

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

February 28, 2003

1:05 p.m.

MEMBERS PRESENT

Representative Lesil McGuire, Chair
Representative Tom Anderson, Vice Chair
Representative Les Gara
Representative Max Gruenberg

MEMBERS ABSENT

Representative John Coghill
Representative Jim Holm
Representative Ralph Samuels

COMMITTEE CALENDAR

HOUSE BILL NO. 23

"An Act relating to court-ordered restitution and compensation following a criminal conviction."

- RESCINDED ACTION OF 2/21/03; MOVED NEW CSHB 23(JUD)
OUT OF COMMITTEE

HOUSE BILL NO. 106

"An Act amending the definition of 'lobbyist' in the Regulation of Lobbying Act, and as it applies in the act setting standards of conduct for legislators and legislative employees, to define 'regular' and 'substantial' as those terms describe activities for which a person receives consideration for the purpose of influencing legislative or administrative action."

- HEARD AND HELD

HOUSE BILL NO. 49

"An Act relating to the DNA identification registration system; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 23

SHORT TITLE:RESTITUTION FOR CRIME VICTIMS

SPONSOR(S) : REPRESENTATIVE(S) WEYHRAUCH

Jrn-Date	Jrn-Page		Action
01/21/03	0037	(H)	PREFILE RELEASED (1/10/03)
01/21/03	0037	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0037	(H)	JUD
01/21/03	0037	(H)	REFERRED TO JUDICIARY
02/14/03		(H)	JUD AT 1:00 PM CAPITOL 120
02/14/03		(H)	Heard & Held MINUTE(JUD)
02/18/03	0231	(H)	COSPONSOR(S): GARA
02/21/03		(H)	JUD AT 1:00 PM CAPITOL 120
02/21/03		(H)	Moved CSHB 23(JUD) Out of Committee
02/21/03		(H)	MINUTE(JUD)
02/28/03		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 106

SHORT TITLE: DEFINITION OF LOBBYING

SPONSOR(S) : JUDICIARY

Jrn-Date	Jrn-Page		Action
02/14/03	0216	(H)	READ THE FIRST TIME - REFERRALS
02/14/03	0216	(H)	JUD
02/14/03	0216	(H)	REFERRED TO JUDICIARY
02/28/03		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 49

SHORT TITLE: EXPAND DNA DATABASE

SPONSOR(S) : REPRESENTATIVE(S) ANDERSON, HAWKER

Jrn-Date	Jrn-Page		Action
01/21/03	0044	(H)	PREFILE RELEASED (1/17/03)
01/21/03	0044	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0044	(H)	JUD, FIN
01/21/03	0044	(H)	REFERRED TO JUDICIARY
01/31/03	0107	(H)	COSPONSOR(S): HOLM, SAMUELS
02/12/03	0201	(H)	COSPONSOR(S): LYNN, KOOKESH, WOLF, WILSON
02/12/03	0201	(H)	WILSON
02/14/03	0219	(H)	COSPONSOR(S): WEYHRAUCH
02/18/03	0232	(H)	COSPONSOR(S): GATTO
02/21/03	0274	(H)	COSPONSOR(S): SEATON
02/28/03		(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

JOE MATHIS, Senior Operations Manager
Nana Development Corporation
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 106.

STEVE CLEARY, Executive Director
Alaska Public Interest Research Group (AkPIRG)
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 106.

MARY KATHRYN THOMAS, Owner
Arctech Services
Kenai, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 106.

GINGER STOCK, Owner
WebWeavers, LLC;
Member
Board of Directors
Alaska State Chamber [of Commerce (ASCC)]
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 106.

LARRY CREWS
Alaska State Chamber of Commerce (ASCC);
Greater Sitka Chamber of Commerce
Sitka, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 106.

DAN F. KENNEDY, CPA
Owner
Kennedy & Company, LLC
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 106.

TONY KRIER, Owner
Tony's Rentals
Nome, Alaska

POSITION STATEMENT: Testified in support of HB 106.

GRAHAM G. STOREY, Executive Director
Nome Chamber of Commerce

Nome, Alaska

POSITION STATEMENT: Testified in support of HB 106.

ROBERT VENABLES

Haines Chamber of Commerce

Haines, Alaska

POSITION STATEMENT: Testified in support of HB 106.

ANDREE McLEOD

Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 106.

CHRIS BEHEIM, Director

Scientific Crime Detection Laboratory ("Crime Lab")

Department of Public Safety (DPS)

Anchorage, Alaska

POSITION STATEMENT: Assisted with the presentation of HB 49.

ANNE CARPENETI, Assistant Attorney General

Legal Services Section-Juneau

Criminal Division

Department of Law (DOL)

Juneau, Alaska

POSITION STATEMENT: Responded to a question during discussion of HB 49.

DALE PITTMAN, Police Chief

University of Alaska - Anchorage (UAA)

Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 49.

LINDA WILSON, Deputy Director

Public Defender Agency (PDA)

Department of Administration

Anchorage, Alaska

POSITION STATEMENT: Relayed the PDA's concerns regarding HB 49.

ACTION NARRATIVE

TAPE 03-14, SIDE A

Number 0001

CHAIR LESIL McGUIRE called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives

McGuire, Anderson, Gara, and Gruenberg were present at the call to order.

HB 23 - RESTITUTION FOR CRIME VICTIMS

Number 0159

CHAIR McGUIRE announced that the first order of business would be HOUSE BILL NO. 23, "An Act relating to court-ordered restitution and compensation following a criminal conviction." [In committee packets was a new proposed committee substitute (CS) for HB 23, Version 23-LS0134\S, Ford, 2/26/03.]

CHAIR McGUIRE explained that in drafting CSHB 23(JUD) [following the hearing on 2/21/03], a technical issue arose with regard to the amendments that were adopted. She indicated that the new CS in members' packets will address that issue.

Number 0191

REPRESENTATIVE GRUENBERG made a motion to rescind the committee's action on [2/21/03] in reporting CSHB 23(JUD) [the proposed CS, Version 23-LS0134\D, Ford, 1/29/03, as amended on 2/21/03] from committee. There being no objection, it was so ordered.

Number 0219

REPRESENTATIVE GRUENBERG moved to adopt the new proposed CS for HB 23, Version 23-LS0134\S, Ford, 2/26/03, as the work draft. There being no objection, Version S was before the committee.

