

HOUSE/SENATE FINANCE COMMITTEE MINUTES - 1967-1982 2810

they want that place left existing in its natural state. He said there goes the validity of his reasoning. He asked if that might not be a good assessment on his part. Representative Rogers, in response, reviewed the arguments he made on the bill. He said this bill does provide an additional opportunity for delay of the project. He said if that is what the member wishes to do by voting, he may do so. Representative Rogers said he believes the addition of the legislative authorization of submission of a license application provides an additional avenue for delay. He said if the member believes that by saying so, he is saying the opposite, that is the member's choice. However, Representative Rogers said, the fact is that FERC does not like speculative applications. He suggested if the Committee contacted FERC and asked about speculative applications, they would find that they do not like them, they want to act on applications for approved projects. Representative Rogers said he believes a scaled down version of the project should be built.

Representative Hurlbert asked if the declining prices in oil have changed his mind about Susitna. He asked if Representative Rogers was in favor of it before. Representative Rogers answered that he believes the state should invest in the most economical energy projects. He said he believes economic feasibility should be the determining factor of which energy project to build. He said he didn't believe in building a project for the sake of it being the most popular project. He said he was willing to vote for an unpopular project if it is more economically feasible. He said the indications are that natural gas fired generation has greater economic viability in the short run for the railbelt. He said hydroelectric generation is more economically viable in the long run. The question that needs to be decided by the State is -- do they want lower energy costs in the short run or lower energy costs in the period that follows? He suggested they have to have a mix. He said what is happening right now is projects are being decided on political feasibility rather than on the basis of economic feasibility.

Representative Carney said it seems strange that Representative Rogers would recommend using a nonrenewable resource to provide electrical energy for a short term gain when it could be used for other purposes; whereas hydro is renewable, even though it is more expensive today, it will be cheaper in the long run in the sense that it does not destroy a renewable resource. Representative Rogers responded the nonrenewable resource being referred to, natural gas -- they are losing portions of that by reinjecting it into Prudhoe Bay. He said they lose between 6% and 9% of the natural gas each time it is reinjected. Because there is no transmission line for natural gas, Representative Rogers said they are losing that amount. He said he believed they should use about the portion that is now being reinjected. He said he didn't have a problem with using a nonrenewable resource to generate electricity if it is the best form. He said that is what they are using right now in Fairbanks, they are

using primarily coal and oil generation. He said he would like to leave the Committee with the realization that the fastest way to build one of these projects is to do it the right way. He said to try to jump steps isn't going to work. Regardless of how he feels on this project, Representative Rogers said, the fastest way to do it is the right way. He said doing it the right way will save other regulatory delays.

Representative Bettisworth commented that Representative Rogers is well versed on this subject, and he is basically talking philosophy. He said he would like to take a couple of hours to debate the issue, he could point out some fallacies in the argument he is talking about in the value of nonrenewable resources. Representative Bettisworth said you don't talk about the price of oil and gas when you are talking about a project such as hydro that is going to last for forty years. He commented on the Columbia River project in the Washington/Idaho/Oregon area. Philosophically speaking, Representative Bettisworth said he believes it is wrong to waste the potential of the Susitna River for hydro-power when the water isn't good for anything other than making ice-cubes. He said the nonrenewable oil and gas that is available to the State has many alternative uses.

Representative Rogers said obviously this can be a philosophical debate. He said he would personally prefer to leave the issue as one of economics.

Representative Cotten referred to sections 2 and 3 of the bill, and asked if this anticipates short term revenue bond agreements. Representative Bettisworth said they are anticipating whatever eventuality may come about. He said they don't know whether they are going to finance it with bonds, with cash, or how they will finance it. He said this is trying to address what may and may not come up during the months the Legislature is out of session. Representative Cotten asked if he was saying they were going to leave the entire financing decision to the Power Authority. Representative Bettisworth said there is a maximum amount already authorized last year, \$26 million, which is going to be reauthorized this year. He said that is less than the amount authorized last year to continue the studies and to receive Acres America study. He said it was his understanding that was all the money that can be spent until the Legislature reconvenes and reauthorizes additional expenditures. He said it says in the bill they cannot do site preparation; they can't do anything that will disturb the land, river or anything. He said they can do some preliminary engineering design, such as road alignments.

(Tape change, HFC 82-49, side 1.)

Mr. Hutchins said sections 2 and 3 are technical amendments. He said the portion struck out in section 2 was determined by the Attorney General to be an unconstitutional dedication of funds.

He said without the language that has been removed, they have to have this new language in order to secure revenue bonds so the revenue bonds can be sold for Tyee, Terror, and other projects. Representative Cotten asked if these were the short term bonds. Mr. Hutchins said not necessarily, these are the revenue bonds for the financing if it becomes necessary. He said unless they have the authorization for that in place, they can't sell the short term. There was brief discussion on the Tyee project.

Representative Cotten said the new language in section 2 would allow them to pledge the revenue from the users of the project. Mr. Hutchins said that was right. Representative Cotten asked if that was all they were pledging. Mr. Hutchins said that was right.

On section 3, Representative Cotten asked if the APA has made an agreement with the bond holder to maintain or increase the wholesale power rate. Mr. Hutchins said no, that wouldn't come into play until such time as they go into revenue bonds. Representative Cotten said they would be required to do one of two things, they'll be required to sell revenue bonds and it will also require a certain wholesale power rate, or they will require another cash appropriation from the state. Mr. Hutchins agreed. He said in order to sell a revenue bond you have to have insurance that you can sell the bonds. He said that is all sections 2 and 3 are intended to do -- to assure bondholders that the Power Authority will in fact be able to use the revenues from the project that are being financed for revenue bonds. There was further discussion.

Representative Rogers said there are other problems the Committee should be aware of. He said APA has entered into interim financing agreements saying they intend to issue revenue bonds, so they are going to borrow based on later receipts of the revenue bonds. He said the reason for that is the revenue bond market isn't very good right now. He said the problem that occurs with that kind of interim borrowing is that if at a later date they are unable to sell revenue bonds they are in a position where the Legislature will have to pay cash. They will have to pay off those interim borrowings. He said the Power Authority is essentially forcing the hand of the Legislature. Secondly, Representative Rogers said, the power sales agreement for the Swan Lake project includes an agreement that the wholesale power rate will never exceed the cost of diesel, which he thinks essentially says the Legislature can't change the rate.

(Verbatim Transcript between Representatives Chuckwuk and Rogers follows.)

CHUCKWUK: Earlier you stated one of the reasons was the declining price. I think somebody asked you about that, because of the decreasing prices. That's neither here nor there. It is very likely to go back up again. And, the other one was you

waved your book at us and said you will prove the economically unfeasible project. Plus, you admitted the fact that you have not kept up with the studies. Isn't that a little premature assessment to make on such a project that you may not be familiar with?

ROGERS: Mr. Chairman, the point about declining prices is that the economic feasibility of any project is highly dependent upon the feasibility of the alternatives of the project. That is in a rapid state of change right now. I guess I would agree with the member that it is premature to act until we have that information. I am sure if the member has, knows what the Power Authority is going to do this Thursday on their recommendations, then obviously he can go ahead. I think until that time it is premature, so I would agree with him.

CHUCKWUK: And the second part was that you would prove it economic unfeasible? That's what you almost threatened us with in the form of seemingly, but I would say it appears to me there is some distorted or lesser credibility to the testimony if you think in those speculative, as you said, assessments.

ROGERS: Mr. Chairman, if I might respond, the member can give my testimony whatever weight he wishes. He can also look over the economic feasibility studies of Susitna, of the alternatives, and make a decision. Or he can make attacks without having done that. That's his choice.

CHUCKWUK: Thank you Mr. Chairman.

Representative Haugen MOVED AND ASKED UNANIMOUS CONSENT to report out HCS CSSB 769 (Finance). There being NO OBJECTION, it was so ordered. The bill was reported out with a "do pass" recommendation.

SB 831

The next bill to be considered was SB 831.

SB 831 -- "An Act relating to insurance policies and contracts."

Chairman Adams explained the Committee reported this bill out earlier, but an amendment should have been made prior to it leaving the Committee. He asked that the Committee rescind their action in passing the bill out of Committee for the purpose of considering a specific amendment. Representative Carney SO MOVED. There being NO OBJECTION, it was so ordered.

HCS SB 831 (L&C) was before the Committee. Chairman Adams presented the amendment (see attachment #2).

Representative Carney MOVED AND ASKED UNANIMOUS CONSENT that the amendment be adopted. There being NO OBJECTION, it was so ordered.

Representative Carney MOVED AND ASKED UNANIMOUS CONSENT to report out the HCS for SB 831 (L&C) as amended. There being NO OBJECTION, it was so ordered. HCSSB 831 (L&C) am was reported out with a "do pass" recommendation.

ADJOURNMENT

The meeting adjourned at 4:55 p.m.

Tape HFC 82-48, side 2 #029 to end
HFC 82-49, side 1 #001 to #279

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

April 19, 1982

Hon. Brian Rogers
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Susitna River hydroelectric
project and SB 826

Dear Representative Rogers:

You have requested our opinion concerning various questions relating to the Susitna River hydroelectric project and the provisions of SB 826. Your questions and our responses follow.

1. Under current law, can the Alaska Power Authority submit a license application for Susitna to FERC if the legislature has not approved the project? See both AS 44.83.185(b) and 44.83.187(c).

Under AS 44.83.185(b) (AS 44.83.187(c) would not be applicable to the Susitna River project), the authority is authorized to

proceed with the engineering or design work necessary to meet the requirements for submission of a license application for the proposed new project to the Federal Energy Regulatory Commission without obtaining legislative approval of the proposed new project.

This subsection does not authorize submission of the application; it only authorizes the work necessary to meet the requirements for submission. Had the legislature intended to allow the authority to actually submit the license application, the language of the statute would have so provided by allowing the authority to "proceed with the work necessary to obtain a license from the Federal Energy Regulatory Commission without obtaining legislative approval of the proposed new project." The statute does not provide such authorization, and reading AS 44.83.177 - 44.83.189 as a whole, it seems apparent that the legislature intended to authorize the authority to perform work on proposed new projects before legislative approval of the

proposed new projects only to the extent expressly allowed by statute. Since the actual submission of a FERC license application is not expressly allowed by statute, it is beyond the authority's power to submit the application before legislative approval of the project.

2. Can the legislature give a "conditional" approval of the Susitna project? I'm not sure what this would be, but something along the lines of "After the studies are complete, if the APA board recommends proceeding to construction, then the legislature automatically gives its approval."

There are two legislative approvals applicable to the Susitna project. One is the approval required under AS 44.83.185; the other is required under AS 44.83.325. The legislature could provide the approval you have suggested, but there are some considerations which should be mentioned relating to the effect of such approval.

Both AS 44.83.185 and 44.83.325 provide for legislative approval after a certain sequence of events. Under AS 44.83.177 - 44.83.185, the sequence of events involves the preparation of a reconnaissance study, the review and approval by the division of budget and management of the reconnaissance study, the preparation of a feasibility study and a plan of finance, the review and recommendation for approval of the feasibility study and the plan of finance by the division of budget and management, and finally, approval of the project by the legislature. Legislative approval of a project out of sequence under these statutes creates the question of the effect of the division of budget and management's review process. If the legislature has already approved a project, does budget and management review the feasibility study and plan of finance? If so, does it make a recommendation for approval or disapproval? If so, to whom does it make the recommendation, and what is its effect? These questions can be answered and should be answered in the legislation providing the approval. Also, under these sections, the approval out of sequence establishes a special procedure for the project approved which does not apply to projects generally. This could raise a significant constitutional question under article II, section 19, of the state constitution prohibiting local or special legislation. However, because of the statewide significance of the Susitna project, this would probably not be considered local or special legislation. State v. Lewis, 559 P.2d 630, cert. denied 432 U.S. 907 (1977).

The sequence of events under AS 44.83.325 involves

the preparation of preliminary reports followed by legislative approval of the preliminary reports. If the legislative approval precedes the preliminary reports, are the preliminary reports still required? To whom are they distributed? What is their purpose and effect? Again, these question can and should be answered in the legislation granting the approval.

3. Under SB 826, would the APA be authorized to do what's generally known as "advanced engineering and design?"

The provisions of SB 826 authorize the power authority to prepare plans, studies, and license applications, as well as other types of work, which must be completed before actual construction of the Susitna River hydroelectric project may begin. This work is authorized to be done even though the legislature has not given its approval under AS 44.83.325 to the project. If "advanced engineering and design" must be completed before actual construction may begin, then SB 826 authorizes it. However, if "advanced engineering and design" involves actual construction of the project or preparation of the site, then SB 826 does not authorize it even if it must be completed before actual construction may begin.

4. Under SB 826, would the APA be authorized to apply for a FERC license?

Similar to the provisions of AS 44.83.185, SB 826 authorizes the preparation of license applications which must be completed before construction may begin on a project. It does not authorize the submission of those applications.

5. If the legislature desires to simply wait until next session to approve (or disapprove) the Susitna project, need it do anything this year? Does SB 826 allow anything that isn't already allowed by law?

There is no time limit for legislative action regarding the Susitna project. If the legislature desires to wait until next session before taking any action on the question of approval or disapproval of the project, there is no legal effect resulting from the legislature's decision to delay action.

The provisions of SB 826 have the effect of broadening the grant of power in AS 44.83.325 in the event the legislature decides to take no action with regard to approving or disapproving the Susitna project during this session. Under AS 44.83.325, the legislature must approve a preliminary report prepared under AS 44.83.320(b) before the authority may enter

Hon. Brian Rogers

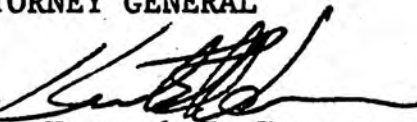
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into contracts relating to the Susitna project. However, also under AS 44.83.325, in the interim period, the authority may enter into contracts necessary to complete feasibility studies, the preliminary reports required by AS 44.83.320, and the construction of the Anchorage-Fairbanks intertie. Under SB 826, the authority would be able to enter into other contracts for preliminary work as described in that bill. The bill defines preliminary work as "the preparation of plans, studies, and license applications, as well as other types of work, which must be completed before actual construction of the Susitna River hydroelectric project, described in AS 44.83.300, may begin." The bill specifically does not authorize the authority to enter into contracts for actual construction or site preparation for the project.

Sincerely yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: 

Kenneth E. Vassar
Assistant Attorney General

KEV/pjg

cc: Eric Yould
Executive Director
Alaska Power Authority

HOUSE JOURNAL

AMENDMENT

OFFERED IN THE HOUSE

BY: FINANCE COMMITTEE

TO: HCSSB 831 (L&C)

PAGE 1, LINE 16 ADD A NEW SECTION 2:

* Sec. 2. AS 21.54 is amended by adding a new section to read:

Sec. 21.54.055. DISCLOSURE OF EMPLOYEE CLAIMS PROHIBITED. An insurer providing employee group or blanket disability insurance to an employer or to trustees of a fund established by an employer may not disclose an employee's claim unless the employee authorizes the disclosure in writing.

RENUMBER REMAINING SECTIONS.

HOUSE FINANCE COMMITTEE

April 21, 1982

8:50 a.m.

(Tape HFC 82-49, side 1 #279)

PRESENT

Members of the Committee in attendance: Representatives Adams, Bettisworth, Cotten, Montgomery, Carney and Fuller. Representatives Meekins, Hurlbert and Haugen arrived later in the meeting. Representatives Chuckwuk and Cuddy were not in attendance. PRESENT TO TESTIFY: Representative Metcalfe; Bill Berrier, Director of Legal Services, Legislative Affairs Agency; Tom Williams, Commissioner, Department of Revenue; and Anselm Staack, Treasury Comptroller, Department of Revenue.

SB 831, SB 769, and SB 769

Chairman Adams called the meeting to order and advised that yesterday the Committee had before them SB 831, SB 769 and SB 769:

SB 768 -- "An Act relating to residential loans administered by regional Native housing authorities; and providing for an effective date."

CSSB 769 (Fin) -- "An Act relating to the use of the power development fund for federal power projects under the energy program for Alaska; approving the Bradley Lake hydroelectric project under AS 44.83.384(c)(1); and providing for an effective date."

SB 831 -- "An Act relating to insurance policies and contracts."

Chairman Adams advised those bills were taken up in Committee while they were under a call of the House. He said there is a legal question as to whether the Committee could actually work on bills while under a call. He requested a motion to approve these three bills and let the individual recommendations made at yesterday's meeting stand.

Representative Montgomery MOVED AND ASKED UNANIMOUS CONSENT that HCS SB 768 (Res) am (New Title: "An Act providing for fishery product loan guarantees; and providing for an effective date."), HCS CSSB 769 (Fin) (New Title: "An Act relating to power development projects under the Alaska Power Authority; and providing for an effective date."), and HCS SB 831 (L&C) am (New Title: "An Act relating to insurance; and providing for an

effective date.") be approved with individual recommendations as indicated yesterday and reported out. There being NO OBJECTION, it was so ordered.

HB 702

The next bill to be considered was HB 702.

HB 702 -- "An Act making a special appropriation to the Department of Community and Regional Affairs for the supplemental housing development grant fund; and providing for an effective date."

Chairman Adams gave a brief explanation of the bill.

Representative Carney MOVED AND ASKED UNANIMOUS CONSENT that HB 702 be reported out of Committee. There being NO OBJECTION, it was so ordered. HB 702 was reported out without recommendation.

