

**ALASKA STATE LEGISLATURE  
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES  
STANDING COMMITTEE**

March 15, 2001  
3:05 p.m.

**MEMBERS PRESENT**

Representative Fred Dyson, Chair  
Representative Peggy Wilson, Vice Chair  
Representative John Coghill  
Representative Vic Kohring  
Representative Sharon Cissna  
Representative Reggie Joule

**MEMBERS ABSENT**

Representative Gary Stevens

**COMMITTEE CALENDAR**

HOUSE BILL NO. 114  
"An Act relating to abuse of inhalants."

- MOVED CSHB 114(HES) OUT OF COMMITTEE

HOUSE BILL NO. 54  
"An Act relating to reimbursement of student loans; and providing for an effective date."

- MOVED CSHB 54(EDU) OUT OF COMMITTEE

HOUSE BILL NO. 124  
"An Act prohibiting nursing facilities and assisted living homes from employing or allowing access by persons with certain criminal backgrounds, with exceptions."

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: HB 114  
SHORT TITLE: INHALANT ABUSE  
SPONSOR(S): REPRESENTATIVE(S) KAPSNER

Jrn-Date	Jrn-Page		Action
02/07/01	0263	(H)	READ THE FIRST TIME -

			REFERRALS
02/07/01	0263	(H)	HES, JUD, FIN
02/21/01	0392	(H)	COSPONSOR(S): STEVENS
02/27/01		(H)	HES AT 3:00 PM CAPITOL 106
02/27/01		(H)	Heard & Held
02/27/01		(H)	MINUTE(HES)
02/28/01	0473	(H)	COSPONSOR(S): MURKOWSKI
03/01/01		(H)	HES AT 3:00 PM CAPITOL 106
03/01/01		(H)	Heard & Held
03/01/01		(H)	MINUTE(HES)
03/07/01	0501	(H)	COSPONSOR(S): FATE, DYSON
03/09/01	0529	(H)	COSPONSOR(S): CISSNA, JOULE, MEYER
03/15/01		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 54

SHORT TITLE: STUDENT LOAN FORGIVENESS

SPONSOR(S): REPRESENTATIVE(S) DAVIES

Jrn-Date	Jrn-Page		Action
01/10/01	0055	(H)	READ THE FIRST TIME - REFERRALS
01/10/01	0055	(H)	EDU, HES, FIN
01/12/01	0074	(H)	COSPONSOR(S): KERTTULA
01/17/01		(H)	EDU AT 9:00 AM HOUSE FINANCE 519
01/17/01		(H)	MINUTE(EDU)
01/31/01		(H)	EDU AT 8:00 AM CAPITOL 106
01/31/01		(H)	Heard & Held
01/31/01		(H)	MINUTE(EDU)
02/07/01		(H)	EDU AT 8:00 AM CAPITOL 106
02/07/01		(H)	Scheduled But Not Heard
02/14/01		(H)	EDU AT 8:00 AM CAPITOL 106
02/14/01		(H)	Moved CSHB 54(EDU) Out of Committee
02/14/01		(H)	MINUTE(EDU)
02/16/01	0342	(H)	EDU RPT CS(EDU) NT 2DP 1DNP 4NR
02/16/01	0342	(H)	DP: JOULE, GUESS; DNP: WILSON;
02/16/01	0342	(H)	NR: PORTER, GREEN, STEVENS, BUNDE
02/16/01	0342	(H)	FN1: (EED)
03/15/01		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 124

SHORT TITLE: NURS.HOME/ASSISTED LIV. EMPLOYEES/VISITOR

SPONSOR(S): REPRESENTATIVE(S)HALCRO

Jrn-Date	Jrn-Page		Action
02/09/01	0282	(H)	READ THE FIRST TIME - REFERRALS
02/09/01	0282	(H)	HES, JUD
02/09/01	0282	(H)	REFERRED TO HES
03/07/01	0501	(H)	COSPONSOR(S): DYSON
03/15/01		(H)	HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

REPRESENTATIVE MARY KAPSNER

Alaska State Legislature  
Capitol Building, Room 424  
Juneau, Alaska 99801

POSITION STATEMENT: Sponsor of HB 114.

ROBERT BUTTCANE, Legislative Administrative Liaison  
Division of Juvenile Justice  
Department of Health & Social Services  
PO Box 110635  
Juneau, Alaska 99811

POSITION STATEMENT: Answered questions on HB 114.

THERESA TANOURY, Director  
Division of Family & youth Services  
Department of Health & Social Services  
PO Box 110630  
Juneau Alaska 99811

POSITION STATEMENT: Testified on HB 114.

BLAIR McCUNE, Deputy Director  
Public Defender Agency  
Department of Administration  
900 West 5th Avenue  
Anchorage, Alaska 99501

POSITION STATEMENT: Testified on HB 114.

REPRESENTATIVE JOHN DAVIES

Alaska State Legislature  
Capitol Building, Room 415  
Juneau, Alaska 99801

POSITION STATEMENT: Sponsor of HB 54.

DARRELL HARGRAVES, Executive Director  
Alaska Council of School Administrators

326 4th Street  
Juneau, Alaska 99801  
POSITION STATEMENT: Testified on HB 54.

DIANE BARRANS, Executive Director  
Postsecondary Education Commission  
Department of Education and Early Development  
3030 Vintage Boulevard  
Juneau, Alaska 99801  
POSITION STATEMENT: Answered questions on HB 54.

JOSEPH HARDENBROOK, Student  
University of Alaska Fairbanks  
(No address provided)  
Fairbanks, Alaska 99701  
POSITION STATEMENT: Testified in support of HB 54.

REPRESENTATIVE ANDREW HALCRO  
Alaska State Legislature  
Capitol Building, Room 414  
Juneau, Alaska 99801  
POSITION STATEMENT: Sponsor of HB 124.

