ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE
March 23, 2001
1:11 p.m.

MEMBERS PRESENT

Representative Norman Rokeberg, Chair
Representative Jeannette James
Representative John Coghill
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh

MEMBERS ABSENT

Representative Scott Ogan, Vice Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 172
"An Act relating to therapeutic courts for offenders and to the authorized number of superior court judges."

- MOVED CSHB 172(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 4
"An Act relating to offenses involving operating a motor vehicle, aircraft, or watercraft while under the influence of an alcoholic beverage or controlled substance; relating to implied consent to take a chemical test; relating to registration of motor vehicles; relating to presumptions arising from the amount of alcohol in a person's breath or blood; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 172
SHORT TITLE:THERAPEUTIC DRUG AND ALCOHOL COURTS
SPONSOR(S): REPRESENTATIVE(S)PORTER

Jrn-Date	Jrn-Page		Action
02/22/01		(H)	MINUTE(TRA)
02/27/01		(H)	MINUTE(TRA)
02/28/01		(H)	MINUTE(JUD)

03/09/01	0521	(H)	READ THE FIRST TIME - REFERRALS
03/09/01	0521	(H)	JUD, FIN
03/21/01		(H)	JUD AT 1:00 PM CAPITOL 120
03/21/01		(H)	Heard & Held MINUTE(JUD)
03/23/01		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 4
SHORT TITLE:OMNIBUS DRUNK DRIVING AMENDMENTS
SPONSOR(S): REPRESENTATIVE(S)ROKEBERG

Jrn-Date	Jrn-Page		Action
01/08/01	0024	(H)	PREFILE RELEASED 12/29/00
01/08/01	0024	(H)	READ THE FIRST TIME - REFERRALS
01/08/01	0024	(H)	TRA, JUD, FIN
02/22/01		(H)	TRA AT 1:00 PM CAPITOL 17
02/22/01		(H)	Heard & Held
02/22/01		(H)	MINUTE(TRA)
02/27/01		(H)	TRA AT 1:00 PM CAPITOL 17
02/27/01		(H)	Moved CSHB 4(TRA) Out of Committee MINUTE(TRA)
02/28/01		(H)	JUD AT 1:00 PM CAPITOL 120
02/28/01		(H)	Heard & Held MINUTE(JUD)
02/28/01	0470	(H)	TRA RPT CS(TRA) NT 1DNP 2NR 2AM
02/28/01	0471	(H)	DNP: SCALZI, NR: KAPSNER, KOOKESH;
02/28/01	0471	(H)	AM: MASEK, KOHRING
02/28/01	0471	(H)	FN1: (ADM); FN2: (ADM)
02/28/01	0471	(H)	FN3: (COR); FN4: (CRT)
02/28/01	0471	(H)	FN5: (HSS); FN6: (HSS)
02/28/01	0472	(H)	FN7: (HSS); FN8: (HSS)
02/28/01	0472	(H)	FN9: (LAW); FN10: (DPS)
02/28/01	0472	(H)	REFERRED TO JUDICIARY
03/09/01		(H)	JUD AT 1:00 PM CAPITOL 120
03/09/01		(H)	Heard & Held
03/09/01		(H)	MINUTE(JUD)
03/12/01		(H)	JUD AT 2:30 PM CAPITOL 120
03/12/01		(H)	Heard & Held
03/12/01		(H)	MINUTE(JUD)
03/14/01		(H)	JUD AT 2:15 PM CAPITOL 120
03/14/01		(H)	Scheduled But Not Heard
03/16/01		(H)	JUD AT 1:00 PM CAPITOL 120

03/16/01	(H)	Heard & Held
		MINUTE(JUD)
03/19/01	(H)	JUD AT 1:00 PM CAPITOL 120
03/19/01	(H)	Heard & Held
03/19/01	(H)	MINUTE(JUD)
03/23/01	(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE BRIAN PORTER
Alaska State Legislature
Capitol Building, Room 208
Juneau, Alaska 99801
POSITION STATEMENT: Sponsor of HB 172.

DEAN J. GUANELI, Chief Assistant Attorney General
Legal Services Section-Juneau
Criminal Division
Department of Law
PO Box 110300
Juneau, Alaska 99811-0300
POSITION STATEMENT: Answered questions regarding proposed Amendment 6 for HB 172.

JANET SEITZ, Staff
to Representative Norman Rokeberg
Alaska State Legislature
Capitol Building, Room 118
Juneau, Alaska 99801
POSITION STATEMENT: During discussion of HB 4, gave a presentation of the provisions affecting the Division of Motor Vehicles and answered questions.

MARY MARSHBURN, Director
Division of Motor Vehicles (DMV)
Department of Administration
3300B Fairbanks Street
Anchorage, Alaska 99503
POSITION STATEMENT: During discussion of HB 4, presented the DMV's concerns and answered questions.

ALVIA "STEVE" DUNNAGAN, Lieutenant
Division of Alaska State Troopers
Department of Public Safety (DPS)
5700 East Tudor Road
Anchorage, Alaska 99507

POSITION STATEMENT: During discussion of the provisions in HB 4 affecting the DMV, presented the DPS's position and answered questions.

BLAIR McCUNE, Deputy Director
Central Office
Public Defender Agency (PDA)
Department of Administration
900 West 5th Avenue, Suite 200
Anchorage, Alaska 99501-2090
POSITION STATEMENT: During discussion of HB 4, presented the PDA's concerns on license revocation and vehicle forfeiture, and answered questions.

ACTION NARRATIVE

TAPE 01-39, SIDE A
Number 0001

CHAIR NORMAN ROKEBERG called the House Judiciary Standing Committee meeting to order at 1:11 p.m. Representatives Rokeberg, Coghill, Meyer, and Berkowitz were present at the call to order. Representatives James and Kookesh arrived as the meeting was in progress.

HB 172 - THERAPEUTIC DRUG AND ALCOHOL COURTS

Number 0076

CHAIR ROKEBERG announced that the first order of business would be HOUSE BILL NO. 172, "An Act relating to therapeutic courts for offenders and to the authorized number of superior court judges."

Number 0111

REPRESENTATIVE COGHILL made a motion to adopt Amendment 1, [22-LS0612\J.5, Luckhaupt, 3/21/01], which reads as follows:

Page 2, line 1:
Delete "Second"
Insert "Third"

Number 0126

CHAIR ROKEBERG objected for the purpose of discussion.

Number 0134

REPRESENTATIVE BRIAN PORTER, Alaska State Legislature, sponsor, explained that Amendment 1 addressed a typographical error in HB 172; Anchorage is located in the third judicial district, not the second judicial district.

