HOUSE FINANCE COMMITTEE
April 10, 2018
1:36 p.m.

1:36:46 PM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 1:36 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Shea Siegert, Staff, Representative Jason Grenn; Emily Nauman, Attorney, Legislative Legal Services; Representative Harriet Drummond, Sponsor; Patrick Fitzgerald, Staff, Representative Harriet Drummond; Nancy Meade, General Counsel, Alaska Court System; Kaci Schroeder, Assistant Attorney General, Criminal Division, Department of Law; Senator Anna MacKinnon, Sponsor; Deven Mitchell, Executive Director, Alaska Municipal Bond Bank Authority; Rob Carpenter, Analyst, Legislative Finance Division.

PRESENT VIA TELECONFERENCE

David Gibbs, Fairbanks North Star Borough, Director of Emergency, Fairbanks; Kathryn Monfreda, Chief, Criminal

Records and Identification Bureau, Department of Public Safety, Anchorage.

SUMMARY

HB 316 RESTRICT ACCESS MARIJUANA CRIME RECORDS

CSHB 316 (FIN) was REPORTED out of committee with an "amend" recommendation and with one new zero fiscal note by the Department of Public Safety and one previously published zero fiscal note: FN1 (JUD).

HB 385 ENHANCED 911:MULTI-LINE TELEPHONE SYSTEMS

HB 385 was HEARD and HELD in committee for further consideration.

SB 97 PENSION OBLIGATION BONDS

HCSSB 97 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note by the Department of Revenue.

SB 107 ALASKA CAPITAL INCOME FUND

SB 107 was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note by the House Finance Committee.

Co-Chair Foster reviewed the agenda for the day.

#hb385
HOUSE BILL NO. 385

"An Act relating to multi-line telephone systems."

1:38:03 PM

REPRESENTATIVE JASON GRENN, SPONSOR, proudly served District 32.

SHEA SIEGERT, STAFF, REPRESENTATIVE JASON GRENN, introduced himself.

Representative Grenn reviewed the legislation. He read from a prepared statement:

Alaskan residents have relied on dialing 911 to reach local emergency services for decades. Enhanced 911 (E911) is a service that automatically displays the telephone number and physical location of the 911 caller on the emergency operator's screen. This is unlike Basic 911 service, where the distressed caller must tell the operator where he or she is calling from. E911 is crucial in circumstances where the caller cannot communicate their whereabouts, as it ensures the operator is still able to send emergency response services to the correct location. With the advancement of technology, E911 has significantly improved the effective delivery of critical public safety and emergency response services across the State.

There is a large segment of E911 end-users in Alaska using Multi-Line Telephone Systems (MLTS). These systems do not have the same level of E911 safety protections as small business and residential systems. MLTS connects dozens, hundreds, or thousands of "extension" phones to a central, computerized telephone "switchboard". MLTS are frequently used by government agencies, banks, hotels, health care facilities, and schools.

When individuals call 911 from a phone in Multi-Line Telephone System, that system may only relay the physical street address of the facility's main building or the address of the building in which the MLTS is located. However, it may not provide more specific information about where the distressed individual is physically located, such as a building number, floor number, or room number. When callers are also unable to provide their specific location, because they are either unaware of their exact location or are physically unable to convey the information, emergency responders face avoidable delays that can result in tragedies.

House Bill 385 will help ensure 911 dispatchers receive accurate location information so emergency responders will not be delayed while trying to find the emergency caller in need. HB 385 gives municipalities the option to require MLTS operators in their region to provide an Automatic Location

Information (ALI) record for every telephone capable of dialing 911. By automatically providing specific location information through the 911 system, emergency operators can immediately dispatch fire, police, or EMS responders to the caller's location, even when that person is incapacitated. This requirement would apply only to new MLTS installations or upgrades to an existing MLTS.

Alaskans depend on fast and reliable access to public safety resources when faced with emergency situations.

I urge your support for House Bill 385.

Representative Grenn indicated his staff, Mr. Siegert, would review the sectional analysis.

1:41:15 PM

Mr. Siegert read the sectional analysis from a prepared statement:

Section 1:

This section provides a municipality the ability to opt-in to requiring a multi-line telephone system operator to comply with the provisions in this bill.

The first section also states that the operators must comply with the provisions when they install a new multi-line telephone system or make upgrades to an existing multi-line telephone system.

Section 2:

- Paragraph (b) Subpoint (1): requires a multiline telephone system have direct dial access to a public safety answering point.
- Paragraph (b) Subpoint (2): requires the multiline telephone system to provide automatic number and location information for the call being placed to the public safety access point.
- Paragraph (c): provides that any information in the location database is owned by the MLTS operator and may not be shared unless required by law and may not be used by a public safety

answering point for any purpose except to facilitate an emergency response to a 911 call.

- Paragraph (d): provides for systems that are exempt under section one of this bill to have signage which gives clear and readable directions on:
  - How to dial a public safety answering point that includes the pertinent location information of the caller.
- Paragraph (e): defines the pertinent terms

Representative Grenn was available for questions. He conveyed that Emily Nauman was available from Legislative Legal Services was available to testify.

Co-Chair Foster reviewed the list of testifiers online.

1:44:41 PM

Representative Kawasaki mentioned that the bill talked about the municipalities having to opt-in. He asked about the conditions in which they wound not have to opt-in. Representative Grenn deferred to his staff.

Mr. Siegert indicated that municipalities opted in on a voluntary basis. A municipality would not opt-in if it was going to incur an extreme cost, did not have access to 911 operations, or if they were an unorganized borough without access to 911 service. If they found that their private businesses would incur an abnormally large cost to implement the system, they might not opt-in. For all other purposes he did not foresee a municipality turning down an ordinance to opt-in if they had the capabilities to do so.

