

HOUSE FINANCE COMMITTEE
May 16, 2003
1:49 P.M.

TAPE HFC 03 - 97, Side A
TAPE HFC 03 - 97, Side B
TAPE HFC 03 - 98, Side A
TAPE HFC 03 - 98, Side B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:49 P.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Kevin Meyer, Vice-Chair
Representative Ethan Berkowitz
Representative Mike Chenault
Representative Richard Foster
Representative Mike Hawker
Representative Beth Kerttula
Representative Carl Moses
Representative Bill Stoltze
Representative Jim Whitaker

MEMBERS ABSENT

Representative Croft
Representative Joule

ALSO PRESENT

Representative Vic Kohring; Representative Norm Rokeberg; Senator Lyda Green; Senator Gary Stevens; Michael Barton, Commissioner, Department of Transportation & Public Facilities; Larry Persily, Deputy Commissioner, Department of Revenue; Tim Benintendi, Staff, Representative Moses; Robynn Wilson, Tax Division, Department of Revenue; Ernesta Ballard, Commissioner, Department of Environmental Conservation; Tom Boutin, Deputy Commissioner, Department of Revenue; John MacKinnon, Deputy Commissioner, Department of Transportation & Public Facilities; Roger Painter, Alaska Shellfish Growers, Juneau; Kristin Rilin, Director, Division of Environmental Health, Department of Environmental Conservation; Robert D. Storer, Executive Director, Alaska Permanent Fund Corporation, Department of Revenue; Robert Bartholomew, Chief Operating Officer, Alaska Permanent Fund Corporation, Department of Revenue; Doug Letch, Staff, Senator Gary Stevens; Pat Davidson, Director, Division of Legislative Audit; Jacqueline Tupou, Staff, Senator Lyda

Green; Scott Nordstrand, Deputy Attorney General, Civil Division, Department of Law

PRESENT VIA TELECONFERENCE

Mark Meyers, Director, Division of Oil and Gas, Department of Natural Resources, Anchorage; Don Kitchen, Assistant Attorney General, Department of Law, Anchorage

SUMMARY

HJR 26 Proposing amendments to the Constitution of the State of Alaska relating to and limiting appropriations from and inflation-proofing the Alaska permanent fund by establishing a percent of market value spending limit.

HJR 26 was HEARD and HELD in Committee. The bill was placed into Subcommittee with Representative Meyer as Chair and with members Representative Joule, Representative Croft, Representative Chenault and Representative Whitaker.

HB 28 An Act relating to adjustments to royalty reserved to the state to encourage otherwise uneconomic production of oil and gas; and providing for an effective date.

CS HB 28 (FIN) was reported out of Committee with a "no recommendation" and with a new fiscal note by the Department of Natural Resources.

#HB196
HB 196 An Act relating to carbon sequestration; and providing for an effective date.

The Committee did not receive HB 196. Discussion was POSTPONED.

#

HB 293 An Act levying and collecting a state sales and use tax; and providing for an effective date.

CS HB 293 (FIN) was reported out of Committee with a "do not pass" recommendation and with new fiscal notes by the Department of Revenue and Department of Law.

HB 301 An Act establishing the Knik Arm Bridge and Toll Authority and relating to that authority; and providing for an effective date.

HB 301 was HEARD and HELD in Committee for further consideration.

HB 312 An Act giving notice of and approving the entry into and the issuance of certificates of participation for a lease-purchase agreement for a seafood and food safety laboratory facility; relating to the use of certain investment income for certain construction costs; and providing for an effective date.

HB 312 was HEARD and HELD in Committee for further consideration.

SB 41 An Act relating to medical care and crimes relating to medical care, including medical care and crimes relating to the medical assistance program.

CS SS SB 41 (FIN) was reported out of Committee with a "do pass" recommendation and with the new fiscal note by the Department of Health and Social Services.

SB 45 An Act relating to the Legislative Budget and Audit Committee.

HCS CS SB 45 (FIN) was reported out of Committee with a "do pass" recommendation and with zero fiscal note #1 by the Department of Administration and a new zero note by the Department of Law.

SB 192 An Act relating to teachers and training programs in the Department of Labor and Workforce Development, to the placement in the exempt service of certified teachers employed by the Department of Labor and Workforce Development, to their eligibility to participate in the Teachers' Retirement System of Alaska, and to the functions of the Alaska Workforce Investment Board regarding the Kotzebue Technical Center and the Alaska Vocational Technical Center; and providing for an effective date.

CSSB 192 (L&C) was reported out of Committee with a "do pass" recommendation and with a new fiscal note by the Department of Labor and Workforce Development.

SB 216 An Act relating to international airports revenue bonds; and providing for an effective date.

SB 216 was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by the Department of Revenue.

#HB293

HOUSE BILL NO. 293

An Act levying and collecting a state sales and use tax; and providing for an effective date.

Representative Moses MOVED to RESCIND action taken on adopting Amendment #5. There being NO OBJECTION, previous action was rescinded.

Representative Moses MOVED to ADOPT the revised Amendment #5. (Copy on File).

TIM BENINTENDI, STAFF, REPRESENTATIVE MOSES, explained that the amendment had been revised to include unincorporated communities within boroughs. The language in the earlier amendment addressed only those outside the lines. The new #5 would add language to Page 14, Line 22, following "municipality", inserting "an unincorporated community,". He added that there are about fifty of this type community throughout the State.

Additionally, on Page 30, Line 19, the revised Amendment #5 would insert that same definition. He noted that the reference to A.S. 39.52.960 does not contain a definition of unincorporated communities, making the amendment important.

There being NO OBJECTION, the new revised Amendment #5 was adopted.

Co-Chair Harris MOVED to ADOPT Amendment #7. (Copy on File). Co-Chair Williams OBJECTED for the purpose of discussion.

