

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 28, 2001

3:25 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. 157

"An Act relating to trust companies and providers of fiduciary services; amending Rules 6 and 12, Alaska Rules of Civil Procedure, Rule 40, Alaska Rules of Criminal Procedure, and Rules 204, 403, 502, 602, and 611, Alaska Rules of Appellate Procedure; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 67

"An Act requiring proof of motor vehicle insurance in order to register a motor vehicle; and relating to motor vehicle liability insurance for taxicabs."

- MOVED CSHB 67(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 106

"An Act relating to the authorizations for state financial institutions; relating to confidential financial records of depositors and customers of certain financial institutions; relating to the Alaska Banking Code, Mutual Savings Bank Act, Alaska Small Loans Act, and Alaska Credit Union Act; and providing for an effective date."

- BILL HEARING POSTPONED

**PREVIOUS ACTION**

BILL: HB 157

SHORT TITLE: TRUST COMPANIES & FIDUCIARIES

SPONSOR(S): REPRESENTATIVE(S) MURKOWSKI

Jrn-Date	Jrn-Page		Action
02/28/01	0463	(H)	READ THE FIRST TIME - REFERRALS
02/28/01	0463	(H)	L&C, JUD
03/28/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 67

SHORT TITLE: MOTOR VEHICLE REGISTRATION/INSURANCE

SPONSOR(S): REPRESENTATIVE(S) ROKEBERG

Jrn-Date	Jrn-Page		Action
01/17/01	0111	(H)	READ THE FIRST TIME - REFERRALS
01/17/01	0111	(H)	L&C, JUD
03/26/01		(H)	L&C AT 3:15 PM CAPITOL 17
03/26/01		(H)	Bill Postponed
03/28/01		(H)	L&C AT 3:15 PM CAPITOL 17

**WITNESS REGISTER**

TERRY LUTZ, Supervisor

Banking Section

Division of Banking, Securities and Corporations

Department of Community and Economic Development (DCED)

P.O. Box 110807

Juneau, Alaska 99811

POSITION STATEMENT: Testified on HB 157 for the division.

TERRY ELDER, Director

Division of Banking, Securities and Corporations

Department of Community and Regional Affairs (DCED)

P.O. Box 110807

Juneau, Alaska 99811

POSITION STATEMENT: Testified on HB 157 for the division.

DOUGLAS BLATTMACHR

Alaska Trust Company

1029 West Third Avenue, Suite 601

Anchorage, Alaska 99501-1981

POSITION STATEMENT: Testified on HB 157 regarding a memorandum he submitted to the committee.

JANET SEITZ, Staff  
to Representative Norman Rokeberg  
Alaska State Legislature  
Capitol Building, Room 118  
Juneau, Alaska 99801

POSITION STATEMENT: Introduced HB 67 for the sponsor,  
Representative Rokeberg.

MARY MARSHBURN, Director  
Division of Motor Vehicles  
Department of Administration  
3300 B Fairbanks Street  
Anchorage, Alaska 99503

POSITION STATEMENT: Testified on HB 67.

### **ACTION NARRATIVE**

TAPE 01-41, SIDE A  
Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:25 p.m. Members present at the call to order included Representatives Murkowski, Kott, Rokeberg, Crawford, and Hayes. Representatives Halcro and Meyer joined the meeting as it was in progress.

### HB 157-TRUST COMPANIES & FIDUCIARIES

Number 0035

[Contains discussion of HB 106 relating to confidentiality provisions.]

CHAIR MURKOWSKI announced that the committee would hear HOUSE BILL NO. 157, "An Act relating to trust companies and providers of fiduciary services; amending Rules 6 and 12, Alaska Rules of Civil Procedure, Rule 40, Alaska Rules of Criminal Procedure, and Rules 204, 403, 502, 602, and 611, Alaska Rules of Appellate Procedure; and providing for an effective date."

CHAIR MURKOWSKI, speaking as the sponsor of HB 157, explained that she has been working on this bill for three years, and said proposed amendments and suggestions are still being received.

CHAIR MURKOWSKI directed the committee to the bill sectional analysis entitled "Overview of HB 157," submitted by the

Division of Banking, Securities and Corporations, which she said was helpful. She explained that she didn't sit down and write this legislation herself; division personnel had asked her to work with them to update the Trust Company Act, which dates back to the late 1940s.

CHAIR MURKOWSKI stated that several years back there were substantial changes in the trust world through the Alaska Trust Act, and since [Alaska] is going to have a trust industry, there needs to be regulation of it like what is being done in the banking industry.

Number 0281

TERRY LUTZ, Supervisor, Banking Section, Division of Banking, Securities, and Corporations, Department of Community and Economic Development (DCED), remarked that the current Act dates back to 1949, with few changes over the years. In writing HB 157, he said, [the division] worked with the trust industry, attorneys both inside and outside the trust industry, and Representative Murkowski. He prefaced his testimony by saying that he would go over the areas lacking in the law.

MR. LUTZ commented that in putting the bill together, [the division] reviewed trust Acts from several states. [The division] chose from [examples provided by] other states and from the model Act from the Conference of State Bank Supervisor (CSBS). Mr. Lutz pointed out that committee members had a copy of the letter of requested amendments dated March 15 [2001].

Number 0433

MR. LUTZ said a new Act is needed because the current one is lacking in the following areas: it lacks direction as to who should be chartered; it gives limited guidance on the formation process of trust companies; it provides no provisions for branching either intrastate or interstate; it provides no provisions for liquidations, mergers, or sales of trust companies; and it is limited regarding the powers of the department. Mr. Lutz explained that [the current Act] merely says that [the division] has the power to supervise trust companies.

