

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

April 23, 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

CS FOR SENATE BILL NO. 37(FIN)

"An Act relating to collective negotiation by competing physicians with health benefit plans, to health benefit plan contracts, to the application of antitrust laws to agreements involving providers and groups of providers affected by collective negotiations, and to the effect of the collective negotiation provisions on healthcare providers."

- HEARD AND HELD

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."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: SB 37

SHORT TITLE:PHYSICIAN NEGOTIATIONS WITH HEALTH INSURE

SPONSOR(S): SENATOR(S) KELLY

Jrn-Date	Jrn-Page	Action
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01/12/01	0073	(S)	READ THE FIRST TIME - REFERRALS
01/12/01	0073	(S)	JUD, FIN
01/22/01	0137	(S)	L&C REFERRAL ADDED AFTER JUD
01/22/01		(S)	JUD AT 1:30 PM BELTZ 211
01/22/01		(S)	Heard & Held
01/22/01		(S)	MINUTE(JUD)
02/21/01		(S)	JUD AT 1:30 PM BELTZ 211
02/21/01		(S)	Moved CS(JUD) Out of Committee
02/21/01		(S)	MINUTE(JUD)
02/22/01	0467	(S)	JUD RPT CS 2DNP 3NR NEW TITLE
02/22/01	0467	(S)	NR: TAYLOR, COWDERY, THERRIAULT;
02/22/01	0467	(S)	DNP: ELLIS, DONLEY
02/22/01	0467	(S)	FN1: (LAW)
02/22/01	0467	(S)	FN2: (CED)
02/22/01	0467	(S)	FN3: INDETERMINATE(ADM)
02/22/01	0467	(S)	FN4: ZERO(HSS)
03/01/01		(S)	L&C AT 1:30 PM BELTZ 211
03/01/01		(S)	Heard & Held
03/01/01		(S)	MINUTE(L&C)
03/08/01		(S)	L&C AT 1:30 PM BELTZ 211
03/08/01		(S)	Heard & Held
03/08/01		(S)	MINUTE(L&C)
03/13/01		(S)	L&C AT 1:30 PM BELTZ 211
03/13/01		(S)	Moved CS(L&C) Out of Committee
03/13/01		(S)	MINUTE(L&C)
03/14/01	0653	(S)	L&C RPT CS 2DP 3NR NEW TITLE
03/14/01	0653	(S)	NR: PHILLIPS, DAVIS, TORGERSON;
03/14/01	0653	(S)	DP: AUSTERMAN, LEMAN
03/14/01	0653	(S)	FN1: (LAW)
03/14/01	0653	(S)	FN2: (CED)
03/14/01	0653	(S)	FN3: INDETERMINATE(ADM)
03/14/01	0653	(S)	FN4: ZERO(HSS)
03/28/01		(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/28/01		(S)	Heard & Held
03/28/01		(S)	FIN AT 6:00 PM SENATE FINANCE 532
03/28/01		(S)	Moved CS(FIN) Out of Committee
03/28/01		(S)	MINUTE(FIN)
03/28/01		(S)	MINUTE(FIN)
03/29/01	0853	(S)	FIN RPT CS 3DP 1DNP 4NR NEW

			TITLE
03/29/01	0853	(S)	DP: KELLY, WILKEN, LEMAN;
03/29/01	0853	(S)	NR: DONLEY, AUSTERMAN, OLSON, GREEN;
03/29/01	0853	(S)	DNP: HOFFMAN
03/29/01	0853	(S)	FN1: (LAW)
03/29/01	0854	(S)	FN2: (CED)
03/29/01	0854	(S)	FN4: ZERO(HSS)
03/29/01	0854	(S)	FN5: ZERO(S.FIN/ADM)
04/04/01	0932	(S)	RULES TO CALENDAR 10R 4/4/01
04/04/01	0933	(S)	READ THE SECOND TIME
04/04/01	0933	(S)	FIN CS ADOPTED UNAN CONSENT
04/04/01	0933	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/04/01	0933	(S)	READ THE THIRD TIME CSSB 37(FIN)
04/04/01	0933	(S)	PASSED Y13 N6 E1
04/04/01	0934	(S)	ELLIS NOTICE OF RECONSIDERATION
04/04/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/04/01		(S)	MINUTE(RLS)
04/05/01	0961	(S)	RECONSIDERATION NOT TAKEN UP
04/05/01	0962	(S)	TRANSMITTED TO (H)
04/05/01	0962	(S)	VERSION: CSSB 37(FIN)
04/06/01	0875	(H)	READ THE FIRST TIME - REFERRALS
04/06/01	0875	(H)	L&C, JUD, FIN
04/06/01	0875	(H)	REFERRED TO LABOR & COMMERCE
04/23/01		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

DAVE JOHNSON, Pediatrician
Alaska State Medical Association
4107 Laurel Street
Anchorage, Alaska 99508

POSITION STATEMENT: Testified on behalf of the Alaska State
Medical Association on SB 37.

SENATOR PETE KELLY
Alaska State Legislature
Capitol Building, Room 518
Juneau, Alaska 99801

POSITION STATEMENT: Testified as sponsor of SB 37.

JIM JORDAN, Executive Director

Alaska State Medical Association
4107 Laurel Street
Anchorage, Alaska 99508
POSITION STATEMENT: Testified on SB 37.

MICHAEL HAUGEN, Executive Director
Alaska Physicians & Surgeons, Inc.
4120 Laurel Street
Anchorage, Alaska 99508
POSITION STATEMENT: Testified on SB 37.

LAURA WALDEN
Nulain Sisterhood
(No address provided)
POSITION STATEMENT: Testified in opposition to SB 37.

CLYDE "ED" SNIFFEN, Assistant Attorney General
Fair Business Practices Section
Civil Division (Anchorage)
Department of Law
1031 West 4th Avenue
Anchorage, Alaska 99501
POSITION STATEMENT: Answered questions on SB 37.

BOB LOHR, Director
Division of Insurance
Department of Community and Economic Development
3601 C Street
Anchorage, Alaska 99503
POSITION STATEMENT: Testified on SB 37.

KRISTOPHER KNAUSS, Staff
to Senator Pete Kelly
Alaska State Legislature
Capitol Building, Room 518
Juneau, Alaska 99801
POSITION STATEMENT: Testified on behalf of the sponsor of SB
37.

