MINUTES
SENATE FINANCE COMMITTEE
May 14, 2003
9:40 AM

TAPES

SFC-03 # 94, Side A
SFC 03 # 94, Side B
SFC 03 # 95, Side A
SFC 03 # 95, Side B
SFC 03 # 96, Side A

CALL TO ORDER

Co-Chair Gary Wilken convened the meeting at approximately 9:40 AM.

PRESENT

Senator Gary Wilken, Co-Chair
Senator Lyda Green, Co-Chair
Senator Con Bunde, Vice Chair
Senator Ben Stevens
Senator Lyman Hoffman
Senator Donny Olson
Senator Robin Taylor

Also Attending: DOUGLAS BRUCE, Division of Public Health, Department of Health and Social Services; DAN DICKINSON, Director, Tax Division, Department of Revenue; MARK MYERS, Director, Division of Oil and Gas, Department of Natural Resources; STEVE PORTER, Deputy Commissioner, Department of Revenue; BROOK MILES, Executive Director, Alaska Public Offices Commission; JOE BALASH, Staff to Senator Gene Therriault; EDDY JEANS, Manager, School Finance and Facilities Section, Education Support Services, Department of Education and Early Development;

Attending via Teleconference: From an offnet location: KEVIN TABLER, Land and Government Affairs Manager, Union Oil Company; DAVID FINKELSTEIN; From Seward: STEVEN CONN, Alaska Public Interest Research Group; From Kenai: JENNIE HAMMOND; TODD SYVERSON, Assistant Superintendent, Kenai Peninsula Borough School District;

SUMMARY INFORMATION

SB 213-KNIK ARM BRIDGE AND TOLL AUTHORITY

The Committee commented on a legal opinion given in relation to this legislation. No action was taken.

SB 26-STATE EMPLOYEES CALLED TO MILITARY DUTY

The bill moved from Committee.

HB 57-ROYALTY GAS CONTRACTS AGRICULTURAL CHEM.

The Committee adopted a committee substitute and reported the bill from Committee.

HB 229-MEDICAL/ COGNITIVE DISABILITY PAROLE/SARS

The Committee heard from the Department of Health and Social Services. An amendment was adopted and the bill was reported from Committee.

SB 185-ROYALTY REDUCTION ON CERTAIN OIL/TAX CRED

The Committee heard from the Department of Revenue, the Department of Natural Resources, and a representative of an oil company. A committee substitute and an amendment were adopted. The bill moved from Committee.

SB 119-APOC/ CAMPAIGNS/ LOBBYING/ DISCLOSURE

The Committee heard from the Alaska Public Offices Commission, the Senate President, and members of the public. A committee substitute was adopted, five amendments were considered and three were adopted. The bill was reported from Committee.

SB 202-EDUCATION FUNDING &PUPIL TRANSPORTATION

The Committee heard from the Department of Education and Early Development and members of the public. Four amendments were considered and three were adopted. The bill was reported from Committee.

#SB213

SENATE BILL NO. 213
"An Act establishing the Knik Arm Bridge and Toll Authority and relating to that authority; and providing for an effective date."

This bill had previously reported from Committee.

Senator Bunde commented on a legal opinion relating to this legislation regarding the ability of legislators to serve on an authority. He recalled an argument challenging the ability of legislators to serve on the Commission of Postsecondary Education, although legislatures continue to serve in this capacity without consequence.

Co-Chair Wilken indicated the Committee would reconsider the matter.

#SB26

CS FOR SENATE BILL NO. 26(STA)
"An Act relating to state employees who are called to active duty as reserve or auxiliary members of the armed forces of the United States; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated this bill, sponsored by Senator Taylor and Senator Elton "allow the State employees, who are members of a reserve military unit, who are called to active duty, to receive their previous salary and some or all of their State benefits." He noted this bill had been held in Committee for the purpose of learning why the fiscal note is an indeterminate amount. He cited State personnel information that the cost of an average State employee, including health insurance, retirement, Supplemental Benefits System (SBS), and wages, is $62,520 per year, or $5,200 per month. He noted the "total exposure" of the 75 State employees in Alaska serving in the Air or Army National Guard, but relayed that the "vast majority" of these employees earn higher wages serving in the military than in their capacity as State employees.

Senator Taylor offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

Senator Taylor clarified that the State would only provide an amount equal to the difference between the State employee's military salary and regular State salary.

There was no objection and CS SB 26 (STA) MOVED from Committee with fiscal note #1 affecting all agencies in an indeterminate amount.

#HB57

CS FOR HOUSE BILL NO. 57(FIN)
"An Act amending the manner of determining the royalty received by the state on gas production as it relates to the manufacture of certain value-added products."

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated that this bill, sponsored by Representative Chenault, "allows the Department of Natural Resources to adjust the value of State royalty share for gas used by manufacturers of agriculture chemicals." He noted the bill had been held in Committee for the purpose of reviewing the fiscal note. He assured that the co-chairs were "comfortable" with the indeterminate fiscal note, understanding that future implications would occur.

Co-Chair Wilken also reminded of earlier concerns with this bill in that the commissioner would operate as "the single point of influence" as to determining the royalty rate between the best value and the value offered to Agrium, the manufacturer affected by this legislation. He indicated that after consultation and meetings with several parties, including Mark Myers, Director of the Division of Oil and Gas, Co-Chair Wilken learned this method is currently employed in Alaska and elsewhere in the nation. He opined this method "serves the best interests of the State and the industry".

Co-Chair Wilken directed attention to an updated sponsor statement [copy on file].

Senator Taylor offered a motion to adopt CS HB 57, 23-LS0303\C, as a working draft.

There was no objection and the committee substitute, Version “C” was ADOPTED as a working draft.

Senator Taylor offered a motion to report the committee substitute from Committee with individual recommendations and new fiscal note.

There was no objection and SCS CS HB 57 (FIN) MOVED from Committee with a zero fiscal note dated 5/5/03 for the Department of Natural Resources.

#HB229

CS FOR HOUSE BILL NO. 229(FIN)
"An Act relating to special medical parole and to prisoners

who are severely medically or cognitively disabled."

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated this bill relates to "parole for medical and cognitive disability" and "gives the Alaska Board of Parole the flexibility to grant or deny medical parole. This authority allows the Board to release severely disabled prisoners from confinement and gives the Department of Corrections relief from the high cost [of] providing medical service."

Amendment #1: This amendment inserts language into the title of the committee substitute, following “disabled” to read as follows.

> An Act relating to special medical parole and to prisoners who are severely medically or cognitively disabled; relating to a severe acute respiratory syndrome control program; and providing for an effective date.

This amendment also inserts two new bill sections on page 1, following line 3, and one new bill section on page 4, following line 12 to read as follows.

> Section 1. The uncodified law of the State of Alaska is amended by adding a new section to read:
>
> PURPOSE. (a) The purpose of sec. 2 of this Act is to clarify the law and expressly establish a comprehensive program for health care decisions to control severe acute respiratory syndrome (SARS) in this state, including reporting, examinations, orders, and detention to protect the public health.
>
> (b) The purpose of sec. 3 – 7 of this Act is to clarify standards for special medical parole and to address prisoners who are severely medically or cognitively disabled.
>
> Sec. 2. AS 18.15 is amended by adding a new section to read:
>
> Article 1A. Severe Acute Respiratory Syndrome (SARS).
>
> Sec. 18.15.112. SARS control program authorization. (a) A severe acute respiratory syndrome (SARS) control program is authorized by the department. The SARS control program shall be administered in the same manner and has the same powers, authority, obligations, and limited immunities as does the program for the control of tuberculosis under AS 18.15.149, except for the following:

(1) the provisions of the control program described in AS 18.15.120(1) and (7);

(2) reports to state medical officers under AS 18.15.131;

(3) examinations of persons under AS 18.15.133;

(4) title to and inventory of equipment allotted to private institutions under AS 18.15.140;

(5) the screening of school employees under AS 18.15.145.

(b) In this section, “SARS” or “severe acute respiratory syndrome” means the infectious disease caused by the SARS-CoV or the SARS coronavirus and the mutations of that disease.

…

Sec. 8. Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c).

Co-Chair Green moved for adoption.

Co-Chair Wilken reminded this amendment relates to the discussion of the previous hearing regarding severe acute respiratory syndrome (SARS).

Co-Chair Green clarified this amendment expands current statute relating to tuberculosis to include SARS.

Senator Taylor commented in favor of the amendment.

Senator Hoffman asked if an updated fiscal note would be necessary to incorporate the provisions of this amendment.

DOUGLAS BRUCE, Division of Public Health, Department of Health and Social Services, answered the fiscal note would be "zero".

Without objection the amendment was ADOPTED.

Senator Taylor offered a motion to report CS HB 229 (FIN), as amended, from Committee with individual recommendations and accompanying fiscal notes.

