

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**May 11, 2002**  
**10:52 AM**

**TAPES**

SFC-02 # 95, Side A  
SFC 02 # 95, Side B  
SFC 02 # 96, Side A  
SFC 02 # 97, Side A

**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 Lyda Green  
Senator Gary Wilken  
Senator Alan Austerman  
Senator Lyman Hoffman  
Senator Donald Olson  
Senator Loren Leman

**Also Attending:** REPRESENTATIVE DREW SCALZI; REPRESENTATIVE PEGGY WILSON; REPRESENTATIVE JOE HAYES; REPRESENTATIVE GRETCHEN GUESS; DOUG MECUM, Director, Division of Commercial Fisheries, Department of Fish and Game; VERN JONES, Chief Procurement Officer, Division of General Services, Department of Administration; DOUG LETCH, Staff to Senator Ben Stevens; CRYSTAL SMITH, Special Assistant, Office of the Attorney General, Department of Law; DR. LARRY LABOLLE, Staff to Representative Richard Foster; JOHN HANDELAND, Employee, former Mayor, City of Nome

**Attending via Teleconference:** From Fairbanks: MARY WEYMILLER, Licensed Practical Nurse and Member, Board of Nursing; From Anchorage: SALLY HUNTLEY, Owner, Frontier Travel; BILL BECK, Owner, Airlines-Online Travel Agency

**SUMMARY INFORMATION**

HB 208-AQUATIC FARMS FOR SHELLFISH

The Committee heard from the sponsor, the Department of Fish and Game, and a representative from the aquatic farm industry. The bill was reported from Committee.

HB 276-REGULATION OF NURSING

The Committee heard from the sponsor and the Board of Nursing, and reported the bill from Committee.

HB 300-PROCUREMENT OF TRAVEL SERVICES

The Committee heard from the bill's sponsor, the Division of Procurements, Department of Administration, and took public testimony from representatives of the travel industry. The bill was held in Committee, re-addressed, and reported from Committee.

HB 382-CLEANUP OF ILLEGAL DRUG SITES

The Committee heard from the sponsor and reported the bill from Committee.

HB 393-SALES OF BUSINESS OPPORTUNITIES

The Committee heard from the sponsor, the Department of Law, and the bill reported from Committee.

HB 239-VOCATIONAL EDUCATION PILOT PROGRAM

The Committee heard from the sponsor and the City of Nome. The bill reported from Committee.

#hb208

CS FOR HOUSE BILL NO. 208(RES)

"An Act relating to aquatic farming of shellfish; and providing for an effective date."

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

REPRESENTATIVE DREW SCALZI informed the Committee that the Aquatic Farm Act, enacted by the State in 1988, was intended to streamline the process of developing aquatic farms; however, problems have arisen regarding the Department of Natural Resource's mariculture

review process through which areas are selected for development. He explained that protests from individuals not wishing to have a mariculture operation near their property or from user groups such as lodge owners, have furthered these problems. He explained that this bill proposes to appropriate money to the Department of Fish and Game to identify appropriate sites and then coordinate efforts with the Department of Natural Resources to finalize site selections. He stated that 90 sites are identified in this bill as suitable for: suspended culture sites for oysters and mussels; on-bottom little neck clams; and geoduck mariculture.

Representative Scalzi asserted that some of the 90 identified areas might incur "common-use" conflicts that would require an Alaska Coastal Management Plan review. He informed the Committee that the State of Connecticut has 50,000 acres of land similarly under lease, whereas Alaska, with more coastline, currently has 500 acres under lease. He continued that this bill would improve the current process by providing pre-selected sites, providing for public hearings in accordance with the Alaska Coastal Management Plan Review, and establishing the land-lease component. He specified that the annual lease fee would be \$350 for the first acre and \$100 per each additional acre, and that, depending on whether half or all of the sites were leased, the accompanying \$220,000 fiscal note could be recouped in ten years or five years, respectively. He stressed that this legislation would establish the means to stimulate new economic development in coastal communities, and surmised that though the process might be slow; the potential is immense.

PAUL FUHS, Representative, Alaska Trademark Shellfish, voiced that this legislation would assist an industry that could provide benefits to the State. He noted that the Department's lack of support for mariculture combined with citizen opposition, has resulted in no sites being available for the aquatic industry, and asserted that this legislation could provide the needed sites.

Mr. Fuhs pointed out that industry concerns regarding wildstocks are not addressed in this legislation. He shared with the Committee that the aquatic industry has proposed to temporarily harvest and then transplant wildstocks; however, the Department has stated that this "would be a violation of common property use." He continued that because of the wildstock issue, the industry is concerned that the twenty sites pre-selected in this legislation for the shellfish industry "would have absolutely no animals on them," which is indicative of "a bad habitat" for growing shellfish.

Mr. Fuhs stated that the organization has worked with the Department and the bill's sponsor to resolve the habitat concern.

However, he stated a "Catch 22" exists in establishing a common property habitat policy because the Alaska Court System has declared that it could not make a ruling on common property because the Legislature has not established a policy, and the Legislature states that it could not address the situation because the Court has not issued a ruling. He asserted that this issue must be resolved to allow the industry to move forward.

Co-Chair Kelly asked the testifier whether he supports the bill.

Mr. Fuhs relayed that the organization holds a neutral position on the bill. He commented that while the bill provides benefits to the suspended culture and little neck clams industries; it offers no benefits to the geoduck farming industry.

Senator Austerman expressed support for the bill as it does contain merits.

Mr. Fuhs concurred; however, he declared that the bill should not be necessary, and that it is unfortunate that the Department is not actively granting permits.

Representative Scalzi agreed that there are issues involving the existing geoduck industry applicants; however, he assured that the Department is committed to providing leases and is addressing the issue "by offering sites where there are no standing stocks and that would certainly take care of the problem of common property." He furthered, "With issue of any standing stocks, their intent is to have an open access fishery, remove those stocks, and then have that site suitable for farming." He stated that the bill does attempt to address the testifier's concern regarding existing geoduck applicants.