ACTION NARRATIVE

TAPE 01-65, 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 were Representatives Murkowski,

Halcro, Meyer, Crawford, and Hayes. Representatives Kott and Rokeberg joined the meeting as it was in progress.

SB 37-PHYSICIAN NEGOTIATIONS WITH HEALTH INSURE

CHAIR MURKOWSKI announced that the committee would consider CS FOR SENATE BILL NO. 37(FIN), "An Act relating to collective negotiation by competing physicians with health benefit plans, to health benefit plan contracts, to the application of antitrust laws to agreements involving providers and groups of providers affected by collective negotiations, and to the effect of the collective negotiation provisions on healthcare providers."

CHAIR MURKOWSKI called for an at-ease at 3:27 p.m. The meeting was called back to order at 3:28 p.m.

Number 0234

DAVE JOHNSON, Pediatrician, Alaska State Medical Association (ASMA), came forth and stated that [ASMA] would appreciate the committee's support for SB 37. [The Alaska State Medical Association] believes the bill is important and is balanced with many safeguards.

REPRESENTATIVE CRAWFORD asked Dr. Johnson what he feels the reason for this bill is. He asked whether the system is presently breaking down, or whether this is something for the future.

DR. JOHNSON answered that he thinks this is filling a pressing need. He stated that the insurance industry is consolidating and will continue to do so. In small communities such as Ketchikan, switching from one insurance company to another can quickly involve a large percentage of an employer's practice. He said physicians are barraged with things from insurance companies, asking them to sign agreements. Right now, with the way legislation and the antitrust issues stand, physicians can't discuss the facts of situations like that with each other; they are very "gun shy" about the Federal Trade Commission. He said he thinks that having an explicit and regulated process would give individual physicians the opportunity to talk amongst themselves and then collectively with insurance companies with state oversight.

Number 0547

REPRESENTATIVE HALCRO stated that some physicians bill [the patients'] insurance for them, while others require that [patients] pay at the time of service. He referred to page 2, AS 23.50.020, and asked Dr. Johnson whether the intent of the bill is for physicians to get together and discuss pricing, reimbursement, policies, and claim disputes.

DR. JOHNSON responded that the list of things on page 2, lines 15 through 27, addresses some of the issues. A common thing physicians discuss is what the definitions are of "standard medical practice" and of "reasonable and prudent person." For example, he said he had [a patient] who went to the hospital with chest pains. Fortunately, she didn't have a heart attack; however, the insurance company said it was not reasonable and prudent to go to the emergency room for chest pains, and that she should have waited and gone to the office another day. With the issue of clinical guidelines - whether something is standard medical practice or experimental - the insurance companies choose their definitions of those things. For administrative procedures, insurance companies try to set it up so [the patient] be make referred to one physician but not to another. If there are economic issues and fees, insurance companies right now do that on a "take it or leave [it] basis." This [bill] would give [physicians] the opportunity to talk about fees after nonfee issues have been addressed in a voluntary negotiation process.

REPRESENTATIVE HALCRO asked what would happen to those physicians who don't bill insurance carriers on behalf of their patients. For example, if patients pay a physician cash for their visits, that physician would still be allowed to [participate in the negotiations] although they really don't affect the physician.

DR. JOHNSON explained that there are two levels of participating. A physician can simply sign up as a courtesy to patients and agree to provide billing services as part of his or her service. Physicians are already required to do that for Medicare and Medicaid patients. Some offices will provide billing services for all insurance companies, others will bill for primary but not for secondary, and others will bill for primary and secondary. That is different from signing up as a special deal. Insurance companies come and say, "We provide insurance for 5,000 people in your community, and if you sign up with us, then you'll be on our list as a preferred provider, and we'll encourage people to go to you." In exchange for that, the insurance companies have requirements of the providers. An

individual physician, he said, may agree to be a participating provider or not, but that's a separate issue beyond providing billing services.

DR. JOHNSON remarked that he thinks Representative Halcro was talking about when somebody chooses to be a participating physician with an insurance company. The good news with that is [the insurance company] will promise prompt payment and minimize the paperwork; the bad news is they typically ask for a discount, ask that [the physician] accept their fee as payment in full, and bind [the physician] to an agreement for a finite period of time, often in excess of the time the [insurance company] is bound to [the physician]. In those situations, he said, it seems to be fairer for the physicians to be able to talk with one another before talking with the insurance company.

Number 1010

REPRESENTATIVE HALCRO stated that it is his understanding that this bill allows for physicians to sit down in a room and say, "XYZ Insurance came to me and gave me a proposal, and I don't think the terms are that good. What do you think?" The physicians can then say, "We're not going to take this from XYZ; we'll make them come back to us with a better offer."

DR. JOHNSON responded that that's not the bottom line, because the bill limits the percentage of physicians in the community that can get together.

REPRESENTATIVE HALCRO referred to page 3, line 21, which defines that this can only be done with a company that has market power. Blue Cross, he said, is the only one with any market power; it has 54 percent of the market, followed by its next competitor which has 5.3 percent. Basically, he said, this is only talking about one provider.

DR. JOHNSON clarified that the numbers Representative Halcro is providing are statewide numbers. A single major employer in a small community may have more market power than that. For example, in Ketchikan, with several major employers, a shift from one insurer to another can give an individual insurance company a substantial market share.

REPRESENTATIVE HALCRO remarked that market power is not defined.

DR. JOHNSON replied that he thinks it is because it says [the insurer] is presumed to have market [power]. That can be

disproved if [the insurer] has less than 15 percent of the market [share] in that area.

REPRESENTATIVE HALCRO asked Dr. Johnson whether he is defining market power as market power in individual communities.

DR. JOHNSON answered, yes.

Number 1226

CHAIR MURKOWSKI stated that it is her understanding that it was not necessarily in individual communities but in geographic service areas. She asked whether a "geographic service area" can be defined as the whole state, a community, or the Interior.

DR. JOHNSON responded that if he were paying a fee to a third party to negotiate, he would not be interested if an insurer was not providing services to his practice. The practical effect of the process's being financially self-sustaining is that it would prevent people from attempting to "muscle" outside areas. He noted right now the insurance companies have that power and that interest.

