

HOUSE FINANCE COMMITTEE
April 17, 2010
5:22 p.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 5:22 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Vice-Chair
Representative Allan Austerman
Representative Mike Doogan
Representative Anna Fairclough
Representative Neal Foster
Representative Les Gara
Representative Reggie Joule
Representative Mike Kelly
Representative Woodie Salmon

MEMBERS ABSENT

None

ALSO PRESENT

James Armstrong, Staff, Co-Chair Bill Stoltze; Sara Fisher-Goad, Deputy Director, Operations, Alaska Industrial Development and Export Authority and Alaska Energy Authority (AEA), Department of Commerce, Community and Economic Development; Craig Tillery, Deputy Attorney General, Civil Division, Department of Law; Thomas Obermeyer, Staff, Senator Bettye Davis; Jomo Stewart, Staff, Senator Kevin Meyer and Co-Committee Aide, Senate Education Committee; Weston Eiler, Staff, Senator Bert Stedman; Ben Mulligan, Staff, Co-Chair Bill Stoltze; Senator Hollis French; John Bitney, Staff, Representative John Harris; Eddy Jeans, Director, School Finances and Facilities, Department of Education and Early Development; Jay Livey, Staff, Senator Lyman Hoffman, Sponsor.

SUMMARY

SB 24 LOUIS MILLER BRIDGE

SB 24 was REPORTED out of Committee with a "do pass" recommendation and with attached new fiscal impact note by the Department of Transportation and Public Facilities.

SB 25 RICHARD DEWEY DUVALL FERRY TERMINAL

SB 25 was REPORTED out of Committee with a "do pass" recommendation and with attached new fiscal impact note by the Department of Transportation and Public Facilities.

CS SB 32(FIN)

MEDICAID: HOME/COMMUNITY BASED SERVICES

CSSB 32(FIN) was SCHEDULED but not HEARD.

CS SB 230(FIN)

MEDICAID:HOME/COMMUNITY BASED SERVICES

HCS CSSB 230(FIN) was REPORTED out of Committee with a "do pass" recommendation.

CS SB 236(EDC)

TAX CREDITS FOR EDUCATIONAL CONTRIBUTIONS

HCS CSSB 236(FIN) was REPORTED out of Committee with "no recommendation" and attached previously published fiscal note: FN1 (REV).

CS SB 237(FIN)

SCHOOL CONSTRUCTION DEBT REIMBURSEMENT

HCS CSSB 237 was REPORTED out of Committee with a "do pass" recommendation and with two new attached fiscal impact notes by the Department of Education and Early Development.

SB 238 MEDICAID FOR MEDICAL & INTERMEDIATE CARE

SB 238 was REPORTED out of Committee with a "do pass" recommendation and with attached previously published fiscal note: FN1 (DHS).

SB 246 INCREASING NUMBER OF SUPERIOR CT JUDGES

SB 246 was SCHEDULED but not HEARD.

CS SB 284(FIN)

CAMPAIGN EXPENDITURES

HCS CSSB 284(FIN) was REPORTED out of Committee with "no recommendation" and attached previously published fiscal notes: FN1 (GOV), FN2 (ADM).

[5:23:59 PM](#)

AT EASE

[5:26:12 PM](#)

RECONVENED

#sb230

CS FOR SENATE BILL NO. 230(FIN)

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

[5:26:12 PM](#)

Vice-Chair Thomas MOVED to ADOPT HCSSB 230(FIN) (26-GS2824\M, Kane, 4/17/10) as a working document before the committee. There being no OBJECTION, the committee substitute was ADOPTED.

JAMES ARMSTRONG, STAFF, CO-CHAIR BILL STOLTZE, provided a sectional overview of the CS:

- Sections 1 through 3: governor's supplemental/capital put into the current version at \$122,224,900
- Sections 4 through 6 (page 8 through 16): governor's deferred maintenance at \$118,420,000
- Sections 7 through 9 (pages 17 to 60): governor's portion of the regular capital budget totaling \$1,685,162,600
- Sections 10 through 12: grants to municipalities and unincorporated communities totaling \$466,293,300
- Sections 13 to 15 (pages 114 to 147): grants to the named recipients totaling \$138,982,900

- Sections 16 through 18 (pages 148 to 152): cruise ship revenue-funded projects at \$49,525,000
- Sections 19 through 21 (HB 424, currently in the Senate): education general obligation bonds appropriations totaling \$397,200,000
- Sections 22 through 62 (pages 157 to 175): the language portion of the bill

Mr. Armstrong noted that \$10,766,400 worth of operating budget items were distributed throughout the bill.

Mr. Armstrong listed total spending by category:

- General funds: \$1,406,939,400
- Other state funds: \$554,595,200
- Federal funding: \$1,027,040,400
- Total funds: \$2,998,575,000

Mr. Armstrong reminded the committee that number changes had been discussed the night before and that there were two additional changes. One was an intent language change by Mr. Carpenter on a project in Sitka, to which the other body agreed. Another \$250,000 appropriation for a Kachemak Bay project was grouped with other university projects.

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Mr. Armstrong detailed changes to the language section in the committee substitute:

- Page 159, lines 12-17: Lease sales in the past couple of days generated NPR-A revenues; an amendment adds technically correct language.
- Page 161, lines 28-31: As per the Senate and the Department of Revenue (DOR), \$4,766,400 was stripped out of HB 424 (Education G.O. Bond Bill); funding related to the bonds was put into the CS.

Representative Doogan verified that the item would become a general fund appropriation. Mr. Armstrong responded that he was correct, contingent upon passage in November.

Mr. Armstrong continued:

- Page 162, lines 2-14: Intent language related to the Department of Transportation and Public Facilities

(DOT/PF) ferry purchase. He noted that the Senate had worked with DOT/PF regarding the item; the language is compromise language.

Co-Chair Stoltze elaborated that the language was intended to increase the likelihood that the ferry would be constructed in the state of Alaska.

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Mr. Armstrong continued:

- Section 37, lines 24-29 (Page 163): New section dealing with in-state gasline provisions; the inserted language was developed with the Finance Committee's co-chairs and the Speaker's office.

Co-Chair Stoltze acknowledged Co-Chair Hawker's work on the item.

Representative Gara asked whether the section was for \$8.2 million for the in-state gasline project. He referred to other legislation (by Representative Chenault) with a \$10 million fiscal note and wondered if that was in addition to the amount in the capital budget.

Co-Chair Hawker clarified that the two appropriations (the entire Section 37) on page 174 were contingent on the failure of the legislation.

Mr. Armstrong continued with language changes, noting that the next sections were standard district re-appropriations:

- Page 173, lines 21 to page 174, through line 19: Re-appropriation of the legislature's lapsing funds.
- Lines 21-26, Section 55(a): \$2.2 million for various renovations and repairs to legislative buildings and facilities.
- Section 55(b): Re-appropriation to the Legislative Council to conduct an independent, third-party, scientific, and multi-disciplinary study of the potential for a large line development in Bristol Bay drainage, not to exceed \$750,000.
- Section 55(c): Request from the Municipality of Anchorage to the Legislative Budget and Audit Committee for an electrical power procurement

practices study and design, not to exceed \$800,000. He noted the item was a late request and that the Anchorage Metropolitan Area Transportation Study (AMATS) increment in the numbers section of the capital budget had been reduced by the same amount.