Number 0140

CHAIR ROKEBERG removed his objection and noted there were no further objections. Therefore, Amendment 1 was adopted.

Number 0152

REPRESENTATIVE COGHILL made a motion to adopt Amendment 2, [22-LS0612\J.4, Luckhaupt, 3/21/01], which reads as follows:

> Page 1, following line 11:
> Insert "will focus on defendants charged with multiple driving while intoxicated offenses and"

There being no objection, Amendment 2 was adopted.

Number 0172

CHAIR ROKEBERG made a motion to adopt Amendment 3, [22-LS0612\J.1, Luckhaupt, 3/20/01], which reads as follows:

> Page 2, line 1, following "Anchorage.":
> Insert "In addition, the legislature recognizes that district courts are currently experimenting with and using therapeutic concepts such as those contained in this Act. The legislature acknowledges these efforts, encourages their continuation in the district courts, and does not intend by this Act the extinguishment of these efforts."

REPRESENTATIVE COGHILL objected for the purpose of discussion.

Number 0203

CHAIR ROKEBERG explained that Amendment 3 recognizes the existing district-level therapeutic courts, and encourages the continuation of these courts and any future district-level therapeutic courts. He noted that this was a policy statement and would become part of uncodified law.

Number 0300

REPRESENTATIVE PORTER, as the sponsor, said he did not object to Amendment 3.

Number 0307

CHAIR ROKEBERG noted there were no further objections. Therefore, Amendment 3 was adopted.

Number 0318

REPRESENTATIVE COGHILL made a motion to adopt Amendment 4, [22-LS0612\J.3, Luckhaupt, 3/21/01], which reads as follows:

> Page 4, following line 30:
> Insert a new subsection to read:
> "(n) The Department of Health and Social Services is authorized to make advances to a defendant accepted to the therapeutic court to cover the initial costs of participating in the treatment programs if the defendant is otherwise without resources to pay those costs. The court shall require as a condition of probation that the defendant repay the department."
>
> Reletter the following subsection accordingly.

Number 0339

CHAIR ROKEBERG objected for the purpose of discussion. He explained that Amendment 4 creates a "grubstake" provision for defendants who do not have funds to cover initial program fees and Naltrexone prescriptions, and would allow for quicker entry into programs.

Number 0388

CHAIR ROKEBERG noted there were no further objections. Therefore, Amendment 4 was adopted.

Number 0400

REPRESENTATIVE COGHILL made a motion to adopt Amendment 5, which reads as follows [original punctuation provided]:

> Page 2, following line 18:
> Insert a new subsection to read:

(c) Nothing in this Act is intended to place additional requirements or changes to other existing specialized or general state courts.

Reletter the following subsections accordingly.

Page 3, line 19:
Delete "or municipal prosecutor"

Page 3, line 30:
Delete "or municipal prosecutor"

Page 4, lines 14-15:
Delete "or municipal prosecutor"

Page 4, line 26:
Delete "(k) of this section"
Insert "(l) of this section"

CHAIR ROKEBERG requested an explanation of Amendment 5.

Number 0418

REPRESENTATIVE PORTER explained that the municipal prosecutor wanted to be removed from HB 172 because the district court already has a functioning system in place for the district court misdemeanors that it handles, and HB 172 has different timeline requirements that would be inconvenient to follow. Representative Porter noted that he had no objection to Amendment 5.

Number 0452

REPRESENTATIVE BERKOWITZ inquired if Amendment 5 also removed the Anchorage municipal prosecutor from the loop in terms of participating in the formation of sentences for therapeutic courts.

Number 0504

REPRESENTATIVE PORTER responded that Amendment 5 was meant to remove any requirements in HB 172 that are specific to the therapeutic court in the superior court. It is not intended to prohibit the municipal prosecutor from participating in the district court under existing rules if he or she chooses to do so.

Number 524

CHAIR ROKEBERG noted there were no objections. Therefore, Amendment 5 was adopted.

Number 546

REPRESENTATIVE BERKOWITZ made a motion to adopt Amendment 6, [22-LS0612\J.7, Luckhaupt, 3/22/01], which reads as follows:

Page 3, line 23:
Delete "state or municipal prosecutor and the"

Page 3, lines 24 - 25:
Delete "prosecutor, the defendant, or the court if the defendant's"
Insert "defendant or the court if the"

Number 0565

REPRESENTATIVE COGHILL objected for the purpose of discussion.

REPRESENTATIVE BERKOWITZ referred to page 3, lines 23-25, and explained that Amendment 6, with regard to subsection (e), attempts to remove the prosecutor from the role of gatekeeper. He said it seems to him that it would be more appropriate to have that responsibility lie with the courts. In essence, someone could move to get into the court, and the court could then make a determination whether that action was appropriate. He predicted that most of the time the defense attorneys and prosecutors would agree with that decision, but in instances when they don't agree, the court could resolve the conflict. Without Amendment 6, too much discretion is in the hands of the prosecutor. Representative Berkowitz maintained that that discretion and responsibility should lie with the courts.

Number 0645

CHAIR ROKEBERG noted that he thought he understood the concept of Amendment 6, but wanted to know why Amendment 5 did not remove the municipal prosecutor from page 3, line 23.

REPRESENTATIVE BERKOWITZ attempted to clarify that under Amendment 6, someone who was charged under municipal statute would not have (indisc.--multiple speakers).

REPRESENTATIVE PORTER explained that the prosecutor's office is the driver of the train of prosecution by law, by history, and by tradition. It is the responsibility of [the prosecutor's office] to make these kinds of decisions, and he said he thought that leaving it as is [without Amendment 6] would be the appropriate action.

REPRESENTATIVE BERKOWITZ countered that the prosecutor's office would need to develop a protocol or policy in order to determine who would qualify for therapeutic court, so that it would not be an arbitrary assignment. And once that due-process realm is entered into, the judge might as well be the arbiter; it would cut out a step whereby motions could result, such as when a defendant said he/she was willing to enter into the [therapeutic court] but the prosecutor was not allowing it in violation of prosecutorial policy, or without good cause. He suggested that going straight to the court would result in a relatively expeditious resolution.

REPRESENTATIVE PORTER responded by saying that that particular issue has not been raised in either charge bargaining or sentence plea-bargaining, which, in effect, is what [the provisions of HB 172] come down to. He explained that in the existing therapeutic courts, there is a requirement that the prosecutor advise the defendant that participation in a therapeutic court mandates a guilty plea. He said he did not think defendants would plead guilty if participation in a therapeutic court was not the appropriate decision.