CHAIR MURKOWSKI remarked that it's probably easier, for example, in the Ketchikan area, while it might be more "muddy" in Southcentral [Alaska] where there is road access.

REPRESENTATIVE CRAWFORD stated that in his trade, when he negotiates an agreement he does "pattern bargaining." For example, his company may only sign a contract with four steel erectors, but every steel erector gets the same deal. He asked Dr. Johnson, when [a physician] signs this agreement with his or her major insurer, whether all the other smaller entities that come into his or her office would be able to get the same contract.

Number 1474

DR. JOHNSON responded that as it stands right now, the answer is no. He said he does not sign side deals with insurance companies. He explained that if he signs up for the federal Medicare program, Medicare allows 41 percent of his bill and pays 34 percent; he collects 7 percent from the patient. That's true whether the patient is "a multimillionaire on a cruise ship or indigent Aunt Tilly (ph) that I've known and taken care of for the whole time I've been in Ketchikan." Medicaid, the state federal partnership, has another fee schedule that is

substantially higher than Medicare's. He stated that the third level of billing he does in his office is the same for everybody. He added that there is a possibility under this bill that the physicians will get together and agree on a side deal with an insurance company. As it is now, he can't ask other physicians in Ketchikan what they are doing because that is a violation of antitrust [laws].

REPRESENTATIVE CRAWFORD commented that he didn't realize that this is not a collective bargaining bill.

DR. JOHNSON stated that it's a collective bargaining bill with a lot of constraints. It exempts independent plans supervised under ERISA (Employee Retirement and Income Security Act) and is a voluntary process on both sides.

REPRESENTATIVE CRAWFORD asked whether this would allow for [physicians] to negotiate with somebody collectively.

DR. JOHNSON answered that it would.

REPRESENTATIVE CRAWFORD asked Dr. Johnson with whom he would negotiate.

DR. JOHNSON responded that he would [negotiate] with health benefit plans that have a 15 percent or greater market share in a defined area.

REPRESENTATIVE CRAWFORD asked Dr. Johnson, if he decided to negotiate collectively with some insurer, whether those people not covered under Medicare or Medicaid would be covered under the "pattern," or would have to negotiate with him on their own.

DR. JOHNSON answered that this doesn't disturb the current situation in which each one "stands alone." This would allow negotiation with plans that have a significant market share. Most plans, he stated, will have a clause in their agreements whereby the [physician] will provide services on the [insurance company's] behalf at [the physician's] lowest rate.

Number 1669

REPRESENTATIVE PETE KELLY, Alaska State Legislature, sponsor of SB 37, came forth and addressed some of the previously asked questions. He stated that what constitutes a geographic area will be determined by the attorney general. If a group of physicians wants to get together, and only 30 percent of them in

that market can get together under a plan like this, they can approach the attorney general once they have decided on a third party to represent them. At that point, they fall under oversight of the Office of the Attorney General. The specifics of what a market is will be the scope of the agreement, and some of the discussions of the fees will be determined by the attorney general. He noted that the insurance company could veto the whole idea from the beginning, because nothing in this bill is mandatory. If [the physicians] do get together and they agree on the conditions, the attorney general could still veto the negotiation. He added that this bill doesn't apply to Medicaid and Medicare.

REPRESENTATIVE ROKEBERG stated that in the bill it defines a "geographic area" as consisting of 40 or fewer practicing physicians. He asked whether Juneau, Anchorage, and Fairbanks would be the only communities that would qualify.

SENATOR KELLY answered that there probably would not be others, but that would be determined by the Office of the Attorney General when defining what a geographic area is. He added that because this is voluntary, any community in the state could participate. However, he said, "What we don't want to have is for 100 percent of the physicians in Anchorage under a group negotiating with an insurance company. That, to me, gives market power too far the other way." In response to the question about collective bargaining, he said this is not a collective bargaining agreement; this is strictly the ability for negotiations within the terms of the State Action Doctrine. The [U.S.] Supreme Court realized there would be cases in which the antitrust provisions wouldn't work well; rather than let them get out of hand on a case-by-case basis, however, [the U.S. Supreme Court] made sure there was state oversight.

REPRESENTATIVE CRAWFORD asked, if a large insurance company negotiates with the doctors in Ketchikan but there are individuals who are not covered under that insurance company, whether the agreement would set a "pattern" for individuals without insurance.

SENATOR KELLY responded that nothing in the bill creates that or requires that. In the overall question of people negotiating, there may be changes in demand, but that would be indirect.

REPRESENTATIVE CRAWFORD stated that with [his company's] collective bargaining agreements, he is required under law to

offer the same agreement to any other contractor that wants to use his [union] workers.

DR. JOHNSON remarked that Representative Crawford is mistaking this for a collective bargaining agreement.

REPRESENTATIVE CRAWFORD replied that it seems like a collective bargaining agreement to him.

Number 1920

CHAIR MURKOWSKI referred to the article, "Insurance Gap Causes Big Shift in Health Cost," from the Anchorage Daily News. According to the article, when there are agreements, the uninsured pay the most and patients with insurance plans are charged the least. She said:

The comment is that you've got these agreements that are being made to keep the health cost down, which is what we're all trying to do. ... As a consequence of the agreements that are made in an effort to ... maintain a steady flow of patients, the doctors find themselves scrambling to maintain their cash flow. They have to then charge the patients ... who are uninsured perhaps at a higher level than the negotiated agreement that they have with their insured patients.

CHAIR MURKOWSKI asked Representative Crawford if that is what he is referring to when he speaks of "pattern."

REPRESENTATIVE CRAWFORD answered, yes.

CHAIR MURKOWSKI stated that she wonders how the bill would affect the gap between the insured and the uninsured.

Number 1998

REPRESENTATIVE HALCRO asked Senator Kelly, if one of the conditions is that the geographic service area consists of 40 or fewer physicians, whether there are communities that would qualify other than Anchorage, Fairbanks, and Juneau.

SENATOR KELLY reiterated that this is voluntary and limits the number of people in an area who can come together to negotiate.

REPRESENTATIVE MEYER stated that his concern is to keep costs down for his constituents. He remarked that some of the fiscal notes seem high - the one from the administration being the highest - and asked Senator Kelly whether he agreed with them.

