

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**March 7, 2005**  
**9:04 a.m.**

**CALL TO ORDER**

Co-Chair Green convened the meeting at approximately [9:04:17 AM](#).

**PRESENT**

Senator Lyda Green, Co-Chair  
Senator Gary Wilken, Co-Chair  
Senator Fred Dyson  
Senator Bert Stedman  
Senator Lyman Hoffman  
Senator Donny Olson

**Also Attending:** REPRESENTATIVE KEVIN MEYER; REPRESENTATIVE TOM ANDERSON; BOB EVANS, Representative, Venture Development Group; MARK PFEFFER, Partner, Venture Development Group

**Attending via Teleconference:** From An Offnet Site: JOHN STEINER, Assistant Attorney General, Transportation section, Civil Division (Anchorage), Department of Law and Primary Counsel, TSAIA and the Alaska International Airport System

**SUMMARY INFORMATION**

HB 158-PUBLIC SCHOOL ACCOUNT/PUBLIC EDUC FUND

The Committee heard from the bill's sponsor and reported the bill from Committee.

HB 115-AIRPORT CUSTOMER FACILITY CHARGES

The Committee heard from the bill's sponsor and representatives of a private development group. A technical amendment was adopted and the bill was held in Committee.

SB 63-USE SEAT BELT ROAD SIGNS

The bill was scheduled but not heard.

#hb158

HOUSE BILL NO. 158

"An Act relating to the public school account and renaming the public school account as the public education fund; and providing for an effective date."

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

REPRESENTATIVE KEVIN MEYER, Co-Chair of the House Finance Committee which sponsors this bill, stated that, in addition to changing the name of the Public School Account to the Public Education Fund, this legislation would allow funds appropriated to K-12 public education to remain in the Fund "for educational purposes" rather than allowing them to annually lapse into the General Fund. This has regularly occurred due to the fact that the Legislature "tends to overestimate" the number of students who would be in the public school system. As a result, the Legislature and the Administration "fight" each year over the use of education funding that lapsed the previous year. While this legislation would not alter the current public education funding mechanism, as the base student allocation (BSA) level is determined by separate legislation; it would support "truth in budgeting" in that money budgeted each year for education would continue to support education and pupil transportation as opposed to lapsing into the general fund and being used to support other general government services. This year's lapsed amount could amount to approximately \$14 million.

Co-Chair Green supported the language that would allow education funding to remain in "an on-going account" as opposed to being lapsed. She noted that expenditures from the Fund would continue to require appropriation.

Representative Meyer concurred.

Co-Chair Wilken declared that addressing the lapsed funding issue in this manner would serve to remove the "annual argument" that occurs each year between the Administration and the Legislature regarding public education funds that the Legislature had "battled for" the previous year. Such funds could be viewed "as a spring board for the next year."

Co-Chair Green agreed that the funds could provide "a little head start on the next year's financing."

Senator Olson asked regarding these funds' lapse history.

Representative Meyer stated that the lapsed funds typically range between eight and fourteen million dollars.

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

There being no objection HB 158 was REPORTED from Committee with zero fiscal note #1, dated February 18, 2005 from the Department of Education and Early Development.

#hb115

SENATE CS FOR CS FOR HOUSE BILL NO. 115(TRA)

"An Act relating to charges paid or collected by users or occupants of an airport facility owned or controlled by the state; and providing for an effective date."

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

REPRESENTATIVE TOM ANDERSON, Chair of the House Labor and Commerce Committee, the bill's sponsor, read the sponsor statement as follows.

HB 115 provides the mechanism (customer facility charges or "CFCs") to improve airport facilities without the expenditures of state funds. The most common projects to use CFCs funds are car rental facilities. The bill also provides a revenue stream to maintain and operate the facilities, without requiring an increase in the airport-operating budget, as the cost of the maintenance will be paid using the related customer facility maintenance charge.

In 2001, the legislature passed chapter 99 SLA 2001, which authorized the imposition of customer facility charges to fund the construction of improvements on airport properties. CFCs have been imposed by many other airports around the country as a means of funding car rental facility improvements. No state credit is pledged to support the bonds. Dallas-Fort Worth and Denver are two examples out of many where CFC's have been used successfully to build these facilities.

