

MINUTES
SENATE FINANCE COMMITTEE
April 17, 2002
9:23 AM

TAPES

SFC-02 # 61, Side A
SFC 02 # 61, Side B
SFC 02 # 62, Side A

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 9:23 AM.

PRESENT

Senator Dave Donley, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Jerry Ward, Vice Chair
Senator Lyda Green
Senator Gary Wilken
Senator Alan Austerman
Senator Lyman Hoffman
Senator Loren Leman
Senator Donny Olson

Also Attending: REPRESENTATIVE NORM ROKEBERG; KIM OGNISTY, staff to Senator John Torgerson; JIM NORDLUND, Director, Division of Public Assistance, Department of Health and Social Services; JANET SEITZ, Staff to Representative Norm Rokeberg; ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; MARY MARSHBURN, Director, Division of Motor Vehicles, Department of Public Safety

Attending via Teleconference: There were no teleconference participants.

SUMMARY INFORMATION

HB 262-BUILDING SAFETY ACCOUNT

The Committee considered the bill and reported it from Committee.

SB 278-TAKING PROPERTY BY EMINENT DOMAIN

The Committee heard from the sponsor, considered and adopted one amendment and reported the bill from Committee.

SJR 43-MAINTENANCE OF EFFORT ON FEDERAL PROGRAMS

The Committee considered the bill and reported it from Committee.

HB 4-MOTOR VEHICLES & DRUNK DRIVING

The Committee considered three amendments and adopted two and adopted a new version of the bill as a working draft. The bill was held in Committee.

#HB262

HOUSE BILL NO. 262

"An Act relating to accounting for and appropriations of receipts from fees collected by the Department of Labor and Workforce Development for certain inspections and for certain plumbing and electrical worker certificates of fitness; establishing a building safety account; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

Senator Austerman expressed concern about the practice of shifting funds from one budget to other budgets instead of classifying the funds as general funds. He voiced this is a "poor" but established practice; and since this is the case, he would not object to this bill moving from Committee. He reiterated this "poor practice" should be reviewed.

Senator Wilken moved "to report HB 262 from Committee with individual recommendations and attached fiscal note."

There being no objections, HB 262 was REPORTED from Committee with a previous \$234,600 fiscal note, dated 3/19/02 from the Department of Labor and Workforce Development.

#SB278

CS FOR SENATE BILL NO. 278(JUD)

"An Act requiring a good faith effort to purchase property before that property is taken through eminent domain; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

KIM OGNISTY, staff to Senator John Torgerson, explained to the Committee the details of the proposed committee substitute Version "J."

AT EASE 9:26 AM / 9:26 AM

Ms. Ognisty stated this version reinserts language that was removed from the bill in the Senate Judiciary Committee. She clarified the current language is the same as previously presented; however, upon the advice of the Legislative Legal and Research Services, Legislative Affairs Agency, the language is presented in a different order.

Co-Chair Kelly clarified that Version "J" is basically the same as Version "A" the Committee had previously adopted. He stated Version "A" contains the intent language with the understanding that the Legislative Legal and Research Service would be redrafting it "with no substantive changes," just technical changes.

Ms. Ognisty concurred.

Senator Wilken moved "to report SB 278 from Committee with individual recommendations and attached fiscal notes."

There being no objections, CS SB 278(FIN) REPORTED from Committee with a new zero fiscal note, dated 4/12/02 from the Department of Transportation and Public Facilities and a previous zero fiscal note, dated 2/28/02 from the Court System.

#SJR43

CS FOR SENATE JOINT RESOLUTION NO. 43(STA)
Requesting the United States Congress to grant a two-year moratorium on requirements for certain state payments under federal programs.

This was the first hearing for this bill in the Senate Finance

Committee.

Co-Chair Kelly complimented Co-Chair Donley for his effort and the forethought on this "the maintenance of efforts resolution."

AT EASE 9:28 AM / 9:29 AM

Co-Chair Donley moved to adopt CS SJR #43, 22-LS1632\F as a working draft, and explained that this proposed committee substitute inserts the language "maintenance of effort" into the title of the bill for clarification purposes.

Without objection, the committee substitute was ADOPTED as a working draft.

Co-Chair Donley explained to the Committee this resolution "asks the federal government to consider a one or two year moratorium on maintenance efforts requirements so that states can adjust their spending consistent with current needs and budgetary restraints."

Co-Chair Kelly noted that Co-Chair Donley recently presented this intent language to an Alaska United States Congressman and received favorable response. He furthered that this intent language has never been formally presented at the federal level and would probably begin debate, as this language would allow "states to establish a new level of maintenance of efforts" so that they "are not constantly held" to historical levels of efforts. He continued this would, in effect, request a moratorium on the maintenance of effort requirement provisions.

Senator Olson inquired how Senator Donley determined the two-year time frame presented in this legislation.

Co-Chair Donley replied that 43 states currently have budget shortfalls. He voiced understanding of the federal government's use of maintenance of efforts requirements; however the problem is once the maintenance of efforts requirements are established, they are permanent. He reasoned that this language would provide the states "a window of opportunity to readjust their budgets" while keeping the federal maintenance of efforts program intact. He noted, "the key to the feds is that you're not taking federal funds and replacing them with State funds, as they want you to keep moving toward whatever program they want and that is reasonable." He contended it would also "be reasonable to allow the states the freedom to adjust once in a while" based on a multitude of factors.

