

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 24, 2004

3:28 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Carl Gatto, Vice Chair
Representative Nancy Dahlstrom
Representative Bob Lynn
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Jim Holm

COMMITTEE CALENDAR

HOUSE BILL NO. 434

"An Act relating to the practice of naturopathic medicine; and providing for an effective date."

- MOVED CSHB 434(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 421

"An Act relating to reconveyances of deeds of trust."

- MOVED CSHB 421(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 490

"An Act relating to the release of employment security records, to the admissibility of determinations and decisions regarding unemployment compensation benefits, and to contributions, interest, penalties, and payments under the Alaska Employment Security Act; providing that property under the Alaska Employment Security Act is not subject to the Uniform Unclaimed Property Act; and providing for an effective date."

- MOVED HB 490 OUT OF COMMITTEE

HOUSE BILL NO. 330

"An Act shortening the time periods after which certain unclaimed property is presumed to be abandoned; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 391

"An Act relating to employers and to victims of crime."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 434

SHORT TITLE: NATUROPATHIC MEDICINE

SPONSOR(S): REPRESENTATIVE(S) HOLM

02/04/04	(H)	READ THE FIRST TIME - REFERRALS
02/04/04	(H)	L&C, JUD
02/04/04	(H)	HES REFERRAL ADDED AFTER L&C
02/18/04	(H)	L&C AT 3:15 PM CAPITOL 17
02/18/04	(H)	Heard & Held <Assigned to Subcmte>
02/18/04	(H)	MINUTE(L&C)
03/03/04	(H)	L&C AT 3:15 PM CAPITOL 17
03/03/04	(H)	<Bill Hearing Postponed>
03/24/04	(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 421

SHORT TITLE: DEED OF TRUST RECONVEYANCE

SPONSOR(S): REPRESENTATIVE(S) ANDERSON

02/02/04	(H)	READ THE FIRST TIME - REFERRALS
02/02/04	(H)	L&C, JUD
03/19/04	(H)	L&C AT 3:15 PM CAPITOL 17
03/19/04	(H)	Scheduled But Not Heard
03/24/04	(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 490

SHORT TITLE: EMPLOYMENT SECURITY ACT AMENDMENTS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/16/04	(H)	READ THE FIRST TIME - REFERRALS
02/16/04	(H)	L&C, JUD
03/22/04	(H)	L&C AT 3:15 PM CAPITOL 17
03/22/04	(H)	Scheduled But Not Heard
03/24/04	(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

CLYDE B. JENSEN, Ph.D.
Oregon Health and Science University
Portland, Oregon
POSITION STATEMENT: Testified in support of HB 434.

DANIEL JAMES YOUNG, N.D.
Eagle River, Alaska
POSITION STATEMENT: Testified as a naturopathic physician in support of HB 434.

JASON HARMON, N.D
Anchorage, Alaska
POSITION STATEMENT: Testified during the discussion of HB 434.

MICHAEL PRICE, Owner
Mat-Su Title Insurance Agency, Inc. (Wasilla)
and Fidelity Title (Anchorage);
Member, Board of Directors
Alaska Land Title Association
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 421 and answered questions.

JEFF BLAKE
Stewart Title of Alaska
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 421.

TERRY BRYAN, President
First American Title of Alaska
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 421.

JOHN BITNEY, Lobbyist
for Alaska Land Title Association
Palmer, Alaska
POSITION STATEMENT: Explained Amendment 1 to HB 421.

TOM NELSON, Director
Employment Security Division
Department of Labor & Workforce Development
Juneau, Alaska
POSITION STATEMENT: Testified on sections of HB 490 and answered questions.

TOBY NANCY STEINBERGER, Assistant Attorney General
Labor and State Affairs Section
Civil Division (Anchorage)
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Presented information about portions of
HB 490 and answered questions.

BILL KRAMER, Chief of Unemployment Insurance
Division of Employment Security
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: Answered questions about HB 490.

LEONARD M. LINTON, JR., District Attorney
3rd Judicial District (Anchorage)
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 490,
specifically Section 2.

ACTION NARRATIVE

TAPE 04-32, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing
Committee meeting to order at 3:28 p.m. Representatives
Anderson, Gatto, Dahlstrom, Lynn, Crawford, and Guttenberg were
present at the call to order. Representative Rokeberg arrived
as the meeting was in progress. Representative Holm was also
present.

HB 434-NATUROPATHIC MEDICINE

CHAIR ANDERSON announced that the first order of business would
be HOUSE BILL NO. 434, "An Act relating to the practice of
naturopathic medicine; and providing for an effective date."

Number 0136

CLYDE B. JENSEN, Ph.D., Oregon Health and Science University,
noted that he'd traveled to Juneau at his own expense from his
home in Portland. He testified:

I'm particularly interested in rural care and the impact that naturopathic medicine can have upon rural health care. I've been introduced earlier as a Ph.D. in pharmacology and a medical educator. I'm best known, though, as an administrator of medical colleges. I've been responsible for the executive administration of colleges of allopathic or M.D. [medical doctor] medicine, osteopathic or D.O. [doctor of osteopathy] medicine, naturopathic or N.D. [naturopathic doctor] medicine, and oriental medicine, so I'm frequently called upon to speak before policymaking groups on issues pertaining to the "curative" educational programs of those several different professions. ...

Number 0212

DR. JENSEN continued:

The three bullet points that I will share with you are naturopaths versus naturopathic physicians; a second will be comparative medical education; a third will be continuing medical education and prescription authority. ...

One of the things that I have learned as I have met with some members of the legislature today is that there is not an awareness of the fact that the term "naturopath" is an unregulated term. It can be owned by anyone who chooses to use it. A naturopath - or a person can call himself a naturopath - in those states in which naturopathic physicians are not licensed - and there are no regulations in those states that would prevent that person from referring to himself and holding himself out as a naturopath.

I've seen correspondence from the Alaska State Medical Association that suggests that there may not be an awareness among members of the M.D. profession in the state that not all people who call themselves naturopaths are trained in the way that naturopathic physicians, of the type who are seated behind me, are trained.

That, then, takes me to my next bullet, which is comparative education. Naturopathic physicians are trained in four colleges in the United States. Two

additional colleges either exist or are developing in Canada, and in each case it is necessary for them to receive a bachelor's degree before being admitted into those colleges. In each case the course of study in those colleges is four years in duration. The content of those four years of study would be very similar, and in many cases identical, to the training that is received in M.D. and D.O. colleges; particularly, the first two years of that training is identical to that which is received in M.D. and D.O. colleges.