- Section 55(d): Puts the remaining balance of whatever is left over in the legislative accounts into the budget reserve fund.
- Section 55(e): \$750,000 to the Department of Commerce, Community, and Economic Development to deal with Endangered Species Act (ESA) issues.
- Page 160, lines 18-30: A general fund appropriation to the bond bank to issue a 1 percent, 15-year note to the City of Galena to help cover financial needs. He noted that Devon Mitchell (Alaska Municipal Bond Bank Authority, DOR) had written a letter of support for the item.

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Vice-Chair Thomas queried contingency language on line 174. Mr. Armstrong responded that the language applied to various bills in the event that they passed the legislature. For example, contingency language on page 175 related to the bond bank stipulates that the appropriation made in Section 30(a) is contingent upon an agreement being reached between the Alaska Municipal Bond Bank Authority and the City of Galena that the loan is secured by the city and is subject to state aid intercept provisions (AS 44.85.170).

Co-Chair Stoltze referred to passenger vessel provisions.

Co-Chair Stoltze introduced amendments to the bill. He informed the committee that he would not offer Amendment 1 at that time but still had it ready in the event that there was positive progress on the Alaska Crime Lab legislation. The amendment would provide the appropriate language in the capital budget related to the item.

Co-Chair Stoltze noted that he would not offer Amendment 2, but that it would also be held.

Co-Chair Stoltze MOVED to ADOPT Amendment 3 (26-LS8005\A.69, Kane, 4/17/10):

*Sec. A. FUND TRANSFER. The proceeds from the sale of loans by the Alaska Energy Authority to the Alaska Industrial Development Authority under a memorandum of understanding dated February 17, 2010, estimated to be \$20,600,000, are appropriated to the power project fund (AS 42.45.010).

*Sec. B. CONTINGENCY. The appropriation made in sec. A of this Act is contingent on passage by the Twenty-Sixth Alaska State Legislature and enactment into law of a version of SB 301.

*Sec. C. LAPSE. The appropriation made in sec. A of this Act is for the capitalization of a fund and does not lapse.

Co-Chair Hawker OBJECTED for discussion.

Mr. Armstrong noted that the amendment represented a late request from the Alaska Industrial Development and Export Authority (AIDEA). A fund transfer appropriation would be needed for SB 301 if it passed.

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SARA FISHER-GOAD, DEPUTY DIRECTOR, OPERATIONS, ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY AND ALASKA ENERGY AUTHORITY (AEA), DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, explained that after SB 301 had passed the House Finance Committee, Legislative Legal Services suggested that an appropriation would be necessary to allow proceeds to be deposited into the Power Project Fund. She informed the committee that an amendment had been offered in the House Rules Committee to clarify the issue. The bill passed and was concurred in the Senate, so the language added by Amendment 3 would be required.

Co-Chair Hawker REMOVED his OBJECTION. There being no further objection, Amendment 3 was ADOPTED.

Co-Chair Stoltze MOVED to ADOPT Amendment 4:

On Page 131

Insert after lines 28-30:

It is the intent of the legislature that operational information will be shared with other Railbelt utilities in an effort to better understand the impacts of non-firm, renewable sources of energy on the Railbelt grid.

Co-Chair Hawker OBJECTED for discussion.

Mr. Armstrong directed attention to page 131, lines 28 through 30 in the numbers section and explained that the amendment would insert intent language to clarify that operational information would be shared with other Railbelt utilities in an effort to better understand the impacts of non-firm, renewable sources of energy on the Railbelt grid.

Representative Doogan queried the meaning of "non-firm." Representative Kelly explained that "firm power" was the commitment by the utility to keep the lights on 24 hours per day, seven days per week; the specified location is counted as part of the capacity of the utility. "Non-firm" means the utility would give power when it was able but would not reserve capacity specifically for the specified location.

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Co-Chair Hawker REMOVED his OBJECTION. There being no further objection, Amendment 4 was ADOPTED.

Representative Kelly MOVED to ADOPT Conceptual Amendment 5:

Page 166, Line 28 following "project"

Insert:

"and the Fairbanks North Star Borough Library Fiber Optic project"

Co-Chair Stoltze OBJECTED for discussion.

Representative Kelly explained that the amendment would allow the expansion of the use of the existing appropriation for the Birch Hill Disaster Communications Project (page 166, line 28) to include the Fairbanks North Star Borough Library Fiber Optic project. He detailed that the library is running out of bandwidth.

Co-Chair Stoltze REMOVED his OBJECTION. There being no further objection, Conceptual Amendment 5 was ADOPTED.

Representative Kelly moved Amendment 6 (26-GS2824\T.4, Kane, 4/17/10):

Page 158, following line 24:

Insert a new subsection to read:

"(c) The sum of \$2,000,000 is appropriated from the general fund to the Department of Commerce, Community, and Economic Development for payment as a grant under AS 37.05.316 to the Alaska Travel Industry Association to finance a national television campaign to promote Alaska and increase the number of visitors to Alaska for the fiscal year ending June 30, 2011."

Co-Chair Stoltze OBJECTED for discussion.

Representative Kelly explained that the travel industry had made a request to take its funding of nearly \$20 million through various mechanisms; changes made in the Senate included about \$5 million funds added. The amendment would add another \$2 million funds to help the struggling industry. He hoped that a longer-term solution would be found in the coming legislative session.

Co-Chair Stoltze noted that the item was a one-time appropriation.

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Representative Doogan queried the total for appropriations to the travel industry. Representative Kelly replied that the total was currently \$9 million through the vehicle rental tax plus another \$5 on top; the amendment would bring the total to \$16 million.

Representative Doogan stated that he did not support the additional increment and would vote against the amendment. He had not heard from the travel industry about the item. He had watched the amount grow from less than \$10 million to \$16 million without any information about what the money would be used for.

Representative Gara spoke against the amendment. He pointed out that the legislature had given the travel industry \$9 million the previous year. Before the amendment, the amount was up to \$14 million, a 50 percent increase. He believed the \$9 million had been up from \$5 million a few years ago. He was concerned that state money keeps increasing while contributions from the membership did not.

Representative Gara continued that in other states, the industry contributed a state tax and got a tax credit towards contributing to marketing. In Alaska, there is no

state tax on most tourism operators, except for the biggest ones. He called the money a "state handout" and questioned the match between industry and the state.

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Representative Fairclough noted a possible technical problem; the amendment was made from another version of the bill, making the numbering wrong; the amendment should say "page 161, following line 12." Co-Chair Stoltze agreed the technical change should be made.

Vice-Chair Thomas expressed mixed feelings about the amendment because of the way the fishing industry had been treated. He maintained that the fishing industry paid \$9.5 million self-assessment for marketing and gets \$2.5 million from the state. He pointed out that the fishing industry had to fight to get \$1 million in additional funds into the budget, and the amount had been cut. He expressed disappointment. He referred to past discussions about taxes. He stated that the fishing industry was self-sustaining, has a fishermen's fund, and assesses 7 percent of its gross for marketing and enhancement. He asserted that the tourism industry should do the same.

Vice-Chair Thomas recalled that when the salmon industry was struggling, it created the salmon task force and worked to remedy the situation. The salmon production tax was intended to help the industry work its way to solvency. He commented that the Alaska tourism industry had harmed the fishing industry with a stand on the halibut fishery the previous year; 1,700 Southeastern fishermen went from 100 percent quota to 40 percent, a net loss of over \$30 million per year. He requested that when the tourism industry markets itself, it should not harm another Alaskan industry. He argued that the response would have been very strong if they had gone after the oil industry.