Co-Chair Harris explained that Amendment #7 would delete all the text on Page 15, Lines 4-5. The amendment would provide an exemption for Union due payments.

Representative Whitaker understood that the need was included in the "unreasonable" category.

LARRY PERSILY, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, pointed out that there had been discussion during drafting in regards to Union dues. The intent was not to tax the dues because "they are not a service, but a right".

Representative Whitaker reiterated that he understood it was classified as "intangible". Co-Chair Harris explained that the action was necessary to guarantee "absolute clarification".

Representative Stoltze asked if there were any counter-band fees for business management that might also be exempted. Representative Hawker explained that the amendment would make the language explicit and that during the drafting process it was only "implicit" to the language of the bill. In order to itemize everything excluded from the bill would take a very long time. He concluded that the State would need to rely on the intent behind the "words".

Co-Chair Williams WITHDREW his OBJECTION. There being NO further OBJECTIONS, Amendment #7 was adopted.

Representative Moses introduced a new amendment to Page 3, Line 28, deleting "except as specifically prohibited or limited" and inserting "a" before "municipality". Co-Chair Williams OBJECTED.

Mr. Persily stated that it was not the intent of the legislation to limit or prohibit a municipality from levying a specific excise tax. He acknowledged that municipalities would be "more comfortable" if that language was removed.

Representative Whitaker noted that he did not object to the amendment. There being NO OBJECTION, the amendment was adopted.

Vice-Chair Meyer noted that Representative Chenault had intended to offer an amendment, however, he was not present. Co-Chair Williams acknowledged that he knew of that and recommended that the consideration be made in caucus.

Co-Chair Harris MOVED to report CS HB 293 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note.

Representative Kerttula OBJECTED. She noted that Juneau has had a sales tax for a long time and that the proposed legislation would be detrimental to not only this community but also the entire State.

Vice-Chair Meyer acknowledged that the legislation was not "perfect" legislation but was essential. He noted his appreciation for all the hard work done on the bill, voicing his support.

Representative Stoltze echoed the comments made by Vice Chair Meyer. He recommended that the bill go to the House floor for full debate.

Co-Chair Harris noted that this was the first time that Alaska has seriously considered a tax. He noted that the State is headed into some "rough waters" and although the legislation is not the perfect form, it is necessary. He

applauded the effort of the Ways and Means Committee for the many hours of work they put in on the legislation. It is the responsibility of elected officials to determine a way to help the State move out of our current economic situation.

Co-Chair Williams noted his appreciation to Mr. Persily and Ms. Wilson for their work helping to clarify this complicated legislation and added his appreciation to the Committee's members working on the bill.

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

IN FAVOR: Meyer, Stoltze, Whitaker, Hawker, Harris, Williams
OPPOSED: Kerttula, Moses, Berkowitz, Foster

Representative Chenault, Representative Joule & Representative Croft were not present for the vote.

The MOTION PASSED (6-4).

CS HB 293 (FIN) was reported out of Committee with a "do not pass" recommendation and with new fiscal notes by the Department of Revenue and the Department of Law.

#HB312

HOUSE BILL NO. 312

An Act giving notice of and approving the entry into and the issuance of certificates of participation for a lease-purchase agreement for a seafood and food safety laboratory facility; relating to the use of certain investment income for certain construction costs; and providing for an effective date.

Co-Chair Harris MOVED to ADOPT work draft version #23-GH1134\I, Bannister, 5/15/03, as the version of the legislation before the Committee. There being NO OBJECTION, it was adopted.

Co-Chair Williams explained that the bill would conform with the version coming from the Senate side.

ERNESTA BALLARD, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, commented that the Department was responsible for protecting the environment and human health. She testified to the importance of the lab. The seafood and food safety lab analyzes raw, finished and value-added food products for bacteria, chemicals, and toxic contaminants, maintaining the capabilities and Food and Drug Administration (FDA) certifications that private labs cannot. The Department operates on schedules that are not

available from private labs and assumes greater liability needed to perform analysis for paralytic shellfish poisoning. The Department cooperates with emerging industry, such as the growing dive fisheries to guarantee time-critical water and raw product analysis are available and market commitments are met.

Commissioner Ballard continued, the Department is qualified to train and certify private labs so that they can operate in established and high-demand testing markets.

The Department of Environmental Conservation leased a facility in Palmer for 34 years. The new facility will not be available until after 2006. The current facility is overcrowded, not fully compliant with safety codes and laboratory design standards. That facility was originally placed in Palmer when the principal lab business was agriculture and dairy. The emerging value added seafood industries in coastal Alaska have added significant and time-sensitive testing demands for the Department's service. The proposed new lab will be in Anchorage where valuable hours could be saved between sample collection and testing for raw and live seafood products.

Commissioner Ballard continued, the laboratory functions are essential to protect the health of all Alaskans. The Governor, past legislatures, and the commissioners of the Department of Revenue, Department of Transportation & Public Facilities, and Department of Environmental Conservation have reviewed the design specifications, equipment requirements and expense. Alternative locations were considered and financing mechanisms for a modern facility sized and equipped for long-term service to the State. Careful consideration was given to the possibility of locating in remodeled Alaska Seafood International (ASI) facility space in Anchorage. Requirements would occupy approximately 5% of that space.

The process of acquiring a new seafood and food safety lab began seven years ago with a feasibility study. The Department received an appropriation of \$150,000, to obtain an independent evaluation of both build and lease options. The analysis showed that the most economical choice would be a State owned laboratory financed with lease/purchase bonds known as Certificates of Participation. The Legislature agreed and in 2001 appropriated \$1,300,000 dollars to design the facility, a conservative and cost conscious proposal. She emphasized that the building design, specifications, space allocations, and the financing plan were all conservative. The building contains only laboratory and lab support space. Meeting and classroom facilities will be available in the adjacent public health lab. The building materials were selected for low and simple maintenance. The

design and materials are similar to those used in constructing the public health lab, built several years ago on schedule and within budget. Laboratory fee charges for services are being reviewed. They compare well to fees used in other states.

