

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**May 07, 2004**  
**8:44 AM**

**TAPES**

SFC-04 # 110, Side A  
SFC 04 # 110, Side B

**CALL TO ORDER**

Co-Chair Gary Wilken convened the meeting at approximately 8:44 AM.

**PRESENT**

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

**Also Attending:** REPRESENTATIVE BUD FATE; JAMES ARMSTRONG, Staff to Representative Bill Williams; TOMAS BOUTIN, Deputy Commissioner, Department of Revenue; GREG O'CLARAY, Commissioner, Department of Labor and Workforce Development; JIM POUND, Staff to Representative Bud Fate; SUSAN BURKE, Attorney representing Magazine Publishers of America; SUE STANCLIFF, Staff to Representative Pete Kott; DEBBIE BUMP, Division of Finance, Department of Administration; JOHN MAIN, Staff to Representative Pete Kott; PHELAN STRAUBE, Staff to Senator Ben Stevens; VERN JONES, Chief Procurement Officer, Department of Administration

**Attending via Teleconference:** From Offnet Sites: PAT LADNER, Alaska Aerospace Development Corporation; LINDA WILSON, Deputy Director, Public Defender Agency, Department of Administration; LINDA WILSON, Deputy Director, Alaska Public Defender Agency, Department of Administration

**SUMMARY INFORMATION**

HB 422-BUDGET RESERVE FUND INVESTMENT

The Committee heard from the sponsor, the Department of Revenue and the bill was held for further consideration.

HB 559-STEP PROGRAM CONTINUANCE

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

HB 15-SOLICITATIONS/CONSUMER PROTECTION

The Committee heard from the Sponsor, adopted one amendment, and reported the committee substitute from Committee.

HB 494-ELECTRONIC PAYMENT FOR STATE BUSINESS

The Committee heard from the bill's sponsor, adopted three amendments, and reported the bill from Committee.

HB 514-CHILD SUPPORT ENFORCEMENT/ CRIMES

The Committee heard from the sponsor and the Public Defender Agency. A committee substitute was adopted and reported from Committee.

SB 366-STATE SALES TAX

The Committee heard from the sponsor, adopted a committee substitute, and reported that bill from Committee.

HB 545-STATE REAL PROPERTY LEASE EXTENSIONS

The Committee heard from the Department of Administration and reported the bill from Committee.

SB 308-DOMESTIC VIOLENCE PROTECTIVE ORDERS

This bill was scheduled but not heard.

HB 56-UNFAIR TRADE PRACTICES ATTY FEES/COSTS

This bill was scheduled but not heard.

HB 341-DIVE FISHERY MANAGEMENT ASSESSMENT

This bill was scheduled but not heard.

HB 342-DRIVING UNDER INFLUENCE/ALCOHOL OFFENSES

This bill was scheduled but not heard.

HB 425-SCHOOL FUNDS RELATED TO BOARDING SCHOOLS

This bill was scheduled but not heard.

HCR 32-AK INFO INFRASTRUCTURE POLICY TASK FORCE

This bill was scheduled but not heard.

#hb422

CS FOR HOUSE BILL NO. 422(STA)

"An Act repealing the special subaccount established in the constitutional budget reserve fund; and providing for an effective date."

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

Co-Chair Wilken stated that this bill would repeal the Constitutional Budget Reserve (CBR) subaccount and thereby allow the Constitutional Budget Reserve (CBR) account balance, in its entirety, "to be invested in fixed income securities." He stated that CS HB 422(STA), Version 23-LS1527\S, and its accompanying fiscal note #1 from the Department of Revenue, is before the Committee.

JAMES ARMSTRONG, Staff to Representative Bill Williams, the bill's sponsor, specified that this bill would repeal an act enacted in the year 2000 that created a \$400 million subaccount within the CBR Fund. This action, he continued would "collapse" those funds back into the primary CBR account. He stated that this subaccount "was targeted to obtain a higher yield for the investment strategy." Furthermore, he noted, that the Commissioner of the Department of Revenue was instructed to assume that the subaccount would not be accessed for five years. He stated that this legislation is requested by the Department of Revenue.

Senator Dyson asked regarding the rate of return experienced by the subaccount.

TOMAS BOUTIN, Deputy Commissioner, Department of Revenue, responded that during the last three years, the subaccount achieved a 4.70 percent rate of return as compared to the primary CBR account's 5.44 percent rate of return.

Senator Dyson asked whether these are gross or net return rates.

Mr. Boutin expressed that these returns "are gross of fees." However, he noted that the subaccount has an annual fixed management fee amounting to \$125,000. He stated that the CBR's fixed income accounts are managed internally, at an annual "rule of thumb cost" of approximately three basis points.

Senator Dyson declared that contrary to the goal of generating a higher yield, the subaccount actually returned a lesser rate than the primary CBR account.

Mr. Boutin opined that the timing of establishing the account "couldn't have been poorer" in that it ventured into equities in the spring of the year 2000.