MR. LUTZ, referring to Section 2, AS 06.26.010, pages 1 and 2 of the bill, explained that this section states who can undertake a trust business in the state, including: a trust company chartered by [the division]; state financial institutions

(indisc.) for which [the division] has asked and received authority to [create] a trust business; national banks with home offices in Alaska; interstate national banks with branches in [Alaska]; national trust companies; interstate-state banks with trust powers; and interstate trust companies.

MR. LUTZ, referring to Section 2, AS 06.26.020. Exemptions, pages 3 and 4 of the bill, pointed out that this section lists many exempt trust activities, a few of which include: attorneys with limitations, broker-dealers, investment advisers, insurance companies, cemetery associations, certified public accountants (CPAs), family members, homeowner associations, court-appointed conservators, representatives, and business partners.

Number 0606

MR. LUTZ, referring to Section 2, AS 06.26.050. Powers of Trust Companies, pages 5 and 6 of the bill, explained that this expands trust powers for trust companies, including: acting as a trustee under written agreement; receiving money as a trustee for investment in real estate property; acting as a trustee by court appointment; acting as an executor for an estate; [acting as a] custodian for minors and incapacitated persons; [ensuring] safekeeping for any type of personal property; acting as an investment adviser in an agreed-upon activity; and other incidental powers that are reasonable and necessary to exercise powers exclusively conferred.

Number 0658

MR. LUTZ, referring to Section 2, AS 06.26.060. Organizers, page 7 of the bill, said it gives details of how to obtain a charter. He then referred to Section 2, AS 06.26.120, page 10 of the bill, which addresses the minimum capital requirements for trust companies. It has been increased in the bill to a minimum of \$400,000 plus [maintaining] 20 percent of that amount in surplus. [The division] looked at what other states required, he said, and [Alaska] is probably at the low end because other states require millions of dollars for capitalization of a trust company. [The division] met with Jonathan Blattmachr, Alaska Trust Company, who was comfortable with that number. The current provision in law [indicates] a minimum of \$100,000, but is [at the discretion] of the director.

MR. LUTZ, referring to Section 10, page 63 of the bill, remarked that it has a grandfathering transition period for existing

trust companies, giving them until 2007 to obtain the minimum capital.

Number 0795

MR. LUTZ, referring to Section 2, Article 3, Operation of Offices, AS 06.26.150, Trust Company Home Office, page 12 of the bill, said this section requires a state trust company to maintain its home office and records in Alaska, and each executive officer is an agent for service of process for the trust company. It provides for interstate and intrastate branching, he explained, and details the processes with the authority to branch.

MR. LUTZ, referring to Section 2, AS 06.26.400, page 22 of the bill, said it requires trust companies to disclose conflicts of interest.

Number 0823

CHAIR MURKOWSKI directed Mr. Lutz to page 13 of the bill where it discusses branch and representative offices. She asked about the distinction between the two.

MR. LUTZ referred back to AS 06.26.990, Definitions, paragraph (26), page 59 of the bill, which read: "'representative office' means an office that provides support services for a trust company, but at which the trust company does not provide fiduciary services". So a branch could provide fiduciary services, he explained, but the representative office could not. Mr. Lutz further explained that a representative office would probably be a small office set up with someone who isn't a trust expert to solicit business. If an actual trust were going to be set up, it would need to be sent to a branch or home office where the expertise lies.

CHAIR MURKOWSKI asked if it is something that [Alaska] actually does. She said she didn't understand why there would be a representative office if it couldn't do any of the fiduciary things that a trust company does. She asked for a specific example of how this would work in a "real-world setting."

Number 0914

MR. LUTZ replied that he didn't know if there would ever be any representative offices in Alaska, but he pictured credit unions having similar offices, not in Alaska, but in many states where

customers are solicited. The model Act is used by the CSBS and in other states, and in almost every instance, has representative offices. Upon being asked whether [this language is in the bill] in case people want to avail themselves of it although it isn't something that is currently happening in Alaska, Mr. Lutz responded affirmatively.

REPRESENTATIVE CRAWFORD asked Mr. Lutz to explain cumulative voting from Section 2, AS 06.26.140, page 12 of the bill.

Number 1031

TERRY ELDER, Director, Division of Banking, Securities and Corporations, Department of Community and Regional Affairs (DCED), explained that cumulative voting is allowed in the corporations code, but is an option that companies can avail themselves of; the purpose is to allow minority shareholders a better opportunity to obtain representation on a board. It is a mechanism and procedure for voting so that, for example, if there are three people running for a board and a person has 100 shares, that person actually gets 300 votes, not just 100 votes. It is the number of shares times the number of people running, he explained, so that a person could give all 300 votes to one person. It would afford a better opportunity for minority shareholders to get representation on the board.

MR. LUTZ, referring to Section 2, AS 06.26.450 to AS 06.26.470, pages 22 to 24 of the bill, stated that this legislation provides for transfer and ownership of a trust company. The department has the right to prevent the sale in the best interest of the public, should a trust company become for sale. Before someone purchased it, [the department] could deny the purchase for safety and soundness concerns.

Number 1160

MR. LUTZ, referring to Section 2, AS 06.26.610, Customer Records Confidential, page 29 of the bill, said it provides for confidentiality of customer records similar to what is found in the banking code and in HB 106. He explained that he had considered taking it out of this bill; however, if HB 106 goes nowhere, then [Alaska] would be without confidentiality for trust companies.

CHAIR MURKOWSKI asked if it is similar to what is being done in HB 106 and in compliance with Gramm-Leach-Bliley Act (GLBA), so, if HB 106 should pass, then the two wouldn't conflict.

MR. LUTZ replied that he didn't believe that GLBA would come into play here since [a trust company] is not a bank; it doesn't conflict with what is in the banking code currently but would require an [opportunity to] "opt in," rather than "opt out."

CHAIR MURKOWSKI asked whether the tie-in with HB 106 is because of the changes being made to the banking code.

MR. LUTZ answered affirmatively. He said he had mentioned HB 106 because the committee was probably more familiar with that language.