Representative Stoltze interjected that the project and building facility was too large and asked about other alternatives.

JOHN MACKINNON, DEPUTY COMMISSIONER, DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES, responded that consideration had been discussed regarding the facility in the ASI building. He noted that the building was too large and that another building could actually fit inside it. The space requirements for the lab would consume around 5% of the total area in ASI and that there would be "serious compromises" made by doing it, limiting the ability of that building to be used for anything else. When considering the overall cost, there would be little savings made. The API building was designed as a stand-alone structure. The redesign costs would be well over \$900,000 and it would require complete separate mechanical system & electrical.

Mr. MacKinnon acknowledged that initially, it appeared to be a good idea; however, with all the information gathered, there would not be a tremendous amount of savings to be made if it were located in that space. He added that this design process has been on going for many years and attempting to accommodate these needs.

Representative Stoltze inquired how many employees would the facility employ. Commissioner Ballard responded that there are 11 employees.

Co-Chair Harris understood what the Department considers this to be a vital need to move the lab to Anchorage and having closer access to the airport. He asked if there had been any attempt to address the City of Palmer's concern with the possible move. Commissioner Ballard pointed out that there are approximately 23 employees in the Valley area and that only 11 would be moved. The reason for adding additional staff would be particularly for the drinking water certification. Those needs are growing as the State's population expands. All employees would remain in the Palmer area except the ones working in the laboratory.

Co-Chair Harris questioned why such a large facility was needed. Commissioner Ballard explained that the utilization of the space would be about 50/50. The portion used for the laboratory testing activities versus equipment space, requires a certain amount of isolation. Using half the space for isolation is important to protect the integrity of that work.

Co-Chair Harris asked for more information on the certificate of participation bonding and/or funding for the project.

TOM BOUTIN, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, explained that lease financing was a mechanism of financing building that the State issues. The State uses that mechanism, as do all other states and municipalities. The debt service is subject to annual appropriation and for that reason, the credit is normally rated much below the general obligation (GO) rate of the issuer.

Co-Chair Harris asked who would own the building. Mr. Boutin responded that a feature of a lease-financing or capital lease is that at the end of the lease term, the lessee owns the building. In a capital lease as opposed to an operating lease, the lessee becomes the owner. During the lease term, there is a trustee who has an obligation on behalf of the bondholder to enter and take over the facility on behalf of the best interest of the bondholders.

Representative Hawker asked why the State was in this type business, noting that it appeared to be "out sourcing of services", which should be left in the private sector. Commissioner Ballard advised that whenever they can, the State gets out of the "testing" business. The State no longer does testing of drinking water. The only testing that the States currently does are those that are not available through private lavatories. If a private lab sought the certification, then the State would not compete with them. She pointed out that it is unlikely that private labs would perform this type testing as there is generally not enough volume and it needs to be done on a 24/7.

Representative Hawker inquired why the private industry has not expressed interest in undertaking this activity. Commissioner Ballard advised that the fees that would need to be charged, the schedule of maintaining the equipment and the rigorous certification requirements would simply preclude the investment of working capital for private enterprise for performing these tests. The lab certification requirements certify the facility and technicians. The technicians must be certified to operate the new facility and that they have to be available. There is not a large enough market in Alaska and that market expects turn-around on its schedule. The State provides the service at the same cost that the industry would find in other states.

Representative Hawker argued that the State could not do it cheaper. Commissioner Ballard disagreed. She reminded members that the general fund subsidizes the service in the

way that it subsidizes other public services, considered to be in the interest of the State's citizens.

Co-Chair Harris asked again what the general "feeling" was currently in the Palmer area regarding moving the facility. Representative Stoltze observed that it was viewed as a "slap in the face" to the agriculture industry. He pointed out that he does not represent that entire "physical area", however, does represent the entire valley. He repeated that there is not a good feeling around the proposed change.

Co-Chair Williams remembered that three years ago, a similar bill passed from Committee to undertake basic design work and that this concern had been discussed during the last two legislative sessions.

Representative Kerttula noted her appreciation that the Department has considered what is happening in Juneau with closure of the lab. She hoped that would make it easier for the employees and the University.

ROGER PAINTER, ALASKA SHELLFISH GROWERS ASSOCIATION, JUNEAU, testified in support of the bill. He commented that the lab needs a new facility. There has been interest in S.E. Alaska but there is not enough commerce related to the lab to locate it in the Southeast area. He acknowledged that an Anchorage location would make the most sense.

Mr. Painter responded to queries regarding private sector testing, pointing out that it is easier to go to Seattle than to get samples to Palmer. There are no private labs that can test marine samples and no private labs anywhere in the United States that can check for paralytic shellfish poisoning or other harmful problems. Assuming that the private sector will step up to contract for these services is not an option. He added that in support of comments made by Commissioner Ballard regarding fees, the costs are below what would be paid to a private lab.

Representative Hawker noted that he was supportive of the State's mari-culture activities. He asked if there were any alternative facilities for that type of testing. Mr. Painter replied that there is not for either the growing water certification or for paralytic shellfish poisoning. He noted that Washington State is the largest producer of oysters and clams and that he had contacted all labs in Seattle, finding no testers.

Representative Hawker asked if this type testing was unique to Alaska. Mr. Painter replied that these are federal requirements and that the State must comply with those laws in order to participate in interstate commerce. Providing public health protection is an important service.

Representative Hawker asked if there were federal regulations in place in the Pacific Northwest, then why were the services not available. Mr. Painter explained that the State of Washington does provide testing services and has a somewhat different testing program in that they certify large areas, which is more cost effective than working on the issues in Alaska where everything is remote and the farms are separated. The Department of Environmental Conservation is working in those areas where there is a concentration of farms in order to certify larger areas.