Representative Kawasaki asked if a municipality would be impacted if they wanted to upgrade but not to a multi-line system. Mr. Siegert responded in the negative. He reminded members that Carrie's Law, HR 582, was signed into law by President Trump in February 2018. The law provided that after 2020 all multi-line telephone systems sold and manufactured in the United States would be required to have 911 capabilities. He suggested that most multi-line systems had the capability.

Representative Kawasaki asked about the potential costs for a multi-line system upgrade. He wondered who would be

responsible. Representative Grenn responded that one of the best things about the bill was that the costs were minimal. For some, it would not cost anything - especially if it was a matter of a software update. For others it could cost $25 per phone.

Representative Wilson asked if the bill was limited to municipalities. Mr. Siegert responded in the affirmative. He indicated that most unorganized boroughs did not have access to 911 or 911 enhanced services and would not opt-in. If an unorganized borough needed to opt-in, they would have to go to the state. He deferred to Ms. Nauman to elaborate.

1:49:49 PM

EMILY NAUMAN, ATTORNEY, LEGISLATIVE LEGAL SERVICES, understood Representative Wilson's question to be whether the bill applied or how the bill applied to an unorganized borough. She informed members that an unorganized borough was technically governed by the state legislature. The unorganized borough had no authority by itself to enact ordinances that required an enhanced multi-line telephone system. She suggested that if the legislature wished the requirement to apply to an unorganized borough, it would have to enact a law.

Representative Wilson asked if the legislature would be giving boroughs and cities a power they did not have. Ms. Nauman directed attention to the bill. The bill showed some of the powers that they already had related to an enhanced 911 system. The bill amended those powers.

Representative Wilson asked if they currently had the powers. Ms. Nauman thought the sponsor would be able to better detail the specific changes made in the bill. The municipalities had the ability to elect an ordinance related to an enhanced 911 system. She was not as familiar with all the details of the current law.

Mr. Siegert responded that Representative Hawker introduced legislation that passed in 2005, HB 249 [Short Title: Enhanced 911 Surcharges and Systems], that was supposed to give the Regulatory Commission of Alaska (RCA) the ability to implement and regulate the 911 system. The problem that came from the 10-year docket open from 2005 to 2015 was that (cited in R-05-005 order no. 7) the RCA did not have

the requisite authority to do so. He provided a quote from the former Attorney General, "Since the specific delegation in AS 29.035 only authorizes the agency to define generally accepted industry standards for E911, we lack the requisite authority to enforce those standards by resolving disputes." House Bill 249 did not give the RCA the requisite authority to enforce and implement the generally accepted standards they agreed upon. Another conflict the RCA had during the 10-year open docket was finding a waiver system that would not be overly burdensome on certain borough versus others. The basis of passing legislation to provide an opt-in municipal ordinance was to give every borough local control of the provisions in the bill to avoid becoming overly burdensome on one borough over another.

Representative Wilson asked if the legislature was giving a borough power that they did not currently have. She wondered if she was correct. Mr. Siegert thought she was correct.

1:53:38 PM

Representative Wilson figured it was up to the city or borough to determine the strictness of the ordinance. She wondered if the municipality would determine the number of lines in a multi-line system that would be required. She wondered how far the bill would reach into small businesses. Representative Grenn thought Ms. Nauman could respond best to Representative Wilson's question.

Emily Nauman explained that the bill was a take-it or leave-it bill. The municipality did not have the authority to adopt something slightly different than what was in the bill. They had to adopt their ordinance in accordance with the rules set out in the bill. She suggested that anything shy of it or anything that directly conflicted with what was in the bill would likely cause a preemption problem; the state law would directly conflict with the municipal ordinance. She noted that the municipal ordinance would likely be thrown out by a court. In terms of the number of telephone lines, she referred to the definition of multi-line systems on page 4 of the bill, starting on line 20. It did not specify a number of telephone lines. she reported that in the past the Alaska Supreme court upheld a "narrow, but reasonable" interpretation of this type of

law. There was some room for a municipality to determine how many lines constituted a multi-line system.

Representative Wilson suggested that if an entity had a multi-line system like the one she had at her own business, they would end up bearing the cost depending on how the ordinance was written. Ms. Nauman did not have a comment except to reiterate her earlier response that the bill was silent on how many phones constituted a multi-line phone. There might be some flexibility for a municipality to flush it out in its ordinance.

Representative Wilson originally thought the bill was only for places such as major hotels that would upgrade. She wondered if an impact study had been conducted for smaller businesses. She asked the sponsor to distinguish between large and small businesses. Representative Grenn replied that he did not have any information regarding a study on the impacts of the bill. He had previously spoken about the cost of upgrading a line. There was no difference between any 911 software in the multi-line telephone system or $15 to $20 per line. He reported that Mr. Gibbs was online and could comment.

1:58:02 PM

DAVID GIBBS, FAIRBANKS NORTH STAR BOROUGH, DIRECTOR OF EMERGENCY, FAIRBANKS (via teleconference), introduced himself.

Representative Grenn repeated his question concerning the cost of upgrading a small business with a smaller multi-line system. Mr. Gibbs responded that the cost would likely be nothing. It would simply be the cost of the labor to provide the information to the 911 authority for inclusion in the automatic location information database.

Representative Wilson asked about costs associated with new upgrades. She thought businesses might be forced to purchase new phones and software. She wondered how many places would be affected in the North Star Borough. Mr. Gibbs was unsure how many small businesses would be affected by the legislation. He clarified that there were a number of services for small businesses. He thought a cost of $20 to $25 cost per handset per month might apply when a business wanted to subscribe to a phone system on the Cloud. He had done some research on the internet and found

a cost between $10 and $30. The cost included the handsets, the switching, and the database maintenance. The bill did not require a business to upgrade their systems.

