

HOUSE FINANCE COMMITTEE
March 15, 2005
1:54 P.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:54:25 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Eric Croft
Representative Richard Foster
Representative Mike Hawker
Representative Mike Kelly
Representative Carl Moses
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Jim Holm
Representative Reggie Joule

ALSO PRESENT

Representative Ralph Samuels; Sarah Nielson, Staff,
Representative Ralph Samuels; Jim Pound, Staff,
Representative Jay Ramras; Mike Pawlowski, Staff,
Representative Kevin Meyer; Anthony Newman, Division of
Juvenile Justice, Department of Health & Social Services;
Kristin Ryan, Director, Division of Environmental Health,
Department of Environmental Conservation; Senator Ben
Stevens; Representative Ethan Berkowitz; Nancy Slagle,
Director, Division of Administrative Services, Department of
Transportation and Public Facilities; Sharon Kelly, Staff,
Co-Chair Chenault; Cheryl Frasca, Director, Division of
Management & Budget, Office of the Governor; Art Chance,
Labor Relations Director, Division of Labor Relations,
Department of Administration; Pete Ecklund, Staff,
Representative Kevin Meyer; Joan Brown, Budget Analyst,
Office of Management and Budget (OMB); Chris Christensen,
Staff Counsel, Alaska Court System; Janet Clarke, Assistant
Commissioner, Division of Finance and Management Services,
Department of Health and Social Services; Nico Bus, Acting
Director, Division of Administrative Services, Department of
Natural Resources; Karen Rehfeld, Deputy Commissioner,
Department of Education and Early Development; Kathryn
Daughhete, Director, Administrative Services Division,
Department of Law.

PRESENT VIA TELECONFERENCE

Jonathon Lack, Attorney, Anchorage Youth Court, Anchorage; Jennifer Yuhas, Executive Director, Alaska Outdoor Council, Anchorage; Virginia Espenshade, Director, Kenai Peninsula Youth Court, Homer; Lisa Albert-Konecky, Program Coordinator, Matsu Youth Court, Matsu; Dr. Arndt Von Hippel, Anchorage; Ken Perry, General Manager, Pest Control Operators, Anchorage; Emily Nenon, American Cancer Society, Anchorage; Pam Miller, Executive Director, Alaska Community Action on Toxics, Anchorage; Katie Aspen Gavenus, Homer; Dylan Weiser, Vice President, Kachemak Bay Conservation, Homer.

SUMMARY

HB 19 An Act relating to pesticides and broadcast chemicals; and providing for an effective date.

HB 19 was HEARD and HELD for further consideration on the fiscal notes.

HB 66 An Act making appropriations for the operating and capital expenses of the state's integrated comprehensive mental health program; and providing for an effective date.

HB 66 was HEARD and HELD in Committee for further consideration.

HB 67 An Act making appropriations for the operating and loan program expenses of state government, for certain programs, and to capitalize funds; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date.

HB 67 was HEARD and HELD in Committee for further consideration.

HB 107 An Act providing for the award of full actual attorney fees and costs to a person aggrieved by unlawful obstruction or hindrance of hunting, fishing, or viewing of fish or game; amending Rules 79 and 82, Alaska Rules of Civil Procedure; and amending Rule 508, Alaska Rules of Appellate Procedure.

CS HB 107 (FIN) was reported out of Committee with a "no recommendation" and with zero note #1 by the Department of Fish & Game and zero note #3 by the Department of Law.

HB 155 An Act relating to youth courts and to the recommended use of criminal fines to fund the activities of youth courts; and relating to accounting for criminal fines.

CS HB 155 (JUD) was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Law and a new zero note by the Department of Health & Social Services.

CS SB 98(FIN) An Act making supplemental appropriations, capital appropriations, and other appropriations; amending appropriations; making appropriations to capitalize funds; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date.

HCS CSSB 98 (FIN) was REPORTED out of Committee with a "do pass" recommendation.

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#HB155
HOUSE BILL NO. 155

An Act relating to youth courts and to the recommended use of criminal fines to fund the activities of youth courts; and relating to accounting for criminal fines.

REPRESENTATIVE RALPH SAMUELS, SPONSOR, offered to answer questions of the Committee.

Vice-Chair Stoltze referenced victim's rights noting that the only complaint that he has heard about the Youth Courts is that victims do not always know the dispensation of the offender. There is no insurance unless there is restitution. He asked if there was anyway around that. Representative Samuels deferred the question to Attorney Lack.

JONATHON LACK, (TESTIFIED VIA TELECONFERENCE), ATTORNEY, VOLUNTEER WITH THE ANCHORAGE YOUTH COURT, ANCHORAGE, explained that because these are juvenile proceedings, they are confidential even to the victim. If the victims come to court, they find out what the sentencing is. There is no formal way to inform them that the sentence has been completed. However, if the sentence is not completed, the guilty person is referred back to the juvenile probation officer, at which point, they return to whatever the normal process is for any offender not completing the program.

Vice-Chair Stoltze inquired if victims are allowed to attend the proceedings. Mr. Lack replied that they are.

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Vice-Chair Stoltze understood that in the Youth Court, once guilt has been admitted to, then they proceed with sentencing. He asked if there could be action from an adversarial trial. Mr. Lack explained that the juvenile defenders are not actually able to plead guilty; they have to plead "no contest" because of the rules in State statute. In most cases that go to trial, it is an adversarial proceeding, in which the prosecution has to call witnesses, often times the victims. He added that State Statute does allow the Courts to subpoena witnesses.

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ANTHONY NEWMAN, DIVISION OF JUVENILE JUSTICE, DEPARTMENT OF HEALTH & SOCIAL SERVICES, offered to answer questions of the Committee.

VIRGINIA ESPENSHADE, (TESTIFIED VIA TELECONFERENCE), DIRECTOR, KENAI PENINSULA YOUTH COURT, HOMER, testified in support of the legislation. She pointed out that many times, a written apology is required to the victim. Focus on the victim's involvement is strong and often is mandated. The perception that victims are left out comes from issues of confidentiality.

