

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**March 7, 2006**  
**9:12 a.m.**

**CALL TO ORDER**

Co-Chair Gary Wilken convened the meeting at approximately [9:12:40 AM](#).

**PRESENT**

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

**Also Attending:** SENATOR CHARLIE HUGGINS; JAMES ARMSTRONG, Staff to Co-Chair Wilken; DAVID TEAL, Director, Division of Legislative Finance; JOSH TEMPEL, Staff to Senator Huggins; SUSAN PARKS, Deputy Attorney General, Criminal Division, Department of Law; PORTIA PARKER, Deputy Commissioner, Department of Corrections; DOUG WOOLIVER, Administrative Attorney, Alaska Court System

**Attending via Teleconference:** From offnet locations: SARAH FISHER GOAD, Alaska Energy Association; PAT PITNEY, Director of Budget Development and Institutional Planning, University of Alaska; From Anchorage: BOB STEWART, Community Services Manager, Office of Emergency Management, Division of Homeland Security/Emergency Management, Department of Military and Veterans Affairs; ROBERTA CARNEY, Division Support Manager, Division of Homeland Security/Emergency Management, Department of Military and Veterans Affairs; KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation

**SUMMARY INFORMATION**

SB 232-APPROPS: ENERGY-RELATED, PIPELINE & MISC.  
SB 264-FAST TRACK SUPPLEMENTAL APPROPS

The Committee discussed a committee substitute to SB 232, which incorporated provisions from SB 264. The bills were held in Committee.

#### SB 216-BAIL RESTRICTIONS

The Committee heard from the sponsor, the Department of Law, the Department of Corrections and the Alaska Court System. The bill was held in Committee.

#SB232

[9:13:51 AM](#)

#### SENATE BILL NO. 232

"An Act making special, supplemental, capital, and other appropriations, amending appropriations, and making appropriations to capitalize funds; and providing for an effective date."

This bill had been heard previously in the Senate Finance Committee.

Co-Chair Wilken noted this was the first appropriation legislation the Committee was addressing.

Co-Chair Wilken announced that as of the prior day, Governor Murkowski proposed spending 21.18 percent more than was appropriated the prior year. This amount has been increasing for the past six weeks and represents an "extraordinary increase in spending". He suggested, "While we are swimming in money we may be drowning in spending."

[9:16:01 AM](#)

Co-Chair Wilken stated that the proposed budgets for the agencies are "vague" and "unsustainable". Therefore, the Senate and the House of Representatives decided to operate under certain rules in considering the appropriation requests. The finance committees would be "reluctant" to fund "brand new" programs and appropriate general funds to replace non-general fund sources. An example would be a program traditionally supported with federal funding in which the amount of the

federal allocation for that program were reduced or eliminated. General funds would not automatically be appropriated to continue funding the program at the historic level. The finance committees would also "take a skeptical look" at significant program expansions. While a five percent increase was understandable, proposals to increase funding by 30, 40, or even 80 percent was questionable.

Co-Chair Wilken qualified that because certain requests would not be funded did not imply that the programs were not acceptable. Rather, total spending must be constrained to prevent dependence on oil prices of \$60 per barrel, in the likely event that future oil prices were lower.

Co-Chair Wilken noted this supplemental appropriation legislation would follow the process.

[9:18:42 AM](#)

Senator Bunde understood that the Murkowski Administration's proposed budget would have expended all of the surplus reserve and an additional \$50 million. He asked if with the submission of the multiple amendments by the Office of Management and Budget, if this were still true.

[9:19:10 AM](#)

Co-Chair Wilken affirmed that if funded with revenues received for FY 06 and FY 07, the budget as presented would be \$50 to \$60 million over.

[9:19:33 AM](#)

Senator Bunde recalled the budget reduction efforts made in the 1990s and 2000 commonly referred to as the Five-Year Plan. He calculated that the amount requested in FY 06 supplemental funding is greater than the reductions made during the five-year plan.

[9:19:55 AM](#)

Co-Chair Wilken agreed. Alaska is "on a roll", and has a "bright future" that "we must prepare for."

[9:20:26 AM](#)

Senator Bunde surmised that "wants and needs" continue to outpace revenue.

[9:20:37 AM](#)

Co-Chair Wilken furthered that "there would never be enough money for everyone."

