

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

April 24, 2002

3:25 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Pete Kott

**COMMITTEE CALENDAR**

HOUSE BILL NO. 448

"An Act relating to establishing a data base of residential telephone customers who do not wish to receive telephone solicitations, providing that the data base be compiled at no cost to the customers, requiring telephone solicitors to purchase the data base, and requiring paid solicitors to register; and providing for an effective date."

- MOVED CSHB 448(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 66

"An Act relating to pesticide use; and providing for an effective date."

- MOVED CSHB 66(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 277

"An Act relating to liens by owners of self-storage facilities; distinguishing self-storage facility liens from another type of storage lien; and excluding self-storage liens from the treatment of certain unclaimed property."

- MOVED CSHB 277(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 424

"An Act relating to title insurance; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS ACTION**

BILL: HB 448

SHORT TITLE:TELEMARKETERS PHONE LISTS/REGISTRATION

SPONSOR(S): REPRESENTATIVE(S)CRAWFORD

| Jrn-Date | Jrn-Page |     | Action                             |
|----------|----------|-----|------------------------------------|
| 02/19/02 | 2309     | (H) | READ THE FIRST TIME -<br>REFERRALS |
| 02/19/02 | 2309     | (H) | L&C, JUD                           |
| 03/13/02 | 2530     | (H) | COSPONSOR(S): MORGAN               |
| 03/15/02 | 2564     | (H) | COSPONSOR(S): PORTER,<br>KERTTULA  |
| 03/18/02 | 2593     | (H) | COSPONSOR(S): LANCASTER            |
| 03/19/02 | 2611     | (H) | COSPONSOR(S): HUDSON               |
| 03/22/02 | 2654     | (H) | COSPONSOR(S): GREEN, HAYES         |
| 03/25/02 | 2674     | (H) | COSPONSOR(S): HALCRO               |
| 03/26/02 | 2691     | (H) | COSPONSOR(S): GUESS, WILSON        |
| 03/27/02 | 2720     | (H) | COSPONSOR(S): MEYER, CROFT         |
| 04/01/02 |          | (H) | L&C AT 3:15 PM CAPITOL 17          |
| 04/01/02 |          | (H) | Scheduled But Not Heard            |
| 04/02/02 | 2765     | (H) | COSPONSOR(S): BERKOWITZ            |
| 04/04/02 | 2806     | (H) | COSPONSOR REMOVED: LANCASTER       |
| 04/05/02 | 2820     | (H) | COSPONSOR(S): LANCASTER            |
| 04/08/02 |          | (H) | L&C AT 3:15 PM CAPITOL 17          |
| 04/08/02 |          | (H) | Heard & Held                       |
| 04/08/02 |          | (H) | MINUTE(L&C)                        |
| 04/15/02 | 2936     | (H) | COSPONSOR(S): DYSON                |
| 04/24/02 |          | (H) | L&C AT 3:15 PM CAPITOL 17          |

BILL: HB 66

SHORT TITLE:TRACKING OF PESTICIDE USE

SPONSOR(S): REPRESENTATIVE(S)CISSNA

| Jrn-Date | Jrn-Page |     | Action                             |
|----------|----------|-----|------------------------------------|
| 01/16/01 | 0100     | (H) | READ THE FIRST TIME -<br>REFERRALS |
| 01/16/01 | 0100     | (H) | L&C, RES, FIN                      |
| 01/25/02 |          | (H) | L&C AT 3:15 PM CAPITOL 17          |
| 01/25/02 |          | (H) | Heard & Held                       |
| 01/25/02 |          | (H) | MINUTE(L&C)                        |
| 04/15/02 |          | (H) | L&C AT 3:15 PM CAPITOL 17          |
| 04/15/02 |          | (H) | Scheduled But Not Heard            |
| 04/24/02 |          | (H) | L&C AT 3:15 PM CAPITOL 17          |

BILL: HB 277

SHORT TITLE: SELF-STORAGE FACILITY LIENS

SPONSOR(S): REPRESENTATIVE(S) DAVIES

| Jrn-Date | Jrn-Page |     | Action                                    |
|----------|----------|-----|---|
| 01/14/02 | 1947     | (H) | PREFILE RELEASED 1/4/02                   |
| 01/14/02 | 1947     | (H) | READ THE FIRST TIME -<br>REFERRALS        |
| 01/14/02 | 1947     | (H) | L&C, JUD                                  |
| 01/30/02 | 2100     | (H) | COSPONSOR(S): DYSON                       |
| 03/27/02 |          | (H) | L&C AT 3:15 PM CAPITOL 17                 |
| 03/27/02 |          | (H) | -- Meeting Canceled --                    |
| 04/08/02 |          | (H) | L&C AT 3:15 PM CAPITOL 17                 |
| 04/08/02 |          | (H) | Heard & Held -Assigned to<br>Subcommittee |
| 04/08/02 |          | (H) | MINUTE(L&C)                               |
| 04/24/02 |          | (H) | L&C AT 3:15 PM CAPITOL 17                 |

**WITNESS REGISTER**

CODY RICE, Intern  
to Representative Joe Hayes  
Alaska State Legislature  
Capitol Building, Room 422  
Juneau, Alaska 99801

POSITION STATEMENT: During discussion of HB 448, assisted Representative Crawford with the explanation of the changes made in Version B.

WILL ABBOTT, Commissioner  
Regulatory Commission of Alaska (RCA)  
701 West Eighth Avenue, Suite 300  
Anchorage, Alaska 99501

POSITION STATEMENT: During discussion of HB 448, responded to a question.

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General  
Fair Business Practices Section  
Civil Division (Anchorage)  
Department of Law (DOL)  
1031 West 4th Avenue, Suite 200  
Anchorage, Alaska 99501-1994

POSITION STATEMENT: Testified in support of HB 448 and responded to questions.

JAMES ROWE, Executive Director

Alaska Telephone Association (ATA)  
201 East 56th Avenue  
Anchorage, Alaska 99518  
POSITION STATEMENT: Provided comments during discussion of HB  
448.