There was no objection and SCS CS HB 229 (FIN) MOVED from Committee with fiscal note #2 of ($500,000) from the Department of Corrections, fiscal note #3 of $367,700 from the Department of Health and Social Services, Medicaid Assistance, and fiscal note #4 of $8,700 from the Department of Health and Social Services, Adult Public Assistance.

#SB185

CS FOR SENATE BILL NO. 185(RES)
"An Act providing for a reduction of royalty on certain oil produced from Cook Inlet submerged land."

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken directed attention to a draft committee substitute.

Senator Taylor moved for adoption of CS SB 185, 23-LS0926\S, as a working document.

Co-Chair Wilken objected for an explanation.

DAN DICKINSON, Director, Tax Division, Department of Revenue, detailed the changes in the committee substitute. He stated this legislation relates to an oil and gas exploration tax credit. He noted the committee substitute provides that this credit could be taken any time after July 1, 2004. He clarified that although credits could be accrued for expenses occurred before that date, the credit could not be received until FY 04. He indicated the credit is either 20 percent or 40 percent.

Mr. Dickinson spoke of the expenses that qualify for the credit and pointed out they must be incurred between July 1, 2003 and July 1, 2007. He stated this would encourage exploration during this time period. He furthered that the committee substitute "created a very narrow base of just those expenses traditionally associated with exploration." He asserted that and once a well is successful, the State would stop "recovering the cost", because it is assumed that a producer would continue development.

Mr. Dickinson pointed out an error with in the committee substitute in that the practice of "cementing" qualifies for the credit on page 6, line 16, however is disallowed on line 20. He recommended deleting "cementing" from line 20, as the expense should be allowable.

Mr. Dickinson next noted that if wells or work on wells has already been committed to the State as a plan of development, the credit could not be taken. He remarked this is to prevent producers from delaying activities.

Mr. Dickinson stated that the 20 percent credit would apply to

exploration that is done more than three miles from a preexisting well. He characterized this as small accumulations that would be close to current infrastructure and in which development would progress rapidly. He pointed out the three-mile requirement was changed from the location of the "blow holes", as specified in Version "Q" adopted at the previous hearing, to the location of the "bottom holes." He also noted that the specification of "preexisting" was inserted in the committee substitute Version "S" to allow developers to pursue additional exploration near other areas explored utilizing the proposed credit. He stated this would allow developers to utilize a single drilling pad and would cover a "drilling pad".

Mr. Dickinson next described the wildcat exploration activities that would qualify for a 40 percent credit, which he compared to the recent Alpine discovery. He explained that these activities must occur at least 25 miles from a lease boundary, or infrastructure. He clarified these explorations could be located within 25 miles from another wildcat location. He also noted that seismic exploration would also qualify for the 40 percent credit.

Mr. Dickinson outlined the procedure whereby information learned during these exploration activities would be submitted to the Department of Natural Resources and then made public after a period of ten years. He stated this would provide opportunity for explorers to develop their discoveries and also allow others to "build on that knowledge base" after ten years has passed.

Co-Chair Green asked if ten years is the standard length of time in which to make this information available to the public.

Mr. Dickinson replied it is standard in some places, although the time period is two years in other areas. He surmised the existing Department tax credit program has not been utilized because of the two-year period.

Senator Taylor asked the benefit to the State for the ten year time period. He noted the exploration credit would be valid for four years and suggested the proprietary information should be made public after four years as well.

Mr. Dickinson responded that the ten-year provision would benefit the State in that commercial transactions in areas near these drilling sites should not be interrupted because of proprietary information gleaned from the exploration activities.

Senator Taylor expressed concern over the "vast amount of acreage" the State has leased, upon which no activity has occurred for "an

extensive period of time".

Mr. Dickinson understood the leases have a seven-year term and the contracts require a plan for development.

Senator Taylor asked whether the terms of the lease agreements are enforces and if the State has terminated leases for lack of development.

Co-Chair Wilken directed the witness to complete his explanation of the committee substitute.

Mr. Dickinson noted that credits earned by a company that does not have a production tax liability, could be transferred or sold. He informed that a market exists for these credit certificates and that this provision would encourage "nontraditional" and independent explorers.

Senator Hoffman asked the difference between transfer, convey and sell, as related to the certificates.

Mr. Dickinson responded this is legal terminology to cover the situations in which a company could utilize the credit earned by a subsidiary.

Mr. Dickinson continued that the committee substitute also contains a provision allowing the purchaser of a certificate to pay less than the full value of the credit, yet receive the full credit from the State. He explained this is to maintain the value of the certificates for the explorers and to provide incentive for explorers.

Mr. Dickinson indicated other language in the committee substitute addresses confidentiality and definitions.

Co-Chair Wilken moved for adoption of CS SB 185, 23-LS0926\S, as a working draft.

The committee substitute, Version “S” was ADOPTED without objection.

Amendment #1: This amendment deletes “cementing” from page 6 line 20 in Section 3 of the committee substitute. The amended language of Sec.43.55.025 (b)(3) reads as follows.

> (b) may not be for testing, stimulation, or completion costs; administration, supervision, engineering, or lease operating costs; geological or management costs;

community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; or other costs that are generally recognized as indirect costs or financing costs; and

Co-Chair Green moved for adoption.

There was no objection and the amendment was ADOPTED.

Senator Taylor restated his earlier question relating to maintenance of leases, acknowledging the subject is not directly related to this legislation. He asked the number of exploratory wells were drilled three years prior when the price of oil was $8.56 per barrel.

Mr. Dickinson informed of the disappointment to the Department that when the prices were "covered" in 1999 and 2000, similar recovery in exploration did not occur. He relayed the theory that the higher prices of the past three years have been a "bubble" sustained for "various reasons" rather than due to a "fundamental shift in the underlying price." Therefore, he stated projects were evaluated based on a per barrel price of $14.00, despite the actual prices of ten dollars higher.

MARK MYERS, Director, Division of Oil and Gas, Department of Natural Resources furthered that seven exploration drills have occurred on the North Slope over the past year, as well as "quite a bit of activity" in Cook Inlet. He informed that companies base expenditures on a production forecast and therefore plan several years in advance and he detailed the statistical methods utilized to determine exploration activities.

Senator Taylor asked why this program was not done four or five years ago.

Mr. Meyers answered, "The state of Alaska's oil industry has been in tremendous flux, largely due to the massive mergers and acquisitions." He explained that it would have been difficult for the large companies to invest in exploration in the midst of merging with other companies.

Debate continued between Senator Taylor and Mr. Myers relating to the reserves not under exploration or development. Mr. Myers assured that no large known reserves were idle. He told of exploration activities underway across the State facilitated by a licensing program.

Senator B. Stevens asked whether an explorer retains rights to

seismic data submitted to the Department of Natural Resources after it has sold the tax credit certificate earned from activities at the claim in which the information was generated.

Mr. Myers responded that the State would be required to maintain the confidentiality of this data for ten years. He furthered that any other company wishing to obtain this data must purchase it through the explorer.

Senator B. Stevens clarified that the explorer could sell both the tax credit and the data collected.

Mr. Myers affirmed.

Senator B. Stevens asked whether this occurs often.

Mr. Myers stated that most seismic data "shot" is not collected for speculation purposes and explained the existing practices of sharing and selling data.

Senator B. Stevens asked whether a party could "shoot" seismic data in an area it does not own a lease on.

Mr. Myers replied that seismic shot on State land is done by permit, independent of ownership of mineral rights. He stated that issuance of such permits is common practice for the Department.

Senator Hoffman asked whether this legislation would apply to the National Petroleum Reserve - Alaska (NPR-A).

Mr. Dickinson replied it would.

Senator Hoffman asked the importance to this bill of the provisions relating to the sale, transfer and conveyance of the tax credits, and the consequences of deleting the provisions.

Mr. Dickinson stressed the intent to not create this credit only for parties with current tax liabilities. He listed four companies with current tax liabilities and stated the goal is to encourage exploration to additional entities.

Senator Hoffman asked if other states allow these sales and transfers and whether the credits are discounted according to the sale price of the credit.

Mr. Dickinson understood that in other locations in the world where this practice is employed, purchasers are allowed to retain the full value. He remarked the intent is to protect the interest of

the explorers.

Senator Hoffman suggested the matter should be considered from the best interest of the State.

Mr. Dickinson expressed the purpose is to promote exploration and to generate revenue from income taxes once the oil is produced.

Senator Taylor clarified testimony that the oil industry is basing exploration decisions on a model based on a price of approximately $14.50 per barrel.

Mr. Dickinson responded that $14.00 is the "stress price", i.e. "the low end price in the cycle". He stated this is one factor utilized by industry, although the companies have complex models.