KRISTIN RILIN, DIRECTOR, DIVISION OF ENVIRONMENTAL HEALTH, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, added that the Federal Drug Administration (FDA) certifies laboratories to perform the testing. Paralytic shellfish poison is a dangerous toxin and is heavily regulated. Because of that, private laboratories are not interested in the liability.

Representative Foster asked how the costs were being determined. Ms. Rilin replied that the costs were not based on the costs of running the tests. She added that the fees would need to change to meet the operating costs associated with the laboratory.

HB 312 was HELD in Committee for further consideration.

TAPE HFC 03 - 97, Side B

#HB28

HOUSE BILL NO. 28

An Act relating to adjustments to royalty reserved to the state to encourage otherwise uneconomic production of oil and gas; and providing for an effective date.

REPRESENTATIVE VIC KOHRING explained that HB 28 would take a royalty adjustment system that is an understandable and usable adjustment method for fields that might otherwise prove to be uneconomic. It would provide a usable system for reduction of royalties belonging to Alaska so that the State could encourage production of oil and gas fields that might be marginal or not economically feasible if it were not for such reductions.

The bill is not new, but it sets forth an understandable modification formula; protecting the public's interest in such proceedings and maintaining the public's ability to comment on the preliminary findings and determination made by the Commissioner. The Department of Natural Resources Commissioner would provide the tools necessary to negotiate with the drilling companies for both oil and gas production to determine if they are financially viable. If the fields are not economically viable, the legislation would take

action to decide what the royalty reduction would be based on the economics of that field.

Representative Kohring pointed out that the State's normal share is established at 12.5%, but could run as high as 20% depending upon the field. A royalty reduction allowed under HB 28 would depend on changes in oil prices, field recovery, production rate and operating costs. The rate could be as low as 3%.

Representative Kohring stressed that the Commissioner would need to establish that the field was economically situated before it would be granted. The determination would be based upon a detailed analysis, professional evaluation. The evaluation could be done either internally or by an outside company that has expertise in that type of evaluation. The State would be reimbursed the cost of the evaluation. The amount would be capped at \$150 thousand dollars.

Representative Kerttula MOVED to ADOPT Amendment #1, #23-LS0177\V.2, Chenoweth, 5/15/03. (Copy on File). Co-Chair Williams OBJECTED.

Representative Kerttula noted that in the last Committee hearing, there had been a deletion of the section that allows legislators to receive signed confidential information. The information is critical in order that legislators can look at certain records. It is something that has been done for over 25-years. The proposed amendment would "un-delete" that proposed section, allowing access to confidential information. She understood that the sponsor supported the change.

REPRESENTATIVE NORM ROKEBERG agreed, noting that the original presumption on that deletion was that it would be standard procedure under executive privilege. He acknowledged that the language needs to be re-entered into the legislation.

There being NO OBJECTION, Amendment #1 was adopted.

Representative Kerttula MOVED to ADOPT Amendment #2, #23-LS0177\V.3, Chenoweth, 5/15/03. (Copy on File). Co-Chair Williams OBJECTED.

Representative Kerttula pointed out that the sponsor had no objection with the grammatical changes proposed by the language of the amendment. There being NO further OBJECTION, Amendment #2 was adopted.

Representative Kerttula MOVED to ADOPT Amendment #3, #23-LS0177\V.1, Chenoweth, 5/15/03. (Copy on File). Co-Chair Williams OBJECTED.

Representative Rokeberg requested that a simple change be made to the amendment.

Representative Kerttula read the language recommended by Representative Rokeberg to be added to the amendment, Line 12, after "approval" inserting "shall not be unreasonably withheld by", and deleting "of".

Representative Rokeberg reiterated that as amended, there would be no objection to inserting that language. There being NO further OBJECTION, Amendment #3 as amended was adopted.

Co-Chair Harris referenced the fiscal note analysis, pointing out that the Division of Oil and Gas had not been complimentary. He asked if the Administration was in support of the proposed legislation.

MARK MEYERS, (TESTIFIED VIA TELECONFERENCE), DIRECTOR, DIVISION OF OIL AND GAS, DEPARTMENT OF NATURAL RESOURCES, ANCHORAGE, noted that the Administration does support the bill. The Division believes that the bill would clarify problems that have been identified with the bill with previous royalty reduction statutes. The fiscal note adequately reflects the changes recommended in the bill with the royalty reductions. The fiscal note was carefully thought out. The Division is comfortable with the proposed version of the legislation.

Co-Chair Harris pointed out that the analysis identifies problems with hydrocarbon cost allocation for royalty relief. The proposed legislation would open the door for every oil and gas reservoir in the State to be eligible for a royalty reduction. He acknowledged that it would not be possible to accurately predict what the fiscal impact of the legislation will be and could be a negative impact.

Mr. Meyers admitted that in an earlier version of the bill, those problems were present. Since that time, the fiscal note applies to the current version; all concerns have been properly addressed. The earlier version did not address the previous history of the statute.

Representative Whitaker asked what would be the advantages and risks to the State through the proposed legislation.

Mr. Meyer explained that there would be no additional risks to the State. [Testimony inaudible].

He added that the bill would allow for a lot of flexibility. The Commissioner will be able to adjust as the conditions in the market place change. It is important that there continues to be legislative oversight.

Vice-Chair Meyer asked if the legislation was intended for only the Cook Inlet area or would it apply statewide. Mr. Meyer confirmed that it will apply statewide and in any place the State receives royalty on State lands. Vice-Chair Meyer stated for the record that he "might have a conflict of interest" regarding the legislation.

Representative Foster MOVED to report CSSSHB 28 (FIN) out of Committee with individual recommendations and with the accompanying new fiscal note. There being NO OBJECTION, it was so ordered.

