

MINUTES
SENATE FINANCE COMMITTEE
March 30, 2004
9:04 AM

TAPES

SFC-04 # 62, Side A
SFC 04 # 63, Side A
SFC 04 # 63, Side B

CALL TO ORDER

Co-Chair Gary Wilken convened the meeting at approximately 9:04 AM.

PRESENT

Senator Gary Wilken, Co-Chair
Co-Chair Lyda Green, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Lyman Hoffman
Senator Donny Olson
Senator B. Stevens

Also Attending: SENATOR JOHN COWDERY, SENATOR RALPH SEEKINS;
REPRESENTATIVE JIM HOLM; CHERYL FRESKA, Director, Office of
Management and Budget, Office of the Governor; RICK URION,
Director, Division of Occupational Licensing, Department of
Community and Economic Development; LUCKY SCHULTZ, Staff to Senator
Fred Dyson; CHERYL FRASCA, Director, Office of Management and
Budget, Office of the Governor; BRUCE TANGEMAN, Fiscal Analyst,
Legislative Finance Division

Attending via Teleconference: From Anchorage: STEVE ASHMAN,
Director, Division of Senior and Disabilities Services, Department
of Health and Social Services; FRANK RICHARDS, State Maintenance
and Operations Engineer, Statewide Maintenance Division, Department
of Transportation and Public Facilities; DON VALESKE, Public
Employees Local 71; From Fairbanks: DR. SCOTT LUPER, Naturopathic
Doctor; From Offnet Sites: EDEN LARSEN, President and CEO,
Associated Builders and Contractors; JEFF ALLING, Representative,
ALCAN Builders Incorporated; BARRY CHRISTENSEN, Practicing
Community Pharmacist and Legislative Chair, Alaska Pharmacists
Association

SUMMARY INFORMATION

HB 394-COMMISSION ON AGING

The Committee heard from the sponsor, the Department of Health and Social Services, and reported the bill from Committee.

SB 40-CONSTRUCTION OF HIGHWAYS BY DOTPF

The Committee heard from the sponsor, the Department of Transportation and Public Facilities, and took public testimony. Two amendments were considered with one being adopted and one failing. The bill reported from Committee.

SB 306-NATUROPATHIC MEDICINE TASK FORCE

The Committee heard from the sponsor, the Department of Commerce, Community and Economic Development, the medical and pharmaceutical industry. The bill was held in Committee.

SB 298-OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

The Committee heard from the Sponsor. The bill was held in Committee.

SJR 3-CONST AM: APPROPRIATION/SPENDING LIMIT

The Committee heard from the sponsor, the Office of Management and Budget, and the Division of Legislative Finance. The bill was held in Committee.

Co-Chair Wilken introduced Close Up Students from Aniak High School, North Pole Middle School, the Hoonah School District, and their accompanying teachers.

#hb394

CS FOR HOUSE BILL NO. 394(HES)

"An Act extending the termination date of the Alaska Commission on Aging and making technical revisions to citations related to the commission."

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

Co-Chair Wilken explained that this legislation would extend the

Alaska Commission on Aging until June 30, 2008. A Division of Legislative Audit report [copy on file] dated October 1, 2003 supports the extension.

REPRESENTATIVE JIM HOLM, the bill's sponsor, informed the Committee that this bill would extend the Alaska Commission on Aging beyond its termination date. This Commission functions within the Department of Health and Social Services and is charged with broad responsibilities including providing assistance to seniors and informing Alaskans of the needs of this older community. It provides dignity and independence to seniors through programs and services funded by the Commission, and allows more than 53,000 seniors to lead useful and meaningful lives. He urged the Committee to support the bill.

Co-Chair Wilken announced that as per the Committee's request, Pat Davidson, Legislative Auditor, Legislative Audit Division, is in attendance to respond to questions regarding the Audit.

Senator Dyson asked the Department's reaction to the Audit recommendations.

STEVE ASHMAN, Director, Division of Senior and Disabilities Services, Department of Health and Social Services, testified via teleconference from Anchorage and stated that some of the deficiencies highlighted in the Audit pertaining to senior employment services and other components have either been or would be corrected. The Division was re-organized within the past year and that efforts are being undertaken to insure that it is in compliance with State and federal program regulations.

Senator Dyson, noting that the Legislature could extend the termination date beyond the year 2008, asked whether this should be a consideration as the issues of concern are known, are being addressed, and the aging population of the State would continue to increase.

Representative Holm agreed that the Commission is addressing its problems; however, he stated that due to the fact that the Audit does reflect that there are concerns, extending the Commission to the year 2008 is appropriate at this time. He stated that a longer-term extension might be considered in the year 2008.

Co-Chair Green, in response to Senator Dyson's question, stated that it might be possible in the future to consolidate groups that address aging and senior care issues. Therefore, she supported the extension date, as proposed, in order to allow for merging of boards and commissions in the future, as deemed appropriate.

Co-Chair Green offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

There being no objection, CS HB 394(HES) was REPORTED from Committee with fiscal note #2 in the amount of \$417,900 from the Department of Health and Social Services.

#sb40

SENATE BILL NO. 40

"An Act relating to construction of highways by the Department of Transportation and Public Facilities."

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

Co-Chair Wilken explained that this bill would limit the use of Force Account Construction funds to highway construction projects that cost less than \$250,000. He noted that bill version 23-LS0381\A, which was initially heard during the First Session of the Twenty-Third Legislature, is before the Committee.

SENATOR JOHN COWDERY, the bill's sponsor, explained that this legislation was introduced in response to concerns from private construction contractors regarding the fact that a \$2.4 million highway construction project at St. Mary's in Rural Alaska was conducted by the State through the Force Account process and without abiding by the State Procurement Code that requires a competitive bid process be utilized.

Senator Cowdery stated that the legislation was developed following conversations with contractors and discussions with the Department of Transportation and Public Facilities (DOT). He noted that DOT was also asked to develop a Statewide Delivery Order maintenance contract that would require a 24-hour call-out for a job. He stated that this legislation would be in the State's best interest. Contractors throughout the State support the \$250,000 limit specified for Force Account highway construction projects.

Senator Dyson asked that additional information be provided regarding past situations of abuse of this issue. He also asked how Governor Frank Murkowski's Administration is addressing the issue.

Senator Cowdery explained that in the past, and particularly in the notorious St. Mary's project, the State circumvented the system by utilizing State employees or hiring construction crews and paying

State employee wages rather than paying higher, contractor Davis-Bacon wages. He characterized the State's behavior in the St. Mary's project operation as being "very creative."