REPRESENTATIVE GRUENBERG offered his understanding that Version S merely conforms the language in Section 2, page 2, lines 11-14, to the language in Section 1, page 1, lines 10-13. He relayed that Version S has the sponsor's support.

Number 0342

REPRESENTATIVE GRUENBERG moved to report Version 23-LS0134\S, Ford, 2/26/03, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, the new CSHB 23(JUD) was reported from the House Judiciary Standing Committee.

HB 106 - DEFINITION OF LOBBYING

Number 0378

CHAIR McGUIRE announced that the next order of business would be HOUSE BILL NO. 106, "An Act amending the definition of 'lobbyist' in the Regulation of Lobbying Act, and as it applies in the act setting standards of conduct for legislators and legislative employees, to define 'regular' and 'substantial' as those terms describe activities for which a person receives consideration for the purpose of influencing legislative or administrative action."

Number 0430

JOE MATHIS, Senior Operations Manager, Nana Development Corporation, testified in support of HB 106. He opined that the current statute "greatly inhibits any normal business person from participating in the public process." Noting that a person who spends more than four hours in a 30-day period speaking to [elected officials] is required to register as a lobbyist, he offered his belief that this is an unreasonable [restriction], since he does not want to have to register as a lobbyist and, yet, it is virtually impossible to come to Juneau and speak with 60 legislators within that four-hour time period. He mentioned that it is pretty hard [for him] to track just how much time he spends in contact with legislators regarding a variety of issues, but if he exceeds the four-hour time period stipulated in current law, he is required to register as a lobbyist, pay a registration fee, provide personal financial information for public scrutiny, file reports, and be subject to significant fines.

MR. MATHIS said that Nana Development Corporation has approximately 30 affiliated businesses and subsidiaries. He relayed that there is always legislation pending that affects his business and, therefore, it very easy for either a business associate or himself to use up that four-hour allotment and, in doing so, they all become subject to the current registration requirements for lobbyists. He remarked that once one becomes a lobbyist, he/she is prohibited from actively working in campaigns or making contributions outside of his/her district. He opined that these restrictions preclude "bona fide business people" from becoming involved in the "business process." He urged the committee to pass HB 106.

Number 0695

STEVE CLEARY, Executive Director, Alaska Public Interest Research Group (AkPIRG), relayed that AkPIRG is opposed to HB 106 because it believes that the bill will gut the regulations pertaining to lobbying to such a degree that no one will be required to register as a lobbyist. He elaborated:

This is bad public policy and will further erode the public's trust in the political system, allowing special interests to influence legislators. Since statehood, Alaska has had a law regulating lobbyists, and this revision to it would render that law useless. This current legislation would override a 26-year-old regulation. The ability to transparently see who's attempting to influence our legislators is something the public has come to depend on, and this bill will greatly decrease that transparency and expand the power of special interests over our political system.

... Currently, registered lobbyists are not able to host fundraisers, nor are they able to donate to candidates outside their legislative district. And the limit of four hours is exactly that; ... if you're going to go and just talk to your legislator and engage in direct communication, four hours is definitely a long time. But if you're going to influence people outside your legislative district, which is the definition of lobbying, then you should be subject to limits, and you should not be able to donate to people outside your legislative district, nor hold fundraisers for those people.

And there are two ways to attempt to get around that provision. First, you could attempt to directly remove it and say that lobbyists should be allowed to hold fundraisers or donate to those candidates. Or, secondly, ... you could change who needs to register as a lobbyist, thus exempting those folks from the fundraiser and donation ban. This legislation appears to be an attempt to do that, and we think that's a poor idea. The definitions in this bill for "regular" and "substantial" are not adequate to capture all the people currently engaging in lobbying. And if we put the standard at 30 days and 40 hours, we're going to miss a lot of people who are lobbyists, and the public needs to know this information.

Number 0851

MR. CLEARY continued:

Today I went to the APOC [Alaska Public Offices Commission] web site and printed out the number of lobbyists currently registered in the state of Alaska; there are 178, by my count, and ... I don't know how many of these people would then ... not have to register as lobbyists and why the people of the state of Alaska would be served by that. Now, according to the Center for Public Integrity, ... in 1999 and 2000 - both those years - nearly \$11 million was spent on lobbying in Alaska, making the state 12th in the nation for most lobby expenditures; 331 special interests registered in those years. So, if we're looking at trying to decrease the amount of special-interest control and persuasion on our legislature, the best way to do that is by transparently showing who is trying to influence our legislative branch and who's hiring those people. So, just to sum up: This is bad public policy and AkPIRG would like you to vote against this bill and not pass it out of committee.

MR. CLEARY, in response to questions, said he would be available at the next hearing on HB 106 and would provide the committee with written comments and suggestions.

Number 0913

MARY KATHRYN THOMAS, Owner, Arctech Services, relayed that her company is a family-owned small business, and that they are oilfield contractors, loggers - harvesting beetle-kill timber, and own a trucking business. She mentioned that in looking at the APOC definition, she has probably gone over the four-hour, thirty-day limit for many years when speaking to legislators. She relayed that in working with different organizations, including serving on various boards, she has come before the legislature to speak on issues of concern to those organizations. She mentioned that having to register as a lobbyist would also require making disclosures. She relayed that while large businesses can afford to hire a dedicated lobbyist who will keep his/her duties separate from the normal duties of running a business, small businesses can't afford do that, adding that when she is lobbying for her business, she is exposing her business interests. She said that she has concerns because in order for her to adequately address her business's needs, she has to interact a lot with the legislative branch as

well as with agencies in the executive branch. She also relayed that similar to her wanting to represent her business interests, she also wants to be able to put her name on the "sponsorship of a candidate's fundraiser." She said that she would like to see HB 106 move forward.

Number 1144

GINGER STOCK, Owner, WebWeavers, LLC; Member, Board of Directors, Alaska State Chamber [of Commerce (ASCC)], testified in support of HB 106. She opined that four hours is not a significant amount of time, and that currently, the regulations pertaining to and the definition of lobbyist seem limiting and unproductive for those who are trying to do business in Alaska. She urged the committee to support HB 106.

Number 1250

LARRY CREWS; Alaska State Chamber of Commerce (ASCC); Greater Sitka Chamber of Commerce, remarked that in addition to these organizations, he is also speaking as a small business owner. He offered his belief that the four-hour-per-month limitation is inadequate. He opined that no time limit should be set for non-compensated persons, but that if one is required, it should be a more reasonable amount of time, such as 30 or 40 hours per month. He said that he does not feel that he should have to register as a lobbyist simply because he has to spend six hours' cumulative time each month, for example, with his representatives. He asked the committee to consider the small business owners who periodically need the help of government officials, and to not make it any harder than it already is for those people seeking the help they need.

