MINUTES
SENATE FINANCE COMMITTEE
May 8, 2005
1:03 p.m.

CALL TO ORDER

Co-Chair Green convened the meeting at approximately 1:03:22 PM.

PRESENT

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

Also Attending: SENATOR CHARLIE HUGGINS; ADAM BERG, Staff to Representative Carl Moses; LAURA GLAISER, Director, Division of Elections, Office of the Lieutenant Governor; JOE SONNEMAN; MYRL THOMPSON; REVINA MOSS, Staff to Representative John Coghill; BEN MULLIGAN, Staff to Representative Bill Stoltze; JOHN MACKINNON, Deputy Commissioner, Highways and Aviation, Department of Transportation and Public Facilities; PETE KELLY, State Relations Director, University of Alaska; JANET BURLESON-BAXTER, Special Assistant to the Commissioner, Department of Natural Resources

Attending via Teleconference: From Offnet Sites: BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources; JOE BEEDLE, Vice President, Finance, University of Alaska; MARY MONTGOMERY, University of Alaska

SUMMARY INFORMATION

HB 26-SHORT-TERM COM FISHING CREWMEMBER LICENSE

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

HB 94-ELECTIONS/VOTERS/POLTICAL PARTIES

The Committee heard from the Division of Elections and took public testimony. One amendment was considered but failed to be adopted, and the bill reported from Committee.

HB 53-CHILDREN IN NEED OF AID/ADOPTION/GUARDIAN

The Committee heard from the sponsor, adopted five amendments and reported the bill from Committee.

HB 279-OUTDOOR ADVERTISING; ENCROACHMENTS

The Committee heard from the bill's sponsor and the Department of Transportation and Public Facilities. One amendment was adopted and the bill reported from Committee.

HB 130-UNIVERSITY LAND GRANT/STATE FOREST

The Committee adopted a committee substitute and heard from the University of Alaska and the Department of Natural Resources. Three amendments failed to be adopted and the bill reported from Committee.

HB 98-NONUNION PUBLIC EMPLOYEE SALARY & BENEFIT

The Committee adopted a committee substitute and one amendment. The bill reported from Committee.

[NOTE: This record of this meeting between 1:03 PM and 1:45 PM was inadvertently recorded under the May 8, 2005 recording titled J141. The remainder of the meeting is correctly recorded under the May 8, 2005 SFIN heading.]

#hb26

CS FOR HOUSE BILL NO. 26(FIN)
"An Act relating to short-term commercial fishing crewmember licenses; and providing for an effective date."

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

ADAM BERG, Staff to Representative Carl Moses, the bill's sponsor, explained that, were this bill enacted, a person, regardless of residency status, could purchase "a seven-day commercial fishing crew member license" for $30. The only option currently available is an annual license for a fee of $60 for a resident and $180 dollars for a non-resident.

1:04:13 PM

Mr. Berg noted this legislation would also allow commercial fishermen to generate money from the tourist industry. While commercial fishermen are currently able to take tourists on their vessels, the tourists are prohibited from participating in the "hands on" commercial fishing experience. They cannot touch a fish or any of the gear without a crewmember license.

Mr. Berg stated that this legislation would also provide commercial fishermen the ability to hire short-term temporary help at a more affordable price in times when permanent crew members were sick or when manpower availability lessened near the end of a fishing season.

Co-Chair Green asked for information about the vessel liability in these cases.

1:05:06 PM

Mr. Berg responded that while commercial vessels are not required to carry liability insurance, it would be "strongly recommended", as, otherwise, the vessel and the operation could be placed in jeopardy.

Co-Chair Green asked for examples of what might be at risk in the case of such litigation.

Mr. Berg expressed that everything a fisherman owned would be at risk of being lost were one to elect not to have liability coverage. However, most commercial fishermen carry liability and the expectation would be that those who not astute in that regard would not participate in this endeavor.

Co-Chair Green asked whether a commercial fishermen who hires tourists or other short term seasonal workers might experience a monetary increase in their liability coverage rates, and whether the reporting requirements for this type of operation might differ from the norm.

Mr. Berg stated that any commercial fisherman who charged money for taking people out on his or her boat would be considered a "vessel for hire" under federal law by the United States Coast Guard. The vessel for hire status would require the operator to have such things as a Six-Pack License, first aid and CPR training, and random drug testing for the crew.

Co-Chair Green ascertained therefore that "the standard would be higher".

Mr. Berg affirmed.

Co-Chair Green understood that a commercial fisherman would be aware of those requirements.

Senator Olson asked whether a provision of this nature had previously existed in the commercial fishing industry.

Mr. Berg clarified that tourists could currently purchase a crew license; however, it is a more expensive longer-term license. The short-term, less expensive license could expand the market.

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

There being no objection, CS HB 26(FIN) was REPORTED from Committee with $1,700 fiscal note #1 dated February 11, 2005 from the Department of Fish and Game and indeterminate fiscal note #2 dated February 15, 2005 from the Department of Labor and Workforce Development.

1:08:03 PM

AT EASE 1:09:06 PM / 1:13:56 PM

#hb94

> SENATE CS FOR CS FOR HOUSE BILL NO. 94(STA)
> "An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration, voter residence, precinct boundary and polling place designation and modification, political parties, voters unaffiliated with a political party, early voting, absentee voting, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, qualifications for elected office, initiative, referendum, recall, and definitions in the Alaska Election Code; and relating to incorporation elections."

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

LAURA GLAISER, Director, Division of Elections, Office of the Lieutenant Governor, characterized this legislation as being "a major piece of election reform". It is an updated version of a bill that was introduced but not adopted the previous Legislative Session.

Ms. Glaiser stated that this bill would clean up and enhance current election provisions, including minor changes such as changing the term "work site" to "construction site"; proposing that the voter record rather than the voter card be the presumptive evidence of a voter's residence; including the definition of non-partisan and undeclared voters; "protecting voter information of domestic violence victims in accordance with confidentially laws approved last year; defining the process for independent candidates for Vice President and President; sharing consistency in the definition of an overseas voter; making clear age requirements for serving once selected; and clarifies recognized political party status and how the Division notifies a party". Changes to Title 29 would include "clearly" defining a qualified voter as one registered to vote within a proposed borough or municipality at least 30 days prior to an election as a hardship is currently incurred by the requirement that a person must live in an area. The bill would "define re-registration and repeal duplicate language" regarding regional supervisors and absentee voting stations.

Ms. Glaiser spoke to the "major changes" proposed in the bill regarding such things as allowing a voter through power of attorney to register to vote, and make changes to their registration. Other changes would include reducing the witnessing requirements for absentee by mail or electronic transmission from two witnesses to one. The Division desired that witness be a United States (U.S.) citizen, however that requirement was eliminated in the House State Affairs Committee.

Co-Chair Green asked for further information regarding the witness requirements.

Ms. Glaiser responded that current law requires two U.S. witnesses for a faxed voted ballot and two witnesses for a by-mail ballot. The Division recommended changing both those voting scenarios to one witness who must be a U.S. citizen; House action eliminated the U.S. citizenship requirement, but incorporated language that would subject a person making false statements on the absentee ballot to the act of perjury.

Co-Chair Green understood that, were they to submit an "ineligible witness", the person submitting the absentee ballot would be subject to that punishment.

1:16:57 PM

Ms. Glaiser affirmed.

Ms. Glaiser continued that the bill would incorporate scanning as another mode of transmitting voter registration or by mail absentee ballot requests to the Division. Current acceptable transmittal means include delivery in person, by mail, or by fax.

Ms. Glaiser informed the Committee that, while current law requires the Director of the Division of Elections to determine a random order for all candidates, the House added language requiring the Division to implement a ballot rotation for the names of those candidates running for governor, lieutenant governor, U.S. senator, U.S. representative, and State senator for each district. "The names of the candidates for State House races will appear in random order as determined by the Director as is the current practice."

Ms. Glaiser pointed out that the Division advanced language that "would improve ballot security by adding that the ballots would not be mailed to a voter whose address has been identified as being undeliverable". In addition, election boards must notify the Division of the number of ballots that have been destroyed to increase accountability. Voting machine and vote tally machine standards provisions were also included in the bill.