[9:20:47 AM](#)

Co-Chair Wilken directed attention to a spreadsheet, titled, "FY 2006 Energy and Fast Track Supplemental 3/07/06" [copy on file]. It outlines the changes specified in a proposed committee substitute, work order number 24-GS2068\I. [Note: the committee substitute was not offered for adoption, as additional changes were intended.] In explaining the components, he referenced the row numbers in which they are listed on the spreadsheet and the section in which they are included in the proposed committee substitute.

Co-Chair Wilken noted the following items were included in the proposed committee substitute in the amounts requested by the Governor.

Line Item: 2

Section 1

Department of Commerce, Community and Economic Development

Appropriation: Office of Economic Development

Supplemental Need: The Office of Economic Development is hosting an event at the Boston International Seafood Show that promotes the uniqueness of wild Alaska seafood on March 13, 2006.

Requested: \$75,000 Statutory Designated Program Receipts  
(SDPR)

Senate Finance Proposed: \$75,000 SDPR

Line Item: 3

Section 1

Department of Commerce, Community and Economic Development

Appropriation: Alaska Seafood Marketing Institute

Supplemental Need: Increase RSS match for the Alaska Seafood Marketing Institute's export marketing program, which received a federal increase in January 2006. Advance

notification to public relations contractors is required, therefore March approval is requested.

Requested: \$395,000 Receipt Supported Services (RSS)

Senate Finance Proposed: \$395,000 RSS

[9:21:08 AM](#)

Line Item: 4

Section 1

Department of Corrections

Appropriation: Out-of-State Contractual

Supplemental Need: Timely payments are essential in complying with contractual requirements agreed upon for housing Alaska inmates. The increased prison population has mandated the department obtain additional beds out-of-state, up to a total of 1,000 prisoners by year-end.

Requested: \$1,168,700 General Funds

Senate Finance Proposed: \$1,168,700 General Funds

Line Item 5

Section 1

Department of Corrections

Appropriation: Inmate Health Care

Supplemental Need: The department is estimating that they will potentially run out of funds available to pay contract and medical providers as early as March, 2006.

Requested: \$2,600,000 General Funds

Senate Finance Proposed: \$2,600,000 General Funds

Line Item: 6

Section 1

Department of Corrections

Appropriation: Inmate Health Care

Supplemental Need: Funding is needed to pay three contractors and several fee-for-service providers for services rendered prior to 6/30/2005.

Requested: \$755,000 General Funds

Senate Finance Proposed: \$755,000 General Funds

Co-Chair Wilken stated that the Department of Corrections requests would be fully funded.

[9:21:43 AM](#)

Line Item: 7

Section 1  
Office of the Governor  
Appropriation: Executive Office  
Supplemental Need: Work related to the state gas pipeline  
and to bringing North Slope natural gas to market for FY 06  
and FY 07  
Requested: \$500,000 General Funds  
Senate Finance Proposed: \$500,000 General Funds

Co-Chair Wilken overviewed this item.

[9:21:49 AM](#)

Line Item: 8  
Section 1  
Department of Law  
Appropriation: Oil, Gas and Mining  
Supplemental Need: Will exhaust FY 06 funding by March  
2006. Anticipate expenditures of \$3.9 million for the  
remainder of FY 06 and \$1.5 million in FY 07  
Requested: \$5,400,000 General Funds  
Senate Finance Proposed: \$3,900,000 General Funds

Co-Chair Wilken pointed out that this request included funding  
for FY 07 operations. That portion would be addressed in  
consideration of the FY 07 operating budget.

[9:22:07 AM](#)

Line Item: 9  
Section 1  
Department of Military and Veterans Affairs  
Appropriation: Army Guard Facilities Maintenance  
Supplemental Need: Fuel and Utility Increases  
Requested: \$7,800 Inter-Agency Receipts (I/A Receipts)  
Senate Finance Proposed: \$7,800 I/A Receipts

Line Item: 10  
Section 1  
Department of Military and Veterans Affairs  
Appropriation: Air Guard Facilities Maintenance  
Supplemental Need: Fuel and Utility Increases  
Requested: \$300,000 Federal Funds  
Senate Finance Proposed: \$ not specified

Co-Chair Wilken informed that these requests are for authorization to expend federal funds, which the committee substitute would grant.