SENATOR KELLY responded that the fiscal note for the administration should be zeroed out. He explained that there were some problems with the fiscal notes in the Senate Finance Committee, because some of the assumptions were "ridiculous." He remarked that there is a great deal of opposition to this bill with the administration. Since it has never been properly explained, he thinks the costs associated with it probably don't make sense.

REPRESENTATIVE MEYER asked Senator Kelly whether he agrees that the employees' costs would be anywhere from \$35 to \$88 per month.

SENATOR KELLY replied that Representative Meyer's question deals with self-insurance, which the bill does not address.

REPRESENTATIVE ROKEBERG asked Senator Kelly what his understanding is of ERISA versus non-ERISA coverage plans in the state. He also asked whether this bill would not affect ERISA plans in Alaska.

Number 2160

SENATOR KELLY responded that self-insured was specifically exempted [from the bill], and 95 percent of ERISA deals with self-insurance. He remarked that [this does not effect ERISA plans in Alaska], and referred to page 8, line 24, of the bill, which reads:

(2) "health benefit plan" has the meaning given in AS 21.54.500, but does not include a health benefit plan that is a self-insured health benefit plan.

REPRESENTATIVE ROKEBERG asked if Senator Kelly has an estimate on how many people this would cover who aren't on ERISA.

SENATOR KELLY answered that it is currently about 10 percent.

REPRESENTATIVE ROKEBERG remarked that according to Senator Kelly's testimony, this will only cover a small percentage of the people in the state.

SENATOR KELLY responded that with removing the self-insured, that would be correct.

REPRESENTATIVE ROKEBERG asked, if this were implemented, and those positions in a larger market entered into negotiations with Blue Cross - which would in essence increase fees - what the impact would be by setting a pricing pattern.

SENATOR KELLY replied that he doesn't think this would increase costs because it is voluntary. If the office of the Attorney General sees that it is getting to be a problem with fees going up, the attorney general could veto that.

REPRESENTATIVE ROKEBERG asked Senator Kelly why he introduced the bill if fees are not going to be increased.

Number 2241

SENATOR KELLY responded that there may be an insurance company that requires a certain procedure. For example, Dr. Johnson spoke about a patient who had chest pains and went to the emergency room. The insurance company didn't want to pay for that. These kind of issues, he said, are probably the major portion of what will be discussed in the negotiation. He added that there must be an agreement before prices are even discussed.

REPRESENTATIVE ROKEBERG remarked that he thinks those issues were covered in House Bill [211] last year, including the ability to enter into the contract negotiations, exclusive of the fee issue.

JIM JORDAN, Executive Director, Alaska State Medical Association (ASMA), stated, "some [issues] but not all."

REPRESENTATIVE HAYES remarked that it seems to him that the State Action Doctrine is the linchpin of this legislation. He asked Senator Kelly whether he heard from Legislative Legal and Research Services or from any other competing interests on whether the State Action Doctrine will "hold water" if someone decided to take this to court for antitrust [violations].

SENATOR KELLY responded that the State Action Doctrine was created by the U.S. Supreme Court, and this follows the directives that were given. He stated that there has been opinion from the AMA (American Medical Association), and through

the process there have been legal opinions on specific parts of the bill, but not the entire bill.

Number 2359

CHAIR MURKOWSKI stated that she noticed there were a couple of letters to the FTC (Federal Trade Commission) in the committee packets from Texas and Washington, D.C. She asked whether that is something that is done when seeking an exemption to the State Action Doctrine.

MR. JORDAN responded to previous questions. In reference to Representative Crawford's remarks about collective bargaining, he said he does not believe this bill deals with that situation. A major difference is that Representative Crawford, in his collective bargaining situation, falls under the National Labor Relations Act and has the ability to strike. There is no ability to strike or to engage in any type of boycott in this bill.

TAPE 01-65, SIDE B
Number 2470

MR. JORDAN continued, stating that, as Chair Murkowski mentioned earlier, Texas and Washington, D.C., are two entities that have had experience with this. He said there have been no court cases having to do with ERISA preemption with such a law. The first "cut" in looking at whether ERISA preempts the application of state law is whether or not the state law impacts the employee benefit plan. Decisions along those lines have not been made involving the State Action Doctrine.

MR. JORDAN explained that as in most antitrust situations, what the law says is not determinant; it's what the facts actually present as to whether or not there are violations in the federal or state antitrust laws. The bill was patterned after the AMA model, which was put together by the AMA's legal staff with counsel from an outside firm that specializes in antitrust issues; their feeling is that it "passes muster." He stated that there are two basic tests that any law providing this exemption must pass. First, there has to be a clearly articulated policy by the state, and second, there has to be active state oversight. He added that the bill that was passed in Washington, D.C., was modeled by the AMA.

CHAIR MURKOWSKI asked whether there is any requirement to get an advisory opinion in advance from the FTC.

MR. JORDAN responded that physicians entering into this are making a large "leap of faith" because they are depending on the state to provide sufficient and active oversight. The FTC can come in with "20-20 hindsight" and say the oversight wasn't provided, thereby putting those physicians at risk for violation of federal antitrust laws.

Number 2249

CHAIR MURKOWSKI remarked that the letters provided to [the committee] were apparently submitted to the FTC prior to implementation of their legislation. She said she wasn't clear whether that was a requirement or not.

MR. JORDAN responded that it is his understanding that it is not a requirement; however, it is probably advisable.

CHAIR MURKOWSKI asked Mr. Jordan if he could comment on Representative Rokeberg's concern about House Bill 211, and how this does or doesn't tie in.

MR. JORDAN replied that there were items in House Bill 211 that dealt with certain physician services provisions; however, it by no means was an exhaustive "laundry list" of those areas that could be part of such an agreement.

REPRESENTATIVE HALCRO stated that last year when House Bill 211 was in the committee he had some huge concerns. He said his biggest concern was that he didn't think the bill was needed; however, House Bill 211 passed and those rule changes don't take effect until July 1 [2001]. He said it seems to him that without giving enough time to see how they play out in the market, [the legislature] is looking for more rule changes. He explained that federal legislation H.R. 1304 was opposed by the Federal Trade Commission, which issued a report saying it thought such an exemption would be "bad medicine" for consumers. The FTC also felt that both health insurance and provider markets need to function competitively. Another area discussed was the rationale that there wasn't the desired ability of the antitrust exemption. He stated that there is a tremendous amount of concern on whether this is needed and what the overall effect on the marketplace will be.