Senator Bunde communicated that the reason that CBR Funds are not positioned in "more aggressive management" is that access to the funds must be available on "a short-term basis" in order to be used to balance the State's budget. This, he asserted, was and continues to be a concern regarding the establishment of this subaccount. He communicated that because a higher rate of risk accompanies the decision to achieve a higher rate of return, the investment must remain invested in the financial market over a long-term in order to amortize the risk. He stated that this is contrary to being able to access CBR funds as budgeting factors might require.

Mr. Boutin responded that that is "exactly the reason" the Department of Revenue has requested this legislation. He distributed two handouts titled "Constitutional Budget Reserve" and "Constitutional Budget Reserve Subaccount" [copies on file].

Senator B. Stevens reviewed the "Constitutional Budget Reserve Subaccount" handout and asked whether eliminating the subaccount at this time would result in selling at a loss as opposed to continuing the account until the loss could be "recaptured."

Mr. Boutin qualified that neither the Department of Revenue nor the Legislature are "market timers," and therefore, he reiterated that this is the reason the Department of Revenue believes that "fixed income is appropriate." He noted that the Commissioner of the Department of Revenue, as the fiduciary for this money, could invest it, limited by the prudent investor rule, for the highest rate of return. He disclosed that the Department conducts quarterly evaluations of the Fund's "targets" to determine the appropriate investment strategy. He declared that because the CBR is currently utilized as the State's "checking account," the Department has determined that long-term investments are not the proper strategy at this time.

Senator B. Stevens voiced that, "at this point," he does not support this legislation, as he calculated, that there would not be "a significant draw" on the CBR, which currently amounts to approximately \$1.5 billion, until June 30, 2005. He opined that that a three-year and five-year "time horizon on an investment cycle is short-term." He stated that were the Legislature "forced to liquidate the \$420 million that was originally invested for a long-term horizon, prematurely, we are destined to lose money." He spoke against the legislation as he reiterated that the money is not required at this time and should continue to be invested, as established, in the long-term equity market investment for a minimum of five years.

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

#hb559

HOUSE BILL NO. 559 am

"An Act extending the termination of the state training and employment program; and providing for an effective date."

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

Co-Chair Wilken noted that HB 559 am, Version 23-LS1954\A.A, would extend the State's employment training program until the year 2008. He noted that a Department of Labor and Workforce Development zero fiscal note accompanies the legislation.

GREG O'CLARAY, Commissioner, Department of Labor and Workforce Development, informed that this legislation would extend the State's "successfully implemented" State Training and Employment Program (STEP) for unemployed workers. He noted that approximately 18,000 unemployed workers "who were unable to be served by federal or other programs," have received training through the program since its inception. He urged the Committee members to support the bill.

Senator Dyson commented that the ultimate success of a training program is not determined by the number of individuals who receive training, but is rather determined by the number of those individuals who obtain employment.

Commissioner O'Claray communicated that more than 90-percent of the individuals who completed the training obtained jobs as outlined in a Workforce Investment System report [copy not provided] that was

distributed to Legislators earlier in the year. He noted that the success of this program supports Governor Frank Murkowski's Alaska Hire program. The specifics of that program, he continued, are that the person must desire to work; the person must be a resident of the State with the intention to remain in the State; and must have been previously employed in a job that was covered by unemployment insurance. Continuing, he shared that the intent of this program is to reduce the number of people who are collecting unemployment.

Senator Bunde asked regarding the job market opportunities for persons who complete the training.

Commissioner O'Claray responded that one component of the STEP program was to evaluate the job market in order to determine what jobs exist and to attempt to establish "a pre-committed job" prior to training being conducted. He attested that this pre-commitment is a factor of the "most successful" training programs. He shared that 4,500 new jobs were created by the State's economy in 2003, and that the continued development of such things as the mining industry would provide sustainable employment, "which is the ultimate goal."

Senator Bunde voiced comfort in knowing that the training provided was appropriate to the job market.

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

There being no objection, HB 559am was REPORTED from Committee with zero fiscal note #1, dated April 22, 2004 from the Department of Labor and Workforce Development.

#hb15

SENATE CS FOR CS FOR HOUSE BILL NO. 15(JUD)

"An Act relating to fair trade practices and consumer protection, to telephone solicitations, to charitable solicitations; and providing for an effective date."

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

Co-Chair Wilken stated that this legislation, sponsored by Representative Bud Fate, "would establish specific guidelines for telemarketers operating in the State." He noted that CS HB 15 (JUD), Version 23-LS0058\X and its accompanying fiscal notes, is before the Committee.

REPRESENTATIVE BUD FATE, the bill's sponsor, stated that his staff would present testimony on the bill.

JIM POUND, Staff to Representative Bud Fate, explained that the intent of this bill is to address the number of telemarketing phone calls that people receive during the evening dinner hour. He stated that similarly fashioned federal legislation, referred to as the National No-Call List, has been developed, and that this bill has been modified to align with those federal regulations. One of those modifications, he continued, would "allow the [State's] Department of Law to enforce the federal statutes" and additionally "would allow Alaskans to be able to have a local or in-State contact," rather than a federal contact through which to file a complaint.

