

MINUTES
SENATE FINANCE COMMITTEE
April 19, 2005
9:10 a.m.

CALL TO ORDER

Co-Chair Green convened the meeting at approximately [9:10:29 AM](#).

PRESENT

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

Also Attending: JANE ALBERTS, Staff to Senator Bunde; NONA WILSON, Legislative Liaison, Department of Transportation and Public Facilities; KIP KNUDSON, Deputy Commissioner of Aviation, Department of Transportation and Public Facilities; VERN JONES, Chief Procurement Officer, Division of General Services, Department of Administration; KEVIN BROOKS, Deputy Commissioner, Department of Administration; JIM DUNCAN, Business Manager, Alaska State Employees Association; SCOTT HAWKINS, Representative, Alaska Supply Chain Integrators; PETE FORD, Southeast Region Manager, Alaska State Employees Association; KIM CARNOT, Staff to Senator Green; DEAN GUANELI, Chief Assistant Attorney General, Criminal Division, Legal Services Section-Juneau, and Chief Assistant Attorney General Office of Special Prosecutions & Appeals, Office of the Attorney General

Attending via Teleconference: PAMELA LEWIS, Statewide Chief, Aviation Leasing and Airport Land Development, Department of Transportation and Public Facilities; From Nome: MITCH ERICKSON, Representative, None Chamber of Commerce; From Anchorage: LAURA LAWRENCE, Procurement Specialist, Central Region, Department of Transportation and Public Facilities; BARRY JACKSON, Resource Data, Alaska Supply Chain Integrators

SUMMARY INFORMATION

SB 142-REGIONAL SCHOOL BD LAND OWNERSHIP

The Committee heard from the sponsor and the Department of

Transportation and Public Facilities. The bill reported from Committee.

SB 160-STATE PROCUREMENT ELECTRONIC TOOLS

The Committee heard from the bill's sponsor, the Department of Administration, the Department of Transportation and Public Facilities, Alaska Supply Chain Integrators, and took public testimony. A committee substitute was adopted and the bill was held in Committee.

SB 100-ENHANCED 911 SURCHARGES

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

SB 70-CRIMES INVOLVING CONTROLLED SUBSTANCES

The Committee heard from the bill's sponsor and the Department of Law. A committee substitute and one amendment were adopted. The bill was held in Committee.

SB 112-TAX ON REAA RESIDENTS

The Committee heard from the bill's sponsor. A committee substitute and one amendment were considered but not adopted and the bill was held in Committee.

#sb142

CS FOR SENATE BILL NO. 142(L&C)

"An Act relating to ownership of land by regional school boards; and providing for an effective date."

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

Senator Bunde, the bill's sponsor by request of the Senate Labor and Commerce Committee, stated that this bill would correct "conflicting statutes regarding the ownership of land for State airports". While "the Legislature clearly intended to allow regional school boards the option of greater control of their facilities through acquisition of title, there is no record that the Legislature, however, intended to do so at the cost of federal liability, significant loss of federal funding, and a degraded state airport system".

Senator Bunde noted that members' bill packets include a December 11, 2001 Department of Law legal opinion [copy on file] addressed to then-Commissioner of Department of Transportation and Public Facilities (DOT), Joe Perkins, that reviewed the intent of the Legislature in regards "to this issue and the conflicting lands needs".

Senator Bunde, reading from the Sponsor Statement, stressed that, "several regional schools are located on state properties, some in very close proximity to active runways and airport infrastructure. At various times, regional school boards have requested that DOT&PF convey full title of the airport land to the schools. This has caused confusion, staff time in both the Departments of Education and DOT&PF, as well as attorney costs, to defend DOT&PF's title to its airport property."

Senator Bunde emphasized that the State receives "a substantial amount of money to build and maintain runways" from the Federal Aviation Administration (FAA). There was no Legislative intent "to breach FAA grant agreements". This bill would benefit the public, the regional school boards, the Department of Education and Early Development and DOT by clarifying the intent of the conveyance language to exclude airport properties."

JANE ALBERTS, Staff to Senator Bunde, directed the Committee's attention to a list of areas on a handout titled "REAAAs where Airport/DOT needs may overlap:" [copy on file], which was provided by Pamela Lewis of the DOT. The handout identifies areas in which "there could be possible conflicts between the Department of Transportation and Public Facilities and the Regional School Boards". It should be noted however, that there is no indication that a conflict "might be brewing" in any of these areas at this time.

Senator Bunde read the list for the record: possible areas of conflict in the Northern Region would include Anvik, Bettles, Galena, Noatak, Pilot Station and Unalakleet; areas in the Central Region would include Aniak, Cold Bay, Illiamna, Lime Village and Willow.

Senator Hoffman asked the manner through which this legislation would resolve the conflict.

Senator Bunde responded that the bill would clarify that the State would "control airport land and that the airport land could not be absorbed by the school district".

Senator Hoffman asked regarding the situation that prompted a

school district to seek title of the airport property.

NONA WILSON, Legislative Liaison, Department of Transportation and Public Facilities, expressed that one example of the confusion caused by the existing State Statute occurred when the Yukon-Koyukuk Regional School Board made an administrative claim for school property at the Bettles Airport in the year 2001. The school in Bettles, which was constructed in the 1970's, "is very close to the active runway, and is, in fact, partially in front of the building restriction line (BRL). A BRL limits construction of improvements near a runway for safety purposes. The school is actually located in an area identified by DOT and the FAA as being needed for future aviation purposes".

Ms. Wilson continued that during subsequent discussions with the school district, DOT "obtained an Attorney General's Opinion, basically, in order to protect the integrity of the airport". While some non-conflicting BRL areas were identified, perimeter and runway safety issues were, in accordance with FAA guidelines, non-negotiable.

Ms. Wilson informed the Committee that similar Rural Education Attendance Area (REAA) airport title requests were made by the Aleutian Regional School District near Cold Bay in 1986 and at the Lake and Peninsula School District in 1994. Rather than the purpose of the bill being to challenge school districts, its purpose would be to "rectify some language that has created some sticky situations in the past".

Senator Hoffman voiced that, while he understood the position of DOT, he surmised there must be safety concerns on the part of the schools. To that point, he asked that an opinion on behalf of "the school board's interest" be provided; there must be some education concerns as otherwise there would be no desire to disrupt transportation in those areas. A solution might be to move the location of the school.

Ms. Wilson deferred to Ms. Lewis of DOT who was more familiar with the situations in the Northern communities.

Senator Hoffman asked whether a representative of the Department of Education and Early Development might be available to provide their perspective as opposed to someone working for DOT.

Co-Chair Green asked whether a local community city council or school board member might better provide the schools' position.

Senator Hoffman replied that the Department of Education and Early

Development would be able to provide information regarding the situation for each of the communities on the aforementioned list.

Senator Bunde, Chair of the Senate Labor & Commerce (L&C) Committee, conveyed that the Department of Education and Early Development had raised "no interest or concern" during the L&C Committee hearings on this bill.

Co-Chair Green asked whether the Regional School Boards, the Alaska Association of School Boards, or the Alaska Municipal League had presented testimony to the L&C Committee.

Senator Bunde replied in the negative.

PAMALA LEWIS, Statewide Chief, Aviation Leasing and Airport Land Development, Department of Transportation and Public Facilities testified via teleconference from offnet site in Fairbanks to provide insight to the issues that might have prompted the Regional School Boards to ask for title to the airport property. The Bettles request occurred at a time when "the school was fighting" to remain open due to a decline in student enrollment. "The community desperately wanted the school to stay open." DOT had leased the land to the school for several years; however, "at some point" in the future, the building might have to be relocated behind the BRL. She speculated that the reason for the title request might have been an attempt "to secure a place for them to retain the school." The issues behind the Cold Bay or the Lake and Peninsula School District requests were unknown to her. However, she noted that a tremendous amount of DOT time and resources were exerted in the effort of explaining why the title to that land could not be "relinquished".

[9:23:24 AM](#)

Senator Hoffman clarified that rather than his question being about the issues relating to the relinquishing of the title, which was the focus of this bill, his question was in regards to the "bigger issue" of the safety of the students in the schools. "Students and airplanes don't mix." Therefore, he questioned whether any of the school district efforts were an attempt to address that issue by acquiring the land so that such things as a fence might be erected to further students' safety. Student safety should be a concern.

[9:24:38 AM](#)

Ms. Lewis expressed that she "absolutely agreed" with Senator Hoffman about the safety issue. However, to her knowledge, none of the requests were based on the premise of acquiring land to erect fences or an effort to make the facility safer. To that point, the Department of Transportation and Public Facilities has taken

responsibility for such things as erecting fences to address the "serious concerns of runways and students not mixing".

[9:25:47 AM](#)

Senator Hoffman asked, therefore, about the "conflict" that had prompted the school districts to further the airport title requests.

Senator Bunde speculated that a school district might have desired to control the airport land, which in many communities might be the primary means of accessing a community, in speculation of it being "a potential revenue generator".

Senator Bunde noted that, in addition to the student safety concern, another safety concern is that walkers and things as four-wheelers often utilize runways for recreation.

Senator Bunde remarked that the State has two choices in regards to this bill: either continue its ownership of the airport land or return the money that the federal government "has provided to develop that airport". Fencing the airport area to address the safety issue would be the "cheaper" of the two options.

[9:27:09 AM](#)

Co-Chair Green understood that the bill's primary purpose would be to resolve the conflict that exists between the federal FAA policies and State Statute regarding the conveyance of airport land titles.

Senator Bunde concurred. However, the safety issue is a valid concern. One manner to address that issue would be to control access to the airport land. DOT might desire to address that concern by erecting fences. That would be a separate discussion, as the local community might not desire that.

[9:28:13 AM](#)

Co-Chair Green pointed out that it is common for things such as schools, businesses, the runway, and other major components of a village to be built in concentrated areas in small communities.

[9:28:44 AM](#)

Senator Olson asked whether the BRL specifications have been altered over time.

[9:28:58 AM](#)

Ms. Lewis responded that the BRL was revised in the 1980s as a

result of a new master plan being developed for the Bettles airport. The FAA approved that master plan and "a grant for further development" of the airport was also approved shortly thereafter. She was unsure of the conditions of the original BRL.

Senator Olson understood that the current Bettles' BRL specifies that the State owns title to land up to 750 feet from the middle of the runway.

Ms. Lewis concurred.

Senator Olson asked whether different classes of airports had differing BRL standards. Some airports have the capacity to handle large aircraft such as jets while others could only accommodate small aircraft.

Ms. Lewis affirmed that there are different classes of airports.

Senator Olson asked whether this would result in there being different BRL parameters.

Ms. Lewis was uncertain as to whether the type of airport or its classification was pertinent to this discussion. This bill is limited to addressing the title "to the land underlying the school facilities". She deferred to Kip Knudson, the DOT Deputy Commissioner of Aviation to address that question.

Senator Olson asked whether the Northwest Arctic Borough School District, the Lower Yukon School District, and the Bering Strait School District, which are in his election district, were notified about this legislation. He also distributed a map [copy on file] depicting that the community of Noatak's school is adjacent to its airport.

