizing the participation of parents in making decisions relating to special education eligibility and services.

She added that an important protection provided to both school districts and children with disabilities, was a due process hearing. The bill clarifies the procedures for requesting a due process hearing and streamlines that process for selecting a hearing officer by having the Department of Education & Early Development assign officers from a list maintained by the Department.

Alaska law presently requires that a school district provide special education services to children with disabilities who reside in the district. State law also exempts children from attending public school if they are enrolled in an alternative education program. That aspect has resulted in confusion regarding which school district of another educational agency is responsible for providing special education services. HB 71 addresses the allocation problems of the responsibilities and coordination for the provision of special education services among the various educational agencies.

BRUCE JOHNSON, Commissioner, Department of Education & Early Development, voiced support for the bill.

Senator Green moved to report CS HB 71 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being no objection, it was so ordered.

CS HB 71 (FIN) MOVED from Committee with a "do pass" recommendation and with fiscal note #1 by the Department of Education & Early Development.

AT EASE 2:00 PM / 6:29 PM

Senator Green moved to rescind action taken on adopting CS HB 71(FIN)am. There being no objection, the action was RESCINDED.

Senator Green moved to report the amended version of the legislation, 22-GH1010\L.a, CS HB 71(FIN) am, out of Committee with individual recommendations and the accompanying fiscal note. There being no objection, it was so ordered.

CS HB 71(FIN) am MOVED from Committee with a "do pass" recommendation and with fiscal note #1 by the Department of Education & Early Development.

AT EASE 6:30 PM / 6:34 PM

#HB234

CS FOR HOUSE BILL NO. 234(FIN) am  
"An Act relating to the tobacco use education and cessation fund and to smoking education and cessation programs; relating to funding the tobacco use education and cessation fund; relating to financing of construction and major maintenance of public school facilities, facilities for the University of Alaska, and facilities for ports and harbors; authorizing the commissioner of revenue to sell the right to receive a portion of the anticipated revenue from a tobacco litigation settlement to the Northern Tobacco Securitization Corporation; relating to the deposit of certain anticipated revenue from a tobacco litigation settlement; authorizing the issuance of bonds by the Northern Tobacco Securitization Corporation with proceeds to finance public school construction and major maintenance, facilities for the University of Alaska, and facilities for ports and harbors; and providing for an effective date."

AT EASE 6:36 PM / 6:42 PM

Co-Chair Donley moved to adopt work draft version 22-LS0863\W, Cook, 5/6/01, as the version before the Committee with one change to Page 5, Line 7, deleting "\$3,000,000" and inserting "\$6,000,000". He added that Line 11 would need to be adjusted to reflect that change.

Senator Hoffman OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR:           Ward, Wilken, Austerman, Green, Leman, Donley, Kelly  
OPPOSED:           Olson, Hoffman

The motion PASSED (7-2).

AT EASE 6:44 PM / 6:52 PM

Co-Chair Donley moved to report SCS CS HB 234(FIN) out of Committee with individual recommendations and with the corrected fiscal notes.

Senator Hoffman and Senator Wilken objected.

Senator Wilken commented that 99% of those schools listed on Page 3 were from unorganized Alaska. He added that Fairbanks has had success with prototype schools. He spoke to how much more expensive education is in the Bush Alaska and questioned if it could really be ten times more expensive. He thought that there could be a better way. Senator Wilken recommended standardizing the schools. He suggested that the Legislature should accept the challenge of exploring ideas for the prototype schools.

Senator Wilken withdrew his objection.

Senator Hoffman stated that he objected because all of the major maintenance concerns which need to be addressed. If these concerns are not addressed, they will become more expensive projects and then become school construction projects. He stressed that there is enough work to do on the present school list without ignoring the major maintenance issues. Those issues should be addressed now.

Senator Olson spoke to the shortsightedness voiced by Senator Wilken. He claimed that one of the reasons that the numbers are so high is that there was inadequate funding in the beginning. If there had been better planning from the beginning, the numbers would not be so high. He stated that the proposed legislation was a "band-aid" approach.

Co-Chair Kelly interjected that the list was not intended to be directed at the Senators from Bush Alaska and that it was coincidental that the schools were from the districts of Senators Hoffman and Olson. He reiterated that there was no politics being

played with the way the list came about.

A roll call vote was taken on the motion.