Senator Cowdery voiced support for the \$250,000 State Force Account limit and stated that it an appropriate level as the purpose of such an account is to allow the State to respond to unforeseen projects. He stated that this limit would assure, in a workable manner, that DOT would operate using the competitive bid process.

Senator Hoffman asked whether this limit is pertinent only to general funds expenditures.

Senator Cowdery responded that it would apply to any project exceeding \$250,000 regardless of whether the funding for that project was State or federal.

Senator Olson asked whether this legislation would specifically apply to Department of Transportation and Public Facilities (DOT) highway construction projects.

Senator Cowdery responded that the legislation could be expanded to include all State departments, as the intent is to address abuses within the State procurement system process.

Senator Olson asked whether this bill could therefore apply to other departments.

Senator Cowdery pointed out that, as reflected, in the bill's title, this legislation is specific to DOT.

Amendment #1: This amendment deletes language in Section 1, lines eight through eleven, on page one that reads as follows.

"when the estimated cost of a construction project is less than \$100,000 or when it appears to be in the best interest of the state and the estimated cost of a construction project is \$250,000 or less, the department may perform the work notwithstanding any other provisions of law.

In addition, the following language would be inserted on page one following line seven in Section 1.

the department may perform the work notwithstanding any other provisions of law when
(1) the estimated cost of a construction project is less than \$100,000;
(2) the construction project is not connected by a land

road to the main road system of the state and the commissioner determines that [OR WHEN} it appears to be in the best interests of the state; or

(3) the construction project is connected by a land road to the main road system of the state, the estimated cost of a construction project is \$250,000 or less, and the commissioner determines that it appears to be in the best interests of the state[, THE DEPARTMENT MAY PERFORM THE WORK NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW].

New Test Underlined [DELETED TEXT BRACKETED]

Senator Olson moved Amendment #1.

Co-Chair Wilken objected for clarification. He noted that Amendment #1 is accompanied by a sponsor statement from Senator Olson and a copy of Administrative Order No. 199 [copies on file].

Senator Olson stated that this amendment addresses the fact that the legislation, as presented, would require all DOT public road projects exceeding \$250,000 to be subject to the competitive bid process. This process could limit the economic feasibility of numerous Rural construction projects. Therefore, this amendment would exempt Rural road projects that are not connected to the Alaska road system from the competitive bid requirement. Questions regarding the use of the competitive bid process in these areas is best answered by language in Administrative Order No. 199, which addresses construction projects in rural Alaska. This Order has been in effect since October 2002.

Senator Olson noted that Administrative Order No. 199 is working effectively and was, when developed, supported by a vast number of people in the construction industry, including State contracting agencies, the Associated General Contractors, labor unions, and rural construction entities.

Senator Olson stressed that \$250,000 oftentimes might not even provide for the required air transportation and mobilization and demobilization of equipment and materials relating to a construction projects in Rural areas.

Senator Dyson asked whether the intent of the amendment is to provide local people an opportunity to work.

Senator Olson responded that is correct. He cited several successful "Force Account" projects, including the St. Mary's project, that were completed below budget, on time, and with no worker's compensation claims. Another benefit of hiring local

residents and having local expenditures, including equipment, is that a community is able to continue to utilize purchased equipment to maintain its roads and airports. He stressed that were the \$250,000 limitation in place, construction projects costs would be driven upward due to equipment transportation and other related expenditures rather than being the result of labor expenses. He exemplified the 1998 Selawik Boardwalk Improvement project as one whose \$75,000 labor costs were minimal when compared to its \$310,000 cost relating to equipment transportation and other associated things. He referred the Committee to the "DOT&PF Force Account Report" [copy on file] dated February 12, 2003 that was provided by the sponsor that depicts Force Account projects for the years 1998 through 2002.

Senator Olson argued that the \$250,000 limitation would be a logical approach for a construction project that could be reached via the State's connected road system; however, the fact that a project is not on a road system has significant financial impact that, adhering to the competitive bid policy, would not serve to be in the best interest of the State.

Senator Hoffman, referencing the aforementioned Force Account list, stated that projects such as boardwalk projects do not require a high level of skilled labor; however, the costs associated with the project mobilization and the demobilization expenses could either increase the costs associated with the project or serve to provide "less of a project." In addition, he noted that in addition to providing jobs to rural residents, experiences indicate that when a community is involved in a project, it becomes invested in it and subsequently takes care of it. Therefore, he summarized that the benefit of Force Account projects include getting a better product, local control and investiture, and dollars being spent in a community which has few other financial opportunities. "The Amendment makes a lot of sense."

Senator Cowdery spoke against the amendment, particularly in regards to Davis Bacon wages not being paid, the State procurement code being circumvented, and there being questions regarding the liability of using city rather than private contractor equipment. Rural contractors have testified that they have been denied the opportunity to bid on rural projects because Force Account operations were conducted. He noted that local contractors support the development of a DOT day-labor Delivery Order Contract, which would specify a 24-hour callout timeframe through which maintenance projects could be conducted. Development of this contract would not be difficult as DOT is quite good of estimating what a job would cost. This would assure that the public is served at the best price and would allow local contractors an opportunity to bid jobs

accordingly.

Senator Hoffman, referencing the sponsor's position that the Force Account program has been abused, characterized that position as a "stretch" as the aforementioned Force Account report indicates that the jobs conducted in this manner between the years 1998 and 2002 amount to less than three percent of the total construction projects of the Department. Therefore, he stated that legislation that would prevent Rural residents from working these limited projects "is going a little bit too far."

Senator Dyson voiced appreciation for the intent of the legislation; however, he understood that this amendment would not preclude the use of Davis Bacon wages. In addition, the use of local qualified applicants and equipment would be beneficial. He questioned how limiting the price of a contract would prevent State government from utilizing State employees.

Senator Cowdery explained that the initial purpose for allowing use of Force Accounts was to address unforeseen problems that might occur relating to a job that was already under contract. The use of Force Accounts "was never intended" to fund a job "from scratch."

Co-Chair Wilken asked that Committee discussion focus on Amendment #1.

Senator Dyson understood that in order to provide a good bid package, such things, as core samples are required. Continuing, he opined that the development of a DOT Delivery Order Contract would be useful in managing the many small jobs that do not require in-depth investigation. Funding of these jobs through the use of Force Accounts would be more cost efficient. The question is, what is the threshold. He agreed with Senator Olson that were local equipment and labor available, their use would be more economical. Therefore he asked the sponsor whether \$250,000 is the right threshold limitation for Force Account work.

