

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 11, 2003

8:00 a.m.

MEMBERS PRESENT

Representative Bruce Weyhrauch, Chair
Representative Jim Holm, Vice Chair
Representative Nancy Dahlstrom
Representative Bob Lynn
Representative Paul Seaton
Representative Ethan Berkowitz
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 15

"An Act relating to establishing the Alaska No-Call List, a data base of residential telephone customers who do not wish to receive telephonic solicitations; providing that the data base be compiled at no cost to the customers; requiring paid telephonic sellers to purchase the data base; requiring telephonic sellers to identify themselves; requiring telephonic solicitors who are otherwise exempt from registration as telephonic solicitors to file with the Department of Law and purchase the data base; and providing for an effective date."

- HEARD AND HELD

CONFIRMATION HEARINGS

Personnel Board

Paulette Simpson - Douglas

- CONFIRMATION(S) ADVANCED

Alaska Public Offices Commission

Larry Wood - Eagle River

- CONFIRMATION(S) ADVANCED

EXECUTIVE ORDER 108 - TRANSFER FUNCTIONS TO DEPARTMENT OF HEALTH
& SOCIAL SERVICES

- EXECUTIVE ORDER ADVANCED

HOUSE BILL NO. 158

"An Act eliminating the longevity bonus program and making related conforming changes; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 157

"An Act eliminating the Alaska Public Offices Commission; transferring campaign, public official, and lobbying financial disclosure record-keeping duties to the division of elections; relating to reports, summaries, and documents regarding campaign, public official, and lobbying financial disclosure; providing for enforcement by the Department of Law; making conforming statutory amendments; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 161

"An Act allowing expenses of the correctional industries program that may be financed from the correctional industries fund to include the salaries and benefits of state employees."

- SCHEDULED BUT NOT HEARD

HOUSE JOINT RESOLUTION NO. 4

Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session.

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 15

SHORT TITLE:TELEMARKETERS NO-CALL LISTS

SPONSOR(S): REPRESENTATIVE(S)FATE

Jrn-Date	Jrn-Page		Action
01/21/03	0035	(H)	PREFILE RELEASED (1/10/03)
01/21/03	0035	(H)	READ THE FIRST TIME -

REFERRALS			
01/21/03	0035	(H)	L&C, STA, FIN
01/29/03		(H)	L&C AT 3:15 PM CAPITOL 17
01/29/03		(H)	<Bill Postponed>
02/07/03	0153	(H)	COSPONSOR(S): CHENAULT
02/07/03		(H)	L&C AT 3:15 PM CAPITOL 17
02/07/03		(H)	Moved CSHB 15(L&C) Out of Committee MINUTE(L&C)
02/10/03	0166	(H)	L&C RPT CS(L&C) NT 3DP 4AM
02/10/03	0166	(H)	DP: CRAWFORD, ROKEBERG, ANDERSON;
02/10/03	0166	(H)	AM: LYNN, GATTO, GUTTENBERG, DAHLSTROM
02/10/03	0167	(H)	FN1: ZERO(CED)
02/10/03	0167	(H)	FN2: (LAW)
02/10/03	0167	(H)	REFERRED TO STATE AFFAIRS
02/10/03	0172	(H)	COSPONSOR(S): CRAWFORD
02/18/03	0231	(H)	COSPONSOR(S): KERTTULA
02/18/03		(H)	STA AT 8:00 AM CAPITOL 102
02/18/03		(H)	Heard & Held
02/18/03		(H)	MINUTE(STA)
02/25/03		(H)	STA AT 8:00 AM CAPITOL 102
02/25/03		(H)	Scheduled But Not Heard
03/05/03	0450	(H)	COSPONSOR(S): CROFT
03/11/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 158

SHORT TITLE: ELIMINATING LONGEVITY BONUS PROGRAM

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0427	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0427	(H)	STA, FIN
03/05/03	0428	(H)	FN1: (ADM)
03/05/03	0428	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/05/03	0428	(H)	REFERRED TO STATE AFFAIRS
03/11/03		(H)	STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

REPRESENTATIVE HUGH FATE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 15.