Mr. Meyers furthered the models vary by company and would be a "netted back price". He listed factors considered in determining exploration and production activities, including differential in transportation cost, whether the oil would be sold interstate or intrastate, pipeline tariffs, incremental facilities costs, whether existing infrastructure would be available, the commercial arrangement for infrastructure, potential productivity rates of the reservoir, etc.

Senator Taylor commented on the large profits of oil companies and the need for those funds to be reinvested in Alaska. While he supported providing $500 million of anticipated revenue to induce additional exploration, he questioned the amount of revenue the State would receive, given the testimony regarding the "bubble" in oil prices. He predicted that significant exploration would occur as a result of the tax incentives but that actual production would not.

KEVIN TABLER, Land and Government Affairs Manager, Union Oil Company, testified via teleconference from an offnet location to express disappointment that concerns he expressed to the Committee at the previous hearing were not addressed in the committee substitute. He pointed out that this bill initially related to royalty reduction necessary for continuation of exploration and infrastructure in the Cook Inlet area, and that the committee substitute adds another component at significant expense that could subsequently jeopardize the original provision. He emphasized the new provision relates to activities in the North Slope but would not benefit activities in Cook Inlet.

Mr. Tabler spoke of wells drilled in the 1960s and 1970 that did not contain oil but could contain natural gas and were ranked as

wildcat exploration. He stated that these are located close to existing infrastructure and would therefore not qualify for the tax credit, although there is no guarantee they contain natural gas. He spoke of the current shortage of natural gas. He suggested a provision to clarify the intent for increased production, as the current language of the bill provides no incentive for independent explorers operating in Cook Inlet.

Mr. Tabler proposed amending Section 3, Sec. 43.55.025 (c)(2), on pages 6, line 30 through page 7, line 4 of the committee substitute to read as follows.

> (2) be for an exploration well that is located and drilled in such a manner that the bottom hole is located not less than three miles away from the bottom hole of an abandoned oil or gas well certified by the AOGCC [Alaska Oil and Gas Conservation Commission] as capable of producing from the same formation in the exploration well;

SFC 03 # 94, Side B 10:27 AM

Mr. Tabler continued this would allow parties to explore for gas in areas that had been explored for oil. He spoke to the different formations and horizons of oil and gas exploration. He remarked the proposed amendment would allow drilling utilizing the existing infrastructure, as intended by the original version of the bill.

Mr. Meyers addressed the proposed amendment, noting the "many different flavors of oil exploration", including "rank wildcats", located far from infrastructure and with little geologic data and increased risk. He stated that with increased known data available, the exploration risk generally decreases. He titled areas within existing production as "extension explorations", noting these typically have significantly more data than the rank wildcat explorations.

Co-Chair Wilken asked if the Department favors or opposes the suggested amendment.

Mr. Meyers replied that the matter needs further discussion and the Department would oppose the amendment until that time. He remarked that the fiscal note would be difficult to quantify, although it would be in a significantly larger amount based on the number of wells that would qualify. He admitted he was unaware of the relationship of AOGCC certification to exploration risk.

STEVE PORTER, Deputy Commissioner, Department of Revenue, testified that if this if bill passes, the Department would review the impacts to Cook Inlet.

Mr. Tabler remained concerned recalling HB 207, of 1995, relating to royalty reduction in Cook Inlet. He asserted the final version incorporated the North Slope and subsequently, "made that bill unusable for us and unworkable." He reiterated the current bill could fail to pass as a result of the increased fiscal note cost. He understood the comments about exploration risk, but disagreed with the Department. He supported the concept proposed in the committee substitute, but warned that it does not apply equably to both "oil provinces".

Co-Chair Wilken applauded the witness's presentation of arguments. He assured that before this bill could pass into law, additional opportunities would be available to address the witness's concerns. He furthered that the Department has committed to review the matter.

Senator Bunde added that dry holes incur a substantial cost and would be a considerable risk.

Mr. Tabler affirmed. He spoke of "pleading for capital" to drill those wells.

Senator Hoffman asked if the July 1, 2007 deadline for this legislation would be in effect if the Alaska National Wildlife Reserve (ANWR) were opened for oil exploration before that date.

Mr. Dickinson answered the credits would still apply.

Senator Hoffman asked whether the provision of this bill should apply to potential activities in ANWR.

Mr. Dickinson responded the intent is to encourage drilling presently and that the legislature could extend the provisions to apply to ANWR.

Senator Hoffman noted that it is known that considerable oil reserves exist in ANWR, and that the State is depending upon an opening.

Senator Hoffman referenced the spreadsheet detailing the cost of exploration and asked about oil development occurring in the other countries listed and the incentives offered in those locations. He expressed the need for a benchmark.

Mr. Dickinson replied that exploration is one factor and that development, transportation, and marketing are also factors. He stated that each fiscal regime is different in the incentives offered.

Senator Hoffman asked what areas exploration is concentrated.

Mr. Dickinson listed areas in the former Soviet Union, noting that although there have been difficulties these areas offer the most enticing incentives.

Co-Chair Wilken appreciated the Committee discussion on this issue.

Senator Taylor offered a motion to report the committee substitute, Version “S”, as amended, from Committee with individual recommendations and new fiscal notes.

Senator Taylor then objected to his motion to comment that this legislation is "very brave" on the part of the Murkowski Administration to deny $100 million to the general fund each year for the next four years and provide that as an investment for future administrations and future legislatures that hopefully would realize a return.

Senator Taylor removed his objection.

Co-Chair Wilken pointed out the maximum exposure is $100 million annually and would not be realized until FY 05. He shared Senator Taylor's concern, but clarified that $400 million is not the correct amount of lost revenues because of increased production revenues.

Co-Chair Green commented that the competition has changed from five years prior and that the State must adjust accordingly to participate.

Co-Chair Wilken added that with regard to oil exploration, Alaska "is sitting still while others are leapfrogging ahead of us with exploration credits."

Senator Hoffman concurred with the comments, but expressed concern that this is monumental legislation considered in the 114th day of the legislative session. He asked why this bill was not introduced two months ago, given that the governor campaigned about resource development. He was unsure that he had adequate time to consider the ramifications, whether this would benefit the State and whether it would actually result in increased exploration activities. He asserted that the Committee has a responsibility to fully consider

matters, and he questioned whether moving this legislation He remarked that despite his concerns, he would not object to this bill moving from Committee.

Co-Chair Wilken countered that legislation should have been introduced two years ago. He informed that he became aware four weeks ago that this legislation was being prepared. He surmised that the Administration has researched the matter and understands the importance and the risks and benefits. He asserted, "finally we have a governor that has the courage to bring this to this table because the prior governor did not."

Without objection, CS SB 185 (FIN) MOVED from Committee with a fiscal noted dated 5/11/03 for $107,900 from the Department of Revenue, and a zero fiscal note dated 5/9/03 from the Department of Natural Resources.

#SB119

> CS FOR SENATE BILL NO. 119(STA)
> "An Act authorizing the Alaska Public Offices Commission to issue advisory opinions; amending campaign financial disclosure requirements and the limits on lobbyists' campaign contributions to candidates; removing municipal elections and municipal officials from the campaign finance and public official financial disclosure laws; amending campaign contribution limits; amending the time limit on contributions after primary elections; amending the complaint procedures of the Alaska Public Offices Commission; amending the definition of 'political party' for state election campaigns; relating to the crime of campaign misconduct; providing for increased use of electronic filing for reports to the Alaska Public Offices Commission; amending the definitions of 'administrative action' and 'lobbyist' in the regulation of lobbying laws; amending the requirements for the reporting of financial interests by public officials; repealing restrictions on solicitation and acceptance of contributions during legislative sessions and in the capital city; making conforming amendments; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated this bill "makes several changes to the statutes governing APOC [Alaska Public Offices Commission]." He indicated a proposed committee substitute, Version "Q".

BROOK MILES, Executive Director, Alaska Public Offices Commission, presented the bill and the proposed committee substitute, Version “Q”. She informed that this bill is the result of numerous Commission discussions regarding "tools necessary to accomplish its mission and concepts to improve the disclosure laws."

Ms. Miles stated this bill would "provide the foundation" for mandatory electronic filing under the campaign disclosure, lobbying and financial disclosure laws.

Ms. Miles furthered that this bill would "codify" the complaint process and provides more restrictive timelines to ensure complaints reach final adjudication sooner. She also noted this bill would provide an expedited process that would include cease and desist powers for the Commission, with respect to alleged violations that if not restrained, could cause irreparable harm or materially affect the outcome of an election.

Ms. Miles remarked this bill would require full disclosure of all campaign contributions and expenditures and would also require the occupation and employer information only for contributors who contribute more than $250. She noted currently this information is required of contributors of more than $100.