HB 770

The next bill to be considered was HB 770.

HB 770 -- "An Act relating to the Alaska permanent fund."

Chairman Adams advised there is a State Affairs CS for HB 770 (NEW TITLE: "An Act relating to the investment and amangement of the Alaska permanent fund and to the computation of the income of the fund available for distribution; and providing for an effective date.) He said a fiscal note by the Department of Revenue indicated \$4,116,200 would be needed, and for the most part these funds would be used for contractual services associated with outside management and safekeeping costs of new allowable investments. He invited Representative Metcalfe to testify.

REPRESENTATIVE METCALFE passed out a report to Committee members concerning the Alaska Permanent Fund and its current management. He said one of the things that prompted this bill is the low earnings the Permanent Fund is currently earning. He said whether they are concerned about the issue of distribution of Permanent Fund earnings or other surrounding subjects, this bill was designed to address and enhance each of those subjects. According to Representative Metcalfe, one of the problems the Permanent Fund currently has is that its requirements for safety are far above those required by most world class investment funds. He said most world class investment funds of similar size are investing in much broader areas than is currently allowed under Alaska state law for the Permanent Fund. He said this creates a problem in drastic reduction in earnings -- the Permanent Fund reflected one of the lowest earnings of all the world class permanent funds combined. He explained this bill basically opens up for investment for the Permanent Fund a number

of those areas that most world class funds are investing in, probably the most controversial of which might be the venture capital area. He said this area is being used by the foundation that finances Harvard School, a number of college foundations, the Ford Foundation and other foundations that were making their highest returns at this time. He said this bill should substantially increase the Permanent Fund earnings.

Secondly, Representative Metcalfe said, one of the reasons for the high fiscal note is that this bill requires a substantially increased, better, more expensive management. He said there are people who know what they are doing when talking about world class investment management and they are very expensive to obtain. He said when managing a \$4 billion fund, there is little question that you should have the very best. He said that was the number one recommendation by the consultant that put together the report he passed out -- Beldon Daniels. He said Mr. Daniels expressed that very clearly, that this was probably the Fund's biggest need. Representative Metcalfe said Mr. Daniels also pointed out the need for an increase and broadening in the area of investment possibilities.

Representative Metcalfe said with increased and better management, he would like to address the question of in-state investment. He said this bill takes care of a great deal of in-state investment. He said by opening up the categories that it does, it will make it possible for the Board to invest in the kind of investments that are available in Alaska. He said Alaskan investments commonly show a higher rate of return than similar investments in the lower 48 states.

(Representatives Meekins and Hurlbert arrived.)

Representative Metcalfe advised the bill requires that if all else is equal the State is given a priority for investment considerations. He said he has asked Legislative Attorney Bill Berrier to explain the bill to the Committee.

Representative Cotten asked what the fund is making now. Representative Metcalfe said last year's earnings were in the proximity of 16%. He commented Ford Foundation was making 19% in the same market.

(Representative Fuller left at this time.)

Representative Carney referred to the joint session they had with the Senate Finance Committee, and he asked if there was any Senate legislation matching this. Representative Metcalfe said the Governor has a bill that is very similar to this. He said this bill broadens the Governor's basically in two areas: in venture capital, and it would also require that in the event a State bank's loan/deposit ratio lies within the area that reflects it is clearly one of the banks that is trying the

hardest to make loans to Alaskans, the fund would then make deposits in the form of CD's and time deposits in those banks. He said that would result in a substantial amount of increased investment in loans to Alaskans. Representative Carney asked where the Governor's bill was. Representative Metcalfe said it was in Senate Finance.

(Representative Haugen arrived at this time.)

Representative Metcalfe said the one provision he just mentioned is probably the biggest provision -- providing for loans to Alaskans. He said the second provision is the venture capital, which means if they wanted to buy a railroad or build a power facility and it was financially feasible, the fund would come in for a very well protected small piece of that investment. He commented further. Representative Carney said the increased percentage profit is based on the higher risk. Representative Metcalfe agreed. He said there is an increased risk, but world class funds are making these kinds of investments.

MR. BILL BERRIER, Director of Legal Services, Legislative Affairs Agency, pointed out the differences between the State Affairs CS and the Governor's bill. He said the Senate Labor and Commerce version of the bill is roughly identical to the Governor's bill, except for foreign and one other investment category. He said he has not seen the proposed Senate Finance CS.

Mr. Berrier said the Governor's bill repealed the provision on gains and losses, the five year rolling average accounting provision. He said the consultant suggested strongly that that be retained since it gives the fund manager substantial flexibility to look at long term projects. The consultant's comment was that one of the great problems is people look at the annual/quarterly bottom line and that will frequently make for bad investment decisions. Mr. Berrier said that repealer is not in this bill.

On page 7, line 22, Mr. Berrier said Mr. Daniels suggested adding the limited partnership interest in venture capital funds. He explained those are funds in which there is a general partner and a series of limited partners. He said the limitation on that is that 60% of the fund must be held by other institutional investors. Mr. Berrier explained Mr. Daniel's thought was that they didn't want the Permanent Fund to be carrying all the risk. He said there is also a five year experience requirement for the manager.

Mr. Berrier said part (b) is an agreement that venture capital investments will be made in Alaska to the extent that in-state investments have a risk level and expected yield comparable to alternative investment requirements. Mr. Berrier pointed out the Permanent Fund itself has a flat requirement that they shall invest when this happens, but specifically, that requirement

would not relate to this because this is a requirement placed on the Company -- in effect a best interests requirement -- which is the best they could do as a practical matter without getting into unconstitutional areas.

Mr. Berrier said (23), added at Mr. Daniels' suggestion, is a taxable agency obligation. He said, for example, AHFC has the option of issuing tax exempt or taxable bonds. He said if they issue tax exempt bonds it would be foolish for the Permanent Fund to buy them because they would be paying for a tax exemption that is useless. However, if any state agency issues a taxable bond, it could very well be an excellent obligation for the permanent fund. He said his understanding is that the last AHFC issue was a taxable.

Representative Cotten asked if (23) was basically to allow the Corporation to buy bonds from AHFC. Mr. Berrier said if it is a taxable bond. Representative Cotten asked if they couldn't do that now. Mr. Berrier said he didn't think they could.

Mr. Berrier said section 7, on page 8 line 27, is the point made by Mr. Daniels concerning the desirability of increasing the leverage in Alaskan loans. He said by requiring a loan to deposit ratio which shows substantial Alaskan investments, then the CD's are in effect encouraging Alaskan benefits. He said the point is when purchasing a CD from the bank they have no way of knowing how the bank is going to invest the funds. He said according to some studies that have been made, a lot of money has been exported. Mr. Berrier said the point of (D) is that Mr. Daniels felt for safety sake there should be some limit as to how much state money is in a bank. He said if the bank is running too heavily on State deposits, it is a risky investment.

Mr. Berrier said those are substantially the differences between the State Affairs CS and the Governor's bill.

Chairman Adams questioned page 7, 22(b) and Mr. Berrier's statement that in-state investments will have a risk level and expected yield comparison, and he asked how they will measure those alternative investment opportunities. Mr. Berrier said in this situation, it is broad general language. He said when getting into the venture capital area they don't have anything that will assign the risk value. He said that has to be a judgment of the investment managers.

Chairman Adams asked if this bill does anything for inflationary measures -- that a portion has to stay in the fund to keep it up to its full amount? Mr. Berrier said section 8 on page 9 does that.

COMMISSIONER TOM WILLIAMS, Department of Revenue and Vice Chairman of the Board of Trustees of the Alaska Permanent Fund Corporation, testified that this CS for HB 770 does have a great

many features in common with both SSSB 684 and the draft circulating as a possible Senate Finance CS for SB 684. He said the Sponsor Substitute was introduced by the Governor at the request of the Board of Trustees. He explained the trustees have gone through a fairly extensive process of public hearings, they brought in national and internationally recognized talent, and they have talked with people managing funds similar to this one. He commented those are mostly private foundations and university endowments because they too are open-ended in their duration, and they too are wrestling with the problems of inflation.

Commissioner Williams said much of what is in CSHB 770 is very good; it is exactly what they recommended. He said they have worked hard and closely with the Legislature in the course of preparing their recommendations, including an extension of their present list of authorized investments. In the past and today, Commissioner Williams said, they can only invest in debt -- whether it is the debt of the individual home owner in the form of a mortgage or whether it is debt of the U.S. Government in the form of a U.S. Treasury bill. He said debt and the value of the investment in debt changes as interest rates change. In the last couple of years they have seen an unprecedented variation in those interest rates. He said while they have been fortunate in locking in the returns while they have been high, they cannot in a period of continued uncertainty, confine themselves solely to debt. He said, therefore, the other main area of investment is equity. They have recommended that they be authorized to invest in stocks and certain high quality real estate trusts.

Commissioner Williams said the reinvestment of income is another major area the Trustees believe is critical. He said without it the fund is a wasting asset. He said the number of dollars will sit there, but inflation steadily wheedles at it. He said the reinvestment of half the income back into principal will help offset that.

Regarding the composition of the Board of Trustees, Commissioner Williams said this is also a critical area. He said he thinks the Permanent Fund has enjoyed a success as a singular example of how the executive and legislative branches can cooperate with each other. He said there has been a special legislative oversight Committee that has worked very closely with the Permanent Fund. He commented that members of that Committee have attended every single one of the Trustee's meetings and have had an opportunity to participate in the discussions and issues before the Trustees, to interrogate the witnesses, to meet and become familiar with the experts brought in to advise the Trustees, and to offer legislative opinions about what the Trustees are proposing to do. Commissioner Williams said this is a shining example of how executive and legislative institutions can work together in a way that is comfortable to both, and in a way that is constitutionally permissible. He said it is important for this to continue so that people may be assured that the Permanent

Fund has not become a political tool. He commented the corporation is as powerful as the State and may someday be more powerful than the State in the sheer economic wealth it represents. To prevent the Corporation from becoming a political tool, Commissioner Williams said the Legislature must constantly be aware and monitoring, and working with the Permanent Fund. To achieve that end, he said, they have to have Trustees who are running the fund, not staff. He said the Trustees do not want to become figure-heads; they don't want the staff running the policies and programs the Permanent Fund is involved in. He said this takes a commitment of time on the Trustees' part, and that is why they get to the question of compensation. He said compensation is appropriate to require Trustees to spend time and undertake whatever time is necessary to prepare for the meetings, and to consult with experts working with other funds. He said this bill (HB 770) reflects their recommendations about compensation.

Commissioner Williams said the bill also reflects the recommendation they have made about the ability of Board members to serve. Right now, he said, it is three and three. He commented further on the Board. He thought it was appropriate to replace one Commissioner with a public member because it is really public members that he thinks will be doing the real management of the fund.

In terms of the critical areas -- the expansion of investments, the return of income back to principal, and the change of composition of the trustees -- Commissioner Williams said HB 770 moves in the direction recommended by the Board of Trustees and as introduced by the Governor. He said in that sense it is an extremely fine effort. He stated there are some differences which he would like to discuss.

Commissioner Williams said venture capital may some day have a role to play with the Alaska Permanent Fund. He said it does for instance, have a role to play in Stanford's Endowment. He commented that a significant portion of Stanford's alumni are involved in the leading edge of computer technology at Silicon Valley, so it is only natural with the feeling of loyalty that alumni have to their alma mater, with the close fiscal proximity of the business to the University, and the University's deep involvement in activities in this technology for them to be involved in venture investments in this area.

(Tape change, HFC 82-49, side 2.)

However, Commissioner Williams said, as a general matter Stanford has pretty much confined its venture investments to that type of activity. He said they may wish to some day see venture capital investments with the Permanent Fund, but he thinks it is too early for this when they are just talking about expanding from the debt side to the equity side as a major innovation in the

portfolio. He said adding venture capital may be too much too soon.

Commissioner Williams said he has a particular problem with the structure proposed here. He stated that with a venture capital stock fund, the rate of return is still a pretty good reflection of the venture capital. He said they pay a fee of 2% of the value of the fund every year as the cost of using the fund. He said this stands in contrast with the partnership arrangement, where in forming the partnership they pay up to 6% of the investment at the front end. He said that is paid to the general partner who will also take up to one-fourth of the profits year by year. He said this could still end up being a good deal, but the costs of being involved are much higher than the cost of being in the venture capital stock fund. He said if they do go into venture capital, going in as a limited partner may not necessarily be the best way to go.

With respect to number 23 on page 7, Commissioner Williams said he believes that is redundant with item 8 on page 4. He said AHFC is a Corporation, it is in the taxable corporate debt market, listed in the Wall Street Journal, the same as U.S. Steel or General Motors, or any other investment corporation, and it is rated AA. He said he didn't think, if they have the AHFC example in mind, which to his knowledge is the only state agency that is issuing taxable debt, that there was a need for section 23; it is already covered in section 8.

Commissioner Williams said as a matter of policy the Trustees would never want to take down an entire issue of AHFC bonds on its own. He said they would want to have it exposed to market underwriting and to market pricing. He said they might make an investment in that, but as a second level. Commissioner Williams suggested the idea of issuing bonds is to import capital. He said for the Permanent Fund to be buying bonds is "a little bit like a hungry man starting to eat his leg because he is so hungry. You are not really doing yourself much good. You satisfy your hunger, but you haven't brought in anything."

Concerning section (N), certificates of deposit, Commissioner Williams said he agrees that what this will do is prevent the Permanent Fund from placing CD's with Alaskan banks unless they are lending within 5% tolerance. He said that based on discussions he has had with banks on this general idea, he thinks it is safe to say that almost certainly the two largest banks here would rather not have the Fund's certificates of deposit. He said although theoretically it sounds like a nice lever and tool, he doubts it will have very great practical application. He said some banks will walk into this, but he knows of a number of others that have serious philosophical reservations about having a depositor dictate what their loan policies will be, even to the extent of saying "we don't care what type it is, as long as it's Alaskan loans".

With respect to the certificates of deposit not being placed unless State deposits exceed 400% of the bank's capital surplus, Commissioner Williams said he thought it is probably a good idea to have a ceiling, but that ceiling seems too high. He suggested 100% if they are going to have a ceiling.

Commissioner Williams said he believes the Corporation proposed an amendment to AS 37.13.140 as well as the addition of a section .145. He said section .145 appears on page 9 of the CS and talks about the return of income back to the fund. He explained their amendment to section .140 redefined what the income is, so that it is in accordance with generally accepted accounting principles. He said right now they are not in accordance with generally accepted accounting principles; they operate on a cash received basis, and they do not treat capital gains and losses in accordance with generally accepted accounting principles. He said what they would do with their original proposal is treat earned income -- it may be in the mail but not received as of June 30 -- they would treat it as income if it was earned before June 30 as income in that fiscal year. He explained that otherwise they would always have a lag between when the income is received and the fiscal year it shows up in. He commented further.

Commissioner Williams said there is one thing they overlooked in doing their sponsor substitute, which has been added to the Senate committee draft substitute. He explained that in general fund sources for FY 83 there is \$83 million income, representing one-half the distributable income from the Alaska Permanent Fund. He said that under this bill effective July 1, 1982 one-half the income will be returned back to the Permanent Fund principal. He said there would be an \$85 million fiscal effect downward on the revenue sources in FY 83. He said that was a surprise to them, and they have developed a transition rule that holds the general fund harmless for FY 83. He explained that rule would allow the return of Permanent Fund income to principal to occur, but the general fund would be held harmless, so when they get to FY 84 the amount will be netted out of their calculations, and it will not cause disruptions in the budget. He recommended that the Committee adopt the transition language that is in the Senate Finance Committee draft. At the same time, Commissioner Williams said, there is a windfall to the general fund as a result of the transition language he just described. He said because they go from the cash basis definition of income to the earned income concept, the amount of income available for distribution at the end of the fiscal year will be a larger figure because it will be recognized in the fiscal year it is actually learned. He explained there is a one-time forward acceleration when this income is received, which will occur in FY 83. He said this will mean about \$25.4 million additional money will be recognized on the last day of the fiscal year in 1983 in the general fund.

Representative Carney asked what would happen if they left the portion relating to venture capital in the bill. Commissioner Williams said he didn't know. He said he didn't know what the sentiment for the bill is; however, he has a feeling there are a number of people who have the notion that the Permanent Fund is a trust for today's Alaskans and tomorrow's Alaskans as well. He said consistent with that, people want to see the fund stay very conservative in its investments. He said what they have found over the past year is they are almost too conservative in their investments. On the other hand, he said, if they hold an obligation to the U.S. Treasury, they know the U.S. government is going to pay them. He said when they go to equity, they take a slightly higher risk because no one is saying the value of the stock is going to go up or the corporation is going to do well. Commissioner Williams said his point is that as they move from zero risk of getting their money out, to some risk of getting the money out but with a significant higher return, that may be as far as people feel comfortable going. He said he didn't know what the legislative stand would be. He commented further. He said he has seen the situation with the Alaska Renewable Resources Corporation where part of its mandate was to be a venture capital participant. Regardless of how the individuals involved in the Corporation performed, Commissioner Williams said, that was the original idea behind ARRC, and he thinks the experience there has created a worry in people's minds that including venture capital at this time may jeopardize the other good features.

Representative Carney asked if he would recommend amending out sections 21 and 22. Commissioner Williams said no, he would recommend deleting 22 and 23.

