

SENATE FINANCE COMMITTEE
March 29, 2010
9:03 a.m.

9:03:49 AM

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 9:03 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Charlie Huggins, Vice-Chair
Senator Dennis Egan
Senator Donny Olson
Senator Joe Thomas

MEMBERS ABSENT

Senator Johnny Ellis

ALSO PRESENT

Bryan Butcher, Director, Government Affairs and Public Relations, Alaska Housing Finance Corporation, Department Of Revenue; Esther Cha, Staff, Senator Lesil McGuire; Senator Hollis French; Senator Kevin Meyer; Mike Pawlowski, Staff, Senator Lesil McGuire; Darwin Peterson, Staff, Co-Chair Stedman; Senator Joe Paskvan; Patrice Walsh, Division of Banking and Securities, Department of Commerce, Community, & Economic Development (DCCED); Jesse Kiehl, Staff, Senator Egan

PRESENT VIA TELECONFERENCE

Mike Elerding, Ketchikan; Cliff Kraemer, Northern Sales Company; Paul Thomsen, Director, ORMAT-Technology; Cathy Foerster, Engineering Commissioner, Alaska Oil and Gas Conservation (AOGCC); Kevin Banks, Director, Division of Oil and Gas, Department of Natural Resources

SUMMARY

SB 117 PRICE OF CIGARETTES
SB 117 was HEARD and HELD in Committee for further consideration.

SB 217 GUARANTEED REVENUE BONDS FOR VETERANS
CSSB 217 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new fiscal note by the Department of Revenue.

SB 219 TRAUMATIC BRAIN INJURY: PROGRAM/MEDICAID
CSSB 219 (FIN) was REPORTED out of Committee with no recommendation and with zero FN 1 (DHS) and FN 2 (DHS).

SB 239 IGNITION INTERLOCK DEVICES/DUI/CHEM. TEST
SB 239 was HEARD and HELD in Committee for further consideration.

SB 243 NO ROYALTY ON GEOTHERMAL RESOURCE
SB 243 was HEARD and HELD in Committee for further consideration.

SB 279 MORTGAGE LENDING
CSSB 279 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with FN 1 (CED).

SB 284 CAMPAIGN EXPENDITURES
CSSB 284 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with zero FN 1 (GOV) and FN 2 (ADM).

SB 305 SEPARATE OIL & GAS PRODUCTION TAX
SB 305 was SCHEDULED but not HEARD.

[9:04:52 AM](#)

#sb217
SENATE BILL NO. 217

"An Act relating to the issuance of state-guaranteed revenue bonds by the Alaska Housing Finance Corporation to finance mortgages for qualifying veterans; and providing for an effective date."

[9:05:48 AM](#)

Co-Chair Stedman stated that it was the second hearing on the bill.

Co-Chair Hoffman MOVED to ADOPT CSSB 217 (FIN), labeled 26-GS2879\R, as the working document.

Co-Chair Stedman OBJECTED. He explained that there was new language on page 3, Section 5, which authorizes the Alaska Housing Finance Corporation (AHFC) to purchase the building where they currently reside at 4300 Boniface in Anchorage. It also allows AHFC to purchase a site for the relocation of their Anchorage in-take office.

Co-Chair Stedman WITHDREW his OBJECTION.

There being NO OBJECTION, it was so ordered.

[9:07:26 AM](#)

BRYAN BUTCHER, DIRECTOR, GOVERNMENT AFFAIRS AND PUBLIC RELATIONS, ALASKA HOUSING FINANCE CORPORATION, DEPARTMENT OF REVENUE, explained that by state law, AHFC is required to make a statutory change any time it purchases or constructs a building. The cost of the building will be for no more than \$14.5 million, of which \$5 million will be from a land exchange with the Tatitlek Corporation. The savings due to purchasing the building, rather than continuing to lease, should be approximately \$15.2 million in net present value.

Mr. Butcher shared information about the location and problematic condition of the public housing intake building. Repairing the building would exceed the value of the building. There are federal funds and AHFC receipts that can be used to relocate the building ideally in East Anchorage on a bus route. No additional appropriation request will be needed.

