

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 2, 2001

3:20 p.m.

MEMBERS PRESENT

Representative Lisa Murkowski, Chair
Representative Andrew Halcro, Vice Chair
Representative Kevin Meyer
Representative Pete Kott
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 70

"An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board."

- MOVED CSHB 70(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 50

"An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors to June 30, 2005; relating to the temporary member of that board; and providing for an effective date."

- MOVED HB 50 OUT OF COMMITTEE

HOUSE BILL NO. 27

"An Act relating to the licensure and registration of individuals who perform home inspections; relating to home inspection requirements for residential loans purchased or approved by the Alaska Housing Finance Corporation; relating to civil actions by and against home inspectors; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 73

"An Act extending the termination date of the Board of Veterinary Examiners."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 74

"An Act extending the termination date of the Board of Barbers and Hairdressers."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 70

SHORT TITLE: EXTENDING BOARD OF PHYSICAL/OCC THERAPY

SPONSOR(S): REPRESENTATIVE(S)CRAWFORD, Hayes

Jrn-Date	Jrn-Page		Action
01/17/01	0111	(H)	READ THE FIRST TIME-REFERRALS
01/17/01	0111	(H)	L&C, FIN
01/31/01		(H)	L&C AT 3:15 PM CAPITOL 17
01/31/01		(H)	Scheduled But Not Heard
02/02/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 50

SHORT TITLE: EXTEND BD OF ARCHITECTS, ENGINEERS, ETC.

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
01/10/01	0051	(H)	READ THE FIRST TIME-REFERRALS
01/10/01	0051	(H)	L&C, FIN
01/10/01	0051	(H)	FN1: (CED)
01/10/01	0051	(H)	GOVERNOR'S TRANSMITTAL LETTER
01/16/01	0084	(H)	CORRECTED TRANSMITTAL LETTER
02/02/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 27

SHORT TITLE: LICENSE HOME INSPECTORS

SPONSOR(S): REPRESENTATIVE(S)ROKEBERG

Jrn-Date	Jrn-Page		Action
01/08/01	0031	(H)	PREFILE RELEASED 1/5/01
01/08/01	0031	(H)	READ THE FIRST TIME-REFERRALS
01/08/01	0031	(H)	L&C, JUD, FIN
01/08/01	0031	(H)	REFERRED TO LABOR & COMMERCE
01/31/01		(H)	L&C AT 3:15 PM CAPITOL 17
01/31/01		(H)	Heard & Held

01/31/01 (H) MINUTES(L&C)
02/02/01 Text (H) L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

KAREN GRAFTON, President
Alaska Physical Therapy Association
1282 Troy Street
Anchorage, Alaska 99515
POSITION STATEMENT: Testified in favor of HB 70.

MARY VEAL, Physical Therapist
Alaska Chapter of the American Physical Therapy Association
8940 N. Douglas Highway
Juneau, Alaska 99801
POSITION STATEMENT: Testified in favor of HB 70.

CATHERINE REARDON, Director
Division of Occupational Licensing
Department of Community and Economic Development
P.O. Box 110806
Juneau, Alaska 99801
POSITION STATEMENT: Testified on HB 79, HB 50, and HB 27 for
the division.

JAMES BIBB, President
American Institute of Architects, Alaska Chapter
522 West 10th
Juneau, Alaska 99801
POSITION STATEMENT: Testified in favor of HB 50 and continuing
education.

DWAYNE ADAMS
American Society of Landscape Architects
13231 Reef Place
Anchorage, Alaska 99515
POSITION STATEMENT: Testified in favor of HB 50.

TED VEAL, Homer Resident
539 Elderberry Drive
Homer, Alaska 99603
POSITION STATEMENT: Testified in favor of HB 27.

FRANKO VENUTI, Homer Resident
P.O. Box 3652
Homer, Alaska 99603
POSITION STATEMENT: Testified in favor of HB 27.

AMY DAUGHERTY, Lobbyist
Alaska Professional Design Council
327 West 11th Street
Juneau, Alaska 99801
POSITION STATEMENT: Testified in favor of HB 27.

JOHN BITNEY, Legislative Liaison
Alaska Housing Finance Corporation
4300 Boniface Avenue
Anchorage, Alaska 99510
POSITION STATEMENT: Testified in favor of HB 27.

TERRI LAUTERBACH, Legislative Counsel
Division of Legal and Research Services
Alaska State Legislature
Capitol Building, Room 329
Juneau, Alaska 99801
POSITION STATEMENT: Clarified language in HB 27 for the committee.

ACTION NARRATIVE

TAPE 01-11, SIDE A
Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m.

HB 70-EXTENDING BOARD OF PHYSICAL/OCC THERAPY

CHAIR MURKOWSKI said the committee would begin by taking up HOUSE BILL NO. 70, "An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board."

Number 0146

REPRESENTATIVE CRAWFORD, sponsor of HB 70, stated the bill is designed to extend the sunset date for [the board of] physical and occupational therapists until 2005. He said there is broad support for extending the board and there is no known protest.

REPRESENTATIVE CRAWFORD said the bill amends Section 1 of AS 08.03.010, subsection (c) (16), and extends the date from the year 2001 to 2005. He asked for the committee's support.

CHAIR MURKOWSKI said the [legislative] audit report made a recommendation to extend the board for a six-year period. She asked if there was a reason it was only extended to 2005 instead of 2007.

REPRESENTATIVE CRAWFORD said four years was the standard time and he didn't want to change what had been done before.

