

HOUSE FINANCE COMMITTEE
March 29, 2004
3:19 P.M.

TAPE HFC 04 - 70, Side A
TAPE HFC 04 - 70, Side B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 3:19 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 Hugh Fate
Representative Richard Foster
Representative Mike Hawker
Representative Reggie Joule
Representative Carl Moses
Representative Bill Stoltze

MEMBERS ABSENT

None

ALSO PRESENT

Jim Pound, Staff to Representative Fate; Representative Ralph Samuels; Janet Clarke, Director, Division of Administrative Services, Department of Health and Social Services; Jim Derringer, Staff to Representative Fate; Matt Davidson, Executive Director, Alaska Conservation Voters; Rod Betit, President, Alaska State Hospital & Nursing Home Association; Sam Korsmo, Alaska Open Imaging Center, Wasilla

PRESENT VIA TELECONFERENCE

Nancy Welch, Special Assistant, Commissioner's Office, Department of Natural Resources, Anchorage; Harold C. Heinze, Chief Executive Officer, Alaska Natural Gas Pipeline Authority, Anchorage; Bob Favretto, Board Member, Alaska Natural Gas Development Authority, Kenai; Brian Slocum, Administrator, Tanana Valley Clinic, Fairbanks; Laurie Herman, Director of Government affairs, Providence Hospital, Anchorage; Rob Gould, Assistant Administrator for Finance and Operations, Fairbanks Memorial Hospital

SUMMARY

HB 319 An Act relating to the disposal of state land by lottery; and relating to the disposal, including sale or lease, of remote recreational cabin sites.

HB 319 was heard and HELD in Committee for further consideration.

HB 417 An Act amending the definition of 'project' in the Act establishing the Alaska Natural Gas Development Authority; and providing for an effective date.

HB 417 was REPORTED out of Committee with a "do pass" recommendation and with a previously published indeterminate fiscal note.

HB 511 An Act relating to the certificate of need program for health care facilities; and providing for an effective date.

HB 511 was heard and HELD in Committee for further consideration.

#HB417

HOUSE BILL NO. 417

An Act amending the definition of 'project' in the Act establishing the Alaska Natural Gas Development Authority; and providing for an effective date.

REPRESENTATIVE MIKE CHENAULT explained that HB 417 amends the definition of "project" to include all options for a terminus for the Alaska natural gas pipeline, and it specifically identifies Cook Inlet as one terminus. The voters gave the Alaska Natural Gas Development Authority (ANGDA) the power to study the Prudhoe Bay to Prince William Sound route with a spur run to the Southcentral gas distribution grid. This bill would allow ANGDA to also consider Cook Inlet as a potential and possibly more advantageous terminus.

Representative Fate noted that 3 months ago ANGDA made a unanimous decision to expand its purview and do what this bill addresses, and he asked if HB 417 is necessary. Representative Chenault replied that he couldn't speak to the Board's decision. He argued for not limiting ANGDA to one option but allowing it to look at all viable options by June 30. Representative Fate expressed support for the concept.

Representative Joule thought that the title limits the scope to ANGDA and not the Stranded Gas Act. He also questioned the impact of this language on proposals that have been submitted. Representative Chenault clarified that ANGDA's

only current authority is to study a Prudhoe Bay/North Slope route to Prince William Sound with a spur line to the Southcentral gas distribution grid. He reiterated that this bill amends their authority to include Cook Inlet as a viable option.

Co-Chair Harris expressed support for providing gas where it makes the most economic sense for the benefit of all Alaskans. The initiative authorizing ANGDA was project-specific, and this bill would give ANGDA additional authority. He pointed out that major industries on the Kenai Peninsula depend on natural gas and he spoke for protection of those jobs.

HAROLD C. HEINZE, CHIEF EXECUTIVE OFFICER, ALASKA NATURAL GAS DEVELOPMENT AUTHORITY, VIA TELECONFERENCE, ANCHORAGE, explained that the Board considered this and other legislation changing the scope of ANGDA. He clarified that this bill does not relate to the Stranded Gas Act, and ANGDA itself is outside the limits of the Stranded Gas Act. He made three points. The charge for ANGDA in the initiative was to study the route from Prudhoe Bay to Prince William Sound, with a spur line from Glenallen to the Cook Inlet area. The current feasibility level of study makes it difficult to determine the difference between any of the specific routes to Cook Inlet without a lot more detail and a lot more funding. He urged the funding of ANGDA.