Number 1328

DAN F. KENNEDY, CPA, Owner, Kennedy & Company, LLC, testified in support of HB 106. Speaking on behalf of himself and his business partner, he said that they were very excited to see committee support of HB 106. He mentioned that he is a board member of the Alaska Society of Certified Public Accountants (ASCPA), and a past president of the "Greater Wasilla Chamber of Commerce." He opined that changing the definitions is very important in order for small businesses to have access to the decision-makers within state government. He relayed that he refers to the current four-hour standard as a draconian restriction.

Number 1436

TONY KRIER, Owner, Tony's Rentals, said that he supports the comments of Mr. Mathis and Ms. Thomas. He indicated that when he contacts his legislators, he has to do so via telephone and, thus, he has probably gone over the four-hour time limit. In closing, he said that he supports HB 106.

Number 1497

GRAHAM G. STOREY, Executive Director, Nome Chamber of Commerce, said that he supports HB 106. He offered his belief that the points made by Mr. Cleary do not reflect the realities of rural Alaska. Mr. Storey noted that only two members of the legislature represent the Nome area; thus, he opined, for "all those other issues out there," [Nome residents] have no voice. He remarked that whenever access to government is expanded, it is an excellent public policy. In response to a question, he suggested that the problem with the current law is that the four-hour limit for talking to legislators and other government officials does not provide enough time to address all the issues that might be of importance to a particular small business or community.

CHAIR MCGUIRE remarked that whenever the committee considers pending legislation and current statutes, it is important to keep in mind the impact on the entire state.

Number 1641

ROBERT VENABLES, Haines Chamber of Commerce, asked the committee to support HB 106. He opined that clarifying the terms "regular" and "substantial" will better reflect what a businessperson's time commitment must be in order to effectively communicate with the legislature. Four hours per month is hardly a substantial amount of time, he remarked, noting that it would merely amount to a person being able to spend only about 6 minutes with each legislator. "The business community wants to be involved with the legislature, and if we're to take the time and expense to come down to the state capitol to discuss issues that are important to us, then we would ask to not be penalized for those efforts," he added. In conclusion, he relayed the 135 members of the Haines Chamber of Commerce would like to thank the legislature for its efforts in making state government work better for the people across the state who are in business.

Number 1745

ANDREE McLEOD, by way of introduction, said that in addition to being a citizen of Alaska, she is a "public member living outside the capital when the legislature is in session." She went on to say:

If you want a more educated voter, a more involved citizenry, and a more responsive government, you will not pass this bill out of committee. At a time in this country when there should be as much openness and dialog as possible between the government and the people about what government is doing, to propose a blatant circumvention of well-written laws regarding the openness and candor of lobbyists' government activity is clearly a betrayal not only of the people of Alaska, but of the democratic process itself.

MS. McLEOD indicated that she would be able to offer further testimony when HB 106 is next heard

CHAIR McGUIRE relayed that representatives from the APOC and from the ASCC would testify at the next hearing on HB 106, and that further public testimony would also be heard at that time. She announced that HB 106 would be held over.

HB 49 - EXPAND DNA DATABASE

Number 1836

CHAIR McGUIRE announced that the final order of business would be HOUSE BILL NO. 49, "An Act relating to the DNA identification registration system; and providing for an effective date."

Number 1847

REPRESENTATIVE ANDERSON, speaking as the sponsor, relayed that during his campaign, [expanding Alaska's DNA (deoxyribonucleic acid) database] was one of the issues he campaigned on. He mentioned that he has taken a tour of the state's Scientific Crime Detection Laboratory ("Crime Lab") and has asked questions of the director regarding sample collection and storage. He noted that under current statute, "1996 is the earliest from which DNA can be taken from a felon"; that at first, samples could only be taken from people convicted of a felony crime against a person; and that as of 2001, samples could be taken from people convicted of burglary.

REPRESENTATIVE ANDERSON explained that HB 49 would expand the state DNA database to include all persons convicted of a felony, as well as those convicted of certain misdemeanor sexual offenses. He opined that adoption of HB 49 would increase the number of crimes that are solved, prevent future crimes, and exonerate the innocent; he noted that members' packets include articles detailing examples of how the collection of DNA samples has contributed to the aforementioned. He said that although expanding the DNA database may initially result in increased costs, he would argue that it will reduce costs [to the criminal justice system] in the future, adding that there is information in members' packets regarding the issue of costs. He suggested that adoption of HB 49 will create a win-win situation.

The committee took an at-ease from 1:45 p.m. to 1:50 p.m.

Number 2070

CHRIS BEHEIM, Director, Scientific Crime Detection Laboratory ("Crime Lab"), Department of Public Safety (DPS), provided a PowerPoint presentation in addition to his spoken comments. He offered the following:

Back in 1982 we were very limited in our capability. Basically, the only thing we were doing is examining ... for the presence of blood or semen stains on sexual assault cases. In 1987 we hired a serologist at the laboratory, and we instituted "ABO blood grouping." And I remember a case: we had a burglary once, where the suspect cut himself, left some blood at the scene, and he happened to be type "AB blood." Well, type AB blood is the most rare; it's found in about 5 percent of the population, so those numbers give you about 1 in 20.

In 1992 we added our first DNA test; it was called "DQ-alpha" testing. And this is a great breakthrough because ... we were using a process called "PCR" - or the Polymerase Chain Reaction." Not to get too technical here, the PCR is a procedure which actually [allows us to] take very small amounts of biological material, put it through the process and amplify it - generate copies of it - and be able to get a DNA type. It was much more discriminating than the ABO typing, and [on] average, you could eliminate about 99 percent of the population - give you odds [of] about 1 in 100.

Our first DQ-alpha case that we used in court was a homicide investigation that happened up in Fairbanks in 1992. The victim had been strangled with an electrical cord, sexually assaulted, and stabbed with a kitchen knife many times; it was a very brutal crime scene. We used the DQ-alpha technique and we eliminated the first suspect that ... law enforcement had brought in. The investigation continued, and when they learned that a sexual offender who had been recently released from jail in Arizona moved into the Fairbanks area and was in the neighborhood, they checked into his past, and they determined - they found out through the investigation - that he had a previous conviction for sexual assault and strangling his victim with an electrical cord.