Senator Austerman stated that the concerns of the geoduck industry should be addressed; however, he stressed that this legislation should not be delayed as it encourages economic development in the State.

Senator Austerman remarked that he and two other Committee members traveled to Chile to witness that country's aquatic farming operations, and he attested that the government of Chile aggressively supports the process. He stressed that this legislation is an attempt to get the State "moving in an aggressive manner" to stimulate economic development.

Senator Green asked whether issues raised in a letter addressed to Senators and Representatives from Gary Zaugg, dated March 13, 2002 [copy on file] are similar to those raised by Mr. Fuhs.

Co-Chair Kelly confirmed the concerns are the same.

Senator Ward asked Mr. Fuhs how the concerns of the geoduck industry could be addressed.

Mr. Fuhs clarified that except for the common property issue, the Department of Fish and Game has addressed other management concerns raised by the industry. He explained that the industry has proposed a plan to conduct an annual geoduck harvest involving no more than 20 percent of the existing resources and, as part of that plan, the wildstocks harvested would be required to be successfully transplanted. He continued that the harvested resource must be completely replaced before the next 20 percent could be harvested, and he attested, this plan contains the necessary safeguards to expand the industry.

Senator Ward asked why this language is not included in the bill.

Representative Scalzi responded that efforts were made to incorporate the industry's suggestions; however it was not included due to resistance from the Department of Fish and Game and the Department of Law regarding common property uses.

Senator Ward opined that the Department of Law and the sponsor "have opted to let the Court" System rather than the Legislature determine what should be included in the bill.

Representative Scalzi responded that the omitted language pertains "to an existing applicant, this is not something that is out there for anybody, this is specific to one or two parties so for those reasons, it is not. I believe the Department of Law says, [it is] specific to an individual; therefore, it is not constitutional where everybody has the same equal access to this proposal. My take on it, Senator, is that if we changed our law, which I would support to make it more like what we do with timber, you have a selected site of geoducks or little necks and you offer to have that for lease. I think that that would be consistent with what we do for timber; however, aquaculture and mariculture does not apply with our Constitution. Our Constitution does not apply the same standards to those species, so there would need [to be] a change according to the Department of Law."

Co-Chair Donley asked which fiscal notes are applicable to the House Resources committee substitute.

Senator Wilken identified the four corresponding fiscal notes by Department.

AT EASE 11:07 AM /11:12 AM

Senator Wilken continued to clarify the fiscal notes by Department and date.

AT EASE 11:15 AM /11:16 AM

Co-Chair Donley asked whether departments could absorb the expenses within their existing annual budgets.

Representative Scalzi responded that some of the expenses are being covered through existing budgets, and he exemplified that the Department of Environmental Conservation currently performs work that this bill would require, and therefore, it is included in the existing budgets.

DOUG MECUM, Director, Division of Commercial Fisheries, Department of Fish and Game stated that the Department of Natural Resources is primarily involved in this bill; however, the Department of Fish and Game would incur additional expenses resulting from the projected intensive public process and the resource inventory process this bill would require.

Co-Chair Donley asked whether funds were allotted when the original program was adopted.

Mr. Mecum replied that the program was adopted more than twelve years ago, and since that time, the Department's budget has been reduced 30 percent. He surmised that there is "little likelihood" that additional monies were funded when the program was adopted.

Co-Chair Donley identified that the Division of Commercial Fisheries fiscal note contains funds to employ scuba divers as well as a seasonal biologist to assess potential sites.

Mr. Mecum stated that, although the original fiscal request was higher; the Department collaborated with the Shellfish Growers Association to have the Association absorb some of the workload, which allowed the request to be lowered to this level. He specified that \$50,000 would be required to: conduct the dive surveys to identify whether soil at the sites are biologically suitable; to identify the types of standing stocks the areas support as well as the existing uses of an area in order to not conflict with existing aquatic life and land; and other traditional uses of the site.

Co-Chair Donley asked for assurance that the project would be completed if funding were allotted.

Mr. Mecum answered that the Department's obligations would be met.

Representative Scalzi stated that the fiscal note includes lease revenue, but does not include the contributions to the general fund resulting from either the State Business Tax or the Raw Fish Tax.

Representative Scalzi stressed that by dedicating this funding the Departments would be obligated to conduct the required work.

Senator Wilken offered a motion to "report Committee Substitute for House Bill 208 (Resources) Version 'P' from Committee with individual recommendations and fiscal notes as set forth" in earlier discussion.

There being no objections, CS HB 208(RES) was REPORTED from Committee with a new zero fiscal note dated February 28, 2002 from the Department of Environmental Conservation; a \$98,300 fiscal note dated March 12, 2002 from the Department of Natural Resources; a \$50,000 fiscal note dated April 21, 2002 from Division of Commercial Fisheries, Department of Fish and Game; and a previous \$72,500 fiscal note dated March 5, 2002 from the Division of Habitat and Restoration, Department of Fish and Game.

#hb276

SENATE CS FOR CS FOR HOUSE BILL NO. 276(L&C)

"An Act relating to temporary permits and licenses by endorsement issued by the Board of Nursing; and relating to the delegation of nursing duties."

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

REPRESENTATIVE PEGGY WILSON, the sponsor of the bill, informed the Committee that this legislation would update State statutes to align with current nursing practices by: allowing nurses to delegate nursing duties to other personnel; increasing the temporary licensing application time period from four months to six months to allow sufficient time for the required criminal background check; and provide for changes in statute language to comply with current Division of Occupational Licensing practices.

Senator Green informed the Committee that some employers discuss with prospective nursing applicants the expectation that the nurses

would delegate certain responsibilities to Certified Nursing Assistants (CNAs). She noted that "great pressure" has been exerted on nurses to delegate duties even when the nurses are not comfortable in doing so. She asked Representative Wilson whether this bill would supplant a Registered Nurse's (RN) ability to decide whether or not to delegate certain duties.

Representative Wilson responded that the language in this bill "definitely does not" undermine an RN's ability to make those decisions. She explained that there are strict rules and regulations for nurses, and nurses are very careful not to delegate a duty to an unqualified individual as this could jeopardize the nurse's license.