[9:22:32 AM](#)

Line Item: 11  
Section 1  
Department of Revenue  
Appropriation: APFC Operations  
Supplemental Need: Gasline Investment Determination Costs  
Requested: \$550,000 Permanent Fund Corporation Receipt  
(PFC Receipts)  
Senate Finance Proposed: \$250,000 PFC Receipts

Co-Chair Wilken explained that this funding authority is requested to allow the Alaska Permanent Fund Corporation to research an investment opportunity in the proposed natural gas pipeline. The Corporation has authority to expend a limited amount on these investigative efforts and has already committed funds to research the viability of a separate real estate investment opportunity. Those expenditures could be recuperated if the real estate investment were made. The committee substitute would provide a portion of the requested funding.

[9:24:19 AM](#)

Line Item: 15  
Section 1  
Department of Transportation and Public Facilities  
Appropriation: Marine Vessel Operations  
Supplemental Need: Fuel Price and Usage Increase  
Requested: \$14,774,800 General Funds  
Senate Finance Proposed: \$12,274,800 General Funds

Co-Chair Wilken recognized that a significant portion of the requested supplemental appropriation had already been expended. Changes in operations of the system, including the lay-up of one fast ferry vessel would reduce the anticipated expenditure. Intent language would be forthcoming to require the Department to contain fuel costs.

[9:25:04 AM](#)

Senator Stedman understood that the fast ferry vessels consume more fuel than the regular ferry vessels and that the forthcoming intent language would speak to this. He asked what assurances would be provided to avoid "tying up" the entire Marine Highway System fleet due to lack of funding for fuel.

[9:26:00 AM](#)

Co-Chair Wilken responded that \$250,000 is saved each week that a fast ferry vessel is not operating. The Senate Transportation Committee was scheduled to hold a hearing later in the day to "attempt to continue to guide" the Marine Highway System. Additional information would be available after that hearing.

[9:26:47 AM](#)

Line Item: 16  
Section 4  
Department of Administration  
Appropriation: Capital  
Senate Finance Proposed: \$2,500,000 Information Services  
Fund

Co-Chair Wilken indicated this item would be discussed shortly.

[9:26:56 AM](#)

Line Item: 17  
Section 5  
Department of Commerce, Community and Economic Development  
Appropriation: Capital - Grant to "2006 Arctic Winter Games Host Society"  
Supplemental Need: Funding for the Arctic Winter Games that take place March 5 - 12, 2006.  
Requested: \$500,000 General Funds  
Senate Finance Proposed: \$250,000 General Funds

Co-Chair Wilken noted that half of the requested amount would be appropriated.

[9:27:12 AM](#)

Line Item: 18  
Section 6  
Department of Corrections

Appropriation: Capital - ACI Building Conversion  
Supplemental Need: Conversion of vacant building to house prisoners  
Requested: \$800,000 General Funds  
Senate Finance Proposed: \$800,000 General Funds

Co-Chair Wilken described this expansion to increase bed space for short-time prisoners at the Fairbanks correctional facility.

[9:27:29 AM](#)

Line Item: 19  
Section 7  
Office of the Governor  
Appropriation: Branch wide  
Supplemental Need: Fuel and utility costs to be distributed to agencies (non-AMHS)  
Requested: \$8,281,600 General Funds  
Senate Finance Proposed: \$6,736,800 General Funds

Co-Chair Wilken noted that the original version of SB 232 contained 42 different requests for fuel and energy cost funding. Senate Finance Committee co-chair staff analyzed these items to reach the amount appropriated in the committee substitute. That amount would be appropriated to the Office of Management and Budget for allocation between the multiple components. Such decisions, if made by the Senate Finance Committee, would be arbitrary.

[9:28:33 AM](#)

JAMES ARMSTRONG, Staff to Co-Chair Wilken, pointed out that the appropriation included in the committee substitute inadvertently omitted Department of Environmental Conservation fuel expenses. This would be corrected in a future committee substitute.

[9:28:55 AM](#)

Line Item: 20  
Section 8  
Department of Law  
Appropriation: Civil Division, Deputy Attorney General's Office  
Supplemental Need: Judgments and Claims - actual amount is \$2,621,985.48 (Amendment increased total to \$3,269,100)

Requested: \$3,269,100 General Funds  
Senate Finance Proposed: \$3,269,100 General Funds

Co-Chair Wilken noted this request would be fully funded.