Number 1234

MR. LUTZ went on to explain that HB 157 provides a detailed process for mergers and consolidations of trust companies, and provides a process for voluntary liquidation of trust companies should they wish to discontinue business without going through a sale or merger. It also provides a process for involuntary liquidation; for example, if [the division] determines there to be safety and soundness concerns, or for other reasons that a trust company needs to be close, it gives [the division] the authority to close it.

MR. LUTZ, referring to Section 2, AS 06.26.9000, pages 51 to 53 of the bill, stated that it details a list of powers of the department including the ability to: exercise general supervision over trust companies, which was the only thing covered in the current trust Act; adopt regulations; review and approve applications; determine minimal capital needs; approve transfer of ownership of trust companies; relieve a trust company of examination requirements contained in AS 06.01.015, requiring annual examinations; approve branch applications; require a trust company to maintain adequate capital; charge off assets not lawfully acquired; write down assets to market value; to record liens; maintain insurance; require directors to hold meetings; [allow] removal of directors under AS 06.26.510; to take possession of a trust company; and issue orders.

Number 1340

MR. LUTZ explained that [the division] hopes all of the various scenarios have been encountered and [addressed] in the exemptions contained in AS 06.26.020, those in the private fiduciary section, and those in AS 06.26.010 where it talks about who can [form] a trust business in this state.

CHAIR MURKOWSKI asked for some idea about the implementation and transition [period], since the 2007 date for grandfathering seemed longer than normal.

MR. LUTZ stated that the trust industry felt that it would need this amount of time to attain the minimal capital requirements proposed in the bill. Part of that transition period, he said, is for [the companies] to come up with a plan that has to be approved by [the division], addressing how they are going to meet those requirements. When asked whether that plan has to be submitted by April 1, 2002, Mr. Lutz replied affirmatively. And when asked whether - provided that the department signs off on the plan - [trust companies] then have until 2007 to meet the capital requirements. Mr. Lutz responded affirmatively.

CHAIR MURKOWSKI asked Mr. Lutz to speak to the zero fiscal note and the impact to the department in regulating a new area.

Number 1486

MR. ELDER said while this bill fleshes out and gives details on how [the department] will go about regulating trust companies, [the department] actually regulates them now, he remarked; there are only two trust companies in Alaska now and they are already examined by [the department]. [The department] has to look to the banking code for guidance in terms of when they are examined and the process. This just sets it up under their own chapter; it really doesn't add anything new. If there were a big growth of trust companies in Alaska, more trained staff would be required. He said training needs to be increased and improved for the current examiners regarding trust examination, because only one examiner was sent to a trust examination school.

Number 1597

REPRESENTATIVE ROKEBERG asked whether trust departments with interstate national banks are considered trust companies.

MR. ELDER replied affirmatively. And he confirmed that federal law regulates them. He explained that the [interstate national bank's trust departments] are addressed under AS 06.26.010, but when talking about the two [existing] trust companies, he said he is speaking about two Alaska chartered state trust companies.

REPRESENTATIVE CRAWFORD asked if this is going to affect the trust company that manages pension funds.

MR. LUTZ said he didn't believe it would. He clarified that he didn't believe it would be disrupting any current business.

Number 1718

REPRESENTATIVE ROKEBERG asked whether the [Division of Banking, Securities and Corporations] had a chance to look at the memorandum from the Alaska Trust Company regarding Article 4, the private fiduciary section, and asked whether there had been any discussions on it.

MR. ELDER stated that [the division] just received the memorandum. When asked if there was any conflict there, he replied that this is a work in progress and that amendments will continue to be proposed. And when asked if this has been a bone of contention, Mr. Elder responded that he didn't believe it to be; ideas have been worked through, he said, but there hasn't been any disagreement.

REPRESENTATIVE ROKEBERG added that it looked like a pretty substantial difference [between what the two groups are proposing], because [the Alaska Trust Company] wants to have a change in the definition of a private fiduciary, which he said might not be entirely appropriate. The concept of a private trust company may need to be an addition rather than a supplement. [The Alaska Trust Company] had indicated that [the two] are the same, although he wasn't sure.

MR. ELDER said [the department] didn't think it was necessary because in looking at [the definition of a] private fiduciary, it could be any person, which could be a company or an individual. He confirmed that [the Alaska Trust Company's] definition is different from what is in the bill; however, he said a private fiduciary could already be this. The key, he pointed out, is not to be offering the services to the public.

Number 1867

REPRESENTATIVE ROKEBERG asked if this bill is what is referred to as the trust company regulations, or whether there are additional regulations.

MR. ELDER responded that he didn't believe that [the division] was working on trust company regulations. Mr. Lutz works in the section that has spent a year or so drafting this; it has been ongoing, he remarked. And he verified that [the division]

doesn't have a regulation project. Upon being asked if there has been ongoing discourse with the trust attorneys and companies in the state, Mr. Elder replied affirmatively and said he has worked closely with them since 1998. He said there are no existing regulations for trust companies at this time; however, as a result of this Act, there probably will be some areas where [the division] will be required to write some regulations.

REPRESENTATIVE ROKEBERG referred to the new model trust Act and said [Alaska] doesn't have a model trust statutory regime. He asked Mr. Lutz, in drafting this, whether he looked at the whole body of law that [Alaska] has passed.

MR. LUTZ explained that this Act doesn't affect all of the legislation that passed in the last five years for the Alaska trust, rules of perpetuity, and so forth. [The division] has not done anything here that would affect any of that, he said.

MR. ELDER added that the Department of Law had also reviewed this [legislation]. He pointed out that this is a trust company Act, not a trust Act. This is just how the companies are regulated as providers of service and doesn't really affect the provisions in a trust.

