

HOUSE FINANCE COMMITTEE
April 07, 2004
1:44 P.M.

TAPE HFC 04 - 79, Side A
TAPE HFC 04 - 79, Side B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:44 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 Ogg; Cliff Stone, Staff to Representative Ogg; James Armstrong, Staff to Representative Williams; Tomas Boutin, Deputy Commissioner, Department of Revenue; Dennis DeWitt, Special Staff Assistant, Office of the Governor; John Vowell, Director, Division of Alaska Longevity Programs, Department of Health & Social Services; Nico Bus, Acting Director, Division of Administrative Services, Department of Natural Resources; Eddy Jeans, Manager, School Finance and Facilities Section, Department of Education and Early Development; Pete Kelly, Director of State Relations, University of Alaska

PRESENT VIA TELECONFERENCE

Dick Mylius, Deputy Director, Division of Mining, Land and Water, Department of Natural Resources; Joe Beedle, Vice President, University of Alaska

SUMMARY

HJR 9 Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

CSHJR 9(FIN) was REPORTED out of Committee with individual recommendations and with two fiscal impact notes.

HB 333 An Act relating to an endowment for public education; and providing for an effective date.

HB 333 was heard and HELD in Committee for further consideration.

HB 422 An Act repealing the special subaccount established in the constitutional budget reserve fund; relating to the powers of the Department of Revenue for the investment of amounts in the constitutional budget reserve fund; and providing for an effective date.

CSHB 422(STA) was REPORTED out of Committee with a "do pass" recommendation and with one previously published fiscal impact note.

CSSB 301(FIN) An Act relating to the Alaska Pioneers' Home and the Alaska Veterans' Home; relating to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home; relating to the eligibility of residents for the Alaska Pioneers' Home and the Alaska Veterans' Home for general relief assistance; relating to state veterans' home facilities; making conforming amendments; and providing for an effective date.

HCS CSSB 301(FIN) was REPORTED out of Committee with a "do pass" recommendation and with one previously published fiscal impact note.

#HJR9

HOUSE JOINT RESOLUTION NO. 9

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

Co-Chair Harris MOVED to rescind the action in failing to pass out CSHJR 9(FIN). There being NO OBJECTION, it was so ordered.

Co-Chair Harris MOVED to report CSHJR 9(FIN) out of Committee with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

Vice-Chair Meyer expressed appreciation that the measure was brought up again so that he would have the opportunity to vote to move it out.

CSHJR 9(FIN) was REPORTED out of Committee with individual recommendations and with two fiscal impact notes.

#HB333

HOUSE BILL NO. 333

An Act relating to an endowment for public education; and providing for an effective date.

Co-Chair Harris MOVED to ADOPT Work Draft 23-LS0991 Version O dated 4-2-04. There being NO OBJECTION, it was so ordered.

REPRESENTATIVE DAN OGG explained that the bill recognizes the long-term desire of Alaskan residents through the Legislature to fulfill a land grant to the University of Alaska, and it creates the Public School Trust Fund. HB 333 creates a tenants in common with the state, whereby public education would receive a 3% undivided interest from state land and the University would receive a 2% undivided interest. The Department of Natural Resources (DNR) would retain the rights and management of the land, and the heightened fiduciary duty would not apply to either the University or the public schools.

Representative Ogg described receipts. All receipts derived from development leases on the land would be calculated after deducting Constitutionally-mandated contributions to the Permanent Fund, the existing receipts of .5% of revenues for the Public Schools Trust, as well as administrative service fees, sales fees and lease fees assessed by the Department of Administration. He pointed out the difference between Version N and Version O of the bill is that receipts are limited.

Representative Ogg noted that there had been discussions between the DNR and the University to define when the receipts would start. Receipts are addressed in the language on page 6, Sec.8, lines 25-27, "income received by the state under contracts for royalties, rents, sales, leases, and other disposals of state land entered into on or after the effective date of this Act." He clarified that a new contract with Bristol Bay would be included, while an existing contract at National Petroleum Reserve-Alaska would not.

Representative Ogg pointed out that HB 333 rescinds SB 7 and its 250,000-acre land endowment to the University. He discussed the legal battle over SB 7. Former Governor Tony Knowles had vetoed SB 7 almost immediately after its passage, and the Legislature overrode his veto with a 2/3-

majority vote. Governor Knowles released an attorney general's opinion stating that the bill was an appropriation requiring a three-fourths vote to override. The Alaska Legislative Council sued to question the constitutionality of the veto override. In January 2004 the Supreme Court showed that the Legislature's override was proper. The granting of land is not an appropriation, and therefore subject to the two-thirds vote. Representative Ogg referred to the copy of the Supreme Court Opinion in the packets (copy on file.)