Number 0888

DEAN J. GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law, noted that although he had missed testimony from the prior meeting regarding the issues encompassed in Amendment 6, he had heard enough about it to respond to those points. He said that there were three reasons why he thought Amendment 6 was not a good idea. The first reason was given [at the prior meeting] by Judge Wanamaker, who said that in order for this type of program to work, the prosecutor must consent. Mr. Guaneli added that he himself thought that was appropriate. This program will require a lot of time and effort by all the agencies involved, and it is important for the prosecutor to have an investment in whether a defendant succeeds, which would not happen if the defendant got into the program over the objections of the prosecutor.

MR. GUANELI said the second reason was more of a practical one. Oftentimes, prosecutors know more about certain defendants and their past, or ongoing, activities than anyone else does. For example, there may be an ongoing investigation of a defendant for a child-abuse offense, or for a narcotics offense. There may be things about that defendant that [the DOL] does not want disclosed to anybody, even a judge, but which could be grounds for objecting to the defendant's participation in the program.

Number 0970

MR. GUANELI explained that the third reason was a legal one. Constitutionally, there are three branches of government, and the executive branch has a role in law enforcement as well as a role in prosecution. The type of program [encompassed in HB 172] involves agreements regarding what is going to happen to a defendant, as well as agreements regarding certain conditions that both the defendant and the state must abide by, all of which require the consent of the prosecutor. The Alaska Supreme Court has cautioned judges to refrain from unilaterally engaging in plea negotiations with defendants because that is the responsibility of the prosecutor. Judges can only accept or reject the agreement brought before them. He noted that there is Alaska case law on that point. Mr. Guaneli finalized by saying that for all of the aforementioned reasons the DOL thinks that the prosecutor should have a consenting role; that will ensure the program will work, and was also why HB 172 was drafted as it was.

Number 1056

REPRESENTATIVE BERKOWITZ responded to the suggestion that prosecutors know more than the courts by saying that if that were indeed the case, then that is why there are courts - so that the prosecutor might make the court aware of all the facts. In instances when there is an ongoing investigation, or if there might be something that would be compromised by the defendant's participation in a therapeutic court, there would also be opportunities to argue, even obliquely, or by proceeding under seal, that therapeutic court would not be the best option. He added that he thought that cases involving people who had DWIs in addition to being the subject of a major investigation would be the exception rather than the rule, and the therapeutic courts should not be built around that problem.

REPRESENTATIVE BERKOWITZ, in response to the issue of separation of powers, said that according to his understanding, this was

not a charging decision [being made under the program created by HB 172], which would appropriately be made by the executive branch. Instead, it was, in essence, a sentencing decision. Thus, he said, it was fully acceptable and appropriate that someone should not get into a therapeutic court unless he or she had made an admission of guilt. Once that admission of guilt is made, the sentencing phase is entered into, and this phase has always been the responsibility of the courts. He said he thought it should not be characterized as a plea negotiation situation; rather, it is simply a hearing to determine the appropriateness of therapeutic court for a particular defendant, and the prosecutor's office is free to argue either for or against the action. In conclusion, Representative Berkowitz offered that Amendment 6 would provide further checks and balances to the system, and would not be a diminution of the executive branch's authority to charge; it would simply be a check on that authority by both the courts and the individual defendants.

Number 1192

CHAIR ROKEBERG noted that because of both prior testimony and his own research, he was inclined to favor Amendment 6. It had become apparent to him that the position of the attorney general's office as it related to existing therapeutic-court activities was not a favorable one. On the contrary, to a certain degree, [the attorney general's office] has been obstructive. Chair Rokeberg requested that Mr. Guaneli and the attorney general give their assurance of full cooperation in the pilot program on this particular issue.

MR. GUANELI noted that he did not wish to plow over old ground regarding why the DOL was reluctant to engage in the experimental wellness court program in Anchorage. He acknowledged, however, that the Anchorage prosecutors work for his office, and therefore he was accountable for the actions of those prosecutors. He emphasized that the DOL had a role in crafting HB 172, and is slated to get funding for participating in this pilot program; the DOL would be an active participant in this program as it is set out in HB 172. In addition, he said that the DOL would like to see a decrease in the number of felony drunk drivers in Anchorage, as well as throughout the rest of state. And if this program can help towards that end, the DOL is all for it and willing to invest the time and effort needed to see the program succeed. He noted, however, that it would require the DOL's unconditional involvement, which means fulfilling the role of gatekeeper to ensure that the most

appropriate people enter into the program. There are not enough openings in the pilot program to fit in everyone who gets charged with felony drunk driving, and decisions will have to be made regarding who gets into the program, he concluded.

REPRESENTATIVE BERKOWITZ, in defense of Amendment 6, reiterated that this is not a charging decision; the defendant should have due process in order to get into the program. Prosecutors are not infallible, and to make the prosecutor the sole gatekeeper without the backstop of the courts, he said he thinks is not what people have in mind when thinking about checks and balances.

Number 1375

CHAIR ROKEBERG noted that the objection to Amendment 6 was maintained.

A roll call vote was taken. Representatives Berkowitz, Kookesh, and Rokeberg voted for Amendment 6. Representatives Coghill, Meyer, and James voted against it. Therefore, Amendment 6 failed by a vote of 3-3.

Number 1395

REPRESENTATIVE BERKOWITZ moved to report HB 172, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

CHAIR ROKEBERG objected for the purpose of attaching an additional fiscal note from the committee, which would provide $85,000 to the existing therapeutic courts so that they could continue operations in the coming fiscal year.

Number 1449

REPRESENTATIVE BERKOWITZ modified his motion to encompass the addition of the committee fiscal note to HB 172. There being no further objection, CSHB 172(JUD) was reported from the House Judiciary Standing Committee.

HB 4 - OMNIBUS DRUNK DRIVING AMENDMENTS

Number 1457

CHAIR ROKEBERG announced that the next order of business would be HOUSE BILL NO. 4, "An Act relating to offenses involving

operating a motor vehicle, aircraft, or watercraft while under the influence of an alcoholic beverage or controlled substance; relating to implied consent to take a chemical test; relating to registration of motor vehicles; relating to presumptions arising from the amount of alcohol in a person's breath or blood; and providing for an effective date." [Before the committee was CSHB 4(TRA).]

CHAIR ROKEBERG called an at-ease from 1:36 p.m. to 1:37 p.m.