Chairman Adams said there is a \$2 million difference in the fiscal impact between this bill and the Senate bill, and he asked if this was to buy expertise for consultants to help with the program. Commissioner Williams requested that Anselm Staack comment on the details of the fiscal note. MR. ANSELM STAACK, Treasury Comptroller, Department of Revenue, said the difference between this fiscal note and the previous one is due solely to the venture capital section. He said that is because there is a very high front-end fee cost. He explained this bill provides for up to 15% of the fund being invested in venture capital type investments. He said that presuming it would take about one-half a year to get into the investments, the FY 83 impact only assumes a one-half year investment in venture capital. He said it is also only at one-third of the maximum level allowed or 5% of the fund. He said there is a very heavy fiscal impact to going into venture capital. Representative Carney asked what it would cost to go to the full 15%. Mr. Staack said they would have to add another \$4 million for FY 83 and about \$10 million in FY 84.

In answer to a question from Representative Cotten, Commissioner Williams gave an example of a venture capital investment.

Representative Metcalfe asked if there was any reason why if the venture capital proposal was not a sound proposal the Board itself wouldn't have the ability to turn it down. Commissioner Williams said he thinks it is a question of how comfortable people are with including that in the bill. He said the bill takes major steps to improve the management and construction of the fund, and he thinks it is a question of where to trade off gaining too much risk versus getting a bill passed. He said he would rather have a bill pass and defer the question of venture capital, if deferring it would give them a greater chance of passage.

Representative Metcalfe said he is guessing that a number of the Commissioner's own consultants told them (1) the majority of the world class investments are turning to venture capital as an allowable investment within their portfolio, and (2) they are making great returns off of it. He asked if he was wrong. Commissioner Williams said they told them about equities. He said equities represent venture capital.

Representative Metcalfe said when they are going to a limited partnership, isn't that basically an equity? Commissioner Williams said it's an equity though it's still in a venture. He said they are still "launching the ship". He said venture capital has historically shown tremendous returns, so there is no doubt that when venture capital succeeds, the ventures are extremely worthwhile. He said the question is, when making these type of investments they have to expect some of the ventures to fail, and how will the public react to the Permanent Fund incurring losses from failed ventures? He said no matter how many times the successful ventures are pointed out, it is the "crucifixion" on the failures that concerns him. He compared this to the comments he has received concerning the State's gold investments.

Representative Cotten referred to the monthly investment reports of the TRS and PERS funds, and said it appears the common stock investments did lose money, while gold gained. Mr. Staack commented in prior years the common stock investments did fantastic; however this year they have been losers.

Representative Carney requested this bill be moved to Subcommittee to be worked on. He said there are three or four things that need serious work. Chairman Adams referred HB 770 to a Subcommittee with Representative Cuddy as Chairman and Representatives Cotten and Meekins.

SB 611

Representative Meekins requested that SB 611 be brought up for consideration.

SB 611 -- "An Act revising the criminal penalties for unlawful operation of an aircraft."

Representative Meekins presented a proposed House Finance CS for the bill (NEW TITLE: "An Act relating to operating a motor vehicle, aircraft, or watercraft while intoxicated."). He explained this is the drunk driving bill that has gone through two other Committees. He said it received at least six weeks' work in the Judiciary Committee and three weeks in another Committee of the House. He said there is a summary of the HCS in the members' bill files. He explained the difference between this bill and the bill that went through the Judiciary Committee relates to the cost involved. He said the other bills increased the penalties, and because of those increases there was a several million dollar fiscal note. He said this HCS does not increase the penalties, it only tightens the law so that when a person is arrested, the breathalyzer works better.

Representative Meekins explained the current situation and advised the concept under this bill is to follow the lead of several other states and make it impossible to refuse to take a breathalyzer. He said a person can refuse, but if he does he is subject to the same penalties he would be subject to if he was convicted of drunk driving. He said this way there is no benefit in refusing to take the breathalyzer, so they expect that people will agree to take the breathalyzer.

Representative Meekins said the fiscal note has been reduced substantially: The Office of Alcohol and Drug Abuse now says zero for their fiscal note, Public Health is down to \$60,000, and Offender Confinement is down to \$276,000. He said that is a capital request, not an operating budget item, for four more beds.

Representative Hurlbert asked if under this bill a person refuses to take a breathalyzer, he goes to jail anyway, but he doesn't get convicted of drunk driving. Representative Meekins said that is essentially correct. He said if he refuses to take the breathalyzer, he is subject to prosecution for refusal to take it, and the penalty for that is the same penalty as if he was convicted for drunk driving. He said he can't see anyone refusing to take it, because it would be ten times easier to prove a person refused to take a breathalyzer than it would be to prove in court that he was drunk. He commented further.

Representative Cotten asked what other committees had seen this bill. Representative Meekins explained the Judiciary Committee reviewed HB 438 and Representative Smith had a bill on the same subject that was reviewed in the HESS Committee. He explained that bill was combined with HB 438, and he took HB 438, modifying it to reduce the fiscal impact, and put in on SB 611. He said they did have the permission from the sponsor of SB 611 to do this.

Representative Cotten asked if this required them to submit to a blood test as well. Representative Meekins said they modified that also. He said essentially they can take blood if there is an injury or a fatality due to the accident. He said because they have this refusal to take a breathalyzer provision, it isn't really necessary to forcibly take blood. That is section 21 of the bill.

Representative Cotten said if there is an accident, then blood can be taken without consent. Representative Meekins agreed. He commented further.

Representative Cotten asked if they were repealing anything. Representative Meekins said the Legislature has met for about eight weeks on this. He said the bill has been on the Finance calendar for awhile, and he did provide a section by section analysis. He said he thinks the other committees have done a tremendous amount of work on the bill, and he thought the Finance Committee was going to address the fiscal implications of the bill.

Representative Carney MOVED AND ASKED UNANIMOUS CONSENT to report HCS SB 611 (Finance) out of Committee with individual recommendations. Representative Cotten OBJECTED. He said he has questions about the bill he would like to have answered.

Chairman Adams advised this bill will be held until this afternoon and perhaps the questions can be addressed then.

ADJOURNMENT

The meeting adjourned at 10:00 a.m.

Tape HFC 82-49, side 1 #279 to end
side 2 #001 to #589

HOUSE FINANCE COMMITTEE

April 21, 1982

1:00 p.m.

Tape HFC 82-49, side 2, #589

PRESENT

Members of the committee in attendance: Representatives Adams, Fuller, Meekins, Chuckwuk, Cuddy, Cotten, Carney, Bettisworth, Hurlbert, Haugen and Montgomery.

ALSO PRESENT: Senator Fahrenkamp; Bill Cook, Judicial Council; and Gordon Evans, Attorney, Ely-Guess-Rudd.

Chairman Adams called the meeting to order and informed members that they would begin with the consideration of SB 611 and the motion before the committee at the end of the morning meeting.

SB 611

SB 611 - "An Act revising the criminal penalties for unlawful operation of an aircraft."

Representative Carney MOVED to report out of committee HCSSB 611 (Finance) along with the fiscal notes dated April 19, 1982 from the Department of Health and Social Services in the amount of \$60.7 and \$276.0 for FY 83. There being NO OBJECTION it was so ordered. HCSSB 611 (Finance) was reported out of committee with a "do pass" recommendation.

The next bill to be considered was SB 843

SB 843

SB 843 - "An Act relating to surface coal mining and the surface effects of underground coal mining; and providing for an effective date."

SENATOR FAHRENKAMP explained that for a couple of years the legislature has been working to come up with a state program due to dissatisfaction with the federal reclamation act which passed in 1977. Senator Fahrenkamp explained that she prefers that the state handle its own problems and there is agreement between the Department of Natural Resources, potential coal operators, Resource Committee members, and environmental people concerning the bill. Senator Fahrenkamp stated that there is a sectional analysis available which compares the state and federal requirements.

Representative Meekins asked of the parties involved, who supports the bill? Senator Fahrenkamp responded that the Department of Natural Resources, coal operators and resource committee members are supportive of the bill. There were suggestions from members of the environmental community which objected to some of the points included in the bill. Teleconferences and hearings were held on the bill.

Representative Bettisworth stated that in his dealings with the special coal committee and mining industry, he wanted to support the comments of Senator Fahrenkamp and urged approval of the legislation which is essential to the development of Alaska's coal fields.

Representative Fuller MOVED AND ASKED UNANIMOUS CONSENT to report out of committee CSSB 843 (Resource) along with the fiscal note dated February 8, 1982 prepared by the Department of Natural Resources in the amount of \$565.9 for FY 83. There being NO OBJECTION it was so ordered. CSSB 843 (Resource) was reported out of committee with a "do pass" recommendation.

RECESS

Chairman Adams called a recess at 1:05 p.m. The meeting reconvened at 1:08 p.m.

The next bill to be considered was SB 535.

SB 535

SB 535 - "An Act relating to the criminal laws of the state."

BILL COOK with the Judicial Council provided an overview of the sectional changes which are to be made (see attached - attachment #1).

TAPE CHANGE 82-50, Side 1, #001

Representative Meekins MOVED AND ASKED UNANIMOUS CONSENT for approval of an amendment to SB 535 (see attached - attachment #2). He explained that the amendment would make it illegal for individuals to sell devices designed to intercept to "pirate" pay television. He explained that there are individuals which are violating the law but it is difficult to prosecute them individually as it is a civil fine handled through the civil courts. The amendment would curtail the ability to circumvent the law. Representative Meekins explained that there were individuals in the Judiciary Committee which had problems with the amendment.

Chairman Adams OBJECTED to the amendment for purpose of discussion.

GORDON EVANS, attorney with Ely-Guess-Rudd representing Multi-Visions informed committee members that the problem has been with individuals in effect stealing the services which are offered by Multi-Visions and other similar businesses. He explained that trying to convict individuals under the theft of services statute as presently in existence is practically impossible because of the wording of the statute. Mr. Evans stated that following a meeting with the ham operator people, they have proposed a change in the language which would eliminate any conflict between ham operators and people innocently receiving the signals. He explained that under the Federal Communications Act it is permissible to receive the signals but not to use the signals.

Mr. Evans stated that the proposal is to change the wording from "satellite telecommunications" to "electromagnetic signals" which limits it specifically to the type of signals that are broadcast by Spectrum and Visions. There were complaints that the type of crime that was being proposed under "theft of services" would have made it range from a Class B felony to a Class B misdemeanor and that a person be classed as a felon for receiving these telecommunications signals. The amendment would limit it strictly to a Class A misdemeanor for receiving the services. For selling the services it would be a Class C felony.

Mr. Evans stated that the ham operator people were concerned that the antennas which they were using could be also used to receive these television signals and since they can legally use the signals it was necessary to clarify the type of signals by utilization of the word "electromagnetic" signals. Additionally, the definition of services was expanded to include the word "commercial" and make the distinction between amateur ham operators and those individuals which are "stealing" commercial services.

Representative Hurlbert asked if this would include individuals who purchased a dish and antenna? Mr. Evans stated that this would not effect satellite telecommunications. There was discussion concerning the areas most affected with this type of problem.

Representative Chuckwuk asked if it is a violation to receive and sell the signals, why doesn't the FCC enforce it? Mr. Evans responded that the U.S. Attorney would be the one responsible for enforcement and frankly there are more important problems with which his office is dealing and there is a movement now to get "out of the business". Representative Chuckwuk stated that it appears that they are trying to make criminals out of individuals who "leashedrop". It was his feeling that if an individual reproduces the signal he receives that it is a crime; however, if he reproduces it for his own use it would not appear to be a crime.

The QUESTION was called for on the amendment. Five in FAVOR and six OPPOSED. The MOTION FAILED.

Representative Carney MOVED to report out of committee HCS CSSB 535 (Judiciary) along with the fiscal note dated April 15, 1982 prepared by the Department of Health and Social Services in the amount of \$897.0 for FY 83. There being NO OBJECTION it was so ordered. HCS CSSB 535 (Judiciary) was reported out of committee with a "do pass" recommendation.

SB 150

SB 150 - "An Act making a special appropriation to the Department of Transportation and Public Facilities for improvements to the Steese Highway; and providing for an effective date."

Chairman Adams informed committee members that there was a committee substitute for SB 150 which provides for a total of \$199,500,000 in capital projects for the House and the Senate. The total amount for capital projects for the House is \$100 million and \$99.5 million for the Senate. He explained that the governor's appropriation for capital projects will total \$130 million to be considered separately.

Representative Cotten expressed concern with the limited time available in which to make an assessment of the capital project list. Representative Bettisworth responded that his district has had a computer printout for at least three weeks and it was published in his hometown paper which provided for adequate review and input by district members. Representative Cotten explained that there also has been review and public hearings on projects for his district; however, this is the first time for public review of the Anchorage capital budget to his knowledge.

Representative Montgomery MOVED to report out of committee HCS SB 150 (Finance). Representative Cotten OBJECTED. The QUESTION was called for. Ten in FAVOR and one OPPOSED (Cotten). The MOTION CARRIED. HCS SB 150 (Finance) was reported out of committee with a "do pass" recommendation.

ADJOURNMENT

The meeting adjourned at 1:55 p.m.

Tape HFC 82-49, Side 2, #589 to end
82-50, Side 1, #642

SECTIONAL ANALYSIS OF HCSCSSB535 (JUDICIARY) AND
COMPARISON OF HCSCSSB535 JUDICIARY TO CSSB535 (JUDICIARY)

I.

Section Analysis of HCSCSSB535
(Judiciary)

<u>Page & Line</u>	<u>Analysis</u>
1;10	<u>Sections 1,2,3, and 4.</u> These Sections amend the homicide statutes, to make it clear that the convicted killer will receive a sentence for each death for which he is responsible. This is necessary because of two Alaska Supreme Court decisions, <u>Thessen v. State</u> 508 P2d 1192 (Alaska Supreme Court 1973) and <u>State v. Souter</u>, 606 P2d 399 (Alaska Supreme Court 1980). <u>Thessen</u> held, notwithstanding that the defendant was convicted of the manslaughter of 14 people in a hotel arson fire, he could only be sentenced for one of those deaths. Some years later, in a triple death D.W.I. case, the Supreme Court reaffirmed that single sentence rule. <u>State v. Souter</u>, 606 P2d. 359 (Alaska, 1980). These amendments to the statutes would remedy that problem.
1;26	<u>Section 5.</u> Housekeeping, relating to Section 6, <u>infra</u>.
1;29	<u>Section 6.</u> This section increases joyriding from a A misdemeanor to a C felony if the person was previously convicted of (a) (2) - Joyriding and had been <u>previously</u> convicted of Joyriding. The enhancement factor would not apply to any other subsection of Criminal Mischief In The Third Degree.
2;4	<u>Section 7.</u> This amends the Justification by Necessity Statute, as specified by the Department of Law in original SB553, to make it an Affirmative Defense.
2;7	<u>Section 8.</u> This adds a section to the Criminal Code, establishing the Affirmative Defense of what is basically a "plea of insanity." Under present law, if the defendant had presented any evidence of insanity, the prosecution must prove <u>beyond a reasonable doubt</u> that the defendant was either:

1. Not suffering from a mental disease or defect, or
2. If so, that he nevertheless had substantial capacity to both:
 - a. appreciate the wrongfulness of his act, and
 - b. conform his actions to law. This last part is sometimes described as the "policemen at the elbow" test -- whether he should still have pulled the trigger if the policemen at the elbow had warned him not to do so.

The wording of this Section is exactly as requested by the Department of Law in original SB535 and as in Section 8 of the CSSB535 (Judiciary), and the HCS includes the repeal of the present "insanity statute," AS 12.45.083, at Section 23.

- 2;17 Section 9. Exactly as in the original SB535, this alters the definition of "intentionally," as specified by the Department of Law.
- 2;23 Section 10. Exactly as in the original SB535, this alters the definition of "organization" to include "government" as requested by the Department of Law.
- 2;28 Section 11. As in the original SB535, this redefines "property" to include property "including data or information stored in the computer program, system or network." However, the HCS definition also includes under property "domestic pets and livestock regardless of value" to remedy the present law where these are not strictly specified and must be interpreted into "property" by the court. The phrase "regardless of value" is included to avoid the necessity of proving the value of a domestic pet where one is accused of killing or damaging a pet belonging to another person. It would still be necessary to show the value of the pet if theft were charged and a degree of theft requiring a certain value were specified in the charge.
- 3;10 Section 12. This is exactly the same as the amendment to the definition of "serious physical injury" in the original SB535 and in Section 9 of CSSB535 (Judiciary), as specified by the Department of Law.
- 3;20 Section 13. This Section significantly amends AS 12.55.025.

3;21

1. At (g), specifies that a convicted defendant must be sentenced consecutively for separately charged crimes. This prevents concurrent or merged sentences, which are sometimes given even when the crimes were of a different character, occurred at different places and times, and different victims were involved.

3;26

2. At (h), allows the court to sentence concurrently only for non-violent crimes which are part of "a single continuous criminal episode" or "violate similar societal interests," unless (1) if the crime was during an escape [Present statutory law] or (2) there was a substantial change in the nature of the criminal objective. The "similar societal interests" test is from current Alaska case law.

4;15

Section 14. This Section amends AS 12.55.088(a). That part of the sentencing law was drastically amended in 1978 to allow a judge to reduce a sentence at any time during the term of imprisonment. Recent cases have occurred where this has been abused. E.g., one where four years after sentencing, after the sentencing judge had died, and just prior to time for the first Parole Board Application, the prisoner moved under this section for a reduction to be considered by another judge.