REPRESENTATIVE KOTT mentioned that a few years back, the committee made a conscientious decision to start looking at extending the sunset boards to six years. He said that might be the reason the audit report reflects six years. He said it causes a headache to have to revisit these [boards] every four years so they made it six years.

Number 0400

KAREN GRAFTON, President, Alaska Physical Therapy Association (APTA), thanked Representative Crawford for issuing the legislation and said APTA supports the bill as it's written. She added that she would support extending the sunset date for six years instead of just the four [years].

Number 0439

MARY VEAL, Physical Therapist, Alaska Chapter of the American Physical Therapy Association, thanked the committee for supporting the bill and mentioned they too would support extending the bill for six years.

Number 0474

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community and Economic Development (DCED), said her division staffs the various licensing boards that the committee will hear about today. She said the division supports the continuation of the board for as long as the committee feels comfortable.

MS. REARDON said it was probably [on] her advice that the sponsor of the bill went with four years. She said two years ago, the Division of Legislative Audit ("Legislative Audit") recommended durations ranging from four to eight years for different boards. This was an attempt to spread out the sunset audit work. She said a couple [of boards] made it through [the House] with longer durations between sunset reviews, and a couple of Senators responded with frustration in receiving the

bills, not because they had problems with the particular boards, but because it was an established principle - that a board should be continued for four years.

MS. REARDON said the view may have changed but in responding to that experience, with this one exception, all of the Legislative Audit recommendations have been for four years. She said "they" became more conservative and decided not to ask for more. She said she thought Legislative Audit would be happy to have longer extensions for some of these board, and "they" would too.

CHAIR MURKOWSKI asked Ms. Reardon if she thought this profession generates concerns or investigations that would necessitate being audited on a more frequent basis, more than the four-year rotation.

MS. REARDON said she is comfortable as long as the [sunset] date does not interfere with ultimate passage, and as long as the sunset audit reflects few concerns from the Division of Legislative Audit.

MS. REARDON said she believes this is the only board, before the committee, where the Legislative Audit has recommended a longer extension. She said she didn't know why that happened.

CHAIR MURKOWSKI asked if the boards would ask Legislative Audit to consider them for longer periods of time before sunset review - whether it is [considered] typical.

Number 0759

MS. REARDON said the division and the boards have never had to and never felt it was their place to ask. However, she said, if the length of time [between sunset audits] were less than four years, "they" would probably ask Legislative Audit what they were worried about.

REPRESENTATIVE HALCRO explained that when the committee gets an audit from Legislative Audit stating deficiencies in a department, the committee works with the department to correct them. He said he is not sure why the committee wouldn't accept their recommendation to extend the sunset to 2007.

REPRESENTATIVE CRAWFORD said he feels comfortable extending the sunset audit to 2007 now that he has heard from Ms. Reardon; there seemed to be some adversity before. He said he would be glad to amend the bill.

Number 0889

REPRESENTATIVE KOTT concurred with Representative Crawford. He made a motion to conceptually amend the bill to extend the sunset review for the Board of Physical and Occupational Therapy to 2007.

CHAIR MURKOWSKI stated that there being no objection, the conceptual amendment was adopted.

Number 1016

REPRESENTATIVE KOTT made a motion to move HB 70, as amended, out of committee with individual recommendations and attached zero fiscal note. There being no objection, CSHB 70(L&C) was reported out of the House Labor and Commerce Standing Committee.

HB 50-EXTEND BD OF ARCHITECTS, ENGINEERS, ETC.

Number 1058

CHAIR MURKOWSKI announced that the next order of business would be HOUSE BILL NO. 50, "An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors to June 30, 2005; relating to the temporary member of that board; and providing for an effective date."

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community and Economic Development (DCED), said she appreciates the committee hearing the bill to extend the sunset date. She said the bill was introduced by request of the governor, because of the second issue addressed in the bill - the temporary landscape architect board member.

MS. REARDON said last year, the governor introduced a bill addressing the topic, and there was a lack of unanimity of belief about what should happen with the position. She said she believed the governor wanted to bring conclusion to the topic by working out a compromise, bringing it forward with the division as the sponsor.

MS. REARDON said the bill extends the sunset date to 2005, as recommended by the sunset audit. She said Section 2 of the bill extends the temporary, non-voting landscape architect board member seat, until 2005. She explained that the seat would

disappear at the next sunset date - giving the legislature time to decide what to do with the seat.

Number 1206

MS. REARDON stated landscape architects were added as a group to be licensed by the board a few years ago. She conjectured that there are just ten landscape architects; that is one of the reasons "they" believe the temporary non-voting member status should be continued, rather than making it a permanent seat. She added that the board regulates approximately 5,000 people, so 10 or 12 is a small number.

MS. REARDON added that it is a good idea to have a non-voting landscape architect on the board because it is a new profession for the division and the board; having the person at the table contributes valuable information about how the profession works. She said the board continues to consider its first applications, evaluate people's work experience and training, and come up with reasonable regulations governing the profession. She continued by saying it is a good time to have that representation at the table, but not necessarily the time to make it a permanent voting seat.

MS. REARDON said the other change to the status of the non-voting landscape-architect position appears on page 2, line 4, where there is a bracket around the word "not". She explained that the current statute says the non-voting member is not entitled to receive state money for per diem or travel to the board meetings. If this bill passes, people will be eligible to have their plane ticket and hotel paid for by the state when participating in board meetings. She relayed that the division thinks this is a good idea; it is awkward and confusing to have a board members sponsored by their professional association, or looking for money [to attend meetings].