Number 1513

JANET SEITZ, Staff to Representative Norman Rokeberg, Alaska State Legislature, explained that some of the provisions in CSHB 4(TRA) that will impact the Division of Motor Vehicles (DMV) include: refusing to register a vehicle if the owner has a license suspension/revocation - meaning that person does not have a valid driver's license and/or that person's license or privilege to obtain a license has been suspended or revoked; changing some timelines regarding court notification; changing the license revocation process; raising the fees for reinstatement of driver's licenses; addition of an "enabler" section that will strengthen statutes prohibiting a person from letting a drunk driver use that person's vehicle; adding the penalty of vehicle registration revocation for certain DWI (driving while intoxicated) offenses; addition of a provision allowing the DMV to review, upon request, permanently revoked driver's licenses; addition of provisions placing the onus of surrendering registration plates on the offender after conviction; and establishment of an Alaska Repeat Offender Status System (AROSS) that shall be made available to the public. She added that the DMV has expressed some concerns about some of these proposed changes to the DWI statutes, and that amendments addressing some of those concerns will be forthcoming. Ms. Seitz noted that in CSHB 4(TRA), vehicle impoundment and vehicle forfeiture are mandated on both second and third offenses. [She later clarified that the language mandates vehicle forfeiture on the third offense and allows it on the second.]

Number 1753

MARY MARSHBURN, Director, Division of Motor Vehicles (DMV), Department of Administration, testified via teleconference. She referred to Section 6, and said that this provision, which has the largest impact on the DMV, will allow the DMV to refuse to register a vehicle, or renew a registration, if the applicant

did not have a valid driver's license due to its having been suspended or revoked. In terms of volume (with the caveat that this provision would apply to all suspensions and revocations, not just those that are alcohol-related), last year there were about 20,000 suspensions and revocations. [The DMV] suspends/revokes for points, for child support, for [lack of] mandatory insurance, for financial responsibility, as well as for alcohol-related offenses; all these combined constitute a significant volume. This provision, as [the DMV] understands it, would not apply to vehicles that were registered in a business name, or to leased vehicles.

MS. MARSHBURN explained that the databases for vehicles and driver's licenses are separate; there is no electronic link. Because of this, she could not, for example, put in her own name and driver's license number in the driver's license database and get information on any vehicles that she owns. In order to determine which vehicles a person owns, that person has to give the DMV the vehicle registration numbers, or all of the names under which those vehicles are registered. There is no automatic link, and that hinders [the DMV] in doing a number of the things required by HB 4, she said. She also said that [the DMV] does not believe that linking the two systems will be effective, either in cost or time, in terms of HB 4. She explained that [the DMV] has approximately 350,000 registration/registration-renewal transactions per year, and that there are four areas in the [DMV's] registration program which would be affected by the refusal-to-register provision. A vehicle can be registered either through the DMV's business partners, through the Internet, via the telephone, or by individuals who come into a DMV field office. [The DMV] uses business partners - car dealers and emission inspection stations (I/M stations) - to process registrations. These stations and dealers do not have access to the driver's license database because that information is confidential.

Number 1906

MS. MARSHBURN said that in order to implement the provisions of CSHB 4(TRA), [the DMV] would develop a simple inquiry program. With this program, the dealer would obtain the driver's license number from the owner and input it in the database, which would then return either a "yes" or "no record" response. The dealer would be able to physically view the driver's license and physically ascertain both the number on it and whether the picture on driver's license matches the person who is applying for ownership of a vehicle. Although there would not be a cost

to the state for this [program], she explained, vehicle sales might be affected if the database returns a no-record response. She also cautioned that not all dealers have online access to the DMV; only some of the dealers do.

MS. MARSHBURN said [the DMV] can envision two scenarios taking place at dealerships. One is that dealers might choose to simply place a sign that says that in order to purchase/register a vehicle, a valid driver's license that has not been suspended or revoked must be provided. She added that such a sign might help dealers in terms of their customers. Another alternative dealers might opt for would be to complete the sale, give the individual a temporary permit, send the transaction to DMV for processing, and then let the DMV refuse to register the vehicle. She noted, however, that dealers might choose not to partner with [the DMV] because of the difficulties posed by the refusal-to-register provision.

MS. MARSHBURN explained that in researching the impact of HB 4, [the DMV] sent an inquiry (via the American Association for Motor Vehicles Administrators) to the rest of states asking which of them, if any, revoke vehicle registrations and how they go about it. She said that 13 states have replied thus far, and of those, only Michigan denies a vehicle registration on the third [DWI] offense, although it does not actually revoke existing registrations. She added that this is a new program, having started July 1st of last year, and as such, Michigan does not have much experience with it in terms of any potential future problems. She has called Michigan and asked what the development/implementations costs were, but has not yet received an answer. It is an Internet-based system that is available to dealers and to lien holders only; it is not available to the public because the public does not have access, normally, to driver's license information, nor can the public obtain driver's license IDs (identifications). Ms. Marshburn said that when she asked what kinds of problems Michigan was experiencing with the new program, she was told that dealers in Michigan have complained about having to turn away sales, although to date no specific volume data was available.

Number 2080

MS. MARSHBURN, with regard to Internet and phone registrations, said that these two areas of the DMV's registration program are completely automated from start to finish; for this reason, there is no way that anyone can physically view a license and thereby physically determine that a driver's license that is

used for Internet or telephone registration actually belongs to the person who owns the vehicle. And because the vehicle registration and the driver's license databases are not linked, there is really no way to complete these transactions [in compliance with the refusal-to-register provision of HB 4]. She added that the volume of these types of transactions is 30,000, and that what [the DMV] envisions happening is a discontinuance of Internet and phone registrations, which would result in these individuals' coming in to a DMV field office to register a vehicle.

MS. MARSHBURN further said that the majority of [the DMV's] renewal transactions (250,000-plus) occur in [the DMV] field offices. To refuse to register a vehicle means that every registration and every registration renewal has to be manually checked for everyone who is on that registration. She explained that most registrations are for multiple owners; for purposes of calculations, [the DMV] estimates registration at 1.5 owners. The additional time that it would take to manually look up each owner on a vehicle registration would add to the personnel services cost, which is included in [the DMV's] fiscal note. She added that the mail process would be affected as well; [the DMV] envisions a "back-and-forth" process - making inquiries if the registration that is sent in by mail turns out to have an owner whose license has been suspended or revoked.

MS. MARSHBURN explained that under current law, whenever [the DMV] refuses to register a vehicle, [the DMV] is required to offer that individual the opportunity for a hearing. She added that about 25 percent of driver's license suspensions and revocations end up in hearings, and that same percentage was used to calculate the number of hearings which could result from refusing to register a vehicle. For this reason, the fiscal note reflects an additional hearing officer.

Number 2190

CHAIR ROKEBERG asked whether, currently, a person accused of DWI could buy and register a vehicle without having a valid driver's license.

MS. MARSHBURN said that was correct, and that according to her interpretation of CSHB 4(TRA), a first-time-DWI offender would not lose his/her existing vehicle registration but would be prohibited from buying and registering a new vehicle during that revocation period.

