

HOUSE FINANCE COMMITTEE
April 28, 2003
2:30 P.M.

TAPE HFC 03 - 67, Side A
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CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 2:30 P.M.

MEMBERS PRESENT

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

MEMBERS ABSENT

None

ALSO PRESENT

Representative Vic Kohring; Senator Gary Stevens; Larry Persily, Deputy Commissioner, Department of Revenue; Eddy Jeans, Manger, School Finance and Facilities Section, Department of Education and Early Development; Robin Wilson, Tax Auditor, Department of Revenue; John MacKinnon, Deputy Commissioner, Highway & Public Facilities, Office of the Commissioner, Department of Transportation & Public Facilities; Bruce Twomley, Chairman, Commercial Fisheries Limited Entry Commission; Mark Barnhill, Assistant Attorney General, Department of Law; Bob Robertson, Superintendent, Lower Yukon School District; Larry LaBolle, Staff, Representative Foster; Landa Baily, Special Assistant, Department of Revenue; David Tredway, Child Support Enforcement Agency, Department of Revenue; Kevin Jardell, Assistant Commissioner, Department of Administration; Greg Winegar, Director, Division of Investments, Department of Community & Economic Development

PRESENT VIA TELECONFERENCE

Kerry Jarrell, Director, Business Finance, Bering Straight School District, Unalaskleet; Diane Wendlandt, Assistant Attorney General, Department of Law; Robert Boyle, Assistant Superintendent, Northwest Arctic School Borough, Kotzebue

SUMMARY

HB 97 An Act authorizing a long-term lease of certain Alaska Railroad Corporation land at Anchorage; and providing for an effective date.

HB 97 was reported out of Committee with "individual" recommendations and with zero fiscal note #1 by the Department of Community and Economic Development.

HB 105 An Act relating to loans to satisfy past due federal tax obligations of commercial fishermen and to the commercial fishing loan program.

CS HB 105 (FIN) was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by Department of Community & Economic Development.

HB 154 An Act relating to admission to and advancement in public schools of children under school age; and providing for an effective date.

CS HB 154 (FIN) was reported out of Committee with a "no recommendation" and with a new fiscal note by the Department of Education & Early Development.

HB 156 An Act increasing the motor fuel tax and repealing the special tax rates on blended fuels; and providing for an effective date.

HB 156 was HEARD and HELD in Committee for further consideration.

#HB154

HOUSE BILL NO. 154

An Act relating to admission to and advancement in public schools of children under school age; and providing for an effective date.

EDDY JEANS, MANGER, SCHOOL FINANCE AND FACILITIES SECTION, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, noted that HB 154 had been prepared at the request of the Governor. He stated it was determined that some school districts were claiming four year olds in the kindergarten program and counting them for two years. This came to the Department's attention when they started doing the student level

electronic data reporting so the Department then knew how old the students were that were being claimed for the State foundation funding. The Department of Education & Early Development attempted to address this through the regulatory process. These concerns deal with AS 1403.080© - the right to attend school. Provision © states is that a child under school age may be admitted to the public school if the child meets the minimum standards described by the Board and as long as that child has the mental, physical and emotional capacity to perform satisfactory at the educational program being offered. He interjected that it is the term "educational program", which the Department is attempting to define.

Mr. Jeans continued that through the regulatory process, the Department basically adopted the statute with the exception of the "education program being offered" and instead inserted "grade level being offered". The discussion was centered around whether a school district can develop an educational program and start serving whoever they want or was the intent to allow school districts to enroll a child that is ready to begin their school career at an earlier age than five. The Department believes that it was the latter and that it would be an exceptional child that starts their educational career early.

Mr. Jeans explained that the Department took the regulations to the State Board of Education and they were adopted in September 2001. He stressed that this is not a new issue. School districts did adopt the standards for enrolling a student and some of the districts have continued to blanketly enroll all four year olds.

Mr. Jeans stated that it is not the intent of the legislation to block a child from getting into kindergarten if they are ready; however, the Department would expect them to advance to the next grade level in the subsequent year and not stay in kindergarten for two years.

Mr. Jeans spoke to the \$3.9 million dollar fiscal note, which lists the school districts with the dollar amount associated with them. He pointed out that there are a number of school districts that generate a substantial amount of money through the provision. That dollar is large in terms of State funding. He pointed out that these school districts also receive federal impact aid money for early entering programs.

