

HOUSE FINANCE COMMITTEE
May 09, 2004
11:13 A.M.

TAPE HFC 04 - 110, Side A
TAPE HFC 04 - 110, Side B
TAPE HFC 04 - 111, Side A
TAPE HFC 04 - 111, Side B (faulty)
TAPE HFC 04 - 112, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 11:13 A.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

Representative Max Gruenberg; Representative Mary Kapsner; Representative Carl Morgan; Senator Lyda Green; Traci Carpenter, Staff, Senator Lyda Green; Bryan Butcher, Legislative Liaison, Alaska Housing Finance Corporation, Department of Revenue, Anchorage; Paul Fuhs, Lobbyist, Technical Expert to Representative Carl Moses, Anchorage; Marc Antrim, Commissioner, Department of Corrections; Jerry Burnett, Director, Administrative Services Division, Department of Corrections; Greg Winegar, Director, Division of Investments, Department of Community & Economic Development; Linda Hall, Division of Insurance, Department of Community and Economic Development; Jody Simpson, Member, Mat Su Borough Assembly; Ray Gillespie, Lobbyist, Mat-Su Borough; Vern Jones, Chief Procurement Officer, Department of Administration; Jerry Rhinewald, Lobbyist, Blue Cross and Blue Shield of Alaska, Juneau; Zack Warwick, Staff, Senator Gene Therriault

PRESENT VIA TELECONFERENCE

Rick Hohnbaum, City Manager, City of Whittier; Dee Hubbard, Citizen Activist, Sterling

SUMMARY

HB 562 An Act relating to the establishment of the Interior Rivers Port Authority; and providing for an effective date.

CS HB 562 (FIN) was reported out of Committee with a "do pass" recommendation and with a new indeterminate note by the Department of Community & Economic Development.

CS SB 65(FIN) am

An Act relating to the qualifications of correctional officers, parole officers, and probation officers; authorizing the Department of Corrections to enter into lease-purchase agreements with municipalities for new or expanded public correctional facilities in the Fairbanks North Star Borough, the Matanuska-Susitna Borough, Bethel, the Municipality of Anchorage, and the City of Seward; relating to the development and financing of privately operated correctional facility space and services; authorizing the Department of Corrections to enter into a lease-purchase agreement with the City of Whittier for the confinement and care of prisoners in privately operated correctional facility space if the state cannot provide the same level of services required in state law or regulation for the same or less cost; giving notice of and approving, and authorizing the entry into and issuance of certificates of participation for, the upgrade, expansion, and replacement of certain jails in Dillingham and Kodiak; and providing for an effective date.

HCS CS SB 65 (FIN) was reported out of Committee with "individual" recommendations and with fiscal note #2 by the Department of Corrections.

#SB224

CS SB 224(STA)

An Act relating to a minor operating a vehicle after consuming alcohol, to a minor refusing to submit to chemical tests, and to driving during the 24 hours after being cited for one of those offenses; and providing for an effective date.

CS SB 224 (STA) was SCHEDULED but not HEARD.

#SB232

CS SB 232(FIN)

An Act relating to federal tax requirements for and other provisions of the teachers' retirement system, the public employees' retirement system, and the judicial retirement system; removing village public safety officers from the public employees' retirement system; eliminating the public employees' retirement system conditional duty to refund contributions under \$1,000 to inactive employees; limiting service credit for village public safety officer service in the public employees' retirement system to five years; and providing for an effective date.

CS SB 232 (FIN) was SCHEDULED but not HEARD.

#

CS SB 279(FIN)

An Act authorizing and relating to the issuance of bonds by the Alaska Housing Finance Corporation for safe and clean water and hygienic sewage disposal facility capital projects and other capital projects; providing for the repayment of the bonds and bond costs; relating to the dividend paid to the state by the Alaska Housing Finance Corporation; and providing for an effective date.

CS SB 279 (FIN) was reported out of Committee with "individual" recommendations and with zero note #3 by the Department of Revenue.

#SB302

CS SB 302(FIN)

An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, to verifications, to acknowledgments, to fees for issuing certificates with the seal of the state affixed, and to notaries public; and providing for an effective date.

CS SB 302 (FIN) was SCHEDULED but not HEARD.

#SB311

CS SB 311(JUD)(efd fld)

An Act providing for a special deposit for workers' compensation insurers; relating to the board of governors of the Alaska Insurance Guaranty Association; stating the intent of the legislature, and setting out limitations,

concerning the interpretation, construction, and implementation of workers' compensation laws; relating to restructuring the Alaska workers' compensation system; eliminating the Alaska Workers' Compensation Board; establishing a division of workers' compensation within the Department of Labor and Workforce Development and assigning certain Alaska Workers' Compensation Board functions to the division and the Department of Labor and Workforce Development; establishing a Workers' Compensation Appeals Commission; assigning certain functions of the Alaska Workers' Compensation Board to the Workers' Compensation Appeals Commission and the Workers' Compensation Hearings Board; relating to agreements that discharge workers' compensation liability; providing for hearing examiners and hearing panels in workers' compensation proceedings; relating to workers' compensation awards; relating to an employer's failure to insure and keep insured or provide security; providing for appeals from compensation orders; relating to workers' compensation proceedings; providing for supreme court jurisdiction of appeals from the Workers' Compensation Appeals Commission; providing for a maximum amount for the cost-of-living adjustment for workers' compensation benefits; providing for administrative penalties for employers uninsured or without adequate security for workers' compensation; and relating to assigned risk pools and insurers.

