

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**May 05, 2004**  
**9:04 AM**

**TAPES**

SFC 04 # 107, Side A  
SFC 04 # 107, Side B  
SFC 04 # 108, Side A  
SFC 04 # 108, Side B

**CALL TO ORDER**

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

**PRESENT**

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

**Also Attending:** REPRESENTATIVE BILL STOLTZE; REPRESENTATIVE CHERYL HEINZE; REPRESENTATIVE BRUCE WEYHRAUCH; LUCKY SCHULTZ, Staff to Senator Dyson; BRUCE TANGEMAN, Fiscal Analyst, Division of Legislative Finance; CHERYL FRASCA, Director, Office of Management and Budget, Office of the Governor; PAT LUBY, Advocacy Director, American Association of Retired Persons; ZACK WARWICK, Staff to Senator Gene Therriault; PAT GAMBLE, President and Chief Executive Officer, Alaska Railroad Corporation, Department of Community and Economic Development; DEVON MITCHELL, Debt Manager, Department of Revenue; MARIO LIM; GUY BELL, Director, Division of Administrative Services, Department of Labor and Workforce Development; TIM ARNOLD, Vice President and General Manager, Coeur Alaska Inc.; CINDY SMITH, Staff to Representative Les Gara; LAURA GLAISER, Director, Division of Elections, Office of the Lieutenant Governor; MARK MEYERS, Director, Division of Oil and Gas, Department of Natural Resources; ELEANOR WOLF, staff to Representative Beverly Masek; GREG OCLARAY, Commissioner, Department of Labor and Workforce Development; TIM BENETENDI, Staff to Representative Carl Moses

**Attending via Teleconference:** From offnet locations: JOHN DUFFY,

Matanuska-Susitna Borough; JIM MCMILLAN, Deputy Director of Credit and Business Development, Alaska Industrial Development and Export Authority; From Mat-Su: KEN AXEMAKER, House Committee Chair, Elk's Lodge; From Anchorage: ANDREE MCLEOD; From Kenai: DANIEL LYNCH

**SUMMARY INFORMATION**

HJR 9-CONST AM: APPROPRIATION LIMIT

The Committee heard from the sponsor, the Division of Legislative Finance, the Office of Management and Budget, and the Department of Revenue. A committee substitute was adopted and amended and the bill was reported from Committee.

HB 10-GROUP HEALTH INS: PRIVATE GROUPS/PERSONS

The Committee heard from the sponsor and an advocacy group. The bill was reported from Committee.

SB 395-EXTEND AK RAILROAD TO GREELY/ TASK FORCE

The Committee heard from the sponsor, the Alaska Railroad Corporation and the Matanuska-Susitna Borough. Four amendments were considered and four were adopted. The bill was reported from Committee

HB 366-ANIMAL CLASSICS CHARITABLE GAMING

The Committee heard from the sponsor and a fraternal organization. The bill was reported from Committee.

HB 379-OFFICE OF CITIZENSHIP ASSISTANCE

The Committee heard from the sponsor, the Department of Labor and Workforce Development, and members of the public. The bill was reported from Committee.

HB 556-AIDEA BONDS FOR LYNN CANAL PORT

The Committee heard from the sponsor, the Alaska Industrial Development and Export Authority and a mining company. The bill was reported from Committee.

HB 459-ELECTRONIC/OPTICAL SCAN VOTING MACHINES

The Committee heard from the sponsor, the Division of Elections and a member of the public. The bill was reported from Committee.

HB 531-CONVENTIONAL & NONCONVENTIONAL GAS LEASES

The Committee heard from the sponsor and the Department of Natural Resources. An amendment was adopted and the bill was reported from Committee

HB 489-AVTEC ADMINISTRATION

The Committee heard from the Department of Labor and Workforce Development. The bill was reported from Committee.

HB 123-ALASKA WORKFORCE INVESTMENT BOARD

The Committee heard from the sponsor. An amendment was adopted and the bill was reported from Committee.

#HJR9

CS FOR HOUSE JOINT RESOLUTION NO. 9(FIN) am  
Proposing amendments to the Constitution of the State of  
Alaska relating to an appropriation limit.

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

Co-Chair Wilken stated this bill, sponsored by Representative Stoltze, "asks the voters to adopt a constitutional spending limit in the 2004 general election."

REPRESENTATIVE BILL STOLTZE testified that the changes contained in the proposed committee substitute appear simple and acceptable.

Co-Chair Green moved to adopt SCS CS HJR 9, 23-LS0435\G as a working document.

Without objection the committee substitute was ADOPTED as a working document.

LUCKY SCHULTZ, Staff to Senator Dyson, listed the changes contained in the committee substitute. The first change is on page 1, line 6, where the words "Subject to (b)" were included, adding the "no ratchet down" provision, and its implementation by law, which is outlined on page 2, lines 4-8. The second change is on page 3, lines 9-11, whereas formerly only University of Alaska tuition would be exempted from the appropriation limit, this committee substitute would allow for the exemption of the following.

An appropriation of money received as tuition, fees, contract receipts, or from other sources apart from the general fund by the University of Alaska.

The third and last change occurs on page 3, lines 28 and 29. The sum on line 28 is reduced from \$3.3 billion to \$3.15 billion for FY 04 in accordance with the change to the University exemptions. A similar reduction occurs on line 29 for FY 05. In addition, Amendment #2 passed by the House of Representatives is incorporated in page 3, line 30. This amendment would require Section 16 to be repealed on July 1, 2009.

Co-Chair Wilken clarified that the ratchet provision contained in this committee substitute is the same as the ratchet provision included in the Senate version of this resolution.

Mr. Schultz responded they are the same.

Co-Chair Wilken asked if the wording of the University receipts exemptions section is also the same as the Senate version.

Mr. Schultz responded they are the same.

Co-Chair Wilken inquired if the repeal date in this committee substitute is the same as the Senate version.

Mr. Schultz replied that they are the same.

Co-Chair Wilken asked if the differences between HJR 9 and the Senate version of this resolution were eliminated with the adoption of this committee substitute.

Mr. Schultz clarified that there are a number of other changes that were made to the House version, which were not made to the Senate version. For example, the formula for determining the appropriation limit contained in this resolution is different from that in the Senate version.

Co-Chair Wilken summarized that the Senate only made two changes to the House version: the no ratchet provision and the change to University receipts exemptions.

Representative Stoltze emphasized that he was not responsible for the amendment adopted by the House of Representatives body, establishing the repeal of Section 16. He asserted that he does not support the repeal.

Senator Bunde asked how State general obligation bonds would be

impacted if this resolution became law.

Mr. Schultz responded that a slight difference exists between this resolution and SJR 3, the Senate equivalent of this resolution. On page 2, line 28, 29, this resolution, like SJR 3, explains that State general obligation and revenue bond proceeds would be exempted from the appropriation limit. This resolution would exempt obligations of both revenue and general obligation bonds as detailed on page 2, lines 30, 31; however, SJR 3 would only exempt obligations under revenue bonds, and not obligations under general obligation bonds. He was unsure of the financial impact these variations would create.

Representative Stoltze added that members of both the majority and minority parties in the House of Representatives support the exemption of general obligation bonds because they were voter approved.

Senator Hoffman asked if page 1, line 10, contained another difference between this resolution and SJR 3. This line reads, "seventy-five percent of the sum of the following," and he had understood SJR 3 to read "one hundred percent". He also requested a chart comparing the appropriation limit formula contained in HJR 9 and SJR 3.

Mr. Schultz responded that "seventy-five percent" was included in the original version of HJR 9, and affirmed that SJR 3 stated "one hundred percent". Furthermore, this resolution would use a three-year sum of factors to determine the formula, whereas SJR 3 would use a two-year sum of factors. Mr. Schultz added that an updated comparison chart had not been produced.

