

HOUSE FINANCE COMMITTEE
February 24, 2004
1:54 P.M.

TAPE HFC 04 - 29, Side A

CALL TO ORDER

Vice Chair Meyer called the House Finance Committee meeting to order at 1:54 P.M.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Mike Chenault

ALSO PRESENT

Representative Ralph Samuels; Representative Beverly Masek; Sara Nielsen, Staff, Representative Ralph Samuels; Pete Ecklund, Staff, Representative Bill Williams

PRESENT VIA TELECONFERENCE

Steve Branchflower, Office of Victim Rights, Anchorage; Diane Wendlandt, Chief Assistant Attorney General, Corrections Support, Department of Law, Anchorage; Linda Wilson, Public Defender Office, Department of Administration, Anchorage

SUMMARY

HB 357 An Act relating to restitution; and providing for an effective date.

CS HB 357 (JUD) was reported out of Committee with a "do pass" recommendation and with indeterminist note #1 by the Department of Administration and indeterminist note #2 by the Department of Law.

HJR 20 Proposing amendments to the Constitution of the State of Alaska repealing the prohibition on dedicated funds.

HJR 20 was HEARD and HELD in Committee for further consideration.

#HB357

HOUSE BILL NO. 357

An Act relating to restitution; and providing for an effective date.

REPRESENTATIVE RALPH SAMUELS stated that HB 357 would require judges to order restitution from criminals in all cases where a victim suffered a financial loss. He added that when financial losses of victims are ignored or given less priority than the rights of criminals, they are being victimized again. HB 357 would require judges to order restitution in every case where a victim has suffered a financial loss. Under present law, a judge may, but is not required to do so. The change would ensure that offenders are ordered to make realistic restitution payments to help make the victim whole within a reasonable period of time.

Representative Samuels added that the bill would clarify that a minor who has been ordered to pay restitution be required to do so beyond their 19th birthday.

STEVE BRANCHFLOWER, (TESTIFIED VIA TELECONFERENCE), OFFICE OF VICTIM RIGHTS, ANCHORAGE, offered to answer questions of the Committee, noting that he supports the bill 100%.

Representative Stoltze inquired if there were any reasons for not implementing the legislation. Representative Samuels responded that the Constitution indicates that intent. The legislation creates a statute to follow that Constitution. He stated that a victim would want a payment schedule in order to make that person "whole". Representative Stoltze reiterated that it would be the Legislature implementing the provisions of the Constitution. He pointed out that more people voted for that than voted against the Permanent Fund Dividend.

DIANE WENDLANDT, (TESTIFIED VIA TELECONFERENCE), CHIEF ASSISTANT ATTORNEY GENERAL, CORRECTIONS SUPPORT, DEPARTMENT OF LAW, ANCHORAGE, offered to answer any questions of the Committee.

LINDA WILSON, (TESTIFIED VIA TELECONFERENCE), PUBLIC DEFENDER OFFICE, DEPARTMENT OF ADMINISTRATION, ANCHORAGE, testified that even though the State Constitution does give the right to restitution, it is important that the victim

exercise that right and that "requiring restitution" when the victim does not request it, could be problematic.

Representative Samuels referenced Page 1, Line 4, explaining that the victim could decline restitution. There could be cases in which, a family member would not want restitution or put a financial mark on that person. Restitution can be declined and that language is currently in the bill.

Representative Fate asked if there were any Statute of Limitations on either making a payment program or the payout in the future. Representative Samuels advised that if the person were convicted of the crime, then the Statute of Limitation would apply. The legislation becomes active during the sentencing phase.

Co-Chair Harris noted his concern with the indeterminate fiscal notes. Representative Samuels understood that the Department of Law and the Public Defender Agency voiced concern that there might be more restitution hearings resulting from passage of the legislation. He argued it could go either way, and noted that he did not support that concept. Representative Samuels thought it would be a minimal impact to the agencies.

Representative Foster MOVED to report CS HB 357 (JUD) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 357 (JUD) was reported out of Committee with a "do pass" recommendation and with indeterminate note #1 by the Department of Administration and indeterminate note #2 by the Department of Law.

#HJR20

HOUSE JOINT RESOLUTION NO. 20

Proposing amendments to the Constitution of the State of Alaska repealing the prohibition on dedicated funds.

REPRESENTATIVE BEVERLY MASEK explained that HJR 20 would add a new section #18 to Article IX of the Constitution. Specifically, if passed and adopted at the November 2004 general election, a dedicated fund would be established requiring all taxes generated through the sale of motor fuels to be placed in the fund for the express purpose of maintaining Alaska's roads and highways. She added that Alaska's Constitution prohibits dedicated funds except for the Permanent Fund, Constitutional Budget Reserve (CBR) Fund and those dedicated funds in existence prior to statehood.