The abuse possible under Section 088 is obvious, and this amendment would restrict the judges to reducing their sentences within a 60 day period after the original sentencing. It is thought that, considering the detailed "Presentence Reports" and great consideration put into an original sentencing hearing, that the courts in most instances give a "correct sentence" on the actual sentencing day, and prisoners should not be allowed to move for a reduction of a sentence after some considerable period of time has passed, the publicity on the original sentence has died down, and the judge may not recall all of the nuances of the crime as brought out during the trial.

Of course this does not restrict the court from reducing or altering any sentence that was "illegal" at the time given. That provision, constitutional in any event, is still found at Criminal Rule 35(a).

4;21

Section 15. Here, AS 12.55.125(c)(1) -- the statute setting the presumptive term for the first A felony is amended. As specified by the Department of Law and original SB535, the term is increased to eight years from the present six. However, the HCS section makes these changes from the original bill:

1. Manslaughter is clearly covered, allowing this presumptive term to be used in D.W.I. -- manslaughter cases, which is not true under either present law or the original SB535.

2. The words "possessed or used" are used in the HCS, instead of "possessed a firearm," and the terminology "dangerous instrument" is used, since that would include motor vehicles but the original language of "deadly weapon" would not.

3. The wording changes make it clear that the possession of the firearm must have occurred "during the commission of the offense," a distinction that was not clear in the original wording.

4;27

Section 16. As in the original bill, this section changes the present law from Assault in the Third Degree to Fourth Degree, and pertains to violation of Domestic Violence Orders. This is set out more clearly in the HCS section and also the section in the HCS increases the minimum term from 10 days to 20 days imprisonment for violation of such Domestic Violence Orders by committing Fourth Degree Assault.

5;9

Sections 17-20. This is a considerable rewrite of present AS 12.55.145 and basically makes the following changes:

5;10

Section 17. Under present Section 145, the court cannot consider a prior felony or misdemeanor conviction if "a period of seven or more years has elapsed between the date of the defendant's unconditional discharge on the immediately preceding offense on commission of the present offense." This section at (a)(1) changes that to increase the period to 10 years and exclude the application to unclassified or class A felonies. In other words, the court would always be able to consider a previous conviction for an unclassified or class A felony, regardless of the time frame.

5;20

2. A "single continuous criminal episode" is re-stated at (3) to exclude crimes where persons are injured, killed, or are victims of sexual contact or sexual penetration crimes. Incidents of escape are already excluded from the definition of present law, and this is not changed. However, there is the additional specification at (A) [line 23] that for criminal incidents to be considered a "single continuous criminal episode", there must have been no substantial changes in the nature of the criminal objective, including the specific property which was subject to the crimes or the particular person who ultimately suffered as a result of the crime. This is similar language as that found at Section 13, AS 12.55.025(g) and (h).

6;8

Section 18. Amends AS 12.55.145(b) to increase the notice requirement from 10 days to 20 days, for the prosecutor to serve authenticated copies of court records on the defense attorney, if the defendant did not expressly admit to prior convictions.

6;13

Section 19. Amends AS 12.55.145(c) to increase the period from 5 days to 10 days prior to the sentencing for the defense attorney to put the prosecutor on notice of denial of the authenticity of the court document, or any other of the sentencing allegations which are presently in Section 145 and are repeated at Section 19 of the bill.

6;26

Section 20. Amends AS 12.55.145 to add a new subsection, (h) requiring the defendant in a felony conviction to place his fingerprints on the judgment of conviction open court, on the record, at the time of sentencing. This is the same as specified by the Department of Law in the original bill, except that "thumbprints" is changed to "fingerprints." It is understood that the District Attorney from Fairbanks has suggested this procedure to avoid disputes about whether a particular defendant is the same one named in a previous judgment of conviction.

7;3

Section 21. As specified by the Department of Law in the original bill this reworded existing aggravating factor (8).

7;6

Section 22. As specified by the Department of Law in the original bill, this adds additional aggravating factor (19), pertaining to juvenile conduct.

- 7;10 Also, this Section adds another additional aggravating factor (20) that the defendant was on felony probation, felony parole, or furlough from prison at the time he committed the crime. Under present AS 12.55.155(a)(12) the court may at the time of a felony sentencing consider the fact that a defendant was released on bail or a personal recognizance at the time he committed the felony. However, the court cannot consider as an aggravating factor the fact that the defendant was on parole, probation, or furlough at the time he committed the felony.
- 7;12 Lastly, aggravating factor (21) is added, to allow the court to consider prior criminal conduct similar to the crime for which the defendant is being sentenced.
- 7;16 Section 23. As indicated previously, this repeals the present "insanity" statute, AS 12.45.083, as in the original bill as well as AS 12.55.025(e) which is essentially replaced by Section 13 of the HCS. Also, this section of the CS would repeal AS 12.55.155(d)(8), a mitigating factor that states that the court shall consider mitigating the sentence down if "a prior felony considered for the purpose of invoking the presumptive terms this chapter was of a less serious class of offense in the present offense." In effect, that wording rewards a criminal for "moving up" in crime, committing more serious crimes each time, so that the previous ones would be considered as mitigation. An example would be where a defendant "moved up" from Burglary II, a C felony, to Burglary I, a B felony. Lastly, the repealer sections repeals eight criminal sections from Title 47 - Public Assistance which are duplicative of Criminal Code Sections. The Department of Health and Social Services requested these repealers.
- 7;11 Section 24. Notes that the change in AS 12.55.088(a) [SECTION 14] has the effect of changing Criminal Rule 35.

II.
Explanation of Changes in CSSB535 (Judiciary)
to HCSCSSB535 (Judiciary).

Sections 1-4. These were deleted because they are already covered in HB575, which has passed the House of Representatives.

Sections 5,6,7, and 10. This was deleted because it was understood that the question of criminalizing sale or use of microwave television interception devices was under consideration in another committee substitute. Language for this was considered and voted down in the House Judiciary Committee.

Section 8. This is the same change as Section 8 in the HCS.

Section 9. This is the same as Section 12 of the HCS.

Section 11. This is exactly the same as Section 21 of the HCS.

Section 12. This is exactly the same as (19) under Section 22 of the HCS.

Section 13. This is exactly the same as the first statute repealed in Section 23 of the HCS.

Proposed revisions for CSSB 535(Jud) am:

→ (I) Replace Sec. 5 with following language:

* Sec. 5. AS 11.46.200 is amended by adding a new subsection to read:

(c) Unlawful use of the entertainment services listed in AS 11.81.900(b)(50) is a class A misdemeanor.

→ (II) In Sec. 6 add the word "commercial" before "telecommunications":

* Sec. 6. AS 11.46.482(a) is amended by adding a new paragraph to read:

(5) that person sells, leases, trades, or offers for sale, lease, or trade, any device designed to intercept cable, microwave, subscription, or pay television, or any other commercial telecommunications service, with intent to defraud another of the lawful charges for the service.

→ (III) In Sec. 7 substitute the words "electromagnetic signals" for the words "satellite telecommunications":

* Sec. 7. AS 11.46.482 is amended by adding a new paragraph to read:

(c) Notwithstanding the provisions of (a) of this section, it is lawful for a person to sell a device for the interception of electromagnetic signals if the interception is not for commercial advantage or is not intended to defraud a commercial provider of a service listed in AS 11.81.900(b)(50).

→ (IV) In Sec. 10 add the word "commercial" to the proposed new language:

* Sec. 10. AS 11.81.900(b)(50) is amended to read:

(50) "services" includes labor, professional services, transportation, telephone or other communications service, entertainment including cable, microwave, subscription or pay television or any other commercial telecommunications service, the supplying of food, lodging, or other accommodations in hotels, restaurants, or elsewhere, admissions to exhibitions, and the supplying of equipment for use;

HOUSE FINANCE COMMITTEE

April 22, 1982

1:00 p.m.

Tape HFC 82-50, side 1, #642

PRESENT

Members of the committee in attendance: Representatives Adams, Fuller, Cuddy, Chuckwuk, Cotten, Carney, Hurlbert, Bettisworth, Haugen, and Montgomery. Representative Meekins was not present at the meeting.

Chairman Adams called the meeting to order and informed members that the committee would be considering SB 103 and SB 737. The committee will meet again at 4:00 p.m. to consider SB 744.

The first bill to be considered was SB 103.

SB 103

SB 103 - "An Act making a special appropriation to the Legislative Council for a salmon quality control education program; and providing for an effective date."

Chairman Adams informed members that a total of \$170,000 would be appropriated for the Fishery Industrial Technology Center with an additional appropriation of \$100,000 million to go to the fish processing loan guarantee program with funds coming from the "Rainy Day" account.

Representative Fuller MOVED AND ASKED UNANIMOUS CONSENT to report out of committee HCS SB 103 (2d Finance). Representative Cotten OBJECTED. The QUESTION was called for. Nine in FAVOR and one OPPOSED (Cotten). The MOTION CARRIED. HCS SB 103 (2d Finance) was reported out of committee with a "do pass" recommendation.

TAPE CHANGE 82-50, Side 2

The next bill to be considered was SB 737.

SB 737

SB 737 - "An Act making a special appropriation to the Department of Health and Social Services to be used to combat the causes and effects of birth defects; and providing for an effective date."

Chairman Adams informed members that there was a committee substitute which includes \$20 million to be appropriated to the federal budget impact fund.

Representative Fuller MOVED AND ASKED UNANIMOUS CONSENT to report out of committee HCS SB 737 (Finance). Representative Cotten OBJECTED. The QUESTION was called for. Nine in FAVOR and one OPPOSED (Cotten). The MOTION CARRIED. HCS SB 737 (Finance) was reported out of committee with a "do pass" recommendation.

ADJOURNMENT

The meeting adjourned at 1:08 p.m.

Tape HFC 82-50, Side 1, #542 to end
82-50, Side 2, #001 to #68

HOUSE FINANCE COMMITTEE

April 22, 1982

7:06 p.m.

(Tape HFC 82-50, side 2 #068.)

PRESENT

All Members of the Committee were in attendance. PRESENT TO PROVIDE TESTIMONY: J. H. Hogan, Director, and Fiscal Analysts Alison Elgee, Elmer Lindstrom, Garrey Peska, Bob Schroeder, Alison Farnon and Bob Grogan, Legislative Finance Division.

SB 744

Chairman Adams called the meeting to order and brought SB 744 up for consideration.

CSSB 744 (Fin) am -- "An Act making special appropriations for legal fees and litigation costs related to oil and gas matters; and providing for an effective date."

Chairman Adams advised there is a proposed Finance CS for this bill -- HCS CSSB 744 (Fin) NEW TITLE: "An Act appropriating for the operating expenses of state government; making and amending various appropriations; and providing for an effective date."

Representative Cotten asked when notice was given of this meeting's time, place and subject matter. Chairman Adams said the bill was announced on the floor of the House this morning, and no one voiced objection to the meeting. He said it was announced it would be heard at 1:00 p.m. this afternoon; that meeting was post-poned until tonight at this time. Representative Cotten protested for the record having a meeting on this bill. He said Rule 23(a) is clear that written notice of the time, place and subject matter of all meetings of standing committees during the week shall be provided by the person who chairs the Committee to the Chief Clerk or Secretary by 4:00 p.m. on the preceding Thursday. He said this hasn't been done; therefore he protests the meeting. Chairman Adams said he would take Representative Cotten's protest into consideration and they will continue on with this meeting.

Chairman Adams said before the Committee is HCS CSSB 744. He said this piece of legislation started out to be \$5,684,750 for a special appropriation for legal fees and litigation costs related to oil and gas matters. He said he has an amendment to make to the HCS which he passed to members. He said this amendment was a compromise budget. He requested a motion to move HCS for CSSB 744 and if there are objections he will go into debate and

detail. Representative Fuller SO MOVED. Representative Cotten OBJECTED.

Chairman Adams said this bill is for a budget of \$1,657,000,000 approximately. He said he would like to review the changes that were made since this Committee heard HB 666 ("An Act relating to operating expenses of state government; and providing for an effective date."). He said he has incorporated all the state pay raises in the amount necessary to cover all state employees. At this time, Chairman Adams said he would like go through the figures for the budget and explain the changes from CSHB 666.

RECESS

Chairman Adams called for a recess at 7:12 p.m. and recalled the meeting to order at 7:15 p.m.

Chairman Adams explained the changes in the following Department's budgets:

- Office of the Governor
- Department of Administration
- Department of Revenue
- Department of Education
- Department of Health and Social Services

Representative Cotten asked where and under what circumstances was this budget developed. Chairman Adams said this budget was done solely by himself, looking at the minority's 52 amendments made on the floor during consideration of HB 666, by looking at the Senate's budget, the Governor's amended budget, and the public's response to some of the needs they felt should be taken of. He said since they were adjourning this week-end he felt a compromise budget was needed.

Chairman Adams continued with an explanation of the changes in the following department's budgets.

- Department of Labor
- Legislature
- University of Alaska
- Department of Commerce & Economic Development
- Department of Natural Resources
- Department of Fish and Game
- Department of Environmental Conservation
- Department of Public Safety
- Department of Military Affairs
- Court System
- Department of Community & Regional Affairs

(Tape change, HFC 82-51, side 1.)

Discussion continued on the Community & Regional Affairs budget. The changes within the Department of Transportation and Public Facilities budget were reviewed.

Representative Cotten asked if, in the areas where they are adding the new salaries in, they were fully funding all the positions they were authorizing. Chairman Adams said that was correct. Mr. Hogan said the salary money being added in is the amount that came over in the back-up information for the Governor's original salary increase bill. He said, if anything, they are probably putting back more money than there are positions. Representative Cotten referred to the intent language discussed with HB 685, and he asked if that intent was being disregarded in this funding. Mr. Hogan said this is putting the funding in to, in effect, make that amendment unnecessary. Mr. Hogan continued to explain the changes in the Department of Transportation and Public Facilities' budget.

Chairman Adams advised this budget bill will also include fiscal notes. A corrected copy of fiscal note was passed out. Chairman Adams requested the record to show that the fiscal notes are part of the budget.

Chairman Adams said the motion before the Committee is to accept HCS CSSB 744 (Fin). He asked if there was further debate. In answer to a question from Representative Cotten, Chairman Adams said one of the things done in Free Conference is place the fiscal notes for all the bills that pass a houses in the listing. He said if they fail to pass, the fiscal note will in effect be vetoed.

Representative Cotten said he noticed a lot of bills that have passed the house do not have fiscal notes included on this list. He asked why the fiscal notes for the bills that reorganized the Department of Transportation do not appear on this list. Chairman Adams said the reason is they don't know what will happen to those bills in the Senate. In addition, Representative Meekins said, the sponsor of those bills, the Chairman of the Transportation Committee, denies that the cost would be as high as the fiscal notes indicated. In fact, she doesn't think there would be a cost associated with those bills. There was brief discussion on the Transportation package.

There was brief discussion on fiscal notes included on the list, and fiscal notes that were not included. Representative Cotten said his point is that some of the notes on the list, they are not sure about their fate either, so they are leaving some notes out for some reason, and that reason must be they don't expect them to pass, and they aren't priorities of the House. Representative Meekins said he doesn't know why he says they are not priorities of the House. He said he thinks its a question of making a judgment of whether or not they are going to pass the Senate. He suggested if the member felt they were going to pass

the Senate, he should make that point. Representative Cotten said he is not sure what else is missing from the list, but apparently they have put in the list those bills they are interested in funding should they pass.

Representative Chuckwuk expressed disappointment that Representative Cotten didn't object to reinstatement of some of the budget items. He asked him to deliberate. Representative Cotten said he would like a full hearing on all the items that were changed. Representative Chuckwuk said Representative Cotten hasn't opposed any budget increases this evening. Representative Cotten said he would probably be very glad to do that if he could have an opportunity to go through and evaluate the changes that have been made. There was further discussion.

Representative Chuckwuk said it is equally, if not more, irresponsible not to object to increases. He said he hasn't heard a single objection from Representative Cotten as a member of the Finance Committee. Representative Chuckwuk said he thinks they have done a good job reevaluating each category and coming up with the budget they have come up with. Representative Cotten said he thinks Representative Chuckwuk is right, and he would like to go through the budget and discuss the line items. He said he objected to one person writing the budget, coming before the Committee and not having the 10 people on the Committee asking a question about it. Representative Cotten said he is raising objections. He said he objects to the budget, he objects to the process that was used, and he objected to the lack of public scrutiny. There was further discussion.

The question was called for. Representative Cotten objected to cutting off the debate.

Chairman Adams called for the question. In favor: 10; Opposed: 1 (Cotten). The motion CARRIED. HCS CSSB 774 (Fin) (NEW TITLE: "An Act appropriating for the operating expenses of state government; making and amending various appropriations; and providing for an effective date.") was reported out with a "do pass" recommendation.

Chairman Adams advised Representative Cotten that he will be sending a letter requesting that, in case they do come back and get into a Free Conference on the Budget, that three names be submitted from the Minority so that the Majority can pick someone to go on the Conference or Free Conference Committee, whatever the case might be.

ADJOURNMENT

The meeting adjourned at 8:15 p.m.

Tape HFC 82-50, side 2 #058 to end
HFC 82-51, side 1 #001 to 441

hf0423821330

HOUSE FINANCE COMMITTEE

April 23, 1982

1:30 p.m.

