HOUSE FINANCE COMMITTEE
April 23, 2003
1:36 PM

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CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:36 PM.

MEMBERS PRESENT
Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Mike Chenault
Representative Eric Croft
Representative Richard Foster
Representative Mike Hawker
Representative Carl Moses
Representative Kevin Meyer, Vice-Chair
Representative Bill Stoltze
Representative Jim Whitaker

MEMBERS ABSENT

Representative Reggie Joule

ALSO PRESENT

Representative Cheryll Heinze; Representative Lesil McGuire; David Brewster, Staff, Representative Mike Hawker; John A. Barnes, Alaska Business Unit Manager, Marathon Oil Company; Chuck Logsdon, Chief Petroleum Economist, Department of Revenue; Mark Meyers, Director, Division of Oil and Gas, Department of Natural Resources; Jill Geering, O.D., Juneau; David Katzeek, ANB, Juneau; Eddy Jeans, Manger, School Finance and Facilities Section, Department of Education and Early Development.

PRESENT VIA TELECONFERENCE

Sarah Fisher-Goad, Alaska Industrial Development and Export Authority; Valerie Walker, Deputy-Director, Finance, Alaska Industrial Development and Export Authority; Erik Christianson, O.D., Ketchikan; Bob Palmer, Academy of Ophthalmology, D.C.; Carl Buznego, M.D., Academy of Ophthalmology, Florida; Cheryl Lentfer, O.D. Anchorage; Dr. Carl Rosen, M.D.; Gary Jackson, Patient; Douglas Griffin, Director, Alcoholic Beverage Control Board; Bob Klein, Alcoholic Beverage Control Board; Mike Gordon, Alcoholic Beverage Control Board; Matt Larry Jones, Executive

Director, Parole Board, Department of Corrections, Moose's Tooth, Anchorage.

SUMMARY

HB 61 "An Act establishing an exploration and development incentive tax credit for persons engaged in the exploration for and development of less than 150 barrels of oil or of gas for sale and delivery without reference to volume from a lease or property in the state; and providing for an effective date."

HB 61 was HEARD and HELD for further consideration.

HB 142 "An Act relating to provider responsibility for ocular postoperative care; and providing for an effective date."

HB 142 was heard and HELD in Committee for further consideration.

HB 165 "An Act relating to community schools; and providing for an effective date."

CSHB 165 (HES) was REPORTED out of Committee with "no recommendation" and a new zero fiscal note from the Department of Education and Early Development.

HB 203 "An Act relating to the definitions of 'net income' and 'unrestricted net income' for purposes of calculating the dividends to be paid to the state by the Alaska Industrial Development and Export Authority; and providing for an effective date."

HB 203 was REPORTED out of Committee with a "do pass" recommendation and one previously published zero fiscal note from the Department of Community and Economic Development.

HB 234 "An Act relating to brewpubs, and continuing the existence of the Alcoholic Beverage Control Board; and providing for an effective date."

CSHB 234 (FIN) was REPORTED out of Committee with individual recommendations, a previously published zero fiscal note from the Department of Revenue (#1) and a new fiscal impact note from the Department of Public Safety.

#hb203
HOUSE BILL NO. 203

"An Act relating to the definitions of 'net income' and 'unrestricted net income' for purposes of calculating the dividends to be paid to the state by the Alaska Industrial Development and Export Authority; and providing for an effective date."

Representative Hawker MOVED to report HB203 out of Committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION it was so ordered.

HB 203 was REPORTED out of Committee with a “do pass” recommendation and one previously published zero fiscal note from the Department of Community and Economic Development.

#hb61
HOUSE BILL NO. 61

"An Act establishing an exploration and development incentive tax credit for persons engaged in the exploration for and development of less than 150 barrels of oil or of gas for sale and delivery without reference to volume from a lease or property in the state; and providing for an effective date."

Representative Chenault MOVED to ADOPT Committee Substitute, Work Draft 23-LS0270\Q (4/15). There being NO OBJECTION it was so ordered.

REPRESENTATIVE MIKE CHENAULT, SPONSOR, provided information about the bill. He read from a shortened Sponsor Statement as follows:

HR 61 creates a new income tax *credit* to encourage increased exploration and development of natural gas reserves south of the Brook Range. To qualify for the credit, operators must successfully drill and develop reserves that produce natural gas for sale and delivery. This is a successful efforts bill, which means that no credits will be given for dry holes or for exploration that is not developed.

Currently, the Cook Inlet continues to have great potential for additional natural gas development Other Alaska basins outside of the North Slope have similar potential. However, the combination of exploration risk, high development costs and historic low natural gas prices has created a disincentive to drill for new reserves as compared to other areas of the world. By providing a credit

for successful efforts, more exploration will occur in Southern Alaska leading to much needed new natural gas reserves. This will benefit all residents and businesses at no direct cost to the state.

In addition to the benefit of developing new gas reserves, increased Cook Inlet drilling will also aid the general economic status on the Kenai Peninsula and in Anchorage as well as other areas of Alaska. Moreover, increased tax revenue from additional hydrocarbon production will more than offset any fiscal impact from the proposed credit.

JOHN A. BARNES, ALASKA BUSINESS UNIT MANAGER, MARATHON OIL Discussed slides from a power point presentation as follows:

HB 61 – What does it Do?

•Draws more E&P Investments to Alaska
•Creates income tax credit to encourage exploration and development of gas reserves south of Brooks Range
•Primary focus is on Cook Inlet, but applies to other Alaska basins
•Focus is on natural gas.
•Levels the playing field somewhat with other exploration opportunities around the world.

•Applies to 10% of Qualified Capital Investment
•Applies to 10% of Qualified Expense
•May offset no more than 50% of corporate income tax in any one year (up to five additional years)
•Only applies to successful efforts.
•Incentive can be factored into project economics.

HB 61 – Why is it needed?

•Currently there is not enough Alaska E&P Activity
•Natural Gas Reserves have been and are continuing to decline in the Cook Inlet.
–Current Cook Inlet proven natural gas reserves are estimated at 2 TCF
•(Based on DNR DOG 2002 report, less 2002 production)
•Despite recent increase in Cook Inlet exploration activity, reserves are not being replaced on an annual basis
•Cook Inlet deliverability has declined over last several years.

Mr. Barnes referred to a graph illustrating the relationship between Cook Inlet supply and demand (copy on file).