She added that motor fuel taxes in all states are dedicated in some fashion for road and highway maintenance.

Currently, in Alaska, motor fuel taxes are deposited in a special highway fuel tax account in the general fund, which allows them to be appropriated for any budget expense.

Representative Masek urged members to pass HJR 20 from Committee.

Co-Chair Harris inquired if the gas tax was currently at eight cents per gallon. Representative Masek replied it is.

Co-Chair Harris asked if it had been proposed to increase that tax by twelve cents, making it total twenty cents per gallon. Representative Masek noted that is the proposed increase indicated in the Governor's bill.

Co-Chair Harris stated that the proposed intent for the legislation would place before the voters a decision whether or not a dedicated fund be created for all gas tax revenue placing it in the dedicated fund for highway maintenance use. Representative Masek acknowledged that was correct and that the money would be used to maintain highways and infrastructure. She stated that in the previous Administration, the funding had been cut and some Department of Transportation & Public Facilities workers were removed from the Willow Maintenance station and the Kenai Peninsula. She indicated that when Governor Murkowski took office, those workers were placed back into those stations. During the winter months, the workforce must be available. Passing the resolution would help eliminate problems that have occurred in the past.

Co-Chair Harris inquired why the founders of the Constitution had a prohibition against dedicated funds. Representative Masek did not know. Co-Chair Harris understood that it was so the Legislature would have full authority of monies available year to year.

Representative Croft acknowledged that was true and added that at the time the Alaskan Constitution was written, other states were declaring bankruptcy because they had all their revenue sources dedicated to specific places.

Representative Fate mentioned that with passage of the legislation, revenues received after December 1st, 2004, would be used to fund that fund. He asked the amount anticipated and what additional money would need to be placed into the fund so that from the inception date, there would be enough.

Representative Masek responded that would be premature to calculate. The resolution would only bring it to the people for a vote. She did not know the fate of the Governor's motor fuel tax bill. She reiterated that currently, the

State collects eight cents a gallon and it is placed back into the general fund.

Representative Fate voiced concern that the fund would not have enough capital to undertake projects that the voters anticipate but the State would be "locked in". He asked if the reference to highways and roads would include the railroad. Representative Masek responded it would not.

Representative Stoltze questioned if the legislation would help promote passage of the gas tax. Representative Masek advised that this legislation has been proposed because of the Governor's twelve-cent increase gas tax bill.

Representative Stoltze clarified that Representative Masek's intent was anticipating that the tax would pass and this legislation would then guarantee that it was used for the intended purpose. Representative Masek acknowledged that was correct.

Co-Chair Harris asked how much general fund money has been spent yearly on highway maintenance. Representative Foster replied \$97 million dollars.

Co-Chair Harris asked how much the State generates from the eight cents per gallon tax. Representative Foster responded that it amounted to between \$50-\$60 million dollars. Co-Chair Harris pointed out given that amount, the State spends nearly \$30 to \$40 million dollars more on highway maintenance than is generated. Representative Foster commented that number would result from twenty cents per gallon. At eight-cents per gallon, the amount would be much less.

PETE ECKLUND, STAFF, REPRESENTATIVE BILL WILLIAMS, interjected that at eight-cents per gallon, the number would generated would be approximately \$37 million dollars.

Co-Chair Harris declared that the State is currently spending approximately \$80 million dollars on highway maintenance from the general funds. He stated that it appears that all money brought into the State from the current gas tax has been "dedicated" for highway maintenance. Co-Chair Harris commented that he was attempting "to get a handle" on how much money was being spent from the general fund outside of the amount generated from the gas tax.

Representative Hawker noted that there are a few funds that have been "grandfathered" in. He asked if one of those funds was a highway maintenance fund.

Representative Masek responded that there is one specific fund called the King Salmon Stamp that places money back

into habitat restoration projects. She noted that there is not a highway-dedicated fund at this time. Representative Foster mentioned that there might be a marine highway fund. Co-Chair Harris remarked that there is a marine highway fund but that he did not believe it was dedicated. Co-Chair Williams interjected that it is not a dedicated fund.

Co-Chair Harris stated that HJR 20 would be HELD in Committee for further consideration.

Co-Chair Williams indicated that he would work with Representative Masek's office on the proposed legislation.

HJR 20 was HELD in Committee for further consideration.

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ADJOURNMENT

The meeting was adjourned at 2:16 P.M.