Ms. Glaiser stated that a large portion of the bill would be dedicated to improving the process pertaining to petitions, referendums and recalls. The changes would make the process "more user friendly" for citizens and would make the process of "petitioning the government more consistent". One change would be the inclusion of a "printed name and numerical identifier for a petition signer". The numerical identifier language added by the House Judiciary Committee would include such things as date of birth, last four digits of one's social security number, Alaska driver's license number, or State or voter identification number. This information "would improve the Division's ability to qualify a voter's signature".

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Ms. Glaiser stated that the proposed changes in the qualifications pertaining to a circulator or petitioner would align the State with the Buckley ruling in that, while the circulator must be 18 years of age, an Alaskan resident, and a U.S. citizen, they would not be required to be a registered voter.

Ms. Glaiser noted that "language that was the basis for the Division requiring accountability reports from the petition sponsors has been removed", as a Court ruling considered that requirement to be "an undue burden and a barrier for petition carriers".

Ms. Glaiser also pointed out that language requiring the circulator's name to be prominently displayed on the petition was eliminated. While the Division had chosen not to enforce that provision following the year 2000 Buckley ruling, the Statutes had not been changed.

Ms. Glaiser continued that language regarding the number of signatures required on a recall petition was clarified by the removal of language pertaining to 100 signatures. Going forward, ten percent of the voters in the preceding general election would be required to sign a recall petition.

Ms. Glaiser stated that one of the changes advanced by the House Judiciary Committee was to reduce the percent of votes required by party candidates for the party to continue as a recognized political party. "The amounts for recounts were raised" as depicted in the sectional analyses contained in Members' packets. The amounts had not been reset since 1986.

1:19:52 PM

Ms. Glaiser specified that the legislation would also require petitions, referendums or recalls to specify in the petition booklet "the minimum cost to the State for the review and certification of those petitions". In addition, the cost to the State, were the act approved by the voters must be provided.

Ms. Glaiser stated that language was added on the House Floor that "no one supplying an absentee ballot application may pre-mark the primary ballot choice for a voter before mailing it out". Language was also added that specified that "only a voter or a person with a power of attorney could mark party affiliation on a voter registration or absentee ballot application unless the mark is consistent with the voter's current registration record".

Ms. Glaiser noted that the Senate State Affairs Committee changed the word "oath" in Section 6(a) (11) back to "attestation" as is reflected in current law. That word would be consistent with the national voter registration act. The use of the word "oath" was incorrect.

Ms. Glaiser informed the Committee that, while the Senate State Affairs Committee added Sections 11, 12, and 13, she could not speak to those sections was they pertained to law that she did not administer.

Ms. Glaiser stated that Section 19 changed the date by which the

Director must identify locations for early voting sites. The proposed date of June first would replace the existing January first date. This was a Division request as moving the date closer to the election date would provide more time to determine the most appropriate sites for that activity. The June first date would continue to provide the Division the time required for ordering ballots, supplies, and the hiring of election workers.

1:21:14 PM

Ms. Glaiser noted that the Senate State Affairs Committee removed language adopted on the House Floor that would have provided a ballot with the greatest range of candidates from the most parties to an unaffiliated voter who failed to mark a primary ballot choice. This language was removed, as no such ballot exists in Alaska because it has "closed primaries in which there are individual ballots for individual parties". Therefore the House language was inconsistent with existing State law. The Senate Judiciary Committee also removed language that would change existing qualifiers for recognized political parties.

Co-Chair Green described this as being "a huge bill". Continuing, she asked whether any language in the bill would provide the Division the ability to "clean up" the State's voter registration lists.

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Ms. Glaiser responded that the bill would not address purging of the voter registration list. The federal Department of Justice (DoJ) and the National Voter Registration Act "heavily monitor the portion of the law regarding that endeavor". The Division has conducted internal discussions in this regard; however, it would require tremendous effort and coordination with DoJ. As a consequence of existing State law, the Division has been notified by DoJ that the State is one of a few with more registered voters than people over the age of 18. The Division has responded to DoJ, and as result, an effort in this regard might be forthcoming.

1:23:34 PM

Co-Chair Green asked whether State or federal law would allow for the requirement that a person "at the time of voting" update their address information. This would seem to be the most feasible manner through which to update records. The fact that a high percent of the Division's mailings are returned is a point of frustration. Many addresses are old and past the time allotted by the U.S. Post Office for forwarding. Efforts such as developing an unobtrusive

method to update records at the voting poll should be furthered.

Ms. Glaiser responded that requesting people to update their address at the time of voting would not be obtrusive. The process of Questioned Ballots currently allows that. While State or federal law would not prohibit asking for address verification, it would slow down the polling process.

Co-Chair Green asked whether permission to ask for address verification would be required in State Statute.

Ms. Glaiser stated that this would be researched.

Co-Chair Green expressed that a determination would be appreciated, as this is an important issue.

1:26:27 PM

Co-Chair Wilken asked whether the inclusion of a FY 2007 capital budget request for a dedicated staff position to work with the federal DoJ in regards to the State's Voter Registration list might be appropriate. To that point, he asked whether such an effort could be accomplished in one year.

1:26:57 PM

Ms. Glaiser responded that this effort would involve more than "just a body", as the person must be able to speak on behalf of the Division. In addition, she was unsure whether a temporary or contract employee could conduct negotiations on behalf of the State. This suggestion could be further reviewed and could be funded through the Help America Vote Act.

Co-Chair Wilken stated that this issue is worthy of discussion, as the voter registration process should be improved.

Co-Chair Green remarked that the voter registration list issue must be frustrating for the Division. She estimated that half of Division's mailings are returned.

Ms. Glaiser nodded in affirmation.

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Senator Dyson asked for further information about how the Division could change the voter registration list so that potential victims could be protected from perpetrators.

1:28:48 PM

Ms. Glaiser explained that SB 284, which became law the previous Session, would allow any voter who had a separate mailing and residence address to keep their residence address protected. In addition, law now specified that the Division could not release information such as a social security number or date of birth.

Senator Olson inquired as to how people in Rural areas of the State that do not have such things as post office box mail delivery would be able to receive absentee ballots or other mailings. He voiced concern that voter apathy might occur were those individuals to think their ballots would be questioned.

Ms. Glaiser understood the question to be how to ensure by-mail voters or absentee voters that their votes would be counted. In other words, the question is whether this bill might provide those people further consideration. She voiced the understanding that there is nothing currently in the bill that would address this concern. The action of a voter "to keep their registration current is the most important thing".

Ms. Glaiser expressed that Alaska is "a great State" because people call the regional Election office if they do not receive a ballot or something expected does not arrive. The only section that speaks primarily to Rural communities is the section regarding undeliverable addresses in REAA/CRSA election districts. The Division would no longer send a ballot to an address that is known to be undeliverable. "That is an election integrity question."

1:31:40 PM

Co-Chair Green ascertained therefore, that, at some point, it is incumbent upon the voter to be aware.

Ms. Glaiser stated that the undeliverable address ballot issue is addressed in Sec. 25 of the bill. She qualified that the decision to not send a ballot to an undeliverable address would only apply to the REAA/CRSA elections, which are exclusively conducted by mail. It would not apply to absentee voting by mail ballots as that process is one in which the voter first sends the Division an application containing a mailing address to which the ballot is then sent. That procedure would maintain the process integrity.

1:32:21 PM

JOE SONNEMAN informed the Committee that he holds a PhD in Government and has a Law Degree. This education has attributed to

his interest in election procedures. He mentioned that at one time he had filed a lawsuit to assist in restoring the State's long-standing practice of rotating candidate names. He voiced appreciation for the fact that the House State Affairs Committee incorporated rotation provisions into the bill at zero cost. To that point, he asked that the Committee support that language and the other provisions supported by the House in the bill.