Ms. Miles informed that the Commission's regulations governing exempt fundraising events, such as "selling hot dogs on the park strip for 25 cents," would become statutory through this legislation. She explained that in these events, the candidates must disclose only the number of participants and total contribution.

Ms. Miles stated this bill would also raise campaign limits to keep pace with inflationary costs of conducting election campaigns. She noted candidates expending less than $5,000 on a campaign would be exempt from filing disclosure reports; an increase from the current $2,500 limit. She furthered that the" McIntire exemption", titled after a US Supreme Court decision, permitting individuals who distribute handbills or post yard signs, would be exempt from the campaign disclosure laws if they expend $500 or less, which she noted is an increase from the current $250 amount. She also said the amount of individual contributions to candidates or political action committees would increase from $500 to $1,000, and individual contributions to political parities would increase from $5,000 to $10,000, for reporting purposes. She summarized that the current contribution limits would double.

Ms. Miles continued that this legislation would codify the Commission's advisory opinion request. She explained the Commission

currently issues formal binding advice upon request under the campaign disclosure law; however, it was discovered that the Commission might not have this statutory authority.

Ms. Miles stated that this bill would increase the lobbyist registration fees from $100 to $200 per lobbyist for each client in each calendar year. She pointed out this would generate additional program receipts for the Commission.

Ms. Miles remarked this bill would increase the limit for filing sources of income under the financial disclosure laws for public officials and legislators from $1,000 to $5,000 and that ownership of stocks must be reported. She qualified that the filing requirements relating to gifts would not change. She noted that the process for filing disclosure reports would be streamlined.

Ms. Miles concluded that the Commission "strongly" supports this legislation and is "eagerly seeking many of these tools" to assist in achieving its mission.

Senator Taylor asked about prevision changes to prohibit or inhibit a wealthy individual from entering the State and "buying an election." He exampled the State of Washington and Marie Cantwell who ran for congressional office against Slade Gordon, utilizing $37 million of her own funds.

Ms. Miles informed that the Supreme Court has upheld individuals' rights to make independent expenditures, and that the campaign disclosure laws permits independent expenditures by individuals or political groups. She agreed that a person with significant personal wealth could impact on a campaign.

Senator Taylor therefore surmised that the campaign disclosure laws would only restrict middle-income candidates.

Co-Chair Wilken clarified that the US Supreme Court prohibits such restrictions.

Ms. Miles affirmed.

Ms. Miles pointed out language in the bill changing the definition of "express communication" relating to issue advertising and issue advocacy. She informed that the existing definition provides that an express communication must include "vote for" or "don't vote for" "elect or reject, etc." She stated that a decision issued by the US Ninth Circuit Court of Appeals and upheld in other proceedings provides that any inference of an express communication to encourage election or defeat of a candidate must be subject to

campaign disclosure laws.

Co-Chair Green clarified that the changes to financial disclosure requirements would also apply to the spouse of a public official.

Ms. Miles replied that in Co-Chair Green's situation, income received from clients of her husband in amounts $5,000 and higher would be subject to disclosure.

Ms. Miles added the current $1,000 amount has been problematic for State boards and commissions members.

JOE BALASH, Staff to Senator Gene Therriault, referenced Section 18 on page 15 of the committee substitute, Version “Q”, which reads as follows.

> Sec. 18. AS 15.13.400(7) is repealed and reenacted to read:
> (7) “express communications” means a communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate;

Mr. Balash noted the Senate adopted this language unanimously in separate legislation of the prior session, although members of the House of Representatives expressed concern it might not be constitutional. He expressed that this language is necessary to prevent funding from sources outside Alaska used to influence elections.

Senator Taylor challenged that regardless of specific language, the provision is useless if APOC requires several months to enforce violations. He asked whether this legislation would provide faster resolutions.

Mr. Balash replied that this legislation contains a provision relating to expedited review of complaints. He commented that the Governor had proposed eliminating the APOC because "it was not capable of doing its job as a watchdog," and that this legislation provides APOC with the "powers and expectations to act swiftly when the timing is meaningful."

Senator Hoffman asked how this could be accomplished given the negative amounts of the fiscal notes for this bill.

Mr. Balash qualified that the fiscal notes must be substantially revised, noting the $500,000 reduction is in relation to the original version of the bill, which would have eliminated APCO and

transferred its duties to the Lieutenant Governor's Office and the Attorney General. He informed that the Conference Committee of the FY 04 operating budget has restored some funding for administration expenses, and he expressed intent that the remaining $100,000 would be reflected in an updated fiscal note to reflect the increased lobbyist fees.

Co-Chair Wilken asked if the provisions in Section 21 would generate the $100,000. This section on page 16 of the committee substitute Version "Q" reads as follows.

> Sec. 21. AS 24.45.041(g) is amended to read:
> (g) An application for registration as a lobbyist under (a) of this section or for renewal of a registration under (f) of this section is subject to a fee of $250 [$100]. The commission may not accept an application for registration or renew a registration until the fee is paid. This subsection does not apply to a volunteer lobbyist under AS 24.45.161 or a representational lobbyist under regulations of the commission.

Ms. Miles estimated this provision would raise $50,000 or half the amount necessary. She explained this is due to the passage of other legislation that would exempt some parties currently lobbying from disclosure requirements and the registration fees.

Co-Chair Wilken calculated the additional $150 per registered lobbyist would generate $50,000.

Ms. Miles listed 70 professional lobbyists who would still be subject to the disclosure and registration requirements, and 114 part time lobbyists, of whom 75 would likely be exempt.

Senator Hoffman suggested levying the registration fees on a percentage basis to offset the increased expenses.

Mr. Balash informed that the viability of imposing a fee based on the percentage of a contract was researched; however, it would be difficult to ascertain which portion of the contract covers lobbying activities versus consulting.

Co-Chair Wilken pointed out that if the fee were increased to $400, APOC operations would become revenue neutral.

Ms. Miles affirmed.

Senator Bunde questioned the use of "domestic partner".

Ms. Miles relayed that the Senate State Affairs Committee preferred

this terminology to, "spousal equivalent".

Senator Taylor asked about a prohibition of full time lobbyists who are also married to or the domestic partner of a legislator.

Ms. Miles replied that this practice is reportable but not prohibited.

Without objection CS SB 119, 23-GS1090\Q was ADOPTED as a working draft.

Senator Hoffman questioned language in Section 34, amending AS 39.50.030(b), on page 20 lines 22 through 27, which reads as follows.

> (2) the identity, by name and address, of each business in which the person, the person's spouse or domestic partner [SPOUSAL EQUIVALENT], or the person's dependent child has an interest or was a stockholder, owner officer, director, partner, proprietor, or employee during the preceding calendar year, except that an interest of less than $5,000 in the stock of a publicly traded corporation need not be included;
>
> New Text Underlined [DELETED TEXT BRACKETED]

Ms. Miles explained the language relating to stocks was added due to situations in which filers hold portfolios including various stocks valued at less than $5,000 and the current requirement to delineate each company in which stocks are held.

Senator Hoffman asked whether $5,000 is an adequate amount.

Ms. Miles noted that the Commission originally suggested $10,000.

Senator Taylor clarified that any businesses in which a dependent child is involved must be reported.

Ms. Miles affirmed that the filer must name any business in which an interest is held by that party his or her spouse and dependent children. She noted this applies to all businesses regardless of income generated to the filer, spouse or child.

Senator Taylor commented that filers are allowed to repeatedly amend their disclosures if the information is not original declared.

Ms. Miles affirmed.

Senator Olson asked how this legislation relates to other legislation that changed the definition of lobbyist.

Ms. Miles stated that some parties currently registered as lobbyists would not longer be required to register as such and subsequently would not be restricted as lobbyists from making campaign contributions.

Co-Chair Wilken asked the impact of this legislation on municipal elections.

Ms. Miles answered that the committee substitute makes no changes relating to municipal elections.

STEVEN CONN, Alaska Public Interest Research Group, testified via teleconference from Seward to note this bill originally intended to eliminate APOC, and then was amended to change the definition of lobbyist to allow many to contribute to campaigns outside of the election district in which they reside.

SFC 03 # 95, Side A 11:16 AM

Mr. Conn requested the bill be held until the following legislative session to await the outcome of other legislation relating to a sales tax and how lobbyists impact that legislation in determining which parties are exempt from a sales tax.

DAVID FINKELSTEIN testified via teleconference from an offnet location to ask whether municipal government would be allowed to "opt out" of the provisions of this bill.

Ms. Miles reiterated that the provisions relating to APOC governing of municipal elections would be unchanged by this bill.

Mr. Finkelstein referenced written testimony submitted to a prior version of the bill [copy not provided] and indicated he would direct his comments to items included in the committee substitute.

Mr. Finkelstein objected to the increased contribution amounts, noting the individual contribution amount would increase to the amount allowed prior to a ballot initiative and subsequent legislation intended to limit the influence of parties outside the State on elections. He reported that the number of individual contributions from Alaskan residents has increased and he requested the current language remain unchanged.