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LISA ALBERT-KONECKY, (TESTIFIED VIA TELECONFERENCE), PROGRAM COORDINATOR, MATSU YOUTH COURT, MATSU, testified in support of the legislation. She explained that in the Matsu area, there is a victim's justice coordinator who provides a victim impact statement. She stressed that early intervention really works.

- There have been over 1100 juvenile referrals since 1996 in the Matsu Valley Youth Court with a 92% success rate over the last eight years;
- \$10,200 dollars in restitution payments for the victims has been received;
- There have been over 15,000 work service volunteer hours.
- She mentioned the educational classes offered in Matsu.

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Representative Hawker MOVED to report CS HB 155 (JUD) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 155 (JUD) was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Law and a new zero note by the Department of Health & Social Services.

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#HB107

HOUSE BILL NO. 107

An Act providing for the award of full actual attorney fees and costs to a person aggrieved by unlawful obstruction or hindrance of hunting, fishing, or viewing of fish or game; amending Rules 79 and 82, Alaska Rules of Civil Procedure; and amending Rule 508, Alaska Rules of Appellate Procedure.

JIM POUND, STAFF, REPRESENTATIVE JAY RAMRAS, reported that HB 107 is a change to existing statute regarding persons who hunt, fish, trap, or view wildlife in Alaska. Presently, if any of those people are obstructed from participating in that experience, they can seek relief in court. The courts are permitted to grant damages for most of the expenses except reasonable actual attorney fees and costs. The legislation would allow the judge to grant full costs and reasonable and actual attorney fees.

Mr. Pound continued, pointing out that there is growing sentiment across the country that disturbing wildlife in any manner is unacceptable, however, hunting, fishing, trapping, and viewing wildlife are considered an important way of life in Alaska. The individuals or groups, who could hinder wildlife experience, know that most people will not go to court because of the attorney fees and costs associated with that type of litigation.

He added that Alaskans and visitors should not be subjected to pay because of interference, obstruction, or hindrance of that right. The legislation allows for an opportunity of the prevailing party to recoup actual costs associated with hindering that type experience.

Representative Hawker asked the basis used to determine the 90% attorney fee amount. Mr. Pound responded that resulted from Representative Gruenberg, who was concerned leaving it at 100%. He thought there could be more of a potential of false litigation and filing and requested the change.

Representative Hawker asked if there was precedence elsewhere for the 90% number. Mr. Pound replied there is not and that in eminent domain cases, it is at 100%. He reiterated that 90% was unique.

Representative Hawker asked if the sponsor would welcome changing it back to 100%. Mr. Pound replied that the sponsor would not object.

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Representative Weyhrauch referenced Subsection 3, regarding a person physically interfering or tampering with equipment. Mr. Pound commented that language was inserted because there have been situations where an individual cut another person's trap line. That person was caught and they entered into the criminal process. The guilty person was only charged with criminal mischief.

Representative Weyhrauch thought that was a "narrow" lead and proposed other hypothetical situations. Mr. Pound noted that other situations could be addressed under language in Section 2.

Representative Weyhrauch grilled the point. Mr. Pound advised that the courts had already interpreted existing language.

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Representative Weyhrauch asked who would be entitled, outside of the law enforcement officers, to instruct regarding hunting, fishing, etc. and asked if that could be a property owner if someone was trespassing. Mr. Pound noted that AS 16.05.0790(e) explains the lawful hunting, fishing and trapping practices on private land given consent of the owner.

Representative Weyhrauch asked if the 90% payment would require a 2/3 vote because of the direct rule change. Mr. Pound said yes.

Vice-Chair Stoltze inquired if those types of cases are difficult to prove. Mr. Pound clarified that the legislation only deals with being out in the field or on the water.

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Vice-Chair Stoltze pointed out a letter in the file from the National Rifle Association (NRA). Mr. Pound stated that there would be testimony from the Alaska Outdoor Council.

Representative Weyhrauch asked if the legislation would only apply to "wild" fish and game. Mr. Pound said yes.

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JENNIFER YUHAS, (TESTIFIED VIA TELECONFERENCE), EXECUTIVE DIRECTOR, ALASKA OUTDOOR COUNCIL, ANCHORAGE, voiced support for HB 107. Current statute does not guarantee that a citizen can be awarded attorney fees for litigating incidences of obstruction abuse from hunting, fishing or trapping. The changes in the proposed legislation would bring necessary corrections to the existing statute.

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Representative Weyhrauch asked why commercial fishing had not been included to Section 3, Page 2. Mr. Pound responded that in Section 3, Line 18, it had been added to the previous version of the bill.

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Representative Weyhrauch commented that falling under the exclusion of that sentence, a person would have to be actively engaged in commercial fishing in order to be exempt. They could be traveling to, from or be on fishing grounds to be exempt. Mr. Pound understood that they would have to be actively fishing.

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Representative Hawker MOVED to ADOPT conceptual Amendment #1, changing the two instances of 90% to full recovery of legal fees at 100%. That change would be on Page 2, Lines 18 & 19, and Page 2, Line 24, deleting "90% of".

Representative Weyhrauch OBJECTED for the purpose of discussion. Representative Hawker repeated the proposed change. Representative Weyhrauch understood that there would continue to be judicial discretion. Representative Hawker thought so.

Representative Weyhrauch WITHDREW his OBJECTION.

Representative Hawker noted that his staff was distributing the written version of Amendment #1. (Copy on File).

Representative Weyhrauch thought that the proposed change would return the legislation back to the House Resource Committee version. He questioned why the change was needed.

Representative Hawker requested that Mr. Pound respond. Mr. Pound explained that the indirect court rule change was still a discussion of argument in the courts and that the Supreme Court has not yet made a decision.

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Representative Hawker WITHDREW conceptual Amendment #1.

Representative Hawker MOVED to ADOPT written Amendment #1.
(Copy on File).

Representative Weyhrauch OBJECTED. He commented on the proposed language regarding suing for the damages because of the action. If the case goes to trial, all costs would be charged plus the reasonable attorney fees. Mr. Pound acknowledged that was correct. Representative Weyhrauch commented on "full and actual" attorney fees.