[9:29:08 AM](#)

Line Item: 21  
Section 9(a)  
Department of Transportation and Public Facilities  
Appropriation: Capital - Ketchikan: Shipyard Improvements  
Supplemental Need: New ship lift to accommodate construction of Expeditionary Craft (E-Craft) for the Office of Naval Research (ONR), a \$30 million contract. DOT's proposed FY 07 capital budget includes \$42.5 million in Federal Funds, but \$9 million is required earlier.  
Requested: \$9,000,000 Federal Funds  
Senate Finance Proposed: not specified

Co-Chair Wilken explained the purpose of this project is to facilitate the building of a ship for the U.S. Navy. This would expand economic development in Ketchikan.

[9:29:32 AM](#)

Line Item: 22  
Section 9(b)  
Department of Transportation and Public Facilities  
Appropriation: Capital - Highways and Aviation  
Supplemental Need: Whittier Tunnel portal jet fan replacement due to catastrophic failure of the #2 portal jet fan. Jet fans are necessary to operate the Whittier Tunnel as they force the carbon monoxide gases out of the tunnel.  
Requested: \$504,200 General Funds  
Senate Finance Proposed: \$504,200 General Funds

Co-Chair Wilken outlined this item.

[9:29:45 AM](#)

Line Item: 23  
Section 9(c)  
Department of Transportation and Public Facilities

Appropriation: Capital - Airport Improvement Program  
Appropriation

Supplemental Need: The Airport Improvement Program  
appropriation will increase by \$16,600,000 from  
\$470,150,100 to \$486,750,100 because of the increases in  
the allocations listed in sections 9d - 9f:

Line Item: 24

Section 9(d)

Department of Transportation and Public Facilities

Appropriation: Capital - Airport Improvement Allocation

Supplemental Need: Amended: Cordova: Airport Runway Safety  
Area Expansion

Requested: \$3,000,000 Federal Funds

Senate Finance Proposed: not specified

Line Item: 25

Section 9(e)

Department of Transportation and Public Facilities

Appropriation: Capital - Airport Improvement Program  
Allocation

Supplemental Need: Amended: Kotzebue: Sand Building - Early  
approval of this project will allow a contract to be  
awarded in April 2006.

Requested: \$1,500,000 Federal Funds

Senate Finance Proposed: not specified

Line Item: 26

Section 9(f)

Department of Transportation and Public Facilities

Appropriation: Capital - Airport Improvement Program -  
Allocation

Supplemental Need: New: Unalakleet: Airport Paving

Requested: \$12,100,000 Federal Funds

Senate Finance Proposed: not specified

Line Item: 27

Section 9(g)

Department of Transportation and Public Facilities

Appropriation: Capital - Surface Transportation Program  
Appropriation

Supplemental Need: The Surface Transportation Program  
appropriation will increase by \$15,000,000 from  
\$373,604,700 to \$388,604,700 because of the increase to the  
allocation listed below:

Line Item: 28  
Section 9(h)  
Department of Transportation and Public Facilities  
Appropriation: Capital - Surface Transportation Program  
Allocation  
Supplemental Need: Amended: National Highway System (NHS)  
and Non-NHS Pavement and Bridge Refurbishment  
Requested: \$15,000,000 Federal Funds  
Senate Finance Proposed: not specified

Co-Chair Wilken noted these items involve changes in authorization.

Line Item: 29  
Section 10(a)  
Department of Military and Veterans Affairs  
Appropriation: Disaster Relief Fund  
Supplemental Need: Funding needed for disasters  
Requested: \$4,143,800 General Funds  
Senate Finance Proposed: \$4,143,800 General Funds

[9:30:36 AM](#)

Line Item: 30  
Section 10(b)  
Department of Administration  
Appropriation: Information Services Fund  
Supplemental Need: Capitalize Information Services Fund for  
FY 06 implementation of the telephone system replacement  
and stabilization phase 1 capital project.  
Requested: \$1,000,000 General Funds  
Senate Finance Proposed: \$2,500,000 General Funds

Co-Chair Wilken explained this appropriation would be utilized for the first portion of the "voice over Internet" replacement of the State's phone system. The Committee has had considerable discussion on this project. The total cost of the project would be \$22 million. The Department would soon enter into a contract with Cisco Systems, Inc. to compile the three existing systems into one that would provide voice, data and video communications. The Department had originally requested \$5 million be provided as a FY 06 supplemental appropriation. After discussion with Commissioner Scott Nordstrand, it was determined that \$2.5 million would be a "generous amount to start".