Mr. Sonneman continued that he had also served as chair of the Alaskans for Fair Elections group that was involved in the 2004 State recount effort. Thus he has reviewed the provisions in this bill that address the recount issue. Again, he voiced support for the work conducted by the House committees in that regard. He "commended the House version of the bill to the Committee for consideration. The differences between the bill that reported from the House and the Senate committee substitute is that the Senate version basically re-instills "soft money. It would allow unlimited spending for political party building with no record of contribution or expenditure". While people who support strong political parties might favor that endeavor, he opined that the "wider Alaskan view" might differ. He noted that an amendment to delete that language could be forthcoming, that and he "would commend that amendment".

Mr. Sonneman addressed language in Sec. 57, which was included in the House version of the bill, but not included in the Senate committee substitute. Sec. 57 would redefine political parties and lower the qualifier requirement from three percent to two percent. Currently, the Alaska Independence Party, which more than likely draws votes from the Republican Party, would qualify as a political party under either the two or three percent requirement. The change to two percent would allow the Green Party to continue to qualify as a political party. That would affect the votes for the Democratic Party "almost to the same degree that" the Alaska Independence Party would affect the Republican Party. Therefore, one could say that the House version of the bill "is more balanced on its affect on the major parties and preserves smaller parties in Alaska".

Mr. Sonneman shared that he has closely followed this bill through its House processings. The House committees did good work, and he commended the House Version to the Committee. Were the Senate bill to be favored, he urged that Sec. 57 be re-incorporated into it.

MYRL THOMPSON, who defined himself as a Susitna Valley resident, past Legislative candidate, and initiative and recall effort participant, voiced that he has followed the movement of this legislation through its House and Senate hearing process. The

Senate State Affairs committee substitute, which added Sections 11, 12, and 13, "poisoned" a very good House bill.

1:37:19 PM

Mr. Thompson applauded the efforts conducted by the Division of Elections and the House. However, the Senate's inclusion of Sections 11, 12, and 13 would push "backwards" campaign reform efforts intended to reduce "soft money" from out-of-State "5270" special interest groups influencing Alaskan politics. Therefore, he asked that Sections 11, 12, and 13 be omitted from the bill. "Soft money" would also place small political groups at "a distinct disadvantage". He defined "soft money" as money that "there is no trail on".

Mr. Thompson noted that 51-percent of voters in the State have no party affiliation. The Senate State Affair's action of eliminating the changes the House proposed in Sec. 57 would result in there being fewer qualified small political parties in the State. This would serve to increase the number of non-party affiliated voters.

Mr. Thompson stated that the people of the State have strongly supported campaign reform efforts opposing soft money. The removal of language in Sec. 57 that would decrease the percent of voters required in support of a political party from three percent to two percent of registered voters and the addition of Sections 11, 12, and 13, that would allow for increased "soft money", are contentious issues to him. He shared that during discussions with some employees of the Alaska Public Offices Commission (APOC) it was apparent that they "strongly disagreed" with the inclusion of Sections 11, 12, and 13 in the bill. He voiced disappointment that representatives from APOC have not testified in this regard. Nonetheless, their opposition "is on record".

Co-Chair Green assured that APOC was aware of today's hearing. APOC "is set up to administer the law; they do not set policy".

Mr. Thompson interjected that it was his understanding that APOC had been unaware of the Senate State Affairs Committee hearing on the bill. After that hearing, the bill was supposed to have been transmitted to the Senate Judiciary Committee.

1:41:04 PM

Co-Chair Green specified that APOC does not, "set policy nor do they write law. They implement the law and the policy".

Mr. Thompson acknowledged.

Co-Chair Green asked whether State action could impact the action of a "5-27".

Mr. Thompson determined that State action would not affect this federal law.

Co-Chair Green stated that her question was directed to clarify remarks made by Mr. Thompson in this regard; State action "would not change the status" of that law which would allow for "the complete formation of a group that has a set purpose to receive unlimited" support. The reality is that "we have no impact over that". Furthermore, she questioned the statistical validity of how many people are aligned with a party, as, according to her calculations, approximately 35 to 40 percent of the people on voter mailing lists "don't exist". Were those lists cleaned up, the numbers might reflect there being a greater number of organized party voters. The numbers could "be skewed" were the whole numbers factored in.

Mr. Thompson commented that by passing Sections 11, 12, and 13, the State would be "setting up a quasi 5-27. In other words, we're getting money influencing our system that we don't have any idea where its coming from…big money doesn't come from small people, it comes from groups that are certainly interested in influencing our politics and with no record of them, that's the reason that APOC has some problem because that's something that they do".

1:43:46 PM

Co-Chair Green reiterated that, "they can have their problem personally, but as a matter of policy, they implement Statute. They implement regulation. They do not establish law or policy. They are welcome to testify personally, but not on Statute being proposed."

Mr. Thompson stressed that Sections 11, 12, and 13 would allow "soft money".

Co-Chair Green expressed that Alaska is unique in regards "to the ability of the level" of the party's participation with candidates. Alaska's qualifications "are very low" when compared to other states. "Our candidacy and active campaigns does more to party building than the party does" for the candidate "as far as financing our campaigns". The low limit that the party could contribute does not allow otherwise.

The bill was HELD in Committee.

RECESS TO CALL OF CHAIR: 1:45:02 PM / 6:56:25 PM

SENATE CS FOR CS FOR HOUSE BILL NO. 94(STA)
"An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration, voter residence, precinct boundary and polling place designation and modification, political parties, voters unaffiliated with a political party, early voting, absentee voting, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, qualifications for elected office, initiative, referendum, recall, and definitions in the Alaska Election Code; and relating to incorporation elections."

The bill was again before the Committee.

Co-Chair Green asked whether there were any further questions for the Division of Elections in regards to this bill. None were forthcoming.

Amendment #1: This amendment deletes the entirety of Sections 11, 12, and 13 from the bill, beginning on page nine, line 20 and concluding on page 11, line 14.

In addition, the amendment replaces Applicability references "34-57" with "31 - 54" in Sec. 65, on page 35, line two.

Senator Hoffman offered Amendment #1, on behalf of Senator Olson.

Co-Chair Green objected.

Senator Hoffman explained that the removal of these sections would address the concerns relating to "soft money".

Co-Chair Green restated her earlier comments in regards to the fact that the State could not influence the federal law pertaining to "5-27s". These sections would simply allow "some money to go to the party for party building". Since this State has much tighter restrictions than other states in regard to the amount of money an individual or an organized party could contribute to a candidate, the levels of concern in this regard would be lower than that experienced in other states. "The roof is low in our State."

Senator Dyson voiced appreciation for the issues brought forward in this discussion. He noted that a friend of his from Florida had commented that Alaska's "election process is so unique and so

precious, we ought to be very very careful about messing with it." Even though extreme efforts have been exerted in this regard, the opportunity is there for it to be "messed with". While it is "an imperfect system", the language in question "is at least a small attempt to allow some other folks to have access to resources". He voiced being "comfortable with the situation at this time".

Senator Hoffman thought, incorrectly, that Senator Dyson's initial remarks about "not messing with the system" were an indication that he was going to support the amendment, as removing the Sections would "not mess with the system".

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman

OPPOSED: Senator Dyson, Co-Chair Wilken, and Co-Chair Green

ABSENT: Senator Stedman, Senator Bunde, and Senator Olson

The motion FAILED (1-3-3)

Amendment #1 FAILED.

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

There being no objection, SCS HB 94 (STA) was REPORTED from Committee with zero FY 07 fiscal note #3, dated April 21, 2005, from the Division of Elections, Office of he Lieutenant Governor.