Ms. Lewis remarked that rather than separate notices being sent to the school districts, routine notification regarding the legislation was conducted.

Senator Olson surmised therefore that the three school districts "have not been notified of this possible action."

Ms. Lewis reiterated that routine notification procedures had been conducted.

[9:32:08 AM](#)

KIP KNUDSON, Deputy Commissioner of Aviation, Department of Transportation and Public Facilities, voiced concern that safety issues were being interjected into the bill at hand. Despite the State's massive land holdings, there is extremely high competition for buildable land in village areas. The fact that airports have

some of the best land in the villages is part of the reason that some schools are located on airport property. No other economically feasible building site might have been available. Such situations have led to there being "an uneasy relationship" between DOT and the villages.

Mr. Knudson stated that safety concerns have been an on-going issue. DOT would request that schools be built elsewhere were other building sites an option.

Mr. Knudson shared that prior to the introduction of this bill, he had discussed the issue with Eddy Jeans, Director, School Finance, Department of Education and Early Development. Mr. Jeans contacted the affected school districts about the proposed bill; no "negative feedback" had been received.

Mr. Knudson reiterated that the focus of the bill is limited to the issue of land title. No request would be made to a school district to remove a school from the airport land, unless, through the development of a long-range plan, another feasible site might be identified. Were that the case, DOT would assist in facilitating that option in conjunction with any construction project that might be occurring.

Senator Bunde, referencing the Noatak map provided by Senator Olson, spoke to the beach erosion issue facing the community. He noted that relocation of the school was included in the long-range plan to address the erosion issue.

Senator Olson clarified that a river rather than the ocean was the cause of the erosion being experienced in Noatak. To that point, he whether Mr. Knudson needed a copy of the Noatak map for reference purposes.

[9:34:50 AM](#)

Mr. Knudson responded that he was "painfully aware" of the erosion issue facing the Noatak community. The dilemma was whether to move the school for \$20 or \$30 million or to move the airport for \$20 or \$30 million.

Senator Olson noted that, as depicted on the map, the erosion was projected to encroach upon the airport's land by the year 2010. He asked therefore whether future plans might include moving the airport.

Mr. Knudson informed the Committee that the Department was currently developing a master plan. Alternatives, including moving or retaining the airport, were being evaluated. Nonetheless, "the school is the most pressing issue at the moment".

Co-Chair Green understood that the State, specifically DOT, had no intention of transferring title of property to any regional school board, primarily in order to avoid litigation and the repayment of FAA funding. Thus, the issue at hand is an attempt to address the federal and State conflict. While Legislators would like to resolve the issue to better their own district, "the greater cause of what" is being addressed in this legislation must prevail.

Senator Olson asked Mr. Knudson how non-support of this legislation would affect federal funding of the identified Rural airports.

Mr. Knudson assured that "at this point", DOT is "not at risk of losing federal funds". The issue would be to resolve "the conflict and confusion that arises between the State Statute allowing districts to claim title to State land and the federal requirement that we maintain our airport boundaries". This legislation would "resolve a nagging bureaucratic problem."

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

There being no objection, CS SB 142(L&C) was REPORTED from Committee with zero Fiscal Note #1, dated March 18, 2005, from the Department of Education and Early Development and zero Fiscal Note #2, dated April 4, 2005, from the Department of Transportation and Public Facilities.

#sb160

SENATE BILL NO. 160

"An Act relating to a procurement and electronic commerce tools program for state departments and instrumentalities of the state; and providing for an effective date."

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

[9:38:24 AM](#)

Senator Bunde, the bill's sponsor by request of the Senate Labor & Commerce Committee, stated that this legislation would assist in modernizing the State's procurement methods by transitioning the State away from a "pencil and paper" procurement system toward an electronic (e-commerce) system. This "Supply Chain Modernization Program" would provide financial benefits to the State. He read segments of the Sponsor Statement as follows.

...it is very important that the Legislature remain focused on the need to deliver long-term reductions in the cost of government. Therefore, this bill renames, expands and extends

the pilot procurement, eCommerce and supply chain management program authorized by HB 313 in the 2003 Legislative Session.

The program is already delivering savings in the cost of overhead and administration. ... It needs to be expanded and extended to reach its full potential.

Overhead costs represent a significant portion of the total cost of government. However, the State of Alaska generally performs overhead functions using outmoded tools and methods. Private industry has delivered considerable gains in productivity during the past two decades by contracting out back-office functions to specialist firms and installing modern computer-based systems. It is time that State government embraces these techniques and participates more fully in the U.S. productivity boom.

Senator Bunde noted that projected annual net labor cost savings for the fourteen primary State agencies in which the e-commerce system would be implemented would range from two to five million dollars. Total cost savings for goods and services could range between five to twenty-five million dollars. In addition, an increased degree of efficiency would occur, as the e-Commerce system would increase the speed of acquisitions and purchasing.

[9:41:04 AM](#)

Senator Bunde stated that the adoption of HB 313 during the 2003 Legislative Session authorized a three-year "Pilot Procurement and Internet e-Commerce Program" specific "to two agencies and two other state instrumentalities. Cost savings on administrative salaries and benefit burden are currently projected to exceed \$150,000 over this two-year period. This represents a savings on procurement administration of over 20%. Cost savings on goods and services will evolve over time as the program matures and other regions and agencies are added, and the resulting volume savings and purchasing can be obtained." Support of this bill "would help move the State of Alaska into the Twenty-first century".

Senator Hoffman recalled the discussions that transpired in 2003 when HB 313 was adopted. Because there was concern regarding the possible impacts of the Program, it was limited to two State agencies and two other State institutions for a three-year period in order to allow the Legislature could evaluate the program. Therefore, he questioned the reason for considering this legislation at this time as it would "be premature" to continue it prior to a complete report being compiled.

[9:43:05 AM](#)

Senator Bunde stated that there is evidence that the program is

working well. "It has worked exceptionally well in the private sector". Acting now would be financially beneficial.

Senator Hoffman voiced concern about whether sufficient data is available from which to make a determination as to the success or failure of the program. While evidence might support there being monetary savings, other drawbacks might become evident. He urged that the complete report be finalized before further action occurred.

[9:44:17 AM](#)

Senator Bunde anticipated there to be resistance to changing the process, regardless of whether action was taken now or in three years time. Monetary savings, "sooner rather than later", should prevail. Others might disagree with this position.

Co-Chair Green noted that an abundance of back-up material [copies on file] accompanies Senator Bunde's sponsor statement.

[9:45:04 AM](#)

VERN JONES, Chief Procurement Officer, Division of General Services, Department of Administration, shared that, upon the passage of HB 313, which implemented the State's Pilot Procurement Program, the Department issued a Request for Proposals (RFP) for a private contractor to outsource State procurement functions for the Southeast Region of the Department of Transportation and Public Facilities (DOT). A feasibility study was conducted as required under organized labor bargaining unit agreements, and subsequently, the contract was awarded to Alaska Supply Chain Integrators (ASCI). The bill, which has a contract termination date of June 2006, limited the pilot procurement program to two departments and two instrumentalities of the State. ASCI has been coordinating the procurement program for DOT for nine months.

Mr. Jones stated that this bill would eliminate the restrictions on the number of State departments and instrumentalities that could implement this procurement program. In addition, it would eliminate the June 2006 termination date of the program. The Labor & Commerce committee substitute being considered would require the contractor contract include the Alaska Bidder and other preferences requirements.

[9:46:52 AM](#)

Senator Hoffman asked whether sufficient information is available from which to determine the success of the program.

[9:47:17 AM](#)

Mr. Jones responded that it is "the Administration's position that this program is still in transition". At this time, it would be unfair to label it as being a "failure"; it would be premature "to draw any firm conclusions" about the program.

Senator Olson asked whether Mr. Jones' remarks could be indicative of there being "a sense" that the program is a failure.

Mr. Jones responded that that is not the Department's or the Administration's position. He clarified that it would be "premature" to label the program as either a success or a failure.

[9:48:27 AM](#)

Senator Olson understood that the University of Alaska has a different procurement mechanism in place. To that point, he inquired as to whether the University has opted out of the State's procurement process.

Mr. Jones explained that the University is required "to adopt substantially similar procedures to those contained in the Procurement Code". Therefore, while the University "is not technically governed by the Procurement Code, they, in essence follow the spirit and intent and most of the provisions that are contained in the Procurement Code."

Senator Olson asked for further information in this regard.

Mr. Jones responded that Alaska Statute 36.30 requires the University "to comply substantially with the provisions" in the State Procurement Code.

Co-Chair Wilken, noting that the backup material contains the first audit of the Pilot Program, asked the status of the second audit.

[9:49:53 AM](#)

Mr. Jones responded that, while the complete second quarter audit is not yet available, the cost of goods portion of the second quarter audit has been completed and is available.

Co-Chair Wilken asked when the second audit in its entirety would be available.

Mr. Jones anticipated that the second audit to be completed within the next week.

Co-Chair Wilken asked whether the second audit would contain information pertaining to the three-month quarter ending December 31, 2004.

Mr. Jones affirmed.

Co-Chair Wilken noted that a substantial amount of information was provided in the first audit. He asked Mr. Jones to identify information in the audit from which the Committee could "form an opinion".

Mr. Jones understood Co-Chair Wilken's remarks to infer that "the first quarter audit was really inconclusive".

Co-Chair Wilken disagreed that to be the point of his remarks, as he could not understand the report. "This is a report built to confuse not to inform." The hope is that the second report would provide "decision makers" with more substance. He asked who was responsible for the report.

Mr. Jones affirmed that he was.

Co-Chair Wilken opined that it was "a very poor report". Subsequent reports should be improved.

Co-Chair Wilken asked how much staff time is being devoted to the project.

Mr. Jones responded that the time varies. A number of people, including himself, a dedicated DOT contract administrator position, and a Department of Administration contract manager, devote a substantial amount of time to the program.

[9:52:21 AM](#)

Co-Chair Wilken specifically asked the number of hours in each workweek that Mr. Jones devotes to this "important" project.

Mr. Jones determined that he spends a couple of hours a week on the project.

Co-Chair Wilken expressed that "a deal is a deal". He disclosed that his being one of the initial supporters of the project; however, now he is "a little concerned" and "conflicted" about the efforts being exerted to the program. The expectation was that six quarterly progress reports would be provided. He noted that the privately owned company, British Petroleum, has experienced good results with this type of a program.

Co-Chair Wilken perceived the Administration to be "somewhat detached" from this effort. "Some influence/management direction" must be provided to the project; else wise, the Legislature would continue to receive reports similar to the first audit report. Therefore, he supported tabling further action on the legislation until the next Legislative Session. That would allow three more

audit reports to be compiled through which the Legislature could better evaluate the program.

Co-Chair Wilken characterized the current program scenario as being "set adrift" with "the bureaucracy fighting the privatization people" and there being no one in the middle to bring the two sides together. "Someone needs to manage the program" in order to provide the Legislature the information necessary to make decisions about the program. He suspected that, were that done, the decision would be to support the program. The benefits of the program as highlighted in Senator Bunde's remarks would be realized.