2:00:21 PM

Co-Chair Foster OPENED public testimony.

2:00:44 PM

Co-Chair Foster CLOSED public testimony.

Representative Wilson asked if the bill included the military. Mr. Siegert deferred to Ms. Nauman. Ms. Nauman responded that she would be skeptical if a municipal ordinance could affect the telephone requirements on federal property, particularly a military base. However, she was not certain. Representative Wilson asked Ms. Nauman to find out the answer to her question.

HB 385 was HEARD and HELD in committee for further consideration.

#hb316
HOUSE BILL NO. 316

> "An Act relating to the sealing of certain court records; restricting the publication of certain records of convictions on a publicly available website; relating to public records; and amending Rule 37.6, Alaska Rules of Administration."

2:02:30 PM

Co-Chair Foster indicated the committee last heard the bill on March 30, 2018. At the hearing the committee heard an introduction of the bill and closed public testimony. The committee had a committee substitute (CS), version N. There was also one amendment. He asked the bill sponsor to address the changes in the CS.

REPRESENTATIVE HARRIET DRUMMOND, SPONSOR, introduced herself. She deferred to her staff to explain the changes from the previous version of the bill.

PATRICK FITZGERALD, STAFF, REPRESENTATIVE HARRIET DRUMMOND, introduced himself and reviewed the changes to the bill.

The first change in Section 1 was to allow an opt-in program through the Department of Public Safety (DPS). The reason for the change was because it would reduce the burden and cost for DPS placing it on the person who wanted to classify their record. Another change that was made was the elimination of Sections 4 and 5, the indirect court rule. It was inserted with the original legislation to error on the side of caution, but the legislation would not interfere with the court rule. Section 3 was also eliminated. It accomplished what other parts of the bill already accomplished.

Representative Wilson referred to page 1. She asked for clarification for the cost decreasing. Mr. Fitzgerald responded that DPS already had the form.

2:05:39 PM

KATHRYN MONFREDA, CHIEF, CRIMINAL RECORDS AND IDENTIFICATION BUREAU, DEPARTMENT OF PUBLIC SAFETY, ANCHORAGE (via teleconference), asked Representative Wilson to repeat her question.

Representative Wilson thought the department was going to have to look at the cases. She wondered if the person initiating the change would have to complete a from. Ms. Monfreda responded that she was correct. Rather than flagging the records, the department would wait until someone came to the department. She thought the department could absorb the work without needing extra people.

Representative Wilson asked if the person would be required to show that there were no other charges at the time. Ms. Monfreda believed the information would already be in their files. The department would know if there were other charges involved. The department would be asking the person to prove that the amount was less than an ounce of marijuana and that there were no other charges in the case.

Co-Chair Seaton MOVED to ADOPT proposed committee substitute for HB 316, Work Draft (30-LS1017\N).

There being NO OBJECTION, it was so ordered.

Representative Wilson MOVED to ADOPT Conceptual Amendment 1 (30-LS1017\U.3) (copy on file):

Page 1, line I 0, following "substance":

Insert "and was not charged with any other crime in that case"

Page 1, line 13:

Delete all material and insert:
"(3) has not been convicted of any other charges since the conviction under (I) of this subsection."

Page 2, line 6, following "substance":

Insert "and was not charged with any other crime in that case"

Page 2, line 9:

Delete all material and insert:
"(3) has not been convicted of any other charges since the conviction under (I) of this subsection."

Page 4, lines 22 - 23:

Delete "and was not convicted of any other charges in that case"

Insert", was not charged with any other crimes in that case, and has not been convicted of any other charges since that conviction"

Representative Grenn OBJECTED for discussion.

Representative Wilson read the amendment (copy on file). The amendment outlined that the charge could be the only thing on a person's record in order to have it sealed. If a person had been charged and found guilty of other things, it would not make a difference whether other things appeared on someone's record. She was okay with the idea of a person with only one charge having their record sealed. However, she opposed the notion of someone with multiple offenses having a record sealed, as it showed a pattern.

Representative Ortiz asked if the amendment sealed only the one item having to do with past use of marijuana. He wondered what was gained.

2:10:11 PM

Representative Wilson suggested that what was brought up by the representative was that a person would have a black mark on their record. People having something on their record made it difficult to find employment at a job requiring a background check. She wondered why something would be removed from a person's record if they already had other things listed. She was fine with having a record sealed if it was their only offense.

Representative Ortiz asked about the intent of the amendment. He wondered if the record would be reopened once any additional records came into play. Representative Wilson responded that there was no retroactivity of the bill.

Co-Chair Foster asked the sponsor if she had an opinion on the amendment. Representative Drummond clarified that charges were different from convictions. The amendment appeared to insert, "and was not charged." She believed the issue was already covered in the bill on line 13, page 1. The intent of the bill was not to cover for bad actors of other acts of violence or other whatever other criminal acts they had on their record. She did not believe the bad actors would be looking to have their marijuana possession crime hidden if they had several other things on their record. If they were to remove their marijuana conviction they would still be bad actors. They were not the people the state was seeking to assist in reentering society.

Representative Wilson requested that Ms. Mead come to the table.

2:14:47 PM

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, thought the amendment narrowed the number of people that the bill would apply to in two different ways. First, the person could not have been charged with any other crimes. She thought this addressed the question Representative Wilson brought up at the previous hearing. For example, a person might be charged with possession of meth and possession of

marijuana but only convicted of possession of marijuana. As she read the amendment, it would exclude the people with other charges in the case. The only people that would have their names taken off CourtView would be the ones that were not charged with anything else but possession of marijuana and then convicted. Second, a person could not have been convicted of any other crime since the conviction.