•Supply and demand rationalization is occurring.
–Not enough gas to feed low price consumer.
–Gas price increasing

•Enstar average gas cost (WACOG) $2.55/mcf
•Most recent Enstar contract gas price $2.75 to Henry Hub
•Henry Hub recently over $9.00/mcf

•Current proven reserves – 2000 BCF
–Approximately 10 year production life, assuming no decline.
•Potential Gas Committee Resource Estimates
–Probable Reserves – 1050 BCF
–Possible Reserves – 2100 BCF

•Stimulates Cook Inlet, and potentially other basin exploration.
•Aids in maintaining Cook Inlet 200+ BCF/year production.
–Equivalent to a 13th month of North Slope Production.
•Provides gas for Cook Inlet utilities, industrials, jobs, royalties, taxes.
•Incentive will be clearly positive to State of Alaska, factors are...
–How many developments will be incentivized?
–How much gas will be discovered?
–What will be the gas sales price (royalty value)?
–How much will be spent for exploration and development?
–Successful efforts driven – no incentives for dry holes
•Conceptual Estimate of Impact, assumptions:
–Varied field size from 0 to 500 BCF
–Development Cost $0.50/mcf
–Royalty – 12.5%
–Severance Tax – 7.5%
–Ad valorem – 2.7%
–Gas sales price - $2.50/mcf

Mr. Barnes•Based on conceptual model, State of Alaska receives from $3 to $10 additional revenue for each $1 of tax credit.
•Credit is needed now!
–Not enough exploration in Cook Inlet to meet demand.
–Other areas of state need exploration and development.
–New discoveries will take a minimum of 3 years to bring to first gas
–

<u>Success Measures</u>

•Increased Lease Activity
•Increased Drilling Rig Activity
•Increased Construction Activity
•Increased Production and Deliverability
•Credits Applied to Income Tax

–For every dollar of credit approximately ten dollars were spent successfully developing new reserves, and ultimately paying new taxes!

Representative Croft referred to the sponsor statement that noted “historic low natural gas prices”. He then compared this with page 8 of the presentation, which noted “gas price increases”. He asked why the increased prices would not create a natural incentive for exploration.

Mr. Barnes acknowledged that price increases provided some incentive. He noted that exploration was a risky business, and offered no guarantees of success. He pointed out that the time lag between price shifts and discovery of new supplies could cause potential damage to local industry. He drew the analogy that stores run sales to encourage activity.

Representative Croft acknowledged the potential benefit of the bill if it created activity that would not occur without it. He observed that it was difficult to determine whether the company would have increased exploration without the incentive, but conceded that if only one out of ten new reserves were developed due to the bill, the state would “break even”.

Representative Stoltze asked if a “double dip” was possible if a company took a reduction for royalties and also for Agrium [Company].

Representative Chenault maintained that the bill did not allow for multiple incentives.

Representative Croft asked for clarification, and observed that a producer might qualify for the tax credit, and then not have to pay the royalty that they would have passed on to Agrium.

Representative Whitaker suggested that any double credit would be very minimal.

Co-Chair Harris referred to sub section (g) “A taxpayer who obtains a credit under this section may not claim a tax credit or royalty modification provided for under any other title.” He observed that the bill pertained to corporate income tax, no more than 50 percent of the tax owed to the State in any year, and that to qualify a project must be producing gas or oil for the state of Alaska. He speculated that the potential risk for the State might be a portion of corporate income tax, but that this would be offset by a greater amount of royalties and severance. He asked whether the risk was minimal compared to the potential gain.

Mr. Barnes concluded that successful exploration would reward the producer with corporate tax credit, and the higher production level would reward with additional revenue.

Co-Chair Harris noted that the bill provided incentive for producers to invest into Alaska as opposed to other areas or countries.

Representative Hawker referred to the successful efforts restriction in the bill and asked whether the proposed investment tax credit would apply to expenditures that were for an existing reserve, rather than a new reserve.

Mr. Barnes commented that the intent was to qualify expenditures for bringing to production new reservoirs. He defined those new reservoirs as those in which no sales had previously occurred, whether a new or existing reserve.

In response to a question by Representative Hawker, Mr. Barnes confirmed that if a producer found product in an existing well, those development expenditures would qualify.

Representative Hawker referred to the qualifying expenditures language. He asked if the bill accommodated a situation when money was expended in a particular year and the reserve produced after the end of that tax year. He suggested that an accounting problem might exist in the language.

Mr. Barnes observed that this accounting question had not been previously addressed. He assumed that, in such a progressive project, expenditures were held in aggregate and accounted for when product was sold.

Representative Hawker referred to page 2, line 7, stating that qualifying expenditures must be "made for assets first placed in service in the state during the tax year in which the credit is claimed". He speculated that if a credit could not be claimed until a reserve was proven, it would exclude any expenditures made in the exploration process prior to the year in which the reserve was proven.

In response to a question by Representative Whitaker, Mr. Barnes reiterated that the credit would apply to production from either an existing well or a new reserve that produced new gas sales.

Representative Whitaker referred to page 2, line 7, and asked if Mr. Barnes was satisfied with the existing language.

CHUCK LOGSDON, CHIEF PETROLEUM ECONOMIST, DEPARTMENT OF REVENUE testified via teleconference. He was not able to

comment on the language. He stated that he assumed the credit could be taken after an asset was placed in service, but noted that this may not be the correct interpretation.

MARK MEYERS, DIRECTOR, DIVISION OF OIL AND GAS, DEPARTMENT OF NATURAL RESOURCES concurred with Mr. Logsdon's interpretation of the credits being transportable.

Representative Croft noted that the language made a distinction between qualified capital investments and qualified services. He maintained that qualified capital investment could be carried over, whereas qualified services (such as labor) were in question. He noted that a distinction was made between expenditures for capital investment, and for the services that could apply only to the specific tax year.

HB 61 was HEARD and HELD for further consideration.

#hb165

HOUSE BILL NO. 165

"An Act relating to community schools; and providing for an effective date."

Co-Chair Williams stated that public testimony on this bill had concluded at its previous hearing. He noted that the bill would repeal the Community Schools grant program, and observed that currently 80 percent of schools in the program received grants of roughly $5 thousand annually. He stated that the Administration viewed the grant program as having been intended only to provide support to initiate community schools programs, and that this goal had already been achieved.

EDDY JEANS, MANAGER, SCHOOL FINANCE AND FACILITIES SECTION, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT provided clarification on the bill. He responded to questions raised in previous testimony about the spreadsheet prepared by the Department of Education and Early Development ("Community Schools Expenditures and Grants, Prepared 3/12/03", copy on file).