ALISON ELGEE, Deputy Commissioner  
Office of the Commissioner  
Department of Administration  
PO Box 110200  
Juneau, Alaska 99811  
POSITION STATEMENT: Answered questions on HB 124.

ELMER LINDSTROM, Special Assistant  
Office of the Commissioner  
Department of Health & Social Services  
PO Box 110601  
Juneau, Alaska 99811  
POSITION STATEMENT: Answered questions on HB 124.

GARY WARD, Licensing Coordinator/Assisted Living Homes  
Division of Senior Services  
Department of Administration  
3601 C Street  
Anchorage, Alaska 99503  
POSITION STATEMENT: Answered questions on HB 124.

AILEEN HERRING, Secretary Treasurer  
CARING  
8821 Emerald Drive

Anchorage, Alaska 99502

POSITION STATEMENT: Testified on HB 124.

MELVIN RICHARDSON, Community Care Licensing Specialist  
Mental Health & Developmental Disabilities  
Department of Health & Social Services  
701 East Tudor Road  
Anchorage, Alaska 99503

POSITION STATEMENT: Answered questions on HB 124.

SUZAN ARMSTRONG-SILVA, Long term Care Ombudsman  
Alaska Mental Health Trust Authority  
Department of Revenue  
550 West 7th Avenue  
Anchorage, Alaska 99501

POSITION STATEMENT: Testified on HB 124.

LISA CARESS-BEU, Board Member  
CARING

2420 Chinook Avenue  
Anchorage, Alaska 99516

POSITION STATEMENT: Testified on HB 124.

SHELBY LARSON, Administrator  
Health Facilities Licensing & Certification  
Division of Medical Assistance  
Department of Health & Social Services  
4730 Business Park Boulevard  
Anchorage, Alaska 99503

POSITION STATEMENT: Testified on HB 124.

RANDALL LORENZ, Staff  
to Representative Fred Dyson  
Alaska State Legislature  
Capitol Building, Room 104  
Juneau, Alaska 99801

POSITION STATEMENT: Testified on HB 124.

#### **ACTION NARRATIVE**

TAPE 01-28, SIDE A  
Number 0001

CHAIR FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:05 p.m. Members present at the call to order were Representatives Dyson,

Wilson, Coghill, Joule, and Cissna. Representative Kohring joined the meeting as it was in progress.

HB 114-INHALANT ABUSE

CHAIR DYSON announced that the committee would hear HOUSE BILL NO. 114, "An Act relating to abuse of inhalants." [The bill had been heard previously, and an amendment had been adopted.]

Number 0069

REPRESENTATIVE MARY KAPSNER, Alaska State Legislature, came forth as sponsor of HB 114. She stated that HB 114 would make inhalant abuse a violation punishable by a \$300 fine, which could be waived at the judge's discretion if the person entered into treatment. She noted that there is a treatment facility being built in Bethel, scheduled to open August 31, 2001.

Number 0119

REPRESENTATIVE KAPSNER informed members that she had two amendments to HB 114. The first broadens the title by inserting, "and relating to minors under the influence of alcohol, inhalants, or drugs". She explained that this allows peace officers to take minors into custody if they have reasonable cause to believe that [the minors] are under the influence of alcohol, inhalants, or drugs. The child would then be returned to the parent or guardian. If [the parent or guardian] is not available, then [the minor is taken] to a relative, shelter, program, or suitable facility. [The peace officer] should promptly notify the Department of Health & Social Services of those placements. She added that this permits the peace officer to take a person into custody even if he or she is intoxicated to the point of incapacitation.

REPRESENTATIVE COGHILL asked under what circumstances a person can be taken into custody by a police officer.

Number 0354

ROBERT BUTTCANE, Legislative Administrative Liaison, Division of Juvenile Justice (DJJ), Department of Health & Social Services (DHSS), came forth and responded that there are other examples where [a minor is taken into custody]. For example, in the case of a runaway youth, the child would not actually be under arrest, but the police officer could take custody and bring the child to a parent or suitable placement to ensure his or her

safety and well-being. He added that, in all probability, the alternative placement might be an emergency shelter or with a social worker. He stated that without effecting an arrest, which triggers a criminal "due process," this would still allow a peace officer to intervene in order to interrupt the inappropriate behaviors and get the kid back to the parent.

REPRESENTATIVE COGHILL asked whether this type of detainment is not available to the police officer now.

MR. BUTTCANE answered that that is correct. However, he said, good law enforcement practice is that when [someone] sees a kid who is involved in mischievous behaviors that need intervention, it is not uncommon for a police officer, at present, to be able to take the child physically to the parent. He remarked that this [bill] codifies what is good practice in the field and gives additional authority to law enforcement to actually intervene in these cases. He added that [DJJ] has tried to find a way of doing this without "criminalization" whereby the child wouldn't be taken under arrest but law enforcement would still be empowered, at the street level, to intervene when necessary to ameliorate the situation.

Number 0546

REPRESENTATIVE KAPSNER informed the committee that at a meeting with three commissioners, the commissioner of the Department of Public Safety indicated willingness to include this kind of training for village public safety officers (VPSOs) as well as troopers, but would like some direction from the legislature.

REPRESENTATIVE JOULE remarked that last week [the committee] heard about an incident [in Juneau] at a skateboard facility where the cops said that they didn't have to [intervene]. He asked if this [amendment] would get [the officers] over there to take action.

MR. BUTTCANE answered that he would hope so. He stated that this language would give [police officers] the authority to intervene and take corrective action to interrupt the inhalant abuse and then bring the kid to the parent.

Number 0660

THERESA TANOURY, Director, Division of Family & youth Services, Department of Health & Social Services, came forth and stated that [the Division of Family & Youth Services] supports [HB 114]

and sees it as a matter of child safety. She stated that situations that come to the attention of [the Division of Family & Youth Services] are evaluated with the whole family to see what types of services are available. She remarked that many times these are situations in which the family is in crisis.