Technical Amendment #1: This amendment deletes "exemption provided by (a)(11)" and inserts "written disclosure required by (a)(11)(B)" in Section 22, subsection (b) on page ten, line seven. The amended language would read as follows.

(b) The written disclosure required by (a)(11)(B) of this section does not apply to a sale of a magazine subscription by a publisher or a publisher's agent operating under a written agreement between a publisher and the agent

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

Mr. Pound stated that this technical amendment is required to correct a drafting error that occurred when an amendment pertaining to publishers of magazine and periodical sales was incorporated into the Senate Judiciary Committee committee substitute. He noted that the intent of the amendment was to address the bill's written notice of cancellation requirements regarding a transaction that occurs with an existing customer or were the billing, which is routinely conducted with a credit card, to be accompanied by an 800 number reflected on the credit card charge on one's statement. This toll-free number, he continued, would enable an individual to contract the vendor to discuss the charge. Therefore, he stated, the adoption of this amendment would address these written disclosure requirements and correct the drafting error that might serve to classify the sale of these items as a felony under other existing statutes.

SUSAN BURKE, Attorney representing Magazine Publishers of America, noted that collaborative efforts with the Consumer Protection Division of the Department of Law have resulted in acceptable compromises. She agreed that this amendment would correct a

drafting error and that her client supports the amendment.

Co-Chair Wilken withdrew his objection to Amendment #1.

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

Co-Chair Wilken asked for further information regarding the effects of the bill.

Mr. Pound explained that this legislation would "localize" this issue and provide the State's Department of Law more control regarding telemarketer issues. He stated that this bill would require telemarketers operating in the State to register with the Department of Law, would allow consumer complaints to be addressed at the State rather than federal level "which should be quicker and a little more personal," and would allow Alaskans to register on the National Do-Not-Call List. He noted that the establishment of the National Do-Not-Call List eliminated the need to establish an Alaskan Do-Not-Call registry.

Senator Dyson asked whether non-profit agencies such as the Salvation Army or political campaigns would be affected by this legislation.

Mr. Pound responded that this legislation would not affect non-profits or political entities.

Senator Dyson asked whether "significant issue" non-profit organizations would be affected.

Mr. Pound understood that those organizations would be recognized as a political entity.

Senator Dyson questioned whether non-profit fund-raising endeavors would be allowed.

Mr. Pound responded that all non-profits would be exempt from this legislation.

Senator Dyson asked for confirmation that this would include political organizations.

Mr. Pound concurred.

Senator Dyson asked regarding "the common denominator for the exemption list" as referred to in Section 21 on page seven of the bill.

Mr. Pound explained that the exemption language pertains to registration and registration fees. He noted that the entities specified in that section would be required to meet the requirements of the national Do-Not-Call list.

Senator Dyson characterized the list of exempted entities as "quite extensive."

Mr. Pound noted that the section, which occurs in existing regulation, was originally included in the bill as the result of a minor Department of Law drafting change request. However, he noted that this "exemption section" has evolved into one of the most contentious sections of the bill.

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

There being no objections, SCS CS HB 15(FIN) was REPORTED from Committee with zero fiscal note #4, dated February 13, 2004 from the Department of Community and Economic Development and zero fiscal note #5, dated February 23, 2004 from the Department of Law.

#hb494

CS FOR HOUSE BILL NO. 494(FIN) am  
"An Act relating to the methods of disbursement of money by the state, including employment compensation, unemployment payments, and permanent fund dividends, and to bank investments and deposits by the state; 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 bill, CS HB 494 (FIN) am, Version 23-LS1754\U.A, sponsored by Representative Pete Kott, would mandate "that monetary disbursements can only be made through an electronic funds transfer or through an electronic payment card unless doing so would cause hardship to the recipient." He noted that several amendments would be forthcoming.

SUE STANCLIFF, Staff to Representative Pete Kott, noted that this bill would alter the method through which the State disburses funds in order to reduce associated costs to State agencies and to "improve service delivery to the public." She informed that the proposed electronic payment delivery that would utilize such things as direct deposits would benefit the State, as it would reduce the

high cost of issuing paper checks. She informed, however, that such electronic payment delivery would not be a viable payment method for "so-called cash customers" who are those who do not have a bank account or those who might live in Bush areas of the State and not have access to a bank or choose not to receive direct deposits.

Ms. Stancliff stated that, in addition to reducing the cost of issuing paper checks, "considerable" savings would result from: not having to deal with check fraud; not having to re-issue lost or stolen checks or address stale dated checks; reduced postage and bank service fees; and reduced labor costs. Furthermore, she stated that the proposed process would benefit those who receive electronic payments because it would eliminate check-cashing fees, the payment would be made in a timely, reliable manner, and the check fraud liability would be reduced.

Ms. Stancliff pointed out that while 89-percent of the State's payroll is direct deposited, only 1.5 percent of the 50,000 vendors the State does business with currently utilize the electronic payment transfer method. She pointed out that this is the area to which the maximum focus would be directed. She noted that the State's child support and public assistance programs are increasingly using electronic disbursements.

