

MINUTES
SENATE FINANCE COMMITTEE
April 15, 2004
9:06 AM

TAPES

SFC-04 # 82, Side A
SFC 04 # 82, Side B
SFC 04 # 83, Side A

CALL TO ORDER

Co-Chair Gary Wilken convened the meeting at approximately 9:06 AM.

PRESENT

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

Also Attending: MARC ANTRIM, Commissioner, Department of Corrections; DENNIS MICHEL, Staff to Senator Gene Therriault

Attending via Teleconference: From Offnet Sites: ALEX FRASER, Credit Analyst, Standard & Poor's; GABRIEL PETEK, Credit Analyst, Standard & Poor's; AL STOREY, Alaska State Troopers, Department of Public Safety; SARA FISHER-GOAD, Financial Analyst, Alaska Energy Authority and Alaska Industrial Development & Export Authority, Department of Community and Economic Development; JIM MCMILLAN, Deputy Director, Credit, Alaska Industrial Development & Export Authority, Department of Community and Economic Development; MIKE HARPER, Deputy Director - Rural Energy, Alaska Industrial Development & Export Authority, Department of Community and Economic Development; From Anchorage: TOM WILSON, Director, Public Transportation, Municipality of Anchorage

SUMMARY INFORMATION

SB 65-CORRECTIONAL FACILITY EXPANSION

In conjunction with this bill, the committee heard a presentation regarding the State's Credit Outlook from Standard & Poor's, a credit rating agency. The Department of Corrections presented testimony pertaining to the bill, and the bill was held in Committee.

SB 255-ILLEGAL USE TRAFFIC PREEMPTION DEVICE

The Committee heard from the bill's sponsor, adopted a committee substitute, and considered two amendments with one being adopted. The bill was reported from Committee.

SB 337-ENERGY PROGRAMS & FUNDS

The Committee heard from the Department of Community and Economic Development and reported the bill from Committee.

#SB65

SENATE BILL NO. 65

"An Act authorizing the Department of Corrections to enter into agreements with municipalities for new or expanded public correctional facilities in the Fairbanks North Star Borough, the Matanuska-Susitna Borough, Bethel, and the Municipality of Anchorage."

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

State of Alaska Credit Outlook Presentation
Credit Analyst, Standard and Poor's

Co-Chair Green shared with the Committee that she had recently heard a Standard & Poor's (S&P) report regarding the State's financial condition and funding mechanism options that might be available to fund in-State correctional facilities. She noted that numerous municipalities and boroughs have offered to participate in a "bonding process" to further the correctional facility objective; however, she explained, she has received conflicting reports about how this endeavor might impact "the State's bonded-indebtedness" or credit rating. Therefore, she

continued, to clarify the information, she requested S&P to present to the Committee in this regard. She noted that, as standard, S&P would also provide the members with general financial information.

ALEX FRASER, State and Local Government Analysts Manager, Southwest and Western Regions of the United States, Standard & Poor's, testified via teleconference from an offnet site in Dallas, Texas, and stated that this is an opportunity for the Members to ask questions relating to the State's credit ratings as well as an opportunity for S&P to follow-up on their presentation to the Conference of Alaskans. He stated that the focus of that presentation was "to stress the need for the State to develop, and continue to develop, a long-term strategy to balance revenues and expenses." That, he attested, "is a very key credit consideration for any government, particularly a state like Alaska, where there is such a need to look at some of those long-term events in the revenue streams." Continuing, he shared that leasing and public finance are mechanisms that "have gained acceptance" during the past twenty-five years and have "become a critical mechanism" for those states that "have limited ability to issue general obligation (GO) debt." He disclosed that various authorities have been created with financing being "dependent on regular, annual appropriations from the state or other government to meet the debt service payments."

Mr. Fraser stated that, "it is critical" that any lease-financing arrangement be supported by both the legislative and executive branches, as, he stressed, "this adds a large degree of support to the ultimate credit decision, if we know that the project being contemplated" has garnered long-term support. He attested that, while it is expected that the terms of the bonds would be supported for the life of the bonds, it has been experienced that a future body questioned a decision of earlier bodies. He stressed that "any disruption in the lease payment is taken into account, often taken quite harshly on the general obligation credit." Therefore, he continued, the development of a flaw could negatively impact a state's GO rating. He avowed that rather than endorsing any particular project, S&P usually becomes involved "at the point" where the financing is about to be undertaken.

Senator Dyson asked whether a state's implementation of a Constitutional spending limit might affect its credit rating.

Mr. Fraser "supposed" that, "having mechanisms to enforce fiscal discipline would be good;" however, he stated that a balance must be obtained that would allow "flexibility." He stated that without the complete details of the program, it is difficult to provide an answer.