JIM NORDLUND, Director, Division of Public Assistance, Department of Health and Social Services, commented that Co-Chair Donley was

"probably motivated" to present this bill because of the Temporary Assistance for Needy Families (TANF) program that has the largest maintenance of efforts program, in addition to other block grants such as the Maternal/Child Health Block grant. He stated the maintenance effort in effect for the TANF program under the original program was fifty percent State funded and fifty percent federally funded; however, when the program transitioned to a block grant, discussions ensued as to what the states' proper role in financing the Temporary Assistance to Needy Families (TANF) program should be. He noted there was concern that states "would de-fund the program and create what is known as "a Race to the Bottom, to be the state to have the lowest welfare benefits, and therefore save state funding in that fashion."

In response to this concern, Mr. Nordlund continued, Congress established the maintenance of effort regulations mandating states to be responsible for 80 percent of the block grant funding levels that were in effect in 1994; therefore, he clarified, 1994 is the year that maintenance efforts levels are based.

Mr. Nordlund stated "there is some flexibility under the TANF program that allows the Legislature to realize general funds savings by using federal TANF dollars to supplant primarily child care dollars, general funded childcare dollars," in addition to welfare reform savings. He maintained the Division supports Congress keeping the maintenance of efforts in place, and no one at the federal level is considering "getting rid of the maintenance of efforts."

Co-Chair Kelly asserted, "no one is talking about revising the maintenance of efforts," and as mentioned, the reaction by Alaska's Congressman was encouraging.

Co-Chair Kelly stated Co-Chair Donley developed the idea of re-adjusting it, which was, when first presented, met with opposition. Co-Chair Kelly stated the idea has grown, and has prompted this resolution. Co-Chair Kelly stated the discussion on the maintenance of efforts would continue to grow in the next few years.

Co-Chair Donley asserted, "if ever there was a gap in the philosophy between the Knowles' Administration and fiscal discipline, boy, it just emerged." He continued that the Administration would rather "rely on the federal government to dictate spending levels" than allow state governments the option to make their own decisions on their individual budgets, especially in light of the current state of Alaska's economy.

Co-Chair Donley moved to report "Senate Joint Resolution 43, the

committee substitute, from Committee with individual recommendations."

There being no objections, CS SJR 43(FIN) was REPORTED from Committee with a previous zero fiscal note for all departments, dated 4/03/02, from the Senate State Affairs Committee.

AT EASE 9:40 AM / 9:43 AM

#HB4

SENATE CS FOR CS FOR HOUSE BILL NO. 4(JUD)

"An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or watercraft; and providing for an effective date."

This was the third hearing for this bill in the Senate Finance Committee.

REPRESENTATIVE NORM ROKEBERG, the sponsor of the bill, explained to the Committee that the proposed committee substitute, Version "E", encompasses previously discussed amendments; however, he voiced concern about a few of the amendments. He elaborated that Version "E" changes some definitions and parameters of the Alaska Court ordered treatment program as well as the amounts of fines and mandatory minimum sentences for such things as Driving Under the Influence (DUI) and Failure to Consent to chemical testing.

Representative Rokeberg noted the committee substitute includes the allowance for a 75 percent reduction in fines; however, there is a proposed amendment to consider lowering the reduction to 50 percent. Representative Rokeberg stated this language is located on page 21, line 19, subsection (q) of Version "E."

Representative Rokeberg recommended the language be changed to reflect "an up 50 percent" mandatory minimum fine and a portion of the mandatory minimum sentence reduction for individuals who have successfully completed a Court ordered treatment program two or more times.

Representative Rokeberg explained his opposition to another amendment incorporated into Version "E" which would place a distinguishing mark on the front of the driver's license of a person convicted more than once for a DUI. He noted this language is located on page 6, line 5, of Section 10.

Representative Rokeberg continued that committee substitute Version "E" additionally does not include language pertaining to a limited 60-day license provision. He supports the deletion of this language, as does the Department of Law.

Representative Rokeberg voiced support for language in Version "E" specifying that an offender must maintain proof of financial responsibility and be mandated into the SR 22 Insurance Program. He stated this language is included on page 12, line 26, Section 20.

Representative Rokeberg stated the final change in Version "E" is the inclusion of a new section, Section 36, page 34, line 18 -30, providing for a pilot treatment program in the Department of Corrections to use a drug or a combination of drugs. He stated there is an accompanying fiscal note for \$100,000; however, he contends, using revenue generated by the fine levels of the bill along with adjustments to the Department of Law and Public Defender requests on the fiscal note would zero out this amount.

AT EASE 9:50 AM / 9:51 AM

Co-Chair Donley explained that currently under the Alaska Mandatory Auto Insurance Act, "insurance companies are not required to notify the State" if insurance is cancelled; however, the State requires certain high-risk individuals to acquire the SR 22 class of insurance. He stated this State regulation also requires insurance companies to notify the State if this mandated insurance were cancelled. He continued that this version of the bill would require individuals to obtain SR 22 insurance for longer periods of time depending on the individual's quantity of pertinent driving offenses. He stated numerous other states require insurance companies to notify the state when insurance is cancelled, regardless of whether a person has a history of drunk driving.