JIM POUND, Staff
to Representative Hugh Fate
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Answered questions on HB 15.

STEVE CLEARY, Executive Director
Alaska Public Interest Research Group (AkPIRG)
Anchorage, Alaska
POSITION STATEMENT: Testified briefly during hearing on HB 15.

MARIE DARLIN
AARP Capital City Task Force
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 15.

REPRESENTATIVE HARRY CRAWFORD
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as cosponsor of HB 15.

PAULETTE SIMPSON, Appointee
to the Personnel Board
Douglas, Alaska
POSITION STATEMENT: Testified as appointee to the Personnel Board.

LARRY WOOD, Appointee
to the Alaska Public Offices Commission (APOC)
Eagle River, Alaska
POSITION STATEMENT: Testified as appointee to APOC.

BOB LABBE, Deputy Commissioner
Office of the Commissioner
Department of Health & Social Services (DHSS)
Juneau, Alaska
POSITION STATEMENT: During hearing on EO 108, explained the reorganization of DHSS.

KARLEEN JACKSON, Deputy Commissioner
Office of the Commissioner
Department of Health & Social Services (DHSS)
Juneau, Alaska
POSITION STATEMENT: Testified and answered question during the hearing on EO 108.

MIKE MILLER, Commissioner

Department of Administration (DOA)
Juneau, Alaska

POSITION STATEMENT: Gave some background regarding HB 158 and the Alaska Longevity Bonus program.

ACTION NARRATIVE

TAPE 03-19, SIDE A

Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting to order at 8:00 a.m. Representatives Holm, Seaton, Dahlstrom, Berkowitz, Gruenberg, and Weyhrauch were present at the call to order. Representative Lynn arrived as the meeting was in progress.

HB 15-TELEMARKETERS NO-CALL LISTS

Number 0040

CHAIR WEYHRAUCH announced that the first order of business was HOUSE BILL NO. 15, "An Act relating to establishing the Alaska No-Call List, a data base of residential telephone customers who do not wish to receive telephonic solicitations; providing that the data base be compiled at no cost to the customers; requiring paid telephonic sellers to purchase the data base; requiring telephonic sellers to identify themselves; requiring telephonic solicitors who are otherwise exempt from registration as telephonic solicitors to file with the Department of Law and purchase the data base; and providing for an effective date."

[In committee packets was a proposed committee substitute (CS), Version I, labeled 23-LS0058\I, Craver, 2/28/03.]

Number 0219

REPRESENTATIVE HUGH FATE, Alaska State Legislature, sponsor, referred to Version I and said it provides an opportunity for people not to receive annoying telephonic solicitations. The new language puts into place a plan to allow Alaskans to submit their phone numbers to be placed on a list that will eliminate sales phone calls from professional solicitors. It would require companies involved in telephone soliciting to purchase that list and make every attempt to not call those numbers. This won't eliminate every phone call. Groups will still be permitted to contact their members, and companies and organizations that have done business with a customer within the

last two years will still be permitted to contact homes and seek donations.

REPRESENTATIVE FATE said this has support from the AARP. He noted that many telephone solicitor calls are directed toward seniors. He spoke of the fast-talking scam artists who make "too good to come true" offers, taking the life savings out of the pockets of many of those senior citizens. He opined that while [federal efforts in progress] will help, much of the authority must remain in the hands of the state. Noting that much of the language is based on Colorado's, he said that state is "receiving and not losing funds from the program." He told the committee this is an opportunity to improve the lives of constituents by ending "this fast-growing intrusion into our private lives." He mentioned an intention to reduce or eliminate the fiscal note.

Number 0520

REPRESENTATIVE SEATON moved to adopt the proposed CS, Version 23-LS0058\I, Craver, 2/28/03, as a work draft. There being no objection, Version I was before the committee.

REPRESENTATIVE FATE clarified that an annual fee of \$5 [to be paid by the residential subscriber] is part of Version I.

Number 0720

REPRESENTATIVE GRUENBERG offered Amendment 1, which [applied to Section 9 of the bill but] read as follows [original punctuation provided]:

Section 2. AS 45.50.475(b)

Page 8, line 14, change "engage a person in a telephone conversation repeatedly" to "repeatedly engage a person in telephone conversations."