[9:09:25 AM](#)

Co-Chair Stedman noted one fiscal note from the Department of Revenue showing \$150,000 in AHFC receipts for FY 11 to inform the voters about the bonds, and a negative amount of \$1,235,600 in the contractual line beginning in FY 12 as a result of not making any more lease payments. In the miscellaneous line the amount of \$1,275,600 is for debt service on 25-year bonds to purchase the building.

Senator Olson asked what the tax-assessed value of the property was. Mr. Butcher explained that the tax payment on the current building for the previous year was approximately \$175,000 and the value was for \$12.2 million. The Tatitlek Corporation plans to build on the site after the land exchange and should show a net increase in tax value to Anchorage.

Senator Olson inquired if Anchorage is opposed to taking the property off the tax rolls. Mr. Butcher replied that the municipality has not stated opposition to this land trade.

Senator Olson asked where the intake site currently is located. Mr. Butcher said it was on International Airport Road between Arctic Boulevard and C Street. It has been a difficult place for people to get to.

[9:12:12 AM](#)

Co-Chair Hoffman MOVED to report CSSB 217 (FIN) out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSSB 217 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new fiscal note by the Department of Revenue.

[9:12:24 AM](#)

#sb219

SENATE BILL NO. 219

"An Act establishing a traumatic brain injury program and registry within the Department of Health and Social Services; and relating to medical assistance coverage for traumatic brain injury services."

Co-Chair Stedman noted that there were two previous hearings on the bill.

Co-Chair Hoffman MOVED to ADOPT CSSB 219 (FIN), labeled 26-LS1312\P, Mischel, 3/22/10, as the working document.

Co-Chair Stedman OBJECTED for discussion purposes.

Co-Chair Stedman explained that at the last hearing a CS was adopted that amended the definition of "case management services" on page 2, Section 3. At that hearing language on page 3, lines 27 and 28, was deleted. This CS incorporates those changes.

Co-Chair Stedman WITHDREW his OBJECTION. There being NO OBJECTION, it was so ordered.

[9:14:01 AM](#)

ESTHER CHA, STAFF, SENATOR LESIL MCGUIRE, SPONSOR, explained the changes by section. The bill establishes in Section 1 the ability for the Department of Health and Social Services to collect and analyze databases relating to longitudinal data, the same amount of information tracked on the same person over a period of time. Section 2 adds case management services for a traumatic brain injury for optional services provided by the department. Section 3 amends the definition of case management services for traumatic or acquired brain injury to align with the federal definition. Section 4 adds a Medicaid waiver the department can apply for. Section 5 establishes the program, which is the bulk of the bill.

Co-Chair Stedman noted two fiscal notes from the Department of Health and Social Services, one zero fiscal note and one fiscal note for an increase cost for \$494,600 in general funds and \$707,400 in federal receipts.

[9:15:35 AM](#)

Co-Chair Hoffman MOVED to report CSSB 219 (FIN) out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSSB 219 (FIN) was REPORTED out of Committee with no recommendation and with zero FN 1 (DHS) and FN 2 (DHS).

AT-EASE [9:16:21 AM](#)
RECONVENED [9:17:09 AM](#)

#sb284
SENATE BILL NO. 284

"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; and providing for an effective date."

[9:17:18 AM](#)

Senator Huggins MOVED to ADOPT Amendment 1:

Page 6, lines 3-4:

Delete "apply only to the extent permitted by federal law"

Insert "prohibit a foreign national from making a contribution or expenditure in connection with a state election only to the extent

- (1) that federal law prohibits a foreign national from making a contribution or expenditure in connection with a state election; and
- (2) permitted by federal law"

Co-Chair Stedman OBJECTED for discussion purposes.

Senator Huggins explained that the amendment was clarifying language.

SENATOR HOLLIS FRENCH, SPONSOR, stated that he supported the amendment.

Co-Chair Stedman WITHDREW his OBJECTION to adopting Amendment 1. There being NO further OBJECTION, it was so ordered.