Mr. Jeans noted that the spreadsheet had reflected expenditures for community services. He provided a departmental regulation definition of community services: activities provided by the school or district for the purpose of relating to the community as a whole, or some segment of the community, not directly related to providing education for students. He listed examples such as recreation, public libraries, civic activities, public radio programs, community welfare activities and childcare in residential day schools. He quoted the Community Schools statute, under purpose and intent: Community Schools promotes more efficient use of school facilities through the

extension of buildings and equipment beyond the normal schools day. He explained that the Department aggregated expenditures for activities that occurred "outside the normal school day" in preparing the figures in the spreadsheet. He pointed out that there is a separate fund called "community schools", where districts deposit the grant and matching funds for the specific purpose of Community Schools programs. The spreadsheet had included expenditures for all community services and not just for community schools.

Representative Croft asked if the total of $500 thousand reflected all community services or just community schools. Mr. Jeans confirmed that this amount represented the total grants provided to schools. He noted that the previous column (Community Schools FY02 Expenditures) reflected all community services, and not just functions of the grant program.

Co-Chair Harris observed that the areas most affected by the legislation were rural areas. Mr. Jeans clarified that these areas reflected 100 percent funding of programs by the grant funds. He maintained that these schools were accounting for some of their operating costs elsewhere in their budgets.

Co-Chair Harris noted that in rural communities, the schools were the center of community activity, whereas larger cities had other options for activities. He asked if any means existed to lessen the effect on rural communities of the resulting decrease in availability of facilities.

Mr. Jeans speculated that the facilities would remain open. He submitted that a grant of $1,500 would not keep a school open for a significant period. He suggested that other resources were already being used to support activities.

Co-Chair Harris asked that the fiscal note which reflects a savings of $500 thousand be zero since it was already zeroed out of the budget.

Mr. Jeans stated that the Department had previously acknowledged that the program was zeroed out in the budget, but agreed to prepare a new fiscal note.

Representative Hawker observed that the State recognizes and encourages the continuation of community schools programs. He pointed out, however, that by repealing sections of the statute it takes away the State's authority to fund the program in the future, even though the funding had already been taken out of the State's budget for FY 04.

Mr. Jeans acknowledged concern that the bill would diminish districts' ability to continue their community schools

programs. He maintained that districts would continue to offer community schools programs. He acknowledged that user fees might be slightly increased to accommodate grant cuts.

Co-Chair Harris MOVED to report HB165 out of Committee with individual recommendations and the accompanying zero fiscal note. Representative Croft OBJECTED.

Representative Hawker also OBJECTED. He acknowledged that the funding was already zeroed out, but stated that he would be more comfortable supporting communities who rely on this program by retaining the option to consider possible future funding. He would like to see the statute maintained.

Representative Croft pointed out that there was no funding saved by passing the legislation, since the action of eliminating funding had already been taken in the operating budget. He took exception to the sponsor statement that the statute was intended merely to start the program and not to maintain it. He noted programs like the school lunch program, which would be damaged if funding diminished after the program had been established. He also gave examples of reading and tutorial programs in Anchorage and maintained that the small amount of [community schools] funding was doing a great deal of good. He noted that the statute reflected support of the program, and that it was appropriate for the legislature to provide a small amount of financial incentive for these valuable programs.

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Representative Whitaker questioned the purpose of passing the legislation, since funding had already been cut. He maintained that the action would serve no purpose.

Co-Chair Williams concurred with the Administration that to repeal the legislation was a housekeeping measure. He suggested that future legislatures could enact other legislation if the ability and need to fund the programs arose.

Vice-Chair Meyer asked for further explanation of the Administration's support of the bill.

Mr. Jeans relayed the funding history of the bill, and the statutory entitlement of the program. He noted full funding- of the program would entail $3.2 million. He stated that the program had been funded at under $800 thousand since 1988. He observed that the intent of the statute was to implement programs that would later become self-sufficient. He submitted that the Administration ceased to provide operational funding to the program in the mid 1980's. Funding levels had been prorated down to a level as low as $1,500. He suggested that unless the

legislature was willing to fund the program, the Administration felt it was time to take the statute off the books.

A roll call vote was taken on the motion.

IN FAVOR: Meyer, Moses, Whitaker, Chenault, Foster, Williams, Harris
OPPOSED: Stoltze, Croft, Hawker

The MOTION PASSED 7-3.

CSHB 165 (HES) was REPORTED out of Committee with "no recommendation" and a new zero fiscal note from the Department of Education and Early Development.

#hb142
HOUSE BILL NO. 142

"An Act relating to provider responsibility for ocular postoperative care; and providing for an effective date."

REPRESENTATIVE CHERYLL HEINZE, SPONSOR provided information about the bill. She explained that the legislation focused on patient care, and noted that a number of her constituents were of an age when their eyesight was deteriorating and they were in need of surgical procedures. She stated that the bill ensures post-operative care following ocular surgery. She maintained that care by an ophthalmologist following surgery was imperative for good patient care. Today's technology makes surgical procedures appear to be routine. She maintained that although most often the surgeries are successful, serious complications might occur. HB 142 provides appropriate ocular postoperative care by an appropriate professional. She noted that the legislation required the surgeon to be physically available to a patient in the community where the surgery is performed for 120 hours following surgery. She added that, after that period, the surgeon may delegate post operative care to another person that the surgeon determines qualified to treat the patient.

Representative Heinze noted the changes proposed by Amendment #1, which reduces the number of hours from 120 to 72 hours, or three days.

ERIK CHRISTIANSON, OD, KETCHIKAN, testified via teleconference in opposition to the bill. He noted that in Ketchikan, the population was not large enough to employ a full time ophthalmologist. He read from prepared testimony as follows:

HB142 is a good example of poorly thought out

legislation. I am opposed to the spirit of this bill. By that I mean that entire premise on which it is founded is wrong. The premise is that post-operative care after eye surgery or co-management needs to be regulated. Co-management of surgical patients by optometrists is already regulated under federal law. No other state has this type of law. If you are regulating co-management between ophthalmologists and optometrists then why not other types of surgical specialties arid the local doctors who will follow their patients. This is not the job of the legislature!!!

It questions the clinical competence of optometrists to co-manage patients. Optometrists have been performing this to a high level for more than 20 years. I have been a member of the Board of Optometry for *5+* years and we have never had a case brought us where an optometrist caused a patient harm.