Mr. Heinze continued explaining that ANGDA is working on three projects: the Liquefied Natural Gas (LNG) project to export gas, use of ANGDA's financing and tax advantage for the highway project, and the Cook Inlet spur line and utility concept to be a gas aggregate and transporter to the commercial entities in that area.

BOB FAVRETTO, BOARD MEMBER, ALASKA NATURAL GAS DEVELOPMENT AUTHORITY (ANGDA), VIA TELECONFERENCE, KENAI, spoke as a board member and a resident of Kenai Peninsula Borough. He explained that the industries in the area have a shortfall of natural gas at a sustainable price for operation. He noted that gas projects in Alaska are changing weekly. This legislation is a companion bill to Senator Wagoner's SB 247. It is an issue of timing, and he spoke for funding ANGDA to study alternative gas routes. He expressed that he wholeheartedly supports the bill.

Co-Chair Williams asked if the title is a little broad. Representative Chenault replied that he didn't see a problem with the title and he noted that SB 247, which is moving through the Senate, has the same title. He said that there has not been discussion of tightening the title.

At Ease: 3:34 P.M.
Reconvene: 3:36 P.M.

Representative Chenault MOVED to report HB 417 out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 417 was REPORTED out of Committee with a "do pass" recommendation and with a previously published indeterminate fiscal note.

#HB319

HOUSE BILL NO. 319

An Act relating to the disposal of state land by lottery; and relating to the disposal, including sale or lease, of remote recreational cabin sites.

REPRESENTATIVE HUGH FATE explained that the legislation was first introduced four years ago as HB 232, and since that time it has evolved with assistance from the environmental community, the Alaska Miners' Association, and the Department of Natural Resources (DNR). He said that the bill basically would move some public sector lands into private hands. It also designates which lands are available. He noted that high mineral-value lands, military reservations and selections by boroughs would be off limits. It designates those areas of land up for nomination, giving an individual the ability to nominate and choose land that he prefers. The DNR Commissioner makes the final decision whether the land is compatible with the nomination, and the Department would formulate regulations to address the program.

Representative Fate explained that the fiscal note includes DNR's low figure of about \$900 per acre, multiplied by the number of acres sold, to show a profit in the second, third and fourth years. He advised that during the first year, there would be expenditures in formulating regulations and public notices. He estimated that sales could be three to four times the conservative figures in the fiscal note.

Representative Joule asked if the bill would limit how much land an individual could obtain in various regions of the state. Representative Fate answered that nothing limits the number of locations where an individual could purchase land, but there is a 5-acre limit.

Representative Joule asked the type of title that would be involved. Representative Fate replied that it is fee simple, and clarified that the minerals are reserved by the State and the buyer wouldn't have subsurface rights. He reiterated that the high-mineral potential areas are off limits for staking. He pointed out that the bill includes safeguards against lawsuits by the buyer if someone comes in to exploit the subsurface minerals.

Representative Foster noted that the backup is limited to Southcentral Alaska and the Copper Valley, and he asked if land would be available in Northwest Alaska. Representative Fate stated that it is anywhere there is available state land that is not encumbered. The final application would be reviewed by the DNR.

JIM POUND, STAFF TO REPRESENTATIVE FATE, explained that Amendment #1 removes contractual language that was in the original bill. The contractual language is used by the Department of Natural Resources for all their land sales, and Legal felt it was unnecessary. The sponsor also wanted to delete the 150% lawsuit in Section 3 of the bill.

Amendment #1 reads:

Page 1, lines 1-2:

Delete **"relating to the reservation of rights by the state in land contracts and deeds;"**

Page 2, line 1, through page 3, line 15:

Delete all material.

Re-number the following bill sections accordingly.

Page 5, lines 2-5:

Delete all material.

Representative Croft asked if the deleted language included provisions that the mining industry wanted as a penalty to any lawsuits. Representative Fate replied that the mining industry never requested the 150% and he had included it for a high threshold but the penalty would have been more than the land was worth.

Representative Croft asked what protections remain in the bill. Mr. Pound replied that the language in Section 2, even though deleted from the bill, would still apply to the contract between the DNR and the purchaser.

Co-Chair Harris asked if Amendment #1 deletes all of Sections 2 & 3. Mr. Pound affirmed.

Co-Chair Harris expressed concern that this bill might create a situation similar to that in the Mat-Su Valley with coal bed methane. He reiterated that under the Constitution, the State owns the subsurface rights. He noted limited protection in the bill for the private property owner who desires protection from drilling or mining on his property. He expressed that if this bill makes the situation worse, his intention is not to support it. He spoke to the

need to strike a balance between mining and people's private property rights.