Co-Chair Donley voiced concern that current State statutes are vague regarding medical staffing in the State's medical facilities, and he noted that other states "have more specific and clear statutes regarding the proper amount" of medical personnel, especially nurses. He asserted that hospital staffing level requirements in the State are "dangerously low," and he questioned whether this legislation would result in a further "strain on nurses" who, he asserted are being asked to assume a wider range of responsibilities. He furthered that nurses are constantly being asked to update their skills and increase their knowledge about newly introduced medications.

Co-Chair Donley stressed that the increasing complexities of the nursing profession intensify his concern regarding delegation of duties. He stated that the Committee should be cognizant "of any endangerment to the levels of service" provided to patients because of the delegation of nurses' duties "as the staffing is already under a lot of strain because of those cross-training things that are being forced on nurses now."

Senator Olson advised that this legislation does not propose to delegate complicated medicating duties or other high-skill responsibilities to unlicensed staffers, but rather allows qualified personnel to delegate some "lesser duties that tie up personnel" to subordinates. He stated that this would allow a nurse to determine what, if any, responsibilities could be delegated which would allow the nurse to address more critical needs. He exemplified that this legislation would provide a nurse in a clinic the authority to delegate such "lesser duties" as monitoring blood pressure rates to a subordinate in order for the nurse to more thoroughly concentrate on someone in critical condition who needs to be admitted to a hospital.

Co-Chair Donley contented that, in addition to the pressure placed

upon a nurse to delegate duties when concentrating on a critical patient, there are circumstances where a nurse might be under "tremendous pressure from the hospital," specifically a for-profit facility, "to delegate more and more of their duties." He stated that he has witnessed situations where "nurses are being asked to do things that they don't really feel is in the best interest of patients, and yet the economic pressure is on them." He stressed that nurses could be placed in a "tough situation" and ultimately the license of the nurse, not the facility, is at stake.

Representative Wilson explained that during a recent review of nursing statutes and regulations, nurses found that several long-established practices, including the delegation of certain nursing responsibilities, are not defined in current statute. She stated that this legislation was prompted by the Department of Law's suggestion that delegation authority should be addressed in State statute. She stressed that the Board of Nursing would define the parameters regarding which duties could be delegated.

Co-Chair Donley asked whether individuals who draw blood are required to be licensed, for it appears that delegation of this duty has become an established practice.

Representative Wilson voiced that she does not support the delegation of this responsibility; however, a hospital might establish this practice. She stated that the person who is administering the procedure should have practical experience to know what they are doing. She asserted that the majority of nurses would not delegate this responsibility.

Senator Olson, [a medical doctor] stated that his experience has been primarily in clinics rather than for-profit hospitals, and that there is a misconception that the "higher licensed" person should perform a procedure such as drawing blood; however, he contended that, even though he has a "higher" level of training, most nurses "and even nurses aides" are more highly skilled in that procedure than he is. He stressed that there should be "a balance to make sure that you have the most skilled person" performing the procedure. He continued that some procedures do not require a licensed individual and with today's staffing situations, "sometimes it is not practical."

Co-Chair Donley clarified that his concern involves "delegating down" rather than to another as equal or higher qualified individual. He asked whether this legislation would allow a hospital administration to exert pressure on nurses to delegate duties, "such as the drawing of blood and other invasive procedures," to lower level personnel.

Representative Wilson responded that this bill would not change any practice that is currently established, but rather would incorporate established practices into State statute. She stated that this incorporation and clear identification of which established practices nurses could delegate would serve to protect nurses.

Senator Olson asked whether Bush Alaska's health aides would be affected by this legislation.

Representative Wilson reiterated that this legislation would not incur any changes to established practices.

Senator Olson clarified that health aide's positions would not be affected.

Representative Wilson concurred.

Senator Olson, addressing Co-Chair Donley's concerns regarding who administers invasive procedures, stated that oftentimes in rural Alaska, someone gets injured, and unlicensed, but trained, medical staffers might have to administer invasive procedures "as the first line of health care."

Co-Chair Donley stated that statute exemptions address rural health care situations, and stressed that his primary concern pertains to large, for-profit medical facilities that might exert "incredible pressures" on health care professionals in order to reduce the cost of care. He stated that this legislation might give those entities more opportunity to exert pressure on the nursing staff to delegate duties to staff who might not properly trained in a procedure.

Co-Chair Donley explained that current statute requires a minimum of one person on duty who is specifically trained for the procedures administered in the department; and that other nurses assigned to that department would report to the trained individual. He furthered that if the trained individual becomes unavailable during a shift, that person is required to delegate duties to other untrained individuals. He stated that it is unfair to nurses to have this onus placed on them; especially if they do not agree with the hospital directives. He stated that a balance must be reached whereby nurses could not be forced to delegate a duty "that they do not necessarily agree with."

Representative Wilson stated that nurses could refuse to delegate a responsibility, and if a doctor overrules the nurse's decision not to delegate a duty that she deems unsafe or ill advised, the nurse

could "write the doctor up." She exemplified that duties such as watching a wound for redness could be delegated provided that the person has received proper training. She reiterated that State statutes would specify what could or could not be delegated "which offers protection to the nurse and to the patient."

Co-Chair Donley asked for examples of what regulations are being considered by the Board of Nursing, as he considers the bill's language "wide open as far as delegation of authority."

Representative Wilson stated that current nursing regulations specify that the Board would define unprofessional conduct to include: "knowingly delegating a nursing care function, task, or responsibility to another who is not licensed" when that delegation is contrary to that specified in State statute, "or involves a substantial risk or harm to a client, and failing to exercise adequate supervision over other persons who are authorized to practice only under the supervision of a licensed personnel." She expressed that these regulations clearly define what could legally be delegated; however, the corresponding language is not currently included in State statute.