7:01:13 PM

#hb53

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 53(JUD)
"An Act relating to child-in-need-of-aid proceedings; amending the construction of statutes pertaining to children in need of aid; relating to guardianships; relating to the confidentiality of investigations, court hearings, court records, and public agency records and information in child-in-need-of-aid matters and certain child protection matters, to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters, to proceedings regarding voluntary relinquishment and termination of a parent and child relationship, to eligibility for permanent fund dividends for certain children in the custody of the state, and to juvenile delinquency proceedings and

placements; reestablishing and relating to a state citizens' review panel; amending the obligation of a public agency to disclose agency information pertaining to a child in need of aid; relating to disclosure of confidential or privileged information about children and families involved with children's services within the Department of Health and Social Services to officials for review or use in official capacities; relating to reports of harm and to adoptions and foster care; relating to consent for the medication of children in state custody; prescribing the rights of family members related to child-in- need-of-aid cases and establishing a familial priority for adoption; modifying adoption and placement procedures in certain child-in-need-of-aid cases; relating to the admissibility into evidence of the prior recorded statement of a crime victim less than 16 years of age; amending Rules 9 and 13, Alaska Adoption Rules, Rules 3, 17.2, 18, and 22, Alaska Child in Need of Aid Rules of Procedure, Rules 14 and 15, Alaska Rules of Probate Procedure, and Rule 801, Alaska Rules of Evidence; and providing for an effective date."

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

Co-Chair Green reminded the Committee that as several issues were raised during the first hearing on this bill, some amendments have been developed through which to either address concerns or to clarify certain points of the legislation.

Amendment #1: This amendment deletes Sec. 14(t) on page ten lines 20 through 23. The language being deleted reads as follows.

(t) The court may not terminate parental rights solely on the basis that the parent did not complete treatment required of the parent by the department for reunification with the child if the treatment required was unavailable to the parent and the department did not provide the treatment.

Co-Chair Wilken moved Amendment #1.

Co-Chair Green explained that this amendment would delete language prohibiting the termination of parental rights due to their non-completion of a specified treatment plan.

REVINA MOSS, Staff to Representative John Coghill, stated that, while the Department of Health and Social Services would have strived to insure that parents completed their treatment plan,

there was concern that the inclusion of this language would have provided parents "a piece of ammunition" through which to delay the process of getting treatment.

There being no objection, Amendment #1 was ADOPTED.

Amendment #2: This amendment deletes the phrase ", the legislature, or the governor" following "the department" from Sec. 23(b)(12) on page seventeen, lines six and seven. The revised language reads as follows.

> (12) a review panel established by the department for the purpose of reviewing the actions taken by the department in a specific case.

Co-Chair Wilken moved for the adoption of Amendment #2.

Co-Chair Green stated that this amendment would delete the words "'department and legislature' in order to comply with federal requirements that confidential information can only be reviewed by the Department and the State Review Panel".

[NOTE: Co-Chair Green inadvertently stated "department and legislature" rather than the correct reference to "the legislature and the governor.]

Ms. Moss noted that the federal Child Abuse Prevention and Treatment Act would require that the confidentially of records be restricted to the department. Therefore, the inclusion of the Legislature or the Governor in this regard would have "placed federal dollars at risk".

Senator Hoffman asked for confirmation that the words "the legislature or the governor" would be deleted by the amendment.

Co-Chair Green affirmed. The amendment language was correct; she had misspoken. She also noted that in order to further clarify the issue, the amendment is accompanied by a memorandum, dated April 11, 2005 from Jean Mischel, Legislative Counsel, Division of Legal and Research Services, and addressed to Representative Coghill.

There being no objection, Amendment #2 was ADOPTED.

7:04:22 PM

Amendment #3: This amendment deletes the words "foster parent" and inserts the words "out-of-home care provider" following the words "Grandparent or" in Sec. 51(c) on page 26, line ten.

In addition, the amendment deletes the words "foster parent or other" following "and the" in Sec.51(c) on page 26, line 11.

Co-Chair Wilken moved Amendment #3.

Co-Chair Green stated that replacing the words "foster parent" with "out-of-home care provider" would make the language consistent with the Statutory change specified in Sec. 10 page six, line 18 through page seven line 24 regarding the sideboards for closing hearings to the public.

Ms. Moss furthered that this amendment would be required to align Sec. 10 language with revisions in the bill that expand rights previously provided to foster parents to include other out of home care providers such as adult family members and family friends.

Co-Chair Green qualified therefore that the proposed language would more clearly define who would be involved.

Without objection, Amendment #3 was ADOPTED.

Amendment #4: This amendment deletes the words "in the proceeding" following "further hearings" in Sec. 52(f)(5) page 27 line 28.

Co-Chair Wilken moved the amendment.

Co-Chair Green stated that the purpose of this conforming amendment would be to clarify that any person banned from one CINA hearing could be banned from all such hearings.

Ms. Moss affirmed that the amendment would make the language consistent with language in Sec. 10.

There being no objection, Amendment #4 was ADOPTED.

7:05:55 PM

Amendment #5: This amendment deletes all language in Sec. 59 on page 31 lines four through 24. The language being deleted reads as follows.

> Sec. 59. The uncodified law of the State of Alaska is amended by adding a new section to read:
>
> DIRECT COURT RULE AMENDMENT. Rule 801(d), Alaska Rules of Evidence, is amended by adding a new paragraph to read:
>
> (3) Recorded Statement by Child Victims of Crime. The statement is a recorded statement by the victim of a crime

who is less than 16 years of age and

(A) the recording was made before the proceeding;

(B) the victim is available for cross-examination;

(C) the prosecutor and any attorney representing the defendant were not present when the statement was taken;

(D) the recording is on videotape or other format that records both the visual and aural components of the statement;

(E) each person who participated in the taking of the statement is identified on the recording;

(F) the taking of the statement as a whole was conducted in a manner that would avoid undue influence of the victim;

(G) the defense has been provided a reasonable opportunity to view the recording before the proceeding; and

(H) the court has had an opportunity to view the recording and determine that it is sufficiently reliable and trustworthy and that the interests of justice are best served by admitting the recording into evidence.

Co-Chair Wilken moved Amendment #5.

Co-Chair Green stated that this amendment would remove language adopted by the Senate Judiciary Committee, as "that language is standard for a criminal trial not a civil trial". Removal of this language would maintain the order of civil trail proceedings.

7:06:31 PM

Senator Hoffman asked the reasons for the action of the Senate Judiciary Committee.

Ms. Moss responded that the intent of the Committee was to incorporate language from another bill into this bill. However, this bill relates to civil rather than criminal law.

Co-Chair Green stated that the [unspecified] bill from which the language was fashioned related to criminal rather than civil statutes.

Senator Hoffman acknowledged.

Without objection, Amendment #5 was ADOPTED.

Co-Chair Wilken moved to report the bill from Committee with

individual recommendations and accompanying fiscal notes.

There being no objection, SCS CS SS HB 53(FIN) was REPORTED from Committee with $82,700 fiscal note #12 dated April 27, 2005 from the Public Defender Agency, Department of Administration; $161,300 fiscal note #13 dated April 27, 2005 from the Office of Public Advocacy, Department of Administration; $94,900 fiscal note #14 dated April 27, 2005 from the Alaska Court System; $142,700 fiscal note #15 dated April 26, 2005 from the Office of Children's Services, Department of Health and Social Services; $106,200 fiscal note #16 dated April 27, 2005 from the Front Line Social Workers component, Office of Children's Services, Department of Health and Social Services; and $586,400 fiscal note #17 dated April 27, 2005 from the Department of Law.

AT EASE 7:07:41 PM / 7:12:09 PM

#hb279

CS FOR HOUSE BILL NO. 279(FIN)
"An Act relating to encroachments in the right-of-way of a highway."

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

BEN MULLIGAN, Staff to Representative Bill Stoltze, recounted that, during the first hearing on this bill, Senator Stedman had requested the Department of Transportation and Public Facilities' input on certain provisions of the bill.

Senator Stedman stated his desire was to hear the Department's position regarding the right of way restrictions addressed in the bill.

JOHN MACKINNON, Deputy Commissioner, Highways and Aviation, Department of Transportation and Public Facilities, informed the Committee that the Department "welcomes the legislation", as it would allow the Department to conduct activities in a manner desired. While the Department currently has authority in this regard, this bill would clarify that authority and improve current regulations by implementing a six-part encroachment test. The Department worked closely with both the Senate and House bill sponsors in the development of the bill. While the bill has been improved during its transit through the committee hearing process, some additional amendments would be desired. The Department of Law also supports the bill.