The second two years, as many of you know, is spent training in clinics and in hospitals and, because the nature of naturopathic medicine and the practice of it is different from that of M.D. and D.O. medicine, naturopathic physicians receive clinical training in outpatient clinics and largely under the supervision of naturopathic physicians.

Number 0433

DR. JENSEN continued:

That, then, brings me to the third and final bullet that I will share with you, that is, continuing medical education and prescription authority. What I've learned as I have visited with a few members of the legislature today is that there are those who are concerned about expanding the scope of practice of naturopaths in Alaska to include the authority to write prescriptions for drugs. And the question is asked, "What kind of training do they have in the use of pharmaceutical products in their practices?" It's an excellent question.

In the two years of training at the beginning of the four-year naturopathic medical education program, naturopathic medical students are taught pharmacology; that is the classroom basic training in the use of drugs. We teach them in that coursework how drugs act upon the body, how the body acts upon the drugs. I can tell you, as both a pharmacologist and as a former leader of those colleges, that that classroom training is the same whether you are studying to be an M.D., a D.O., or an N.D.

In the latter two years of training, M.D.s will go to hospitals and multi-specialty group practices, where they will see a lot of drugs prescribed. Naturopathic medical students will go to outpatient clinics, where they will see fewer drugs prescribed because, once again, they are studying under the supervision of naturopathic physicians who typically use few drugs.

Number 0544

DR. JENSEN continued:

Continuing medical education is the process that other states that have allowed prescription-writing authority to naturopathic physicians to use, in order to ramp up their ability to utilize pharmaceutical products that they may have had somewhat limited experience in using while they were going to medical school.

In my judgment, those states in which naturopathic physicians are permitted to prescribe drugs are sufficiently well trained to utilize the drugs that they prescribe. I will also tell you that, in my experience, naturopathic physicians are very reticent to prescribe drugs, because they became naturopathic physicians for the purpose of being able to use other types of therapies - and they simply do that very, very well.

My promise was that I would be brief. I've touched upon three bullets, and there are a number of other topics that might be of interest to you. I'll read a menu of things that I can discuss if you're interested. Naturopathic medicine is an emerging profession; I can speak with you about what that means. I'm presently writing a book on medical (indisc.) versus the medical continuum. ... Naturopathic medicine and rural health, I think, may have some particular importance to this state because of the primary-care shortage in areas. Primary care and naturopathic medicine is a topic that I'm quite interested in; those are subjects that I'd be happy to address as well.

Number 0659

REPRESENTATIVE GUTTENBERG said it is interesting to note the reference to the fact that if "we don't do anything" and there's no licensing requirements and no statutes relating to naturopathic medicine, that anybody can call himself or herself a naturopath.

DR. JENSEN replied that in Alaska a license is required. He said that in other states healthcare consumers may go to a person whose business card says naturopath, but they will not know the nature of their training. Some people in the state medical association are not aware of this, he noted.

Number 0720

REPRESENTATIVE GATTO said you used the term "naturopathic physician" several times.

DR. JENSEN agreed.

REPRESENTATIVE GATTO said that in statute it says, "A person who practices naturopathy shall clearly disclose that the person's training and practices in naturopathy. ... A person who practices naturopathy may not use the word physician in the person's title." Alaska excludes that possibility, he added.

DR. JENSEN said that varies from jurisdiction to jurisdiction.

REPRESENTATIVE GATTO asked Dr. Jensen how he feels about that.

DR. JENSEN replied, "Those who are trained in four-year colleges of medicine, should be, deserve to be, recognized as physicians and their patients are already referring to them as such."

REPRESENTATIVE GATTO said he believes that the people who are using the word "physicians" would object to that.

DR. JENSEN said you could expect that those from the conventional health care professions whose responsibilities includes protecting the public, would want to be certain that those who call themselves physicians have been appropriately trained. Dr. Jensen opined that they have been trained appropriately.

REPRESENTATIVE GATTO asked about the four colleges and whether Dr. Jensen has an association with any of them.

DR. JENSEN replied that he was at one time the president of the oldest of the four colleges in Portland, Oregon. He said he served in that capacity for five years and completed that service about two years ago.

REPRESENTATIVE GATTO asked if naturopaths frequently sell products within their own offices and if they had prescription drug rights, if they would be a dispensing pharmacy.

Number 0829

DR. JENSEN replied that in many cases it is necessary for naturopaths to both compound and dispense products from their own offices because [the products] are not available from other retail sources. Naturopathic physicians have been taught to blend mixtures of herbs and nutrients in ways that are not commercially available, he noted.

REPRESENTATIVE GATTO asked if they do that now.

DR. JENSEN said yes.

REPRESENTATIVE GATTO pointed out that the prescription drug rights [in the bill] go beyond that and extend their ability to compound prescription drugs in addition to the existing stock that they have. He asked Dr. Jensen for his opinion on that.

DR. JENSEN said that, personally, he feels that would be inappropriate. He said he does not believe that that is the intent of this legislation.

REPRESENTATIVE GATTO said, "But it would allow it."

DR. JENSEN said he has not read the legislation so he cannot respond to that.

REPRESENTATIVE GATTO said that the legislation does call for prescription drug rights to be given to individuals who now only compound natural ingredients for dispensing or selling from their own offices.

Number 0946

DR. JENSEN replied that Representative Gatto has asked a very incisive question, one that Dr. Jensen has not thought of. He said there are two reasons why M.D.s and D.O.s do not sell products from their offices. One is that both of those

professions have codes of ethics that for purposes of conflict of interest preclude physicians from selling products that they prescribe. The second reason is that most of those physicians also receive Medicare and Medicaid reimbursements and cannot sell products for private gain. Naturopathic physicians are not compelled by either of those two reasons, he pointed out. He said that his personal opinion is that dispensing for private gain from any practice is a dubious activity. He noted that the exception to that is when a naturopathic physician must compound products that are not available from other retail sources, they may have no choice but to dispense. He restated that he does not believe it is the intent of this legislation to permit the dispensing and sale of pharmaceutical products.

Number 1038

REPRESENTATIVE CRAWFORD said that the way that the bill is written now, it would give unlimited ability to prescribe drugs. He asked if Dr. Jensen recommends that [naturopathic physicians] be able to prescribe addictive and psychotropic drugs.

DR. JENSEN said that he has some apprehensions about that. The scope of practice that is needed by most primary care physicians is the scope of practice that can probably function quite well without scheduled substances or at least [Schedule II] substances where there is a high abuse potential, he opined. He related that he thinks it is a valid concern.