It is an attempt to legislate clinical decision making on the part of ophthalmic surgeons. If a surgeon is performing "bad surgery" federal law, malpractice, referring providers, and the PATIENTS themselves will cause this surgeon to stop.

It is bad for rural Alaska in that it limits the potential choices available to these patients. Currently certain eye surgical procedures are performed at Ketchikan General Hospital (KGH) and the ophthalmologists who perform them would have a hard time managing the *5-day* time limit. I do not manage with these doctors except when their patients develop problems after they leave. In the 13 years I have been in Ketchikan I have had to only help out a handful of times. FIB 142 would not allow me as an optometrist to help out within the critical first *5* days. Even though only 35 surgeries per year are done at KGH it offers a choice for those persons who have difficulty traveling or are cover by Medicaid or Medicare and cannot afford travel.

Optometrists live where the patient lives. We are the eye care experts in rural Alaska limiting our ability to care for our patients is bad for these patients and the communities we serve.

HB 142 is an attempt to limit patient access to care it is obviously special interest legislation, and is both anti-consumer and anti-patient.

Representative Croft asked about the typical surgical schedule. Mr. Christianson stated that surgeons who came to Ketchikan, typically from Juneau, generally performed

procedures on Mondays and stayed in Ketchikan until Thursday, whereas a surgeon from Anchorage might leave the day after a procedure was performed. He noted that there was a local optometrist who specialized in early postoperative care for patients of ocular surgery. He responded to sentiments by Anchorage ophthalmologists that don't want to deal with patients treated by an outside surgeon. He noted that the follow-up optometrist specializes in the area of postoperative care.

Representative Croft asked if a three-day vs. five-day period made a difference. Mr. Christianson maintained that the crux of the problem was that the legislation in the guise of being helpful affected an entire profession. He noted that different surgeries had various complication rates and recovery times, depending on the surgeon and the procedure.

Representative Stoltze noted that in his community of 35 thousand, there was no practicing ophthalmologist. He asked about the demographics of practitioners per capita. Mr. Christianson noted that generally a population of 8 thousand could sustain an optometrist, whereas an ophthalmologist with a more extensive education background generally required a community of at least 100 thousand to sustain a practice.

Co-Chair Harris cited an oracular surgical procedure performed on a family member by an outside physician. He noted that the initial post-operative care was completed the same day by the surgeon, with subsequent care being the responsibility of the patient and the clinic that provided facilities for the surgeon. He asked if this was a typical schedule.

Mr. Christianson confirmed that this was a standard procedure. He added that occasionally patients would sometimes choose to have a procedure performed elsewhere due to lower costs. He noted that this kind of procedures worked if Dr. Christianson retained control over making referrals and was able to do continuous follow-up. He noted that certain complications would require a further visit to the surgeon, but stated that these complications were rare if a patient went to a quality surgeon.

Co-Chair Harris asked how the bill, with the change from 120 to 72 hours, affected the procedure. Mr. Christianson referenced page 2, and maintained that the bill did not allow an optometrist to be involved within the set time period. He stated that only an ophthalmologist or a physician would be allowed to do immediate follow-up.

HELEN BEDDER, STAFF, REPRESENTATIVE HEINZE referred to line 25 of page 2, and quoted that a co-management agreement

could be agreed to “only if the surgeon confirms that the person to whom the care is delegated is qualified to treat the patient during the postoperative period”. She pointed out that they must be “licensed or certified to provide the care if license or certification is required by law.” She maintained that the language was specifically to allow care in remote areas where optometrists may not be available. She noted that following the five (or three) day period, the surgeon could delegate anyone who is available.

Mr. Christianson questioned the need for the legislation and asserted that the clinical decision-making of a surgeon was not within legislative purview. He maintained that the bill opened this issue for other types of referrals and questioned why this regulation was required.

Ms. Bedder stated that ophthalmologists had raised the concern about patient care with Representative Heinze’s office. She noted out that in other surgical areas, surgeons were responsible for patient care following surgery. She stated that problems had occurred in Anchorage with a surgeon who comes to town and leaves without communicating with an ophthalmologist for follow-up care. She pointed out that many times the patients were elderly and it was a burden for them to be treated by a physician with whom they were unfamiliar.

CARLOS BUZNEGO, M.D., ACADEMY OF OPTHAMOLOGY, D.C. testified via teleconference in support of the bill. He explained that this organization represent 27 thousand ophthalmologists throughout the nation. He explained that whereas federal regulations address patient protection, state legislatures were the forum for health policy merits to be debated and acted upon. He noted that he serves on the Academy’s Governing Committee for State Affairs, as well as practicing ophthalmology with a focus on cataract treatment. He maintained that the bill addressed an abuse of surgical trust between a patient and surgeon. He noted that ocular care was a rare area when non-physicians may inappropriately perform postoperative care following surgery.

Dr. Buznego explained that co management was the sharing of postoperative responsibilities between the operating surgeon and another health care provider. He stated that an arrangement might be entered into only if it was in the best interest of a patient, as in cases where the patient cannot travel. He maintained that unethical behavior occurred when a surgeon enters into a co management arrangement with an allied health provider to economic considerations, as for an inducement for surgical referrals. He asserted that the bill would eliminate this unethical behavior by carefully regulating surgical referrals. He noted that under the bill, referral would occur only when in the best interest of the patient and by the judgment of the surgeon to determine

appropriate postoperative care. He stressed that they key issue was not a commercial considerations, but the ethical treatment of surgical eye patients.

Dr. Buznego pointed out that cataract surgery or Lasik surgery often involved complications. He gave the example of an early postoperative infection. He maintained that there was no such thing as a specialist in postoperative cataract surgery. He noted that if a wound was not properly closed, it required a surgeon to complete the surgery. He stressed that optometrists were not trained or licensed to perform such procedures, or to determine postoperative infections or other surgical complications. He suggested that surgeons should not be free to leave the state and leave someone who is not properly trained or licensed to resolve potential problems.

CHERYL LENTFER, O.D., ANCHORAGE, testified via teleconference in opposition to the legislation. She refuted the statement that optometrists were not trained or licensed in postoperative surgical care, but acknowledged that they could not close sutures. She also maintained that many patients in Alaska had been seeing their optometrists for 30 years, and that it was the optometrists who referred the patient to a surgeon. She pointed out that she had been seeing postoperative patients for many years.