SENATOR CHARLIE HUGGINS, Senate Transportation Committee Chair, explained that Amendment #1 would align language in HB 279 with that of the Senate Transportation Committee's companion bill.

[NOTE: Amendment #1 was adopted during the May 7, 2005 Committee hearing on this bill.]

Co-Chair Green noted that Amendment #1 specified that in order for an encroachment to be considered it would have had to exist by January 1, 2005. It also removed the liability on the part of the State for any damages.

Senator Huggins concurred.

AT EASE 7:17:06 PM / 7:18:10 PM

Amendment #2: This amendment deletes all material in Sec. 2(c)(2) on page two, lines ten and eleven of the bill and replaces it with the following.

> (2) The applicant has demonstrated the encroachment was erected with the good faith belief it was lawful to erect and maintain the encroachment in its location.

The amendment also deletes the entirety of Sec. 2(g) that was adopted in Amendment #1 during the May 7, 2005 Committee hearing and replaces it with the following.

> (g) The state is not liable for damage to, or damage or injury resulting from the presence of, an encroachment in the right-of-way of a state highway.

Co-Chair Wilken moved for the adoption of Amendment #2.

Co-Chair Green clarified that she was the sponsor of the amendment.

Mr. MacKinnon explained that the proposed Sec. 2(c)(2) language would further "strengthen" the intent of the term "good faith". This language change was suggested by the Department of Law.

There being no objection, Amendment #2 was ADOPTED.

Mr. Mulligan pointed out that the Department of Law also suggested that the Sec. 2(g) language adopted in Amendment #1 be replaced by that proposed in Amendment #2 in order to "completely" remove the State from any liability issues were someone harmed as the result "of hitting an encroachment".

Senator Hoffman questioned the need to hire four new right-of-way agents as depicted in the Department's April 28 2005 fiscal note #1.

Mr. MacKinnon stated that considerable effort was exerted in refining the fiscal note; initial expenses were much higher. The note is an estimate based on the average number of encroachment issues the Department deals with on an annual basis. The actual expense is unknown as there is no history pertaining to the terms included in the bill. Prior activity in regards to encroachments was simply to have them removed. The note anticipates that one-third of the annual encroachments would undergo the permit application process. The note would be lower were fewer permits requested. The six-part test would assure that permits would not be "rubber stamped". Permits would not be issued for things that would place the public in an unsafe position or something "that would likely be hit". A thorough determination process would be conducted.

7:22:55 PM

Senator Hoffman stated, therefore, that the question is whether the end result of the bill would be worth the expense.

Co-Chair Green understood that the provisions of the bill would not apply to commercial operations.

Mr. MacKinnon affirmed that it is not the intent of the Department to apply the provisions of this bill to commercial operations. However, he noted that 50 commercial encroachment permits are currently handled under existing regulations, and that the existing fee structure contributes approximately $107,000 annually in economic rent to the Department including approximately $7,000 each from four cellular phone towers. Most of the current commercial encroachments involve small areas whose rent amounts to approximately $100 per year.

Mr. MacKinnon stated that an application fee would be imposed for the residential application. Permits are issued for five years and could be renewed in five-year increments. No annual rent is charged for residential encroachments.

Senator Stedman asked how quickly a permit could be cancelled.

Mr. MacKinnon replied that, were the area required for highway purposes, a 30-day cancellation notification would be required by regulation. Highway needs take precedence over the public's

privilege to use the right of way "granted through permit".

Co-Chair Green questioned the reason that four new right-of-way agent positions would be required since the Department already conducts this activity.

Mr. MacKinnon responded that while the Department could currently conduct this activity, this legislation would implement a new "set of rules". There would be a higher application fee and an annual fee. This legislation would also "differentiate" the residential encroachments from all the others.

Co-Chair Green noted that the fiscal note specifies that the expenses would lower in the out-years. However, she asked whether it would be necessary to retain the four right-of-way agent positions over time.

Mr. MacKinnon assured that the Department would not endeavor to create a program that would seek to identify right-of-way encroachments. Right-of-way encroachments would be identified in conjunction with the undertaking of a highway project. This bill would require more work than is presently done in regards to the permitting process. The Department, as property managers of the right of way, would be required to insure that the encroachments do not change during the five-year permit time and become a public hazard. Therefore a review period would also be assigned to the five-year period.

Senator Dyson voiced appreciation for the work involved in developing this legislation as it relates to situations occurring in his election district. He specifically appreciated the Department's comments spoken during this hearing. Improved regulations would be appreciated.

Mr. MacKinnon allowed that some in the Department do not support this action; however, the clarifications provided by this legislation would be appreciated.

Senator Huggins stated that Senator Dyson and Senator Stedman could both attest that, when dealing with areas that have "restricted terrain", people tend to build right on the road. This activity, however, makes it difficult to widen or improve a road. In the past, in order to meet the federal funding guidelines, the State has simply bulldozed down right-of-way encroachments. This legislation would "formalize a process" and allow citizens to petition for a permit. He voiced appreciation for Mr. MacKinnon's efforts in spearheading this effort in a cooperative and understanding manner. Efforts have been made to address this in a

manner that is good for Alaskans.

Co-Chair Green agreed that the process has been conducted in a different manner than it was approximately ten years prior in regards to a similar issue.

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

There being no objection, the SCS CS HB 279(FIN) was REPORTED from Committee with $418,500 fiscal note #1, dated April 28, 2005 from the Department of Transportation and Public Facilities.

#hb130

> CS FOR HOUSE BILL NO. 130(FIN) am
> "An Act relating to the grant of certain state land to the University of Alaska; relating to the duties of the Board of Regents; establishing the university research forest; and providing for an effective date."

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

PETE KELLY, State Relations Director, University of Alaska, specified that the University is a State land grant entity that "was founded with the intent that it would create a land grant trust" that would supplement its day-to-day activities. To that point, he emphasized that the Land Grant Trust is operational and does financially support the University. The debate regarding the University land grant issue began in 1915 when a territorial delegate, James Wickersham, envisioned a State university. He lobbied before the United States Congress for this land grant endowment, and, in 1929, the State received its University land grant entitlement. Unfortunately, at the time, a vast majority of the State was not surveyed; therefore the process of transferring land was slow. Only two grants, totally approximately 113,000 acres, had been transferred to the University by the time of Statehood, and "the Statehood Act superseded all of the federal legislation dealing with Alaska."

Mr. Kelly stated that the total acreage that was provided to the University's land grant program amounted to 140,000 acres: the combination of the 113,000 federally granted acreage and other land grants to the University. The University is "a very small land grant institution" which only ranks ahead of Hawaii and Delaware's

land grant university programs in size.

7:32:04 PM

Mr. Kelly characterized the University as having "a very successful land department". Since 1986, the University has sold 1,200 parcels of land. The University is "the most successful public entity in the State for getting land into private ownership". The University's educational endowment, which is established as a percent of market value (POMV) payout structure, nets the University approximately $5,000,000 annually. The endowment fund currently has a value of approximately $135,000,000.

Mr. Kelly stated that during the process involved with this legislation, a significant amount of public comment in regard to how the University "treats its disposal of land" occurred.

7:32:40 PM

Mr. Kelly communicated that the University has attempted "to assure everyone at every step" that "a very very public process" is in place. "University land issues are routine subjects of Board of Regents meetings" which are public forums. The Board's decisions on land are formed in consideration of the public process.

Mr. Kelly noted that one of the greatest areas of concern relating to this bill has been in regard to land parcels in Southeast Alaska. To that point, he noted that private land holdings in Southeast Alaska amount to approximately one percent of the landmass. This bill would change that percentage "to one and two-tenths of one percent". The University has addressed the concerns of municipalities that might attempt to form boroughs at a later date, and in addition has agreed to take lands that might be subject to federal claims. Furthermore, the University would accept land containing established trails. In the past, agreements regarding such trails have been made, to include such things as providing easements or relocation of the trail. Nonetheless, a few concerns continue. "The University is a responsible land developer and a successful land developer." Even were the University to be granted the entirety of the lands proposed in this bill, it would continue to be defined as a small land grant institution. Nonetheless, the University is looking forward to increasing its land holdings to a level "that is consistent with most universities".