MR. ELDER explained that the letter from the division [dated March 15, 2001] addresses four suggested amendments to the exemptions at Section 2, AS 06.26.010. In the bill, there is language that says that this kind of person, whether a broker-dealer, attorney, or whatever, is exempted when the trust activity is solely incidental to their business. [The division] was trying to say that such are not people really in the trust business, so [the division] doesn't want to regulate them as trust companies. The idea for using the "solely incidental" [language] was taken from the securities Act because it provides that one doesn't have to register as an investment adviser if the advice is solely incidental to one's work as a broker-dealer. However, as [the division] looked at it further, it became apparent that it would be better to be more precise now, because there would always be the question of the definition of "solely incidental." So [these suggested amendments] were offered as a way to be more precise. The language here is based on the language in the CSBS model Act for those sections. These amendments proposed in the division's letter read:

**1. (Section 2, page 3, lines 3-5) Replace language in lines 3-5 (AS 06.26.020(1)) with the following language:**

is licensed to practice law in this state, is acting within the scope of the license, and neither the attorney, or the attorney's law firm, is trustee of more than 50 trusts;

**2. (Section 2, page 3, lines 10-14) Replace language in lines 10-14 (AS 06.26.020(4)) with the following language:**

engages in a securities transaction or provides an investment advisory service as a licensed and registered broker-dealer, agent of a broker-dealer, state investment adviser, investment adviser representative, or noticed federal covered adviser provided the person is acting within the scope of the notice filed or the license conferred and the activity is regulated by the Department of Community and Economic Development under AS 45.55 or by the U.S. Securities and Exchange Commission;

**3. (Section 2, page 3, lines 15-18) Replace the language in lines 15-18 (AS 06.26.020(5)) with the following language:**

engages in the sale and administration of an insurance product as an insurance company licensed under AS 21 or an insurance producer licensed under AS 21;

**4. (Section 2, page 3, lines 22-25) Replace the language in lines 22-25 (AS 06.26.020(8)) with the following language:**

renders services customarily performed by a certified public accountant licensed under AS 08 in a manner authorized by law, and neither the certified public accountant or the certified public accountant's firm is trustee of more than 50 trusts;

Number 2155

CHAIR MURKOWSKI turned the committee's attention to another subject. She said she would like to see if [the division] and [the Alaska Trust Company] could look at the points that have come up and give feedback about private fiduciaries in

preparation for a committee substitute (CS). She said Mr. Blattmachr and Mr. Greer have been instrumental in working through this process, but she thought it might alleviate some of the questions if the two groups got together and talked about what could be done.

CHAIR MURKOWSKI asked Mr. Blattmachr and Mr. Greer if they wanted to add testimony. [Both men deferred their testimony until a later date.]

REPRESENTATIVE ROKEBERG asked Mr. Blattmachr about the memorandum he had submitted to the committee. He said it suggested changing the definition of a private fiduciary to private trust company. Representative Rokeberg asked if that is the common term used in the industry. He further asked if the [term] private trust would be in addition to a private fiduciary, or whether they are incompatible.

Number 2291

DOUGLAS BLATTMACHR, Alaska Trust Company, via teleconference, responded that the way he read the exemption from offering service to the public, referring to AS 06.26.990(a)(24) Definitions, page 58 of the bill, is that services are being provided to the general public unless it says "the person to whom the fiduciary services are provided is offered (A) by a family member of an individual who owns 100 percent of the person providing fiduciary services".

MR. BLATTMACHR explained that the only place where services were originally offered to the general public was under the private fiduciary section, also known as a private trust company. It seems that one has to be some form of an entity, he said, to be able to get this exemption under this definition. [The Alaska Trust Company] thought it might be clearer. A lot of wealthy families want to be able to setup private trust companies, and they are starting to look at different states that have easy set up procedures for private trust companies for their own family trust businesses, which was one of the reasons why "we" put this in at a late date. It is a real issue now which could produce a lot of new activity in Alaska if [Alaska] has friendly statutes to accommodate what some of the other states have.

REPRESENTATIVE ROKEBERG asked if the term and concept of a private fiduciary are common in trust law.

Number 2363

MR. BLATTMACHR said it is an old concept, but people like the Rockefeller Trust Company used it when it started years ago; it was a private trust company just for them; however, over the years, it has gone into offering services for the general public. He thought the term "private trust company" had been around for a long time, but there has been a lot more interest in recent years. The actual term isn't that important, he said, but it could be limited to some extent to more of a defined activity that constitutes a private fiduciary.

Number 2417

REPRESENTATIVE HALCRO referred to Mr. Blattmachr's memorandum dated March 28, 2001. He said Mr. Blattmachr points out that the definition on page 4, subparagraph (18), lines 27 to 29 of the bill, seems confusing. Representative Halcro pointed out the additional sheet faxed to the committee by Mr. Greer dated March 27, 2001, amends it. He asked Mr. Blattmachr if he'd seen [the amendment].

MR. BLATTMACHR said he hadn't seen it, but he and Mr. Greer had spoken about it today.

[HB 157 was held over.]

HB 67-MOTOR VEHICLE REGISTRATION/INSURANCE

[Contains references to HB 68 and HB 39.]

TAPE 01-41, SIDE B  
Number 2428

CHAIR MURKOWSKI announced that the committee would hear HOUSE BILL NO. 67, "An Act requiring proof of motor vehicle insurance in order to register a motor vehicle; and relating to motor vehicle liability insurance for taxicabs."

REPRESENTATIVE ROKEBERG, speaking as the sponsor of HB 67, stated that the bill has a companion bill, HB 68, which is a "no civil liability for taxis transporting drunks or the tipsy-taxi bill." He said it allows a taxi company to provide two drivers to drive a patron and his or her car home. Many people don't want to take a cab home, he said, because leaving a car at the establishment would [put it in jeopardy] of being vandalized.