CS SB 311(JUD)(efd fld) was SCHEDULED but not HEARD.

#

CS SB 357(FIN)

An Act relating to the regulation of insurance, insurance licenses, qualifications of insurance producers, surplus lines, fraud investigations, electronic transactions, and compliance with federal law and national standards; and providing for an effective date.

HCS CS SB 357 (FIN) was reported out of Committee with a "no recommendation", a Letter of Intent and with zero note #1 by the Department of Community & Economic Development.

#SB364

CS SB 364(HES)(EFD FLD)

An Act relating to liability for expenses of placement in certain mental health facilities; and

relating to the mental health treatment assistance program.

CS SB 364 (FIN) was SCHEDULED but not HEARD.

#SB368

CS SB 368(FIN) am

An Act relating to taxes on cigarettes and tobacco products, to tax stamps on cigarettes, to forfeiture of cigarettes and of property used in the manufacture, transportation, or sale of unstamped cigarettes, and to licenses and licensees under the Cigarette Tax Act; and providing for an effective date.

CS SB 368(FIN) am was SCHEDULED but not HEARD.

#

SB 387

An Act authorizing the making of certain commercial fishing loans to eligible community quota entities for the purchase of certain fishing quota shares; and providing for an effective date.

SB 387am was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Community & Economic Development and zero note #2 by the Department of Fish & Game.

#SB392

SB 392

An Act relating to the expenses of investigation, hearing, or public advocacy before the Regulatory Commission of Alaska, to calculation of the regulatory cost charge for public utilities and pipeline carriers to include the Department of Law's costs of its public advocacy function, to inspection of certain books and records by the attorney general when participating as a party in a matter before the Regulatory Commission of Alaska; and providing for an effective date.

SB 392 was SCHEDULED but not HEARD.

#

CS SB 395(FIN) am

An Act authorizing the Alaska Railroad Corporation to extend its rail line to Fort Greeley, Alaska, and relating to that extension; authorizing the corporation to issue bonds to finance the cost of the extension and necessary facilities and equipment; relating to the Railroad Planning, Platting, and Land Use Regulation Task Force; and providing for an effective date.

CS SB 395 (FIN)am was HEARD and HELD in Committee for further consideration.

#SB65

CS FOR SENATE BILL NO. 65(FIN) am

An Act relating to the qualifications of correctional officers, parole officers, and probation officers; authorizing the Department of Corrections to enter into lease-purchase agreements with municipalities for new or expanded public correctional facilities in the Fairbanks North Star Borough, the Matanuska-Susitna Borough, Bethel, the Municipality of Anchorage, and the City of Seward; relating to the development and financing of privately operated correctional facility space and services; authorizing the Department of Corrections to enter into a lease-purchase agreement with the City of Whittier for the confinement and care of prisoners in privately operated correctional facility space if the state cannot provide the same level of services required in state law or regulation for the same or less cost; giving notice of and approving, and authorizing the entry into and issuance of certificates of participation for, the upgrade, expansion, and replacement of certain jails in Dillingham and Kodiak; and providing for an effective date.

SENATOR LYDA GREEN, SPONSOR, explained that the State suffers from overcrowding in statewide prison facilities and that Alaska needs a responsible solution to address these serious issues, which arise from the overcrowding, deteriorating physical plants and anticipated growth in prisoner populations. SB 65 is the resulting legislation from numerous conversations, revealing a need for compromise in order to pass a comprehensive, long-term correctional facility plan that adequately addresses public safety. The bill would:

- Ensure local involvement in the process and guarantees open and fair competition;
- Creates a level playing field between the public and private sectors; and
- Requires the use of the State procurement process, a feasibility study, and approval of facility designs by the Commissioner of the Department of Corrections.

Senator Green believed that the end result would be consistency in facility design and operation. The bill additionally, allows the State of Alaska to bring prisoners back from Arizona, directing that money into the State economy.

Senator Green provided a sectional analysis of the bill.

Co-Chair Harris inquired if the fiscal note cost included bringing prisoners back from Arizona. Senator Green acknowledged that it did and requested her staff to address the concern. She advised that the Department of Public Safety would be transporting the prisoners across the State. She added that there would be an increase as numbers continue to rise with the current trend continuing.

Co-Chair Harris pointed out that the bill indicates a "cost not to exceed" \$14,600 dollars per year, per bed in the Fairbanks and Mat-Su areas. He asked the current yearly costs for incarcerating the Arizona prisoners.

TRACI CARPENTER, STAFF, SENATOR LYDA GREEN, stated that the current total amount is \$14.154 million dollars for out of state contracts. Senator Green interjected that the calculations could be "no more than" as included in the note. The costs have been calculated over the past 15 years. Ms. Carpenter added that the language indicates 25 years, but for purposes of calculation, the fiscal note allows for 15 years. Senator Green added that at the end of the 15-year period, the bed space could not exceed \$14.6 million dollars.

Co-Chair Harris understood that the bill would allow listed communities such as Seward and Anchorage and a federal issue, Bethel, Mat-Su, and Fairbanks North Star Borough to agree to a bond based upon a State contact to house beds. Senator Green clarified that it would not only house those beds but also construct the facility.

Co-Chair Harris noted that the bill provided a maximum and "not to exceed" capital costs of \$135 thousand dollars for urban areas and \$155 thousand dollars in Bethel. Senator Green affirmed that information.

Co-Chair Harris questioned Senator Green's intent for the Whittier concern. Senator Green responded that following passage of the bill, the City of Whittier could begin discussions with the State about bonding and continuing contract service costs with the State by housing the prisoners with continued care. The bill requires that it be an open and competitive process according to the State procurement codes. She pointed out the need for the feasibility study.