Vice-Chair Thomas reported that he expected to see an additional \$3 million or \$4 million contribution back to the state.

Representative Kelly commended the Alaska Seafood Marketing Institute (ASMI) but stressed the need for more help for tourism. He believed the state should help.

Vice-Chair Thomas spoke further to struggles in the halibut industry, describing his quota and income. He had gone from \$105,000 to \$35,000. He stressed the enormity of the impact on fishermen.

Representative Austerman stated that he would support the increment, even though it went against his inclination. He noted that he had made argument in the past regarding the total the state put into ASMI as compared to how much it put into the tourism industry. He wanted parity. He acknowledged that both industries were important to Alaska's economy. He argued that he had difficulty increasing tourism marketing dollars without increasing seafood marketing dollars.

Representative Austerman informed the committee that he had spent four years working for a past governor as a fishery policy advisor. During that time, he was handed \$50 million to bring the salmon industry out of the economic slump it was in. As an illustration, the industry was getting \$0.05 and \$0.06 per pound for pink salmon, compared to \$0.35 to \$0.40 per pound that it had gotten in the past. He emphasized that the \$50 million was federal dollars, and it effectively brought the industry back, largely through marketing. He thought spending the money could get results. However, there would not be the same kind of money available from the federal government to help the tourism industry recover. He had wrestled with the issue, but believed state dollars were necessary. He was still opposed to moving the appropriation to the industry itself.

Representative Austerman stated that he wanted a marketing plan for the state that promotes tourism and seafood as well as other homegrown products and markets Alaska as a place to come to and do business. He hoped the Finance Committee would acknowledge the need for a marketing program for all aspects of Alaska.

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Representative Joule told the committee that he would support the amendment. He had grown up in Kotzebue observing tourism. He had then resided at the University of Alaska and worked as a tour guide to pay his way to college. He reported that his children volunteered for tourism work and got jobs in the industry when they could

legally work. However, there are no more tourists in the area.

Representative Joule thought the increment would help in places where people are struggling. He pointed out that the industry had been asked to come up with different ways of raising funds, and they had, but the legislature was not ready to go the route proposed. He acknowledged the concerns stated and believed Alaska should be a destination market.

Representative Kelly pointed out that there was a match on the increment of \$2.7 million.

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Representative Gara asked whether the match was included in the total.

Representative Doogan MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Joule, Kelly, Salmon, Thomas, Austerman,
Fairclough, Foster, Hawker, Stoltze
OPPOSED: Gara, Doogan

The MOTION PASSED (9-2). Amendment 6 was ADOPTED.

[6:08:27 PM](#)

AT EASE

[6:35:32 PM](#)

RECONVENED

Co-Chair Stoltze MOVED to ADOPT Amendment 2a (26-LS8005\A.70, Kane, 4/17/10):

*Sec. A. DEPARTMENT OF LAW. (a) The amount necessary for the purpose, not to exceed \$12,443,959, is appropriated from the general fund to the Department of Law to pay the principal of the award of damages entered against the state in Donald H. Carlson, et al. v. State, Commercial Fisheries Entry Commission, 3 AN-84-5790 Civil (Anchorage Superior Court).

(b) The amount necessary for the purpose, not to exceed \$7,029, is appropriated from the general fund to the Department of Law to pay the costs entered against the state in Donald H. Carlson, et al. v.

State, Commercial Fisheries Entry Commission, 3 AN-84-5790 Civil (Anchorage Superior Court).

(c) The amount necessary for the purpose, not to exceed \$7,482,569.73, is appropriated from the general fund to the Department of Law, to pay the award of attorney fees entered against the state in Donald H. Carlson, et al. v. State, Commercial Fisheries Entry Commission, 3 AN-84-5790 Civil (Anchorage Superior Court).

(d) The amount necessary for the purpose, not to exceed \$62,356,738, is appropriated from the general fund to the Department of Law, to pay the interest on the principal of the award of damages entered against the state in Donald H. Carlson, et al. v. State, Commercial Fisheries Entry Commission, 3 AN-84-5790 Civil (Anchorage Superior Court).

(e) If the amount available for appropriation from the general fund is insufficient to fully fund the appropriations made in (a) - (d) of this section, the amount necessary to fully fund any of the appropriations made in (a) - (d) of this section is appropriated from the budget reserve fund (AS 37.05.540) to the Department of Law for the purpose specified.

(f) It is the intent of the legislature that the Department of Law administer the appropriations made in this section in a manner that minimizes their expenditure.

*Sec. B. LAPSE. The appropriations made in sec. A of this Act lapse June 30, 2014.

*Sec. C. Section A of this Act takes effect immediately under AS 01.10.070(c).

Co-Chair Hawker OBJECTED for discussion.

Co-Chair Stoltze explained that the amendment was a fairly large appropriation related to the on-going Carlson litigation.

CRAIG TILLERY, DEPUTY ATTORNEY GENERAL, CIVIL DIVISION, DEPARTMENT OF LAW, provided a brief overview of the Carlson case. The lawsuit began in 1984 as a challenge to legislation that charged commercial non-resident fisherman three times more than residents for entry permits and crew licenses. The case has been to the state supreme court and is currently there for the fifth time. Four previous decisions have found that some surcharge to non-resident

commercial fishermen is permissible, but the surcharges have to be justified by calculating the resident's per-capita contribution to the budget. It was also found that the differential calculation does not have to be exact; a 50 percent margin above the actual differential is allowable on non-resident fees. Class members are entitled to refunds for payments in excess of the allowable differential. Most important for the current discussion, the interest provided under the state revenue code statutes was applied so that on the claims arising from 1984 through 2004, interest accrues at an average of just over 11 percent compounded quarterly.

Mr. Tillery informed the committee that on March 22, 2010, Judge Michalski entered a final judgment on the Carlson case in the amount of \$82,290,295. The amount is broken down as follows:

Principle: \$12.44 million
Prejudgment interest: \$62.35 million
Attorney's fees: \$7.48 million
Costs: \$7,000

Mr. Tillery continued that under an administration plan that had been adopted, when the money was appropriated it was to be paid into a refund trust account administered by a private company. The trust account is owned by the class but subject to the continuing jurisdiction of the court. Money under the original plan could not be distributed from the trust account until there was a final judgment and the money had been deposited in the account. The plan originally provided that if the judgment was paid in full in the account by May 14 [2010], interest would be staid as of January 31, 2010. Because interest accrues at a little over \$20,000 a day, the incentive was significant.

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Mr. Tillery continued that the state had recently appealed the final judgment on two grounds. First, the notion that the interest was correctly calculated at 11 percent compounded quarterly was directly challenged; the state has argued that there should be no interest and that if there is interest it should be at the normal prejudgment rate. Second, the state has challenged the very large attorney's fees award primarily because the award was based on a

percentage under Rule 82; the state believes the substantial increase in the fees is not justified.

Mr. Tillery stated that as required by AS 09.52.70, the state has submitted an appropriation to the legislature for the full amount of the judgment broken into the individual components. He added that the state had requested that the appeal be expedited. There was some objection; mediation resulted in agreement that the refund administration plan would be modified to provide that the interest would not accrue on the award from January 31, 2010, if the state paid the full amount of the amended final judgment into the trust account by June 30, 2010. Further, the agreement provides that the trust fund will not be distributed until further order of the court, after all appeals have been ended, including those to the U.S. Supreme Court. In addition, the agreement provides that the amount of money no longer required to be paid will be refunded to the state together with interest earned if the judgment is modified in any way as a result of the appeals.