Dr. Lentfer referenced her written testimony provided in member's packets. She pointed out that co-management was an aspect of health care that had already existed successfully for many years, and questioned the need to regulate it at this time. She maintained that such regulation would ultimately apply to all fields of health care, including cardiology, oral surgery, etc. She stated that surgeons suspected of unethical practices should be brought before the Medical Board, and not regulated by the legislature. She also pointed out that the bill regulated the amount of time a surgeon was required to be present in a given location, which was unrealistic given the variety of follow-up needed for different procedures.

Representative Stoltze referenced earlier testimony regarding nurses handling post-operative care. He asked if in any situation that would be appropriate. Dr. Lentfer replied that this would only be appropriate in unique situations, such as if the nurse had specific oracular expertise.

DR. CARL ROSEN, M.D., ANCHORAGE, testified via teleconference in support of the bill. He stated that he was a surgeon specializing in oracular procedures, and noted that he often performed eyelid reconstruction following trauma. He commented that, although co-management

originally carried good intentions, a patient protection bill is currently needed to address abuse of the practice.

He explained that the legislation was needed to support the patient's best interest, and suggested that in the case of co-managed care, an equally trained surgeon, preferably an ophthalmologist, be responsible for the patient's postoperative care. He maintained that optometrists did not fill this need, not being trained in the nuances of oracular surgery.

He noted that the current situation in Anchorage involved organizations that perform oracular surgery, and then leave the patients to the care of optometrists. He maintained that this sometimes resulted in delayed care, and noted that he saw patients with potentially serious post-operative complications that resulted from such care. He also pointed out that occasionally patients were "dumped" on the emergency room, forcing a local ophthalmologist who is uninformed to assume the care and liability.

DR. JILL GEERING, O.D., JUNEAU, testified in opposition to the bill. She read from written testimony as follows:

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Arguments Against Alaska Co-Management

1. Co-management of surgical patients by optometrists is already adequately regulated under Federal law. In 1980, Congress amended the Medicare statute to allow payment to doctors of optometry for cataract post-operative care. The report from the then Department of Health, Education, and Welfare upon which this legislation was based concluded, "The services appear to be effective in patient management, including the management of aphakic and cataract patients. They are reasonable, non-experimental, safe and generally acceptable to the vision/eye care community and the public." The Federal law is quite extensive in providing patient protections and should not be tampered with. States are avoiding doing this, and the Alaska bill would be an unwise change.

2. Federal law is premised on protecting patients from financial exploitation in co-management arrangements. Neither Federal law nor any state law has ever questioned the clinical competence of optometrists to co-manage patients, and optometrists have been doing so successfully for over twenty years. There is no public health justification for the Alaska co-management bill.

3. The Alaska co-management bill effectively eliminates optometrists from the co-management of patients by preventing them from being involved in patient care for 5 days following surgery. This is harmful to patients.

4. The Alaska bill forces patients to seek out less available and more expensive ophthalmologic care for no legitimate health care reason. Again, the co management regulation adopted by the Federal laws was not premised on patients being in any health care danger, but was premised on protecting patients from being taken advantage of financially. Both an optometrist's and an ophthalmologist's ordinary obligations not to commit medical malpractice would work to prevent any harmful clinical co-management decisions within the first five days of surgery. This bill adds nothing to those protections, and Is a step backwards from Federal law in that it limits patient access to care and makes it more likely that patients will unnecessarily pay more for care (from ophthalmologists) — exactly what the Federal law was aimed at preventing.

5. Even if I believed that co-management should be limited, I would argue against this bill. It is full of technical flaws and ambiguities.

    a) While this doesn't specifically prohibit optometrists from performing post op care after the 5-day period, it is a harrier. It eliminates patient's freedom of choice, and creates fear. According to the bill (section C, number 5, and letter g), the patient is to be made aware of special risks that may happen to them if they enter into a co-management agreement. Since there are no special risks (as Determined by Congress over 20 years ago), I would like to see what such a description would say, because optometrists and other ophthalmologists, are licensed and qualified to perform such care,

    b) There seems to be a double standard in regards to many of the exceptions. The Alaska bill shifts the determination of patient travel hardship onto the shoulders of the patient, which is an unworkable legal standard. The exemption for the surgeon's travel that says, if the surgeon will not be available for postoperative care. ..as a result of the surgeon's

personal travel, illness, etc " is obviously self serving on the surgeons part. If the true intent of this bill is to protect the public, why is it unsafe and not good medicine for other well trained eye care professionals to co-manage in normal circumstances, but if a surgeon is going on vacation, then it is Ok for others to co-manage safely?

c) The agreement can only be entered into if the surgeon confirms that the co-manager is qualified to treat the patient. This is not the surgeon's job, this is the licensing department's job. Does this mean that the surgeon must contact occupational licensing before entering into a co-management agreement?

d) The co-managing doctor cannot further delegate care to another. What if the co-managing doctor is sick, ill, or called out of town on an emergency and the surgeon is off on vacation? Any referral to a third doctor would violate this law, but the co-managing doctor is ethically bound to arrange care for that patient.

e) An exception is made to US Public Health Service doctors or US Armed Forces doctors who are volunteering without pay or other remuneration. This implies that patients are safe for co-managing if follow up care is free, but not safe if it isn't free? Or does this just mean that the ophthalmologists shouldn't have to provide free follow up care...but they are the only one who should provide follow up care if it is paid for?

f) Midwives are exempt. This bill would pass into law a provision that allows midwives to perform follow up care for someone who had cataract surgery.

As some of you may know, there is an unfortunate duel between ophthalmologists and optometrists in this state. Most of which is professional jealousy. Optometrists seek to move forward by way of improving on and learning new techniques to better serve the citizens of Alaska, Including adding oral medications to our licensure. Ophthalmologists have opposed that, this bill is another attempt at limiting our scope of care and superseding the Alaska Board of Optometry.

This bill would not only limit us, but it would move our profession back to the 1960's. I encourage you to vote no.

DAVID KATZEEK, ALASKA NATIVE BROTHERHOOD, JUNEAU, is a member of the Tlingit tribe, from the Chilkat tribes in Haines. He testified in Tlingit and English in support of the bill. He gave information about the history of his people's migration to different areas. He maintained that the bill was supportive of patient's needs. He expressed his opinion that the bill closes loopholes that allow professionals from other states to perform services in Alaska without responsibility to Alaskans. He referenced the limited entry legislation in regard to salmon fishing. He maintained that the legislation provided higher quality care for people not only in rural communities but for all Alaskans. He observed the contention between professional groups and emphasized that the eyesight of Alaskans were of utmost importance and value. He encouraged members to take the safety of the people into consideration.