MS. REARDON said the sunset audit included a few recommendations that were responded to jointly by the division and board; they appear in the submitted letter on the last page of the audit.

MS. REARDON commented that at this time "they" are not recommending any statute changes in response to the recommendations.

Number 1335

REPRESENTATIVE ROKEBERG asked Ms. Reardon if she is speaking for the department or the board today.

MS. REARDON responded that she is wearing two hats today; she is always speaking for the department and did work in concert with the board on the letter of response to the audit. She added that she discussed it with them, and "they" decided jointly on what the letter would say to represent their views.

MS. REARDON clarified that on the last sentence of her presentation where she said, "We are not recommending any statute changes in response to the audit at this time," she was speaking for the department. She said the board thought it might be good to add permissive language to its statute that would allow the board, if it so chose, to require continuing education by regulation; that is stated under the Audit Report, Agency Response, Recommendation 1.

MS. REARDON said she heard testimony in the Senate on the companion bill [to HB 50], and it appears that there is still disagreement within the industry about mandatory continuing education. She said because of the lack of consensus, it might not be good to have it attached to HB 50. She said perhaps the Alaska Professional Design Council could speak to the issue.

Number 1435

REPRESENTATIVE ROKEBERG reminded Chair Murkowski and Ms. Reardon that it is "their" responsibility to look after and protect the interest of the citizens of Alaska. He said he agrees with the audit, but is reluctant to recommend that board members have "their toes stepped on."

MS. REARDON said continuing education requirements are not universal among all of the professions in the Division of Occupational Licensing; they are common with the health care professions but not universal. She added that most members of the engineering and architect industry acknowledge that continuing education is coming, but know that they are not at that point yet. She said the issues that would arise, from people who don't want mandatory continuing education, at this time would be: that it is a hardship for people outside of the major metropolitan areas of Alaska; and it is expensive for "them" to get continuing education. She added that there isn't research showing that continuing education requirements reduce incompetence in a profession.

MS. REARDON went on to say that responsible professionals educate themselves every year in a variety of ways including attending conferences, reading materials, and so forth. She said when talking about requirements for license renewal, it needs to be kept in mind that for bureaucratic reasons, continuing education needs to be documented and verified. She said it is hard to recognize the genuine self-education that a competent professional might do; without the diploma, it is hard to know whom to grant [licenses to].

Number 1581

MS. REARDON said some professionals are trying to weigh whether the hassle will be beneficial to consumers. She said a person might take a course that isn't worth much and not pay much attention. Therefore, "we" would be penalizing the responsible people that are already doing self-education by making them spend money. She mentioned that this might be an argument that opponents might have about mandatory continuing education.

MS. REARDON said "they" feel Recommendation 2 [from the Division of Legislative Audit ("Legislative Audit")] is addressed in the bill. She said it states that the legislature [could] consider revising the membership of the board by eliminating the mining-engineer's designated seat, and in some way deal with the temporary landscape-architect seat. She said this bill deals with the landscape-architect temporary seat but does not remove the mining-engineer seat - a topic taken up by the legislature in the past.

MS. REARDON said there is an appreciation of the mining industry in Alaska. And just because the number of mining engineers in Alaska is small, it doesn't mean there shouldn't be someone at the table who knows about correct mining engineering. She added that removing the seat [from the board] gives the perception that Alaska doesn't care as much about mining as it ought to which is the reason the governor didn't propose removing the seat in this bill.

MS. REARDON finalized her testimony by saying that "they" believe the final item the board addressed in regulation was an ambiguity in the architecture statutes.

Number 1680

REPRESENTATIVE KOTT concurred with Representative Rokeberg's previous statement that "they" are charged with looking out for

the public's interest; he referred to the recommendations in the report and a letter from Jeffery Wilson, President, Alaska Professional Design Council (APDC), and Sam Kito III, Chair. He said their letter leads him to believe that there is not consensus on the recommendations [Legislative Audit recommendations for changes to AS 08]. He said "they" do support the extension of the Board of Registration for Architects, Engineers, and Land Surveyors (BRAELS).

REPRESENTATIVE KOTT said the governor's bill went beyond just the BRAELS extension. He asked if the issues were taken up at the board meeting, and if "they" supported the way it came together.

Number 1728

MS. REARDON said the board was supportive of the language used in the bill now, "Extending the temporary non-voting member", and paying for the cost of the member. She said the board clearly gave her the message that she was to try and achieve this.

CHAIR MURKOWSKI asked Ms. Reardon if the board had considered voluntary continuing education with an offset to licensure fees. She said the Alaska Bar Association (ABA) does this and it is an alternative to mandatory continuing education.

MS. REARDON said she hadn't thought of it, but it looked as if the legal profession was sort of in the same situation as the design professionals, where there is not unanimity of belief about continuing education. She said this is apparent in rural areas.

Number 1770

MS. REARDON explained that voluntary continuing education has been instituted and would be considered a mitigating circumstance if a person is faced with disciplinary action; doing continuing education would be a "star" in a person's favor during sanctions. She added that there is also a 10 percent reduction in the renewal fee. She said she didn't talk to the board about it [instituting a voluntary system like the ABA's], because when she talked to them, she wasn't aware of the idea. She went on to say that the department sets the fees, so it would take departmental action to decide what the amount would be for someone doing continuing education.