Tape HFC 82-51, Side 1, #441

PRESENT

Members of the committee in attendance: Representatives Adams, Fuller, Chuckwuk, Cuddy, Cotten, Carney, Hurlbert, Bettisworth, Haugen and Montgomery. Representative Meekins arrived later in the meeting.

Chairman Adams called the meeting to order and informed committee members that they would be considering SB 42 and SB 205. The first bill to be considered was SB 42.

SB 42

SB 42 - "An Act relating to village safe water programs; and providing for an effective date."

Chairman Adams explained that the bond committee tried to keep the total cost within \$60 million of which Anchorage will be receiving approximately 75 per cent of the total.

There was discussion between members concerning the method of distribution of funds and interest in maintaining an overall equity.

Representative Carney felt that one million dollars of the Anchorage appropriation should be transferred for use by Wasilla. He asked if the \$48 million is based on solid figures. Representative Cotten responded that it is and although there is additional funds included in the capital budget there still might not be enough funds to complete the job. Representative Cotten discussed the limited hearings received with regard to the Eklutna water system project and its potential as an alternative to the Anchorage system.

Representative Hurlbert inquired as to who had done the committee work on the bill. Chairman Adams responded that Representative Meekins had worked on the bill. Representative Hurlbert stated that several of the inclusions were not his priorities and that he had not been contacted concerning the bill.

Representative Montgomery MOVED to report out of committee HCS CSSB 42 (Finance). Representative Hurlbert and Cotten OBJECTED. Representative Cotten stated that he did not understand why this was an appropriation. Chairman Adams stated that he would

inquire with regard to the legal aspects with utilizing an appropriation versus bonds.

There was a vote taken on the MOTION. Eight in FAVOR and two OPPOSED (Hurlbert, Cotten). The MOTION CARRIED. HCS CSSB 42 (Finance) was reported out of committee with a "do pass" recommendation.

The next bill to be considered was SB 205.

SB 205

SB 205 - "An Act making a special appropriation to the Fairbanks North Star Borough for the Nordic Ski Club of Fairbanks and the Nordic Ski Club of Anchorage; and providing for an effective date."

Representative Cotten asked how the appropriations would show up on the ballot stating that if Anchorage realizes that they are left off there might not be any support from South-Central Alaska. Chairman Adams responded that they will probably be listed individually. Chairman Adams informed committee members that there is a total of approximately \$150 million included in the three bills, SB 42; SB 205 and SB 365; not including bond bills from the senate and the governor.

(Representative Meekins arrived at this time.)

Representative Montgomery MOVED to report out of committee HCS SB 205 (Finance). There being NO OBJECTION it was so ordered. HCS SB 205 (Finance) was reported out of committee with a "do pass" recommendation.

RECESS

Chairman Adams called a recess at 1:50 p.m. The meeting reconvened at 2:45 p.m.

The next bill to be considered was SB 365.

SB 365

SB 365 - "An Act relating to special education; and providing for an effective date."

(Representative Cuddy was not present at this time.)

In response to Representative Cotten's question concerning changing the bills from appropriations to bond bills; Representative Meekins informed members that he had contacted Billy Berrier, Director of Legal Services. Mr. Berrier indicated that it was possible to change an appropriation bill to a bond bill, as long as the subject remained the same, by making two

motions - one to appropriate and then one to bond. This would be considered a "single subject".

Representative Carney asked where the University priorities fit in? Representative Meekins responded that he had a problem in getting a list of the priorities making it virtually impossible to put together a compromise bond. He indicated that it was considered important to have a bond issue. Since the members were on "call" to the floor and unable to take formal action in committee, they took all requests and sent them to staff to put together into a bond package.

Representative Carney stated that Mat-Su has been trying to put in an agricultural building and it would have been one of his priorities. Representative Meekins responded that there are various opinions with regard to what will happen this session; however, there should be a chance for changes. He apologized for not making Representative Carney aware of what was in the bill. Representative Carney responded that he had no complaint with the method used but wanted to know what his options might be.

Representative Meekins MOVED to report out of committee HCS CSSB 365 (Finance). There being NO OBJECTION it was so ordered. HCS CSSB 365 (Finance) was reported out of committee with a "do pass" recommendation.

Representative Meekins MOVED AND ASKED UNANIMOUS CONSENT to prepare the committee substitutes for the following bills transferring them from appropriation bills to bond bills: HCS CSSB 42 (Finance): (NEW TITLE: "An Act providing for the issuance of general obligation bonds in the amount of \$60,000,000 for the purpose of paying the cost of village and urban water, sewer, and solid waste facilities construction; and providing for an effective date."); HCS SB 205 (Finance): (NEW TITLE: "An Act providing for the issuance of general obligation bonds in the amount of \$43,049,200 for the purpose of paying the cost of construction of and improvements to airport, port, and other transportation facilities; and providing for an effective date."); and HCS CSSB 365 (Finance): (NEW TITLE: "An Act providing for the issuance of general obligation bonds in the amount of \$45,000,000 for the purpose of paying the cost of University of Alaska and school district and educational center construction and improvement projects; and providing for an effective date".).

Representative Cotten MOVED to amend Representative Meekins motion to include "a list of the allocation and project will be included on the ballot as it appears in November." There being NO OBJECTION it was so ordered.

The QUESTION was called for on the main motion. There being NO OBJECTION it was so ordered.

ADJOURNMENT

The meeting adjourned at 2:55 p.m.

Tape HFC 82-51, Side 1, #441 to end
82-51, Side 2, #133

HOUSE FINANCE COMMITTEE

May 4, 1982

2:45 p.m.

(Tape HFC 82-52, Side 1, #001)

PRESENT

Members of the committee in attendance: Representatives Adams, Bettisworth, Cotten, Chuckwuk, Cuddy, Fuller, Haugen, Hurlbert, Montgomery, Meekins and Carney.

OTHERS PRESENT: Senator Fahrenkamp; Bill Cook, House Judiciary Committee; Roger Painter; United Fishermen of Alaska; and Mark Wittow, Department of Natural Resources.

Chairman Adams called the meeting to order and informed committee members that they would begin with the consideration of SB 732.

SB 732

SB 732 - "An Act relating to mineral extraction from state land; and providing for an effective date."

SENATOR FAHRENKAMP explained that the bill is a necessity for those individuals who are mining throughout the state and currently in the production stage. She stated that due to Section 6 (i) of the Statehood Act the bill represents an agreement worked out between the Department of Natural Resources, mining community, and others as to how to handle the "6 (i)" to protect the miner who is producing on state lands.

(Representative Cuddy left at this time.)

In response to a question from Representative Meekins; Senator Fahrenkamp responded that the Administration is supportive of the legislation.

Representative Haugen MOVED AND ASKED UNANIMOUS CONSENT that HCS CSSB 732 (Resources) be reported out of committee with the Resource Committee's Letter of Intent and fiscal note dated April 5, 1982 from the Department of Natural Resources in the amount of \$47.9 for FY 83. There being NO OBJECTION it was so ordered. HCS CSSB 732 (Resources) was reported out of committee with a "do pass" recommendation.

The next bill to be considered was SB 146.

SB 146

SB 146 - "An Act relating to veterans' burial allowances."

Chairman Adams provided an overview of the bill and stated that the Division of Loans and Veterans Affairs estimates that 284 claims will be filed in FY 83 for a total cost of \$216.1.

Representative Montgomery MOVED to report out of committee HCS CSSB 146 (SA) along with the fiscal note dated February 10, 1981 prepared by the Department of Commerce and Economic Development in the amount of \$216.1 for FY 83. There being NO OBJECTION it was so ordered. HCS CSSB 146 (SA) was reported out of committee with a "do pass" recommendation.

The next bill to be considered was SB 545.

SB 545

SB 545 - "An Act relating to release after conviction of an offense."

Chairman Adams stated that SB 545 makes changes relating to release on bail after conviction of an offense. Current law does not allow for a person to be released on bail either before sentences or pending appeal if the offense the person had been convicted of is a murder in the first degree, robbery in the first degree, kidnapping or sexual assault in the first degree. The House Judiciary Committee adopted a committee substitute which lists additional offenses for which an individual may not be released on bail. Chairman Adams stated that the Division of Corrections indicated that five additional beds would be necessary of which the cost would be \$325,000 and the Division assumes that they would be incorporated into another capital project with personnel required built into the budget of the institution. Therefore, the Division's fiscal note does not need to be adopted. The Department of Law and Public Safety indicate zero fiscal impact.

BILL COOK, Counsel for the House Judiciary Committee explained that the present law is that only first degree murder; first degree robbery; one type of first degree sexual assault and kidnapping are covered denying bail before sentencing and during appeal. According to Mr. Cook that law has been thrown out by the Alaska Court of Appeals and ruled unconstitutional.

Representative Meekins asked if the House Judiciary committee substitute for SB 545 is the same as a bill by Representative Anderson that previously passed the State House? Mr. Cook responded that it is the same as HB 578.

Representative Meekins MOVED AND ASKED UNANIMOUS CONSENT to report out of committee HCS SB 545 (Judiciary). There being NO OBJECTION it was so ordered. HCS SB 545 (Judiciary) was reported out of committee with a "do pass" recommendation.

The next bill to be considered was SB 658.

SB 658

SB 658 - "An Act increasing the fees for a commercial fishing license; and providing for an effective date."

ROGER PAINTER with the United Fishermen of Alaska stated that the bill is designed to put more money into the Fisherman's Fund, a workers compensation fund for fishermen. He explained that the program recently ran into problems and alternatives were investigated to provide additional funds. The Fund is constitutionally dedicated and therefore increasing license fees was seen as one way to increase funding. Mr. Painter explained that the difference between resident and non-resident fees is based on the number of court decisions which allow the state to have non-resident fees three times higher than resident fees.

Representative Meekins asked who had made the decision that the courts allow for increased charges for non-residents? Mr. Painter responded that it has been decided by the U.S. Supreme Court.

Representative Montgomery MOVED AND ASKED UNANIMOUS CONSENT to amend the bill on page 1, line 14, after "non-" insert "transferable. The Commercial fishing license shall be retained in the." This was eliminated due to a drafting error. There being NO OBJECTION it was so ordered.

Representative Fuller MOVED AND ASKED UNANIMOUS CONSENT to report out of committee HCS SB 658 (Resources) as amended by the Finance Committee. There being NO OBJECTION it was so ordered. HCS SB 658 (Resources) was reported out of committee with a "do pass" recommendation.

SCR 44

SCR 44 - "Extending the life of the Blue Ribbon Commission on the State Personnel Act."

Representative Cotten MOVED AND ASKED UNANIMOUS CONSENT to report out of committee SCR 44. There being NO OBJECTION it was so ordered. SCR 44 was reported out of committee with a "do pass" recommendation.

SB 275

SB 275 - "An Act relating to the compensation of persons collecting hunting and fishing license and tag fees; and providing for an effective date."

Chairman Adams explained that the bill provides for the compensation of vendors who sell hunting, fishing and game licenses at \$50 per year or \$1 per license, whichever is greater. The Senate Resources version of the bill makes changes to the original providing for an effective date, making the bill retroactive to January 1, 1982 and adds provisions with regard to payments of compensation. Chairman Adams indicated that a fiscal note from the Department of Revenue indicates a loss of \$523.8 from general funds can be expected due to compensation payment.

Senator Fahrenkamp stated that there have been complaints for years that the vendors who are selling licenses are not properly being compensated. Senator Fahrenkamp indicated that there was testimony provided in committee by the Department of Natural Resources, Fish and Game, vendors and others who endorse the bill.

Representative Meekins MOVED AND ASKED UNANIMOUS CONSENT to report out of committee CS 2d SSSB 275 (Res) am. There being NO OBJECTION it was so ordered. CS 2d SSSB 275 (Res) am was reported out of committee with a "do pass" recommendation.

RECESS

Chairman Adams called a recess at 3:02 p.m. The meeting reconvened at 3:08 p.m.

The next bill to be considered was SB 525

SB 525

SB 525 - "An Act relating to land lotteries."

Chairman Adams explained that SB 525 amends the Alaska Lands Act to allow the commissioner of Natural Resources to adopt regulations which specify qualifications for lottery participants. The House Resource committee provided a committee substitute which adds sections relating to appraisal of state land to be sold or leased.

MARK WITTOW with the Department of Natural Resources stated that there were some errors made in the drafting of the bill. The changes to be made included the deletion on page 2, line 5 of "(b) of this section" and insertion of "38.05.061; page 2, line 14 deletion of "notwithstanding" and insertion of "Subject to"; and page 2, line 24 deletion of "Sec. 4. AS 38.05.310 (b) is repealed".

Representative Meekins MOVED AND ASKED UNANIMOUS CONSENT to adopt the amendments on page 2, lines 5, 14 and 24 as outlined. There being NO OBJECTION it was so ordered.

Representative Cotten indicated that he had introduced HB 871 earlier this year. He stated that he had checked with both co-chairman of the resource committee who felt that if the committee would adopt the bill in the form of an amendment to SB 525 they wouldn't have any objection. Representative Cotten explained that when you buy land at a state sale and pay under an installment plan interest must be paid. He stated that the law now reads that "The interest rate to be charged on installment payments is the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska is the time that the contract is signed". Representative Cotten MOVED TO amend this to say "or nine percent, whichever is less" to insure that it is a constant rather than fluctuating interest rate.

Representative Meekins supported the amendment but expressed concern with potential future fragmentation and inconsistencies in policy concerning interest rate changes.

Mark Wittow commented that the legislature can set the rate of interest; however, it should be applicable for contracts effective after the date of the act.

Representative Cotten amended his amendment to state that it applies to land contracts issued after the effective date of the act.

A hands vote was taken on the proposed amendment. Eight in FAVOR and two OPPOSED (Chuckwuk, Fuller). The MOTION CARRIED.

Representative Meekins MOVED AND ASKED UNANIMOUS CONSENT to report out of committee a Finance committee substitute for SB 525 incorporating both amendments. There being NO OBJECTION it was so ordered. HCS SB 525 (Finance) was reported out of committee with a "do pass" recommendation.

The next bill to be considered was SB 772

SB 772

SB 772 - "An Act making a special appropriation to the Department of Natural Resources for construction of a plant quarantine station at the plant materials center (AS 03.22) operated in cooperation with the Institute of Agricultural Sciences; and providing for an effective date."

Representative Carney MOVED to report out of committee SB 772.
There being NO OBJECTION it was so ordered. SB 772 was reported
out of committee with a "do pass" recommendation.

ADJOURNMENT

The meeting adjourned at 3:20 p.m.

Tape HFC 82-52, Side 1, #001-#546

HOUSE FINANCE COMMITTEE

May 5, 1982

5:35 p.m.

(Tape HFC 82-52, side 1 #546.)

PRESENT

All Members of the Committee were present except Representative Meekins. (Representatives Bettisworth, Fuller and Cuddy arrived later in the meeting.) ALSO PRESENT: Representatives Sutcliffe and Gardiner; Bill Spear, Alaska Renewable Resources Corporation; Fred Honsinger, Director, Seafood and Animal Industry, Department of Environmental Conservation; Bill Brown, Director, Division of Motor Vehicles, Department of Public Safety; and Robert Kessel, Director, Audit Division, Department of Revenue.

SB 872

Chairman Adams called the meeting to order and brought SB 872 up for consideration.

CSSB 872 (Res) -- "An Act relating to health, sanitation, and sanitary practices in the seafood processing industry and other industries that produce food for human consumption; and providing for an effective date."

Chairman Adams gave a brief explanation of the bill. He advised there is a proposed House Finance CS which the committee will be dealing with.

REPRESENTATIVE SUTCLIFFE said this bill was introduced after the botulism incident in the salmon industry. He said it addresses the concerns of the Department of Environmental Conservation and it has been okayed by the fishing processors. He commented the intent is to not over-react to the crisis, but to begin a plan to enable the Department of Environmental Conservation to try and make sure the incident will not repeat itself. He said they do support the proposed Finance CS.

(Representative Bettisworth arrived at this time.)

MR. FRED HONSINGER, Director, Seafood and Animal Industry, Department of Environmental Conservation, apologized that Commissioner Mueller was not able to attend this meeting. He said the Commissioner has reviewed the proposed CS and supports it. He said the bill has only minor changes from the Senate version. He briefly commented on those changes.

(Representative Fuller arrived at this time.)

Regarding the Fiscal Note in the amount of \$685.5, Mr. Honsinger said \$500.0 is research money. The research will lead to improved techniques to improve sanitation practices and development of improved techniques in surveillance.

Mr. Honsinger said the bill provides that by June 30, 1983 they shall report back to the Legislature regarding an adequate and fully staffed seafood inspection program that would include additional laboratory services.

Mr. Honsinger commented on the size of the fishery program. He said with only nine people and 400 units to inspect, they are run pretty thin. At the present time there are 150 floaters, he said, and they create some horrendous travel problems for the Division.

Chairman Adams asked if this was sufficient to take care of examination of cans for botulism. Mr. Honsinger said the difficult part is to get good quality inspectors. He said he thinks this is the best they can come up with for this salmon season. He said they will probably be coming back next Session with a full recommendation.

(Representative Cuddy arrived at this time.)

Representative Chuckwuk said he doesn't see that the legislation provides assurance that botulism can be prevented. Mr. Honsinger said he didn't think anyone in the world could guarantee that a minute amount would not get through. He said all they can do is have a program that will insure that only a minute amount, if any, gets through. He said one thing that gets lost in consideration of the fiscal impact is that public health and protection should be their number one concern.

(Tape change, HFC 82-52, side 2.)