Co-Chair Wilken stated that were the concept of the pilot program undermined by "delays, a lack of cooperation, and falsehoods on both sides", the Committee might be required "to craft it at this table" during the next Session. That would not be the preferred course of action. "Really good data, understandable by the Committee, understandable by this Legislature" must be provided by next January.

Co-Chair Wilken noted that he had conveyed his reluctant to vote in favor of this legislation to Senator Bunde. This hearing would be a determining factor in his decision.

[9:55:39 AM](#)

Senator Bunde moved to adopt committee substitute, Version 24-LS0224\C as the working document. This committee substitute would serve to "clean up" some provisions of the bill.

Senator Hoffman objected for explanation.

KEVIN BROOKS, Deputy Commissioner, Department of Administration, assured the Committee that the Department is committed to the effort to analyze the Pilot Procurement Program.

[9:57:05 AM](#)

Mr. Brooks spoke to the Department's assistance in developing language in the committee substitute that would "clean up" Title 36 preferences currently applicable to State purchases. These preferences have been expanded over time and, as result, have become quite cumbersome. While no changes were made to the preferences themselves, efforts were made to develop language that would make the application of those preferences "easier to administer as procurements are made".

Senator Hoffman asked for assurance that the changes included in Version "C" would, therefore, be limited to "cleaning up" current language.

Mr. Brooks affirmed.

Senator Hoffman removed his objection.

[9:58:26 AM](#)

Senator Dyson inquired to the obstacles that "have kept our existing workforce from" being more innovative in the purchasing process.

Mr. Brooks responded that no State's procurement office employee would "dispute" the fact that "the implementation of e-commerce tools would be a great benefit to the State". Some monetary investment would be required to automate the existing "labor intensive paper process" which is "based on a procurement code that in many cases is not meant to be as efficient as it is to be fair". It is designed to provide any bidder a chance to bid for public dollars. The rules governing the Pilot Procurement Program contractor in procuring goods and services for the State are "more relaxed" than those required of a State agency.

Mr. Brooks noted that, although not occurring on a wide scale basis, efforts have been undertaken across departments to automate the procurement processes. Some have been successful.

[9:59:52 AM](#)

Mr. Brooks stated that the Department's perspective on the bill "is that there is room for improvement" in the manner in which the State currently procures goods and services. He disagreed that the Pilot Program "has been cast adrift", as the Department is anxious to determine whether the program would work.

Senator Dyson restated the question as to what might have prevented the State from advancing its procurement methods to align with procurement trends that have occurred elsewhere over the past twenty-five or thirty years; specifically whether the State's existing procurement code or Statutes are preventing the existing workforce from accomplishing "these really imaginative things".

Mr. Brooks expressed that "the procurement code is not an impediment to automating" the procurement progress.

Senator Dyson asked whether any of the State's bargaining unit agreements were an impediment to transitioning toward more efficient modes of conducting procurement.

Mr. Brooks did not recognize bargaining unit agreements as being an impediment.

Senator Dyson asked whether the Legislature has refused to provide

the necessary resources, specifically computers and networks that would be required to advance the process.

Mr. Brooks responded that the necessary computer resources and staff are available; however the necessary software that would be required to automate State government has not been procured.

Senator Dyson asked the reason for the absence of such software.

Mr. Brooks responded that no recent software-funding request had been made; higher priorities, such as new payroll and accounting systems, have preceded the procurement software request. However, it should be noted that "the procurement module for automation" is in the Department's five-year plan going forward.

Senator Dyson opined therefore that since the issue is not the law, the procurement code, or the people, then "ultimately" it's the lack "of will to do it". To that point, he asked whether it was the Department's intention "to move towards the very best, most modern kind of procurement system" available.

Mr. Brooks affirmed that to be the intent.

Senator Dyson voiced appreciation for the fact that an entity was willing to participate in the Pilot Program and "commit a lot of money and resources" to demonstrate that such a program would work in the State's environment. "That's the genius of the free enterprise system."

Senator Dyson asked what might occur where the State to authorize a private contractor to conduct all or a major portion of the State's key goods and services procurements functions, and then the contractor discontinued their service, went out of business, or increased their fees astronomically.

Mr. Brooks speculated that the alternative would be for the State to reassume the responsibility or hire another contractor.

Senator Dyson asked how much notification of separation is specified in this legislation.

[10:05:10 AM](#)

Mr. Brooks communicated that the Pilot Program established by HB 313 would terminate in June 2006, or in approximately 14 months. During that time period, efforts would be exerted to determine whether the program would be feasible to expand to other State departments. SB 160 would provide the authority needed to expand the program in such a manner. In addition, passage of SB 160 would

assure the contractor that the State could continue the program.

Senator Dyson recognized, as did the Department, that this program could provide a multitude of possibilities. However, the specific question is how, after the State "committed major portions of its State business into their hands", the State would continue to conduct "its business" were the contractor to un-expectantly "cease to function".

Mr. Brooks "speculated" that the State would be required to hire staff or hire another contractor.

[10:06:30 AM](#)

Senator Dyson asked whether the conditions in this bill would adequately provide the time and file/software access that would be required were the State required to resume those functions.

Mr. Brooks replied that in that event, "the procurements being performed by the contractor would be available to the State".

Senator Dyson specifically asked whether the State would have access to the associated software files.

Mr. Brooks replied in the negative; software files are proprietary to the contractor.

After a brief exchange with Senator Dyson, Mr. Brooks stated that even though the software was proprietary, the fact that the State had provided data to the contractor at the onset of the Pilot Program, would allow that action to be reciprocated at the termination of the program. However, he voiced being unfamiliar with the specific terms of the contract.

Senator Hoffman asked whether other states have privatized their procurement process.

Mr. Brooks remarked that no other state has outsourced its procurements.

Mr. Jones affirmed that to be correct.

Senator Hoffman asked regarding "the public policy reason" for that decision.

Mr. Brooks voiced being unsure of the reasons that other states had not furthered such a privatization endeavor. "The issue for Alaska is" whether we can "provide this service better; there is fair

evidence that procurement can be done more efficiently". The public policy issue question should include "who does procurements for the State". The issue of public trust is involved when there is "an expenditure of State funds; do we value that vendors have a fair shake at State dollars and that there is a fair and open process for doing that". These questions are valid, and this Pilot Project would provide the opportunity to determine the answers to such questions. Even though "the jury is still out" on whether the program would be an overwhelming success, this bill would further the opportunity to investigate the endeavor. While "the data is inconclusive" at this point, there is no reason to discontinue the investigation as to the program's potential.

[10:09:30 AM](#)

Senator Olson, noting that "an essentially zero" fiscal note accompanies the bill, asked what specific costs would be associated with utilizing a private contractor.

Mr. Brooks responded that whenever a privatization effort is being considered that would displace State employees, the bargaining unit must be notified, a plan must be developed, and a feasibility study must be conducted. The effort only moves forward were there to be "savings in the labor costs". The bargaining unit agreement contains specific guidelines regarding the conditions of the feasibility study. It is anticipated that an automated process, whether it be conducted by a private entity or by the State, would also "realize savings in the actual" procurement costs of goods.

Senator Olson asked regarding the exemptions that are currently specified in the State's procurement code.

[10:11:00 AM](#)

Mr. Brooks asked for further clarification of the question.

Senator Olson understood there to be several exemptions currently specified in the State's procurement code. Thus his question was to "the end result" of those exemptions.

[10:11:20 AM](#)

Mr. Jones stated that there are currently 47 exemptions specified AS 36.30.850 of the State's procurement code. Rather than indicating that entities were exempted from abiding by the code, the result is that certain classes or commodities of goods and services are exempted across the board. For example, "dentists and doctors are not required to abide by the competitive bidding requirements". Such things as grants and certain investment instruments are also exempted. At times, the issue of there being 47 exemptions has been mistakenly interpreted to mean that there

were 47 agencies or entities "that didn't have to abide by the code". By and large, these exemptions exempt a certain class of goods or services from the code.

Senator Olson asked regarding the recourse the bill would provide to a vendor who might wish to protest an award.

Mr. Jones responded that while protest provisions are included in the State's procurement code, no such provisions were included in the current contract. "There is no allowance for that."

[10:13:10 AM](#)

Mr. Brooks remarked that Co-Chair Wilken's earlier comments regarding the audit reports were "points well taken". While early reports pertaining to the program "were lacking", the fact is that they were being developed during the transitioning phase of the program. Going forward, the Department would require that the successes of the program be identified and articulated. "Accurate and timely reporting" must occur in order to meaningfully make those measurements. He assured that such efforts would occur, and that, "as the program moves forward" ... "data that everyone could agree with" would be provided.

[10:14:15 AM](#)

Co-Chair Green revisited the issue of what changes were included in the Version "C" committee substitute being considered by the Committee, as it is noticeably longer than the previous version, Version 24-LS0524\X. Specifically, she asked whether language in Section 1(g), page two, lines 11 and 12, and Section 1(l), page two, lines 28 through 30 of Version "X" had been revised in some manner in Version "C".

Mr. Jones communicated that two major changes occurred in the transitioning of language between Version "X" and Version "C". One of those changes was the Statute reference change from AS 36.30.190 as specified in Section 1(a), page one, line ten of Version "X" to AS 36.30.265 in Version "C". This change would allow the Department "to award a contract of this type via an RFP rather than a low bid invitation to bid situation. The second change in Version "C" was a series of changes starting on page two" that would incorporate "all the procurement preferences", currently specified in AS 36.30 into this bill. This action would serve to "apply them to the procurements that are made by the contractor". As previously mentioned the existing Statutes are confusing and do not interact well. Therefore, existing procurement language was altered in Version "C" in order "to make all the preferences uniform, understandable, and a little simpler to apply and administer".

Co-Chair Green corrected her earlier remarks about Version "C"

being larger than Version "X" as she had discovered that two copies of Version "C" had been inadvertently stapled together in her bill packet. Version "C" was not as large as it had appeared.

[10:17:27 AM](#)

Co-Chair Green asked whether the Automatic Bid Award language had been eliminated in the Version "C" committee substitute.

Mr. Jones asked for further clarification.

(e) Except as otherwise provided under (g) or (h) of this section, if a bidder qualifies as an Alaska bidder, is offering services through an employment program, and is the lowest responsible and responsive bidder with a bid that is not more than 15 percent higher than the lowest bid, the program contractor shall award the contract to that bidder. This subsection does not give a bidder who would otherwise qualify for a preference under this subsection a preference over another bidder who would otherwise qualify for a preference under this subsection.

(g) If a bidder is an Alaska bidder, is a qualify entity, and is the lowest responsible and responsive bidder with a bid that is not more than 10 percent higher than the lowest bid, the program contractor shall award the contract to that bidder. This subsection does not give a bidder who would otherwise qualify for a preference under this subsection a preference over another bidder who would otherwise qualify for a preference under this subsection or (h) of this section. In this subsection "qualifying entity" has the meaning given in AS 36.30.170(e).

Co-Chair Green specified that language in Version "X", Section 1(e), page two, lines eight through 14 and Section 1(g), lines 19 through 25, specified that an automatic bid could be awarded were certain conditions in place. She understood that this language was changed in Version "C"; therefore, she asked to the reason for that change.