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Representative Croft referenced Section D(2) regarding prosecution. He asked the instance of "lawfully".

Representative Hawker inquired if that was relative to the Amendment #1. Representative Croft responded it was not.

Representative Weyhrauch WITHDREW his OBJECTION to Amendment #1. There being NO further OBJECTION, Amendment #1 was adopted.

Mr. Pound responded to the question by Representative Croft. He noted that "lawful" would address combat fishing on rivers. Representative Weyhrauch noted an example that occurred fishing on the Kenai River. Mr. Pound responded that situation would be classified as "lawfully" interfering and would be listed as intentional vandalism.

Discussion followed between Representative Weyhrauch and Mr. Pound regarding the example.

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Representative Weyhrauch interjected that with passage of the bill; both sport and commercial fishermen would have to take a lawyer into account while fishing.

Representative Foster MOVED to report CS HB 107 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 107 (FIN) was reported out of Committee with "no recommendation" and with zero note #1 by the Department of Fish & Game and zero note #3 by the Department of Law.

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#HB19
HOUSE BILL NO. 19

An Act relating to pesticides and broadcast chemicals; and providing for an effective date.

MIKE PAWLOWSKI, STAFF, REPRESENTATIVE KEVIN MEYER, explained that there are three parts to the legislation and that he would address each separately.

The first four sections provide Department of Environmental Conservation authority to charge a fee to manufacturers who register pesticides and broadcast chemicals for sale or distribution in the State. He added that every state in the nation requires chemical companies to register their chemicals with the appropriate state agency and that Alaska is the only state that does not charge a registration fee.

Mr. Pawlowski noted that HB 19 would not establish a specific fee in statute, but rather sets a ceiling on the fee that the Department could charge a manufacturer. By putting the fee in regulation with a limit, allows flexibility to the Department to ensure that chemicals that do not have a large enough market in Alaska to support that annual fee, not to bear it.

Mr. Pawlowski pointed out that Section 6 contains other important provisions.

- The first portion of Section 6 (Lines 29 through 31) requires a person applying pesticides or broadcast chemicals in a public place, be licensed or authorized by the Department.
- Classes and training required for certification are free, but the legislation provides a charged fee of up to \$25 for the license. Fees collected through registration and licensing would support the regulations and enforcement of the State's pesticide and broadcast chemicals. At present time, the programs are supported largely with general funds.
- The final provision in legislation is also found in Section 6, Line 31, Page 3. That section directs the Department to promulgate a reasonable public notice requirement that includes written notice posted on the application site as to when pesticides are applied in a public place. He noted that a large portion of the public is interested in the chemicals that they are exposed to. Public notice gives the public an opportunity to make decisions for themselves about what they expose themselves to.

Mr. Pawlowski summarized that the essential underlying purpose of HB 19 is to create a pesticide program in Alaska, which the public can have confidence in and supported by the sector being regulated.

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Co-Chair Meyer advised that Alaska is the only state that does not have a registration fee to cover those costs. Mr. Pawlowski acknowledged that was correct. No fee is charged for the chemical registration and that the costs were bore by the General Fund.

Mr. Pawlowski asked the Department of Environmental Conservation to address the fiscal note. He noted that the fee is based largely on an assumption of how many chemicals would be registered in the State.

Representative Weyhrauch asked the definition of "broadcast chemical". Mr. Pawlowski stated that it is defined as any chemical under a certain class that is broadcast into the air. It can include chemicals that are used to suppress fires and/or oil spills. The definition is large.

Representative Weyhrauch inquired if roadside herbicides would be included. Mr. Pawlowski replied they would. In response to further questions by Representative Weyhrauch, Mr. Pawlowski explained that herbicides would have to be applied in a public place. He referenced the definition of public place, Section 6, Page 4, Lines 3-8.

Representative Weyhrauch asked about applications to bed and breakfasts; discussion followed. He asked why hotels, motels and restaurants would be excluded. Mr. Pawlowski pointed out that grouping is covered largely by the Department of Environmental Conservation's food code.

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KRISTIN RYAN, DIRECTOR, DIVISION OF ENVIRONMENTAL HEALTH, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, ANCHORAGE, responded to concerns voiced by Representative Weyhrauch. She advised that setting the fee rate in statute could be problematic and that the proposed fee would be sufficient based on current costs.

Representative Weyhrauch inquired why those fees were chosen. Ms. Ryan responded that when the Department determined what it would take to do the work, assuming 40% decide not to register, the Division would need to charge about \$105 dollars per product to generate the revenue needed. The \$120 dollar number would provide leeway to change.

Representative Weyhrauch believed that the base of the fiscal note was \$125 dollars.

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Representative Weyhrauch asked at what point does the State make money. Ms. Ryan explained that the fiscal note would have the general fund contribution eliminated by FY08. At that time, the State would no longer be paying \$119 thousand dollars to support the program. In response to Representative Weyhrauch, Ms. Ryan indicated that the entire cost of the program would be \$384 thousand dollars. The costs bore by fees would be \$382 thousand dollars and with the reductions would equal the \$119 thousand general fund dollars currently in the program.

Vice-Chair Stoltze inquired which industries, professions or "quasi-State" agencies would be impacted the most by the legislation. Ms. Ryan noted that the fee would be generated by outside chemical manufacturers. She added that other impacted would be the outside user. She related which businesses would be exempt and regulated by other means. There would no significant changes for farmers.

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Co-Chair Meyer referenced the query made by Representative Weyhrauch regarding bed and breakfasts. Ms. Ryan offered to check with the Department's attorney regarding inclusion of that group.

Co-Chair Meyer asked if bars would be included. Ms. Ryan said that bars would be considered a private area frequented by the public and would be included. Co-Chair Meyer asked how they would be notified. Ms. Ryan discussed the regulations and how the public process and notification process would be handled with signage posted, etc.

Co-Chair Meyer questioned a person's right-of-way portion of their yard. Ms. Ryan responded that technically, it belongs to the municipality. She did not know.

Representative Kelly inquired if "the legislation was attempting to tax and regulate". He thought that an attrition rate could happen and if that would be okay. Ms. Ryan acknowledged that there is public concern and that the attrition rate is something not intended. She explained that there is a waiver process for new chemicals.