Mr. Katzeek stated that, according to the Department of Health and Social Services, over 50 percent of Native Americans suffer from type two diabetes, which causes problems with eyesight.

HB 142 was heard and HELD in Committee for further consideration.

Co-Chair Williams began a brief at ease at 3:30 pm. The meeting reconvened at 3:45 p.m.

#hb234
HOUSE BILL NO. 234

"An Act relating to brewpubs, and continuing the existence of the Alcoholic Beverage Control Board; and providing for an effective date."

REPRESENTATIVE LISEL MCGUIRE, SPONSOR, testified in support of the legislation. She explained that Section 1 of the bill allows for the sale of "growlers" of up to five gallons per day, as stated in current statute, but eliminates a technical provision that required a brewery must be on the premises in order to sell a "growler" to customers. She explained that this provision prevented the Moose's Tooth Brewery [Anchorage] from being in the marketplace, since their brewery was in Ship Creek. She also noted that an earlier version of the bill pertained to gallonage, which was removed from the bill based on testimony in the [House] Labor and Commerce Committee that indicated that it was a fundamental policy decision better suited to a separate vehicle. In response to a question by Co-Chair Williams,

Representative McGuire confirmed that this change would be implemented by amendment.

Representative McGuire also noted that Section 3 extends the Alcoholic Beverage Control Board to June 30 2007. She referred to a Legislative Budget and Audit (LB&A) report commending the Board's success. She pointed out that suggested changes from the Department of Public Safety were forthcoming, one of them stemming from the LB&A audit. She stated that her office did not have objections to the Administration's amendments.

In response to a question by Representative Stoltze, Representative McGuire defined a "growler" as being a micro brewery that distributes an amount under five gallons. She stressed that the bill did not change this amount requirement.

PAT DAVIDSON, DIRECTOR, DIVISION OF LEGISLATIVE AUDIT provided information on the department's audit of the board. She stated that the audit had recommended a three-year extension, due to some operational deficiencies discovered during the audit. She noted that overall they believed the continuation of the Alcoholic Beverage Control Board was in the best public interest.

DOUGLAS GRIFFIN, DIRECTOR, ALCOHOLIC CONTROL BOARD testified via teleconference in support of the legislation. He stated that they would prefer a four-year, rather than a three-year extension of the board. He commended the audit procedure and noted that the Board was making recommended changes and acknowledged that the Board was experiencing funding shortfalls.

MATT JONES, MOOSE'S TOOTH, ANCHORAGE testified via teleconference in support of the bill.

DAN COFFEE, ATTORNEY, ANCHORAGE testified via teleconference in support of the legislation. He noted he had served on the board of fisheries as well. He commended the Alcoholic Beverage Control Board for its excellent work. He observed that their only problems were funding shortfalls. He supported the extension of the board and expressed industry support for the amendment pertaining to brewpubs. He asked for information regarding forthcoming amendments from the Administration and how to comment on these changes.

Representative Stoltze referred to the provision of the bill that provided for free samples, and asked whether this practice was new. Mr. Coffee stated that this was a standard procedure for brewpubs, allowing them to provide small samples for potential customers.

Representative Croft MOVED amendment #1.

Section 1 –

Pg. 2, Lines 6-8
(5) sell beer manufactured on the premises licensed under the beverage dispensary license to a person licensed as a wholesaler under AS 04.11.160; sales under this paragraph may not exceed 15,000 gallons [OR THE AMOUNT SOLD UNDER THIS PARAGRAPH IN CALENDAR YEAR 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS GREATER].

Should be amended to read:

(5) sell beer manufactured on the premises licensed under the beverage dispensary license to a person licensed as a wholesaler under AS 04.11.160; sales under this paragraph may not exceed 15,000 gallons **OR THE AMOUNT SOLD UNDER THIS PARAGRAPH IN CALENDAR YEAR 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS GREATER.**

Section 2 –

Pg. 2, Lines 24-27
(B) to a wholesaler licensed under AS 04.11.160; sales under this subparagraph may not exceed 15,000 gallons [OR THE AMOUNT SOLD UNDER THIS SUBPARAGRAPH IN CALENDAR YEAR 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS GREATER];

Should be amended to read:

(B) to a wholesaler licensed under AS 04.11.160; sales under this subparagraph may not exceed 15,000 gallons **OR THE AMOUNT SOLD UNDER THIS SUBPARAGRAPH IN CALENDAR YEAR 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS GREATER**;

Co-Chair Williams OBJECTED.

Representative McGuire stated that the intent of the amendment was to preserve the existing statute as written in relation to gallonage and percentage. She explained that when the Committee Substitute from the House Labor and Commerce Committee had been written, it had inadvertently excluded a portion of the existing statute.

Co-Chair Williams REMOVED his OBJECTION. There being NO OBJECTION, the amendment was Adopted.

Representative Stoltze MOVED Amendment #2.

Amendment No. 2

***Section .** AS 04.06.010 is amended to read:

Sec. 04.06.010. Establishment of board. **There is established in the Department of Public Safety the** [THE] Alcoholic Beverage Control Board [IS ESTABLISHED] as a regulatory and quasi-judicial agency. [THE BOARD IS IN THE DEPARTMENT OF REVENUE, BUT FOR ADMINISTRATIVE PURPOSES ONLY.]

Co-Chair Harris OBJECTED.

WILLIAM TANDESKE, COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY, provided information about Amendment #2, that effectively transfers the Alcoholic Beverage Control Board from the Department of Revenue to the Department of Public Safety. He noted the language change was to remove "for administrative purposes only". He explained that the purpose of the change was not to change function of the Board, but rather to recognize that the nine employees of the Board were employed by the state of Alaska, such as with other boards within the Department of Public Safety, such as the Council on Domestic Violence and Sexual Assault. He stressed that this change was directed at the licensing and review function of the Alcoholic Beverage Control Board.

Co-Chair Harris asked whether officers of the Alcoholic Beverage Control Board would carry weapons in order to respond to dangerous situations. Mr. Tandeske stated he did not support Board investigators carrying weapons. He gave the example of Division of Family and Youth Services, when officers entered into volatile situations, and maintained that weapons were not necessary for ABC investigators and would only escalate such situations. He also noted that this would create additional issues of recruiting and training. In response to another question by Co-Chair Harris, Mr. Tandeske confirmed that local police officers would support the efforts of the Alcoholic Beverage Control Board officers.