Senator Cowdery supported the \$250,000 limit. Originally, a \$100,000 limit was entertained. Continuing, he noted that DOT is responsible for providing contractors with such things as soil analysis because jobs that go to bid should not be misrepresented. A job that has a soil problem could become very expensive.

Senator Dyson clarified that rather than referring to jobs in which a contract has been awarded, he is referring to small jobs in which it would not be cost effective to prepare a bid package and go through the competitive bid process.

Senator Cowdery stated that during previous, separate Committee discussions with local contractors in Nome, Bethel and other communities, testimony supported a limit, as it would allow local contractors to participate in a competitive bid process.

Senator Dyson asked whether DOT could respond to his question.

Senator Olson stated that the amendment was patterned after language in Administrative Order No. 199. The purpose of the amendment is to provide an opportunity for local hire as opposed to addressing Davis Bacon wages. He referenced Order language in this regard on page two, section 3.(a) that reads as follows.

3.(a) Grant agreements for projects first funded for construction after the date of this Order under the following state programs shall include a requirement for the payment of prevailing wages, including contributions to a pension or retirement account, equal to the prevailing wages under AS 36.05, as modified through the use of the progressive, graduated pay scale developed under (b) of this paragraph, on all public construction projects:

Senator Olson stated that the inclusion of this language in the Order was the reason that contractors and labor unions supported it. This language does address wage concerns.

Senator Hoffman noted that, based on the Force Account Report for the years 1998 through 2002, less than one half of one-percent of the jobs depicted are under the \$250,000 limit. Therefore, were this amendment not adopted it would "slam the door" on the potential for local hire in Rural Alaska, as, it could be said that "basically this bill" would not allow the use of Force Account projects in rural Alaska due to the high cost of construction in those areas. He reiterated that while there is a lack of a skilled workforce in those areas, things such as boardwalk projects could use local hire and therefore benefit a community. Therefore, he voiced support for the amendment, which would preserve "the status quo" of less than three-percent of available DOT construction projects and thereby provide jobs and revenue to Rural areas. "This is not asking too much."

Senator B. Stevens questioned how Administrative Order No. 199 could relate to Force Account projects conducted in Rural areas in 1998 through 2002, as it was not enacted until October 1, 2002; specifically that it is unknown whether Davis Bacon wages were or were not being paid during that time. He also noted that the legislation would not prevent DOT from awarding three percent or more of its projects to rural areas regardless of whether a Force

Account were utilized.

Co-Chair Wilken characterized Senator B. Stevens's comments as pertaining to the bill in general. Therefore, he stated that a further discussion in this regard would continue after discussions relating to Amendment #1 are concluded.

Senator Dyson asked whether DOT has "a policy or threshold" regarding how minor construction projects in Rural Alaska would be addressed "on a Force Account basis, and if so," is utilizing Force Account funding more efficient than utilizing the competitive bid process.

FRANK RICHARDS, State Maintenance and Operations Engineer, Statewide Maintenance Division, Department of Transportation and Public Facilities, testified via teleconference from Anchorage and responded that the funding source of a project is one of the primary determining factors in both Rural and urban area projects. Before any work is advanced, the Department must conduct a cost analysis to determine what method of construction would be the most cost effective.

Senator Dyson asked whether Amendment #1 would provide the Department, after its cost analysis is conducted, more flexibility to address Rural construction projects.

Mr. Richards responded that the \$250,000 ceiling denoted in the Amendment "would still limit" the Department's ability to perform work. Another issue would be the definition of what would constitute a Rural area. Were this designation applied to Rural roads that are part of the State's continuous highway system, it would be "severely limit" the Departments work efforts.

Senator Dyson understood that the amendment would eliminate the \$250,000 limitation on construction jobs in Rural areas not connected to the highway system.

Mr. Richards responded that were the amendment to allow the Commissioner to remove constraints pertaining to projects in Rural areas that are not part of a contiguous road system, the Department would view it as favorable. This would apply to villages primarily in Western and Northwestern Alaska as well as some communities in Southeast Alaska. However, were it to apply to Rural places such as Tok and Northway that are on the contiguous highway system, it would be limiting.

Senator Dyson understood therefore that the amendment would provide the Department more flexibility on projects that are not connected

via the contiguous road system.

SFC 04 # 62, Side B 09:51 AM

[NOTE: Due to a technical malfunction, Side B of Tape 62 did not record; however, the minutes continue, uninterrupted, on Side A of Tape 63.]

SFC 04 # 63, Side A 09:51 AM

Senator Dyson voiced the understanding, however, that the Department is uneasy about the lack of a definition for what constitutes a Rural area."

Mr. Richards viewed Force Accounts as being "a tool in the toolbox" that the Department could use to support its maintenance, construction and operation responsibilities to the State's transportation system.

Mr. Richards stated that in response to the furor that resulted after the Force Account was utilized for the St. Mary's project, the Department worked with contractors and labor unions to develop Administrative Order No. 199. As a result, the Order provided a framework through which either the Force Account or a competitive bid process would be utilized to address Rural area projects on a fair basis.

Senator Olson pointed out that while there is some ambiguity regarding the definition of Rural, the Amendment is specific to off-road system construction projects.

Senator Hoffman asked the Department for justification for its analysis reflected in fiscal note #1, dated February 18, 2003 that specifies that there would be "lost savings" exceeding \$25 million were this legislation enacted.

In response to a question from Co-Chair Wilken, Senator Hoffman pointed out that the answer to this question is important, as adoption of Amendment #1 might serve to continue savings rather than negating them.

Mr. Richards responded that the calculation used to determine the \$25 million potential lost cost savings is based on annual savings of four million dollars for six years that would result were the

State to use Force Account funding rather than conducting projects utilizing the competitive bid process, based on historical cost analyses. He noted that most of the money that could be saved is federal money with a General Fund (GF) match.

Senator Hoffman declared that he supports the amendment because he "would rather save money than blow it."

Senator B. Stevens asked, for clarification, the amount of the total \$505 million surface transportation program expenditures, as specified in the 2002 Force Account Report, that were directly related to construction projects. He stated that this is an important element of the equation, as, as depicted, the calculation that only 2.23 percent of the total \$505 million was spent on Force Account projects, could be misleading.

Mr. Richards affirmed that the total amount would include other components.