Representative Montgomery MOVED to report out the draft CS as a House Finance CS, with the \$685.5 fiscal note, and the letter of intent accepted by the Senate. There being NO OBJECTION, it was so ordered. HCS CSSB 872 (Fin) was reported out with a "do pass" recommendation.

SB 697

The next bill to be considered was SB 697.

CSSB 697 (Fin) -- "An Act establishing the Alaska Resources Corporation in place of the Alaska Renewable Resources Corporation (AS 37.12); and providing for an effective date."

Chairman Adams gave a brief explanation of the bill. He said the correct fiscal note is the one dated 4/13/82 in the amount of

\$1154.0. He advised that Mr. BILL SPEAR is present to answer questions.

Representative Chuckwuk said he has a proposed amendment to the bill.

Page 10, line 11:

After "applies" insert "only".

Page 10, line 13:

After "Act.", insert the following:

"This Act does not limit the authority of the Alaska Resources Corporation to continue and sustain investments made before the effective date of this Act by the Alaska Renewable Resources Corporation."

Representative Chuckwuk MOVED that the amendment be accepted. There being NO OBJECTION, it was so ordered.

Representative Cotten MOVED AND ASKED UNANIMOUS CONSENT to report out a Finance CS for CSSB 697 incorporating the amendment, with the Fiscal Note in the amount of \$1154.0. There being NO OBJECTION, it was so ordered. HCS CSSB 697 (Fin) was reported out without recommendation (Carney, Cotten, Chuckwuk and Adams signing "do pass"; Haugen, Hurlbert, Fuller and Montgomery signing "no recommendation"; and Bettisworth and Cuddy signing "do not pass").

SB 69

The next bill to be considered was SB 69.

CSSSB 69 (Jud) -- "An Act relating to potential consequences of the assessment of driver's demerit points."

Chairman Adams briefly explained the House CS CSSSB 69 (Jud). He said the fiscal note indicates there will be a need for an additional \$9.6 in FY 83. Chairman Adams advised MR. BILL BROWN, Director, Division of Motor Vehicles, is present to answer questions.

Representative Cotten MOVED AND ASKED UNANIMOUS CONSENT to report the Bill out of Committee with the Fiscal Note. There being NO OBJECTION, it was so ordered. HCS CSSSB 69 (Jud) was reported out without recommendation. (Haugen, Carney, Hurlbert and Adams signing "do pass"; Bettisworth, Hurlbert, Cotten, Cuddy, Fuller and Montgomery signing "no recommendation".)

SB 856

The next bill to be considered was SB 856.

CSSB 856 (Fin) -- "An Act relating to interest on delinquent taxes; and providing for an effective date."

Chairman Adams briefly explained the bill. He said this bill was introduced at the request of the Legislative Budget and Audit Committee and there is a new fiscal note showing additional revenue to the General Fund in the amount of \$700.0.

MR. ROBERT KESSEL, Director, Audit Division, advised that the provisions in this bill are also in HB 101 which has passed the Senate and is back in the House for concurrence. He said the Department supports the bill and recommends it be passed out of Committee and sent to Rules.

Representative Carney asked if there was any reason why they didn't include an acceleration clause in the legislation to keep pace with inflation. Mr. Kessel said he is not aware of any reason. He said they decided to go with a fixed rate. He commented that having a flexible rate creates some difficulty in administering taxation.

Representative Carney suggested amending this legislation to state the prime rate, and it should be adjusted every two years. He asked what the present prime rate was. Mr. Kessel said it is approximately 18%-20%. There was brief discussion.

Representative Bettisworth said this is a good opportunity to clear up some questions he has. He asked if it was true that under current statutes the Department can charge a person a penalty on the full amount of taxes if he pays less than the full amount. Mr. Kessel said that is correct. He said the penalty is on the actual tax liability and not on the additional tax due. Representative Bettisworth said he thought that was terrible. He commented further. Mr. Kessel clarified his statement. He said if a person files a tax return and pays, the penalty is only owed on the additional amount. He said if a person fails to file, the penalty is on the full liability.

Representative Bettisworth said he has letters from certified public accountants that indicate that his analysis is correct and Mr. Kessel is wrong. He said on the basis of that, there is no way he can support an additional interest rate on funds he doesn't believe should be penalized.

Representative Montgomery said he has received the same comments from CPA's from Fairbanks, Juneau and Anchorage. He said the Judiciary Committee took testimony last year on HB 187, and that testimony was exactly what Representative Bettisworth indicated.

Representative Cuddy said he agrees with Representative Bettisworth that this situation should be changed, but he didn't think that had anything to do with the subject matter in this bill. He said the fact that there is a problem with a tax law doesn't have anything to do with the fact that they are undercharging on delinquent taxes.

Representative Carney commented he appears to be the only one concerned about the level of the penalty. He said with a high interest rate and a low rate on the penalty, it could be good business to not file. There was brief discussion.

Representative Cotten MOVED AND ASKED UNANIMOUS CONSENT that the bill be reported out with the Fiscal Note. There being NO OBJECTION, it was so ordered. CSSB 856 (FIN) was reported out with a "do pass" recommendation.

ADJOURNMENT

The meeting adjourned at 6:00 p.m.

Tape HFC 82-52, side 1 #546 to end
side 2 #001 to #297

HOUSE FINANCE COMMITTEE

May 6, 1982

3:30 p.m.

(Tape HFC 82-52, Side 2, #297)

PRESENT

Members of the committee in attendance: Representatives Adams, Montgomery, Fuller, Carney, Cuddy, Haugen, Meekins, Bettisworth, Hurlbert, and Cotten. Representative Chuckwuk was not present at the meeting.

ALSO PRESENT: Sam Trivette, Executive Director, Alaska Parole Board; Anselm Staack, Department of Revenue; Palmer McCarter, Department of Community and Regional Affairs; Ginny Chitwood, Alaska Municipal League; and Ralph Bennett, Aide to Representative Montgomery.

Chairman Adams called the meeting to order and informed members that the SB 327 would be the first bill to be considered.

SB 327

SB 327 - "An Act relating to parole of offenders; continuing existence of the Board of Parole; and providing for an effective date."

Chairman Adams provided an overview of the bill and called Mr. Sam Trivette before the committee to testify on the bill.

SAM TRIVETTE, Executive Director with the Alaska Parole Board, stated that the Department is in support of the changes made by the House Judiciary Committee. He explained that the fiscal note which was originally prepared has been cut in half since the effective date of the bill would be January of 1983.

Referring to the "compensation and expenses" section; Representative Cotten asked if the board received \$150 per day? Mr. Trivette explained that currently the board only receives \$150 a day while attending board hearings and the bill will provide additional compensation for time spent reviewing files in preparation for hearings, etcetera. The average time spent reviewing the files and preparing for a trial is approximately 3/4 hour per file per board member for approximately 300 hearings per year or 23 days per member per year at approximately \$3,400 per year.

Representative Cotten commented that it seems that there is inconsistency with regard to Boards and Commissions and asked why there is an increase in compensation for the Board of Parole?

Mr. Trivette responded that the rate was set by the members of the Senate Judiciary committee. He explained that the Senate HESS committee had set a lower rate; however, the Judiciary committee felt that the compensation for board members had not changed in years and should keep up with the consumer price index. There was discussion concerning the total amount of compensation for members. Mr. Trivette stated that the total compensation is approximately \$75,000 for five members and the fiscal note reflects \$29.9 for FY 83 due to the fact that the bill would not take effect until January 1, 1983.

BERRY STERN, Assistant Attorney General with the Department of Law stated that the reason he was testifying was because the Department of Law and the Administration think it is an extremely important issue in that it addresses two concerns of the Legislature this year. One is the need to get a rein on the cost of incarceration. He explained that the Department strongly opposes the approach taken in the legislation as it continues the Alaska Board of Parole as the body which will have final authority over determining the amount of imprisonment an offender convicted of an offense should serve when it is his first felony conviction.

Mr. Stern explained that under current law a person who has a prior felony conviction and sentenced by a judge is not eligible for parole consideration by the Board of Parole. It is the position of the Department that presumptive sentencing should apply for all first time offenders and they should not be eligible for consideration by the Parole Board for discretionary parole release.

Mr. Stern referred to HB 293 which was proposed last year and would abolish the Board of Parole and establish fixed sentences for first time offenders. He explained that the bill received extensive review in the House HESS committee with a version of the bill (CSHB 225) being passed out. Mr. Stern stated that the approach in the bill was different than originally recommended by the Governor; however was something which the Department felt they could live with. Mr. Stern stated that the House Judiciary committee gave attention to only one bill which was to continue the Board of Parole (SB 327). The Department opposed the bill and disagree with continuing the Board of Parole in the present form.

With regard to the fiscal impact of the legislation, Mr. Stern stated that under the HB 225 approach the Department of Health and Social Services projected a net decrease in prison population of approximately 46 individuals within seven years resulting from enactment of the legislation. He cited examples of types of crimes and furlow situations which would decrease the prison population.

Mr. Stern stated that should the committee not agree with the approach as presented in HB 225 they would request that the Parole Board be allowed to "sunset" and the legislature consider this issue again next year. Mr. Stern explained that if SB 327 was not enacted, the Parole Board would have one year to wind down its business.

Representative Meekins stated that he would like to adopt the other bill and not SB 327 and consideration might be given to not passing the bill or passing it with a sunset date before 1986.

Representative Montgomery stated that there should be conformity between the various boards and commissions. With regard to the compensation for the Board of Parole, he stated that it is difficult to get individuals to participate on a board without adequate compensation and defended the Board of Parole.

Representative Meekins MOVED to delete Section 3, line 23, page 14. There being NO OBJECTION, it was so ordered.

Representative Meekins MOVED AND ASKED UNANIMOUS CONSENT to report out of committee a finance committee substitute for HCS CSSB 327 along with the fiscal note dated April 16, 1982 in the amount of \$29.9 prepared by the Department of Health and Social Services. There being NO OBJECTION, it was so ordered. HCS CSSB 327 (Finance) was reported out of committee with "individual recommendations".

(Representative Carney was excused for the remainder of the meeting.)

The next bill to be considered was SB 748.

SB 748

SB 748 - "An Act relating to interest on state bonds and notes; and providing for an effective date."

Chairman Adams provided an overview of the bill and asked Mr. Anselm Staack to testify before the committee.

ANSELM STAACK with the Department of Revenue stated that the Department is in favor of the committee substitute for the bill. He explained that the legislation is a result of market conditions and an attempt to provide a method to be able to sell bonds in a tough market but provide an interest rate capper by using the bond buyer index that already tracks what general obligation bonds are doing. He explained that the provision with regard to the Lieutenant Governor's signature came about following the issuance of bond participation notes last December when the only legal way to issue the notes required the physical presence of the Lieutenant Governor in Chicago to sign the notes.

Mr. Staack stated that the range on the bond buyer index on 20 municipal bonds is 10% which will change to 11%. There was discussion concerning the selling of a general obligation bond in March of 1982 and method used by the Department.

Tape Change HFC 82-53, Side 1

Representative Meekins MOVED to change "10" to "11" on line 21, page 1, a drafting error. There being NO OBJECTION, it was so ordered.

(Representative Hurlbert left at this time.)

In response to a question from Representative Montgomery concerning the interest calculation and pay-off period; Mr. Staack explained that bonds are being paid off in approximately nine years. He explained that the ten year period seemed to be the best rate term acceptable to the market and it still stays within the Prudhoe Bay rate curve. He explained that the premium break is high past ten years and you pay a higher premium beyond that period. Mr. Staack explained that the legislation is an attempt to avoid the situation where you sell a significant amount of bonds and wind up being forced to accept only five years.

Representative Cotten asked if it would be better to have no limit? Mr. Staack did not feel it would be advantageous to the state. He explained that it is a competitive business with a public bid where a syndicate submits a sealed bid to the state's agent in New York. He stated that the State Bond Committee always has the option of rejecting any bid.

Representative Meekins asked what would happen if the state did not pass the bill this year and the public voted for some bonds in November? Mr. Staack responded that it has only been four or five months since the consumer price index has been on the downturn and if the projects are approved by the voters; there will be a push to sell the bonds. A possibility would be that the state could wind up with a five or six year period which would increase the amount of debt service. There was discussion concerning bonds currently authorized and the amount of assumable debt service.

(Representative Cuddy and Haugen left at this time.)

Representative Meekins MOVED AND ASKED UNANIMOUS CONSENT to report out of committee a finance committee substitute for CS SB 748. There being NO OBJECTION, it was so ordered. HCS SB 748 (Finance) was reported out of committee with "individual recommendations".

(Representative Hurlbert and Haugen returned at this time.)

SB 816

The next bill to be considered was SB 816.

SB 816 -- "An Act continuing the existence of the Real Estate Commission and amending the statutes relating to the commission's responsibilities and the real estate surety fund; and providing for an effective date."

Chairman Adams gave a brier explanation of the House Labor and Commerce CS and the two fiscal notes.

Representative Fuller MOVED AND ASKED UNANIMOUS CONSENT to report HCS SB 816 (Labor & Commerce) out of Committee with the two fiscal notes. There being NO OBJECTION, it was so ordered. Representative Meekins pointed out that consideration has been given to funding this Commission out of program receipts, however, the fiscal note is for general funds. HCS SB 816 (L&C) was reported out with a "do pass" recommendation.

SB 864

The next bill to be considered was SB 864.

CSSB 864 (Fin) -- "An Act continuing the existence of the Alaska Code Revision Commission and amending the statutes relating to its responsibilities."

Chairman Adams gave a brief explanation of the bill.

Representative Cotten asked why the fiscal note is zero. Chairman Adams explained there is an appropriation in the operating budget under the Legislature for the Code Revision Commission.

Representative Montgomery MOVED AND ASKED UNANIMOUS CONSENT that the Bill be reported out. There being NO OBJECTION, it was so ordered. CSSB 864 (Fin) was reported out without recommendation. (Haugen, Bettisworth, Montgomery signing "do pass"; Adams, Hurlbert, Cotten, Meekins and Fuller signing "no recommendation".)

SB 830 and SB 836

The next bills to be considered were SB 830 and SB 836.

SB 830 -- "An Act extending the time during which assistance for municipalities and unincorporated communities is paid under Ch. 60, SLA 1981; and providing for an effective date."

SB 836 -- "An Act extending appropriations made for entitlements to municipalities and unincorporated communities

and for extending appropriations for administering the entitlements; and providing for an effective date."

Chairman Adams gave the following explanation of the Bills:

SB 830 and 836 amend the per capital grant program established last year. It was originally enacted as a one year program, but late last session the appropriation act was amended to spread the money over two years. However, the authorizing legislation was not changed at the same time, and remains a one year program. This is a minor legal glitch, and would not prevent payment of the FY 83 portion of the entitlements. However, passage of SB 830 would put the program on a sounder legal footing.

SB 836 would amend the appropriation act of the program to extend the lapse date on the first year portion of the entitlement. At this time, 29 of 151 municipalities, and 65 of approximately 100 unincorporated communities have not yet applied for their entitlement. This is true for a variety of reasons. Some communities are still in the process of deciding which projects to spend the money on. The number of unincorporated communities which have not applied is large, partially because the Department of Community and Regional Affairs has not yet mounted their major outreach effort for this program. The Department has been waiting for legislative action to allow the money to be paid to native governments with sovereign immunity. SB 168 prohibited this because it was feared that, since these governments are immune from lawsuit, the state would not be able to enforce its grant requirements. I am proposing a Committee Substitute which would allow such payments if the native government waives any immunity it has against suits for contract claims. If the language were adopted, it would simply add one more type of entity which can accept the entitlement and spend it for a public purpose. The Department would still have the discretion to choose among the qualified entities within the community, and to choose the one which is most qualified to fulfill the state's grant requirements.

It is especially important to allow native governments to administer the money in communities with no other organization. The proposed language would mean that unincorporated communities with viable native governments would no longer be forced to form an entirely new corporation for the purpose of receiving and expending the entitlement money. To create such a single purpose corporation would create confusion in some villages because the new corporation would be outside the normal leadership/governmental structure of the village.

In addition, the CS would move municipal assistance, which shares up to 10% of the corporate income tax receipts with municipalities, from the Department of Revenue to the Department of Community and Regional Affairs.

(Representative Meekins left at this time.)

MR. PALMER McCARTER, Director, Local Government Assistance Division, Department of Community and Regional Affairs, testified that the Department supports passage of this legislation. He said they have prepared a small fiscal note in the amount of \$38.1 to add one full time position. He explained the Department of Revenue doesn't have a full time person dealing with municipal sharing. He said they have a half time clerk, and have indicated they can't afford to transfer that position over to the Department of Community and Regional Affairs. Mr. McCarter said there is also an additional amount for travel to rural communities to get them eligible for participation.

Representative Hurlbert said he has received complaints about the complexity of the applications. He asked if the Department will be making the application any easier for the more unsophisticated villages. Mr. McCarter said he thinks the problem is with the number of different applications they are dealing with, and the various departments. He said they would propose, with the combination of municipal assistance and revenue sharing, to combine them into one single application.

Chairman Adams said there are 65 out of 100 unincorporated communities that have not received their entitlements. He asked what the Department will be doing to make sure they get their entitlement. Mr. McCarter commented that many communities have held up applying until the CS is passed because then native corporations would be able to apply without having to form a nonprofit corporation.

Mr. McCarter said the Department has been working on a package that explains what it takes to form a non-profit corporation.

