

HOUSE FINANCE COMMITTEE
February 2, 2006
1:53 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:53:05 PM](#).

MEMBERS PRESENT

Representative Kevin Meyer, Co-Chair
Representative Richard Foster
Representative Jim Holm
Representative Mike Kelly
Representative Beth Kerttula
Representative Bruce Weyhrauch
Representative Reggie Joule

MEMBERS ABSENT

Representative Mike Chenault, Co-Chair
Representative Carl Moses
Representative Bill Stoltze, Vice-Chair
Representative Mike Hawker

ALSO PRESENT

Dan Fauske, Executive Director, Alaska Housing Finance Corporation, Department of Revenue; Bryan Butcher, Legislative Liaison, Alaska Housing Finance Corporation; Joe Dubler, Director, Finance, Alaska Housing Finance Corporation; Devon Mitchell, Executive Director, Alaska Municipal Bond Bank Authority, Department of Revenue; Cheryl Frasca, Director, Division of Management & Budget, Office of the Governor; Michael Barnhill, Assistant Attorney General, Department of Law

PRESENT VIA TELECONFERENCE

None

SUMMARY

HB 361 "An Act relating to the dividend paid to the state by the Alaska Housing Finance Corporation; and providing for an effective date."

HB 361 was REPORTED out of Committee with a "no recommendation" recommendation and with a new fiscal note by the Department of Revenue.

HB 381 "An Act relating to the financing of construction, major maintenance, and renovation of facilities

for the University of Alaska; relating to the financing of construction of a correctional facility; authorizing the commissioner of revenue to sell the right to receive a portion of the anticipated revenue from a tobacco litigation settlement to the Northern Tobacco Securitization Corporation, with the proceeds of that sale to finance construction, major maintenance, and renovation of facilities for the University of Alaska and to finance the construction of a correctional facility; providing for the establishment of funds for deposit of those proceeds; authorizing the issuance of bonds by the Northern Tobacco Securitization Corporation for the purpose of acquiring the right to receive a portion of anticipated revenue from a tobacco litigation settlement; and providing for an effective date."

HB 381 was heard and HELD in Committee for further consideration.

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HOUSE BILL NO. 361

"An Act relating to the dividend paid to the state by the Alaska Housing Finance Corporation; and providing for an effective date."

Representative Foster MOVED to ADOPT the proposed Committee Substitute (CS) for HB 361, labeled 24-GH2058\G, Cook, 2/1/06. There being NO OBJECTION, it was so ordered.

DAN FAUSKE, EXECUTIVE DIRECTOR, ALASKA HOUSING FINANCE CORPORATION, DEPARTMENT OF REVENUE, related that CSHB 361 would amend the agreement between the Alaska Housing Finance Corporation (AHFC) and the state, calling for the transfer of AHFC's net income to the state general fund in the form of an annual dividend that funds debt service for certain bonds and capital projects.

JOE DUBLER, DIRECTOR, FINANCE, ALASKA HOUSING FINANCE CORPORATION, explained that the bill is an adjustment to the current transfer plan that AHFC has in place in statute 18.56.089(c), which references net income and how it is paid to the state. The Governmental Accounting Standards Board (GASB) has adopted statement number 34, which changed the financial statement presentation of the net income of governmental entities to "change in net assets". The term net income no longer exists on AHFC's financial statements. FY 07 is when the first payment will be made based on net income; prior years were all a static \$103 million. The

bill would conform the statute to current Generally Accepted Accounting Principles (GAAP).

Mr. Dubler explained that another change involves what used to be the Balance Sheet, now called the Statement of Net Assets. Pre-GASB 34, accounting by AHFC involved multiple equity accounts including contributed capital and retained earnings. Contributed capital represented the original investment by the state in AHFC, and retained earnings was accumulated profits. In determining the transfer prior to GASB 34, net income was the baseline. Using the change in net assets line item from the current financial presentation incorporates items that, before GASB 34, were not included in net income. Such items were direct cash transfers to the state that were presented as direct reductions in contributed capital, as they did not represent operating activity of AHFC. GASB 34 does not allow that accounting treatment for those items and requires that they flow through the Statement of Net Assets as Expenses of one form or another. The bill modifies the transfer plan statute to use an "Adjusted Change in Net Assets" as the baseline for the transfer, which incorporates all of the expenses that were under pre-GASB 34 rules included in net income and excludes those expenditures that were not. Without the passage of HB 361, the dividend paid to the state by AHFC will be \$38.1 million. With the legislation, the dividend will be \$80.6 million.