CSSSHB 28 (FIN) was reported out of Committee with a "no recommendation" and with a new fiscal note by the Department of Natural Resources.

#SB216

SENATE BILL NO. 216

An Act relating to international airports revenue bonds; and providing for an effective date.

MICHAEL BARTON, COMMISSIONER, DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES, explained that the bill would increase the cumulative authorization for international airport revenue bonds to support capital improvement projects at the Ted Stevens Anchorage International Airport & the Fairbanks International Airport. The bill would authorize the issuance of \$76 million dollars in revenue bonds. Those two airports are jointly managed as part of the Alaska International Airport system. The costs and revenues are pooled. The system is operated through the airport operating agreement, a contract between the airport and the airlines. It establishes the business relationships at the airport, obligates the airlines to pay for the cost of running & maintaining the airport, including capital projects and bonded indebtedness through the rates and fees charged at the airports. It also obligates the airports to secure agreements on costs with the airlines.

The airlines agreed in 1997 to the terminal redevelopment project. The bonds requested through the legislation are revenue bonds. There were two previous issues in 1999 & 2002. The current issue would constitute no obligation of the State. The bonds would be insured and there would be no general fund money involved. There are three reasons for the need for additional funds:

- Transportation Security Administration (TSA) security requirements;
- Added square footage requested; and
- Design problems, which caused delays.

Commissioner Barton noted the Department had been negotiating with the airlines since January 2003 regarding how to cover the cost overrun. An agreement in some areas was reached acknowledging that Concourse C needs to be completed. Completion is scheduled for about in about one year. Another concern is the deferral of the \$60 million dollars in capital projects; project will continue using federal money.

Commissioner Barton referenced the two handouts. (Copies on File). Page 18 of the "Business Planning Information" outlines the bonding requirement. Approximately \$48 million dollars is estimated for the completion of Concourse C; \$10 million dollars needed for the match money for federal funds on the capital project in Anchorage; \$3.5 million dollars needed for capital projects in Fairbanks; \$15 million dollars for the bond issuance costs. Commissioner Barton stated that the Asian Pacific markets have produced the most revenue.

Representative Hawker asked if the Airport Fund was out of cash. Commissioner Barton responded that only the project needs funds.

Representative Hawker stated that there was a balance of \$81.8 million dollars as of June 30, 2002 in that fund. He asked if some of that fund balance could be used to address this concern. Commissioner Barton noted that it was agreed to use some of those funds for the portion from the terminal to Concourse C. In order to lessen the impact on airlines in future years, the Department has agreed to contribute \$1 million per year from that fund, as well as \$2 million dollars per year from patent facility charges. He pointed out the impact on rates and fees listed on Page 20. The projection has been made for the completion of the entire terminal and not just Concourse C.

Representative Hawker asked if the number included the increase required to meet the debt service. Commissioner Barton responded that it had been included in those numbers. Representative Hawker asked the rationale, commenting that "to an extreme"; it could be funded entirely out of that fund balance. Commissioner Barton did not believe that it could be cash funded entirely as the State is required to retain 1.25 times the debt service, necessary from the previous bond issuance. There are additional on-going costs. The airport is not designed to make money but instead to break even and the fees reflect a break-even situation. Representative Hawker maintained that the cash reserve numbers were unclear.

Representative Stoltze asked what concerns had been voiced by Senator Olson. Commissioner Barton stated that the House

Transportation Committee had reviewed the plan and added that Senator Olson's concerns were related to general aviation parking and not related to completion of the concourse base.

Co-Chair Harris asked if the new concourse would exclusively be used by Alaska Airlines. Commissioner Barton responded that they would be the major occupants.

Co-Chair Harris asked if there would be increased fees for some of the airlines to help cover the costs. Commissioner Barton replied that the airlines through rates and fees would pay the entire bond. Co-Chair Harris inquired if the Department was asking for an increase. Commissioner Barton stated they were and that all occupants agree that Concourse C should be completed.

Representative Berkowitz inquired if there were any side-boards on the initial bonding authority. Commissioner Barton responded that the proposed bill was the same as an earlier proposed bill, authorizing the bonds.

Representative Berkowitz commented on some of the issues, which have given rise to increasing the number. These have been questioned by other legislators who would like to see some insurance that the problem will not repeat itself. Commissioner Barton stated that the urgency exists because the project will run out of cash in September 2003. After that emergency is resolved, then the entire situation will be analyzed.

Representative Berkowitz asked if there would be only one staircase operator at the airport. Commissioner Barton offered to check into that.

Vice-Chair Meyer MOVED to report SB 216 out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SB 216 was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by the Department of Revenue.

#HB301

HOUSE BILL NO. 301

An Act establishing the Knik Arm Bridge and Toll Authority and relating to that authority; and providing for an effective date.

MICHAEL BARTON, COMMISSIONER, DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES, explained that the bill would establish an independent authority to build and operate a toll bridge over Knik Arm. The authority would be able to receive

federal money and issue revenue bonds to finance the toll bridge and its appurtenant facilities. The authority would design, construct, and operate the bridge and the facility.

The authority would be a public corporation that would have a separate independent legal existence from the State. The revenue of the authority would not become part of the general fund and the property of the authority would be exempt from taxation.

Commissioner Barton continued, the bill establishes a three-person board to govern the authority. The commissioners of the Department of Revenue and the Department of Transportation & Public Facilities would serve on the board, along with a member of the public, appointed by the Governor for a five-year term.

Representative Kerttula referenced Page 3, Lines 4-6 and voiced concern with what could happen if the authority failed. If that occurred, would the Legislature retain only the power to pull back funding.

TOM BOUTIN, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, explained that typically in stand-alone revenue bonds, if there are bonds, authorized by the Legislature, there would be a trustee who would have the ability to take over the entire facility and manage it under the worse case scenario. The bill would not have the State's moral or general obligation.