Mr. Jones responded that while the Version "X" language would work in a bid process, it would not be appropriate for an RFP process.

Mr. Brooks reiterated that the endeavor was to clean up the preferences; there was no intent to change any of them. Any provision that was included in Version "X" is included in Version "C". "Just in cleaner more straightforward language."

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

Co-Chair Wilken asked what would occur on June 30, 2006, were this legislation not adopted. In other words, the question is whether the process would revert to how it functioned prior to the implementation of the Pilot Program.

Mr. Jones replied that absent this legislation, the Pilot Program contract would expire on June 30, 2006. "There are, however, extension optional renewals included in there should the legislation amend that sunset date."

Co-Chair Wilken asked, for clarification purposes, whether the extension option language was included in HB 313 or in SB 160 Version "C".

Mr. Jones stated that HB 313 specified a termination date of June 2006 and SB 160 would eliminate the termination date provision. Adoption of SB 160 would allow the State "to amend" the existing contract going forward.

Senator Bunde highlighted the fact that the adoption of SB 160 would provide the option to extend the contract; its extension would not be mandatory. This is a "permissive" bill that would allow the project to continue were it deemed warranted.

Senator Hoffman asked whether the Administration would promote legislation making the program more permanent were it determined that such a program would produce "considerable savings" to the State.

Mr. Brooks responded that while the Administration was interested in determining whether such a program would work, he was unsure as to whether the Administration would introduce such legislation.

Senator Olson voiced being uncomfortable that there was not more support for a program that is supposedly "working and working well", as acclaimed by the bill sponsor's remarks.

Mr. Brooks expressed that his testimony was that "we have not determined that this has been successful in saving money. We have very preliminary data; only a couple of quarters have been analyzed". There is support for continuing the procurement pilot, as further analyses would provide more complete information. "The jury is still out on ... whether privatization of all State government" would be the appropriate action.

[10:22:19 AM](#)

Co-Chair Green recalled there being frustration and delays in the implementation of the program. That situation might have impacted the amount of reporting that has been provided to date. As a result, the evaluation process has been more difficult. The delay

also shortened the amount of time that the contractor was able to manage the procurement system. This bill would provide more time "for the program to be in place".

Mr. Brooks stated that Co-Chair Green has a "good point", as he also questioned the progression of the endeavor since HB 313 was adopted. The first year was dedicated to the development of a plan, conducting the feasibility study, developing the project RFP and selecting the vendor. Therefore, the contractor was unable to undertake the DOT procurement process in July 2004. As a result, rather than having three years in which to evaluate the program, only two years would be available. This bill would assure the vendor that the program would not terminate in 14 months. It would also provide the Administration sufficient flexibility in which to determine which other departments and agencies would benefit from such an endeavor.

Co-Chair Wilken agreed that the original timeline was of concern; however, the vendor's actual involvement in the procurement process began on June 30, 2004, and only one report, which took approximately four months to compile, has been provided. The second report is not yet completed. A total of four reports should be available were action on this legislation delayed until January 2006. However, it is uncertain as to whether a decision made at that time would be sufficient "to make plans for June".

Co-Chair Wilken suggested that the Committee consider extending the Pilot Program another year. That would provide time for "a solid basis of information" to become available. He opined that the four reports that could be available in January might not provide a lot more information than is available now.

Co-Chair Green characterized that issue as being "the heart of the conversation".

[10:27:11 AM](#)

Mr. Brooks expressed that the intent is to provide "better and quicker information". The second quarter report would be completed shortly and the third quarter report, ending March 2005, should be available within the next 30 days. A 30-day turnaround after the end of each quarter is the goal. The report for the quarter ending on December 31, 2005 should be available in January 2006.

Co-Chair Wilken understood therefore that six quarterly reports would be completed by January 2006.

[10:28:08 AM](#)

JIM DUNCAN, Business Manager, Alaska State Employees Association (ASEA), informed the Committee that ASEA represents approximately

8,000 State employees. ASEA members hold a significant portion of the 200 State jobs that would be impacted by this legislation. He voiced being very concerned about the impact that this legislation would have on the livelihood of all State employees represented by bargaining units.

Mr. Duncan questioned the appropriateness of furthering this legislation prior to more Pilot Project quarterly reports being compiled. The data provided in the lone report is insufficient upon which to make a sound judgment. While the report provides a multitude of figures and information, it does not provide any substantive conclusion about the program as previously inferred by Co-Chair Wilken when he asked for assistance in identifying which portion of the audit findings could be utilized as a base upon which to further a decision. He referred the Committee to "Section Two - Department's Comments on Audit" of the "Department of Transportation and Public Facilities Report on the Outsourcing Procurement Pilot February 14, 2005" as attached to DOT Commissioner Mike Barton's February 16, 2005 memorandum [copies on file] addressed to Ray Matiashowski, Commissioner of the Department of Administration. Section Two stated that, "It is clear from the audit conclusions that under ASCI management there has been no improvement in service and the cost of goods to the state have actually increased. Based on these finds we recommend that there be no expansion of the pilot until ASCI's performance demonstrates significant benefit to the state." Mr. Duncan declared that, "that is a clear and very direct statement." This language should answer Co-Chair Wilken's question.

Mr. Duncan stated that while the second quarter, October 1 through December 31 2004, audit has not as of yet been completed, the "Costs of Goods" portion is available and indicates that there was a 16.3 percent increase in the cost of goods to the State during that quarter. An increase in the cost of goods also occurred during the first quarter. These increases, combined with the DOT recommendation against expanding the pilot program, "are very good indicator[s] that there are questions about whether this is really saving the State money or not", in regards to the cost of goods. He asked that the Members strongly consider this information. "The trend is there," and its continuance would clearly indicate that the program would not save the State money. A final decision on the program should not be made until all the reports have been provided.

[10:32:43 AM](#)

Mr. Duncan characterized the "privatization of State jobs" as being an important issue. The response to Senator Hoffman's question as to whether any other state has pursued privatizing procurement was "no", no other state or municipality has done it. There had been discussion during a different committee hearing on this bill

regarding the fact that the Municipality of Anchorage was doing "something innovation and different" in regards to its procurement. "While that is true and should be applauded, the City's effort to streamline its procurement system "is being done by government employees".

Mr. Duncan addressed Senator Hoffman's question as to whether there was "a good public policy reason" against privatizing the procurement process by providing an Executive Office of the President, President George Bush, Office of Management and Budget Washington, DC 20503 Circular No. A-76 (Revised) dated May 29, 2003, [copy on file]. The Bush Administration has sought to privatize "jobs wherever they can", and this circular addressed the development of a policy regarding the performance of commercial activities. The "Policy" component of the circular reads "Policy. The longstanding policy of the federal government has been to rely on the private sector for needed commercial services. To ensure that the American people receive maximum value for their tax dollars, commercial activities should be subject to the forces of competition." Continuing, he pointed out that section "b." of the Policy section specifies that government agencies shall "b. Perform inherently governmental activities with government personnel."

Mr. Duncan continued that the question of what would be defined as an inherent governmental activity is addressed in section "B.a." and section "B.a.(4)" of the circular.

a. An inherently governmental activity is an activity that is so intimately related to the public interest as to mandate performance by government personnel. These activities require the exercise of substantial discretion in applying governmental authority and/or in making decisions for the government....

(4) Exerting ultimate control over the acquisition, use, or disposition of United State property (real or personal, tangible or intangible), including establishing policies or procedures for the collection, control, or disbursement of appropriated and other federal funds."

Mr. Duncan stated that the Bush Administration has determined, as evidenced in this Office of Management and Budget circular, that the procurement of federal property, which could be viewed in Alaska's case as the purchase of State property, "is an inherently governmental function that should be performed by government employees".

Mr. Duncan stated that this position is supported by the fact that there must be "significant public trust in the procurement function". "There should be no question" as to how Government procurement dollars are used or how contracts were developed.

Mr. Duncan reminded the Committee that the State's procurement code was developed in 1985 as the result of a "significant" procurement issue that occurred relating to a Fairbanks facility. A select State Senate Committee developed the model procurement code, which was endorsed by the American Bar Association. The procurement code was adopted in order to regain public trust in regards to the procurement process. While the Code has been amended over time, it remains a good model.

Mr. Duncan declared that this bill would exempt the contractor from the conditions of the State's procurement code. "The rules would no longer be those that you have in Statute", but would instead be those set by the contractor and the seated Administration. He spoke against providing that authority to those entities. The Legislature should desire a procurement process that would be "conducted with integrity and would follow" Statutory guidelines.

Mr. Duncan shared that in addition to serving in the Alaska Legislature, he once held the position of commissioner of the Alaska Department of Administration. One of his responsibilities as Commissioner was to oversee the State's procurement process. While he has heard that there are problems with the State's procurement process; he did not experience any problems when he was commissioner. Such things as provisions that allow a dissatisfied "vendor to protest and to understand" the reason for their getting an award could slow the process down; however, the process "still works and it works the way it's supposed to".

Mr. Duncan noted that the State employees involved in the procurement process are professionals who "do their job and ... do it well". He noted that a request "for the tools to do e-procurement" was, as is currently the case, on the Department's capital project requests when he was commissioner. While the current request was pre-empted by the need for a new payroll system, that request is, and was, there. "There is nothing in the State's procurement system that would prohibit the use of electronic tools by State employees. The only need is the purchase of electronic software."

Mr. Duncan urged the Committee to wait and evaluate the results of the Pilot Project audit and evaluate whether the process could be conducted "just as efficiently and effectively" by government employees were the required tools in place. These considerations should occur before the legislation moves forward.

[10:40:27 AM](#)

Senator Bunde noted that, as Mr. Duncan had expressed in his opening remarks, Mr. Duncan's position was to represent the interests of ASEA members. Therefore, it could be assumed that even were the audit findings to determine that the process would save

money, Mr. Duncan would be obligated to oppose it because it would eliminate State jobs.

Mr. Duncan affirmed his responsibility to protect ASEA members' jobs; he would not support the loss of those jobs. However, "a different angle" is the anticipation that the first two quarterly reports would not reflect any money being saved; "matter of fact" the costs are increasing. While the contractor would argue that they have saved the State \$200,000, those savings were the result of the elimination of State jobs rather than being the result of a decrease in the cost of goods and services. The union would be reviewing the forthcoming quarterly audits during the interim to further evaluate the program. It would also be determining methods in which the process could be more efficiently handled within State government. Even though his job is to protect State employee jobs, it is also his job to work with the Legislature and the Department of Administration to further such efficiency.

Mr. Duncan argued that even though this process is being touted as a public/private partnership, that would not be the case as jobs were being eliminated. Last year ten State procurement positions were eliminated. Some decry that positions for those individuals were created in other State departments. That might have been the case in the 1980s and 1990s, but that is not the case today due to budgeting constraints. Another consideration is that were all State procurement jobs eliminated there would be no option to secure a procurement jobs in another department.