- In the Bering Straight School district, 99% of the students qualify for federal impact aid dollars, which amounts to \$5,000 dollars per child.
- In the Lower Yukon School district, 81% of their students qualify for federal impact aid dollars.

- In the North Slope School District Borough, 67% of the students qualify for the federal impact aid dollars.
- In the Northwest Arctic Borough School District, 64% of the students qualify.

Mr. Jeans noted that if the legislation passes, the school districts will continue to generate these federal impact aid dollars in the amount of \$5,000 dollars per child.

Representative Croft asked if the legislature would change how the student was enrolled and if they would still qualify for the federal aid. Mr. Jeans clarified that A.S. 1403.080, which is the right to attend public school free of tuition, is what qualifies students for State foundation funding. A school district can offer an educational program, in which they do not claim those students for State funding. If they do that, under the federal impact aid law, they are then offering a preschool program, and even though they are not receiving State money, they will still receive federal impact aid dollars.

Representative Croft asked if they would let the student go free of charge if an extra program was provided. Mr. Jeans said yes.

Mr. Jeans maintained that this is an issue of fairness. If some school districts are allowed to enroll all four year olds, then all school districts should be allowed to do the same. The costs to enroll all four year olds would be between \$50 & \$60 million dollars. He reiterated that the Department is not zeroing in on specific districts.

Co-Chair Harris asked why only some school districts have chosen to take advantage of the federal impact aid dollars. Mr. Jeans explained that the provision that is being utilized under AS 1403.080© allows the child to be early entered into school. Line 9 indicates "For the educational program being offered". He pointed out that this is a broad term and is what some school districts have utilized to define the program. The Department did go to the State Board of Education and adopted regulations, which changed that wording to "For the grade level being offered". That language would help to clarify that the intent of the law would not be just any program but rather students that were ready to start kindergarten. Even with that amendment on the books, some school districts continue to enroll all four year olds. Consequently, the Department comes before the Legislature for clarification.

Co-Chair Harris addressed school district costs. He thought that there are a few school districts heavily impacted by the legislation.

Mr. Jeans commented that HB 154 would clarify that it is not the intent to fund all four year olds through the foundation program. Without the legislation, there will be more districts that expand their program to include the four year olds because they have space available. When there is space available in a school, they want to fill it up. Once the students are funded through the foundation program, they must be counted for space for school construction.

Co-Chair Harris asked if the Department would have a problem phasing the program out over a two-year period. Mr. Jeans responded that the Governor's office wants to see it resolved this year and that the districts have been on notice. The Department has attempted to deal with it through the regulatory process. The Department of Education & Early Development regulations clarified that the previous State Board adopted this piece of statute in September 2001. The same school districts keep claiming the four year olds.

ROBERT BOYLE, (TESTIFIED VIA TELECONFERENCE), ASSISTANT SUPERINTENDENT, NORTHWEST ARCTIC SCHOOL BOROUGH, KOTZEBUE, quoted various studies regarding childhood school involvement in early childhood success. All of the different studies speak of the value of early education programs particularly for children in social and economically distressed areas. The districts that are currently involved are districts that have severe and chronic social and economic status differentiation from the city schools or schools that have more economic opportunities on a daily basis. The early childhood opportunities for families and children within these areas are non-existent. He stressed that these children live in disadvantaged areas.

At this time, the process is directly reflective of the socio-economic status of these children and not their cognitive abilities. The school districts do what they believe is appropriate in attempting to serve their children. Mr. Boyle emphasized that it is not a process of attempting to generate funds or to fill empty seats. He stressed that this is an "educationally correct, sound thing to do".

The studies previously cited go into great detail of how this early intervention process is successful in reducing the costs of education programs later, down the road. The reduction of costs for retention of students, who end up in social service programs is compensated over the cost of the four-year-old programs.

Mr. Boyle reiterated that the question of "fairness" is not the issue. The studies are about "quality". The fairness issue comes down to what services, opportunities and

educational stimulation is available to students in these regions.