Number 0707

REPRESENTATIVE JOULE made a motion to adopt Amendment 22-LS0130\C.2, Luckhaupt, 4/04/01, which read:

Page 1, line 1, following "**inhalants**":

Insert "**; and relating to minors under the influence of alcohol, inhalants, or drugs**"

Page 2, following line 3:

Insert a new bill section to read:

"\* **Sec. 2.** AS 47.10 is amended by adding a new section to read:

Page 1, line 1, following "**inhalants**":

Insert "**; and relating to minors under the influence of alcohol, inhalants, or drugs**"

Page 2, following line 3:

Insert a new bill section to read:

"\* **Sec. 2.** AS 47.10 is amended by adding a new section to read:

**Sec. 47.10.137. Intoxicated minors.** (a) A peace officer shall take into protective custody a minor who the peace officer has reasonable cause to believe is under the influence of alcohol, inhalants, or drugs if the minor is not otherwise subject to arrest or detention.

(b) A peace officer taking into protective custody a minor under (a) of this section shall

(1) return the minor to the minor's parent or guardian or, if the minor's parent or guardian is unknown or unavailable, take the child to a relative or to a shelter, program, or facility suitable for the minor;

(2) use the procedures provided in AS 47.37.170 for a person incapacitated by alcohol, inhalants, or drugs if the minor appears to be incapacitated, and the peace officer may use the procedures provided in AS 47.37.170 for an intoxicated person if the minor appears to be intoxicated; in this paragraph,

"incapacitated by alcohol, inhalants, or drugs" and "intoxicated person" have the meanings given in AS 47.37.270;

(3) deliver the minor to another suitable location and promptly notify the Department of Health and Social Services of the placement."

Renumber the following bill sections accordingly.

There being no objection, Amendment 22-LS0130\C.2, Luckhaupt, 4/04/01, was adopted.

Number 0776

REPRESENTATIVE JOULE made a motion to adopt Amendment 22-LS0130\C.3, Luckhaupt, 3/14/01, which read:

Page 5, lines 26 - 31:

Delete

"(1) "alcoholic or inhalant or drug abuser" means a person who demonstrates increased tolerance to alcohol, inhalants, or drugs, who suffers from withdrawal when alcohol, inhalants, or drugs are not available, whose habitual lack of self-control concerning the use of alcohol, inhalants, or drugs causes significant hazard to the person's health, and who continues to use alcohol, inhalants, or drugs despite the adverse consequences;"

Insert

"(1) "alcoholic or inhalant or drug abuser" means a person who (A) demonstrates increased tolerance to alcohol, inhalants, or drugs, who suffers from withdrawal when alcohol, inhalants, or drugs are not available, whose habitual lack of self-control concerning the use of alcohol, inhalants, or drugs causes significant hazard to the person's health, and who continues to use alcohol, inhalants, or drugs despite the adverse consequences; or

(B) uses inhalants on a more than occasional basis, whose use of inhalants has caused significant adverse consequences to the person's health or whose use of inhalants is likely to cause a significant

hazard to the person's life or health, and whose use of inhalants impairs the person's judgment to such a degree that the person continues to use inhalants despite the adverse consequences or hazards;"

There being no objection, Amendment 22-LS0130\C.3, Luckhaupt, 3/14/01, was adopted.

Number 0818

BLAIR McCUNE, Deputy Director, Public Defender Agency, Department of Administration, testified via teleconference. He stated that the [Public Defender Agency] appreciates the change in the bill, which no longer makes [inhalant abuse] a misdemeanor. He remarked that he is familiar with the runaway youth statute in Title 47, but he is not clear on other circumstances for a child to be picked up by the police officer.

CHAIR DYSON explained that a peace officer can take a minor into protective custody if the peace officer has reasonable cause to believe that he or she is under the influence of alcohol, inhalants, or drugs.

MR. McCUNE replied that he thinks that is a good idea. He added that he believes the other alternative is an arrest if it involves minors consuming alcohol.

Number 0960

REPRESENTATIVE COGHILL made a motion to move HB 114 as amended from committee with individual recommendations and zero fiscal notes. There being no objection, CSHB 114(HES) moved from the House Health, Education and Social Services Standing Committee.

HB 54-STUDENT LOAN FORGIVENESS

CHAIR DYSON announced that the committee would hear HOUSE BILL NO. 54, "An Act relating to reimbursement of student loans; and providing for an effective date." [Before the committee was CSHB 54(EDU).]

Number 1011

REPRESENTATIVE JOHN DAVIES, Alaska State Legislature, came forth as sponsor of HB 54. He stated that HB 54 is an attempt to encourage students who have taken advantage of the student loan

program by either remaining in the state or returning to the state to work. He said, "The broader goal is to look at what seems to be a brain drain that we have in our state, and a situation where our student loan program unintentionally encourages that situation to continue." This bill originally started off as a forgiveness approach; however, in looking at the fiscal note attached to that, he began to rethink the idea. He remarked that it seemed possible to restructure the fiscal impact and still have a substantial amount of the beneficial aspects of the bill.

REPRESENTATIVE DAVIES explained that [CSHB 54(EDU)] has now taken an interest rate reduction approach. After graduation, if a student either returns to the state or stays in the state and is employed, he or she would be credited between a .5 percent and a 1 percent interest rate reduction on his or her loan. He clarified that this would be in effect as long as the student stayed in the state.

Number 1210

CHAIR DYSON asked Representative Davies whether it is not that it will cost the state any money but that the state will make a little less off the loans.