Representative Ogg explained that the Supreme Court was unable to decide whether the law granting the land was a dedicated fund because it was not brought up on appeal. It remanded the case to Superior Court, which may take a couple years to decide the issue.

Representative Ogg concluded that HB 333 would grant land to the University in a different fashion than SB 7, by allowing the State to manage it. Over time, it may not ever fully fund the University, but he said that it would augment its funding.

He referred to "Legislative Research Report, Number 04.176" (copy on file), noting that the projections on page 2 show \$21 billion of revenues in 2030 from new oil exploration and gas line contracts. The K-12 trust fund would be about \$600 million, with 5% totaling another \$30 million for the K-12 school system. The University trust fund would be approximately \$400 million, with an extra \$20 million.

Representative Ogg noted that the new fiscal notes total zero. There is a savings to the State and the University system to grant the land in the manner proposed in HB 333. He pointed out that if SB 7 were retained, the fiscal notes on the selection of land and its management would total many millions of dollars over a period of time.

Representative Fate asked if an in-depth comparison had been done of the revenues that might have derived from the 250,000 acres in SB 7, and HB 333's provision for 3% of revenues from new land lease contracts.

Representative Fate also questioned the bill's provisions allowing the DNR to manage the lands and removing the management prerogative of the Board of Regents. He recounted, from his sixteen years on the Board of Regents, that when DNR had management responsibility the profits from the land in the endowment weakened, with little if any profitability until the University took it over. He asked if the sponsor had concerns regarding the DNR's management.

Third, Representative Fate asked if the bill inadvertently takes away the Board of Regents' management of its other

lands in endeavoring to relinquish this management responsibility.

Representative Ogg replied to Representative Fate's third question first, stating that there is a separation of lands, and HB 333 only addresses the lands granted under the percentage basis. The bill's intent is to not restrict in any way the existing lands that the University manages.

Representative Fate questioned the deleted language at the bottom of page 2, [LAND CONVEYED TO THE UNIVERSITY OF ALASKA UNDER AS 14.40.365]. Representative Ogg clarified Sec. 2(a) adds "except for land transferred under AS 14.40.505," so the University land is not treated as State public domain land. It is not subject to the DNR, and the University can manage it however it wishes, except for this new portion of lands granted to them as tenants in common.

Representative Fate thought that it is only specific to the new land grant, and again asked if it inadvertently takes away management of the other endowment land of the University. He felt that the Board of Regents' authority is unclear in the bill. Representative Ogg did not believe it takes away the clarity, because the intent of the language is that the University would continue managing its existing 112 acres.

JOE BEEDLE, VICE PRESIDENT, UNIVERSITY OF ALASKA added that Representative Ogg was correct in stating that the University would retain its authority over its existing lands after passage of the bill.

Regarding Representative Fate's second question, Mr. Beedle clarified that the DNR manages land in the public interest and holds the land in public domain. The University manages its land more as a fiduciary responsibility, to maximum revenue and educational opportunity consistent with all laws and regulations, but it is not designated as public domain.

Representative Ogg responded to Representative Fate's first question of whether there is a cost analysis of revenues that would derive from this land and revenues from the 250,000 acres of land selected in SB 7. A cost analysis had not been done because the University has not selected lands under SB 7; however, under the fiscal note passed with SB 7, it would cost \$2.1 million every year in the selection process and development, adding about \$10 million in costs over five years, with no receipts coming in. He said that even if the land were obtained today, under SB 7 it would be 10 to 20 years before it would be developed. Under HB 333, a revenue stream would begin to flow as soon as new state land contracts are let.

Representative Fate pointed out that fiscal notes often show the expense side and not the revenue side. Any derived revenues from oil or gas development would be long term, and he stated that Representative Ogg would be misled if he thought that the revenues would arrive in the short term. He argued that a cost comparison would be useful. He noted that Mr. Beedle had answered his second question.

NICO BUS, ACTING DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF NATURAL RESOURCES, stated that the three fiscal notes for the Department were based on Version N of the bill, and would change for the new Version O. He pointed to the Fund Source section on the fiscal note Component No. 423, dated 4-6-04, explaining that after the Permanent Fund distribution has been made, 4% of the DNR's total revenue stream, or \$36 million of revenue would go out of the General Fund and out of the Land Disposal Income Fund to the University endowment and the public school trust fund. It would change by about \$9 million for the extra 1% in Version O.