Mr. Boyle reiterated that the school districts oppose HB 154. Currently, the funds are being used appropriately and that use greatly enhances the State's long-term investment. He added that as written, HB 154 is contradictory in regards to the "achievement" of each child. He claimed that it was "social promotion".

Co-Chair Williams asked if Mr. Boyle's same argument had been presented to the State Board of Education. Mr. Boyle responded that he was new to the position and was not around in 2000.

KERRY JARRELL, (TESTIFIED VIA TELECONFERENCE), DIRECTOR, BUSINESS AND FINANCE, BERING STRAIGHT SCHOOL DISTRICT, UNALASKLEET, spoke in opposition to HB 154. He stated that the proposed legislation would not provide the anticipated savings. Services terminated by this action will have a severe impact on the most needy and vulnerable children in the State.

Mr. Jarrell pointed out that in many rural Alaska communities, there are very few opportunities for young children to participate in early childhood education programs. Outside of the schools, very few of the communities have any kind of public or private preschool programs. The districts recognize the dilemma in these places. The districts have struggled to insure that all children in the region have access to early childhood programs of some type. In an area in which 80% of the children fall below poverty level, access to a quality educational experience to remedy the poverty and isolation, is of paramount importance. He reiterated that this is not a new program. The Bering Straight School district has been offering the service for 13 years and as a result has been able to insure that all three year old children have access to a limited program of education where before there was nothing.

The reduction of the funds sought in HB 154 will eliminate that program. He pointed out that some believe that the current language would allow other districts to begin to offer programs for four-year-old children. Mr. Jarrell suggested that was not the case. Establishing a program is costly and time consuming. It took the Bering Strait district several years to work through those initial issues. A school district would not set up a program like that in a short amount of time. The result of HB 154 will be short time saving but those savings will be "overshadowed" by the increased costs in special need services and the likelihood that more children will fail to succeed in school.

Mr. Jarrell reiterated that these children are the most needy and vulnerable children in the charge of these school districts. They have the fewest advocates and need the most nurturing. He encouraged a no vote on the legislation.

Representative Joule asked Mr. Jarrell's position on phasing out the program and he asked how that would affect each district. Mr. Jarrell replied that phasing out the program could at the very least provide time for requests and application for grant funding to work with other organizations to transition a program of some meaningful educational value for the children. He stressed that the program is so important that they request that the bill not be passed from Committee. Mr. Boyle echoed the statements made by Mr. Jarrell.

(TAPE MALFUNCTION)

BOB ROBERTSON, SUPERINTENDENT, LOWER YUKON SCHOOL DISTRICT, spoke in opposition to the proposed legislation. He urged that the Committee phase in the legislation to allow time for the small communities to establish a program.

Vice-Chair Meyer inquired if 99% of the funding could be offset through federal government aid. Mr. Robertson did not know about the impact the bill would have on the federal funding.

Representative Foster MOVED to adopt Amendment #1, #23-GH1123\D.1, Ford, 4/9/03. Co-Chair Williams OBJECTED.

LARRY LABOLLE, STAFF, REPRESENTATIVE RICHARD FOSTER, explained that the amendment would allow the program to be prolonged for two more years. The amount of impact aid is \$5,000 per child and that money would continue to be there. The intent of the amendment provides the districts time to look at other sources for grant money in order to continue these programs. Mr. LaBolle noted that Representative Foster was not opposed to the bill as current law is open ended and that phasing it out over 2 years would provide the time needed to respond.

Co-Chair Williams questioned why the State Board of Education had vetoed the concern. Mr. LaBolle responded that the Board had made regulations, which could accomplish the same end. He did not know why the program was being discontinued.

Representative Hawker asked the effect of the amendment would have on the exiting fiscal note. Mr. LaBolle replied that the amendment would freeze the program and would not

allow any new districts to make a program. There would be no decrease to the cost for the up-coming fiscal year and in the second year it would be reduced by 50%.

(TAPE CORRECTED)

Representative Hawker commented that FY04 would have a zero fiscal note effect; in FY05 with only 50% eligibility would provide a reduction of nearly \$2 million dollars; in FY06, there would be a second reduction of \$2 million dollars as the program is phased out.

Representative Hawker clarified that the funding in the amendment would guarantee that the school districts would be able to receive their basic need plus the percentage of the difference of the basic need between the base fiscal year and the second fiscal year. He thought that the definition of basic need was a little vague and acted like a "hold harmless" clause for basic need. Mr. LaBolle did know how it would apply to the entire program but requested that it be considered.