Senator Green qualified that the automobile not the driver is insured; therefore, this bill does not address an offender driving a different vehicle. She voice concern that "there is no follow-up now under current law" for people who drive without insurance.

Co-Chair Donley countered that the current financial responsibility act resulted in thousands of license suspensions every year for people who fail to maintain their SR 22 insurance, people who have an accident and do not have automobile insurance, and people who fail to pay judgments on accidents.

Senator Green asked how different entities would know that an individual is required to carry SR 22 insurance.

Co-Chair Donley commented that individuals identified as requiring SR 22 insurance are input into a computer databank. He further explained that and when the individual registers a vehicle, the computer alerts the Division of Motor Vehicles (DMV) that the individual is required by State law to carry SR 22 insurance on their vehicle and must show physical proof the vehicle is insured before the registration could be processed. He noted that the SR 22 insurance is expensive because an insurance company has more paperwork to handle, is insuring a high-risk individual, and is required by State law to notify the State if the SR 22 insurance is cancelled. He added that the DMV cancels the driver's license of these individuals if they do not comply with the State law.

Senator Green commented that a person could have a driver's license and not own a car. She stressed that people would find a way to drive, and this bill would not solve the problem.

Co-Chair Donley contended the bill would address a large segment of the population who do own vehicles, and that this bill "is the best, easiest...it's a no-cost provision, zero cost to the State" means of addressing this issue. He acknowledged there would be a small segment of the population who would find other means to drive.

Senator Green, referring to language on page 19, line 29 subsection (3) stating the Court "shall permanently revoke the person's driver's license," questioned if in this provision, "permanent" means "forever."

JANET SEITZ, Staff to Representative Rokeberg, stated that is the meaning; however, a person's license may be restored upon request under language on page 21, line 12, subsection (p). She stated these circumstances would include such things as a person not being convicted of a criminal offense since the license was revoked, the license having been revoked for ten years, and the person providing proof of financial responsibility.

Senator Green declared that the license has not been "permanently revoked, it's just revoked."

Co-Chair Kelly stated it is permanently revoked; however, there is an appeals process.

Senator Green responded that permanently revoked implies something contrary to what the language specifies.

Co-Chair Kelly voiced the license is revoked "permanently subject

to..."

Senator Green interjected that "revoked would be subject to.. unless there is a different reentry after a permanent revocation."

Ms. Sietz confirmed there is a different reentry provision, as the person would have to request the Department to review whether the permanently revoked license could be reactivated. She clarified that it is not an automatic review.

Senator Green asked the process of license reactivation for a person whose license has been revoked, as opposed to permanently revoked.

Co-Chair Kelly stated there is a process whereby the revoked license is reissued after a specified amount of time.

Ms. Seitz concurred.

Senator Olson, referring to a person appealing for their permanently revoked license to be reinstated, inquired as to what would suffice as proof of financial responsibility.

Representative Rokeberg replied that anyone being issued a driver's license is required to show proof of financial responsibility in the form of insurance or a bond, by signing a form.

Senator Olson commented that he has never shown proof of insurance when applying or renewing his driver's license.

Co-Chair Donley commented that when a person applies to register their motor vehicle, "there is a little oath you take" that requires the person to maintain insurance or proof of financial responsibility on that vehicle." He stated this financial responsibility could be in the form of insurance or a certificate of self-insurance in the amount of approximately \$125,000 in assets to cover damage the person might incur while driving.

Senator Olson stated this would apply to a vehicle being registered, but how is it handled when applying for a driver's license.

Co-Chair Donley clarified that when a person reinstates their license, DMV would also require this oath to be signed.

AT EASE 10:06 AM / 10:10 AM

Co-Chair Donley offered a motion to adopt SCS CS for HB #4, 22-

LS0046\E for discussion purposes and additional amendments."

There being no objection, the committee substitute was ADOPTED as a working draft.

Amendment #15: This amendment deletes language and inserts new language into Section 31 on page 19, lines 15-16 to read as follows.

(n) A person is guilty of a class C felony if the person is convicted under (a) of this section and has been previously convicted two or more times since January 1, 1996, and within the 10 years preceding the date of the present offense. For purposes of determining minimum sentences based on previous convictions, the provisions of (o)(4) of this section apply. [EXCEPT AS PROVIDED UNDER (Q) OF THIS SECTION, [UPON]] upon conviction, the court..

New text underlined [DELETED TEXT BRACKETED]

This amendment also deletes language on page 21, lines 19 -22 and inserts new language to read as follows.

(q) If the court determines that the person has successfully completed a court-ordered treatment program, the court may suspend [UP TO 75 PERCENT] a portion of the mandatory minimum sentence required under (b)(1) [OR (n)(1) OF THIS SECTION AND UP TO 75] of this section and up to 50 percent of the minimum fines required under (b)(1) [OR (n)(1)] of this section. This subsection does not apply to a person who has already [SUCCESSFULLY COMPLETED] participated in a court-ordered treatment program two or more times. In this subsection, "court-ordered treatment" means a treatment program for a person who consumes alcohol or drugs and that..

New text underlined [BRACKETED TEXT DELETED]

In addition, this amendment deletes language and inserts new language on page 27, lines 19-20 to read as follows.