BRUCE TANGEMAN, Fiscal Analyst, Division of Legislative Finance, indicated he had not prepared an updated chart as he had just received the committee substitute.

Senator Hoffman indicated a chart on file.

Mr. Tangeman clarified that the chart being referenced was out of date. The difference between HJR 9 and SJR 3 would be less dramatic on a chart reflecting this committee substitute than the difference demonstrated by the out-of-date chart.

Co-Chair Wilken expressed concern about the sizeable Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS) obligation beginning in 2006. He referenced a chart titled "CS SJR 3 & CS HJR 9 Compare" dated May 2, 2004 and another chart titled "CS HJR 9 (FIN)" dated May 5, 2004, in asking why a

difference existed between the annual growth rates for FY 05.

Mr. Schultz attributed the difference to the change made in the committee substitute allowing for broadened University exemptions.

Co-Chair Wilken asked what the spending limit would be in FY 06.

Mr. Schultz referred to cell F8 of the "CS HCR 9 (FIN)" chart and stated that the limit would be \$3.393 billion.

Co-Chair Wilken questioned how much the FY 06 limit would increase over the FY 05 spending limit.

Mr. Schultz responded that the increase would be \$143 million.

Co-Chair Wilken inquired how far the FY 05 Governor's amended budget would be under the FY 05 spending limit.

Mr. Schultz replied that the difference would be \$525 million.

Co-Chair Wilken asked if the spending limit for FY 06 would be \$668.1 million greater than the FY 05 limit.

Mr. Schultz responded that yes, FY 06 would allow a \$668.1 million spending limit increase above the FY 05 Governor's amended budget.

Co-Chair Wilken understood that if this legislation had been in place in FY 05 the State legislature would have the authority to appropriate \$525 million more than was actually appropriated. If the \$525 million excess were not spent, it would be added into the spending limit for FY 06 along with the annual growth rate between FY 05 and FY 06: \$143 million. He then asked if the spending limit applied to all State spending, or general fund only.

Mr. Tangeman clarified that the limit would apply to all State spending.

Senator Dyson stated that this spending formula is intended to be based on the amount spent rather than the previous spending limit.

Mr. Schultz confirmed Senator Dyson's statement was correct, but explained that a transition period was built into the formula for FY 04 and FY 05 to set the limit amount. Without a transition period, the spending limit would have leveled due to reductions in State spending in recent years.

Senator Dyson added that Co-Chair Wilken was correct in his earlier statements, but only when considering the transition period.

Co-Chair Wilken commented that the influence of the \$525 million excess in FY 05 would become less and less as the spending limit would begin to reflect the amount appropriated in FY 06 and FY 07.

Mr. Tangeman responded that, yes, the influence would decrease over time if State spending in FY 06 and FY 07 would approach the spending limits established for those years.

Senator Bunde asserted that the influence of the \$525 million excess would not fully diminish until the time this legislation would be due to sunset.

Co-Chair Wilken set forth that next year the State legislature would be faced with a \$108 million expense to fund PERS and TRS and potentially a \$100 million expense to compensate for the change in the Federal Medical Assistance Percentage (FMAP). This \$208 million spending increase would be deducted from the \$668.1 million spending limit increase for FY 06 over the FY 05 limit. He added that a chart detailing the differences between this committee substitute and SJR 3 would be useful.

Mr. Tangeman offered to prepare the chart.

Senator Hoffman suggested that funding for PERS and TRS be exempted from the spending limit because the State legislature could not control those expenses.

Representative Stoltze responded that deciding whether to exempt PERS and TRS is a judgment call. If too many exemptions were made the spending limit would become meaningless. This legislation must consider where the funding to support spending limit growth would come.

Mr. Schultz communicated that the limit is designed to force the State to prioritize expenditures given the funds it has available. More importantly, the limit is intended to establish a process to guide State spending when the State's revenues suddenly increase.

Co-Chair Green disagreed with some of Mr. Schultz's comments, and asserted that the State has no control over PERS and TRS.

Co-Chair Green offered some conceptual ideas for discussion. She directed to page 2, line 30, and pointed out that lease purchase financing is not included in the exemptions to the spending limit. She suggested adding to line 30, after the word "under", the words "lease purchase financing or revenue and general obligation bonds issued by the State".

Co-Chair Wilken asked if certificates of participation would be exempted under this resolution.

Mr. Schultz replied that net obligation under certificates of participation would not be exempted.

CHERYL FRASCA, Director, Office of Management and Budget, Office of the Governor, stated that the definition of a revenue bond included lease purchasing. Therefore the exemptions listed in line 30 encompass lease purchase financing.

Co-Chair Green asserted "that is not the information I have been given." She asked Mr. Tangeman to distinguish lease purchase financing and revenue bonds.

Mr. Tangeman deferred.

Ms. Frasca suggested that the Department of Revenue could address the subject.

Co-Chair Green stated that she is opposed to allowing the rising costs of Medicaid affect the funding and growth of other State programs and Departments. She offered North Carolina's statutory spending limit as an example of a limit that takes Medicaid into consideration by making it an exception to the spending limit when "Medicaid increases exceed increases in State personal income." She emphasized the lack of control the State has over the federal Medicaid program. She encouraged discussion on the subject of Medicaid and the spending limit.

Co-Chair Wilken mentioned that the State is currently experiencing federal mandates pertaining to Medicaid that could require additional State spending.

Ms. Frasca emphasized the relevance of Co-Chair Green's comments considering that certain federally issued changes to Medicaid would require an additional \$60 million in general fund expenditures in FY 06, and other that potential Medicaid liabilities also exist.

Co-Chair Wilken suggested that an amendment allowing for exceptions for Medicaid spending could be presented during this resolution's hearing on the Senate floor.

Senator Dyson mentioned that he had attended the Western Governors' Conference last summer during which he spoke with the Governor of the state of Idaho. The Governor echoed Co-Chair Green's comments, and communicated that Idaho's education, and health and human

services budget was near 80-percent of the State's overall budget though many of the programs in those departments were controlled on the federal level.

Co-Chair Green requested lease purchase financing information from the Department of Revenue.

Co-Chair Wilken ordered the bill HELD in Committee.

[Note: This bill was again brought before the Committee later in this meeting.]

#HB10

CS FOR HOUSE BILL NO. 10(HES)

"An Act relating to pooling by employers and self-employed individuals for purposes of group health insurance; and providing for an effective date."

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

Co-Chair Wilken stated this bill, sponsored by Representative Heinze, "has to do with group health insurance for private groups."

Co-Chair Wilken noted the information provided in response to Co-Chair Green's questions during an earlier hearing [copy on file].

Co-Chair Green expressed disappointment that the Division of Legal and Research Services was unable to respond to the question regarding the Health Insurance Portability and Accountability Act. She emphasized that this legislation would not ensure reduced rates. She read a section from a document titled "Answers to questions asked by the Sen. FIN committee" dated May 3, 2004 [copy on file], which addresses how insurance pooling impacts rates.

If, by aggregating their purchasing power, small employers were able to buy coverage at lower cost, firms not previously offering health coverage might be encouraged to do so, thus reducing the numbers of uninsured.

Co-Chair Green continued that the statement contains hypothetical language. There is no assurance that this legislation would provide continuing lower premiums and lower rates.

Co-Chair Wilken referenced the second paragraph on page two of the same document, commenting that it also supports Senator Green's

comments.

REPRESENTATIVE CHERYL HEINZE stated that this legislation would not guarantee reduced insurance rates, but it is a step "in the right direction".