Co-Chair Harris asked if the deletion of Section 2 eliminates the problem. Mr. Pound replied that the language in Section 2 is in existing statute, and it would still be used in the land contracts between the Department and the purchasers. He was unsure of the language in the Mat-Su Valley private sector contracts, but he thought that this language was more specific. Co-Chair Harris said that he would talk to Representative Fate.

Representative Chenault referred to the new fiscal note that shows 7 full-time and one half-time employees in 2006.

JIM DERRINGER explained that pages 7 and 8 of the fiscal note backup describe the 7-1/2 positions in the fiscal note. The sponsor increased the staff by one position over the Department's request. Representative Chenault noted that the older fiscal note backup showed 6-1/2 positions, and Mr. Derringer clarified that there would be 7-1/2 positions.

Representative Hawker referred to the analysis in the previously published Fiscal Note #1 prepared by Land Sales/Municipal Entitlements in DNR. He noted the language, "The new program would have DNR negotiate private, non-competitive sales. (This is a significant change from the existing policy of only public, competitive land sales.)" He asked if that is an accurate statement. Mr. Pound replied that the bill authorizes an individual to select a parcel and request a first right of refusal, which could be considered a private sale, but it is ultimately up to the Commissioner whether it would be a private sale. Representative Hawker commented that, as written, it is not quite an accurate statement. Mr. Pound agreed.

Representative Joule requested a sectional analysis of the bill. Mr. Pound said that he would provide one.

MATT DAVIDSON, EXECUTIVE DIRECTOR, ALASKA CONSERVATION VOTERS, commented that the group had been involved in this legislation during the previous legislature. He explained that the Alaska Conservation Voters (ACV) could not support the bill at this time. The ACV supports land sales that safeguard important lands for public access, recreational opportunities, and fish and wildlife habitat. He said that HB 319 is unnecessary and unfair, and it would invite conflict with other users of these lands. Mr. Davidson urged the committee not to take quick action on the bill.

Mr. Davidson thought the fiscal note figures were optimistic regarding how much land would be sold, and said that State land disposal programs don't make money. He referred to the April 2003 Alaska Conservation Alliance report (copy on

file.) that shows that past state land sales haven't made money. The Department of Natural Resources has worked hard to make the state land sale program more efficient, and HB 319 is a step backward. He said that best interest findings for every single application would be cumbersome. The Department's estimate of over \$400 thousand a year to process the applications would make it difficult for the state to make any money. The Department would be prohibited from selling land directly adjacent to these properties. If HB 319 isn't fully funded, and existing land sale programs stay in the budget, DNR resources would be drained for the existing programs.

Mr. Davidson continued, expressing that the best interest findings by DNR would lead to the expectation of a decision to rule in the applicant's favor. He argued that because the bill language is noncompetitive and gives individuals the right of first refusal to the land selected, only Alaskans with access to the backcountry would have knowledge of these areas, and only the most powerful Alaskans would obtain the land. The bill has no mechanism to deal with conflicts that may arise. He discussed potentially conflicting adjacent uses that have not been addressed in the bill. He concluded that when the state builds a new subdivision in wild areas, it results in an over-harvest of fish and game resources.

Co-Chair Harris asked if the Alaska Conservation Voters supports any more land going into public hands. Mr. Davidson affirmed that it supports the current DNR land sale program. Co-Chair Harris asked if the ACV supports any natural resource development. Mr. Davidson replied, "absolutely." Co-Chair Harris asked when in the past couple years the ACV has supported natural resource development. Mr. Davidson replied that natural resource development should pay its own way, provide jobs for Alaskans, not overly harm the environment, and be supported by locals. He asserted that in the coal bed methane development, three of those four principles were not met by the State.

Co-Chair Harris asked if the ACV supports opening ANWR. Mr. Davidson replied the ACV does not have a position on it, but it would be fair to say that it does not support it.

Co-Chair Harris commented that Mr. Davidson's critique of the bill was against public land going to the private sector, although he did express support for the Department's land lottery. He pointed out that Alaska has the most federal lands of any state in the nation, and Alaskans want to be able to own land.

Mr. Davidson responded that the majority of state lands are neither high quality nor accessible. He said that there would be a lot of competition for the parcels in Southeast if the bill moves forward. He thought that there would be

competition to use those parcels for public uses as well, and the lands have other values.

HB 319 was heard and HELD in Committee for further consideration.

#HB511

HOUSE BILL NO. 511

An Act relating to the certificate of need program for health care facilities; and providing for an effective date.