Senator B. Stevens stressed therefore, that the 2.23 percent depicted is on the low side as were funding for Shakwak, the Marine Highway System, Trails and Recreation Access for Alaska (TRAAK), and other federal components removed, the percentage of money spent for Force Account Construction projects would increase.

Mr. Richards affirmed that the \$505 million amount is all-inclusive in that it does contain such things as Shakwak, federal highway funding, and other Community Transportation Program (CTP) funding for surface transportation projects. He also noted that the 2002 projects listed on the Force Account Report comprise the 2.23 percent. It is important to note, that while the State does contract out for the majority of the cost of materials, equipment, and supplies, the benefits to the State of using Force Account funding is garnered from savings associated with State personnel and equipment costs.

Senator B. Stevens understood that and commented that the purpose of his comments was to clarify that the percentages of Force Account construction projects is actually higher than depicted. He also noted that CTP projects in the year 2002 amounted to approximately \$340 million. For further clarification, he asked whether projects in Southeast Alaska communities such as Juneau, Ketchikan, Sitka, and other communities that are served by the Alaska Marine Highway System rather than a contiguous surface road system, would be included under the auspice of this Amendment.

Mr. Richards reiterated that the question of what would constitute "Rural" must be addressed.

Senator B. Stevens asked the Amendment's sponsor whether the intent of the Amendment would be to include in its Rural, off-the-road system designation, communities in Southeast Alaska that are served by the Alaska Marine Highway System.

Senator Olson responded that the purpose of the Amendment is to address the high cost of transportation construction in Northwest and Western Alaska. He stated that he would either defer to or work with the bill's sponsor to address questions regarding Southeast Alaska communities.

Senator Hoffman stated that the inclusion of these communities is insignificant, as, were their inclusion to equate, for example, to the 2002 CTP program level of \$340 million, their inclusion might increase Force Account expenditures "to a whopping 3.3 percent."

Senator B. Stevens pointed out that, "there is nothing to prevent those projects from being included under the normal process."

AT EASE 10:00 AM/ 10:00 AM

Senator Olson stated that there is no adversarial intent behind the offering of this amendment. Its purpose is to recognize that the bill raises some concern and to make its impact more palatable by furthering language that was supported in Administrative Order No. 199. He stated that the Amendment would compliment the intent of the bill, which is to provide consideration for contractors.

Senator Cowdery suggested that adoption of this amendment could lead to increased levels of Force Account exemptions for projects in Rural Alaska.

Senator Olson asked whether any federal highway penalties might be incurred were the amendment adopted. He also asked whether the adoption of the bill in its current form might incur federal penalties.

Mr. Richards voiced being unaware of any penalties.

A roll call was taken on the motion.

IN FAVOR: Senator Dyson, Senator Olson, and Senator Hoffman

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

The motion FAILED (3-4)

Amendment #1 FAILED to be adopted.

DON VALESKE, Business Manager, Public Employees Local 71, testified via teleconference from Anchorage and shared that the Committee discussion and testimony has clarified that this bill is limited to construction projects rather than to both maintenance and construction projects which was his concern.

Senator Olson asked whether Mr. Valeske supports the legislation.

Mr. Valeske commented that due to the fact that the bill does not apply to maintenance projects, he does not have a position on the bill. However, he noted that he is supportive of local hire as it is beneficial to local people and communities. He noted that Local 71 members were involved in the St. Mary's project.

EDEN LARSEN, President and CEO, Associated Builders and Contractors, testified via teleconference from an offnet site in support of the bill.

Co-Chair Wilken noted that Members' bill packets contain a written comment [copy on file] from the Associated Builders and Contractors (ABC).

Senator Hoffman asked the reason behind their support.

Ms. Larsen responded that ABC's "fundamental principle" is that an "open and competitive bidding process is the best methodology for State procurements." Limits on what the State could conduct through the use of Force Accounts and the continuance of the established procurement process are appropriate.

Senator Hoffman asked whether ABC's position is mindful of the fact that this legislation would serve to lose the State \$25 million dollars in lost savings over the next six year. Continuing, he stressed that no abuse of the system has been provided. The fact that Force Account Construction projects have cost the State less than three percent of the total construction budget and would save the State \$25 million dollars over the next six years makes it difficult to understand why, in these times of a fiscal dilemma, anyone would support this legislation.

Ms. Larsen responded that testimony has been provided to ABC regarding the fact that many small construction businesses in off-road system communities have gone out of business due to the increased usage of Force Account Construction projects over the last eight years. The cost to these communities of losing these

businesses and their year-round employment opportunities should be a consideration in "the true costs." She noted that the justification for using Force Account Construction funding is that money would be saved by not being required to pay prevailing wages. The ABC's position is that there is a reason for an established wage scale and that this should be considered when allowing the State to avoid the competitive bid process.

Senator Olson asked the number of people in ABC who are actively involved in road construction.

Ms. Larsen responded that ABC has a minimum of three contractors who are actively involved in building roads and other roadwork.

Senator Olson understood Ms. Larsen to say that some contractors have gone out of business due to Force Account Construction. However, he countered that the impetus behind the number of contractors, both in rural Alaska and on the road system, being reduced is that the number of State road construction projects in the State have been diminishing.

Ms. Larsen noted that she is "only passing along" comments that ABC has received from Rural contractors.

Senator Hoffman and Senator Olson asked that the names of the businesses that have gone out of business in Rural Alaska be provided.

Ms. Larsen stated that she would attempt to acquire this information.

JEFF ALLING, Representative, ALCAN Builders Incorporated, testified via teleconference from an offnet site in support of the bill.

Co-Chair Wilken asked whether the sponsor would be opposed to the legislation being subject to a four-year termination period.

Senator Cowdery responded he would not object.

Conceptual Amendment #2: This conceptual amendment would establish a termination date of June 30, 2008.

Co-Chair Wilken moved to adopt Conceptual Amendment #2.

There being no objection, Conceptual Amendment # 2 was adopted.

Senator Bunde moved to report the bill, as amended, from Committee with individual recommendations and accompanying fiscal note.

There being no objection, CS SB 40(FIN) was REPORTED from Committee with a zero fiscal note, dated March 26, 2004 from the Department of Transportation and Public Facilities.

AT EASE 10:15 AM / 10:16 AM

#sb306

SENATE BILL NO. 306

"An Act relating to the practice of naturopathic medicine; and providing for an effective date."