Changing the amount appropriated in this legislation would not affect the project, as the entire amount would be appropriated in future years as the project progresses. The aforementioned cost of \$22 million of this project includes only the capital portion. The operating expenses would be discussed separately.

[9:32:36 AM](#)

Line Item: 31  
Section 11(a) through (d)  
Department of Natural Resources  
Appropriation: Capital - Technical change of fund source  
Supplemental Need: Replace \$200,000 of Receipt Supported Services code with Special Vehicle Registration Receipts code for snowmobile trail improvements.

Line Item: 32  
Section 11(e) and (f)  
Department of Fish and Game  
Appropriation: Commercial Fisheries/Headquarters  
Supplemental Need: Replace RSS with CFEC [Commercial Fisheries Entry Commission] Receipts

Co-Chair Wilken characterized these items as funding source changes.

[9:33:10 AM](#)

DAVID TEAL, Director, Division of Legislative Finance, clarified that these are both technical changes to reflect the actual funding sources. These items would have no impact.

[9:34:46 AM](#)

Co-Chair Wilken next listed the requests that would not be funded.

Co-Chair Wilken stated that the committee substitute did not include the requested \$6.4 million for the Small Municipality Energy Assistance Program. Considerable discussion was held on this issue.

[9:35:12 AM](#)

Co-Chair Wilken informed that a \$5.4 million supplemental appropriation from the Power Cost Equalization (PCE) Fund would not be granted to the PCE program, as a comprehensive plan was needed.

[9:35:26 AM](#)

Co-Chair Wilken noted the committee substitute does not appropriate \$500,000 for the Bulk Fuel Bridge Loan program.

[9:35:44 AM](#)

Co-Chair Wilken told of the decision to not provide general funds for the federal Low Income Home Energy Assistance Program.

[9:36:20 AM](#)

Co-Chair Wilken stated that funding would not be appropriated to triple the Alaska Energy Authority Circuit Rider program from one to three staff positions and expand technical assistance to communities to include bulk fuel systems.

[9:36:39 AM](#)

Co-Chair Wilken explained that general funds would not be appropriated at this time to the Department of Natural Resources, Division of Parks and Recreation for operations. The legislature had granted authority to the Division to assess and collect fees to expend for park operations. He assured that he would collaborate with the House Finance Committee to lessen that authority and provide funding to address critical needs at the parks.

[9:37:26 AM](#)

Co-Chair Wilken spoke to the funding request for operation of the Maniilaq domestic violence and sexual assault shelter. As a result of an audit, the facility was deemed ineligible to receive the intended federal funding. He and Senator Olson would attempt to remedy the situation in some manner.

[9:38:00 AM](#)

Senator Hoffman appreciated the intent to review the PCE program. However the State was benefiting from the higher oil prices, through no effort on its part, but residents were suffering. Utilizing one dollar per each barrel of oil to assist those in need would not be unreasonable. Although this would be a new program, the needs of citizens could not be ignored. To do so would be short sighted.

Senator Hoffman supported the increase to the Marine Highway System (MHS) for higher fuel costs, but he pointed out that approximately 50 percent of ridership consists of nonresident passengers. If funding would be provided to assist tourists, funding must also be provided to address the needs of residents, specifically those who are struggling. Such funding should be included in this fast track supplemental appropriation.

[9:41:44 AM](#)

Senator Stedman appreciated the support provided for the MHS, acknowledging that the amount is significant. The State is constitutionally mandated to provide transportation for its residents and therefore this appropriation is necessary. Although nonresidents also utilize the ferries, significant federal funding is received to support the MHS. Also, transportation could not be denied to residents because outsiders would also use the system.

Senator Stedman stated that an overview of the entire PCE program would be undertaken. Additional revenue would hopefully be generated through the National Petroleum Reserve - Alaska (NPR-A), which could be utilized for the PCE program.