7:34:18 PM

Co-Chair Green asked for verification that the land being proposed

for transfer to the University was currently State owned land.

Mr. Kelly affirmed.

Co-Chair Green understood therefore that the State has the authority to either sell that land or give it to someone else.

JANET BURLESON-BAXTER, Special Assistant to the Commissioner, Department of Natural Resources affirmed that the land in question could be sold.

Co-Chair Green ascertained therefore, that the legislation would not change the classification of the land, or making it more available or more or less restrictive. The proposal would simply move land from one State entity to another.

BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources testified via teleconference from an offnet site and agreed that, "in general", Co-Chair Green is correct that the State "could do any number of things with the land although there are land use plans that say what" the State is going to do with the land. "For the most part, the lands" identified in this bill that are located in Southeast Alaska are currently included in "development categories". To that point, the State could plan "to set the land aside for a kind of development whether that be sales or commercial lodges or whatever. However, he noted that there are two to four parcels, however, that are inconsistent with "what the State's planning says".

7:36:47 PM

JOE BEEDLE, Vice President, Finance, University of Alaska, testified via teleconference from an offnet site and spoke in appreciation for the Committee subcommittee's May 2, 2005 three hour public hearing in which approximately 40 individuals testified about the bill. He also noted that "numerous misconceptions or misunderstandings" about this legislation were addressed in a report titled "Department of Natural Resources University Land Transfer Factsheet February 4, 2005" [copy on file].

Mr. Beedle expressed that the University has deemed the language proposed in the Committee's committee substitute, draft Version 24-GH1034\P as being acceptable.

Co-Chair Green asked whether any of the land parcels selected for sale would negatively impact the Iditarod Trail Sled Dog Race or other traditional dog sled racing trails.

7:38:10 PM

Mr. Loeffler informed the Committee that the Iditarod trail would not be affected by the proposed land selection; however the Haessler-Norris Trail System does transit one of the selected parcels. In response to this concern, the State has agreed to reserve the Haessler-Norris Trail System before that parcel was conveyed to the University. He also noted that that specific land parcel is classified for "settlement, meaning the State had the expectation of selling it". Regardless of whether that parcel was sold to the University or sold for settlement, the trail system would be preserved and protected.

Co-Chair Green acknowledged the comments.

7:39:10 PM

Senator Hoffman noted that during the public testimony hearings on this bill, concern was voiced regarding Native claims on land, specifically to Parcel 10 around McCarthy.

Mr. Loeffler informed the Committee that the Department of Natural Resources is unaware of any Native land allotments in the McCarthy parcel. Nonetheless, were Native allotments uncovered, "they would have precedence over conveyance to the University".

Senator Hoffman asked whether this would also be the case with any other parcels being considered for conveyance.

Mr. Loeffler affirmed that to be true. Language was added to the bill that specifically stated that Native allotments were "a valid possessary right that would remain valid". In addition, the question pertaining to Native allotments to parcels such as Biorka Island and Lisianski Peninsula in Southeast Alaska would be addressed before those parcels could be conveyed to the University.

Senator Stedman asked that the report from the Committee's subcommittee assigned to review this bill be provided. In addition, he asked that the public process involved with this legislation be reviewed.

Co-Chair Wilken read the May 7, 2005 memorandum [copy on file] he wrote to Co-Chair Green on behalf of the Committee's subcommittee on HB 130 as follows.

> The Senate Finance Subcommittee for House Bill 130, University Land Grant/State Forest, met Monday evening, May 2, 2005. The purpose of the meeting was to provide the opportunity for

statewide public testimony.

The following is a numerical summary of the testimony given:

1) Total Number of Participants 39

2) Geographical Area of the State

S.E. Alaska Participants	24	61%
McCarthy Area Participants	7	18%
Mat-Su Area Participants	5	13%
Other Area Participants	3	8%
	39	100%

In addition, I would make the following comments:

1) In regards to Southeast Alaska:
The testimony was spread across many sites in Southeast Alaska. As you would expect, the testimony was localized by sub-area across the broad region. Most participants recommended that specific land parcels not be conveyed to the University of Alaska.

2) In regards to the McCarthy area:
The testimony revolved around the United States Park Service's continued restriction and constriction of usable land around the McCarthy area. It was stated that further withdrawals by the University would just make a bad situation worse.

3) In regards to the Mat-Su area:
The testimony was almost entirely confined to the Frying Pan Lake area and the multiple system of world-class dog mushing trails situated therein.

Thank you for the opportunity to accept the public's input on this important legislation. I commend House Bill 130 to you and stand ready to assist in passing it from Committee.

Gary Wilken, subcommittee chair

Senator Stedman spoke of his concerns regarding "the lack of" a public process pertaining to this bill. The multitude of correspondence he has received from House District 2 includes correspondence from mayors, councils, and assemblies as well as individuals. The fact that the majority of communities in a specific district have requested their elected official to "slow the process down and to have more dialogue with the communities affected and each community has a little difference issues…" is a

matter of concern. The issue for some of the unorganized communities that were considering expanding and forming boroughs, was that the land selected was the only land available. He allowed that some of those issues have been addressed.

Senator Stedman continued that communities that are boroughs have voiced concern that the public process guidelines that the Department of Natural Resources must follow regarding land disposal "are substantially different" than those required of the University. The concern is that the in-depth planning that was conducted over the last couple of decades including such things as comprehensive plans and coastal management plans, has been "virtually derailed".

Senator Stedman informed the Committee that letters of concern are continuing to arrive in his office from communities throughout Southeast Alaska. "When there's that much concern, there's something wrong with the system." As there does not appear to be a pressing time element pertaining to this legislation, and even though "technically the legislative process being conducted is the proper process, "extra efforts" could be taken "in such a small state" when there are such "broad concerns from communities".

Senator Stedman also echoed Senator Hoffman's concern regarding Native allotment issues. Many of the parcels "in Southeast Alaska are intertwined with either Native grave sites or Native allotments or potential Native allotments". Written records prior to the creation of the Tongass Regional Forest in 1907, were sparse. As Native elders die, it is difficult to transfer the knowledge from one generation to the next and attempt "to substantiate it to the Western world of paper and documentation". While some Native land has been deeded and several allotments have been platted but not of yet deeded, quite a few have not reached the platting phase.

7:48:07 PM

Senator Stedman opined that "the more legitimate concerns of watershed issues and planning issues" are "screened or derailed" by objections from people who simply do not "want a neighbor". He urged that Committee members "look beyond those "non-substantiated or non-substantial concerns and focus more on the issues" brought forth by the local communities. He opined that "a poor public process" has been experienced with this legislation, as "unfortunately" the concerns of the major communities have been drowned out". It has not "instilled good will" between the University and the local communities.

Co-Chair Wilken moved to adopt the SCS CS HB 130(FIN), Version 24-

GH1034\P as the working document.

Senator Stedman remarked that Version "P" "looks better than some of the other bill versions".

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

Amendment #1: This amendment deletes "." following "Bay" in Sec. 3(n)(7) on page six, line nine and inserts ";
(8) Parcel Number ST. 1002, Pelican;
(9) Parcel Number MF. 1002, Idaho Inlet;
(10) Parcel Number PA 1002, Mite Cove;
(11) Parcel Number ST. 1001, Middle Island;
(12) Parcel Number PA. 1002, Biorka Island;
(13) Parcel Number PA. 1001, Port Conclusion;
(14) Parcel Number ST.LS.1001, Lisianski Peninsula;
(15) Parcel Number SD. 1001, Beecher Pass;
(16) Parcel Number SD. 1001, Favor Peak;
(17) Parcel Number CS.TL. 1001, Three Lake Road;
(18) Parcel Number SD. 1001, Read Island;
(19) Parcel Number SD. 1001, Whitney Island;
(20) Parcel Number CS.EW. 1001, Earl West Cove;
(21) Parcel Number CS.OV. 1001, Olive Cove;
(22) Parcel Number SD. 1001, Thoms Place;
(23) Parcel Number PW.HK. 1001, Hook Arm;
(24) Parcel Number HA.CH. 1001, Haines-Chilkoot;
(25) Parcel Number PW.NA. 1001, Naukati Sound."