Mr. Finkelstein requested the contribution limits of groups remain the unchanged. He also opposed the changes to the lobbyist definition pointing out that prior to the 1995 legislation, lobbyist contributions constituted a considerable portion of campaign funding and was suspected to be a "pass through" of funding from lobbyists' clients.

ANDREE MCLEOD testified via teleconference from Anchorage from “the people’s point of view”. She read her written testimony into the record as follows.

> By raising the contribution limits, you’re impacting what economists call the limit price. It’s usually done in order to bar others from entering a market. Increasing the limit price discourages competition.
>
> By increasing the contribution limits, you increase the price of campaigns, and decreasing competition for the seats up for election, and barring others from entering races.
>
> Why the need for the increase? I just ran a race. I had enough to buy signs, flyers and I walked door to door every night. More money only buys more TV and Radio and newspapers. That space is finite. Let’s face it, any more political advertisement and you get what economists call negative externalities. Seeing and hearing your voice will actually discourage people from voting for you or anyone else. People are already turned off by politicians, raising the limits will only increase the negative feelings they hold towards politics.
>
> If contributors have this compelling need to give more money, there are enough charities in the world to satisfy their urge. If they want to exercise their 1st amendment right of free speech by handing out more money, let them satisfy it by giving it to the general fund, in your name.
>
> Also, what you are doing is barring others from running against you and, I have to say, that is a conflict of interest.
>
> Now to the subject of redefining what a lobbyist is. Increasing the numbers of hours to 16 will allow lobbyist to speak to you 64 times, at 15 minutes at a time. Does that really satisfy the purpose of the lobbying statute, which you’ve sworn to protect for us. NO it does not. Does that really protect our rights to know who’s influencing you when it comes to formulating public policy? No it does not.

What about state administrators? They have a need to also know who lobbyists are and if they’re dealing with someone that has only their clients interest in mind. With a list of lobbyists kept at APOC, that information is but a few clicks away. And that makes for an efficient and accountable government.

There are many compelling reasons to keep the number of hours low. But the most compelling is that increasing the number of hours allows lobbyist to participate in campaigns. And having the public not know who the people are that have one pocket full of money and the other full of chits will lead us to corruption of the system. Is that what you want? I don’t think so. Fix APOC if that’s your intent, but please, for gods sake, don’t gut lobbying laws in the process.

Add both the increased contribution limits with the redifinition of lobbyists and you end up with one huge negative externality. That is a legislature peopled with officials elected from the same pools of money, resulting in a decreased number of legislators coming from varied human experiences. End result, mob mentality and no innovative thinking. If that’s where you want Alaska to go, then by all means, vote to increase the limits, shove lobbyists in the dark caverns of the political process, and bar the ordinary, average Alaskan from entering any race from here on in. Leaving that kind legacy is not something to be par of, or proud of.

Senator Bunde referenced the saying, "Beauty is in the eye of the beholder" and asserted that he could not be "bought" for $1000 or $5000 and that not all campaigns are lost because of money.

Senator Taylor noted the witness' comments were submitted in written format [copy on file].

Co-Chair Green commented that arbitrarily established low contribution amounts is "insurance" for incumbents. She surmised that increased contribution allowances would allow challengers to wage more competitive campaigns. She opined that the proposed adjustments are reasonable.

Mr. Balash spoke to Mr. Finkelstein's comments, pointing out that over $2.5 million raised by candidates during the previous election was not reported because it consisted of contributions of less than $100.

Senator B. Stevens clarified that currently contributions of less

than $100 must be reported although the name of the contributor did not.

Ms. Miles affirmed.

Senator B. Stevens asked if current statute stipulates that a candidate is limited to the total amount of cash contributions received.

Ms. Miles replied that a candidate is not limited in the total amount of contributions of less than $100 that could be received. She specified that a candidate could not receive more than $100 from one contributor in a calendar year without reporting that contributor.

Senator Hoffman asked if the allowable contribution that a group that is not political party could make to a political party would increase from $1,000 to $4,000.

Ms. Miles affirmed.

Senator Hoffman asked whether this would be the largest percentage increase of allowable contributions.

Ms. Miles again affirmed.

Senator Taylor spoke to the concern over the small contributions and questioned the cost benefit of requiring candidates to report each contributor. He suggested the only benefit of the reporting requirements has been to allow opponents to ascertain the amount of funds raised to allow them to counter their fundraising efforts. He opined that this legislation is not adequate in addressing the situation, characterizing the system as "terribly unbalanced." He explained that wealthy candidates could contribute an unlimited amount, while "unwealthy candidates" are restricted in the amount of funds they could receive.

Amendment #1: This amendment lowers the amount of allowable contribution from a group that is not a political party to a political party from $4,000 to $2,000. The amendment changes language in AS 15.13.070(c)(3) in Section 9 on page 6 line 28 of the committee substitute.

Senator Hoffman moved for adoption.

Co-Chair Wilken objected.

Senator Hoffman noted this amendment would allow an increase of

twice the current amount, rather than a fourfold increase as proposed in the committee substitute.

Senator Bunde asked for a response from APOC.

Ms. Miles stated larger increase was proposed in "deference to the political parties themselves and what they stand for and what they try to accomplish".

Senator Hoffman commented on the options of groups that are not a political party to contribute to a candidate, another group or a political party.

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman and Senator Olson

OPPOSED: Senator Taylor, Senator Bunde, Senator B. Stevens, Co-Chair Green and Co-Chair Wilken

The motion FAILED (2-5)

The amendment FAILED to be adopted.

Amendment #2: This amendment increases the allowable amount of interest in the stock of a publicly traded corporation exempt from reporting requirements by a public official or candidate from $5,000 to $10,000. The amended language of Section 34. AS 39.50.030(b)(2) on page 20 lines 22 – 27 reads as follows.

> (2) the identity, by name and address, of each business in which the person's spouse or domestic partner [SPOUSAL EQUIVALENT], or the person's dependent child has an interest or was a stockholder, owner, officer, director, partner, proprietor, or employee during the preceding calendar year, except that an interest of less than $10,000 in the stock of a publicly traded corporation need not be included;
>
> New Text Underlined [DELETED TEXT BRACKETED]

Senator Hoffman moved for adoption noting this is the amount originally requested by APOC.

Co-Chair Wilken objected.

Senator B. Stevens asked when the increase was reduced to $5,000.

Mr. Balash replied that the current amount is $1,000, the Senate

State Affairs Committee increased then amount to $10,000 and that the draft committee substitute reduced each $10,000 amount to $5,000 in this legislation. He explained this was done "for no particular reason" beyond "being uniform across the board."

Co-Chair Wilken removed his objection to the adoption of the amendment.

Senator Taylor offered a motion to amend the amendment to replace “$5,000” with “$10,000” wherever it appears in the committee substitute.

Co-Chair Wilken objected, stating preference for addressing each item individually.

Senator B. Stevens pointed out the amendment applies to financial disclosures by legislators and public officials and asked for a detailing of what the amendment to the amendment would affect.

Mr. Balash explained the amendment to the amendment would change limits pertaining to loans, loan guarantees, fiduciary relationships, as well as income reporting requirements.

Senator Taylor WITHDREW his motion to amend the amendment without objection.

The amendment was ADOPTED without objection.

Amendment #3: This amendment increases the amount of certain income that must be reported by legislators, public members of the committee, and legislative directors to APOC, from $5,000, as proposed in the committee substitute, to $10,000. The amended language of Sec. 30. AS 24.60.200 (2) on page 19 lines 18 – 24 reads as follows.

> (2) as to income in excess of <u>$10,000</u> [$1,000] received as compensation for personal services, the name and address of the source of the income, and a statement describing the nature of the services performed; if the source of income is known or reasonably should be known to have a substantial interest in legislative, administrative, or political action and the recipient of the income is a legislator or a legislative director, the amount of income received from the source shall be disclosed;

The amended language of Sec. 34. AS 39.50.030(b)(1), (4) and (5) on page 20, lines 17 – 21, and page 21, lines 5 - 20 reads as follows.