Representative Croft asked about the practical effect of moving the Alcoholic Beverage Control Board to the Department of Public Safety. Mr. Tandeske explained that this was a portion of the process of realigning functions within all departments, and that the Department of Revenue expressed that the Board was more properly placed in the Department of Public Safety, given that they are a quasi-judicial, investigative and enforcement agency. He added that if other parts of the state required officers, their becoming official State employees he noted that their function was autonomous within the Department.

Representative Croft asked why the Board was not indicated as being “only administrative” within the Department of Public Safety. Mr. Tandeske reiterated that the officers were employees of the state of Alaska. He differentiated this from the Alcoholic Beverage Control Board, but referred to enforcement officers and administrative staff. He stressed that the Board will still be separate in order to consider licensing and other quasi-judicial issues.

Co-Chair Harris REMOVED his OBJECTION. There being NO OBJECTION, amendment #2 was adopted.

Representative Stoltze MOVED Amendment #3,

***Sec. .** AS 04.06.020 is amended to read:

Sec. 04.06.020. Appointment and qualifications. The board consists of **seven** [FIVE] members**: the commissioner of public safety, the commissioner of revenue, and five members** appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. Two members of the board shall be persons actively engaged in the alcoholic beverage industry, except that no member may hold a wholesale license or be an officer, agent, or employee of a wholesale alcoholic beverage enterprise. No three members of the board may be engaged in the same business, occupation, or profession. At least three members of the board shall represent the general public. A board member representing the general public or an immediate family member of a board member representing the general public may not have any financial interest in the alcoholic beverage industry. In this section, "immediate family member" means a spouse, child, or parent.

***Sec. .** AS 04.06.030 is amended to read:

Sec. 04.06.030. Terms of office; chair. (a) **The commissioners of public safety and revenue shall serve as members during their tenure as commissioner. The other m**[M]embers of the board shall be appointed for overlapping terms of three years.
(b) **Except for the commissioners of public safety and revenue, a** [A] vacancy occurring in the membership of the board shall be filled within 30 days by appointment of the governor for the unexpired portion of the vacated term.
(c) The board shall select a chairman from among its members.

***Sec. .** AS 04.06.060 is amended to read:

Sec. 04.06.060. Quorum and majority. **Four** [THREE] members of the board constitute a quorum for the conduct of business, except that a majority of the whole membership of the board must approve all applications for new licenses, and all renewals, transfers, suspensions, and revocations of existing licenses. If a majority of the board is present and voting, the director, with the consent of the members present, may cast a tie-breaking vote.

Representative Stolze MOVED to AMEND the amendment to include other designees for the two Commissioners.

Co-Chair Harris OBJECTED. Representative Croft OBJECTED.

Commissioner Tandeske explained the proposed changes of the amendment. He noted that when the proposal was originally made to move the ABC Board to the Department of Public Safety, the Department took a closer look at Title 4 enforcement that specified procedures. He cited a finding in the LB&A audit that recommended that the Board be expanded from five to seven members. He referred to the Administration's concern regarding alcohol related issues. He maintained that the Department of Public Safety brought to the Board resources and skills that address the consequences involved in these issues. He acknowledged that the Department of Revenue had contributed other skills to the Board over the past ten years. He stated that the Department viewed this change as an opportunity to readdress language in statutes that were 25 years old.

Representative Croft referred to page 22 of the audit, and its reference to the possibility of disproportionate influence by alcohol members, but maintained that the intent of the recommendation was to add two more public members.

Commissioner Tandeske clarified that the suggestion was for two other members, specifying that one might be from the medical community and one from law enforcement.

Representative Croft asked why there was a change from an audit recommendation of a public health/medical community and law enforcement member to two commissioners. Commissioner Tandeske reiterated that alcohol issues were the focal point. He expressed his commitment to personally participate on the Board if the bill was passed into law, and suggested that he would fulfill the law enforcement member recommendation. He noted that from an administrative

standpoint, it seemed unusual for a Commissioner not to be part of a Board within their own Department.

Representative Stoltze referenced the language that stated, “a member of the board may not hold any other state or federal office” and asked if the Commissioner was exempt from this requirement. Co-Chair Harris recommended that a technical change be made.

Representative Stoltze MOVED to AMEND amendment #3 to include “except appointed Commissioners or their designees” after “a member of the board”.

Representative Foster stressed that given the controversial issues that typically come before the Alcoholic Beverage Control Board, continuity of representation was necessary.

Commissioner Tandeske stated his support of the language change, and expressed his commitment to maintaining continuity on the board. In response to a question by Co-Chair Harris, Commissioner Tandeske confirmed that he thoroughly briefed any designees on board issues.

Representative Croft concurred with Representative Foster, and highlighted the distinction between the Council on Domestic Violence or other organizations, in that the Alcoholic Beverage Control Board was a semi judicial body. He questioned whether a commissioner ought to be included in such a body. He asked why the Board was being moved out of the Department of Revenue to the Department of Public Safety and again referred to the audit recommendation to add public members to the Board from health and law enforcement, rather than the two commissioners. He suggested that the language be re-drafted to take that recommendation into consideration.

TAPE HFC 03 - 62, Side B

Representative Stoltze WITHDREW amendment #3.

In response to a question by Representative Foster, Commissioner Tandeske responded that he also sat on the Western States Information Network Policy Board, and the Executive [Committee] of the Land Mobile Radio Project [Board].

Representative Foster stressed that the Alcoholic Beverage Control Board required extensive executive sessions that could last for a period of days, and pointed out that this would add another burden to the Commissioner’s level of commitment. He asked if the Commissioner would by necessity send representatives to these important meetings.

Representative Stoltze MOVED amendment #4. Co-Chair Harris OBJECTED.

***Sec. .** AS 04.06.110 is amended to read:

Sec. 04.06.110. Peace officer powers. The director and the persons employed for the administration and enforcement of this title may, with the concurrence of the commissioner of public safety, exercise the powers of peace officers when those powers are specifically granted by the board. Powers granted by the board under this section may be exercised only when necessary for the enforcement of the [CRIMINALLY PUNISHABLE PROVISIONS OF THIS TITLE,] regulations of the board[, AND OTHER CRIMINALLY PUNISHABLE LAWS AND REGULATIONS, INCLUDING INVESTIGATION OF VIOLATIONS OF LAWS AGAINST PROSTITUTION AND PROMOTING PROSTITUTION DESCRIBED IN AS 11.66.100 - 11.66.130 AND LAWS AGAINST GAMBLING, PROMOTING GAMBLING, AND RELATED OFFENSES DESCRIBED IN AS 11.66.200 - 11.66.280].