Representative Wilson explained that the Department of Law is requesting that the language be placed in State statute to enable the statute to conform to existing regulations. She summarized that the nursing profession is "strongly and heavily regulated," and that this legislation would match State statute to current regulations, would not change what is currently common practice, and would continue to hold nurses to levels of "high conduct."

Co-Chair Donley stressed that his concern lies more with "the for-profit motive in health care" which exerts pressure on nurses, and that protecting nurses from that pressure is important. He continued that another concern is when duties are delegated it is the nurse's license rather than a hospital or clinic's license that is at risk. He asked whether "better insulations" could be provided to address this concern.

SFC 02 # 95, Side B 11:45 AM

Senator Green reminded the Committee that these concerns have been addressed before; however, it was State agencies rather than for-profit or non-profit entities that were requiring nurses to delegate duties improperly.

Senator Green furthered that there have been situations in which

employment was contingent on an applicant's agreeing to delegate authority to CNAs. She stated that hearings were conducted to affirm that this practice would not be allowed. She stressed the concern that this legislation might inadvertently undermine the ability of a nurse to refuse to delegate a duty they were instructed to delegate, and then not receive "the backup" they might require.

Co-Chair Donley echoed Senator Green's concerns, and reiterated that it is unfair for a supervisor's directives to place a nurse's license in jeopardy.

Co-Chair Donley asked whether current State regulations hold upper management accountable for exerting pressures on nurses that might result in endangering the nurses' license.

Representative Wilson responded that doctors know what procedures a nurse could or could not perform, in addition to what duties could or could not be delegated. She told of a hearing process in the event a doctor exerts pressure on a nurse to perform or delegate a duty that might place the nurse's license in jeopardy or be unsafe for a patient. She stressed that the procedures are "very clear and known."

Co-Chair Donley asked whether there is a "medical whistle blower statute."

Senator Olson interjected that the normal procedure for reporting undue pressure placed on a subordinate, involves the employee filing an incident report with a supervisor or a committee for review. He continued that if the report is determined to have merit, a letter of reprimand could be issued.

MARY WEYMILLER, Licensed Practical Nurse and Member, Board of Nursing, testified via teleconference from Fairbanks and read a letter from Lynne Hart, a Nurse Practitioner and a member of the Board of Nursing [copy not provided] which spoke in support of this legislation, specifically as it addresses the established practice of nurses "delegating, or transferring their legal authority to perform a specific nursing act to unlicensed assistants." She read: that it "recently came to light" that the delegation practice is not included in State statute as had incorrectly been assumed, and that this omission has affected the Board of Nursing's ability to modify regulations regarding safe delegation practices. The letter, she continued, states that this legislation would correct both the statute and the regulation issues; would not create new health care worker positions as staffers are already in place, and "would eliminate a gray area for nurses who currently are already

delegating to assistants as part of their job on a daily basis." She read that Ms. Hart urges the Committee to support this legislation.

Ms. Weymiller commented that current practice is that non-licensed individuals are asked to assume additional duties after receiving training in those procedures; however, she stressed, the practice must be included in State statute to protect both the nurse and the patient. She qualified that patient care could only be delegated when a patient's condition is chronic and stable, and the non-licensed staffer and the patient both agree to have the task delegated. She noted that numerous safeguards and guidelines exist to protect the licensed nurse, the person to whom the duties are being delegated, and the patient. She "strongly urged the Committee to pass this bill."

Senator Wilken offered a motion to "report Committee Substitute for House Bill 276 from Committee with individual recommendations and attached fiscal note."

Co-Chair Donley objected and expressed the hope that individuals in the nursing profession are aware of the content of this bill and support its intent. He furthered that were this legislation to be enacted, its regulations should be quickly established and should include safeguards to protect nurses from undue pressure to delegate duties as well as including language that specifies that management should be penalized for any directives that might result in a nurse's license being placed in jeopardy.

Co-Chair Donley withdrew his objection.

Senator Olson asked whether, during this process, any abuse of power incidents have been reported.

Representative Wilson stressed she has had "not one single letter or phone call from anyone" in opposition to this legislation or any reports of undue pressure to delegate duties.

Co-Chair Donley reiterated that during his conversations with nurses, he has heard "horror stories" about the pressures exerted on nurses to delegate authority. He noted that the lack of abuse of power reports is not surprising as it is sometimes difficult to record the specifics of an incident.

Senator Olson affirmed that nurses sometimes receive "threats of retaliation" which could be a "real significant factor."

There being no further objections, SCS CS HB 276 (L&C) was REPORTED

from Committee with a previous zero fiscal note, dated February 15, 2002 from the Department of Community and Economic Development.

#hb300

SENATE CS FOR HOUSE BILL NO. 300(STA)

"An Act relating to the procurement of certain travel services."

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

REPRESENTATIVE JOE HAYES, the bill's sponsor, stated that this bill would allow the State to exempt certain types of travel services, including airplane travel, hotel accommodations, and travel agency services, from the State procurement code. He explained that Alaska Airlines and other major airline companies have travel agency commissions from five percent of the total ticket price to ten dollars for a one-way ticket and \$20 for a round-trip ticket, and that in March of 2002, airline companies notified travel agents that commissions would be completely phased out. He stated that to offset the loss of the airline commission revenues, travel agencies have implemented agency service fees.

Representative Hayes furthered that by exempting specified travel services from the procurement regulations; the State could foster a competitive travel service environment by allowing "administrative agencies to choose travel providers on a case-by-case basis." He stressed that this competition is important to the State because it would assure the State of the best possible service fee rate and prevent a travel service monopoly from occurring in the State.

Representative Hayes noted that travel agencies have received a letter, dated April 5, 2002 from the Department of Administration Commissioner Jim Duncan [copy on file] that explains the Department's support of this legislation.

SALLY HUNTLEY, Owner, Frontier Travel, testified via teleconference from Anchorage, and informed the Committee that her agency has been providing travel services to various State agencies since 1982, and that she supports the fact that State agencies would be permitted to choose which travel services they wish to use, on a Statewide basis. She stated that this legislation would "level the playing field" whereby all agencies could compete for the State's business and that due to the competitive nature of the industry, service

fees would remain reasonably priced.