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Representative Kelly asked if any other states had found an effective way to deal with the issues referred to by Representative Weyhrauch. Ms. Ryan stated that Alaska is not using any other state as a model as they tend to be a bit more extreme than Alaska, however, by exempting hotels, motels and restaurants, the Department thought that they had eliminated low exposure areas. The intent was to address multi-family dwellings.

Representative Kelly commented that unintentional problems were being created and the costs associated with the legislation appear high. Ms. Ryan noted that the Department is very cautious about growth and that since 1992, only one position has been added to the Department.

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Mr. Pawlowski responded to concerns of Representative Kelly in dealing with the certificated applicators and charging a fee. He noted discussion with the certified applicators and the agreement that resulted. Health concerns are out there and the right to know is important. He addressed fiscal concerns and the level of service needed. The language on Page 2, Section 3(a), addresses what can be charged and how the Department can use those funds.

Representative Hawker added to the discussion, asking if HB 19 was a public interest bill or a revenue generating measure. He asked if the sponsor had considered the "elasticity in the market", which could result in a dramatic loss of revenue. Ms. Ryan acknowledged that there is some truth in that possibility, noting that some companies do not want to register in Alaska. She pointed out that the Department is committed to establishing a waiver process. It is important that research is not restricted nor hinders the use of new products. Some new products are safer and better for the environment. Representative Hawker acknowledged that he does not know the answer to these questions and recommended adding language to address such concerns.

Representative Hawker referred to the fiscal note and the addition of new personnel. He asked if the new third person could be a position not budgeted at present time but funded later as the program develops and the needs the increase.

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Co-Chair Meyer supported the idea. Representative Hawker recommended that the Committee eliminate the third person from the Department's fiscal note.

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DR. ARNDT VON HIPPEL, (TESTIFIED VIA TELECONFERENCE), RETIRED HEART SURGEON, ANCHORAGE, voiced support for the bill and spoke to public health issues that it addresses. He provided a personal situation in which a neighbor sprayed aphids, which nearly cost Dr. Von Hippel's life. He reiterated strong support for the legislation.

Dr. Van Hippel advised that outdoor spray of pesticides violates label warnings. He believed that those who spray pesticides for non-agricultural purposes should lose their licenses. He urged every victim sue.

Dr. Van Hippel stressed that he does not want notification that he must seal or leave his home while a sprayer contaminates everything. He pointed out that there is a constitutional right to privacy. Tons of poisons have already been sprayed in Alaska with no effect on the spruce beetle problem. Dr. Van Hippel encouraged that soap and water work well on most concerns and questioned any use of pesticides. It is not known how long the chemicals last in the environment.

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KEN PERRY, (TESTIFIED VIA TELECONFERENCE), GENERAL MANAGER, PEST CONTROL OPERATORS, ANCHORAGE, testified against the legislation and urged that the Committee not pass the bill, by falling victim to the environmental extremists promoting it. He stated that the proposed charge would be punitive and dedicated to anti-pesticide regulation. He warned that an attempt to make law in an area already closely governed by the federal government is dangerous. Mr. Perry pointed out that concerns of exposure are addressed on every label. He reiterated his opposition to the legislation.

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EMILY NENON, (TESTIFIED VIA TELECONFERENCE), ALASKA GOVERNMENT RELATIONS DIRECTOR, AMERICAN CANCER SOCIETY, ANCHORAGE, pointed out that the legislation addresses an Alaskan health issue. She commented on what other states have done regarding the issue. She added that the education, information and public notice process required would be a good step to providing reasonable public notice and that the language in the committee substitute was well in line with that of other states.

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PAM MILLER, (TESTIFIED VIA TELECONFERENCE), BIOLOGIST, EXECUTIVE DIRECTOR, ALASKA COMMUNITY ACTION ON TOXICS, ANCHORAGE, stated that Alaska Community Action on Toxics (ACAT) strongly supports HB 19. Enactment of the bill would be an important first step in assuring the public's right to know about pesticide applications. Children, elderly people, and those with chronic illnesses are particularly susceptible to adverse health effects from pesticide exposure.

Ms. Miller continued, pesticide use occurs in places frequented in our daily lives, such as parks, public lands

and buildings and grounds, transportation and utility right of way, schools, etc. Although there are more than 5,700 pesticides registered in Alaska, there is no reliable system to track the amounts and locations they are used.

Ms. Miller noted that ACAT has done extensive research on the health effects of pesticides using peer-reviewed scientific and medical literature. Support of the bill stems from research and experience and working with the Anchorage School District (ASD).

Ms. Miller advised that Alaska is the only state that does not require a fee for pesticide registration. She stressed that the provisions of the bill require a modest registration fee.

Ms. Miller summarized what HB 19 would accomplish:

- Protects public health, especially for children and those more vulnerable to the harmful effects of pesticides;
- Promotes good decisions about pest management; and
- Enhances community right to know and transparency about pesticide use.

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KATIE ASPEN GAVENUS, (TESTIFIED VIA TELECONFERENCE), STUDENT, HOMER, noted that she was a senior at Homer High School. She testified in support of the legislation. She thought that teenagers were particularly vulnerable to pesticides, as they can disrupt hormone balance. She reiterated her strong support for HB 19.

DYLAN WEISER, (TESTIFIED VIA TELECONFERENCE), VICE PRESIDENT, KACHEMAK BAY CONSERVATION SOCIETY, HOMER, spoke in support for the legislation and strongly urged passage, noting that pesticides are highly toxic to fish and wildlife.

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Co-Chair Meyer MOVED to ADOPT Amendment #1, #24-LS0149\I.1, Bullock, 3/14/05. (Copy on File). Representative Hawker OBJECTED.

Mr. Pawlowski explained that Amendment #1 was intended to define reasonable fee in Sections 8-10. The amendment addresses concerns resulting from discussions with the agricultural community regarding public notice. The Department has indicated that they do not intent to take chemicals "off the table" but rather cover the cost of the program and not getting in the way of State commerce.

Representative Hawker WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment #1 was adopted.