MARIE DARLIN, AARP  
(No address provided)  
Juneau, Alaska  
POSITION STATEMENT: Testified in support of HB 448.

CHRYSTAL SMITH, Special Assistant  
Office of the Attorney General  
Department of Law (DOL)  
PO Box 110300  
Juneau, Alaska 99811-0300  
POSITION STATEMENT: Provided comments during discussion of HB  
448.

ROCCO MOSCHETTI, Owner  
Integrated Pest Management of Alaska  
PO Box 875006  
Wasilla, Alaska 99687  
POSITION STATEMENT: Provided comments during discussion of HB  
66.

MICHAEL MILLER  
(No address provided)  
POSITION STATEMENT: Testified in support of HB 66.

ROB LUND  
(No address provided)  
Homer, Alaska 99603  
POSITION STATEMENT: Testified in support of HB 66.

KENNETH J. PERRY, General Manager  
Paratex Pied Piper Pest Control  
2440 East 88th Avenue, Suite A  
Anchorage, Alaska 99507  
POSITION STATEMENT: Provided comments during discussion of HB  
66.

MAGGIE FLANAGAN  
1722 Bellevue Loop  
Anchorage, Alaska 99515  
POSITION STATEMENT: Testified in support of HB 66.

PAMELA K. MILLER, Program Director  
Alaska Community Action on Toxics  
505 West Northern Lights Boulevard, Suite 205  
Anchorage, Alaska 99503

POSITION STATEMENT: Provided comments during discussion of HB 66.

JANICE ADAIR, Director  
Division of Environmental Health  
Department of Environmental Conservation (DEC)  
555 Cordova Street  
Anchorage, Alaska 99501

POSITION STATEMENT: Provided comments during discussion of HB 66.

ROB EARL, Staff  
to Representative Sharon Cissna  
Alaska State Legislature  
Capitol Building, Room 420  
Juneau, Alaska 99801

POSITION STATEMENT: Reviewed proposed amendments to HB 66.

REPRESENTATIVE SHARON CISSNA  
Alaska State Legislature  
Capitol Building, Room 420  
Juneau, Alaska 99801

POSITION STATEMENT: Testified as the sponsor of HB 66.

MARY SIROKY, Manager  
Information Education & Coordination  
Division of Statewide Public Service  
Department of Environmental Conservation  
Juneau, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 66.

REPRESENTATIVE JOHN DAVIES  
Alaska State Legislature  
Capitol Building, Room  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in support of Version S of HB 277.

#### **ACTION NARRATIVE**

TAPE 02-64, SIDE A  
Number 0001

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

HB 448 - TELEMARETERS PHONE LISTS/REGISTRATION

Number 0105

CHAIR MURKOWSKI announced that the first order of business would be HOUSE BILL NO. 448, "An Act relating to establishing a data base of residential telephone customers who do not wish to receive telephone solicitations, providing that the data base be compiled at no cost to the customers, requiring telephone solicitors to purchase the data base, and requiring paid solicitors to register; and providing for an effective date." [Before the committee was the proposed committee substitute (CS) for HB 448, version 22-LS1407\L, Craver, 4/8/02, which was adopted as a work draft on 4/8/02.]

Number 0127

REPRESENTATIVE CRAWFORD, moved to adopt the proposed committee substitute (CS) for HB 448, Version 22-LS1407\B, Craver, 4/23/02, as a work draft. There being no objection, Version B was before the committee.

REPRESENTATIVE CRAWFORD, speaking as the sponsor, noted that in Version B, the effective date has been changed to July 1, 2003. In addition, a few technical changes have been made in an effort to clarify who is exempted; currently there are two groups: those exempt because they are a charitable organization and those paid solicitors and telemarketers who have to pay for the "do-not-call" list.

Number 0251

CODY RICE, Intern to Representative Joe Hayes, Alaska State Legislature, assisted Representative Crawford with the explanation of the changes made in Version B. He pointed out that Version B contains "a ceiling for the annual cost of the list" to those participating in telephonic solicitation. He also noted that those who are currently exempt will remain so under Version B. He mentioned that there is a new fiscal note, and that the Regulatory Commission of Alaska (RCA) will no

longer have to set "the reasonable rate" for individual local exchange carriers regarding the do-not-call list. He opined that this will save money and be an offset to the fiscal note.

CHAIR MURKOWSKI asked whether any changes have been made that will clarify that charitable organizations will be fully exempt.

MR. RICE said yes, and noted that subsection (e) in Section 11 clarifies this point. In response to another question, he remarked that nothing has changed with regard to political solicitations - they remain exempt.

Number 0512

WILL ABBOTT, Commissioner, Regulatory Commission of Alaska (RCA), testifying via teleconference in response to a question, confirmed that the RCA does anticipate a cost savings via Version B. He added:

We would ordinarily include whatever they charge for the "black-dot" now - it'd be included in their tariff - and then we don't have to do that any more. It's not a huge saving to us - ... we can probably say that there's about a \$1,000 in there - but one of the things I think we also have to recognize is that it also comes out of our regulatory cost charge. So it's not general fund.

Number 0563

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General, Fair Business Practices Section, Civil Division (Anchorage), Department of Law (DOL), testified via teleconference and said that after working with the sponsor and resolving DOL's one area of concern with HB 448, DOL is now in support of the legislation.

CHAIR MURKOWSKI asked Mr. Sniffen if he is familiar with the fiscal note.

MR. SNIFFEN said that he was aware of the numbers contained therein and had some knowledge of how they were arrived at. He ventured that there is a one-time cost of about \$24,000 that was allocated for regulation development, and an annual amount of \$4,700 for personnel costs related to the third-party administrator who will establish the do-not-call registry and sell the list to telemarketers. He relayed that the interplay

between that administrator and his office will require just a little bit of DOL's time.

CHAIR MURKOWSKI observed that most of the fiscal note will be used for drafting regulations, and asked whether the amount listed is a reasonable figure for that task.

MR. SNIFFEN said that according to his understanding, quite a bit of time goes into drafting regulations: "you have to put them out for notice, you have to have a ... public hearing on the regulations, review comments, [and then] have them reissued." He explained that there is actually someone in [DOL] who is familiar with the regulation-making process and thus provided the estimation on the costs to create these regulations.