Number 2182

MR. BEHEIM continued:

We seized his watch, in (indisc. - coughing) part of the investigation, and when we took the watch apart, you can see that there was some blood underneath the band [visible on page 4 of the PowerPoint presentation]. This watch was seized about six weeks after the crime. The DNA type was obtained on the watch, and it matched back to the victim of the homicide. There was other evidence presented, and the suspect was convicted of the crime and is back in jail. We enhanced our DNA testing in '96, adding "Polymarker," and that could eliminate 99.9 percent of the population. But the big breakthrough came in 1999, when we began "STR [short tandem repeat] typing." This is an actual statistical number from an unsolved homicide that we have on our convicted offender database [page 5 of the PowerPoint presentation reads: 1 in 2,111,000,000,000,000,000].
...

And, basically, it was decided in 1997, by the FBI [Federal Bureau of Investigation] and a group of crime laboratories, to standardize on 13 specific markers - DNA markers. They're called the 13 core loci. And at that time, the test wasn't even commercially available; it wasn't 'til the next year ... it became in use. But the beauty of this is that now laboratories around the country standardize on one DNA

typing method, and it would allow for laboratories to compare and share information. It also made databasing much, much easier because the process is much faster and cheaper and much more sensitive than the old techniques that were used for database purposes.

We knew that this databasing was coming down the line, and in 1996 a bill was passed which established the DNA registration system. And this required individuals convicted of a felony crime against a person after January 1 [1996] ... to provide a blood or oral sample for inclusion into the database. Now, at that time, we weren't doing anything with them but collecting the samples and storing them at the laboratory in the freezer. Burglary was added as a qualifying conviction in September of 2001. And I think it's important to note that these laws only included individuals convicted of a felony crime after certain dates. So [it's] after January 1 [1996] in the case of felony crimes against a person, and September [2001] for burglary

Number 2317

MR. BEHEIM went on to say:

The system that allows us to do the databasing and the comparisons and the searching is called CODIS [Combined DNA Index System] ... and it is basically ... software and support, which is provided at no cost by the FBI. They came up, installed it at the laboratory, and they support it; they send technicians up when we need them, and they provide secure communications back to the FBI. There are two indexes that we use to store the DNA information. [The] first index is called the convicted offender index, and there we place DNA profiles from individuals convicted of qualifying offenses. The second index is called the forensic index, and that contains evidence that is recovered at crime scenes.

And the purpose of CODIS is, first of all, to identify suspects, and it's done by comparing the DNA profiles from the crime scenes to the DNA profiles of the convicted offenders. The other thing that CODIS can do is link cases, and that's done by comparing DNA

profiles obtained from different crime scenes and trying to match them up. If a match [is] obtained - for instance, a convicted offender is matched to a crime scene - it's called a hit. And technically we call that an offender hit. If we have a hit between two seemingly unrelated cases, that's called a forensic hit. So there's two different types of hits. Obviously, the forensic hit would [provide law enforcement, then, with resources]. [The preceding bracketed portion was not on tape, but taken from the Gavel to Gavel recording on the Internet.]

TAPE 03-14, SIDE B

Number 2375

MR. BEHEIM continued:

They'd know that cases were committed by the same individual and they may be able to get some investigative information - pool resources, coordinate investigations - and look for [a] common link between cases. There are different levels of CODIS. We have the state's level in Anchorage, and then there's the National DNA Index System, or NDIS; NDIS was open for business [on October 13, 1998]. And, basically, laboratories around the country can upload data into the National DNA Index System and then search different databases. So, our samples could be searched against any other participating state's databases.

In October of [1999] there were 10 states in the United States that were uploading DNA profiles into the National DNA Index System, using the latest STR technology. As you can see [from page 11 of the PowerPoint presentation], Alaska was one of the first states; we were ahead of both California and New York, and we're very, very proud of that fact. So what was in NDIS, the National DNA Index System? Well, in October of [1999] there were about 20,000 convicted offender profiles, and about 1,700 forensic profiles.

In the year 2000 there was one hit made at the ... [NDIS], and this involved a case that [the] FBI laboratory worked; it was an unsolved rape/murder case that was submitted from Iowa. They analyzed it, got a DNA profile, uploaded it into the [NDIS], and searched

it against all the profiles that they had at [NDIS]. It hit against a convicted offender who had been entered by the Florida Department of Law Enforcement [FDLE] laboratory in Tallahassee. And you can see [from page 13 of the PowerPoint presentation] that the offender had a prior conviction in Florida for sexual assault in [1999]. So, this hit linked that offender to the homicide in Iowa. Only one hit in 2000; that's not very impressive, but things have changed.

Number 2283

MR. BEHEIM went on to say:

Now, CODIS -- actually, in December, Hawaii became the 50th state to get a CODIS ... installed, so all 50 states have the software on hand, and many states are uploading. There are now over a million profiles - probably approaching a million and a half profiles [in NDIS]. There are 42 states, the two federal labs - the FBI and the Army lab - and Puerto Rico ... uploading. So what's in our database? January of 2003 ... we had [a] little over 3,000 convicted offender samples in our database. We also had 242 forensic profiles; these are profiles obtained from crime scenes. Included in this number are 126 "no suspect" forensic samples; these are crime scene evidence that law enforcement really doesn't know who the perpetrator was. And this 126 number includes 11 unsolved homicides, 80 sexual assaults, 28 burglaries, [and] 7 miscellaneous cases.

We are working very hard to add additional samples - I just talked [to] the lab this morning - we should be adding another 20 or so burglary cases, hopefully, in the next week. We are also working on unsolved homicides; I believe the commissioner might have told you about the "cold case" units that are operating around the state looking at evidence from old cases - we have entered, I think, our oldest cases from 1978 into the system. We have several assaults from the early [1990s] - assaults on children - that I would be very anxious to get a hit on.

Our first hit in the database occurred in October of 2001. This was a forensic hit. We linked a sexual assault that took place in Anchorage in August of

[1997] to another sexual assault that happened in December of [1998]. We did not have any information to provide the investigator as to who the perpetrator was - we could just tell them that the same individual was involved in both crimes. [On] January 25 of last year we had our first NDIS hit. Basically, I was called by the CODIS manager from the state of Oregon, and he informed me that one of our crime scene samples from a 1995 Fairbanks investigation hit against a convicted offender sample that they had just entered into their database in Oregon. What was interesting about this was that in January, January 1 of 2002, Oregon went to an all felon database, and the convicted offender who was added was added because of a drug conviction - a felony drug conviction.