Ms. Huntley asserted that once fair fee rates are established, the State could choose travel agencies based on quality of service. She noted that a Request for Proposals (RFP) has been issued by the State; however, the industry considers it confusing because the details are not specific. She opined that the RFP's line item format "is a reconciliation nightmare." She stressed that a competitive atmosphere would be more beneficial to the State than a "sole source provider."

Senator Olson asked the testifier how many travel agencies are Alaskan-owned.

Ms. Huntley replied that some of the larger agencies are owned by out-of-State entities; however, Alaskans own the majority of travel agencies.

Senator Wilken asked the testifier the amount her agency charges for issuing airline tickets for State employee travel.

Ms. Huntley responded that her agency provides this service free-of-charge.

Senator Wilken reminded the Committee that the original version of this bill included language that prohibited awarding sole-provider contracts; however, that language is not included in this committee substitute. He surmised from Ms. Huntley's testimony that she preferred the original bill's language.

Ms. Huntley stated she does not support language allowing for sole-source contracting; however, she noted that were the bill not adopted, agencies would be required to submit competitive fee bids to the State, and a contract would be awarded.

Senator Olson asked for further clarification as to the intent of the bill.

Representative Hayes clarified that the original bill contained intent language; however, the intent language was omitted in the Senate State Affairs Committee committee substitute. He stated that the Procurement Section, Division of General Services, Department of Administration Department, "understands the intent" of the bill; however, if desired, that language could be reinstated.

Senator Leman voiced support for the Senate State Affairs committee substitute language, as sometimes "too much intent language" is included in a bill. Although it is sometimes necessary, he stated

that in this case, the intent has been "clearly established" in the Legislative record.

Senator Green asserted that Section 1 of the current legislation identifies that these services would not be required to go through the competitive bid process.

Representative Davies agreed with Senator Green's comment.

BILL BECK, Owner, Airlines-Online Travel Agency, testified via teleconference from Anchorage and noted that he attended the RFP travel management services workshop held before the introduction of this legislation. He stated that the State has established two options for travel services: one being this bill and the other being a sole-source RFP. He continued that the accompanying fiscal note indicates that in the event this bill is not adopted, the RFP would require a travel agency to submit a bid in each of the seventeen identified local areas where its offices are located, and in addition, each invoice must specify individual line item descriptions and the corresponding fee for each transaction such as tickets, hotel rooms, and car rental reservations. He stated that this line item requirement would demand additional reconciliation time of State employees, and he opined that it would be more economical for the State to develop a simple fee structure that agencies could either agree or not agree to honor. He stated that this approach would allow for continuing competition between travel agencies.

Senator Wilken asked the testifier the amount of the surcharge his company places on non-State employee travel.

Mr. Beck responded that fees are based on the complexity of the travel arrangements; however, typical fees range between \$20 and \$35.

VERN JONES, Chief Procurement Officer, Division of General Services, Department of Administration, stated that historically, the State has not been required to pay service fees as travel agents were compensated for their services by airlines, hotels, and car rental companies; however, recent declines or/and elimination of these commissions fees has placed hardships on travel agents, and that consumers including the State must absorb these expenses.

Mr. Jones explained that because there are no fee-free travel services in communities such as Juneau, Petersburg, Wrangell, Haines and Cordova, the State has awarded, in compliance with the State's competitive procurement code, a contract for travel services in each of these locations. He stated that this bill does

not prevent the State from procuring travel service contracts; however, the intent of the bill is to establish benchmark rate structures for services that would allow State employees to use any travel agency that provides its services at or below those benchmark rates. He stated that were this bill adopted, this process would begin, and a list of travel agencies who comply with the State's benchmark rates would be supplied to State employees. He clarified that existing State contracts would continue through their specified time commitment.

Mr. Jones confirmed that this bill would incur expenses as identified in the fiscal note. He explained the fee components of the fiscal note, and stated that when Alaska Airlines terminates its commissions to travel agencies, the State would be required to pay average fees of \$20 to \$23 per ticket. He noted that the State of Washington recently transitioned to a non-competitive fee structure that has resulted in fees ranging from \$15 to \$45 per ticket. He stressed that the State of Washington is paying more than the amount projected using the proposed procurement process stipulated in this legislation. He estimated that the annual service fee cost to the State, based on the annual volume of ticket that State employees use, would be \$500,000 per year.

Mr. Jones stated that if this bill fails to be adopted, the State would continue with the procurement process, which he stressed, would not result in a single sole-source Statewide contract, as contracts are awarded on a per-location basis.

Senator Ward asked whether the State would be allowed to solicit a proposal from the Alaska Airlines Mileage Program to accumulate all State employee travel mileage credits in a single State account to assist in reducing State travel costs.

Mr. Jones responded that there is no legal restriction that would prohibit the State from making this request.

Senator Ward asked the testifier to investigate this option.

Mr. Jones agreed.

Senator Austerman asked for further information about the service contracts awarded in such locations as Juneau, Petersburg and Wrangell.

Mr. Jones gave as an example, the contract awarded to US Travel Agency in Juneau that specifies the service fee for a ticket from Juneau to Anchorage is five dollars and an eight dollar service fee for tickets to other destinations; however, he reminded the

Committee that this fee is paid in addition to the commission the agency currently receives from Alaska Airlines. He continued that when Alaska Airlines ceases to pay commissions, the fees would probably increase to approximately \$23.

Senator Austerman asked whether the State has investigated transitioning to electronic ticketing as a means of lowering service fees.

Mr. Jones stated that currently the State purchases approximately 11,000 out of 50,000 tickets directly from an airline via Internet access. He stated that purchasing a ticket electronically exempts it from being subject to any procurement code or service fee, and that this would remain an option if this bill were adopted.

Senator Austerman asked whether the Department encourages employees to use electronic ticketing.

Mr. Jones responded that the Department does not anticipate pressuring employees to make travel arrangements via the Internet, as this could require a "high-paid state employee" to spend time online researching travel options. He stated that paying a travel professional for this service is often a better decision; however, he asserted that employees would not be prohibited from this course of action.