Mr. Bus stated that fiscal note Component No. 424 is basically a traditional note that explains the cost of administration would be \$25 thousand for the first year. This would set up all the accounting, with ongoing costs for future years at 7% because it increases the size of the account structure and reconciliation requirements.

Mr. Bus explained that fiscal note Component No. 435, Forest Management & Development, takes \$18 thousand out of timber sale receipts from the timber program. Retaining the same program would require an \$18 thousand General Fund replacement. It assumes all receipts, not new receipts. He said that fiscal note Component No. 2459, Title Acquisition, is no longer needed.

Representative Ogg clarified that because the bill is written on all new receipts from new contracts in FY 05, the number on fiscal note Component #423 is zero because there aren't any new contracts yet.

Representative Hawker requested clarification because the fiscal notes show a 2% conveyance to the University and 2% to the education trust, and he asked if Work Draft Version O changed it to 2% and 3% respectively. Mr. Bus replied that he is correct, and it would bring an extra \$9 million. As Representative Ogg pointed out, if it is all new contracts, the DNR would have to completely start over, and assume the revenue of the new contracts.

Co-Chair Harris asked how much land this legislation would give to the private sector. Representative Ogg replied that it would be the State's decision under this proposal of the tenancy in common. The DNR would manage the lands, and it

would determine which lands to lease or sell to the private sector. The University would not actually receive any of the land. In response to a question by Co-Chair Harris, Representative Ogg noted that the University would receive a percentage of the revenue generated by the sale or lease of the land.

CO-CHAIR HARRIS asked if this bill would make it easier for the public to get land.

DICK MYLIUS, DEPUTY DIRECTOR, DIVISION OF MINING, LAND AND WATER, DEPARTMENT OF NATURAL RESOURCES, replied that it would, if SB 7 persists, because some of the lands that the University would pick would be the better land disposal parcels that DNR has identified for future land sales. The Department has held off on land sales in McCarthy because the University desired the land under SB 7.

Co-Chair Williams asked how the 2% POMV would work. Mr. Beedle replied that Fiscal Note #4 contains assumptions based on DNR having eligible land and resource earnings of \$100 million per year. If the Department were successful in getting 2% of \$100 million, the \$2 million would go into an endowment. Under the five-year averaging approach, 20% would total \$400,000 and DNR would earn 5% of that, so the second year revenue to the University would be \$20,000. By the year 2010, it would grow to \$300 thousand a year, and about \$700,000 by 2014. It would take years to build meaningful revenue for the University.

Co-Chair Williams asked about the public school trust and any concerns the Attorney General's (AG's) office might have.

EDDY JEANS, MANAGER, SCHOOL FINANCE AND FACILITIES SECTION, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, replied that he hadn't talked to the AG's office about Version O. He assumed that the separate account of the contributions to the trust is acceptable, but he would check with the AG's office. The current public school trust is a dedicated fund, and the Department receives one-half of 1% of the proceeds annually.

Co-Chair Harris asked the University's position on the bill.

PETE KELLY, DIRECTOR OF STATE RELATIONS, UNIVERSITY OF ALASKA, stated that the University is in favor of the bill, and it would benefit from receiving a steady flow of income even though it is long term.

Co-Chair Harris asked if this bill would bring more revenue from lands allocated under the University's control. Mr. Kelly noted that the lands envisioned under SB 7 wouldn't produce for some time, with no guarantee that the land would

be marketable, or of the exact revenues that would derive from the land. He noted the liabilities and costs involved with managing that land.

Co-Chair Harris asked if it would all be State land. Mr. Kelly affirmed that it would be State land currently managed under Title 38.

Co-Chair Williams asked the University's viewpoint after fighting for the 250,000 acres in SB 7. Mr. Kelly noted that SB 7 is still in the courts and a long way from producing revenue, while the provisions of HB 333 are simple.

Co-Chair Williams asked the University's viewpoint if the Legislature does not repeal SB 7. Mr. Kelly responded that he couldn't speak for the Board of Regents, but it would be better to have income both from land and a trust account. Choosing between the two, he said that this legislation is simpler. Co-Chair Williams commented that he supported the University land bill.

Representative Fate asked if there was federal legislation accompanying the land bill that passed last year. Co-Chair Harris answered that it was a federal match.

Representative Ogg commented that Senator Murkowski was unable to get legislation through Congress that would match 250,000 acres of State land with 250,000 acres of federal land. Mr. Kelly added, one of the problems with the Federal land is that the unreserved, unrestricted land the University would receive from the Federal government is not that productive.

Representative Croft commented that the bill would be more beneficial for K-12 than for the University.