Mr. Tillery concluded that an expedited briefing schedule has been established as ordered by the state supreme court. The agreement stops the running of interest at \$20,000 per day as of January 31, 2010, eliminates the primary downside appealed (the continual accrual of interest), and provides that if the state wins the appeal, the money plus interest will be returned.

Co-Chair Stoltze clarified that the amount was not being given away, but being put into escrow.

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Vice-Chair Thomas queried the interest rate the state would get. Mr. Tillery responded that the state would get whatever is earned while the money is in the trust account.

Co-Chair Hawker WITHDREW his OBJECTION. There being no further objection, Amendment 2a was ADOPTED.

Representative Austerman MOVED to ADOPT Conceptual Amendment 7:

Page 173, line 31
Delete:
"for a"

Co-Chair Hawker OBJECTED for discussion.

Representative Austerman explained that the amendment would remove two words that had inadvertently been put into the legislation on line 31, 4(a).

Representative Doogan clarified that the language would be "the potential large mine developed."

Co-Chair Hawker REMOVED his OBJECTION. There being no other objection, Conceptual Amendment 7 was ADOPTED.

Vice-Chair Thomas MOVED to report HCS CSSB 230(FIN) out of Committee with individual recommendations.

HCS CSSB 230(FIN) was REPORTED out of Committee with a "do pass" recommendation.

Co-Chair Hawker MOVED that Legislative Finance Division and Legislative Legal Services be authorized to make any necessary technical and conforming changes to the bill. There being no objection, it was so ordered.

Mr. Armstrong acknowledged the work that was done on the legislation.

Co-Chair Hawker stated that he was going to recommend "do pass" for the bill but that he had many reservations.

[6:47:51 PM](#)

AT EASE

[6:54:41 PM](#)

RECONVENED

#sb238

SENATE BILL NO. 238

"An Act amending the eligibility threshold for medical assistance for persons in a medical or intermediate care facility."

[6:54:58 PM](#)

THOMAS OBERMEYER, STAFF, SENATOR BETTYE DAVIS, explained that the legislation would amend and restore the Medicaid eligibility threshold for medical assistance for individuals in a medical or intermediate care facility from a specified monthly income limit to 300 percent of the

social security income benefit rate. The threshold is also used for people who receive home and community-based waiver services. In 2003, the legislature froze the Medicaid long-term services income eligibility limit at \$1,656 per month; at that time the amount was 300 percent of the supplemental security income (SSI). The change created an income ceiling for waiver eligibility, effectively freezing the eligibility limit for the past seven years rather than allowing the limit to adjust annually in tandem with the SSI. In 2009, the income equivalent was \$2,022. The result was that small social security cost-of-living adjustments have disqualified many needy, disabled people from the program. Alternatives for preserving eligibility, particularly for those requiring lifetime or long-term care include the creation of a Medicaid qualifying income trust known as the Miller Trust. Trusts have procedural drawbacks, including numerous responsibilities and restrictions, limited access to income, assistance of an attorney, and a trustee to manage trust assets.

Mr. Obermeyer asserted that Medicaid services are critical to the well-being of Alaska's most vulnerable citizens. He believed that supporting SB 238 would ensure that eligible Alaskans would continue to receive nursing-home care and in-home services. In addition, the legislature would not have to amend statutes every year or two as the federal poverty level guidelines and supplemental security income levels increase with the cost of living.

Mr. Obermeyer pointed out that the bill had a zero fiscal note; making the adjustment would not increase costs to the state.

Representative Gara commented that when the legislation was presented by the Commission on Aging as a priority, they were not sure if the fiscal note would be zero. The same number of people would qualify but they need to hire an attorney and create a Miller Trust to move their assets in order to qualify. People would not have to create a Miller Trust if the threshold is changed.

Co-Chair Stoltze opened and closed public testimony.

Vice-Chair Thomas MOVED to report SB 238 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SB 238 was REPORTED out of Committee with a "do pass" recommendation and with attached previously published fiscal note: FN1 (DHS).

#sb236

CS FOR SENATE BILL NO. 236(EDC)

"An Act relating to tax credits for cash contributions by taxpayers that are accepted for certain educational purposes and facilities; and providing for an effective date."

[6:59:39 PM](#)

Vice-Chair Thomas MOVED to ADOPT HCS CSSB 236(FIN) (Version 26-LS1191\N, Chenoweth/Bullock, 4/17/10) as a working document before the committee.

Co-Chair Stoltze OBJECTED for discussion.

JOMO STEWART, STAFF, SENATOR KEVIN MEYER and CO-COMMITTEE AIDE, SENATE EDUCATION COMMITTEE, gave an overview of differences between the Senate version of the bill and the CS. First, under the original Senate bill, the cap had been raised on the tax credits from the \$150,000 currently in statute to \$25 million; the CS would lower the cap to \$5 million (which mirrors the House version). Second, the CS includes language provided in the House regarding affiliated groups. The affiliated groups language clarifies that each donating corporation would not be able to claim a \$1 million tax credit, but would have to divide the credit.

Co-Chair Stoltze noted concerns about tax credits but thought the bill had been trimmed back.

Co-Chair Stoltze opened and closed public testimony.

Co-Chair Hawker described the fiscal note as an indeterminate revenue note without other direct costs or consequences.

Co-Chair Stoltze REMOVED his OBJECTION to adopting the CS. There being no further objection, it was so ordered.

Vice-Chair Thomas MOVED to report HCS CSSB 236(FIN) out of Committee with individual recommendations and the accompanying fiscal note.

Co-Chair Stoltze OBJECTED for discussion.

Representative Doogan commented that the legislation would expand tax credits as opposed to coming to the legislature to get money for educational projects. He thought it would short-circuit the process by directly funding institutions; he felt that the legislature should be involved in the educational funding business.

Co-Chair Stoltze shared concerns about tax credits. He noted that the bill had been reduced. Representative Doogan was glad for the reduction.

There being NO further OBJECTION, the bill was ordered out of committee.

HCS CSSB 236(FIN) was REPORTED out of Committee with "no recommendation" and attached previously published fiscal note: FN1 (REV).

#sb24

SENATE BILL NO. 24

"An Act naming the bridge over Hammer Slough on Nordic Drive in Petersburg the Louis Miller Bridge."

[7:07:22 PM](#)

WESTON EILER, STAFF, SENATOR BERT STEDMAN, explained that the bill would honor Mr. Louis Miller, an Alaskan pioneer who contributed a great deal to the community of Petersburg. He noted that under AS 35.40.015, the state may name public works through an act of the legislature. The authority has been exercised over 40 times in state law. The bill would name the bridge over Hammer Slough after Mr. Miller, who came to Alaska during the Klondike gold rush and arrived in Petersburg in 1901. As a carpenter he constructed some of the first homes along Hammer Slough and oversaw construction of the Sons of Norway Hall. Mr. Miller operated a moorage and warehouse on the site of the present-day bridge. The bill would recognize his contribution to the community.

Co-Chair Hawker noted that the \$4,000 fiscal note was for new signs.

Vice-Chair Thomas MOVED to report SB 24 out of Committee with individual recommendations and the accompanying fiscal note.

SB 24 was REPORTED out of Committee with a "do pass" recommendation and with attached new fiscal impact note by the Department of Transportation and Public Facilities.

#sb25

SENATE BILL NO. 25

"An Act naming the South Mitkof Island ferry terminal the Richard 'Dewey' Duvall Ferry Terminal."