[9:18:33 AM](#)

Senator French explained that the bill makes certain that there is disclosure to the Alaska Public Offices Commission (APOC) of the independent expenditures made in the next

election cycle by corporations and unions that are now free to participate in elections due to a recent Supreme Court decision. It also provides for disclaimers in advertising on the radio, on television, and in the newspapers so that Alaskans know who is speaking to them about the elections.

Co-Chair Stedman noted the fiscal notes; one zero fiscal note from the Governor and a fiscal note by the Department of Administration requesting one additional staff position for APOC for \$131,200 in general funds.

[9:19:36 AM](#)

Co-Chair Hoffman MOVED to report CSSB 284 (FIN) out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSSB 284 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with zero FN 1 (GOV) and FN 2 (ADM).

#sb117

SENATE BILL NO. 117

"An Act requiring the Department of Revenue to set the minimum price for cigarettes for sale by wholesalers and retailers; and prohibiting a wholesaler or retailer from selling at wholesale or retail cigarettes at a lower price than the price set by the Department of Revenue."

ESTHER CHA, STAFF, SENATOR LESIL MCGUIRE, explained that the bill addresses a current loophole in legislation which allows large high volume cigarette sellers to price their cigarettes at less than the minimum price set by law if they can prove that their actual cost of doing business is lower than the mandated minimum price. The original purpose of Article 7 in Title 43 was to prevent wholesalers and retailers from using predatory pricing practices to promote the sale of cheap cigarettes and use them as a loss leader. However, AS 43.50.800(c) specifically states that a wholesaler or retailer that wishes to advertise, offer to sell, or sell cigarettes at less than the presumptive, actual cost to the wholesaler or retailer, must first obtain approval from the department. The department may grant approval only if the wholesaler or retailer provides

proof satisfactory to the department that the wholesaler's or retailer's actual cost is lower than presumed. She gave an example. SB 117 would repeal AS 43.50.800 and replace it with Section 6 in the bill, which establishes AS 43.50.801.

Ms. Cha explained that the only change between the original bill and the CS are the multipliers. The original bill held the percentages to what is currently in statute, which was 4.5 percent at wholesale and 6 percent at retail. The new CS changes those percentages to 2 percent and 4 percent respectively. The Department of Revenue approves of the change. The percentages in the CS are currently higher than the percentage granted at the exemption.

Ms. Cha shared that the original reasoning behind fixing a minimum price for cigarettes was based on studies showing how increased prices would work to provide a financial incentive for existing smokers to quit, as well as to discourage new smokers. The expected price increase found in the CS will not have as great an effect. The bill will not change the amount of tax received by the state on cigarette sales. By getting rid of a wholesaler's or retailer's ability to apply for an exemption, the CS would bring parity and balance to competition. It would level the playing field by ensuring that all vendors, regardless of size, volume, or accounting practices, will have to price at, or above, the minimum price set in law.

[9:24:45 AM](#)

Co-Chair Stedman noted one zero fiscal note from the Department of Revenue.

[9:25:06 AM](#)

MIKE ELERDING, KETCHIKAN (via teleconference), spoke in favor of the legislation. He requested that the topic of the bill be limited to only one topic, the price of cigarettes. He spoke as a tobacco distributor and shared the history of his company's involvement in cigarette taxes. He provided information about the correlation between increasing prices and decreasing consumption. He described how cigarette pricing is controlled. He emphasized that if the state is doing its part to increase the price of tobacco, cigarettes should not be sold for less than the market cost. He agreed that SB 117 closed a loophole and stated his support for the bill.

[9:29:21 AM](#)

CLIFF KRAEMER, NORTHERN SALES COMPANY (via teleconference), spoke in support of the proposed changes contained in SB 117. The recommendation to set a minimum price for cigarettes is a compromise among wholesalers and retailers.

SB 177 was heard and HELD in Committee for further consideration.

[9:31:01 AM](#)

#sb239

SENATE BILL NO. 239

"An Act relating to ignition interlock devices, to refusal to submit to a chemical test, and to driving while under the influence."