Number 2102

REPRESENTATIVE HALCRO remarked that he had asked Mr. Jordan what the genesis of this bill was, and Mr. Jordan had commented that a couple of doctors in Fairbanks got together, somebody tipped off the FTC, and [the doctors] got in trouble for talking about these things. Representative Halcro said it appears to him that it was more elaborate than that. According to the FTC web site, there were 86 physicians, and the director of FTC's Bureau of Competition said, "AHN [Alaska Healthcare Network, Inc.] members engaged in a conspiracy to set prices and hamper the entry of managed care plans into the Fairbanks market, resulting in higher prices and limited choices for physician services." Representative Halcro asked where the need is for this piece of legislation.

MR. JORDAN responded that the ASMA's interest in this legislation as well as in other types of legislation that provide for a physician-friendly environment is that they feel there needs to be a friendly environment to deal with what is a looming problem with the physician workforce in Alaska. Right now, in excess of 51 percent of physicians in Alaska are over the age of 51. Dr. Sam Cullison, an AMA delegate from Washington State, put together some statistics having to do with physician workforces in the Pacific Northwest, including Alaska. The number of physicians in Alaska per 100,000 population was about 170; compares with the national average of 282. Mr. Jordan noted that in Alaska there is no medical school, there are 10 slots per year in the WAMI (Washington, Alaska, Montana, Idaho Medical Education Program) program, and there is one residency program. Nationally, 70 percent of physicians coming out of training practice in the area where they do their residency.

Number 1801

MICHAEL HAUGEN, Executive Director, Alaska Physicians & Surgeons, Inc., came forth and added that he just read in the AMA newsletter that even Canada has a higher per capita number of physicians than Alaska. He stated that it is important for Alaska to maintain as positive an atmosphere for physicians as possible, and he thinks this bill will do that. In response to Representative Halcro's question concerning the [need for this legislation], he stated that this bill really relates to contracts between doctors and insurance companies, and isn't an issue the public may be aware of. He added that between the ASMA and [Alaska Physicians & Surgeons, Inc.] this is their number one priority. There is an enormous amount of paranoia after what happened in Fairbanks. He stated that he thinks the

question to ask is, "At what point is this insurance consolidation going to be enough so that effectively we have a single paired system, and at that point how [do] the doctors advocate for their patients?"

MR. HAUGEN stated:

We just feel that ... all [the doctors] really want is the opportunity to get together and discuss some of these nonfee-related terms as well as [potential] fees. And when I talk about fees, I'm really talking about maybe just holding the line on what they're currently getting. There's a constant desire on the part of the insurance companies [to] ratchet down costs. So, we may not be talking about fee increases or cost increases from the physician standpoint; we may simply be trying to tread water. ... Again, the attorney general has absolute authority to say no.

REPRESENTATIVE HALCRO referenced a newspaper article dated August 1, 2000, from the Juneau Empire that discusses the healthcare needs expanding to meet the need in Alaska. He read:

More doctors are practicing in Alaska now than in previous years. The number of licensed medical doctors in Alaska grew from 1,419 active licenses in fiscal [year] '95 to 1,810 in fiscal [year] 1999. One of the reasons for that is that people are fleeing the managed care system in [the] Lower 48. Doctors moving to Alaska prefer the fee-for-service rather than managed care procedures.

REPRESENTATIVE HALCRO said this was his argument last year with House Bill 211. The argument for both bills is that doctors are at a disadvantage in the marketplace, yet all of the facts seem to point in the other direction.

Number 1689

MR. JORDAN responded that the numbers [Representative Halcro quoted] probably came from the Division of Occupational Licensing, while the numbers from Dr. Cullison came from the Alaska State Medical Association's database. He said the database, from the end of December 2000, shows 1,036 physicians practicing in Alaska, up from 1,024 from December 1999. He added that he thinks some of the number of "managed-care refugees" has gotten smaller.

REPRESENTATIVE ROKEBERG asked Mr. Jordan whether his estimate of the number of doctors includes those with the Indian Health Service or Public Health Service.

MR. JORDAN answered that [the numbers] indicate private practice.

REPRESENTATIVE ROKEBERG referred to his earlier question about the impacts on non-ERISA people. He stated that he has come to the conclusion that Alaska probably has the smallest amount of uninsured people in the country. He added that if this bill is implemented it will set a pricing pattern. He remarked that he would have more comfort with this legislation if a year were given to implement House Bill 211.

Number 1437

MR. JORDAN responded that this will only impact the insured plans. He stated that he expects, down the road, that there will be further delineation in the courts having to do with ERISA preemption. That will clarify whether or not self-insured plans, without being preempted by ERISA, will be impacted by a bill like this. He remarked that the courts have been moving in the direction of giving the states, as well as some administrative agencies, more authority in that area. For example, the Department of Labor came up with a new definition of multiple employer welfare associations (MEWAs). He said he has heard it theorized that 61 percent of the Fortune 500 companies will be included as a MEWA. The significance is that MEWAs are subject to state regulations. As to the timing, he stated that realistically it will take a year following the effective date of the bill for regulations to be drafted. He added that it will probably be another year before a group of physicians get together to negotiate.

REPRESENTATIVE ROKEBERG asked what the latest word is on the federal Patients Bill of Rights, and any possible impact or expansion of the state's ability to enforce regulations on these groups.

MR. JORDAN answered that the only information he has is that it is embroiled in presidential politics.

REPRESENTATIVE ROKEBERG commented that he recalls that the committee is very adroit at providing delayed effective dates on

legislation, with the ability to write the regulations in the bill.

Number 1277

REPRESENTATIVE HAYES asked, if SB 37 passes and the doctors use it without an advisory opinion from the FTC, and then the bill is ruled unconstitutional, whether there are any safety nets in the legislation that would cover, for example, the doctors who were "crucified" in Fairbanks. He stated that only the three geographical areas [Anchorage, Juneau, and Fairbanks] can use this bill, and it seems as if only one insurance company can be a player - Blue Cross. He asked what other carriers would be in play. He remarked that he is curious about the statement that [Alaska] is not competitive. He said it sounds as if this legislation has only been done in one state and one district. He asked, if no other states have done this, what is making [Alaska] so noncompetitive that this legislation alone would make [Alaska] as competitive as other states.