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Mr. Dubler referred to Section 1, line 9, the addition of the words "or other capital projects". He maintained that the language is too restrictive without that wording. Mr. Fauske added that the bill is needed in order to justify sending over \$80 million to the state and it is an advantage to AHFC on Wall Street. The bill also helps conform to the intent of the original legislation passed two years ago.

Co-Chair Meyer noted the new fiscal note and a change in revenue of \$42,500,000.

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Representative Joule questioned the creation of new subsidiaries in the CS.

Mr. Fauske responded that the language in the new CS is the same as in the original bill. He explained that the rationale behind adding the wording "or other capital projects" would give the legislature more room to expand use of proceeds such as the tobacco bond bill.

Co-Chair Meyer repeated that the CS is just expanding what is already in statute. Mr. Fauske further explained how the bill would expand the dividend paid to the state by AHFC.

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Representative Kerttula asked what would happen to the money if this change were not made. Mr. Fauske replied that the money would stay within the corporation. Representative Kerttula questioned how AHFC would use the money. Mr. Fauske related that even though business is vibrant, the market is changing and the bottom line is changing. This bill represents an attempt to pay a percent of net income. The money could be used for many things, but affordability is always an issue. Representative Kerttula agreed that the program should not be under-funded.

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BRYAN BUTCHER, LEGISLATIVE LIAISON, ALASKA HOUSING FINANCE CORPORATION, pointed out that this legislation is in line with the original intent of the bill.

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At-ease.

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Representative Foster MOVED to report CSHB 361 out of committee with individual recommendations and with the accompanying fiscal note dated 2/1/06. There being NO OBJECTION, it was so ordered.

HB 361 was REPORTED out of Committee with a "no recommendation" recommendation and with a new fiscal note by the Department of Revenue.

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HOUSE BILL NO. 381

"An Act relating to the financing of construction, major maintenance, and renovation of facilities for the University of Alaska; relating to the financing of construction of a correctional facility; authorizing the commissioner of revenue to sell the right to receive a portion of the anticipated revenue from a tobacco litigation settlement to the Northern Tobacco Securitization Corporation, with the proceeds of that sale to finance construction, major maintenance, and renovation of facilities for the University of Alaska and to finance the construction of a correctional facility; providing for the establishment of funds for

deposit of those proceeds; authorizing the issuance of bonds by the Northern Tobacco Securitization Corporation for the purpose of acquiring the right to receive a portion of anticipated revenue from a tobacco litigation settlement; and providing for an effective date."

MS. CHERYL FRASCA, DIRECTOR, DIVISION OF MANAGEMENT & BUDGET, OFFICE OF THE GOVERNOR, spoke of the need for HB 381. She referenced a handout "Tobacco Bond Refinancing Fact Sheet" (copy on file), which provides information on previous tobacco bond bills. She explained that this fall the Department of Revenue approached the governor's office about an opportunity to refinance tobacco bonds. The amount of revenue that could be generated would be between \$80 and \$140 million. The current proposal would authorize using at least \$89.3 million of the proceeds to be spent on University of Alaska projects. She pointed to the projects on page 2 of the bill. These same projects are also listed in the FY 07 capital budget. Any proceeds greater than \$89.3 will be available for construction of the Mat-Su jail.

Co-Chair Meyer asked if the bill has an impact on the 20 percent that goes toward the tobacco cessation program. Ms. Frasca replied that it does not. Representative Weyhrauch asked why that is so.

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DEVON MITCHELL, EXECUTIVE DIRECTOR, ALASKA MUNICIPAL BOND BANK AUTHORITY, DEPARTMENT OF REVENUE, noted that HB 381 is taking advantage of a current market opportunity that has not been available for several years. It is a further leveraging of the 80 percent of the Master Settlement Agreement (MSA) that was already sold to the Northern Tobacco Securitization Corporation. It is selling an additional portion of that settlement to raise further capital for projects in the state. It does not impact the 20 percent that is currently used for other programs, but is a future obligation.

Mr. Mitchell shared previous history of the tobacco bonds. In 2000-1 the first tobacco bonds were issued. Payments from participants in the MSA are now being sold. The money is coming from a separate credit from the State of Alaska. He noted a previous discussion of market saturation with this type of debt. In 2001 tobacco transactions required that the makers put in additional credit support forward, such as a moral obligation pledge. Since then, there has been favorable legislation that has allowed stand alone tobacco transactions to occur, plus more aggressive securitization of the revenue stream further into the future. Now the state can take advantage of an opportunity,

which is market driven and fluid. He explained the flexibility built into the bill.