REPRESENTATIVE CRAWFORD remarked that other states "that do this" generate a positive cash flow. Additionally, he surmised, prosecution of those who violate the proposed statute will also result in revenue, which should offset the fiscal note.

MR. SNIFFEN agreed that could be the case since "this bill does contain very good provisions that requires telephonic sellers to identify themselves and provide more information to callers that would help our department to find them if we do need to engage in enforcement or prosecution." However, he noted, he is not sure that the possibility of potential future revenue could accurately be reflected in the fiscal note.

REPRESENTATIVE HAYES asked why, given the possibility of generating future revenues, HB 448 did not have an indeterminate fiscal note.

MR. SNIFFEN pointed out that notwithstanding any future revenue, the costs related to creating the regulations will still exist. He indicated that perhaps the cost associated with the third-party administrator may be offset somewhat in the future revenues, but such is still not something that can be quantified at this time. He surmised that submitting an indeterminate fiscal note will not improve [the bill's chances] any more than the minimal fiscal note that was submitted.

Number 0914

JAMES ROWE, Executive Director, Alaska Telephone Association (ATA), testified via teleconference and said that although ATA is not in support of HB 448, it is no longer averse to the bill

in its current version. He said that the local telephone companies that he represents have agreed to advertise via both advertising methods, although there is a small cost. He then referred to page 3, line 3, [paragraph] (5), which says, "any other matter relating to the data base that the attorney general considers desirable", and remarked that although he can appreciate why [DOL] favors this language, he wants legislators to keep in mind that ATA would prefer that no additional costs be placed on the local telephone industry due to the development of regulations. He suggested that [removal of the aforementioned provision] would make ATA comfortable in supporting HB 448.

CHAIR MURKOWSKI, after acknowledging that the aforementioned language does appear to be "pretty open-ended", relayed her belief that it did not appear necessary to allow the attorney general that extra latitude unless "it's just so uncertain; we don't know what to anticipate at this point."

REPRESENTATIVE CRAWFORD said that the only reason that language is in the bill is because the attorney general's office has indicated to him that it is a necessary component of the legislation.

CHAIR MURKOWSKI asked Mr. Sniffen what DOL envisions "might come under" [paragraph] (5) on page 3.

MR. SNIFFEN said:

I don't know that we have any specific matter of concern, which is probably why the language is as vague as it is. Because you never really know, until you actually sit down and start thinking through these kinds of regulations, what you might have to do to implement the purpose and intent of the bill. And we would have no objection to changing that language to something along the lines of ... "any other matter that the attorney general feels necessary to implement the purpose of this statute", or something along those lines. It certainly isn't our intention to create anything that would impose an additional cost on the local telephone companies.

I think one of the purposes of the bill is to actually take that cost away and pass it on to the telephonic sellers. So, with that, if there's some proposed language that would make the telephone folks happy

that we could put in and that would still give us some flexibility to implement regulations that aren't specified in ... [paragraphs] (1)-(4) -- if we were limited to drafting regulations just on those items, I think we might not have the authority to accomplish some other things that might be necessary to implement this.

CHAIR MURKOWSKI remarked that what [the committee] would attempt to do is contain any additional cost that might be imposed on the existing telephone companies; therefore, leaving the language as is [is not acceptable].

Number 1262

MARIE DARLIN, AARP, said simply that [AARP] is in support of HB 448.

CHAIR MURKOWSKI closed the public testimony on HB 448. She asked Representative Crawford to share his thoughts on how best to address the concerns raised regarding the [paragraph] (5).

REPRESENTATIVE CRAWFORD suggested adding language that says, "any other matter relating to the data base that the attorney general considers desirable that does not add to the cost to local telephone exchanges".

CHAIR MURKOWSKI predicted that such language might be [problematic] if, for example, the additional cost were "a penny." She suggested that it would be better to insert language that recognizes the committee's wish to limit the cost to the local exchange carriers.

REPRESENTATIVE CRAWFORD said he would be in favor of such language.

MR. SNIFFEN agreed.

Number 1407

CHAIR MURKOWSKI made a motion to adopt Conceptual Amendment 1, on page 3, at the end of line 4, after the word "desirable" insert "recognizing the intent to minimize cost to local exchange carriers". There being no objection, Conceptual Amendment 1 was adopted.

REPRESENTATIVE MEYER mentioned that perhaps "politicians and pollsters" should not be excluded from the provisions of HB 448.

REPRESENTATIVE CRAWFORD pointed out that such an exclusion is required by "the constitution." He then referred to page 2, lines [13-14], which read, "The fee for a data base may not exceed \$750". He said:

What we intended that fee to be was no more than once per year, but if we put "annual" in there, that would lead people to believe that they had to repurchase it every year even if they didn't intend to do a telephone solicitation in the next year. I don't know exactly how to word that better. Our intention was ... that they would only have to pay that fee once per year.

CHAIR MURKOWSKI opined, then, that language saying, "may not exceed \$750 annually" would be sufficient to satisfy the sponsor's intent. She remarked, however, that she thought she just heard Representative Crawford say that "you only pay that \$750 fee when you purchase ... that data base list." "You don't have to do it on an annual basis, do you?" she asked.

REPRESENTATIVE CRAWFORD replied, "If you were to do another telephone solicitation campaign the next year, you would have to buy that list once again."

CHAIR MURKOWSKI observed, "At a price not to exceed \$750."

REPRESENTATIVE CRAWFORD agreed.

CHAIR MURKOWSKI reiterated, then, that it would be appropriate to say, "may not exceed \$750 annually".

Number 1609

REPRESENTATIVE ROKEBERG referred to page 2, line 28, [paragraph] (2), which read, "the frequency with which the data base is updated". He said that he finds that language to be problematic because although there [will be] a toll free number that a solicitor can use to add himself/herself to the data base, the frequency with which that data base is updated will be determined by [DOL]. For example, "if you put an annual \$750 amount, and there was a requirement for an update, then you couldn't charge for the update" if it was within that one-year period.