REPRESENTATIVE DAVIES replied that it could be looked at in a variety of ways. He stated that the Student Loan Corporation has done a good job of managing the program with twin objectives. One is to put the loan program on a more sound fiscal structure so that it is like a bank. There would be more screening of the student loans in the first place to make the expectation clear that the loans are to be paid off on time. He stated that this has resulted in a significant reduction in the default rates. At the same time, by managing the portfolio wisely, [the Student Loan Corporation] has been able to bring down the interest rate a little. He remarked that one thing that he is trying to do is to have [the Student Loan Corporation] bring down the interest rate a little more rapidly for those who stay in the state. He explained that this does cost money and the lower rates have to be subsidized in some way. The bottom line for that to happen is that under the current fiscal year the Student Loan Corporation is expected to pay a dividend to the state in the amount of about \$4 million.

REPRESENTATIVE DAVIES expressed that his fundamental concern is that the children stay here. One of the advantages of that is

that families tend to stay closer together; if this happens; there are all sorts of benefits - socially and fiscally.

Number 1362

REPRESENTATIVE COGHILL referred to Section 3 concerning the interest rate being determined by the [Postsecondary Education] Commission and asked if Representative Davies has anticipated any kind of a scale on the rate reduction.

REPRESENTATIVE DAVIES replied that he asked that the calculation to be done based on either a .5 percent or a 1 percent [reduction]. He explained that if the typical loan were 8 percent, the reduction of 1 percent would make it a 7 percent loan.

REPRESENTATIVE COGHILL asked if this is given the discretion based on bonds.

REPRESENTATIVE DAVIES answered that there wouldn't be any differential amount. He said that he doesn't want to ask the Student Loan Corporation to do something that is fiscally difficult to accomplish.

CHAIR DYSON informed Representative Davies that the committee is trying to get all of the loan-forgiveness-incentive bills together at one time in [the House Finance Committee].

REPRESENTATIVE DAVIES remarked that the other two [loan forgiveness bills] are focused on forgiveness [for loans for teachers] and that [HB 54] is the only one that applies to all the student loan programs.

Number 1520

DARRELL HARGRAVES, Executive Director, Alaska Council of School Administrators, came forth to testify on HB 54. He stated that when the oil revenues first were a big item in this state, many people thought that the highest and best use of some of that oil revenue was to educate the population. He remarked that HB 54 will be an encouragement and inducement to get some of that population that's leaving back into the state. He stated that it is his opinion that that is a much bigger problem than what he is hearing discussed. Half a dozen college students that he knows are suffering severe anxiety about whether they can come back to Alaska and get the kind of jobs that they are seeing "out there." Nationwide, legislators and governors, according

to material that he has read, are in a rush to try to encourage people to come into their school districts to be teachers and administrators and are offering "exotic" rewards.

MR. HARGRAVES referred to two handouts about the shortage of teachers and superintendents in Alaska and stated that perhaps the same thing could be said about other areas. For example, he mentioned that he had talked to some small contractors around the Matanuska-Susitna Valley that are asking questions such as: "Where are the kids that used to graduate who could come on site with a nail apron and a tool belt and start helping us do house framing?" He remarked: "It looks to me like we're getting short of everything but legislators." He concluded that anything the [committee] could do to look at the shortage of qualified eligible teachers and school administrators would be highly commendable.

Number 1883

DIANE BARRANS, Executive Director, Postsecondary Education Commission, Department of Education and Early Development, came forth to answer questions on HB 54. She remarked that the objectives of this legislation are consistent with those of the [Postsecondary Education Commission] and the Student Loan Corporation. She said she thinks that in addition to the incentives for returning or remaining and working in Alaska is the incentive to complete the credential for which the loan was borrowed.

REPRESENTATIVE COGHILL asked how this is going to affect the shift from year to year concerning when a loan is given with an expected contract.

MS. BARRANS answered that it really won't. She explained that the way the bill is structured this would not necessarily be written into the contract with the borrowers. In the new program [the Postsecondary Education Commission] would receive the fund, from either the general fund or potentially a portion of the dividend that would be returned to the corporation and would pay the cost of this reduction. As funds are made available to the corporation, [the Postsecondary Education Commission] would make that reduction available to the qualifying pool of borrowers.

REPRESENTATIVE COGHILL asked, given the amount of students who may take advantage of this, whether there could be a case in

which [the Postsecondary Education Commission] might not be able to fulfill this obligation.

MS. BARRANS replied that there really isn't, with the way the bill is constructed. She remarked that Representative Davies was concerned about not putting the [Student Loan] Corporation at risk of having a reduction in rating or any other problem in impairing the ability to issue new bonds. She stated that if there was no funding available, the benefit would not be paid to borrowers.

Number 1800

CHAIR DYSON asked whether the student loan is not subsidized by general fund dollars.

MS. BARRANS said that is correct.

CHAIR DYSON asked whether the student loan just makes a dividend or contribution to the general fund based on some formula.

MS. BARRANS said that is correct as well.

Number 1827

JOSEPH HARDENBROOK, Student, University of Alaska Fairbanks, came forth to testify in support of HB 54. He stated that in 1998 George Washington University awarded an honorary degree to Bill Cosby, who spoke at the commencement exercises, offering the following ending remarks: "Congratulations. Now get out there and pay back your student loans." Mr. Hardenbrook said the student part of the audience was very quiet, while the parents were laughing and applauding. He stated:

You talked about the sticker shock that you experienced the first time you saw HB 54 ... There's quite a few students who experience similar sticker shock when they get their degree and then receive their little planning book from Sally Mae telling them exactly how much they're going to owe every month for the next 20 or so years.

MR. HARDENBROOK remarked that he knows students who are graduating \$30,000 in debt. He shared that two students, one who is graduating \$20,000 in debt and one who is graduating \$30,000 in debt, got married and greeted the world as "Mr. and Mrs. Peterson, with \$50,000 in debt hanging over their heads."

He said this bill is not going to solve all of those "sticker shocks," but it is a step in the right direction, it will help Alaska students to "stick around", and it will help a little bit with financial planning and making life career choices.