Co-Chair Williams replied that he was suggesting doing both, not one or the other. He thought that the University might need more money in the future.

Representative Hawker asked about SB 7 and the issue before the court. Representative Ogg replied that the Superior Court must still decide whether it was an unconstitutional dedication. With some exceptions, under the Alaska Constitution, "the proceeds of any state tax or license shall not be dedicated to any special purpose." He said that if HB 333 passed and SB 7 is rescinded, the court case becomes moot.

Representative Hawker asked if this bill is also subject to the same criticism of an unconstitutional dedication of funds. Representative Ogg replied that it is crafted the same way as SB 7 in passing a vested title in State lands, and both are subject to that issue.

Representative Croft asked the timeframe in reaching the \$36 million figure on fiscal note Component No. 423. Representative Ogg referred to the background information on page 2 of the Legislative Research Report (copy on file) showing new cumulative revenues of \$21 billion from 2006 to 2030. The University portion would yield \$400 million and the K-12 would be \$600 million off the revenue. The University would receive \$20 million annually. Representative Ogg thought that the revenues under SB 7 would not reach those levels.

HB 333 was heard and HELD in Committee for further consideration.

#HB422

HOUSE BILL NO. 422

An Act repealing the special subaccount established in the constitutional budget reserve fund; relating to the powers of the Department of Revenue for the investment of amounts in the constitutional budget reserve fund; and providing for an effective date.

Co-Chair Harris commented that Minority Leader Berkowitz had expressed concerns about this bill, and he asked if this would merge accounts in the Constitutional Budget Reserve (CBR).

JAMES ARMSTRONG, STAFF TO REPRESENTATIVE WILLIAMS explained that this would repeal the law enacted in 2000 by Senator Torgerson that created a subaccount within the CBR of \$400 million. The subaccount has a long-term investment horizon of five years and the goal is to capture a higher yield.

Co-Chair Harris asked if that has occurred. Mr. Armstrong affirmed that there has been a higher yield over the past 6 or 7 months. Co-Chair Harris asked about the historical life of the separate fund. Mr. Armstrong replied that it hasn't made as much as had been anticipated, perhaps \$20 million.

TOMAS BOUTIN, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE (DOR), discussed the returns of the subaccount and the main fund of the CBR, referring to information he had provided to the committee.

TAPE HFC 04 - 79, SIDE B

Co-Chair Harris asked, with the subaccount invested more liberally, which account has earned more. Mr. Boutin replied that the subaccount hasn't existed for 5 years. The 3- year timeframe shows an earned rate of 1.8% return for the subaccount, while the main fund has earned around 6%. The strong recovery in equities over the past year has pulled

the Fund back into "the black." He explained that fundamentally, the way the CBR has been used doesn't suggest a long-term investment horizon or anything but the fixed income investments of the type in the main Fund.

Co-Chair Harris asked if the DOR anticipates not less than \$1 billion would remain in the Constitutional Budget Reserve. Mr. Boutin said that is correct. Co-Chair Harris asked the current balance in the CBR for a draw this year. Mr. Boutin explained that the Department uses the CBR as a checking account that is repaid from the General Fund. The CBR draw at the end of this fiscal year would be \$50 million, if the average daily price of oil continues upward and oil is higher than the spring forecast on which the FY 05 budget is based.

Co-Chair Harris asked if oil is averaging \$29 per barrel this year. Mr. Boutin clarified that it is about \$30.60 per barrel for the fiscal year to date.

Representative Foster asked the net to the state treasury when the oil price increases one dollar for the year. Mr. Boutin said that he used "a rule of thumb" of \$65 million, which is fairly accurate.

Co-Chair Williams questioned putting in a trigger to keep the CBR working. Mr. Boutin expressed that if the entire CBR had been put into equities a year ago, there wouldn't be a problem today, but market timing is not a strategy for public funds, which follow fundamental investment principles. Even with agreement that the Constitutional Budget Reserve could not fall below \$1 billion, about \$300-400 million would be needed for revenues and expenditures each year, and the balance of \$600 million would be needed for the oil price plummet that will ultimately occur. He argued that this suggests a fixed income investment, rather than a long-term investment of real estate or equities.

Representative Croft discussed the concept of a trigger and switching between investment strategies. He thought that with the diminishing Constitutional Budget Reserve, it is almost imperative to repeal the subaccount.

Co-Chair Harris commented that the Legislature is anticipating nearly a \$400 million draw from the CBR this year. Representative Croft replied that although technically \$400 million was withdrawn, all of it would not be needed if oil prices hold steady for another few months. He thought that it has become more of a legal question of whether the Majority had the authority for the CBR draw, and it is almost moot with the current oil prices.