MR. JORDAN answered, first, that there is no safety net. He stated that keeping in mind that it is the physicians who are at risk when entering into this, presumably, they will have appropriate legal help. Second, it may or may not be true that this would impact only one insurance company, and he thinks that will depend on the particular location. He added that he thinks the Matanuska-Susitna area is the fourth geographic area. Third, he clarified that Texas is the only place where this has been implemented. He stated that it is his feeling that [Alaska] needs to be "out front" about this and other issues involving a physician-friendly environment.

REPRESENTATIVE HAYES asked, if this legislation passes, is ruled to be unconstitutional, and there is no safety net for doctors, how being "out front" would make [Alaska] more physician-friendly, without an advisory opinion from the FTC.

Number 1017

MR. HAUGEN responded that currently, he thinks physicians feel that because of what happened in Fairbanks and the general climate of not being able to talk with each other, this is a relatively unfriendly state. He stated that the physicians [at the ASMA] feel that if they are allowed to talk to each other about these contracts without the threat of being sued, the general environment for healthcare in Alaska will improve. [The doctors] are willing to take the risk that the implemented

regulations may be found in violation of the law. It is in the physicians' vested interest to make sure the attorney general writes the regulations so that they are protected. He stated that he suspects that the ASMA's legal counsel will be submitting substantial input to the attorney general on what should constitute adequate state oversight. He added that the probable future head of the U.S. Department of Justice's antitrust division was instrumental in writing one of these bills, and President Bush signed one of these bills.

REPRESENTATIVE HAYES stated that it seems to him that the vested interest of the doctors would be to have the advisory opinion beforehand.

MR. HAUGEN emphasized that the AMA's legal counsel, the Texas Medical Association's legal counsel, the probable future head of the antitrust division of the U.S. Department of Justice, and the ASMA's legal counsel have reviewed this. The attorney general of the State of Alaska gets to write these regulations and can seek whatever counsel is needed. He remarked that Representative Halcro referred to an article that outlined what happened in Fairbanks, and stated that after the anonymous phone call was submitted to the FTC, the group of doctors "were off to the legal races." After six figures in legal fees, they decided to "throw in the towel." He said he believes the consent decree on the wording is boilerplate and is the minimum the FTC requires to get off of a potential defendant's "back."

CHAIR MURKOWSKI stated that she would like to hear how this would also benefit the consumer.

Number 0680

MR. HAUGEN answered that he thinks its most direct benefit for consumers is that it will allow physicians as a group to go to an insurance carrier and start to identify where the inefficiencies in the system are. He stated that members of his board see incredible duplication of services that are required because the doctors' ability to communicate amongst themselves to identify these overuses of services is limited. Many members have said that there are better, cheaper ways of doing this for the patients. Another example, he said, is medical necessity, an issue that can only be discussed between a carrier and small groups of physicians. If the carrier has a firm idea of what medical necessity is, there is very little a doctor can do; that's a patient-centered issue of whether a service will be covered or not. He noted that this refers to nonfee issues.

CHAIR MURKOWSKI stated that she thinks it is easier to grasp the benefits to the consumer when talking about the nonfee-related issues. However, when the discussion is about the specific fees, she said she does not understand how the consumer benefits.

MR. HAUGEN explained that he was told through the executive director of the group [of physicians] in Fairbanks that their legal counsel, Mr. Doug Ross (ph), was told by the FTC investigators that the FTC's opinion regarding the distinction between nonfee- and fee-related issues was moot. The FTC's position was that if a nonfee-related item in a contract affected costs, it was effectively a price issue. The feeling when drafting this bill was if the FTC was going to come after [the physicians] about nonfee- or fee-related issues, both should be included.

CHAIR MURKOWSKI commented that that raises an interesting point, because as it is set up now, the nonfee-related issues have to be resolved before addressing the fee-related issues. However, according to Mr. Haugen, there is probably a logical tie-in with almost all the nonfee-related issues that will have some influence on the fees ultimately.

MR. HAUGEN remarked that it may not relate to fees directly, but it may relate to costs. For example, if "medical necessity" is defined liberally, there may be many more procedures an insurer would have to include under a plan.

Number 0494

SENATOR KELLY referred to the statement by Mr. Haugen that the FTC had said the difference between fees and terms was moot, and stated that that is the most "crying" public benefit he could think of. At that point, physicians could not advocate as a group with any kind of market power for their patients. He expressed that that is the essence of this bill.

REPRESENTATIVE HALCRO remarked that this is addressing those healthcare providers that cover non-ERISA plans, which is a relatively small portion of the insurance pool. He said this reminds of him of two years ago when the Mental Health Parity Task Force gave a presentation and stated that the legislature should require that all policies have mental health coverage. They were just talking about non-ERISA, which are small employers that are struggling to provide health coverage for

their employees. He remarked that if his carrier's costs increase, he will have to absorb those cost.

MR. HAUGEN responded that the State of Alaska has no power to affect ERISA plans. That automatically shrinks the pool.

MR. JORDAN stated that he thinks one of the hopes is that a couple of things will happen: one, that there will be more federal court cases allowing state regulation to impact the areas that are thought to be hands off, and two, that there will be groups of self-insured people who may want to negotiate.

TAPE 01-66, SIDE A
Number 0018

LAURA WALDEN testified via teleconference on behalf of the Nulain Sisterhood, and stated that she is a consumer as well as an advocate for patients. She remarked that she sees this bill as being very destructive as far as the consumer is concerned. If doctors can set the fee scales, which the consumers are already having a problem meeting, that puts those fees out of the reach of the consumers. She stated that she thinks the legislature should take a good look at how this is going to affect people who do not have insurance. She suggested that [the committee] not look at this bill, but at why the doctors have to be on a contract, which interferes with the physicians' giving proper care to the patients. The insurance companies, she said, are already dictating to the doctor what he or she can and cannot do.

CLYDE "ED" SNIFFEN, Assistant Attorney General, Fair Business Practices Section, Civil Division (Anchorage), Department of Law, testified via teleconference. He stated that the Department of Law still has serious concerns with SB 37 for a variety of reasons. The State Action Doctrine has always been a concern. He explained that the State Action Doctrine is something that has been set by the U.S. Supreme Court, and there are cases starting in the early '80s defining what that doctrine needs to do in order to insulate state activity from antitrust scrutiny. He stated that there are two elements to the doctrine. One, there needs to be a clearly expressed state policy favoring the type of anticompetitive behavior, and two, there needs to be active state supervision over the process. He remarked that it is this second reason that [the Department of Law] thinks is missing from SB 37.