(1)The source of all income over $10,000 [$1,000] during the preceding calendar year, including taxable and nontaxable capital gains, received by the person, the person's spouse or domestic partner [SPOUSAL EQUIVALENT], or the person's dependent child, except that a source of income that is a gift must be included if the value of the gift exceeds $250;

…

(4)[5] the identity of each trust or other fiduciary relation in which the person, the person's spouse or domestic partner [SPOUSAL EQUIVALENT], or the person's dependent child held a beneficial interest exceeding $10,000 [$1,000] during the preceding calendar year, a description and identification of the property contained in the each trust or relation, an the nature and extent of the beneficial interest in it;

(5)[6] any loan or loan guarantee of more than $10,000 [$1,000] made to the person, the person's spouse or domestic partner [SPOUSAL EQUIVALENT], or the person's dependent child, and the identity of the maker of the loan or loan guarantor and the identity of each creditor to whom the person, the person's spouse or domestic partner [SPOUSAL EQUIVALENT], or the person's dependent child owed more than $10,000 [$1,000]; this paragraph requires disclosure of a loan, loan guarantee, or indebtedness only if the loan or guarantee was made, of the amount still owing on the loan, loan guarantee, or indebtedness was more than $10,000 [$1,000] at any time during the preceding calendar year.

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Ms. Miles briefly explained the components of the amendment.

Senator Hoffman clarified that each component of the amendment would increase the amount to that recommended by APOC.

Ms. Miles affirmed.

Senator Taylor moved for adoption.

There was no objection and the amendment was ADOPTED.

Senator Taylor asked if other provisions in the committee substitute reduce the proposed increase from $10,000 to $5,000, as contained in the original bill.

Mr. Balash responded that other references to dollar amounts relate

to campaign contributions rather than financial disclosures of candidates and public officials.

Senator Olson asked the total amount of all contributions reported from the previous election to compare with the $250 million amount of total contributions of less than $100.

Mr. Balash stated that some campaigns received a higher concentration of the smaller contributions.

Ms. Miles listed $11,370,000 as the amount contributed to all campaigns in the 2002 general election.

Co-Chair Green asked whether the committee substitute would require reporting of the name, address and employer of all contributors regardless of the donation amount.

Ms. Miles responded that the name and address would be required. She noted this change would be enacted through the deletion of current statutory language.

Co-Chair Green commented that many people wish to contribute smaller amounts to campaigns but do not want their name associated with political activities. She questioned the need for the provision requiring that all contributors' names be reported.

Ms. Miles responded that currently, candidates are required to maintain a record of the names of all contributors, regardless of the amount of a contribution. She stated this information is not required in the disclosure report, but must be made available to APOC in the event of a requested audit. She explained the proposed change to include this information in the disclosure report is an attempt to "rein in" the number of audit requests as well as to be compatible with electronic campaign software programs. She qualified that the names of contributors giving less than $50 at "high volume low cost fundraising events" would not be made public.

Senator Bunde understood the desire of contributors of small amounts to be exempt from the reporting requirements; however, he pointed to the significant percentage of the total contributions that are less than $100 each. He opined that the "greater good would outweigh the concern of the individual for privacy."

Senator B. Stevens asked if the $11.3 million raised during the previous campaign included statewide elections or only legislative elections.

Ms. Miles replied this amount includes statewide elections.

Senator B. Stevens asked the amount raised for statewide elections and the amount raised for legislative elections.

Ms. Miles did not have the information.

Senator B. Stevens surmised the significant portion of the total funding was related to the three statewide seats decided in the previous election.

Ms. Miles agreed and approximated that the "main" candidates for these seats expended $1.5 million each.

Senator B. Stevens favored full disclosure. He asserted that candidates are aware of the names of each contributor, as they write thank you notes to every person who donates to their campaign. Therefore, he stated reporting this information would not be an added burden.

Senator Hoffman agreed with Co-Chair Green that the purpose of disclosure is to identify large contributors and perhaps show who could be "buying influence". He reiterated that many contributors do not wish to be affiliated with any campaign and predicted that the number of smaller donations could "dramatically" reduce if individuals knew their names would be made public.

Senator Bunde remarked that ten employees of one company each contributing $99 equals almost $1,000 and is therefore a large contributor. He suggested that people not wishing to be "counted" could instead "provide sweat equity" such as posting signs, distributing flyers, etc.

Senator Olson opined that if the goal is to support participation, the process should provide encouragement for contributors. Otherwise, he cautioned that only the "big players" would be involved.

Senator Taylor exampled inviting the community to a "hot dog and chili feed" with a basket set out to accept contributions, which would be received in checks or cash. He asked how candidates would be expected to account for cash received at these functions. He also expressed concern about accounting for sales of $1 raffle tickets. He warned that failure to accurately account for each of these contributions would result in a candidate's opponent "vilifying" them in the media and insinuating that the candidate was accepting $50,000 in "some back room".

Amendment #4: This amendment restores and amends statutory language

removed by this legislation thereby increasing from $100 the required contribution amount each candidate must report. The amended language in Section 2. AS 15.13.040(a)(1)(C) and Section 3. AS 15.13.040(b)(3) on page 3, lines 11 – 15 and lines 26 – 31 and page 4, lines 1 and 2 reads as follows.

> (C) and for all contributions in excess of $999 in the aggregate a year, the name, address, [PRINCIPAL OCCUPATION, AND EMPLOYER OF THE CONTRIBUTOR AND THE] date, and amount contributed by each contributor; and
>
> …
>
> (3) and for all contributions in excess of $999 in the aggregate a gear, the name, address [PRINCIPAL OCCUPATION, AND EMPLOYER OF THE CONTRIBUTOR, AND THE] date, and amount contributed by each contributor and, for contributions in excess of $250 in the aggregate during the calendar year, the principal occupation and employer of the contributor [; FOR THE PURPOSES OF THIS PARAGRAPH, "CONTRIBUTOR" MEANS THE TRUE SOURCE OF THE FUNDS, PROPERTY, OR SERVICES BEING CONTRIBUTED]; and
>
> New Text Underlined [DELETED TEXT BRACKETED]

Senator Taylor moved for adoption.

Co-Chair Wilken clarified the intent is to restore the existing provisions in statute.

SFC 03 # 95, Side B 12:03 PM

Mr. Balash offered suggestions as to how the low cost fundraising activities could be exempt from the individual contribution reporting requirements.

Co-Chair Green questioned the deletion of "principal occupation and employer of the contributor."

Without objection, Senator Taylor WITHDREW his motion to adopt the amendment.

Amendment #5: This amendment restores statutory language removed by this legislation relating to the required contribution amounts each candidate must report. The amended language in Section 2. AS 15.13.040(a)(1)(C) and Section 3. AS 15.13.040(b)(3) on page 3,

lines 11 – 15 and lines 26 – 31 and page 4, lines 1 and 2 reads as follows.

> (C) and for all contributions in excess of $100 in the aggregate a year, the name, address, [PRINCIPAL OCCUPATION, AND EMPLOYER OF THE CONTRIBUTOR AND THE] date, and amount contributed by each contributor; and
>
> …
>
> (3) and for all contributions in excess of $100 in the aggregate a gear, the name, address [PRINCIPAL OCCUPATION, AND EMPLOYER OF THE CONTRIBUTOR, AND THE] date, and amount contributed by each contributor and, for contributions in excess of $250 in the aggregate during the calendar year, the principal occupation and employer of the contributor [; FOR THE PURPOSES OF THIS PARAGRAPH, "CONTRIBUTOR" MEANS THE TRUE SOURCE OF THE FUNDS, PROPERTY, OR SERVICES BEING CONTRIBUTED]; and
>
> New Text Underlined [DELETED TEXT BRACKETED]

Senator Taylor moved for adoption.

Senator Taylor explained that a contribution of less than $100 could be received without the candidate reporting the name of the contributor. However, he noted the candidate must keep record of the name of that contributor in the event that person contributed additional funds, which would raise the total contribution to an amount in which the name must be reported.

Co-Chair Wilken asked if this reflects current practice.

Ms. Miles affirmed.

Co-Chair Green referenced Section 2. AS 15.13.040(a)(1)(D) on page 3, lines 15-17, which reads as follows.

> (D) for contributions in excess of $250 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and
>
> New Text Underlined

Co-Chair Green questioned why the name and address of the contributor and the date the contribution is received is not included in this language.

Ms. Miles detailed that if this amendment were adopted, a candidate receiving a contribution of $100 or less would be required to report the amount of the funds received and record the name of the contributor. She continued that a candidate receiving a contribution of between $100.01 and $250 must report the name and address of the contributor. Contributions of more than $250, she furthered, would require the reporting of the name, address, occupation and employer of the contributor.

Senator Bunde objected to the adoption of the amendment.

Senator Taylor pointed out this amendment would increase the amount of an allowable contribution requiring the reporting of a contributor's occupation and employer from over $100 to over $250.

Ms. Miles restated her interpretation of the amendment at Senator Hoffman's request.

Senator Bunde spoke to his objection. He understood individuals' concern for privacy, but asserted that to participate in the political process, people must be willing to "acknowledge" their involvement. He questioned the reason for exempting one-fifth of the total campaign contributions. He also noted this information is available to the public if an audit is requested and therefore contributors are "given a false illusion of privacy."

Senator Olson stressed that most rural residents do not have bank accounts and operate on a "cash economy" and that the reporting requirements would be cumbersome.