REPRESENTATIVE GATTO stated that it does not matter which doctor he speaks with, they all have the same opinion, that naturopaths should not be allowed to dispense prescription medication. He said that he has heard the naturopaths say that they have all the business they can handle, and they are not going to make any additional income from dispensing drugs. He asked what argument could be made in favor of allowing naturopaths to prescribe prescription drugs.

Number 1138

DR. JENSEN said he may not be the best person to answer the question because he is not a naturopath. He pointed out that a naturopath is a very comprehensively trained physician and Alaska is one of the most ubiquitous, health personnel shortaged states in the country because of the large land mass and the sparse population. Naturopathic physicians can play a very positive and powerful role in meeting the needs, particularly of

rural Alaskans, who may not have access to healthcare otherwise, he opined.

DR. JENSEN continued:

If they are restricted in their scope of practice, so that naturopathic physicians are unable to do the things that they are really capable of doing, the people who [will] suffer are not the physicians. They'll continue to make a decent living. The people who will suffer are the patients that would like to have access to adequate and appropriate health care and whose physicians are limited in performing the services that they should perform. Now, if I were a naturopathic physician and I had devoted four or more years of my life being trained, and I practiced in a jurisdiction that didn't value my training, I'd probably would be disappointed with the jurisdiction and I may not practice there long. I suspect that part of the rationale behind this legislation has to do with appropriate recognition for some very high quality training.

REPRESENTATIVE GATTO gave an example of earaches and antibiotics, which are not given any more. He asked if naturopaths would keep up on that information as well as any physician.

DR. JENSEN replied that continuing education is the way that any physician is supposed to keep up. "Speaking to that specific example that you have given, off all of the health care professionals with which I have worked, the naturopath would be the least likely to venture into the prescription of drugs for purposes that they may not be warranted," he pointed out.

REPRESENTATIVE GATTO asked if it is Dr. Jensen's opinion that the regular physicians are simply in a "turf protection".

DR. JENSEN said he is very reluctant to say that a state medical association or an individual would oppose legislation for purposes of economics, but agreed that there is an economic impact that can be expected by M.D.s, D.O.s, and mid-level providers in the state, should the scope of naturopathic physicians be expanded. He pointed out that naturopaths are taught to do something that a lot of conventional providers don't have a lot of time to do, and that's to touch, talk, and work with their patients and get to know them. There will be

health care consumers who will choose to receive more of their care from naturopathic physicians as the scope of practice enables them to provide the care that they desire, he added. "These are physicians who can compete, and the time will come when they will," he concluded.

CHAIR ANDERSON pointed out that there is a fear of devaluation of the medical license of a medical doctor, scientific uncertainty in physicians' minds of the verifiability of some of the practices, the fear of misdiagnosis, and the question of the quality of the education. He asked Dr. Jensen if those are the arguments he has heard in other states.

Number 1483

DR. JENSEN said they are. He related that he left the University of Oklahoma in 1996 to meet his first naturopathic physician in Oregon, and until that time, that was also his opinion. He related that during the five years he became somewhat of an expert on the subject, he found that his concerns were unwarranted.

CHAIR ANDERSON, reporting on refutes to the three aforementioned concerns, said that the education [of naturopaths] surpasses that of nurse practitioners, midwives and physician assistants. In terms of the Western/Eastern medicine debate, Chair Anderson said that issue is not so easily decided. In terms of the devaluation of the medical license, it has been stated that the naturopath's patients aren't being taken from traditional practices, and both have more than enough patients. He asked if Dr. Jensen agrees.

DR. JENSEN agreed. He added that as for the economic issue, naturopathic physicians are not receiving entitlement reimbursement, so there is no competition for that dollar. In most cases, naturopathic physicians are also not receiving third party reimbursement. Most people are willing to pay out of pocket for those services.

Number 1603

REPRESENTATIVE LYNN pointed out that there is probably not scientific certainty for anything. He asked how the typical person chooses from the variety of medical treatments available. He wondered how a person knows where to go for their medical problem. He said he will probably vote no recommendation on this bill.

DR. JENSEN replied that the average person probably does not have enough information to know where to go today. The average person is probably going to gather information from other health care professionals, and as the professionals become more and more knowledgeable, they will be able to make referrals to one another more frequently and more confidently, he related.

DR. JENSEN explained:

In the world of health care, we used to refer to conventional and alternative medicine and then we discovered that there were things about alternative medicine that were more compatible with conventional medicine than we thought, and so we started referring to conventional medicine and alternative medicine as complimentary medicine because they could work together. Today, there's a new buzzword within the field and it's called integrative medicine. That's where M.D.s and D.O.s and N.D.s and D.C.s and other types of health care professionals can actually work as a team. I predict that the day will come, and it will come only as a consequence of legislation that permits each of the groups to practice the things that they have been taught to practice, but I predict that the day will come when there will be health care managers in individual offices or in groups of offices that will help patients navigate through this very complex assortment of health care options. And, the day will come when M.D.s will be referring to N.D.s and N.D.s to D.C.s - we're simply not there yet. But, you've raised a very difficult question for health care consumers in the year 2004. How are they going to know? They never will know, though, if we don't allow health care professionals to practice that scope of practice that they've been trained to deliver.

REPRESENTATIVE LYNN opined that it is a very dangerous thing for the consumer because he or she is at the mercy of health care providers.

DR. JENSEN related that there is a protective mechanism in all jurisdictions for the consumer. Among those protective mechanisms are the board of examiners or the licensing board. Whenever a consumer is confronted by a situation that he or she thinks may be dubious, he or she can report that to the board, which is required by law to review it.

Number 1801

REPRESENTATIVE GUTTENBERG asked, "Are we licensing here above the education level, or does this match the authority that we're giving naturopaths?"

DR. JENSEN replied that the current license in Alaska is below the level of education of a naturopath. The proposed legislation would come closer to, but not exceed the level to which they are trained, he opined. He noted that the mention of controlled substances earlier is one example of what he considers the high end of a primary care practice. That is where there is some risk to which patients would be exposed, he said.

CHAIR ANDERSON wondered if this legislation is setting a precedent and is beyond the scope of what naturopaths are allowed to do in other states.

DR. JENSEN said, "No, there are other states in which the scope and practice already exceeds that which is recommended by this legislature."

Number 1888

REPRESENTATIVE DAHLSTROM asked if his appropriate title is doctor.

CHAIR ANDERSON said, "Ph.D."

DR. JENSEN replied that his daughter says he is the kind of doctor who never helps anyone.

REPRESENTATIVE DAHLSTROM thanked Dr. Jensen for coming and testifying at his own expense. She asked for clarification about the four-year degree and wondered if English and math are part of the course requirements.

DR. JENSEN replied that the English and math classes are taken before a person enters the four-year naturopathic program.