Ms. Mead noted that with respect to the numbers, there were about 700 cases in CourtView since 2007. Prior to 2007 it was difficult to obtain data. Marijuana possession became legal in 2015. Most of the cases stopped at that time. Of the 700 cases, 568 had no other charges when they ended up with a conviction for simple possession of marijuana. However, of those 568 about 72 percent had other crimes in the database, about 400 cases. She concluded that about 160 people since 2007 would be excluded from CourtView under the wording of the amendment.

Ms. Mead wanted to make sure everyone knew what the court would do with Section 2 of the bill. It was different from a prior version in that it no longer made the cases confidential. The cases would no longer appear in CourtView. The prior version had confidentiality, meaning the court would not also hand out the paper file. In the current version the record would not be available on the court website, but the file would still be public under Section 2 of the bill. She wanted to make sure there was no misunderstanding when and if the court implemented the wording.

Vice-Chair Gara understood that a person would not benefit from the amendment if a person was 21 years or older and was expunging their record because marijuana was legal. He indicated he had been interrupted and was told he was incorrect. He asked for clarification from Ms. Mead.

Ms. Mead relayed that the amendment was not expungement. Rather, the amendment would take the record off of CourtView automatically on the effective date. The file would still be available at the court house. Secondly, if a person actively walked into DPS and asked that their record not be released in a general background check, then DPS would not release the information if the person fit into the categories that had been discussed.

Vice-Chair Gara suggested that the way the bill was written a person's record would not be on CourtView if they had a prior conviction for just possessing marijuana because it was currently legal. The bill also indicated that if a person was convicted of something else at the time, the record would be available on CourtView. The conceptual amendment included that if a person was charged with something and the charge was dropped, the information would remain available on CourtView. He asked if he was correct about what was being proposed in the conceptual amendment.

2:19:20 PM

Representative Wilson relayed that the amendment did 2 things. First, if a person was charged with another crime but not convicted, they would not fall under the bill. Second, if a person had been convicted since the time of conviction, the person would not be able to have their record removed from CourtView.

Vice-Chair Gara opposed the conceptual amendment. Sometimes people were charged with something they did not do. Although his experience in criminal law was limited, he had had a client charged with kidnapping, but later the charges were dropped. He was very uncomfortable with the amendment and felt it gutted the bill. A later conviction would show up on CourtView. He did not see the benefit of the amendment unless people were seen as guilty until proven innocent. In his world people were innocent until proven guilty. He furthered that when a charge was dropped, it was dropped. He continued that when a person was convicted, they were convicted.

Representative Wilson clarified that the charge part only had to do with the first case. She provided an example. She offered the amendment to provide a way for someone who had only been charged with something that was now legal, to remove it from their records. She continued that other convictions would establish a pattern. She did not think a person should get rewarded if they could not stay out of trouble since the initial conviction. Mr. Fitzgerald deferred to Ms. Monfreda.

Ms. Monfreda did not believe the amendment would have a huge effect on public safety in terms of redacting the information. She thought it would make programming more complicated.

Co-Chair Seaton asked if it would count as another charge if someone had a possession charge and a speeding violation at the same time. He relayed a hypothetical scenario. He asked if there would be an additional charge for a traffic violation. He wondered about a marijuana charge being removed from someone's record. Representative Wilson replied that if there was an additional charge at the same time the marijuana was found, then the marijuana charge could not be removed. She thought it would make it more complicated to try to distinguish between the charges.

2:24:42 PM

Ms. Mead explained that when a law included the verbiage "any other crime" the court interprets that not to include minor offenses. In the case of the example, the violation would not be considered a crime. Along similar lines, if a person was charged with speeding, a minor offense, as well as the crime of possession of marijuana, it would not disqualify the case. On the other hand, if a person had not been convicted of any charges since the conviction, if the intent to mean criminal charges, it might be something that could be clarified in the conceptual amendment being discussed. She thought it might make the amendment clearer to specify "not convicted of any other crimes or criminal charges." It would help to clarify that the amendment was not intended to include minor offences such as traffic infractions.

Co-Chair Seaton was uncertain how many people had been charged with simple possession more than once. He asked if a person was charged with simple possession more than once, would it mean that their record could not be hidden from CourtView. Ms. Mead had not anticipated his question and did not have the data of the 700 cases of just marijuana possession. She could look into it and provide data. She did not believe the number would be particularly high. Co-Chair Seaton thought it could be something like people using alcohol.

Representative Guttenberg provided a hypothetical scenario. He wondered at what point a violation was written up. Ms. Mead was not qualified to answer the question. She deferred to the Department of Law.

2:28:51 PM

KACI SCHROEDER, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF LAW, replied that once charges were filed in court, the person was viewed as being charged from the court's perspective. The prosecutor might get the case and make different charging decisions. Therefore, the charges could change. However, once the charges were filed in court by either the officer or the prosecutor the individual was viewed as being charged.

Representative Wilson MOVED to ADOPT Conceptual Amendment 1 to Conceptual Amendment 1. She proposed to delete the word "Charges" on line 20 and insert the word "Crimes."

Representative Pruitt OBJECTED for discussion.

Representative Pruitt asked for clarification.

Representative Wilson responded that she wanted to use the word "crimes" rather than "charges" on line 20. She was not talking about things like speeding violations. She was talking about actual crimes.

Co-Chair Foster asked her to repeat Conceptual Amendment 1 to Conceptual Amendment 1. Representative Wilson repeated the conceptual amendment. The amendment would read: "and had not been convicted of any other crimes since that conviction." She clarified that conviction was about a conviction of marijuana.