IN FAVOR:           Ward, Wilken, Austerman, Green, Leman, Donley, Kelly  
OPPOSED:           Olson, Hoffman

The motion PASSED (7-2).

SCS CS HB 234(FIN) was reported out of Committee with a "no recommendation" and with two fiscal notes by the Department of Revenue.

AT EASE 6:59 PM / 7:07 PM

#HB76

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 76(FIN)

"An Act providing for and relating to the issuance of certificates of participation to finance construction of a new facility to be known as the Alaska Psychiatric Institute; giving notice of and approving the entry into and the issuance of certificates of participation in a lease-purchase agreement for construction of a new facility to be known as the Alaska Psychiatric Institute; giving notice of the intent and approval to retain investment income from pertinent appropriations to be applied to the cost of construction of a new facility to be known as the Alaska Psychiatric Institute; relating to the construction of a facility to be known as the Alaska Psychiatric Institute; and providing for an effective date."

Amendment #1: Co-Chair Donley stated that he had contacted the U.S. Congressional office and they indicated that they were willing to attempt to secure federal funding to guarantee that the bill could function. He noted that with that information available, he had introduced Amendment #1. [Copy on File]. The amendment would delete all material on Page 4, Line 19 and would add new language.

Co-Chair Donley moved to adopt Amendment #1.

Co-Chair Kelly objected for the purpose of an explanation of the impact of the amendment.

Co-Chair Donley explained that the amendment would make the legislation contingent upon federal funding for the project demolition. He feared that without that money available, the State

would be at a great loss.

Co-Chair Kelly withdrew his objection.

Senator Green asked if the only place that the money could come from would be U.S. Congress.

Co-Chair Donley replied that the only recommendation of possible funds for the demolition has been the federal government.

Without further discussion, Amendment #1 was ADOPTED.

Co-Chair Donley moved to report SCS CS SS HB 76(FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being no objection, it was so ordered.

SCS CS SS HB 76 (FIN) MOVED from Committee with "no recommendation" and with fiscal notes #1 by the House HESS Committee, #2 by Department of Transportation & Public Facilities and #3 by Department of Revenue.

HB8

SENATE CS FOR CS FOR HOUSE BILL NO. 8(TRA)  
"An Act establishing the Legislative Pioneer Road Development Task Force; and providing for an effective date."

REPRESENTATIVE NORMAN ROKEBERG stated that the proposed legislation would establish a Legislative Pioneer Road Development Task Force whose duties would include:

- Research existing plans for road development in the State;
- Identify roads that are important to Alaska's future economic development;
- Study feasibility of developing or upgrading roads in order to promote future economic development;
- Determine availability and source of funds to develop or upgrade those roads;
- Review alternative funding sources for ongoing maintenance; and
- Establish a priority ranking for projects to develop or upgrade those roads identified by the Task Force.

The Task Force would complete that work and would make the recommendations in January 2002. The legislation would be repealed on March 15<sup>th</sup>, 2002.

Senator Lemman asked why the State Board of Registration had been

included in Item #4, Page 1.

Representative Rokeberg replied that portion of the bill had been amended in the last Committee of referral. The intent was to move to a non-governmental area.

Senator Lemman asked which version of the bill was before the Committee.

Representative Rokeberg replied that the Senate Transportation version was before the Senate Finance Committee.

Senator Austerman questioned from where the road list had originated.

Representative Rokeberg replied it resulted from the "fruits of all the members" in the Legislature.

Co-Chair Donley moved to report SCS CS HB 8(TRA) out of Committee with individual recommendations and with the accompanying fiscal notes. There being no objection, it was so ordered.

SCS CS HB 8(TRA) MOVED from Committee with a "do pass" recommendation and with fiscal notes #1 by the Legislative Council, #2 by Department of Transportation & Public Facilities and a new note by Department of Community & Economic Development.

AT EASE 7:16 PM / 9:54 PM

#HB32

CS FOR HOUSE BILL NO. 32(JUD) am  
"An Act relating to the forfeiture of property used to possess or distribute child pornography, to commit indecent viewing or photography, to commit a sex offense, or to solicit the commission of, attempt to commit, or conspire to commit possession or distribution of child pornography, indecent viewing or photography, or a sexual offense."