REPRESENTATIVE CRAWFORD explained that although he had asked the drafter to [resolve] that issue, it had not yet been done; rather than leave it up to DOL to determine the frequency of the update, the goal was to simply have the update done once annually. He suggested amending HB 448 to that affect.

CHAIR MURKOWSKI indicated agreement with doing so.

REPRESENTATIVE ROKEBERG argued, however, that "it might be as much as a year almost before they could get 'black-dotted' if they were a newcomer - if you didn't have an update - ... [but] if you had updates that could be purchased periodically ...." He remarked, though, that perhaps that isn't what the committee really wants to do after all.

REPRESENTATIVE CRAWFORD said, "We didn't want to do that; we wanted to do it quarterly."

REPRESENTATIVE ROKEBERG asked whether there have been any discussions yet with "any of these potential third-party contractors and how they would do this."

REPRESENTATIVE CRAWFORD said, "We've had numerous discussions with third-party contractors and with the attorney general's office."

Number 1769

MR. RICE said that according to the third-party providers with whom he has had discussions, under federal regulations local exchange carriers are required to show "that they can serve phone numbers." As the population is increasing, he added, "the numbers that are used are being used up" and have to be recycled; those numbers are turned over to the Federal Trade Commission (FTC) on a quarterly basis, and that's how they accomplish this.

CHAIR MURKOWSKI asked why, then, would the committee want the data base updated annually. Why not quarterly, she asked.

MR. RICE said, "That would be a compromise; I think that would help ease tension."

CHAIR MURKOWSKI asked Mr. Rice how he would address Representative Rokeberg's concern. To illustrate, she posed the following scenario: "The announcements go out in the mail the

first of the year, I don't move to Anchorage until March, I want to ... be black-dotted, but I wouldn't be able to be black-dotted until January of the following year."

MR. RICE said that with the exception of Anchorage and Fairbanks, that's how it works in most of Alaska: in most of Alaska, "all they have is a black dot next to your name in the phone book and you don't get in 'til the next phone book comes out." Therefore, he pointed out, the changes made by HB 448 would not be that far off from current practice.

REPRESENTATIVE ROKEBERG asked, "Why have the technology then?" He also asked, "Why do it if we're not going to utilize it?"

REPRESENTATIVE CRAWFORD said, "The idea was to keep the cost down; we would have much preferred to update it quarterly, but there seems to be some trepidation amongst the people in the department that they don't know if we could do it for the cost that we've set forth here." He added that he did not want the costs to go too high, but since no one knew how high the cost would go for such as small state, the goal was to leave as much leeway as possible in the current language.

CHAIR MURKOWSKI suggested that with that in mind, perhaps it would be best to leave the language in [paragraph] (2) as is so that the frequency would be determined via regulations rather than statute. She predicted that as long as the \$750 cap was stated in statute, it would be alright to allow the department to determine, via regulations, the frequency of the updates.

Number 1999

REPRESENTATIVE ROKEBERG pointed out, however, that although he can appreciate the need for the aforementioned cap - in order to maintain a reasonable cost - [solicitors] should pay for more frequent updates; unfortunately, the cap would preclude such.

CHAIR MURKOWSKI conceded that point.

REPRESENTATIVE CRAWFORD relayed that according to his research, the highest cost thus far in the nation is \$800.

MR. RICE explained that different states use different time periods for updates. For example, some states update daily, most states update quarterly, and some states do it less frequently still. He pointed out that solicitors will only be

required to purchase the list upon registration, which is required annually.

CHAIR MURKOWSKI surmised, then, that in essence it merely becomes an annual fee.

REPRESENTATIVE ROKEBERG suggested that by not requiring solicitors to receive the updates, it defeats the purpose. He predicted that this will be problematic.

MR. RICE opined that telemarketers do not really want to contact people who have no interest [in the products offered] and, thus, it will be in their own best interest to get updates whenever possible. He said he doubts that the data base will change significantly over the course of the year, perhaps only as little as 5-7 percent.

REPRESENTATIVE HALCRO suggested that instead of having an annual fee, they could simply institute a requirement that solicitors receive and pay for the list quarterly for \$175 per quarter. By doing so, the state would still be receiving income for the service, and solicitors that stop doing business during the year would not have to get any further quarterly updates.

REPRESENTATIVE CRAWFORD said that option had been discussed but not chosen.

CHAIR MURKOWSKI asked what a solicitor receives for paying the annual fee. She surmised that the fee would cover the costs of creating and maintaining the data base, and asked whether it would be reasonable to assess additional costs for updated lists.

REPRESENTATIVE CRAWFORD said he thought that there would be an annual cap of \$750 and that solicitors ought to be able to get as many updates as they wanted.

REPRESENTATIVE ROKEBERG surmised, then, that by allowing the attorney general to set the frequency of the updates, the "as yet unknown costs" of creating, maintaining, and updating the lists could be taken into consideration when determining the frequency; in this way both the original list and any forthcoming updates would not exceed a cost of \$750. He said that he could envision that there would be different costs associated with different telephone exchanges.

REPRESENTATIVE CRAWFORD agreed.

CHAIR MURKOWSKI paraphrased Representative Rokeberg and indicated agreement. [Tape ends early; no testimony is missing.]

TAPE 02-64, SIDE B  
Number 2341

CHAIR MURKOWSKI again suggested leaving [paragraph] (2) as is and changing line 14 [page 2] to read, "may not exceed \$750 annually".

REPRESENTATIVE CRAWFORD reiterated that his goal is to keep the costs down. He predicted that after the startup costs are taken care of it will be inexpensive to maintain [and update] the list.

Number 2270

CHAIR MURKOWSKI made a motion to adopt Amendment 2, line 14, page 2, add "annually" after "\$750". There being no objection, Amendment 2 was adopted.

Number 2221

REPRESENTATIVE ROKEBERG made a motion to adopt Conceptual Amendment 3, line 14, page 2, after "data base" insert "and updating". There being no objection, Conceptual Amendment 3 was adopted.