PAT LUBY, Advocacy Director, American Association of Retired Persons, testified that approximately 20 percent of Alaskans between the ages of 50 and 65 do not have any form of health insurance. The majority of these individuals work full time performing at least one job; however, they are working for businesses that do not offer health insurance. AARP considers health insurance to be critical to the economic security of all individuals. This legislation would not guarantee lower rates; it would offer individuals increased access to health coverage. This bill would also benefit the insurance industry by increasing policy sales. The AARP urges the Committee's support of this legislation.

Senator Dyson offered a motion to report HB 10, 23-LS0030\B, as amended from Committee with individual recommendations and accompanying fiscal note.

There was no objection and SCS CS HB 10 (FIN) MOVED from Committee with zero fiscal note #1 from the Department of Administration.

#SB395

CS FOR SENATE BILL NO. 395(TRA)

"An Act relating to application of municipal ordinances providing for planning, platting, and land use regulation to interests in land owned by the Alaska Railroad Corporation; authorizing the Alaska Railroad Corporation to extend its rail line to Fort Greely, Alaska; authorizing the Alaska Railroad Corporation to issue bonds to finance the cost of the extension and necessary facilities and equipment; and providing for an effective date."

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

Co-Chair Wilken stated this bill, "has two issues: Section 1 had to do with the Railroad and planning and zoning, and Section 2 is the \$500 million extension to Greely."

Co-Chair Green moved for adoption of CS SB 395, 23-LS1965\Q, as a working document.

ZACK WARWICK, Staff to Senator Gene Therriault, explained that the committee substitute incorporates the amendments made during this bill's last hearing in the Senate Finance Committee. In addition, a repeal date of July 1, 2005 was inserted in page 4, line 19, and Section 7, of this committee substitute. After discussion with local municipalities and boroughs, a task force was also added with the purpose of forming a plan, which would be presented to the legislature during the next legislative session. The task force is detailed on page 3, line 10, Section 5.

Co-Chair Wilken asked if the language of the committee substitute was acceptable to the Alaska Railroad Corporation.

PAT GAMBLE, President and Chief Executive Officer, Alaska Railroad Corporation, Department of Community and Economic Development, affirmed.

Co-Chair Wilkin inquired if funding for the task force would come from each of the participating bodies.

Mr. Gamble responded that the participating bodies would pay for the expense of travel to and from the task force, but any administrative funding would be compensated by the Railroad.

Co-Chair Green requested clarification of the language of Section 5(c) on page 4, lines 9 - 11, establishing the Railroad Planning, Platting, and Land Use Regulation Task Force which reads as follows.

(c) The members of the task force appointed under (a)(3) and (4) of this section are not eligible for compensation but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

Co-Chair Wilken explained that all task force members would receive per diem and travel expenses, but suggested that only legislators would receive compensation. He asked the witness to confirm his interpretation.

Mr. Warwick corrected that the members under subsection (3) and (4): one member of the Alaska Railroad Corporation and the members who are municipal officials, would not be entitled to compensation, but would be entitled to per diem expenses.

Co-Chair Wilken clarified that those members of the task force listed on page 3, line 19 through page 4, line 4, would be entitled to travel and per diem paid for by the State.

Mr. Warwick affirmed.

Co-Chair Wilken stated that a conceptual amendment is needed to change subsection (c).

Senator Bunde pointed out that an amendment would require an additional fiscal note.

Co-Chair Wilken asked the Committee members if they "envision" the State's compensation of the travel and per diem expenses in question.

Co-Chair Green answered, no.

Co-Chair Green and Co-Chair Wilken discussed the technical details of the amendment.

Senator Bunde stated his intent that the task force members listed on page 3, lines 23 through page 4, line 4 would not be entitled to per diem compensation.

Amendment #2: This amendment provides that the non-legislative members of the task force are not entitled to compensation or per diem and travel expenses.

Co-Chair Wilken moved for adoption.

The amendment was ADOPTED without objection.

Amendment #3: This amendment inserts "to the extent permitted under 49 U.S.C. and 701, the Interstate Commerce Commission Act (ICCTA)" in Section 1(b), amending AS 42.40.390 on page 1, line 11, of the committee substitute. The amended language reads as follows.

(b) Municipal ordinances providing for planning, platting, and land use regulation adopted under AS 29.35.180 or other law do not apply to the land of the corporation, to the extent permitted under 49 U.S.C. and 701, the Interstate Commerce Commission Termination Act (ICCTA) unless the land is leased to another person by the corporation and the corporation has not retained a right to use the land during the term of the lease.

Co-Chair Wilken moved for adoption and stated the intention of this amendment.

[This amendment] would clarify that the Railroad exemption of municipal land use or ordinance applies only to the powers

granted by the federal government."

Co-Chair Wilken objected for discussion.

Mr. Gamble explained that a similar proposal had been discussed in a House of Representatives Committee hearing. The Alaska Railroad Corporation's legal staff reviewed the proposal and attempted to draft language that "mirrored" the federal law. The issue of the Railroad's land use has required specifically defining the core operations of a railroad. A railroad's operations could be divided into two categories: the movement and support of trains, and land-use issues. This amendment would work towards bringing the consensus required to find a solution satisfactory to both the Alaska Railroad Corporation and the municipalities. He supported the concept of the amendment.

Mr. Gamble added that he had a submission issued by the Alaska Railroad Legal Department dated May 5, 2004 [copy on file], that "amplified" the language in Amendment #3 and defined the core operational issues of the Railroad.

Co-Chair Wilken asked if the document is a clarification of Amendment #3.

Mr. Gamble affirmed, and added that the document very closely replicates the federal law.

There was no objection and the amendment was ADOPTED.

SFC 04 # 107, Side B 09:52 AM

AT EASE 9:52 AM / 9:52 AM

Co-Chair Wilken asked for clarification of the document issued by the Alaska Railroad Legal Department.

Mr. Gamble responded that Amendment #3, while adding the federal land use language, did not address all of the municipalities' concerns. The document encompasses the amendment, but would also speak to certain local concerns not addressed in the amendment.

Co-Chair Wilken asserted that he does not want the Railroad's document to be attached to this bill. He offered that another member of the Committee could recommend consideration of the document and its adoption into this legislation.

Co-Chair Green qualified that this document addressed certain short-term concerns she had heard vocalized by the municipalities. She spoke to Mr. Gamble's statements regarding rail operations versus land use operations.

Co-Chair Wilken asked the witness to explain paragraph (a) of the Railroad document.

Senator Hoffman asserted that paragraph (a) consists of existing State law.

Co-Chair Wilken asked the witness to explain paragraph (b) of the Railroad document.

Mr. Gamble responded that the first portion of paragraph (b) references a number of laws applying to the federal exemption from planning and zoning that apply to railroads. The federal exemption language pertains to core railroad operations, and the language in this section of the paragraph has been directly transferred from the federal exemption. The second underlined portion of the paragraph is a clarification that expounds on the federal exemption by providing a more detailed description of the Railroad's operations. This portion was included to address the concerns of the municipalities.

Co-Chair Wilken asked the witness to explain paragraph (c).

Mr. Gamble answered that paragraph (c) is a recommendation from the Fairbanks North Star Borough that provides for greater public participation in the Railroad's land use decisions.

Co-Chair Wilken inquired if paragraph (b) and (c) would offer protection to the Railroad from actions taken by other parties.

Mr. Gamble responded that the document offers the Railroad "the best protection we have." The language would provide the Railroad the same protection that it has received for the last eighteen years.

Co-Chair Wilken suggested the Committee provide the task force the opportunity to revisit the issue.

Amendment #4: This amendment inserts new language into Section 1, establishing, Sec. 42.40.390. Land use rules, on page 1 of the committee substitute. The new language reads as follows.

(c) By January 10 of each year, the corporation shall provide notice to municipalities of any new land use proposed

for that year by the corporation within municipal boundaries. The corporation shall provide amended notice if a proposed land use is changed or an additional land use is proposed during the course of the year. Except in the event of an emergency, an affected municipality shall have at least 30 days after its receipt of the notice to provide advisory comment to the corporation. In the event of an emergency, the corporation will provide notice to an affected municipality promptly after the event.