Co-Chair Harris asked if the feasibility study indicated that private prison care would be cheaper, would there be language included to indicate that other facilities should contract out. Senator Green explained that the language deals only with the Whittier concern. Co-Chair Harris asked

if there could be a "mandate" on the Department to contract with the private sector when costs could be lowered. Senator Green did not know.

Representative Hawker referenced the Whittier proposal feasibility study, asking if it would be conducted internally or by an independent third party. Senator Green understood that there would be an independent contractor hired.

Co-Chair Harris asked if the referenced facility was the Sutton Prison. Senator Green affirmed it is.

Representative Chenault noted that the indicated annual lease costs shows the facility at the Anchorage Correctional Center @ \$1.76 million dollars and the Spring Creek Center @ \$1.76 million dollars. Ms. Carpenter explained that those numbers are based on actual best estimates of anticipated costs and are less than what is allocated in the bill.

Representative Croft asked about the competitive bidding process and if the RFP determined that the feasibility was competitively bid. Senator Green responded that an RFP or bid provides a feasibility study, first and intended that any statewide contractors would be allowed to bid. Representative Croft questioned if they "all" would be competitive. Senator Green replied that in the process, a competitive bid is required and that the language mirrors that.

Representative Croft agreed that it was covered under the feasibility study, however, pointed out language on Page 4, Lines 11-12, indicating that the Department of Corrections would be required to agree with the City of Whittier. There is already an agreement between the City of Whittier with companies wanting the work. He did not see any discretion that after the study was done, it would be cheaper to do anything but a predefined contract. Senator Green noted language on Page 4, Line 23. Representative Croft questioned the effect with the City of Whittier for design, construction and operations of a facility. Senator Green explained that the intent was for those projects only to come and the others would be "grandfathered" in.

Representative Hawker mentioned that there were people present who could testify on the bidding process the city went through.

Representative Chenault asked if other municipalities had been required to follow the State Procurement Code. Senator Green affirmed, because they would be dealing directly with the State on the design and approval of the facilities.

Representative Chenault reiterated concerns with the annual lease costs. He pointed out that Fairbanks indicates maximum-security costs while others mention only minimum-security costs. Ms. Carpenter stated that under the bill, the annual total lease cost for the City of Seward would be \$2.1 million dollars, however, the estimate is \$1.76 million dollars. She noted there is leeway for errors.

Representative Hawker referenced commentary in the fiscal analysis, indicating no consideration of an independent facility in Whittier and asked what that meant. Senator Green did not know and requested that someone from the Department respond.

Representative Fate asked where the projected numbers for the Anchorage expansion originated. Senator Green explained that was a separate federal issue and that those funds would expand the Anchorage facility for the housing of federal prisoners. That money would only be an authorization by the State for use. She added that Governor Murkowski has indicated that Alaska needs a large, central location facility to house prisoners who stay from a medium to long period of time. There needs to be an expansion in Bethel, as during the process, the State currently transfers from the overcrowded Bethel facility to the one in Anchorage. The Fairbanks facility also has needs for additional beds also, which could be balanced out by a large South-central facility, designed for long-term use. It currently, houses those prisoners being sent to Arizona, creating a ripple effect without enough statewide prison beds.

Representative Joule noted that he was happy to see that some of the contract jails had been included, however, pointed out that the bill does not indicate "contract" concerns. Senator Green responded that at present time, there is ongoing litigation to address that concern.

Co-Chair Harris inquired if the bill covers the rural hub areas. Senator Green responded that all areas with the greatest needs are covered. She added that local government must agree to accept the process of advocating and willingness to assume the bonding burden on that there are many communities not interested in doing that. SB 65 is designed as a lease/purchase; the State will own the facility and the community will be involved in design, construction, maintenance and use of it. In response to Co-Chair Harris, Senator Green added that is the same with the Whittier facility and that the State would ultimately own it.

JODY SIMPSON, MEMBER, MAT SU BOROUGH ASSEMBLY, voiced support for SB 65. She noted that the Mat-Su Assembly adopted a resolution supporting the concept of establishing State-operated prisons for the following reasons:

- Pressing need to reduce overcrowding in Alaska prisons;
- Bringing home prisoners currently housed out of State;
- Providing needed construction and year-round jobs; and that
- Maintaining prisoners in-state, allows them to be closer to their families and culture, enhancing rehabilitation.

Representative Stoltze mentioned the Valley Hospital and other new triads. He asked their ability to provide secure beds. Ms. Simpson did not understand the connection between the two facilities.

RAY GILLESPIE, LOBBYIST, MAT SU BOROUGH, explained that there had been extensive discussions with Triad regarding the need for bed security in the event that the prison is built. It is understood that it would be provided by the Valley Hospital.

MARC ANTRIM, COMMISSIONER, DEPARTMENT OF CORRECTIONS, indicated that the Department and the Governor support SB 65, allowing the Department of Corrections to address longstanding capacity issues. At any given time, the Department is at 100% capacity with 750+ out of State prisoners. SB 65 provides a vehicle for the Administration to address these concerns. The bill has a bonding component built into it, so that the State can only fund projects, which will not negatively affect credit rating.

Representative Stoltze inquired about the status of the Correction Corporation from Florence. Commissioner Antrim responded that the Department currently has an RFP for out-of-state contract beds and that the Corrections Corporation of America is the contractor that the Department is currently working with.