In addition, this amendment deletes subsections "o", "p", and "q" in Sec. 3 beginning on page six, line ten through page seven, line 15.

Senator Stedman moved Amendment #1.

Co-Chair Green objected.

Senator Stedman stated that this amendment would increase the amount of parcels in Southeast Alaska that would not be conveyed to the University. He noted that were this amendment adopted and the University and the State to continue their desire to convey these parcels, "a more amiable public process and working relationship with the communities" could be established.

[NOTE: Co-Chair Wilken chaired this portion of the meeting.]

A roll call was taken on the motion.

IN FAVOR: Senator Stedman

OPPOSED: Senator Dyson Co-Chair Wilken, Senator Hoffman, Senator Olson, and Co-Chair Green

ABSENT: Senator Bunde

The motion FAILED (1-5-1)

[NOTE: Co-Chair Green resumed chair.]

Amendment #2: This amendment deletes "." following "Bay" in Sec. 3(n)(7) on page six, line nine and inserts ";

(8)Parcel Number ST. 1001, Middle Island;

(9) Parcel Number PA. 1002, Biorka Island;

(10) Parcel Number PA. 1001, Port Conclusion;

(11) Parcel Number ST. LS. 1001, Lisianski Peninsula;"

Senator Stedman moved to adopt Amendment #2.

Co-Chair Green objected.

Senator Stedman explained that this amendment would remove land parcels within the City and Borough of Sitka. He noted that language had been added to the bill that would allow the unorganized boroughs of Petersburg, Pelican, and Wrangell to organize by the year 2009. Were that action to occur, those communities could select from State land around their communities by the year 2013. That language could not apply to Sitka as the specified parcels are within the borough. Lisianski Peninsula has been logged; Biorka Island, which is a secluded uninhabited island, contains an aircraft communication station.
7:56:27 PM

Senator Stedman noted that the State has already sold the shoreline areas of Middle Island. Therefore, the majority of the land on Middle Island that would be conveyed to the University would consist of a small mountain in the center of the island. Discussions have occurred regarding demolishing that mountain as jets fly over it on their approach to the Sitka airport. Neither Middle Island nor Lisianski Peninsula would be considered desirable land sites. Port Conclusion has issues as well.

Senator Dyson asked Senator Stedman whether Middle Island was one of the areas that contained military gun sites.

Senator Stedman clarified that Biorka Island had gun placements.

Mr. Loeffler expressed that the University could utilize these areas in a manner consistent with the needs of the Federal Aviation Administration and within other physical parameters.

Senator Olson, himself a pilot, stated that he has some aviation concerns relating to conveying Biorka Island and Middle Island to the University.

Co-Chair Green asked the Department of Natural Resources whether selection of these areas might raise aviation concerns.

Mr. Loeffler viewed the University as being "an intelligent developer". While there could "be things they would want to develop around"…there is "no significant disadvantage". They could develop the sites in a manner "consistent with" the needs of the Federal Aviation Administration (FAA). Were the land was not developed within ten years, the University's Board of Regents could decide to return it to the State if they deemed the land of "no value".

Mr. Kelly informed that while the FAA has not objected to the transfer of these land parcels, they have asked that the University contact them. The University has agreed to do so.

Senator Stedman noted that Biorka Island contained some Native land allotments. In addition, Native gravesites have been found "scattered amongst the islands" around Sitka. Such sites could also be found on Lisianski Peninsula.

Co-Chair Green stated that this concern could be addressed by language in Sec. 3(e), page three lines 27 through 31 that reads as follows.

> (e) Land conveyed under this section to the Board of Regents in trust for the University of Alaska is subject to any valid possessory interest or other valid existing right, including any lease, license, prospecting site, claim, sale, permit, right-of-way, Native allotment, or easement held by another person, including a federal, state, or municipal agency, on the effective date of this section.

8:01:55 PM

Co-Chair Green declared that the language in this section would provide "pretty good safeguards for the various interests that exist or might be found to exist".

Senator Stedman expressed that the only Native cemetery gravesites in Sitka were developed after the Russians settled in Sitka. Other

gravesites are unmarked.

A roll call was taken on the motion to adopt Amendment #2.

IN FAVOR: Senator Stedman, Senator Dyson, and Senator Olson.

OPPOSED: Senator Hoffman, Co-Chair Wilken, and Co-Chair Green.

ABSENT: Senator Bunde

The motion FAILED (3-3-1).

Amendment #2 FAILED to be adopted.

Amendment #3: This amendment deletes "AS 14.40.365 - 14.40.367[AS 14.40.365 - 14.40.368] in Sec.2, page two, line 31 through page three, line one and replaces it with "AS 14.40.365 - 14.40.368".

[NOTE: This amendment was drafted to a bill version that was not in the Committee's possession. The intent of the Committee was to conform the amendment to Version "X".]

The amendment also adds a new bill section on page ten following line nine as follows.

> Sec. 7. AS 14.40.368 is repealed and reenacted to read:
>
> Sec. 14.40.368. Sale of land received under AS. 14.40.365. (a) The sale of land conveyed to the Board of Regents in trust for the University of Alaska under AS 14.40.365 shall be made at public auction to the highest qualified bidder as determined by the Board of Regents. The Board of Regents may accept bids and sell land under this section at no less than 70 percent of the appraised fair market value of the land. To qualify to participate under this section in a public auction of land under this section that is other than commercial, industrial, or agricultural land, a bidder shall have been a resident of the state for at least one year immediately preceding the date of the auction and submit proof of that fact as the Board of Regents requires. A bidder may be represented by an attorney or agent at the auction. An aggrieved bidder may appeal to the Board of Regents for reconsideration within five days after the sale. The sale shall be conducted by a person designated by the Board of Regents, and, at the time of sale, the successful bidder shall deposit with the Board of Regents an amount equal to at least five percent of the purchase price. The person designated by the Board of Regents to conduct the sale shall immediately issue a receipt containing a description of the

land or property purchased, the price bid, and the amount deposited. The receipt shall be acknowledged in writing by the bidder.

(b) Before the signing of the formal conveyance, the Board of Regents may reject all bids when the best interests of the state and the University of Alaska justify this action. Land offered at public sale but not sold may be made available at private sale for not less than its appraised value.

(c) The contract of sale for land sold at public auction under this section shall require the remainder of the purchase price to be paid in monthly, quarterly, or annual installments over a period of not more than 20 years, with interest at the rate provided in (i) of this section. Installment payments plus interest shall be set on the level-payment basis.

(d) The contract for each sale must set out the period for the payment of installments and the total purchase price plus interest. With the consent of the Board of Regents, the contract may also include conditions, limitations, and terms considered necessary and proper to protect the interests of the state and the University of Alaska. A violation of any provision of the contract of sale subjects the purchaser to appropriate administrative and legal action, including specific performance, foreclosure, ejectment, or other legal remedies in accordance with applicable state law.

(e) If a contract under this section has been breached, the Board of Regents may issue a decision to foreclose and terminate the contract at any time that is more than 31 days after delivering by certified mail a written notice of the breach to the address of record of the purchaser. A breach caused by the failure to make payments required by the contract may be cured within 30 days after the notice of the breach has been received by the purchaser by payment of the sum in default together with the larger of a fee of $50 or five percent of the sum in default. If there are material facts in dispute between the Board of Regents and the purchaser, the purchaser may submit a written request for a public hearing for the review of the facts within 30 days after the notice of the breach has been received.

(f) On a determination that there has been a breach of the contract based on the administrative record and the evidence presented at a hearing, the Board of Regents shall issue a decision foreclosing the interest of the purchaser and terminating the contract. The obligation to make payments under the contract continues through the date of the decision to foreclose by the Board of Regents.