MS. REARDON clarified that she wouldn't be opposed to a fee system [like ABA's] and would be looking to the professionals to self-certify that they did the education; without a requirement for licensure, there is no reason to audit. She said the board may want to think about it, and she does not know if it would require a change in statute.

Number 1865

CHAIR MURKOWSKI said the ABA is not checking to ensure completion of continuing education; there is no additional cost, and it is a way to encourage continuing education. She encouraged Ms. Reardon to bring it up [with the board].

Number 1888

JAMES BIBB, President, American Institute of Architects (AIA), Alaska Chapter, said he supports the extension of the sunset for the BRAELS. He said the AIA is ready to support continuing education and has, for several years, developed continuation education. He said "they" see the benefits to the profession and are ready to support the state on this issue. And he said:

This is strictly within the architects association, with the AIA, and does not really represent the design professionals of Alaska - so that is something to be noted.

MR. BIBB said "they" would support mandatory continuing education and have seen it in many states across the nation; Oregon and Florida just passed this [legislation]. He said it is something "they" anticipated, and there is a format in place to gain 18 hours of learning units a year; some [education] areas cover health and welfare in the profession, which are fairly well organized.

Number 1970

MR. BIBB said the AIA also supports extending the temporary [non-voting landscape-architect] board member seat. He said there is an issue regarding Recommendation 3 - clarifying the statutes and keeping them clean. He said across the nation, AIA recommends against restricting licensure to a single process. He said AIA is looking at the National Council of Architectural Registration Board (NCARB). He explained that NCARB is in place, so if a person becomes certified through a national

board, the Alaska board of licensing accepts it as a requirement.

MR. BIBB explained that NCARB standardizes education and training across the country. He said the AIA is concerned about members licensed in other states; "they" want to make sure, upon entry into Alaska, that "they" are accepted in some format. He said AIA doesn't want to restrict prospective licensees, and would like to see an alternative route developed. He added that the AIA wants to ensure that the revision of the statute is completed. He said in some way, AIA is asking for the amendment to be set aside and reworded.

MR. BIBB said AIA represents about 75 percent of the licensed architects in Alaska; they don't have consensus, and would like it before moving forward with NCARB exclusively. He said he has a memo for the committee that would provide some clarity.

Number 2040

REPRESENTATIVE KOTT said he was going in this direction when he commenting on Recommendation 3. He said he would like to read it [the memo] and ensure that it accurately reflects the position of the board. He said the statute is semantically unclear to the board, the way it is currently worded. He said he doesn't believe consensus can be reached with every design professional. However, if there is a problem that the committee can fix to make it semantically clear, they should do it. He said he would like to hear from others as to whether the committee is taking the right approach in moving the bill out without corrective action.

REPRESENTATIVE HAYES asked Mr. Bibb about the BRAELS becoming an autonomous board.

MR. BIBB said he did not know anything about it but said Ms. Reardon might have information.

Number 2113

MS. REARDON said over the last five or six years, the architecture industry has expressed an interest in some type of autonomy from the division. She wasn't aware of the industry's current thinking, and thought there were varying opinions amongst the 5,000 Alaskans [members].

MS. REARDON explained that there had been legislation and debate on the topic a few years ago. She said within the department, it came down to the definition of autonomy. She said autonomy could mean many things, such as when a profession or program wants to be outside the Division of Occupational Licensing and form its own government agency, as a separate entity, not a part of the whole package. She said it would be like the Regulatory Commission of Alaska or something along those lines. She said autonomy could also mean [being] outside government altogether, or somewhere in between.

MS. REARDON said deciding on the definition of autonomy can be difficult. She said while the department and possibly the administration, as a whole, might have strong views about having self-regulation outside government, a different response might be received from a proposal to leave occupational licensing.

MS. REARDON said in talking about leaving occupational licensing, one gets into financial, economies-of-scale-type issues. And in talking about leaving state government completely, there are issues for groups not connected with elected officials, including: fining people, disciplining people, and saying who can and can't practice the profession. She said personally, she feels it is important to have elected representatives or government involved because otherwise there is a guild.

MS. REARDON said she hopes if occupational licensing meets the needs of the industry well enough, within the division, the interest in leaving will lessen.

Number 2253

REPRESENTATIVE KOTT asked about the language in the statute contained in the [legislative] audit [page 9] in the bold section, "**in the opinion of the board**," with respect to reciprocity and registration of someone from another state. He said "the opinion of the board" was somewhat troubling. He asked Ms. Reardon if the board had ever offered reciprocity.

MS. REARDON answered by saying the board frequently grants licenses to architects licensed in other states. She said she thought the board always required the NCARB certification to come in by reciprocity. She said there are many architects from other places getting licenses in Alaska.

MS. REARDON explained that the board is not saying that no one can come in from outside, that one must come in fresh to Alaska. She said the language in the statute implies that there are two tracks [to reciprocity]: holding a license from another state, or holding an NCARB certification. She said the board interprets both tracks the same.

Number 2313

DWAYNE ADAMS, American Society of Landscape Architects (ASLA), said they accept the legislation as written and had worked closely with Ms. Reardon, who did a good job capturing the issues - those pertaining to landscape architects, the temporary board member, and continuing education.

MR. ADAMS said the ASLA has a national council, the Landscape Architects Registration Board (LARB), which is much like NCARB for architects. He said "they" deal with continuing education every year, and 10 percent of the states that are licensed require continuing education. He said it is somewhat problematic because LARB doesn't provide the [continuing education] tracking that NCARB does.