REPRESENTATIVE DAHLSTROM said, "So, I have a four-year degree already, and this is a second four-year degree on top of it."

DR. JENSEN said yes, and thanks for asking that question.

REPRESENTATIVE DAHLSTROM asked for Dr. Jensen's opinion about a naturopathic physician having to team up with a traditional physician in the same office in order to practice.

DR. JENSEN said the teaming up part is happening more and more often for the convenience of the patient, but for supervision purposes there may be a precedent set in California where their statute does call for some association between naturopathic physicians and conventional physicians.

CHAIR ANDERSON asked if that devaluates the naturopathic license and is very expensive because of the need to relocate to a doctor's office.

DR. JENSEN said if he were a naturopathic physician he would avoid that type of relationship for the reasons Chair Anderson described.

Number 2037

REPRESENTATIVE DAHLSTROM asked if the state of California offers full prescription rights to their naturopathic physicians.

DR. JENSEN said he does not believe so. He noted that it was a bill recently passed in the last legislative session and has not yet been implemented.

REPRESENTATIVE DAHLSTROM wondered if Dr. Jensen would consider it to be a friendly amendment to the bill to change it to allow just Schedule I drugs, a section that deals with the compounding of drugs, and whether they could or could not be sold out of the office.

DR. JENSEN replied that he understands the intent of the question but that he has to change the terminology because a Schedule I substance is the most dangerous of all the drugs. The friendly amendment would allow prescription authority up to a certain level of scheduled substances such as Schedule II, he suggested. He said he would encourage the discussion of that.

CHAIR ANDERSON noted the arrival of Representative Holm and brought him up to date, explaining that Representative Dahlstrom is looking into limitation on prescriptions and on dispensing from a [naturopath's] office of things like antibiotics.

REPRESENTATIVE DAHLSTROM clarified that she is not thinking of antibiotics, but of compounds such as acne medicine.

Number 2147

CHAIR ANDERSON closed public testimony. He asked Representative Gatto to report on the subcommittee's findings.

REPRESENTATIVE GATTO said he did not submit a letter signed by all three members of the subcommittee, partly because he could not decide on the issue. With regard to question number one, which asked for a compromise with the Alaska Medical Association, there was none to be had, he reported. With regard to question two, discussion of Section 6, regarding minor surgery, most of the [subcommittee] agreed that they did not know what minor surgery is. In California minor surgery is to repair a laceration without sutures, he reported. Representative Dahlstrom brought up the fact that laser surgery does not use sutures, he said. There was discussion of whether floating a catheter through a tiny opening is surgery or a procedure, and so the group decided they were not clear on the definition of minor surgery. With regard to question three, the discussion of Section 15, the repeal of AS 08.45.040, which refers to the disclosure that naturopaths are required to disclose to each patient that their training is in naturopathy, and whether or not they have malpractice insurance, he said he is not sure that Section 15 is even in the bill.

Number 2251

CHAIR ANDERSON reported that Section 15, page 7, line 19, repeals AS 08.45.040, which Representative Gatto as chair of the subcommittee referred to, states:

Disclosures required by person who practices naturopathy. Subsection (a) ... shall clearly disclose that the person's training and practices in naturopathy (1) to each patient and (2) on all material used in the practice of naturopathy and made available to patients or to the public. (b) A person who practices naturopathy without being covered by malpractice insurance shall disclose to each patient that the person does not have the insurance.

CHAIR ANDERSON said he is unclear why that should be repealed. He asked Representative Holm why that is.

REPRESENTATIVE HOLM said he is unsure why that section is repealed.

CHAIR ANDERSON restated the unresolved questions that are still before the committee. One is the reconciliation with the Alaska Medical Association, which does not support the bill. The parameters dealing with prescriptions still need to be resolved, the definition of minor surgery still needs to be defined, and there is a repeal of a disclosure section to figure out, he related. The issue about prescribing of drugs would also need to be resolved, he added.

Number 2354

REPRESENTATIVE DAHLSTROM requested that Representative Gatto, as chair of the subcommittee, discuss those issues with the maker of the bill before the committee votes on the bill.

TAPE 04-32, SIDE B

Number 2365

CHAIR ANDERSON replied that he is committed to moving the bill out without objection from the committee. He said he agrees with the general intent of the bill.

REPRESENTATIVE ROKEBERG suggested that the members of the committee offer amendments if they wish to.

Number 2345

DANIEL JAMES YOUNG, N.D., a naturopathic physician and a licensed acupuncturist, addressing the repealing of [Section 15], reported that 17 years ago there was not a license for naturopathic physicians in Alaska. He said this section is antiquated and refers to the practice of naturopathy, which Dr. Jensen explained is different from the practice of a naturopathic physician. He said that patients know clearly that they are dealing with a naturopathic physician. It is now common practice for naturopathic physicians to carry malpractice insurance, and it didn't used to be available, he added.

REPRESENTATIVE GATTO asked if malpractice is required.

DR. YOUNG replied that he is not sure if it is required, but everyone has it.

REPRESENTATIVE GATTO said, "The ones you know of." He suggested keeping the disclosure in the bill.

DR. YOUNG said it is his understanding that naturopathic physicians have malpractice insurance and the patients know it.

Number 2236

CHAIR ANDERSON suggested that if a naturopathic physician is going to perform minor surgery and prescribe medication, the bill should mandate malpractice insurance.

REPRESENTATIVE ROKEBERG said there is no mandated insurance requirement in any of the licensing procedures in the state. He asked if [Section 15] is not repealed would there be parity or would M.D.s then have to make the same disclosure.

Number 2184

REPRESENTATIVE DAHLSTROM offered Conceptual Amendment 1, on page 2, line 27, with the intent of adding the definition of minor surgery.

CHAIR ANDERSON objected. He stated that the amendment is too broad.

REPRESENTATIVE ROKEBERG pointed out that there already is a definition of minor surgery in the bill on page 6, line 19. He said he thinks it adequately describes the issue.

CHAIR ANDERSON clarified that page 6, lines 20-30, describe minor surgery.

REPRESENTATIVE DAHLSTROM said to disregard that, and then she prepared to offer Conceptual Amendment 1 dealing with the prescriptive rights, but said she did not know which section to add it to.

Number 2116

REPRESENTATIVE ROKEBERG suggested page 5, line 16. He asked if Representative Dahlstrom is thinking about adding a level [of drug].

REPRESENTATIVE DAHLSTROM said correct.

REPRESENTATIVE ROKEBERG asked the witness for his opinion on what levels would be appropriate.