There being no objection, Amendment 1 was adopted.

Number 0810

REPRESENTATIVE GRUENBERG offered Amendments 2(a) and 2(b). Amendment 2(a) read as follows [original punctuation provided]:

Section 2. AS 45.50.475(b)

Page 2, line 18, remove "of \$750."

Amendment 2(b) read as follows [original punctuation provided]:

Section 2. AS 45.50.475(b)

Page 2, line 18, remove "of \$750."

This provision allows the attorney general to set the access fee.

REPRESENTATIVE GRUENBERG noted that Amendment 2(a) says it would be at least \$750, and Amendment 2(b) allows [the attorney general] to set the fee.

CHAIR WEYHRAUCH surmised that Representative Gruenberg was asking that the committee hold a policy discussion to decide whether the \$750 should be removed or put as a "floor."

REPRESENTATIVE GRUENBERG said he assumes [the committee] wants it to cover the cost. He suggested another option might be to change the word "must" on line 21 to "is intended to", for example. He said he'd just like to make sure these things mesh.

Number 0983

REPRESENTATIVE BERKOWITZ asked how many solicitations occur in the state. He explained that the question is whether \$750 will cover the cost, and that he was trying to understand the dimensions of the issue.

Number 1030

JIM POUND, Staff to Representative Hugh Fate, Alaska State Legislature, said it depends on how many calls are made regionally. He surmised that in Alaska three or four [companies make solicitous in-state calls]; many calls are generated from Outside. He estimated that there are 15 to 20 companies in the Seattle area and 30 to 40 companies in Colorado. He added, "Anymore, they seem to be able to call from anywhere in the country."

REPRESENTATIVE BERKOWITZ suggested that another alternative is to charge a fee each time the list is used, rather than allowing a subscriber to buy the list for a year.

MR. POUND said he would interpret the \$750 in the legislation as a one-time-only fee per year, much like a subscription.

REPRESENTATIVE BERKOWITZ explained that his suggestion was in the context of Representative Gruenberg's proposal to have a policy discussion with regard to subsidizing the cost of maintaining the list.

REPRESENTATIVE FATE posited that [having a per-use fee] could tend to raise administrative costs.

Number 1230

REPRESENTATIVE SEATON reported that his study of the fiscal note showed that at \$750, it would be a \$103,000 fiscal note in the first year, which would take approximately 125 subscribers to offset. Referring to the numbers of companies in and out of the state previously alluded to by Mr. Pound, he said he was trying to figure out how the bill would be enforced.

Number 1326

REPRESENTATIVE FATE responded that he thinks there was previous discussion regarding that point. He said there are ways of enforcing it, but there will also be "some slippage"; for instance, some solicitors change phone numbers and addresses every week. Regarding the others, he recalled that "there were ways in which the state could stop those kinds of solicitors, or force them to buy the list."

CHAIR WEYHRAUCH asked about charging a fee that would pay for the cost of the program, and leaving it up to the agency.

REPRESENTATIVE GRUENBERG indicated that's essentially the intent of Amendment 2(b).

REPRESENTATIVE FATE explained that the fiscal note had not yet been changed to reflect the effects of the \$5 per-person charge. He added, "That was to have changed this fiscal note and to have, if not completely covered the cost, to have come very nearly to covering the cost."

Number 1433

MR. POUND, in response to a question from Representative Seaton, said the phone company will have nothing to do with the fees. The company involved with the fees will be that with which the

Department of Law has contracted, because that is where the data base will be created.

Number 1476

REPRESENTATIVE DAHLSTROM told Representative Fate she didn't understand how the state could manage this without the phone company's involvement. She asked if he'd engaged in conversations with the various local exchange carriers and if they are able and willing to step up to the plate with regard to the enforcement that will go along with this.

REPRESENTATIVE FATE said several states do this very nicely. He deferred to Mr. Pound.