MR. ADAMS explained that in states that require continuing education for licensure, there are costs and administrative time involved in deciding on appropriate courses and maintenance. He said LARB is in favor of continuing education. He said it is seldom that a member would not comply. He said the questions that remain include how to track it, and how to handle the administration.

Number 2436

SAM KITO, Chair, Alaska Professional Design Council (APDC), said APDC supports the extension of the sunset and the landscape-architect temporary board member position, consistent with HB 50. He referred to the audit recommendations and said the engineering community agrees on continuing education, but not on how it should be implemented. He said this is why APDC has asked that it not be considered at this time [in HB 50]. He said additional discussion with all of the design professionals is necessary to implement the continuing education program.

TAPE 01-11, SIDE B

Number 2452

MR. KITO said with respect to the "architectural comity" issue, they defer to the AIA, since it is primarily an architects' issue. He said as an organization that also represents the architects, APDC concurs with AIA on the issue.

MR. KITO clarified that from APDC's perspective, with respect to AELS board autonomy, the Division of Occupational Licensing was put on program receipts for the board last year; APDC would like to see what the impacts would be. He said:

AELS autonomy would have benefited our professions on the board. [There were two issues] ... Those two issues were the issues of travel, ... whether or not there would be flexibility to travel out of state for professional functions, and ... the issue of licensed disciplinary action enforcement.

MR. KITO went on to say that with more control over the fee structure and spending within the AELS board structure, APDC wants to see how the changes address some of the problems that they have seen, and the board's ability to operate.

REPRESENTATIVE HALCRO asked if APDC's members were surveyed to see if they would accept a fee increase.

MR. KITO said the membership did not have a problem with paying additional money to provide the services for the board members. He said the issues [raised] were about budget restrictions and whether funding could be used if the fees were increased.

Number 2372

MS. REARDON said last year the legislature decided to move occupational licensing receipts into a new receipt-supported services category. She said at the same time they granted expenditure authority for travel so the BRAELS' could participate in national meetings. She said as a result, participation in out-of-state professional conferences for the board has increased significantly this year.

MS. REARDON said investigations and enforcement actions are areas that still need to be addressed; the travel issue has been addressed by the legislature.

CHAIR MURKOWSKI asked Mr. Kito about voluntary educational commitments and whether he thought ADPC members voluntarily take ongoing educational seminars to stay current [in the industry].

MR. KITO said there are seminar programs circulating throughout the country for engineering professionals that have continuing education credits recognized in other states. He said the credits are available to the ADPC membership in Alaska. He added that there are seminars taken by engineering professionals in Alaska that qualify [them] for continuing education credit in other jurisdictions.

MR. KITO explained that it is not a matter of whether continuing education should happen, but "how" it should happen in order to be fair to all professionals.

REPRESENTATIVE KOTT said the board could be set up to issue a license to someone who is not NCARB certified. He said he doesn't want to hold the bill up, if it is the wish of the committee to move it out. He noted that it has a House Finance Committee referral, and will eventually end up in the House Rules Committee, where he could develop language with the help of the professions.

CHAIR MURKWOSKI asked Ms. Reardon about the Senate companion bill and whether the Senate has done anything that would address Representative Kott's concern.

Number 2229

MS. REARDON said the identical bill [to HB 50] passed out of the Senate Finance Committee this morning and the issue of comity wasn't addressed.

REPRESENTATIVE KOTT said he was not ready to make an amendment to the bill; he wants to talk to the professionals and find out if the issue of comity needs to be addressed.

Number 2181

REPRESENTATIVE HALCRO moved to report HB 50 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 50 was moved out of the House Labor and Commerce Standing Committee.

REPRESENTATIVE KOTT said it might be good to send HB 50 to the House Judiciary Committee to address whether it is a legal issue and whether there is liability from the board's perspective. He said if the board is challenged [by a prospective licensee], the question would be raised as to whether they would have to issue

the license without NCARB certification. [HB 50 was reported out of committee.]

HB 27-LICENSE HOME INSPECTORS

Number 2108

CHAIR MURKOWSKI said the next bill the committee would consider would be HOUSE BILL NO. 27, "An Act relating to the licensure and registration of individuals who perform home inspections; relating to home inspection requirements for residential loans purchased or approved by the Alaska Housing Finance Corporation; relating to civil actions by and against home inspectors; and providing for an effective date."

CHAIR MURKOWSKI said a fair amount of information was received since the committee last took up the bill on January 1, 2001. In addition, she stated that there was an amendment from the sponsor, and three pages of single-spaced comments from Catherine Reardon, Director, Division of Occupational Licensing, Department of Community and Economic Development (DCED).

Number 2041

REPRESENTATIVE ROKEBERG, speaking as the sponsor of HB 27, said he would review the information the committee had received and add public testimony.

REPRESENTATIVE ROKEBERG stated he had submitted some technical amendments and one substantive amendment to the committee. He said the committee would hear public testimony and hold the bill over while he reviews the information submitted by the Division [of Occupational Licensing]. He said he was upset about the submission and didn't expect the committee to go through it line by line. He said the committee also received a letter of support from State Farm Insurance, and a letter from the Stanley family in Homer, Alaska, which was sent to Bill Pellman at the Alaska Housing Finance Corporation (AHFC). The Stanleys lost \$130,000, he noted.