Number 2009

CHAIR DYSON asked if there is a way for the committee to tinker with the fiscal note to make it clearer.

REPRESENTATIVE DAVIES responded that there are a number of different ways to think about how the bill works. He stated that he did change the mechanism of the bill after the request of the Student Loan Corporation to avoid a situation that would impact the bond rating. He explained that that's why the amount of the subsidy is going to be paid out of the general fund. He remarked that if the [Student] Loan Corporation sends \$4 million to the general fund and [the state] sends \$1 million back, then it's the equivalent of the [Student Loan] Corporation sending \$3 million. He stated that he thinks, for reasons relating to the bond ratings, it is better to be structured this way.

CHAIR DYSON asked if it would be clearer if the Fund Source [of the fiscal note] was on the 1005 line with a minus, showing less program receipts.

REPRESENTATIVE DAVIES explained that the reason why it wasn't done that way was to make clear to the bondholders that the funds are going to be there. He stated that the full expectation is that the Student Loan Corporation dividend will be larger than the GF (general fund) subsidy required; therefore, in net it would work the way [Chair Dyson] is thinking.

REPRESENTATIVE COGHILL asked if there was any discussion about retroactivity.

REPRESENTATIVE DAVIES answered yes, but that this bill is not retroactive.

Number 2090

REPRESENTATIVE WILSON made a motion to move [CSHB 54(EDU)] from committee with individual recommendations and attached fiscal notes. There being no objection, CSHB 54(EDU) moved from the House Health, Education and Social Services Standing Committee.

HB 124-NURS.HOME/ASSISTED LIV. EMPLOYEES/VISITOR

[Contains discussion of HB 107, which was combined with HB 124]

CHAIR DYSON announced that the committee would hear HOUSE BILL NO. 124, "An Act prohibiting nursing facilities and assisted living homes from employing or allowing access by persons with certain criminal backgrounds, with exceptions."

Number 2150

REPRESENTATIVE ANDREW HALCRO, Alaska State Legislature, came forth as sponsor of HB 124. He indicated HB 124 has been combined with HB [107], a similar bill that protects seniors and vulnerable adults. He remarked that the number of seniors and vulnerable adults living in assisted living facilities is growing in Alaska and is projected to double by the year 2015. He said currently the Division of Senior Services has 123 homes and almost 1,400 beds, while the Division of Mental Health and Disabilities has 156 homes and 558 beds. He stressed that it is necessary to be proactive in offering ideas and ways to protect [seniors and vulnerable adults].

REPRESENTATIVE DAVIES noted that the statute outlines so-called barrier crimes to ensure the safety of residents from those who have immediate access to or reside in the home. He explained that [the bill] requires all assisted living facilities that receive public funding, regardless of the number of residents, to be licensed. It allows for emergency termination of a housing contract for a resident presenting a danger to himself or herself or to other residents in the home. It establishes immunity from liability or acts of omissions in the licensing, monitoring, and supervision of a licensed home. Finally, it provides a course of action for the state to take over the operation of a home when the home is noncompliant, thereby leaving its residents at risk. He concluded that he thinks the need for this bill is outlined in a [Legislative Budget & Audit] audit dated October 8, 1999, which states: "We have also found that the Pioneers' Home employs several sex offenders. Again, the risks to the residents, staff, and the state have not been assessed."

Number 2295

REPRESENTATIVE JOULE made a motion to adopt the proposed committee substitute (CS), version 22-LS008\L, Lauterbach,

3/14/01, as a work draft. There being no objection, Version L was before the committee.

Number 2323

ALISON ELGEE, Deputy Commissioner, Office of the Commissioner, Department of Administration, came forth and stated that the provisions contained in the work draft are the results of a number of months of work on the part of the staff from the Department of Administration's Division of Senior Services and the Department of Health & Social Services. She remarked that the review of the entire assisted living and regulatory structure began about 18 months ago, when the assisted living law was five years old, to see what needed to be modified, amended, and improved in order to continue viability of the industry and safety for the residents. She explained that in the course of [reviewing] the regulations a number of areas where statutory modifications needed to be addressed were discovered. She noted that Representative Halcro has picked up those recommendations in his proposed CS for HB 124.

TAPE 01-28, SIDE B  
Number 2368

MS. ELGEE stated that there are a few areas with some difficulties. One is subsection (1) of Section 1, which would require [the Department of Administration] to look at whether or not the victim of a crime was a resident of an assisted living home or a nursing home at the time the crime was committed. She explained that this is not information contained in the background check but is information that the [Department of Administration] would have to acquire in an independent investigation if a criminal background check required further review. She added that this is the section that generates the cost for the Department of Administration in the fiscal note.

CHAIR DYSON asked: If any home that is in the business of taking care of vulnerable adults or seniors wanted to employ somebody, would the home not only have to do a background check but also contact all previous similar employers to see if there had been a victimization during the time that this candidate was employed?

MS. ELGEE replied that there would need to be an investigation as to who the victim of the crime was, in order to see if the victim was a resident of a nursing home or assisted living home.

Number 2314

REPRESENTATIVE WILSON asked whether this implies that a person could have [been convicted of] an offense somewhere else, as long as it wasn't against a resident of a nursing home.

MS. ELGEE answered that a variety of crimes are barriers to employment in long-term care. Those crimes, listed on page 2 [of the bill], include any unclassified felony, a class A felony, or an offense under the laws of another jurisdiction that would have met [Alaska's] standards of what is a class A felony. She added that there are subsequent crimes that are a time barrier, so that a class B felony committed within the previous ten years is an automatic barrier to employment in a long-term care facility. She explained that these would all come up in a criminal background check.

REPRESENTATIVE WILSON asked why it is necessary to know who the victim was.

MS. ELGEE responded that the legislation, as proposed, would say that any crime committed against a resident of a nursing home or an assisted living home is an automatic barrier. Otherwise, it might be a crime that is time-sensitive.

