MINUTES
SENATE FINANCE COMMITTEE
April 27, 2004
9:02 AM

TAPES

SFC-04 # 95, Side A
SFC 04 # 95, Side B
SFC 04 # 96, Side A
SFC 04 # 96, Side B
SFC 04 # 97, Side A
SFC 04 # 97, Side B

CALL TO ORDER

Co-Chair Gary Wilken convened the meeting at approximately 9:02 AM.

PRESENT

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

Also Attending: SENATOR GARY STEVENS; SENATOR RALPH SEEKINS; BILL HOGAN, Director, Division of Behavior Health, Department of Health and Social Services; GREY MITCHELL, Director, Division of Labor Standards & Safety, Department of Labor and Workforce Development; MARY JACKSON, Staff to Senator Tom Wagoner; GREG O'CLARAY, Commissioner, Department of Labor and Workforce Development; STEVE VAN SANT, State Assessor, Division of Community Advocacy, Department of Community and Economic Development; DARWIN PETERSON, Staff to Senator Gary Wilken; SHARON BARTON, Director, Permanent Fund Dividend Division, Department of Revenue; MIKE BARNHILL, Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Juneau), Department of Law; ROBERT STORER, Executive Director, Permanent Fund Corporation, Department of Revenue; MARC ANTRIM, Commissioner, Department of Corrections; BRIAN HOVE, Staff to Senator Ralph Seekins; RICHARD SCHMITZ, Staff to Senator John Cowdery; DEBORAH FINK, Representative, Cash Alaska; PAT LUBY, Advocacy Director, AARP Alaska; TIM KELLY, Former Senator, Lobbyist for Cash Alaska; TOM BOUTIN, Deputy Commissioner, Department of Revenue and Spokesman, State Bond Committee

Attending via Teleconference: From Offnet Sites: JEFF JUDD, Director of Operations, Cook Inlet Housing Authority; HOWARD LEVINE, Director of Development, Venture Development Group; RANDY HOFFBECK, Petroleum Property Assessor, Tax Division, Department of Revenue; ED SNIFFEN, Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Anchorage), Department of Law; PAT PITNEY, Director of Budget Development and Institutional Planning, University of Alaska; MARK DAVIS, Director, Division of Banking, Securities & Corporations, Department of Community and Economic Development; STEVE CLEARY, Executive Director, Alaska Public Interest Research Group; ANGELA LISTON, Representative, Alaska Catholic Conference; JIM DAVIS, Representative, Alaska Legal Services Corporation; DOCTOR SCOTT LUPER; From Anchorage: DEE HUBBARD; From Kodiak: LINDA FREED, City Manager, City of Kodiak; TC KAMAI, Chief of Police, City of Kodiak; From Seward: PHIL SHEALY, City Manager, City of Seward; WILLARD DUNHAM, City Council Member, City of Seward

SUMMARY INFORMATION

SB 364-LIMIT STATE AID FOR MENTAL HEALTH CARE

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

SB 278-LABOR & WORKFORCE DEVELOPMENT FEES

The Committee heard from the Department of Labor and Workforce Development, adopted one amendment, and reported the bill from Committee.

SB 136-RESIDENTIAL PROPERTY TAX EXEMPTION

The Committee adopted a committee substitute and two amendments. The bill was reported from Committee.

SB 393-TAKE PERM FUND DIVIDEND FOR UNIV FEES

The Committee heard from the University of Alaska and the Department of Revenue. The bill was held in Committee.

SB 379-PERM FUND BOARD PUBLIC MEMBER REMOVAL

The Committee heard from the Department of Law and the Permanent Fund Corporation. A committee substitute was adopted and the bill was reported from Committee.

SB 65-CORRECTIONAL FACILITY EXPANSION

The Committee heard from the bill's sponsor, the Department of Corrections, and took public testimony. A committee substitute was adopted. Four amendments were considered and three were adopted. The bill was held in Committee.

SB 313-FIRST SUPPLEMENTAL APPROPRIATION

The Committee adopted a committee substitute and held the bill in Committee.

SB 306-NATUROPATHIC MEDICINE

The Committee heard from the sponsor and the industry. A committee substitute and two amendments were adopted and the bill was reported from Committee.

SB 272-DEFERRED DEPOSIT ADVANCES (PAYDAY LOANS)

The Committee heard from the sponsor, the Department of Law, the Department of Commerce and Economic Development, the industry, and the public. The bill was held in Committee.

SB 307-APPEAL BONDS: TOBACCO SETTLEMENT PARTIES

This bill was scheduled but not heard.

#sb364

> CS FOR SENATE BILL NO. 364(HES)
> "An Act relating to liability for expenses of placement in certain mental health facilities; relating to the mental health treatment assistance program; and providing for an effective date."

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

Co-Chair Wilken communicated that the Senate Rules Committee at the Request of the Governor sponsors this legislation which would limit State aid for mental health care and provide a mechanism through which to address expenses associated with mental health diagnosis, evaluation and treatment (DET) programs.

Co-Chair Wilken recalled that, during the previous hearing on this bill, a question was asked regarding how the Legislature would be

notified were the Department to anticipate a shortage of funds with which to address DET program expenses.

BILL HOGAN, Director, Division of Behavioral Health, Department of Health and Social Services, stated that the Department would provide notification in the manner specified by the Legislature.

Co-Chair Wilken asked whether the bill should be amended to specify that the Department must notify the Senate President, Speaker of the House, and Finance Committee Co-chairs were short funding to occur.

Mr. Hogan responded that a formal request would be sufficient.

Senator Hoffman suggested that the bill be amended, as he attested that, in addition to the Department's funding being strained, communities and hospitals would have "undue burdens" placed upon them, particularly considering the fact that the Alaska Psychiatric Institute (API) would be downsized to 72 beds in July 2004. He pointed out that the Department could not speak to the impact this might have on hospitals. Therefore, he voiced a lack of support for the legislation, were it not amended.

Co-Chair Wilken asked whether Senator Hoffman would be offering an amendment to address this concern.

Senator Hoffman refrained from offering an amendment.

Co-Chair Wilken expressed therefore, for the record, that the intent of the Department would be to notify the Speaker of the House, the Senate President, and Finance Committee co-chairs were a shortfall in funding for the DET program to occur.

Co-Chair Green moved to report the bill and the Senate Health Education and Social Services Committee (HES) Letter of Intent from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, CS SB 364(HES) and the HES Letter of Intent was REPORTED from Committee with negative $100,000 fiscal note #1 dated February 6, 2004 from the Department of Health and Social Services.

#sb278

CS FOR SENATE BILL NO. 278(L&C)
"An Act relating to fees for the inspection of recreational devices, including instructional devices, for certificates of

fitness for electrical wiring and plumbing, for filing voluntary flexible work hour plan agreements, and for licenses for boiler operators; relating to the building safety account; and providing for an effective date."

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

Co-Chair Wilken commented that this bill, which is sponsored by the Senate Rules Committee by Request of the Governor, would create two new fees and increase an existing fee charged by the Department of Labor and Workforce Development. The adoption of Amendment #1 during the bill's initial hearing changed a fiscal component, and, as a result, a new fiscal note has been provided to the Committee. The Version 23-GS2111\D committee substitute, amended by Amendment #1, is before the Committee.

GREY MITCHELL, Director, Division of Labor Standards & Safety, Department of Labor and Workforce Development explained that the adoption of Amendment #1 deleted a proposed $100 flexible work plan filing fee that would have generated $24,000 in revenue. Therefore, a new zero fiscal note, dated April 26, 2004 from the Wage and Hour Section of the Division of Labor Standards and Safety, Department of Labor and Workforce Development, replaces the fiscal note dated April 15, 2004. He noted that the new fiscal note's analysis provides the breakout of the expenses associated with administering the flexible work plan program.

Senator Bunde acknowledged the information, but questioned the reason for performing the "perfunctory review" of the program, as it incurs an expense to the State.

Co-Chair Green commented that this concern could be addressed via the Missions and Measures review process.

Amendment #2: This amendment inserts the following language into Section 1, subsection (b) following the word "devise." on page one, line nine.

> The department shall waive the inspection fee if the owner or operator of the device uses a private inspector who is certified by a national organization to inspect recreational devices and provides the inspection report to the department.

Co-Chair Wilken moved and objected to the adoption of Amendment #2. This amendment is the result of recent action taken in regards to this bill's companion bill, HB 402-LABOR & WORKFORCE DEVELOPMENT

FEES.

GREG O'CLARAY, Commissioner, Department of Labor and Workforce Development explained that the proposed language in Amendment #2 would address a recreational industry concern that arose during a House committee hearing on the companion bill in that a nationally certified out-of-state inspector was utilized, at great expense, to inspect recreational equipment. He stated that the Department supports the amendment and that, absent its adoption, a duplication of payment might result.

Co-Chair Wilken removed his objection.

Co-Chair Green asked for confirmation that Amendment #2 would provide this exemption specifically to recreational equipment.

Commissioner O'Claray replied, "that is correct."

Senator Olson asked for assurance that the national standards would equal or exceed the State standard.

Commissioner O'Claray understood that the same company that certifies State inspectors certifies the national recreational inspectors.

In response to a question from Senator Hoffman, Mr. Mitchell stated that the business, Golden Wheels Amusement Company, which operates amusement rides at fairs, presented this concern. The Company annually hires a national certified inspector to inspect their rides. These national inspectors must undergo a higher level of training than required of State inspectors. While State inspectors would accompany the national inspector, no fee would be levied by the State in that regard, as the private inspector would be charging an inspection fee.

There being no further objection, Amendment #2 was ADOPTED.

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

There being no objection, CS SB 278 (FIN) was REPORTED from Committee with new zero fiscal note, dated April 26, 2004 from the Wage and Hour Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development and a new $142,000 fiscal note, dated April 26, 2004 from the Mechanical Inspection Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development.

#sb136

SENATE BILL NO. 136
"An Act increasing an optional exclusion or exemption from municipal taxation for residential property."

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

Co-Chair Wilken stated that this bill, sponsored by the Senate Community & Regional Affairs Committee, would increase, from $10,000 to $50,000, the amount a municipality may exempt in residential property taxation.

Co-Chair Green moved to adopt the Version 23-LS0440\D committee substitute as the working document.

Co-Chair Wilken explained that the Version "D" committee substitute would lower the proposed municipality tax exemption from $50,000 to $20,000.

There being no objection, Version D was ADOPTED as the working document.

MARY JACKSON, Staff to Senator Tom Wagoner, noted that while Senator Wagoner is no longer a member of the Senate Community & Regional Affairs Committee, he continues his involvement regarding this legislation and, in that manner, supports language in the Version "D" committee substitute. In addition, she noted that he is also supportive of two forthcoming amendments.

Amendment #2: This amendment inserts new language into the bill's title, on page one, line two following "property" as follows.

and to an exemption from and deferral of municipal property taxes on certain types of deteriorated property.

In addition, new bill sections are inserted in the bill on page one, following line eight as follow.

Sec. 2. AS 29.45.050(o) is amended to read:

(o) A municipality may by ordinance partially or totally exempt all or some types of deteriorated property from taxation for up to <u>10</u> [FIVE] years beginning on or any time after the day substantial rehabilitation, renovation, <u>demolition, removal,</u> or replacement of any structure on the property begins. A municipality may by ordinance permit

deferral of payment of taxes on all or some types of deteriorated property for up to five years beginning on or any time after the day substantial rehabilitation, renovation, demolition, removal, or replacement of any structure on the property begins. However, if the ownership of property for which a deferral has been granted is transferred, all tax payments deferred under this subsection are immediately due and the deferral ends, or, if ownership of any part of the property is transferred, all tax payments are immediately due. The amount deferred each year is a lien on that property for that year. Only one exemption and only one deferral may be granted to the same property under this subsection, and, if an exemption and a deferral are granted to the same property, both may not be in effect on the same portion of the property during the same time. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption or deferral. In this subsection, "deteriorated property" means real property that is commercial property not used for residential purposes or that is multi-unit residential property with at least eight residential units, and that meets one of the following requirements:

(1) within the last five years, has been the subject of an order by a government agency requiring environmental remediation of the property or requiring the property to be vacated, condemned, or demolished by reason of noncompliance with laws, ordinances, or regulations;

(2) has a structure on it not less than 15 years or age that has undergone substantial rehabilitation, renovation, demolition, removal, or replacement, subject to any conditions prescribed in the ordinance; or

(3) is located in a deteriorating or deteriorated area with boundaries that have been determined by the municipality.