Number 2094

DR. YOUNG replied that his understanding is that the intent in this area was to allow naturopathic physicians to be able to access the prescription-type medications that they need to practice naturopathic medicine safely. [This section] was based on state laws from other states that license naturopathic physicians. Schedule II drugs allow for use of narcotic substances for the relief of pain, he explained. Schedules III and IV [drugs] lessen the extent of potential for psychological or physiologic dependence, he said. "We haven't outlined it here because we thought that that would be in the regulations and that it also implies that not all naturopathic physicians were going to apply for a DEA [Drug Enforcement Administration] license, it was only those that had specific training and a specialization, as such, and would cover additional pharmacal therapeutics"

Number 2017

CHAIR ANDERSON asked Representative Dahlstrom to consider withholding Conceptual Amendment 1 because of the fact that there are two more committees of referral and [the amendment] could not be finished today. He suggested passing the bill on to House Health, Education, and Social Services Standing Committee to address all of this issues. He also opined that scheduling HB 434 with House Judiciary Standing Committee is unnecessary and could be waived.

REPRESENTATIVE CRAWFORD said he does not feel comfortable letting the bill move on without addressing the concerns. He suggesting limiting the amount of the ability to prescribe drugs to level III and IV. He said he does not want psychotropic and anti-psychotic drugs to be included.

CHAIR ANDERSON asked how long the bill has been held for the subcommittee. It has been thirty days and the subcommittee came back with nothing, he opined. He said now he is being told by the whole subcommittee that there is no agreement on any of these concerns and he is being asked to hold the bill.

REPRESENTATIVE ROKEBERG said he would like to move an amendment.

REPRESENTATIVE DAHLSTROM noted that she would be more comfortable with the amendment about the prescriptive level being handled in this committee.

Number 1865

REPRESENTATIVE ROKEBERG moved to adopt Amendment 1, to delete [paragraph 4] on page 5, lines 16 and 17.

REPRESENTATIVE ROKEBERG explained that this is a point of contention and the bill has two more committees to go to.

REPRESENTATIVE CRAWFORD objected. He said that deleting [paragraph 4] is the correct thing to do but it does not go far enough.

REPRESENTATIVE ROKEBERG asked if Schedule III and IV drugs are controlled substances.

Number 1733

DR. YOUNG suggested dropping it down to Schedule II drugs. The dangerous psychotropic drugs are in Schedule I, he said.

REPRESENTATIVE ROKEBERG asked if Schedule I - IV drugs are DEA controlled substances.

DR. YOUNG replied yes. The schedules are set up by the Drug Enforcement Agency. Schedule I are drugs that are usually research only and very dangerous, he explained.

REPRESENTATIVE ROKEBERG repeated his question.

DR. YOUNG said yes.

REPRESENTATIVE ROKEBERG pointed out that Amendment 1 deletes all controlled substances.

CHAIR ANDERSON asked if abortion is minor surgery.

DR. YOUNG said no.

Number 1621

REPRESENTATIVE CRAWFORD asked if Prozac and Zoloft are controlled substances.

JASON HARMON, N.D., explained that Schedule II drugs are medicines that have a high potential for abuse. An example of a Schedule III drug is cough syrup and other codeine-based medicines. Valium is an example of a Schedule IV drug, he added.

REPRESENTATIVE ROKEBERG said he would include psychotropic and psychotherapeutic drugs as a friendly amendment to Conceptual Amendment 1.

Number 1491

REPRESENTATIVE LYNN asked what schedule RU486 would be under.

DR. HARMON said he does not know. He asked for clarification of the amendment, and whether the DEA license for naturopathic physicians would be deleted.

REPRESENTATIVE ROKEBERG said that is correct and there would be two other committees to put it back in.

CHAIR ANDERSON asked if there were any further objections to Conceptual Amendment 1.

REPRESENTATIVE GUTTENBERG objected.

A roll call vote was taken. Representatives Gatto, Dahlstrom, Lynn, Rokeberg, Crawford, and Anderson voted in favor of Conceptual Amendment 1. Representative Guttenberg voted against it. Therefore, Conceptual Amendment 1 was adopted by a vote of 6-1.

Number 1396

REPRESENTATIVE DAHLSTROM said that everyone in the room could see what just happened in the last ten minutes. She related:

The subcommittee met and discussed this and had meeting after meeting after meeting, talked with professionals from every aspect. You can see what happened here in the last ten minutes. We had paperwork that was ready to be presented; we got information to change those facts. I personally have been working on this since June, and so I don't take real kindly to someone telling me that they're embarrassed by what my actions were in the subcommittee and I state that for you to consider. I mean I think that there certainly have been things that have happened in this legislature that maybe people could and should be embarrassed about. I am not embarrassed by what our subcommittee did and the intent that we had from the very first time we met

until talking just right before we got here have been the concerns that are still on all of our minds. And, I feel it necessary to put that on the record.

CHAIR ANDERSON replied that his statement about embarrassment was simply that "a lot of folks came in and I feel that we didn't conclude or even come to any consensus." He noted that his comments were not directed at Representative Dahlstrom or toward any individual person.

REPRESENTATIVE LYNN said that debate and voting is necessary based on the perceived merits and demerits of the bill, whether anyone flew in to testify or not.

Number 1279

REPRESENTATIVE GATTO said a person does not have to be present to make sure that the bill passes out. He noted that the subcommittee did have agreements and the agreements were that prescription drug privileges were not in the best interest. He said Representative Dahlstrom is correct in that the committee did spend a lot of time on this bill. He said that there was concern because it appears that the naturopathic physicians already seem to be taking privileges that are addressed in this bill.

DR. HARMON said he does not represent himself as a doctor of naturopathic medicine even though it states that on his card.

CHAIR ANDERSON said that the next subcommittee should come up with some level of recommendation in order to be more concise. He said he does appreciate the subcommittee's work.

REPRESENTATIVE GATTO said that he did not have a chance to address question number four, but the committee eventually got to it.

Number 1183

REPRESENTATIVE ROKEBERG moved to report HB 434 out of committee, as amended, with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 434(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 421-DEED OF TRUST RECONVEYANCE

Number 1123

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 421, "An Act relating to reconveyances of deeds of trust."

CHAIR ANDERSON, sponsor, explained that HB 421 was introduced at the request of the Alaska Land Title Association (ALTA). The intent is to provide a process in state law whereby a reconveyance of deeds of trust can be recorded within a reasonable timeframe. Noting the presence of people from the title insurance industry to answer technical questions, he said the bill's language may appear complex, but the concept and purpose are intended to be simple.