Senator Ward moved to report SCS CS HB 32 (JUD) out of Committee with individual recommendations and with the accompanying fiscal notes. There being no objection, it was so ordered.

SCS CS HB 32(JUD) MOVED from Committee with "no recommendation" and with fiscal notes #1 by the Alaska Court System and #2 by Department of Public Safety.

#HB172

SENATE CS FOR CS FOR HOUSE BILL NO. 172(JUD)

"An Act relating to therapeutic courts for offenders; to the authorized number of superior court judges; and amending Rule 35, Alaska Rules of Criminal Procedure."

BLAIR MCCUNE, Deputy Director, Public Defender Agency, Department of Administration, testified via Teleconference from Anchorage and voiced support for the proposed legislation. He pointed out the positive results that type of court has achieved in the Anchorage area. He reiterated strong support for the bill.

Co-Chair Donley referenced work draft 22-LS0612\U, Luckhaupt, 5/6/01 and explained how it differed from the other versions.

Co-Chair Kelly asked what the impact would be of sun-setting the judges positions.

Mr. Wooliver explained that the way in which the amendment is written, the sunset provision, reduces the number of judges in the 4<sup>th</sup> Judicial District back down to six and reduces the number in the 3<sup>rd</sup> Judicial District back down to 17. The amendment does not tailor those reductions to the communities of Anchorage and Bethel. The amendment does not identify which communities that those judges would actually be vacated from. Most of the judges are in Anchorage. Although, there would continue to be the same number of judges as now, it does not tailor the vacancy to Anchorage and/or Bethel.

Co-Chair Donley moved to adopt the work draft version "U" and conceptual Amendment #1 on Page 7, Lines 2-4. He noted that the conceptual deletion would place a sunset of the Bethel Court. That would make the Bethel position permanent and the Anchorage position would be deleted at the time of the sunset.

Mr. Wooliver advised that would solve the potential problem in Bethel, however, it would be disruptive in Anchorage. He agreed, it would be less disruptive in Anchorage, as they have far more judges. The Court System would rather not see a sunset provision. Mr. Wooliver noted that the current drafting was an improvement over the original draft.

There being no objection, version "U" was ADOPTED and AMENDED.

Amendment #2: Senator Donley moved to adopt Amendment #2, 22-LS0612\W.1, Luckhaupt, 5/6/01, inserting the language "an offense under AS 11.41.130" on Page 4, Line 19. There being no objection, the amendment was ADOPTED.

Senator Donley moved to report SCS CS HB 172 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note modified to reflect the sunset date and all notes except the one for the Public Defender, Department of Administration. That

note would be zeroed out.

Co-Chair Kelly OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR:           Ward, Austerman, Leman, Olson, Donley  
OPPOSED:           Wilken, Hoffman, Kelly

Senator Green was not present for the vote.

The MOTION PASSED (5-3).

Co-Chair Kelly clarified that in the vote, fiscal note #7, the Public Defender Agency, Department of Administration, had been zeroed out.

Senator Donley moved to report SCS CS HB 172 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being no objection, it was so ordered.

SCS CS HB 172(FIN) MOVED from Committee with "no recommendation" and with fiscal notes #2 by Department of Corrections, #5 by Department of Health & Social Services, #8 by Department of Law and new notes by the Alaska Court System.

#HB32

CS FOR HOUSE BILL NO. 32(JUD) am  
"An Act relating to the forfeiture of property used to possess or distribute child pornography, to commit indecent viewing or photography, to commit a sex offense, or to solicit the commission of, attempt to commit, or conspire to commit possession or distribution of child pornography, indecent viewing or photography, or a sexual offense."

Senator Ward moved to rescind action taken on moving CS HB 32(JUD)am from Committee. There being no objection, action on moving the bill from Committee was RESCINDED.

Senator Ward moved to report a different version, SCS CS HB 32{JUD) from Committee with individual recommendations and with the accompanying fiscal notes. There being no objection, it was so ordered.

SCS CS HB 32(JUD) MOVED from Committee with a "no recommendation" and with fiscal notes #1 by the Alaska Court System and #2 by Department of Public Safety.

AT EASE 10:18 PM / 10:44 PM

#HB179

CS FOR HOUSE BILL NO. 179(FIN)

"An Act relating to underage drinking and drug offenses; and providing for an effective date."