Number 1879

TED VEAL, Homer resident, asked about revisions to the bill. He said it appears that it [the bill] is being pursued because the real estate community is having problems with inspectors retained to inspect houses. He asked about the thought process behind putting a "real estate individual" on the inspector

board, rather than a residential home building contractor or someone else.

MR. VEAL asked who would develop the requirements under the continued competency requirement in Version F [adopted as a work draft on January 31, 2001], page 3, line 25 of the bill, and asked what they would include. He asked if the department would produce the "board and departmental publications and seminars related to this chapter" from page 4, line 15 [of the bill], for licensed inspectors. He said the pre-inspection document required on page 5, line 19 [of the bill] is redundant because when an International Conference of Building Officials (ICBO) inspection is done, the builder requests a particular inspection from the inspector; for the inspector to submit a written document stating that he is coming to do the inspection seems like more paperwork.

MR. VEAL said in his experience, once the builder of the project satisfies the particular requirements for the inspection, a summary of building inspections for site-built construction form is signed off [on]; a lengthy report isn't necessarily written about the condition of the sign-off.

MR. VEAL referred to proposed amendment F.1 [22-LS0136\F.1, Lauterbach, 2/2/01], which read:

Page 1, line 14, following "broker":

Insert ", associate broker,"

Page 3, lines 10 - 13:

Delete all material.

Insert "examination must include a written portion; the examination may, as determined by the board,

(A) use testing methodologies in addition to the written portion;

(B) test for competency in relation to Alaska construction techniques and other matters;

(C) be based on a recognized national examination or other methodology;"

Page 6, line 7:

Delete "commission"

Insert "board"

Page 10, line 6:

Delete "interior"

Page 12, following line 23:

Insert new bill sections to read:

"* **Sec. 8.** AS 18.56.300(c) is repealed.

* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The change made by sec. 8 of this Act applies to causes of action that accrue on or after July 1, 2003."

Renumber the following bill sections accordingly.

Page 13, line 19:

Delete "or"

Insert "and"

Page 14, following line 22:

Insert a new bill section to read:

"* **Sec. 15.** Sections 8 and 9 of this Act take effect July 1, 2003."

Page 14, line 23:

Delete "11 and 12"

Insert "13 - 15"

[End of amendment F.1]

MR. VEAL referred to the portion of amendment F.1 that amends page 12, line 23, to insert a new bill section to read: "'*Sec. 8 AS 18.56.300(c) is repealed."

MR. VEAL said the proposed amendment limits some of the liability of the inspector unless he or she is grossly negligent. He said if this section were repealed, the inspectors would be subject to an inordinate amount of exposure that could cause many people to cease to perform that function; there may be a problem with having enough inspectors in Alaska, particularly in rural communities.

REPRESENTATIVE ROKEBERG, responding to Mr. Veal's question about page 3, line 25, of Version F, said the position [on the board] is [to be] either a real estate appraiser or a real estate broker. He said he has a proposed amendment to expand it to a real estate associate broker. He went on to say the real estate industry has an interest in the issue and [the position] should be on the board. He said the board has five members and an ex officio member, including a representative from AHFC.

REPRESENTATIVE ROKEBERG responded to the question of who would be developing the requirements. He referred to [Version F], page 3, line 25, under the continued competency requirement. He said:

The level of competency is to be determined by the board created by this legislation. Publications and so forth - seminars [would be determined] by the board.

The pre-inspection document, I think, primarily ... [addresses the] standards of practice and the existing home market where there is a clarity as to what the scope of work should be - in case there is an assertion of an omission from an inspection report.

In other words, ... [the] level of your roof inspection ... should be in the pre-inspection report to make sure that you can't bring a subsequent cause of action, to claim that you didn't do your job when you should have, because you may have made a comment about it. Like, you think the roof is leaking, you put that on there, and if it wasn't [in] the scope of work, then they should have a cause of action.

Number 1625

REPRESENTATIVE ROKEBERG noted that part of proposed F.1 repeals AS 18.56.300(c) effective in 2003, when the transition is complete. He said there is always a risk, when removing blanket liability from the inspectors, to try and protect the public, but those doing shoddy work will get out. He said due to the rural nature of Alaska, minimizing the amount of ICBO inspectors available in rural Alaska could be a problem. He said it's difficult to gauge the effect of it prior to legislation. "We" can just hope that the competency of individuals throughout the state is such that the public will be better served.

Number 1472

MR. VEAL concurred with what Representative Rokeberg had said about the pre-inspection document as far as an existing home inspection. He wondered, on new construction where an ICBO inspection is taking place, whether "they" would be required to do the additional paperwork even though it's evidently not necessary.

REPRESENTATIVE ROKEBERG said the current bill is drafted this way. He said it might be good to review that particular area and exempt it, if so.

Number 1414

FRANKO VENUTI, Homer resident, said he was concerned about a statement made earlier by Representative Rokeberg in reference to a letter from the Stanleys [family in Homer]. The case went to court and the Stanleys argued with the builder over costs, and were found liable.

CHAIR MURKOWSKI verified that the committee had received a letter regarding the purchase of the Stanleys' home.

MR. VENUTI said he had not seen a copy of the letter addressed to Bill Pellman of AHFC dated January 8, 2001 but would like to.

REPRESENTATIVE HALCRO asked Mr. Venuti to clarify that the Stanleys went to court and eventually lost; the court found their claims had no merit.

MR. VENUTI said they were held liable for costs since no merit was found, and he believed they paid the contractor.