[10:43:36 AM](#)

MITCH ERICKSON, Representative, None Chamber of Commerce, testified via teleconference from Nome to voice concern in regards to the "expedited" manner in which this bill is advancing. The Pilot Project is still in the initial process and therefore, a proper analysis could not be provided. There is confusion as to whether the contractor would be held to the same procurement standards as the State would. Were they not, then the process could be likened "to comparing apples and oranges". Business conducted by the State is significant to local economies. There is fear that transitioning to a centralized procurement system would negatively impact local businesses. The State currently "commands a best pricing system due to its size", and "the fact that the State would pay for its purchases" is important. It should also be noted, "that eCommerce is not an exclusive private sector function;" it could easily be implemented in the State system.

Mr. Erickson communicated that one consideration of the Costs of Goods information, particularly in regards to Rural communities, is that "the landed cost are the true costs". The purchase price is not the true cost. The belief is that, without proper analysis, State offices in Rural areas would be required to carry larger

inventories in order to compensate for "the inefficiencies" resulting from a centralized procurement system. Currently, when an item is needed, it could be purchased locally.

Mr. Erickson urged that a thorough evaluation of the program be conducted before this bill, or a similar bill, was advanced. The bill's appearance now is one of being "back-doored; it does not reflect well on the Legislative process".

[10:46:07 AM](#)

Senator Bunde responded to the back-door argument by stating that this bill has transited through the Legislative process. He suggested that the action of the State buying locally could be considered as a form of revenue sharing.

AT EASE [10:46:43 AM](#) / [10:47:58 AM](#)

Senator Bunde communicated that a companion bill is also progressing through the House of Representatives committee hearing process.

Co-Chair Green stated therefore, that there would be numerous committee-hearing opportunities in this regard.

[10:48:31 AM](#)

SCOTT HAWKINS, Representative, Alaska Supply Chain Integrators (ASCI), communicated that ASCI, the contractor operating the Pilot Procurement Project program, was founded in 1999 to provide supply chain activities for the oil industry, primarily Prudhoe Bay operations. Over the past six years the company has increased in size to approximately 150 employees, most of who reside in Anchorage, the Mat-Su Valley, and the Kenai Peninsula. A small office recently opened in Juneau. A significant number of the employees in the Anchorage area graduated from the University of Alaska's global statistics program. The company specializes in back-office process management: helping both public and private sector entities streamline and automate back office duties more efficiently and expediently.

Mr. Hawkins characterized this "permissive bill" as being "very important to the future of this program". "There is little danger that it would run amuck".

Mr. Hawkins provided Members a handout titled "ASCI State Procurement Pilot Review and Outlook" [copy on file]. The company's perspective as program operator is that "the most important criteria" for the program is to produce cost savings. As discussed "from the very beginning", staff and personnel cost savings are foremost in the cost-savings endeavor. "There is also the potential

to save money on the cost of goods." Those cost savings would occur over a longer timeframe, and would be most successfully accomplished when the program is applied across several agencies and several regions, as the result of purchasing larger amounts of goods and more agreements and automation occur.

Mr. Hawkins referred the Committee to page four of the company's handout titled "Cost Savings Achieved". That information projects that over the first two years of the project, \$163,089 in savings would be realized in personnel costs.

Mr. Hawkins noted that it has been stated that the second quarter cost of goods report reportedly indicates that an increase in the cost of goods occurred. However, language in the report actually states that, "The Division of General Services, after consultation with Legislative Audit, does not believe the data can be extrapolated in order to draw firm cost increase/decrease conclusion, but that the data may serve to identify potential areas for improvement. The data documents less than one percent of the purchases."

Mr. Hawkins stressed that, "these benchmark audits have been a feature of the program from the beginning". To that point, he opined that "the term 'audit' might be too strong a term" to characterize the activity. A benchmark provides a snapshot of data with the purpose of providing a record of the program, the methodology being used, and to highlight possible areas for improvement. The reports were not designed "to provide full program reviews".

Mr. Hawkins stated that Co-Chair Wilken's description of the audit, as being "disappointing" would be correct were one looking for a conclusion. That is not the purpose of the benchmark; the purpose is to provide "on-going snapshots of data..." The Costs of Goods report for the first quarter "is particularly troublesome", as it is based on seven items. "Seven items out of several thousand that were done." As such, no "level of statistical validity" could be extrapolated. Approximately thirty items were included in the second quarter Cost of Goods report. That is also an insufficient number upon which to draw any conclusions. The purpose of the report is to provide information pertaining to such things as vendor trends. ASCI "was particularly concerned about the Costs of Goods piece being taken out of context". Therefore, ASCI conducted "an analysis of all the transactions to date under the web tools." For the period October 1 through December 31, 2004, the web tools/catalog transaction comparisons provide "high data integrity". This analysis, which is depicted on page five of the handout, indicated there being a three-percent reduction in the cost of goods for the second quarter and an overall two-percent reduction for both the first and second quarter periods. This analysis of 972 catalog transactions would sufficiently "provide statistical validity".

There are mechanisms through which to provide assurance that the State "is getting the best price available to it at any given time". There is evidence that the program is working.

[10:55:50 AM](#)

Mr. Hawkins concurred with Mr. Brooks comments that, "the Administration is struggling with how to evaluate the program". However, he submitted that, "on the basis of cost of operations" and the early indications that the eCommerce web tools are showing worth, "the record is very clear that we are seeing that value".

Mr. Hawkins stated that, "the program has accomplished a great deal in its first few months". Procurement procedures and rules have been established. The rules "are hard-wired into the contract" and while being substantially similar to the rules of the State's procurement code in regards to such things as requiring quotes for procurements under a certain amount; "there is a lot less red tape"; specifically in regards to the appeals process. While the current appeals process has some value "or else it wouldn't be in the procurement code", "more often, it is a source of delay and keeps the agencies from getting the goods and services they need in a timely manner".

Mr. Hawkins stated that there are several reasons supporting the action of privatizing the procurement process. The activity associated with the process could not be classified as being "glamorous stuff". While "most managers do not wake up in the morning thinking about" how to improve the process, procurement is the nature and focus of ASCI's business. The company has "an on-going desire for excellence in the process".

Mr. Hawkins communicated that the State could acquire the technology conducive to improving the process in-house; however, as a condition of the State's collective bargaining unit agreements, there is the requirement that the technology and the associated process "must be deployed effectively and has to deliver cost savings". ASCI must deploy technology, build catalogs, and operate the process "within the existing baseline cost structure and still show a cost savings after that".

[10:58:48 AM](#)

Mr. Hawkins opined that were the State to invest in eCommerce software and associated technology, it would be unlikely that a reduction in personnel would occur. Cost savings are a requirement under the contract with ASCI.

Mr. Hawkins communicated that the pilot program got off to a slow start and is operating at a very small level; however, the program's footwork has now been established. Nonetheless, the

current size limitation could be likened to operating "a backhoe in a sandbox". This legislation would allow "the full potential" of the program to surface, as the installation of a massive eCommerce system across multiple departments would provide the most benefits.

Mr. Hawkins stated that were the status quo program to continue, there would be insufficient time to implement it on a larger scale were the program ultimately deemed successful. From ASCI's standpoint as an employer, due to the limited time remaining in the Pilot Project, "little assurance" could be provided to employees that the project would even be renewed. This makes it difficult to retain employees.

Mr. Hawkins shared that the company has learned that the entire scope of the procurement operation could not be absorbed. There would still be the need for State employee counterparts, particularly in regards to large projects such as construction.

[11:01:22 AM](#)

Senator Stedman asked whether the Alaska Marine Highway System (AMHS) would continue to be excluded from the privatization procurement process under the conditions of this legislation.

Mr. Hawkins affirmed. The types of procurements required by the AMHS could not feasibly be absorbed; construction and Vessel overhaul procurements would be difficult to manage.

Senator Bunde remarked that the loss of a job is not taken lightly. To that point, he asked whether the ten State employees whose jobs were eliminated by the implementation of the Pilot Project were offered employment by ASCI.

Mr. Hawkins stated that such action had occurred. Some of the ten employees retired, others were offered other positions at parity. It should be noted however, that there was a difference in the benefit packages offered by ASCI and the State. While none of the ten displaced workers accepted a position with ASCI, it is understood that those individuals obtained other State government employment.

[11:03:57 AM](#)

Senator Dyson asked how the State could "protect itself" were ASCI services to be withdrawn.

Mr. Hawkins responded that this is a prudent consideration at any time a contractor is performing a major task. ASCI recognizes that halting its services without proper notice would destroy the company's reputation. Such action would be unacceptable, and "would be extremely unlikely". The company "would be legally bound to

provide these services", and the company would "arguably be legally obligated for the damages" the State would incur "were a breach of contract to occur.

Senator Dyson appreciated the response, however, noted that were the contract extended for a longer period of time, procurement staff positions and support would be weaned from State operations. Perhaps a draft amendment should be considered that would mandate that at the end of the contract, electronic files and associated software would be available in order for the State to transition to another vendor or to re-absorb the process. To that point, he asked Mr. Hawkins to contemplate such a proposal.

Mr. Hawkins responded that the company "would be happy" to consider such an amendment. The current contract includes provisions requiring that electronic records be provided to the State. ASCI has no "desire to hold someone over a barrel"; the purpose of the software tools is "to automate and streamline and do good things not to cohere people with". The tools currently accompany ASCI services and should ASCI "services be decoupled ... the company would be happy to negotiate a licensing agreement that would allow the tools to continue to operate". Therefore, such an amendment would be acceptable.

[11:07:57 AM](#)

PETE FORD, Southeast Regional Manager, Alaska Public Employees Association (APEA) Bargaining Unit, provided testimony on behalf of Bruce Ludwig, Business Manager, Alaska Public Employees Association, as follows.

The Pilot Program authorized by HB 313 was rushed through in the final days of the 2003 Session. There were no measurements of success included in the bill, no benchmarks for comparison, and nothing to enable anyone to determine if the Pilot Program was a success or a failure.

Frankly, there does not appear to have been a lot of thought given to the Pilot Program. There was one hearing in House Finance, and one in Senate Labor & Commerce. The bill title is misleading. When we talked with legislators after HB 313 was passed, we were told it "just enabled e-commerce." In fact, it did much more than that.

Alaska Supply Chain Integrators (ASCI), who brought HB 313 forward, was the only "responsive" bidder, and was awarded a contract for Southeast DOT&PF. The State determined that they could save \$250,000 per year by eliminating the warehouse, and using fewer employees through the internet purchasing process. ASCI actually began work on July 11, 2004, and 10 state employees were laid off.

Since the Pilot Program began, only one quarter of performance has been audited. The second audit is currently in progress, and the third audit should be getting underway soon.

The Pilot Program is supposed to operate until June 30, 2006, when it is scheduled to expire. As the Department of Administration has testified, the jury is still out. It is too early to extend, or make permanent, the Pilot Program. This Bill should be held over while sufficient record is established to be able to intelligently make a decision whether the Program has been a success or not.