Vice-Chair Meyer suggested that the amendment should be addressed conceptually. He advised that the Education Subcommittee had left full funding in the budget for this concern. If it were left at 100%, it would be satisfactory and then gradually reduced. He acknowledged that the Governor was counting on the savings this year. He inquired what action Senate Finance Committee had taken on the issue. Mr. LaBolle believed that they had not yet moved the bill.

Representative Foster MOVED to make Amendment #1 conceptual.

Representative Whitaker asked about the research done regarding the need for this program. Mr. LaBolle reiterated that the Assistant Superintendent of the Northwest Arctic Borough School District had cited three important studies. There have been many articles over the years regarding early intervention in areas where there is severe economic depravation, which does exist in many village areas. He assured Representative Whitaker that there is a large body of research regarding this concern.

Mr. Jeans advised that Representative Hawker was correct in his observation that the amendment would provide a "hold harmless" provision. A conceptual amendment would clarify that. He added that this is not a new issue and that the districts have been aware of the Department's position. It has been around for a few administrations. He added that the Senate had taken the proposed cut in their budget.

Co-Chair Williams asked the argument used by the State Board of Education. Mr. Jeans responded that the statute is broad and that the Department believes that the purpose of the foundation program is to fund K-12 education. If the Legislature wants to direct funding for pre-K, that would be another discussion. The Department is attempting to bring clarity to the statutes regarding the manner in which the Department applies them.

Representative Hawker questioned the school districts intention during the phase out period. Mr. LaBolle responded that the districts would be working with other agencies in their regions to come up with alternate sources of funding for the program. School districts do receive money from other resources. He referenced the old Title 1 program, which provides assistance to students that are economically deprived. He noted the Indian Education funds, some of which go to the actual village rather than to the school districts. He indicated that the amendment would provide an opportunity for them to go back and creatively look at other sources of funding to be able to continue the program. The districts bring forward approximately \$5,000 on their own to help with these programs.

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Mr. LaBolle explained that if the student was not being claimed for foundation purposes, then the Department would hold them harmless from the right to recapture federal funds. Representative Hawker acknowledged that he did not understand the mechanics of education funding. Representative Hawker asked if it would be necessary to defer the step down to FY05 rather than FY04. Mr. LaBolle responded that it would be close to a "wash" if the Department placed it at 50% and allowed the districts to keep the impact aid funds.

Representative Croft pointed out that the State does not let the districts keep the federal impact aid money. Mr. LaBolle replied that was correct. He added that it would be "cleanest" to maintain the 100% funding for one year and allow the Department to recapture the impact aid money involved. The total cost to the State would be more.

In response to Representative Croft, Mr. Jeans noted that currently, if a school district were claiming a four year old in the foundation program for State funding, the Department would deduct that impact aid the student receives. He noted that it is important to go back to the starting point. These school districts generate about \$11,000 dollars per student and that amount is shared between the State and federal impact aid. Right now the

State deducts a little over \$4,000 per child, which generates impact aid being claimed under the program. If the State does not provide State aid, none of the impact aid is deducted and the district would retain 100%. It would change the funding from \$11,000 per child to \$5,000 per child.

Representative Croft asked if the \$5,000 dollars was a separate line. Mr. Jeans replied that it is not on a separate line and that the school district claims students that are eligible for impact aid; the State receives vouchers, which highlights the percentage that school population is eligible for in federal impact aid. The State relies on the school district to claim for foundation funding and then makes the necessary adjustments.

Representative Croft clarified that the State does not deduct from their foundation formula those students that they are not claiming in the formula. Mr. Jeans stated that they do not deduct the impact aid from students not claimed for State aid.

Representative Croft commented that at present time, those students are receiving both payments. He asked if the Department's fiscal note reflects the savings in State aid by not having those kids in school and the loss of 90% of the \$5,000 dollars federal aid. Mr. Jeans advised that the Department reflected the State aid savings and not the impact aid that would offset that number.