Sec. 3. The uncodified law of the State of Alaska enacted in sec. 2, ch. 8, SLA 1999, as amended by sec. 1, ch. 102, SLA 2002, is amended to read:

Sec. 2. AS 29.45.050(o) is repealed July 1, 2010 [2006].

New language underlined [DELETED TEXT BRACKETED]

Senator B. Stevens moved for the adoption of Amendment #2.

Co-Chair Wilken objected for explanation.

Senator B. Stevens pointed out that, while the amendment was drafted to the original version of the bill, it would apply to the Version "D" committee substitute. Amendment #2 would provide

additional options to municipalities as a result of the following three changes: it would add the language "demolition and removal" to the qualifying language; would increase the tax exemption period from five years to ten years; and would address environmental remediation issues that would require a property to be vacated. He also noted that the amendment would allow a municipality, on a case-by-case basis, to expand the property qualification period from five years to seven years.

JEFF JUDD, Director of Operations, Cook Inlet Housing Authority, testified via teleconference from an offnet site and spoke in favor of the bill; particularly language would allow local property taxes to be deferred for up to ten years. The bill would enhance local communities, non-profits and other entities efforts to revitalize deteriorated properties. Absent these kinds of options, the expense associated with improving deteriorating properties would be cost-prohibitive. In addition, in the long term, the resulting gains in assessed values and corresponding increased property taxes would benefit local municipalities and offset any lost tax revenue. This legislation is really about "economic development and the opportunity to create healthy neighborhoods, vibrant business district environments, quality affordable housing development and ultimately improved property assessed values and higher tax revenues for local governments." His organization welcomes this taxation exemption and deferral legislation, as it would enable them to continue their efforts to revitalize deteriorated sites.

Co-Chair Green asked for confirmation that the bill would allow for site improvement during the ten-year taxation exemption period.

Mr. Judd concurred.

Co-Chair Green asked whether the tax abatement would be discontinued were no work undertaken.

Mr. Judd replied that the local government would establish the taxation abatement/exemption rehabilitation parameters within existing and proposed law.

Senator Bunde asked whether municipalities could spin the local options provided by this amendment as "unfunded mandates."

Senator B. Stevens responded no, as the municipality would be required to approve and establish the parameters pertinent to each abatement project.

HOWARD LEVINE, Director of Development, Venture Development Group, testified via teleconference from an offnet site and spoke in favor

of the bill as "it would be the catalyst for the redevelopment of under-utilized and blighted areas within Alaska." Increasing the allowable abatement period from five years to ten years would be beneficial to developers and property owners. The challenges of coordinating rehabilitation activities are expensive and absent tax abatement, the cost would be prohibitive. His company would utilize the components provided by this legislation to enhance its redevelopment projects. He thanked the Committee for considering the bill.

Co-Chair Wilken removed his objection.

There being no further objection, Amendment #2 was ADOPTED.

Amendment #1: This amendment inserts the following language into Section 1, subsection (a) of the bill on page one, line six, following the word "election."

> An exclusion or exemption authorized by this subsection may be applied with respect to taxes levied in a service area to fund the special services.

Co-Chair Wilken moved to adopt Amendment #1 and objected for explanation.

Ms. Jackson informed the Committee "that current statute is silent" regarding the taxation application of this exemption in regards to service areas. Therefore, it was determined by the House of Representatives that language clarifying that a municipality would have the decision-making authority in this regard should be included in the bill.

Ms. Jackson explained that the Version "D" committee substitute would allow a municipality to provide a $20,000 tax exemption on a $100,000 house. The $80,000 balance would be taxable at the local mill rate. This amendment would allow, by a vote of local residents on an ordinance presented by the local governing assembly, whether or not to collect the mill rate supporting, for example, emergency services in that area, based on the full $100,000 value of the house or the $80,000 value of the house.

Co-Chair Wilken removed his objection.

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

Co-Chair Wilken asked whether the Department of Revenue spreadsheet titled "Estimated State Revenue Loss Due to Increased Allowance for Residential Exemption" [copy on file] dated January 20, 2004 is

current.

RANDY HOFFBECK, Petroleum Property Assessor, Tax Division, Department of Revenue, testified via teleconference from an offnet site and replied that it is.

Co-Chair Wilken, noting that the spreadsheet contains actuals based upon a $10,000 exemption as well as projections for both a $20,000 and $50,000 exemption, asked upon which of those projections the $389,182 "Estimated increased cost to state" is calculated.

Mr. Hoffbeck replied that the amount is based on the $20,000 exemption projection.

Co-Chair Wilken expressed therefore that this spreadsheet could be recognized as the basis for a fiscal note.

Mr. Hoffbeck concurred.

Co-Chair Wilken asked that the Department of Revenue further refine the spreadsheet so that the presentation is clearly defined.

Mr. Hoffbeck agreed.

Senator B. Stevens questioned the reason for the Petroleum Property Tax Division of the Department of Revenue's involvement in this process as the bill pertains to residential property tax exemptions.

Co-Chair Wilken explained that any change in the mill rate of the municipality subject to this legislation would also affect the amount of money the State might collect via AS 43.56 (Oil and Gas Property).

Senator B. Stevens acknowledged the connection. In addition, he understood that the Municipality of Anchorage is not specified in this legislation, as it is not one of the five municipalities offering this tax exemption.

STEVE VAN SANT, State Assessor, Division of Community Advocacy, Department of Community and Economic Development, explained that originally the spreadsheet was developed to assist the State in determining the amount of Oil and Gas revenue that would be affected by the proposed property tax exemption. While there are five municipalities currently offering this type of exemption, the spreadsheet reflects only four, as the Bristol Bay Borough area does not have any oil and gas properties within its boundaries. Other communities could implement the exemption in the future.

Senator B. Stevens asked for confirmation that only five municipalities currently grant this exemption.

Mr. Van Sant affirmed. He also noted that the exemption is currently limited to $10,000.

Senator B. Stevens understood that other municipalities could implement this exemption.

Mr. Van Sant affirmed that any municipality could elect to do so.

Senator B. Stevens understood therefore, that were this legislation adopted, the Municipality of Anchorage could elect to implement a $20,000 property tax exemption.

Mr. Van Sant confirmed.

Senator B. Stevens commented that there are "tools available" through which tax relief could be provided to property owners.

Senator Hoffman asked for confirmation that, were the $20,000 exemption allowed, the cost to the State would be $389,182.

Mr. Hoffbeck affirmed.

Co-Chair Wilken clarified that this would be "the potential liability" to the State were the four municipalities currently providing this exemption to increase the exemption level to $20,000 and increase their mill rate to the maximum limit.

Mr. Van Sant clarified that $389,182 would be the amount of revenue lost to the State were the four municipalities to elect to regain the revenue lost from the exemption by increasing their local mill rate. The Kenai Peninsula Borough also has a sales tax that could be utilized to offset its lost revenue. Therefore, the $389,182 State revenue reduction would be a "worst case scenario."

Senator Bunde asked whether a revenue loss to the State would be incurred were the Municipality of Anchorage to provide the $20,000 property tax exemptions.

Mr. Hoffbeck replied that the overall effect on the State would be minimal as the oil and gas property within the Municipality of Anchorage "is minuscule."

Senator Bunde, referencing municipalities' concern regarding State revenue sharing, commented that, were these municipalities to

increase their exemption level and their mill rates to the maximum allowable level, it could be likened to being a State subsidy amounting to approximately $100,000 for each of the four communities.

Mr. Hoffbeck affirmed that the amount would vary between $31,000 for the North Slope Borough and $133,000 for the Fairbanks North Star Borough.

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

Senator Hoffman voiced support for the bill, as "it would provide more local control" to municipalities.

Senator Bunde interjected "and more State money."

There being no objection, CS SB 136 (FIN) was REPORTED from Committee with new zero fiscal note, dated April 28, 2004 from the Department of Revenue and new zero fiscal note, dated February 11, 2004 from the Department of Community and Economic Development.

#sb393

> SENATE BILL NO. 393
> "An Act relating to default on tuition, fees, and other charges of the University of Alaska and to claims on permanent fund dividends for tuition, fees, and other charges of the University of Alaska that are in default."

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

Co-Chair Wilken informed the Committee that this bill, which is sponsored by the Senate Finance Committee, would authorize the University of Alaska to garnish an individual's Permanent Fund Dividend (PFD) for payment of defaulted tuition fees, and other fees owed to the University. He noted that Version 23-LS1945\A is before the Committee.

PAT PITNEY, Director of Budget Development and Institutional Planning, University of Alaska, testified via teleconference from an offnet site and expressed that "the University is looking for every way to maximize its generated revenue." This bill would implement a means through which the University could collect on outstanding loans in a fashion similar to that utilized by the Alaska Student Loan Corporation (ASLC) that allows it "to garnish

PFDs for past due or defaulted debt." Language in the bill would assure that due process would be observed. This is a "safe bill" which would allow the University to collect, in the first year, approximately $400,000. The amount collected would decrease over time as outstanding debt is reduced. There are approximately 1,700 individuals with outstanding University debt. Through coordinated efforts with the Department of Revenue's Permanent Fund Dividend Division, assurances have been established to insure that the University's PFD garnishment attachment would align with other Permanent Fund Dividend attachment policies.

DARWIN PETERSON, Staff to Senator Gary Wilken, Co-chair of the Senate Finance Committee reiterated that the University debt collection process being proposed is similar to that utilized by the ASLC. He characterized the University's current collection process as being "aggressive" in that five separate collection notices are sent out over a six month period, with additional notices offering deferred payment plans in addition to utilizing collection agencies. However, regardless of these efforts, in excess of one million dollars in 180-day or longer debt remains outstanding. The University estimates that of that amount $800,000 is attributable to students who collect PFDs. In order to provide the maximum protection to citizens, the proposed methodology would specify that extensive notification, warning, and an appeals process must be implemented prior to garnishing an individual's PFD.

Mr. Peterson estimated that half of the $800,000 original debt could be collected the first year were this program implemented, and that in subsequent years, $100,000 could be collected annually. The proposed legislation would provide the University "one additional avenue" through which to collect, rather than "write off", debt.

SHARON BARTON, Director, Permanent Fund Dividend Division, Department of Revenue, stated that the legislation being proposed is "straight forward" and would not present any implementation obstacles. The Division would experience an initial one-time expense related to computer reprogramming to allow the University garnishment.

Senator Bunde questioned how University tuition could be delinquent, as he understood that tuition is typically collected in advance.

Ms. Pitney affirmed that the University's policy is that students pay up front; however, she allowed that the delinquency process is intensive in that when the financial committee reviews students who

are past due in their payments a multitude of factors are at play such as students being delinquent due to anticipated financial aid that does not occur; students who "have an intent to pay" that does not transpire; and essentially the students "are looked at and accepted as a risk that follows through at some point." She opined that the one million dollar delinquency total, out of a $60 million dollar total, "relatively speaking is a small amount." Being able to collect $400,000 of the one million dollar total would be worth the endeavor. She noted that in addition to tuition delinquencies, other delinquent charges included in the total include such things as dorm room damages and parking fees.

Senator Bunde encouraged the University to strengthen its tuition bad debt collection policy as holding students responsible for their obligation is part of the learning experience. He recalled that financial aid checks often identify both the student and the school in order to insure that the funds would be spent appropriately.

Senator Bunde questioned the appropriateness of placing the garnishment of PFDs for University delinquencies ahead of garnishments for domestic violence delinquencies and Alaska Court matters, as denoted in the payment priority list denoted in Section 2 of the bill on page two, beginning on line nine.

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Ms. Pitney responded that the rationale for placing the University garnishment as number four of eight is that this would place the University's garnishment behind that of the Alaska Student Loan Corporation. This rationale was the impetus for its placement.