CHAIR ROKEBERG surmised that some of the aforementioned problems are a result of the two databases not communicating with each other.

MS. MARSHBURN replied that that was correct. One database originated in the Department of Revenue (DOR), and the other originated in the Department of Public Safety (DPS), and the two are completely different. The driver's license database is keyed towards identifying the driver, whereas the vehicle database is keyed towards identification of a piece of property, and thus the question of who actually owns it is incidental.

CHAIR ROKEBERG said that the idea was to have a public database for felony DWI offenders [AROSS] available on the Internet. He asked whether [the DMV] could then consult the Internet in order to determine whether a registration should be issued.

MS. MARSHBURN referred to the aforementioned simple inquiry program that [the DMV] would develop and make available to dealers. She said that the dealers would have the ability to ask the individual who was purchasing the car for his/her driver's license in order to input the number into this database, and in this way, the dealers could verify the identification of the people standing before them, and be able to key that data into the inquiry program. [The DMV] cannot allow dealers access to [the DMV's] driving record file, she explained, but they at least would have access to a yes/no inquiry system. Driver's license numbers and date of birth (DOB) information is not available to the general public. Even Michigan's database is applicable only to dealers and lien holders because driving record information is protected information.

Number 2334

MS. MARSHBURN commented that she had previously given testimony on the .08 [blood alcohol concentration (BAC) provisions of HB 4] and said that through recent correspondence with Ms. Seitz, she was aware of the new information that would affect the DMV's fiscal notes. She then referred to Sections 12, 15, and 27 and said they all interact. She remarked that she recalls discussing possible amendments that might affect those sections, but not having seen them, she did not have any specific comments regarding how those possible amendments would affect Sections 12, 15, and 27.

MS. SEITZ confirmed that there were amendments forthcoming that would address the timelines encompassed by those sections.

MS. MARSHBURN explained that currently a first-time-DWI offender receives a 90-day license revocation and is eligible for a limited license for the last 60 days of that revocation. Pieces of Sections 12, 15, and 27 all work together to set up a two-tiered revocation for someone whose BAC is between .08 and .10. If the court suspends the sentence, it would result in a 45-day revocation with eligibility for a limited license (with an interlock device) for the final 30 days, which would effectively result in a 15-day revocation. The sentence is suspended by the court if the offender agrees to complete a year of probation without another offense, pays the cost of screening and/or treatment, completes three days of community work service (CWS), and pays a $500 fine. By agreeing to these conditions in the diversion program, the offender has the shorter revocation period of 45 days and avoids the three-day jail time. On the other hand, she explained, for the same DWI offender whose BAC falls between .08 and .10, Sections 12, 15, and 27 set up a 90-day revocation with eligibility for a limited license (with an interlock device) for the last 60 days.

TAPE 01-39, SIDE B
Number 2468

MS. MARSHBURN noted that currently the DMV revokes a license for 90 days on the eighth day after an individual has been given "notice and order" of license revocation stemming from a DWI arrest, and [the DMV] would continue to do so, she added, because HB 4 does not affect that procedure. She explained that [the DMV] would not know whether a sentence has been suspended until the offender goes through the court process. Therefore, [the DMV] could not give the offender a limited license after 15 days, or shortly after, the time when he/she began the revocation period. For [the DMV], essentially, there would be no 45-day or 90-day option; it would simply be court process. She said that according to her understanding of these provisions in CSHB 4(TRA), she surmised that there would be some first-time offenders who, if given the choice of three days in jail and a limited license for a longer period of time with the 90-day revocation versus serving a year on probation under interlock without another offense, would opt for the 90-day revocation. She noted that for DMV, the bigger problem is one of timing, and she acknowledged that amendments were being drafted to address that problem.

MS. MARSHBURN then referred to Sections 31 and 33. Said that in Section 31 the DMV revokes the registration for a felony [DWI] offender and then reissues that registration to the co-owner - omitting the name of the felony offender from the registration. Section 33 requires a vehicle's license plates to be surrendered by a second-time (or higher) [DWI] offender. She reported that last year [the DMV's] volume on offenders with two or more offenses was approximately 1,500. For purposes of the fiscal note, she explained that these two sections were grouped together because the work actions on these are roughly the same thing - it's a manual process. [The DMV] would secure the vehicle information (probably from the court), and what would then be entailed is an individual "look up" of each vehicle, flagging the record internally and developing a "tickler," and stopping the automatic renewal.

Number 2353

MS. MARSHBURN explained that there would be some modification to [the DMV's] IT (information technology) system. Currently, a registration and a title are identical, with one set of owners who are identical on both documents. [The DMV] would develop a registration different from the title because the title would remain the same. The title is the "vehicle" of ownership; the registration is essentially the vehicle of use. Thus, the IT system would have to be modified to reflect two sets of owners, and [the DMV] would thereby create a registration and title that differ. This would require that all vehicle owners be notified that this action is taking place and what the effects would be until the vehicle received its new registration or title, as well as reissuing that registration. At the time that the revocation was up, [the DMV] would essentially go back and do this process a second time to convert the records back.

MS. MARSHBURN said she appreciated and understood the efforts and intentions regarding the returning of plates. She noted, however, that in rural areas of Alaska there are not DMV offices available, and this would mean that offenders would have to mail in their plates, and that vehicles would be out of service until new plates are obtained. She said she thought she had just recently heard that vehicles would be forfeited on a second offense, but she had been under the impression that forfeiture would take place only on the third (or more) offense. Either way, she added, the DMV would not be involved in the vehicle forfeiture except in terms of furnishing records to the DPS and impoundment companies.

CHAIR ROKEBERG remarked that it could, however, affect the fiscal notes. He confirmed that CSHB 4(TRA) does [allow] forfeiture on the second offense. He commented that the current fiscal note from [the DMV] for CSHB 4(TRA) reflects impoundment for second offenses.

MS. MARSHBURN said whether a vehicle is impounded or not, [the DMV's] record still has to be changed; it still has to reflect that that offense has taken place and that the vehicle cannot be registered by a certain person, and then [the DMV] has to change the record back again. Thus the forfeiture or impoundment does not affect the DMV's end of the process.

Number 2336

MS. MARSHBURN referred to Section 47, which establishes the AROSS, and said [the DMV] feels that this more properly belongs in the DPS. This database, as [the DMV] interprets Section 47, would have to be available to anyone, be current, and be accurate. [The DMV] proposes [instead] to develop an Internet application that returns the information if the individual is a "public offender." This [application] would interact/interface with [the DMV's] system via the Internet. [The application] has to be able to calculate and modify times and records. In addition, [the DMV] has to find a way to accurately identify, within the law, felony offenders, because a person should not be listed as a felony offender unless he/she really is a felony offender.