Co-Chair Wilken understood that the legislation would allow the State to utilize electronic funds transfers. He asked whether there is a "compliant" component associated with the legislation.

Ms. Stancliff stated that rather than "compliant" being the appropriate word, the hope is that incorporation of this legislation would encourage its use. She stated that the State would not require someone to choose this method of payment, as that would impede on their right not to choose it. However, she noted that an agreement within the Western States Alliance does have a compliant component in regards to electronic benefit transfers.

Co-Chair Wilken voiced being "shocked" that the State issues 96,000 checks a month. He asked how this legislation would alter current payment regulations.

Ms. Stancliff responded that it would insert a new section into State's statutes that identify the methods of disbursements that the State shall use. She noted that, included in the new language, is language specifying that a person would not be required to utilize electronic payment. Therefore, she concluded, that while a person could opt out of this payment method, the legislation would specify that this be the "primary method" utilized by State departments.

Co-Chair Wilken surmised therefore that the legislation would establish the method for disbursement, which is currently "quiet" in statute.

Ms. Stancliff concurred. She noted that the legislation also updates the statute to "the electronic age" by replacing the word "warrant" with "disbursement" throughout.

DEBBIE BUMP, Division of Finance, Department of Administration, noted that she was available to answer questions.

Senator Olson asked for further information regarding how the legislation would apply to people without a bank account.

Ms. Stancliff responded that this legislation would not require a person living in a remote community with limited banking options or who elect not to receive electronic payments to do so. She stated however, that the State could alternately save money were these people to receive payment via an electronic or cash card, which is similar to a debit or credit card that could be used at their local grocery store or post office.

Senator Olson asked for clarification regarding the fact that no more warrants would be issued.

Ms. Stancliff clarified that the legislation would allow warrants to be issued to people "if they have no other means available to them."

Senator Olson asked for further information regarding the electronic card.

Ms. Stancliff explained that in lieu of receiving a check in the mail, funds in the form of cash cards could be utilized were electronic technology available at an area's post office or grocery store.

Amendment #1: This amendment inserts a new section into the bill on page two, line 23, after Section 3, as follows.

Sec. 4. AS 14.40.841 is amended to read:

Sec. 14.40.841 Alaska Aerospace Development Corporation [REVOLVING] fund. (a) the Alaska Aerospace Development Corporation {REVOLVING} fund is established in the corporation. The [REVOLVING] fund consists of appropriations made to the [REVOLVING] fund by the legislature, and rents,

fees, or other money or assets transferred to the [REVOLVING] fund by the corporation. Amounts deposited in the [REVOLVING] fund may be pledged to the payment of bonds of the corporation or expended for the purpose of the corporation under AS 14.40.821 - 14.40.990.

(b) The corporation shall have custody of the fund, and shall be responsible for its management. The corporation is the fiduciary of the fund under AS 37.10.071 and may invest amounts in the fund in accordance with an investment policy adopted by the corporation. Notwithstanding AS 37.10.010 - 37.10.050, the corporation may make disbursements from the fund in accordance with AS 37.25.050. Notwithstanding AS 37.05.130 - 37.05.140, the corporation shall report disbursements from the fund annually in accordance with AS 14.40.866(b)(1). An appropriation made to the fund by the legislature shall be transferred from the state treasury to the corporation for deposit in the fund.

In addition, Sec. 31 on page 11, line 12 is replaced with the following language.

Sec. 32. Section 4 of this Act takes effect July 1, 2004. Sections 1-3 and 5-31 of this Act take effect January 1, 2006.

Co-Chair Wilken offered Amendment #1 and objected for explanation.

Co-Chair Wilken shared that the Alaska Aerospace Development Corporation (AADC), of which he is a Board member, has "struggled with how to bring their accounting system which is somewhat unique because of its launch customers" into the State's accounting system.

PAT LADNER, Executive Director, Alaska Aerospace Development Corporation, testified via teleconference from an offnet site and explained that the twelve year-old corporation, after struggling "in the beginning against long odds," has recently signed a five-year missile defense contract. He noted that in FY 03, the Corporation: earned \$3.7 million in revenue; is expected to generate \$11 million in FY 04; and, "provided all scheduled launches occur," would be expected to generate \$22.1 million in FY 05. He stressed that this "is money brought into the State." This amendment, he explained, would allow the Corporation to be responsive to its customer the federal government, and be competitive with Vandenberg Air Force Base. He recounted that the missile defense contract requires an accounting system that is approved by the federal Defense Audit Agency (DAA), and he noted that the Corporation's Axis Accounting System does not meet the established criteria as it was initially designed to be a funds

tracking system for the Legislature. Furthermore, he explained that the current system segregates disbursements into five categories: labor; travel; contractual; supplies; and equipment. However, he continued, the national missile contracts require a work breakdown structure that consists of approximately 15 categories with sub-category requirements. He disclosed that because the current system does not provide that ability, a "shadow mode accounting system" has been developed, which as subsequently been approved by the DAA. The continuation of the Axis System and the development of the shadow system, he disclosed, has resulted in a double accounting system, which has increased labor costs that could not be recouped under the contracts. Therefore, he stated that because the Corporation receives no funding from the State, this scenario is placing the Corporation in a non-competitive situation as these overhead rates escalate.