GABRIEL PETEK, Primary Analyst for Alaska, Standard & Poor's, testified via teleconference from an offnet site in San Francisco, California, and responded that, were a spending limit in place, S&P would "focus on the progress that the State could make toward achieving structural balance, whether that were achieved" as the result of "a change in the State's revenue base or through spending controls." He acknowledged the efforts the State has implemented in regards to spending controls over the past several years. He attested that S&P does "not take a real pointed position on how it's achieved, it's more our interest that" structural balance is achieved." He stated that, "the only caveat about a spending limit is to the extent that the emphasis or the priority became meeting the policy or meeting the targets of the spending limit plan as opposed to focusing on the bottom line of structural balance or the fundamentals." Sometimes, he shared, states get into trouble when they, in order to demonstrate an accomplishment in an accounting base, move some payments from one month into the next month in order to perhaps "move it into the next fiscal year in order to adhere to some spending plan that has been put in place." He declared that a policy like that does not lend to improving the fundamental credit quality of a state. Therefore, he summarized that S&P's focus is on the structural quality of the budget in regards to ongoing revenue and expenditures.

Senator Hoffman asked whether the State's ability to manage the Permanent Fund and the Earnings Reserve Account (ERA) favorably affects the State's credit rating.

Mr. Petek replied "absolutely." He shared that 92-percent of all states' credit ratings range from a AA- rating to AAA rating, and that of all the states, 34 percent, including Alaska, have an AA rating. He continued that, while Alaska has "a strong and high credit rating," it's within the normal range for states. He opined that were states recognized as a sector, they would be one of the highest credit quality sectors that S&P follows. At the same time, he warned, there are issues that Alaska must address "in the not too distance future" in regards to its

credit; specifically its structural budget gap, which he pointed out "is much larger than any other state." He stressed that, "if it were not for the State's Permanent Fund and other underlying resources and, more recently, the Constitutional Budget Reserve (CBR) ... it would be unlikely that the State's rating would be at the current level." While noting that the State's prudent management of its resources is reflected favorably in its AA credit rating, he communicated that S&P's two-year time horizon on its bond rating for Alaska would either be stable, positive or negative depending on the current trend. He specified that the State currently has a AA rating with a stable outlook; however, he cautioned that "at the time when the CRB is projected to be depleted within that two-year horizon, that stable outlook" could potentially be downgraded to a negative outlook were changes not made to the budget.

Senator Hoffman asked why "the substantial funds" in the Permanent Fund Earnings Reserve Account (ERA) would not be a factor, as he continued, that account could be accessed with a simple majority vote were the State to have a budget deficit. Continuing, he asked whether funds like the ERA could be factored into the rating scenario.

Mr. Petek responded that while such funds are considered, they would be "treated as a one-time non-recurring resource that could provide a buffer;" however, he commented that S&P does not recognize that "as equating to structural budget balance." Furthermore, he continued, were "the State to rely on the earnings from the Permanent Fund as an on-going revenue source" in such a manner as proposed by the Percent of Market Value (POMV) plan's concept of treating it "like an endowment fund," S&P would recognize it as a reasonable idea and "would be comfortable in analyzing that in the context." He noted that endowment funds are factored into the ratings of universities and other institutions and that analysts are comfortable with including them in the process as procedures have been established for their inclusion. He stated, therefore, that the State's incorporation of the POMV would be "one way to approach this;" however, he qualified that while the POMV could be a "reasonable approach" to the issue, S&P does not desire to comment on policy proposals as it desires to remain objection. He continued that, "absent a defined plan, and just having the Permanent Fund available... is less desirable," as S&P would desire some "specific approach to utilizing the earnings."

Mr. Fraser commented that POMV would be viewed as a stream of payments rather than as one lump sum.

Senator Hoffman clarified that his comments did not pertain to changing the manner through which the Permanent Fund might be invested under POMV. Rather, he attested, his comments were that "the Permanent Fund earnings are not a one-time account" as both the Permanent Fund and the earnings are permanent. Furthermore, he attested, the earnings go into the Permanent Fund Earnings Reserve Account and "the Legislature has not decided to spent those earnings on government but has spend them on dividends and inflation proofing." He characterized the account as a re-occurring account, whose revenues should be viewed accordingly, and, he stressed that the State's "rating should remain on the positive note rather than being viewed in a negative light because the CBR is on the decline."

Mr. Fraser responded that were the Permanent Fund to produce a predictable flow of funds, or "regular payments based on some formula" it would be viewed similar to endowments and other credits. He stated that this would provide a "relatively strong revenue stream; it would be very predictable from year-to-year, and would be a strength."