Senator Bunde pointed out that there "would be potential costs to the State" were the University to maintain the number four position on the garnishment priority list, as such things as Court ordered fines would be secondary to the University's garnishments.

Co-Chair Wilken characterized the University's placement on the priority list as being "somewhat objective."

Ms. Pitney agreed.

Co-Chair Green questioned why this legislation is necessary, as she understood that, in addition to an agency of the State being able to collect such things as child support debt from an individual through the PFD garnishment process, anyone could garnish anything

for a proven debt through the legal process.

Co-Chair Green also questioned whether the University's collection in this manner is appropriate or whether the University's fiscal note, dated April 23, 2004 is correct as it indicates that it would cost $400,000 to collect $400,000.

Ms. Pitney responded that the fiscal note might not be correctly presented, as the intent of the University would be to add one staffing position to develop the collection program the first year. The associated expense, she continued would amount to $100,000 of the anticipated $400,000 revenue in FY 05. The $300,000 revenue balance, she stated, would be distributed to other University components. In subsequent years, the cost of managing the program would be minimal.

Co-Chair Wilken understood therefore that the fiscal note depicts that, in FY 06, it would cost $30,000 to collect $350,000.

Ms. Pitney concurred that that is the intent.

Co-Chair Green opined that the fiscal note should be re-worked, as the intent is not properly reflected.

Co-Chair Wilken stated that the fiscal note would be re-worked.

Co-Chair Green restated her earlier argument that due to language in Section 2, subsection (b) on page two, beginning on line 26, the University is already qualified to garnish an individual's PFD as it is an agency of the State.

Ms. Pitney clarified that the language does not apply to the University as it, like the Alaska Student Loan Corporation, is recognized as a separate entity rather than an agency of the State. Therefore, she clarified that the language in Section 2, subsection (b)(4) is required to allow the University, as a separate entity of the State, to collect outstanding debt via the PFD garnishment.

> (4) claims on defaulted tuition, fees, and other charges of the University of Alaska under AS 43.23.073;

Ms. Barton could not speak regarding whether or not the language would be required; however, she noted that this legislation would provide the University the authority to garnish up to 100-percent of an individual's PFD rather than "80-percent which is standard for other garnishments not included under this exemption."

Co-Chair Green understood therefore that absent this legislation, a

maximum of 80-percent could be garnished.

Ms. Barton affirmed.

Senator B. Stevens understood therefore that the entities specified in Section 2, subsection (b) would be entitled to garnish 100-percent of a PFD, and that those not listed could collect up to a maximum of 80-percent.

Senator B. Stevens voiced confusion to the comment that the University would not qualify as an agency of the State under the language on line 26 of Section 2, subsection (b).

Co-Chair Wilken expressed that clarification would be forthcoming regarding whether or not the University could be recognized as an agency of the State.

Senator B. Stevens asked for confirmation that the priority listing pertaining to garnishments would be conducted in the order reflected in Section 2, subsection (b).

Ms. Barton stated that a clarification of the intent of the priority listings would be forthcoming.

Co-Chair Wilken ordered the bill HELD in Committee in order to further address the fiscal note concern, the agency status concern, and the priority list ranking order concern.

#sb379

CS FOR SENATE BILL NO. 379(JUD)
"An Act providing that public members of the Board of Trustees of the Alaska Permanent Fund Corporation may be removed only for cause; and providing for an effective date."

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

Co-Chair Wilken explained that this legislation, which is sponsored by the Senate Rules Committee by Request of the Governor, would provide the process through which an Alaska Permanent Fund Corporation Board of Trustees public board member could be removed for cause.

MIKE BARNHILL, Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Juneau), Department of Law, stated that under current law, a public Board member could be removed from

their position on the Board for any reason provided the reason is presented in written format. This bill would change the current scenario in that a Board member trustee could only be removed "for cause." He stated that the bill defines "for cause" to be such things as "inefficiency, misconduct in office, neglect of duties, and conviction while in office of crimes involving moral turpitude." The current process is detrimental to the effectiveness of the Board as there is value in maintaining institutional knowledge and continuity of management of the $28 billion fund.

Co-Chair Wilken asked for clarification that Mr. Barnhill is speaking of language in the Judiciary version of the bill, Version 23-GS2142\D.

Mr. Barnhill concurred.

Mr. Barnhill stated that the bill would allow the aggrieved Board member, through a hearing process, to present witnesses on their behalf, with the final hearing decision regarding their removal being filed with the Lieutenant Governor. He also noted that during the bill's progression through various committees, numerous questions regarding the hearing process arose. In response, a forthcoming committee substitute, Version 23-GS2142\H has been developed that would streamline the process by aligning it with other current "removal for cause" statutes that do not require a hearing process, as detailed in the "Other Alaskan Statutes 'For Cause' Removal Provisions" handout [copy on file] that was compiled by the Department of Law. The streamlined process would, were the Member to challenge the reason for removal, involve the Alaska Court System in the final determination process.

Co-Chair Green moved to adopt the Version 23-GS2142\H committee substitute as the working document

There being no objection, the Version "H" committee substitute was adopted as the working document.

ROBERT STORER, Executive Director, Permanent Fund Corporation, Department of Revenue, explained that typically it takes approximately two years for a Board member to become thoroughly educated on Board matters. The six-member Board consists of two Cabinet members one of whom is the Commissioner of the Department of Revenue, and four members who are appointed by the Governor and who serve four-year, staggered terms with one Board member position expiring on June 30th of each year. The Alaska Permanent Fund Corporation has not been afforded the protection of removal for cause, as have other Boards.

Mr. Storer shared that on two different occasions, five of the six Board Members have been replaced when a new Administration took office. He could not say that this has disadvantaged the Permanent Fund Corporation; however, due to the maturity level of the Fund and the length of time that is spent regarding the various investment approaches, adoption of this policy would be beneficial. The Corporation believes that "it is very important" that Board continuity occurs in order for the education and knowledge to be gained in some systemic manner. He noted that the Governor Frank Murkowski Administration retained two Board members and appointed others who had a previous or related experience with the Permanent Fund Corporation. This provided a very smooth transition to occur. Any new Administration would have the ability to replace two members immediately, one being the Commissioner of the Department of Revenue and the other being the Cabinet member. An additional replacement would be possible on June 30th of that year.

Mr. Storer also observed that new Board members learn far more quickly when allowed to gleam knowledge from existing Board members. While numerous State boards operate with the removal for cause component, he urged the Committee to support the bill.

Senator Hoffman, noting that the Version "D" committee substitute incorporated the definition of "for cause" but the Version "H" did not, asked whether the definition of "for cause" exists within State statute.

Mr. Barnhill responded that were a lawsuit filed by the aggrieved Board member, the Alaska Court System would apply a test to determine whether the reason was capricious, arbitrary, or illegal. If the determination were that none of those applied, then the determination would be that it was valid. This is a "common law defined term."

Senator Bunde spoke in support of the bill as should there "be mischief at foot" and were a Governor to replace all Board members with people he could control, there might be a way to "manipulate the dividend to the detriment…of the overall investment goal of the Permanent Fund."

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

There being no objection, CS SB 379(FIN) was REPORTED from Committee with zero fiscal note #2, dated February 4, 2004 from the Department of Law and zero fiscal note #3, dated February 6, 2004 from the Department of Revenue.

#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 third hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken explained that this bill would authorize the Department of Corrections to enter into 25-year lease agreements for additional State correctional beds with the Matanuska-Susitna (Mat-Su) Borough, the Fairbanks North Star Borough, Bethel, and the Municipality of Anchorage.

Co-Chair Green, the bill's sponsor, expressed that for more than four years, she has been advocating for the construction of new prisons in the State. Discussions have occurred regarding both public and private operated facilities. Contrary to most discussions that place private and public facilities in competition with each other, this legislation would provide an opportunity to construct new facilities in the State without advocating for one side or the other. No expansion would occur were the current competitive situation to continue. Some facilities in the State operate at one hundred percent capacity on an on-going basis, and were this to continue, it could present "a crisis" and a "dangerous situation."

AT EASE 10:10 AM / 10:11 AM

Co-Chair Green moved to adopt the Version 23-LS0392\C as the working document.

Co-Chair Wilken objected for explanation.

Co-Chair Green explained that Version "C" would expand the bill's title to include private prisons in the City of Whittier, provided the State could not provide the service at the same or lower cost. In addition, the bill's title would also be expanded to provide consideration to the City of Dillingham and Kodiak's jails.

Co-Chair Green pointed out that the bill would also provide a termination date of July 1, 2009 as specified in the bill in Section 1 on page two, lines six and nine. By this time, the

Commissioner of the Department of Corrections must authorize construction of the facilities on the public side. Subsection (2) of Section 1 would allow for an increase in the maximum number of beds that could be constructed in the Mat-Su Borough facility.

Co-Chair Green noted that new language referencing a third party contractor for a prison facility in the City of Whittier has been added as reflected by the entirety of Section 2, beginning on page three, line five. She specified that the City of Whittier prison construction must be authorized by July 1, 2006. She also noted that before the project could be awarded to a third party, a feasibility study must be conducted in order to affirm that the State could not perform these services for the same or lesser amount. Section 2 would also mandate that a competitive bid process be implemented when awarding the City of Whittier prison facility project to a third party and that the City of Whittier must adhere to the State procurement process for the acquisition of land, design, construction, and operation of the facility. Furthermore, the Commissioner must approve the facility design before entering into an agreement. Approval of design, efficiency, safety measures, and building standards is necessary as there is always the chance that a facility constructed by a borough or city might, "in a short period of time be turned over to the State."

Co-Chair Green also noted that the Whittier prison would be limited to approximately 2,200 beds. Language in Section 2, subsection (4) on page four, beginning on page 15 is identical to language in HB 55-CORRECTIONAL FACILITIES pertaining to the agreement with the City of Whittier.

Co-Chair Green noted that Section 3, on page four, beginning on line 23 is also new language. It would specify that, in regards to the construction of a prison facility in the cities of Dillingham and Kodiak, the State would match the expenditure of the local entity by issuing a certificate of participation (COP).

Co-Chair Green pointed out that new Section 4, located on page five, beginning on line 11, would provides further parameters regarding the State's COP agreement with the cities of Dillingham and Kodiak. The anticipated annual operating costs associated with providing the additional beds at each facility are specified in Section 4, line 24.

Co-Chair Green pointed out that language in Section 6, on page six, line six repeals language that the Legislature approved approximately six years prior regarding the Kenai facility, which was not furthered.

Co-Chair Green stated that the difficult aspect of developing the Department of Corrections "draft" fiscal note, dated April 27, 2004 [copy on file] was that while most fiscal notes reflect new expenses, the Department was required to factor out expenses associated with housing inmates outside of the State. This is further explained in the fiscal note analysis. Inmates who are currently housed in Arizona would be housed within the State as of the year 2009, and as a result, that $13 million expense must be removed from the total $43 million expense in order to compare figures. The resulting $27 million net expense would better reflect the true cost of increasing the number of in-State beds. In addition, some prison facilities in Palmer might be closed and operations moved to a new facility. This would "allow for a better management" of funds.

Co-Chair Green urged the Committee to realize that each new "tough on crime" bill approved by the Legislature would further increase the State's prison population. In addition, each new State Trooper and new State prosecutor would also increase the number of those who might be incarcerated. One area that is also authorized in the bill, but that was not thoroughly discussed, is the expansion of the federally funded Municipality of Anchorage jail. The City of Seward is also interested in requesting that its number of beds be increased.

Co-Chair Green commented that a forthcoming amendment would address a technical error in the bill and a separate amendment would address Alaska police standard certification requirements for prison guards as this issue is not currently addressed in the bill.

Co-Chair Wilken removed his objection.

There being no further objection, the Version "C" committee substitute was ADOPTED as the working document.

Amendment #2: This technical amendment changes $1,500,000 to $2,000,000 to correct a drafting error in Section 4, line 14 on page five of the Version "C" committee substitute.

Co-Chair Green moved for adoption.

There being no objection, Amendment #2 was ADOPTED.