[9:43:30 AM](#)

Senator Olson reminded that the NPR-A is a federal entity and that the legislature does not have sole discretion in the manner in which the revenues are distributed.

[9:44:10 AM](#)

Senator Bunde told of a recent hearing of the Anchorage Caucus in which significant testimony was given in support of funding for the University of Alaska. He attempted to convey that, "every dollar spent has a loyal constituency." There would never be enough money to fund every want, and those who wanted

additional spending for certain programs must acknowledge that to do so would reduce spending for a different program. He challenged the group to identify which "constituencies" were "less deserving".

[9:45:50 AM](#)

Senator Dyson hoped that a process would be initiated this session to provide a basis for a rational analysis of all energy assistance programs, including what entities administer them and who are the recipients.

[9:46:57 AM](#)

Co-Chair Wilken furthered that alternative energy sources should also be investigated. However, this could not occur until the existing petroleum-based energy assistance programs were reviewed.

[9:47:29 AM](#)

Senator Hoffman pointed out that this request would not take funds from other programs. The revenues have been generated as a result of higher fuel prices and would be utilized to offset the impacts of such. When the fuel prices decrease, the assistance funding would no longer be needed. Legislative intent could dictate this. The appropriation could be a one-time event.

[9:49:09 AM](#)

Senator Olson understood the reasons for limiting supplemental appropriations for anticipated expenses. However, critical situations arise, such as the burning of the school in the village of White Mountain. Efforts are necessary to take advantage of the upcoming construction season to rebuild the facility. The students who attended that school must be taken care of, as they and other students throughout the state would be taking care of the older generation as it ages. He quipped that the younger generation would be relied upon when he and other Committee members were infirm and unable to locate their arthritis and possibly hair loss medication because they had misplaced their eyeglasses.

[9:51:10 AM](#)

Co-Chair Wilken directed Senator Olson to speak for himself.

Co-Chair Wilken was aware of the situation in White Mountain.

[9:51:28 AM](#)

Co-Chair Wilken called upon teleconference participants.

[9:51:40 AM](#)

SARAH FISHER GOAD, Alaska Energy Association, testified via teleconference from an offnet location that failure to appropriate the requested amount would require the Association to operate at 66 percent of the normal funding level.

[9:52:04 AM](#)

PAT PITNEY, Director of Budget Development and Institutional Planning, University of Alaska, testified via teleconference from an offnet location that the proposed funding amount is 82 percent of the original request.

[9:52:24 AM](#)

BOB STEWART, Community Services Manager, Office of Emergency Management, Division of Homeland Security/Emergency Management, Department of Military and Veterans Affairs testified via teleconference from Anchorage that he was available to respond to questions.

[9:52:46 AM](#)

ROBERTA CARNEY, Division Support Manager, Division of Homeland Security/Emergency Management, Department of Military and Veterans Affairs, testified via teleconference from Anchorage that she was also available for questions.

[9:52:57 AM](#)

KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation, testified via teleconference from Anchorage in appreciation of the granting of the funding request.

[9:53:04 AM](#)

Co-Chair Wilken announced that a new committee substitute would be drafted and presented to the Committee for consideration.

[9:53:27 AM](#)

Co-Chair Wilken then announced that the fuel surcharge levied on shipments to Fairbanks and other communities was recently increased and now totals 17 percent of the cost of goods.

[9:53:52 AM](#)

Mr. Armstrong informed that a technical change to a lapse appropriation would be included in the new committee substitute.

The bill was HELD in Committee.

[9:54:11 AM](#)

AT EASE [9:54:15 AM](#) / [9:57:19 AM](#)

Co-Chair Green chaired the remainder of the meeting.

#SB216

[9:57:22 AM](#)

CS FOR SENATE BILL NO. 216(JUD)

"An Act relating to bail and unlawful evasion; and providing for an effective date."

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

SENATOR CHARLIE HUGGINS, co-sponsor of the bill with Co-Chair Green, presented the bill. He read from a statement, "nothing in this chapter allows a court to order [a] defendant to be released temporarily or periodically either before or after conviction." Media accounts relay incidents that occur nationwide of a person unable to make bail, yet able to leave custody and not return.