Commissioner Tandeske emphasized that the Alcoholic Beverage Control Board officers were most properly equipped to handle alcohol related issues, and not issues of prostitution and gambling. He noted the limited personnel resources, and the need to properly align personnel for tasks.

Representative Croft recalled initial discussions in 1999, when it was reasoned that Alcoholic Beverage Control Board officers often viewed these related issues, and could expeditiously handle them in the line of their duties.

Commissioner Tandeske stated that he was not part of those discussions. He referenced his experience in law enforcement, and noted that employees' authority should align with their responsibilities.

Representative Hawker referred to the LB&A audit and noted the divergence of opinions on whether investigators ought to function as peace officers or administrative investigators. He asked if this was a move toward the duties of a peace officer.

Commissioner Tandeske emphasized the value of the Alcoholic Beverage Control Board officers to the State. He emphasized, however, that they were not law enforcement officers.

Representative Hawker asked if the Department of Public Safety would show any preference for an ABC officer wished to enter law enforcement.

Commissioner Tandeske noted that all applicants for law enforcement were treated equitably.

Representative Stoltze expressed his hope that this amendment might prevent ABC officers from “clamping down” on cribbage players at recreational halls.

Co-Chair Harris REMOVED his OBJECTION. Amendment #4 was ADOPTED.

Representative Stoltze renewed his motion to MOVED Amendment #3.

DEAN GUANELI, CHIEF ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, testified regarding potential changes to the amendment. He stated that the current statute (AS 04.06.020) would not prevent a commissioner from being a member of the Board. He maintained that the language restricted them from holding any “other” office, other than that which they currently hold. He suggested that courts would view the statute as a whole, and not consider membership on the ABC Board a conflict. He did not believe any other statutes existed that would prevent the Commissioner from being on the board.

Representative Croft maintained that the language “other” referred to the Board position, and restricted the members from holding positions apart from the Board.

Mr. Guaneli reiterated his belief that the courts would take into consideration the legislative intent that the commissioners of Revenue and Public Safety hold Board positions. He suggested that it would be simple to insert more language, such as “other than the commissioners of Public Safety and Revenue”.

Co-Chair Harris asked if this type of language was common and necessary, and whether it could simply be omitted. Mr. Guaneli noted that he hesitated to suggest that change, since it was part of the original intent of the statute.

Representative Foster stressed that he did not support the amendment. He recalled the regulations that prevented the sale of Class III licenses for fifteen years in the state of Alaska. He observed that a commissioner sitting on the Board would have a disproportionate amount of influence compared to other members. He stated his uneasiness about granting a regulatory agency undue power over a board and then allowing the commissioner to sit on that board and grant licenses.

Commissioner Tandeske responded that it had not occurred to him that he would be more influential than any other party

on the Board. He acknowledged the concern over the issue with Class III licenses.

Representative Foster gave examples of potential conflicts of interest for board members. He maintained that in small villages, many public officials might have an interest in a bar or other business that presented a conflict of interest. He observed that the commissioner of Public Safety might have an inherent conflict of interest sitting on the Alcoholic Beverage Control Board.

Representative Stoltze WITHDREW Amendment #3.

Mr. Coffee commented on the amendments. He questioned the reason behind moving the Alcoholic Beverage Control Board to the Department of Public Safety. He noted the Administration's desire to address alcohol related issues, but pointed out that the agency was currently functioning well. He observed that the bill would effectively make this quasi-judicial and regulatory agency a part of the Department of Public Safety, which is in the criminal enforcement business. He asked what was to be gained by making employees a part of the Department, and pointed out that board and commissions must remain independent. He commended the withdrawal of the amendment that allowed the Commissioner to be on the board, for purposes of continuity. He acknowledged that enforcement officers did stumble upon gambling and prostitution activities in the course of duties. He observed that the Alcoholic Beverage Control Board had four executive directors during his tenure, and noted that each one had worked to ensure compliance with liquor laws, and did not focus on criminal enforcement. He again asked about the benefit of making such changes to an agency that has existed since statehood.

Representative Foster MOVED to report HB 234 out of Committee with the accompanying fiscal note. Representative Stoltze OBJECTED.

Representative Stoltze suggested that a conforming title change must be made to accommodate amendments.

Representative Foster WITHDREW his MOTION.

Representative Stoltze MOVED a conforming title amendment. There being NO OBJECTION it was so ordered.

Representative Croft expressed the intent to follow the recommendation of the auditors by adding board members from health care and law enforcement.

Co-Chair Harris addressed the fiscal note. He suggested that it should include the cost of operating the agency.

LANDA BAILY, SPECIAL ASSISTANT, DEPARTMENT OF REVENUE, explained that the movement of the Alcoholic Beverage Control Board from the Department of Revenue to the Department of Public Safety resulted in a zero fiscal note by the Department of Revenue.

Co-Chair Harris asked why there was no fiscal note from the Department of Public Safety. Commissioner Tandeske noted that the fiscal note was attached to the Executive Order when it was submitted and added that operational funding was reflected in the Department's FY 04 budget plan. Co-Chair Harris requested that a fiscal note reflecting the cost of operations from the Department of Public Safety accompany the bill the floor.

Representative Croft asked how this differed from the zero budget line item related to community schools. Co-Chair Harris maintained that the cost of eliminating the Community Schools program in statute was zero. He maintained that the cost of having the Alcoholic Beverage Control Board operated by Department of Public Safety should be reflected in a fiscal note.

Commissioner Tandeske reiterated that the suggestion [amendment] of adding Board members was withdrawn. Co-Chair Harris maintained that he wished to see a fiscal note.

Representative Foster MOVED to report HB 234 out of Committee with the accompanying fiscal note. There being NO OBJECTION it was so ordered.

CSHB 234 (FIN) was REPORTED out of Committee with individual recommendations, a previously published zero fiscal note from the Department of Revenue (#1) and a new fiscal impact note from the Department of Public Safety.

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ADJOURNMENT

The meeting was adjourned at 4:50 PM