Co-Chair Meyer MOVED to ADOPT Amendment #2, #24-LS019\I.2, Bullock, 3/14/05. (Copy on File). Representative Hawker OBJECTED for purpose of discussion.

Mr. Pawlowski commented that Amendment #2 clarifies the definition of a multi-family dwelling.

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Mr. Pawlowski said the intent is to move more toward broad public places and that the amendment clarifies the description of common areas such as public places around apartment buildings.

Representative Hawker WITHDREW his OBJECTION to Amendment #2. There being NO further OBJECTION, Amendment #2 was adopted.

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Co-Chair Meyer commented on the importance of the bill and noted that it would be held for further consideration of the fiscal impact. He thought that those that profit from chemicals sold statewide should pay. Co-Chair Meyer added that there are public health concerns and that the public has the right to know what chemicals are being used and sold statewide. He pointed out that many people have severe allergies to these chemicals.

Ms. Ryan explained that the pesticide program is a four-person program, which has many statewide responsibilities. Pesticides are currently permitted for air, water and land. The process is extensive and that it is not a light matter regulating pesticide use. The last issued permit took over a year to conduct. Given the additional requirements of the bill, the Division believes that three additional staff is necessary to do that work. Ms. Ryan stressed that the bill is positive for funding aspects as well as being an important public health bill.

Co-Chair Meyer asked if there was a specialty chemical used for agriculture, would the fee vary. Ms. Ryan advised that the fee could be waived for chemicals not used that much or that are new to the State and that have never been distributed. She added that if a large percentage were paying the fee, the fee could fluctuate.

Vice-Chair Stoltze stated that the bill would be held for further consideration of the fiscal note.

HB 19 was HELD in Committee for further consideration.
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RECONVENE: [6:17:56 PM](#).

[6:18:09 PM](#)

#hb66

HOUSE BILL NO. 66

An Act making appropriations for the operating and capital expenses of the state's integrated comprehensive mental health program; and providing for an effective date.

Co-Chair Chenault provided members with a committee substitute for HB 66. He noted that the committee substitute would be available on the Legislative Finance Division website along with spreadsheets (copy on file).

Co-Chair Meyer MOVED to ADOPT work draft 24-GH1075\G, Utermohle, 3/15/05, as the version before the Committee. There being NO OBJECTION, it was adopted.

HB 66 was HELD in Committee for further consideration.
#hb67

[6:20:00 PM](#)

HOUSE BILL NO. 67

An Act making appropriations for the operating and loan program expenses of state government, for certain programs, and to capitalize funds; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date.

Co-Chair Chenault provided members with a committee substitute for HB 67.

Co-Chair Meyer MOVED to ADOPT work draft 24-GH1073\Y, Utermohle, 3/15/05, as the version of the bill before the Committee. There being NO OBJECTION, it was adopted.

HB 67 was HELD in Committee for further consideration.
#hb98

[6:20:35 PM](#)

CS FOR SENATE BILL NO. 98(FIN)

An Act making supplemental appropriations, capital appropriations, and other appropriations; amending appropriations; making appropriations to capitalize funds; making appropriations under art. IX, sec. 17(c),

Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date.

Section 14(a) Marine Vessel Operations
\$12,000.0 AMHS Fund

NANCY SLAGLE, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES observed that there were no changes to the Department of Transportation and Public Facilities requests as submitted by the Governor. She reviewed Section 14 (a). Section 14 (a) would cover fuel cost increases associated with new vessels Fairweather and Lituya, training for bringing on the new vessel Chenega, overhauls for the LeConte and Fairweather, increased risk management premiums and costs associated with grounding of the LeConte, which cost \$1.2 million.

Section 14 (b) Central Region Highways and Aviation
\$44.5 general funds

Ms. Slagle noted that Section 14 (b) would fund King Salmon air traffic control services.

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Section 14(c) Program Development
\$85.0 general funds

Ms. Slagle explained that Section 14 (c) would cover legal costs for defense of SB 260, which changed the membership make up of the policy board for metropolitan planning organizations.

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Section 15(a) Capital

Airport Improvement Program increase of \$14,550.0 in federal funds

Ms. Slagle observed that the request would cover work at five rural airports. The funds are either discretionary or Federal Aviation Administration (FAA) funds that came late in the year. The projects are ready to go forward within the next two months.

Co-Chair Chenault asked how the projects were chosen. Ms. Slagle observed that the FAA looked at needs and safety issues related to the airports for selection and review.

[6:28:31 PM](#)

Sections 15 (1)-(11)

Ms. Slagle explained that these Sections relate to federal highway fund projects and would cover capital requests specific to safety. They address emergency and safety issues. Two projects are needed due to timing: Coffman Cove Terminal and South Mitkof Island Terminal.

[6:30:16 PM](#)

Co-Chair Meyer MOVED to ADOPT work draft #24-GS1133\L, Utermohle, 3/15/05, as the version of the bill before the Committee. There being NO OBJECTION, it was adopted.

[6:32:02 PM](#)

SHARON KELLY, STAFF, CO-CHAIR CHENAULT provided members with spreadsheet demonstrating the changes made in the committee substitute (copy on file). She observed that the funding year is not indicated.

Section 1

Ms. Kelly observed that intent language relating to charge-backs to agencies for information services capital costs was added.

[6:33:01 PM](#)

Section 2

Ms. Kelly noted that the funding for the Small Energy Assistance Program remained the same, but the population cutoff was changed to 2,499, which adds two new communities. The amount was prorated among the communities.

[6:33:23 PM](#)

Section 2 (b)

Ms. Kelly observed that Section 2 (b) contained a technical change to statutory designated program receipts.

[6:33:30 PM](#)

Section 3 (a)

Ms. Kelly observed that \$50 thousand for the Department of Corrections, recruitment effort was removed.

[6:33:41 PM](#)

Section (3)(e)

Ms. Kelly noted that the lapse amount of \$65 thousand was changed to a lapse amount of \$450 thousand. The Department

of Corrections confirmed that the lapse amount could be as high as \$698 thousand. Some money was left for a transfer to the Department of Law, Therapeutic Courts.