CHAIR ANDERSON offered details, saying in a home purchase through a standard mortgage there is a deed of trust. Once the homeowner pays off the mortgage, the mortgage-servicing company isn't required by law to record the reconveyance of the mortgage with the State Recorder's Office, under the Department of Natural Resources (DNR), within any timeframe; it could take years to get the reconveyance recorded. These mortgage-servicing companies often are out of state, a practice likely to continue, and often find it difficult to take care of the reconveyances with the recorder's office in Alaska. Problems arise when the homes or properties are resold and additional time and complications impede the new sale.

CHAIR ANDERSON reported that since introduction of this legislation, Representative Berkowitz and Senator Stedman have identified this issue in recent property purchases. Pointing out that deeds of trust covered under HB 421 are only those held by a title insurance company, he said the heart of the bill is on page 1, lines 9-10, relating to the title insurance company's receipt of satisfactory evidence of the payment in full before beginning the reconveyance. Much of the bill focuses on ensuring a full and proper notification process, and standards are established for the notification forms in order to help ensure quality control. He noted that these sections were taken from Idaho's law on this matter.

Number 1000

MICHAEL PRICE, Owner, Mat-Su Title Insurance Agency, Inc. (Wasilla), and Fidelity Title (Anchorage); Member, Board of Directors, Alaska Land Title Association, offered to be the main person to answer technical questions. Stating support for HB 421, he said 20 years ago perhaps 99 percent of deeds of

trust in Alaska were done by in-state lenders; when mortgages were paid off, there was no significant problem with timely recording of releases. Increasingly, however, those are done by out-of-state companies that may even sell the mortgages to other companies. Whereas few deeds of trust experienced reconveyance problems previously, Mr. Price said he has been told several thousands now are known to have been satisfied and yet the reconveyance has become seemingly impossible. He agreed this situation isn't unique to Alaska.

MR. PRICE explained that with this bill, upon satisfactory proof of evidence of payment - which companies like his will have because they'll have a negotiated check or wire transfer of funds - there will be a vehicle and method to provide the release. This will benefit the stream of commerce and all Alaskans, he predicted. He requested favorable consideration of this much-needed bill.

Number 0801

REPRESENTATIVE LYNN disclosed that he is a licensed associate real estate broker with a major company that gets peripherally involved with reconveyances.

CHAIR ANDERSON told members he'd been advised that members didn't need to disclose conflicts unless they were on the House floor voting.

REPRESENTATIVE ROKEBERG said that's not necessarily true. He noted there is an advisory opinion before the Select Committee on Legislative Ethics [which he's a member of] on that very question.

CHAIR ANDERSON thanked Representative Lynn for the disclosure and requested that he vote on the bill if there is a vote.

Number 0766

REPRESENTATIVE ROKEBERG asked Mr. Price why it was decided to put the form itself in statute and whether there is a way to avoid that.

MR. PRICE said he presumes and believes the form was generated as a result of having a specific amount of information to be provided and to make sure the notification is uniform, no matter where in the state it occurs. He surmised that members of the industry won't find it objectionable because they deal with

statutory forms such as the general power of attorney on a regular basis.

Number 0684

REPRESENTATIVE ROKEBERG mentioned, "Receipt of satisfactory payment" and asked whether the canceled check, if that was all the company had, would be adequate for the record.

MR. PRICE answered affirmatively, saying 9 times out of 10 it will be a combination of the payoff information received from the outside lender and evidence that a check or wire transfer was sent to [that lender]. He added, "On some occasions, we will accept the evidence of the payoff amount ... and evidence that, let's say, a local bank did the closing ... as a result of a construction loan and that they sent the money." Thus he said he could foresee taking the representation of a reputable Alaskan business, principally a bank, that the payment was made. "But most of the time, I would say, it's going to be ourselves making the payment," he concluded.

Number 0615

REPRESENTATIVE ROKEBERG asked how it works, expressed concern about what the current law is regarding this issue, and asked whether the lender has to formally acknowledge receipt of the payoff of the note in order for [the title insurance agency] to issue the reconveyance.

MR. PRICE replied:

We receive a ... request for reconveyance executed by the lender, saying that it was ... paid off in full and to release the deed of trust or mortgage. ... However, there is no state statute, at least that I am aware of, that requires the lender to do that. Now, local lenders have always done it because ... it serves our stream of commerce. ...

Where we're having problems ... are those outside lenders ... who know ... they have refinanced ... 200,000 loans in the last year, and maybe in the next two or three years they'll get around to doing the request for reconveyance, but they're certainly in no hurry to add to their staff to do so. So there's currently no law that I'm aware of ... that requires

them to provide us evidence that the loan has been paid ... and to release it.

Number 0486

REPRESENTATIVE ROKEBERG pointed out that Mr. Price is a long-practicing attorney in this area, and suggested if he doesn't know about a law, there isn't one. He requested confirmation that there's no statutory mandate for notification or delivery of the request for reconveyance.

MR. PRICE answered:

Believe it or not, ... we do not. It is a matter of contract. And, of course, those companies that wish to do business in Alaska are more inclined to do so. However, as I indicated earlier and as you are aware, a lot of these deeds of trust go through three or four different assignments that we have to chase down to get the payoff, and those people are not licensed to do business in the state - they're not required to be, by the way - and ... they really have very little, if any, nexus to the state. ... Therefore, our ability to force them to do what is right is somewhat limited.

This puts the burden on the title industry. But, on the other hand, it is our burden to clear title and therefore it is ... the most responsible group to sort of require the release of these deeds of trust upon. ... And we are, by the way, ... an industry that is regulated heavily by ... the Division of Insurance. ... We are required to have fiduciary bonds. ... We are used to dealing with people's monies, and ... I think, are a trustworthy group to release deeds of trust when they've been paid.

Number 0300

REPRESENTATIVE CRAWFORD asked whether this bill would change the process of sending the owner a deed of trust to record after a property was paid off. He cited an example of his own rental properties [in Louisiana].

MR. PRICE said no. What happens to perhaps 95 percent of all deeds of trust won't change. When one is paid off, the request for reconveyance and the note are sent to the title company, which releases and reconveys it almost immediately. Once the

mortgage is paid off, the collection agent would send it automatically to the title company, or would send it to the owner with advice to send it to the title company. He said this bill would only affect the approximately 4 to 5 percent of deeds of trust that "we cannot get the lending institution to release, though we know they have received their payment."

Number 0205

REPRESENTATIVE CRAWFORD said he didn't recall ever sending a deed to a title company.

REPRESENTATIVE ROKEBERG explained that the title company holds the deed until it's satisfied; the request for reconveyance is the request "to send you the deed when you paid it off." He said that's it in a nutshell: these outside lenders aren't sending the verification or the request for reconveyance to allow the title company, which holds the deed, to provide it to [the owner].