Number 2195

REPRESENTATIVE ROKEBERG made a motion to, on page 2, line 14, increase the fee from \$750 to \$1,000.

Number 2189

CHAIR MURKOWSKI objected.

REPRESENTATIVE HAYES, turning again to the issue of the fiscal note, said he questions the House Finance Committee referral for HB 448 in light of the potential revenue that the bill could generate.

REPRESENTATIVE ROKEBERG explained that bills with any form of fiscal note, whether positive or negative, get referred to the House Finance Committee.

Number 2120

CHRYSTAL SMITH, Special Assistant, Office of the Attorney General, Department of Law (DOL), pointed out that the current version of HB 448 does not have any provision for "any of this money to back to the department." This bill is drafted so that the money goes to the administrator and not to the state coffers, she added. She said that if it is the committee's intention to have any of the aforementioned revenue come back to the state, HB 448 needs to be amended to reflect that intention. In response to questions, she relayed that the sponsor's staff has been attempting to get the third-party administrators to provide some form of cost model.

REPRESENTATIVE CRAWFORD explained that originally, the funds were to come back to the attorney general's office, which would then pay the third-party administrator. The bill, however, has since changed, and now any funds generated will be going directly to the administrator. He said that it was his intention to make "this a self-supporting program." He also remarked that although his desire is to satisfy everyone's concerns, that may not be possible and still have a viable piece of legislation.

REPRESENTATIVE ROKEBERG suggested that language could be added to require the third-party administrator to reimburse [DOL] for the cost of administering the program, adding that in doing so, it might also be a good idea to increase the fee to \$1,000.

CHAIR MURKOWSKI remarked that by requiring the third-party administrator to reimburse the state, the fiscal note could be eliminated.

REPRESENTATIVE CRAWFORD agreed on that point, but remarked that raising the fee to \$1,000 might result in fewer solicitors. He said he would prefer to keep the cost down if at all possible.

CHAIR MURKOWSKI mentioned that having fewer solicitors would not necessarily be a bad thing. She said she agrees with Representative Rokeberg about adding a provision that requires the state to be reimbursed for any costs incurred for this program.

REPRESENTATIVE CRAWFORD said that he had intended for the state to be reimbursed; he had not realized that that provision had

been removed during the process of changing the bill in attempts to suit all parties.

CHAIR MURKOWSKI recommended that the committee adopt a conceptual amendment that would ensure that the state is reimbursed.

Number 1840

REPRESENTATIVE ROKEBERG made a motion to adopt Conceptual Amendment 4, "that the state be reimbursed for the costs of the administration of this program."

CHAIR MURKOWSKI called an at-ease from 4:20 p.m. to 4:30 p.m.

REPRESENTATIVE CRAWFORD said that Ms. Smith has relayed to him that "there is a way to do this through statutory program receipts - that is like getting a fishing license - that it could be done." He expressed concern that time is running out for passage of this legislation.

REPRESENTATIVE HALCRO surmised that there is still time.

Number 1720

CHAIR MURKOWSKI noted that there were no objections to Conceptual Amendment 4. Therefore, Conceptual Amendment 4 was adopted.

REPRESENTATIVE ROKEBERG relayed his concern that in setting up a data base listing one group of people, then, simultaneously, a data base is also being created that lists all others - "a negative list" so to speak. He asked the sponsor to keep this in mind as the bill continues to move through the process.

REPRESENTATIVE HAYES asked Mr. Sniffen whether Conceptual Amendment 4 will result in a zero fiscal note.

MR. SNIFFEN said that assuming the state can find a third-party administrator willing to take on this project knowing that it will have to reimburse the state for costs, then, yes, it should result in a zero fiscal note.

Number 1636

REPRESENTATIVE HAYES moved to report CSHB 448, Version 22-LS1407\B, Craver, 4/23/02, as amended, out of committee with

individual recommendations and the accompanying fiscal note. There being no objection, CSHB 448(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 66 - TRACKING OF PESTICIDE USE

Number 1570

CHAIR MURKOWSKI announced that the next order of business would be HOUSE BILL NO. 66, "An Act relating to pesticide use; and providing for an effective date." [Before the committee was the proposed committee substitute (CS) for HB 66, Version 22-LS0352\J, Lauterbach, 1/24/02, which was adopted as a work draft on 1/25/02.]

Number 1543

ROCCO MOSCHETTI, Owner, Integrated Pest Management of Alaska, testified via teleconference. He noted that there are many alternatives to pesticides, and said that although he did not use pesticides himself, he feels that pesticides are an important tool. He remarked that HB 66 could put an undue burden on private applicators of pesticides. He asked why sanitizers and disinfectants are excluded from the requirements of HB 66, specifically the reporting/tracking system, given that sanitizers and disinfectants are pumped into ground water and wells, and used in oil and gas production. He said that he supports the intent of HB 66 with regard to the pesticide manufacturers fee. He reiterated that there are a lot of alternatives to pesticides.

Number 1420

MICHAEL MILLER testified via teleconference in support of HB 66. He said that he is speaking from the standpoint of someone who is living with a terminal disease. He opined that HB 66 would protect people, address children's health issues, and potentially prevent disease. He mentioned the issue of farmed salmon versus wild salmon. He suggested adding to the Pesticide Advisory Board one member from the state Epidemiology Section.

Number 1335

ROB LUND testified via teleconference in support of HB 66. He relayed that he is a beekeeper in Homer, and that Alaska has a number of "hobbyists and small, commercial beekeepers," and has a certain potential for an expanded beekeeping industry. He

pointed out that pesticides can do substantial damage to honeybee colonies, and that unregulated pesticide use is a definite threat to beekeepers. He urged the committee to pass HB 66 as a means of protecting the environment in general and providing a measure of security for beekeepers.

Number 1289

KENNETH J. PERRY, General Manager, Paratex Pied Piper Pest Control, testified via teleconference. He said that he does not see any significant changes in the current version that would address the concerns raised at the last hearing on HB 66. He opined that the proponents of HB 66 have made it clear to him that "our view is unimportant." He remarked that there is nothing in the current version of HB 66 that will address the concerns raised regarding privacy. He also opined that the only way that anonymity can be achieved is for the (indisc.) in this state to be changed, and that won't occur via HB 66.