7:10:15 PM

WESTON EILER, STAFF, SENATOR BERT STEDMAN, explained that the bill would name the South Mitkof Island ferry terminal after Richard "Dewey" Duval, a long-time proponent of marine transportation in Petersburg. Mr. Duval was an engineer who promoted improving transportation in Southeast Alaska through his involvement with Alaska's Inter-Island Ferry Authority (IFA). He served on Petersburg's city council and was a founding board member of IFA. During his ten years of service on the board, he helped the authority organize and was instrumental in the construction of the ferry terminal, where he worked as agent. The bill would recognize his contribution by naming the terminal in his honor.

Co-Chair Stoltze noted that the city council of Petersburg had endorsed the measure.

Co-Chair Hawker added that the \$1,000 fiscal note was for a new sign.

Vice-Chair Thomas MOVED to report SB 25 out of Committee with individual recommendations and the accompanying fiscal note.

SB 25 was REPORTED out of Committee with a "do pass" recommendation and with attached new fiscal impact note by the Department of Transportation and Public Facilities.

7:12:27 PM

RECESSED

8:00:45 PM

RECONVENED

#sb32

CS FOR SENATE BILL NO. 32(FIN)

"An Act relating to medical assistance payments for home and community-based services and provision of personal care services in a recipient's home; and providing for an effective date."

CSSB 32(FIN) was SCHEDULED but not HEARD.

#sb246

SENATE BILL NO. 246

"An Act increasing the number of superior court judges designated for the third judicial district; and providing for an effective date."

SB 246 was SCHEDULED but not HEARD.

#sb284

CS FOR SENATE BILL NO. 284(FIN)

"An Act relating to state election campaigns, the duties of the Alaska Public Offices Commission, the reporting and disclosure of expenditures and independent expenditures, the filing of reports, and the identification of certain communications in state election campaigns; prohibiting expenditures and contributions by foreign nationals in state elections; and providing for an effective date."

[8:00:56 PM](#)

Co-Chair Hawker MOVED to ADOPT HCS CSSB 284(FIN) (26-LS1448\W, Kurtz/Bullard, 4/17/10) as a working document before the committee.

Co-Chair Stoltze OBJECTED for discussion.

BEN MULLIGAN, STAFF, CO-CHAIR BILL STOLTZE, explained the difference between the previous version (Judiciary Committee, Version T) and the proposed CS. On page 8, lines 5 and 6, "and in a communication that includes an audio component" is eliminated in the proposed CS. In addition, the word "solely" is inserted after the words "communication transmitted."

Mr. Mulligan detailed that the intention of the change is to make sure that only the visual report is required for television advertisements, not the audio.

Representative Gara clarified that the intention of the CS is that the viewer would not hear the names of the top contributors in a television ad. Mr. Mulligan replied that the names would just be on the screen visually.

Representative Gara queried the word "solely." Mr. Mulligan replied that the language was suggested by the bill's drafter and would clarify that it applied to just radio or other audio media.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, the work draft was ADOPTED.

8:04:12 PM

SENATOR HOLLIS FRENCH, SPONSOR, discussed a U.S. Supreme Court decision earlier in the year that for the first time in Alaskan history allows unlimited corporate and union expenditures to be made for or against candidates or ballot propositions. He emphasized that Alaska has never had such a law and both Legislative Legal Services and the state attorney general believed state statutes needed to be updated because of the decision.

Senator French continued that the bill is broken down into two major sections: disclosure and disclaimer. He detailed that by "disclosure" he meant reporting to the Alaska Public Offices Commission (APOC) the money raised from contributors in order to make independent expenditures for and against candidates and ballot initiatives. The disclaimer provisions are intended to tell Alaskan voters who is speaking to them in advertising. The sponsors wanted to have as protective and firm a measure as possible to protect Alaskan voters from new entities such as unions, corporations, and other groups.

Senator French directed attention to Section 1 and deletions that collapse lengthy definitions, such as for "persons" (which in Alaskan statutes means everyone).

Senator French noted that the first significant section is Section 4, which relates to disclosure requirements for the reports that entities make to APOC. He emphasized that the

section referred to independent expenditures by advocacy groups, not candidates, as clarified on page 3, line 10. Every expenditure would have to be recorded so that voters would know who was spending money either supporting or opposing an issue. The measure sets a limit at \$50 for reporting the address, principal occupation, and employer of the contributor, the same limit set for candidates.

Senator French relayed that the next significant provision was in Section 8 on page 4, which would set up a separate "political activities" account so that APOC can better monitor the funds spent. Section 10 directs who can speak to voters; the bill says the state would adopt the same ideas as in federal law. For example, a foreign corporation or individual cannot speak to Alaskan voters without a local subsidiary. He noted the section was debated extensively in the House Judiciary Committee.

[8:09:43 PM](#)

Senator French anticipated that the disclaimer provisions in Sections 13 and 14 would cause debate. The disclaimer provisions would let Alaskans know who funds communications about issues. Section 13 says that the three largest contributors have to be identified. Section 14 lays out the mechanics of each medium, whether print, radio, or television. He noted that there had been questions about what to do when there are ten contributors who have given the same amount (page 8, lines 11 through 16); the section leaves it up to the entity making the ad.

Senator French turned to Section 18, which would keep current law in place related to campaign misconduct.

Representative Gara queried independent expenditures. Senator French responded that when candidates run campaigns, they collect contributions from individuals or political action committees (PACs) at a maximum of \$500 per calendar year. The money is collected into a campaign account out of which expenditures are paid. The contributions in the bill are separate, independent contributions. Because they are independent of a candidate, there is no limit on the amount of money that can be contributed.

Senator French underlined the lack of a limit; an entity or person could contribute \$1 million or \$10 million, whereas

the average House race might cost a candidate \$100,000 and the average Senate race might cost \$200,000. With the new legislation, much more money could be spent on candidates.

[8:14:14 PM](#)

Representative Gara emphasized that the U.S. Supreme Court has determined that there is no longer a cap on independent expenditures. He asked whether the legislation was intended to regulate outside corporations and environmental groups. Senator French responded in the affirmative. Because of the newness of the landscape, no one knew who would contribute; it could be ExxonMobile, Greenpeace, or Bill Gates, for example.

Representative Gara questioned what the legislation would do in a case such as an initiative related to aerial wolf hunting. Senator French replied that due to the disclaimer provisions, a television ad against aerial wolf hunting would list the top three contributors to the organization running the campaign.

Representative Gara queried the difference the CS would make in the example. Senator French replied that in a television advertisement, under the CS there would be no spoken disclaimer whatsoever; it would be written only.

Vice-Chair Thomas asked whether the legislation addressed "truth in advertising." Senator French indicated that language had been put in mirroring current law on page 8, lines 17 through 26. He noted that the difficulty is that in elections, the U.S. Supreme Court long ago ruled that a person can say and do almost anything. He pointed to line 23, "A person who makes a communication under the subsection may not with actual malice include...a false statement of material fact." Someone would have to be extreme to break the rule.

[8:17:34 PM](#)

Vice-Chair Thomas asked whether, related to the wolf-hunting example, an entity could buy an image of a hunter skinning a wolf that they did not film. Senator Hollis believed that could be allowed.