Co-Chair Wilken moved for adoption.

The amendment was ADOPTED without objection.

Amendment #5: This amendment changes Section 1(b) and adds a new subsection to Section 1, establishing, Sec. 42.40.390. Land use rules, on page 1 of the committee substitute. The amended and new language reads as follows.

(c) Pursuant to 49 U.S.C. 10501(b), municipal ordinances providing for planning, platting, and land use regulation adopted under AS 29.35.180 or other law do not apply to the practices, routes, services and rail facilities of the corporation and the construction, acquisition, operation, abandonment or discontinuance of spur, industrial, team, switching, or side tracks or other rail facilities on land of the corporation unless the land is leased to another person by the corporation and the corporation has not retained a right to use the land during the term of the lease. For the purposes of this section, the term "rail facilities" includes tracks, rail yards, repair shops and maintenance buildings, freight and passenger terminals, rail car loading and unloading structures, operation centers, supply warehouses, communication structures and other facilities directly related to railroad operations. Notwithstanding the foregoing, the term "rail facilities" does not include rock quarries or gravel pits.

(d) By January 10 of each year, the corporation shall provide notice to municipalities of any new land use proposed for that year by the corporation within municipal boundaries. The corporation shall provide amended notice if a proposed land use is changed or an additional land use is proposed during the course of the year. Except in the event of an emergency, an affected municipality shall have at least 30 days after its receipt of the notice to provide advisory comment to the corporation. In the event of an emergency, the corporation will provide notice to an affected municipality promptly after the event.

This amendment is to be incorporated with the changes made by Amendment #3 rather than supersede the changes.

Co-Chair Green moved for adoption.

Co-Chair Wilken objected for discussion.

Senator Hoffman, Co-Chair Wilken and Co-Chair Green clarified that the changes made by Amendment #5 would not supersede the changes made by Amendment #3.

Co-Chair Wilken asked if the language in Amendment #3 should be added to Amendment #5 if it is adopted.

Co-Chair Green recommended that the language in Amendment #5 be added to the language in Section 1 of this bill as amended. She restated her support of Amendment #5.

Co-Chair Wilken removed his objection and the amendment was ADOPTED.

The adoption of Amendment #5 superseded the action taken with the adoption of Amendment #4.

Amendment language was attached to and distributed with committee substitute Version "Q". The amendment was drafted by the Division of Legal and Research Services and assigned the work order number, 23-LS1965\H.1 and lists Senator Therriault as the sponsor. The amendment would change the title of the committee substitute to insert "and to notices of proposed land uses by the corporation". The amendment would also insert new language in Section 1 on page 1, following line 12, to read as follows.

(c) By January 10 of each year, the corporation shall provide a notice to each municipality of all new land uses the corporation proposes to begin that year within the municipal boundaries. The corporation shall provide a supplemental notice during the year if a previously proposed land use is changed or an additional land use is proposed to begin. After receipt of a notice or supplemental notice, the municipality shall have at least 30 days to provide advisory comments to the corporation before the corporation begins operations under a new land use that is necessary to address an emergency situation without providing prior notice to the municipality. The corporation shall provide notice of that emergency land use to the municipality promptly after beginning operations.

The intent of the Committee was to adopt the committee substitute only. A member of the Committee did not sponsor this amendment.

Co-Chair Wilken asked for an explanation of this amendment.

Mr. Warwick clarified that the language in the attached amendment was included in Amendment #5.

The amendment was NOT OFFERED.

Co-Chair Green referenced "Resolution Serial No. 04-072", a resolution adopted by the Matanuska-Susitna Borough Assembly [copy on file]. The Borough is in support of the removal of the language of Section 1. The Borough might be satisfied by the adopted amendments because they address the community's primary concerns with this legislation.

JOHN DUFFY, Matanuska-Susitna Borough, testified via teleconference from an offnet location that the Borough prefers that the blanket exemption be removed, but does agree that the inclusion of ICCTA in Amendment #3 would provide the Borough "adequate" protection. The Borough supports the creation of the task force. He expressed his appreciation to the Committee for the time spent on this legislation.

Co-Chair Green mentioned that she would provide Mr. Duffy with the amendments adopted during this hearing.

Mr. Gamble questioned which Matanuska-Susitna Borough resolution was being discussed. He clarified that to his knowledge the Borough had passed two resolutions, one being an anti-noise and vibration resolution that the Railroad would not be exempted from. He expressed that the Railroad should be exempted from that resolution, and emphasized his concern over the lack of cooperation the Borough exhibited.

Mr. Duffy clarified that the resolution referenced by Mr. Gamble was actually an introduction; the ordinance had not passed, and would be heard again at a later date.

Mr. Gamble responded that the Railroad would discuss the anti-noise and vibration resolution with the Borough at a later date.

Co-Chair Wilken clarified that the resolution being considered by the Committee was Resolution Serial No. 04-072.

Co-Chair Wilken requested a map indicating the location of the rail lines proposed by this legislation.

Mr. Gamble indicated he would supply such a map.

Co-Chair Green offered a motion to report CS SB 395, 23-LS1965\Q, as amended, from Committee with individual recommendations and a new fiscal note.

Senator Bunde objected to comment.

Senator Bunde removed his objection.

Without objection CS SB 395 (FIN) MOVED from Committee with a new zero fiscal note from the Department of Community and Economic Development dated 5/4/04.

#HJR9

CS FOR HOUSE JOINT RESOLUTION NO. 9(FIN) am  
Proposing amendments to the Constitution of the State of  
Alaska relating to an appropriation limit.

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

DEVON MITCHELL, Debt Manager, Department of Revenue, informed the Committee that in a general sense certificates of participation are lease revenue bonds. However, in a technical sense the State statutes that define revenue bonds are more limited. He recommended including the words "lease debt" on page 2, lines 29, 30, if the Committee's intention is to exempt certificates of participation.

Amendment #1: This conceptual amendment inserts "lease debt" into Section 1, repealing and readopting Article IX, Section 16. Appropriation Limit., of the Alaska Constitution. The amended language of Section 16(d)(5) and (6), listing exemptions from the spending limit calculations, on page 2 lines 28 - 31 reads as follows.

(5) an appropriation of State general obligation,  
revenue bond proceeds, and lease debt;

(6) an appropriation required to pay obligations  
under lease debt revenue or general obligation bonds issued by  
the State;

Co-Chair Green moved for adoption of the amendment.

Co-Chair Wilken objected.

Senator Dyson expressed concern regarding the amendment. He stated that certificates of participation do not provide proceeds. He referenced Ms. Frasca in commenting that including certificates of participation in the exemption would create an opportunity for an abuse of the system.

Co-Chair Green clarified that Ms. Frasca had explained that certificates of participation are encompassed in the term "revenue bonds", and therefore are already included in the exemptions in this resolution.

Co-Chair Wilken removed his objection.

With no further objection the amendment was ADOPTED.

Senator Dyson offered a motion to report SCS CS HJR 9, 23-LS0435\G, as amended, from the Committee with individual recommendations and accompanying fiscal notes.

There was no objection and SCS CS HJR 9 (FIN) MOVED from Committee with fiscal note #2 for \$1,500 from the Office of the Governor, and zero fiscal note #3 from all agencies.

AT EASE 10:20 AM

#HB366

CS FOR HOUSE BILL NO. 366(FIN)

"An Act relating to animal classic charitable gaming; and providing for an effective date."

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

Co-Chair Wilken stated this bill, sponsored by Representative Stoltze, "addresses an attorney general's legal opinion that stated certain traditional games of chance were illegal."