REPRESENTATIVE ROKEBERG explained that during exploration of that issue, the discovery was made that there is no requirement for taxi cab companies to have any liability insurance in [Alaska], which would be considered a necessity if one is going to be transporting anyone. Therefore, this separate bill was introduced. And he said he'd had the idea of requiring further proof of insurance at the point of registration, similar to HB 39, which is in the bill and has caused there to be a large fiscal note.

Number 2348

JANET SEITZ, Staff to Representative Norman Rokeberg, Alaska State Legislature, explained that HB 67 includes the statement, "The ... Division of Motor Vehicles shall refuse to register a vehicle if [the] applicant fails to provide evidence satisfactory that the applicant has motor vehicle insurance." There are a lot of drivers out there who don't have motor vehicle insurance. She said she served on the driving-under-the-influence (DUI) taskforce in Anchorage, and the taskforce discussed proof of insurance for cars registered in Alaska. This [bill] is an attempt to move in that direction, she explained.

MS. SEITZ commented that the rest of the bill deals with taxicab liabilities. There are some local governments and municipalities that have minimums for taxicab policies, which she included in the committee's packet. There is nothing contained in the bill that would interfere with the ability of a local government/municipality to set a higher standard for operators.

Number 2287

REPRESENTATIVE ROKEBERG added that this was done because of the "single-subject rule," so there had to be two different bills.

MS. SEITZ concurred and said the drafters advised against having the taxicab insurance requirements and the civil liability coverage exemption in the same bill.

CHAIR MURKOWSKI referred to the sponsor statement. There is mention of developing an electronic notification system in the event that the insured goes out and gets registration for the vehicle, and then cancels it after-the-fact. She asked if this was included as a part of the fiscal note and how that system would work.

MS. SEITZ deferred the question to Mary Marshburn of the Division of Motor Vehicles (DMV), but said it was the intention that with the [available] technology, a notice could be sent out from an insurance company when a person canceled coverage.

CHAIR MURKOWSKI asked if it would be required that the state be notified when insurance is canceled.

MS. SEITZ remarked that this was the hope. She said the bill just says that a person has to provide proof that he or she has insurance to register the automobile.

Number 2225

REPRESENTATIVE HALCRO referred to page 2 of the fiscal note from the DMV. He said the only effective way to implement this would be by having constant communication with the insurance companies, which would cost \$2 per vehicle, equating to \$1.4 million per year. This, he said, is obviously not covered in the fiscal note.

REPRESENTATIVE HALCRO said he has had discussions with Mary Marshburn regarding this same thing. He said constituents had contacted him complaining about uninsured motorist insurance. He and Ms. Marshburn had similar discussions about the automatic notification [system], and Ms. Marshburn relayed the same cost to him.

Number 2173

CHAIR MURKOWSKI referred to Section 1 of the bill, the requirement to register the vehicle. Is there a rural exemption available for registration of the vehicle, she asked, as opposed to insurance?

MARY MARSHBURN, Director, Division of Motor Vehicles, Department of Administration, via teleconference, clarified that there is an exemption for rural areas not connected to a highway system, or those areas with an average vehicular traffic count of less than 499 for registration of a vehicle. A vehicle is only covered by mandatory insurance if it is subject to registration. When asked how [Section 1] might affect that, she said it wouldn't because if the vehicle isn't required to be registered, it would have no effect on those vehicles.

Number 2121

REPRESENTATIVE HALCRO asked the sponsor if he'd spoken to the Alaskan Automobile Dealers Association or to financial institutions that register vehicles about the [possible] impact on business. He also asked if there had been discussion with any outside groups that provide the service that allows people to forgo a trip to the DMV when a car is purchased.

MS. SEITZ replied in the negative; however, she noted that when she recently purchased a car, she had to provide her financial institution with a binder showing coverage or that coverage was being sought through an insurance company and that [the insurance company] would notify [the car dealer] if coverage was canceled.

REPRESENTATIVE HALCRO said he, too, went through the process recently. He went to the credit union and filled out the forms, the car was registered, then a month later the credit union sent him a letter saying a copy of his insurance binder hadn't been received yet, although he already had a copy of the registration at his home. He said if there is no lien holder when a person goes to a dealer, and if the car is registered there, a person might fall through the cracks if the onus isn't put on the seller of the car.

Number 2032

REPRESENTATIVE ROKEBERG said the notice should be on the person registering. He said he appreciates [hearing about that] because this does occur. The DMV's lack of proper computer systems is causing a huge dislocation and is a matter of public safety in the state, and he added that it is almost reaching critical proportions. There is a public outcry, he remarked.

CHAIR MURKOWSKI referred to [requiring] mandatory insurance for taxicabs, and asked if the [taxi drivers] are having any problems with what is being proposed.

MS. SEITZ commented that [Representative Rokeberg's office sent out notices], but hadn't heard anything back.

Number 1984

REPRESENTATIVE MEYER said anytime the Anchorage Assembly brought up anything to do with taxicabs, [the taxi drivers] came out in "hordes." He said he is surprised that the committee isn't hearing anything; however, maybe the [cab drivers] in Anchorage

already have the insurance and are all right with it. On the local level they watch ordinances closely, he remarked.

MS. SEITZ pointed out that the minimums established in the bill don't interfere with local ordinances, and are, for the most part, less than what most [communities] have anyway. In Anchorage, for example, [a taxicab driver] would be required to carry insurance under the local ordinance that is higher than what is required in the proposed bill.

Number 1930

CHAIR MURKOWSKI mentioned that the sponsor had provided the committee with the ordinances from Anchorage, Fairbanks, and Juneau. She asked if [ordinances] were available for other communities such as Kenai or Ketchikan.

MS. SEITZ stated that Kenai's [ordinances] are online; however, there was no reference to insurance provisions for taxicab operators.