Representative Fairclough referred to page 7, line 19 and 20, disclosure related to influencing the outcome of a

ballot. She wondered whether the legislation spoke to ballot measures. Senator French explained that the section was a remnant of an old provision allowing small expenditures (less than \$500) made independent of any other person and made only to influence the outcome of a ballot proposition (page 3, lines 7) and is made for a billboard, sign, or printed material only. He directed attention to page 3, lines 10 through 13; every report must contain the name of the candidate, the title of the ballot proposition, or requests in support or opposition, all of which had to be reported to APOC (if over the limit of \$250 or \$500 total expenditures).

8:19:32 PM

Representative Foster asked whether the top three contributors had to be listed on a television ad. Senator French replied that both the CS and the version of the bill that had entered the committee stipulate that the information must be listed in print at the bottom of the ad. The CS further stipulates that the information does not have to be audibly read out.

Representative Foster stated concerns about the ability of elders to read the information because it was too small. Senator French referred to page 7, lines 28 and 29, stipulating that the information has to be "easily discernable." He spoke to the issue of elders, or people who might listen to the television rather than watch it, or people who cannot see or read English well.

Representative Gara noted a previous concern about printing zip codes and area codes. Senator French explained the compromise found on the top of page 8: A print ad must include the name as well as city and state of residence or principal place of business of the top three contributors; an audio disclaimer only needs the names.

8:22:28 PM

Co-Chair Hawker opened and closed public testimony.

Representative Doogan MOVED to ADOPT Conceptual Amendment 1:

DELETE: at page 8, line 5: after "communication transmitted" delete "solely"

INSERT: at page 8 line 5, after "or other audio media," insert: "and in a communication that includes an audio component,"

Co-Chair Stoltze OBJECTED.

Representative Doogan explained that the amendment would reinstate language requiring audio as well as visual disclaimer information on television ads. He used himself as an example of someone who does not see small print on television well. He believed that information about who is trying to influence his vote was important. The amendment would address people who do not read words on the screen because they are distracted by other activities. He stressed that viewers depend on audio as well as visual cues. He believed the intent of the legislation was full disclosure that included both.

Co-Chair Stoltze queried the sponsor's opinion of the amendment.

[8:27:30 PM](#)

Representative Fairclough discussed vocalization in television campaigns. Senator French acknowledged discussion about the issue.

Representative Fairclough asked Representative Doogan for more clarification about the amendment related to disclosure. Representative Doogan believed that the advertiser would lose the piece of time used to state who paid for the ad. The point was letting people know who was trying to influence them.

Representative Fairclough spoke in favor of the vocalization but wanted to discern the advantages and disadvantages to both the persons making the ads and those hearing them. She asked whether addresses would be required as well as the names. Senator French replied that only the names would be required. She thought 15 seconds was a long time for audio.

[8:31:13 PM](#)

Representative Gara directed attention to page 8. He read examples of disclosures to demonstrate that the time needed

was short. He stressed the importance of disclosing the top three contributors especially in ads that attack a candidate or an issue. He argued that the core issue was truth in disclosure and that the public has the right to know exactly who is paying for the ad, not a "fake" name such as "People for Jobs." He spoke in support of the compromise version of the bill.

Co-Chair Stoltze acknowledged his lack of experience using ads, particularly for television. He maintained that he was in favor of full disclosure. He was opposed to an aspect of the bill that he feared would make it too expensive for some individuals or entities to buy ads.

[8:37:48 PM](#)

Representative Doogan thought the issue was a judgment call. He stated his intent to get the information to citizens about who is trying to influence them.

Representative Gara pointed out that no one could determine how much money went into campaigns and issues because of the U.S. Supreme Court ruling; however, hidden advertisers could be prevented from hiding. He argued that without the amendment, the information would only flash on the television screen, which would aid those who were hiding. He listed the people who would not catch the disclaimer. He stressed the importance of full disclosure.

Representative Gara reviewed that adopting the CS would result in the names being printed on the screen; adopting the amendment would result in hearing who paid for the ads.

Co-Chair Stoltze asked how the disclaimer would be displayed. Representative Gara answered that the disclaimer would include the group's name and the names of the contributors.

Co-Chair Stoltze asked whether the names would appear without the amendment. Representative Gara answered that the names would appear.

[8:42:05 PM](#)

Co-Chair Stoltze MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Salmon, Doogan, Foster, Gara, Joule
OPPOSED: Thomas, Austerman, Fairclough, Stoltze, Hawker,
Kelly
The MOTION to adopt Conceptual Amendment 1 FAILED (6/5).

Representative Gara MOVED to ADOPT Conceptual Amendment 2:

DELETE: at page 8, line 5: after "communication transmitted" delete "solely"

INSERT: at page 8, line 5: after "or other audio media," insert: "and in a communication that includes an audio component,"

INSERT: at page 8, line 7: after "no contributors" insert "or, for any of the three largest contributors who have contributed less than \$2,000:"

Co-Chair Stoltze OBJECTED.

Representative Gara explained that the amendment was a compromise; it was the same as Amendment 1 except that it would only apply when there are very big contributors. The amendment would require audible reading of the names of the three biggest contributors to the extent that any of them donated more than \$2,000.

[8:44:49 PM](#)

Vice-Chair Thomas queried the amount. Senator French responded that the contributions are not candidate contributions but independent expenditures, for which there is no limit.

Vice-Chair Thomas assumed only corporations would be listed and not individuals. Senator French responded in the affirmative.

Representative Gara clarified that the corporation's name would be read if the donor is a corporation, person, or group; the amendment would apply to any entity that donated more than \$2,000.

Co-Chair Stoltze requested further information. Representative Gara directed attention to page 8, line 6 of the bill, which says that the second statement is not

required if the person paying for the communications has no contributors, or for any of the three largest contributors who have contributed less than \$2,000. The audio would have to be included if any of the three largest contributors contributed more than \$2,000.

Co-Chair Stoltze reiterated earlier concerns regarding the message. There was a discussion about an example.

Co-Chair Stoltze MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Salmon, Doogan, Foster, Gara, Joule

OPPOSED: Thomas, Austerman, Fairclough, Kelly, Hawker, Stoltze

The MOTION to adopt Conceptual Amendment 2 FAILED (6/5).

[8:50:33 PM](#)

AT EASE

[8:51:15 PM](#)

RECONVENED

Co-Chair Hawker referred to two fiscal notes. The Division of Elections anticipated no fiscal consequences and the Offices Commission expected an additional position to administrate the requirements of the statute and contractual services costing \$131,000 the first year and \$79,000 per year after that.

Representative Gara maintained that the provision not adopted by the committee was the most important part of the bill. He believed the rejected provision was about truth in advertising and that the public deserves to know who is trying to buy an election. He asserted that the public is not going to know who contributed the money for the most effective and negative ads and would be misled by group names designed to change voting behavior.

Co-Chair Stoltze thought there were important provisions in the bill.

Vice-Chair Thomas MOVED to report SB 284 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HCS CSSB 284(FIN) was REPORTED out of Committee with "no recommendation" and attached previously published fiscal notes: FN1 (GOV), FN2 (ADM).

[8:55:27 PM](#)

AT EASE

[9:16:28 PM](#)

RECONVENED

#sb237

CS FOR SENATE BILL NO. 237(FIN)

"An Act establishing a formula and a fund for school construction grant funding for regional educational attendance areas; extending the deadline for authorizing school construction debt reimbursed by the state; and requiring a report from the commissioner of revenue."

[9:17:52 PM](#)

JOHN BITNEY, STAFF, REPRESENTATIVE JOHN HARRIS, SPONSOR, described the bill as an attempt to provide a funding mechanism for school construction and maintenance across the state. He reported that provisions in the legislation referenced litigation the state has faced since 1999.