MR. POUND responded that he'd held a conversation with GCI, whose biggest concern was with the management of telephone lines and the associated costs. He noted that the \$5 fee and annual renewal requirement would eliminate GCI's concern. He said, essentially, a person's number would come off the list if that person didn't automatically renew and pay the \$5 each year. In further response, he reiterated that no money would go to the phone company; it would go to the contractor that would be contracted with through the Department of Law. It would be a matter of people's asking to be on the list, regardless of what phone company they used.

Number 1648

REPRESENTATIVE BERKOWITZ said it seems charging people \$5 to assert their privacy rights is a tad peculiar. He asked if there was any reason not to drop that provision.

REPRESENTATIVE FATE answered that there is probably no reason, but Alaska hasn't had any experience [with a no-call list]. He also mentioned the state's current population base. The \$5 is necessary in order to pay for the program, he opined; however, that doesn't mean that provision can't be dropped in the future, once there is some experience in the program.

REPRESENTATIVE BERKOWITZ said he can't imagine that the number of people who would register for this service would exceed 20,000-50,000. In that range, he said, the cost of administering the \$5 fees would take most of what income might result from administering those fees. He added, "I hate to go to people and say, 'You need to pay in order to be let alone.' I think that sends a real mixed message."

Number 1760

MR. POUND responded that people already have to pay a phone company for unlisted telephone numbers. A \$5 user fee would cover [the state's] expenses. He said, "If we do not charge a \$5 user fee and there is no ability to cancel out a telephone number, the telephone company is going to consider that additional cost on their end, and they're going to end up charging the fee and they'll get the \$5."

REPRESENTATIVE BERKOWITZ said it seems [the legislature] could see that costs are covered by having the amount be more than \$750. He explained that if people want to pay money to bother him at home, he is quite willing to let them do that; however, he doesn't think he should have to pay to tell them to leave him alone. He stated his belief that the burden is on [those companies] to gain access to his information, not on him to tell them to stay away.

MR. POUND told Representative Berkowitz that the "black dot" list - which the program under discussion has been equated to - is basically a "pay" service.

REPRESENTATIVE BERKOWITZ emphasized that it's a [service] with the phone company. He said there is an important difference between requiring the government to be an agent of pay, as opposed to a private entity.

Number 1859

REPRESENTATIVE SEATON referred to page 5, beginning on line 23, which read:

(4) calls on behalf of the person that result in violations of this section occur not more than twice in a 30-day period [AS 45.50.475 ARE INFREQUENT].

He said the way that reads to him is that a solicitor could call once a month - basically, several times a year - and not have a violation.

Number 1900

MR. POUND explained that the intent is to allow for two mistakes. The [language] is not designed so that if a solicitor

calls someone who is on the list, he or she can immediately be thrown into jail; it is designed to eliminate as many solicitous phone calls as is practicable. He added, "And if it becomes a problem under the harassment section, then it becomes a felony."

REPRESENTATIVE SEATON reiterated that his interpretation of the language is that a solicitor could call once a month without being in violation.

MR. POUND said that is the language of the Department of Law and that he doesn't think Representative [Fate] would object to eliminating that section.

REPRESENTATIVE FATE stated, "You sometimes have to make allowances for mistakes." He said he thinks the language simply allows for two mistakes in a 30-day period.

Number 2015

REPRESENTATIVE SEATON said he doesn't think it was anybody's intention to allow a telemarketer to call a person on the no-call list once a month. He asked if he might be misinterpreting the language.

MR. POUND said he interpreted the language to say that the solicitor would not be allowed to make more than two mistakes "out of their data base" in a 30-day period.

Number 2030

REPRESENTATIVE GRUENBERG referred to [page 5], beginning on line 12, which read as follows:

(d) A person who employs individuals to engage in telephonic [TELEPHONE] solicitations is not liable for the violation of this section [AS 45.50.475] if an employee solicits a residential telephone customer who is identified in the data base [TELEPHONE DIRECTORY] as not wishing to receive telephonic [TELEPHONE] solicitations if the person established that

(1) the person has adopted and implemented written procedures to comply with (a) of this section including corrective actions where appropriate;

(2) the person has trained its personnel in the procedures established under (1) of this subsection;

(3) the call that violated this section [AS 45.50.475] was made contrary to the procedures and policies established by the person; and

(4) calls on behalf of the person that result in violations of this section occur not more than twice in a 30-day period [AS 45.50.475 ARE INFREQUENT].