SENATOR KEVIN MEYER, SPONSOR, provided the history of the bill. He pointed out that not all judges are using the tool, which is a concern. He stated that research shows the effectiveness of the interlock device. He emphasized that the bill closes loopholes.

Senator Meyer said there was no fiscal impact because the law is already in place.

[9:33:27 AM](#)

Co-Chair Stedman noted two zero fiscal notes.

SB 239 was heard and HELD in Committee for further consideration.

#sb243

SENATE BILL NO. 243

"An Act removing the royalty obligation for geothermal resources."

[9:34:30 AM](#)

MIKE PAWLOWSKI, STAFF, SENATOR LESIL MCGUIRE, SPONSOR, explained that the bill attempts to find a rational royalty regime for the development of geothermal resources on state lands in Alaska. Originally, the bill started out as a

complete negation of all royalty on geothermal. However, in working with the administration and in the Resources Committee, understanding was reached that a geothermal lease still is actually a property right and, therefore, while geothermal resources themselves are not exportable, some royalty is necessary to maintain the state's interest in that the state has issued a lease for the geothermal resources. There is one major geothermal project currently being developed on state land.

Mr. Pawlowski related that Section 1 of the bill establishes a federal royalty rate of 1.75 percent on gross income for the first ten years, followed by 3.5 percent of gross income for the following ten years. The goal of the bill is to find a rational royalty regime that attracts development and ensures a fair return to the state.

[9:36:32 AM](#)

Co-Chair Stedman asked how many geothermal facilities in the state pay a royalty. Mr. Pawlowski said that there currently were none. Several projects under development are not on state land.

Co-Chair Stedman requested an explanation of what geothermal energy is and what happens after it is extracted. Mr. Pawlowski understood that geothermal energy comes from hot rocks in the ground. Water under pressure flows upwards and drives turbines producing electricity. The water is re-injected to maintain pressure.

Co-Chair Stedman summarized that it was "hot water" and the hotter the water, the more value it has. As long as the water is re-injected into the ground there is no loss of the resource.

Co-Chair Stedman recalled a discussion about California where water is not re-injected and there are depletion issues in reservoirs. Mr. Pawlowski reported that there was an extensive discussion of this topic with the Department of Natural Resources and with the Alaska Oil and Gas Conservation Commission.

[9:38:55 AM](#)

Co-Chair Hoffman asked for more information about a geothermal project in Anchorage. Mr. Pawlowski replied that

it is Ormat Technology's Mt. Spurr Project. Co-Chair Hoffman asked how much revenue would come to the state in the first ten years from that project, under this legislation. Mr. Pawlowski referred to information in the packets which calculates the revenue over the first 25 years. Co-Chair Hoffman asked what that total would be. Mr. Pawlowski said it would be \$38 million.

Co-Chair Hoffman asked how the tax on natural gas is calculated. Mr. Pawlowski clarified that the tax on natural gas in Cook Inlet is calculated as a royalty. The lease of land for geothermal land is, in effect, a property right, and a certain amount of royalty is in the state's best interest, which is why the federal rate of 1.75 percent is used. Under current law the rate is 10 to 15 percent.

[9:40:40 AM](#)

Co-Chair Stedman asked for a definition of "geothermal land lease" versus "volume of water use". Mr. Pawlowski related that for a geothermal lease, a specific land area is leased and the right to develop the geothermal resource is conferred. He could not explain the volumetric development of a geothermal resource.

Senator Olson spoke of the modification of the federal rate and wondered if other geothermal projects would receive the same break. Mr. Pawlowski referred to Section 2, page 2, lines 3 - 5, which directs the Commissioner of the Department of Natural Resources to offer the royalty rates to any exiting lessee.

Co-Chair Stedman noted two zero fiscal notes, one from the Department of Revenue and one from the Department of Natural Resources.

[9:42:37 AM](#)

PAUL THOMSEN, DIRECTOR, ORMAT TECHNOLOGY, (via teleconference), related that his company has leased the acreage of Mt. Spurr in order to develop the first commercial geothermal power plant in Alaska. He spoke in support of the bill. He agreed with bringing the royalty rate down to the federal level in order to allow the development to be more competitive and allow a savings to ratepayers.