Mr. Bitney provided an overview of the sections of the Q version of the bill. Section 1 consists of the findings; no changes have been made in the CS. Section 2 contains provisions of HB 180 sponsored by Representative Joule that attempts to deal with contribution rates required by local communities to match school projects; some communities were having difficulty meeting the 30 percent matching rates, so the formula in the CS would bring the match rate down to 20 percent.

Co-Chair Hawker added that the committee had heard the bill before.

Mr. Bitney characterized Section 3 as the main provision of the bill. The section establishes a funding mechanism for schools in Regional Education Attendance Areas (REAs). The litigation addressed the fact that there is no statute mechanism other than annual legislative appropriation decisions to provide funding for the REA schools; the bill would provide that mechanism.

Mr. Bitney explained that the formula (subsection (b), page 2) would help identify basic need related to the cost of building new schools. The formula is derived by taking the annual legislative payments to municipalities for debt service (not the total amount of indebtedness). The number (which is just over \$100 million in the current budget) is divided by the percentage of REAA schools. The intent is to arrive at a number representing the total cost of schools statewide.

9:22:27 PM

Mr. Bitney identified the percent calculated by the department as 0.683, which is further multiplied by a number on top of page 3, or 0.244; the total would be approximately \$38 million.

Mr. Bitney referred to two Department of Education and Early Development (DEED) fiscal notes. Co-Chair Hawker pointed out that the fiscal note represented about \$38 million per year coming into the program. He had concerns about language missing from the fiscal note. He explained that the formula was contrived to result in enough money going into the fund to pay for one school on the school construction list [per year] for the foreseeable future. He noted that the debt service referred to was the annual debt service on the DEED bond debt reimbursement program; language in the CS made that clear and he wanted it in the fiscal note. The bond debt was approximately \$106 million per year currently; he believed that dividing it by the percentage of all schools would impute the number up. He claimed that the 0.244 percent figure was a reverse calculation number to make a permanent source for the REAAs based on urban school funding. The formula dealt with the inequity.

9:26:26 PM

Representative Austerman asked whether the section was new. Co-Chair Hawker responded that the calculations in the previous version of the bill were not clear.

Representative Doogan inquired whether all schools in rural school districts would qualify whether or not they have debt. Co-Chair Hawker responded in the affirmative. Representative Doogan asked whether the numbers would still work out if five hypothetical schools were built. Co-Chair

Hawker responded that the numbers would be the same because they are not based on the number of schools built but the relative number of urban and rural schools. Representative Doogan restated the question. Co-Chair Hawker responded that the variable would move slightly with more schools; the calculation would also respond to debt service moving up or down; if the amount of annual funding for debt service under the debt reimbursement program goes down (or up), the amount of money going to the rural schools would go down (or up).

Representative Doogan asked how robust the legislation was. He wondered how flexible the number would be if school districts stopped bonding or if more districts built schools. Co-Chair Hawker responded that the number was infinitely flexible.

Representative Doogan wondered whether the program would be at risk because of other changing variables. Mr. Bitney offered that the variable would increase if a municipal school district used local bonds to build a new school. He noted that the sunset date had been removed so that the program would continue and become a matter of annual approval by DEED and subject to approval by local voters.

Co-Chair Hawker added that he thought Representative Doogan was looking for information about volatility. He emphasized that the formula was designed to make sure that rural schools receive a fair and just portion of state money for school debt construction. He added that the formula would not be volatile as the variables evolve with added districts or changed debt.

[9:31:26 PM](#)

Representative Gara thought the bill was a balanced and reasonable approach and stated that he supported it. He believed the intent was to do more in years when the state had more money.

Co-Chair Hawker stressed that the formula was intended to be reasonable and understandable and to result in predictable funding for rural schools.

Mr. Bitney turned to Section 3; the last part asks DEED to provide an annual report beginning in February 2012 (tied to the July 1, 2012 effective date).

Representative Joule queried the purpose of the effective date. Co-Chair Hawker responded that the sponsor felt the two-year-out date was appropriate as there are currently other schools in the bond debt package; he did not want to overheat the construction process in rural areas. Representative Joule pointed out that the date would also give the administration time to settle the Kasayulie v. State of Alaska case.

Mr. Bitney continued with Section 4, the school debt reimbursement program statutes, which are lengthy because various authorizations done over the years have never been repealed as the bonds go on until they are paid off. The changes begin on page 8. The amendment on page 8, lines 6 to 7 is a technical change to a previous authorization. The heart of the section is the removal of the limitations on line 14 and line 22; there would be no ending date for the authorizations for the municipal debt reimbursement program.

Co-Chair Hawker detailed that the sunset on the urban bond debt reimbursement program would be eliminated.

Mr. Bitney turned to Section 5, a retroactive provision applying to Section 2 and going back to when the local contribution rates were enacted.

[9:36:09 PM](#)

Mr. Bitney explained that the department had modified the two projects in the current capital budget up to a total of \$32,000 to reflect the change in the contribution rates in Nome. He noted that in the fiscal notes, the committee would need to address rates for projects funded over the last two fiscal years.

Mr. Bitney concluded that Section 6 addresses the effective date of July 1, 2012; the rest of the bill would take effect immediately.

Representative Kelly queried the drop of the sunset date. Co-Chair Hawker recalled that the sponsor wished to end the Kasayulie Case. The original version proposed setting up a \$100 million fund; the amount has been dropped to \$70 million to allow for latitude after the \$38 million projected for one school was spent. He viewed the fund as a

"mini capital budget" to meet the commitment to construct one school each year. He had not been comfortable with letting the fund build to \$100 million. In addition, the annual numbers were brought down, in exchange for letting go of the sunset date.

9:40:10 PM

Vice-Chair Thomas MOVED to ADOPT HCS CSSB 237(FIN), (26-LS1342\Q, Mischel, 4/17/10) as a working document before the committee. There being NO OBJECTION, it was so ordered.

EDDY JEANS, DIRECTOR, SCHOOL FINANCES AND FACILITIES, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, stated that the department was neutral regarding the legislation. He stated that remarks that had been made in committee about the bill were accurate.

Co-Chair Hawker MOVED to ADOPT Conceptual Amendment 1:

Purpose: to clarify that "annual debt service" on page 2, line 30 means the annual debt service of the school construction debt reimbursement program.

Page 2, line 30, following "be the"
Delete "annual debt service amount"
Insert "annual debt service on debt incurred under AS 14.11.100(a)"

Vice-Chair Thomas OBJECTED for discussion.

Co-Chair Hawker explained that the amendment would affect page 2, line 30. He had been troubled with the definition of "annual debt service amount". Since the state has \$375 million each year of annual debt service, he thought the definition should be more specific. He pointed out that the bond debt reimbursement program statutes (AS 14.11.100(a)) are located in Section 4 of the bill. The amendment clarifies by changing "annual debt service amount" to "annual debt service on debt incurred under" the bond debt reimbursement program statutes.

9:44:32 PM

Representative Gara thought the amendment made sense. He asked the opinion of the sponsor.

JAY LIVEY, STAFF, SENATOR LYMAN HOFFMAN, SPONSOR, spoke in support of the amendment.

Vice-Chair Thomas WITHDREW his OBJECTION. There being NO further OBJECTION, Conceptual Amendment 1 was ADOPTED.