REPRESENTATIVE CRAWFORD noted that Louisiana doesn't have title companies.

REPRESENTATIVE ROKEBERG said Louisiana has French codified law and contract real estate. However, Alaska is a "deed of trust state" where a trustee holds the deed until it is paid off.

MR. PRICE affirmed the last statement and said in most instances the local title company is named the trustee. In order to release the mortgage, [the title company] executes a document called a "deed of reconveyance." He remarked, "It's somewhat fictional in the sense that we're not deeding back the property, we're simply releasing the mortgage."

Number 0051

JEFF BLAKE, Stewart Title of Alaska, noted that he has been in the title insurance business since 1960 and in Alaska since 1975. Agreeing this problem has only appeared in the last decade because of dealing with outside lenders, Mr. Blake thanked Chair Anderson for sponsoring the bill and requested the committee's support. He said this speaks to the consumer who doesn't quite understand "how come we spent their money and documents still show there's an encumbrance on their property and, at this point, we can't effectively get that cleared for him." He said he'd like to be able to resolve this problem.

TAPE 04-33, SIDE A

Number 0006

TERRY BRYAN, President, First American Title of Alaska, noted that his company operates in 10 Alaskan communities and does business in 20 recording districts. Concurring with Mr. Price's testimony, he said liability for ensuring the transaction moves forward with this new reconveyance process "stays with a heavily regulated industry." Agreeing with Mr. Blake that this is consumer-oriented, Mr. Bryan described having to sit across the table from a single mother or an elderly couple and apologize that the house cannot be refinanced or sold because the title is clouded, since on the last transaction the lender hadn't provided what was needed, despite proof that the obligation had been satisfied. Mentioning one Anchorage company with 1,485 transactions [pending] from 1993 from outside lenders, he surmised that at least 6,000 consumers now have this problem of transactions where lenders haven't given the instructions to reconvey after [the terms] have been satisfied.

Number 0160

CHAIR ANDERSON called attention to Amendment 1, labeled 23-LS1315\D.1, Bannister, 3/18/04, which read:

Page 4, line 12:

Delete "title insurer's"

Insert "title insurance company's"

Page 4, line 27, following "section,":

Insert

"(1)"

Page 4, line 28, following "under the trust deed":

Insert ";

(2) "title insurance company" means a title insurance company or a title insurance limited producer; in this paragraph, "title insurance company" and "title insurance limited producer" have the meanings given in AS 21.66.480"

CHAIR ANDERSON asked Mr. Bitney to explain it.

Number 0178

JOHN BITNEY, Lobbyist for Alaska Land Title Association, explained that Amendment 1 was put forth at the association's

request to clarify those locations within the bill where it says "title insurance company". He said in other states, insurance industries are brokers, agents, and carriers. However, Alaska doesn't have carriers; all companies here have an underwriter or a carrier outside the state. Thus this amendment clarifies that this law applies to Alaskan companies.

CHAIR ANDERSON asked whether it is title insurance companies and only changes lines 12, 27, and 28 [of page 4] to be uniform in the bill.

MR. BITNEY affirmed that.

CHAIR ANDERSON closed public testimony.

Number 0297

CHAIR ANDERSON [moved to adopt] Amendment 1 [text provided previously]. There being no objection, it was so ordered.

REPRESENTATIVE LYNN remarked that he was shocked to hear there were 6,000 of these [pending cases related to this bill].

Number 0315

REPRESENTATIVE LYNN moved to report HB 421, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GUTTENBERG commented that as someone who isn't in the business but has bought and sold real estate, he'd always had the impression that one reason for using a title insurance company is to ensure that transactions are handled "instantaneously." He said it amazes him to discover one aspect of the industry hasn't been playing at the same table, and if this helps, he'll certainly support.

CHAIR ANDERSON announced that Representative Guttenberg had removed his objection.

Number 0415

CHAIR ANDERSON asked whether there was any further objection. There being no objection, CSHB 421(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 490-EMPLOYMENT SECURITY ACT AMENDMENTS

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 490, "An Act relating to the release of employment security records, to the admissibility of determinations and decisions regarding unemployment compensation benefits, and to contributions, interest, penalties, and payments under the Alaska Employment Security Act; providing that property under the Alaska Employment Security Act is not subject to the Uniform Unclaimed Property Act; and providing for an effective date."

Number 0466

TOM NELSON, Director, Employment Security Division, Department of Labor & Workforce Development, noted that he'd speak primarily to Sections 4-7, 9, and 11-13. He characterized the proposed changes as largely "housekeeping" and clarification of existing statute. The changes align Alaska's statutory language with federal law, and will bring Alaska into compliance with the unemployment insurance overpayment arrangement that Alaska has with other states.

MR. NELSON said Section 4 authorizes the department to adopt regulations providing for the distribution of unclaimed excess contributions, while Sections 5, 6, and 9 clarify statute by adding the terms "manager" and "limited liability company" to existing definitions. Section 7 brings Alaska into conformity with the interstate reciprocal overpayment-recovery arrangement that would allow Alaska to collect unemployment insurance overpayments on behalf of other states for reasons other than fraud. He explained that other states participating in this agreement already provide this service to Alaska.

MR. NELSON further explained that Section 11 aligns state statute with federal law by clarifying which health care professionals are excluded from the definition of employment. Section 12 clarifies language that provides exclusion from the definition of wages, of payments or benefits provided by an employer, for the purposes of educational assistance to its employees. He noted that federal law already excludes this type of educational assistance from the definition of wages. Section 13 removes reference to provisions of the Department of Revenue law regarding disposal of abandoned property. This would allow for unclaimed excess contributions to be deposited back into the unemployment insurance (UI) trust fund, as is the case with federal law.

Number 0629

MR. NELSON, in response to Representative Guttenberg, explained that excess contributions relate to overpayments for fraud and nonfraud purposes such as mistakes on behalf of a claimant or mistakes that the department might make. An example would be the department's mistakenly writing a check in excess of a claimant's eligibility. In further response, he said "excess contributions" refers to the benefit-payment portion of the UI system; he gave the example of an employer who overpays into the UI system and said this would result in the department's providing a refund or credit to that employer.

REPRESENTATIVE ROKEBERG said he dislikes this type of bill and explained, "You never know if there's a ringer in here."

Number 0743

REPRESENTATIVE GUTTENBERG referred to Section 7, page 3, and asked whether there is a national standard for entitlement.