Senator Olson asked what the risks to the project are if the bill does not get passed. Mr. Thomsen explained that since they do not export and they are operating in a regulated market, if the royalty rate is high, then a higher rate will be charged to the utility. He said if rate is where it is today, it would require the utility to fund a power purchase price at 14 cents. The project already has a low rate of return. He maintained that the ratepayers are looking for a lower range.

Senator Olson asked where else in the United States there are geothermal projects and what their royalty rates are. Mr. Thomsen replied that there are power projects in Hawaii, California, and Nevada. There are also third-party projects in Wyoming and Utah. Almost all are on federal lands operated by the Bureau of Land Management and pay federal royalty rates. California and Hawaii are exceptions. California has a very high royalty rate of 10 percent, but on a very small project. Western states tend to have a high state royalty rates.

[9:47:18 AM](#)

CATHY FOERSTER, ENGINEERING COMMISSIONER, ALASKA OIL AND GAS CONSERVATION (AOGCC), (via teleconference), explained that the royalty portion of the bill does not affect AOGCC. The part of the bill that does affect AOGCC transfers some, but not all, authority for the regulation of geothermal operations from DNR to AOGCC. The authorities transferred are the authority to regulate drilling and production operations, the authority to protect correlative rights, and the authority to prevent physical waste of the resource. The DNR will retain its authorities over correlative rights and prevention of waste pertaining to state lands. These authorities are consistent with AOGCC oil and gas operations.

Ms. Foerster continued to say that AOGCC already has in place the expertise to take on these authorities. Most importantly, AOGCC has experienced drilling engineers who know what to look for when approving a drilling or well work permit to ensure safety and good operational practices, and experienced field inspectors.

Co-Chair Stedman pointed out that the bill before the committee is Version E, the original bill. He requested comments on the lease rates.

[9:50:05 AM](#)

Ms. Foerster addressed the question about the impact on geothermal operations if the bill does not pass. She noted that there would be an additional cost to DNR to hire a contract for the needed expertise previously described.

Co-Chair Stedman clarified that the bill would be set aside and brought back later.

[9:50:52 AM](#)

KEVIN BANKS, DIRECTOR, DIVISION OF OIL AND GAS, DEPARTMENT OF NATURAL RESOURCES (via teleconference), explained DNR's involvement and how the bill would affect the department. He related that DNR has the authority to manage geothermal lands in Alaska and to take care of safety issues related to geothermal drilling. The current bill would create a situation where DNR would be competitive with federal lands that could be developed for geothermal resources. He acknowledged that the economics of a geothermal project differ substantially from an oil and gas project. The development of a geothermal resource will depend on establishing fairly long-term contracts with existing utilities. The price of the electricity sold to in-state utilities must be competitive with existing sources of energy.

Mr. Banks thought that Ormat provided an interesting discussion of the three parts of their economics and costs. He offered to discuss those if requested.

Mr. Banks noted that there were 16 previous lease sales on Mt. Spurr. He said there was a proposal to put forth a best interest finding on a lease sale at Mt. Augustine. He pointed out that DNR also has oversight at the Naknek Project.

[9:53:59 AM](#)

Mr. Pawlowski thanked the committee for hearing the bill.

SB 243 was HEARD and HELD in Committee for further consideration.

#sb279

SENATE BILL NO. 279

"An Act relating to regulation of residential mortgage lending, including the licensing of mortgage lenders, mortgage brokers, and mortgage loan originators, and compliance with certain federal laws relating to residential mortgage lending; and providing for an effective date."

[9:54:26 AM](#)

Co-Chair Hoffman MOVED to ADOPT CSSB 279, labeled 26-LS1295\S, Bannister, 3/19/10.

Co-Chair Stedman OBJECTED.