Representative Stoltze asked if the Department anticipates a large savings during the next round of RFP's. Mr. Antrim advised the Department is attempting to determine that through negotiations.

JERRY BURNETT, DIRECTOR, ADMINISTRATIVE SERVICES DIVISION, DEPARTMENT OF CORRECTIONS, noted "worse fear" scenarios. He thought it would be surprising if future prices were lower. The State is currently in active negotiations on price.

Representative Hawker spoke to concerns of the long-term, down-range costs. No one has challenged the need for the facilities but he questioned the long-term deferred maintenance costs. He inquired if the option had been

considered for the City of Whittier to cover the debt for operations of the facility. Mr. Burnett said there has been no cost analysis of that issue and that without one, he would not know the answer. Commissioner Antrim interjected that in either case, the State will see costs associated with the facility.

RICK HOHNBAUM, (TESTIFIED VIA TELECONFERENCE), CITY MANAGER, CITY OF WHITTIER, reaffirmed Whittier's interest and desire to establish a city-owned and contractually operated private prison. The economic benefits would be significant for that small community. The community and the City Council have continually supported the project. He noted that he had been encouraged by the City to make sure that every opportunity was taken to guarantee success. He spoke of the bidding process and the selection of the firm partnership, providing:

- Economic benefit to the City of Whittier,
- Financial benefit of cost savings for a private prison for the State, and
- Social benefit of housing prisoners in the same State as family with cultural connections for the long-term benefit of prisoners and families of prisoners.

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Mr. Hohnbaum offered to answer further questions of the Committee.

DEE HUBBARD, CITIZEN ACTIVIST (TESTIFIED VIA TELECONFERENCE), STERLING, noted that she supports SB 65 as it came over from the Senate, especially the inclusion of the training requirements. She pointed out Representative Croft's Amendment #3, which would delete Section 5. She questioned Representative Hawker's Amendment #1, to Line 9, and asked about a feasibility study extending over a 25-year period. Ms. Hubbard asked why the Office of Management and Budget (OMB) had been selected instead of the Department of Corrections and the Department of Administration to fulfill the contract. Ms. Hubbard continued addressing concerns of the amendments. (Copies of All Amendments on File).

Ms. Hubbard identified concerns regarding use for the State procurement code. She recommended that an audit for contract monitoring compliance be placed in statute. She added that there should be a use of fines for non-payment and a specific list of "powers and non powers" granted to contractors.

Representative Stoltze recommended that the State procurement officer address Ms. Hubbard's questions.

Representative Hawker MOVED to ADOPT Amendment #1, #23-LS0392\NA.8, Luckhaupt, 5/8/04. (Copy on File). Co-Chair Williams OBJECTED for discussions purposes.

Representative Hawker explained that Amendment #1 clarifies the Whittier component:

- The first section, Page 4, Line 4, mirrors language for authorization of other municipal facilities with intent to relieve overcrowding for the statewide correctional facilities.
- Page 4, Line 9, language clarifies that when the contract is signed, there should be a cost analysis study defined before the State moves forward. An outside study would be mandated.
- Page 4, Line 10 specifies that the study shall be contracted in an out-source basis.
- Page 4, Line 12, language defines what the feasibility study should determine and that it be completed by October 1, 2004. Representative Hawker requested to amend that section by changing the date to January 1, 2005. There being NO OBJECTION, the date was changed.
- Page 4, Line 15, provides language to guarantee that comparisons are equal.

Senator Green agreed to most of the amendment except for the feasibility completion date. She admitted that there are many steps that need to be addressed before the completion date; not knowing when the request will move forward would make that difficult.

Representative Hawker asked if it would relieve Senator Green's concerns to add language that it be complete within six months of the proposed receipt from the city. Senator Green replied that if everything was complete by 2006 that would be the end date. She did not know how long it would take and requested that the Department address that.

Co-Chair Harris asked if there had been a required timeframe for the feasibility study related to other facilities. Senator Green stated that none had been required and that the requirement did address contracts and labor force development. A feasibility study would be required if the intent were to use anything by the State labor force in order to build a facility. A method for outsourcing and privatization could be provided. Therefore, that would make a feasibility study a requirement. She admitted that she

did not know time constraints associated on the feasibility studies.

Co-Chair Williams recommended that each community establish the date. Representative Hawker mentioned concern with providing a date certain. If the Department of Corrections had everything in place by a certain time, they would have to enter into a lease agreement. He thought that there needed to be protection for communities and that the completion date or the date certain could be eliminated. He stressed that the community deserves certainty that there is a level playing field.

Senator Green replied that there is "no certainty" in any of the bill. Any city or group that comes to the commissioner and indicates that their city was willing to go into debt, there still would be no assurance that they would be given permission. She stressed that there was no intent in the bill to provide assurance. The bill is permissive with in-dates for private & other facilities around the State.

Co-Chair Williams asked Representative Hawker if it would be okay to make the appropriate changes in that area of the amendment. Representative Hawker requested that the Department of Corrections testify regarding any change.

Recess: 12:25 P.M.
Reconvene: 12:40 P.M.

Representative Hawker MOVED to change Amendment #1 by deleting language on Lines 14 & 15: "The feasibility study shall be completed by October 1, 2004". Additionally, it would need to include changing the date on Page 4, Line 5, from July 1, 2006 to July 1, 2007. Representative Croft OBJECTED for further clarification. Following the Department providing that information, Representative Croft WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment #1 as amended was adopted.

Representative Hawker MOVED to WITHDRAW Amendment #2, #23-LS0392\N.A.10, Luckhaupt, 5/8/04. (Copy on File). He noted that #2 would be replaced by Amendment #5. There being NO OBJECTION, Amendment #2 was withdrawn.