MARC ANTRIM, Commissioner, Department of Corrections, informed the Committee that, while this "compromised" legislation would not provide all the remedies that are desired, both the Department and Governor support its passage as the need for additional prison "housing is so great." He detailed the growth in prison population

numbers, as reflected in the Department's chart titled "Inmate Population Statistics" [copy on file], and commented that there is no indication that the increasing prison population trend would change. Were the current rate of prison population increase and the current circumstances to continue, it is anticipated that half of State's inmate population would be housed outside of the State.

DEE HUBBARD, Resident of Sterling, testified via teleconference from Anchorage and applauded the efforts exerted in the development of the committee substitute, specifically the inclusion of procurement code language and the inclusion of the Kodiak and Dillingham jail components. She urged the Committee to consider the addition of Statute language, as adopted by other states, regarding private prison contract monitoring, compliance auditing, use of force guidelines, contract enforcement and fines, and emergency notification plans to include such things as who would be responsible for expenses associated with searching for an escaped inmate. These types of things should be incorporated into State Statute. She could provide pertinent information to the Committee in these regards.

Co-Chair Green asked Ms. Hubbard to provide the information to her office.

LINDA FREED, City Manager, City of Kodiak, testified via teleconference from Kodiak and thanked the bill's sponsor for providing the City the opportunity to participate in the development of the committee substitute. The focus of her testimony would be the financing of the City's proposed jail facility. She noted that the City currently operates the jail on a contractual basis with the State in an old contractor's office/garage building that was built in the 1940s. The building, which also houses the City's police department, is unsafe and expensive to operate. The City has committed to constructing a new 20 or 22-bed jail facility, probably at the same site, at an estimated cost of up to $3.5 million. The City "already subsidizes the operation" of the current jail facility even though the contract with the State is in effect. The proposed 50-50 State/local match that would be required to construct the new State jail facility would exceed the City's fiscal ability. However, construction would be possible were the City able to secure a three million dollar bonded indebtedness. The City has made a commitment to the bill's sponsor "that they are willing to bond and pay for the construction costs of the facility up front." At the current four-percent interest rate, a three million dollar twenty-year bond indebtedness annual payback would be $220,745. Therefore, the request is that the State would assist the City in finding "a mechanism" through which the City could "construct a new jail for the State of Alaska" and assist the City

in satisfying the bonded indebtedness debt "up to a maximum of three million dollars."

TC KAMAI, Chief of Police, City of Kodiak Police Department, testified via teleconference from Kodiak regarding the difficulties the City faces in operating the current aging and "deplorable" facility; particularly in regards to meeting the standards required by the State contract. He likened the escalating annual maintenance expenses of the facility "to putting band-aids on an open wound." The jail must be replaced.

Senator Olson asked regarding the jail's incarceration statistics.

Chief Kamai responded that the monthly occupancy rate of the 16-bed facility is 80-percent. This morning the jail held 13 individuals.

Senator Olson asked for a total number per year.

Chief Kamai responded that the jail houses an average of 1,200 to 1,300 incarcerations per year.

SENATOR GARY STEVENS thanked the bill's sponsor for including community jails in the committee substitute. Though his experience as a former City of Kodiak Mayor, he could attest to the condition of the City jail, the oldest jail in the State. He stressed the timeliness of this legislation, as the City is moving forward with its plans to replace the jail with a multi-public safety building. He applauded the City's willingness to commit to paying up-front for the building, and supported the City's request that the State commit to assisting with the building's associated bond service.

PHIL SHEALY, City Manager, City of Seward, testified via teleconference from Seward and shared that the City supports the committee substitute's "comprehensive package to address correctional facility needs in the State for years to come." However, the one missing component is that of addressing the State's maximum-security facility needs. Therefore, he requested that expansion of the City of Seward's Spring Creek Prison be considered in that regard.

WILLARD DUNHAM, City Council Member, City of Seward, testified via teleconference from Seward and reminded the Committee that, while the Spring Creek facility can currently house 350 inmates, the building and the site were designed to allow for an expansion ability to house 700. He noted that this could be accomplished for a reasonable amount. Therefore, he requested that this facility be added into the feasibility study language. He also stated that the facility currently houses 500 inmates and site expansion is

required. The Department of Corrections would support the expansion of maximum-security improvements at the site.

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Mr. Dunham noted that the bonds that were sold to support the construction of this facility would be paid off in the year 2006, and, in light of the current interest rate level, he stressed that this would be a good time to reissue those bonds. Another valid reason to expand the facility is the fact that Seward is the site of the Alaska Vocational & Technical Institute, which could provide training for correctional officers and inmates. Therefore, he urged the Committee to include the community of Seward in the bill as he assured the Committee that the City would be willing "to assist the Department on all fronts." The only thing negative about the bill is the fact that the City of Seward' prison facility is not included.

Senator G. Stevens agreed that the Spring Creek facility should be considered in this legislation as it is the only maximum-security facility in the State and has been designed for expansion. The facilities currently incorporated into the bill are medium security or lower, and pre-sentencing facilities. He therefore urged that the facility be included.

Co-Chair Green noted that further amendments would be forthcoming.

Co-Chair Wilken ordered the bill HELD in Committee for further consideration.

[Note: SB 65 was re-addressed later in the meeting.]

RECESS 10:41 AM / 4:04 PM

#sb313

> SENATE BILL NO. 313
> "An Act making supplemental and other appropriations; amending appropriations; making an appropriation to capitalize a fund; and providing for an effective date."

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

Co-Chair Green noted that Members have been provided a detailed

Office of Management and Budget spreadsheet [copy on file], dated April 23, 2004 regarding the FY 2004 supplemental appropriation.

Senator Dyson moved to adopt the Version 23-GS2153\I committee substitute as the working document.

There being no objection, the Version "I" committee substitute was ADOPTED as the working document.

Co-Chair Green expressed that this legislation must be addressed in short order as some Departments might be reaching, "in their minds," a "crisis" budgetary situation. She noted that some federal authority and corporate funds are available to support the supplemental. She asked Members to review the committee substitute and contact her office regarding concerns or amendments, as the intent is to move the bill from Committee expeditiously.

The Bill was HELD in 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."

[Note: This bill was heard earlier in the meeting.]

Co-Chair Wilken noted that the bill was again before the Committee.

Amendment #3: This amendment inserts new language into the bill title on page one, line one, following "An Act." The amended language would read as follows.

An Act relating to correctional officers, parole officers, and probation officers;…

In addition, the bill inserts new bill sections into the bill on page one, following line twelve, as follows.

Section 1. AS 18.62.290(2) is amended to read:
(2) "correctional officer" means a person
<u>(A)</u> appointed by the commissioner of corrections whose primary duty under AS 33.30 is to provide custody, care, security, control, and discipline of persons charged or

convicted of offenses against the state or held under authority of state law; or

(B) employed in a correctional facility in this state whose primary duty is to provide custody, care, security, control, and discipline of persons charged or convicted of offenses or held under authority of law;

Sec. 2. AS 18.65.290(5) is amended to read:

(5) "parole officer" means a person appointed by the commissioner of corrections or employed by a correctional facility in this state to perform the duties of supervising the parole of prisoners under AS 33.16;

Sec. 3. AS 18.65.290(7) is amended to read:

(7) "probation officer" means a person appointed by the commissioner of corrections or employed by a correctional facility in this state to perform the duties of a probation officer under AS 33.05.

New Text Underlined [BRACKETED TEXT DELETED]

Other changes resulting from this amendment are: deleting "$14,600" and replacing it with "$11,600" on page two, line 25; deleting "sec. 4" and replacing it with "sec. 7" on page four, line 29; deleting "sec. 4" and replacing it with "sec. 7" on page five, line nine; and deleting "sec. 3" and replacing it with "sec. 6" on page five, line 14 and on page five, line 31.

Co-Chair Green moved to adopt the amendment. She noted that this amendment would incorporate standards into the bill pertaining to staff training and certification. In addition, she noted that the amendment would also present a technical change to correct the annual maximum allowable lease payment per bed at a new prison facility.

Senator Dyson asked whether State statutes currently contain adequate screening procedures or training for prison chaplains as there was a recent news report regarding inappropriate conduct of a State prison chaplain.

MARK ANTRIM, Commissioner, Department of Corrections, responded that even were more stringent screening in place, "there are still bad people" and bad things could happen. The Department supports the prison chaplaincy program. Furthermore, he shared that the chaplain in question had more than twenty years of experience and had been highly recommended.

Senator Dyson asked whether the Department might require any additional statutory authority in regards to the prison chaplain program.

Commissioner Antrim responded no.

There being no objection, Amendment #3 was ADOPTED.

Co-Chair Green noted that Amendment #4 would not be offered as its contents were embodied in Amendment #3.

Amendment #5: This amendment deletes the word "and" in the bill's title on page one line three.

In addition, the bill's title is further amended to read, on page one, line four, as follows.

> Anchorage and the City of Seward; relating to the development and financing of privately operated correctional….

Furthermore the amendment also inserts a new subsection into the bill on page two, line five as follows.

> (5) Seward - expansion of the existing Spring Creek Correctional Center by up to 144 beds.

Senator B. Stevens moved to adopt Amendment #5, at the request of Senator Gary Stevens.

Co-Chair Wilken objected for explanation.

Senator B. Stevens read the amendment.

Senator Gary Stevens explained that the City of Seward's Spring Creek Correctional Facility is the most logical locale for a maximum-security facility expansion, as it is currently the only maximum-security prison in the State and, as it was designed for expansion, it would be the most economical choice.

Co-Chair Green suggested that the amendment be changed to further reflect the distinction between a public and private correctional facility.

Co-Chair Wilken stated that the language in Amendment #5 should be reworked.

Amendment-to-Amendment #5: This friendly amendment to the amendment changes the originally proposed language as follows.

The language "and the City of Seward;" is inserted into the bill's title on page one, line four, following the word "Anchorage".

In addition, for consistency purposes, the words "City of" is inserted before the word "Seward" in new subsection (5) being offered. This language would read as follows.

> (5) City of Seward - expansion of the existing Spring Creek Correctional Center by up to 144 beds.

Co-Chair Wilken moved to amend Amendment #5.

Senator Olson suggested that consideration be given to including the City of Kotzebue prison facilities in the legislation.

Co-Chair Wilken asked that Senator Olson consider presenting that issue as a separate amendment.

There being no objection, the Amendment to Amendment #5 was ADOPTED.

Co-Chair Wilken offered a motion to adopt Amendment #5, as amended.

There being no objection, Amendment #5, as amended, was ADOPTED.

Amendment #6: This amendment deletes all material in Section 4, page five, lines 13 through 17 and replaces it with the following language.

> MUNICIPAL JAIL FACILTIES. (a) Each of the following projects is approved to receive $3,000,000 of the proceeds of certificates of participation authorized under sec. 3 of this Act, on the condition that the municipality, in which the project is located, provides all funds over this amount needed for the upgrade, expansion or replacement of the jail facilities.

In addition, language in Section 4, subsection (a)(2) on page five, line 21 is amended to read as follows.

> existing 16-bed facility with a new facility <u>up to</u> 22 beds.

<u>New Text Underlined</u> [BRACKETED TEXT DELETED]

Senator B. Stevens moved to adopt Amendment #6.

Co-Chair Wilken and Co-Chair Green objected

Senator B. Stevens explained that the effect of this amendment would be to increase the amount of the Certificate of Participation

(COP) from two million to three million dollars. In addition, he noted that any expenses above this amount to upgrade, expand or renovate a facility would be borne by the municipality. The effect of this language would be to remove the State match language.

Senator B. Stevens continued that the amendment would also provide a technical change to qualify that the current 16-bed Kodiak Community Jail would be replaced with up to a new 22-bed facility.

Co-Chair Green stated that the original proposal would have required a 50-percent State/municipality match with a total projected per facility maximum of four million dollars. She noted that upon further review, it was determined that construction for proposed new jail facilities would cost less than four million dollars. Therefore, the legislation was changed to specify a State maximum expenditure of two million dollars and a local maximum expenditure of $1.5 million. With the understanding that the local municipality would use these funds to construct a new jail, the State would sign a contract specifying that it would be responsible for the operating costs of the facility on a long-term basis.