DARWIN PETERSON, STAFF, CO-CHAIR STEDMAN, SPONSOR, listed the four changes in Version S, which were suggested by the Conference of State Bank Supervisors and were shared with the Department of Law and with the bill's sponsor, Senator Paskvan. The first change has to do with the approval authority for education courses. Under the Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act of 2008, courses required for pre-licensing and continuing education courses have to be approved by the registry. The previous version of the bill had the Department of Law as the authority that approved those courses. The change is on page 7, lines 10 and 11, and lines 18 and 19. In the previous version of the bill there was a subsection (e) that would have followed line 19, but now has been deleted.

Mr. Peterson turned to the second change which deals with approval authority for licensing tests. It is found on page 7, lines 23 - 25. The SAFE Act provides that the licensing test will be developed by SAFE and that the test will cover both federal and state law. The previous version had references to two different tests.

Mr. Peterson related that the third change has to do with disqualifying felony convictions and is found on page 9, line 20. The previous version of the bill said that if a person was convicted of a felony that involved an act of fraud, dishonesty, a breach of trust, or money laundering, within seven years, the person was disqualified from licensing for life. Now, a person convicted of any felony within seven years cannot qualify for a license, and a person convicted of any felony that involves an act of

fraud, dishonesty, a breach of trust, or money laundering is disqualified from obtaining a license for life.

Mr. Peterson reported that the fourth change is found in the definition section of the bill on page 37 and page 40. The previous version of the bill had two different definitions for mortgage loan and residential mortgage loan, which was inconsistent with the SAFE Act.

[9:59:21 AM](#)

Senator Thomas asked how the department would establish by regulation the amount of the required bond as referenced in Section 14, page 8.

SENATOR JOE PASKVAN, SPONSOR, deferred to his staff.

PATRICE WALSH, DIVISION OF BANKING AND SECURITIES, DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT, (DCCED), spoke of a planned increase in the bond amount to about \$75,000.

Co-Chair Stedman WITHDREW his OBJECTION to adopting the new CS. There being NO OBJECTION, it was so ordered.

[10:01:46 AM](#)

Senator Egan moved to adopt Amendment 1:

Page 3, line 15, following "of":
Insert "the Internet,"

Page 4, line 3, following "individual":
Insert "seller"

Page 11, line 6:
Delete "suspended, or"
Insert "is suspended, is"

Page 12, following line 1:
Insert a new subsection to read:
"(c) The department shall approve or deny the application for renewal of a license not later than 60 days after the renewal application is filed."

Page 12, line 22:
Delete "and [,]address[,]"

Insert ",the licensee's address,"

Page 14, line 14, following "department":

Insert "that is made in a record"

Page 20, line 6:

Delete "section"

Insert "chapter"

Page 30, line 19:

Delete "a"

Co-Chair Stedman OBJECTED.

JESSE KIEHL, STAFF, SENATOR EGAN, explained that the amendment cleans up a few errors and minor technical issues, clarifies some language, and makes several substantive changes to the bill. The first change begins on page 3, line 15, where internet sites are added to the list of communications that would count as advertising mortgage loan services. The second change is in Section 20, which begins on page 11. This change gives the department a 60-day deadline to act on a renewal application, significantly longer than the current 30-day deadline. The longer time frame is appropriate because the new federal law shortens licenses to one year, instead of two. The third change appears in Section 30, which is on page 14 of Version S. It requires the department's approval of a change in control be provided in a record. That avoids a potential unintended consequence of verbal approvals being acceptable. The bill defines "record" very broadly, but it has to be traceable.

Co-Chair Stedman WITHDREW his OBJECTION to Amendment 1. There being NO OBJECTION, it was so ordered.

[10:04:07 AM](#)

Co-Chair Stedman noted one fiscal note from the Department of Commerce, Community, and Economic Development for \$131,000 to cover the cost of one additional occupational licensing position.

[10:04:33 AM](#)

Co-Chair Hoffman MOVED to report CSSB 279 (FIN) out of Committee, as amended, with individual recommendations and

the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSSB 279 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with FN 1 (CED).

SB 305 was SCHEDULED but not HEARD.

#

ADJOURNMENT

The meeting was adjourned at 10:05 AM.