Senator Huggins told of a recent situation in which an inmate secured temporary release from custody for the purpose of

donating a kidney to his son. The father instead fled to Mexico and the son is still in need of a transplant.

Senator Huggins asserted that the incarcerated people of today have "many schemes" that are well beyond the sophistication of the "older system" that "essentially opens the gates either way for them to come or go and they've abused that."

[9:59:15 AM](#)

JOSH TEMPEL, Staff to Senator Huggins, testified this bill was conceived because of the abuse of loopholes in the judicial system. As an example, a judge released an inmate in October 2005 temporarily into his mother's custody so he could attend his father's funeral. This was despite a juvenile record with a history of escapes from custody that deemed the defendant a flight risk. Following the funeral services, the defendant removed the monitoring device attached around his ankle and fled. When finally apprehended, his hair was dyed a different color, he was babysitting a child and he was in possession of two stolen pistols.

Mr. Tempel stated that this legislation would close the loopholes. It would eliminate temporary releases, and make any "extenuating circumstances" the responsibility of the Department of Corrections. It would classify the offense of unlawful evasion as a felony for those initially charged with a felony and a misdemeanor offense for those initially charged with a misdemeanor. This would apply to offenders who escape from temporary release. He gave as example an inmate at a halfway house facility who fails to return from an excused outing.

[10:01:29 AM](#)

Mr. Tempel emphasized the aforementioned situation was not the only instance of inmates granted temporary release failing to return to custody. Three additional such escapes occurred during October 2005. Until the practice was eliminated in the Fairbanks area, approximately half of the inmates granted temporary release did not return voluntarily.

[10:01:59 AM](#)

Co-Chair Green noted that Section 3 of the bill contains this new provision. The remaining bill sections amend existing statute to comply with it.

Co-Chair Green asked about legitimate requests for temporary release and whether the procedure to obtain this permission would change.

[10:02:43 AM](#)

Mr. Tempel responded that a judge would no longer have authority to grant a temporary release. An inmate could however, obtain permission from the Department of Corrections for an escorted release to attend a funeral or for other reasons.

[10:03:20 AM](#)

Senator Huggins furthered that language in Section 5 provides that the court could not issue an order for temporary release of an inmate either before or after conviction. This legislation transfers the authority from the court to the "professionals".

[10:04:06 AM](#)

Senator Huggins indicated that the affected laws are also referred to as the "bail statute".

[10:04:33 AM](#)

Senator Hoffman asked if the affected laws contain the provisions that allow inmates to attend family funerals.

Senator Huggins affirmed.

Senator Hoffman asked if this legislation would eliminate this practice.

Senator Huggins corrected that it would "be a major tightening and the decision authority would then rest with the Department of Corrections." Greater emphasis would be placed on supervision.

Co-Chair Green assured this legislation would not prohibit attendance of funerals or other important events.

Senator Hoffman clarified that the inmate could still attend funerals if escorted by the Department of Corrections.

[10:05:19 AM](#)

Senator Dyson stated that escorted releases would incur costs. He asked if current law includes a provision to allow the perpetrator to share the expense.

[10:05:38 AM](#)

Senator Huggins replied that the family could assist in paying a portion of the cost.

[10:05:51 AM](#)

Senator Stedman noted the earlier reference to inmates in halfway houses who fail to return from approved outings. He asked if a felony charge would automatically be levied.

[10:06:13 AM](#)

Mr. Tempel clarified that the charge would not automatically be a felony; rather it would reflect whether the original charge is a felony or misdemeanor. If an inmate was awaiting trial, sentencing or was serving time for a felony offense and left custody, a felony charge would apply. If the initial arrest or sentencing was for a misdemeanor offense, the unlawful evasion charge would be a misdemeanor.

Mr. Tempel informed that currently, unlawful evasion is classified as a misdemeanor regardless of the severity of the original charges. It does not provide sufficient deterrence for felony offenders.

[10:06:46 AM](#)

Senator Huggins inserted that this issue had been discussed extensively and the original bill was amended, as it would have classified unlawful evasion as a felony in all instances.

[10:07:13 AM](#)

Senator Stedman posed a scenario of a person charged with two felony crimes who then unlawfully left custody and was charged

with a third felony. He asked if under the sentencing guidelines, if this offender would subsequently be incarcerated for life.