(p) a person is guilty of a class C felony if the person is convicted under this section and has been previously convicted two or more times since January 1, 1996, and within the 10 years preceding the date of the present offense. For purposes of determining minimum sentences based on previous convictions, the provisions of AS 28.35.030(o)(4) apply. [EXCEPT AS PROVIDED UNDER (s) OF THIS SECTION, UPON [UPON]] upon conviction,

(1) the court shall impose a fine of not less than \$10,000 and a minimum sentence of imprisonment of not less than..

New text underlined [BRACKETED TEXT DELETED]

This amendment additionally deletes language on page 28, lines 29 - 31 and inserts new language to read as follows.

(s) If the court determines that the person has successfully completed a court-ordered treatment program, the court may suspend [UP TO 75 PERCENT] a portion of the mandatory minimum sentence required under (g)(1) [OR (p)(1) OF THIS SECTION AND UP TO 75] of this section and up to 50 percent of the minimum fine required under (g)(1) [AND (p)(1)] of this section. This subsection does not apply to a person who has [SUCCESSFULLY COMPLETED] participated in a court-ordered treatment program two or more times.

New text underlined {BRACKETED TEXT DELETED}

In addition, this amendment deletes language on page 31, lines 25 and 26 and inserts new language to read as follows.

(4) being destroyed[.] ; or
(5) transfer to a charitable organization; in this paragraph, "charitable organization" means a charity that is exempt from taxation under 26 U.S.C.501(c)(3)(Internal Revenue Code).

New text underlined {BRACKETED TEXT DELETED}

Senator Wilken offered a motion to adopt Amendment #15.

Representative Rokeberg explained this amendment would change the allowable reduction of fines from 75 percent to 50 percent and rewords the language to specify a reduction in a portion of the sentence upon completion of a court ordered treatment program. He stated this would give the Court some flexibility in its sentencing and enticements for people to enroll in treatment program.

Representative Rokeberg commented that the amendment also addresses language regarding the transfer of forfeited vehicles in remote areas of the State.

Co-Chair Donley asked for discussion on the intent of the portion of the amendment addressing language on page 21, line 19 which deletes "up to 75 percent" and inserts "a portion" of the mandatory

minimum sentence and the language on page 19, lines 10-11 which deletes "or (n)(1) of this section and up to 75" and inserts "of this section and up to 50" affecting the percent of the minimum fines.

AT EASE 10:15 AM / 10:16 AM

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law, voiced that the Department supports people serving jail-time as a deterrent to crime. She voiced that the language "a portion" may not be the best option as it does give discretion to the length of time sentence could be suspended. She reiterated that the Department supports jail-time for people who are convicted of a DWI.

Representative Rokeberg reminded the Committee that this language only pertains to those offenders in a treatment program at the district court level. He continued that as such, it is not a general guideline, but does give a judge some flexibility in assigning the length of a sentence and the amount of the fine. He stated that the question is "how much... should it be 75 percent or a portion; should it be more than 75 percent or less than 75 percent." He stated the Department of Law recommends the term "a portion" to maximize the flexibility. He opined that the Department of Law is not soft on crime; however, it is a concern of the Legislature that "judges may be soft on crime."

Co-Chair Kelly stated that concern applies more to the social courts than the criminal courts.

Representative Rokeberg stated there is concern about the criminal courts with their sentencing which brings about the concern over the mandatory minimum sentencing addressed in this amendment; never-the-less, he stated the Committee should discuss whether this language should specify whether up to 75 percent or a portion of the sentencing could be reduced.

Senator Ward requested a legal opinion as to whether it would be constitutional to discriminate against people who have received multiple DWIs by mandating it be an offense to drive if their blood alcohol level is 0.04 or higher.

Representative Rokeberg responded the answer is yes.

Senator Ward affirmed this would be allowable.

Senator Ward stated he would not object to this amendment; however, voiced that the therapeutic court should be included as it would

provide assistance. He stated, "it is silly to tell someone they can't drink for 18 months and then tell them you can have a drink."

Co-Chair Donley stated his support for the existing language of up to 75 percent, but it is mitigated by the fact that a person could only receive the reduction twice.

Representative Rokeberg stated that is correct.

Co-Chair Donley moved to amend Amendment #15 to retain "up to 75 percent" and delete "a portion" of subsection (q) on page 21, line 19.

Representative Rokeberg clarified that the amendment to the amendment should also amend the same amendment language intent for subsection (s) on page 28, line 28.

Co-Chair Donley concurred, stating it is a technical change.

Co-Chair Kelly stated this number might prove troublesome in some situations, and voiced support of leaving the amendment as it is.

Senator Hoffman voiced support of the amendment to the amendment.

A roll call was taken on the motion.

IN FAVOR: Senator Austerman, Senator Green, Senator Hoffman, Senator Leman, Senator Olson, Senator Ward

OPPOSED: Senator Wilken, Co-Chair Kelly

The motion to amend the amendment PASSED (7-2)

The amendment was AMENDED.

There being no objection, Amendment #15 as amended was ADOPTED.

Amendment #14: This amendment would delete all language of Section 10(a) on page 6, lines 5 - 22.

Senator Wilken moved for adoption of Amendment #14.

Representative Rokeberg explained that when the Version "M" was adopted as a working draft at a prior meeting, all amendments that were "on the table" were incorporated, "some without discussion." He informed the Committee that this amendment deletes language that would add to an individual's driver's license, a mark specifying the individual had been convicted more than once for a DUI.