(g) The Board of Regents shall deliver the decision to foreclose and terminate personally to the purchaser or send

the decision to foreclose and terminate by certified mail, return receipt requested, to the address of record of the purchaser. If the breach is a failure to make payments required by the contract, the decision must include a notice to the purchaser that if, within 30 days, the purchaser pays to the University of Alaska the full amount of the unpaid contract price, including all accrued interest, and any fees assessed under (e) of this section, the Board of Regents shall issue to the purchaser a deed to the land. If full payment is not made within 30 days or the breach is for other than failure to make payment, the decision forecloses and terminates all legal and equitable rights the purchaser has in the land.

(h) Within 30 days, the purchaser may request that the Board of Regents reconsider the decision. The final decision by the Board of Regents is reviewable under AS 44.62.560.

(i) The interest rate for contracts under this section is the prime rate as reported in the Wall Street Journal on the first business day of the month in which the contract is sent to the purchaser for signature, plus three percent; however, the total rate of interest may not exceed 13.5 percent.

In addition, the amendment deletes "AS 14.40.368 is repealed." on page 11, line one and inserts the following.

AS 38.05.125(a) is amended to read:

(a) Each contract for the sale, lease, or grant of state land, including land conveyed to the Board of Regents in trust for the University of Alaska under AS 14.40.365, and each deed to state land, properties, or interest in state land, including land conveyed to the Board of Regents in trust for the University of Alaska under AS 14.40.365, made under AS 14.40.368, AS 38.05.045 - 38.05.120, 38.05.321, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50 except as provided in AS 38.50.050 is subject to the following reservations: "The party of the first part, Alaska, hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every name, kind or description, and which may be in or upon said land above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said land, or any part or parts thereof, at any and all times for the purpose of opening,

developing, drilling, and working mines or wells on these or other land and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said land or any part thereof for the foregoing purposes and to occupy as much of said land as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved.

Senator Stedman moved Amendment #3. This amendment would require the University to conduct the "more restrictive" public process required of the Department of Natural Resources in regards to land disposal.

MARY MONTGOMERY, University of Alaska, testified via teleconference from an offset site and stated that, while she had not been able to review the amendment, "the University would object to turning ourselves into another Department of Natural Resources". She credited the absence of the process required of Department of Natural Resources as being one of the reasons that the University is successful in its land management program. The University currently has "a very adequate public process". The Department of Natural Resources is required to meet a larger public interest. The University's Land Grant program "is to generate revenue for the Trust while balancing the community's interest". Adoption of this amendment would serve "to turn the University into another" Department of Natural Resources. That Department "has a difficult time in getting real estate available and into public hands because of the cumbersome process" they must conduct.

Co-Chair Green objected to the amendment.

Co-Chair Wilken identified language in Sec. 4, page seven, line 16 through page eight, line 12 as "clearly" defining the process the University must conduct before disposing its land to a third party. He reviewed the policies mandated in the section. The attempt to address land disposal concerns "is very inclusive" and would involve the local community.

8:06:08 PM

Senator Olson stated that one of his concerns was in regards to the conveyance of University land "to another entity or private person". To that point, he asked whether preference language was included in the bill that could provide a local community or municipality priority conveyance rights over another entity.

Mr. Loeffler responded in the affirmative. Language in this regard is included in Sec. 4(c) on page seven, lines 29 through 31.

> (c) Before the Board of Regents of the University of Alaska offers a parcel of land for sale under this section, the board shall offer first refusal to the closest municipality.

Co-Chair Green commented that several issues have been considered, as exampled by language in Sec. 3(k) page three, lines 12 through 14 combined with language in Sec. 3(k)(3), page three, lines 19 though 21. This language reads as follows.

> (k) Notwithstanding any other provision of this section, within 10 years after conveyance of land under this section, the Board of Regents may reconvey to the Department of Natural Resources land
>
> > (3) that the Board of Regents and the commissioner of natural resources jointly agree is in the best interests of the state and the university to reconvey.

A roll call was taken on the motion to adopt amendment #3.

IN FAVOR: Senator Stedman

OPPOSED: Senator Olson, Senator Dyson, Senator Hoffman, Co-Chair Wilken, and Co-Chair Green

ABSENT: Senator Bunde

The motion FAILED (1-5-1)

Amendment #3 FAILED to be ADOPTED.

Co-Chair Wilken moved to report SCS CS HB 130 (FIN) from Committee with individual recommendations and accompanying fiscal notes.

Co-Chair Wilken amended his motion to include the House Finance Committee Letter of Intent.

Senator Stedman objected.

A roll call was taken on the motion.

IN FAVOR: Senator Dyson, Senator Hoffman, Senator Olson, Co-Chair Wilken, and Co-Chair Green

OPPOSED: Senator Stedman

ABSENT: Senator Bunde

The motion PASSED (5-1-1)

S CS CS HB 130(FIN), accompanied by the House of Representatives Finance Committee Letter of Intent, was REPORTED from Committee with zero fiscal note #1, dated January 25, 2005 from the Department of Fish and Game; $21,600 fiscal note #2, dated January 11, 2005 from the Department of Law; $380,000 fiscal note #3, dated January 12, 2005 from the Department of Natural Resources; and $500,000 fiscal note #4, dated February 4, 2005 from the University of Alaska.

8:10:38 PM

#hb98

> CS FOR HOUSE BILL NO. 98(RLS)
> "An Act relating to the compensation of the governor, the lieutenant governor, and certain public officials, officers, and employees not covered by collective bargaining agreements; and providing for an effective date."

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

Co-Chair Green reminded that this legislation would address non-union public employee salaries and benefits.

Co-Chair Wilken moved to adopt committee substitute, Version 24-GH1099\X as the working document.

Co-Chair Green explained that language in Sec. 12 page four, lines 17 through 24 has been modified to address the issue of bonuses paid to Legislative employees. This language reads as follows.

> Sec. 12. The uncodified law of the State of Alaska is amended

by adding a new section to read:

BONUSES FOR CERTAIN LEGISLATIVE EMPLOYEES. In addition to compensation authorized under AS 24.10.200, an employee of the house of representatives or senate may be awarded and paid a bonus to reward extraordinary effort, competency, job performance, or uncompensated overtime. However, after January 1, 2005, the authority to award and pay a bonus under this section is terminated, and bonuses may not be awarded or paid after that date.

Co-Chair Green stated that this language would clarify this ruling in Statute.

Co-Chair Green stated that in addition, language in Section 1, page one, lines six and seven would specify that Legislators' salaries would be "equal to Step A, Range 10, of the salary schedule in AS. 39.27.011(a)." The Speaker of the House and the Senate President would each be entitled to an additional $500 a year while they held that position.

Co-Chair Green also noted that Sec. 2 page one line 12 and Sec. 3 page two line one would reflect the proposed increased salary levels for the Governor and Lieutenant Governor, respectfully. The proposed pay scales for various non-union employees for classified and partially exempt employees in the Executive branch of State government are reflected in Sec. 5 page two line 12 through page three line eight.

AT EASE 8:13:22 PM / 8:19:00 PM

Without objection, the Version "X" committee substitute was ADOPTED as the working document.

Conceptual Amendment #1: This amendment adds "and AS 24.10.210" after "AS 24.10.200," and replaces "house of representatives or senate" with "legislature" in Sec. 12, page four, lines 20 and 21.

Senator Dyson moved the amendment. He explained that utilizing the term "legislature" would widen the applicability of the provision to include Legislative support staff. The existing language would limit the provision to the members of the House of Representatives and Senate staff.

Co-Chair Green agreed that the proposed language "would properly cover the proper employees".

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

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

There being no objection, the S CS CS HB 98(FIN) was REPORTED from Committee with $1,650,200 fiscal note #2, dated January 24, 2005 from the Legislative Affairs Agency; $1,616,300 fiscal note #4 dated April 12, 2005 from the Alaska Court System,; and $10,463,000 fiscal note #5, dated April 27, 2005 from the Office of Management and Budget.

RECESS TO THE CALL OF THE CHAIR: 8:22:29 PM / 10:05:44 PM.

[NOTE: The adjournment of this meeting was not recorded.]
#
ADJOURNMENT

Co-Chair Green adjourned the meeting at 10:05 PM.