Number 2170

MR. BEHEIM continued:

[On] March 7 of last year, we had our first offender hit in our state database. This involved a woman from Bethel who was picked up in front of the ... village store up there, sexually assaulted, thrown out of the vehicle - the perpetrator's vehicle - and she didn't have a clue who the assailant was. We entered the DNA profile that we obtained from the sexual assault kit into CODIS, and we got a hit. I was very pleased to call up the Bethel police department and provide them with the name of the individual. And when I gave them the name, they were well aware of that person - he had been a very active criminal in the Bethel area - but they had no idea he was related to this crime. And he at first denied being the offender, but then, when presented with the DNA evidence, he changed his plea and is now back in jail.

In April of last year, we had another hit. A woman was abducted from downtown Anchorage, taken out into the valley, [and] sexually assaulted. During the assault she struggled with the assailant, scratched him, and got some of his blood on her clothing. The [Alaska] State Troopers submitted the clothing from the assault victim to the laboratory; we were able to isolate the bloodstains, extract DNA, and enter it into ... CODIS. We conducted a search and it hit against the two unsolved Anchorage sexual assaults

that we had matched that had happened four or five years prior. The victim also provided law enforcement with the license plate number of the assailant, and he was eventually arrested down in Houston, Texas, and brought back to Alaska, and I believe he is awaiting trial on at least five sexual assaults - we had another CODIS hit on his sample.

[On] October 11 of last year, we had another hit. This involved a University of Alaska student who was sexually assaulted. An individual was arrested for that crime, and when we got his DNA sample, then we did a comparison, and found that he was eliminated: he could not have been the perpetrator of this assault. The DNA, then, from the victim, was entered into the database and it hit against a convicted offender. And, again, law enforcement had no connection to that offender and probably would never have solved the case without the database.

Number 2049

MR. BEHEIM relayed:

As of February 25 [2003] we've had a total of 19 hits in our database: 12 of these have been convicted offender to forensic hits - the crime scene evidence ...; and 7 of these are case to case hits - connecting two or more cases - showing that the same perpetrator was involved. This has really surprised me - the number of hits that we were able to generate in such a short time; ... I've been totally amazed at this. We've aided a total of 23 different investigations. If you look at this table, Investigations Aided [on page 23 of the PowerPoint presentation], it's provided by the FBI, you can see these are investigations aided through October 2002. You can see that Alaska, at that time we had 22 hits, and if you look, compared to other states, we have one of the highest hit rates per capita. You see we've had 22 investigation aided, California had 99. So we're doing an outstanding job, but I think we could do much better.

There's been a lot of media coverage on DNA. This article in USA Today [shown on pages 24 and 25 of the PowerPoint presentation], pointing out that just four states account for 56 percent of all the matches, and

many states don't have a single match in their database. ... One of the things that convinces me that we could do better is ... [from] information I got off the Internet the other day. A law firm in Tacoma, Washington, that specializes in DNA database issues analyzed the database laws from all 50 states. And, actually, the state of Alaska's database law was ranked near the bottom as being one of the weakest laws in the country. In fact, only Connecticut had a state law which was rated lower. They used a 1 to 20 scale, 20 being the highest; Alaska was rated 5. Oregon, on the other hand, was given ... a perfect score of 20.

Number 1956

MR. BEHEIM continued:

So, that brings the question: Should [Alaska's] database law be expanded? And how would we do that? Well, currently, there are 40 states' and the federal DNA database laws that are retroactive, and they would collect from anybody still incarcerated or under control - under probation or parole - for a qualifying conviction. And if you remember, our database law was not retroactive; it would only collect from individuals convicted after a starting point. So what this means is, we have people sitting in jail that committed a crime in [1995] that don't have to give a sample, and the only way we'll get a sample from them, as things stands right now, is if they are released, reoffend, are caught, convicted and thrown back in the slammer, and then required to provide. That's the only way that we can search their DNA sample against unsolved cases.

And law enforcement [officials] have told me that they are convinced that we have individuals sitting in jail that have definitely committed other crimes. Some are suspected of committing other murders in Alaska and in the Lower 48, and since these acts were committed before the qualifying time of the current law, we don't have samples from them. There are 24 states, now, that collect from all felons. South Dakota, I was just informed yesterday, just expanded, so they became the 24th state, the first state this year, to go "all felons." And this makes a tremendous

difference. Many states are collecting from all registered sex offenders; Alaska does not. It's not a felony crime to commit attempted sexual abuse of a minor in Alaska; even though it would require someone to register as a sex offender, we do not have samples from them.

Many states have made it a felony to refuse to provide a DNA sample - ... the point being here that if someone is convicted of burglary, ... he might think that his DNA might be on file for committing a homicide or two, [and] he just might [be] inclined to refuse to give a DNA sample and take the misdemeanor rather than risk a homicide conviction. The law could also be expanded to increase the penalty for unauthorized disclosure of DNA records. There are concerns that that DNA can be misused: genetic information could be obtained from the samples to look to see if someone might have a propensity for getting a certain disease [for example]. What I would like to see done would be to increase the penalty for unauthorized use of DNA records to make that a felony; it's currently a misdemeanor.

Number 1809

REPRESENTATIVE GARA, on the issue of unauthorized use, said: "I certainly want the evidence to be used to help convict people; I certainly want the evidence to be used to help exonerate people who are wrongly convicted. Beyond either of those uses, is there any use that you consider to be legitimate?"

MR. BEHEIM said yes. The one other use would be for gathering statistical population data for court testimony. He elaborated:

We use that by removing any personally identifying information, using the same markers - the same 13 core loci markers. But in Alaska we have unique populations, Native populations, that we need to do research on to see how unique a specific profile is within a given population. For example, when we run and generate a profile, we typically report out the population frequencies for different races - there'll be information for Caucasians, African Americans, Yupik, Inupiat, and Athabascans - and the numbers vary slightly between the different groups.

REPRESENTATIVE GARA remarked that the accuracy of DNA testing is strong enough that everybody in the state probably has a different DNA reading. "So you're not saying that you need to do a statistical analysis to see if there are many people in the state with the same DNA reading - that's not the point," he surmised.