REPRESENTATIVE ROKEBERG presented HB 179. He pointed out that in 1994, the Legislature enacted the "Use It, Lose It" law (AS 28.15.183) for minors who are caught possessing or using alcohol. If a minor is caught using alcohol, their driver's license would be revoked for a period of time.

In December 2000, in a case called State versus Niedermeyer, the Alaska Supreme Court found that taking away a minor's driver's license for possession or consumption of alcohol or a controlled substance, without giving them a trial, was a violation of a minor's constitutional right to due process.

HB 179 would impose appropriate punishments on minors who use alcohol, and would be a deterrent to minors when they consider drinking. Statistics show that the earlier a person begins drinking, the more likely they are to have problems with alcohol later in life. The bill would establish a graduated system of punishment for minors who are caught consuming, possessing or controlling alcohol.

- On a minor's first offense, they would be subject to a fine of between \$200-\$600 dollars, must attend alcohol information school, and would be placed on probation.
- On a minor's second offense, the minor would be guilty of repeat minor consuming and would be subject to a fine of \$1000, at least 48 hours of community service work, three-month license revocation and probation.
- A minor's third offense would cause them to be guilty of habitual minor consuming. That would be a Class B misdemeanor, which results in up to \$1000 fine and 90 days in jail. In addition, the minor would lose their license for a period of six months, would also be required to complete at least 96 hours of community work service, and would be placed on probation.

Representative Rokeberg pointed out that the fiscal notes total \$1.1 million dollars. He noted that the requested treatment provisions had been reduced by recommending a pilot treatment-only program in Ketchikan, Kotzebue, Fairbanks and Juneau. He urged the Committee's support of the legislation.

BLAIR MCCUNE, Deputy Director, Alaska Public Defenders Agency, Department of Administration, testified via teleconference from Anchorage and voiced concern with the mandatory hours of community work service. The judge should be given discretion whether the child should spend more time at school or at home rather than do the community work service.

SFC 01 # 99, Side B 10:50 PM

Mr. McCune continued that the Public Defender usually does not represent Section #2, the repeat offender as a violation with community work service. He added that he has tried to reduce the regular 75% estimate to about 40% because it presents a violation in the fiscal note. He offered to answer questions of the Committee.

Senator Austerman referenced the fiscal notes.

ELMER LINDSTROM, Special Assistant, Office of the Commissioner, Department of Health and Social Services, addressed the reduced fiscal note from the version introduced in the House Finance Committee. He noted that fiscal note had been dramatically reduced in that Committee.

Senator Wilken moved to report CS HB 179(FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being no objection, it was so ordered.

CS HB 179(FIN) MOVED from Committee with a "no recommendation" and with fiscal notes #2 by Department of Corrections, #5, #6 & #10 by the Department of Health & Social Services, #8 by Department of Administration, #9 by the Alaska Court System, and #11 by the Department of Law.

AT EASE 10:53 PM / 11:06 PM

#HB132

CS FOR HOUSE BILL NO. 132(2d RLS)

"An Act relating to the possession, distribution, importation, and transportation of alcohol in a local option area; requiring liquor license applicants to submit fingerprints for the purpose of conducting a criminal history background check, and relating to the use of criminal justice information by the Alcoholic Beverage Control Board; relating to the offenses of operating a motor vehicle, aircraft, or watercraft while intoxicated and refusal to take a breath test; relating to implied consent to take a chemical test; relating to presumptions arising from the amount of alcohol in a person's

breath or blood; and providing for an effective date."

Co-Chair Kelly stated that the fiscal notes had been written to the wrong version of the bill, making implementation of the bill much more expensive. He noted that the "cure" to the situation would be on Page 13, Line 14, Section 21, the effective date.

MIKE TIBBLES, Staff, Representative Williams, commented that the fiscal notes were based on a 10-month effect for the DWI provisions, Sections 10 & 15. On Page 13, Line 14, Sections 10 and 15 of the act take effect on September 1, 2001.

Co-Chair Donley moved the suggestions made by Mr. Tibbles as a conceptual amendment. There being no objection, the conceptual amendment was ADOPTED.

Representative Rokeberg noted that the State could be at risk for about \$800 thousand dollars of public safety transportation money.

Senator Hoffman addressed Section 2. He noted that the limit had been established by legislation he submitted twelve years ago. He suggested that it be reduced to 10.5 liters and recommended that the possession section, Section 1, be eliminated.