During negotiations with the state over the implementation of the project, issues were identified and set forth in ch. 99 SLA 2001. These issues should be clarified to ensure the bonds could be marketable. Those issues revolve around clarifying the new revenue stream generated by the CFC should not be considered revenue of the state when the bond is a private initiative and ensuring that the bond trustee, not the state,

will take custody of the funds.

Because the facility will revert to the state in its entirety at the end of the term, it would also be appropriate to allow the imposition of a customer facility maintenance charge to ensure the facility is well-maintained and kept up appropriately. The charge also avoids any impact on the airport's operating budget as the airport will not be responsible for the maintenance and repair of the facility while under airport car rental company's control.

This bill implements a valuable private market tool to construct improvements to Alaska airports, without the expenditure of public funds. This will improve the amenities provided to the traveling public, both Alaskan and non-Alaskan alike.

Representative Anderson noted the key element of this legislation is that private entities and their customers, through funds generated by the imposition of CFCs and customer facility maintenance charges (CFMCs) rather than the State would provide funds for the construction, maintenance, and operations associated with improvements to airport facilities; specifically the car rental facility project being advanced by a private development group, Venture Development Group, and car rental agencies (RACs) at the Ted Stevens Anchorage International Airport (TSAIA). Work on this project has been conducted for several years, but was delayed due to the terrorism attack on the United States on September 11, 2001. While the work on developing the project has resumed, further clarification regarding the bond mechanism associated with the passage of the CFC legislation in 2001 was identified and is addressed in this legislation. "The definition of what bond related purposes the CFCs could be applied to will also be clarified to include debt reserve funds and other bond underwriter requirements". Since the facility would become the property of the State at the conclusion of the specified term, it was decided that maintenance of the facility would be provided for by a CFMC that would be separate from the CFC "for the protection of the bond holders". This would also insure that no maintenance responsibility would be levied on the State while the facility was under RAC control. He voiced that one of the reasons he sponsored the legislation was to insure that the CFC process would not obligate the State. The expectation is that the fees would be less than four dollars per transaction at the TSAIA. This legislation would create new jobs, would reflect efficiency and innovation on the part of the RACs, would enhance partnerships with private enterprise, and would modernize the TSAIA to a level competitive with other airports. This type of improvement at the TSAIA would combine with

other efforts to further define the community as a robust and growing city.

Representative Anderson noted that the House Transportation Committee added an immediate effective date to the legislation, and that the Senate Transportation Committee's changes would serve "to further tighten the bill's language and reduce the risk of misinterpretation on the bonding". Letters of support [copies on file] from the RACs have been included in Members' bill packets.

Co-Chair Green asked regarding the design of the proposed facility at the TSAIA.

Representative Anderson stated that while "this is a work in progress" the intent is to develop a car rental facility near the airport. Access to the facility would be provided via an access tunnel or a shuttle. The developer would provide further information. This legislation would allow any airport in the State to develop such a project provided there was sufficient population support.

[9:16:45 AM](#)

Representative Anderson stated that the more convenient location would also allow for better staff management at the car rental agencies, as currently, employees are separated from the rental car return location.

Co-Chair Green asked whether the proposed Anchorage facility would be covered.

Representative Anderson affirmed that it would be.

Co-Chair Green viewed this as an important feature.

JOHN STEINER, Assistant Attorney General, Transportation Section, Civil Division (Anchorage), Department of Law, and Primary Counsel, TSAIA and the Alaska International Airport System, testified via teleconference from an offnet site and explained that the changes made in the Senate Transportation committee substitute, Version 24-LS0300\I include such "linguistic changes" as the allowance of only those CFC projects approved by the Commissioner of the Department of Transportation and Public Facilities; clarifies that any third party as well as any trustees to whom these charges might be paid would be a third party bondee, as the proceeds return principal interest and reserve just like a trustee; and that the fees would generate sufficient proceeds to satisfy the requirements of the indebtedness. The Version "I" committee substitute served to make

the bill "more precise." The concept of retaining reserves was also included in Version "I".

Mr. Steiner further stated that language in Version "I" served to clarify that the CFC "could be collected during some of the preliminary stages of the project before the construction actually occurs." Some minor language changes were also included regarding the terms that would apply to a facility that would be built for State ownership were either the State to issue the revenue bonds or a third party on the behalf of the State's Department of Transportation and Public Facilities to issue the bonds. Finally, a clause was added to allow that the CFC would be exempt from taxation.

Co-Chair Green asked the location of the tax exemption language.

Mr. Steiner replied that this language is located in Section 7 of the bill.