MR. BEHEIM said no, it's to be able to present statistical numbers in court; the courts have found that they need that type of information presented. Basically, this information takes away the argument that since there are close-knit communities in Alaska, that a DNA sample might not have the astronomical odds of 1 in 2 quintillion [of identifying a specific suspect]. Therefore, the Crime Lab's research using "law enforcement identification markers" illustrates for the court the significance of a DNA match.

REPRESENTATIVE GARA asked whether HB 49 contains language defining either authorized use or unauthorized use of DNA samples.

Number 1672

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), indicated that HB 49 itself does not contain such definitions; instead, AS 44.41.035(f) currently sets up the authorized uses for DNA samples.

REPRESENTATIVE ANDERSON mentioned the that there is a proposed committee substitute (CS) from the governor's office that will include a provision regarding the unlawful use of DNA samples.

CHAIR MCGUIRE relayed that the aforementioned provision will say:

A person commits the crime of unlawful use of DNA samples if the person knowingly, without authorization under AS 44.41.035, possesses or allows another person access to a blood, oral, or tissue sample collected for inclusion in the DNA identification registration system.

CHAIR MCGUIRE posited that this language will make it clear, via reference to AS 44.41.035, what the authorized uses are. She noted that also included in the aforementioned CS is a provision to make unlawful use of DNA samples a class C felony.

REPRESENTATIVE ANDERSON indicated that the aforementioned CS is not yet in its final form.

MR. BEHEIM offered that Virginia's DNA database is one of the largest and oldest databases in the country. He offered the following statistics: in 1998 there were 5 cold hits; in 1999 there were 74 cold hits; in 2000 there were 178 cold hits; in 2001 there were 308 cold hits; and in 2002 there were 445 cold hits. A cold hit, he explained, is when the lab enters a crime scene sample into the database without any knowledge of who the perpetrator is, and it results in a match. He mentioned that included in these statistics are 44 hits on homicide cases; 65 hits on sexual assault cases; and 153 hits on cases involving property crimes. He also mentioned that cumulatively, Virginia has "just topped 1,000 hits in the Virginia database; they are an 'all felon' state."

Number 1422

MR. BEHEIM [referring to pages 28-31 of the PowerPoint presentation] mentioned that when broken down, Virginia's statistics show the number of cold hits for each category of prior conviction. He noted that the percentage of cold hits wherein the offender had a prior conviction for drugs was higher, at 18 percent, than for those with a prior conviction in the categories of crimes against a person, at a combined total of 17 percent: sex crime, 7 percent; [wound/assault, 6 percent; and homicide/abduction/kidnapping, 4 percent]. He also noted that those who were placed in the Virginia database because of a felony drug conviction are having their DNA hit on many homicides [23 percent], sexual offenses [18 percent], and other crimes - especially property crimes [48 percent]. Additionally, those who were placed in the Virginia database because of a forgery conviction - what many consider to be a white-collar crime in which the perpetrator isn't someone who is likely to commit a violent crime - had their DNA hit on 10 homicides [and 14 sexual offenses]. The statistics indicate that 85 percent of Virginia's hits would have been missed if that database had been limited to only violent offenders.

REPRESENTATIVE ANDERSON remarked that a constituent of his has expressed the concern about including samples from persons with multiple DWI (driving while intoxicated) convictions. He invited Mr. Beheim to comment.

MR. BEHEIM said:

I believe that ... if we would look and were able to get the statistics, I'm sure that they would have some hits from individuals convicted of felony DWI. ... I know of cases from England, where their database is very expansive - they have the largest database in the world right now - where ... they've solved old homicides from people arrested for DWI.

REPRESENTATIVE GARA asked:

Why would we expand the DNA list to include the storage, the taking, the processing of DNA blood samples from people whose convictions are the kind that don't show they have a propensity for violence - somebody who passes a bad check, somebody who lies under oath - the things like that? You've got me convinced that we need to collect and store and process the DNA evidence of people who engage in violence, who threaten violence, who use weapons during their crimes, ... who engage in sexual conduct that's inappropriate and criminal. I'm just wondering about this other category of people who are non-violent, ... or why we would store their evidence.

Number 1169

MR. BEHEIM replied:

I think the evidence that Virginia has for just individuals convicted of felony drug possession, [showing] that they are also committing sexual assaults and homicides, is pretty convincing. And [the] same with the case [of] ... forgery; again, that's a non-violent crime, yet people with felony forgery convictions are also perpetrating other types of crime.

REPRESENTATIVE GARA asked Mr. Beheim to elaborate on the statistic regarding the 10 homicides related to hits from those convicted of forgery.

MR. BEHEIM explained that those 10 homicide crimes solved constituted 14 percent of the total number of hits from those convicted of forgery.

REPRESENTATIVE ANDERSON indicated that even one hit [that solves a homicide] makes it worthwhile [to expand the DNA database].

REPRESENTATIVE GARA said he merely wants to make sure they are doing something relevant. He asked whether there are any statistics which demonstrate that a person who commits forgery is more likely, when compared to a general member of the public, to engage in a violent crime. If people who are engaging in these non-violent crimes don't have a greater propensity for violence than people in the general public, "why are we doing it," he asked.

MR. BEHEIM indicated that he did not have those types of statistics, and reiterated that 85 percent of Virginia's hits would have been missed if that database had been limited to only violent offenders.

REPRESENTATIVE GARA said he wants to ensure, if they do expand the DNA database, that it is being expanded to [only] include people who have a higher propensity to do something violent, and to that end, he relayed that he would like to see statistics regarding the types of crimes whose perpetrators fall into that category.

MR. BEHEIM reiterate that he did not have those types of statistics. He suggested that perhaps a professor in criminology or sociology might have such data.

Number 0800

REPRESENTATIVE ANDERSON offered his belief that the national statistics do illustrate that such a propensity exists among convicted felons of all types of crimes.

REPRESENTATIVE GARA replied:

Just so the public understands, ... I may very well support the bill as written, but the big question is how broadly should we expand the DNA database. Each piece of DNA that we take and that we process and that we store costs us a certain amount of money. Right now there's federal money to pay for that, ... but in a few years maybe there won't be. And then, maybe we've expanded this database so broadly that it's now cutting into our public safety budget, and we're losing troopers on the streets and law enforcement officers on the street in Anchorage.