REPRESENTATIVE RALPH SAMUELS explained that HB 511 has two goals. The first part of the bill is the language on page 2, line 4, "'expenditure' includes the net present value of a lease for space occupied by or the equipment required for a health care facility." He explained that the Certificate of Need (CON) applicant would have had to spend a million dollars before entering the system, but now "expenditure" includes the leased space or the leased equipment. The facility would form a holding company and lease the space and equipment. The goal of this bill is to make the CON fair to all players, and he noted that it doesn't change the CON.

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Representative Samuels continued, explaining that part 2 of the bill requires that residential psychiatric treatment homes, which will increase and drive the Medicaid budget, be put into the CON process. He pointed out the zero fiscal note.

BRIAN SLOCUM, ADMINISTRATOR, TANANA VALLEY CLINIC, VIA TELECONFERENCE, FAIRBANKS, stated that he opposes the bill. He explained that United Bank documented that there are not sufficient healthcare services in Fairbanks to meet the needs of the citizens. The study revealed over the past 1-1/2 years a consistent one-to-two week backlog in scheduling non-emergency cases for MRIs, CTs, and ultrasounds. Nearly 80% of the patients couldn't get their tests done because there weren't enough services available. He thought that passage of HB 511 would prevent companies from attempting to fill community health care needs. The quantity of healthcare services would decrease and lead a monopoly provider to ignore growing community needs.

JANET CLARKE, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, stated that the Department supports HB 511, which strikes the right balance of technical corrections as well as making the program work better. She explained that in its pure form, the Certificate of Need program is a health planning function. It provides a mechanism for health facilities to go through a public

planning process that requires hearings and public testimony.

Ms. Clarke gave a brief sectional review. Section 1 is a technical correction that changes the requirements for ambulatory surgery centers so that space vacated by a center could continue to operate without going through a CON process. Current law presents a hardship for these centers, which this bill would correct.

Ms. Clarke explained that Section 2 does two things: it limits the relocation of a healthcare facility without having a CON to one time, and it also closes a loophole in the CON. Currently if a healthcare facility spends \$1 million for construction or purchase of a large piece of equipment, it is required to go through CON, whereas if the facility leases the same equipment and pays over time, it is not required. The facility would have to do net present value, and it evens the playing field.

Ms. Clarke explained that the Department is most interested in Section 3. Section 3 would add residential psychiatric treatment centers to CON review. The Legislature asked the Department to do cost containment initiatives in its budget development. Residential psychiatric treatment centers have grown from \$5 million in FY 1998 to an expected \$43 million in 2003. The Department spends Medicaid money for most of these facilities that are out-of-state. The DHSS is beginning an initiative to bring many of the children in these facilities back to Alaska. Ms. Clarke explained that the plan has three components: a gate-keeping mechanism, planned growth (which the CON would facilitate), and ensuring that the Alaska treatment centers be built in various locations rather than one large facility in an urban center.

Ms. Clarke noted that Section 4 basically changes the definition and adds residential psychiatric treatment centers and independent diagnostic testing facilities to the definition of a healthcare facility. Section 5 adds a new paragraph defining a residential psychiatric treatment center. She concluded that HB 511 adds a tool to help the Department control the growth of the Medicaid budget, and it addresses needed technical changes and current loopholes in the law.

Representative Croft asked why a gatekeeper would be needed, and questioned slowing the process of bringing kids home. Ms. Clarke clarified that a gatekeeper is a mechanism to decide the best course of treatment for the individual child. She said that treatment might include placement in the community, with wraparound intensive services, rather than a high-cost residential placement.

Representative Croft wondered if the Department also wants the CON as a gatekeeper for more facilities to open, with input on locations and timing. Ms. Clarke affirmed, saying that the Department would prefer planning that involves local communities, and Native health corporations in order to gain 100% federal Indian Health Service funding, rather than having the General Fund pick up the cost. Representative Croft asked if there are enough people to fill the beds. Ms. Clarke replied that there are over 700 kids, many out of state, with severe emotional problems. Parents or guardians have placed the children, and 75% are kids not in state custody but the Department pays the Medicaid bill for them.

Representative Croft had heard arguments in defense of CON that the state doesn't want facilities half full or expensive medical equipment half used. He had expected Ms. Clarke to express that the Department doesn't want the increased cost to the system of several psychiatric treatment facilities that are not filled and he asked for clarification. Ms. Clarke replied that the State is the primary payer for nursing homes' long-term care and psychiatric services. The Department would pay for overcapacity of psychiatric treatment centers, but it wants to ensure that it builds the service array for the least restrictive and closest to home environment to treat the children. The residential psychiatric treatment costs are about \$300 per day in Alaska, and in-patient psychiatric services are about \$700 per day.