Mr. Ladner stated that this amendment would serve to make the Corporation more efficient and competitive by allowing the incorporation of the separate accounting system. He attested that no other component of the operation such as annual audits and reports would be affected. He further assured the Committee that each contract would continue to require an annual DAA audit, a legislative audit, and a separate federal audit. He urged the Committee to support the amendment.

Co-Chair Wilken noted that further information is attached to the amendment.

Ms. Stancliff stated that the sponsor has no objection to the amendment.

Co-Chair Wilken removed his objection.

Senator Bunde asked whether this amendment would exclude the Corporation from a Legislative Budget & Audit review.

Mr. Ladner responded that it would not.

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

Conceptual Amendment #2: This amendment replaces the word "person" with the words "vendor or grantee" in Section 18, subsection (b)(4) on page six, line 18. The new language would read as follows.

(4) a vendor or grantee elects not to be paid by the disbursement methods;

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

Ms. Stancliff explained that this language is being proposed as most accounts are established with a vendor or a grantee rather than with a person.

There being no objection, Amendment #2 was ADOPTED.

Conceptual Amendment #3: This amendment deletes Sections 25 and 26 of the bill beginning on page nine, line 20 through line 31, which read as follows.

Sec. 25. AS 44.99.205(a) is amended to read:

(a) A state agency may not place a picture of an elected state official on an application form [, A WARRANT,] or a direct deposit notice provided by the agency.

Sec. 26. AS 44.99.205(b) is amended to read:

(b) A state agency may not place a message on or with an application form [, A WARRANT,] or a direct deposit notice provided by the agency unless the message is

(1) from a state agency employee who is not an elected state official; and

(2) required by law, necessary for the operation of the document, related to seasonal health issues included in flu shot reminders, or related to a program or activity of the state agency.

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

Ms. Stancliff explained that because this legislation incorporates the disbursement requirement into State statutes and because people could opt out of the electronic payment method and continue to receive a paper check or warrant, this language is no longer required.

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

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

There being no objection, SCS CS HB 494(FIN) was REPORTED from Committee with seven zero fiscal notes as follows: fiscal note #1, dated March 19, 2004 from the Public Assistance Field Services, Department of Health and Social Services; fiscal note #2, dated March 19, 2004 from the Information Technology Services, Department of Health and Social Services; fiscal note #3, dated March 19, 2004 from the Administrative Supports Services Division, Department of Health and Social Services; fiscal note #4, dated March 16, 2004, from the Unemployment Insurance Division, Department of Labor and

Workforce Development; fiscal note #5, dated March 16, 2004, from the Employment Services, Department of Labor and Workforce Development; fiscal note #6, dated March 19, 2004, from the Department of Revenue; and fiscal note #7, dated March 16, 2004, from the Department of Administration.

#hb514

SENATE CS FOR CS FOR HOUSE BILL NO. 514(JUD)

"An Act relating to child support modification and enforcement, to the establishment of paternity by the child support enforcement agency, and to the crimes of criminal nonsupport and aiding the nonpayment of child support; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date."

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

Co-Chair Wilken stated that this "omnibus" legislation is sponsored by Representative Pete Kott and would result in six changes to the Child Support Enforcement Division statutes.

Senator Bunde moved to adopt SCS CS HB 514, Version 23-LS1639\N as the working document.

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

JOHN MAIN, Staff to Representative Pete Kott, stated that the bill would correct six items in the child support statutes, with the first being that it would change "criminal nonsupport," which is currently a misdemeanor, to a felony. He shared that there are approximately 14,000 cases that exceed \$20,000 in arrears or are in excess of 24-months in arrears on their child support payments. He shared that these cases amount to approximately \$580 million. He stated that that fact that a person might be in arrears on a large amount of child support does not necessarily make that person a criminal; however, he continued, this change would align the State with 33 other states who categorize criminal nonsupport as a felony, primarily because a felony charge as opposed to a misdemeanor charge mandates that a person be on probation for ten years with up to a five-year suspended sentence rather than an informal probation of up to ten years with a suspended sentence of up to one year. In addition, he stated that the statute of limitations on a felony is ten years as opposed to five years for a misdemeanor.

Mr. Main noted that the Child Support Investigator Unit oversees a misdemeanor probationer, and that were this offense reclassified as a felony, the probation would be overseen by the Department of Corrections Probation Office. He stressed that changing the charge from a misdemeanor to a felony in cases where a large amount of child support is owed would provide the Child Support Division with "another tool to have to be able to collect higher amounts."

Senator Dyson asked whether a person who might be convicted as a felon for being in arrears on their child support would lose their right to vote and to bear arms.

Mr. Main affirmed that would be the case, were they convicted under a Class C felony.

Senator Dyson asked whether those rights would be restored upon the completion of the sentence.

Mr. Main could not provide the answer to that question.