[6:34:00 PM](#)

Section 4 (a) - (g)

Ms. Kelly explained that Section 4 (a) addresses funding for education. There are three Sections. In Section 4 (f), \$400 million from the FY05 windfall was used. Section 4 (d) uses \$440,429,365 from FY06. Section 4 (e) contains \$14,145.6 million from FY05. Section 4 (g) was added to take any surplus FY05 funds into the Public Education Fund.

[6:34:50 PM](#)

Section 6 (c)

Ms. Kelly noted that the funding source was changed from the master lease line of credit to the General Fund. The state cannot charge interest on a line of credit.

[6:35:10 PM](#)

Section 9

Ms. Kelly observed that Section 9 (b) was moved from the fast track to the regular supplemental. Medicaid services spend about \$10 million a month. The money is needed for June.

[6:35:25 PM](#)

Section 12

Ms. Kelly noted that Section 12 was added to allow the Fairbanks detoxification unit expansion to be reappropriated.

[6:35:49 PM](#)

Co-Chair Chenault MOVED to ADOPT Amendment #1, #24-GS1133\L.1, Utermohle, 3/15/05.

Page 8, line 11:
Delete "\$400,00"
Insert "\$600,00"

Page 9, following line 16:
Insert a new subsection to read:

(h) The unexpended and unobligated balance of the appropriation made by sec. 52(a), ch. 159, SLA 2004

(Office of the Governor - operating costs), not to exceed \$200,000, is reappropriated to the Department of Education and Early Development, Mt. Edgecumbe boarding school, for increased residential operating costs for the fiscal year ending June 30, 2005.

Co-Chair Meyer OBJECTED for the purpose of discussion.

Co-Chair Chenault explained that Mt. Edgecumbe has incurred a debt of \$800 thousand. The other body added in \$400 thousand. He observed that \$200 thousand would be general funds and there was an understanding that the other \$200 thousand would come from the Office of the Governor.

CHERYL FRASCA, DIRECTOR, DIVISION OF MANAGEMENT & BUDGET, OFFICE OF THE GOVERNOR, acknowledged that \$200 thousand would come out of the Contingency fund in the Office of the Governor.

Co-Chair Chenault noted that this would fully fund the increase in students at Mt. Edgecumbe.

There being NO OBJECTION, it was so ordered.

[6:39:53 PM](#)

Co-Chair Meyer MOVED to ADOPT Amendment #2(a):

Sec. 6. FUND TRANSFERS. (a) The sum of \$11,522,000 is appropriated from the general fund to the Alaska marine highway system fund (AS 19.65.060(a)).

Ms. Kelly explained that the amendment represents an increase of \$1,517,800 for cost of the recently negotiated collective bargaining unit agreements for International Organization of Master, Mates and Pilots and the Marine Engineers Beneficial Association. She noted that the negotiations were concluded after the Sensate version was received.

ART CHANCE, LABOR RELATIONS DIRECTOR, DIVISION OF LABOR RELATIONS, DEPARTMENT OF ADMINISTRATION, observed that the contracts were concluded March 8, 2005.

[6:41:01 PM](#)

PETE ECKLUND, STAFF, REPRESENTATIVE KEVIN MEYER, suggested that Amendments 2(a), (b) and (c) be considered together. He noted that Amendment 2(a) appropriates money into the General Fund for Alaska Marine Highway System costs. Amendment 2(b) and (c) appropriate the money out of the Fund to pay the cost. Amendment 2 (d) is a technical correction of \$900.

Co-Chair Meyer WITHDREW his OBJECTION.

Representative Chenault MOVED to ADOPT Amendments 2(a), (b) and (c)

Amendment 2(b):

(f) Contingent upon the ratification of the collective bargaining agreement described in this subsection, the sum of \$889,300 is appropriated from the Alaska marine highway system fund (AS 19.65.060(a)) to the Department of Transportation and Public Facilities, marine vessel operations, in order to implement the monetary terms of the collective bargaining agreement for the Marine Engineers Beneficial Association, representing licensed engineers employed by the Alaska marine highway system, for the fiscal year ending June 30, 2005.

Amendment 2 (c)

(e) Contingent upon the ratification of the collective bargaining agreement described in this subsection, the sum of \$628,500 is appropriated from the Alaska marine highway system fund (AS 19.65.060(a)) to the Department of Transportation and Public Facilities, marine vessel operations, in order to implement the monetary terms of the collective bargaining agreement for the International Organization of Masters, Mates, and Pilots, for the masters, mates, and pilots unit, for the fiscal year ending June 30, 2005.

There being NO OBJECTION, it was so ordered.

[6:42:29 PM](#)

Co-Chair Meyer MOVED to ADOPT Amendment #2(d):

(d) Contingent upon the ratification of the collective bargaining agreement described in this subsection, the sum of \$3,190,900 is appropriated from the Alaska marine highway system fund (AS 19.65.060(a)) to the Department of Transportation and Public Facilities, marine vessel operations, in order to implement the monetary terms of the collective bargaining agreement for the Inlandboatmen's Union of the Pacific, representing the unlicensed marine unit, for the fiscal year ending June 30, 2005.

Mr. Ecklund explained that Amendment 2 (d) is a technical correction of \$900.

There being NO OBJECTION, it was so ordered.

[6:43:04 PM](#)

Co-Chair Chenault MOVED to ADOPT Amendment #3:

The amendment would remove "the Legislative Budget and Audit Committee for contracts with."

Representative Hawker OBJECTED for the purpose of discussion.

Ms. Frasca explained that the amendment requests that appropriations for the natural gas pipeline go to the departments that have the responsibility and accountability to do the work. She stressed that the Stranded Gas Act gives the executive branch tremendous responsibility for negotiating contracts. She maintained that the Legislature is involved and is kept informed through the Legislative Budget and Audit Committee: Senator Therriault, Chair and Representative Samuels, Vice-Chair. She asserted that the dollars ought to go to the departments with the responsibility and accountability so that the Administration can follow the appropriation.

Representative Croft noted that the request is \$28 million. He felt that the backup was insufficient and questioned what problems would occur by having a check through the Legislative Budget and Audit Committee.