Representative Rokeberg stated this is problematic, as it accomplishes nothing except "branding" someone and shifting liability to licensed bartenders.

SFC 02 # 61, Side B 10:33 AM

Representative Rokeberg continued that the liquor industry is one of the most highly regulated industries in the State. He stated the State would benefit by keeping customers in licensed establishments "where they can be controlled, where they can't be served if they are intoxicated," and where there are servers trained to identify and address intoxicated people. He stressed that liquor establishments could not discriminate by refusing to serve someone with this identifying mark on their license and questioned if it would be expected of establishments to check all patrons' licenses. Representative Rokeberg noted that liquor establishments have provisions in place to protect people.

Co-Chair Kelly commented that bartenders do not check all patrons' licenses; therefore would not be aware there is a mark on someone's license. He furthered that usually the only reason a license is checked is if someone appears to be underage.

Representative Rokeberg concurred; however, stated that if this language were included in the bill, the onus would be placed on the liquor establishments to check everyone's license.

Co-Chair Kelly noted that if someone had an accident after drinking at a bar, then "the claim could be made" that the bar should have checked the license. He also contended that people should not have to show their license in a bar unless they appear to be too young. He reiterated that this provision would result in everyone having to show their license because bar operators would be instructed by their lawyers and risk managers to check all licenses to avoid liability issues.

Senator Austerman voiced his opposition to the amendment. He stated, "when people go out and abuse alcohol to the extent that they are killing people, then those people should have some criteria placed upon their ability to go in and get booze, drive, and kill people again." He opined that perhaps the bill should be expanded to include language requiring everyone to show his or her license. He stated this might appear to infringe upon our rights, but at the same time, it might be protecting our lives. He stressed that alcohol is the biggest problem in the State, and perhaps it is

time to address some of the related issues.

Co-Chair Kelly exemplified that studies have shown that serial killers have a common bond of reading pornography and according to Senator Austerman's argument, purchasers of pornographic material should also be required to show papers. He commented that the Court would not support requiring "Americans to show their papers to engage in legal activities." He continued that this amendment would ultimately be challenged in court and "thrown out." He summarized that this language "sounds very unconstitutional."

Senator Austerman stated this language "may not be fair to everybody," but contended this might be "the first step forward" in addressing alcohol abuse in the State.

Co-Chair Kelly stated, "a lot of people say we have to control guns, too, in order to stop crime," and this is not "the road to take."

Co-Chair Donley commented, "there is a big difference between use and abuse." He stated that the focus should be on what this language would do, and "if the government is reasonably discriminating based on good public policy and public safety, you don't have to treat everybody exactly the same." He continued that gun ownership follows this logic for, unlike alcohol, the right to own a gun has specific constitutional protection, yet "the courts allow us to deny gun ownership to people who commit a felony" as well as those individuals involved in domestic violence crimes. He continued that gun regulations are rational and appropriate, and this type of approach could apply to people who have proven alcohol abuse. He asked why the average citizen who is a casual drinker should have to adhere to legislation geared "to the lowest common denominator, why should we not target the abuser." He stated that being able to obtain drugs with a prescription is another example of selective use.

Co-Chair Donley furthered that legislation which identifies people who have "already proven, more than once, they are willing to break the law and abuse alcohol" and harm other people should lose the privilege to drink while those who follow the law could retain their privilege. He stated he does not view it "as big brother" watching everybody, but as being more selective for public safety purposes.

Co-Chair Kelly asked what the purpose of the mark on the license would be. He stated people are not going to volunteer that information, and establishments would be forced to ask everyone for their license, for if they do not, they might face potential

liability situations. He continued that when a person is required to show their driver's license for identification purposes, such as when checking in at the airline ticket counter, they would be stigmatized. He questioned why individuals who abuse alcohol should be singled out when other crimes such as domestic violence or armed robbers are not. He reiterated his opposition to the mark on the license.

Senator Olson stated, that in his medical profession, he has treated patients who were injured as a result of drinking and driving, and he supports "any type of action that would deter a drunk driving situation." He asserted that stigmatizing people is acceptable if it would help stop people from abusing alcohol.

Co-Chair Kelly remarked that Senator Olson's comments reflect the logic that anti-gun groups use, and he voiced this is not the way to solve the problem.

Senator Wilken opined that a "scarlet letter" on a driver's license would not keep people from abusing alcohol. He stated, "this bill is loaded with punishment" with the intent to rehabilitate alcohol abusers, and the mark on the license "does nothing to punish or rehab that person." He voiced support for the amendment.

Representative Rokeberg agreed with Senator Wilken's comments, and stated this bill is about punishment and rehabilitation.

AT EASE 10:38 AM / 10:43 AM

Co-Chair Donley stated the Department of Law has technical suggestions that could be incorporated into the bill. He likened the discussion as one with two "good philosophical positions." He requested a vote be taken on the amendment, and if the vote retained the language in the bill, he would commit to working with the Department of Law to address the technical aspects of the bill.

Senator Austerman commented there are less conspicuous options to consider for marking a license such as a computer chip or a scanning code.

Senator Ward stated he feels "there are extreme things that need to be done to those people that are abusing alcohol;" however, he does not support marking licenses, as it does not really accomplish anything. He reiterated his desire to lower the blood alcohol level to 0.04 for repeat offenders.