REPRESENTATIVE ROKEBERG said the committee could separate that [portion] and delete the first section [of the bill]; it could be taken up as a committee bill, he said, because it is a huge issue that deserves consideration by this committee.

REPRESENTATIVE MEYER mentioned requiring that everyone have insurance, which is currently the law, and then requiring that the state patrol or local police ask for proof every time they pull someone over. If a person didn't have insurance, he said, then he or she would get a "fix-it" ticket and would have five days to get insurance; if the person didn't comply, then there would be a \$200 or \$300 fine.

REPRESENTATIVE ROKEBERG said he is more concerned about [drivers] having insurance when in an automobile accident and harming innocent citizens, because it raises the underinsured or uninsured motorist premiums on all policies. He said this is going to cost millions of dollars to really do anything about it; the fiscal note is \$1.7 million, which doesn't include having the troopers out busting people for failure to have insurance.

REPRESENTATIVE ROKEBERG said [the legislature] is losing credibility in the public's eye by not being able to make this enforceable. He asked Ms. Marshburn about the car registration process and proof of insurance.

Number 1761

MS. MARSHBURN replied that the state requires that the individual registering a vehicle affirm that the necessary policy is in place and will continue as long as the vehicle is registered and used. This allows the electronic venues to be used for registration, and doesn't impose a burden on the [emission inspection] (IM) stations and car dealerships that also register vehicles. The majority of people are law-abiding, she said. The national average for uninsured motorists is about 15 percent, and Alaska was below that last year at 14 percent; she added that it has been as high as 20 percent and is trending downward.

MS. MARSHBURN said the most effective way of dealing with the mandatory insurance issue is through electronic verification. Requiring a binder or paper proof of insurance is really no proof at all. A person could obtain a binder and have a card from the insurance company in the car saying that there is coverage for the next year, when, in truth, that person hadn't paid the premium. That is not an effective method of providing proof of coverage, she emphasized.

MS. MARSHBURN pointed out that she thought there was merit to considering Representative Meyer's suggestion. She explained that from the standpoint of raising public [awareness], a person needs to carry proof, and to make sure that the insurance is in effect. Requiring that it be carried in a vehicle would be good, with noncompliance resulting in a "fix-it" ticket or a fine.

Number 1639

MS. MARSHBURN said short of electronic verification, there really is no good way to significantly reduce [the number of people who don't carry the] mandatory insurance.

REPRESENTATIVE HALCRO said he and Ms. Marshburn had discussed the needs of her department overall. He said for a \$5 or \$6 "bump" in the cost of renewing a driver's license, or \$5 for the license and \$2 additional for one's vehicle, [Alaska] could implement and pay for the technology necessary to [realize] some of these ideas.

MS. MARSHBURN explained that the driver's license is a five-year license that costs \$15; either a digital-license-technology fee

or an additional fee could be added to help get an electronic verification system for "MI [IM]."

Number 1541

REPRESENTATIVE HALCRO said he is concerned about passing legislation that puts an additional burden on the DMV without passing the cost along to the user because [the DMV office] is currently maintaining numerous vacancies.

MS. MARSHBURN reported that there are now 21 vacancies held vacant. [Alaska] is just shy of 500,000 drivers, with 742,260 registered vehicles in the state.

MS. MARSHBURN, when asked what the cost is for [vehicle] registration, she replied that for a run-of-the-mill passenger vehicle the fee is \$68 plus any applicable motor vehicle registration tax if within a municipality where [the DMV] collects the tax - Anchorage or Fairbanks. It is \$68 every two years [for a car], and \$158 for a commercial vehicle.

REPRESENTATIVE HALCRO asked what percentage gets "kicked back" to the community where the car is registered.

Number 1460

MS. MARSHBURN responded that the motor-vehicle tax goes back to the community. The division collects about \$45 million a year total, including driver's license and registration [fees], and [the DMV] returns about \$10 million in taxes to the municipalities in Alaska.

REPRESENTATIVE HALCRO asked why the \$10 million is rebated.

MS. MARSHBURN said the motor vehicle registration tax is a tax that the state collects as the property tax on vehicles. A municipality can elect to have the state collect that tax, and that is done for 14 municipalities.

Number 1400

REPRESENTATIVE ROKEBERG asked for clarification that the \$45 million includes the ad valorem tax.

MS. MARSHBURN responded affirmatively. She said \$35 million goes into the general fund, and about \$10 million is returned to the municipalities. Responding to a question about how many

[staff] work at the DMV with 21 current vacancies, she responded that there are not many. When asked why there are so many vacancies, she responded that it has to do with the boat registration program and supplemental funding, and also the fact that [the DMV] only collected revenue for part of this year, and had a large program startup cost. She said [the DMV] only collects for the boat registration program and had a full year of costs, because the bill passed at the end of the last legislative session and was implemented on January 1 [2001]. So [the DMV] only collected revenue from January 1 onward, she remarked, and people don't really register boats until the water thaws.

REPRESENTATIVE KOTT asked Ms. Marshburn how the proof of insurance applies to those private sector vendors who currently issue tags, and asked how it would work with the mail-in system.

Number 1335

MS. MARSHBURN replied that there are two ways that it can happen. One way would be to have the dealers and the IM stations that register vehicles either require proof of a binder before completing the sale and registering the vehicle, or have a sign which states that the vehicle can't be registered until the individual can furnish proof of insurance; the dealer would push that responsibility off onto the DMV. The dealer would complete the sale, bundle the paperwork, and send it to DMV and it would be up to the DMV to refuse the sale if there were no proof of insurance.

MS. MARSHBURN explained that the Web and the interactive voice response (IVR) are completely automated. She said the DMV would have to require the individual to mail in proof of registration and then do a physical match-up in-house on the registration and proof of insurance. She said it is something that she doesn't even want to think about in terms of the volume, trying to do a match-up, and then scanning the proof of insurance or reviewing the person's insurance to make sure that it meets the requirements of the law.