Ms. Frasca observed that the Committee has had the opportunity to ask questions about the appropriations. The Legislative Budget and Audit Committee Chair have participated in the negotiations and have been briefed weekly. She emphasized the separation of powers: the legislature has the power to appropriate and the executive branch has the responsibility to manage. She did not feel that an intermediary was necessary. She acknowledged concerns, but pointed out that the negotiations are confidential.

[6:47:01 PM](#)

Representative Croft recognized the importance of the gas-line, but questioned if all \$28 million would go to the gas-line associated work. Ms. Frasca noted that some other work would be done regarding TAPS and other issues.

Representative Croft spoke in opposition to the amendment and in support of a legislative check. He maintained that an appropriation of this size, with little documentation and importance should have a legislative check.

[6:48:26 PM.](#)

Representative Hawker stressed that the Administration has stated its desire to be guided by the Legislature. He questioned if failure of the amendment would compromise the

Administration's ability to do the work and move the pipeline forward. Ms. Frasca recalled that requests from the Legislature have been in terms of policy guidance and have centered around statutes on eligibility for formula driven programs. The Administration has asked for clarification on how the statutes would be amended or the practice in place changed, when the Legislature has indicated its desire that the Administration discontinue the delivery of these services. She stated that the current Administration has not been held to this type of surveillance by the Legislature. She pointed out that the Administration administers about \$7 billion dollars in the budget and questioned if the Legislature wanted to assert itself over \$28 million on "probably the most important project we are going to see in our lifetime."

Representative Hawker again questioned whether the exercise of the legislative prerogative would interfere with the Administration's ability to go forward and conduct the necessary work needed to move gas pipeline forward.

Ms. Frasca responded that there is a potential [that the Administration would not have the ability to move the project forward]. She observed that the Administration does not know what documentation would be required, what the process would be for LBA approval, what the repeal process would be [for rejected requests], the level of confidentiality in the billings, and to what degree appropriations would be subject to the Legislative Budget and Audit Committee or other legislators.

Ms. Frasca stated that she had talked to Senator Therriault and had been told that the confidentiality under the Stranded Gas Act would apply to the Legislative Budget and Audit Committee's review. She reiterated concerns.

[6:51:24 PM](#)

Representative Weyhrauch wondered if there was a certain amount of economy in providing LBA as a conduit for the funds and instilling the trust through the process, so that the [Legislature] is not suspect about the end product. There would be full involvement and participation by at least some committee of the Legislature that can help ease any issues, such as mistrust or bad communication. He pointed out that the Legislature wants the gas pipeline as much or more than the Administration, and wants to make sure that it is done as fast as is reasonably possible and in a prudent manner. He did not anticipate a "bunch" of loggerheads. He maintained that there would be a rational basis of appropriations for the type of works contained in the bill. He did not think the Legislative Budget and Audit Committee would be an impediment.

Ms. Frasca stated that the dilemma is that it has been suggestion that the Committee would be involved in the process. She noted that Senator Therriault, Chair, Legislative Budget and Audit Committee indicated that it would just be him and/or Representative Samuels. She expressed concern that, if it is going to go before the full committee, that there would be issues of confidentiality of the documentation. There is concern that the Committee would have to meet and pointed out that the Committee doesn't meet frequently, or at least it hasn't to date. She reiterated that there are four legislators involved in the briefings: Senator Therriault, Representative Samuels, Senator Stevens and Speaker Harris. She expressed concern that the Administration doesn't know how well the process would work and that they are concerned that participation [of the Legislative Budget and Audit Committee] might bog things down. The negotiations are intense and important.

[6:54:02 PM](#)

Representative Croft recalled testimony before the Senate Finance Committee that [the Administration] did not have a particular problem with the provisions [for LBA approval].

Ms. Frasca didn't recall if she testified on this section of the bill. She stated that the Administration did not know what the section would mean at that time. She noted that as "we've asked questions, we haven't gotten any more answers." They are therefore concerned with uncertainty surrounding the process. She stressed that it is a tremendous responsibility and serious undertaking. She noted that it is "not like an invoice you get for staples at the end of the month." She reiterated that the Administration would answered the questions of the four legislators involved at any time about anything the Administration does and would encourage other legislators to speak with them. She emphasized that the Administration doesn't want to jeopardize the ability to act as quickly as necessary.

[6:55:27 PM](#)

Representative Croft stated that he would not insist on the language if it were a requisition for staples. He stressed that the difference in size is the very reason the amendment should be there.

A roll call vote was taken on the motion to adopt Amendment 3.

IN FAVOR: Kelly, Chenault, Meyer

OPPOSED: Hawker, Moses, Stoltze, Weyrauch, Croft, Foster

Representatives Holm and Joule were absent from the vote.

The MOTION FAILED (3-6).

[6:56:45 PM](#)

Representative Croft MOVED to ADOPT New Amendment #4. Co-Chair Chenault OBJECTED.

Representative Croft explained that the amendment would remove all permanent fund revenues as a funding source and another \$4 million in general funds to reduce the \$28 million proposed appropriation [for the natural gas pipeline] in the fast track supplemental by \$11 million. He acknowledged that the state would have to write "a big check", but argued against a "blank check". He pointed out that there would be appropriate times for the rest of the money to be brought up. There would still be a \$17 million appropriation. The amendment deletes the \$1.2 million for the AOGCC, which they chose not to do as a charge out. The intent would be for the work to be done as a charge out to the appropriate individual companies. The Department of Law has asked for \$9 million dollars. He maintained that the "fast track" should not contain appropriations for FY06. The Department of Law needs at least \$5 million for FY05. The rest can be discussed later.

Representative Croft noted that the amendment also removes the right away permitting for Bullen Point Road. This is a connection to Point Thompson. He felt that it may eventually be important, but the primary source of gas would be Prudhoe Bay at the beginning. He stated that he had not been shown enough to know if the Bullen Point Road right-away is appropriate in the "fast track" and whether the amount is justified.

Representative Croft noted that there were partial reductions to the allocation to the Department of Revenue to equal \$11 million.