Co-Chair Kelly clarified that a vote for this amendment would delete the marking language and a vote against the amendment would

retain the language in the bill.

Senator Austerman objected to the amendment.

A roll call was taken on the motion.

IN FAVOR: Senator Green, Senator Hoffman, Senator Ward, Senator Olson, Senator Wilken, Co-Chair Kelly

OPPOSED: Senator Leman, Senator Austerman, Co-Chair Donley

The motion PASSED (6-3)

The amendment was ADOPTED.

Amendment #13. This amendment would insert two new bill sections on page 5, following line 8 to read as follows.

*Sec. 7. AS 28.10.021 (a) is amended to read:

(a) The owner of a vehicle subject to registration shall apply for registration under this chapter by properly completing the form prescribed by the commissioner under AS 28.05.041. Before the issuance of a certificate of registration by the department, the owner shall

(1) pay all registration fees and taxes required under this chapter and federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue Code of 1954);

(2) unless the owner qualifies as a self-insurer under AS 28.20.400 or is exempted from obtaining liability insurance under AS 28.22.011, present proof [CERTIFY TO THE DEPARTMENT THE EXISTENCE] of a motor vehicle liability policy that complies with AS 28.22.011 for the vehicle being registered; in this paragraph, "proof" ["CERTIFY"] means a copy of the insurance policy that is in effect or written or electronic certification from an insurance company, insurance agent, insurance broker, or surplus lines broker that a policy that complies with AS 28.22.011 is in effect [TO INDICATE BY CHECK-OFF ON THE VEHICLE REGISTRATION FORM PRESCRIBED BY THE DEPARTMENT THE EXISTENCE OF A POLICY OF INSURANCE, IF A POLICY IS REQUIRED AT THAT TIME, AND THE INTENTION TO CONTINUE THE POLICY OR OBTAIN A POLICY AS REQUIRED BY THIS SUBSECTION]; and

(3) comply with other applicable statutes and regulations.

*Sec. 8. AS 28.10.041(a) is amended to read:

(a) The department may refuse to register a vehicle if

(1) the application contains a false or fraudulent statement;

(2) the applicant fails to furnish information required by the department;

(3) the applicant is not entitled to the issuance of a certificate of title or registration under this chapter;

(4) the vehicle is determined to be mechanically unsafe to be driven or moved on a highway, vehicular way or area, or other public property in the state;

(5) the department has reasonable grounds to believe that the vehicle was stolen or fraudulently acquired or that the granting of registration would be a fraud against the rightful owner or other person having a valid lien upon the vehicle;

(6) the registration of the vehicle has been suspended or revoked for any reason under the laws of the state;

(7) the required fees or taxes have not been paid;

(8) the vehicle of applicant fails to comply with this chapter or regulations implementing this section;

(9) the vehicle is without a certification of inspection required under AS 19.10.310;

(10) except for a vehicle to be registered under AS 28.10.152, the vehicle is subject to a state-approved emission inspection program adopted under AS 46.14.400 or 46.14.510, and the vehicle does not meet the standards of that program, unless the vehicle uses a fuel source that does not primarily emit carbon monoxide;

(11) the applicant fails to present proof [CERTIFY] to the department of the existence of a motor vehicle liability policy that complies with AS 28.22.101 for the vehicle being registered unless the owner of the vehicle qualifies as a self-insurer under AS 28.20.400 or is exempted from obtaining liability insurance under As 28.20.011."

New text underlined [BRACKETED TEXT DELETED]

This amendment also inserts a new bill section, on page 5, following line 12 to read as follows.

*Sec. 10. AS 28.10.491 (a) is amended to read:

(a) Upon conviction, a person is guilty of a felon who

(1) alters, forges, or counterfeits a certificate of title or registration, or a registration plate, decal, tab, or sticker of this or another jurisdiction;

(2) alters or forges an assignment of a certificate of title or an assignment or release of a security interest on a certificate of title of this or another jurisdiction or on a form the department prescribes;

(3) has possession of or uses a certificate of title or registration, registration plate, decal, tab, or sticker of this or another jurisdiction knowing it to have been

altered, forged, or counterfeited;

(4) willfully removes or falsifies a vehicle identification number;

(5) willfully conceals or misrepresents the identity of a vehicle or vehicle equipment;

(6) buys, receives, possesses, sells, or disposes of a vehicle or vehicle equipment, knowing that a vehicle identification number or equipment has been unlawfully removed or falsified;

(7) removes from the state a vehicle that is the subject of a security interest created under AS 28.01 - 28.35 or under AS 45.01 - 45.08, AS 45.12, AS 45.14, and AS 45.29 without the written consent of the secured party, and with intent to defraud the secured party or the state;

(8) represents a motor vehicle or house trailer to be a new vehicle and who sells or procures the sale of that motor vehicle as a new vehicle without presenting a "manufacturer's statement or origin"; or

(9) makes a false statement or otherwise conceals or withholds a material fact in an application for registration or certificate of title or falsely affirms with respect to a matter required to be sworn to, affirmed, or furnished under this chapter or regulations adopted under this chapter; except that a person who with criminal negligence as defined in AS 11.81.900, falsely presents proof [CERTIFIES] to the department of the existence of a motor vehicle liability insurance policy under AS 28.10.021 (a)(2), is guilty of a class A misdemeanor.