MS. MARSHBURN said [the DMV] would probably discontinue the electronic venues at that point and just bring all of those transactions in-house if a "live body" has to be inserted.

Number 1234

REPRESENTATIVE HALCRO asked if the fee for a driver's license is set in statute or is set by regulation.

MS. MARSHBURN replied that it is set in statute, as are all of the fees from the DMV.

Number 1113

REPRESENTATIVE ROKEBERG reiterated that this is a serious issue that needs to be investigated. He said the fix-it ticket might have some value, although he wasn't sure what the cost would be. It is illegal now, he said, so why don't "they" bust people now?

REPRESENTATIVE KOTT asked Ms. Marshburn if other states are doing what [Alaska] is contemplating.

MS. MARSHBURN replied that some states do require proof of insurance; however, uniformly, the reply from other states has been that it is not effective. Second, the law only requires proof of insurance to be shown if a person is in an accident; right now the law requires that the vehicle be covered, but it doesn't require a person to carry or show that proof of insurance.

CHAIR MURKOWSKI asked if a person, when being stopped for having a taillight out, for example, couldn't be asked for proof of insurance at that time.

MS. MARSHBURN answered affirmatively. She said [the police/trooper] can ask for it, but there is currently no requirement that it be carried and furnished in law now, so there is no way to cite for it.

Number 0994

REPRESENTATIVE KOTT said when a person is in an accident, and it is reported to the state, a form is filled out and the person has to indicate insurance coverage at that time; if a person wasn't insured, he asked, what would be the penalty?

MS. MARSHBURN commented that when the officer cites a person, he or she gives the person forms that need to be completed and returned to the division. When the forms come into the division, a person supplies some insurance information such as who the carrier is, what the [policy] number is, and so forth. [The DMV] audits every third one of those via the insurance company to verify that the individual is telling the truth. If

a person is in violation of the law, then the license is suspended for failure to have the vehicle covered, and the first suspension is for 90 days.

MS. MARSHBURN said the municipalities could decide to require that proof of insurance be carried in the vehicle, and she thought Anchorage was contemplating that.

Number 0881

REPRESENTATIVE HALCRO asked when the driver's license fee was last raised.

MS. MARSHBURN said probably ten years ago, in 1991.

REPRESENTATIVE HALCRO said it appeared there was an amendment effective July 3, 1991.

REPRESENTATIVE HAYES explained that in the military, to get on post, a person has to have the insurance information in the car, because proof of insurance is asked for. It wouldn't be much of a stretch for the cities, he remarked, because they are already doing it in the military.

REPRESENTATIVE KOTT commented that there is a requirement to show proof of insurance when the vehicle is registered, but the military police in stopping and citing people for traffic violations on the post or base don't ask for proof of insurance; they just want to see the driver's license.

Number 0764

CHAIR MURKOWSKI remarked that she wasn't sure that there were any easy fixes. [The committee] could do one of two things: separate this out and send on the taxicab insurance [portion], or work through an active subcommittee to figure out if there is a way to address it. She asked for clarification that the only thing that can work is an electronic format to track things.

MS. MARSHBURN answered affirmatively. She reiterated that a person could bring in proof of insurance. However, it could have been canceled that morning; a piece of paper is not proof that the policy is in effect. If [the DMV] has the ability to electronically link [up with] the insurance companies, then the data would be much more accurate.

Number 0672

REPRESENTATIVE ROKEBERG said there is a huge fiscal note, and the "poor" DMV has a manpower shortage; Ms. Marshburn notes that it would be an additional two minutes per transaction, which causes four and a half extra state positions. If there is a "fix-it" ticket written for failure to provide proof of insurance, how come it isn't necessary to register the vehicle? It shouldn't be a burden to dealers because they require it before releasing a car, or at least require a binder.

Number 0611

REPRESENTATIVE HALCRO said if a person goes into a car dealership on Saturday looking for a car and does the transaction, that person may or may not finance through the dealership. All of the loan paperwork would be done there, but there is no way that an insurance agent can be accessed. State law says that a person is covered for 30 days if there is insurance. It is the customer's responsibility or the lien holder's responsibility; if someone comes in and says he or she has insurance, "we" take their word for it if the car has been paid for. And, in the case of the lien holder, "we" already procure a security agreement or some kind of written contract with the financial institution. The credit union gives the person 30 days to let them know when the insurance is received; "they" do the DMV work, and the person gets the title and copy of registration in the mail. If proof of insurance isn't provided within two week, [the company] may be forced to go out and get the person insurance and then bill him or her for it because [the company] wants to protect its collateral.

Number 0449

REPRESENTATIVE ROKEBERG said [the legislature] is not going to disrupt commerce by adopting this provision, because it is going to be accommodated for anyway.

REPRESENTATIVE HALCRO pointed out that many people sell their cars through the newspaper. After being paid for the car, the person selling the car doesn't care whether the purchaser has insurance.

REPRESENTATIVE KOTT said when renting a car, there is no guarantee [that a person has insurance], if he or she is waiving the car-rental insurance.

REPRESENTATIVE ROKEBERG said the title could be changed and the car reregistered. The bill says that a person would have to fill out proof of insurance there. The secondary market is not affected at all, he remarked.

REPRESENTATIVE KOTT said if [the legislature] is trying to get those uninsured motorists off the roads, in that particular scenario they are going to be driving until they go down and register that vehicle so, "You are not going to get them." He said getting to this problem in its entirety couldn't be done; the only way to get to the problem is if \$1.3 million is funded. This is why, he said, after talking to Ms. Marshburn, he opted not to pursue that course of action in the other bill.

Number 0340

REPRESENTATIVE KOTT made a motion to amend the bill by removing Section 1.