REPRESENTATIVE BILL STOLTZE testified that this bill is a gambling, gaming measure with a specific focus, which would affect the following events and activities: the Tanana Valley State Fair in Fairbanks, the Alaska State Fair, the Alaska State Fair's rat race booth sponsored by the Palmer Elks Lodge, and an event for Soldotna Progress Days involving chicken scatology sponsored by the Veterans of Foreign Wars (VFW).

Senator Bunde asked if there is evidence of individuals being

addicted to rat racing or chicken scatology.

Representative Stoltze replied that any addiction would not be detrimental because the cost to participate in the activities referenced averages between 25 to 50 cents and the activities only occur for a few weeks out of the year.

KEN AXEMAKER, House Committee Chair, Palmer Elks Lodge, testified via teleconference from Mat-Su that the common title "rat race" is inaccurate because the activity does not consist of a race, nor does it involve rats. The rat race is a serious charity fundraising activity that takes place at a booth during the Alaska State Fair. The fundraising event has taken place for nearly 50 years. The booth is staffed entirely by volunteers, and all of the net proceeds are used for Elk's Lodge charity work. Thousands of dollars have been collected from this fundraising effort and distributed to scouting programs, veteran's programs, senior's programs, cancer societies, community beautification programs, community food banks, the Hospice of Mat-su, the Red Cross, the Grange, handicapped programs, the Boy's and Girl's Club, school activities, sports teams, and many Elk's Lodge specific programs. The Palmer Elk's Lodge now faces losing this vital fundraising effort. Mr. Axemaker urged the Committee to support this legislation.

Co-Chair Green reiterated that the rat race activity has been in existence for many years.

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

There being no objection, CS HB 366 (FIN) MOVED from Committee with zero fiscal note #1 from the Department of Revenue.

#HB379

HOUSE BILL NO. 379

"An Act establishing an office of citizenship assistance in the Department of Labor and Workforce Development."

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

Co-Chair Wilken stated this bill, sponsored by Representative Weyhrauch, "establishes the Office of Citizenship Assistance in the Department of Labor and Workforce Development."

REPRESENTATIVE BRUCE WEYHRAUCH explained that Senator Pete Kelly of Fairbanks first introduced this bill two years ago. The Office of Citizenship Assistance was originally envisioned within the Office of Legislative Affairs. Representative Weyhrauch is overwhelmed by the realization that a large minority community exists in the State. For example, ten percent of the population of Juneau consists of immigrants from the Philippines and Tonga. Often immigrants within the State work multiple jobs. In order to obtain citizenship, immigrants must fulfill many requirements and "run the bureaucratic maze". These individuals may have come from a country where they were threatened by their government, and they are unfamiliar with the U.S. government. The Office of Citizenship Assistance would benefit both the public and private sectors in aiding immigrants with the paperwork and processes required to be productive, and eventually naturalized, U.S. citizens.

ANDREE MCLEOD testified via teleconference from Anchorage that she does not support this bill. She prefaced by stating that she is an immigrant who was brought to the U.S. by a sponsor. Part of the responsibilities of a sponsor who registers with the Department of Immigration and Naturalization Services is to "bridge" the transition for the immigrants they have chosen to sponsor. She questioned whether it is appropriate to make immigrants into victims when they have exhibited a strong sense of responsibility, and initiative in leaving their native country. Being an American involves interface with the government, and frustration with that interaction. In 1999 Ms Mcleod participated in the Commission on Privatization and Delivery of Government Services. One goal of the Commission was to determine what services are inherently governmental. Certain non-profit organizations provide immigration services that do not need to be duplicated by the government. This legislation addresses a federal problem, not a State problem. The responsibility an immigration sponsor has committed to is undermined by this bill. This legislation is discriminatory based on national origin. She questioned the funding source for the Office proposed in this bill. A few years ago approximately 75-percent of Alaskans voted to make English the official language of State government; therefore interpreting services offered to immigrants should be eliminated. Immigrants must be offered incentives to encourage them to create a better quality of life for themselves; they should not be made into victims.

MARIO LIM, private citizen, testified in Juneau and informed that he has assisted immigrants, and the previous testifier might not understand the magnitude of the citizenship process. He has a Masters degree in chemical engineering, and still could not understand the paperwork process. The reaction of the federal government regarding immigration assistance is appalling. All

immigrants face this daunting bureaucratic process. He shared an example of a Mexican immigrant who had been attempting to complete the paperwork required for citizenship for nearly two years. Mr. Lim has been assisting immigrants for many years at no charge. The federal government is overburdened with immigration issues, but the State has the ability to help immigrants. After the events of September 11, 2001, immigration issues have magnified. This legislation would be making history by assisting immigrants of the State of Alaska in becoming established in the U.S. He urged the Committee to support this legislation.

Senator Bunde asked the number of people the Office of Citizenship Assistance would serve.

Representative Weyhrauch responded that the Office would serve a substantial number of immigrants. He predicted that the Office would grow over time as the minority community became familiar with the services it would provide.

Senator Bunde asked if the services the Office would provide would be available to immigrants throughout the State.

Representative Weyhrauch replied that, yes, the services would be available statewide in communities including Dutch Harbor, Unalaska, Anchorage, and Kodiak, particularly in locations where there is considerable seasonal employment which attracts a substantial number of temporary employees. The Southcentral region of the State would be an area of focus due to its large population. Interpreting services are found statewide, and can be used telephonically when not available in a particular community.

Senator Olson inquired as to why an immigrant, referencing Ms. Mcleod, would be opposed to this legislation.

Representative Weyhrauch responded that Ms. Mcleod was the only individual that had testified against this bill.

Senator Bunde questioned the amount of the fiscal note, and the request for an additional full-time position.

GUY BELL, Director, Division of Administrative Services, Department of Labor and Workforce Development, testified that this legislation, when originally proposed by Senator Kelly, contained a fiscal note in excess of \$300,000 to provide for an Office in Juneau and Anchorage with three staff members. The current fiscal note reflects the minimum level of funding required to implement this legislation. The Department of Labor and Workforce Development is largely federally funded; however, the federal grant is not

sufficient to fund the proposed Office of Citizenship Assistance, thus requiring funding from the State's general fund. The Department has attempted to minimize the costs associated with the Office of Citizenship Assistance, which would be within the Office of the Commissioner, to include some travel expenses, a toll free phone line, and the salary of one full-time professional.

SFC 04 # 108, Side A 10:41 AM

Senator Bunde asked if the staff position would be located in Juneau.

Mr. Bell affirmed.

Senator Bunde expressed that legislators are expected to help their constituents. He added that it would be helpful to have a central location from which to get information on immigration issues.

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

Without objection HB 379 MOVED from Committee with fiscal note #2 for \$92,300 from the Department of Labor and Workforce Development.

#HB556

CS FOR HOUSE BILL NO. 556(FIN)

"An Act relating to a port development project on Lynn Canal, providing legislative approval for the Alaska Industrial Development and Export Authority to issue bonds for the project; and providing for an effective date."

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

Co-Chair Wilken stated this bill "authorizes AIDEA to issue bonds to finance the construction of the port and related facilities located at Slate Creek Cove not to exceed \$20 million. "

REPRESENTATIVE BRUCE WEYHRAUCH testified that this legislation allows for the development of the Kensington mine. Specifically, this bill would develop docks in the Berners Bay area to help facilitate the development and construction of the mine. These docks would also be available for public use. This bill would further the development of the private sector economy and the

State's mineral resources while diversifying the local economy. This legislation meets the Alaska Industrial Development and Export Authority's (AIDEA) statutory project requirements for funding using the Authority's bonding capacity.