Representative Croft reiterated that the fiscal note does not reflect the amount that would be lost. He asked if the Department had an estimate of that amount. Mr. Jeans responded that they would reflect the current year numbers. Representative Croft thought that it would amount to 40% of the savings. Mr. Jeans did not know the offset. He added that their analysis took all four-year-old children that were counted in the current year and backed them out of the equation to determine how much State aid they represent.

Representative Croft asked about how many pre-kindergarten students would the bill identify. Mr. Jeans replied 650 students statewide.

Vice-Chair Meyer spoke to the amendment extension. Co-Chair Williams called an at-ease.

At Ease: 3:32 P.M.
Reconvene: 3:40 P.M.

Representative Foster WITHDREW Amendment #1. There being NO OBJECTION, Amendment #1 was withdrawn.

Representative Foster MOVED to change the effective date on Page 1, Line 12, to "July 1, 2004".

Co-Chair Williams OBJECTED.

Co-Chair Harris pointed out that the fiscal note would need to be changed in the FY2004 line section.

Representative Joule commented that accepting the amendment would provide time for the communities to form partnerships to help with the effects from the cuts in State funding. He emphasized that the action was extremely important for the future of education in Alaska.

A roll call vote was taken on the motion.

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

The MOTION PASSED (9-2).

Representative Croft suggested that the effective date be placed into the title of the bill. He MOVED a Title Amendment on Page 1, Line 2, inserting language: "An effective date for the Act of July 1, 2004". The change provides the date to conform to Amendment #1.

There being NO OBJECTION, it was adopted.

Representative Foster MOVED to report CS HB 154 (FIN) including the Title Change out of Committee with individual recommendations and with the accompanying new fiscal note. There being NO OBJECTION, it was so ordered.

CS HB 154 (FIN) was reported out of Committee with a "no recommendation" and with a new fiscal note by the Department of Education & Early Development.

Representative Foster voiced his appreciation to the Committee for passage of the bill and stressed how much the bill would help the Bush area.

#HB97
HOUSE BILL NO. 97

An Act authorizing a long-term lease of certain Alaska Railroad Corporation land at Anchorage; and providing for an effective date.

REPRESENTATIVE VIC KOHRING commented that in 2002, the Legislature passed House Bill 298 to increase the maximum lease term without termination rights the Alaska Railroad

can grant without Legislative approval to 55 years from the 35-year maximum set in 1984. The increase was to encourage economic development in communities along the Rail belt by making it easier for large commercial and residential developers to obtain financing through grants and other sources, which require a longer lease. For example, the Housing and Urban Development (HUD) 202 Senior Housing Grants required a minimum 40-year lease. The 55-year lease maximum set forth in HB 298 went into effect May 30, 2002.

Representative Kohring noted that after the minimum lease requirement for HUD 202 grants increased from 40 years to 75 years, in effect putting developers back at square one. The Alaska Railroad can approve a lease in excess of 55 years; however, they must reserve the right to terminate the lease in the event the land is needed for railroad purposes.

A multi-family senior housing project has been planned for Government Hill in Anchorage and the Alaska Railroad Board granted the developer a 55-year lease for the project site. When HUD changed the terms of the 202 program, it disqualified the project for consideration for HUD 202 grants.

Representative Kohring commented that HB 97 would allow the Alaska Railroad to extend the developer's current 55-year lease, without the termination clause, allowing them to apply for HUD 202 funding.

Representative Foster MOVED to report HB 97 out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 97 was reported out of Committee with "individual" recommendations and with zero fiscal note #1 by the Department of Community and Economic Development.

AT EASE: 3:50 P.M.
RECONVENED: 4:00 P.M.

(TAPE MALFUNCTION)

#HB105
HOUSE BILL NO. 105

An Act relating to loans to satisfy past due federal tax obligations of commercial fishermen and to the commercial fishing loan program.

SENATOR GARY STEVENS provided information on the bill, noting that it was intended to help an industry in crisis. He explained that the last appropriation into the revolving loan fund was in 1985. The bill reinstates a system used in the past to mitigate a federal tax obligation. He pointed out that the Salmon Task Force considered the bill as an important part of their package of legislation to help the industry. Many permits in Alaska are at risk. These are secured loans.