Senator Taylor agreed with the arguments in favor of full disclosure; however, remarked that the "most zealot advocates" of disclosure realize the "diminimous" returns on some contributions.

Senator B. Stevens stated he objected to the amendment because it would provide no limitation to the amount an individual could contribute to a campaign.

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman, Senator Olson, Senator Taylor, Co-Chair Green and Co-Chair Wilken

OPPOSED: Senator Bunde and Senator B. Stevens

The motion PASSED (5-2)

The amendment was ADOPTED.

Senator Taylor offered a motion to report the committee substitute, as amended from Committee with individual recommendations and new fiscal note.

Without objection CS SB 119 (FIN) MOVED from Committee with fiscal note dated 5/14/03 for $100,000 from the Department of Administration.

#SB213

SENATE BILL NO. 213
"An Act establishing the Knik Arm Bridge and Toll Authority and relating to that authority; and providing for an effective date."

Senator Taylor offered a motion to rescind the Committee's action to report this bill from Committee for the purposes of adopting the following amendment.

Amendment #2: This amendment inserts two subsections in Sec. 44.90.030. Board of directors authority., of Section 1. The amended language on page 2, following line 13 reads as follows.

(4) one nonvoting member who is a member of the state house of representatives appointed by the speaker of the house and who serves at the pleasure of the speaker of the house; the speaker of the house shall consider the appointment of a legislator elected from a house district that lies entirely or partially within the Municipality of Anchorage or the Matanuska-Susitna Borough for appointment under this paragraph; and

(5) one nonvoting member who is a member of the state senate appointed by the president of the senate and who serves at the pleasure of the president of the senate; the president of the senate shall consider the appointment of a senator elected from a senate district that lies entirely or partially within the Municipality of Anchorage or the Matanuska-Susitna Borough for appointment under this paragraph.

This amendment also clarifies Sec. 44.90.041. Operation of authority., to apply to “voting” members of the board. The amended language on page 2, lines 22 and 23 reads as follows.

(b) Two voting members of the board constitute a quorum.
(c) The public member of the board serves as the chair of

the board. The voting members of the board shall elect other officers they determine desirable.

Senator Bunde objected to the motion to rescind the Committee's action. He reiterated his earlier comments relating to other commissions with legislative members that have functioned for years without challenge.

Senator Olson noted the legislative members of the Alaska Commission on Postsecondary Education (ACPE) are voting positions and the membership positions proposed in the amendment would be nonvoting and asked whether this could affect the ability to rely on the precedence established with the ACPE system.

Senator Bunde surmised it would not and suggested that because these positions would be nonvoting, they would be less subject to constitutionality challenges.

Senator Hoffman commented that the current language of the bill is appropriate.

Senator Taylor stated that discussion on the proposed amendment should not occur before the bill was before the Committee.

Co-Chair Wilken ruled the discussion could include the amendment, as the intent of rescinding the motion to report the bill from Committee was for the purposes of considering the amendment.

A roll call was taken on the motion.

IN FAVOR: Senator Taylor

OPPOSED: Senator Bunde, Senator Hoffman, Senator Olson, Co-Chair Green and Co-Chair Wilken

ABSENT: Senator B. Stevens

The motion FAILED (1-5-1)

#SB202

SENATE BILL NO. 202
"An Act relating to school transportation; relating to the base student allocation used in the formula for state funding of public education; and providing for an effective date."

This was the third hearing for this bill in the Senate Finance

Committee.

Co-Chair Wilken stated this bill, "revises the method in which local school districts are reimbursed for pupil transportation costs. Under this bill, a pupil transportation grant program is established. In addition it raises the student dollar; an increase of $159, which is the conversion from LOGs [Learning Opportunity Grants] to student dollars."

JENNIE HAMMOND, resident of Nikiski, testified via teleconference from Kenai in opposition to the bill. She expressed concerns that the Kenai Peninsula Borough School District would "lose" funds as a result of the transportation provisions. She spoke of academic programs and other operations that have received reduced funding in the past several years. She informed that transportation costs within the district vary by community and that funding should be assessed based on the cost of each route rather than on the number of students in a district. She requested this portion of the bill be "tabled" to garner additional input from affected districts. She furthered that State, federal and local parties should discuss the issue of who is responsible for the education of children. She stated that transportation and foundation formula funding are different issues that should be addressed independently. She indicated that as a parent, she is willing to contribute to the cost of her children's education.

Senator Bunde asked if the Kenai school district has considered requesting that parents help pay the cost of transporting students.

Ms. Hammond repeated that the matter should be discussed in school districts across Alaska.

TODD SYVERSON, Assistant Superintendent, Kenai Peninsula Borough School District, testified via teleconference from Kenai to express concerns that the District has with this legislation. He stated this bill would reduce funding for pupil transportation and informed that the District must transport students 45 miles from Cooper Landing to Skyview High School, and from Moose Pass to Seward, regardless of the number of students along each route. He also told of the special education students that must be transported, often involving "singleton routes". He explained this involves picking up only one student and transporting them to the school equipped to meet their special requirements. He pointed out this legislation does not address the extra expense of transporting special education students.

Mr. Syverson supported Co-Chair Wilken's proposed amendment to inflation proof the funding for pupil transportation funding.

Mr. Syverson appreciated the proposed increase to the base student allocation, but stressed the amount of the increase is inadequate to address the needs of the District. He also noted that an area cost differential is not addressed in this bill.

Co-Chair Wilken requested Mr. Jeans address comments on the differing costs of routes and special education students' routes.

EDDY JEANS, Manager, School Finance and Facilities Section, Education Support Services, Department of Education and Early Development, testified the grant amount awarded to each school district would be determined by dividing the amount of the FY03 State appropriation by the total number of students enrolled in the district during FY 03. He stated that therefore, the costlier routes are already reimbursed in FY 03. He qualified this legislation does not provide increased funding in the event a district must add any special education routes or the development of a new subdivision.

Co-Chair Wilken remarked this has been an important concept the Committee has considered.

Amendment #1: This amendment inserts a new bill section on page 2, following line 7 to read as follows.

> Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to read:
>
> TRANSITION PROVISION FOR TRANSPORTATION FUNDING. In addition to funding provided for public transportation under AS 14.09.010, a school district that provides student transportation is, beginning July 1, 2004, and ending June 30, 2006, eligible to receive additional funding for operating the student transportation system in an amount equal to funding provided to the school district under AS 14.09.010 multiplied by a percentage equal to 50 percent of any percentage increase during the second preceding calendar year in the consumer price index for all urban consumers for the Anchorage metropolitan area, compiled by the Bureau of Labor Statistics, United States Department of Labor. The index for January 2002 is the reference base index.

Co-Chair Wilken moved for adoption.

Co-Chair Green objected.

Co-Chair Wilken explained this amendment acknowledges that some

school districts would prefer transitional funding to implement the changes. Therefore, he stated this amendment would increase the "per pupil grant" for FY 05 and FY 06 calculated from the consumer price index for Anchorage.

Co-Chair Green asked impacts of this amendment.

Co-Chair Wilken noted a draft fiscal note dated 5/14/03 for the Pupil Transportation budget request unit (BRU).

Senator Hoffman understood the increase would be one half of two percent, or a one percent increase.

Co-Chair Wilken clarified the actual amount of the increase could vary based on the consumer price index for Anchorage.

Senator Hoffman asked why the increase would not be a full percent, rather than a partial percentage of the consumer price index.

Co-Chair Wilken responded it is a "matter of money", and that increasing funding for this item could not exceed $1 million.

Co-Chair Green opposed funding items based on any index, as it would become an "automatic escalator".

Co-Chair Wilken shared the concern about automatic increases, but expressed that because this legislation would impose a significant change to the program, this amendment would lessen the fiscal impact to school districts.

Senator Hoffman pointed out the increase would end after FY 06.

Senator Hoffman moved to amend the amendment to increase the multiplier percentage of any percentage increase during the second preceding calendar year from 50 to 75 percent.

Co-Chair Green and Co-Chair Wilken objected.

A roll call was taken on the motion to amend the amendment.

IN FAVOR: Senator Hoffman

OPPOSED: Senator B. Stevens, Senator Bunde, Co-Chair Green and Co-Chair Wilken

ABSENT: Senator Olson and Senator Taylor

The motion FAILED (1-4-2)

The amendment FAILED to be amended.

Co-Chair Wilken affirmed his intent that this increase would not extend beyond FY 06 and that the funding is solely for transitional purposes.

Senator B. Stevens asked how the increase would be distributed given that the calculation is different than the method used to determine the grant funding for each district.

Mr. Jeans referenced the fiscal note, which details the dollar amount allocated per student to each district. He explained these amounts would be adjusted by one percent of the consumer price index for Anchorage.