Co-Chair Williams asked for a comparison of how much the subaccount lost last year in relation to the main CBR. Mr.

Boutin referred to the table, "Constitutional Budget Reserve Subaccount" (copy on file). In response to a question by Mr. Armstrong, Mr. Boutin clarified that it is current through 12-31-03.

Mr. Boutin stated that even if there had not been a bear market and these equities were doing well, the fundamental investment principles used by DOR and other state agencies argue for not having this long-term investment horizon.

Co-Chair Harris MOVED to report CSHB 422(STA) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 422(STA) was REPORTED out of Committee with a "do pass" recommendation and with one previously published fiscal impact note.

#SB301

CS FOR SENATE BILL NO. 301(FIN)

An Act relating to the Alaska Pioneers' Home and the Alaska Veterans' Home; relating to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home; relating to the eligibility of residents for the Alaska Pioneers' Home and the Alaska Veterans' Home for general relief assistance; relating to state veterans' home facilities; making conforming amendments; and providing for an effective date.

Co-Chair Harris MOVED to ADOPT Work Draft Version U. There being NO OBJECTION, it was so ordered.

DENNIS DEWITT, SPECIAL STAFF ASSISTANT, OFFICE OF THE GOVERNOR, explained that the differences between the proposed Committee Substitute Version U and SB 301 are found on pages 6 and 7. The amendment substantively named all of the Pioneers Homes currently in operation instead of just the Sitka Home, on page 7, line 1. On page 6, line 31, and page 7, lines 2 and 5, the words "and operate" were added to "may maintain." He pointed out that those amendments make SB 301 identical to HB 440, which the House Finance Committee has heard.

Representative Stoltze questioned the amendment made in HESS and whether Mr. DeWitt agrees with the rationale that Mat-Su is the most appropriate place for a veterans' home.

Mr. DeWitt explained that the selection of the Palmer Pioneers Home was based on several factors including the LB&A Committee study that reported the most advantageous way to finance a veterans' home was to convert a pioneers' home. He stated that if another conversion were considered in the future, it would be a policy issue brought before the

Legislature. For that reason, language was added in Section 15 to limit the conversion process only to the Palmer Pioneers Home at this time.

Co-Chair Harris referred to the fiscal notes, and asked if the federal money is a factor in the conversion. Mr. DeWitt explained that the Veterans Administration (VA) provides funding for veterans who are in a state veterans' home at \$26.95 per day. Alaska needs a state veterans' home for its vets to access those benefits to which they're entitled. This bill allows the conversion under the U.S. Veterans Administration. The veterans in the Palmer veterans home could receive the benefit of about \$800 a month. The advantages would be to offset General Fund contributions to individuals with subsidized care, and to offset the cost to individuals paying for their own care.

Co-Chair Harris asked if the veterans would be eligible for care at Palmer medical facilities or the hospital on the base. Mr. DeWitt replied that routine care would be offered through the Veterans Administration, but the Administration will address the process of moving the veterans who need care. In response to a question by Co-Chair Harris, Mr. DeWitt confirmed that the bill simply authorizes the Palmer conversion.

In response to a question by Representative Fate, Co-Chair Harris noted that the language designating the Palmer Pioneers Home conversion is on page 7, line 5.

Representative Stoltze commented that he had gotten assurances of a slow transition and that no one would be forced to move out of existing senior housing. Mr. DeWitt referenced language in Sec. 26 on page 13, lines 6-13, which provides that a resident may not be evicted or required to relocate to a different Alaska Pioneers' Home or Alaska Veterans' Home facility. The Governor's Office is working with the VA to gain assurances that it will not violate this portion of state law. It is a high priority for Governor Murkowski.

Representative Croft questioned if relatives in the Palmer area would have to go to the Anchorage Pioneers Home. Mr. DeWitt explained under the VA requirement, 75% or 62 of the beds would be reserved for vets, with the remaining 20 beds filled by the existing Pioneers Home waiting list. He noted that today one individual is on the waiting list for the Palmer Pioneers Home.

Co-Chair Harris asked if the bill has the support of the Pioneers of Alaska and the military veterans groups. Mr. DeWitt affirmed that his office had worked out all their concerns and has the support of both groups.

Representative Foster MOVED to report HCS CSSB 301(FIN) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HCS CSSB 301(FIN) was REPORTED out of Committee with a "do pass" recommendation and with one previously published fiscal impact note.

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ADJOURNMENT

The meeting was adjourned at 3:00 P.M.