MR. SNIFFEN explained how SB 37 would work in reality. He remarked that on page 2, line 10, it allows 100 percent of the physicians in any area to get together and talk about things; there is no 30 percent restriction on the ability of physicians, by themselves, to get together and talk. The only time the state has an opportunity to come into the process is after an authorized third-party representative has been selected by the physician. The third-party representative is not required to give very much information to the attorney general before those negotiations are required to proceed. The attorney general, he said, can only stop those negotiations under very limited circumstances, which are set out on page 5, lines 23 to 29. He stated that the level of active state supervision that [the Department of Law] believes the State Action Doctrine requires isn't present in the bill.

MR. SNIFFEN remarked that with the price negotiations the role of the attorney general is reduced to reviewing contracts that have been proposed. There is no involvement of the attorney general in the negotiation process itself. He remarked that [the Department of Law] is sympathetic with the doctors, if they really don't have the kinds of negotiating power that they would like to have with the insurance companies, but this bill clearly brings the balance way over to the other side, to the point where perhaps the insurance companies are at a disadvantage.

Number 0813

MR. SNIFFEN, in response to comments made earlier, stated that he doesn't think there was any testimony about how this bill will correct any perceived flaws in the system. Currently, physicians can negotiate with insurance companies and health benefit plans on an individual basis. He remarked that there are also opportunities under different models that the FTC has recognized for clinically integrated enterprises to negotiate collectively. Another problem [the Department of Law] has with the bill is the notion that there is substantial market power. When an insurance company has a 15 percent share of the market, this presumption doesn't seem to be based on reality. He stated that market power is a very complicated thing and requires the analysis of many different factors. He remarked that he is not sure that this bill allows the attorney general to make that initial determination. If it does, it should be clarified.

MR. SNIFFEN continued, stating that the definition of a geographic area in this bill is fairly vague, and could be tightened up so that it is clearer. Finally, he commented that

ERISA is not preempted by this bill. He said he read the definition of "health benefit plan" in the bill, and the bill does exclude self-insured plans, which might take care of a lot of the ERISA plans, but there are other ERISA plans that may not be self-insured that could also be subject to the definition of "health benefit plan." He stated that there was some testimony about how the State Action Doctrine could perhaps exempt some of the ERISA issues; however, preemption is not the same as the State Action Doctrine.

CHAIR MURKOWSKI asked Mr. Sniffen whether he deals with antitrust issues on a general basis.

MR. SNIFFEN answered, yes.

Number 0976

CHAIR MURKOWSKI asked whether going to the FTC with the shell of SB 37 in advance of enactment is appropriate or generally done.

MR. SNIFFEN responded that it is something that [the Department of Law] would have liked to have done in this case. He noted that [the department] did submit information with some written comments on the FTC's position on the Texas and the Washington, D.C., legislation, and the FTC did testify against those bills. The attorney general in Texas testified strongly against the Texas legislation.

CHAIR MURKOWSKI stated that she has looked at what has been presented in terms of what constitutes active state supervision, and it sounds as if in order to meet the requirements of that, more involvement is better. She asked Mr. Sniffen how [the committee] can make it so that there is active state supervision.

MR. SNIFFEN responded that [the department] submitted the statutes and regulations from Washington [State], because [the department] thinks the process Washington has established comes closest to satisfying the State Action Doctrine. He explained how the process works in Alaska right now with the Regulatory Commission of Alaska. There are utilities with monopoly power, but that power is offset by regulatory review of prices and contracts through a commission that has hearings and takes testimony. Washington has a system that doesn't allow negotiations of price terms at all. As for non-price terms, there is a system in place that goes through the Washington

Department of Health, which works with the Office of the Attorney General to receive and review applications.

REPRESENTATIVE HALCRO asked Mr. Sniffen whether he has been involved with following the bill on the Senate side.

MR. Sniffen answered that he has.

REPRESENTATIVE HALCRO stated that in a letter of opposition [in the committee packets], a lady wrote that the version from the [Senate] Labor and Commerce Standing Committee was far more acceptable to her. That version, in addition to a sunset clause, had language that provided for review and comment by interested parties. It also stated that the attorney general must include a review of any harm to consumers or non-physician providers that might be contained in any contract. He stated that it seems to him that the version that came out of the Senate Labor and Commerce Standing Committee had a little bit more consumer protection. He asked Mr. Sniffen if he could speak to that.

Number 1261

MR. SNIFFEN responded that he thinks the Senate version did have some provisions that allowed for review of the contracts by interested parties. Those provisions were changed somewhat in the Senate Finance Committee.

REPRESENTATIVE HALCRO asked if there has ever been a point in time in this bill's process when the Department of Law had felt it would be acceptable.

MR. SNIFFEN answered that there hasn't.

CHAIR MURKOWSKI stated that one of the protections the sponsor is asserting is that this would not allow for a group of doctors to strike or engage in a boycott. She said as she read the bill, it does indicate, with regard to the non-price terms, that competing physicians may not engage in a boycott [subsection (a) on page 2]; it doesn't say anything about strikes. That language is not included anywhere else in the bill. However, she said she reads subsection (a) as being specific to subsection (a) only. She remarked that she does not have the assurance that the provision that competing physicians cannot compete in a boycott or strike is included in the price terms.

MR. SNIFFEN remarked that there is not a similar restriction under the price section, page 3, line 18, subsection (d), as there is in the non-price section. He stated that it remains one of [the department's] main concerns.

Number 1422

CHAIR MURKOWSKI asked whether or not this has been addressed at some point, and what the purpose was for not having the boycott or strike language in the price terms area.

MR. SNIFFEN responded that he doesn't know why they weren't included.

REPRESENTATIVE HALCRO asked Mr. Sniffen if he was familiar with the FTC's action on the position in Fairbanks.

MR. SNIFFEN answered that he was not that familiar with it.

REPRESENTATIVE HALCRO stated that one of the complaints the FTC alleged was that through certain actions these doctors "succeeded blocking the entry of several health plans into the Fairbanks area and substantially delayed others." He remarked that basically, through their actions, it was a de facto boycott.