Representative Drummond was confused. She believed the CS that was adopted was only 2 pages long. Representative Wilson's amendment referred to the previous version which was no longer in front of the body. Representative Wilson responded that that was the reason for her conceptual amendment.

Co-Chair Foster asked Representative Wilson to repeat her amendment to Conceptual Amendment 1 again. Representative Wilson relayed that Amendment 1 to Conceptual Amendment 1 on line 20 of Conceptual Amendment 1. The word "charges" would be changed to "crimes." She was not talking about speeding tickets or infractions.

Ms. Mead responded that by changing the word "charges" to "crimes" at the bottom of Representative Wilson's amendment, it would address what Co-Chair Seaton brought up

about a violation. She suggested, as a measure of housekeeping, line 6 should probably reflect the same language.

Representative Wilson clarified her Conceptual Amendment 1 to Conceptual Amendment 1. The word "charges" would be changed to "crimes" on line 6 and line 20.

Representative Guttenberg asked if the conceptual amendment was relative to the CS.

2:33:26 PM
AT EASE

2:34:47 PM
RECONVENED

Ms. Schroeder conveyed that the conceptual amendment was adding language that stated, "was not charged with any other crimes in that case and has not been convicted of any other crimes since that conviction. She indicated that the language needed to be added in Section 1 on line 13 under 4. It would replace number 4. In Section 2 of the CS on page 2, on line 9 would replace 3.

Representative Pruitt WITHDREW his OBJECTION

Representative Ortiz OBJECTED.

Representative Ortiz WITHDREW his OBJECTION.

Conceptual Amendment 1 to Conceptual Amendment 1 was Adopted.

Vice-Chair Gara relayed that in his experience, the most frequent times where a charge was later dropped was when law enforcement thought one person was responsible, when another person was really responsible. He provided a hypothetical scenario. He concluded that a person should not be penalized from taking advantage of the benefit provided in Representative Drummond's bill when a mistaken charge was later removed.

Representative Wilson was not comfortable because plea bargains happened frequently. She asked for member support.

Representative Grenn MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Thompson, Tilton, Wilson, Pruitt.
OPPOSED: Gara, Grenn, Guttenberg, Kawasaki, Ortiz, Foster, Seaton.

The MOTION to ADOPT Conceptual Amendment 1 as amended FAILED (4/7).

Co-Chair Foster relayed that there were no other amendments for HB 316. He asked Vice-Chair Gara to review the fiscal notes.

Vice-Chair Gara reviewed two fiscal notes for HB 316. The first fiscal note had a zero impact and was from Judiciary. The appropriation was the Alaska Court System and the allocation was Trial Courts. The Office of Management and Budget (OMB) component number was 768. The second fiscal note by the Department of Public Safety had an appropriation of Statewide Support and an allocation of Criminal Justice Information Systems Program. The OMB component number was 3200. The note reflected the previous version of the bill. He indicated someone from DPS could speak to the accuracy of the fiscal note for the current version of the bill. Ms. Monfreda replied that the department would be submitting a revised fiscal note for the new version of the bill. Co-Chair Foster reiterated that there would be a forthcoming fiscal note.

2:41:48 PM

Co-Chair Seaton MOVED to report CSHB 316 (FIN) out of Committee with individual recommendations and the accompanying fiscal notes.

Representative Wilson OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Gara, Guttenberg, Kawasaki, Ortiz, Thompson, Seaton, Foster
OPPOSED: Tilton, Wilson, Pruitt

The MOTION PASSED (8/3).

CSHB 316 (FIN) was REPORTED out of committee with an "amend" recommendation and with one new zero fiscal note by the Department of Public Safety and one previously published zero fiscal note: FN1 (JUD).

2:42:59 PM
AT EASE

2:43:42 PM
RECONVENED

#sb97
SENATE BILL NO. 97

"An Act relating to pension obligation bonds."

2:43:49 PM

Co-Chair Foster relayed that the last time SB 97 was heard was April 19, 2017. At that hearing the committee heard public testimony and called for amendments. There was one amendment the committee would be addressing. He invited the bill sponsor to refresh the committee about the bill.

SENATOR ANNA MACKINNON, SPONSOR, relayed that the bill before the committee addressed a reduction of pension bond authority. The bill proposed to move the pension obligation authority from $5 billion to $2.5 billion. It required those entities that had the authority to issue pension obligation bonds (POB) to submit a proposal to the Legislative Budget and Audit Committee outlining their proposal. She recalled that the administration proposed use and started shopping to sell pension obligation bonds. There was some consternation in Alaska communities and among legislators in both houses to know whether the sale would affect the state's credit rating, how it would work in the market, and what it would do to Alaska's pension plans. She continued that included in the legislation was a process that gave the legislature the time necessary to actually respond and interact with the general public. Hence, taking the acquisition or proposal that might come to the Legislative Budget and Audit Committee. The administration supported the bill before the committee, as it still left the tool available to the administration to address pension shortfalls but reduced the authority by $2.5 billion.

Representative Wilson asked why the bill sponsor settled on the amount of $2.5 billion. Senator MacKinnon responded that the number was a compromise. There were some legislators that thought the possibility of borrowing should be eliminated altogether. She continued that when the Senate Finance Committee started looking at the proposal and the actions of the administration, she went to the governor asking for his thoughts about available authority. In conversations with the senate, she had been talking about what could be done with an in significant amount available to the legislature to bolster Alaska's credit standing with outside national credit rating agencies. Some of the conversations were around reducing outstanding bonds that Alaska could put out. The idea was to show the market that the state was going to handle its debt very responsibly. She indicated that she and the governor had discussed a number. She chose the number rather than the governor. The number was close to the number the administration sought in the market in the previous year. She believed that they were acquiring around $2.1 billion to $2.2 billion. She conveyed that $2.5 billion was within the initial figure considered to meet an unfunded liability.