Representative Kerttula asked if that was standard language. Mr. Boutin advised that any new debt would require further authorization. It is typical language for stand-alone revenue bond authority.

Representative Kerttula referenced Page 3, Lines 21-23, which lists the powers. She inquired if "planned," meant, "developing". Commissioner Barton responded that was implicit. Representative Kerttula continued, Page 4, Line 6, asking what would happen if the State received "gifted" grants or authority. Commissioner Barton [inaudible].

Representative Kerttula noted concern with the language on Page 12, Lines 6-9, the exemption from local regulation. That language gives the authority complete exemption from land use planning, zoning and permitting power of any political subdivision. She asked what local communities felt about inclusion of that language. Commissioner Barton responded that the language was standard for a project of this size and stated that he did not know what the community thought about the verbiage. Representative Kerttula emphasized her concern with the zoning affect. Commissioner Barton added that the communities would each have a member on the board.

Representative Berkowitz asked if there was a reason to rush into the activity of the proposed authority. Commissioner Barton responded that this could be an "investment for the future of Alaska". The authority could provide a focus and impetus to move the project forward. He noted that he anticipated process delays and that the legislation could help facilitate getting the crossing built.

Representative Berkowitz noted concern with power of a bridge authority. He recommended moving more slowly as a legislative body and proposing a more modified version. Commissioner Barton commented that the authority will only have the power that the Legislature grants.

Representative Berkowitz emphasized his concern with the composition of the board of directors on that authority. On Page 3, he noted questions regarding the "powers and duties of the authority" on real and personal property. He added that it is mentioned that the purpose of the authority is to advance the "economic development of the State". In creating an authority, there needs to be more time to develop the authority's mission. Commissioner Barton observed that it is important that "both ends of the bridge be involved". The impact extends beyond the influence of the actual bridge.

HB 301 was HELD in Committee for further consideration.

#HJR26

HOUSE JOINT RESOLUTION NO. 26

Proposing amendments to the Constitution of the State of Alaska relating to and limiting appropriations from and inflation proofing the Alaska permanent fund by establishing a percent of market value spending limit.

Co-Chair Williams assigned HJR 26 to a Subcommittee to work on during the interim. Members of the subcommittee will be: Representative Meyer, Chair, Representative Joule, Representative Croft, Representative Whitaker and Representative Chenault.

ROBERT D. STORER, EXECUTIVE DIRECTOR, ALASKA PERMANENT FUND CORPORATION, DEPARTMENT OF REVENUE, expressed that the Board of Trustees believes that it is important to inflation proof the fund.

TAPE HFC 03 - 98, Side A

Mr. Storer noted that currently that it is in statute. The Legislature has always inflation proofed to maintain the

purchasing power of the fund. This could inflation proof the entire fund and not just the principle of the fund, which could be achieved by a spending limit, which would suggest that limit be no more than 5% of the 5-year moving average of the fund. Less could be appropriated.

Mr. Storer explained that could be achieved by a spending limit. The Board suggests that the limit be no more than 5% of the five-year moving average of the fund and that less could be appropriated. Currently, the entire earnings reserve could be appropriated so the magnitude varies from year to year. There have been "big swings based on the market conditions". Using a moving average improves stability each year versus the status quo.

The 5% number was determined by looking at historical data and prospectively at the capital markets, the current diversified portfolio will be able to achieve 5% real income over inflation. The old statute was developed about 26 years ago at a time when people only thought about bonds. Now that more is invested in the equity market, a more volatile high-expected return, half of the fund is invested in that market. There will be more volatility and less income unless the managers take profits over time. He added this is more predictable than the current methodology. The computation would be from the five previous fiscal years. That would provide the legislators information in January each year to know the exact amount of available funds.

Mr. Storer noted that at present time, there is a positive earnings reserve at about \$2 billion dollars. The fund has incurred much volatility to date. What is being proposed would substantially increase the predictability of the fund.

Co-Chair Williams requested further definition of the language of the resolution.

BOB BARTHOLOMEW, CHIEF OPERATING OFFICER, ALASKA PERMANENT FUND CORPORATION, DEPARTMENT OF REVENUE, pointed out that the version before the Committee was from the House Judiciary Committee. Basically, that is a two-page amendment making changes to the constitution. The title is a policy statement regarding why the trustees are proposing the change to protect the Permanent Fund from inflation.

Mr. Bartholomew noted that the first change was indicated on Page 1, Line 10, referring to a new second paragraph to be added to the constitution. Page 1, Line 11 is the most significant change, which would delete "principal" and that the Permanent Fund would be protected with a spending limit of up to 5% per year, which could be taken. That would be a policy call to balance. Incorporating the new language would provide that there would always be an annual distribution from the fund limited to 5%. The action would

balance the benefit of providing a distribution every year against the short-term risk of spending down the fund. He acknowledged that would be a significant policy decision.

Mr. Bartholomew continued, Page 1, Lines 13-14, would delete the language "all income from the Permanent Fund shall be deposited in the General Fund unless otherwise provided by law". The intent would be that all income earned by the Permanent Fund remain in the fund. The two pools of funds would be combined which would not need a separate itemization of where the income was placed.

Page 2, Line 2, begins the new paragraph, which establishes a not to exceed spending limit of 5% of the year-end market value. That amount is averaged over a five-year period. Page 2, Line 4, clarifies that it would be for the first five of the six fiscal years, immediately preceding that fiscal year. Under current rules, the available amount is not known because the five-year average used, includes the June 30th of the present year. Looking back six years, making the last June 30th the end point for the following year, provides information indicating exactly what is available for Legislative appropriation.