JIM MCMILLAN, Deputy Director of Credit and Business Development, Alaska Industrial Development and Export Authority, testified via teleconference from an offnet site requesting authorization to issue bonds not to exceed \$20 million. Statute requires legislative approval for AIDEA to finance projects under the Development Finance Program that exceed \$10 million. AIDEA would own the two port facilities referenced in this legislation. Government ownership and public use of the docks is required by the Internal Revenue Service (IRS) code if the project is to receive tax-exempt financing. Though AIDEA would own the dock facilities, it expects to issue tax-exempt revenue bonds, which would not affect its credit. The revenues of the Kensington mine project and any credit enhancements offered by the project developer would be the sole sources of repayment.

Mr. McMillan stated that the \$20 million amount stated in this bill exceeds the estimation of the costs of the docks. The \$20 million amount was chosen because the estimates are considered "soft", and could increase. In addition, the IRS code allows for tax exempt financing on "related upland improvements".

Mr. McMillan continued that if this legislation is adopted, the statutory due diligence requirements would be considered, including the project's financial feasibility, and the bonds would not be issued until all the requirements were met. The Board would be presented a resolution to enter into a cost reimbursement agreement with Coeur Alaska, Inc (Coeur). The funds needed to complete the statutory due diligence assessment would be considered part of the financing, assuming the financing is approved. If the financing is not approved, Coeur would be responsible any of the costs expended by AIDEA.

Senator Bunde expressed concern relating to public access in commercial areas because of safety and liability risks. He asked how public access would be made compatible with industry use of the docks.

TIM ARNOLD, Vice President and General Manager, Coeur Alaska Inc., testified that this legislation represents a mutually beneficial agreement between Coeur and AIDEA. Coeur would have the opportunity to access tax-exempt financing and pay for the dock over a period of years. Further, the State of Alaska would come to own the docks if the necessary permits are granted. He emphasized that this

legislation is the perfect example of a "win-win situation" for Coeur.

Co-Chair Wilken asked Mr. Arnold to address Senator Bunde's public access question.

Mr. Arnold explained that the end of the dock would be located on private land. Coeur has not developed a plan for allowing public access. The Cascade Point dock would be used primarily to shuttle Coeur employees to and from Slate Creek Cove. The Slate Creek Cove dock would be an industrial dock.

Representative Bruce Weyhrauch interjected that for Coeur to receive tax-exempt financing, the needs of the Kensington mine must be incorporated with public access to the satisfaction of the IRS and the developer.

Senator Bunde stated that the two necessary usages of the docks appear "diametrically opposed".

Senator Hoffman informed that the House of Representative's version of this legislation allows dock projects anywhere within the Lynn Canal. However, the House Finance Committee passed an amendment which limited the dock projects to specific locations within the Lynn Canal: Slate Creek Cove and Cascade Point. He asked if this amendment would allow Coeur the flexibility needed to minimize the impacts of development and acquire the necessary permits.

Representative Bruce Weyhrauch responded that the project locations were made specific in response to concern that the developments could be used too broadly. He qualified that he is not opposed to the amendment because it does not threaten the primary goal of this legislation, which is to construct docks for the Kensington gold mine.

Mr. Arnold replied that Coeur is satisfied with the language of the bill as amended.

Co-Chair Wilken asked whether both Slate Creek Cove and Cascade Point are located within the City and Borough of Juneau.

Representative Bruce Weyhrauch replied, yes.

Mr. Arnold affirmed.

Co-Chair Wilken asked for Mr. Arnold's opinion on the Pogo mine appeal and how it might affect this project.

Mr. Arnold responded that Coeur has spent \$30 million permitting the property for this project over the last 15 years. A supplemental Environmental Impact Statement has gone through the comment period, and Coeur is working toward receiving a National Pollutant Discharge Elimination System (NPDES) permit. Coeur has done the best job possible in listening and addressing comments made by the public. However, the project is far from "getting off the ground" in the current design and there is no question that the Pogo mine appeal could happen again.

Co-Chair Wilken inquired if the appeal process has increased Coeur's anxiety regarding the Kensington mine project.

Mr. Arnold replied that, yes, the appeal process has raised Coeur's anxiety; however Coeur recognizes that the appeal process is an aspect of the mining business.

Representative Bruce Weyhrauch added that the appeal process is a statewide concern.

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

There being no objection, CS HB 556 (FIN) MOVED from Committee with zero fiscal note #1 from the Department of Community and Economic Development.

AT EASE 11:01 AM / 4:54 PM

#HB459

CS FOR HOUSE BILL NO. 459(STA)

"An Act relating to optically scanned and electronically generated ballots; and providing for an effective date."

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

Co-Chair Wilken stated this bill, sponsored by Representative Harris, "requires an electronic voting machine to produce a paper record of the votes that are cast."

CINDY SMITH, Staff to Representative Les Gara, presented the bill on behalf of Representative Gara and Representative Harris. She testified that this bill would require a voter-verified "paper trail" for touch screen voting machines. There have been significant problems with the touch screen voting machines in a

number of states. Presently, if the machines malfunction or if a vote recount is required there is not a paper ballot or an equivalent paper record available for reference. This bill would require, as soon as the technology is available, that touch screen voting machines provide a paper printout to be verified by the voter.

Senator Bunde understood that electronic voting would be more time efficient and less expensive than the current paper ballot system. He asserted that it is "counterintuitive" to institute a modern electronic voting system and then require the use of old methods to support it.

Ms. Smith responded by telling of various instances in which the new voting machines have failed to record votes. A paper trail would serve as an audit device to provide a record of the voter's intent in the event that a malfunction occurs or a recount is required.

Senator Bunde understood the concerns, and asked if the current paper ballot voting method provided ballots in the event of a recount.

LAURA GLAISER, Director, Division of Elections, Office of the Lieutenant Governor, confirmed that the current system allows the paper ballots to be used in a recount. The paper trail proposed in this legislation would serve as a form of audit for the electronic voting machines in the event of a recount.

Senator Bunde asked why it is necessary to use electronic voting machines if a paper equivalent of the votes would still be required.

Ms. Glaiser replied that the federal Help America Vote Act requires the State to have touch screen voting machines in every voting precinct by 2006. Alaska State law also provides for the use of touch screen voting machines. She clarified that efficiency is not the only benefit of electronic voting machines; they also enable the blind and disabled to vote unassisted.

Senator Bunde asked how the blind would be able to fill out a touch screen ballot if they are unable to use the current paper ballot.

Ms. Glaiser explained that the touch screen voting machines contain an audio device and a keypad the blind can use to record their vote.

Senator Bunde asked if the State would lose federal funds if it

refused to utilize the touch screen voting machines. He also asked the amount of funding the federal government was supplying for the purchase and implementation of the electronic machines.

Ms. Glaiser answered, yes, that \$5 million has been received, and another \$11 million is expected from the federal government.

Senator Bunde asked the difference between the federal funding and the cost of implementing a paper audit system.

Ms. Glaiser answered that she does not know that dollar amount; however the federal funding is "no year" funding, which could be expended any time. The State would not replace all the voting machines at once so the optical scan and paper ballot methods would continue to be used.

Co-Chair Wilken noted the fiscal note cost of this bill would be almost \$443,000 in FY 05, and \$1.8 million each subsequent election year.

Senator Olson asked how the State could avoid a "convoluted situation" such as that which occurred in the State of Florida during the presidential election of 2000.

Ms. Glaiser replied that the State of Alaska has always had a good record regarding the voting process. The Division of Elections would do nothing to jeopardize the integrity of the election process. The touch screen voting machines would be implemented on a limited basis. Today the Election Assistance Commission met and took testimony on the touch screen voting equipment, demonstrating that the State is not alone in questioning the accuracy of these voting machines. The State's voting process is reviewed by such entities as the bipartisan State Review Board and independent AccuVote review boards in each of the election regions. The Division is confident that the State would catch any anomalies in the electronic voting machines, because of the State's thorough review and testing processes. However, because the new voting system relies on technology and an inaccessible source code, the possibility exists that an unforeseen error could occur.