Senator McKinnon furthered that the second reason was because currently the state had about a $6.6 billion unfunded liability in the Public Employees' Retirement System (PERS) and Techers' Retirement System (TRS) combined. That was with a criteria of an 8 percent rate of return and a mortality rate that needed to be changed. If the percentage currently being used to amortize the state's debt over a period of time adopted in state statute, $2.5 billion represented almost 50 percent. If the state owed $6.6 billion then $3.3 billion would be 50 percent of the unfunded liability handled through debt. In working with the House Finance co-chairs as well as having conversations with the administration and the debt service manager, she recommended to Senate Finance that a $2.5 billion reduction be sent to the House side. She concluded that there were multiple reasons for the amount of $2.5 billion.

2:48:46 PM

Co-Chair Seaton MOVED to ADOPT Amendment 1 (copy on file):

Page 3, line 17 following "2,500,000,000":

Insert "or a funding ratio of actuarial assets to accrued liability greater than 85 percent, whichever is less"

Representative Wilson OBJECTED for discussion.

Co-Chair Seaton reviewed the amendment. He indicated the purpose was to make sure the bonds did not take the state's assets to the 100 percent or 105 percent. There was a provision in statute that if the state reached 105 percent of value, the state would have to pay out additional money into the post-retirement pension adjustment to retirees. He relayed that it made sense in a situation where retirees had put their money in and the period that would have earned money over time. If it earned more than 8 percent, the funding ratio would be greater. In such an instance, he suggested it would make sense to bump up retirement by giving a post-retirement pension adjustment in addition to the cost of living adjustment (COLA) increase retirees received. In the case of doing bonds, the state would be taking general fund monies and putting them into the retirement system. However, if the state reached the 105 percent funding, it would be required to give the money to the retiree. The amendment made sure the state kept the funding ration in a range that was very stable and useful without passing general fund money for bonds that would be sold and deposited. He had tried a number of different ways to insert language so that there would be a waterfall. It would ensure that the fund grew on its own investments instead of taking general funds.

2:51:29 PM

Representative Guttenberg wondered if there was an alternative to increasing the payout once the state reached 105 percent. Once the amount was increased it could not be reversed. He wondered if the state had the flexibility to do something different. Co-Chair MacKinnon believed the retirement pension board had the authority to look at benefits if the funding went beyond 105 percent. She referred to the amendment on page 3, line 17 following the $2.5 billion. She suggested inserting the words "or a funding ratio of actuarial assets to accrued liability greater than 85 percent, whichever is less." She asked if she was looking at the correct amendment copy. She explained that $2.5 billion would be the maximum allowable debt to service the unfunded liability. She and Co-Chair

Seaton had talked about the issue that was in state statute where the state had been paying for a number of years, specifically on the PERS and TRS side, additional contributions above 22 percent or the 12.56 or 12.58 percent for TRS. The state had invested heavily in additional funding of state support for these systems with the recognition that the state's liability was to about 60 percent of the overall system in its entirety (100 percent on the TRS side and a percent on the PERS side). The amendment was a safeguard for all in the scenario that the outside markets would look at. She continued that for that reason she would support the amendment and ask for support. She hoped Mr. Mitchell could speak to confirm whichever number was lower to avoid decreasing the state's liability enough to overfund the system.

2:55:12 PM

DEVEN MITCHELL, EXECUTIVE DIRECTOR, ALASKA MUNICIPAL BOND BANK AUTHORITY, agreed that the amendment was in line with the goals of the transaction envisioned by the corporation's board and the Department of Revenue (DOR) throughout the various administrations that had considered POBs. The target he had was a maximum not to exceed amount of 90 percent. He thought 85 percent was a reasonable alternative to 90 percent. It was probably slightly more conservative in the event there were strong returns in the years following a pension obligation bond issuance. There could be an outcome of an overfunding situation. He was not as confident as Senator McKinnon that the ARM Board had the ability to diminish benefits to past employees. He thought those benefits were strongly protected. Unfortunately, even though it made sense if there was extra money put in, it was his personal belief, that those employees could demand a post retirement payment if the funding went up 105 percent or greater. He suspected that the court would side with the retirees.

Co-Chair Seaton thought there was a misunderstanding. He had heard Senator McKinnon saying the same thing he had said. They had looked at all of the ramifications but found that once the amount was there it could only flow to pensions. A pension plan could not be diminished. The federal restrictions were tight so that no one could diminish benefits. Co-Chair MacKinnon clarified that retired Alaskans were guaranteed their benefits. Her response was to the 105 percent funding liability that if

the state went above, it could add additional benefits in response to Representative Guttenberg's question. She relayed that the retirement board had the ability to add but not to diminish benefits under existing state law and supreme court rulings. A vote of the people of Alaska would be required.

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, Amendment 1 was ADOPTED.

2:58:53 PM

Co-Chair Seaton MOVED to ADOPT Conceptual Amendment 2.

Page 3, line 17

Delete: "$2,500,000,000"
Insert "$1,500,000,000"

Representative Wilson OBJECTED for discussion.

Co-Chair Seaton had talked with the bill sponsor and with Mr. Mitchell. He wanted to have them come to the table. There was general agreement that $1.5 billion was an acceptable amount and remained a powerful tool that could be used and also lowered the amount of debt the state had. Co-Chair MacKinnon responded that she was not opposed to the change. The only issue she wanted consideration for was the number she brought before the committee. She had run the number by the administration and had support for $2.5 billion. She reported that there were members in the Senate that thought the number should be zero. She agreed that $1.5 billion was a more conservative number. The bond rating agencies would see the action favorably because it was taking another $1 billion away from the state to indebt itself. She thought it would remain a functioning tool available to the administration. She also believed it would bring more comfort to Alaskans in placing the state's unfunded liability into a bond market.