Mr. Main exemplified that: were someone to steal oil valued at or in excess of \$500 from an oil company "through deception," they could be convicted of a Class C felony; were a person to conceal \$500 of merchandise from, for instance, JC Penney's, it would be considered a Class C felony; were an individual to defraud a creditor of \$500 or more that is a Class C felony; or were an individual to steal \$500 or more from a non-profit organization, that would be a Class C felony. He attested that withholding child support from a child "is like stealing money from their piggy bank" and yet, he noted, a person withholding child support payments must be at least \$20,000 in arrears before they could be charged with a Class C felony. He noted that the State's Child Support Agency is currently monitoring twenty-four cases at this level.

Mr. Main stated that the second change proposed by this legislation would be to incorporate a Conspiracy Law through which people who assist people with avoiding child support payments could also be charged with Class C felony. He noted that the current misdemeanor charge for non-payment of child support does not have a "conspiracy law as companion to the actual crime."

Mr. Main further noted that this legislation would address differing jurisdictional court issues in order to clarify, through

State statute, that the Courts have the statutory authority "across the board" through which approved payment plans could be developed; through which a person could be required to seek work; and through which a person could be required to complete and submit a Permanent Fund Dividend application, if qualified.

Mr. Main voiced that another important component of the legislation would be to provide the ability "to compromise State debt through settlement." He exemplified that this would allow individuals with a large amount of child support in arrears to establish a payment plan through which payments would be paid over a period of time. He noted that were this to occur, some of the debt could be forgiven. This program, he declared, would be limited to those situations in which it was determined to be in "the best interest of the State and the children."

Mr. Main explained that the legislation would also address a situation in which there is "a victim of rape and incest" who, as a result, bears a child. He noted that State statute currently prohibits the State Child Support Enforcement Division (CSED) from assisting someone in establishing paternity. However, he explained, this legislation would allow the victim to request CSED assistance in establishing paternity and subsequently, were paternity established, to assist them in "seeking a child support order." He explained therefore, that while CSED "would not seek to establish paternity on their own," they could do so, were this legislation adopted, if asked to do so by a victim of rape or incest.

Mr. Main noted that the final change proposed in this legislation would be to change Alaska Statutes in order for State laws to be consistent and compliant with federal funding requirements.

Senator Dyson voiced appreciation and support for the bill. He asked whether the legislation should address the "timely change in enforcement orders" issue.

Mr. Main understood the question to pertain "to adjustments and modifications of orders," and he noted that while the issue was raised, it is not addressed in this bill.

Senator Dyson asked whether this issue was not addressed because "the solution does not require a Statute change, or because there is no problem, or is it a big enough issue" to be addressed separately after the issues included in this legislation are resolved.

Mr. Main responded that in working with CSED in the development of this legislation, that issue was not identified as needing to be

addressed. However, he stated that it might be an issue that should be further discussed.

LINDA WILSON, Deputy Director, Alaska Public Defender Agency, Department of Administration, testified via teleconference from an offnet site and raised concern in regards "to the large number of people who would be exposed to a felony prosecution," were this legislation enacted. She reminded that there are in excess of 14,000 "who owe more than \$20,000 in child support or have not made a payment in 24-months." She declared that prosecuting this number of people under a felony would have an impact on the operations of the Public Defender Agency (PDA).

Ms. Wilson pointed out that language "narrowing the qualifications of a Class C felony" were incorporated into Section 3(d) on page two, line two of the SCS CS HB 514(JUD), Version 23-LS1639\E, by the inclusion of the word "intentionally," in that a person could be prosecuted with a Class C felony were they to "intentionally fail to provide the support."

Ms. Wilson noted that the recent version of the bill incorporates the word "knowingly" rather than the word "intentionally." She stressed that use of the word "'intentionally' would serve to narrow the exposure to a felony prosecution to really get at the people that are being targeted." She declared that, "it does not take much to get behind in child support" and were the intent "to get at the worst offenders, the ones who intentionally withhold or have the ability to pay and don't," then using "the word 'intentionally' would hopefully narrow the field from 14,000 to a smaller number of people."

Ms. Wilson stated that other than the concern regarding "the large number of people who could be prosecuted for a felony," the Department is comfortable with the remainder of the provisions being proposed.

Co-Chair Wilken asked whether the committee substitute, Version "N" addresses the Department's concern.

Mr. Main noted that, to the contrary, the word "knowingly" is incorporated into Version "N" at the recommendation of the Criminal Section of the Department of Law, as, he continued, the use of the word "intentionally" was determined "to be almost impossible for the Department to try these people and convict them." He stated that in order to prosecute a person, the individual would have to have been legally charged with the support of the child or ordered to pay support through such things as a Court order; that the person failed to provide the child support and that "the State must

prove without a reasonable doubt" that the person was aware that he or she must pay child support and aware that they were not paying it; and that the lack of payment was without lawful excuse.

Senator Bunde recalled that several years earlier, Legislators were provided a list [copy not provided] of approximately 100 individuals who owed more \$100,000 in back child support. He noted that the majority of those individuals resided in Rural Alaska, and who, he opined, would be likely to require assistance from the Public Defender Agency. He asked therefore, whether this legislation would have a "substantial impact" on the PDA.