Co-Chair Green continued that historically when a State/local participation agreement is in place, more participation on part of the local entity has been required. Therefore, in this situation, the State, and in particular, the Legislature, has agreed, "to be more generous" in its participation commitment. She stated that the goal is to make local jail facility projects affordable and incorporate local participation.

Co-Chair Green appreciated the local community representatives' comments regarding their willingness to improve their local prison facilities; however, she asserted that the intent of this legislation was to have local participation and have the State assist in providing funding without burdening the State. She advised that the funding streams for the local prison enhancements would be "a different funding stream" than normally utilized for prisons "when entities go to bond" and arrange "for the State to do the lease/purchase on the other facilities." She warned that careful consideration must be applied to this endeavor as other communities might come forward and ask that the State construct prison facilities in their communities with limited local participation. She stressed that while this would be a Committee policy call, the intent would be to not have a State commitment that "we cannot afford."

Co-Chair Wilken understood that were the existing language in effect, the community of Dillingham would be required to provide at least $1.5 million toward construction of a new jail. Were

Amendment #6 adopted, the State's obligation would be three million dollars and the City of Dillingham would be responsible for any expense above the three million dollar amount.

Co-Chair Green concurred.

Co-Chair Wilken understood, therefore, that were the project to cost three million dollars or less, the community would receive the facility "au gratis."

Co-Chair Green affirmed. In addition, she stated that adoption of the amendment would also require further changes in the committee substitute in that the $4,000,000 amount specified in Sec. 3, lines 28 and 30 on page four must be changed to $6,000,000. She reiterated that adoption of this amendment would serve to increase "State exposure."

Commissioner Antrim noted that he could not comment in regards to the amendment, as it is not in his field of expertise.

Senator G. Stevens appreciated Co-Chair Green's comments regarding the affordability of the project and the local participation issue. He stressed that the City of Kodiak would be willing to provide the upfront costs of constructing a new 22-bed, $3.5 million jail; however, he voiced that the City would appreciate knowing what base level the State would commit to in regards to the debt service as the City would be obligating to bond the total project and pay any associated expenses above that specified amount. He noted that the annual debt payment is projected to be approximately $220,000 per year for the duration of the bond. In addition, he stated that separate, annual operating costs would be associated with the project. He reminded the Committee that the City is currently paying approximately $3,000 more, annually, than what the State is contributing for the current Kodiak jail. In conclusion, he stressed that, "there is a disinclination for the City council" to invest "that much money into a State jail."

Senator Hoffman stated that since consideration is being given to changing the language regarding the capacity of the Kodiak jail to be "up to 22-beds," he would consider proposing that similar language be applicable to the Dillingham jail.

Co-Chair Wilken asked that that component of the amendment be addressed after the portion of the amendment dealing with the financial arrangement is rectified.

Senator Hoffman suggested that the amendment be divided.

Co-Chair Wilken noted that a separate amendment addressing the Dillingham jail could be submitted for consideration.

Co-Chair Green asked regarding the process undertaken by the Department of Corrections for projecting operating costs for local jail facilities; specifically whether the contracts were developed on a cost per day basis. It would be in the best interest of the State to keep local facilities viable.

Commissioner Antrim responded that each local contract is developed on an annual basis, based on a variety of factors for each community. While the Department does have negotiating abilities; this ability is subject to Legislative appropriation. He also noted that, "any increases awarded to this program over the years has been done so proportionately" to the original level, and that, "in some cases, there was not a lot of rational basis for some of those figures."

Co-Chair Green asked the Commissioner whether other communities might come forward with a request for inclusion, were this language adopted.

Commissioner Antrim responded that this could be possible.

Co-Chair Wilken declared that were this amendment adopted, the State might "have three million dollar jails all over State."

Senator B. Stevens offered a motion to withdraw the amendment.

There being no objection, Amendment #6 was WITHDRAWN from consideration.

Co-Chair Wilken ordered the bill HELD in Committee in order to further consider this and other amendments.

[NOTE: This bill was addressed later in the meeting.]

#sb306

> SENATE BILL NO. 306
> "An Act relating to the practice of naturopathic medicine; and providing for an effective date."

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

Co-Chair Wilken explained that this legislation would update

current law pertaining to the practice of naturopathic medicine and would allow naturopaths to conduct minor surgery and prescribe controlled substantive medication. He noted that the bill's sponsor, Senator Ralph Seekins, has developed a new committee substitute.

Co-Chair Green moved to adopt Version 23-LS1572\S as the working document.

Co-Chair Wilken objected for explanation.

BRIAN HOVE, Staff to Senator Ralph Seekins, the bill's sponsor, apologized to the Committee for the fact that Senator Seekins, who has conducted most of the work on the committee substitute, has been delayed and could not testify on its behalf until later in the meeting.

Co-Chair Wilken ordered the bill SET ASIDE in order to allow time for the bill's sponsor to arrive.

[NOTE: The bill was re-addressed later in the meeting.]

#sb272

> CS FOR SENATE BILL NO. 272(L&C)
> "An Act relating to certain monetary advances in which the deposit or other negotiation of checks to pay the advances is delayed until a later date; 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 the Senate Rules Committee, would require the Division of Banking, Securities and Corporations, Department of Community and Economic Development "to license and supervise Alaska's payday lending establishments." He noted that, "39 states and the District of Columbia specifically regulate this service." The Version 23-LS1516\U committee substitute is before the Committee.

RICHARD SCHMITZ, Staff to Senator John Cowdery, the Chair of the Senate Rules Committee, stated that this legislation would regulate "payday lenders" which is a term used to identify business that lend less than $500 on short-term loan basis, typically for less than two weeks.

ED SNIFFEN, Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Anchorage), Department of Law, testified via teleconference from an offnet site in Anchorage and noted this bill would regulate the payday lender industry by instituting "fairly significant" licensing requirements including bonding, auditing, and regulatory authority. The issue being most debated in this bill "deals" with "the fundamental principal of how these loans" would originate. Payday lenders have operated in Anchorage "for quite some time" and typically charge $15 in interest per each $100 loan amount. The Version "U" committee substitute would limit payday lending to a maximum of $500 and would allow the loan to be rolled over two times as compared to the $1,000 maximum and four-time rollover proposed in the original version of the bill.

Mr. Sniffen explained that a rollover occurs when a loan is not paid when due and is "rolled over" for another two weeks with an additional $15 per $100 charge levied. A provision in this bill would require a payday lender to offer a borrower the option of up to a six-month payment plan at no additional fee or charge at the conclusion of a rollover period were a loan unpaid at that time. He expressed that "significant consumer protection" language is incorporated into the bill to "provide protection that does not currently exist."

Mr. Sniffen allowed that such things as a pending lawsuit being advanced by Alaska Legal Services against payday lenders challenges "the legality of these transactions under Alaska Usery Statutes," has caused confusion regarding this legislation. The Banking, Securities and Corporations Division "is not as optimistic" as Alaska Legal Services is about the outcome of that lawsuit. He stated that, "there is no current indication that these transactions are currently illegal," and he reminded that they have been available "for quite some time."

Mr. Sniffen commented that while some groups are furthering the adoption of the Model Act, no other state has adopted it or would likely be adopting it in this regard, as "it contains fairly significant restrictions that would essentially put these businesses out of business."

Mr. Sniffen pointed out that this legislation, when compared to regulations of the 44 states that currently regulate this industry, would be viewed as "one of the more restrictive" in that it would implement a monetary limit and a minimum two-week lending period. In addition, this legislation is the only one that would require lenders to provide the aforementioned payment plan option to borrowers.

Mr. Sniffen also communicated that there is opposition to the lending fee which would be considered "enormous," were it calculated in terms of an annual percentage rate (APR). The $15 fee for a $100 loan combined with the five-dollar origination fee would amount to a 520-APR; a $300 loan would equate to a 433-APR; and a $500 loan would equate to a 416-APR. He noted that these figures would not change were a rollover to occur, as both the fee and the amount of time would be doubled. The largest fee charged on an annual basis, he shared, would therefore equate to a maximum of 520-APR. While some states have implemented a 60-percent interest rate cap, "most states do not" have a specified limit and the fee being charged in Alaska could be considered to be "at the low end."

Mr. Sniffen conveyed that the Division's view is that, rather than the $15 fee creating consumer harm, financial management is the issue. Extending the length of the loan from 14-days to 30-days has been discussed as it would "half the interest rate … the lenders might have some problems with that and it would effectively put them out of business." He stated that the industry could speak to that concern.

Mr. Sniffen discounted comparisons of the payday lender industry to the credit card industry, as, he contended, they are completely different kinds of loans. In summary, this legislation was carefully developed after weighing the input from the industry, consumer groups, and other interested parties. In conclusion, he stated that the Department supports the legislation.

Senator Bunde asked regarding the bill's business license requirements; specifically how the licensing fee would be determined.

Mr. Sniffen understood that the licensing fee could total a maximum of $2,000. The Division of Banking, Security and Corporations would determine the amount.

Senator Bunde asked that the fee structure be further explained.

MARK DAVIS, Director, Division of Banking, Securities & Corporations, Department of Community and Economic Development, testified via teleconference from an offnet site in Anchorage and explained that a biannual, maximum $1,000 per year fee, or a total two-year fee of $2,000, could be levied as depicted in Section 3, Sec. 06.50.080, page five, lines 12 through 16 of the bill.

Senator Bunde asked whether these fees would offset the actual costs associated with managing the program.

Mr. M. Davis responded that these fees "would capture approximately 80-percent" of the Department's associated licensing expenses. He noted that the Department was concerned that these businesses would not pay a higher fee during the initial implementation of this legislation.

Senator Bunde, noting that there are not an exorbitant number of payday lenders operating in the State, asked whether the Department could enforce the fee or force the business to close.

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Mr. M. Davis continued that this legislation would serve to characterize these businesses as financial institutions and as such, once they were licensed, their license must be maintained. As such, the powers of the State's banking codes would be in effect and the State "could prevent them from being in operation."

Senator Bunde asked, therefore, the reason that the fees could not recoup the overall expense associated with the program.

Mr. M. Davis expressed that were the fee higher than a $2,000 biannual fee, it would serve to discourage the industry from applying for a license. This would prevent the State from getting "a handle on this … completely unregulated industry".

Senator Bunde voiced that while he supports this legislation as it would regulate the industry, the State should not subsidize 20-percent of the cost of its licensing program.

Senator Bunde suggested that an amendment be developed to address this concern. Other licensing fees, such as those charged to barbers and hair dressers, fully compensate the State for the cost of their licensing programs.

Co-Chair Wilken asked that Senator Bunde work with the Division to address this concern.

Senator Bunde stated that rather than serving to legalize an illegal industry as some people "have been mislead" to believe, this legislation would establish a licensing program for a legal, but un-regulated industry that has been operating in the State for a significant amount of time. Furthermore, while the bill would regulate the industry, it would not promote it, would not establish a new industry, and does not "do anything to prohibit people from making poor financial judgment."

DEBORAH FINK, Representative, Cash Alaska, provided the Committee with a chart titled "Comparison of CSSB272 to Current Law" [copy on file] that compares the provisions of the proposed legislation to current industry practices. Agreeing that misinformation about the industry does exist she affirmed Senator Bunde's remarks that this legislation would serve to regulate the industry rather than to legalize the loans. Approximately twenty payday lenders in the Municipality of Anchorage area operate under the Small Loan Act Exemption, which was established in the State in 1955. This Exemption originally specified that a maximum of $100 could be loaned. The intent of the Act was to exempt these loans "from any kind of interest" or term limit because the Legislature at the time, realized that these loans were expensive to provide due to the fact that they involved "a high risk population." In 1980, as the result of an Attorney General challenge, a Superior Court judge ruled that the original "Legislative intent of exempting those loans from limits and interest was exactly what they meant to do." Shortly after that ruling, the Legislature increased the maximum loan amount to $200, and in 1993, "after a great deal of discussion", the amount was increased to $500.