Mr. Bartholomew stated that Section #3 provides the language proposed by Legislative Legal, transitional language, which clarifies that any money in the earnings reserve would remain a part of the Permanent Fund and states that it would stay with the Permanent Fund.

Mr. Bartholomew noted that Section #4 stipulates that to make it effective to change the constitution, it would go before the voters of Alaska at the next general election, November 2004.

Co-Chair Williams appointed a subcommittee to address concerns of the legislation. Representative Meyer would chair the Subcommittee with members Representative Croft, Representative Chenault, Representative Whitaker, and Representative Joule. Co-Chair Williams encouraged statewide participation.

HJR 126 was HELD in Committee for further consideration.

#SB41

SENATE BILL NO. 41

An Act relating to medical care and crimes relating to medical care, including medical care and crimes relating to the medical assistance program.

SENATOR LYDA GREEN explained that since 1999, the costs of the Medicaid program have risen throughout the nation at an average rate of 11 percent per year. Alaska's Medicaid

program has averaged annual increases of 20 percent or more than \$100 million per year, bringing the total projected program costs for FY04 to just under \$1 billion dollars (\$695 million in federal funds and \$289 million in state funds).

Factors such as increased participant enrollments, increased use of health services and the increasing costs of pharmaceuticals and long-term care are the greatest contributors to the rise in the Medicaid program costs. While the State has limited ability to contain the cost factors, targeting waste and fraud can occur.

Senator Green continued, nationally, the error rate of overpayments in the Medicare program are about 7 percent, a number that could be inferred to the Medicaid program. In addition, the commonly held perception of the amount of fraud committed against the Medicaid program nationwide is 10 percent. Whether those two numbers are inclusive of one another or should be compounded, they represent a sizeable amount of spending, between \$70 and \$170 million dollars in Alaska's Medicaid program on activities that could be questionable.

To preserve the integrity and fiscal viability of Alaska's Medicaid program, that system must be held to rigorous controls and frequent scrutiny. Relevant laws must be in place to prosecute those who commit fraud and abuse related to medical care. Alaska has no specific health care criminal theft statutes. Currently, in order to prosecute those who commit Medicaid fraud, prosecutors must use criminal statutes related to actions coincidental to the misconduct. Alaska theft statutes require proving that the conduct was intentional, a very high standard to meet for a crime where there is no crime scene or physical evidence. Consequently, there have been relatively few prosecutions. SB 41 would provide the legal tools for the fiduciaries of the Medicaid program to establish program integrity and maintain maximum fiscal control.

Senator Green added that the legislation would establish the crime of medical assistance fraud, define elements that constitute fraud, and classifies the crime committed as either a felony or a misdemeanor. SB 41 would require independent financial audits to identify errors, overpayments, and criminal violations made to, or by, Medicaid providers and requires administrative action within 90 days of receipt of each audit. The legislation would complete the loop between the Department of Health and Social Services and the Department of Law by requiring copies of all audits to be provided to the Attorney General and by directing the Attorney General to notify the Department of Health and Social Services of any charges of misconduct filed against a Medicaid provider. Such notice requires the Department to undertake a complete review of any outstanding claims of that provider. Finally, the bill would provide that financing of the audits could be made

from the recovery, due to the audits, of misspent funds.

She concluded that it is vital that the State of Alaska administer its Medicaid program in a manner that ensures effective, long-term cost containment while providing needed medical care to its intended recipients. Medicaid providers must operate honestly, responsibly and in accordance with the law. Those who do not would be held accountable.

Representative Foster asked who would pay for the audits. Senator Green advised that they would be paid for from the amount recovered from the lawsuits. She speculated that that ratio of the amount recovered would be 8 to 1, citing an example of physicians in Anchorage involved in such suits.

DON KITCHEN, (TESTIFIED VIA TELECONFERENCE), ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, ANCHORAGE, offered to answer questions of the Committee. In response to a query by Representative Stoltze, Mr. Kitchen explained that the statutes were written to encompass being able to prosecute both recipients and providers. He noted that his particular focus was with the providers. Senator Green added that there had been a "recipient Medicaid" work group in Juneau, who reviewed the bill. They supported the bill and suggested that recipients be included. Up until that time, the recipients had been excluded.

Representative Berkowitz questioned how the cases are currently being prosecuted. Mr. Kitchen responded that most often other statutes are used, which can have an element of specific intent. Trying to prove "specific intent" sometimes becomes impossible. Without having a witness, the State has no way to dis-prove the essential defense of when the provider suggests ignorance. SB 41 would require that the provider comply with the regulations up front, making them responsible for the resource.

Representative Berkowitz referenced Section 47.05.230, Page 5, regarding aggregated amounts. Mr. Kitchen explained that the aggregation of amounts was taken from the sub-statutes and permits aggregating amounts into a particular charge.

Representative Berkowitz referred to Pages 4 & 5, pointing out that the amounts for a C felony would be \$500 to \$5,000 dollars and that an A charge would be less than \$500. He asked if that would continue to be the "breaking point" between misdemeanors and felonies, questioning the raising amounts. Mr. Kitchen did not recall the raised numbers.

Representative Hawker asked if the current version of the bill was acceptable to the Department. Mr. Kitchen confirmed that the Department of Law was comfortable with the bill.

Representative Berkowitz MOVED to AMEND Pages 4 & 5, Lines 29 & 2, respectively, raising the amount to \$1,000 for a felony and deleting "\$500". Vice Chair Meyer OBJECTED.

Representative Berkowitz discussed the benefits of the change. Vice-Chair Meyer noted that the levels had been raised in House Judiciary Committee last year.

Senator Green maintained that value was not the only qualifying factor. She added that even if the drugs had very little "street value", that might not be as important as the use of the drug in the Medicaid program.

In response to a query by Representative Berkowitz, Mr. Kitchen explained that most cases do not come to the Department's attention until they are at least between \$500 & \$1000 dollars and that in other states, the felony breaking point is \$100 dollars. Representative Berkowitz WITHDREW the MOTION.