Senator Taylor clarified that school districts with declining enrollments would receive reduced funding and those funds would be reallocated to districts with increased enrollment.

Mr. Jeans detailed the per student allocation would be calculated for each district utilizing the number of students and the amount appropriated in the base year of FY 03. He continued that the actual number of students enrolled in FY 05 would be multiplied by the per student allocation for that district to determine the grant amount for FY 05. He affirmed that districts with declined enrollment would receive fewer funds under this proposal.

Senator Taylor expressed confusion, saying that if the consumer price index increases dramatically the actual appropriation would increase but not based on per capita.

Co-Chair Wilken understood that districts with declining enrollment would receive less of a reduction under the provisions of this amendment.

Mr. Jeans affirmed.

Senator B. Stevens asked if the baseline for determining grant funding of FY 03 be utilized for calculating the grant amount for FY 06.

Mr. Jeans explained the adjustment proposed in this amendment for FY 06 would be based on the FY 05 appropriation. He clarified the increase of FY 05 would "roll forward" and the adjustment would be "added to the prior year".

Co-Chair Wilken furthered the increase would be cumulative.

Senator Hoffman asked when and how often the consumer price index for Anchorage is determined.

Mr. Jeans replied this information is published on the Department of Labor and Workforce Development website.

Senator B. Stevens informed the index is calculated annually on July 1.

Co-Chair Green removed her objection to the adoption to the amendment and Amendment #1 was ADOPTED.

Amendment #2: This amendment deletes “to school transportation; relating” from the title of the bill. The amended bill title reads as follows.

> “An Act relating to the base student allocation used in the formula for state funding of public education; and providing for an effective date.”

This amendment also deletes Section 1 from the bill, amending AS 14.09.010. Transportation of pupils.

Senator Hoffman moved for adoption.

Co-Chair Wilken objected.

Senator Hoffman stated this amendment would eliminate the grant formula proposed in this bill.

Co-Chair Wilken understood this would "continue the status quo" of the current system.

Senator Hoffman affirmed.

A roll call was taken on the motion.

IN FAVOR: Senator Taylor, Senator Hoffman and Senator Olson

OPPOSED: Senator B. Stevens, Co-Chair Green and Co-Chair Wilken

ABSENT: Senator Bunde

The motion FAILED (3-3-1)

The amendment FAILED to be adopted.

Amendment #3: This amendment repeals the provisions of Section 1 of the bill, amending AS 14.09.010. Transportation of pupils., on July 1, 2006.

Senator Hoffman moved for adoption.

Co-Chair Wilken objected for an explanation.

Senator Hoffman pointed out that the impacts of the grant proposal are unknown. He asserted the proposal is unfair to the school districts located in his election district. He remarked it would penalize the districts that have been frugal and kept costs down and reward the districts that have allowed costs to "run willy-nilly".

Senator Hoffman stated this amendment would implement the program for two years, after which it could be evaluated with input from school districts and a fairer program could be created.

Co-Chair Wilken maintained his objection.

A roll call was taken on the motion.

IN FAVOR: Senator Taylor, Senator Hoffman and Senator Olson

OPPOSED: Senator B. Stevens, Co-Chair Green and Co-Chair Wilken

ABSENT: Senator Bunde

The motion FAILED (3-3-1)

The amendment FAILED to be adopted.

Amendment #4: This amendment increases the base student allocation from $4,169 to $4,280.

Senator Hoffman moved for adoption.

Co-Chair Wilken objected.

Senator Hoffman remarked, "The cost of education has been stagnant" and that the National Education Association-Alaska and some school districts support the amount proposed in this amendment.

Senator Taylor expressed concern about the unknown amount of education funding that would be appropriated in the FY 04 operating budget. He reminded that he has supported the proposed increase in the past and would continue to support it.

Co-Chair Wilken pointed out the fiscal note for this amendment would be approximately $41 million.

Mr. Jeans affirmed.

Senator Bunde moved to amend the amendment to change the funding source to earnings of the permanent fund.

Co-Chair Wilken objected.

A roll call was taken on the motion to amend the amendment.

IN FAVOR: Senator Bunde, Senator Hoffman and Senator Olson

OPPOSED: Senator B. Stevens, Senator Taylor, Co-Chair Green and Co-Chair Wilken

The motion FAILED (3-4)

The amendment FAILED to be amended.

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

IN FAVOR: Senator Hoffman, Senator Olson and Senator Taylor

OPPOSED: Senator Bunde, Senator B. Stevens, Co-Chair Green and Co-Chair Wilken

The motion FAILED (3-4)

The amendment FAILED to be adopted.

Co-Chair Wilken recalled a discussion between himself and Mr. Jeans regarding instituting a specific funding amount into statute rather than a funding formula.

Mr. Jeans explained the option of listing in statute a specific dollar amount to be appropriated to each school district. He cautioned against this practice, warning that individual districts would begin lobbying for an increase to their district. He furthered that it would be difficult to justify funding changes to one districts without reviewing all districts.

Senator Taylor countered that rather than assigning a specific funding amount to each school district, this legislation institutes a formula based on number of students enrolled during FY 03. He expounded on the inequity of this system to school districts that

have declining enrollment.

Senator Hoffman recalled provisions included in the legislation establishing the foundation funding formula to address the "eroding floor" in an attempt to achieve equity. He asked whether a similar provision has been considered for this formula program as well. He exampled that an upper limit of $1,000 per student could be phased in so that over a period of time, "restraints" could be imposed to address those routes currently costing $1,200 per student.

Co-Chair Wilken asserted that changes would not be made to increase funding to this program. He pointed out this has been a "cost plus" program across the State and he surmised that program managers would identify sufficient funding to operate routes as efficiently as possible.

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Co-Chair Wilken continued that decisions on how to efficiently deliver education services must be made locally by school boards rather than by the legislature. He predicted this legislation would result in a "vast improvement" in the operation of the pupil transportation system and funds saved that could be spent "in the classroom".

Senator Taylor agreed with Co-Chair Wilken's concerns about the rising costs of pupil transportation and pointed out that until recent years, the legislature has not fully funded these expenses. He surmised this caused the costs to rise dramatically and inefficiencies especially in larger school districts with "economies of scale". He stressed that much of the expense is the result of federal mandates and compliance with the Americans with Disability Act requirements.

Senator Taylor referenced the hold harmless provision intended to limit the impact to the two largest school districts from the consolidation of the LOGs into the funding formula. He asserted that a hold harmless provision should be adopted for the proposed pupil transportation grant formula to limit the impact to schools with declining enrollment.

Co-Chair Wilken agreed this proposal does not include a hold harmless provision, although "token" funding would be allocated to limit the impact. He cited the higher costs of transporting certain special needs students and the significant percentage this comprises of the total pupil transportation expenditures. He

referenced a spreadsheet titled, "Department of Education and Early Development, Reimbursable Transportation Costs Per Student (Regular V. Sped)--FY 02, May 8, 2003".

Mr. Jeans qualified the information on the spreadsheets was gathered from each school district and includes transportation of all special education students, not just those requiring additional assistance, such as full time aid workers or wheelchair lift.

Mr. Jeans reiterated that the higher cost of transporting special education students is included in the base formula. He relayed the concern of school districts is their "profile" would change "so dramatically" as to be negatively affected by this program. He stressed that 100 percent of the special needs expenses are currently reimbursed by the State.

Senator Taylor asked how special education student transportation cost increases would be addressed in contract negotiations.

Mr. Jeans responded these costs are currently reimbursed calculated by dividing the student population by the total transportation cost per district to determine the allocation for each district. He explained that this formula does not make adjustments if the percentage of special needs students in a district increases.

Senator Taylor commented that currently, the funding is provided based on the needs of students and that under this proposal future funding would be provided based on the total number of students, regardless of their special needs.

Mr. Jeans affirmed, and again voiced the concern of school districts that the amount of funding does not increase if the percentage of a district's population that has special needs changes.

Senator Bunde surmised that such percentage increases have not occurred in the past.

Mr. Jeans affirmed.

Senator Taylor agreed with Senator Bunde that such changes have not occurred historically on statewide average. However, he remarked that the percentage change considerably in smaller school districts when "a family moves to town" that has one or more special needs children.

Co-Chair Green offered a motion to report the bill, as amended from committee with accompanying and new fiscal notes.

There was no objection and CS SB 220 (FIN) MOVED from Committee with fiscal note #1 of $32,136,600 for the Department of Education and Early Development, K-12 Support BRU, Foundation Program component, and a new fiscal noted dated 5/14/03 of $10,745,600 for the Department of Education and Early Development, Pupil Transportation BRU and component.

AT EASE 1:02 PM / 1:03 PM

AT EASE 1:03 PM / 4:52 PM

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ADJOURNMENT

Co-Chair Gary Wilken adjourned the meeting at 04:52 PM