[10:07:55 AM](#)

SUSAN PARKS, Deputy Attorney General, Criminal Division, Department of Law, testified that the statutes pertaining to escape and unlawful evasion are complicated. This bill addresses the practice of temporary release from custody, which differs from instances in which an inmate unlawfully leaves custody. Current statute treats the offense of failing to return from a temporary custody release less severely than the offense of leaving custody without permission.

Ms. Parks addressed Senator Stedman's question, informing that under this legislation, a person charged with a felony offense who unlawfully left custody would be charged with an additional felony and would be subject to the appropriate sentencing guidelines.

[10:10:05 AM](#)

Co-Chair Green commented on the potential seriousness of offenders failing to return from temporary release. The aforementioned situation that occurred in the Mat-Su Valley involved a person who allegedly committed "all sorts of wrongdoing" during the time he was at large.

[10:10:22 AM](#)

Senator Dyson asked if the intent is to preclude judges from making "inappropriate" decisions by implementing more stringent statutes, rather than getting judges to practice better common sense.

[10:11:18 AM](#)

PORTIA PARKER, Deputy Commissioner, Department of Corrections, testified that the problem is larger than the reported incident. The Department has been dealing with instances of unlawful evasion from temporary release from custody for many years. Most involve temporary releases granted for assessments and medical treatment. The Fairbanks correctional facilities have experienced a 50 percent failure to return rate. When these

inmates are returned to custody, most are under the influence of alcohol or drugs. The entire booking process must be repeated in these instances, including medical examinations. A substance abuse counselor has advised that temporary releases are not beneficial to offenders, as the temptations are high and relapses delay recovery.

Ms. Parker furthered that if serious felony charges were pending, another misdemeanor charge levied for unlawful evasion would be insignificant and not a deterrent.

[10:13:43 AM](#)

Senator Dyson again asked if the problem is due to a lack of judgment or inadequacies in statute.

[10:14:04 AM](#)

Ms. Parker found no justification for temporary releases.

[10:14:39 AM](#)

DOUG WOOLIVER, Administrative Attorney, Alaska Court System, presented himself to respond to questions.

[10:14:52 AM](#)

Senator Dyson asked if judges "need the support" of tighter statutes, as proposed in this bill.

[10:15:03 AM](#)

Mr. Wooliver testified that the Alaska Court System generally does not take a position on the merits of legislation. Judges disagree amongst themselves on many matters before the legislature. The Court's only concern with this bill is whether it would impact the therapeutic courts and the acceptance of defendants into those courts. This bill would not have a significant impact on therapeutic courts.

Mr. Wooliver noted that the bill sponsors have been made aware of potential implications for defendants entering residential treatment facilities.

Mr. Wooliver could not advise whether this bill was a "good idea" or not.

[10:16:01 AM](#)

Co-Chair Green asked about procedural changes for a person incarcerated who requests a temporary release.

[10:16:31 AM](#)

Ms. Parker explained this legislation would not affect how a judge assigns bail. A judge could reduce or eliminate bail to allow a defendant to secure release. If a judge chose to not reduce or eliminate bail and an inmate had reason to leave the facility, that inmate could be transported to and from the event under correctional officer escort. The inmate would remain in custody.

[10:17:46 AM](#)

Senator Stedman expressed concern about the cost of the escorted transport outside correctional facilities. He acknowledged the potential benefits of the added deterrence against leaving custody, and the subsequent costs associated with that offense. Society could benefit from the implementation of this legislation.

[10:18:28 AM](#)

Ms. Parker informed that the inmate or family of the inmate pays the cost of escorted visits before they occur. Most temporary releases are not issued for family or medical emergencies. Rather the majority are issues for assessments of the defendant in which releases are unnecessary. Implementation of this bill should have little fiscal impact.

[10:19:31 AM](#)

Senator Huggins shared concerns voiced by his constituents and other Alaskan residents about the public risk of providing certain offenders with a "swinging door" to commit additional crimes. These individuals are dangerous and beyond the intent of the current judicial system.

[10:20:53 AM](#)

Co-Chair Green announced she had additional questions regarding this legislation.

Co-Chair Green ordered the bill HELD in Committee.

#

**ADJOURNMENT**

Co-Chair Lyda Green adjourned the meeting at [10:20:54 AM](#)