MR. PERRY said that once the information specified in [proposed] Sec. 46.03.325(c) is received by the Department of Environmental Conservation (DEC), it can be requested by any party for any reason. For example, he said, an "anti-pesticide group" can request and receive this data, then publish it in the newspaper with names and addresses. Furthermore, anti-pesticide groups can post protestors outside of businesses or residences of people who have decided to use a pesticide or even sell the data to a competitor. He added:

The reality of this danger was driven home to me ... when Representative Cissna ... [presented] to me two copies of a confidential service report issued by my competitors at American Pest Management. On each report was the name, address, and phone number of the customer, the service date and sanitation report, and the chemicals and the amounts applied to each site. Now, while this might be considered unethical, it was not illegal because she received this information from another organization with similar rights and rules ... as the state - the Anchorage school district.

MR. PERRY relayed that according to further information he obtained from Representative Cissna regarding pesticides in Alaska waters, the only pesticides traces found were chemicals that are not used in the state of Alaska, have not been used in the U.S. for 15-30 years, were found in migratory fish that spend the bulk of their lives in the open ocean, and were

measured in parts per trillion. He characterized HB 66 as a solution looking for a problem, and urged members to not be intimidated by "these extremists as represented by the outside-funded groups who are pushing [HB] 66."

Number 1054

MAGGIE FLANAGAN testified via teleconference in support of HB 66. After noting that she is testifying on her own behalf, she explained that she is a "newborn ICU [intensive care unit] nurse" at Providence Alaska Medical Center and has 20 years of experience dealing with newborns in high-risk nursery settings across the country. She said that she has been concerned about pesticide exposure ever since her first year of nursing, when she took care of an infant that was the child of a Vietnam veteran. Since then, she relayed, she has worked in Chicago where she saw a lot of Hispanic children with birth defects, and in Hawaii where she saw children with birth defects. She said that she wants the committee to know that the child with the worst birth defects she has ever seen was the son of an exterminator in Honolulu.

MS. FLANAGAN continued:

And if you know about pesticides, you probably understand that men are particularly at risk for passing on problems to their children ... because men are not born with all their eggs intact as women are. Men ... constantly, in the course of their reproductive systems, develop new genetic matter for their children to be sprung from.

MS. FLANAGAN said that she wanted to relay to the committee that it is really important to track pesticides and that there is a growing body of scientific data regarding the harmful effects of pesticides on children's health. She elaborated:

We know that children have a more rapid metabolism. We know that fetuses are more at risk if they're exposed while their mothers are pregnant with them. We know that children, pound for pound of body weight, not only eat more and breathe more, but they also play on the floor and lawn where pesticides are commonly applied. And any person in the room there who has children knows that anything that they touch, they eventually will put their hands [into] their mouths. So these kids are vulnerable citizens of Alaska.

Number 0950

I want you to understand, in the nursery at Providence, I'm seeing a lot of Native children with birth defects; I'm seeing Native children with gastrointestinal abnormalities and facial anomalies. I have talked to the ... Alaska state department person who is doing birth defect registry here, and we're very concerned about what her data will show, but it is in just the beginning stage. Why are we here to speak for this pesticide bill is, until we start tracking these things we will never know if there's any correlations or trends. If you ask me can I say that those Native children that I take care of at Providence Hospital, are those birth defects related to pesticides, I will tell you that it is suspicious and we need more information.

And the only way we can get more information is to be allowed to track. I am concerned about pesticides. I think HB 66 is good because it is a right-to-know bill. It will help with tracking of exposures. It will give our medical researchers a place to start gathering information about pesticide exposure in Alaska. It also could help the individual healthcare provider, if they find out that one of their patients had been exposed to pesticides, that may change the course of medical treatment and it may make medical treatment more effective. ... I'm very dismayed that pesticides are used in instances where other things could be done, not only possibly cheaper, but also safer.

Number 0842

PAMELA K. MILLER, Program Director, Alaska Community Action on Toxics, testified via teleconference. She explained that most of the studies done in Alaska regarding pesticides have not measured currently used pesticides. Therefore, she remarked, it is really disingenuous to say that there is no problem in Alaska; rather, it is simply not known yet whether there is a problem. She added that a pesticide-use tracking system will provide researchers with the information necessary to assess the relative contribution of long-range sources of pesticides versus those generated within the state. She said she believes that such a system is necessary for good research and for protection

of Alaska's water quality, fisheries, subsistence food, and human health. As a biologist, she stressed her belief that this legislation is a very valuable research tool that is necessary as a basis for a good, contaminate research program in Alaska.

Number 0761

JANICE ADAIR, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), testified via teleconference. She said she simply wanted to say that [DEC] does not have any problems with the [as yet unmentioned] proposed amendments. However, the proposed amendment that addresses confidentiality is of concern and would need a little alteration in order for the amendment to work. Ms. Adair, in response to Chair Murkowski, confirmed that she was referring to the amendment relating to keeping the information reported to the department concerning the location of the application of the pesticide confidential.

CHAIR MURKOWSKI closed the public testimony on HB 66. She then recessed the meeting to the call of the chair at 4:55 p.m.

CHAIR MURKOWSKI reconvened the meeting at 5:55 p.m. Representatives Murkowski, Meyer, and Rokeberg were present at the call to order.

Number 0650

REPRESENTATIVE MEYER moved to adopt CSHB 66, Version 22-LS0352\0, Lauterbach, 4/8/02, as the working document. There being no objection, Version 0 was before the committee.

CHAIR MURKOWSKI informed the committee that there are a couple of amendments to which she requested the sponsor address.

Number 0624

ROB EARL, Staff to Representative Sharon Cissna, Alaska State Legislature, answered on behalf of the sponsor of HB 66, Representative Cissna. Mr. Earl turned to the [Amendment 1], which read:

Page 2, line 17:

Delete (1) and insert a new subsection (1):

"on property to be sprayed and on each residence and each commercial building with a different operator within a one-quarter mile of the site where the

spraying will occur if the residence or commercial building is located on property that is contiguous to the property to be sprayed,"

MR. EARL explained that the aforementioned amendment would tighten the posting notice language so that one wouldn't have to post multiple commercial buildings owned by separate operators.