Mr. Main replied that the procedure that must be undertaken in order to charge these people is such that only "the most egregious individuals" are investigated. He noted that in the last three years, only 24 cases have been presented as the CSEA only has four investigators, and only two of those address criminal non-support. He concurred with the information that some people owe upwards of \$50,000 in back child support, but noted that the biggest issue is "ability to pay." Therefore, he concluded, the CSEA only pursues those who have the ability to pay and who "have refused to pay." He noted that the Department works with people who live in Rural Alaska and people who have "very large arrears to be able to get those reduced."

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

There being no objection, SCS CS HB 514(FIN) was REPORTED from Committee with indeterminate fiscal note #2, dated February 23, 2004 from the Court System; indeterminate fiscal note #3, dated February 22, 2004 from the Department of Law; zero fiscal note #4, dated March 12, 2004 from the Division of Retirement and Benefits, Department of Administration; zero fiscal note #5, dated March 9, 2004 from the Division of Risk Management, Department of Administration; zero fiscal note #6, dated March 12, 2004 from the Department of Public Safety; indeterminate fiscal note #9, dated April 6, 2004 from the Department of Administration; and a new zero fiscal note, dated May 6, 2004 from the Department of Revenue.

#sb366

SENATE BILL NO. 366

"An Act relating to the levy and collection of sales and use taxes, to the levy and collection of municipal sales and use taxes, and to municipal sales and use taxes on alcoholic beverages; and providing for an effective date."

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

Co-Chair Wilken informed that this legislation addresses a State sales tax.

Senator B. Stevens moved to adopt CS SB 366, Version 23-LS1051\Z as the working document.

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

Senator B. Stevens explained that the committee substitute incorporates the following changes: in Section 17, on page six, lines 17-21, language is inserted that would allow communities "to levy and collect specific sales or excise taxes" on categories to include single events such as a car rentals and fish taxes. This language reads as follows.

Sec. 17. AS 29.45 is amended by adding a new section to read:  
Sec. 29.45.655. Specific taxes on property and services. Unless otherwise prohibited by law, a municipality may levy and collect specific sales or excise taxes on single categories of tangible and intangible property or services, such as bed taxes, car rental taxes, and fish taxes.

Senator B. Stevens pointed out that another change is incorporated into the bill in Section 29 (c) on page ten, lines 14 and 15, as follows.

(c) The rate of the sales tax is three percent of the sales price. The rate of the use tax is three percent of the purchase price.

Senator B. Stevens also noted that new language exempting communities with a population of less than 500 "from any of the provisions included in this bill" is inserted in Section 29, subsection 43.44.020 Exemptions. on page 12, lines 15 and 16, as follows.

(16) sales, leases, or rentals made in a municipality or unincorporated community with a population of less than 500.

Senator B. Stevens also noted that a new provision is added in Section 29, Article 3. Administration of Tax., subsection 43.44.310 Relationship to municipal levies. on page 20, lines 10-13, that

would allow the Department of Revenue to contract with the local municipality that currently have an existing tax office. This language reads as follows.

(d) The department shall have sole responsibility and authority for the administration of taxes levied under this chapter, AS 29.45.650, and 29.45.700. The department may contract with a municipality to provide a field office for that municipality 's geographic area of the state.

Senator B. Stevens communicated that the committee substitute would establish a termination date for the legislation to be effective as of July 1, 2013, as denoted in Sec. 37 on page 26, lines 12 and 13.

Senator B. Stevens opined, "that this is a fiscal proposal that would generate revenue." He noted that while the Department of Revenue has not yet provided a fiscal note specific to this new committee substitute, it is estimated that a three percent State sales tax would generate approximately \$250 million, with \$166 million of that to be designated for the State and with approximately a \$85 million return to communities. He identified the exemption of communities with less than 500 residents as "the largest exemption provided to date." He noted that this exemption would exempt 87 of the 164 incorporated communities that currently levy taxes.

Senator Bunde asked the rationale of exempting communities of less than 500, as, he attested, many of those communities rely on the State for a number of services including education support.

Senator B. Stevens responded that the reason for the exemption is that these communities "are the most vulnerable." He noted that the tax that might be collected in those communities "is not worth the fight."

PHELAN STRAUBE, Staff to Senator Ben Stevens, further noted that most of the communities consisting of 500 residents or less "have high prices for goods" as previously pointed out by Senator Hoffman and Senator Olson; however, he continued, most of the goods and services purchased by those communities' residents are from larger communities such as Bethel, Fairbanks, and Anchorage, and therefore, he attested, "the sales tax would still be collected."

Senator Bunde voiced concern for "a counter-intuitive incentive" in that communities might not grow in order to avoid the tax in the future.

Senator B. Stevens disclosed that there have been interesting

discussions in this regard. He stated that the original argument was that requiring small communities to pay a five-percent tax would force commerce outside of the State. He declared that now that it is being proposed to exempt those communities, "the discussion has transformed into saying "oh, that's a good idea because you still capture those people because they spend all their money in Anchorage...or the local hubs in their regions anyway.'" This argument, he contended, indicates, "that they don't spend money outside of the State in the first place."