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

Co-Chair Wilken explained that this bill, which is sponsored by Senator Ralph Seekins, would enact an Act relating to the practice of naturopathic medicine. Initially, consideration was given to implementing a Board to oversee naturopathic medicine; however, that is not now being considered. The Department of Community and Economic Development was asked to explain the Department's Division of Occupational Licensing flow chart, titled "Implementation of CSSB306(FIN)" [copy on file] that depicts how licensed Naturopathic Physicians would be monitored.

RICK URION, Director, Division of Occupational Licensing, Department of Community and Economic Development, clarified that the Governor Frank Murkowski Administration has no position in regards to this legislation. Were the Legislature to adopt regulations in regards to Naturopathic medicine, the Department would implement supporting rules and regulations. However, the Department has been regulating this profession and numerous others without assistance from a Board, for approximately seventeen years and could continue to do so absent any new legislation.

Co-Chair Wilken asked the current process through which a complaint against a Naturopath might be reviewed.

Mr. Union responded that the Department's investigative staff would address the complaint, and, were it deemed necessary, it might be forwarded to a hearing officer. A multitude of different processes, including such things as memorandums of agreement, have been established through which issues regarding each profession are addressed.

Co-Chair Wilken asked whether the flow chart provided by the

Department [copy on file] would depict the process involving naturopaths.

Mr. Urion affirmed.

Co-Chair Wilken asked that the flow chart be explained.

Mr. Urion explained that currently when a complaint is filed, the Division's investigative staff who, based on a priority list that heavily ranks Life/Safety issues, would determine whether charges should be filed addresses it. Were that the case, a hearing officer would be assigned, a trial might ensue, and the hearing officer would render a decision including the level of punishment. This could include such things as license removal, suspension and fines. Were the defendant to reject the decision of the hearing officer, they have the right to appeal to a higher court.

Mr. Urion shared that in situations in which there is a Board, the Board would have the authority to act on the complaint.

Co-Chair Wilken asked whether the Department, in conjunction with Naturopaths, developed the chart.

Mr. Urion concurred.

Co-Chair Wilken asked whether the Division's investigators are trained professionals.

Mr. Urion responded that while none of the Division's investigators are trained in any of the fields that they investigate, they are trained investigators. He noted however, that they do consult with the appropriate medical professional pertinent to each situation. He noted that the Medical Board recently adopted a procedure that specifies that complaints dealing with such things as sexual abuse, alcohol, or drug misuse be immediately forwarded to the Division's investigators. However, determinations regarding standards of care complaints are determined by the Board and then forwarded to the investigators, who could independently make a determination if they so chose.

Co-Chair Wilken asked for confirmation that this is the current practice relating to Medical Board.

Mr. Urion affirmed.

Co-Chair Wilken opined therefore that a procedure akin to a triage occurs at the investigative level in that the investigator consults with a medical professional. The investigator would receive a

complaint from a patient, and then the triage would occur in which it would be determined whether the complaint is serious enough to advance immediately to a hearing officer.

Mr. Urion clarified that in serious cases, the state investigator would have the authority to make the determination. Complaints regarding standards of care might require an investigative review that might include a medical professional.

Co-Chair Wilken understood that an investigator would be expected to consult with the appropriate medical professional.

Mr. Urion agreed. He stated that this is the current procedure utilized when reviewing complaints against naturopaths.

SENATOR RALPH SEEKINS, the bill's sponsor, noted that language on the bottom of the flow chart specifies that in the case of non-threatening public safety issue or a Standards of Care complaint, investigators could consult with the Qualified Trade Association of Naturopathic Physicians (NP/QTA), which would consist of volunteers from the field.

Co-Chair Wilken asked whether this organization exists today or would be established by this legislation.

Senator Seekins responded that while this organization does not currently exist, its establishment would be clearly defined in a forthcoming committee substitute.

Mr. Urion declared that this would be an opportunity in which government and private enterprise could work together to regulate an industry. No professional entity would benefit from "condoning bad behavior" within its profession.

Co-Chair Wilken summarized that the complaint process would be that a wronged patient would go to the State, It would then be directed to an investigator. The investigator could consult with the three-member NP/QTA panel.

Senator Olson questioned "the wisdom" of allowing naturopaths to have their own board, as currently the process provides an investigator the ability to consult with professionals. In addition, he asked whether there could be the option of having naturopathic complaints heard by the eight-member Medical Board.

Mr. Urion voiced concern to the appropriateness of having these complaints heard before the Medical Board due to the negative comments the medical field has made in regard to naturopaths.

Continuing, he noted that at this point, the Division could monitor the Naturopathic profession without implementation of a Board.

Senator Bunde countered that currently the Board of Medicine has oversight over a wide range of medical professions including Physician Assistants (PAs), Nurse Practitioners (NPs), Registered Nurses (RNs), Oseopathics, dentists, and paramedics. All these professions are included under the term "physician" and, since this bill would expand that term to include Naturopaths, it would be logical that they be included in those professions monitored by the Board.

Senator Seekins responded that he would not object to the inclusion of a naturopath on the Medical Board, were it suggested. Inclusion of a naturopath on the Board would provide some insight to the Board regarding Standards of Care for the profession. However, due to the fact that naturopathic medicine presents competition, naturopaths "have a fear that there may be some objection "from the more recognized medical professions.

Co-Chair Wilken recalled that, until a few years ago when they were granted voting rights, Physician Assistants were ex officio members of the Medical Board. Perhaps this might be an option with naturopaths.

AT EASE 10:28 AM / 10:28 AM

Senator Olson clarified earlier information regarding which professions the State Medical Boards oversees. While it does govern paramedics, physicians, and physician assistants, it does not have direct regulatory oversight in regards to dentists, nurses, and nurse practitioners.

Senator Olson also noted that when he, a medical doctor, was on the State Medical Board, its seven-person membership consisted of five physicians and two lay people. He subsequently supported the representation of a PA on the Board due to their increasing numbers in the State. He noted that the number of naturopaths in the State is limited.

Co-Chair Wilken noted that there are currently 27 Naturopaths in the State.

Senator Seekins countered that any board that regulates a profession should have, as part of its membership, a representative of each profession in order to negate such things as "hostility" against that profession.

Co-Chair Wilken asked for confirmation that PAs were, at one time, ex officio members of the Board.

Senator Olson specified that PAs were diligent in attending every meeting even before they had representation on the Board. In that regard, once they were admitted to the Board, they became voting members. He agreed with Senator Seekins that representation at the Board level is important.

Co-Chair Wilken pointed out that the definition of minor surgery is included in the bill in Section 13, subsection (6), page six, line 19 and reads as follows.