New text underlined [BRACKETED TEXT DELETED]

In addition, the amendment inserts a new bill section on page 13, following line 3 to read as follows.

*Sec. 24. AS 28.22 is amended by adding a new section to read:

Sec. 28.22.019. Proof of insurance to be carried and exhibited on demand. A person shall have proof of motor vehicle liability insurance in the person's immediate possession at all times when driving a motor vehicle, and shall present the proof of inspection upon the demand of a peace officer or other authorized representative of the Department of Public Safety. However, a person charged with violating this section may not be convicted if the person produces in court or in the office of the arresting or citing officer proof of motor vehicle liability insurance previously issued to the person that was valid at the time of the person's arrest or citation. In this section, "proof has the meaning given in AS 28.10.021(a).

This amendment also changes language on page 35, line 2 to read as follows.

APPLICABILITY. (a) [SECTION 7] Section 9 of this Act applies to registration of a motor vehicle that occurs on or after the effective date of this Act.

New text underlined [BRACKETED TEXT DELETED]

Co-Chair Donley offered a motion to adopt Amendment #13.

Co-Chair Donley explained this amendment would require proof of insurance to be shown when registering a motor vehicle. He informed the Committee there is strong public support for this amendment; regardless of the possibility that the insurance could be cancelled after the vehicle is registered. He continued that new systems would need to be developed to incorporate the provision into mailed registrations or those processed via the Internet. He stated there might be "technical challenges" to the amendment; however, the challenges could be overcome as numerous other states that have this provision.

Representative Rokeberg commented that the original bill included this language; however, it was removed because of the high fiscal note it incurred. He noted that the people of the State are frustrated because "they do not understand why the Legislature can not fix this problem." He stated the fiscal note expense "goes right over their head."

Representative Rokeberg stressed his support for the amendment and asked the Committee to consider accepting a "fiscal note that would do the job." He stated there is other Legislation that would produce new revenue to offset some of the expense.

Co-Chair Kelly asked why this provision generates a high fiscal note.

Co-Chair Donley stated the bill's original language required insurance companies to notify the DMV if someone subsequently cancelled a vehicle's insurance; however, this amendment "just requires proof of insurance to be shown at time of registration." He disclosed it is a "faulted system" as someone could cancel the insurance afterwards, but "it is the smallest next step that we could take... the cheapest next step toward the more expansive version of mandatory auto insurance." He anticipated the fiscal note to be significantly less than the original note.

Co-Chair Kelly stated that Co-Chair Donley's participation in the Conference Committee on the FY 03 Operating Budget would assure the fiscal note's reduction.

Senator Hoffman stated this amendment might work if the state had more DMV offices noting that 90 percent of Rural Alaska's vehicle renewals are processed through the mail. He inquired how this could be addressed as the process could be cumbersome.

Co-Chair Donley agreed the process would be more cumbersome; rural residents would need to acquire an insurance card or letter from the insurance company to accompany the mailed registration form. He furthered that with technological advances and the increased use of the Internet; the DMV could refine the procedure. He noted that vehicles located in rural Alaska not on the road system are not required to have insurance.

Co-Chair Kelly predicted the process would be no more cumbersome than the automobile emission (I/M) inspection program is now for Anchorage or Fairbanks. He suggested that the insurance cards issued with vehicle insurance policies could be copied and submitted to the DMV.

Senator Green asked for further information regarding Section 24 of the amendment.

Co-Chair Donley explained that Section 24 requires a vehicle's insurance card to be with the vehicle when it is being driven.

Senator Green inquired what the penalty would be if the proof of insurance were not there.

Co-Chair Donley stated it is a requirement; therefore it might be a violation.

Senator Green reiterated that producing an insurance card does not guarantee that insurance is in effect, as it could have been cancelled. She continued that the cancellation of the policy would only be discovered if there were a "chargeable accident." She stated this would be no different than current law mandates; therefore, she voiced her opposition to the amendment. She opined that, regardless of what a new fiscal note might reflect, "this would create a fiscal note for lots of people around the State of Alaska."

Co-Chair Donley reminded the Committee that the Mandatory Auto Insurance law was enacted in 1984 with 5-year sunset. He stated that the law did actually sunset; however, when it was a law,

approximately 90 percent of the people in the State complied. He informed the Committee that after the sunset, the uninsured rate more than doubled; and when the law was reinstated, the numbers never reached the original compliance numbers. He shared that research indicates compliance to be in the 80 percent range today. He stressed that mandating proof of insurance would generate compliance, and that a ten percent non-compliance range would be acceptable.

Senator Olson stated society should not be encumbered by too many requirements and "people with intensive lifestyles" might be looked upon as criminals if they were unable to produce all the necessary paperwork for a police officer. He voiced opposition to the amendment.

Co-Chair Kelly noted that Senator Olson's concern is addressed on page 4, line 14 of the amendment whereby a person could present proof to a court or police station.

Senator Olson responded this would be a burden, especially if an individual is traveling.

Senator Wilken voiced support for the amendment; however, the meaning of Section 24 is unclear. He asserted that Alaskans' insurance costs are rising because of uninsured motorists.

Senator Ward voiced tentative support of the amendment; however, he requested information regarding the cost before the amendment is adopted.

Co-Chair Kelly believed the cost of the amendment would be significantly less than a million dollars.

Senator Ward reiterated the need to know the costs the amendment would incur.