Senator Bunde shared that some small communities with 1,000 citizens are decrying that placing a sales tax on top of their local sales tax would encourage citizens to conduct business with communities of less than 500 residents.

Senator Olson asked the cost incurred to the State to generate that \$250 million in gross sales tax revenue.

Senator B. Stevens stated that page two of the Department of Revenue indeterminate fiscal note, dated March 31, 2004 indicates that an on-going operational expense of \$5.9 million would be required to provide for 79 full-time positions. He stated that this is an estimate and does not account for the new provision that would allow the State to contract with local municipalities to provide the service. He concluded that while the effort would cost money, it would generate money.

Senator Bunde agreed "that whatever the cost, there would be a net gain to the State."

Senator Olson asked for verification that the proposed tax would now be three percent rather than four percent.

Senator B. Stevens confirmed that this committee substitute would reduce the tax rate from four percent to three percent as indicated in Sec. 29, subsection (c) on page ten, lines 14 and 15. Continuing, he noted that the amount contributed to the community or the Rate that "would be returned to the community" would remain the same, as specified in Section 29, Article 3. Administration of Tax. Subsection (b) (1), (b) (2), (b) (3), and (b) (4) on page 19, beginning on line 23 through page 20, line 4 which read as follow.

- (1) less than three percent, the department shall remit the amount of the tax levied by the municipality;
- (2) at least three percent but less than four percent, the department shall remit the amount that would have been collected in the municipality if the sales and use tax had been four percent;

(3) at least four percent but less than five percent, the department shall remit the amount that would have been collected in the municipality if the sales and use levy tax had been five percent.

(4) five percent or more, the department shall round up to the next whole number and remit the amount that would have been collected in the municipality if the sales and use tax levy had been that whole number; for example, if a municipality levied a sales and use tax at the rate of five percent, the department shall remit the amount that would have been collected under a six percent levy.

Senator B. Stevens stated that, "in reality, one-third of the revenue collected by the State would be returned back to the community." He noted that those communities that do not collect a sales tax would not receive a percentage.

Senator Olson asked whether exemptions might apply to the rental and sale of real estate as related to language in Section 29, subsection (d) on page ten, line 16 that reads as follows.

(d) The maximum tax on a single sale, lease, or rental is \$60.

Senator B. Stevens responded that the sale, rental, lease, or construction of real property are exempt from the sales tax in communities of less than 500 residents.

Senator Hoffman asked for further clarification of this matter by asking in regards to the taxes on a five-year home lease agreement.

Senator B. Stevens declared that it would be exempt from the tax.

Senator Bunde moved to report the committee substitute from Committee with individual recommendations and accompanying "pending" fiscal note.

There being no objection, CS SB 366 (FIN) was REPORTED from Committee with an indeterminate fiscal note, dated May 7, 2004, from the Department of Revenue.

#hb545

CS FOR HOUSE BILL NO. 545(L&C)

"An Act relating to time extensions under the State Procurement Code for real property leases; and providing for an effective date."

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

Co-Chair Wilken stated that this bill, CS HB 545(L&C), Version 23-GH2150\H, is sponsored by the House Rules Committee by Request of the Governor, and would allow a State agency to negotiate a lease agreement for ten years provided that there be a minimum cost savings of ten percent below the market rental value.

VERN JONES, Chief Procurement Officer, Department of Administration, stated that the current State procurement code allows the State to negotiate extensions for real estate leases for up to ten years in exchange for rent reductions. He noted that this bill "would increase the State's ability to negotiate lease extensions by changing the requiring threshold from a ten to fifteen percent reduction off of the existing lease rate, as the current law requires, to a ten percent reduction from the current market rate." He stated that the current statutory regulations have negatively impacted the Department's ability to negotiate lease extensions with landlords, as, he attested, the State's real estate market combined with the way the State's lease agreements are structured, often makes the 15 percent reduction from the current lease rates "unobtainable."

Mr. Jones stated "that tying the lease rate to a percentage of the current market rate would be a more reasonable approach" that would allow the State "to negotiate reduced rates more frequently and avoid the lengthy and expensive re-procurement process, not to mention the cost and disruption" of moving States offices and employees.

Mr. Jones detailed the current lease process, including improvement options, and concluded that this bill would allow the State to reduce its overall leasing expenses.

Co-Chair Wilken asked whether this legislation is a new approach or is modeled after that of other states.

Mr. Jones responded that this legislation "is just making a small adjustment to a tool" that is already in place. He noted that other states often exempt real estate leases from their procurement code similar to a business or brokerage model. He estimated that while approximately half of the states have similar lease procedures to the State, the proposed provision is unique.

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

There being no objection, CS HB 545(L&C) was REPORTED from Committee with zero fiscal note #1, dated February 25, 2004 from the Department of Administration.

RECESS TO THE CALL OF THE CHAIR 10:05 AM / 5:11 PM  
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**ADJOURNMENT**

Co-Chair Gary Wilken adjourned the meeting at 05:11 PM.