Representative Croft MOVED to ADOPT Amendment #3. (Copy on File). Co-Chair Williams OBJECTED.

Representative Croft explained the amendment. He emphasized that the privatization of the prison system bill has been around for many years. He recounted the numerous communities who have attempted to get that proposal and how

devastating it was to each of them. Representative Croft objected to the litany of "sole source projects". There has never been a clean proposal presented to the Committee. The proposals are always sole source, with heavy money deals directed to one contractor. It is always prearranged and never clean. He believed that the legislation would result in sole sourcing being prearranged with political pressure through construction and continued operations.

Representative Croft warned that the State would see someone indicted and likely sent to prison over the proposed series. He stressed that he "hates" this type of proposal because of what it does to the integrity of the Legislature. He disliked the "high money and motives money and the legislators". These proposals historically have left a trail of damaged communities. Representative Croft warned that Whittier would regret it at some point.

Senator Green interjected that the amendment language would return the legislation to the original bill. She pointed out that the Whittier language had been added with great deliberation. All the language is "futuristic" and will result in a lease-purchase owned by the State. She acknowledged it would be a policy call.

Representative Stoltze commented that Amendment #3 is important and requested an analysis. He inquired if there had been an overview of the contract between the City of Whittier and that contracting group.

VERN JONES, CHIEF PROCUREMENT OFFICER, DEPARTMENT OF ADMINISTRATION, indicated that the Department had not read the contract, but had read the City of Whittier's RFP. The procurement process for the City of Whittier did not comply with the State's contract process. Whittier would be subjected to their own ordinances. Without Amendment #3, the bill requires the City of Whittier procurement process to comply with the State's. He offered to provide technicalities regarding negotiation costs.

Representative Hawker acknowledged that the bill could resolve concerns raised by Representative Croft. He said he opposed Amendment #3.

A roll call vote was taken on the motion.

IN FAVOR: Croft, Stoltze
OPPOSED: Fate, Foster, Hawker, Joule, Meyer, Moses, Chenalut, Williams, Harris

The MOTION FAILED (2-9).

Representative Stoltze MOVED to ADOPT Amendment #4, #23-LS0392\NA.4, Luckhaupt, 5/4/04. (Copy on File). Co-Chair Williams OBJECTED.

Representative Stoltze advised that the sponsor submitted the amendment in order to provide clean up language.

Senator Green said it was obvious that a provision, addressing the qualification concerns of the correctional officers, needed language for all the hard beds. The amendment would add new language highlighting the intent. Co-Chair Williams WITHDREW his OBJECTION. There being No further OBJECTION, Amendment #4 was adopted.

Representative Hawker WITHDREW Amendment #5, #23-LS0392\NA.11, Luckhaupt, 5/09/04. (Copy on File).

Representative Croft MOVED to ADOPT Amendment #6, #23-LS0392,NA.6, Luckhaupt, 5/07/04. (Copy on File). Co-Chair Williams OBJECTED.

Representative Croft explained that the amendment would add a "small amount of competitive nature" to the proposal. He reiterated his concerns regarding sole sourcing "privatization", creating a combination for the worst aspects of government and business.

Senator Green noted that she did not object to the amendment. Co-Chair Williams WITHDREW his OBJECTION.

Representative Fate questioned the powers of the Department's commissioner to select the facility site. Representative Croft responded that language was included in the section about the Whittier proposal and intended to be a contemplated site. He stated that the key aspect was that it be open for bid on a non-preferential basis and that it was included in the authorization list with the City of Whittier.

Representative Stoltze asked if the proposed amendment would improve the Department's "comfort level with the process". Mr. Jones responded that the language of the amendment requires the competitive process and that made him more comfortable.

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Representative Hawker thought the bill delineated a "forward looking process" and provides an alignment with State statute. He added that the amendment serves no function.

Co-Chair Harris pointed out that the language of the amendment provides a mandatory "shall". He commented that the Department of Corrections commissioner had no business selecting the site. The determination should be left to the party given the proposal.

Representative Hawker advised that there is language in the bill that the commissioner "shall" approve the design of the facility.

Representative Stoltze maintained that the commissioner, the Department and the State should have interest in the site selection process. The placement of prisons and the manner in which they interface with those communities is relevant. The amendment would provide good benefit.

Co-Chair Harris took issue with the possibility of there being opposition between the State and the public regarding the chosen area. He believed that the language should not be included, as the public should determine that policy.

A roll call vote was taken on the motion to adopt the amendment.

IN FAVOR: Stoltze, Croft
OPPOSED: Fate, Foster, Hawker, Joule, Meyer, Moses, Chenalut, Harris, Williams

The MOTION FAILED (2-9).

Representative Foster MOVED to report HCS CS SB 65 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note.

Representative Croft OBJECTED.

Representative Croft referred to all previous statewide lawsuits resulting from such a choice.

Co-Chair Harris objected to comments voiced by Representative Croft. He claimed that the bill as currently written makes it difficult for any Administration to move forward. He added that most of the bill is good.

Representative Hawker agreed that the bill was good, suggesting that most concerns had been thoughtfully advocated throughout the bill.

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

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

The MOTION PASSED (9-2).

HCS CS SB 65 (FIN) was reported out of Committee with "individual" recommendations and with fiscal note #2 by the Department of Corrections.

#HB562

HOUSE BILL NO. 562

An Act relating to the establishment of the Interior Rivers Port Authority; and providing for an effective date.