Mr. Petek informed the Committee that in recent internal S&P committee reviews, there has been an interest "in having a detailed explanation about where this State stands with this structural gap and if, there is movement on that front."

Senator B. Stevens asked whether the presenters have taken into consideration that "it appears" there would not be a structural budget gap in FY 04.

Mr. Petek responded yes, that they had recently received an updated revenue trends report. He referenced his earlier comments regarding the two-year time horizon ratings outlook forecast, and commented that "that probably won't happen until the CBR is projected to be depleted within that timeframe, so to the extent oil prices and revenues remain strong as they are, I guess it buys a little extra time. But the fact of the matter is, its probably temporary." He stated that it would not "be conservative fiscal planning to assume the revenues would remain at the current levels."

Senator B. Stevens noted that he would "tend to agree with that statement." Continuing, he asked the presenters their views on recent State discussions regarding modifying "the existing tax structure that surrounds the oil industry"; specifically, he asked how the State's bond rating might be affected were the State "to restructure the oil industry and generate more money" from oil even though, he acknowledged, that the State would remain dependent on this one revenue source.

Mr. Petek responded that the details of the proposal would be a factor. He continued that the revenues currently being received from that industry, the State's reliance on that industry, and future expansions in that industry and other industries such as tourism and service sectors are currently factored into the S&P credit reports. He opined that restructuring of the oil industry's tax structure might align with the current report; however, he commented that S&P could be more specific once the details of the proposal were available.

Senator B. Stevens acknowledged the response. He communicated the understanding that, from comments he had originally heard in Fairbanks at the Conference of Alaskans and again today, the CBR, which is not a guaranteed annual funding stream but which could be accessed by the Legislature, is viewed as a contributing factor to the State's stable credit rating. However, he voiced being confused regarding the S&P position of not factoring into the credit report, the ERA and the unrealized gain of the ERA "which are statutorily eligible for and classified as funds available for appropriation." Therefore, he asked for further explanation regarding why the ERA, which consists of the realized earnings account that amounts to approximately one billion and the unrealized earnings account of approximately \$3.5 billion are not factored into the S&P bond rating analysis.

Mr. Petek supposed that the State could divert the money that is specified for the Permanent Fund Dividend payments to the general fund; however, he stated that S&P "looks at things as they actually play out" as opposed to "what is legally available," as it is recognized "that there are practical limitations sometimes to utilizing all resources available."

Mr. Fraser agreed. He noted that were those balances deposited into the CBR, it might "forestall for a few more years the point

at which the rating could be reconsidered due to the structural budget imbalance."

Senator B. Stevens voiced that it is difficult to understand why the CBR, which was established in 1990, and whose balance is currently near the average balance of those 14 years, "has not evolved into a funding mechanism instead of a structural imbalance." Although voicing understanding of the S&P position on the ERA, he reiterated that, "it is classified as funds available for appropriation."

Senator Bunde understood that the ERA funds are not classified by S&P as part of the State's revenue stream because the State has not previously "shown the interest or the willingness" to access those funds.

Mr. Petek responded that that "would be a fair way" to state it.

Senator Bunde asked whether implementing statutory language to provide a regular revenue stream from those earnings would have a positive impact on the State's bond rating, even though he admitted, statutory language could be altered from one Legislature to the next.

Mr. Fraser underscored Senator Bunde's last comment by stating that S&P has witnessed a number of policy changes pertaining to such things as rainy day funds in states throughout the country. However, he voiced that any revenue stream being reviewed as part of an overall structural budget is evaluated for such things as "any concentration in one source, its predictability, its volatility" and other factors.

Senator Bunde surmised therefore that, in order to ensure the State's high credit rating, the State could constitutionally institute such things as the POMV program and dedicate those earnings to State government or it could statutory use some of the excess earnings of the Permanent Fund. Both of these avenues, he declared, "would be considered a revenue stream to government" and would assist in ensuring the State's good credit rating.

Mr. Fraser stated that the details of these two options would require review; however, he stated that were the end result to be "structural balance, regardless of how we got there, that would be the important thing."

Senator B. Stevens, following-up to Senator Bunde's questioning voiced the understanding that the State would not be able to claim the ERA as a stable funding source unless the State established a law specifying that a specific amount of the ERA would be used to create a sustainable funding stream for government. Continuing, he questioned the reasoning behind the credit rating position that the State would have to spend the money in order for it to be deemed as a sustainable funding source as opposed to not factoring that money in, in light of the Legislature's current ability to access the funds in the event of a shortfall.