Representative Pruitt referred to the actuarial worksheet in members packets (copy on file). He believed the $1.5 billion amount would restrict the state from being able to use the pension obligation bonds. He highlighted that the state would cross the 85 percent mark before the $1.5 billion was available. He asked Mr. Mitchell to explain how

the change would affect the state's ability to use the bonds. He wondered if the state should get rid of them altogether. Mr. Mitchell responded that he had not recently reviewed the actuarial worksheets. He explained that it was based on total liability rather than just the state's portion. If the total liability was $6.5 billion, he thought the state would still have the ability to use the $1.5 billion. He would have to review the numbers. He thought the system's funding levels were considerably less than 85 percent even with the infusion in 2015 and the positive market in the previous year.

Representative Pruitt was having to process and do the math as the meeting was occurring.

3:04:10 PM

Co-Chair MacKinnon added that in looking at the amendment the word "or" was included. The amount of $1.5 billion would remain available.

Representative Guttenberg asked how the bill would affect the state's other pension bonds, capacity, or ratings. Mr. Mitchell suggested that there were several factors that played into the answer to Representative Guttenberg's question. One of the variables was the concept of going from a soft liability to a hard liability. Another factor had to do with payments on behalf of other employers. The state was locking in the relationship that was a statutory relationship that theoretically could be modified. Also, there had been an evolution within the pension obligation fund corporation to move forward on a transaction since its inception to the present. The corporation no longer had the ability to to move forward without the firm support of the legislature. Firm support meant that an appropriation of debt service was necessary for market participants to take the state seriously based on its failed efforts in the past. He was unsure how the reduction would impact the state's debt capacity or credit rating. He reported that when the state was looking at the transaction in 2016 one of the three rating agencies, Standard and Poors, had a contingent downgrade for the State of Alaska in the event the $2.5 billion was borrowed. He indicated that it was based on sheer magnitude. It was easiest to think of the situation as a refinancing. The state owed the money and had a constitutional obligation to repay it. There was a statutory framework for the payment on behalf of structure.

The least responsible way to refinance would be to avoid the following year's payment. This was Illinois' method. He provided a more detailed example. He continued that reducing the authorization to $1.5 billion would limit the state's ability to impact the state's credit rating.

Vice-Chair Gara agreed with the amendment.

3:08:51 PM

Representative Pruitt was fine with $1.5 billion. It was a policy call. He suggested that there might be 3 years where the 85 percent/$1.5 billion threshold would cross before the state reached a funding ratio of 85 percent based on the actuarial. He concluded that $1.5 billion was substantially more conservative than the 85 percent funding ratio. He was fine with the amendment.

Co-Chair MacKinnon relayed that, at an 8 percent rate of return, it had to do with best practice standards for a pension plan. While the committee was considering $1.5 billion of potential debt against a $6.6 billion unfunded liability and seeing the state's 85 percent funding ratio in sight, she cautioned members in thinking that in 3 years the state would be out of the woods. She continued that a .25 percent reduction in earnings estimated over the life of the state's debt would have huge implications on the unfunded liability number. She highlighted that Alaska's local communities were carrying that debt on their financials as well. While the state was at $6.6 billion presently, she expected (even with positive returns) that if the ARM Board made a decision to reduce earnings or accept the new mortality rate (people were living longer), she did not believe the state would be at 85 percent funding in 3 years. She was working with the ARM Board to see if there was another way to adjust the assumed interest earning down. She would be happy to share that information at a later time.

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, it was so ordered. Conceptual Amendment 2 was ADOPTED.

Representative Guttenberg relayed that on the previous day the committee had heard a bill on PERS and TRS and the

package options. He thought the bill might correlate with the senator's bill.

Vice-Chair Gara reviewed the zero fiscal note for SB 97 by the Department of Revenue. The appropriation was Taxation and Treasury and the allocation was the Treasury Division. The OMB component number was 121.

3:13:02 PM

Co-Chair Seaton MOVED to report HCSSB 97 (FIN) out of Committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, it was so ordered.

HCSSB97 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note by the Department of Revenue.

3:13:32 PM
AT EASE

3:14:22 PM
RECONVENED

#sb107
SENATE BILL NO. 107

"An Act relating to the Alaska capital income fund."

3:14:35 PM

Co-Chair Foster indicated the committee heard SB 107 by the Senate Finance Committee on May 2, 2017. He invited Senator McKinnon to speak to the bill.

SENATOR ANNA MACKINNON, SPONSOR, had discussed with the House co-chairmen the use of the capital income fund. The fund did not sweep into the general fund. Typically, capital budget chairmen swept projects that had already been utilized for other capital projects around the state. It was money that remained after the allotted time and was still sitting unused. The legislature had two choices for those funds. First, the legislature could place it back into the general fund and spend it like GF dollars. Instead, what SB 107 proposed to do was dedicate the Alaska

capital income fund to deferred maintenance. In other words, the money that was being rolled into the fund from lapsing projects would be designated for a higher use and prioritized deferred maintenance spending to extend the life of state assets. She read from the prepared sponsor statement:

> The State of Alaska maintains over 2,200 facilities which span over 14 entities, including the University of Alaska and the Court system. These facilities total 19 million square feet of space and have a combined replacement value of $8.6 billion.
>
> The State's current outstanding deferred maintenance backlog totals over $1.84 billion, which peaked in FY2012 at $2.3 billion. With current funding levels and no consistent funding source, the deferred maintenance backlog is expected to trend up, causing our facilities to fall into disrepair.
>
> The Alaska capital income fund was created in 2006 and receives an annual deposit of the earnings from the Amerada Hess Settlement invested by the Permanent Fund.
>
> Senate Bill 107 envisions using these funds, which cannot be used for dividends, to provide reliable annual funding for preventative and deferred maintenance. It is important we set up this mechanism to continue to preserve our investment in these facilities as the infrastructure ages and cost for repairs and replacement increases.