While Mr. Hawkins has been quick to characterize the Pilot Program as a success, we have heard many negative reports regarding the Program and the service it is providing. For instance, we have heard that the actual cost of goods and services purchased through ASCI is as much as 16% greater than comparable costs made through the state's existing procurement processes. If true, this would mean that the state has paid more than \$2 million more than necessary for goods purchased through the Pilot Program. We have heard that there are some 1,500 invoices, valued at more than \$250,000, that remain unpaid because the Purchase Orders do not match the invoices. This affects the State's relationship with its suppliers, and denies many Alaska businesses timely payment, creating difficulties for those businesses. We have heard that, of the 7 orders for parts ordered through ASCI for the engine overhaul of the M/V Kennicott, 6 orders were shipped to Juneau and had to be re-shipped to the shipyard in Portland where the work was actually being done.

Of the original \$250,000 projected savings, about half was for eliminating the warehouse. But the warehouse has not been eliminated; there is no savings there. We have also heard that the ASCI employees working the Pilot Program are required to work extreme amounts of overtime; anticipated savings will be further reduced when those overtime bills are paid. It seems likely that the anticipated savings may not be borne out after the final audit - any savings will certainly be substantially less than the grand amounts "anticipated".

In addition, since ASCI does not have to follow the State Procurement Code, their procedures do not meet the minimum requirements of federal purchasing, and they cannot order equipment, materials or services for construction projects funded or partially funded by federal monies. All purchases involving federal monies are still worked by state procurement personnel - there is no savings there.

There is also the matter of overhead, which was not budgeted.

With a zero fiscal note, the State has had to assume the cost of overseeing the contract. The reality of the "anticipated", promised savings seems more and more remote.

In summary, it is way, way too early to extend the current Pilot Program. From the anecdotal information we have heard (and formal, official audits are not yet available), instead of saving the State \$150,000, the Pilot Program will more likely cost the State additional millions of dollars. We think that the Pilot Program should run its course and have its effectiveness fairly and fully evaluated. We ask that you hold this Bill and check the progress and performance of the Pilot Program next year. We urge you to be sure to obtain direct testimony from the Department of Transportation and Public Facilities, the "customers" of the Pilot Program, and get their impressions and opinions regarding the value of the Pilot Program's performance.

[11:13:26 AM](#)

Senator Bunde asked "what level of savings" would be required to garner ASEA's support of the program.

Mr. Ford responded that he could not "answer that in a vacuum, without being able to look at real life figures"; however, ASEA is not opposed to the State saving money and has supported "the concept" of a State eCommerce program, as it would produce monetary savings. State personnel should be involved in such an endeavor.

[11:14:52 AM](#)

LAURA LAWRENCE, Procurement Specialist, Central Region, Department of Transportation and Public Facilities testified via teleconference from Anchorage and shared with the Committee that she has been employed in the Department's procurement office for 21 years. She opposed the bill as both an employee and as a concerned citizen. As a condition of her position as a procurement specialist, she must abide by the procurement code; otherwise, she could be guilty of a Class C felony and be subject to prosecution under Alaska Statute 36.30. Her bidding practices have earned her a reputation for integrity with both in-State and out-of-State vendors, and federal employees. The State's procurement code was established "to prevent unorthodox purchasing" that had previously occurred. ASCI has already admitted that its conducting of State business with one of its own supply companies was a mistake. She questioned how many such mistakes would occur absent the State procurement practice obligations. Continuing she questioned how much business would be averted to specific companies or ASCI's "favorite vendors". Such action would be a disservice to the State's entire business community as well as to the State's taxpayers. Competitive bids for purchases under \$150,000 are not

required under the Pilot Program. Bid competition by both small and large companies for projects under that range are plentiful. Many bids are awarded to small operations, and, to that point, she asked how small companies might fare were the new program implemented. She detailed the many responsibilities that accompany each bid as well as the variety of bids that occur. She also noted that warranty work is also an important consideration, especially when accepting a low bid from an out-of-state company. ASCI, being a private company, would have no obligation to in-State vendors.

Ms. Laurence noted that the aftermath that might result were a private contractor to remove their service should also be a consideration. This is a very controversial bill. There is no indication that money would be saved or that better service would be provided. State employees would lose their jobs. Many small Alaskan companies would be disadvantaged; particularly when goods and services under \$150,000 would not be required to be put to bid.

Ms. Laurence supported the purchase of computer software components that would allow the State to conduct eCommerce activities in-house. Were State employees hands "untied" they could provide all the services and supplies, equal to or better than an out-sourced company could. State jobs would be maintained and the use of in-State vendors would continue to stimulate the State's economy and provide local jobs. This project has not been undertaken long enough to provide sufficient data and should not be advanced at this time.

Co-Chair Green asked, in respect of the Committee's limited time, that Ms. Laurence provide her written comments to Members via facsimile.

[11:22:10 AM](#)

BARRY JACKSON, Resource Data/ASCI, testified via teleconference from Anchorage and informed the Committee that he retired from the State of Alaska Department of Administration, Division of General Services after 31-years of service including service as a contracting manager, deputy director, and acting director. He was also on the Board of APEA and a founding member of ASEA. He informed the Committee that he had assisted ASCI in winning this contract and has since instructed DOT employees how to use the ASCI eCommerce application.

Mr. Jackson noted that an effort was made in the Price of Goods reporting to compare the price of goods purchased by ASCI with the price of goods that had been awarded by State employees. To that point, the benchmark report would provide information as to whether prices increased, decreased or held status quo; however, the report would not provide information as to the reason for any change. While the statistics provided might be interesting, the

representation is a dangerous one in that "someone might think it was meaningful and base a decision on it. It is a statistic with an overwhelming potential to mask the truth."

Mr. Jackson stated that the State's standard practice is to measure "its procurement successes by comparing the prices offered at the moment of bid opening against each other. The State has never judged its own purchasing performance by comparing the price it paid last year with the price it pays today. This kind of benchmarking is an approach that ... General Services would never condone having applied to themselves, precisely because of its potential to paint a completely false picture of their actual performance."

Mr. Jackson addressed the concern about "potential corruption" by stressing that "in all significant aspects of the existing contract ... the contractor is required to employ competitive practices which are fundamentally the same as those actually practiced by the State. There is not much difference between professionally administered public and private purchasing practices, except for mountains and mountains of red tape, institutionalized delay, antiquated systems and huge performance and efficiency gaps."

Mr. Jackson suggested that, "an independent contractor with preservation of investment as its most potent motivation has an unbiased primary interest in simply doing its job as efficiently and economically as possible for the State". He would also argue that, "an independent contractor is in a stronger position to resist pressures to commit bad practices. Such pressures do exist and are difficult for State employees to resist because their jobs or careers can be put in jeopardy. These pressures and consequences are not idle speculation ... they are real" as he knows "from long experience".

Mr. Jackson characterized the project audits as intense "scrutiny". The quarterly audits are quite frequent and are "questionably conceived and yield such wrong edit interpretations from opponents". They are "significant mechanisms for building resistance to the further implementation of the pilot, especially in the pilot agency". Were the same audit procedures applied to the State procurements, "numerous purchasing violations and bad practices" would come to light.

Mr. Jackson countered the union's position that more money could be saved were eCommerce tools provided to State employees by stating that had the unions submitted a proposal to compete for the Pilot Project, he doubted whether their proposal could have won were it to have "preserved every one of those jobs that were lost" in the winning competitor's proposal. "Who's kidding who here?" The unions would have had to implement an eCommerce system as least on par with the one implemented by ASCI, and they would have had to

eliminate more jobs than ASCI in order to win. "Enlightened unions have found another perspective, one which is ultimately much more valuable to union members."

Co-Chair Green, in recognition of limited time, asked that the testimony be concluded. Further comments, in written form, were welcome.

Mr. Jackson stressed that, "the fiscal train wreck is coming"; it is "just around the corner". When it arrived, "it would not magically leave purchasing positions untouched. Failing to enable e-commerce now" would "severely cripple" the State's procurement system in the future. This bill would provide the State "a rare opportunity to look toward the future" and improve the situation. The technology is available and could be implemented; it would save money. "All that is needed is the resolve to do the obvious."

Co-Chair Green announced that the bill would be HELD in Committee in order for the bill's sponsor to provide further consideration to the comments that had been offered.

#sb100

CS FOR SENATE BILL NO. 100(L&C)
"An Act relating to enhanced 911 surcharges imposed by a municipality."

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

[11:28:27 AM](#)

Co-Chair Green noted that her staff had assisted Senator Bunde's staff in the development of this bill.

Senator Bunde, the bill's sponsor, moved for the adoption of CS SB 100 (FIN), Version 24-LS0407\R as the working document.

Co-Chair Green objected for explanation.

KIM CARNOT, Staff to Senator Green, noted that a memorandum from Co-Chair Green's office, dated April 18, 2005 [copy on file] had been distributed. It detailed the changes included in the Version "R" committee substitute as follows.

Section 1. AS 29.10.200(37) is amended to include the enhanced 911 system under Home Rule applicability.

Section 2. AS 29.35.131(a) 911 surcharge is amended

Page 2

- Line 11 -- \$1.50 surcharge for wireline and wireless
- Line 13 - 15 --L&C version language allowing for vote to go about cap remains in the bill.
- Line 15 - 17 -- requires parity between wireless telephone and wireline telephone surcharge
- Line 24 - 26 -- requires notification by the municipality when the surcharge is assessed and when it is changed.

Section 3. AS 29.35.131 is amended by adding two new sections

- (i) Page 2 Line 30 - Page 3 Line 26 defines appropriate use of the enhanced 911 surcharge
- (j) Page 3 Line 27 - Page 4 Line 3 requires enhanced 911 providers to execute an agreement addressing the duties and responsibilities of each and establishing the priorities for the use of the E-911 surcharge revenue.

Section 4. Amends AS 29.35 to allow municipalities to require implementation of E-911 from a multi-line telecommunications system.

Section 5. AS 29.35 is amended to apply to home rule and general law municipalities.

Section 6. AS 29.35.131(h) is repealed (home rule applicability).

Ms. Carnot noted that Sections 1, 5, and 6 would make structural changes in order "to make the bill generally applicable to any form of government; any form of community in the State".

Ms. Carnot stated that the majority of the changes made are in Sec. 2 of the bill. While a \$1.50 limitation would be imposed, language in Sec. 2 would allow the decision to increase the surcharge above that amount to be made locally. In addition, parity in the surcharge amount must occur in regards to wireless and wired phone service. There would also be a requirement that a municipality rather than the telephone company must notify phone customers at the time a surcharge was imposed or changed.

Ms. Carnot continued that Sec. 3 would define the appropriate use of the E-911 surcharge funds so that the funds would not be "mismanaged or misused". Both federal and other states' requirements were considered in the development of this section. Sec. 3(j) would require an agreement to be entered into when another provider in lieu of the local municipality, provides the service. Such an agreement would clarify how the funds would be utilized and would allow for regional planning efforts between, for example, a borough and its municipalities. The agreement should

also include the Alaska State Troopers were their service provided in the area. The purpose of subsection (j) would be to help communities coordinate planning on how to utilize "the money wisely" and accommodate system growth.