Co-Chair Harris MOVED to ADOPT work draft version #23-LS1951\Q, Utermohle, 5/6/04, as the version of the bill before the Committee. (Copy on File). There being NO OBJECTION, it was adopted.

CARL MORGAN, SPONSOR, explained that the legislation would create an Interior Rivers Port Authority, which would regionalize planning for the small, unorganized communities in rural Alaska. The Port Authority would include 25 communities. He added that landowners of the region with an eleven-member board would represent the Authority with six living physically in the areas and then three public members including the commissioners of the Department of Transportation & Public Facilities and the Department of Community & Economic Development.

Representative Morgan explained that the Port Authority would have power to accept private, municipal, State, and federal funds, issue tax exempt revenue bonds and enter into non-lease acquisitions. It is not intended that the Authority will create a financial obligation to the State.

Representative Morgan acknowledged skepticism with the new legislation. He listed the many supporters and pointed out the main opposition comes from concerns of eminent domain. Native tribes in Alaska do not own land, whether or not, the Native and Village Corporations own the land. Representative Morgan commented that Native Corporations in the proposed areas support the bill.

Representative Fate noted support for the concept. He questioned the eminent power domain and safeguards associated with other allotment areas.

PAUL FUHS, LOBBYIST & TECHNICAL EXPERT TO SENATOR MORGAN, ANCHORAGE, explained that the only property that could be taken would have to be within the boundaries of the authority itself. The language would be like that of the Department of Transportation & Public Facilities, indicating that it is for a public purpose. Native corporations are

primarily the private landowners and they have accepted the proposal. On a regional level, they would be giving up a portion of autoimmunity. He commented that it has been specifically noted that it could only be within the port authority boundaries.

Responding to Representative Fate, Mr. Fuhs explained that he did not believe it could be within the pipeline corridor. Regardless, there is no way they could use those properties for any public purpose.

Representative Hawker MOVED to ADOPT Amendment #1, as requested by Senator Morgan. (Copy on File). Co-Chair Williams OBJECTED.

Mr. Fuhs advised that Amendment #1 would bring the bonding authority in-line with Alaska Development Export Authority (ADEA) and Alaska Energy Authority (AEA) in the amount of ten million dollars.

Co-Chair Harris inquired if it would affect other natural gas projects along the coast. Mr. Fuhs stated that the "energy is contemplated for that area only" and other than that, it would be a different issue.

Representative Fate reminded members that the new gas pipeline would come across the Yukon area, and questioned if \$10 million would be sufficient. Mr. Fuhs admitted that it probably would not be enough and that they would likely have to come for further authorization.

Representative Foster MOVED to report CS HB 562 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HB 562 (FIN) was reported out of Committee with a "do pass" recommendation and with a new indeterminate note by the Department of Community & Economic Development.

#SB387

SENATE BILL NO. 387

An Act authorizing the making of certain commercial fishing loans to eligible community quota entities for the purchase of certain fishing quota shares; and providing for an effective date.

GREG WINEGAR, DIRECTOR, DIVISION OF INVESTMENTS, DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT, stated that the legislation would authorize loans to federally designated community quota entities authorized by federal regulation to purchase and hold certain fishing quota shares and to lease

the resultant individual fishing quota shares to community residents.

The federal government is currently proposing federal regulations that if adopted, would amend the federal individual fishing quota (IFQ) program. The definition of an eligible quota shareholder would be revised to allow specific communities in the Gulf of Alaska to purchase quota shares for halibut and sablefish fisheries. The community quota entity may then hold the shares for lease to their community residents. Quota shares and loans for their purchase under the Commercial Fishing Loan Act are presently limited to individuals.

Mr. Winegar noted that the purpose of the amendment was to improve the economic viability of those communities through local ownership of fishing privileges. Since the initial allocation of quota shares, all but two of the 42 eligible communities have experienced a significant decline in the number of quota shares held by residents. The bill would provide a financing mechanism that could be used by the communities to help reverse the trend.

Co-Chair Harris MOVED to report SB 387am out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SB 387am was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Community & Economic Development and zero note #2 by the Department of Fish & Game.

#SB279

CS FOR SENATE BILL NO. 279(FIN)

An Act authorizing and relating to the issuance of bonds by the Alaska Housing Finance Corporation for safe and clean water and hygienic sewage disposal facility capital projects and other capital projects; providing for the repayment of the bonds and bond costs; relating to the dividend paid to the state by the Alaska Housing Finance Corporation; and providing for an effective date.

BRYAN BUTCHER, LEGISLATIVE LIAISON, ALASKA HOUSING FINANCE CORPORATION (AHFC), DEPARTMENT OF REVENUE, ANCHORAGE, offered to answer questions from the Committee.

Co-Chair Harris MOVED to report CS SB 279 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. Co-Chair Williams OBJECTED.

Following a brief at-ease, Co-Chair Williams WITHDREW his OBJECTION.

Representative Hawker acknowledged that the village safe water projects are needed, however, he voiced concern that the bill would deny general fund money for the future. He stated that until the entire State is behind a long-term fiscal policy change, money should not be added to special project concerns. Representative Hawker OBJECTED to moving the bill from Committee.

Mr. Butcher pointed out that AHFC's Chief Executive Officer (CEO), Mr. Dan Fauske, had recommended that the State bond for village safe water projects and that traditionally, those projects were paid through dividends. This year, the Governor decided on a different proposal.

Representative Hawker MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Meyer, Chenault, Croft, Fate, Foster, Harris, Williams

OPPOSED: Stoltze, Hawker

Representative Moses and Representative Joule were not present for the vote.