REPRESENTATIVE HALCRO said the problem could be that a person could pay the insurance company for a month, go down to the DMV and register the car, and then fail to pay the bill when it comes in a month, but the person would still have the card that the insurance company sent. He said the only real way to address the problem is by investing in the technology that allows the DMV to be in constant communication with various insurance companies that would give automatic notification if insurance lapses or is canceled. He said if he were an insurance company in the state, that is something that he would want to be onboard with, because the fewer people driving around without insurance, the better off clients are going to be.

Number 0248

REPRESENTATIVE ROKEBERG said he didn't objected to the motion to amend the bill. He suggested that the long-term policy committee raise the fees so digital licenses can become a reality.

REPRESENTATIVE ROKEBERG said the DMV's [information technology] needs to be [improved] because it doesn't work and is affecting public safety.

REPRESENTATIVE HAYES said for a public policy call, he doesn't think that it is a bad bill, even with that section. He suggested that if the House Finance Committee wants to pull a

section, that is fine. The reality of the situation, he remarked, is pay now or pay later.

Number 0046

REPRESENTATIVE HALCRO asked for verification that the concern from the Division of Legislative Legal and Research Services was that of the single-subject rule, [that the two bill subjects] have to be split up regardless.

REPRESENTATIVE ROKEBERG said he is trying to [raise awareness] of the problem.

REPRESENTATIVE CRAWFORD commented that it is a good public policy, and he said [the bill] should be moved as it is.

REPRESENTATIVE KOTT reaffirmed that he was going to continue to offer his amendment.

TAPE 01-42, SIDE A  
Number 0067

REPRESENTATIVE KOTT said if the bill passes this year, it would take another year for the system to "come onboard" with the technology and so forth.

REPRESENTATIVE MEYER stated that Ms. Marshburn had mentioned that 14 percent of the drivers don't have insurance. If [that amount was dropped down to] 4 percent, would that reduce everyone's insurance rates in the state, he asked. By spending some money here, he said, will a rebate be given back to constituents through lower insurance rates?

REPRESENTATIVE HALCRO remarked that the only way that the rate of [uninsured motorists] is known is from the number of traffic accidents and the number of people involved, and then that is broken out into the percentage of people who don't have insurance. If a person were wondering if that would equate to an across-the-board decrease in uninsured motorist rates, a person would have to be able to make sure that everyone was "lifted" up. It would come down to the insurance companies making more money, thereby lowering rates and giving it back to policyholders.

Number 0184

REPRESENTATIVE KOTT asked Ms. Marshburn if that percentage [14 percent for uninsured motorists] includes those rural communities that don't require vehicle registration.

MS. MARSHBURN answered affirmatively. She said if [a vehicle] is not required to be registered, [the vehicle owner] is not subject to the mandatory insurance (MI) provision.

REPRESENTATIVE HALCRO asked Ms. Marshburn if he is making a correct assertion in saying that 11 or 14 percent of people in accidents don't have insurance, and that percentage doesn't cover those who are driving around without insurance that never get in accidents.

MS. MARSHBURN replied affirmatively. She said an assumption can be made that the percentage of uninsured motorists in the state can be somewhat inflated because it is the irresponsible drivers who drive without insurance; however, that is purely subjective, and there is no way to really assess that. If that is the case, then there are more law-abiding drivers. She reiterated that this bill is trying to do something that is truly effective in reducing the MI rate. The division doesn't believe that requiring paper proof of insurance is effective, she reiterated, and the money that the DMV has described as necessary to implement this would be better used on a more effective solution.

Number 0352

CHAIR MURKOWSKI suggested that Ms. Marshburn is saying, then that if this [legislation] were to pass with this section in place, with the fiscal note attached, [the legislature] would be throwing good money after bad because an effective policy is not being implemented. She asked whether the recommendation from Ms. Marshburn is that [the legislature] not do it, if it can't be effective.

MS. MARSHBURN remarked that this is correct.

REPRESENTATIVE KOTT said maybe this is more of an issue for the insurance companies; if [insurers] required drivers to post whatever the requirements are for their policy for a period of two years and wouldn't cancel [a policy] under any circumstances, then a person would have insurance. He said if Representatives Halcro, Rokeberg, and Meyer would like to meet with the division during the interim, he would be happy to sit in on a meeting or two.

Number 0480

REPRESENTATIVE HAYES objected to the amendment [deleting Section 1].

A roll call vote was taken. Representatives Halcro, Kott, Crawford, and Murkowski voted in favor of adopting the amendment. Representatives Meyer, Hayes, and Rokeberg voted against it. Therefore, the amendment was adopted by a vote of 4-3.

REPRESENTATIVE KOTT made a motion to move HB 67 [as amended] out of committee with individual recommendations and the attached fiscal note.

Number 0667

MS. MARSHBURN commented that the fiscal note is \$314,000 and that she would rather put that money towards an electronic verification system. She clarified that she hadn't commented about local option, but said it is one way of raising the profile on the need to carry insurance.

REPRESENTATIVE HALCRO said he voted for [the amendment] because [the legislature] is going to have to do it sooner or later; however, it was his understanding that because of the single-subject rule, this bill wasn't going to be able to go anywhere.

REPRESENTATIVE ROKEBERG stated that he has another bill. And, when asked about having two subjects in the same bill, he responded that both are insurance [issues].

Number 0773

CHAIR MURKOWSKI announced that there had been a motion to move HB 67 as amended from committee with individual recommendations. She added that there would be a new fiscal note. There being no objection, CSHB 67(L&C) moved out of the House Labor and Commerce Standing Committee.

CHAIR MURKOWSKI noted that there had been some discussion about what needed to be done, and the need for more money to do it right. She said it is something that this committee should look at during the interim.

Number 0806

MS. MARSHBURN, when asked to confirm that without Section 1, the bill now carries a zero fiscal note, responded, "It does indeed." [CSHB 67(L&C) was moved out of the committee.]

**ADJOURNMENT**

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