Number 1257

AMY DAUGHERTY, Lobbyist, Alaska Professional Design Council (APDC), said APDC reviewed the proposed committee substitute (CS) and rewrote the letter to show their support.

REPRESENTATIVE ROKEBERG said the proposed amendment, which he discussed with John Bitney, Legislative Liaison, Alaska Housing Finance Corporation, repeals AS 18.56.300(c), which says:

A person may not bring an action for damages based on a duty imposed by (b) of this section to inspect a residential unit unless the action is for damages caused by gross negligence or intentional misconduct.

REPRESENTATIVE ROKEBERG asked Mr. Bitney if he objected to removing it from AHFC statute, effective July 1, 2003.

JOHN BITNEY said he had no objection and wasn't sure what the thought was at the time the bill was drafted. He said it

appears that the gross-negligent standard, as written, is a very high standard [in order] to protect the inspector.

MR. BITNEY said it doesn't seem to affect AHFC, so they don't have any objection.

Number 1101

REPRESENTATIVE ROKEBERG said since it is such a high legal standard, it would allow an inspector working under AHFC to meet their requirements for lending; inspectors have almost unlimited ability to do what they want unless they are grossly negligent. He said it is a tough standard to prove in court.

Number 1054

MR. BITNEY said he believed he had reviewed the letter sent to Bill Pellman at AHFC [from the Stanley family]. He said the home was failing, but was hesitant to say much until he could check the status.

REPRESENTATIVE ROKEBERG said it is important for the reputations of the Stanley family and Mr. Venuti that there is a clear understanding on public record about what had occurred in the case. He asked Mr. Bitney to add information to the public record, as the bill moves along, to clarify what the position or case was, and what Alaska Housing did. He said the committee doesn't want the public record to unfairly shift the burden on any party involved.

Number 0943

CHAIR MURKOWSKI asked Representative Rokeberg if there was a reason why "they" hadn't looked at having a residential contractor [as a designated seat on the board of inspectors].

REPRESENTATIVE ROKEBERG explained that there are three members from the industry: one "realtor type", one "appraiser type", and one public member. "They" had wanted to keep the board small because of costs. He said residential contractors were considered but were rejected. He said it is his belief that home inspectors should have the largest role on the board, and a public member could be a residential contractor. He said:

The people in the real estate industry ... have an interest in it - and then we had an ex officio member

on the board, presumably from Alaska Housing, ... to make sure that their interests are protected.

It's great, but I ... would counsel against extending the board [in order] to keep the fee low.

CHAIR MURKOWSKI revisited the issue of the statutes allowing for a home inspection to be either written or oral. She asked for understanding of why a verbal home inspection would be allowed. She said 99 percent of the statutes are only applicable to a written home inspection. She asked why the committee is allowing for a provision that would accommodate an oral home inspection.

REPRESENTATIVE ROKEBERG said the provision was put in at the request of the home inspectors because they like to lead clients around the home to point out issues. He said there might be some merit to having a written record. He said in almost all of the cases there would be a written report; allowing for the oral inspection seems problematic.

Number 0699

CHAIR MURKOWSKI reiterated that the report done in writing or orally is required, and asked, if it is done orally, "Isn't it just one person's word against another?" She said if the committee is saying that the report must include certain things, how do you know if there is compliance, if it was done orally.

REPRESENTATIVE ROKEBERG reiterated that he thought the inspectors wanted to be able to lead people around, and talk to them about it [issues with the house] too.

REPRESENTATIVE HALCRO said if the intent of the board is to protect the consumer, he doesn't see how allowing an oral report would accomplish this. He explained that to protect the consumer, they need something in writing.

Number 0462

TERRI LAUTERBACH, Legislative Council, Division of Legal and Research Services, said the report referred to in Version F, page 6, could be oral or written - referring to the review of the condition of the systems. She clarified that there is a requirement in Version F, page 5, line 25-30, which says that defects noted will be in a written report. She explained that

if the committee is going to take up the issue of oral versus written [reports], they should be aware of this provision too.

REPRESENTATIVE HALCRO echoed Chair Murkowski's concern about consumer protection. He said if a report is in writing, the buyer would have something concrete to refer back to, in order to prove his or her point if something goes wrong with the house.

MS. LAUTERBACH said based on what is written here [in Version F], there would be no report that said there was a defect. She said this gives some evidence that the inspector didn't point out the defect. She emphasized that she is not saying it would be bad to get rid of the oral report, only that they should keep the provision in mind and keep it consistent. She said if the committee decides to stick with oral [reports], that should go on page 5 too; and if not, then all of them would wind up being written. She said she didn't know if the committee wanted to distinguish between defects and the condition of the house, as to whether [the report] is written or oral, but wants them to be treated together [throughout the bill].

Number 0413

REPRESENTATIVE ROKEBERG said even if there is an oral report, there has to be a written pre-inspection report. He said the committee could amend that portion, so it doesn't preclude oral reports.

REPRESENTATIVE CRAWFORD said he noticed similarities between real estate brokers and real estate appraisers. He advocated for consistency when writing laws that deal with virtually the same types of things - such as home buying and consumer protection.

Number 0147

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community and Economic Development (DCED), said 90 percent of her comments, submitted to the committee, were not policy recommendations. She said her written comments related to inconsistencies between bill language and the goals to be achieved [through the legislation].

MS. REARDON said a policy issue, addressed under number 2 of her comments, says that she recommended that the AHFC board member

be paid for by AHFC. She said she knew any increases in the fiscal note would be of consternation - at least to the sponsor.