The MOTION PASSED (7-2).

CS SB 279 (FIN) was reported out of Committee with "individual" recommendations and with a zero note by the Department of Revenue.

#SB357

CS FOR SENATE BILL NO. 357(FIN)

An Act relating to the regulation of insurance, insurance licenses, qualifications of insurance producers, surplus lines, fraud investigations, electronic transactions, and compliance with federal law and national standards; and providing for an effective date.

LINDA HALL, DIVISION OF INSURANCE, DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, explained that the legislation would ensure that Alaska statutes are consistent with federal law (provisions mandated under the Gramm-Leach-Bliley Act) and with model acts and standards of the National Association of Insurance Commissioners (NAIC). The NAIC accreditation team suggested some of the proposed changes addressing financial oversight of insurance companies when Alaska was reviewed for a renewal of accredited status. Some of the proposed changes relate to updating procedures in order to better reflect current insurance environment and enabling electronic communications

between the Division of Insurance and the public, industry and other regulators. Two key elements of the Division of Insurance are:

- Protecting the consumer
- Enhancing the insurance business environment

Ms. Hall provided a sectional analysis of the bill.

TAPE HFC 04 - 111, Side B (faulty tape - changed)
TAPE HFC 04 - 112, Side A

Ms. Hall continued with the analysis.

Representative Fate inquired if automobile warranties would be considered in the same manner.

Ms. Hall responded that it would depend on who wrote the automobile coverage. If the federal government regulates the company, the State cannot preempt that. There is little local control on risk groups.

Representative Hawker inquired if there could be testimony heard from the industry. Co-Chair Williams pointed out that there were no representatives present from that group.

Representative Hawker asked if the industry supported the bill. Ms. Hall replied that to date, there had been no testimony either way on the proposed changes. The changes will only "standardize" what is currently done by the Division. Representative Hawker was "astounded" that there had been no testimony received by the industry.

Co-Chair Williams MOVED to ADOPT Amendment #1, #23-LS1684\Q.4, Bullock, 5/5/04. (Copy on File). Vice-Chair Meyer OBJECTED.

JERRY RHINEWALD, LOBBYIST, BLUE CROSS AND BLUE SHIELD OF ALASKA, JUNEAU, noted that Blue Cross was in the process of moving from a non-profit company to a per profit company and currently, is under scrutiny by Alaska's Division of Insurance. There is concern that Section 18 could create problems in the transition process that would change the "rules of the game". He did not believe it would affect the regulatory environment. Mr. Rhinewald requested the Committee's consideration of the amendment. Ms. Hall noted that the Division had no objection to the amendment.

Vice Chair Meyer WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment #1 was adopted.

Co-Chair Williams pointed out a Letter of Intent. (Copy on File). Mr. Rhinewald commented that the letter would make the Alaska market more attractive to national insurance companies. The Letter of Intent would continue dialogue on ways to improve making the Alaska market more attractive without compromising the integrity of the insurance program or consumer protection.

Co-Chair Williams MOVED to ADOPT the Letter of Intent. There being NO OBJECTION, it was adopted.

Representative Croft MOVED to ADOPT Amendment #2, #23-LS1684\Q.7, Craver, 5/9/04. (Copy on File). Co-Chair Williams OBJECTED.

Representative Croft spoke to the amendment and concerns with HB 311, replacing Administration needs and placing them into the worker's compensation. He suggested that could provide "insurance" for the Commissioner of Insurance.

Co-Chair Harris stated support for Amendment #2, noting that it is important to get the parts of HB 311 that are non controversial in place.

Ms. Hall noted that she had authored that language in HB 311 and that she would be "hesitant to remove portions of that bill", putting them into SB 357.

Co-Chair Williams acknowledged that he also did not accept the amendment language. If the Committee wants to take-up HB 311, it should address that bill separately.

Representative Croft understood that the intent to continue was to provide for a debate. Co-Chair Williams disagreed, stating that the Committee should work on HB 311 if that is the concern. Co-Chair Harris reiterated support for the "intent of the amendment", but indicated that he would vote with Co-Chair Williams. He requested that policy remain consistent with bills coming before the Committee.

A roll call vote was taken on the motion.

IN FAVOR: Croft
OPPOSED: Meyer, Stoltze, Chenault, Fate, Foster,
Hawker, Williams, Harris

Representative Joule and Representative Moses were not present for the vote.

The MOTION FAILED (1-8).

Co-Chair Williams advised that Amendment #3, #23-LS1684\Q.6, Bullock, 5/8/04 had been WITHDRAWN. (Copy on File).

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

HCS CS SB 357 (FIN) was reported out of Committee with a "no recommendation", a Letter of Intent and zero note #1 by the Department of Community & Economic Development.

#SB279

CS FOR SENATE BILL NO. 279(FIN)

An Act authorizing and relating to the issuance of bonds by the Alaska Housing Finance Corporation for safe and clean water and hygienic sewage disposal facility capital projects and other capital projects; providing for the repayment of the bonds and bond costs; relating to the dividend paid to the state by the Alaska Housing Finance Corporation; and providing for an effective date.

Representative Croft MOVED to RESCIND previous action taken on failing to advance CS SB 279 (FIN). There being NO OBJECTION, the bill was before the Committee.

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

Representative Croft stated that the amendment addressed an important aspect of the Anchorage Convention Center project.

Co-Chair Harris stated that the amount of the Alaska Housing Finance Corporation (AHFC) dividend authorized for the year was \$45 million dollars.