MS. MARSHBURN spoke next on the issue of revenue from increased reinstatement fees for alcohol offenses, and said that [the DMV] projected an increase in revenue of approximately $350,000. In a concluding assessment of CSHB 4(TRA), Ms. Marshburn said she knew that the intent was to remove the alcohol offender from behind the wheel of a vehicle, and if that person cannot be removed, then make it doubly difficult, by any method, for that individual to drive a vehicle. She said that if the individual has his/her license taken away, and yet continues to drive, she thinks that refusal to register will have some effect, but she did not believe that it would be nearly as effective as other methods. She offered that the money spent on what the refusal-to-register provision will cost could be more effective if applied elsewhere.

CHAIR ROKEBERG expressed frustration that [the DMV's] databases would not interact without a significant investment in capital, and that this inability created an impediment to many of the

things that he wanted to do with HB 4. He asked whether [the DMV] concurred that its whole IT system was a mess.

MS. MARSHBURN agreed that the inability of [the DMV's] databases to interact did create some impediments for some of the provisions in CSHB 4(TRA). However, she said she would not classify the current database systems as a mess. The databases are very accurate and work very well for their intended purposes. But, she added, they are not very flexible in terms of their ability to interact. She said she would love to be able to enter "Mary Marshburn" into the vehicle database and come up with every vehicle registered under her name, but that was not possible because the database requires an exact match and she has vehicles registered under "M. Marshburn," "Mary Marshburn," and "Mary Coffee," and she and her husband have vehicles registered in both their names.

Number 2006

MS. MARSHBURN explained that what was needed were identifiers, such as the requirement for a full name. And although CSHB 4(TRA) does begin with that provision, other identifiers are also needed. For example, a DOB (she said she was not even going to bring up use of a social security number) and a driver's license number would be needed to help begin creating a link. "We need to begin to establish the thread of linking the two [databases] together," she remarked. As she had noted earlier, the purpose of the vehicle system has always been the identification of a particular vehicle and the protection and identification of that property, and the purpose of the driver's license system has been the positive identification of an individual.

CHAIR ROKEBERG said he had heard some frustration regarding situations wherein a multiple offender has a series of either revocations or suspensions that start "stacking up," but because it is possible to get a license back in a statutory/regulatory way - and even though there could be an overhanging suspension from another offense - the offender is able to get his/her driver's license back. He asked Ms. Marshburn if this scenario is possible.

MS. MARSHBURN replied that without looking at a specific set of circumstances, she could not see how that is possible.

CHAIR ROKEBERG, to clarify, asked if it would be feasible to have two outstanding revocations, and then, before the first one

expires, to regain the license while the second revocation is still outstanding and has not yet gone into effect.

MS. MARSHBURN said she suspected it would be possible if the revocations were running concurrently, or if it were a court revocation and an administrative revocation, because the administrative revocation usually takes place sooner and the court can then run its revocation concurrently. Normally, when there are two separate offenses such as two DWIs, or a DWI and a "pickup" for driving with a license suspended, those are not concurrent revocations; they are consecutive revocations. She said she could not see the aforementioned scenario happening other than under her first example. She further replied that when there is a court case and an administrative revocation, the court will almost always, unless the law prohibits, run the revocation that it imposes concurrent to [the DMV's revocation], which, she surmised, was what Chair Rokeberg was thinking of. She added that the DMV's revocation moves faster because [the DMV] revokes on the eighth day. In many instances, the individual does not get to court until later, and by the time the case is acted upon, a good part or all of the DMV's administrative revocation has been run. The court runs the revocation concurrent to the DMV, and the individual can be eligible to have his/her license reinstated after he/she leaves court, providing any other conditions have been met.

Number 1822

CHAIR ROKEBERG noted that there seems to be success in other states with impounding the license plates, and that CSHB 4(TRA) requires offenders to turn in their plates after conviction. He asked how [the DMV] would be affected if the police were to impound the license plates at the time of arrest.

MS. MARSHBURN said [the DMV] would need to receive very timely notice of that occurrence because it would be much the same sort of process as discussed regarding Sections 31 and 33. [The DMV] would need to go into the database and annotate the records to reflect that that plate was no longer on that vehicle, and what the action was, and then, at the end of the revocation period, [the DMV] would need to change the record back again. She explained that in Michigan, and probably in another state or two, the police officer confiscates the plates and gives the offender a paper [license] plate, which goes in the back window of the vehicle for the necessary period of time, until he/she goes to court and the case is adjudicated. [The DMV] would have to develop a system for issuing the paper [license] plates, and

the confiscation would have to be done by a police officer. She added that the paper [license] plate was necessary because it authorizes a vehicle to be driven by someone else who has a valid driver's license.

REPRESENTATIVE BERKOWITZ said that the current procedure on a DWI offense is to confiscate the offender's driver's license following the intoximeter test, and that confiscation is good for seven days.

Number 1704

MS. MARSHBURN said that was essentially correct. The officer, at the time, gives the individual what is called "a notice and order," which gives the offender instructions on what to do should he/she want to file an administrative hearing. That notice and order serves as a temporary license for seven days, but if the offender then requests an administrative hearing through the DMV, it also serves as a temporary license until the hearing. She confirmed that while a person may have his/her permanent driver's license confiscated, at that time he/she is given a temporary license designed to tide the person over, either until he/she gets into court or gets his/her affairs in order.

CHAIR ROKEBERG said it seemed to him as though confiscating an offender's license plate was proving to be more effective than some other solutions, and he voiced concern over the cost of what he saw as subsidizing the DMV's IT problem instead of focusing on keeping drunk drivers off the road. He asked Ms. Marshburn what the current law was regarding DWLS (driving while license suspended), and how CSHB 4(TRA) would affect that law.

MS. MARSHBURN said that a DWLS offense currently has a ten-day jail sentence and 80 hours of CWS, and although Section 19 refers to the offense of driving while a license is suspended or revoked, it does not make any substantive changes to that sentence.

CHAIR ROKEBERG commented that he would rather spend the money on "nailing" habitual multiple-DWI offenders and those people who drive with suspended/revoked licenses because they constitute the bigger problem.

Number 1486

ALVIA "STEVE" DUNNAGAN, Lieutenant, Division of Alaska State Troopers, Department of Public Safety (DPS), testified via teleconference, and said that there were several complications for the DMV that will be hard to overcome. He said he thinks that the concept of vehicle forfeiture has a lot of merit, and that if vehicle forfeiture were mandatory for third-time DWI offenders, it would go a long way towards deterring DWI. He noted that he did not detect too many substantive changes in CSHB 4(TRA) to current law regarding [driver's license] suspensions.