Chairman Adams asked what they do with communities that don't have any type of governmental entity. Mr. McCarter said the law doesn't address them. He said they do go out to those communities and tell them they need to be a nonprofit corporation, and the Department tries to help them form one.

There was further discussion on the bill.

Mr. McCarter explained that last year the Legislature split the appropriation and the governor reduced the amount. MS. GINNY CHITWOOD, Alaska Municipal League, explained that the Legislature split the legislation into two -- \$750 for FY 82 and \$250 for FY 83. She said the Governor reduced the \$750 to \$535. She said it

would take additional action by the legislature to add back in the amount vetoed by the Governor.

Representative Cotten asked if it was correct that Anchorage got \$535 per capita last year, so as far as Anchorage is concerned, they don't need the bill. Mr. McCarter said perhaps technically they don't. He said they are under contract for up to \$1000. He said the problem is that SB 168 enacted last year expires on June 30, so there would be no authorizing legislation for them to receive the additional \$250.0. There was further discussion.

In answer to a question from Representative Bettisworth, Mr. McCarter said they have to look to the communities to tell them where they are, what their boundaries are, and the number of people there are. He advised that last year they were able to authorize the full \$1000 for unincorporated communities. He commented they don't know how many people will ultimately be eligible for unincorporated communities. He said they do know for municipalities because they have their 1980 census and their boundaries.

Representative Cotten asked if some communities get \$535 and others get a different amount. Mr. McCarter said no. He explained every municipality was eligible for \$535 and that is what they go. He said the unorganized communities were eligible for \$1000.

MS. CHITWOOD said the Municipal League supports this legislation. Representative Bettisworth asked if the League had any recommendations regarding the FY 83 allocation under SB 168. Ms. Chitwood said they would like the total to add up to \$1000 per capita. However, she said that understanding the fiscal crunch the legislature is working under, that would be a decision for the Legislature to make. Representative Bettisworth asked if the League has passed any resolutions requesting an increase in the allocation. Ms. Chitwood said they have asked for an increase in populations for revenue sharing and the municipal assistance program. She said that last fall, before the State's revenue picture was clear, they were also interested in a supplemental appropriation to bring the allocation up to \$1000.

There was brief discussion on the House Finance CS for SB 830.

RECESS

Chairman Adams called for a recess at 4:40 p.m. and recalled the meeting to order at 4:45 p.m.

SB 830 and SB 836

Representative Hurlbert MOVED AND ASKED UNANIMOUS CONSENT that the bills be reported out of Committee. Representative

Bettisworth OBJECTED for the purpose of offering an amendment.
Representative Hurlbert WITHDREW his motion.

Representative Bettisworth said his motion would be to add \$85 million that was cut from the entitlements in SB 168 last year, so that the remaining \$215 per capita may be paid to municipalities. Representative Cotten commented that would have to be made to an appropriation bill, and SB 830 is not an appropriation bill. Representative Bettisworth said it would be if the motion passed.

(Tape change, HFC 82-53, side 2.)

Representative Bettisworth MOVED to amend SB 830 to add a new section appropriating \$85 million from the general fund to make up the shortfall cut from the budget last year, to bring the entitlement back up to \$1000 per capita for municipalities. Representative Hurlbert OBJECTED. He asked where they would get the money. Representative Bettisworth commented the appropriation made to the Alaska Hospital last year in the amount of \$52 million has reverted back to the general fund. He said that could be used. He said that in view of the fact that no one is keeping to the budget reductions made by this Committee, there is apparently lots of money.

The question was called for:

IN FAVOR: 3 (Bettisworth, Montgomery, Cotten);

OPPOSED: 3 (Hurlbert, Fuller, Adams).

The motion FAILED.

Representative Cotten MOVED to amend SB 830 to add a new section appropriating \$52 million from the general fund to bring the entitlement for municipalities up to \$1000 per capita. The Question was called for:

IN FAVOR: 3 (Bettisworth, Montgomery Cotten);

OPPOSED: 3 (Hurlbert, Fuller, Adams).

The motion FAILED.

RECESS

Chairman Adams called for a recess at 4:56 p.m. and recalled the meeting to order at 4:58 p.m.

SB 830 and SB 836

Representative Hurlbert MOVED AND ASKED UNANIMOUS CONSENT to report out SB 836 with the zero fiscal note. There being NO

OBJECTION, it was so ordered. SB 836 was reported out with a "do pass" recommendation.

Representative Hurlbert MOVED AND ASKED UNANIMOUS CONSENT to report out the House Finance CS for SB 830 with the fiscal note in the amount of \$38.1. There being NO OBJECTION, it was so ordered. HCS SB 830 (Fin) was reported out with a "do pass" recommendation.

ADJOURNMENT

The meeting adjourned at 5:00 p.m.

Tape HFC 82-52, side 2 #297 to end
HFC 82-53, side 1 #001 to end
side 2 #001 to #069

HOUSE FINANCE COMMITTEE

May 8, 1982

1:03 p.m.

(Tape HFC 82-53, side 2 #069.)

PRESENT

Representatives Battisworth, Haugen, Adams, Fuller, Cotten, Hurlbert and Montgomery were present. Representative Meekins arrived later in the meeting. ALSO PRESENT: Representatives O'Connell, Malone and Halford; Palmer McCarter, Director, Local Government Assistance, Department of Community and Regional Affairs; Ginny Chitwood, Alaska Municipal League; Jim Baldwin, Attorney, Department of Law; Susan Burke, Attorney, Alaska Permanent Fund; and Tom Williams, Commissioner, Department of Revenue.

SB 517

Chairman Adams called the meeting to order and brought SB 517 up for consideration.

CSSB 517 (Fin) -- "An Act extending the duration of repayment of loans for child care facilities; and providing for an effective date."

Chairman Adams gave a brief explanation of the bill.

MR. PALMER MCCARTER, Director, Local Government Assistance, Department of Community and Regional Affairs, said they don't administer the program, but were asked to provide input to the bill through a fiscal note, which is zero for the Department of Community and Regional Affairs.

Representative Cotten asked if this bill changed the status of existing loans. Chairman Adams said no one was present to answer that question, but he would direct his staff to find out and respond to Representative Cotten's question by Monday morning.

Representative Cotten MOVED to report CSSB 517 (Fin) out of Committee. There being NO OBJECTION, it was so ordered. CSSB 517 (Fin) was reported out with a "do pass" recommendation.

SB 180

The next bill to be considered was SB 180.

CSSB 180 (C&RA) am -- "An Act relating to municipal government; and providing for an effective date."

Chairman Adams gave the following explanation of the bill:

SB 180, introduced by Rules at the request of the Legislative Council, rewrites Title 29 which deals with municipal government. You have before you a proposed Finance Committee Substitute as well as four other amendments. Already incorporated into the proposed CS is the sovereign immunity language the Committee approved the other day in SB 830, as well as the language transferring Municipal Assistance from the Department of Revenue to the Department of Community and Regional Affairs. The same fiscal note of \$38.1 would be necessary.

The content of CSSB 802 (C&RA) is also already combined into the CS. This legislation provides a definition of "developed" for purposes of local taxes. The Department of Community and Regional Affairs indicates this has no fiscal impact.

You have in your bill file a copy of CSSB 314 (C&RA) am dealing with motor vehicle exemptions for those over age 65 which has no fiscal impact.

SB 735 provides for organization grants to those interested in organizing as a city or borough. The Department indicates they would need \$400.0 in grants in \$5.0 in travel for this purpose.

SB 736 relates to home rule municipalities and enables a second class city to adopt a charter for its own government if the population is at least 600 permanent residents. It also enables unincorporated communities to incorporate as a home rule municipality. This has no fiscal impact.

There is also some amendment language which is similar to SB 240. This will provide funds, based on a formula, for feasibility studies of proposed boroughs. The cost of this program is estimated at \$375.0 of which \$360.0 is grants and \$15.0 is travel.

Chairman Adams advised that both the House and Senate Community and Regional Affairs committees have agreed to including the Senate bills he mentioned in his overview in the bill.

MR. PALMER McCARTER, Director, Local Government Assistance Division, Department of Community and Regional Affairs, said that basically SB 180 is a rewrite of Title 29. He said this rewrite effort has been ongoing for approximately 3 years, and received input from the membership of the House and Senate, and from both urban and rural communities. He commented the bill was revised by the Senate Community and Regional Affairs Committee, and has been further revised by the House C&RA and Judiciary committees.

Mr. McCarter said the majority of the proposed amendments were in the form of bills that were reviewed by both the House and Senate C&RA committees. He commented that most were included in the original draft of the bill, but were taken out because of their fiscal impact in order that they might receive individual study by the Finance committees. He said the Department would strongly recommend those bills be part of the new municipal code.

Chairman Adams said the Finance CS incorporates some of the language previously approved in SB 830 in regard to sovereign immunity, and also transferring some of the municipal assistance programs from the Department of Revenue to the Department of Community and Regional Affairs. Mr. McCarter said that was correct. He said the Finance Committee acted positively on SB 830, and the language that would amend Title 29 has also been incorporated into this Bill. He cautioned that SB 830 ought to continue to move through the process because all the amendments made to SB 168 are in the form of temporary legislation, so they probably won't be incorporated into the House Finance CS for SB 180. He said SB 830 should continue to move independently of this bill.

Representative Cotten asked for an explanation of the sovereign immunity language. Mr. McCarter explained there are two aspects to the waiver of sovereign immunity included in SB 830 that was before the Committee a few days ago. He said one of those will be incorporated in the form of permanent law because it amends the municipal revenue sharing program; the other language is in the form of an amendment to SB 168 and that is temporary. When SB 168 was passed, Mr. McCarter said, the advice of the Attorney General's Office, which was concurred in by the House and Senate C&RA Committees, was that based on case law available, native village governments in the state did not have any authority independently of the Secretary of U.S. Interior to waive sovereign immunity with respect to a project. He explained that currently native villages in the state are presumed to have sovereign immunity. This means that if the state or any third party contractor wanted to bring suit against them, the village could say they couldn't be sued because they have not permitted the party to sue, they are like a sovereign nation, so the party has no authority to sue. Mr. McCarter said for that reason, when SB 168 was approved last year, there was very clear language that said they cannot distribute the \$1000 per capital to any group or organization that possesses sovereign immunity. The effect of that language was to exclude all of the traditional village councils in the state, and it would exclude the governing councils that were authorized under the Indian Reorganization Act. Mr. McCarter said in broad terms that meant roughly 3/4's of the native village communities in the state were ineligible to participate in the bill. Mr. McCarter said that subsequent to passage of that legislation there have been some federal court cases in the lower '48 that said traditional village councils and those governing councils that operate pursuant to the Indian

Reorganization Act may, without approval of the Secretary of Interior, waive their sovereign immunity to whatever extent they want. He advised the language contained in SB 830 said the State may enter into a contract with traditional village councils and the governing councils authorized under IRA if that council will sign a form approved by the Department of Law that says they waive their sovereign immunity with respect to this project and the dollar amount of the project. Therefore, he said, they can contract with those councils.

There was brief discussion on the language. Representative Cotten asked if the sovereign immunity language would allow those villages to do anything else differently from an organized borough. Mr. McCarter said in addition to the waiver they have included a fairly standard phrase that has been approved by the Department of Law, which states that passage of this language in no way enlarges or diminishes the sovereign immunity or tribal status of the tribe, whatever it might be. He said there is not a clear decision of what sovereign immunity may or may not mean in the State.

There was brief discussion on the other four amendments proposed by Chairman Adams. CSSB 314 is currently in House Finance; SB 735 and SB 736 are in House Rules; and SB 240 is in Senate Rules.

Chairman Adams said the fiscal note for SB 240 shows there will be three rural studies at \$120.0 each. He asked if these requests were made by permanent residents of the different areas. Mr. McCarter said basically for that amount of money they could do three studies. He said there is a mechanism by which either a group of city councils or a certain number signing a petition could get the question of boundaries of a proposed area that wants to investigate feasibility of borough status to the Department. He said there is a requirement that there be a showing of interest either by a city council resolution or through a popular petition process of residents. Chairman Adams asked if anyone else was asking for these particular rural studies. He said he didn't want the State going out to any area, just to study the feasibility. Mr. McCarter said it requires a local request. Chairman Adams asked how many requests they have received for proposed rural studies. Mr. McCarter said because the Department has no money, they haven't been able to entertain those requests. He briefly described the types of requests that have come before the Legislature: the Yukon Flats Area, the Prince William Sound area, the AVCP region in Bethel, and the city of Craig in Southeast. He said the AHTNA region also had a request for a study.

MS. GINNY CHITWOOD, Alaska Municipal League, advised the League supports passage of SB 180. She said they have worked with the groups revising and rewriting Title 29 to make it more readable. She agreed with the testimony presented by Mr. McCarter. She advised they have no problem with the inclusion of the proposed

amendments. She suggested one more bill for the Committee's consideration. She said they agree with transferring the Municipal Assistance Fund for administration purposes to the Department of Community and Regional Affairs. She said they will be putting together one application for a municipal assistance fund and revenue sharing, which should make it easier for the municipalities. Ms. Chitwood said there is one more bill, presently in House Finance, SB 612 which increases the percentage allowable for the Legislature to appropriate to the Municipal Assistance Fund from 10% or greater of the corporate income tax to 30% or greater of the corporate income tax. She said the reason the bill was introduced was because of the changes to the corporate income tax caused by the passage of SB 524 last year. She explained that with the passage of that bill there has been a shift away from the corporate income tax to the production/severance tax. She said changing the percentage in the statute from 10% to 30% would almost make up for what has been lost by shifting the corporate tax to the production tax. She commented the percentage in the statute is not binding, it is simply a guideline for the Legislature. Chairman Adams said he would not entertain that bill for inclusion in this legislation because it would add three times the amount they would have to put out for municipal assistance. There was further discussion on SB 612.

Representative Bettisworth presented the following amendment:

"AS 29.10.110 is amended by adding a new paragraph to read:

(46) AS 29.35.120 (regulation of firearms prohibited)

AS 29.35 is amended by adding a new section to read:

Sec. 29.35.120. REGULATION OF FIREARMS PROHIBITED. (a) A municipality may not regulate the ownership and possession of firearms.

(b) This section applies to home rule and general law municipalities.

AS 29.45.030(a) is amended by adding a new paragraph to read:

(7) firearms.

The tax exemption provided in AS 29.45.030(a)(7) of this Act begins January 1, 1983."

Representative Bettisworth MOVED that the amendment be adopted. Chairman Adams OBJECTED for the purpose of discussion.

Representative Cotten asked if a municipality could now regulate the ownership and possession of firearms. Mr. McCarter said he would presume a home rule municipality could. Representative

Cotten asked if they could go so far as to say a person couldn't own a gun. Mr. McCarter said he believes they could. He said because there is no prohibition against passing that kind of an ordinance, he would presume that a home rule municipality could.

Representative Bettisworth commented on the situation in Massachusetts where they outlawed the possession and ownership of hand guns. He said he believes owning a gun is a constitutional right, and before some well-meaning group in Alaska decides to do something like this, he would like to reiterate in the statutes what he believes is a constitutional right.

There was discussion. Mr. McCarter said he didn't see any wave of action by any municipality in the state to regulate ownership. He said he would oppose including the amendment in this bill only because it has not been reviewed through the municipal government process or any other committee in the House or Senate. He suggested the amendment could be better dealt with next year after it has been reviewed. He said the purpose of the bill is to clean up title 29. He said all the amendments proposed by Chairman Adams have received enough review for the Department to be able to recommend inclusion. He said they would oppose any other amendments because they haven't received enough review and scrutiny.

Representative Cotten requested that Mr. Jim Baldwin comment on the technical language of the amendment. MR. JIM BALDWIN, Attorney, Department of Law, said he "hated to give legal opinions on the seat of my pants." He thought that basically, as Mr. McCarter indicated, a home rule municipality has certain broad powers in the area of health and safety. He would say they had the authority to regulate firearms.

Representative Bettisworth said this is standard language that is going around the state's nationwide. There was further discussion.

(Tape change, HFC 82-54, side 1.)

Mr. Baldwin commented this is broad language and it would be hard to determine exactly what it means. He said given proper time and study, they could come up with language that would remove many of the problems. He said with additional time he could also give a more definite opinion on the effect of the amendment. He said he would urge a little more study and research of the amendment. There was discussion.

Representative Adams REMOVED HIS OBJECTION. There being NO FURTHER OBJECTION, THE AMENDMENT WAS ADOPTED.

Chairman Adams said he would entertain a motion to report out the proposed House Finance CS for SB 180 with the additions he recommended and three fiscal notes: one in the amount of \$38.1

for the language presently in SB 830; one for \$375.0 for the language presently in SB 240; and one for \$405.0 for the language presently in SB 735. Representative Montgomery MOVED to report out HCS CSSB 180(Fin) with the fiscal notes referred to. Chairman Adams asked if the motion also included the amendment proposed by Representative Bettisworth. Representative Montgomery said that was correct. There being NO OBJECTION, HCS CSSB 180 (Fin) amended was reported out with the three fiscal notes without recommendation. (Adams, Haugen, Bettisworth, Fuller and Cotten signing "do pass"; Montgomery signing "no recommendation").

Chairman Adams announced he plans to put together a Finance CS for SB 684 ("An Act relating to the investment and management of the Alaska permanent fund and to the computation of income of the fund available for distribution."), and bring it before the Committee on Monday or Tuesday.

The next bill to be considered was SB 842.