Ms. Fink expressed that, while the industry has been "happily" operating for numerous years without regulation, due to the fact that it is a very popular and busy business, "it is probably time" that regulations be enacted. She characterized the loans as being "real simple and real small" loans that range from $100 to the average of $300. They are designed to be paid off within two weeks. Were this legislation enacted, a $300 loan would cost an individual a total of $350, including the five-dollar origination fee, which would be a one-time fee that would be calculated "as part of the interest". She further clarified that the five-dollar origination fee would not be re-charged were the loan to roller over. This and some other incorrect information are included in a letter from AARP [copy not provided] that was submitted in regards to this bill.

Ms. Fink stated that this legislation would serve to regulate a completely un-regulated industry; would align the maximum loan amount of $500 with that currently in effect by the Small Loan Act Exemption; would limit the rollover to two times rather than the current unlimited amount; would establish licensing provisions; would establish a licensing fee; and other provisions. She voiced support for the bill in its current form.

Senator Bunde asked Ms. Fink her position regarding increasing the licensing fee to more than $1,000 per year.

Ms. Fink stated that in order to provide the service, a license

would be required, and due to the fact that this is a "healthy" industry, businesses would pay it.

Senator Hoffman asked whether requiring both a maximum number of days for a loan term in addition to the specified minimum loan term would be beneficial.

Ms. Fink responded that only the minimum loan term is specified in the bill in response to consumer groups' concerns specific to that aspect.

STEVE CLEARY, Executive Director, Alaska Public Interest Research Group (AKPIRG), testified via teleconference from an offnet site, and stated that the organization does not support the bill in its current form, as it would serve "to legalize interest rates that are unfair and predatory to vulnerable consumers." He referenced Mr. Sniffen's remarks relating to problems with individuals' financial management and noted that his organization is working with financial institutions in the State in order to educate and encourage people to establish savings and bank accounts by utilizing such things as their Permanent Fund Dividend checks rather than opting to use payday loans. Usery Statutes have historically been established to protect consumers from being "gouged or loan sharked," and he noted that regulations prevent banks and other financial entities from charging high interest rates. He argued that the interest rates allowed by this legislation "are not commensurate with other" established financial industry rates. The State of Georgia has implemented a maximum 60-percent APR interest rate on its payday loan industry: similar provisions would be preferred "to just letting the industry run wild." Noting Ms. Fink's position that the $15 per $100 loan fee would be at the limit of where her business could successfully operate, he reminded the Committee that this is the fee currently being utilizing. Therefore, the five-dollar origination fee allowed under the proposed legislation, would be additional money. Financial institutions are required to adhere to the Truth in Lending Act in that they must depict their loans using an APR basis. Were one to examine payday lenders application paperwork, the APR listed on them would reflect interest rates in the thousands of percent. Most payday loan consumers need the money and thereby are subject to "outrageous interest rates." Noting that the payday loan industry attests that lower interest rates would put them out of business, he suggested that a compromise be reached that, rather than changing the amount of money to be collected, would increase, by two weeks, the amount of time in which the consumer could repay the loan. He stated that this would provide people, such as those who are only paid monthly, a better chance to repay the loan. Therefore, he asked that a 30-day loan term be

considered.

Mr. Cleary stated that while the payday loan industry is on record that they could not afford lengthening the payback term they have not provided a reason as to why it would be unaffordable. He recalled Ms. Fink's testimony before the Senate Labor & Commerce Committee in which she stated that most people come in for just one loan. Therefore, he questioned why a 30-day loan period would be unacceptable.

Mr. Cleary declared that a loan rollover "is the most dangerous part of this," as were a person to rollover a $300 loan, without paying any portion of it off, six times, they could owe as much in interest as they do in principle." This, he declared, is when consumers "really get gouged by these and really get in a cycle of debt that is bad for our society and is not good for the business" and could tie up Court time. Therefore, in order to provide protection to these "vulnerable consumers," the Committee should consider reducing the allowable number of loan rollovers from two to one. In summary, he asked that these amendments be considered, and were they not, the Committee should not support the bill.

PAT LUBY, Advocacy Director, AARP Alaska, testified in Juneau, and stated that AARP participated years prior, in the development of the Model Act legislation. The problem associated with payday lenders is that loans cannot be paid off incrementally; they must be paid off in entirety. While people are allowed to make partial payments on their credit card balances, payday lenders require the entire amount to be paid or the entire balance must be rolled over. The original bill would have established a higher payday loan amount of $1,000 and four rollovers. He agreed with Senator Bunde's and others' comments that "this is an industry that ought to be regulated," as many people are at risk. He allowed that the people who use payday lenders might not be the State's most sophisticated citizens; they are people who need money in a hurry; and who might, two weeks later, continue to be in financial trouble and would be required to roll the loan over. He pointed out that were the two-time rollover language in this legislation adopted there is nothing that would prevent an individual from going to another payday lender and borrowing from them. He noted that the State of Arizona's regulations require a payday lender to determine whether a consumer already has outstanding payday loans by simply calling a company called Telecheck. He stated that credit card companies are profitable while operating at an 18-APR; therefore, he questioned the reason that payday lenders must have a 400-percent profit in order to be successful.

Mr. Luby characterized this legislation as an industry bill, and

stated that the fact that the industry is requesting regulation should raise a "red flag."

Mr. Luby referenced the Division of Banking, Securities and Corporation's fiscal note that projects that the number of payday lenders is expected to substantially increase. As a result, two new staffing positions would be required in order to license and investigate the industry. He argued however, that this legislation would create "a regulatory environment" that would discourage rather than encourage new operators. This would serve to assist the businesses that currently support the regulation of the industry. Were the number of payday lenders to not increase as projected, insufficient funds would be collected to offset the cost of operating the program. Therefore, rather than assisting the consumer, this legislation would serve to enhance the position of the businesses supporting this bill.

Mr. Luby stressed that AARP agrees that this is an industry that must be regulated. AARP attorneys are participating in the pending Alaska Legal Services lawsuit, and he voiced optimism that the suit could be won. The Judge hearing that case has already indicated that he would wait to see what the Legislature would do, as were this legislation enacted, no lawsuit would ensue. He asked that action on this bill be delayed until after the Court proceedings conclude. He stated that, at that time, were the Legislature to determine that further regulations should be developed, AARP would be willing to participate in the endeavor to assure that consumers are adequately protected.

ANGELA LISTON, Representative, Alaska Catholic Conference, testified via teleconference from an offnet site and supported Senator Bunde's comments that this is an industry that must be regulated. However, she spoke against the level of fees proposed in the legislation "on behalf of the working poor who find themselves desperate for cash" in order to pay for such things as rent, car repairs, and unforeseen medical needs. She strongly supported AKPIRG's suggestion that this legislation be amended to allow a minimum 30-day loan term as it might allow a person to repay a loan without being required to roll the loan over. This might help to prevent the increasing burden of chronic debt. She urged the Committee to emphasize with the working poor and realize that regulation of this industry would be "a huge step in promoting the common good." Allowing these interest rates to continue "is an exploitation of the working poor."

JIM DAVIS, Representative, Alaska Legal Services Corporation, testified via teleconference from an offnet site and expressed that "Alaska Legal Services represents low income Alaskans in various

civil matters including consumer law matters." He addressed six issues including the pending lawsuit that Alaska Legal Services has filed in Anchorage on behalf of a client that is based on the premise that a business must operate under the State's Usery Statutes unless explicitly exempted from the Statute. Because payday lenders are not exempt, they are in violation of the Usery Statute law. The Superior Judge hearing this case understands that the industry advanced this legislation in an attempt to halt the lawsuit. Therefore, the Judge ruled that he "would not rule on the legality of the lawsuit until after the Legislature adjourned" due to concern that, were the Court to rule that payday lenders were in violation of the law, the ruling would be moot as it would be argued that the Legislature changed the law in this regard. Therefore, the lawsuit is on hold pending this legislation. In addition, this legislation was not brought forward until after the lawsuit was filed.

Mr. J. Davis submitted that this is not good legislation, as it would allow low income Alaskans to carry loans carrying interest rates ranging between 400 and 1000 percent. The claim that this is a consumer protection bill is questionable, as these high interest rates could be argued as otherwise. "It is a very strange world" when a consumer protection bill legalizes high interest rates such as these. This is in effect "loan sharking." He recalled Mr. Sniffen's comments that specified that "because payday lenders are making these loans, its legal." He argued that on many occasions in this State, that has not been the case. He recalled that in the 1980s many lenders provided loans by placing liens on people's permanent fund dividend checks. He stated that this was "a disguised transaction charging ridiculous rates of interest against Alaskans and of which was stopped after the Courts ruled it as being illegal.

Mr. J. Davis further alleged that due to "the fact that Mr. Sniffen's department is understaffed," it has not been able to present this business practice to the Court System. This scenario, he continued, only proves that Mr. Sniffen's department is understaffed and not that this practice is legal. Absent the introduction of this legislation, the Superior Court would have already ruled it as being illegal.

Mr. J. Davis commented that it has been argued that the monitoring provisions of this legislation would "fix the problem." The pending lawsuit is a testament that the provisions of the bill would not work, as the case involves a woman who took out one $500 payday loan, could not pay it back, and had to roll it over numerous times. As a result, her loan went into default; she was sued by the lender, and subsequently lost her case in Court. He stated that

this scenario regularly occurs.

Mr. J. Davis cited a North Carolina banking entity as stating that "consumers generally take these loans out to satisfy sudden financial needs, find themselves unable to meet their budgetary needs on their next payday, take additional loans, and get caught up on a never-ending cycle of high fees and interest." He noted that an Illinois study indicated that 77-percent of consumers who took these loans repeatedly fell into the rollover scenario and got deeper in debt.

Mr. J. Davis stated that this legislation would not fix these problems and that limiting the number of loans would only encourage a borrower to go to another payday lender. No mechanism is in place through which, either a payday lender or the Division of Banking, Securities and Corporations would be able to determine how many loans a person has taken out. He declared that the question is whether the State would desire to approve loans with high interest rates and allow people to get deeper in debt.

Mr. J. Davis pointed out that the bill does not contain any APR disclosure provisions, which are required when someone signs up for a credit card or bank loan. He opined that there are better options out there and that a better bill could be developed were consumer advocacy groups such as AARP involved in the process.
Mr. Schmitz spoke, on behalf of the bill's sponsor, in support of legislation. During his research on this subject, he became aware that there is a difference between interest rates and fees. He stated that were one to write an insufficient fund check on their bank account, the bank would typically assess up to a $25 fee. He declared that perhaps an eighteen-dollar fee would be reasonable, as most people who borrow are fairly responsible and are one-time users. This is contrary to testimony that most consumers are in rollover scenarios. He also stated that consumer protection is provided by the rollover limit and payment plan option provided in the bill.

Senator Bunde wished that he "could propose an amendment that would prohibit Alaskans from making poor financial decisions." He stated that this bill would not require Alaskans to utilize this service. The service is driven by demand. He concluded that this industry has provided a service for some time, and were it not regulated, he assumed that an underground business might occur.

TIM KELLY, Former Senator, Lobbyist for Cash Alaska, informed the Committee that the Alaska Legal Services testimony misstated a point of fact as, he continued, the bill contains three mechanisms though which a consumer could be notified regarding the APR: a sign

must be placed in the business window in this regard; there is an ARP disclaimer on the paperwork that the consumer signs; and a federal APR disclosure requirement mandates that this information must be provided to the consumer.

Co-Chair Wilken ordered the Bill HELD in 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."

[Note: SB 65 was heard two times previously in this meeting.]

Co-Chair Green reminded the Committee that, earlier in the meeting, an amendment had been offered but withdrawn from consideration that would change the bill's language regarding the State's and local entity's financial commitment regarding the construction of new jail facilities in Kodiak and Dillingham.

Co-Chair Wilken clarified that the referenced amendment is Amendment #6.

Amendment #6: This amendment deletes all material on page five, Section 4, lines 13 through 17 and replaces it with the following language.