MARY MARSHBURN, Director, Division of Motor Vehicles, Department of Public Safety, stated the cost of the amendment is projected to be between \$500,000 and \$1.4 million, and voiced support for the State taking "the next step." She furthered that the Division is monitoring the uninsured motorists rate as part of determining a solution.

Co-Chair Kelly inquired as to why is it so expensive.

Ms. Marshburn responded "that DMV is not just DMV." She informed the Committee that DMV works with all the auto dealerships, the emission inspection stations, the testing facilities and numerous

other business partners totaling approximately 500 businesses. In addition, she continued, DMV uses the postal service to receive and send registration correspondence as well as there being increasing usage of the DMV Internet website services. She stated the website service would need to be upgraded to support this legislation, as would computer system networking with insurance companies. She stated the Department supports the amendment; however, urged the Committee to allow the DMV to develop a comprehensive approach first, rather than "piece-mealing" it.

Co-Chair Donley asked if establishing an effective date of January 1, 2004 for the amendment would enable the agency time to develop a comprehensive plan. This date, he continued, would not result in any costs this fiscal year, and would "send a message" that the Committee expects a comprehensive plan developed for review. He surmised an effective date would prompt agency action.

Ms. Marshburn agreed there is merit to setting an effective date, but preferred that a date not be set because of the complexity of the process. She stated the language encompassed in the plan must be adapted to the different regions of the State because of varying needs. She stated her preference to "look at the entire scope" as it should be done correctly.

Co-Chair Donley offered a motion to delay the effective date for the provisions requiring proof of insurance to January 1, 2004.

Senator Ward again requested a more exact cost of the amendment before action is taken.

Senator Austerman agreed the costs should be determined, especially when programs in other departments are facing budget reductions.

Senator Wilken offered a friendly amendment to the motion to require the Department of Public Safety to present a progress report to the Legislature by April 1, 2003.

Co-Chair Donley voiced support for the development of a progress report, and stated his proposed effective date would give the Department adequate time to develop a plan.

Co-Chair Kelly stated that proof of insurance requirements are necessary; however, he pointed out this amendment makes this a "fairly expensive bill." He voiced support for the intent and suggested the Committee develop a separate bill to address this issue.

Senator Green asked for confirmation that a copy of the actual auto

insurance policy should be in each vehicle.

Co-Chair Donley stated the insurance card provided with the policy would be sufficient.

SFC 02 # 62, Side A 11:15 AM

Senator Ward asked for verification "this would not cost anything and would give the next Legislature the opportunity to do away with it after the report or endorse it." He continued "that right now there is no cost, is that correct?"

Co-Chair Kelly responded that is correct.

Discussion ensued about the unknown cost of the proof of insurance provision if ever enacted.

A roll call was taken on the motion to amend Amendment #13.

IN FAVOR: Senator Ward, Senator Wilken, Senator Austerman, Co-Chair Donley, Co-Chair Kelly

OPPOSED: Senator Leman, Senator Hoffman, Senator Olson, Senator Green

The motion PASSED(5-4)

The amendment was AMENDED.

Senator Ward requested a fiscal note prepared by the Department before a vote is taken on the Amendment.

Co-Chair Kelly requested the vote to be taken; however, he asked the Committee to "vote it down" so he could "recommend the Committee produce a Committee bill that does what we want to do here."

Senator Green respectfully requested this bill receive referrals to the Transportation Committee and the Labor and Commerce Committee.

A roll call was taken on the motion to adopt the amended amendment.

IN FAVOR: Senator Wilken, Senator Ward, Co-Chair Donley

OPPOSED: Senator Olson, Senator Austerman, Senator Green, Senator Hoffman, Senator Leman, Co-Chair Kelly

The motion FAILED (6-3)

Amendment #13 as amended FAILED to be adopted.

Co-Chair Kelly stated a new committee substitute would be drafted.

The bill was HELD in Committee.

AT EASE 11:19 AM / 11:19 AM

#SB278

CS FOR SENATE BILL NO. 278(JUD)

"An Act requiring a good faith effort to purchase property before that property is taken through eminent domain; and providing for an effective date."

[This bill was heard earlier in the meeting.]

Senator Green made a motion to bring SB 278 back before the Committee.

The being no objections, the motion PASSED.

Co-Chair Donley offered a motion to rescind the action taken on SB 278

There being no objection, the action to report SB 278 from Committee was RESCINDED.

Amendment#1: This amendment changes language on page 2 line 15 to read as follows.

"If a condemnor invites the property owner to make an offer to sell the property as described in (b) of this section and the property owner fails to respond within a reasonable period of time, or if the property owner rejects a reasonable counter offer made under this subsection, the condemnor [PROPERTY OWNER] may commence eminent domain proceedings under AS 09.55.290."

New text underlined [BRACKETED TEXT DELETED]

Senator Green offered a motion to adopt Amendment #1.

Without objection, Amendment #1 was ADOPTED.

Senator Green offered a motion "to move SB 278, as amended, out of Committee with individual recommendations."

There being no objections, the CS SB 278(FIN) REPORTED from Committee with a new zero fiscal note, dated 4/12/02 from Department of Transportation and Public Facilities and a previous zero fiscal note dated 2/28/02 from the Court System.

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ADJOURNMENT

Co-Chair Pete Kelly adjourned the meeting at 11:22 AM.