Co-Chair Seaton commented that part of the capital income fund money came from the Amerada Hess fund. He asked if the money had already been appropriated. He was trying to determine whether the swept money would be designated general funds. He asked about keeping track of reappropriated funds. He was concerned with the duplication of funds. Co-Chair MacKinnon did not know the answer and deferred to Mr. Carpenter.

3:18:29 PM

ROB CARPENTER, ANALYST, LEGISLATIVE FINANCE DIVISION, replied that the bill was structured to take the revenue stream from the Amerada Hess Settlement, about $28 million

per year, to the Alaska capital income fund for deferred maintenance projects. Historically, the funds were used in the budget for deferred maintenance and all capital projects. However, when the legislature started to consider using the earnings reserve account as general fund revenue, it was discovered that the Alaska capital income fund was not a designated fund source. The money went to the unrestricted general fund. The amendment would make it a designated fund source. Furthermore, to the question of about putting reapropriations inside the fund, there would not be a problem with funds being mixed because the reappropriations had been counted in prior sessions in prior fiscal years.

Co-Chair Seaton indicated that the legislature received reports on duplicated funds and regular undesignated general funds. He was trying to figure out how to account for spending each of the funds that were mixed. He asked if it would be difficult to tract how duplicated and non-duplicated funds were spent from an accounting aspect.

Mr. Carpenter responded that to-date the state had not reappropriated funding to the capital income fund. Currently, the state would operate with the Amerada Hess funds. Conceptually, if the state were to send reappropriations into the capital income fund and then spend from it, he did not think there would be a problem with duplication only in regard to how the state counted the general fund revenue. The state always equated designated general fund revenues to the designated general fund expenditures. They were always equal, therefore, there would not be a duplication.

Co-Chair Seaton suggested that if the legislature put reapporpriations into the capital income fund, they had already been appropriated. Mr. Carpenter responded, "Correct." Co-Chair Seaton wondered, if they were spent, whether the state would be reappropriating them again. He wanted to make sure things were accounted for if the state mixed duplicated and non-duplicated funds. He was fine with the bill but wanted to make the committee aware of mixing two types of fund sources. He wanted to raise the issue.

Representative Guttenberg understood that part of the Amerada Hess Settlement was the agreement that the funds could not be used for dividends. The projected lapse of time for that specification to change was 15 to 20 years.

He believed that theoretically the funds could be used for dividends in the future.

Mr. Carpenter thought Representative Guttenberg was correct that the settlement timeline had passed and that the funds could be redirected for any use. He noted that in prior versions of Percent of Market Value (POMV) bills there was a provision getting rid of the capital income fund and rolling the funds into the Permanent Fund. However, there was nothing precluding the legislature from keeping the capital income fund and the Amerada Hess Settlement monies set aside.

3:24:20 PM

Vice-Chair Gara understood the Amerada Hess portion of the capital income fund. He wondered if the legislature had placed funds in the capital income fund in addition to the Amerada Hess funds. He wondered if the bill being discussed would govern whatever other funds were in the capital income fund.

Mr. Carpenter believed in the past the legislature had put other money in the capital income fund. He could not recall the time or amount. The bill specifically spoke to the revenue shrink from the Amerada Hess going into the capital income fund. It did not indicate that the legislature could not appropriate additional money in the fund. It could create a burden in terms of counting the funds.

Vice-Chair Gara thought it governed the whole capital income fund. He did not see anything in the bill talking about only the Amerada Hess income stream. Mr. Carpenter responded that unless the legislature appropriated money into the fund it would only be the amount flowing into the fund which was about $28 million.

Vice-Chair Gara did not need to know if there was additional money in the fund. He forgot his question.

3:26:20 PM

Co-Chair Foster OPENED public testimony.

3:26:44 PM

Co-Chair Foster CLOSED public testimony.

Co-Chair Foster directed Vice-Chair Gara to review the fiscal note.

Vice-Chair Gara read the zero fiscal note for SB 107. The fiscal note assumed that there were no additional funds inside the capital income fund. It stated that the funds from the Amerada Hess settlement would now become designated general funds as opposed to undesignated general funds. It relabeled the $28 million income stream.

Co-Chair Seaton MOVED to report SB 107 out of Committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, it was so ordered.

SB 107 was REPORTED out of committee with a "do pass" recommendation and with a new zero fiscal note by the House Finance Committee.

Co-Chair Foster reviewed the agenda for the meeting at 5:00 PM.

Representative Wilson had heard from a superintendent earlier in the day who was also a principal and an elementary teacher. He was short a special needs teacher. She wondered where the retired teacher bill was in the legislative process. Co-Chair Foster indicated that both bills were in the House Finance Committee and he would determine when the bills would be heard. Representative Pruitt clarified that the Senate had its version in Senate Finance and the House version was in House Finance. Representative Wilson relayed she had heard there were teacher openings because of positions being difficult to fill and that some of those positions could be filled with retirees. She thanked Co-Chair Foster for the update.

Co-Chair Foster indicated there were no further comments from members.

#
ADJOURNMENT

3:30:19 PM

The meeting was adjourned at 3:30 p.m.