(6) "minor surgery"

(A) means the use of

(i) operative, electrical, or other methods for surgical repair and care incidental to superficial lacerations and abrasions or superficial lesions, and the removal of foreign bodies located in superficial tissues; and

(ii) antiseptics and local anesthetics in connection with methods authorized under (i) of this subparagraph; definition;

(B) does not include use of general or spinal anesthetics, major surgery, surgery of the body cavities, or specialized surgery, such as plastic surgery, surgery involving the eyes, or surgery involving tendons, ligaments, nerves, or blood vessels.

Co-Chair Wilken asked Senator Olson to address his concern regarding allowing naturopaths to conduct "further tests."

Senator Olson voiced the understanding that one of the reasons that naturopaths are requesting prescriptive authority is because their position is that they have similar education and training levels to that of medical doctors. However, while many of the initial educational courses were the same, there was a "divergence later on" as the foundation of the naturopathic delivery system was one of being "basically drug free."

Senator Olson voiced that, with the care of the patient in mind, there is concern that in the continuance of their care, limiting prescriptive treatment to medical doctors would be appropriate to the balance. He noted that there has been an abiding identification within the medical profession that medical doctors prescribe medication. In order to expand rather than restrict naturopath prescriptive authority, it could be suggested that naturopaths should be required to qualify for Part One, Two, and Three of the National Medical Board examination rather than being required to

pass only Parts One and Two. Part Three is the section that tests prescriptive knowledge. Therefore, their ability to pass all three sections of the examination would indicate that their training was comparable to that of a medical doctor and would allow them to have prescriptive authority.

Senator Seekins, being respectful of Senator Olson, clarified that rather than seeking to be recognized as medical doctors, naturopaths are seeking to have prescriptive rights that are less than a PA and NP. This was clarified in Amendment #1 which the Committee during its first hearing on the bill. That amendment inserted a new subsection into Section 11, subsection Sec. 08.45.120 on page five, line 16 that reads as follows.

(4) after becoming registered with the federal Drug Enforcement Administration, prescribe only those controlled substances allowed under Schedules III, IV, and V.

Senator Olson clarified that a PA could only practice medicine under a collaborative agreement and direct oversight by a medical doctor (MD). Were something to go wrong, the MD would also be held liable.

Senator Bunde asked how an NP's training would differ from that of a PA in this regard.

Senator Olson stated that while he is familiar with PA requirements and the associated prescriptive limitations, he is unfamiliar with the requirements for a NP.

Senator Seekins shared that he is familiar with the NP requirements as his wife is a nurse and a close friend is a NP.

SFC 04 # 63, Side B 10:40 AM

Senator Seekins noted therefore, that NPs could prescribe all levels of prescriptive medications as they have a higher level of training than PAs. "It would be inconceivable" that any practitioner ... would not seek assistance from other caregivers when encountering serious situations.

Co-Chair Wilken noted that concerns have been raised due to the understanding that Naturopathic Doctors (ND) would not have medical malpractice insurance. He referred the Committee to Item #3 on page two of a letter [copy on file] dated February 24, 2004 from Dr. Scott Luper, ND that Co-Chair Wilken had received in response to

comments in a letter [copy on file] dated February 9, 2004 that Co-Chair Wilken had received from Tom Wilson, PA-C. The comment and response, as written in Dr. Luper's letter are as follow.

#3. The bill is too broad. Currently one could prescribe antibiotics to dangerous heart medications, to chemotherapy. Allopathic M.D. would most likely not prescribe medication outside of their specialty, as it would be considered outside of the "standard of care". If a bill were passed a formulary would be much more acceptable and safe.

3). Response: Mr. Wilson suggests that an ND might be tempted to prescribe outside of their training/education and that an MD "would most likely not" prescribe inappropriately. This is not realistic. A good "DOC" is a good "DOC". NDs will be liable for malpractice on par with MD's and under the auspices of the Div. of Occupational Licensing.

DR. SCOTT LUPER, Naturopathic Doctor, testified via teleconference from Fairbanks and clarified that NDs are able to acquire malpractice insurance and that ND malpractice insurance is less costly than MD malpractice insurance due to the fact that the complaints against them are fewer. He stated that, while he pays \$3,000 a year, the majority of his ND colleagues pay between \$600 and \$2,000 annually.

Co-Chair Wilken surmised that NDs carry malpractice insurance in line with their standards of care.

Dr. Luper affirmed. He noted that the standard ND medical malpractice coverage would provide one million dollars per occurrence and three million dollars total.

Senator Bunde surmised that MDs pay higher medical malpractice insurance due to the fact that they write prescriptions and perform surgeries. Therefore, he opined that ND's rates might increase were this legislation adopted.

Dr. Luper responded that this has been investigated and it has been determined that the rates would not increase. He further noted that the Alaskan ND rates are comparable to those being charged in states that provide NDs prescriptive and minor surgery authority.

Dr. Luper disclosed that in order to address the question of safety, he had conducted a survey of states that license NDs. He had acquired the number of ND disciplinary actions in Arizona, Oregon, Hawaii and Connecticut. ND disciplinary actions including such things as license suspensions and other punishing actions are

approximately half of the amount pertaining to allopathic or MD disciplinary actions. In Arizona, for instance, the disciplinary rate for MDs is about one percent of those licensed, and about half a percent for NDs. Nationwide the rate for NDs is .34 percent. No disciplinary action has occurred against NDs in Alaska during the seventeen years in which they have been licensed in the State. This is a reason why the rates are low and is a testament to the quality and care provided by the profession. He clarified that there are 39 licensed NDs in the State.

BARRY CHRISTENSEN, Practicing Community Pharmacist and Legislative Chair, Alaska Pharmacists Association, testified via teleconference from an offnet site to voice concern on behalf of the Association's 200 plus members in regards to the prescriptive authority being proposed in the bill for NDs. He informed the Committee that while he heard reference to Amendment #1, he is unaware of its contents.

Co-Chair Wilken informed the testifier that Amendment #1 removed the requirement regarding Prescriptive Schedules I and II and retained Schedules III, IV, and V in the authority being proposed for NDs.