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Co-Chair Meyer asked if the tobacco bonds are secure to investors. Mr. Mitchell anticipated that ratings would vary and that there would be some risk. The MSA, itself, has a lot of risk. There is a cost for passing that risk, but it is reasonable.

Co-Chair Meyer asked about the range of proceeds. Ms. Frasca indicated that the range is between \$80 million to \$140 million, as determined in late November, but the numbers could change. Co-Chair Meyer inquired if the money could be used for other projects. Ms. Frasca replied that it could be used for other capital projects.

Representative Joule spoke about the growth of the university and the need to maintain it. He talked about the need to also fund rural projects in addition to this prison and this university. He mentioned the need for money for new school construction. He hoped that there could be consensus on funding for all needs.

Co-Chair Meyer asked when the bonds would be marketable. Mr. Mitchell replied that depends on the date the bill is passed. Co-Chair Meyer asked about the impact on the bonds of future court decisions.

MICHAEL BARNHILL, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, spoke of litigation in Illinois regarding cigarette liability. A \$10 billion award was made against Philip Morris, which was recently overturned by the Illinois Supreme Court. That created a better climate for tobacco bonds.

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Representative Weyhrauch noted that a large amount of money was saved by not selling these bonds last fall. Mr. Mitchell replied that their value increased after December 15, the date of the Illinois court ruling. There are also several other cases pending. Mr. Barnhill concluded that it is hard to say how much money has been saved. He related a court decision from Oregon with a smaller judgment in favor of a tobacco company. Representative Weyhrauch asked what the increased value of the bond is today.

Ms. Frasca reported that the estimate went from \$140 million at the top, to \$180 million, with the potential of being \$194 million. Representative Weyhrauch commented that it argues for some prudence on taking action on the bill.

Co-Chair Meyer inquired about the length of the MSA agreement. Mr. Barnhill restated that the MSA provides for an indefinite stream of payments. Representative Joule asked why and how. Mr. Barnhill said that's the way it is.

Co-Chair Meyer asked if the proposal is until the year 2040. Mr. Mitchell replied yes.

Mr. Fauske clarified that the bonds are a windfall to the state, not a legal or moral obligation. Through an AHFC subsidiary, the Northern Tobacco Securitization Corporation, the bonds are issued at a premium to private investors who assume all of the risks. It is a moving target, but in a friendlier environment because of recent lawsuits. The risk to the state is minimal. AHFC buys the cash flows from the state. The state, through the Commissioner of Revenue, releases to Northern Tobacco the right, with legislative approval, to accept those revenues. The first issuance of bonds was \$300 million, which went to schools.

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Representative Kelly questioned if the design and construction of all projects still go through the legislature. Mr. Mitchell said yes.

Representative Kerttula requested information about the financing of the Mat-Su prison.

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Ms. Frasca responded that several options are being considered. Representative Kerttula inquired if naming one prison project in the bill may impact other prison projects. Ms. Frasca related that SB 65 did provide for a mechanism to enter into a lease purchase agreement with the state for jail construction to proceed. She maintained that how the Mat-Su prison fits into the whole picture is a separate subject for discussion. It is an appropriation that will come before the legislature again.

Co-Chair Meyer recalled that SB 65 also included private prisons, which are not currently under consideration.

Representative Kerttula asked for a cost estimate for the Mat-Su prison. Ms. Frasca responded that there are several approaches that are being considered, such as the design built finance option. Co-Chair Meyer recalled that is how the Anchorage jail was built.

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Representative Joule referred to the title of the bill, which is very specific. He inquired if projects not named

would be precluded. Mr. Barnhill asked Representative Joule if the question is, if the legislature wants to use the funds for other purposes, can it.

Mr. Mitchell observed that an amendment would be required to change the title. Representative Joule inquired how school construction could be included in this bill. Mr. Mitchell reported that a change in the use of the proceeds would cause problems because when bonds are issued the projects have to be defined. Now would be the time to make such a change.

Representative Kelly observed that he wants to think about this issue. Ms. Frasca responded that the Mat-Su prison was already authorized by the legislature, but as a different mechanism. There will be further discussion about it. Co-Chair Meyer noted that the title states, "finance the construction of a correctional facility", which could be any correctional facility in the state.

HB 381 was heard and HELD in Committee for further consideration.

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ADJOURNMENT

The meeting was adjourned at 2:47 PM.