Number 0538

REPRESENTATIVE MEYER moved that the committee adopt Amendment 1 as specified earlier.

CHAIR MURKOWSKI objected for discussion purposes. She asked if the amendment should refer to "each residence or each commercial building" rather than "each residence and each commercial building". She then determined that the "and" language was acceptable.

REPRESENTATIVE ROKEBERG inquired as to who the "operator" is.

MR. EARL clarified that the drafter used the term "operator" in order to delineate between commercial buildings owned by the same operator so that the owner won't [have to post all of their buildings].

Number 0443

REPRESENTATIVE ROKEBERG moved that the committee amend Amendment 1 such that the word "operator" is deleted and replaced with the word "owner or manager". There being no objection, the amendment to Amendment 1 was adopted. Therefore, Amendment 1 as amended was before the committee.

CHAIR MURKOWSKI removed her objection. There being no objection, Amendment 1 [as amended] was adopted.

REPRESENTATIVE ROKEBERG continued discussion of Amendment 1 and noted that he was pleased that the language specifies "contiguous to the property to be sprayed" and "within one-quarter mile".

MR. EARL pointed out that the language [in Amendment 1] is modeled after the Anchorage Municipal code. He related his understanding that currently there is no statute relating to posting.

Number 0281

REPRESENTATIVE MEYER moved that the committee adopt Amendment 2, which read:

Page 4, line 26:

Delete (f) and insert a new subsection (f):

"In addition to the other civil or criminal penalties that may be applicable, a person 18 years of age or older who fails to comply with a reporting requirement established under this section is liable to the department of a civil penalty. The penalty may be up to \$1000 for the first failure to comply and up to \$2000 for second or subsequent failure to comply."

CHAIR MURKOWSKI objected for discussion purposes.

MR. EARL related that Amendment 2 address Chair Murkowski's concerns that a teenager might be liable for the civil penalties. Amendment 2 also responds to the department's concern that language didn't allow someone who was "illegally not certified" to be fined. Therefore, [adoption of Amendment 2] would result in someone over the age of 18 being liable if that individual fails to comply with the recording requirements.

CHAIR MURKOWSKI asked if there should be a "knowing failure to comply" before one is subject to the penalties.

REPRESENTATIVE ROKEBERG expressed concern that [Amendment 1] could apply to anyone, even a civilian. The language replaces references to licensed custom, commercial, or contract applicators.

MR. EARL pointed out that the reporting requirement is only applicable to the licensed custom, commercial, or contract [pesticide applicator].

CHAIR MURKOWSKI expressed concern that adoption of Amendment 2 would mean that a 21-year-old who isn't aware of any reporting or registration requirements, can apply Round Up to someone's property for a fee and be subject to these penalties.

REPRESENTATIVE ROKEBERG said that the original draft implies that [this speaks] to a licensed applicator. He asked if currently there is licensure for a [pesticide] applicator or is it included in the legislation.

MR. EARL confirmed that currently there is licensure for a [pesticide] applicator.

REPRESENTATIVE ROKEBERG inquired as to the sponsor's original intent with regard to the fine.

TAPE 02-65, SIDE A

CHAIR MURKOWSKI inquired as to how Amendment 2 is better than the current inept language.

MR. EARL explained that [Amendment 2] is in response to the department's concern that it wouldn't be able to find someone that wasn't a licensed applicator.

CHAIR MURKOWSKI reiterated her belief that the 21-year-old college student shouldn't be subject to these fines for registration when applying a pesticide when he/she has no idea there is an issue with the application of that pesticide.

REPRESENTATIVE ROKEBERG remarked that every Master gardener in the state would be subject to [these penalties].

Number 0066

REPRESENTATIVE SHARON CISSNA, Alaska State Legislature, speaking as the sponsor of HB 66, said that the intent was [to address] someone who had been licensed and who had gone through some training and thus knew how to use the pesticides. She agreed that there will be those who use Round Up in such a way that it would be construed as what an applicator would do, however, without the intention of their actions being a business or subject to any of the requirements in HB 66. Representative Cissna said that she read the language as only applying to an applicator.

CHAIR MURKOWSKI explained that if [Amendment 2 is adopted], the legislation is no longer only limited to licensed custom, commercial, or contract pesticide applicators. With the adoption of Amendment 2, the legislation would be open to anyone over age 18 who fails to comply with the recording requirements.

REPRESENTATIVE ROKEBERG remarked that Amendment 2 is ambiguous and he didn't like it.

CHAIR MURKOWSKI inquired as to the problem with subsection (f) as it is in the CS. Under the CS, the department can impose the

civil penalty on the licensed applicator who fails to comply, which is the person at which this legislation is aimed.

REPRESENTATIVE CISSNA agreed because the licensed applicator knows the requirements.

REPRESENTATIVE MEYER withdrew Amendment 2.

Number 0249

CHAIR MURKOWSKI turned attention to Amendment 3 on page 4, line 31.

MR. EARL explained that Amendment 3 addresses the concern of Mr. Perry in regard to records being open to the Public Records Act. [Amendment 3] adds [language specifying] that reported information would remain confidential.

Number 0365

REPRESENTATIVE MEYER moved that the committee adopt Amendment 3, [which was unavailable at the time of transcription].

CHAIR MURKOWSKI objected for discussion purposes. She related her understanding that Amendment 3 is an additional confidentiality provision to that [already] under [Sec. 46.03.340](a).

MR. EARL clarified that without Amendment 3 these [records] wouldn't have been exempted from the Alaska Public Records Act.

CHAIR MURKOWSKI withdrew her objection.

There being no objection, Amendment 3 was adopted.

CHAIR MURKOWSKI turned to Amendment 4, which addresses the concern raised by Ms. Adair.

Number 0458

REPRESENTATIVE MEYER moved that the committee adopt Amendment 4, [which was unavailable at the time of transcription].