Senator Olson asked if a credible recount is possible under the touch screen voting method.

Ms. Glaiser responded that the voter verified paper trail proposed by this legislation is an attempt to ensure a credible recount. The touch screen voting machines have been certified by the Federal Election Commission, and are considered to have a sufficient audit trail; however, there are examples, such as that cited by Ms.

Smith, that the audit trail is not adequate.

Senator Olson asked how many State voting precincts would have touch screen voting machines in the next election.

Ms. Glaiser estimated that the State currently has 439 voter precincts. Every precinct would be required to have at least one touch screen voting machine for the 2006 election.

Senator Hoffman inquired about the size and the storage location for the touch screen voting machines. He was specifically concerned with the storage location in outlying rural communities.

Ms. Glaiser responded that the touch screen voting machines weigh approximately 30 pounds. The machines would be mailed to the precincts and subsequently returned to regional Division of Elections offices for storage. Occasionally municipalities or boroughs would store voting machines for the precincts in their communities.

Senator Bunde assumed the State would not receive the paper voter verification if produced, but rather the voter would assume possession of the verification. Therefore, if a recount occurred the Division of Elections would have to rely on voters to submit their paper verifications. He did not understand how this process could be trusted to accurately recapture votes.

Ms. Smith corrected that the paper verification would be submitted to the election officials in the manner paper ballots are currently submitted. Voters would review the paper verifications, but would not take possession of them.

Ms. Glaiser further detailed that the touch screen voting machines would print a paper confirmation of the votes electronically placed by the voter. The voter would verify the accuracy of the printout using a command on the touch screen. After being confirmed, the print out would finish printing. Two records of the votes cast would then exist: the record on the machine's memory card, and the paper printout.

Senator Bunde questioned the ability of a blind voter to confirm the paper verification unassisted. He stated his opposition to the implementation of the touch screen voting machine in its current design.

DANIEL LYNCH testified via teleconference from Kenai that he would recommend an amendment allowing only the blind to use the touch screen voting machines. The U.S. is founded on the idea that one

man equals one vote. Citizens' ability to vote must be "cherished and protected" because it is one of the few original freedoms that could still be exercised. For over 200 years a voting method using paper and writing utensils was sufficient, and it remains sufficient. He concluded by urging the Committee: "Please protect our democracy; don't add to the apathy."

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

Senator Bunde objected.

A roll call was taken on the motion.

IN FAVOR: Senator B. Stevens, Senator Dyson, Senator Hoffman, Senator Olson, and Co-Chair Wilken

OPPOSED: Senator Bunde

ABSENT: Co-Chair Green

The motion PASSED (5-1-1)

CS HB 459 (STA) MOVED from Committee with fiscal note #1 for \$442,800 from the Office of the Governor.

#HB531

SENATE CS FOR CS FOR HOUSE BILL NO. 531(RES)

"An Act relating to natural gas exploration and development and to nonconventional gas, and amending the section under which shallow natural gas leases may be issued; and providing for an effective date."

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

Co-Chair Wilken stated this bill, offered by the House Resources Committee, "[is] having to do with conventional and nonconventional gas leases."

MARK MEYERS, Director, Division of Oil and Gas, Department of Natural Resources, testified that this bill focuses on the issues of shallow gas leasing and the regulatory framework for the production of coal bed methane.

ELEANOR WOLF, staff to Representative Beverly Masek, referred to the sponsor statement titled "S CS CS HB 531 (RES) - Conventional/Non-Conventional Gas Leases" [copy on file.] She informed that she was available for questions.

Mr. Meyers explained that this bill repeals the existing over-the-counter shallow gas-leasing program, and replaces it with the current exploration licensing and conventional competitive leasing programs. The competitive leasing program would require a best interest finding, essentially an environmental impact statement, and would necessitate extensive public notices and consideration of public input and the public interest. These requirements would be met prior to handling the lease sale and issuing the license. He continued to testify the following.

In addition, this bill also includes some additional ground water protection regulation involving the activity of producing nonconventional gas, particularly coal bed methane. It requires the AOGCC (Alaska Oil and Gas Conservation Commission) to regulate hydraulic fracturing, disposal wastes, the reinjection of produced waters, and prohibits the protection of gas from aquifers that serve as a source of water for human consumption or agricultural purposes unless it can be demonstrated that it won't adversely affect the aquifer. These groundwater protections are very significant and they are one of the areas of contention in the lower 48 [states] with coal bed methane production. There are some major protections here in this section.

The bill also limits the discretion of the DNR (Department of Natural Resources) Commissioner to existing shallow gas leases. It specifies the terms under which that discretion can be used. It gives the Commissioner the discretion to issue either oil and gas or a gas only lease. And the gas only lease, if it can be demonstrated by the lessee that it is nonconventional gas only, can get more favorable lease terms: the rentals is one dollar per acre, and if that gas does not compete with other gas on the market it can be 6.25-percent. So it contains those favorable terms that were in the shallow gas leasing for oil energy fundamentally.

It [this bill] repeals the provisions of HB 69, which allowed the Commissioner to override local zoning authority. It gives a one-time opportunity for pending lease applications. Under the programs we have about 200,000 acres or so of pending lease applications. It takes those applications and gives the applicant a one-time chance to convert those to a non-competitive exploration license with a best interest finding

in front of it. And I think that is important again; there is a lot of concern over those pending applications. We believe that we can do that expediently, and to that is the DNR fiscal note is so that we can simultaneously run at least three best interest findings in addition to the ones we are doing in the Bristol Bay area to be able to get those licenses out as quickly as possible.

The bill also requires the Department of Natural Resources Commissioner to establish set backs and noise mitigation measures for compressor stations. It also requires the operator to acquire base line water test data prior to production or production testing. Again, one of the issues is that once you have that baseline data then you will be able to know whether there is any affect. We think with these oil protectionists it is highly unlikely the water system will be affected, but AOGCC will have the authority to require that base line testing. In fact, [AOGCC] will be required to have that testing before they [the lessees] drill the production wells [a requirement which is] again dealing with one of the major concerns we have seen with coal bed methane.

Finally [this bill] specifies the bonding requirements for the gas only leases.

So, Mr. Chairman, this bill covers both the future leasing for coal bed methane and nonconventional gas. I think it provides a good framework for leasing in rural Alaska as well. And it puts the best interest finding process back in front of the leasing, and then it provides this overall regulatory framework, which again has been a desire of the folks, the concern of the folks out in the Mat-Su valley, and the Homer area and other areas. And I think it does it in a way that balances the interests of the industry and interests of the State in seeing a production occur. And [this bill] provides that additional level of environmental protection that the public wants. So I think it is a well-balanced bill that does a lot of different things.

Co-Chair Wilken asked if this bill would effectively lift the moratorium currently in place.

Mr. Meyers replied that the Department of Natural Resources is awaiting the final stages of the public process in the Mat-Su valley. Five public meetings have been held, and the recommendations have been gathered. The Department is accepting public comments on the draft finding guidelines and proposed regulations until May 21, 2004. The moratorium would lift after the

public process is completed. The moratorium affects production drilling in the Mat-Su valley; however, the drilling of core holes and other evaluation work is not affected and has been able to continue. This bill would effectively lift the moratorium on the pending leases because those leases would not be issued. Instead, the pending leases could be converted to a license.

Co-Chair Green referenced an earlier discussion with Mr. Meyers, and certain concerns he expressed regarding State-owned land. She referenced information prepared by the Department asking if the statement "own any State leases" refers to Mr. Meyer's earlier concerns.