REPRESENTATIVE WILSON asked for an example of something that would not show up on a criminal check.

MS. ELGEE answered that the criminal background check would identify if somebody had committed a class C felony in the previous five years.

REPRESENTATIVE WILSON asked which [crimes the bill would be addressing].

MS. ELGEE answered that it would be any crime against an individual who was a resident of a nursing home or an assisted living home at the time the crime was committed. She explained that if a background check stated that somebody was convicted of a class C felony, but it was 15 years ago, it would not be a barrier under the proposal. The [proposed bill] states that a class C felony has to have been committed in the last five years. She explained that regardless of when it was committed, if it was committed against a resident of a nursing home or an assisted living home, it would be a barrier to employment. Therefore, [the Department of Administration] would have to research what the class C felony was.

Number 2189

REPRESENTATIVE WILSON asked why there wouldn't be a record of [the crime].

CHAIR DYSON said there would be a record, but it wouldn't state whether the victim was living in a nursing home.

REPRESENTATIVE WILSON asked whether it makes any difference, since the person would not be allowed to work anyway [if he or she had a record].

CHAIR DYSON replied that if indeed it had been 15 years, the person wouldn't automatically be disqualified. He said he understands that the provision on page 1, line 11, would make [the home] get the court records and find out where the victim was residing at the time of the offense.

REPRESENTATIVE JOULE added to Chair Dyson's remarks that if the victim was in one of these residential facilities, then the person would not be eligible for hire.

CHAIR DYSON stated that he thinks the sponsor is not only looking for the crimes, but is looking at whether the crimes follow a pattern of [victimizing] vulnerable adults, as well as going beyond the statutory year limits.

Number 2120

ELMER LINDSTROM, Special Assistant, Office of the Commissioner, Department of Health & Social Services (DHSS), stated that if a crime was committed against a person who had been residing in a nursing home or assisted living home, it would be a barrier for any offense.

REPRESENTATIVE COGHILL said sometimes restraining someone becomes an offense. He shared that he has been places where he has had to restrain people, and he has been charged with a fourth-degree offense, which stays on the record for a long time. He said there are many people with varying degrees of mental health problems, and he wonders if this is driving people "into a box" because of spurious charges.

MS. ELGEE replied that she believes an individual has to be convicted, not just charged with a crime. She explained that presently, as proposed, the language includes all class A

misdemeanors. She said [the Department of Administration] would recommend that it be class A misdemeanors as defined by regulation, because the class A misdemeanor statutes are extraordinarily broad. She noted that some examples of class A misdemeanors, from page 2, line 11, that [the Department of Administration] would not consider as barriers to employment are unlawful marrying, failure to control a fire, or issuing a bad check. She added that there are some meaningful class A misdemeanors that are proposed in regulations and that would be barriers, such as failure to register as a sex offender or misconduct involving a corpse.

Number 1922

REPRESENTATIVE CISSNA remarked that she applauds the efforts made with this legislation. Most of her adult work has been with youth, oftentimes in institutions, but as she ages, she said, she has become more sensitive to the aging population. She said there appear to be some similarities between residential caretakers of children and seniors. She remarked that she has witnessed the danger of vulnerability of the senior population and people who prey upon that. She added that there has been a case involving children who had been sexually abused by a caretaker in every institution that she has worked in. She also asked if there is any component in the bill about restraint training requirements.

MS. ELGEE responded that the regulations that are out for public comment right now cover very specific training requirements for the administrator of an assisted living home and for certified nursing assistants. She added that there are also very specific proposals in [the Department of Administration's] budget this year, funded by the Alaska Mental Health Trust Authority, to expand training for in-home care providers and for people who are part of the medical community specific to folks with dementia.

CHAIR DYSON asked who would bear the cost of the investigations under the bill.

MS. ELGEE answered that the cost of the background checks for [the Department of Administration] are done by the Division of Senior Services. The assisted living facilities, other than the Pioneers' Home, would do their own.

Number 1750

CHAIR DYSON asked why there is a zero fiscal note.

MS. ELGEE responded that the fiscal note from the Division of Senior Services reflects the extensive reviews required to find out who the victim was. She said she suspects that the people from the Pioneers' Home didn't pick up on that section and would have anticipated some cost, as well, if that were the case.

CHAIR DYSON asked who is going to bear the cost of the small assisted homes when they have to get a background check of their prospective employees.

MS. ELGEE answered that the Division of Senior Services gets the background checks, since only a state agency can obtain that information.

CHAIR DYSON asked how long [the background check] would take if a private provider advertises to get staff and turns the applications over to the Division of Senior Services.

MS. ELGEE responded that she thinks 30 days, but that there are other people who could better answer that.

CHAIR DYSON asked if she knew how many people employed presently would be covered in this category if they were applying for a job.

MS. ELGEE noted that there are approximate 600 employees at the Pioneers' Home.

Number 1665

REPRESENTATIVE WILSON stated that she doesn't understand why there is a zero fiscal note. She asked if [the Department of Administration] anticipates an increase.

MS. ELGEE replied that [the Department of Administration] currently performs background checks, and that [HB 54] just provides better definition of what a barrier crime is. She added that [the Department of Administration] is already bearing that cost.

CHAIR DYSON asked if there would be no increase.

MS. ELGEE answered that the increase would only come as there continues to be a growth in the industry.

CHAIR DYSON asked whether this bill does not increase the number of categories of employees that need to have background checks.

Number 1008

MS. ELGEE answered that there are some new categories of people contained in this legislation. Right now [the Department of Administration] does background checks on employees who are involved in the direct provision of long-term care. She explained that this legislation proposes an expansion to those individuals who have access to the residents of the home in an unsupervised capacity who could also be capable of causing harm such as a contractor of the home, a regular volunteer, and family members who live in the home.

CHAIR DYSON asked if this refers to family members of the owner of the home.

MS. ELGEE replied yes.