SB 842 - "An Act providing for permanent fund dividends; and providing for an effective date."

Chairman Adams provided an overview of the legislation and the accompanying fiscal notes.

SUSAN BURKE, an attorney under contract with the Department of Law, explained that they are currently awaiting the outcome of the litigation concerning the permanent fund and do not know how much longer it will be before a decision is forthcoming. Ms. Burke explained that the legislation originally introduced by the governor and which the Senate Finance Committee passed out would do two things. In the event that the state loses the court decision it would provide a "backstop" dividend plan and provide for the inclusion of children under the dividend program. She explained that one reason children were not included in the 1980 legislation which passed was because it was difficult to come up with a way to include children in a practical way. Ms. Burke stated that they have come up with a way to include children and avoid the practical problem of giving money directly to the child. When they turn 18 years of age, they will file with the Department of Revenue for all years for which they would have been eligible with respect to the "backstop" legislation.

With respect to the "backstop" provisions of the legislation; Ms. Burke explained that there are two ways in which the state can proceed but will depend upon the court decision. The first alternative, and more likely alternative, is that each Alaska resident who fulfills a six month residency requirement would be eligible to receive a dividend and would be divided equally among all residents of the state. Should the U.S. Supreme Court tell the state that the only thing which is wrong with the existing program is that years of residency were counted beginning in 1959

and it would have been constitutional if the state started the accumulation of years in residency beginning in the present and into the future; the second alternative would be the accumulation of years of residency beginning in 1982. Ms. Burke explained that whichever alternative goes into effect, for 1982 only, there would be a "per capita" distribution of the money which has already been appropriated to the dividend fund. It is a per capita distribution of \$1,000 per person with a six month residency requirement.

Ms. Burke stated that the Senate Finance Committee substitute was amended on the floor so that the per capita program would require a 12 month residency requirement. It was Ms. Burke's opinion that a 12 month duration residency requirement is defensible and if it was judged under the standards which the U.S. Supreme Court has set down it would pass the constitutional requirement. Ms. Burke stated that the difficulty is that the state Supreme Court has adopted a more stringent test than the U.S. Supreme Court has under the U.S. constitution. The state supreme court has in the past been very tough on any residency requirement and may find a 12 month requirement too long. Therefore, Ms. Burke felt that a six month requirement would be less of a risk.

An additional amendment made by the senate dealt with welfare recipients. Many of the state welfare programs receive substantial federal assistance and are required to use the federal eligibility standards. Under those standards, the dividends would be enough to make those individuals ineligible for some period of time under public assistance programs. The senate amendment would in effect hold these individuals "harmless" with the loss of federal funds being made up by state funds. Ms. Burke stated that the governor prefers the welfare provisions that are in the Senate Finance Committee substitute. She stated that there have been a number of alternatives proposed with respect to dealing with welfare recipients ranging from the governor's original proposal to the complete "hold harmless" provision in the amended senate bill. The range of options have to do with the number of months the state would be willing to provide a backstop of state funds for the loss of federal funds.

Representative Malone stated that in conversations with the governor he was agreeable with a four month hold harmless provision.

Chairman Adams asked when the state can expect the supreme court's decision? Ms. Burke did not know but felt that there should be a decision by the middle of June. Chairman Adams asked if there was a trust fund to be established for children to receive dividends? Ms. Burke responded that it is like a trust fund, but not exactly. Each year an estimate of the amount of money which would go out to children would be set aside, remain in the fund and invested by the Department of Revenue accruing interest. It would be a semi-vested right and a kind of collective trust fund.

There was discussion concerning those children who turn 18 and are no longer residents of the state and the legality of their receiving prior year dividends.

Representative Haugen asked if the legislature passed the bill this year and if future legislatures repealed the bill, what would happen to the fund? Ms. Burke responded that it would remain in place unless under the repeal the legislature dissolves the trust. Those individuals with a vested interest in the trust would then receive their dividends.

Representative Halford asked if there would be a problem notifying an individual who may have left the state? Ms. Burke responded that she did not feel that the court would interpret the bill as putting that type of burden on the state or uphold that it is constitutionally required.

TOM WILLIAMS, Commissioner of the Department of Revenue, commented that the Department estimates approximately 170,000 additional people eligible under the program the first year with the inclusion of children. He commented on the additional costs of printing of applications, postage, check issuance and postage, and other associated administrative costs related to the dividend distribution program. Commissioner Williams cited potential problems with dividend fund dispersals to welfare recipients and children. With respect to the trust pool which would be established; Commissioner Williams supported the idea of a trust in relationship to direct dispersal.

There was discussion concerning potential obstacles in dispersing dividends to children who are wards of the state, under joint parental custody, etcetera; and the merits of a trust fund as a solution to meeting these problems.

Tape change 82-54, Side 2, #001

(Representative Meekins arrived at this time.)

Representative Malone provided an overview of a bill comparison sheet on the permanent fund (see attached -- attachment #1).

Chairman Adams asked Representative Malone if he believed that the dividends should be equal among all Alaskans? Representative Malone responded that he did, but as a practical matter there would be problems in that individuals would be losing part of their funds through additional taxation. Chairman Adams stated that it is not equal due to the area differentials between "cost-of-living" around the state. He suggested that the committee look at the differentials over the weekend and the committee would again meet on Monday, May 10 to further consider the bill.

ADJOURNMENT

The meeting adjourned at 2:30 p.m.

Tape HFC 82-53, Side 2, #69 to end
82-54, Side 1, #001 to end
82-54, Side 2, #122

PERMANENT FUND DIVIDENDS--COMPARISON OF BILLS

<u>Issue</u>	<u>House</u>	<u>Senate</u>	<u>Compromise</u>
Frequency of payments	One-shot	Annual	Annual
Amount of 1982 payments	\$1,000 per capita	\$1,000 per capita	\$1,000 per capita
Payments for 1983 and future payments	-----	Depends on PF income	Depends on PF income
Method of 1983 and future payments	-----	If state's AG decides it's possible, prospective accumulation from 1982 forward; if not, per capita payments	Same as Senate
Residency requirement	6 mos.	1 yr.	6 mos.
Minors	Parents and guardians collect	Individuals collect at 18 for back years	If state wins Zobel case, individuals collect at 18; if state loses, parents and guardians collect
Public assistance--substitution of state \$ for federal \$	Unlimited state substitution (\$23 million cost to state)	Unlimited state substitution (\$11.5 million cost to state)	4-mo. substitution (\$11.3-12.7 million cost to state)
Date-certain trigger for distribution	Yes-July 10, 1982	No	Yes--30 days after beginning of U.S. Supreme Court fall term
1982 application and payment procedure under backstop plan	All new aps-- must be returned to state within 120 days after ED of Act; state then pays ASAP	State pays immediately to eligible applicants for 1981; new aps must be returned within 120 days of Act's ED; state then pays ASAP	Same as Senate

HOUSE FINANCE COMMITTEE

May 11, 1982

3:00 p.m.

Tape HFC 82-54, Side 2, #122

PRESENT

Members of the committee in attendance: Representatives Adams, Fuller, Meekins, Chuckwuk, Cotten, Carney, Hurlbert, Bettsworth, Haugen, Cuddy and Montgomery.

ALSO PRESENT: Representative Freeman; Representative Malone; Representative Metcalfe; and Tom Williams, Commissioner, Department of Revenue.

Chairman Adams began the meeting by informing committee members that the first bill to be considered would be SB 684.

SB 684

SB 684 - "An Act relating to the investment and management of the Alaska permanent fund and to the computation of income of the fund available for distribution; and providing for an effective date."

Chairman Adams explained that there are two versions of the bill before the committee and he would entertain a motion to consider the senate version. Representative Cotten MOVED to report out of committee CS SSSB 684 (Finance) am. Representative Fuller OBJECTED FOR PURPOSE OF DISCUSSION.

(Representative Meekins left at this time.)

REPRESENTATIVE FREEMAN began by asking the committee to consider amending page 6 of the bill deleting numbers 17, 18 and 19 dealing with common stock, foreign investment and real estate. Representative Freeman explained that when the legislation was first considered to establish an investment and management plan for the permanent fund, there was much disagreement with regard to an investment policy. On the Senate side, there was the "soft-line approach" that it could be invested in almost anything. The House position was more conservative with protection of the principal being foremost and investment of the earnings secondary. A total of 16 methods were considered of which one was to invest in home mortgages.

Representative Freeman explained that the legislature established a Board of Trustees with oversight responsibilities to be assumed by the Legislative Budget and Audit Committee. The Legislative Budget and Audit committee chairman appointed a special committee

to meet that responsibility. Legislative members and the public were invited to attend meetings and make suggestions concerning permanent fund investments. Representative Freeman stated that the Chairman of the Board of Trustees, Mr. Rasmussen, suggested that methods of investment should include common stock, foreign investment and real estate. As a member of the appointed committee, Representative Freeman stated that he took exception with that policy with his objection being based on a historical perspective.

(Representative Chuckwuk left at this time.)

Representative Freeman stated that in 1979 the state had more money than ever before with additional revenue projected. The decision was to invest in common stock from the original \$900 million. He indicated that the state lost \$6 million because of that decision. Representative Freeman felt that they were not qualified to be "gambling" with that amount of money and cited the Teachers Retirement program as another example of losses incurred through investment in stock.

Representative Freeman stated that as a result of past experiences with investment in stocks; he takes exception with Mr. Rasmussen's proposed investment policy. He stated that the Board of Trustees looked at the fund as a "trust" fund which should be protected. Representative Freeman felt that it is not a standard "trust" fund as it is growing all the time. In conclusion, Representative Freeman stated that it would be prudent on the part of the legislature to look at what the Board intends to do with the investment of funds and suggested that the committee consider the deletion of provisions for investment in common stock, real estate and foreign investment.

Representative Hurlbert asked why real estate would not be a good investment? Representative Freeman responded that he could not make as good an argument against real estate as the others but it depends on how you view the permanent fund. He stated that he looks at it as an investment for future generations and that the legislature should have the right to determine in the future what to do with the funds. He stated that future legislatures should maintain the right to determine what type of investments are the best for them. Representative Hurlbert responded that Representative Freeman was making the same argument that they will need cash in the future; however, without adequate protection cash assets would be eroded due to inflation. Representative Freeman stated that the constitution requires that there be investments but the question is what type of investments and who will the state be competing against.

With regard to the section on "transition", page 9, line 26. Chairman Adams asked Representative Freeman if he agreed with the concept. Representative Freeman responded that he did not think it was a good idea. Representative Freeman stated that when you

start accumulating that much money there are going to be all kinds of reasons as to why and how to invest that money. He felt it is important to establish a constituency to oversee the fund since individuals will need to see how they have an interest in the fund otherwise when you start "siphoning" out the fund the public will see there is nothing in it for them.

In response to a question from Representative Cuddy concerning cash distributions; Representative Freeman responded that he did not see anything wrong with giving individuals back their money and that if they can see something coming back they would be more interested in the types of investments which are made. Representative Cuddy asked which would be the better plan, cash distribution or general fund? Representative Freeman responded that he would like to see it all go back to the general fund but did not see that as happening. He stated that he did not see anything wrong with the distribution plan; however, his primary concern is protecting the principal in a conservative approach.

(Representative Cuddy and Fuller left at this time.)

Representative Cotten commented that the expanded list of type of investments which the Board would be able to make is identical to the Teacher's Retirement fund; therefore, they are not talking about anything new. Representative Freeman said that he agreed but there was one difference in that the recipients of the benefits of the Retirement fund are alive and his concern is with future generations of Alaskans.

(Chairman Adams left for a meeting. Vice-Chairman Montgomery chaired the remainder of the meeting.)

REPRESENTATIVE MALONE stated that he agreed with the importance of protecting the principal of the fund but had a differing opinion as to what is the best way to protect the principal. He stated that when the management bill was passed in 1980 establishing the Board of Trustees, it was with the idea that the Board would have the time and expertise to develop a plan to protect the trust principal and make adequate investments. Representative Malone stated that it is important to diversify the type of investments to be made and allowing for additional assets.

Representative Malone stated that in the permanent fund you can inject the amount of income you need year from year. He stated that the bill before the committee does provide adequate coverage of investments and makes provisions for covering losses if they occur. He urged the committee to keep in the ability to invest in stocks, foreign markets and real estate. He felt that you could broaden the list of investments while still protecting the principal. Representative Malone advised that they are aware there will be a higher percentage of overhead associated with the management of the fund.

(Representative Carney left at this time.)

TOM WILLIAMS, commissioner of the Department of Revenue, stated that as a member of the Board of Trustees of the Permanent Fund Corporation, he too is concerned about the preservation of the fund for future generations. He stated that one of the current problems is that the state has "all its eggs in one basket". With regard to debt and equity it is best to have a bit of both. You can improve your gains and avoid the loss of principal.

(Tape change, 82-55, Side 1, #001)

In response to Representative Freeman's comments concerning the loss of general funds and bond invested in stock, Commissioner Williams responded that the fund was short-term and short-term money should not be invested in the stock market. He explained how you can lose money on a bond.

(Representative Cuddy returned at this time.)

Commissioner Williams provided information concerning gains and losses made on the Public Employees Retirement System and Teachers Retirement System. He stated that when you diversify you improve the rate of return and spread investments. Additionally, you can re-invest a certain amount without paying taxes. Commissioner Williams felt that consideration should be given to the question of what is behind "paper money" when considering other forms of investment. He stated that "paper money" results in lost money during inflation but a stock is an ongoing business as is real estate. He felt that real estate is a good investment.

Commissioner Williams commented that during the past year and a half, the Board of Trustees has followed the current law and taken advantage of investments by consulting individuals for assistance with regard to how to make investments, types of investments, etcetera. It was his belief that the sponsor substitute best reflects the thoughts of the Board concerning how the fund should be managed and they endorse it.

Representative Hurlbert asked why the state needed to invest in foreign markets. Commissioner Williams responded that it is the object of spreading your investments. He stated that when bonds and stocks are issued overseas you can get a higher rate of return unlike the United States where reserves are set aside and not earning any money for re-investment. He stated that in comparison to a private corporation, the state is trying to make the best they can while minimizing the overall risk and not trying to make money at the expense of the public.

Representative Carney asked if the commissioner supported the transition section of the bill. Commissioner Williams stated that he did support the transition rule which is a hold-harmless.

At the present time, one-half of the distributable income from the permanent fund goes to the general fund. Under Section 9, page 8, you transfer to the permanent fund the amount necessary to off-set inflation which will reduce the amount which will go to the general fund. He stated that the transition rule is a logical extension of the re-investment concept.

Representative Bettisworth asked what the relationship of the Department of Revenue is with regard to the fund. Commissioner Williams responded that it executes the management policy that the trustees dictate serving as an agent for the corporation. Representative Bettisworth asked if the Board could contract back with the Department to do what it is currently doing. Commissioner Williams did not feel that they would since it is not the intention of the Board to maintain a relationship with Revenue unless it makes economic sense. There was discussion concerning the fiscal note and method of selecting financial investors.

REPRESENTATIVE METCALFE expressed disappointment that the committee was not considering the House State Affairs committee substitute and stated that he was not prepared to testify on the senate version of the bill. He stated that the House State Affairs committee did a great deal of work on the permanent fund seeking to come up with more suitable investments. He stated that the house bill included venture capital which produces the greatest amount of returns and provides for investment in Alaska.

RECESS

Vice-Chairman Montgomery called a recess at 4:20 p.m. The meeting reconvened at 4:24 p.m.

Vice-chairman Montgomery informed the committee that they would meet at 8:30 a.m. on Wednesday, May 12 to conclude discussion on SB 684. The committee would also consider SB 842 and SB 612 at that time.

ADJOURNMENT

The meeting adjourned at 4:25 p.m.

Tape HFC 82-54, Side 2, #122 to end
82-55, Side 1, #001 to #643

HOUSE FINANCE COMMITTEE

May 12, 1982

8:32 a.m.

(Tape HFC 82-55, side 1 #543.)

PRESENT

Representatives Adams, Fuller, Montgomery, Haugen, Bettisworth and Cotten were in attendance. Representative Carney arrived later in the meeting. ALSO PRESENT: Representative Metcalfe; and Commissioner Tom Williams, Department of Revenue.

SB 612

Chairman Adams called the meeting to order and brought SB 612 up for consideration.

SB 612 -- "An Act relating to increasing the amount of corporate income tax revenue that may be shared with municipalities."

Chairman Adams gave a brief explanation of the bill.

Representative Cotten said his understanding was that this bill means absolutely nothing except the Legislature could appropriate more than 10% if they wanted to. Chairman Adams said that is the way he interprets the bill. He said whatever the Legislature appropriates is the level that municipal assistance will be given out at.

COMMISSIONER TOM WILLIAMS, Department of Revenue, agreed with Representatives Cotten and Adams. He said the 30% figure is a benchmark. He said even if the legislation said "shall", one legislature cannot bind another legislature.

Representative Cotten asked what the purpose of the legislation was. Commissioner Williams said he thinks the purpose is to provide a benchmark for the Legislature.

There was brief discussion.

Chairman Adams MOVED to amend SB 612 on page 1, line 13 to replace "30" with "15". There being NO OBJECTION, it was so ordered.

Representative Fuller MOVED AND ASKED UNANIMOUS CONSENT to report out SB 612 with the amendment and the zero fiscal note. There being NO OBJECTION, it was so ordered. SB 612 am H was reported out with a "do pass" recommendation.