Senator Wilken asked the reason for an indeterminate fiscal note to accompany this bill, and he noted how unusual it is for a fiscal note to specify that department agencies would absorb expenses.

Senator Wilken voiced concern that a total service fee of \$350,000 has been calculated based on a projected minimal service fee of \$12 per ticket; however, he stressed, the actual fee amount could incur expenses as high as \$750,000. He stressed that the fiscal note does not appear to realistically present the possible costs, and he asked whether a statewide limit could be considered in order to more accurately project the expense.

Mr. Jones stated that if this bill fails to be adopted, procurement procedures would be implemented and the lowest travel service bid per location would be awarded a contract. He noted that if the bill were adopted, "a cap" might be negotiated. He continued that when Alaska Airlines discontinues its commission fees, the average service fee charged for State employee travel would be approximately \$23 per ticket, which he reiterated is ten to fifteen dollars lower than fees being paid in the State of Washington, where a competitive procurement procedure was not implemented.

Senator Austerman asked whether the US Travel service fee procured for Juneau would be honored by the US Travel agency in Kodiak.

Mr. Jones stated that agencies are not obligated to offer the location-specific rates throughout their service areas, and he noted that travel agencies, including US Travel, are not currently charging service fees in Anchorage. He informed the Committee that current Department policy mandates that State employees must use an agency that does not charge a service fee, and in communities where fees are charged, the Department would award a contract to a specific agency through the competitive bid process.

Senator Austerman stated that he recently paid a \$25 service fee in Kodiak.

Mr. Jones surmised that there must be a travel agency in the City of Kodiak that does not charge a service fee, as a contract has not been negotiated for Kodiak, and he reiterated that State employees should use that agency when making travel arrangements.

Senator Ward asked the Department to provide the Committee with the total dollar amount the State has paid to Alaska Airlines for State travel in order to further a consolidated State mileage plan proposal with the airline.

Mr. Jones expressed that approximately \$11 million has been spent on travel with Alaska Airlines.

Senator Ward calculated that this would equal approximately 15 million mileage credits. He reiterated his request for the Department to investigate whether negotiating with Alaska Airlines to establish a mileage agreement "would be legal."

Co-Chair Kelly asked Mr. Jones to provide the requested information to Senator Ward.

Senator Wilken reiterated his concern that the fiscal note does not specify whether travel fees would amount to \$228,000 or \$1 million.

Representative Hayes responded that this bill proposes to establish specific service fees, and that State employees could use any travel agency agreeing to provide their services at the determined levels. He stated that this bill would allow all travel agencies an opportunity to compete for State travel business, and he asserted that it would be "dangerous" to have only one agency handle all the State business.

Senator Olson asked why motor vehicle rentals are excluded from

this legislation.

Representative Hayes responded that the State has "already secured contract agreements" for motor vehicle rentals.

Senator Wilken clarified that if this bill fails to be adopted, procurements would be solicited, and contracts would be awarded to a single travel agency in each of the seventeen identified regions in the State, as determined by best value and fees.

Senator Wilken continued that if the bill is adopted, the State would establish fee structures by location, and State employees could use any travel agency agreeing to honor those fees.

[Discussion ensued to clarify the various processes based on whether or not the bill was adopted.]

Senator Wilken asked whether a travel agency could choose to provide travel services at lower rates than those established by the State.

Mr. Jones responded that employees would not be obligated to use an agency offering services at less than the negotiated rates; however, a listing of any agencies offering lower fees would be distributed, and employees could decide which agency to use.

Senator Wilken asked what would occur if a State employee used an unapproved agency.

Mr. Jones responded that if the bill fails to be adopted, State employees would not have an option, as only one agency in each community would have the ability to write State travel tickets.

Senator Hoffman asked how travel arrangements are handled in remote areas of the State where no contracts exist.

Mr. Jones stated that the intent of bill is to establish rates for services in areas "that have more than negligible amounts" of travel traffic. He stated that if the bill fails to be adopted, the Department intends to establish contracts in all locations.

Senator Hoffman asserted that, currently, there are no contracts in remote areas.

Mr. Jones clarified that contracts are not being established in communities where agencies are providing fee-free services. He reiterated that if one or more travel agencies in a community provides fee-free services, State employees are required to use

those agencies. He continued that in communities where no fee-free agencies exist, the State would award a contract to one agency through the procurement process.

Senator Hoffman responded that the lone travel agency in the City of Bethel has informed him that, "the State is unwilling to pay those fees in Bethel."

Co-Chair Kelly announced that due to the amount of questions concerning this bill; he would be holding the bill in Committee until additional information could be provided.

Senator Wilken summarized that the State does not currently pay a significant amount for travel service fees; however, the forthcoming changes in the travel industry would require the State to pay significantly more for services. He continued that the question is which method would have the least fiscal impact to the State.

Mr. Jones responded that the competitive procurement method would be "cheaper."

SFC 02 # 96, Side A 12:33 PM

Senator Wilken clarified that this would be the method established if the bill were not adopted.

Mr. Jones concurred.

Senator Leman suggested that the Division of General Services should provide State agencies with a list of travel agencies that would honor the State's established level of service rates, and indicate which agencies on that list would provide services at lower fees.

Mr. Jones responded that this is the intention.

Senator Hoffman reiterated that as airline agencies eliminate the current commission structure, the level of service fees the State pays would increase. He stated that is it appropriate for the State and people who use travel agencies to absorb these costs as the travel agents are providing a service. He surmised the State would benefit from utilizing a travel agency rather than State employee time in making those arrangements. He voiced support for the bill.

Co-Chair Kelly ordered the Bill to be HELD in Committee. [This bill

is re-addressed later in the meeting.]

RECESS TO CALL OF THE CHAIR 12:36 PM / 8:15 PM

[Note: The remainder of Tape SFC 02 #96, side A, and all of side B are blank; however, the recording of the meeting continues on Tape SFC 02 #97 Side A and no portion of the meeting is unrecorded.]