Number 1514

REPRESENTATIVE COGHILL said he understands that those submitting to a background check are required to submit to fingerprinting; therefore, this is not done without their knowledge.

MR. LINDSTROM responded that he believes the background check does include a fingerprint check.

REPRESENTATIVE COGHILL remarked that he just wanted to make sure that people know about all the information that is being collected about them.

Number 1454

MR. LINDSTROM noted that the work draft is really a marriage of two bills: Representative Halcro's original bill, HB 124, and HB 107, introduced by the governor. He pointed out that in combining them, an element fell between the cracks. He said that DHSS would like to see added to the nursing home section language that is parallel to what is already in the committee substitute on assisted living, specifying that the contractor and other additional people be subject to background checks. He clarified that subsections (a) and (b) would be just as in the work draft and subsection (c) on the last page would have to be tweaked a little bit. He added that he has had some questions relative to the governor's bill on the background checks

regarding whether a resident's family that is visiting would be subject to the checks. He noted that the beginning on page 4 of the work draft specifies when the section applies and tries to address other kinds of contractors who are in the home, but not on a recurring basis, as well.

MR. LINDSTROM added that DHSS did prepare a fiscal note of \$30,400 specific to the research needed on whether or not the victim of the offense was in a nursing home or an assisted living home. The governor's bill has a fiscal note of \$100,000 for additional licensing staff for the Division of Mental Health and Developmental Disabilities. He noted that one section in the bill eliminates the exemption for facilities that have fewer than three residents from licensing.

CHAIR DYSON asked whether the governor's bill extended the background checks for all homes, including those with under three [residents].

MR. LINDSTROM responded that [the governor's bill extended] the basic licensing to all homes, homes with less than three residents are not necessarily licensed.

CHAIR DYSON asked if the governor's bill brings the law into congruence with what DHSS has been doing and forces DHSS to do similarly.

MR. LINDSTROM said that is correct.

Number 1221

REPRESENTATIVE WILSON asked how much it costs for a facility to get licensed. She also asked how many times a fingerprint check would turn up [a criminal history], since a person who knew that his or her fingerprints would show [a criminal record] wouldn't bother to get his or her fingerprints taken.

MS. ELGEE said someone else would be more capable of answering those questions.

REPRESENTATIVE COGHILL offered that he has driven a van to pick people up from assisted living homes and take them to church. He asked if those administering in that area would have to have a background check.

MR. LINDSTROM answered that a regular volunteer would be subject to a background check. A qualifier is a person who is working

or providing a service in the home; therefore, he said, it would be a little ambiguous if the person was actually picking the person up at the home and going elsewhere.

Number 1019

GARY WARD, Licensing Coordinator/Assisted Living Homes, Division of Senior Services, Department of Administration, testified via teleconference. He clarified that the background check is a requirement of employment and the process begins when someone approaches the home as an applicant. Prior to being hired [the applicant] must submit to the administrator of the home a sworn statement attesting to whether or not he or she has been convicted of a crime as well as an interested-party name check. He explained that the person would have to go to the local police department, show a picture ID (identification) and obtain a computerized printout of any criminal history the person may have had in the state of Alaska, and bring it to the administrator.

MR. WARD remarked that in some cases an administrator of a home would not hire the person based on that criminal history. If there is no criminal history, or if there is a minor conviction from a number of years ago that the administrator doesn't feel precludes this person from being an employee or being a potential risk to the health and safety of the residents of the home, the person can be hired. Within 30 days of being hired the person must submit to the Department of Public Safety two sets of fingerprints: one set to remain with the Department of Public Safety and the other to go to the FBI (Federal Bureau of Investigation). Those results take six to eight weeks to come back from the FBI

MR. WARD continued, stating that in terms of the costs it varies. In many cases the employee [of an independent home] bears the burden. It is usually \$20 for the name check, \$25 for the fingerprints, and \$59 for the prints to be processed by the Department of Public Safety and the FBI. He stated that in some cases the home does pay for it, and in other cases the home may pay and deduct it from a subsequent paycheck of the employee. He explained that results from the FBI check go to the Division of Senior Services if there was a criminal history. They do not go to the home unless that home is acting as its own agent. He clarified that the Pioneers' Home system does its own background checks, and that information would come back to their HR (human resources) office. He added that the records go back at least 30 years.

MR. WARD stated that if the [Division of Senior Services] is concerned with a background check, it informs the home that the employee has a criminal conviction and [the Division of Senior Services] will then conduct an interview with the employee. He noted that [the Division of Senior Services] is not allowed to share the specifics of the convictions with the administrator of the home, but does have the authority to tell the administrator of the home that he or she has to dismiss the employee. He clarified that [the Division of Senior Services] looks at convictions, not charges.

Number 0712

MR. WARD explained that licensing fees generally turn out to be about \$25 per bed space for a two-year period. It would be very difficult to track whether the victim was a resident from a nursing home or an assisted living home because the results [of the background check] would just say what the person was charged with and convicted of and whether he or she was sentenced. Therefore, in order to get information on the victim, [the Division of Senior Services] would have to contact the court or local law enforcement agency of the specific jurisdiction and make a request to ascertain who the victim was. He explained that it would be very cumbersome and time-consuming to try to track the victim.

Number 0529

CHAIR DYSON asked if it was Mr. Ward's sense that this provision would catch many "bad guys" that wouldn't be caught by the other provisions.

MR. WARD replied that it is hard to predict.

CHAIR DYSON said he thinks the sponsor is after a discernible or demonstrative pattern of victimization of seniors or helpless people, but said he is wondering whether that would demonstrate a pattern if the perpetrator had taken a ten-year recess. He asked whether, if the applicant were asked to give a concurrent employment history that was verifiable and it was laid next to the criminal background check, that would help in tracking a pattern of victimizing seniors.