BRYAN BUTCHER, LEGISLATIVE LIAISON, ALASKA HOUSING FINANCE CORPORATION, DEPARTMENT OF REVENUE, ANCHORAGE, interjected that \$103 million dollars was the amount this year and that the proposed number would come from that available amount.

Co-Chair Harris inquired if the amount requested would come from that \$5 million dollars. He asked if it would be authorized to move to the Municipality of Anchorage if the voters approved the Convention Center or if that amount would instead be used to purchase a parking garage.

Representative Croft explained that the funds would be used to pay a portion of the difference in the price of the parking garage. Vice-Chair Meyer pointed out that if the Convention Center is approved, that there are two lots currently owned by the State, which could be used for parking. He added that the developer is proposing to build a new parking garage. If the voters do not approve the Convention Center, the request will go away.

Co-Chair Harris requested to AMEND Amendment #1. He referenced the Harborview Developmental Center, which has not been used for a long time. The City needs about \$1.5 million dollars to take care of that building. He thought SB 279 could be a vehicle to accommodate that request. Co-Chair Harris MOVED that the requested amount of \$1.5 million dollars for the purchase of that facility be placed into Amendment #1. Co-Chair Williams OBJECTED.

Co-Chair Harris countered that he would remove his request if Representative Croft was willing to remove Amendment #1. Representative Croft WITHDREW Amendment #1.

Representative Foster MOVED to report CS SB 279 (FIN) out of Committee. Representative Hawker OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Meyer, Croft, Foster, Fate, Chenault, Harris,
Williams
OPPOSED: Hawker, Stoltze

Representative Joule and Representative Moses were not present for the vote.

The MOTION PASSED (7-2).

CS SB 279 (FIN) was reported out of Committee with "individual" recommendations and with zero note #3 by the Department of Revenue.

#SB395
CS FOR SENATE BILL NO. 395(FIN) am

An Act authorizing the Alaska Railroad Corporation to extend its rail line to Fort Greeley, Alaska, and relating to that extension; authorizing the corporation to issue bonds to finance the cost of the extension and necessary facilities and equipment; relating to the Railroad Planning, Platting, and Land Use Regulation Task Force; and providing for an effective date.

ZACK WARWICK, STAFF, SENATOR GENE THERRIAULT, stated that SB 395 contains two provisions relating to the Alaska Railroad Corporation and its role as a State transportation and economic development agent.

SB 395 authorizes the Railroad to issue up to \$500 million dollars in tax-free revenue bonds to pay for extending a rail line to Delta Junction and Ft. Greeley. The proposal would have the bonds secured through federal funds from the United States Department of Defense. Depending upon

negotiations with the Department, the Railroad could issue the bonds as early as 2005.

Mr. Warwick noted that SB 395 also addresses a recent Alaska Supreme Court decision that has called into question the Railroad's exemption from local planning and zoning ordinances provided in AS 42.40. The decision jeopardizes a mode of operation that has been in place since the Railroad was transferred to the State, 18 years ago. The bill creates a task force to provide recommendations to the Legislature in 2005 on whether and to what extent municipal planning, platting and land use regulations should apply to interests in land owned by the Alaska Railroad. The Alaska Railroad Corporation is both an interstate common carrier and an instrumentality of the State of Alaska. Its mission is to provide transportation services to residents, businesses, visitors and military installations in the State, and foster and promote long term economic growth and development, particularly of the State's land and natural resources. The Railroad's ability to operate safely, efficiently and effectively is due in great part to the singular nature of the corridor. The Railroad's current track alignment passes through 13 recognized municipal governments between Seward and the North Pole.

Without protection, local communities could separately dictate planning and zoning restrictions that would negatively impact the Railroad's ability to offer safe, efficient, economical and reliable service to its freight and passenger customers. Restrictions would increase the cost of operations, impact train movements, customer schedules, contract commitments, and the amount of business the Railroad could accommodate each year due to decreased or varied hours of operation. In situations where the Railroad and a municipality are in agreement on a planning and zoning issue, an individual or environmental group could file a lawsuit seeking to overturn the municipality's decision, which could further delay a project.

Mr. Warwick concluded that there are other adverse impacts that could arise if the Railroad was subject to local planning and zoning. Inconsistent regulation would decrease the value of the State's considerable investment in purchasing the Railroad. It could unreasonably delay and add significant cost to the Railroad's efforts to improve the transportation infrastructure of the State through upgrades of existing track and facilities.

While federal law protects interstate commerce from some of restrictions, the issue after the Supreme Court decision invites litigation, which is not only costly to the Railroad and municipalities, but could result in inconsistent holdings among various jurisdictions. Mr. Warwick claimed

that the Railroad is an essential part of the State's transportation network and serves an important State mission and that the State should be the entity that controls the Railroad's use land, not the 13 Railbelt municipalities and boroughs.

Representative Foster pointed out that the earlier bill had previously received some "no" votes, resulting from the Percentage of Market Value (POMV) vote. He asked if new rules were being established.

Co-Chair Harris MOVED to report CS SB 396 (FIN)am out of Committee with individual recommendations and with the accompanying fiscal note. Representative Foster OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Chenault, Hawker, Meyer, Williams, Harris
OPPOSED: Stoltze, Foster

Representative Moses, Representative Croft, Representative Joule and Representative Fate were not present for the vote.

The MOTION FAILED (5-2).

Representative Hawker interjected that the proposed legislation was a revenue bond and that it would not affect the general fund.

SB 395 was HELD in Committee.

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ADJOURNMENT

The meeting was adjourned at 2:10 P.M.