Mr. Christensen addressed the position that NDs education is "equivalent or nearly equivalent" to that of an MD because, similarly, they also have a four-year degree. "While this may be true in an academic sense, our membership has had little if any interaction with naturopaths during our professional training" but have had extensive training with PAs, NPs, and MDs "and have developed good working professional relationships with these professionals. This relationship is very important when working with patients and recognizing "problems with dosing, drug interactions and drug abuse." He questioned the fact that while the definition of naturopathy that is included in the bill does not include medicine, the bill would provide full prescriptive authority to NDs. He noted that most states that allow ND prescribing provide NDs with limited prescriptive authority. He stated that pharmacists would be more comfortable with this legislation were NDs required to work collaboratively with other licensed prescribers. Lastly, he raised concern regarding the prescriptive authority of controlled substances, or narcotics, and stated that control of such substances should be closely guarded. Absent a prescriber-based narcotic tracking system, this issue would continue to be "the number one" concern of pharmacists. He assured that while there is no reason to believe that NDs would abuse this prescriptive authority, increasing their availability by expanding the number of prescribers would provide another potential avenue for narcotic abusing patients.

Mr. Christensen stated that while the amendment would limit ND prescriptive authority to Schedule III, IV, and V drugs, the majority of narcotic drugs are included in those categories. Therefore, the Membership would continue to voice concerns.

Senator Olson asked, for clarification, the Association's position on Amendment #1.

Mr. Christensen responded that a majority of the Membership would continue to have problems primarily due to the inclusion of Schedule III, which encompasses narcotic painkillers. He noted that since he was unaware of the amendment prior to this, the membership has not been conferred with in its regard.

Senator Olson asked the percent of patients who might be receiving prescriptive relief from either Schedule II through V or III through V.

Mr. Christensen responded that the majority of people who take pain relievers are utilizing Schedule III drugs, as it is the outpatient pain drug of choice. A written prescription is not required for Schedule III drugs whereas one is required for Class II drugs. Therefore, he estimated that approximately 70 percent of individuals who are taking painkillers are taking Schedule III drugs. Schedule IV drugs are anti-anxiety rather than painkiller types of drugs.

Senator Bunde voiced that it would be an inconvenience were someone to seek naturopathic care and then discover that they would be required to go to another medical professional were a prescription drug required to treat, for instance, high blood pressure or an antibiotic such as penicillin. He asked what which schedule these types of prescriptions are included.

Mr. Christensen responded that antibiotics are "not a scheduled narcotic" and therefore are not regulated by the Drug Enforcement Administration. They are instead classified as a prescription by the Food and Drug Administration (FDA) and would require a prescription. A narcotic-based pain reliever such as Tylenol #3 would be a Schedule III drug.

Senator Olson clarified that the drugs included in "Schedules I through V are those that are directly related to the potential for abuse by either a patient or a patient prescriber." An antibiotic would not fall in this category.

Senator Seekins understood that as part of a pharmacist's training, they are taught how to recognize signs of abuse or mistakes.

Mr. Christensen affirmed.

Senator Seekins understood therefore that "even now" in the medical profession, abuse does occur.

Mr. Christensen agreed.

Co-Chair Wilken stated that the bill would be HELD in Committee in order to develop a committee substitute that would include Amendment #1 and clarify language regarding the voluntary review committee.

#sb298

CS FOR SENATE BILL NO. 298(TRA)

"An Act relating to the use of off-road vehicles within five miles of the right-of-way of the James Dalton Highway."

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

SENATOR RALPH SEEKINS, the bill's sponsor, stated that this legislation would serve to address concerns regarding a letter [copy on file], date stamped January 20, 2004 from the United States Department of the Interior's Bureau of Land Management received by trappers who operate trap lines north of the Yukon river bridge.

Co-Chair Wilken stated that this legislation would allow the use of off-road vehicles within five miles of the right-of-way of the James Dalton Highway south of Mile 235.

Senator Seekins declared that, unless State law is changed to accommodate the use of motorized vehicles in this area, individuals would have a May 1, 2004 deadline to change to non-motorized access of the area. Use of the area by trappers and others on motorized vehicles should not be eliminated "due to a quirk in State law." Addressing this issue in a manner that would allow continuing access to the area on motorized vehicles is the intent of this legislation. He stated that he has discussed this issue with trappers, the Alyeska Pipeline Authority, and other affected users. In order to address the variety of questions that have been raised, he asked that the bill be referred to a subcommittee, chaired by Senator Olson.

Co-Chair Wilken stated that SB 298 would be assigned to a

subcommittee.

Senator Bunde stated that there has been a history of over zealous Alaska State Trooper enforcement in the affected area. He encouraged the subcommittee to investigate the opportunity for people to use existing mining trails and roads in the area, outside of the Alaska pipeline corridor. He noted that there are numerous differences of opinions regarding the legality of using these roads.

Senator Olson stated that it is troubling that there is an agency, and in this case a federal agency, that is working against traditional users and is threatening to burn down cabins that often provide shelter and have saved lives of hikers, downed pilots and others in need of protection against the elements of nature in remote areas of the State.

Co-Chair Wilken appointed Senator Olson chair of subcommittee.

Co-Chair Wilken ordered the bill HELD in Committee.

#sjr3

CS FOR SENATE JOINT RESOLUTION NO. 3(JUD)
Proposing an amendment to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

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

Senator Dyson informed the Committee that the appropriation and spending limit formula that has been developed was based on State budgets that had been adopted for the past several years. Unfortunately, due to the fact that these budgets were relatively flat, when the formula was applied, the unintended result is a flatter budget than is practical for State operations. The Office of Management and Budget would further explain this situation.

Co-Chair Wilken clarified that the working document is committee substitute Version 23-LS0296\B, as amended by Amendments #1 and #4. Following action on some forthcoming amendments, a new committee substitute would be developed.

CHERYL FRASCA, Director, Office of Management and Budget (OMB), Office of the Governor, informed the Committee that with the assistance of the Division of Legislative Finance, OMB has

developed a spreadsheet titled "CS SJR 3" [copy on file] that depicts the outcome of the currently drafted formula.

BRUCE TANGEMAN, Fiscal Analyst, Legislative Finance Division pointed out that the formula results are depicted beginning on line "9" which is titled "Avg Growth (existing base yrs)".

Ms. Frasca expressed that the information specifies that for fiscal years 2007, 2008, and 2009 there would be zero annual growth, a slight increase in FY 10 and then marginal growth in the subsequent years. She noted that while the State has been able to control expenses for such things as Medicaid in the near term, it is unlikely that this would be possible in future years. A realistic growth level for Medicaid and K-12 spending in the future would be approximately \$100 million.

Co-Chair Wilken understood therefore that the aforementioned section of the chart depicts the outcome of the formula as currently drafted, using an annual inflation rate of three percent and a one percent population growth rate. In FY 06, the State would be projected to experience an additional general fund growth of \$428 million dollars with no further gain until FY 10.