> MUNICIPAL JAIL FACILTIES. (a) Each of the following projects is approved to receive $3,000,000 of the proceeds of certificates of participation authorized under sec. 3 of this Act, on the condition that the municipality, in which the project is located, provides all funds over this amount needed for the upgrade, expansion or replacement of the jail facilities.

In addition, language in Section 4, subsection (a)(2) on page five, line 21 is amended to read as follows.

> existing 16-bed facility with a new facility <u>up to</u> 22 beds.

<u>New Text Underlined</u> [BRACKETED TEXT DELETED]

TOM BOUTIN, Deputy Commissioner, Department of Revenue and

Spokesman, State Bond Committee, commented that that he had never "seen State debt issued with a kicker from any entity" be it a municipality or any other. The fact that a municipality would be contributing something akin to "a credit enhancement or money for a State project" would not be a matter of consideration to the State Bond Committee or the Department of Revenue, as he understood that all of these projects would constitute a State lease debt.

Co-Chair Green interjected that rather than this amendment pertaining to State lease/purchase debt, it would apply strictly to the operating expenses associated with the Kodiak and Dillingham jails.

Co-Chair Wilken understood that the amendment would pertain to construction costs of the facilities as opposed to the operating costs.

Co-Chair Green understood "that the payment the State makes is for operating costs."

Mr. Boutin responded that the entirety of the projects specified in the Version "C" committee substitute would qualify for State lease debt and therefore would be rated on the State's credit. "Whether a leased project is a capital lease or an operating lease relies upon financial accounting standards for Rule 13." Therefore, he considered all the projects as State lease debt and that some of the projects have "a credit enhancement of a municipality kicking in some money." He reiterated that he had never seen this done, "anywhere in the nation" or the State of Alaska. This does not mean that it "is a bad thing," but he opined that attorneys would be required "to craft" the language, as, were a municipality to use their general obligation ability to fund their portion of the money, the project would be considered "part of the security for the debt and there "would have to be a clear segmentation so that the general obligation of the municipality didn’t run to the part of the project that the municipality was funding."

Co-Chair Wilken voiced that, under the bill's current language, the State would provide, upfront, a two million dollar capital grant with an expectation of a $1.5 million grant being forthcoming from the municipality. Amendment #6 would change the language to provide three million dollars in State funding with no expectation of local match funding.

Senator B. Stevens stated that the amendment would establish a three million dollar ceiling on the State's participation in the municipality's construction of a local jail, and that any cost above that would become the responsibility of the municipality. He

pointed out that in Section 3, subsection (a) of the bill, page five, lines one and two, the total rental obligation of the State on an annual basis would be limited to $400,000. He stated that this might be the issue that Co-Chair Green is referring to when "saying that the maximum obligation that the State would be on the line for would be the $400,000 and the municipality would be responsible for the reimbursement for the debt retirement of three million."

Mr. Boutin replied that currently there is no financial structure like that available. Continuing, he re-emphasized that this would be recognized as State lease debt, which is rated on the State's credit. He stated "the State's credit would be the principle enhancement, but he reiterated that "the project itself is always part of the credit" in order to provide the bond holders with the ability, "in the event of a non-appropriation," to take over a portion of the project.

Senator B. Stevens recalled that the question regarding the rewrite of the original language is whether Amendment #6 would require the monetary amount to be increased to $6,000,000 in Section 3 on page four, line 27 and the $4,000,0000 amount on line 30 of that same section to be increased to $8,000,000.

Co-Chair Green concurred.

Mr. Boutin replied that it would require a linear change.

Senator B. Stevens understood therefore that were $3,000,0000 specified for each of the Kodiak and Dillingham projects, the total amount required would be $6,000,000. The total cost of the financial commitment would not exceed $8,000,000.

Mr. Boutin shared that one of the three financial rating agencies has expressed that the State should not commit to a maturity lease debt term exceeding 15-years.

Senator B. Stevens asked whether the City of Kodiak or the State would repay the bond debt reimbursement.

Ms. Freed stated that, due to the fact that this is a State jail operated by the City of Kodiak, the premise is that the City of Kodiak would bond for the total construction costs through the City's general obligation bonding capacity with the understanding that the State would repay the debt service up to a maximum of three million dollar total construction costs. She clarified that the City would be responsible for any construction expense beyond the three million dollar amount.

Senator B. Stevens expressed that this clarifies the issue.

Co-Chair Green understood the City of Kodiak's position. However, she shared that historically when a local entity bonds for a project, a State lease/purchase agreement is in place that specifies that the city would own the building until the debt is paid. Continuing, she stated that this arrangement would differ in that, while the City of Kodiak or Dillingham would secure the bond and agree to pay anything beyond the State's three million dollar obligation, when the project were paid off, the City would own the facility. She expressed therefore, that there are two funding mechanisms in this bill, as, with the exception of the Kodiak and Dillingham jails, the State would own the facilities.

Co-Chair Green asked whether the current jail facilities in Dillingham and Kodiak are counted against the State's credit rating.

Mr. Boutin responded in the negative. He reiterated that, as written, all the projects in this bill would be recognized as State debt, regardless of whether or not the lessee owns the facility at the end of the lease term. Continuing, he stated that this could result in meeting one of four criteria in Rule 13 in which the lessee, not the leasor, "is on the hook." Therefore, he concluded that regardless of whether the City of Kodiak utilizes its GO bonds to fund the construction of the jail facility, the bill, as drafted, revolves around State lease debt.

Co-Chair Wilken understood that this is because of the Certificates of Participation specified in the bill.

Mr. Boutin responded that this is because the lease term clearly meets one of four criteria for financial accounting standards for Rule 13.

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Co-Chair Green recalled that during a conversation she had with the Standard & Poor credit rating company regarding what constituted State debt, they had asked what the State is doing to house State prisoners. She informed them that the State is paying to have them housed in a facility in Arizona. They responded that the construction of a prison within the State to house those same prisoners would not be counted against the State bonding capacity because its operating money that is currently being spent and which

"would be spent in the future." Therefore, she suggested that since the State is currently housing prisoners in Kodiak and Dillingham that this would constitute "only an addition to the current facility." She stressed that more bed space has been identified as being necessary in Kodiak and, therefore, the State would only be paying for an increase of six beds at that facility. She asked therefore whether the "replacement facility " term is the determining factor in regards to whether the State should simply be paying for six new beds.

Mr. Boutin responded that were the State to address this situation in a manner similar to that of housing prisoners in Arizona, then the Certificate of Participation language, lease language, and bond proceeds should not be components of the bill. He stated that were the City of Kodiak to utilize GO bonding to build a facility that would be open to housing any entities' prisoners, then, he would agree that it would not be considered State debt.

Co-Chair Wilken asked the relationship of this discussion to Amendment #6.

Senator B. Stevens responded that the issue being discussed is "embodied in the bill itself;" whereas the amendment would simply serve to change numbers in the bill. He explained that the adoption of Amendment # 2 served to increase the amount of the proceeds of the certificates of participation. This would again be amended by the adoption of Amendment #6. However, Mr. Boutin's testimony has served to address issues embodied in the body of the bill rather than relating to Amendment #6.

Co-Chair Wilken understood that Amendment #6 would allow the State to issue certificates of participation to build an under-three million dollar jail anywhere in the State were one desired by the municipality, with no local contribution requirement. Continuing, he stated that the Version "C" committee substitute states that the State would assist a municipality to build a $3.5 million facility of which the local municipality responsibility would be $1.5 million.

Co-Chair Wilken concluded therefore, that were amendment #6 adopted, there would be $3 million jails being constructed everywhere in the State.

Senator B. Stevens responded that the Amendment raises a question in regards to Section 3, page five, lines two and three, which specifies a $6,000,000 limit on the total COP payment. He therefore understood that the language in Amendment #6 would require an additional change in that regard as the $6 million dollar amount

would only provide funding for the Kodiak and Dillingham projects.

Co-Chair Green agreed that the $6 million amount should be increased to allow that any other municipality wishing to pursue a new jail facility be provided for, as she declared, were no local match participation required, this would be very "attractive" to many communities.

Senator Hoffman countered that the bill's language specifically identifies to which communities the proposal would apply.

Senator Hoffman requested that consideration be provided to dividing one portion of the Amendment into two parts: one to address language in Section 4 Subsection (1) and the other to address Section (4) Subsection (2) as affected by Amendment #6.

Co-Chair Green argued that the costs associated with these jails has not been calculated on an "up to" a certain number of beds basis, but rather that the costs were calculated to specifically reflect the costs associated with a 22-bed Kodiak facility and a 25-bed Dillingham facility. Therefore, she stated that she would concur were the intent to express the entirety of the expenses in a per bed manner.

Senator Hoffman pointed out that were the amendment adopted, the details relating to the Kodiak and Dillingham jails would not be consistent as one would specify "up to" a certain number of beds and the other would not.

Co-Chair Wilken ordered Amendment #6 to be divided into Amendment 6A and 6B.

Amendment #6A: This amendment deletes all material on page five, Section 4, lines 13 through 17 and replaces it with the following language.

> MUNICIPAL JAIL FACILTIES. (a) Each of the following projects is approved to receive $3,000,000 of the proceeds of certificates of participation authorized under sec. 3 of this Act, on the condition that the municipality, in which the project is located, provides all funds over this amount needed for the upgrade, expansion or replacement of the jail facilities.

Co-Chair Wilken asked whether this amendment could result in there being three million dollar jails constructed all around the State in the years to come.

Commissioner Antrim voiced that this is "a valid concern" in that the State would be financing their construction. In addition, he reminded that this amendment applies to local rather than State jail facilities.

Co-Chair Wilken stated therefore that the State would be required to pay to have State prisoners held in that local facility.

Commissioner Antrim affirmed that the basis of the community jail program is that the State contract with the local entity to hold State prisoners.

Co-Chair Wilken asked whether the cost per prisoner differs from community to community based on the local economics.

Commissioner Antrim affirmed that operating costs are a factor in the amount paid.

Co-Chair Green informed "that every other community jail is a city jail: the State did not build them, the State pays operating costs, and should not have to build non-State owned facilities."

Senator B. Stevens stated that Amendment #6A would simply serve to change the ceiling embodied in the bill. In response to the argument that the State would be building $3 million jails all over the State, it could be argued that the State would be building $3.5 million jails all over the State of which $2 million would be paid for by the State. Therefore, he opined that the amendment would not change what is embodied in the bill with the exception of the required match and the level to which the State would participate.

Co-Chair Wilken remarked that the issue pertains to local participation.

Co-Chair Green reminded that the original estimates for constructing the Kodiak and Dillingham jails were approximately $3.5 million. The State's two million dollar commitment, which she declared lowered local participation to less than half of the total amount, was considered "very, very generous." While it could be argued that increasing the amount to three million dollars would not be significantly more, that increase would negate the requirement for the local participation. She voiced concern that this amendment "keeps this section from working."

Senator B. Stevens moved to adopt Amendment #6A.

Co-Chair Green objected.

A roll call was taken on the motion.

IN FAVOR: Senator B. Stevens

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

The motion FAILED (1-6)

Amendment #6A FAILED to be adopted.

Amendment #6B: This amendment amends language in Section 4, subsection (a)(2) on page five, line 21 to read as follows.

existing 16-bed facility with a new facility up to 22 beds.

New Text Underlined [BRACKETED TEXT DELETED]

Senator B. Stevens moved to adopt Amendment #6B.

Co-Chair Wilken and Co-Chair Green objected.

Co-Chair Green would be willing to work with the Department of Revenue and the various involved communities to develop the proper language pertaining to this section.

Senator Dyson asked Co-Chair Green to summarize her concern.

Co-Chair Green explained that the calculations pertaining to the costs of the facilities are based on a total bed count rather than an up-to bed count scenario. The concern is that were no additional beds added when constructing a new Kodiak jail, the State would be required to pay the amount stated in the bill that pertains to the larger number.

Commissioner Antrim affirmed that the numbers denoted in the bill are precise numbers.

Amendment to Amendment #6B: This amendment to the amendment adds the words "up to" before "25-bed facility" in Section 4, Subsection (a) (1) on page five, line 19 that pertains to the Municipality of Dillingham.

Senator Hoffman moved to adopt the amendment-to-the-amendment.