MR. SNIFFEN responded that that is what he understood as well.

Number 1740

BOB LOHR, Director, Division of Insurance, Department of Community and Economic Development, testified via teleconference. He stated that the division has two concerns with SB 37. The first is the cost to Alaskans and the second is the impact on the insurance market. In terms of the cost concerns, he said all of the studies regarding legislation like SB 37 predict an increase in the cost of healthcare and therefore of health insurance, if physicians are allowed to collectively negotiate. Increased costs would mean more uninsured Alaskans and reduced benefits for others. Small employers and individuals are particularly vulnerable.

MR. LOHR explained, in terms of the insurance market concern, that this legislation was developed in response to managed care organizations, primarily HMOs [health maintenance organizations] and healthcare providers in the Lower 48. Alaska does not have any HMOs at this time, and the number of health insurers and

their market shares have remained relatively stable over the past six years. He stated that with the exception of the entrance and then exit of employers' health [plans], the big players in 1994 are still the big players in the health insurance market today. The health insurance market in Alaska is small, which makes it difficult for new insurers to come into the market and operate profitably. He remarked that there has been testimony in other committees as well as today that this might attract additional insurers to the market; however, the insurers that [the division] has talked to have not indicated that would be the case. They have other barriers to entry into the Alaska market such as its small size and its relative remoteness. He concluded that the division believes that if this bill accomplishes what its supporters seek to accomplish, it will increase the cost of health insurance, increase the number of uninsured Alaskans, and hurt an already vulnerable health insurance market.

MR. LOHR added that he thinks the remark made about the number of doctors per 100,000 being substantially lower in Alaska than in other markets is a concern from the point of view of cost, because basic economics suggest that a shortage of supply would inflate the cost and the price of the physician services. A proposal to allow increased fees to be negotiated probably seems to go the wrong direction from the point of view of that market tendency.

Number 1740

REPRESENTATIVE ROKEBERG asked what the latest count is on the number of non-ERISA-covered individuals in terms of the total insurance market in Alaska.

KATIE CAMPBELL, Life and Health Actuary, Division of Insurance, Department of Community and Economic Development, came forth and responded that [the division] has the most recent health insurance survey, but it does not survey to find out who is self-funded. She added that [the division] has worked with [the Department of Health & Social Services] on portions of its report based on federal surveys.

REPRESENTATIVE ROKEBERG stated that he would guess [the number of non-ERISA-covered individuals] is probably less than 20 percent but could be more than 5 or 10 percent.

MR. LOHR remarked that he believes 10 percent would be a ballpark figure.

Number 1825

CHAIR MURKOWSKI stated that she read a figure of somewhere between 15 to 30 percent increase in the cost of insurance. She asked if those were Alaska's figures.

MR. LOHR responded that there has not been a study of Alaska specifically. However, the figure in the national study looking at H.R. 1304 came up with a range of cost increases between 5 and 13 percent.

REPRESENTATIVE HAYES asked Mr. Lohr if he foresees other insurance carriers, other than Blue Cross, that would fall into this percentage market share of 15 percent in any community.

MR. LOHR referred to page 8, lines 24 and 25, and stated that with the choice of definition for "health benefit plan", it may effectively be that neither Aetna nor Blue Cross is covered by the provisions of this bill.

REPRESENTATIVE ROKEBERG asked whether that is because Blue Cross is nonprofit and regulated under a different statute.

Number 1965

MS. CAMPBELL responded that it has to do with the fact that a "health benefit plan" under chapter 54 of [Alaska's] statutes is defined as an "employee welfare benefit plan", which is a specific employer plan and not an insurance company. She added that Blue Cross is under a different statute.

REPRESENTATIVE ROKEBERG stated that that was his point; therefore, it is not even covered by this bill.

MS. CAMPBELL responded that the "health benefit plan" definition doesn't reference an insurance company either.

REPRESENTATIVE HALCRO asked how it would be determined on a community-by-community basis who has the majority of market share.

MR. LOHR answered that "geographic service area" is a defined term in the bill, and it seems to focus on the geographic area of the physician.

REPRESENTATIVE HALCRO asked whether [the division] collects the information by geographic areas.

MS. CAMPBELL answered no, for insurance companies it is just the total premium for the state. Therefore, it would be information [the division] would have to collect.

Number 2102

REPRESENTATIVE ROKEBERG commented that it has taken six years and "we" still can't figure out how many people are insured and uninsured in the state, and now the Division of Insurance is supposed to figure who has 15 percent market share in a regional area. He stated that it's a real "jump shift."

REPRESENTATIVE HAYES asked whether [the division] has any suggestions to make this bill doable.

MR. LOHR responded that he thinks Representative Rokeberg hit on a point that this is a bill that needs some time to determine its actual need and whether it will be effective. He added that no plan has yet been approved under Texas; as a result, there is no track record.

CHAIR MURKOWSKI referred to her earlier question about boycotts. She stated that in subsection (a) on page 2, it states that [physicians] can't engage in a boycott for nonprice terms, but that same provision is absent when discussing price terms. She asked Kristopher Knauss, staff to Senator Kelly, if that has been a subject of discussion in other committee hearings, and whether it is absent for a reason.

KRISTOPHER KNAUSS, Staff to Senator Pete Kelly, Alaska State Legislature, responded that it is his understanding that the sponsor's intent was to keep it throughout the bill. The fees were taken out by the Senate Finance Committee. He added that this discussion [on boycotts] has not come up throughout the committee discussions on the Senate side.

REPRESENTATIVE HAYES asked why the fees were taken out in the Senate Finance Committee.

MR. KNAUSS explained that the fees have been restructured so that both parties have to come together to meet on the service issues. Once those are agreed upon by both parties, they can then negotiate specifically on fees. Basically, the process is tiered.

REPRESENTATIVE HALCRO asked what the reasoning was behind taking out the sunset clause.

MR. KNAUSS responded that he thinks Senator Kelly's thought was that since there were so many safeguards added throughout the legislative process, some of the insurance companies would wait the five years out and not engage in any negotiations.

[SB 37 was held over.]

CHAIR MURKOWSKI called for an at-ease at 5:45 p.m. The meeting was called back to order at 5:46 p.m.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:47 p.m.