MR. WARD answered that [the Division of Senior Services] wouldn't know if the crime was committed in the home necessarily or outside the home. He added that [the Division of Senior

Services] could probably contact the home but that he has found that many times the employers won't talk.

Number 0268

REPRESENTATIVE CISSNA asked if a pattern of reports would show up with no convictions.

MR. WARD answered that, in his experience, he hasn't seen very many [reports] where there is a lengthy list [of convictions]. He mentioned that usually when there are that many charges, there is a pattern and somewhere along the line there is a conviction. He added that when there is a conviction [the Division of Senior Services] looks at how long ago it occurred, how many there were, the severity of the conviction, and what actions - in terms of rehabilitation - the person had to take.

CHAIR DYSON asked whether it is the practice of employers to put the applicant to work while the background check is being conducted.

MR. WARD responded yes, if there is nothing on the name check, which only supplies any criminal history within the state of Alaska. He added that it would be very difficult to get employees if they had to wait eight weeks before the fingerprints came back.

TAPE 01-29, SIDE A  
Number 0015

AILEEN HERRING, Secretary Treasurer, CARING, testified via teleconference. She stated that she has a very personal interest in HB 124, since a family member was beaten at the Pioneers' Home and died the following day. She remarked:

If you have never had to place a loved one in the care of others, then it is impossible to relate to how it feels to lose a parent to abuse and neglect, under the care of a professional caregiver. ... The loss of a parent or loved one in a long-term care facility is just not acceptable, and the inability to change the system that created the injury and the inability to protect the other residents in these facilities leads to mass frustration. The family member [who] placed the resident in the home carries a great burden of guilt forever. My father was totally dependent on his caregivers. It is unacceptable to employ caregivers

or continue to employ caregivers that have a history of abusive or criminal behavior that place[s] the residents at risk.

CHAIR DYSON asked if a background check would have caught the perpetrator who killed her father.

MS. HERRING answered that she didn't know. She said several employees have had multiple cases brought against them for abuse, and there seems to be something really wrong with the system.

CHAIR DYSON asked if the perpetrator in her father's case had a prior record.

MS. HERRING said that hasn't been established. She added:

The legislative audit done October 8, 1999, states that the Pioneers' Home employs several sex offenders ... and, "Again, the risks to the residents, staff, and the state have not been assessed." And then it says, "The commissioners of the Departments of Administration and Health & Social Services should adopt regulations to prohibit employment of certain criminals in assisted living homes."

Number 0254

CHAIR DYSON called for an at-ease at 4:44 p.m. The meeting was called back to order at 4:45 p.m.

Number 0363

MELVIN RICHARDSON, Community Care Licensing Specialist, Mental Health & Developmental Disabilities, Department of Health & Social Services, testified via teleconference. He said there is an extremely high turnover rate - between 50 and 60 percent - of [care providers] who have to have fingerprinting done each year. The average number [of care providers] each year that are fingerprinted is between 500 and 600.

Number 0444

SUZAN ARMSTRONG-SILVA, Long-term Care Ombudsman, Alaska Mental Health Trust Authority, Department of Revenue, testified via teleconference. She stated that, with one exception, all the offenses listed as barriers in the proposed statute would

greatly enhance residents' safety and welfare. She emphasized that persons who have victimized residents in the past must be prohibited from ever working in long-term care, regardless of whether the crime was a felony or a misdemeanor. She remarked that the Long-Term Care Ombudsman's office would not like to see a five-year ban on class A misdemeanors, but prefers to have exceptions through regulations that the Department of Administration has already outlined.

MS. ARMSTRONG-SILVA stated that assisted living home operators would not be required to provide 30 days' notice when terminating a resident's contract against his or her will, on an emergency basis, under the new section of the bill. She explained that the proposed language [on page 8, line 10, of the work draft] states that that the provision of written notice shall be provided within 72 hours but not less than 24 hours for termination of a resident. She remarked that she believes this language should be amended to read: "Written notice shall be provided not less than 72 hours before termination of the resident." She expressed that 72 hours is a more realistic timeframe than allowing a scant 24 hours to find alternative placement for a resident.

MS. ARMSTRONG-SILVA concluded that this section [page 8, line 10] does not contain any language about the appropriateness of the termination and has no vehicle by which the resident or anyone else may contest this type of termination. She remarked that she believes this kind of language should be written into the new section and that all existing sections to the law should address termination and be strengthened to allow for an emergency appeal process for residents.

Number 0767

LISA CARESS-BEU, Board Member, CARING, testified via teleconference. She shared that her mother was the resident of Anchorage Pioneer's Home for five years and is well acquainted with the vulnerability of long-term care residents. She remarked that she is deeply concerned with Section 9, regarding involuntary termination of residents' contracts and how it will affect resident rights. She asked if this would provide assisted living homes an easier way to discharge residents that are difficult - residents with dementia through no fault of their own who sometimes exhibit very difficult behaviors. She added that there are often shortages of available, appropriate housing for seniors suffering from dementia, and this would put residents at risk of not finding competent care.

Number 0865

SHELBY LARSON, Administrator, Health Facilities Licensing & Certification, Division of Medical Assistance, Department of Health & Social Services, testified via teleconference. He stated that [the Division of Medical Assistance] supports this legislation and recommends changes protecting the welfare of vulnerable adults.

RANDALL LORENZ, Staff to Representative Fred Dyson, Alaska State Legislature, came forth and stated that five years ago he was shocked to hear that Rio Linda High School [in California] was in the news as the result of a child being murdered. He explained that [the school] had hired an individual at the time when California allowed individuals to be employed while a background check was being done. After two weeks of employment, this [employee] took the girl into a classroom and raped and murdered her, two weeks before the background check came in. He said he knew that child very well and strongly encourages that people not be allowed to go into these settings without first completing the background check. Since [the incident in California], California now requires [the background check first].

[HB 124 was held over.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 5:00 p.m.