Co-Chair Wilken objected.

Senator B. Stevens pointed out that language in Section 1, page

two, lines three through 30 is consistent with the language proposed in the amendment to the amendment.

A roll call was taken on the motion.

IN FAVOR: Senator B. Stevens, Senator Bunde

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

ABSENT: Senator Olson

The motion FAILED (2-4-1)

The motion to adopt the Amendment-to-Amendment #6B FAILED to be adopted.

AT EASE: 6:00 PM / 6:01 PM

Due to Committee confusion regarding the subject of the previous roll call vote, Co-Chair Green moved to rescind the Committee action.

There being no objection, Committee action on the Amendment-to-Amendment #6B was RESCINDED.

Senator Hoffman moved to adopt the Amendment-to-Amendment #6B.

Co-Chair Wilken objected.

A roll call was taken on the motion.

IN FAVOR: Senator B. Stevens, Senator Hoffman, and Senator Olson

OPPOSED: Senator Bunde, Senator Dyson, Co-Chair Green, and Co-Chair Wilken

The motion FAILED (3-4)

The action to adopt Amendment-to-Amendment #6B FAILED.

Amendment #6B was again before the Committee.

Co-Chair Wilken maintained his objection to Amendment #6B.

A roll call was taken on the motion.

IN FAVOR: Senator B. Stevens and Senator Bunde

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

ABSENT: Senator Olson

The motion FAILED (2-4-1)

Amendment #6B FAILED to be adopted.

Co-Chair Wilken ordered the bill HELD in Committee.

#sb306

SENATE BILL NO. 306
"An Act relating to the practice of naturopathic medicine; and providing for an effective date."

[NOTE: This bill was heard earlier in the meeting.]

Co-Chair Wilken stated that this bill would change Statutes pertaining to naturopathic medicine. He noted that a committee substitute, Version 23-LS1572\S, has been presented for discussion.

SENATOR RALPH SEEKINS, the bill's sponsor, explained that changes in the Version "S" committee substitute include: eliminating the temporary license language in the bill which would, in effect, require a naturopath to be fully licensed in the State before they could begin practicing; clarifying the authorized activities that could be conducted by a naturopath; and, providing that the naturopath has registered with the Federal Drug Enforcement Administration (FDEA), has successfully completed pharmacology training at an approved naturopathic college, and "has entered into a collaborative agreement" with a person or persons licensed to practice medicine under applicable Alaska Statutes, they could prescribe controlled substance medication. He stated that provisions allowing minor surgery have not been altered nor were any provisions altered that would allow a person to conduct any other diagnostic testing beyond what they are currently licensed to do. Explanatory prescription drug language has also been incorporated.

Senator Seekins stated that Statute language and the details required of the collaborative naturopath/physician agreement are referenced in Section 10, Sec. 08.45.125 on page six, beginning on line 19 of the bill and continue through line 21, page seven. He read Section 10 to the Committee.

Senator Seekins stated that Section 10 addresses physicians' concerns regarding the prescribing of drugs and patient care.

Senator Bunde asked the particulars of minor surgery that could be performed by a naturopath.

Senator Seekins expressed that language in Section 10, Sec. 08.45 120, subsection (6), page six, lines one through three, addresses minor surgery. He described minor surgery as treatment of such things as abrasions, and that the naturopath must have undergone training in their educational process and provide proof of such to the Division of Occupational Licensing, Department of Community and Economic Development. Therefore, he commented that the Division would be responsible for determining what level of surgery could be performed.

Senator Bunde responded that a medical board might be required to review a naturopath's qualification level. He asked whether a naturopath would be able to administer sutures.

Senator Seekins stated that a naturopath would be able to perform minor surgery limited to one or two sutures.

SCOTT LUPER, Doctor, testified via teleconference from an offnet site in Fairbanks and informed the Committee that the State would allow Naturopathic physicians (NP) to practice provided they graduate from a naturopathic college and pass a national Board examination that tests their ability to perform minor surgery.

Senator Bunde acknowledged; however, opined that because naturopaths are not required to participate in an intern program such as that required of medical physicians, their medical training does not equate to that required of medical doctors.

Senator Bunde asked whether the collaborative agreement that would be required between a naturopath and a medical doctor is a one-to-one arrangement or whether, for example a retired medical doctor might participate in such an agreement with a dozen or more naturopaths.

Senator Seekins stated that the bill's language specifies that a collaborating doctor must be an actively practicing, State licensed doctor.

Senator Olson understood therefore that a physician could have a collaborative agreement with more than one naturopath.

Senator Seekins affirmed.

Co-Chair Green asked whether a fiscal note would be required to address language in Section 9, subsection (c) on page four, line 26 that states that, while the three-member naturopathic peer review committee would serve without compensation, they would be "entitled to travel and per diem expenses authorized for boards and commissions."

Co-Chair Wilken asked whether this is new language.

Senator Seekins understood that this is existing language.

Senator Olson expressed that both subsections (b)(2) and the entirety of subsection (c) in Section 9, on page four, were new language.

Senator Seekins concurred that this might be correct. The original intent of the bill was to be revenue neutral. However, the Department suggested that an amendment be entertained to delete language in subsection (c), page four, line 28, that specifies that the three-member naturopathic peer review committee should meet quarterly as the Department has determined that, considering the low number of complaints, meeting quarterly would not be required at this point in time. The Commissioner of the Department feels that the cost of the Board would be minimal as their meetings could be conducted via teleconference.

Co-Chair Wilken, understanding that the majority of Section 9 is new language, asked what the Section would do.

Senator Olson asked for clarification which language the Department would like to have amended.

Senator Seekins clarified that the Department suggests that the word "quarterly" be removed from subsection "c" so that the language would read "The committee shall meet to review complaints filed with the division under this chapter." rather than the current language "The committee shall meet quarterly to review complaints filed with the division under this chapter." This change, he stated, would alleviate the need for a fiscal note as the three-member naturopathic peer review committee could conduct meetings via teleconference.

Co-Chair Wilken suggested that language on lines 26 through line 28 of that Section should also be eliminated as it pertains to the travel and per diem expense authorization. He stated that, over time, were more meetings required, this language could be

revisited.

Senator Seekins suggested that language on line 26 that specifies that they would serve on the committee without compensation should remain in the bill. However, he agreed that the travel and per diem language could be eliminated. The language on lines 26 through 29 reads as follows.

> …The committee members serve without compensation for their work on the committee but are entitled to the travel and per diem expenses authorized for boards and commissioners Under AS 39.20.180. The committee shall meet quarterly to review complaints filed with the division under this chapter…

Co-Chair Green moved to adopt Version "S" as the working document.

There being no objection, the Version "S" committee substitute was ADOPTED as the working document.

Senator Seekins stated that subsection "c" was modified in Version "S" at the request of the Director of the Division of Licensing.

Amendment # 2: This amendment deletes the following language in Section 9, subsection (c) beginning on line 27 and continuing through line 28.

> … but are entitled to the travel and per diem expenses authorized for boards and commissioners Under AS 39.20.180.

In addition, the amendment deletes the word "quarterly" following the word "meet" in Section 9, subsection (c) on line 28. The amended language reads as follows.

> The committee shall meet to review complaints filed with the division under this chapter.

Co-Chair Wilken moved to adopt Amendment #2.

Co-Chair Green asked whether this language is atypical to other committee language.

Senator Seekins affirmed that this language is applicable to most committee language.

Senator Olson concurred.

Co-Chair Wilken voiced concern that, were this language retained, a fiscal note would be required.

Senator Seekins voiced acceptance to the removal of the language as proposed in the amendment. The adoption of this bill would be welcome to the naturopath community and this language would be acceptable were it to further the bill's progress.

Senator Olson voiced concern that a telephonic meeting, rather than a face-to-face meeting, might not be the appropriate manner in which to best serve the naturopathic defendant were a complaint filed. He would desire a face-to-face meeting in order to observe "the body language" of both the defendant and the witnesses.

Co-Chair Wilken noted that forthcoming amendment #3 might address Senator Olson's concerns.

Co-Chair Wilken stated that the adoption of Amendment #2 would allow this bill to move forward without requiring a fiscal note to be developed.

There being no objection, Amendment #2 was ADOPTED.

Conceptual Amendment #3: This conceptual amendment would allow the bill's drafter to insert language in the bill that would address Committee concerns regarding allowing the peer review group to meet via two-way conference or teleconference.

Co-Chair Green moved to adopt Conceptual Amendment #3.

Co-Chair Green stated that the desire of this amendment would be to allow the Committee to best operate utilizing teleconferencing technology assisted with transmittal of information via facsimile.

Senator Olson continued to voice concern that a face-to-face meeting would be more desired.

Senator Seekins interjected that this amendment concerns a peer review committee and that the naturopath defendant could, as detailed in Section 9, subsection (c), page five, lines two and three, either accept the recommendations of the peer committee or request a hearing before the division, which he stated, "would be a more formal procedure at that time."

Doctor Luper recalled that Rick Urion, the Director of the Division of Occupational Licensing, had communicated that were a complaint filed, he would contact the peer committee members and "discuss the merits of the complaint"… and were the complaint to have merits, the Division would investigate it and conduct a hearing, via the Departments established method.

Doctor Luper continued therefore, that the participation of the naturopathic physician peer committee would be to assist "in weeding out the various complaints."

Senator Olson asked how disciplinary action regarding a naturopathic license would occur.

Doctor Luper stated that the Division of "Occupational Licensing would be the final arbitrator on that." He stated that the role of the peer committee would be advisory in regards to the substance of the complaint.

There being no objection, Conceptual Amendment #3 was ADOPTED.

Senator Bunde voiced discomfort with the possibility that one doctor could have a collaborative agreement with more than one naturopath. He asked how a doctor's oversight of a physician's assistant (PA) is conducted.

Senator Seekins responded that he researched collaborative agreements on a national basis. PA collaborative agreements have "substantially less" requirements than the one proposed in this bill for Naturopaths. He also noted that no oversight agreements are required for Nurse Practitioners, "who have unlimited prescriptive authority and have no supervision and have about the same amount of pharmacology training as naturopaths do." The intent of the collaborative agreement in this bill is that a naturopath would develop an agreement with a physician whom he or she is comfortable communicating with. While no limitation language was found during his national review, this bill would require a physician review protocol to be specified, as he allowed that there might be a physician who might not be too attentive. While he would not object to a reasonable limit being imposed, he believed that a physician would choose to be near where the naturopath is practicing.

Co-Chair Wilken, commenting that Senator Bunde has "raised a good issue," asked whether the sponsor would desire the bill held in Committee in order to further address the issue or whether he would desire to address the issue after the bill transmits from the Senate to the House of Representatives. Continued halting of the bill, this late in the Legislative session, might negate its passage.

Senator Bunde understood that delaying the bill could undermine its progress; therefore, he stated that he would further research the issue and might offer an amendment during its Senate floor hearing.

Senator Seekins voiced willingness to work with Senator Bunde in this regard.

Co-Chair Wilken noted that, as an alternative to a Senate floor amendment, a statement of concern could accompany the bill to the House. The resulting action would require Senate concurrence.

Senator Bunde stated that a level of confidence in the other body would be required in that instance.

Senator Olson asked regarding language in Section 10, page five, line 25, regarding pharmacology training. The federal Food and Drug Administration (FDA), rather than the DEA, has the most authority over non-scheduled drugs.

Senator Seekins responded that non-scheduled/prescription drugs are addressed in the collaborative agreement, in that each drug that might be prescribed must have an established protocol in the collaborative agreement.

Senator Olson understood, therefore, that both FDA and DEA drug requirements are addressed under the collaborative agreement.

Senator Seekins affirmed. He noted that Section 10, subsection (4), on line 21 on page five is applicable to controlled substances and that prescriptive "or legend" drugs are addressed in Section 10, subsection (8) on page six, line eight.

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

There being no objection, CS SB 306(FIN) was REPORTED from Committee with zero fiscal note, dated April 28, 2004 from the Department of Community and Economic Development.

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ADJOURNMENT

Co-Chair Gary Wilken adjourned the meeting at 06:33 PM.