Mr. Petek responded that the difference in the two scenarios is that one would be viewed as a savings account that would be considered as a one-time funding source as opposed to one being treated as an ongoing portion of the revenue base for the State. He exemplified that were "the ongoing revenue base short of the ongoing expenditures, and the reliance is on an existing reserve fund, then it's viewed more like sort of plugging the gap verses having a predictable, projected, and forecasted stream of revenue from the earnings that would be built into the budget as an on-going source." Therefore, he stated that the rating is calculated on how the reserve would be treated.

Co-Chair Green concurred with Senator B. Stevens's understanding that the State would be required to spend out of a fund in order for it to be classified as revenue.

[Note: With the exception of the following excerpt, the remainder of the discussion with Standard & Poor's addressed the State's prison situation. Those minutes are forthcoming.]

Senator Bunde inquired as to whether the presenters could comment on how Governor Frank Murkowski's recent POMV proposal might address the State's credit rating concern.

Mr. Petek stated that S&P is aware of the proposal. He reiterated, "that the POMV concept is something that we are accustomed to seeing with institutions that have large endowments." Therefore, he continued, "it could actually provide an ongoing source of revenue that could help address this budget gap." However, he stressed that rather than voicing a position on public policy issues, S&P would "focus on the bottom line."

Senator Bunde stated that the Governor's proposal includes dedicating a portion of the POMV funds to the Permanent Fund dividend, thus making them inaccessible for government spending. He asked whether this would positively or negatively affect the State's credit rating.

Mr. Petek responded that the POMV concept would provide predictability, as it would not "fluctuate dramatically with market returns from one year to the next." Therefore, he continued it would be a "credit enhancer." He stated that he could not comment on the proposal's dividend component.

Senator Bunde asked whether dedicating half of the POMV funds to a dividend would negatively affect the credit rating as opposed to the POMV funds being fully utilized to fund State government.

Mr. Petek remarked that due to the fact that none of the funds have ever been utilized to fund State government, it would be positive.

Senator Bunde concurred.

Senator Dyson understood that the State's credit rating is affected by "the lack of economic diversity" in that it is so dependent on oil revenue. Following up on Senator B. Stevens earlier questioning in this regard, he asked for further clarification as to whether the State's credit rating could be positively impacted were changes made to make the oil industry more viable with a longer-term future.

Mr. Petek responded that it might; however, he expressed that the concept is "too general" and that the particulars would be required.

Mr. Fraser interjected that "on the corporate side," Exxon Mobil Corporation, which is "a very strong company and very dependent on oil revenues," has a credit rating of AAA. Therefore, he stated that the particulars of the proposal would be important.

Senator Dyson voiced the understanding that, regardless of whether larger oil reserves became available for exploration or development and transportation route developed that would guarantee a longer life span and improved delivery methods, it would not enhance the State's credit rating as the State would continue to be a "single factor economy."

Mr. Fraser responded that "were the returns to the State so massive that it really outweighed everything else then there really wouldn't be any constraint there on the rating."

The bill was HELD in Committee.

#sb255

CS FOR SENATE BILL NO. 255(STA)
"An Act relating to traffic preemption devices."

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

Co-Chair Wilken stated that this legislation would "reserve the use of traffic preemption devices for legitimate authorized users" such as emergency response providers and road maintenance and public transit vehicles. He specified that CS SB 255(STA), Version 23-LS1397\Q was before the Committee, and he reminded that previous concerns regarded whether to use the word "or" or "and" on lines six and seven of Section 16, subsection (a) on page one of the bill that reads as follows.

(a) A person commits the crime of unlawful possession or use of a traffic preemption device if the person possesses or uses a traffic preemption device and that person is not at the time of the possession or use operating an emergency vehicle.

Co-Chair Wilken also noted that another concern was whether to include public transit vehicles in the exemption, as specified in Section 1, subsection (b)(2) on page one, line 13 through page two, line one that reads as follows.

(2) a person operating a motor vehicle involved in highway maintenance or public transit that has been authorized by the Department of Transportation and Public Facilities or a municipality to possess or use a traffic preemption device.

Co-Chair Wilken noted that the Department of Health and Social Services supports this legislation.

DENNIS MICHEL, Staff to Senator Gene Therriault, the bill's sponsor, noted that he had worked with Co-Chair Green's staff to address the concern regarding the language "possession or use of a traffic preemption device" as specified in Section 1(a). Continuing, he noted that changing this language to "possession and use of a traffic preemption device" would present "a loophole in prosecuting people caught using these devices." He pointed out that "these devices have no other use than to preempt traffic."