MR. NELSON explained that the interstate reciprocal overpayment arrangement with other states was written in 1955, was amended in 1977, and isn't currently in alignment with that federal agreement. He added, "Currently we only are providing the fraudulent pieces with the other states. Other states do provide recovery of those payments back to Alaska, but we currently, because of our statute definition, do not provide the other to the other states."

REPRESENTATIVE GUTTENBERG asked whether Alaska was facing any sanctions for not being in alignment.

MR. NELSON said not currently, but the department wants to emphasize recovery of overpayments through its regulatory processes with the federal government. The annual audit of the federal program had mentioned that the department needs to review and update the applicable statute.

REPRESENTATIVE GUTTENBERG asked who pays into the UI fund and how often the excess in the fund is examined to recalibrate the contributions.

MR. NELSON explained that the employer contributes 80 percent, and 20 percent is contributed by employees. The fund is examined annually, and there is a trust fund solvency factor examined yearly that is based on several years' worth of

contributions and payments into and out of the trust fund. If payments into the fund exceed outgoing payments, a reduction in taxes could result, and visa versa.

Number 0948

TOBY NANCY STEINBERGER, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Anchorage), Department of Law, noted that she'd address Sections 1-3, which deal with allowing the release of employment security records for criminal investigation and prosecution purposes, and Section 8, which deals with the binding effects of unemployment compensation decisions. She told members:

Sections 1 through 3 of the bill will help criminal prosecutors - state, federal and municipal prosecutors - to investigate and prosecute criminal cases because it will help them locate suspects, witnesses, victims, and persons who are on parole or probation. As way of background, employers provide payroll information quarterly to the Unemployment Security Division, along with their employment security taxes. ...

The division also provides unemployment benefits to qualifying persons, and the division is substantially federally funded. ... The United States Department of Labor has required that employment security records are confidential, but has allowed for a number of exceptions within Alaska Statute 23.20.110. But none of these exceptions allows for the release of information for criminal prosecution other than in prosecuting cases against claimants who have fraudulently obtained unemployment compensation benefits.

The Criminal Division in the U.S. Attorney's Office has frequently wanted employment security records to find suspects, witnesses, and even victims, since this information is updated so frequently. However, because the statute does not allow for an exception for these criminal purposes, the division has denied the request.

We have had the U.S. Department of Labor review this amendment, and ... [it] has approved it. And, in fact, the U.S. Department of Labor has permitted other states to allow the release of employment security

information for ... criminal investigations and prosecutions, and these states include Washington, Iowa, Arkansas, Georgia, Utah, and Oklahoma. ...

Section 8 would amend Alaska Statute 23.20.497. Currently, that statute provides that unemployment compensation decisions are not admissible in a subsequent action or proceeding in another forum. This is because in unemployment cases, employers, ... because they have little incentive to participate ... in an unemployment case where someone's seeking unemployment benefits, ... because employers have little financial interest, because they don't pay unless they are self-insured, they don't have a financial interest in the outcome.

This amendment would clarify that ... subsequent action would also include an arbitration proceeding. So it wouldn't just be court proceedings or other administrative proceedings, but also would include arbitration proceedings.

Number 1152

REPRESENTATIVE ROKEBERG asked Ms. Steinberger to comment on Section 4.

MS. STEINBERGER deferred to Tom Nelson, but offered her understanding that this section refers to excess contributions paid by employers when the department hasn't been able to locate those persons.

REPRESENTATIVE GUTTENBERG asked Ms. Steinberger if she is saying there is an arbitration process built into the bill.

MS. STEINBERGER replied no. She clarified that a person who terminates and files for unemployment compensation is entitled to benefits immediately if the termination was for good cause. If it was without good cause or because of misconduct connected with the job, benefits are delayed for six weeks.

MS. STEINBERGER provided the example that sometimes an individual will claim at the employment security hearing that he or she was terminated due to discrimination, while the employer isn't able to attend the hearing but maintains the termination was because of poor work habits. She said it is possible that the employee would prevail at the hearing and later bring a

lawsuit against the employer; in this case, the evidence submitted at the initial proceeding and the decision wouldn't be admissible in a court proceeding or a Human Rights Commission proceeding. She pointed out that this bill would add that it is also not admissible in an arbitration proceeding.

Number 1297

REPRESENTATIVE ROKEBERG requested clarification on Section 4; particularly the part indicating that the bill deletes the sentence that says the regulations must be substantially similar to the provisions of the statute. He remarked:

That just scares ... me. ... Then I looked over at the sectional analysis, and then it told me ... what your motives were here. That's why I wanted to verify this. Under the sectional it says that the ESD [Employment Security Division] may have excess contributions from employers. Currently, they are disposed of under the Uniform Unclaimed Property Act. ... So it would appear that ... the intent of this section is to allow the department to write new regulations that will allow you to dispose of these unclaimed funds, as your new regulations see fit, without having to go through the Uniform Unclaimed Property Act. Would that be a correct assertion?

Number 1403

BILL KRAMER, Chief of Unemployment Insurance, Division of Employment Security, Department of Labor & Workforce Development, responded:

Section 4 authorized the department to adopt regulations providing for the distribution of unclaimed, excess contributions, taxes. The change removes reference to the provisions of the Department of Revenue law regarding disposal of abandoned property. ... Unemployment insurance federal law requires that unclaimed excess contributions be deposited back into the federally administered UI trust fund, and that's the reason that this section is here.

REPRESENTATIVE ROKEBERG asked if the intent of the legislature had to be subverted because of federal law and the supremacy

clause in the U.S. Constitution. He asked if the department had tried to refund excess payments to employers.

MR. KRAMER affirmed that the department refunds excess contributions directly to the employer and said that wasn't being challenged in Section 4. He said under the Department of Revenue's laws, unclaimed or abandoned property is to be swept back into the general fund. The federal unemployment insurance tax Act stipulates that these dollars be returned to the trust fund.

Number 1506

LEONARD M. LINTON, Jr., District Attorney, 3rd Judicial District (Anchorage), Department of Law, testified regarding Section 2. He said this provision allows his department to stay in contact with victims of crime and witnesses through sometimes-lengthy court proceedings. When people relocate, the department often doesn't have current contact information. He said this bill helps locate out-of-state witnesses and victims of crime and also aids in the investigation of sophisticated fraud cases, for example, a doctor who is cheating Medicaid or an insurance broker by not forwarding premium payments to the insurance company. The district attorney can locate and investigate former employees through their UI records.

CHAIR ANDERSON, upon determining no one else wished to testify, closed public testimony.

Number 1627

REPRESENTATIVE DAHLSTROM moved to report HB 490 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 490 was reported from the House Labor and Commerce Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:30 p.m.