CHAIR ROKEBERG remarked that it was his gut feeling that multiple offenders are commonly found inebriated and driving again without a license. He asked whether that feeling was justified, and questioned whether that shouldn't be the person that they concentrate their efforts on.

LIEUTENANT DUNNAGAN confirmed that there are many incidents in which that scenario occurs; people will be intoxicated and be caught driving for the third or fourth time without a driver's license because they cannot get one, for example, until 2030, based on their previous history. With regard to the issue of a person who has a suspended driver's license being able to get another one, he said he could not think of any such circumstances under which that would occur. And while he acknowledged that that scenario might be possible, he pointed out that the DMV records that the DPS receives when an officer pulls over a suspect and checks on that person's driving history are fairly well laid out and easy to read with regard to suspensions/revocations and effective dates.

LIEUTENANT DUNNAGAN, on the DPS's current procedure for making a typical DWI arrest, explained that if a trooper makes an arrest, the person is arrested and something is done with the vehicle, such as impounding it or turning it over to a responsible third party who is immediately available to take control of the vehicle. The person is taken to one of the stations, is offered an intoximeter test, and is asked to perform that test. If the person performs the intoximeter test, then the notice and order of revocation is read to that person, the driver's license is seized, and the person is given the temporary seven-day license, which provides that person with the information on due process for filing for the administrative hearing. The driver's license is then sent into the DMV along with the revocation form, and that person has the opportunity to apply for the hearing. Once he/she does that, the limited license is extended to the hearing date; if he/she does have a hearing, then the trooper testifies

at that hearing, and the DMV renders its decision based on the hearing.

LIEUTENANT DUNNAGAN said if the vehicle is impounded, it just goes to whatever towing company is called to the scene; the trooper fills out a form that says the vehicle is impounded, and it gets taken away. The vehicle can be gotten out of impoundment by a person who is able to provide proof of ownership and pay all the fees that have been deemed against it from the tow company. For the vehicle forfeiture purposes of CSHB 4(TRA), that forfeiture would not take effect until after conviction, so the vehicle could, in essence, be impounded and then be released, and still be out on the road system until after the conviction is entered, at which time [the DPS] would have to get the vehicle back.

Number 1239

CHAIR ROKEBERG, noting that license-plate impoundment seemed to have some deterrent effect in other states, asked what kinds of problems/advantages a similar program would present to [the DPS].

LIEUTENANT DUNNAGAN opined that having to take license plates would not be that much of a problem - [the DPS] could have the tow company take the license plate. He added that [the DPS] currently has the authority to seize license plates under certain circumstances; for example, if the tag is erroneous or fake, or if the license plate does not belong to the particular car that it's on. Therefore, if seizing a license plate were just one more step in the DWI-arrest process, it would not cause that much inconvenience. However, since the forfeiture would not take place until after the conviction, there would have to be some mechanism in place for that person, or a family member of that person, to have access to the vehicle until after a legal determination has been made on the fate of the vehicle.

MS. MARSHBURN further explained in response to questions that the administrative hearing is not automatic; the notice and order of revocation simply informs the individual that he/she has the right to a hearing. If that individual does not request a hearing within seven days, his/her license is automatically revoked on the eighth day for the period of time set in statute for that particular offense. If the person requests a hearing and the subsequent decision is to revoke the license, the revocation period begins on day that determination is made. At the end of the revocation period, the individual must go through

the reinstatement process to get his/her license back. In response to the question of whether license plates could be confiscated through a procedure similar to driver's license revocations, she said that it could be done that way but it might engender more hearings. She did, however, affirm that perhaps having waivers for cases where the vehicle had a registered co-owner could cut down on the amount of those hearings.

REPRESENTATIVE BERKOWITZ clarified that what was being discussed with regard to driver's license revocations was an administrative proceeding, not a criminal proceeding; the criminal proceeding would begin, in all likelihood, within the aforementioned seven-day window.

CHAIR ROKEBERG said his focus was on instant punishment of offenders and separating automobiles from offenders. He noted that he was contemplating removing the refusal-to-register provisions because of the cost involved as well as the possibly limited effect it might have on the goal.

Number 1004

REPRESENTATIVE BERKOWITZ asked what normally happens to the vehicle when someone is arrested for DWI.

LIEUTENANT DUNNAGAN reiterated that the vehicle is either impounded or turned over to a sober third party if one is immediately available to take control of the vehicle. By law, the trooper has to remain onsite until the vehicle can either be released to someone or towed away. The troopers do not move the vehicle themselves except when the vehicle is creating a traffic hazard; at most, in those instances, they would merely try to push it off to the side of the road. He affirmed that in all areas of the state, the troopers have vendors who will come and remove vehicles from DWI-arrest sites; in the more remote areas, it may just take longer for a vendor to arrive. He added that the troopers have up to four hours in which to get a person who is arrested to an intoximeter for a breath test that would still be usable in court. He noted that during that four-hour period of time, a person's BAC level might be going down a bit, but it could also be going up, depending on when the person stopped drinking.

LIEUTENANT DUNNAGAN, regarding the concept of confiscating license plates, said that it has some merit. He pointed out that if someone were stopped and arrested for DWI, and the

license plates were confiscated, the individual could not drive that vehicle without license plates because he/she would get stopped every time. He suggested that the concept merits more investigation and consideration.

Number 0725

BLAIR McCUNE, Deputy Director, Central Office, Public Defender Agency (PDA), Department of Administration, testified via teleconference. Regarding license revocations, he said that Alaska already has some pretty long periods of license revocation, and CSHB 4(TRA) increases them, especially for felony DWIs. Referring to page 21, line 1, he noted that the statute would permanently revoke a person's license, although he also noted that there was a provision included whereby after ten years without any further offenses, the person could apply to have the permanent revocation changed and have his/her license reinstated. He said [the PDA] believes that license revocations are not the major deterrent to DWI; Alaska already has some pretty serious and strong penalties such as fines, fees, and jail time that are imposed on DWI offenders.

MR. McCUNE said that according to the court system, there were 4,500 DWLS cases statewide, which constitute a big problem for the criminal justice system. He opined that under the current system, people tend to lose hope and therefore do not take the steps needed to get their licenses reinstated. He suggested that what the committee wanted as an end result was to have sober, licensed, insured drivers on the road. He noted that the DMV requires people to have SR22 insurance (special risk premium insurance) before they can get their license reinstated.