Ms. Carnot stated that Sec. 4 would require multi-line telecommunication systems, often referred to as Private Branch Exchange (PBX) systems, to implement technology through which emergency responders would be notified of the location of the caller. However, concern was voiced regarding this requirement and in response, rather than specifying a timeline in State Statute, the language was included that would allow a municipality to develop an ordinance and regulate the timeline.

[11:32:15 AM](#)

Senator Bunde conveyed that the federal Enhanced-911 requirements "are costing our communities a lot of money". Absent the ability to raise the E-911 surcharge amount, as would be provided by the legislation, communities would be required to increase local property taxes and other sources. It is also important to take into consideration the increasing use by wireless phones of the 911-service and require them to make "a larger contribution". It is "a fairness issue". This would be likened to asking those who use something to pay for it.

Co-Chair Wilken noted that the City of Fairbanks had written a letter dated April 7, 2005 [copy not provided] regarding PBXs and the fact that this Legislation might incur significant expense to some businesses, such as hotels, that currently own PBX systems, as some older versions are not up-gradable. To that point, he asked whether his understanding of the situation was correct.

Ms. Carnot responded that language in Sec. 4, page four, lines five and six of Version "R" would provide a municipality the option of whether or not to require the implementation of such technology. The requirement would be a local decision that would allow for public comment and consideration.

Co-Chair Green noted that others had also raised this concern. Efforts to accommodate it were made.

Co-Chair Wilken noted that a technical correction might be required as the word "with" appears to be missing between "guide" and "valid" in language in Sec. 4, page four, line nine.

Co-Chair Green suggested that rather than the word "with" being inserted, a comma might suffice.

Co-Chair Green stated that the bill's drafter would review the language.

[11:36:00 AM](#)

Co-Chair Wilken noted that a copy of the Version "R" committee substitute had recently been provided to the Mayor of the City of Fairbanks, and a response is expected. Continuing, he expressed that the City "is very, very concerned about the \$1.50 cap" limitation. According to the City's calculations, a level ranging between \$2.50 to \$3.50 would be required. Therefore, he requested that consideration be given to allowing the local governing bodies to determine the level that would be needed to support their service.

Co-Chair Wilken asked whether "the issue about who controls what" in regards to cities within boroughs had been rectified.

Co-Chair Green affirmed that that issue had been addressed in Sec. 3(j) on page three, beginning on line 27. That language specifies that an "agreement must be reached between overlapping geography."

[11:37:12 AM](#)

Co-Chair Wilken asked for further clarification about how a community vote on an E-911 issue would transpire in the case of a city within a borough, in which the city operates the 911-system.

[11:37:28 AM](#)

Ms. Carnot responded that this is a two-part issue. Sec. 3(j) would establish the agreement between the primary Public Safety Answering Point (PSAP) and the secondary PSAP. She explained that the surcharge funds collected by the local telephone company are transferred to the designated primary responder. In the Mat-Su area, for example, which emergency responder would respond to the call would be determined by the type and location of the call. Either the Alaska State Troopers or the municipality could respond. Therefore, the language in Sec. 3(j) would develop the mechanism through which those communities could work to form an agreement in regards to how services would be provided in addition to how the E-911 surcharge would be utilized.

Ms. Carnot stated that the people being served in the E-911 service area would vote on the surcharge level issue. She was unsure regarding which entity would be responsible for coordinating the election.

[11:39:09 AM](#)

Co-Chair Green asked whether the City of Fairbanks was the Fairbanks North Star Borough's primary PSAP.

Co-Chair Wilken understood that the City provides the E-911 service, as the Fairbanks North Star Borough is a second-class borough and as such "does not have public safety powers". Therefore, the City "shoulders" the expense of the service, borough-wide. Financial assistance would be welcome as the City has a three million dollar deficit in that regard.

Co-Chair Wilken noted however, that while further clarification of the voting process would be sought, he would not object to the bill moving forward.

[11:40:07 AM](#)

Co-Chair Green asked whether the language in Sec. 3(j) would apply to the Fairbanks area, as she doubted that any of the area's 911-funds were directed to any budget other than that of the City's primary PSAP service budget.

Co-Chair Wilken understood that the City supported the Fairbanks' E-911 service in its entirety. He worried that voters living outside of the City but within the Borough might decide not "to support moving that responsibility from the City to Borough-wide". Uncertainty in regards to how this might pan out was the reason that he had sought further advice from the Mayor of Fairbanks.

Co-Chair Green understood that "the entire universe of who is served by the system" would pay. In other words, anyone whose emergency calls transit through that system should support it.

Ms. Carnot stated that both Co-Chair Wilken and Co-Chair Green's "understanding of the situation are correct".

[11:42:29 AM](#)

Ms. Carnot counseled that while "a sales pitch" would be required to garner borough wide support of the bill and increasing the 911 surcharge, "selling the issue of bringing emergency 911 services to people in your borough is a lot easier than what local communities often have to sell in terms of increasing fees or taxes".

Co-Chair Wilken agreed, but noted that his concern centers on the fact that, as his second-class borough does not have safety powers, it would be unable "to tax for those powers in order to transfer monies from the borough to the provider, which is the City of Fairbanks".

Ms. Carnot conveyed the understanding that this situation would fall under "what is defined as the Enhanced 911 System". She referred the Committee to Sec. 2(a), page one line seven, as this language would specify that "A municipality may, by resolution or ordinance, elect to provide an enhanced 911 system ...". This

language might address Co-Chair Wilken concern, as, by definition, the enhanced-911 system would include the entire service area of the borough beyond the borders of the municipality.

Co-Chair Wilken understood therefore that "Fairbanks may, by resolution or ordinance, elect to provide enhanced 911 to the entire borough".

Co-Chair Green clarified that in order for the service to be provided, an agreement between the borough and the city must exist. The terms of the agreement between the City of Fairbanks and the North Star Borough could include such things as who would conduct the election.

Ms. Carnot noted that current language in the Statute definition section, AS 29.35.137, specifies that an enhanced 911-service area "means the area within a municipality's jurisdiction that has been designated to receive enhanced 911 services". This language would allow whatever provisions are agreed upon by the City of Fairbanks and the North Star Borough to apply.

Co-Chair Wilken continued to voice concern regarding whether the powers of the Legislature or the powers of the City could "bleed" over to each other in regards to authority or the disbursement of funds from the citizens of the Borough to the City. It should be clarified as to whether the City could collect fees from users outside of the City, and, could the Borough funnel money back to the City. The concern continues about whether people in the Borough would support a proposal to begin paying for 911 services, since that is not currently the case. He would await input from the City in this regard.

Co-Chair Green asked for confirmation that there is currently no collection of 911 fees outside of the City of Fairbanks.

Co-Chair Wilken affirmed that to be correct.

Senator Bunde asked whether language in Sec. 3(i), page three, lines one through four, would prohibit municipalities from using the surcharge revenue to lease or purchase new facilities for its 911 call centers; the funds could only be utilized "to rejuvenate or remodel existing structures".

Co-Chair Green opined that the language would not allow the funds to be used to construct new facilities as the language specifies that, "The surcharge revenue may not be used for constructing buildings, leasing buildings, maintaining buildings, or renovating buildings, except for the modification of an existing building to the extent that is necessary to maintain the security and environmental integrity of the public safety answering point and equipment rooms".

Senator Bunde commented that this clarification should be on "the record" as some might otherwise interpret enhanced 911 service to allow such expansion.

Ms. Carnot noted that the funds could be used to modify an existing building.

Senator Bunde acknowledged that modifications would be permissible.

Co-Chair Wilken conveyed to the Committee that a recent Fairbanks Daily News Miner newspaper editorial [copy not provided] had assisted in clarifying the question, as it attests that were the bill to become law, "local governments" such as the Fairbanks North Star Borough Assembly "would be allowed, after holding a public hearing, to raise the E-911 surcharge to a maximum of \$2.00, now \$1.50 per wireline and cell phones. In the Fairbanks Borough, the extra money raised, about a million [dollars] would largely go the City of Fairbanks since it is the primary E911 provider. The City, in turn, would be able to reduce its property tax rate cause it's no longer subsidizing..." He stated that the editorial addressed his concern as it conveys "that money could be taken from the Borough and move it to the City".

Co-Chair Green removed her objection to the adoption of the Version "R" committee substitute.

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

Conceptual Amendment #1: This amendment inserts a new subsection into Section 3 of the bill as follows.

"call taker" means a person employed in a primary or secondary answering point whose duties include the initial answering of 911 or enhanced 911 calls and routing the calls to the agency or dispatch center responsible for dispatching appropriate emergency services and a person in a primary or secondary answering point whose duties include receiving a 911 or enhanced 911 call either directly or routed from another answering point and dispatching appropriate emergency services in response to the call. The term "call taker" is synonymous with the term "dispatcher" in that it is inclusive of the functions of both answering the 911 or enhanced 911 calls and dispatching emergency services in response to the call.

Co-Chair Green moved for the adoption of Amendment #1 and objected for clarification.

Ms. Carnot explained that, during discussion on the bill, it was determined that the term "call taker" should be defined in State

Statutes as its inclusion would allow for continued funding of that position with the 911 surcharge funds. The term currently appears in Sec. 3(i)(3) and Sec. 3(i) (4) of Version "R", page three, lines 18 and 21. She read the definition of call taker as depicted in the amendment.

Co-Chair Wilken noted, for the record, that, the information provided on an Alaska Municipal League (AML) handout titled "E-911 Dispatch Center Costs and Revenues Selected Alaska Cities", which depicts current call centers' operating costs, the current E-911 revenues received, and the current revenue shortfalls being experienced in Anchorage, Fairbanks, Kenai, Juneau, and Kodiak, depicts that Anchorage and Fairbanks, for instance, are each currently experiencing an approximate four million dollar shortfall; Kenai is experiencing an approximate \$1.8 million shortfall; Juneau has an approximate \$900,000 shortfall; and Kodiak has an approximate \$550,000 shortfall. When the \$1.50 surcharge rate being proposed is applied to the number of telephone lines in each community, Anchorage would experience a surplus of approximately \$2.4 million dollars. However, Fairbanks' would continue to have a deficit of approximately \$2.4 million; Kenai would have a deficit of approximately one million dollars; and Juneau would have an approximate \$100,000 deficit, and Kodiak would have an approximate \$350,000. These figures would explain the reason there had previously been a cut-off at the 100,000-population level.

Co-Chair Wilken stated that this should be a consideration, as this legislation would not assist "my town at all; and that's why they're so upset about" it. In addition to the fact that a \$1.50 surcharge would be insufficient, the community of Fairbanks would also incur the expense of an election. He empathized with the community's "distress" regarding the bill.

[11:53:46 AM](#)

Co-Chair Wilken remarked that the forthcoming October 2005 local election in Fairbanks would already include "contested, acrimonious, and expensive" mayoral and city council elections. Furthermore, since local governments are prohibited from spending money to further ballot issues, the charge of garnering support for the E-911 surcharge ballot issue would fall on local citizen volunteers. While the 911 emergency system is available to any caller, only a small percentage have used it and know the value of it; therefore, convincing people to approve such a surcharge on each phone line could be a difficult task. To that point, he voiced the preference that rather than a community vote occurring, any decision regarding the local 911 service, including the surcharge level, should be a determination made by the local assembly. While he appreciated the intent of the legislation, he voiced having "grave reservations about it".