Co-Chair Green acknowledged that she is comfortable with the bill's existing language.

Senator Dyson stated that, while he appreciates the logic of the discussion, he "fundamentally disapproves" of criminalizing the action of possessing "a piece of hardware" as it furthers "our culture's" tendency to penalize people who have done nothing wrong. He likened this situation to anti-gun activists who claim, "that owning a weapon, that is only designed for defense as in shooting people, ought to be outlawed." In summary, he voiced being uneasy about "the slippery slope of criminalizing something when no negative behavior has ever been demonstrated."

Senator Olson voiced similar concerns in that a person who might possess but not be able to operate such a device "would be held outside of the standard of being innocent until proven guilty."

There being no further discussion regarding the language in Section 1(a), Co-Chair Wilken directed the discussion to Section 1(b)(2).

Mr. Michel communicated that utilizing traffic preemptive devices for public transit needs is not uncommon and "does have some merit" as these devices are currently utilized to address traffic problems in such cities as Portland Oregon, Seattle Washington, and Chicago Illinois.

Co-Chair Wilken noted that the bill's sponsor has provided Members with "An Overview of Transit Signal Priority" publication [copy on file] that reviews these and other cities' experiences with the traffic exemption devices.

TOM WILSON, Director, Public Transportation, Municipality of Anchorage, testified via teleconference from Anchorage, and explained that the Municipality's transit system has identified

the implementation of traffic preemptive devices as something they would like to pursue at some point. He stated that a common complaint of most transit systems is "that buses don't run frequently enough and that there is too much time" between scheduled runs. He stated that implementation of developing technology such as traffic preemptive devices could assist in addressing these concerns. He stated that although "long-term field studies" have been not conducted in the United States, information does indicate that "significant advantages and efficiencies" could result by the implementation of "low priority" traffic preemptive devices as opposed to "high priority devices, which would be reserved for police and fire."

Mr. Wilson explained that the low priority systems utilized in some cities are automated and have resulted in "significant reductions in trip times." Continuing, he noted that the benefits derived from trip time reductions would include such things as an increased use of the public transit system; decreased use of single occupancy vehicles on the roadways; decreased road maintenance; and reduced emissions. He stated that because of these benefits, "it would be an unfortunate oversight to preclude" public transit system from the ability to utilize these devices. He stated that the Anchorage transit system would coordinate use of these devices with a number of municipality ad hoc committees to include the traffic engineer, the traffic department, and the police and fire agencies.

Senator Dyson voiced concern that allowing the transit system to utilize these devices might result in a scenario wherein two lanes of private citizen traffic might be backed up while a city bus, going another direction, preempts the traffic signal in its favor. Therefore, he asked how the program could be implemented to address the competing needs of private citizens.

Mr. Wilson responded that this "is a commonly raised concern," and he noted that existing studies indicate when the system is "adequately designed" there is "little or no impact on the travel times of other motorists." Continuing, he explained that rather than being a manual system operated by individual buses, the device could be tailored to specific areas and would be operated by a centralized traffic management center. Furthermore, he stated that once the parameters of the system are established and entered into a traffic management computer, activation rules would limit its use to those times, for instance, when a bus was running ten minutes behind schedule. In

conclusion, he stressed that studies indicate there to be little impact on other traffic and that motorists in the vicinity of a bus might benefit by taking advantage of the situation.

Senator Dyson voiced disappointment that the response did not include utilization of the device in low traffic times to provide a bus with a green light as opposed to requiring it to wait at an "arbitrary" red light when there was no cross traffic. Therefore, he surmised that routinely the devices are limited to high traffic times. In conclusion, he stated that the response did not assure him that the device's impact on the motorists would be minimal.

Mr. Wilson voiced the understanding that the system would allow for protocols to be established in the computer system. Therefore, he continued, Senator Dyson's concerns "could be addressed in that fashion." He stressed that "the predominant application" of the devices has been to address congestion rather than wait times. He informed the Committee that transit vehicles normally spend 15-percent of their trip time waiting at traffic signals, and therefore, he noted, studies indicate that this device would "significantly reduce" that wait time by up to 40-percent on average. This, he stated, would reduce a 60-minute round-trip to 55-minutes and therefore, providing "a more competitive service."

Senator Dyson disclosed that he would be more comfortable with the implementation of traffic devices were they approved through a local citizen or local assembly vote process. He noted that the residents of Anchorage have not, historically, been supportive of the local transit authority. He asked whether the communities that have implemented the device did so upon voter consideration.

Mr. Wilson responded that everything he had seen indicated that the device was "implemented through local ordinances and local processes, but not necessarily subject to a vote."