MR. McCUNE said [the PDA] hopes that there would be some way whereby, if people demonstrate sobriety for one or two years - even if they have had a felony DWI - that they could have their driver's license back before ten years have gone by. Ten years just seems to be an extraordinarily long time, he said, and he remarked again that there are long periods of revocation under current law already. He added that [the PDA] thinks this provision appears counterproductive. He also noted that according to John Richards, the municipal prosecutor for the Municipality of Anchorage, the [municipal] diversion program has been quite successful in getting licensed, insured drivers on the road; instead of immediately prosecuting people who have license revocations, Mr. Richards tells offenders that if they can pay a fee and get in the program, he will offer them assistance in getting their licenses reinstated. Mr. McCune

went on to say that a lot of the clients that he works with are not good at completing paperwork or dealing with bureaucratic situations, and this [municipal] diversion program gives people help in those areas, although the people still have to pay for the SR22 insurance in addition to their fees.

Number 400

MR. McCUNE noted that in CSHB 4(TRA) the reinstatement fees have increased quite a bit. He referred to page 10, beginning on line 27, and said that [the PDA] believes the reinstatement fees should cover the DMV's costs and not be used as punishment, since Alaska law already does enough of that. Alaska does not need to create extra barriers to people who are trying get their licenses reinstated, he offered. On the issue of vehicle forfeitures, he said [the PDA] thinks that these forfeitures can be really onerous, and that vehicle forfeitures should be discretionary with the judge. Vehicle forfeiture makes a big difference to his clients' families, he said; when the vehicle is co-owned, for example, the innocent co-owner has to pay half the assessed value of the vehicle, which tends to disrupt families.

REPRESENTATIVE COGHILL said it seems to him as though "the bar is high and the punishment swift when we take a license away, but it doesn't seem quite so much [so], after the fact."

MR. McCUNE responded that the penalties for driving with a revoked license are strong; for a second offense it is a mandatory ten days in jail, for example. For a DWL (driving without a valid license) offense, the court wants that person to show proof that he/she had the privilege to drive but had just not gone through the hoops necessary to get the license, and will then give that person some time to get the license and bring it before the court. He added that often, when the person brings that valid license before the court, the case is dismissed because the goal is to get a licensed, insured driver on the road.

CHAIR ROKEBERG noted that he had some concerns regarding the aforementioned topics.

TAPE 01-40, SIDE A
Number 0001

CHAIR ROKEBERG asked Lieutenant Dunnagan whether he would characterize HB 4 as an effective weapon for the DPS to use in

accomplishing the bill's purpose - helping to remove some of the habitual drunk drivers and other drunk drivers from the road. Was there general satisfaction with HB 4, or was something missing, he also asked.

LIEUTENANT DUNNAGAN replied that he believes that there are some good, strong points to CSHB 4(TRA), and that it will help to reduce some of the repeat offenders, and will act as an early and effective deterrent for those people who actually consider the law and think about what they are doing before they make choices. The big issue that everybody has, he observed, is the actual forfeiture of the vehicle, and while he has been working on the fiscal note to decrease it, it is going to cost money for [the DPS] to effectively participate in that forfeiture under the mandatory terms that are outlined in CSHB 4(TRA).

MS. SEITZ, for the members' benefit, cited page 18, line 6, as having the discretionary language for vehicle forfeiture on the second offense, and page 21, line 11, as having the mandatory language for vehicle forfeiture on the third or higher offense.

LIEUTENANT DUNNAGAN, with regard to the fiscal note, remarked that mandatory vehicle forfeiture on the third or higher offense (as opposed to having it be mandatory on the second offense) will be substantially cheaper because the actual number of felony DWIs is lower than the number of second-time DWIs. He added that he believes the fiscal note for mandatory vehicle forfeiture on the third or higher DWI offense is approximately $107,000. This calculation was based on an average of historical numbers - 500 convictions with 50 percent of those vehicles forfeited, and then [the DPS] would try to give away 75 percent of those forfeited vehicles to local governments, nonprofits, and governmental entities such as those that administer the VPSO (Village Public Safety Officers) programs in rural Alaska. Lieutenant Dunnagan went on to say that the .08 [BAC] provision coupled with the rest of CSHB 4(TRA) will act as a fairly strong deterrent, and will help reduce the number of DWIs in the state.

REPRESENTATIVE BERKOWITZ agreed that there was a lot of good work in CSHB 4(TRA), but added that he thought that if the state were going to go after DWIs, it had to be done more comprehensively. He asked Lieutenant Dunnagan what he thought the impact on DWIs would be if the state were to put more troopers and more law enforcement "out there."

Number 0474

LIEUTENANT DUNNAGAN responded that if [the state] had more officers and more troopers on the roads, it would result in more detection [of crimes]. When the manpower available is tied up with calls and other DWIs, there are still going to be people driving around who shouldn't be. Therefore, an increase in the number of officers on the road would also increase the number of activities that those officers would be able to perform, not just with regard to DWIs, but also with regard to any other traffic-related incidents. The officers could also perhaps begin to participate more in a proactive approach to some of the problems they face, which they are not able to do at this time due to a lack of manpower. He concurred that he would support an initiative to add more law enforcement.

CHAIR ROKEBERG said he was comparing the effectiveness of the refusal-to-register provision with confiscating a license plate. He noted that he was considering that it might be a lot cheaper and easier to confiscate license plates for the lower levels of DWI offenses.

LIEUTENANT DUNNAGAN offered to assist with researching license-plate confiscation in an effort to determine that method's effectiveness as well as an estimated fiscal note.

CHAIR ROKEBERG alluded to possibly amending the provisions such that the first offense would require vehicle impoundment, the second offense would require license plate confiscation, and the third offense would require vehicle forfeiture. He surmised that confiscation of a person's license plate could be done in a simple, consistent manner that would not be that costly. He noted that when a person drives a vehicle without a license plate, unlike driving without a driver's license, he/she is quite obviously doing something illegal, is easy to spot - at least in the urban areas - and would get "busted" faster.

REPRESENTATIVE MEYER argued that in the rural areas of the state a person is more likely to get away with driving without a license plate in addition to getting away with driving without a driver's license. He suggested that if the goal is to keep people from driving while intoxicated, then the mechanism - the vehicle - has to be taken away, similar to what now occurs at the municipal level in Anchorage and Fairbanks for second-time DWI offenses.

CHAIR ROKEBERG noted that his original intention with HB 4 was to mirror the municipal ordinances that make vehicle forfeiture

mandatory on the second DWI offense, and thereby be consistent across the state. He announced that at the next meeting on HB 4, the committee would address proposed amendments. [HB 4 was held over.]

ADJOURNMENT

Number 1028

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:05 p.m.