Senator Stevens explained that permit holders who want to take advantage of the loan program must be a State resident for a continuous two years before applying for the application. They must be current on their income tax filing with a payment agreement with the Internal Revenue Service (IRS). HB 105 would eliminate the ½ percent refinancing fee in the program. He added that there was a provision, eliminating the word "promptly", allowing more flexibility for the Division of Investments. He stated that the bill is a "small step" for an industry in crisis.

Co-Chair Harris spoke to the fiscal note, asking where the funds would come from. Senator G. Stevens noted that the dollars would come from the people that participate in it. They have been used in the past from the revolving loan fund.

Representative Croft observed that the funds indicated in the fiscal note were general funds. Senator G. Stevens acknowledged that this would be a loss of income for the general fund.

GREG WINEGAR, DIRECTOR, DIVISION OF INVESTMENTS, DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT, corrected Senator Stevens noting that it would be a loss to the Revolving Loan Fund. In response to a question by Representative Croft, Mr. Winegar expected a relatively low activity around 10-15 loans per year. He stated that the fund would not be impacted.

Representative Croft asked if the loans had a different default rate. Mr. Winegar replied that the loans have had a higher delinquency rate.

Representative Croft asked how the loans would be secured. Mr. Winegar replied that they would be secured with the permit as collateral.

Co-Chair Harris inquired the balance in the Revolving Loan Fund. Mr. Winegar commented that the current balance was approximately \$90 million dollars. The projected balance for this fiscal year is approximately \$15 million dollars.

Co-Chair Harris asked if there was any money taken out of the fund from the recent past. Mr. Winegar stated that last year, \$2 million dollars had been taken out of that fund to balance the Power Cost Equalization (PCE) fund.

(TAPE CORRECTION)

TAPE HFC 03 - 68, Side A

Representative Hawker MOVED to adopt Amendment #1, #23-LS0534\D.1, Utermohle, 4/28/03, which would add language "and child support liens of which the department has notice". Representative Chenault OBJECTED and asked if it would be a normal procedure.

Mr. Winegar replied that it was normal and had been used in the past.

BRUCE TWOMLEY, CHAIRMAN, COMMERCIAL FISHERIES LIMITED ENTRY COMMISSION added that the amendment was consistent with current law. Child Support Enforcement Agency (CSEA) has the power to step in at that point and legally cannot take any proceeds over and above those that need to be satisfied.

Representative Chenault asked about the notification process to CSEA. Mr. Twomley deferred that question to the Department of Revenue.

DAVID TREDWAY, CHILD SUPPORT ENFORCEMENT AGENCY, DEPARTMENT OF REVENUE, offered to answer questions of the Committee. He noted that all cases through the State of Alaska are informed of any arrears that they have in the State and that CSEA is assigned to collect that data through normal channels. If this language was in statute, it would become a statutory process liable for collection.

Representative Chenault commented that child support is important in the State. He encouraged that the lag time be shortened regarding what is owed verses paid.

Representative Chenault WITHDREW his OBJECTION to the amendment. There being NO further OBJECTION, Amendment #1 was adopted.

Representative Foster MOVED to report CS HB 105 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note.

CS HB 105 (FIN) was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by Department of Community & Economic Development.

At Ease: 4:15 P.M.
Reconvene: 4:40 P.M.

#HB156
HOUSE BILL NO. 156

An Act increasing the motor fuel tax and repealing the special tax rates on blended fuels; and providing for an effective date.

Vice-Chair Meyer MOVED to adopt work draft #23-GH1118\Q, Kurtz, 4/25/03, as the version of the bill before the Committee.

Representative Croft OBJECTED. He asked about the missing exemptions. Co-Chair Williams replied that the difference represented the tax credits for the timber industry and fish waste. Representative Croft noted that it would get rid of the contingent effect on the constitutional amendment for the permanent fund. Co-Chair Williams advised that was the Governor's original bill.

Representative Croft WITHDREW his OBJECTION. There being NO further OBJECTION, it was adopted.

ROBYNN WILSON, (TESTIFIED VIA TELECONFERENCE), DEPARTMENT OF REVENUE, ANCHORAGE, offered to answer questions of the Committee.

LANDA BAILY, SPECIAL ASSISTANT TO THE COMMISSIONER, DEPARTMENT OF REVENUE, noted that she had reviewed the committee substitute with Commissioner Corbus and that the Department does support the proposed bill. The bill would levy a twenty-cent per gallon tax on motor fuel. She added that this bill is a significant part of the Governor's package to address the current fiscal gap.