LAURIE HERMAN, DIRECTOR OF GOVERNMENT AFFAIRS, PROVIDENCE HOSPITAL, VIA TELECONFERENCE, ANCHORAGE, expressed support for HB 511, and spoke to the part of the bill that addresses leases. She explained that when a provider leases equipment, the \$1 million threshold requiring a CON is often not reached. The entire CON process is avoided, creating a significant loophole in statute prohibiting the state from performing a vital service. If the CON process is avoided, the State is unaware of the additional services being provided and it cannot assess the impact to the community or the state. Leasing is now being used to avoid the CON, and she stated that the lease exemption might lead to a corrosion of Alaska's healthcare system by undermining the Department's efforts to control costs and improve quality for all communities. Passage of HB 511 would serve to level the playing field, and she encouraged the committee's support.

ROB GOULD, ASSISTANT ADMINISTRATOR FOR FINANCE AND OPERATIONS, FAIRBANKS MEMORIAL HOSPITAL, spoke in support of HB 511. He stated that it strengthens the current CON statute and levels the playing field. Current regulations help to hold down costs by minimizing excess capacity and redundancy. Mr. Gould discussed how the bill closes two

significant loopholes in the regulations by including imaging centers and rental equipment.

ROD BETIT, PRESIDENT, ALASKA STATE HOSPITAL & NURSING HOME ASSOCIATION, referred to his letter (copy on file.) and stated that the organization members are in support of HB 511 with its technical improvements. He expressed that the CON is a good tool and it does not keep people out of the marketplace. The Department reviews the CON application in an unbiased way and if compelling information is given, the proposal moves forward. The Association is asking for the review standard to be applied to everyone equally, which this bill would accomplish.

SAM KORSMO, ALASKA OPEN IMAGING CENTER, WASILLA, read from prepared testimony as follows:

Good Afternoon Mr. Chairman and members of the Committee.

I am Sam Korsmo, a partner in Alaska Open Imaging Center in Wasilla, Alaska. We provide diagnostic imaging and professional reading services to Alaskans. I am here to provide you with information that hopefully cause you to seek additional information of the effects of this bill on Alaskans and on your long term budget considerations before you move it out of this Committee. I believe that if you consider all the ramifications of this new and unwarranted intrusion of government into the private sector provision of critical medical services to Alaskans you will see why you should not move this bill from Committee or why you should amend the bill to remove independent diagnostic testing facilities (IDTF's) from the bill.

In the first case, the department has not provided you with any information showing how certificate of need has resulted in any cost savings for patients or the state in their existing jurisdiction over medical facilities. Accordingly, there is no justification for expanding their bureaucratic control over other facilities such as IDTF's.

I believe it is a legitimate concern that this bill is a move to restrain trade and competition by the major hospitals in Alaska. The bill's sponsor said as much in a television interview which I have recorded on this CD. This is similar to the legislation you see each year in which the telecommunications companies try to use government laws and regulations to seek a competitive advantage over each other.

When this happens, it is the consumer that is always hurt. In our own facilities, our prices are regularly 25 to 30% lower than those provided by the largest hospitals in Alaska, our business model is predicated on a global billing method which saves money. Our services are also better in that we use an open imaging technology, we can accommodate

larger patients so they do not have to be shipped outside, saving them money. These cost savings have ramifications for your budgeting process in that the higher costs of medical care for Medicaid patients are paid for by general fund dollars. I am aware of the struggle you have had in meeting these increased Medicaid costs. The department should be required to provide with an estimate of the impact this bill will have on future Medicaid payment by the State of Alaska.

The Department claims in its fiscal note that vastly expanding the certificate of need program as proposed in this bill will not cost the department any more money. To do a real analysis of whether new services are required and what impact they will have on quality of outcomes and costs would require substantial analysis. If it is just to be done on a cursory level, it confirms out worst fears that this could be a politically driven process, which I am sure all of you would agree would lead to bad outcomes. If they have the time to do these analyses, which I seriously doubt, you have to ask yourself what they are supposed to be doing in their current jobs. [End of Mr. Korsmo's testimony]

Representative Croft asked if the bill would affect Mr. Korsmo's current facility by revoking its license. Mr. Korsmo replied that the bill would require a CON on the replacement of equipment. He asserted that there is no level playing field.

HB 511 was heard and HELD in Committee for further consideration.

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ADJOURNMENT

The meeting was adjourned at 4:45 P.M.