Representative Croft noted that Amendment #4 appropriates the same amount to the Alaska Natural Gas Pipeline Development Authority (ANGDA). Under the amendment the money would go directly to ANGDA. He stressed the independence of the Alaska Natural Gas Pipeline Development Authority. The current proposal would spend a total of \$28 million: \$21 million GF and \$7 million in permanent fund receipts. Amendment #4 would save \$11 million. There would be a \$17 million in General Fund and no Permanent Fund Corporation appropriations. He felt the reductions would allow the departments to finish FY05 without funding FY06 or FY07 appropriations or items without sufficient documentation.

[7:01:10 PM](#)

Representative Hawker noted that the legislature maintains significant control with the rejection of Amendment 3. He questioned if the concerns remain. Representative Croft noted that it was appropriate to maintain oversight by the Legislative Budget and Audit Committee. He noted that the amendment would reduce the oversight to \$17 million. He questioned whether the appropriation should stay in the fast track. He noted that oversight does not justify items that are unnecessary or don't have sufficient documentation. He noted that some items have five-year capital lapse dates, which would be more appropriate in a capital or operating budget. He did not think it was appropriate to spend money five years in the future in fast track legislation.

[7:03:40 PM](#)

Representative Hawker spoke against the amendment. He felt that the additional oversight is an appropriate arbitration of the question on amounts and the need for the legislature to be concerned with how the money is spent. He felt that the best balance had been reached.

Vice-Chair Stoltze questioned if the amendment could be divided.

[7:04:40 PM](#)

Representative Croft concluded that it would be difficult to divide the amendment.

A roll call vote was taken on the motion to adopt New Amendment #4.

IN FAVOR: Croft,

OPPOSED: Kelly, Hawker, Moses, Stoltze, Weyrauch, Foster, Meyer, Chenault

[7:05:55 PM](#)

Representative Croft MOVED to ADOPT Amendment #5. Co-Chair Chenault OBJECTED.

Delete lines 26 - 28 on page 22.

Representative Croft explained that the amendment would delete the \$85 thousand in legal fees for the Department of Transportation and Public Facilities. The Municipality of Anchorage is handling the issue without an increase and Representative Croft felt that the state could as well. He maintained that it is not an emergency.

Ms. Slagle spoke to Amendment 5. She explained that the Department of Law, Civil Section receives all of their funding from the agencies that receive services. The request

is for Division's program development, which is a federally funded portion of the agency, with no general funds.

Representative Croft clarified that the agency is being charged for the amount and there are no general funds to cover it.

Representative Croft WITHDREW Amendment 5.

[7:08:53 PM](#)

Representative Croft MOVED to ADOPT Amendment #6. He noted that Amendment 6 would appropriate \$500 thousand in general funds for breast and cervical cancer prevention. He stressed the importance of the appropriation and maintained that it would save money in the long run. The fund source change would allow services to 1,600 enrolled women that otherwise would not be served due to federal funding reductions. Funds would be required by late March or early April to continue the program.

[7:10:16 PM](#)

Co-Chair Chenault expressed support for the services, but questioned where the line should be drawn. He stressed fiscal accountability.

A roll call vote was taken on the motion.

IN FAVOR: Moses, Weyrauch, Croft

OPPOSED: Stoltze, Foster, Hawker, Kelly, Chenault, Meyer

Representatives Holm and Joule were absent from the vote.

The MOTION FAILED (3-6).

[7:12:26 PM](#)

Representative Croft MOVED to ADOPT Amendment #7. The amendment would add \$108,377 for the Yukon Flats School District. He requested that the leadership address the amendment before the floor decision.

Representative Croft WITHDREW Amendment #7.

AT EASE: [7:18:07 PM](#)

RECONVENE: [7:22:41 PM](#)

Representative Chenault noted that the committee substitute as amended was before the Committee.

Representative Kelly spoke against the use of permanent fund expenditures in items 7 a - f. He indicated that he was uncomfortable with the use of permanent fund. He maintained

that the use of permanent fund receipts for capital projects should have a "higher test than it has in this document". He spoke against the \$6 million appropriation for energy grants to small communities. He noted that he would not hold the bill.

[7:25:31 PM](#)

Co-Chair Meyer spoke in support of the committee substitute. He explained that the committee substitute would appropriate \$400 million of the \$500 million estimated windfall to the Education Fund. He noted that \$854 million, which is a \$70 million increase, would go to education. The rest of the funding needed to fund education would consist of: \$440 million FY06 general funds and \$14 million in lapsed funds. The amount could change. He observed that the windfall would go the number one priority of education. If the surplus were greater, the additional amount would be swept to the Education Fund.

[7:27:25 PM](#)

Representative Croft spoke on the use of permanent fund earnings. He noted that the Permanent Fund receives 15 percent of the oil lease funding. He expressed concern with the use of permanent fund earnings without a vote of the people. He referred to the 1989 vote [to use permanent fund earnings].

Representative Croft spoke to education funding, which would park some of the FY05 money in the Education Fund. He stated that he supports getting the money to the classrooms and noted that it needs to move from the sub account to the schools. He questioned if the bill provides adequate funding for education.

[7:30:44 PM](#)

Co-Chair Chenault acknowledged that education is one of the biggest issues before the Legislature. The intent is to early fund and to attempt to fully fund education. He observed that the legislation is the first step toward those goals.

[7:31:41 PM](#)

Co-Chair Meyer noted that permanent fund earnings have been used since 1989. The justification has been that they have only been used for natural resource projects, which is where the money comes from. He stressed that there is no better natural resource project than the natural gas pipeline. He observed that the precedent has been set and that he is comfortable with the appropriation.

[7:32:39 PM](#)

Representative Hawker endorsed the sentiments of Co-Chair Meyer. He pointed out that the Permanent Fund was created for a time when oil and gas revenues have declined. He questioned if there was a more appropriate use than to reinvest in the development of the resource, which would continue to perpetuate the fund.

[7:33:45 PM](#)

Representative Foster MOVED to report HCS CSSB 98 (FIN) out of Committee. There being NO OBJECTION, it was so ordered.

#

ADJOURNMENT

The meeting was adjourned at 7:34 PM