Representative Anderson observed a typographical error in Section 7, line 16, page seven, in that instead of the subsection being correctly identified as subsection (G), it was inadvertently labeled subsection (F).

Co-Chair Green asked for clarification that this legislation would apply to a variety of approved airport projects.

Representative Anderson understood that the legislation would be limited to car rental facility projects.

Mr. Steiner clarified that this legislation "would apply to a facility that would be occupied by a single user or group of users and the facility being prepared by either a third party for turning over to the State or by the State to be used by those third party entities, typically in which those private entities would be supplying the revenue stream for the facility". While rental car facilities are the common scenario, this funding mechanism has been used elsewhere in the nation to construct terminal facilities for airline use. This would not be an anticipated occurrence for Alaska.

Senator Olson understood that at the end of the 30-year period, the State would own the facility. To that point, he inquired about the facility's maintenance costs.

Representative Anderson responded that the project designer could better respond to that question.

Co-Chair Green understood that the State would not be responsible for the facility's maintenance expenses "during the life of this" as those funds would be provided by the customer facility maintenance charges.

Mr. Steiner, noting his participation in the development of a Memorandum of Understanding [copy not provided] agreement regarding this project, stated that the anticipation is that the CFC and the CFMC, combined, would total approximately four dollars. The actual amount would be determined prior to the beginning of the project. During the period of time associated with the bonds, the State would have no maintenance obligation associated with the facility, as the facility would be maintained by an entity created by the developer, to manage it. The primary funding would be provided by the CFMC. Were the maintenance and operation expenses to exceed the amount generated by the CFMC, additional funds would be the obligation the tenant rental car companies rather than the State.

Senator Olson asked whether the CFC and CFMC charges might "escalate in five or ten years".

Mr. Steiner shared that the primary factor in increasing the rate "would be a reduction in the amount of traffic through the facility." Before the bonds were sold, a feasibility consultant would estimate the amount of rental car traffic, or "the number of transaction days of rentals", that would be anticipated to utilize the facility. Were the actual transactions to exceed or fail to meet projections would dictate whether the charges should be adjusted. Another influence could be increased maintenance expenses. The Commissioner would determine whether the additional maintenance or operating expenses would be addressed through an increase in the CFMC or would be absorbed by the rental car companies. The dollar amount required for the debt service would be known in advance, based on the total cost of the facility, the total number of transactions, and the interest rate on the bonds. These factors would determine the total annual monetary needs.

Senator Stedman asked for assurance that an increase in fees rather than obligating the State would address any potential revenue shortfalls; specifically that the bondholders could not hold the State accountable. In addition, he asked whether the "per day, per average car size" four-dollar CFC/CFMC fee would be imbedded in the airport system fees or would be eliminated at the end of the bond period.

Mr. Steiner understood that unless something such as a major rehabilitation of the facility were to occur, "in all likelihood" the CFC charge "would crease" upon the conclusion of the 30-year

bond. The CMFC fee could continue, with the revenues shifting into the State revenue stream, because at that point the State would be assuming complete ownership and responsibility of the facility.

[9:29:27 AM](#)

Mr. Steiner, in response to Senator Stedman's question regarding possible recourse against the State, stated that, "the support behind the bonds would be a sole pledge of CFC revenues without recourse to the State; either the general fund or the airport fund. The only way in which the State might become responsible in any way would be some kind of litigation alleging that the State had somehow not fulfilled its obligation to impose the CFC" or make some type of misrepresentation. He assured that the project was "designed so that the State does not hold liability."

Senator Stedman voiced that 30-years is a long time. Continuing, he asked regarding any bond issuance provisions that would allow the fees to be increased to address future maintenance needs.

Co-Chair Green asked for clarification as to whether the proposed CFC/CFMC fees would be levied on a per-day basis.

Representative Anderson deferred to Mr. Steiner.

Mr. Steiner replied that the State owns "the underlying airport property" that would be leased to the entity that would manage it for the RACs. The State would hold the facility 's "title from the beginning and would obtain complete possessory rights at the end of 30-years." The State would require that the facility be properly maintained during that period. The Commissioner would decide how much of the maintenance costs would be derived from the CFMC. Were additional funds required, "the rental car companies would be required to absorb that under their subleases with the facility management company to ensure that the State gets it back in a well-maintained" status for the rest of its remaining useful life, anticipated to be a minimum of another ten years. There would be "mechanisms in the contracts to enable the State to make sure that it is well-maintained throughout."