TAPE 01-12, SIDE A

MS. REARDON said she assumed in Version F, page 6, line 10, the sponsor of the bill meant "conflict of interest" to be defined as when the licensee has a financial relationship as well as when the relatives have a financial relationship.

MS. REARDON asked why a private person shouldn't be able to sue when a conflict of interest is not disclosed. She said she wasn't sure why a potential consumer shouldn't have the right to sue if it was deemed appropriate.

MS. REARDON said she agreed that the report should be written because only the board, the courts, or others can examine the written report if the board is to consider the competency. She said she didn't think it would prohibit an inspector from speaking with a consumer, while they walk through a house. She said the only compelling report would be the one in writing.

Number 0157

MS. REARDON mentioned a point discussed at the last board meeting: the 180-day limit to sue based on the home-inspection report. She said thinking of an average home owner, six months is not very much time; it is out of step with the litigation limits that other contracts and professionals have. She said there is a two- to ten-year limitation on when one can sue over work. She said the processing time between when a new homeowner buys the house, discovers a problem, and files a lawsuit takes time; meanwhile, the 180-day limit is ticking away.

MS. REARDON said her final concern is the grandfathering or transitional license provision. She wanted to make sure the committee was aware of how the current bill would play out. She said because of all of the interrelations in effective dates and transitional license provisions, it isn't always easy to see. She said this isn't complete grandfathering; a current home inspector can get a transitional license if he or she has taken certain exams, but the licenses cannot be renewed. She said usually with grandfathering, one meets certain qualifications, and a license is renewed for the rest of one's career. She said with other legislation, they decided there wouldn't be any grandfathering. She said this was the case with the manicurist licensing, taken up [by the legislature] last year.

MS. REARDON said [according to the bill], a person will be grandfathered under certain conditions; those conditions will expire six months later and can't be renewed. And upon renewal, a person has to meet whatever basic licensure requirements the board has established. She said she wanted to make sure the committee was aware that after January 1, 2003, the same people were going to have to meet the new requirement - whatever it ends up being. She said it may be good public policy, but she didn't want to take anyone by surprise when it was carried out.

MS. REARDON said if "they" require everyone to meet the basic education and training requirements set forth by the board, it might be best to spell out what will be required to get a license by January 1, 2003. She said there might not be much benefit to having a grandfathered license for [just] six months.

Number 0448

MS. REARDON said the biggest issue that would be heard after the bill passes, besides the length of time for being able to sue, would be the issue of who did and didn't get grandfathered. She said people currently in business feel very strongly about this issue. She said since the board has not established the qualifications for licensure, she didn't know whether most of the current home inspectors would be able to qualify in January 2001.

MS. REARDON said if everyone who is currently practicing automatically gets a license, none of the bad actors would be eliminated. She said it is worth thinking about what will happen to the current inspectors, so there isn't an unintended consequence.

REPRESENTATIVE ROKEBERG said he viewed the memorandum from Ms. Reardon as the most insulting thing that he has had presented to him in his six years in the legislature. He said she has had two years to do this memorandum, and said:

There is possibly one section of this bill that is different than the legislation ... [that was before] her division previously. And that is the 180-day ... liability issue. And you have the temerity to comment on it. It is a matter of judicial or legal liability - it has nothing to do with occupational licensing.

I find this wholly insulting. I feel appreciative that there was a hearing, and you came up with a memorandum on recommendations two days later. But to do this ... just before the committee hearing, and you had two years ... I really take exception to that. ... That is not how business should be done, as a matter of courtesy, and not how it's done in this legislature.

Number 0621

MS. REARDON said she understands that Representative Rokeberg is very angry but there were a fair number of comments that she believes she made last year when the bill came up - some of them with a different staff person, and some of them in public comment. She referred particularly to the issues of grandfathering and required examinations.

MS. REARDON said her concern and comment about the 180-day liability was an area which, in the earlier bill, had been pointed out to her as an area of proper concern - she wasn't sure it was inappropriate for her to comment on the potential affect on the consumer.

MS. REARDON said she understood that it would have been more helpful to Representative Rokeberg if she had brought them up sooner. She emphasized that her comments were not things that the division needs, but were generated from reading the bill carefully.

REPRESENTATIVE ROKEBERG said [Ms. Reardon] and her staff have had meetings [with him], and the bill is now three years old. He asked Ms. Reardon why she is introducing these suggestions now.

CHAIR MURKOWSKI said she appreciates new information - that the bill is still being worked on. She agreed with Representative Rokeberg that this is an area where everyone cannot be pleased. She said if the committee can make the bill a little better, then the committee would have accomplished what "they" set out to do.

CHAIR MURKOWSKI said she had heard that Ms. Reardon was not entirely comfortable with the version [Version F]. She said Ms. Reardon's comments on Wednesday, January 31, 2001, were very general. She had asked her staff to call Ms. Reardon to make

sure she would be here today, so the committee members could find out what her concerns were.

REPRESENTATIVE ROKEBERG said he has worked with Ms. Reardon for six years and said, "I was really surprised by it and very disappointed. I would be happy to work with her in clearing this up."

REPRESENTATIVE HALCRO said if the concerns [brought forth by Ms. Reardon] have substance, then it is the committee's responsibility to address them. He said he thought Ms. Reardon had a good point about the 180-day limit, and the process people go through in finding a problem with a recently purchased house. [HB 27 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:10 p.m.