Mr. Michel noted that language in Section 1(b)(2) on page one of the bill specifies that implementation of the preemptive device must be authorized by the local municipality. He opined that this language, which reads as follows, should address Senator Dyson's concern.

(2) a person operating a motor vehicle involved in highway maintenance or public transit that has been authorized by the Department of Transportation and Public Facilities or a municipality to possess or use a traffic preemption device.

Co-Chair Wilken observed that the language includes the word "or" and could therefore allow for authorization either by the Department of Transportation and Public Facilities (DOT) or the municipality.

Mr. Michel concurred but stated that due to the fact that DOT does not have a bus system, the authorization would be by the municipality.

Senator Bunde commented that this language would "not allow for a vote of the people."

Senator Bunde understood that the Anchorage transit system does not currently own any traffic preemptive devices.

Mr. Wilson responded that is correct. He noted that a limited number of intersections in the Municipality are equipped with the devices of which only the fire department could activate. He was unsure as to whether the police department was equipped with the devices.

Senator Bunde asked for a cost estimate for outfitting the bus transit system.

Mr. Wilson responded that an initial cost study indicates that the transit system's portion of the total cost of purchasing transmitters, receivers, and computers would amount to three million dollars. He noted that the majority of the transit system's expenses would be eligible to receive federal "intelligent transportation system" funding "which frequently requires no local match."

Senator Olson asked how the Municipality of Anchorage with a population of less than 300,000 could compare its transportation needs to those of "much larger cosmopolitan areas."

Mr. Wilson responded that rather than comparing Anchorage to those larger cities that have these devices, the intent was to provide examples of the affects of the traffic preemption

devices. He pointed out that this is an emerging technology of which, currently, only larger areas have implemented.

AL STOREY, Alaska State Troopers, Department of Public Safety, testified via teleconference from an offnet site to comment that the Department is in support of restricting the use of these devices to emergency vehicles in order to address the concern that unrestricted use could corrupt an entire traffic management system and result in chaotic and dangerous situations. He noted that while the fire and police department devices have priority status with the signaling system, a situation could arise wherein an individual could trigger a device prior to a police officers approach to a signal and create confusion.

Co-Chair Wilken noted that, in addition to these devices being used in Anchorage, the city of Fairbanks has utilized these traffic devices effectively for more than ten years.

Senator Dyson asked whether the bill's definition of an emergency vehicle is sufficient as he questioned whether someone such as a supervising officer in a non-official vehicle might require use of the device in an emergency.

Mr. Storey explained that there is a very restrictive criterion regarding the use of the device. He allowed that while an extreme "aggravated" situation such as a hostage situation might support expanding the authorized use of the device, he would be surprised were, as a matter of routine business, the restrictive criteria and usage guidelines expanded.

Senator Dyson questioned whether the definition of a emergency vehicle should be broadened to include a person such as the volunteer fire department chief, in addition to the current definition that limits use to fire, police, or medical emergency vehicles.

Mr. Storey replied that although volunteer firefighters and others who must respond to emergency situations are important, the decision to broaden the definition should be a Committee decision.

Senator Bunde asked how the system would function were two emergency vehicles approaching an intersection from different directions.

Mr. Storey remarked that fire and police vehicle transmitter devices could be programmed to supercede signals from lower priority devices utilized in transit system buses or maintenance vehicles. He voiced the hope that the priority vehicle devices would also supercede illegal devices. In response to Senator Bunde's question, he stated that were two priority vehicles to approach a common intersection there might be conflict; however, he noted that the emergency vehicle drivers could coordinate their positions via their communication radios and use of professional courtesy.

Senator Bunde, noting that he is unfamiliar with these devices, asked whether the ones available on the market emit low priority signals. Furthermore, he questioned the need for this legislation were the high priority emergency devices to supercede low priority devices.

Mr. Storey responded that the purpose of this legislation is to offset criminal acts of those who possess these devices and who might use them, for instance, to "corrupt the traffic management system" in order to get to work on time. He noted that there is also the possibility that priority emergency vehicles signals might be interfered with, as he was unsure of the priority configuration of "bootlegged" devices.

Mr. Michel informed the Committee that volunteer firefighters utilize a blue light system on their vehicles. Continuing, he noted that while these volunteers are trained and authorized to use these lights, they are not authorized to exceed posted speed limits. He recommended against broadening the scope of the definition to include persons such as volunteers.

Mr. Michel further explained that a tier system is incorporated into the traffic preemption device system that would disallow a low priority vehicle such as a snowplow or transit bus from interfering with an emergency vehicle signal. However, he stressed, that without this legislation, it would be unclear as to whether bootlegged devices could interfere with emergency vehicle devices. He clarified that when two high priority vehicles approach a signaled intersection, "it is a first come, first served basis."