And maybe this is the time for us to say, "Well, let's figure out how broad to make it, but not make it broader than we need to, and not increase the expense broader than we need to." So I think I keep going back to: ... If the person's convicted of a crime that gives us any reasonable expectation that they might be more likely than a general member of the public to commit a violent crime in the future, let's take their DNA evidence. ... But my concern is, why are we taking it from people if we don't have any understanding whether or not they're more likely than the average person to commit a violent crime? And I guess I'm struggling with that.

REPRESENTATIVE GRUENBERG sought confirmation that fingerprints are collected from a large variety of people, regardless of whether they have committed a crime, including members of the military and people who apply for membership in the bar association, and often are simply used as a method of identification.

MR. BEHEIM confirmed this.

Number 0560

REPRESENTATIVE GRUENBERG asked Mr. Beheim whether there is any real difference between [DNA samples] and fingerprints.

MR. BEHEIM said: "Not the way that we are applying it here. We are strictly using law enforcement identification markers here. We're treating the DNA as a piece of identification." In response to questions, he acknowledged that having a DNA sample of all children born could assist law enforcement in identifying individuals who are later kidnapped, as well as in identifying found human remains burned beyond recognition in a fire. He also mentioned that the NDIS currently has indexes for missing persons. In addition, the NDIS also allows relatives of missing persons to volunteer their DNA for the purpose of "paternity-type testing"; he noted that those types of samples are kept separate and not included in the samples that can be searched against samples collected at crime scenes.

REPRESENTATIVE GRUENBERG said it doesn't seem to him that "this" is much different than any other type of identification. On that point, he asked why "this" should be treated any differently.

MR. BEHEIM pointed out that DNA testing is much more expensive than "rolling a fingerprint card." Thus it would not be cost effective to just take everybody's DNA and put it into the system; the costs would be astronomical. He surmised that the cost of DNA testing is the reason why states have set specific limits regarding whose samples are collected.

CHAIR McGUIRE noted the legislature must also consider the privacy issues surrounding DNA testing and sample collection. She reminded members that DNA doesn't just reveal one's own genetic makeup, but also that of one's blood relations. She remarked that it is critical to ensure that collecting DNA is done for the right reasons, and that when people use it for the wrong reasons, "we put the hammer down on them heavily" because the potential for misuse of DNA information is much greater than for misuse of fingerprint information.

REPRESENTATIVE GRUENBERG asked what the cost is per sample.

Number 0289

MR. BEHEIM said that the cost for a convicted-offender sample is about \$40. He noted that this price does not apply to forensic evidence. For convicted-offender samples, contract laboratories, which often are highly automated, are utilized. In contrast, a lot more care has to be taken with forensic samples, he added.

REPRESENTATIVE GARA relayed that one of his concerns centers around the cost; he said he wants to ensure that the DNA database isn't so big that "we're going to end up taking law enforcement officers off the street to pay for it." He asked whether there is any data regarding the cost, in addition to the \$40 per sample, to law enforcement for taking the sample, temporarily storing it, sending it off to the [laboratory], receiving it back, and then storing it for the long term.

MR. BEHEIM said he did not have any information regarding those costs. He noted, however, that the collection of a DNA sample involves just taking an oral swab, which is often now being collected, along with fingerprints, at sentencing. He also clarified that in addition to the aforementioned \$40 per sample, which is the cost of processing the sample, the DNA sample-collecting kits themselves cost about \$10 each, maybe less.

MR. BEHEIM, returning to his presentation, relayed that when Oregon expanded its DNA database last January to include all felons, the hit rate in the first year went up 400 percent. He indicated that of those offenders with hits, 22 percent had prior felony drug convictions and 21 percent had prior sex crime convictions.

TAPE 03-15, SIDE A

Number 0001

MR. BEHEIM [referring to page 34 of the PowerPoint presentation] posited that the recent trend around the nation is to expand DNA databases to all felons: there were 5 states in 1998; 6 states in 1999; 7 states in 2000; 14 states in 2001; 23 states in 2002; and, in addition to North Dakota just becoming one of those states, [15] other states have such legislation pending in 2003. Turning again to the question of why Alaska should expand its DNA database, he posited that law enforcement will catch more criminals, the innocent will be exonerated, it will enhance public safety, and it is very cost effective. He mentioned that June 3, 2002, the Crime Lab had a CODIS hit against a sexual assault that happened in Anchorage in 2000. The criminal history of the offender showed that he had convictions going back to [1984]. Mr. Beheim remarked that had Alaska's law been retroactive, when that offender was in jail in 1996 for a 1994 conviction, they could have collected a DNA sample then, and he would have created a hit from the 2000 sexual assault; thus preventing his subsequent victim in 2001 from being assaulted.

MR. BEHEIM [turning to pages 38-41 of the PowerPoint presentation] highlighted the issue of costs and funding. He relayed that the congressional budget passed in February 2003 includes millions of dollars for DNA [issues]: over \$40.5 million for the Crime Lab Improvement Program (CLIP), \$28.1 million for DNA grants, and \$13.1 million for DNA "elimination." He noted that current federal DNA legislation has bipartisan support, and that congressional Senate Bill 149 "includes \$100 million for DNA authorization." He stated his belief that Alaska would be able to get federal funds to pay for "the entire program," and that Congress would authorize "this" as a continuing program. He also mentioned that in President Bush's proposed 2004 budget, there is almost \$130 million for DNA backlog elimination, and that there is a large research project in progress to increase DNA capacity and develop new technology that will lower the costs of DNA collection and testing.

MR. BEHEIM [referring to page 42 of the powerpoint presentation] highlighted some of the safeguards already in place with regard to the DNA process: laboratories performing analyses are accredited; lab procedures are strictly controlled and reviewed; all hits to convicted offenders are confirmed; CODIS computers and lines are very secure; and DNA profiles provide no health or genetic information. He noted that all CODIS operators go through a national security check before they are authorized to utilize the system.

REPRESENTATIVE GARA asked how long they could anticipate receiving federal funding to cover the costs of Alaska's program.

MR. BEHEIM suggested four to five years.

Number 0690

DALE PITTMAN, Police Chief, University of Alaska - Anchorage (UAA), recapped the sexual assault incident mentioned by Mr. Beheim that took place at the UAA wherein the first suspect was exonerated by the DNA evidence, and a second suspect was subsequently convicted because of the DNA evidence. He noted that in addition to a previous crime of assault for which he'd had his DNA sample taken in 1997, the man that was convicted of the 2002 sexual assault had also been convicted previously for a misdemeanor sexual offense. He opined that it would be helpful if the DNA database were expanded to include, at the minimum, samples from all those convicted of any misdemeanor sexual offense.