Representative Croft MOVED to ADOPT Amendment #1. Co-Chair Williams OBJECTED.

Representative Croft explained that the amendment would ask that the State appropriate the statutory amount for road maintenance assistance to the municipalities. The municipalities have over 40% of the roads in their maintenance jurisdiction. Currently, the State has been under-funding the statutory amount dedicated to roads at 10% funding. He acknowledged that Amendment #1 is a complicated amendment. The concept of the amendment gives less for

municipal assistance for roads than the statute requires, reducing the amount of tax collected by that percentage.

Representative Croft pointed out that this concern is usually addressed in the dedicated funds section. He reiterated that the concept is simple, if money is appropriated in the prior fiscal year, the amount in statute, the full amount for revenue sharing and road maintenance, and then collected for full tax. If less has been received, then that would be the percentage collected for that tax.

Representative Stoltze asked if these funds would only go to organized governments or would rural areas also be able to collect. Representative Croft responded that there is a formula regarding the square miles of roads maintained by the municipality in the districts and that determination is made per road mile.

JOHN MACKINNON, DEPUTY COMMISSIONER, DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES, understood that formula was handled by the Department of Commerce & Economic Development. He noted that he had listened to testimony given by Kevin Ritchie, Alaska Municipal League (AML). He had given a good explanation for funds added for road maintenance. In the original Intermodal Surface Transportation Efficiency Act (ISTEA) crafted in Congress in 1991, Senator Ted Stevens placed a provision, 1-18-E, allowing only Alaska and Puerto Rico to use federal highway funds for community roads. In 1991, there was no federal highway trust fund dollars and that changed to the State being awarded \$72 million dollars. There is a tremendous amount of highway dollars floating in the municipalities.

Mr. MacKinnon reminded members that the proposed legislation was a measure to reduce the fiscal gap. He added that the Department of Transportation & Public Facilities sees this as a user fee.

Representative Stoltze noted that the amendment contained a pro rata distribution for the more densely populated urban areas. He questioned the equity of the issue distribution. Representative Croft explained that it would limit the amount and if enough had not been received, then they would not collect the full amount of the tax. Nothing would be changed regarding the distribution by road miles. Representative Stoltze voiced his concern that the amendment would only benefit downtown Anchorage.

Ms. Bailey pointed out the fluctuating amount indicated in the amendment. She stated that the original intent of the Governor was to address the fiscal gap and that the proposed legislation was an important piece of that package.

A roll call vote was taken on the motion.

IN FAVOR: Joule, Moses, Croft
OPPOSED: Meyer, Stolze, Chenault, Foster, Williams

Representative Whitaker, Representative Hawker and Co-Chair Harris were not present for the vote.

The MOTION FAILED (3-5).

Representative Croft MOVED to adopt Amendment #2, #23-GH1118\Q.2, Kurtz, 4/28/03. (Copy on File).

Co-Chair Williams OBJECTED.

Representative Croft explained that Amendment #2 would attempt an alternative approach. The amendment was recommended by the AML. It attempts to put together a fund that would place a portion of that money into assistance for the municipalities.

Ms. Bailey stated the amendment seeks to place a structure in statute that would be counter to the Governor's original intent.

Representative Croft argued that would depend on what the Governor's original intent was. Representative Croft noted that if it were to go for maintenance of a road, then it would be more compatible with the Governor's plan. The amendment diverts from the general fund specifically to road maintenance. He believed that would be what most Alaskans would want with the increase.

A roll call vote was taken on the motion to adopt Amendment #2.

IN FAVOR: Moses, Croft, Joule
OPPOSED: Meyer, Stoltze, Chenault, Foster, Williams

Representative Whitaker, Representative Hawker and Co-Chair Harris were not present for the vote.

The MOTION FAILED (3-8).

Co-Chair Williams MOVED to adopt Amendment #3, #23-GH118\Q.4, Kurtz, 4/28/03. (Copy on File).

Representative Joule OBJECTED for the purpose of discussion.