Representative Rokeberg agreed with Senator Hoffman. He noted that the current language was taken from a suggestion made by the Department of Law.

Amendment #2: Senator Hoffman moved to adopt conceptual Amendment #2, which would eliminate Section 1, and in Section 2, would reduce 12 liters to 10.5 liters.

Representative Rokeberg pointed out that there was another reference in Section 9 to that concern. There being no objection, Amendment #2 was ADOPTED.

Representative Rokeberg informed Committee members that the bill would provide assistance for the Department of Public Safety and the Department of Law in implementing the \$1.5 million dollar grant to help curb "bootlegging" in the State of Alaska. He thought that it was unfair that other agencies had attached fiscal notes to the bill.

Representative Rokeberg noted that the House had attached a Letter of Intent with the bill to limit any State money requiring a 50/50 local match. He added that the bill included a provision, which allowed the Alcohol Beverage Control (ABC) Board to fingerprint applicants under Title IV. That would allow them to have access to the criminal records. He addressed the "look back" provision.

Representative Rokeberg stated that he would prefer the other legislation, but understood the time restraint.

Co-Chair Kelly advised that the bill in reference had not yet been received in the Committee. Otherwise, he would have been be "glad to accommodate" Representative Rokeberg.

Senator Leman asked about the risk associated with creating a delayed effective date. He questioned if that would hold even if the changes were made by the end of this fiscal year.

Representative Rokeberg replied that there is some question about that. He noted that they had requested that the Department of Transportation & Public Facilities give a definitive answer regarding that concern. There is a possibility that it could be prorated.

Representative Rokeberg added that the federal statutes require that sanctions be placed on the State for federal road money. If the State does not have the .04 in place, the State could start to lose money. He noted that in discussions with the U.S. Congressional delegation, it was claimed that there is no chance that Congress would repeal or backtrack the .08 station. This is an appropriate time that the issue be addressed.

Senator Leman stated that he preferred the most immediate effective date and requested that the Department of Transportation and Public Facilities provide an answer.

Representative Rokeberg indicated that this question had already been asked from the Department and that he was unsure if they were able to answer it.

Senator Leman recommended that the legislation should be referred back to the Senate Transportation Committee to answer that question.

BLAIR MCCUNE, Deputy Director, Alaska Public Defender Agency, Department of Administration, testified via teleconference from Anchorage and agreed with Representative Rokeberg regarding the bootlegging enforcement in rural Alaska.

Senator Wilken moved to report SCS CS HB 132 (FIN) out of Committee with individual recommendation and with the accompanying fiscal notes.

Co-Chair Donley objected for a question. He requested that the suggestions Representative Rokeberg referenced be included in the fiscal notes.

Representative Rokeberg stated that the fiscal notes currently

attached to the bill are base on an agency-wide assumption that the .08 would be based on a 2% increase in arrests because of a new standard. He asserted that data from the Department of Public Safety has shown over the past three years that rates would be lower than that. He thought that the number indicates gross inflation. Representative Rokeberg suggested a five-percent (5%) assumption should be used instead. He agreed there could be a slight increase in the arrest rate.

Representative Rokeberg sighted the Department of Public Safety fiscal notes in HB 4, with the differential between the higher assumption and the lower assumption. He recommended that the Committee adopt a "policy directive" in the fiscal notes. All agencies that have a .08 note are aware of the concern.

Co-Chair Donley thought the fiscal notes could be reduced by 50% and that the agencies could amend their fiscal notes to represent a 5% rather than a 10% increased caseload.

Co-Chair Donley moved to amend the previous motion made by Senator Wilken and ask that the fiscal notes be modified to reflect a 5% anticipated increase. There being no objection, the change was made to the fiscal notes and the motion was AMENDED.

Senator Wilken moved to report SCS CS HB 132 (FIN) out of Committee with individual recommendation and with the accompanying amended fiscal notes. There being no objection, it was so ordered.

SCS CS HB 132(FIN) MOVED from Committee with "no recommendations", a House Letter of Intent, and with new fiscal notes by Department of Corrections (2 total), Department of Law, Department of Health & Social Services (2 total), the Alaska Court System, and Department of Administration (2 total).

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**ADJOURNMENT**

Co-Chair Pete Kelly adjourned the meeting at 11:33 P.M.