Senator Dyson stated that he would accept the language in Section 1(a). However, he suggested language in Section 1(b)(2) be altered.

Conceptual Amendment #1: This amendment deletes the word "municipality" in Section 1, subsection (b) (2) on page one, line 15, and replaces it with "municipal or city assembly." The amended language would read as follows.

(2) a person operating a motor vehicle involved in highway maintenance or public transit that has been authorized by the Department of Transportation and Public Facilities or a municipal or city assembly to possess or use a traffic preemptive device.

Senator Dyson moved for the adoption of Amendment #1. He informed that this amendment would provide local citizenry the ability to have a public process through which to weigh in on whether to allow their local transit system to have these devices.

Senator Bunde objected to inform that he would be presenting an amendment that would remove the entire public transit language from the legislation. He recalled that Mr. Wilson had testified that the transit system "has no present plans" to implement these devices. Continuing, he noted that he would be open to the idea in the future, were the citizens of Anchorage provided the opportunity to participate in the decision were the transit system to advance this effort.

Senator Bunde removed his objection.

There being no further objection, Amendment #1 was ADOPTED.

Conceptual Amendment #2: This amendment deletes the language "or public transit", and "or a municipal or city assembly" as amended by Amendment #1, in Section 1, subsection (b)(2) on page one, lines 14 and 15. The language would read as follows.

(2) a person operating a motor vehicle involved in highway maintenance that has been authorized by the Department of Transportation and Public Facilities to possess or use a traffic preemptive device.

Senator Bunde moved for the adoption of Amendment #2.

Senator Wilken objected.

Senator Bunde stated that this amendment would remove the transit system from the legislation due to the fact that there is currently no plan underway to institute these devices in Anchorage's transit system and, therefore, authorization is not currently required. Continuing, he noted that this issue could be readdressed in the future. He declared that he does not agree that these transit devices would not "inconvenience" other motorists.

Co-Chair Wilken maintained his objection, as he stated he is comfortable with allowing the transit system to remain in the bill; especially in light of the language added by Amendment #1.

Senator Olson commented that, as a physician, it is difficult to discuss emergency vehicles and transit buses in the same conversation.

SFC 04 # 83, Side A 10:42 AM

A roll call was taken on the motion.

IN FAVOR: Senator Olson and Senator Bunde

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

The motion FAILED (2-5)

Amendment #2 FAILED to be adopted.

Co-Chair Green moved to report the bill, as amended, from Committee with individual recommendations and accompanying fiscal notes.

Co-Chair Wilken objected in order to request that Members read the analysis included with the new fiscal note provided by the Public Defenders Office of the Department of Administration.

Co-Chair Wilken removed his objection.

There being no further objection, CS SB 255 (FIN) was REPORTED from Committee with zero fiscal note #1, dated February 9, 2004 and zero fiscal note #2, dated February 6, 2004 from the

Department of Public Safety; zero fiscal note #3, dated February 10, 2004 from the Department of Law; and a new indeterminate fiscal note, dated April 6, 2004 from the Department of Administration.

#sb337

CS FOR SENATE BILL NO. 337(L&C)

"An Act relating to the powers of the Alaska Energy Authority to make grants and loans, to enter into contracts, and to improve, equip, operate, and maintain bulk fuel, waste energy, energy conservation, energy efficiency, and alternative energy facilities and equipment; relating to the bulk fuel revolving loan fund; relating to the Alaska Energy Authority's liability for the provision of technical assistance to rural utilities; relating to the Alaska Energy Authority's investment of the power development fund; repealing the electrical service extension fund; and providing for an effective date."

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

Co-Chair Wilken, noted that this legislation, which is sponsored by Senate Rules by the Request of the Governor, pertains to the powers of the Alaska Energy Authority and would amend statutory provisions of the Authority's Energy Loan Program (ELP).

SARA FISHER-GOAD, Financial Analyst, Alaska Industrial Development & Export Authority (AIDEA) and Alaska Energy Authority (AEA), Department of Community and Economic Development, testified via teleconference from an offnet site, and stated that this legislation would allow the Power Project Fund (PPF) to authorize loans for waste energy and energy conservation, energy efficiency, and alternative energy facilities and equipment.

Co-Chair Wilken noted that Members' packets contain an AIDEA/AEA letter [copy on file] dated March 16, 2004 and addressed to the Committee co-chairs, that outlines the projects affected by this legislation.