CHAIR MURKOWSKI objected for discussion purposes.

MR. EARL explained that without Amendment 4 Ms. Adair was concerned that the place in statute where one would look to see if something is exempted would not have been listed.

Number 0500

MARY SIROKY, Manager, Information Education & Coordination, Division of Statewide Public Service, Department of Environmental Conservation (DEC), clarified that the [Alaska] Public Records Act includes a list of exemptions and [Amendment 4] merely adds [paragraph] (10) to that list.

CHAIR MURKOWSKI removed her objection.

There being no objection, Amendment 4 was adopted.

CHAIR MURKOWSKI directed attention to page 4, subsection (d) and inquired as to how the department would acquire the data. As a consumer, she surmised that there would be a questionnaire from the department inquiring as to the pesticide products one might have in their household. She asked if that would be the case.

REPRESENTATIVE CISSNA answered that during the last hearing, one [pesticide] applicator questioned why only one part of the use population would be addressed. Probably the greatest number of people who come in contact with pesticides are those who purchase them over the counter at various retail stores. This legislation attempts to rule out the ways in which pesticides enter the environment.

CHAIR MURKOWSKI reiterated that she wasn't convinced that the department would be able to conduct a statistically valid survey, and therefore she questioned why it's included in the statute.

REPRESENTATIVE CISSNA replied that one of the reasons this survey was included in statute was so that the Pesticide Tracking Board would have a mechanism allowing them to work with the department to develop something that would work. The department won't have the resources to perform everything required to make this work [and thus the board was to take on some of the responsibilities] and, in fact, volunteer organizations may take on some of the duties as well. However, there would need to be department oversight in order to ensure that it would work for the department.

Number 0765

REPRESENTATIVE MEYER moved to report CSHB 66, Version 22-LS0352\O, Lauterbach, 4/8/02, as amended out of committee with individual recommendations and the accompanying fiscal note(s). There being no objection, CSHB 66(L&C) was reported from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 6:18 p.m. to 6:20 p.m.

HB 277 - SELF-STORAGE FACILITY LIENS

Number 0804

CHAIR MURKOWSKI announced that the final order of business would be HOUSE BILL NO. 277, "An Act relating to liens by owners of self-storage facilities; distinguishing self-storage facility liens from another type of storage lien; and excluding self-storage liens from the treatment of certain unclaimed property."

CHAIR MURKOWSKI noted that the subcommittee did meet with the sponsor and a committee substitute (CS) was drafted and is before the committee.

Number 0839

REPRESENTATIVE ROKEBERG moved that HB 277 be removed from subcommittee. There being no objection, it was so ordered.

REPRESENTATIVE ROKEBERG moved to adopt the proposed CSHB 277, Version 22-LS0175\S, Bannister, 4/22/02, as the working document. There being no objection, Version S was before the committee.

Number 0883

REPRESENTATIVE JOHN DAVIES, Alaska State Legislature, speaking as the sponsor HB 277, noted his appreciation for the work done by the [subcommittee]. Representative Davies announced his support of Version S. He noted that [Version S] tried to address Representative Kott's desire for there to be a good faith effort to determine the property value. Representative Davies related his belief that Version S is a good balance between the consumer interest and the commercial interest.

CHAIR MURKOWSKI expressed concern regarding the cost that included the personnel and administrative costs. She recalled that the [costs] would include actual and documented costs of

disposing of the property. However, on page 3, line 12, the language refers to "the actual documented costs, including personnel and administrative costs, of disposing of the property". She noted her preference of the language she had suggested, which read as follows: "the amount owed includes the cost, including actual and documented costs of disposing of the property". She mentioned her discomfort with leaving this language open-ended.

REPRESENTATIVE DAVIES said that he didn't have any problem with deleting the language ", including personnel and administrative costs," on page 3, line 13.

CHAIR MURKOWSKI said that addresses her concern.

Number 1080

CHAIR MURKOWSKI moved that the committee adopt Amendment 1, as follows:

Page 3, line 13,  
Delete ", including personnel and administrative costs,"

Page 3, line 29,  
Delete ", including personnel and administrative costs,"

There being no objection, Amendment 1 was adopted.

Number 1124

REPRESENTATIVE ROKEBERG directed attention to the notice provisions on page 3, line 23.

REPRESENTATIVE DAVIES explained that originally the language specified one notice of publication but Version S [requires] notice to be published two times within 14 consecutive days.

REPRESENTATIVE ROKEBERG remarked that published notice is expensive.

CHAIR MURKOWSKI inquired as to the notice requirements under the current statute.

REPRESENTATIVE DAVIES replied that he didn't believe the current statutes were clear on the notice requirements.

REPRESENTATIVE ROKEBERG asked if there is a general disposal of property statute that's being utilized. He expressed the need to balance the interests of the property owner with the operator. Representative Rokeberg recalled that normal legal notice is three times.

REPRESENTATIVE DAVIES pointed out that published notice could be a documented cost that could be recovered.

Number 1232

REPRESENTATIVE ROKEBERG recalled previous testimony from an auctioneer who was raising the estimated values. He asked if [that language] was eliminated or finessed.

REPRESENTATIVE DAVIES specified that the aforementioned was handled by requiring a good faith effort to determine the value, which can be found on page 4, lines 9-13. Representative Davies pointed out that the improvement of lien doesn't actually [require] a publication notice but rather requires that there be notice of sale by registered letter to the individual to whom the article(s) belong and also by posting notice of sale in three public places in the recording district. Representative Davies also pointed out that the publication and posting requirements on page 3, Sec. 34.35.630 use "or" language.

CHAIR MURKOWSKI highlighted that the legislation doesn't allow posting if there is a "newspaper of general circulation in the community where the self-storage facility is located".

REPRESENTATIVE ROKEBERG related his view that this is a good piece of legislation.

Number 1395

REPRESENTATIVE ROKEBERG moved to report CSHB 277, Version 22-LS0175\S, Bannister, 4/22/02, as amended out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 277(L&C) was reported from the House Labor and Commerce Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 6:30 p.m.