Mr. Meyers responded that the two subjects are related. The program is confusing in that the regulatory environment is regulated by the type of lease rather than by activity. In the Mat-Su valley there are areas with conventional state leases, shallow gas leases, Mental Health Trust leases, private leases, and potentially federal leases. Regulating only certain leases and not others does not promote the creation of a cohesive regulatory environment. The various leases are under the authority of different agencies such as the Alaska Oil and Gas Conservation Commission and the Department of Environmental Conservation, which do have the wide authority to affect all of the leases. The attempt is being made to use a scientifically based pattern rather than a leasing based pattern in establishing a cohesive regulatory framework.

Senator Bunde noted this bill repeals the provision that allowed the Commissioner of the Department of Natural Resources to overrule the authority of local zoning ordinances. He assumed that the original provision was adopted in HB 69 "for good reason". He asked if local zoning ordinances would be able to overrule the State's access to subsurface rights.

Mr. Meyers responded that the repeal is very relevant to the Mat-Su Borough, and potentially to the Kenai Peninsula Borough. The Department supports the State's standards. Technical guidance would be provided to the boroughs as they established standards. The Department is optimistic that a set of standards would be produced that would be acceptable to both the State and to municipal governments. The State maintains the constitutional right to produce resources, and, as a result, if the local zoning ordinances are unreasonable, the State's authority ultimately supersedes the authority of the municipalities and boroughs. HB 69 would not change the balance between the State and the municipalities, but would shift the constitutional authority of the State to the Commissioner of the Department of Natural Resources. The State has proven successful in working alongside municipalities such as the

North Slope and Kenai Boroughs. In certain situations, local zoning ordinances are appropriate to regulate activities such as the placement of facilities.

Senator Bunde informed that it is unlawful to hinder a property owner from accessing their property.

SFC 04 # 108, Side B 05:23 PM

Senator Bunde asked if a borough were to exclude its territory from commercial gas development, whether the State would be able to gain access to the land through a court ruling.

Mr. Meyers affirmed.

AT EASE 5:24 PM / 5:25 PM

Amendment #1: This amendment deletes the language of AS 38.05.180(ff)(3) in Section 41 on page 40, lines 6 - 12 of the committee substitute. The deleted language reads as follows.

(3) for a nonconventional gas lease, if a bond is sought under AS 38.05.130, before the amount of the surety bond to be posted is determined by the director, require, as a condition for issuing the lease, that the director, after notice and an opportunity to be heard, determine that, to exercise rights under the reservation as set out in AS 38.05.125 and the lease, the lessee has no other reasonable means of entry than access and entry upon the land of the owner; the lessee has the burden of demonstrating compliance with the requirement of this paragraph;

This amendment also amends the language in subsection (gg) following line 17 and inserts new language to read as follows. No language in this subsection is deleted.

(gg) For an activity or operation related to the extraction of coal bed methane,

(1) for which the department by regulation requires submission and approval of a plan of operations before activities or operations may be undertaken, the director shall, as a condition for determining a bond requested under AS 38.05.130, after notice and an opportunity to be heard, review the plan of operations to determine if use of the owner's land is reasonable necessary to extract the coal bed methane; a bond determined under AS 38.05.130 and this

paragraph may, at the discretion of the director, be imposed against a statewide bond that has been posted by the person initiating the request for determination of the bond if the statewide bond remains in effect, and an additional bond is not required;

(2)

Co-Chair Green moved for adoption.

Co-Chair Wilken objected for an explanation.

Co-Chair Green deferred to Mr. Meyers.

Mr. Meyers explained that this technical amendment relates to bonding authority and is necessary because the original language was included in the wrong section of the original version of the bill. The intent is that the bonding language generally applies to leases, whereas the original language only applied the bonding provisions specifically to a nonconventional lease.

Co-Chair Wilken removed his objection and the amendment was ADOPTED.

Senator Bunde asked the cost of the implementation of this legislation to the State in future revenues.

Mr. Meyers responded that this legislation would improve future revenues in the long term. The over-the-counter shallow gas leases were not significantly valuable nor desirable in the terms of actual production, considering the limited depth of drilling, the three-year lifespan of the lease, and the lack of a best interest finding and balancing test, all of which resulted in speculation. Leases were purchased in areas not ideal for oil and gas development. More money was spent administering the leases than was earned in value for them. Legitimate applicants faced public opposition because public input was hindered through the over-the-counter lease process. In areas where competitive leasing sales would occur under this legislation, competitive bidding would bring in more revenue than the current over-the-counter fee. Both the State and the lessees would receive more net profit under this legislation. The implementation would require increased expenditures in the short term to accelerate the required findings, but the benefits of an up-front public process would prove valuable in the long term.

Senator Olson asked the type of protection the State would receive in the event that a lease buy back was required.

Mr. Meyers answered that if the buy back is based on the amount spent for exploration, the buy back cost is correspondingly large. However, if the eminent domain status is used to purchase the lease, the cost is based on just compensation, which consists of a projected value of the potential resource. Buy back would be very expensive, in certain cases tens of millions of dollars or more.

Senator Olson restated his earlier question.

Mr. Meyers answered that this bill does not contain buyback provisions. The competitive lease program would ensure that the public has greater acceptance of the development projects, and if the public were content, the State would not need to buy back leases.

Senator Olson commented that he is in support of tax credits and other incentives to encourage shallow gas development in rural areas where energy is expensive. He would pursue such a proposal during the next legislative session.

Co-Chair Green offered a motion to report SCS CS HB 531 (RES) as amended from Committee with individual recommendations and accompanying fiscal notes.

There was no objection and SCS CS HB 531 (FIN) MOVED from Committee with fiscal note #1 for \$252,600 from the Department of Natural Resources and fiscal note #3 for \$20,000 from the Department of Administration.

#HB489

HOUSE BILL NO. 489

"An Act relating to the administration of the Alaska Vocational Technical Center; and providing for an effective date."

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

Co-Chair Wilken stated this bill, offered by the House Rules Committee by request of the Governor, would "authorize the Department of Labor and Workforce Development to administer the programs of AVTEC, and to set rates for student tuition, room and board."

GREG OCLARAY, Commissioner, Department of Labor and Workforce Development, testified that SB 192, which transferred the Alaska

Vocational Technical Education Center (AVTEC) from the Department of Education and Early Development to the Department of Labor and Workforce Development, inadvertently omitted a provision granting the Department of Labor and Workforce Development authority to determine student tuition and collect fees. This bill corrects the oversight by granting the necessary authority to the Department of Labor and Workforce Development.

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

Without objection HB 489 MOVED from Committee with zero fiscal note #1 from the Department of Labor and Workforce Development.

#HB123

CS FOR HOUSE BILL NO. 123(FIN)

"An Act relating to the allocation of money appropriated to the Alaska Workforce Investment Board; and providing for an effective date."

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

Co-Chair Wilken stated this bill, sponsored by Representative Carl Moses, "adds a Southwest Alaska Vote Education Center in King Salmon to the roster of entities eligible to receive money under the Technical Vocational Education Program."

TIM BENETENDI, Staff to Representative Carl Moses, testified that the sponsor was not opposed to the addition of a repeal clause for this legislation.

Amendment #2: This amendment extends the allocation of appropriations to the Alaska Workforce Investment Board from June 30, 2006 to June 30, 2010.

Co-Chair Wilken moved for adoption.

Co-Chair Green objected and stated her continued objection to this legislation.

Co-Chair Green removed her objection and the amendment was ADOPTED without further objection.

Senator B. Stevens offered a motion to report CS HB 123 (FIN), as amended, from Committee with individual recommendations and

accompanying fiscal note.

There was no objection and SCS CS HB 123 (FIN) MOVED from Committee with zero fiscal note #1 from the Department of Labor and Workforce Development.

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**ADJOURNMENT**

Co-Chair Gary Wilken adjourned the meeting at 05:37 PM