Co-Chair Green understood that the Commissioner would establish the fee.

Mr. Steiner affirmed.

BOB EVANS, Representative, Venture Development Group, expressed that the Group "would be participating in the development of this project" with the RACs. He shared that the Department of

Transportation and Public Facilities has worked with the Group from the onset of this endeavor. The Department is "very supportive" of the project.

Co-Chair Green understood there is widespread support for this project.

Representative Anderson affirmed. No objections have been received from any entity, including off or on-site car rental companies, the chamber of commerce, or the visitor industry.

Senator Olson applauded the involvement of State government in the project. He asked how this project would affect surrounding businesses such as the air taxi providers at Lake Hood.

Mr. Evans explained how that the facility would accommodate the eight car companies that would utilize it. Off-site car rental companies would not be required to charge the associated facility fees.

Representative Anderson stated that the site proposed for the facility "has been designated and purchased". There are no further plans to acquire or usurp other land holdings.

Mr. Evans communicated that the location of the proposed facility would be "the open area" where the car rental vehicles are currently stored. It would be a four-story structure with a tunnel leading to the airport. The structure would allow room for the RACS to clean, maintain, store, and rent vehicles in one location.

Senator Stedman asked for further information regarding the development group.

Mr. Evans stated that in the year 2000, Venture Development Group was approached by the RACS to initiate the project. Legislation that was adopted in 2001 provided the ability to establish CFCs for the purposes of debt service; however, after the terrorist attack on the nation in 2001, it was necessary to expand the provisions of that legislation to allow for operations and management. Venture Development Group is a joint venture consisting of individuals involved in construction and architectural firms. The Group recently completed the design/build project for the Alaska Psychiatric Institute (API).

Amendment #1: This technical amendment correctly identifies the subsection reference in Section 7, line 16 page seven, as subsection (G).

Co-Chair Wilken moved to adopt Technical Amendment #1.

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

[9:40:28 AM](#) [9:41:37 AM](#)

Co-Chair Wilken asked the amount of money the fees would generate over a 30-year period.

Representative Anderson responded that the answer would require extrapolation.

Senator Stedman furthered the question by sharing that in many real estate ventures, the return is divided "into ongoing cash flow and the residual value of the liquidation of it. Apparently there's going to be no liquidation of it, it's just going to be transferred to the State." Therefore, it would be addressed by the on-going cash flow. The bonding and backing ability of the State would be used to support the revenue bond. Therefore, he asked regarding any parameters included in the proposal to guarantee, "that there would be a fair and equitable rate of return to the development group" without there being "an excessive rate of return using State backed leverage". In other words, he asked what regulatory provisions would be included "to protect the public".

MARK PHEFFER, Partner, Venture Development Group, informed the Committee that "the actual transfer of the facility" to the State would be at the completion of construction rather than at the conclusion of the 30-year bond period. "There would be a customary development fee charged during the development of the project that would be part of the total capital costs and of the bond issuance."

Senator Stedman assumed therefore that the rate of return being utilized by the Venture Development Group is zero

Mr. Pfeffer stated that is correct. An up-front development fee would be charged "for the total development of the project". That fee would be capitalized "as part of the allowable capital costs of the overall project". "The transfer is to the State at the total cost to the airport". The development group would have no further "ownership in the facility. There's no rate of return over time."

Co-Chair Green and Senator Stedman asked that Mr. Pfeffer meet with Senator Stedman to further discuss the particulars of the project.

Senator Dyson asked whether other entities have been provided an opportunity to participate in this project, as there would be criticism otherwise.

Mr. Pfeffer responded that the initial work on this project began in the year 2000 "when the car rental industry sought out" an entity who was willing to organize and develop this project. Venture Development Group has been working on the project for the past four and a half years. There would be an opportunity for others to compete when the airport advertises the land for lease at the airport.

Senator Hoffman asked whether it is anticipated that the facility would meet the future needs of the State.

Mr. Pfeffer replied that it would. The facility would provide approximately four times the current space; this would include 1,400 vehicle parking spaces as well as car washing, fueling, and cleaning facilities. Were future airport growth to require more public parking spaces, these components could be relocated.

Co-Chair Green ordered the bill HELD in Committee in order to further review it.

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#### **ADJOURNMENT**

Co-Chair Green adjourned the meeting at 09:49 AM.