LUCKY SCHULTZ, Staff to Senator Dyson, affirmed that is correct with the exception being that the \$428 million would reflect total appropriations minus exemptions rather than being specifically general funds.

Mr. Shultz stated that the reason the annual growth is reflected as zero in several of the fiscal years is that this Senate bill contains "a no ratchet down provision." The House version of the bill does not include this provision.

Ms. Frasca stated that the Administration is offering for consideration the formula beginning on line 23 of the spreadsheet titled "2 yr growth (adjusted base yrs)". This formula reflects a \$56 million increase in total appropriation growth in FY 06 and an average of approximately \$105 million going forward.

Co-Chair Wilken noted that the spreadsheet depicts four different scenarios.

Ms. Frasca stated that in addition to the four scenarios being depicted in a line item format section, there is a corresponding chart format at the bottom of the spreadsheet.

Senator Hoffman understood that the Public Employees Retirement System/Teachers Retirement System (PERS/TRS) obligation would be

approximately \$56 million in FY 06. In that case, the proposed formula would reflect flat growth. Therefore, a detailed analysis of the PERS/TRS obligation projections should be developed in order for the Committee to understand its impact. Particularly as the number of retiring State employees is expected to increase in the next few years.

Ms. Frasca stated that the numbers presented on the chart "are not the result of an analysis of what spending could be ... in terms of spending pressures." For example, in the FY 05 budget, the Administration covered the increase in PERS/TRS expenses by absorbing the expenses through reductions in other areas. Acknowledging that a formula would specify a spending limit, she stated that the budget would continue to be under pressure and choices would be required. This bill is not intended to allow for uncontrolled spending, but rather would require the State to examine how its money would be spent. There would "always be competing wants and competing needs. This would be the challenge going forward."

Co-Chair Wilken understood that the PERS expectation for FY 06 would be approximately \$100 million.

Ms. Frasca responded that that would be the amount including school district and local government expenses, in addition to Executive branch expenses. She agreed that these costs would continue through the next five years unless the State's financial market investments were to rebound.

Co-Chair Wilken informed that a detailed PERS/TRS presentation is scheduled for April 6, 2004.

Senator Dyson stated that in order to arrive at a workable formula, "fiddling" with the base numbers has had to occur. He asked that Ms. Frasca explain the changes that have been made to the base years.

Ms Frasca pointed out that part of the challenge includes the fact that the total spending for FY 04 has not yet been concluded, and that the budget for FY 05 has not been finalized. Therefore, "crafting a limit for going forward" by utilizing the look-back mechanism is difficult.

Senator Dyson voiced that it might be that "the fiddled with numbers" would not be far from reality.

Mr. Tangeman declared that the numbers, as depicted in the current formula, beginning on line nine of the spreadsheet titled "Avg

Growth (existing base years)," are not too far from what is expected. FY 06 calculations are based on FY 02, FY 03, and FY 04 appropriations which each reflect \$100 million appropriation reductions. Therefore the first year is based on years of reduced appropriations. "Plugging set numbers for FY 04 and FY 05" was conducted "in order to alleviate the question of what might actually happen at the end of this Session to allow uniform growth." Therefore, the inclusion of \$100 million in appropriation growth for FY 04 and FY 05 would probably be close to where those budgets would "end up." This would provide a better idea of where FY 06 would actually be. The PERS/TRS obligations for FY 04 are approximately \$3.1 billion, and the FY 05 budget submitted by the Governor calculates that \$2.9 billion would be required. This reflects a substantial decrease. Were an amendment specifying that the PERS/TRS appropriation for FY 04 and FY 05 be between \$3.3 billion and \$3.4 billion adopted, it would allow "plenty of headroom for the PERS/TRS issue going forward" as the current projection for FY 05 is \$2.9 billion. This would allow for increased growth going forward.

Co-Chair Wilken stated that were a forthcoming amendment adopted that would repeal this legislation in four years, perhaps consideration could be given to setting aside the PERS/TRS issue for a few years.

Senator Bunde pointed out that even were a spending limit established, the entirety of that money would not be required to be appropriated. However, he noted that the Legislature "has never left a dollar on the table," as such things as public pressure would be ever-present. Therefore, he contended that the upper limit "would also be the base."

Co-Chair Wilken acknowledged the remark.

Senator Hoffman disagreed. He stated that the State currently has a spending limit that is substantially higher than what is being appropriated today.

Co-Chair Wilken pointed out that the State currently has "a huge deficit and a slush fund that allows us to do that."

Senator B. Stevens declared that were the PERS/TRS obligation to increase to a level exceeding the limit, the Legislature could recognize it as an "extraordinary circumstance" and address it in such a manner "as the situation, which created it, occurred outside the realm of the control of the Administration or the Legislature, or control of anybody for that matter." Therefore, he asked whether the PERS/TRS situation might qualify under the parameters of an

extraordinary circumstance definition.

Mr. Schultz responded that this question had been asked previously, and that upon investigation, it was discovered that the State of Connecticut specifically does not define extraordinary circumstances as they desired the interpretation to be left up to the Governor and the Legislature. An extraordinary circumstance has not been invoked in that State since this directive was established in 1992.

Co-Chair Wilken stated that further discussion regarding the extraordinary circumstance issue must ensue.

Senator Dyson asked for further Committee feedback regarding the appropriateness of placing a Statewide ballot measure before the people that would be "based on numbers that have been adjusted in order to make the formula work." While the argument is compelling, the formula must work and be practical into the future without being less credible. Provided no objection to this approach were forthcoming, a new committee substitute would be developed that would encompass the Administration's proposal. In addition, he noted his intention to specify a four-year termination date in the legislation. However, he noted that at the end of this four-year period, there would be two alternatives: the first being that the "ineffective spending" limit that is currently in the Constitution would be re-instituted along with the Constitutional requirement that specifies that one-third of the budget be appropriated to support capital projects or that those two components and the formula terminate in four years. The second choice is his preference.

Co-Chair Wilken suggested that the Committee consider additional amendments and then develop a committee substitute.

Senator Bunde, responding to Senator Dyson's request for Committee feedback, stated that he would prefer a system based on reality rather than theory. He would also support abolishment of all three components at the end of four years.

The bill was HELD in Committee for further consideration.

#

ADJOURNMENT

Co-Chair Gary Wilken adjourned the meeting at 11:27 AM