Representative Salmon referred to page 3 and queried the number (0.244). Mr. Livey explained that the number used in the past was 0.27, but the entire basis of the formula had been changed based on Co-Chair Hawker's analysis; the number had to change to accommodate the new formula. He stated that the sponsor agreed with the change.

Representative Salmon asked how the number impacts the amount. Mr. Livey replied that the difference would be about \$2 million less than the previous formula in the original bill. Co-Chair Hawker thought the number was higher.

[9:48:01 PM](#)

Vice-Chair Thomas MOVED to ADOPT Amendment 2 (26-LS1342\C.6, Mischel, 4/17/10):

Page 1, line 1, following "Act":

Insert "relating to energy consumption and costs, operating costs, and energy efficiency standards for school construction and major maintenance by the Department of Education and Early Development;"

Page 2, following line 5:

Insert new bill sections to read:

"*Sec. 2. AS 14.07.020(a) is amended to read:

(a) The department shall

(1) exercise general supervision over the public schools of the state except the University of Alaska;

(2) study the conditions and needs of the public schools of the state, adopt or recommend plans, administer and evaluate grants to improve school performance awarded under AS 14.03.125, and adopt regulations for the improvement of the public schools;

(3) provide advisory and consultative services to all public school governing bodies and personnel;

(4) prescribe by regulation a minimum course of study for the public schools; the regulations must provide that, if a course in American Sign Language is given, the course shall be given credit as a course in a foreign language;

(5) establish, in coordination with the Department of Health and Social Services, a program for the continuing education of children who are held in detention facilities in the state during the period of detention;

(6) accredit those public schools that meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the state fire marshal and the state sanitarian, standards that will assure healthful and safe conditions in the public and private schools of the state, including a requirement of physical examinations and immunizations in pre-elementary schools; the standards for private schools may not be more stringent than those for public schools;

(8) exercise general supervision over pre-elementary schools that receive direct state or federal funding;

(9) exercise general supervision over elementary and secondary correspondence study programs offered by municipal school districts or regional educational attendance areas; the department may also offer and make available to any Alaskan through a centralized office a correspondence study program;

(10) accredit private schools that request accreditation and that meet accreditation standards prescribed by regulation by the department; nothing in this paragraph authorizes the department to require religious or other private schools to be licensed;

(11) review plans for construction of new public elementary and secondary schools and for

additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction or major maintenance project; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, projected energy consumption and costs, and final contract documents;

(12) provide educational opportunities in the areas of vocational education and training, and basic education to individuals over 16 years of age who are no longer attending school;

(13) administer the grants awarded under AS 14.11;

(14) establish, in coordination with the Department of Public Safety, a school bus driver training course;

(15) require the reporting of information relating to school disciplinary and safety programs under AS 14.33.120 and of incidents of disruptive or violent behavior;

(16) establish by regulation criteria, based on low student performance, under which the department may intervene in a school district to improve instructional practices, as described in AS 14.07.030(14) or (15); the regulations must include

(A) a notice provision that alerts the district to the deficiencies and the instructional practice changes proposed by the department;

(B) an end date for departmental intervention, as described in AS 14.07.030(14)(A) and (B) and (15), after the district demonstrates three consecutive years of improvement consisting of not less than two percent increases in student proficiency on standards-based assessments in math, reading, and writing as provided in AS 14.03.123 (f)(2)(A); and.

(C) a process for districts to petition the department for continuing or discontinuing the department's intervention;

(17) notify the legislative committees having jurisdiction over education before

intervening in a school district under AS 14.07.030(14) or redirecting public school funding under AS 14.07.030(15).

*Sec. 3. AS 14.11.014(b) is amended to read:

(b) The committee shall

(1) review the department's priorities among projects for which school construction grants are requested;

(2) make recommendations to the board concerning school construction grants and make recommendations to the commissioner concerning projects for which bond reimbursement is requested;

(3) develop criteria for construction of schools in the state; criteria developed under this paragraph must include requirements intended to achieve cost effective school construction;

(4) analyze existing prototypical designs for school construction projects;

(5) establish a form for grant applications;

(6) establish a method of ranking grant projects;

(7) recommend to the board necessary changes to the approval process for school construction grants and for projects for which bond reimbursement is requested;

(8) set standards for energy efficiency for school construction and major maintenance to provide energy efficiency benefits for all school locations in the state and that address energy efficiency in design and energy systems that minimize long-term and operating costs.

*Sec. 4. AS 14.11.135(6) is amended to read:

(6) "major maintenance" means a project described in AS 14.11.013(a)(1)(C), [OR] (D), or (E);

*Sec. 4. AS 14.11.135(7) is amended to read:

(7) "school construction" means a project described in AS 14.11.013(a)(1)(A), (B), [(E),] (F), or (G)."

Renumber the following bill sections accordingly.

Page 8, line 5:

Delete "sec. 3"

Insert "sec. 7"

Co-Chair Hawker OBJECTED for discussion.

Vice-Chair Thomas explained that energy consumption costs are projected when a school is designed and energy efficiency standards are set. The amendment would address the actual cost of designing a school.

Representative Austerman asked whether Amendment 2 corresponded with version Q. Co-Chair Hawker responded that it did.

Vice-Chair Thomas further explained that rural communities have high energy costs. The amendment would make sure the schools are built efficiently and are affordable to operate. He provided the example of a rural school district that designed a new, smaller school but doubled heating costs because of high ceilings.

[9:51:26 PM](#)

AT EASE

[9:51:52 PM](#)

RECONVENED

Mr. Lively stated that the sponsor supported the amendment.

Mr. Jeans reported that the department had no problem with the amendment.

Co-Chair Hawker WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 2 was ADOPTED.

[9:53:11 PM](#)

Co-Chair Hawker asked whether the sponsor approved of the bill as amended. Mr. Lively responded in the affirmative.

Representative Doogan asked about the fiscal notes.

Mr. Jeans explained the fiscal notes. The first one was for \$37,960,000; the first appropriation would occur in 2013 and would fund the rural education school construction grant program. The first expenditures would occur in FY 13. The other fiscal note was for \$3,700,000, the three-year average of the actual increases in the debt reimbursement program. Due to timing, he anticipated the first increase in the debt reimbursement program to occur in FY 13.

Co-Chair Hawker questioned whether the second fiscal note should be indeterminate. Mr. Jeans responded that the note

should be indeterminate, but the department had been informed that indeterminate notes were not well received and did their best to estimate costs. Co-Chair Hawker noted that the numbers were informational only.

Representative Joule pointed out that the new section might have a fiscal component. Mr. Jeans explained that the school districts impacted in the FY 11 budget are the only two projects affected. He was unsure how the retroactive clause should be addressed.

Mr. Bitney detailed that the local contribution rate has been changed from 30 to 20 [percent]; the cumulative increase in the state share for those projects would be \$2,648,600. He suggested that there could be a lump-sum fiscal note for prior fiscal years. He had asked Legislative Legal Services to draft an amendment to correct past-year errors; the item could be a technical amendment.

[9:58:07 PM](#)

Co-Chair Hawker thought it was a good idea to include the amendment in the capital budget. Mr. Jeans concurred.

Co-Chair Stoltze noted that he preferred the sunset provision.

Vice-Chair Thomas MOVED to report HCS CSSB 237 (FIN) out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCS CSSB 237 was REPORTED out of Committee with a "do pass" recommendation and with two new attached fiscal impact notes by the Department of Education and Early Development.

Co-Chair Hawker directed Legislative Legal to make technical conforming changes.

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ADJOURNMENT

The meeting was adjourned at 10:04 PM.