SFC 02 # 97, Side A, 8:15 PM

Vice-Chair Ward called the Senate Finance meeting back to order.

#hb382

SENATE CS FOR CS FOR HOUSE BILL NO. 382(RES)

"An Act relating to the evaluation and cleanup of sites where certain controlled substances may have been manufactured or stored; and providing for an effective date."

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

REPRESENTATIVE GRETCHEN GUESS, the sponsor of the bill, informed the Committee that this legislation provides assurance that illegal drug laboratory sites would be thoroughly decontaminated before the premise could be re-occupied. She informed the Committee that currently "after a lab has been busted," the law enforcement agency sends a notice to the property owner to clean up the facility, and the agency takes no further action. She continued that no guidelines exist to specify the proper way to clean up a site, and the cleanup activities that occur are usually not adequate. She stated that this bill would establish proper clean-up guidelines for testing and decontamination of sites.

Senator Olson asked whether an existing problem has prompted this legislation.

Representative Guess responded that 50 methamphetamine laboratories "were busted" in the State in the year 2000, and proper cleanup provisions are not established to assure a safe environment for future occupants of these locations. She reiterated that this legislation would provide a residential property owner with the appropriate clean-up guidelines for a site.

Senator Austerman moved to report House Bill 382 "out of Committee with individual recommendations and accompanying fiscal notes."

There being no objections, SCS CS HB 382 (RES) was REPORTED from Committee with a previous zero fiscal note, dated February 27, 2002, from the Department of Public Safety, and a \$12,000 fiscal note dated February 25, 2002 from the Department of Environmental Conservation.

#hb300

SENATE CS FOR HOUSE BILL NO. 300(STA)

"An Act relating to the procurement of certain travel services."

[This bill was addressed earlier in this meeting.]

Representative Hayes clarified that this bill would allow the State to negotiate with travel agencies to establish equitable fees for travel services rendered to the State. He continued that if this bill fails to be adopted, a single travel agency in each community would be selected, through the RFP process, to handle State travel arrangements. He opined that the agency awarded the State's business would be the only agency "still open for business" at the end of the contract period, and that higher service fees could result from this "monopoly" situation.

Representative Hayes noted that Committee members received a list of twenty-two travel agencies [copy not provided] that currently do not charge a service fee for State travel arrangements. He contended that if this bill fails to be adopted, eighteen of those twenty-two agencies would be forced out of business.

Senator Wilken asked whether the Committee could mandate a Statewide service fee of, for example, \$15, and allow each travel agency to determine whether or not to honor that fee. He stated that identifying a specific fee would provide for an accurate fiscal note.

Representative Hayes responded that Alaska Airlines currently pays a \$20 commission to travel agencies, and that the State has determined that any level below that amount would not provide an agency with sufficient operational revenue.

Senator Wilken asserted that a pre-determined fixed fee rate would simplify the situation and provide for an accurate fiscal note.

Representative Hayes affirmed that the State supports establishing a specified fee, but declared that this would continue to result in an indeterminate fiscal note, as the State is unsure of the number of agencies who would adhere to the specified amount.

Senator Wilken expressed his continuing concern with the fiscal impact, and noted that the Senate Finance Committee Co-Chairs have not been present during discussions regarding the bill's fiscal impacts. He calculated that a \$20 transaction fee, based on State travel patterns, would create an annual fee expense of \$600,000. He continued that the fiscal note specifies that this amount would be absorbed within each Department's annual budget; however, he commented that this could create a hardship for State agencies. He avowed that while he understands that the travel industry supports this bill, as a Member of the Finance Committee, he "is charged with looking out for the general fund."

Representative Hayes expressed that the indeterminate fiscal note reflects the intent that the \$600,000 travel fee expenses would be absorbed "in each agency's current travel budget," and no increases in department travel expenses would be incurred.

Senator Ward clarified that absorbing \$600,000 in this manner would essentially remove that amount from the agencies' budgets for actual travel.

Representative Hayes affirmed that this could be the case; however, suggested that the resources of a professional travel agency could provide the best values in travel options.

Senator Ward contended that analysis supporting this has not been provided to the Committee.

Senator Hoffman surmised that lower fares might result if Alaska Airlines utilizes the savings resulting from the elimination of its travel agency commission fees to offset the service fees charged to the State by travel agencies.

Senator Olson, referencing earlier testimony that the State has spent \$11 million on travel, stated that five percent of that amount would be approximately half a million dollars.

Representative Hayes estimated that the fiscal cost to the State to absorb the travel fee expenses would range between \$500,000 and \$600,000.

Senator Olson voiced that Senator Wilken's concern that the State would incur a substantial fiscal impact is valid.

Representative Hayes, responding to Senator Hoffman's comment, stated that departments would continue to pay the same amount of money for travel; however, the question is whether the money would be paid to Alaska Airlines or as a fee to a travel agency.

Senator Wilken offered a motion to report "HB 300 from Committee with individual recommendations and attached indeterminate fiscal note."

There being no objections, SCS CS HB 300 (STA) was REPORTED from Committee with a previous indeterminate fiscal note, dated February 7, 2002 from the Department of Administration.

#hb393

SENATE CS FOR CS FOR HOUSE BILL NO. 393(L&C)

"An Act relating to unfair and deceptive trade practices and to the sale of business opportunities; amending Rules 4 and 73, Alaska Rules of Civil Procedure; and providing for an effective date."

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

DOUG LETCH, Staff to Representative Gary Stevens, stated that this consumer protection bill is designed to protect Alaskans from "get-rich-quick-schemes" that prey on individuals such as senior citizens. He stated that by requiring certain companies to register with the State before establishing and operating their business would provide the Department of Law with the means to regulate and enforce regulations regarding trade practices.

Senator Olson asked whether this bill would address such things as "sweepstakes or pyramid" schemes.