KEVIN JARDELL, ASSISTANT COMMISSIONER, DEPARTMENT OF ADMINISTRATION, explained Amendment #3, which is a technical amendment that identifies how the State purchases its fuel from resale to gasoline. Currently, when a reseller purchases fuel from a wholesaler, it pays the gas tax to the

wholesaler. When the State purchases from the reseller, they can purchase the fuel without paying the gas tax. At that point, the reseller, under statute, can recoup the gas tax that it has paid from the Department of Revenue. Only a reseller of fuel can do that. One of the benefits of the new contract is that a State agency that has a high use of fuel, can go to any gas station, purchase that fuel with a State credit card and the reseller does not have to worry about going through the process of recouping the tax from the State. The credit card company pays the reseller the cost of the tax and the fuel. Under Amendment #3, the credit card company could go and recoup the tax it has paid. It would allow the full benefit, use of credit cards and expands where the State can purchase fuel given the benefit of not paying the tax.

Representative Joule asked how "local government" would be defined. Mr. Jardell responded that local government agencies would go through certain levels. Ms. Wilson added that the statute identifies official use. The amendment would not change whether a government agency could receive a refund or not. It does not change the tax structure and would simplify paper work to make it whole.

Representative Stoltze asked at what level would State government be defined. He stated for the record that he would not vote for a personal exemption. Mr. Jardell responded that it would only apply to State business as it now does. He reiterated that it would not apply to personal use.

MIKE BARNHILL, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, advised that the amendment would not change existing law. When on official business and using fuel, that person would be exempt.

In response to comments made by Co-Chair Harris, Mr. Barnhill pointed out that the definition of motor fuel in current statute excludes purchases by State, local and federal government agencies for official use.

Representative Foster asked if it would affect diesel fuel. Mr. Barnhill replied that it would.

In response to queries by Representative Foster, Ms. Wilson explained that off-road vehicles and big equipment not used in conjunction with vehicle license, currently amounts to a net \$.02 cents.

Representative Joule asked if that would apply to the De Long transportation system, also known as the Haul Road. Ms. Wilson replied that the off-road refund would be available if the vehicle is not licensed to be used on public ways.

Representative Joule WITHDREW his OBJECTION to Amendment #3. There being NO further OBJECTION, it was adopted.

Representative Joule MOVED to ADOPT Amendment #4, #23-GH1118\H.2, Kurtz, 4/14/03. (Copy on File).

Co-Chair Williams OBJECTED.

Representative Joule explained the amendment, which provide for those areas not connected to road systems, continue to pay at the current rate. He emphasized that rural communities are already paying "huge" prices for fuel.

Ms. Bailey inquired the effect of the amendment on the revenue derived from tax. Ms. Wilson responded that she did not know the numbers that would be foregone by the amendment. Wholesalers pay the tax in the State and they are not required to tell where the fuel is sold. She could not provide that information at this time.

Ms. Bailey maintained that given the fact that Ms. Wilson was unable to access the net effect, it would be better for the Committee to pass the bill amended with only Amendment #3. She believed that Amendment #4 would have detrimental effects on the Governor's long-term plan.

Co-Chair Williams encouraged Representative Joule to work with the Administration regarding his concern.

A roll call vote was taken on the motion.

IN FAVOR: Moses, Joule
OPPOSED: Stoltze, Chenault, Foster, Meyer, Harris, Williams

Representative Whitaker, Representative Hawker and Representative Croft were not present for the vote.

The MOTION FAILED (2-6).

Representative Foster commented that within his district, there are airports instead of roads. There are 50 runways that serve the population. The Department of Transportation & Public Facilities spends \$10 million dollars a year in the Northern Region. He claimed that was a good return on their money and that the money on the gas tax would be helping out those area runways and keeping them open for emergencies.

Representative Foster supported the 3% increase to keep airports open and roads working. Village areas do not spend much on keeping their infrastructure in tact and it is crucial to keep runways open. He acknowledged that everyone must pay a little to help up with the expenses.

Co-Chair Harris asked Representative Foster how much he paid for fuel in his area. Representative Foster responded that cost fluctuates between \$1.75 and \$4.00 dollars per gallon.

Co-Chair Williams stated that HB 156 would be HELD in Committee for further consideration.
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TAPE HFC 03 - 68, Side B

ADJOURNMENT

The meeting was adjourned at 5:17 P.M.