Ms. Goad stated that the changes proposed to the PPF would expand the definition of eligible energy efficiency projects in

order to include projects such as lighting retrofits. She also noted that the bill would repeal the Loan Committee that approves the PPP loans and incorporate the credit approval process that includes an appeal process to the Board of Directors, as currently utilized by AIDEA.

Ms. Goad stated that another program affected by the legislation would be the Bulk Fuel Revolving Loan Fund (BFRLF) that provides "short-term loans to assist small rural communities in purchasing annual bulk fuel supplies." She qualified that while the Department of Law recently interpreted the definition of eligible borrowers to be communities and private individuals, the bill would allow funds to be provided to other entities such as corporations, cooperatives, and joint ventures. This expansion, she attested would "not expand the definition of eligible borrower beyond the long-standing interpretation and practice that included other entities such as corporations."

Ms. Goad noted that while AEA has been investing the Power Development Fund since 1993, this bill would affirm its ability to do so by, with the concurrence of the Department of Revenue, providing AEA with the necessary statutory authority. She pointed out that all earnings of the Fund are remitted to the State's general fund.

Ms. Goad noted that this bill would clarify AEA's general power of authority to issue grants and contracts in that, "as acting as an agent for rural communities, AEA manages power projects, bulk fuel projects and alternate energy projects." She noted that AEA receives and expends federal funds from entities such as the Denali Commission and the US Department of the Energy through the State's appropriation process.

Ms. Goad also stated that the bill "clarifies that AEA's statutory mandate to provide technical assistance may not be used as an independent basis for tort liability against AEA." However, she noted that, "AEA would continue to be liable for negligence if it fails to use reasonable care in the providing the technical assistance."

Ms. Goad stated that the bill would also repeal the inactive Electrical Service Extension Fund. She urged the Committee to act favorably in regard to this bill.

Co-Chair Wilken noted that the repealing language regarding the Electrical Service Extension Fund is located on page seven, Section 12, of the bill. Furthermore, he noted that the Fund money, amounting to approximately \$85,000, would be transferred to the general fund.

Senator Dyson asked whether "changing lighting systems" would qualify as an energy efficiency project.

JIM MCMILLAN, Deputy Director, Credit and Business Development, Alaska Energy Authority, Department of Community and Economic Development, testified via teleconference from an offnet site, and responded that, while projects of this nature have been denied in the past, this bill would allow for retrofitting of lighting to save energy costs to qualify for the PPF program.

Senator Dyson understood therefore that transitioning "from incandescent lighting to something with a better power factor" would be allowed.

Senator Olson asked for further information regarding the repealing of the Bulk Fuel Revolving Fund, AS 42.45.250(1)(1), as specified in the bill in Section 11, on page seven, line ten; specifically as this might affect bulk fuel storage facilities that store in excess of 10,000 gallons of fuel.

Mr. McMillan responded that the intent of this language is to "clean up" State statutes as the definition of "bulk fuel storage facility" is not included anywhere in State statutes. He stressed that repealing the section would not have any affect on the program's operation.

Senator Olson asked whether a minimum of 10,000 gallons of fuel must be purchased in order to quality for the Loan program.

Mr. McMillan responded in the negative.

MIKE HARPER, Deputy Director - Rural Energy, Alaska Industrial Development & Export Authority, Department of Community and Economic Development, testified via teleconference from an offset site to state that this legislation "is fairly straight forward" and would provide the Authority "with the ability to move forward and to carry out" the Loan Program's mission for "building projects in rural Alaska."

Senator Bunde shared that he had heard from a fuel storage constituent who operates in Western Alaska and who had shared that there is a strong business interconnection between Western Alaska and Central Alaska. He stated that these fuel sales are important and are a priority in that, due to weather and being required to ship via barge, the fuel must be shipped before the onset of winter. On another note, he mentioned that another person, who was having difficulty in paying for fuel, wrote a letter saying that paying for his fuel would jeopardize his cable, as it would be shut off if he did not pay that bill.

Senator Dyson noted that, in the past, he had conducted waste-heat recovery studies in approximately fifteen villages in Western Alaska, and he concluded that efforts to improve energy situations by utilizing such things as power plants waste heat to heat schools, is a "win-win situation." Therefore, he spoke to his conflict of interest and stated that he has "a lot of enthusiasm for what's being done."

Senator Dyson moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, CS SB 337(L&C) was REPORTED from Committee with zero fiscal note #1, dated December 18, 2003 from the Department of Revenue, and zero fiscal note #2, dated February 3, 2004, from the Department of Community and Economic Development.

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ADJOURNMENT

Co-Chair Gary Wilken adjourned the meeting at 10:55 AM.