CRYSTAL SMITH, Special Assistant, Office of the Attorney General, Department of Law stated that pyramid schemes may or may not be affected by the bill, and that other consumer protection measures address sweepstakes schemes. She explained that this bill is intended to address schemes wherein people purchase a product or establish a business to sell a product. She noted that Alaskans

seem to be targeted by these enterprises, and that the operators of these businesses set up, conduct, and finish their business in a short time-frame. She stated that many of these businesses would be deterred from setting up practice in the State if their business were required to register with the State. She insisted that this bill would provide the State with the ability to charge a business with a registration violation if business were conducted without first registering, and she noted that this violation would be faster to implement than proceedings based on a "scam violation."

Senator Austerman offered a motion to move "HB 393 out of Committee with individual recommendations and accompanying indeterminate fiscal note."

There being no objections, SCS CS HB 393 (L&C) was REPORTED from Committee with an indeterminate fiscal note dated February 21, 2002 from the Department of Law.

#hb239

SENATE CS FOR HOUSE BILL NO. 239(HES)

"An Act establishing a pilot program for a regional learning center."

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

DR. LARRY LABOLLE, Staff to Representative Richard Foster, testified to a letter to the Committee dated May 10, 2002 co-signed by Dr. John A. Davis, Superintendent, Bering Strait School District and Dr. Stan Lujan, Superintendent, Nome City Schools [copy on file] which identifies various project funding sources such as training grants through Kawerak, Inc, a consortium of regional social services agencies. He noted that this letter does not provide a financial plan although other letters supporting this project have been received; including one from the City of Nome [copy not provided] that assures the City's support of the project and specifies that Kawerak, Inc. would commit up to \$2,300,000 in State and federal training money to the project, and another letter addressed to the superintendents of the Bering Strait School District and Nome City Schools District from Kawerak, Inc. [copy not provided] that specifies that \$2,300,000 in grant funding is available to support this program. He continued that the Norton Sound Development Corporation has additionally supplied a letter [copy not provided] citing their support of the program.

Dr. LaBolle stressed the importance for project planning; however, he pointed out "nobody is able to put together a financial plan until they have some idea of what the program looks like." He continued that in order to "shape the program," it would be necessary for the Bering Straits School and Nome School Districts to work with other "major players," such as the Northwest Campus and Kawerak, Inc. "to meet and develop a consensus" as to how the program would operate.

Senator Wilken attested that a business plan has been requested numerous times, and the fact that none of the recent correspondence addressed the issue "shocked" him. He reviewed the known elements of the project including the utilization of an existing building for which operational costs are available, and the identification of the number of students and corresponding staffing requirements. He surmised that the affected school districts' superintendents each manage large school district budgets and should be able to develop a business plan for this project. He stated that in return for the State, acting as "the project banker" by providing funding for the project, the districts should be able to provide a project business plan. He voiced two suggestions: one; "stop this bill right here" until a business plan is presented; or two; "zero out the fiscal note" which would allow the project to begin and develop a funding needs plan as it progresses.

Senator Wilken opined that this bill should not be considered until a viable business plan is presented.

JOHN HANDELAND, Employee, and former Mayor, City of Nome, informed the Committee that the City of Nome has been exploring methods to utilize the existing Nome Beltz School complex and to provide an innovation educational experience for both rural and urban students in the City of Nome and the Bering Straits School Districts. He stated that this project is the result of that endeavor. He informed the Committee that the City of Nome has approached Alaska US Senator Ted Stevens, who asked the City to identify local support for the project.

Mr. Handeland confirmed that the City of Nome, Kawarek, Inc, and the Bering Straits and Nome School Districts are committed to supporting this project. He further expressed that the City of Nome has responsibly and continually demonstrated its support of education, and that there is widespread support in the region to support this bill as presented.

Mr. Handeland avowed that the approval of the accompanying \$150,000 Department Education and Early Development fiscal note would

provide the project with the required State support necessary to further the opportunity to receive federal and other funding support.

Senator Green asked why the two school districts could not provide the required support for this project, without the need for this legislation.

Dr. LaBolle explained that US Senator Stevens has specifically requested a demonstration of support for this project from the State. He continued that as the concept of the project expanded, the Department of Education and Early Development became involved in the process of coordinating the two affected school districts.

Senator Green questioned whether a letter of recommendation from the Department of Education and Early Development would be sufficient to demonstrate the State's support. She voiced that this appears to be a request for money, and that every school district would like to have a comparable amount of money to further the development of innovation teaching programs. She stated that she is very concerned about the long-term impact of this legislation.

Senator Wilken asked the testifier whether a five-year business plan could be developed.

Mr. Handeland responded that a business plan should be and could be developed, and he mentioned that US Senator Stevens has also requested a business plan to be developed by the two school districts. He contended that perhaps a business plan should have been established first; however, the emphasis was placed on cementing the necessary support and cooperation for the project from the various regional entities.

Mr. Handeland responded to Senator Green's comment about providing innovative education funding to all districts, by qualifying that the City of Nome School District, unlike other State school districts, has an existing, but unused, teaching facility that would provide the required infrastructure for this project.

Senator Olson reiterated that having an existing facility does make this project unique.

Senator Olson offered a motion to move from Committee, "House Bill 239 with individual recommendations and accompanying fiscal note."

Senator Wilken objected and asked that consideration be given to zero out the accompanying fiscal note.

Vice Chair Ward inquired whether Senator Wilken would offer an amendment to that effect.

Senator Wilken stated that if the fiscal note were zeroed out he could support the legislation; however, he did not offer a formal amendment.

A roll call was taken on the motion to report the bill from Committee.

IN FAVOR: Senator Hoffman, Senator Olson, Senator Ward, Senator Austerman

OPPOSED: Senator Green, Senator Wilken

ABSENT: Co-Chair Donley, Co-Chair Kelly, Senator Leman

The motion PASSED(4-2-3)

SCS CS HB 239(HES) was REPORTED from Committee with a previous \$150,000 fiscal note, dated April 16, 2002 from the Department of Education and Early Development.

RECESSED TO THE CALL OF THE CHAIR 8:40 PM / 9:11 PM  
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**ADJOURNMENT**

Co-Chair Pete Kelly adjourned the meeting at 09:11 PM