Co-Chair Harris MOVED to report CS SS SB 41 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS SS SB 41 (FIN) was reported out of Committee with a "do pass" recommendation and with a new fiscal note by the Department of Health and Social Services.

#SB192

SENATE BILL NO. 192

An Act relating to teachers and training programs in the Department of Labor and Workforce Development, to the placement in the exempt service of certified teachers employed by the Department of Labor and Workforce Development, to their eligibility to participate in the Teachers' Retirement System of Alaska, and to the functions of the Alaska Workforce Investment Board regarding the Kotzebue Technical Center and the Alaska Vocational Technical Center; and providing for an effective date."

DOUG LETCH, STAFF, SENATOR GARY STEVENS, stated that the bill would amend language so that teachers in the Department of Labor and Workforce Development would be eligible for the Teachers Retirement System (TRS). Additionally, it would provide conforming language for the Workforce Investment Board so that there would be only one Workforce Investment Board. Section #3 would add Kotzebue Technical Center and Alaska Vocational Technical Center (AVTEC) as programs within the Department of Labor and remove from the Department of Education.

Mr. Letch continued, Section #4 conforms language for one Workforce Investment Board. Section #5 amends language so that existing teachers at Alaska Vocational Technical Center (AVTEC) and skill centers that are exempt positions remain exempt positions. Section #6 repeals statutory language so that there is one Workforce Investment Board and repeals the Business Incentive Training Program, which has not been funded for many years.

SENATOR GARY STEVENS reiterated comments made by Mr. Letch. The legislation resulted from an issue in consolidating the workforce and resulted in a substantial savings indicated in the attached fiscal note. The Board will have fewer members.

Co-Chair Harris MOVED to report CSSB 192 (L&C) from Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSSB 192 (L&C) was reported out of Committee with a "do pass" recommendation and with a new fiscal note by the Department of Labor and Workforce Development.

#SB45

SENATE BILL NO. 45

An Act relating to the Legislative Budget and Audit Committee.

SENATOR LYDA GREEN noted that SB 45 was an act related to the Legislative Budget and Audit (LBA) Committee. The statute lacks any penalties for those who are uncooperative or who undermine the work of the committee. SB 45 is designed to remedy that by providing prosecutors with the necessary tools to deter and punish those who hinder the investigative work of that committee.

A legislative auditor conducts three kinds of audits:

- A "look-see" at an agency;
- Review of boards due to sunset; and
- Post audits.

When concerns are presented to the Legislature, audits may be conducted. Senator Green pointed out that audits conducted this year have provided important legislative information. The bill assigns a penalty for non-compliance with an audit and includes provisions for "whistle blowers", on Page 2, Section 4, to provide protection for employees. Senator Green added that penalties and sanctions were included since these situations can be serious.

Co-Chair Harris MOVED to ADOPT work draft #23-LS0205\W, Luckhaupt, 5/15/03, as the version of the legislation before the Committee. There being NO OBJECTION, it was adopted.

Representative Stoltze realized that when an audit is performed, there are external forces that attempt to delay the release of information. He asked if the legislation would cover that concern.

PAT DAVIDSON, DIRECTOR, DIVISION OF LEGISLATIVE AUDIT, responded that the legislation could address that "indirectly". SB 45 will eliminate the obstruction during the course of the audit, which will allow the audit to move forward faster. The bill will enhance the efficiency and timeliness of the audit process.

Representative Kerttula voiced appreciation for the sponsor's changes. She referenced Page 3, Lines 9 & 10, "or other matters within the authority of Legislative Budget and Audit Committee". She asked for an example of the range that language indicates.

Ms. Davidson explained that the Division of Legislative Budget and Audit performs audits. The Division can be asked to prepare reports, memorandums and/or other matters as directed by the Committee. They attempt to approach all official responsibilities that may be delegated under the auspicious of the LBA Committee.

Representative Kerttula voiced concern of "how minimal" that might be.

JACQUELINE TUPOU, STAFF, SENATOR LYDA GREEN, interjected that when writing the legislation, it was agreed that the whistle blower statute should be as broad as possible in order to be able to access all information.

Representative Kerttula asked about the section of information that allows going into the State employees files. Information could be added to the file regarding if that employee had been dismissed or disciplined for the violation of interference with LBA. She asked if other crimes were intended to be included in that language.

Ms. Davidson explained that because one of the penalties was a disciplinary action regarding the personnel laws, disciplinary laws are confidential. If someone had violated the statute, the knowledge of that could not be concealed through the confidentiality of the personnel records. The language of the bill allows that misconduct be publicly exposed.

TAPE HFC 03 - 98, Side B

Senator Green advised that the Department of Law was initially opposed to the legislation, but clarified for the record that they now do support current language.

SCOTT NORDSTRAND, DEPUTY ATTORNEY GENERAL, CIVIL DIVISION, DEPARTMENT OF LAW, voiced the Department's support of the current committee substitute and reiterated that the bill is "workable".

Representative Foster MOVED to report HCS CS SB 45 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HCS CS SB 45 (FIN) was reported out of Committee with a "do pass" recommendation and with zero fiscal note #1 by the Department of Administration and a new zero note by the Department of Law.

#

Co-Chair Harris MOVED that there be no more House bills heard in the House Finance Committee this legislative session. He noted that the Committee had moved "past the deadline" for any House bill to pass this current fiscal year.

Representative Berkowitz asked if HB 111 had received a House Finance referral.

Co-Chair Williams noted that he intended to "over-rule" the previous MOTION. He stated that HB 111 would be WAIVED from the House Finance Committee and that the amendment could be made on the House Floor. He added that the Committee was still waiting to receive HB 277.

ADJOURNMENT

The meeting was adjourned at 4:40 P.M.