[11:55:54 AM](#)

Co-Chair Green reiterated that Amendment #1 is a conceptual amendment. The bill drafter would review both the language in the amendment and the language identified earlier by Co-Chair Wilken.

[NOTE: While Co-Chair Green did not formally remove her objection to Conceptual Amendment #1, its removal was implied.]

Amendment #1 was ADOPTED without further objection.

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

There being no objection, CS SB 100(FIN) was REPORTED from Committee with previous fiscal note #1, dated February 15, 2005 from the Department of Public Safety and previous fiscal note #2, dated February 15, 2005 from the Department of Commerce, Community and Economic Development.

AT EASE [11:56:59 AM](#) / [11:57:58 AM](#)

#sb70

CS FOR SENATE BILL NO. 70(JUD)

"An Act relating to controlled substances regarding the crimes of manslaughter and misconduct involving a controlled substance; relating to listing certain anabolic steroids as controlled substances; amending Rule 41, Alaska Rules of Criminal Procedure; and providing for an effective date."

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

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

DEAN GUANELI, Chief Assistant Attorney General, Criminal Division, Legal Services Section-Juneau, and Chief Assistant Attorney General Office of Special Prosecutions & Appeals, Office of the Attorney General, stated that this bill, which is referred to "as the Governor's Methamphetamine bill, ... makes a number of important changes to Alaska Law to provide additional disincentives to people who manufacture methamphetamine". The bill would also provide additional protection to children in an effort to reduce their exposure to the substance.

Mr. Guaneli stated that Section 1 of the bill provides findings about the dangers of the manufacturing of methamphetamine (Meth). The findings are directly related to provisions in Sec. 5 of the

bill that would require a cash only bail of \$250,000 were a repeat Meth offender caught manufacturing the substance.

[11:59:52 AM](#)

[NOTE: Co-Chair Wilken assumed chair of the meeting]

Co-Chair Wilken clarified that Mr. Guaneli's remarks were to Version 24-GS1049\L of the bill.

Senator Bunde moved to adopt the Finance committee substitute, Version 24-GS1049\L as the working document.

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

Mr. Guaneli argued that the repeat Meth offender cash only bail level was warranted as such a person would be aware of the drug's danger.

Mr. Guaneli noted that Sec. 2 includes language that would subject a person who manufactures or sells a drug in violation of the State drug laws to someone who dies as a direct result of ingesting that drug, to the State's manslaughter Statute. This would include such things as drug overdoses from the use of such as heroin, Meth, and cocaine and a "date rape" drug.

[12:01:52 PM](#)

Mr. Guaneli stated that language included in Sec. 3, page three, beginning on line four is an attempt to address evolving techniques of Meth manufacturing. State Crime Lab chemists have determined that new techniques include such things as mixing the components in an organic solution.

Mr. Guaneli stated that Sec. 4, beginning on page three, line seven, was added by the Senate Health, Education and Social Services Committee at the request of Senator Hollis French, to address muscle enhancing "anabolic steroids", which like marijuana, "are prohibited under federal law", but are not prohibited under State law. It would be "appropriate" to prohibit such drugs under State law, as "it is difficult to get the federal authorities to prosecute cases involving small amounts of these drugs".

[NOTE: Co-Chair Green reassumed chair of the Committee.]

Mr. Guaneli pointed out that a technical correction regarding language in Sec. 4(f), page three, line 20 of the bill, could be considered as the language is unnecessary since State Statute specifies that the word "includes" means "but is not limited to".

Co-Chair Green understood therefore that the term is redundant.

Mr. Guaneli suggested that consideration be provided to striking the phrase ", but is not limited to," as its inclusion "could create some difficulties for the Courts in interpretation..."

Conceptual Amendment #1: This amendment deletes the phrase ", but is not limited to," after the word "includes" in Sec. 4(f), page three, line 20 of the bill.

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

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

Mr. Guaneli stated that Sec. 6 and Sec. 7 are "enhanced penalty provisions" in regards to individuals who manufacture Meth in the presence of or assistance by children. Provisions in Sec. 8 provide definitions to further the enhanced penalty provisions.

Co-Chair Green noted that, in addition to endangering children by exposing them to the manufacturing of Meth in a building, Sec. 8 would allow that endangerment to include vehicles.

[12:06:44 PM](#)

Mr. Guaneli concurred. He noted that because newer Meth production techniques require minimal amounts of lab equipment, they are quite portable. Meth labs have been found in motorhomes and in the back of cars.

Mr. Guaneli stated that Sec. 9 and Sec. 10 were developed in response to concerns raised during the Committee's April 13, 2005 hearing on the bill. These sections would require the Department of Public Safety to maintain on its Internet website a complete listing of properties in which illegal Meth labs had operated, regardless of whether the site had been re-mediated or not. Real estate agents and others desiring to purchase property could consult this information for "full and complete information" about a property.

Co-Chair Green asked for confirmation that the information would be public information.

Mr. Guaneli understood that the information "would be available to anyone".

Co-Chair Green recalled that this issue was the primary concern of realtors who had testified.

Mr. Guaneli informed that Sec. 11 relates to rules that must be amended in response to proposed bail provisions. The bill also

contains applicability and effective date provisions.

[12:08:52 PM](#)

Mr. Guaneli concluded that the work conducted during the Senate committee process has resulted in an improved bill.

AT EASE [12:09:21 PM](#) / [12:10:02 PM](#)

Senator Stedman questioned the reason for the bill being accompanied by zero fiscal notes, as he assumed that the bill could result in more incarcerations.

Mr. Guaneli responded that whenever criminal statutes are enacted, there is "the hope that there would be some deterrent affect". However, it is difficult to determine the extent of the deterrent in regards to Meth offenders, particularly those who are addicted. Nonetheless, there is optimism that Meth production in the presence of children would be deterred. Therefore, the number of people who would be prosecuted for child endangerment should not be significant. The additional penalties being proposed could result in one or two additional years of imprisonment. The Department of Corrections has anticipated that such cases would be limited.

Co-Chair Green ordered the bill HELD in Committee.

#sb112

CS FOR SENATE BILL NO. 112(CRA)

"An Act imposing a tax on residents of regional educational attendance areas and relating to permanent fund dividend applications; and providing for an effective date."

[12:12:48 PM](#)

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

Senator Bunde moved to adopt Version 24-LS0505\X as the working document.

Co-Chair Green objected for explanation.

Senator Bund, the bill's sponsor, explained that the changes in the Version "X" committee substitute would include the addition of Legislation Intent language in Section 1, page one, beginning on line seven, that would allow the Legislature to utilize the revenue resulting from the tax imposed by the bill to fund regional educational attendance areas (REAA). Language in Sec. 2(c), page one, lines 13 and 14, would levy a \$50 fee per request for

information; language in Sec. 4(a)(1) and Sec. 4(a)(2), page two, lines 12 through 18, would specify that the REAA tax would be levied on individuals over the age of twelve but under the age of 65 who reside in a REAA as of January 1 of the tax year or an employee of an REAA during a tax year. A person who resides in an REAA and also works for the REAA would only be required to pay the tax once.

Senator Bunde stated that language in Sec. 4(c)(1) through Sec. 4(c)(3), page two, lines 25 through 31, would define who would be exempt from the fee.

Senator Bunde continued that language in Sec.4(a), page three, line two, specifies that the tax must be paid prior to April 1 of the calendar year in which it is imposed. Language in Sec. 4(c)(1), page three, line 23 specifies exemptions for those who might have already paid the tax. In addition, the bill defines the terms "family", "regional Attendance area", and "tax".

Conceptual Amendment #1: This amendment deletes the phrase "at any time" from language in Sec. 4(a)(2)(B), page two, lines 17 and 18.

In addition, the following language is inserted following "tax year" in Sec. 4(a)(2)(B) on page two, line 18.

for 10 consecutive days or a normal pay period, whichever is less, or for more that 20 cumulative working days.

Senator Bunde moved to adopt Amendment #1.

Senator Bunde explained that this amendment defines what the term employed means in relationship to this bill.

Senator Hoffman objected for further explanation. He apologized for his and Senator Olson's absence during the initial explanation on this bill, as they had been called to a meeting with Governor Frank Murkowski. This is an important bill to both himself and Senator Olson.

Senator Bunde explained that this language was being offered upon the recommendation of Legislative Legal and Research Services, as it would further clarify who would be considered as being employed by an REAA. Specifically, it would apply to someone who held a temporary job with an REAA but who might reside out of State.

Co-Chair Green removed her objection to the adoption of Version "X".

Senator Hoffman asked that further discussion of the bill occur, as this "major policy decision" would have "major impact" on both his and Senator Olson's regions.

Senator Bunde restated his earlier explanation of the bill as well as the Conceptual Amendment being offered.

[12:20:35 PM](#)

Senator Hoffman asked whether any consideration had been given to military personnel who, because they live on military bases, "are exempt from taxation". "They are not paying for their education either."

Senator Bunde stated that military personnel who live near a community that imposes a sales tax would pay such taxes. "Their payment in lieu of taxes, of course, passes through to the local school district there." Nonetheless he did not consider that a local contribution. The State is prohibited from taxing federal property. "No is the short answer."

Senator Hoffman noted that he has used that "exact reason" in regards to Western Alaska "in which "well over 95-percent of land is federal and the State of Alaska receives payment in lieu of those taxes for all of those federal lands that are non-taxed". He appreciated the fact that Senator Bunde recognized that fact and has used that "same argument" in regards to this bill. "Under this legislation, those people would be paying this tax plus the tax that is being charged on those properties in lieu of taxes."

[12:22:22 PM](#)

Senator Bunde countered "that it swings both ways" as military personnel who live near a military base in an urban Alaska area, pay to support their local schools as well as the payment in lieu of taxes money that passes through to the school district. He "rejected any claim" that the latter should be recognized as a local contribution for "it is simply federal money that passes through".

Senator Hoffman argued therefore that were the land private property rather than federal property, the land would be subject to taxation; however, "by virtue that it isn't, that prohibits those areas from even the possibility of being considered..."

Co-Chair Green recognized this as "a function of military service". Many military personnel who live in local communities do support local programs.

Senator Hoffman clarified that his argument is specific to federal lands such as the Yukon Kuskokwim Delta National Wildlife Refuge, which "are federal parks that are not available for taxation".

[12:23:55 PM](#)

Senator Bunde stated that "the argument is ... a little disingenuous" as a borough must be formed in order to impose taxes. There has no interest shown in that regard. Thus, even if those lands were private, it is uncertain whether a tax base would be provided for the area's schools.

Co-Chair Green stated that the amendment would be readdressed during the April 20th Committee meeting.

[NOTE: No action on the motion to adopt a committee substitute or the amendment transpired during this hearing. Refer to the April 20, 2005 hearing in this regard.]

The bill was HELD in Committee.
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ADJOURNMENT

Co-Chair Green adjourned the meeting at [12:24:27 PM](#)