Number 0815

LINDA WILSON, Deputy Director, Public Defender Agency (PDA), Department of Administration, said that the PDA has several concerns with HB 49. She elaborated:

There are, of course, several concerns that the [PDA] has with the proposed significant expansion of the list of crimes for which a person is convicted or adjudicated that would require the person to give a DNA sample - those crimes that have been added to the list, as already have been mentioned. But I think we need to look at all of them. [There are] two sex offense misdemeanors, but [with] the inclusion of every felony, this would add over 80 offenses to the list of the felonies currently targeted for DNA

sampling. Under Title 11 - there are many offenses under that title; also under Title 28, so, as Representative Gara mentioned, DWI - felony DWI. That would also include felony failure to stop, under Title 4; it would include felonies under that. It could include issuing a bad check; felony shoplifting; vehicle theft; [and] criminal mischief. And it adds over 80 offenses to the current list. And these are ones that are not ... a violent crime against a person.

In some of the examples given, it appears that the people that were identified in the database had prior misdemeanors, but they also had a burglary or ... a violent crime against a person that would already be covered under the current [law]. Certainly, there are concerns with privacy, that if this serious invasion of a person's privacy that would be impacted by this bill [were] warranted, right now it is a misdemeanor to refuse to supply that DNA sample. The [PDA] does not represent very many people that are charged with that. Certainly keeping it a misdemeanor - we would strongly encourage. Raising it to a felony, especially when you're including misdemeanor offenses in the hits that you would require a sample, then, if the person does not provide the sample, ... giving them a felony for a misdemeanor underlying offense seems extreme.

Number 0969

MS. WILSON continued:

[We] also have concerns with the retroactive application that is mentioned, and those would be ex post facto concerns. The other consideration I have is that in all [of] the studies and the information received in the presentation from Mr. Beheim, it seems there is no provision or mechanism in this bill for exonerating innocent people who were wrongfully convicted a substantial period ago. It looks like most of the efforts are for ongoing or active investigations. But what about a person who is sitting in jail who has been wrongfully convicted prior to [1995 or 1996], where there was biological evidence taken at the scene that has never been matched?

In the bill as passed now, the offender may have his DNA sample taken, but what's missing is there's no mechanism for accessing that DNA evidence that is at the scene that may be sitting in a records locker in the basement of a jail or ... a police department. That forensic evidence is in the possession of the public safety [agency]. It is not easily accessible for a person who is sitting in jail who has been convicted. So, it applies to ongoing or unsolved crimes. But what if a person's been wrongfully convicted? And certainly across the country, there are, in over 30 states, provisions for a person to access DNA sampling or apply to a court to get a DNA sample; test, then, and see; and make a showing whether or not that sample matches what was taken at the crime scene. ...

That may not be something that could be included in this bill and it may ... be a whole separate bill, but it certainly is a consideration that if one of the purposes stated is to exonerate innocent people, it would be nice if we could look at some of the people that may be convicted. ... I did submit an indeterminate fiscal note. We represent people right now who are charged with that ... misdemeanor of failing to provide; ... there's hardly any of those. If it was raised to a felony, certainly, there would be more of ... those. But, at this point, there's no way of knowing - ... especially if you expand this list of crimes that you would be including, that you would want a DNA sample [for] - how many people would then refuse in the future.

MS. WILSON said this is a well-intended bill, but the PDA has concerns with it. She said she would be happy to work with the sponsor.

Number 1117

CHAIR MCGUIRE noted that she and Representatives Gara and Anderson have discussed the issue of exonerating the wrongly convicted, adding that the testimony from the university police provided an excellent example of DNA samples exonerating the innocent.

REPRESENTATIVE GARA said he agreed with the exoneration point and is considering whether it should be addressed in this or a different bill. He asked Ms. Wilson whether she could provide draft language regarding exoneration for the next hearing on the bill.

REPRESENTATIVE ANDERSON said the issue is access to the DNA sample as much as it is exoneration.

REPRESENTATIVE GARA replied that there are two issues the committee would like to look at separately. One is to make sure that convicted people have access to DNA evidence through this process to try to prove their innocence. The separate question is whether the procedure is allowed currently under Alaska law, and how it can be changed to make sure that somebody, after the appeal time runs out, can open a case if he/she finds DNA evidence and proves they are actually innocent. One relates to AS 44.41.035 and whether it is broad enough to allow defendants access to the evidence for exoneration. The other question is, does the legislature have to change Alaska's legal procedures - as 30-some other states have - to give people time to reopen their cases.

CHAIR MCGUIRE invited witnesses to submit written statements and backup material, which would be distributed to members of the committee.

Number 1302

REPRESENTATIVE GRUENBERG said he supports leaving the [refusal to give a DNA sample] a class A misdemeanor, and he also supports access for the purpose of exoneration. He mentioned that it would be really helpful to put all issues relating to DNA in one bill.

REPRESENTATIVE GARA asked Ms. Rudinger, Executive Director of the Alaska Civil Liberties Union (AkCLU), to provide, at the next hearing of HB 49, the AkCLU's perspective on current law regarding allowed uses of DNA evidence and violations of that authorized use.

REPRESENTATIVE GRUENBERG said that the availability of federal money is one of the driving forces for this bill. He said his concern is that state and local governments are faced with legislation that is driven by available money, but after a few years, the funding goes away. He said there is no provision made for that eventuality, when the legislation is initially

passed. The state may be left with an expensive program that it can't afford to maintain. Since this is the first bill resulting from federal money that he has seen this session, he said he wants to be sure the state is not put in a position of an unfunded federal mandate. He said he's asking people on line and in person to consider this [situation].

REPRESENTATIVE GRUENBERG suggested the intent language should include the note that the bill is being passed because of the availability of federal money. Maybe, he opined, the legislature ought to consider building a sunset clause into the bill, so that when the money goes away, the legislature has to reauthorize it, to be sure that the state has that money in five years or whenever. Such would force the legislature to think about that now, and put a provision in each bill. It's almost like a joint resolution rolled into the bill, so that a copy of that bill and that provision shall be sent to the delegation in Congress. If Alaska starts taking that kind of a step, maybe through the NCSL [National Conference of State Legislatures], other groups, and other state legislatures would be convinced to do it also. He said he may offer language on this concept [at the next meeting].

[HB 49 was held over.]

ADJOURNMENT

Number 1553

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:15 p.m.