REPRESENTATIVE GRUENBERG said the way he reads that, a solicitor can make two calls to a person on the [no-call] list in any 30-day period and get away with it; a solicitor who makes three or more is in violation. He said he could understand the goal from [the Department of] Law, because [the deleted original language using] the word "infrequent" is vague, which could result in a constitutional challenge. He said the question is to decide what the standard ought to be.

Number 2155

CHAIR WEYHRAUCH reminded the committee that there were still proposed amendments pending. He remarked that Representative Fate had addressed the fiscal note, but it was based on the original bill. He acknowledged that it would be any sponsor's concern to have a low fiscal note, but said, "The fiscal note had not addressed these fee changes." He agreed with Representative Berkowitz that he doesn't want to have to pay to have someone not call him, which is like paying [racketeers] for protection. He said he also thinks [the legislature should] charge the people who want to take advantage of the consumer by calling at all hours to pay the cost of the program. Transferring the burden of the cost to the callers might result in a zero fiscal note.

Number 2265

REPRESENTATIVE HOLM asked if the purpose of the bill is to protect people from getting the [solicitous] calls; if so, why would someone want to pay a \$5 fee every year? He emphasized, "I don't want them to call ever." He asked how the committee might present an option for people to put their names on a list so that they'd never be called. He said Representative Berkowitz brought up an interesting point about rights. Representative Holm said, "I'm not sure when you get a phone that you have a right not to have somebody ring it." He stated his understanding that there is machinery currently on the market for approximately \$30 that prevents people from automatically dialing one's number. He asked for guidance. He

clarified that he wants to know if this bill will stop people from calling or only stop them from calling for a year because the \$5 fee has been paid.

Number 2366

REPRESENTATIVE FATE responded that [HB 15] is not a bill to protect. He said people would make the choice whether to be on the list.

REPRESENTATIVE HOLM responded that he never chose to be called to begin with.

REPRESENTATIVE FATE asserted that the ability to call people is simply freedom of speech. He said HB 15 may not prevent one or two calls from slipping through, because there are "renegade solicitors" who make a business of this. He reiterated that similar programs have been successful in other states. He said [the legislation] would reduce and, in many cases, eliminate those solicitations that are unwanted.

Number 2474

REPRESENTATIVE DAHLSTROM asked who would have the burden of proof that a solicitous phone call was made. She also referred to page 5 [line 24] and proposed a change from the 30-day period to no more than two call in a 365-day period. She added a suggestion to put everyone on the no-call list and let those who want to receive solicitous phone calls pay the fee.

REPRESENTATIVE FATE responded that arbitrarily saying that a solicitor may call nobody may be unconstitutional because of the freedom of speech amendment.

Number 2544

CHAIR WEYHRAUCH said everyone is angry about getting solicitous phone calls and [HB 15] needs to move.

REPRESENTATIVE FATE noted that he has received [numerous] public opinion messages [in support of] the legislation.

Number 2588

REPRESENTATIVE BERKOWITZ, in regard to Representative Holm's previous questions about the propriety of banning people from making phone calls, said people put "no trespass" signs on their

doors. He said he honors those when he campaigns and hopes the other legislators do too. He said he is weighing in with those who previously said the \$5 fee should not be passed, but that cost should be passed on to the solicitors. He asked that [the sponsor] make sure that [automated calls] are addressed as well, since they aren't live calls from people and are "way more annoying than they ought to be, even when they are political ones from the President."

CHAIR WEYHRAUCH stated his intent to pass the bill out of committee by Thursday [March 13, 2003] as a committee substitute that would speed through the House Finance Committee.

REPRESENTATIVE FATE said he would appreciate the assistance of the committee.

REPRESENTATIVE BERKOWITZ noted that the \$5 issue is a policy call for this committee to make, whereas working on the fiscal note is the job of the House Finance Committee.

CHAIR WEYHRAUCH said he thinks the focus of the committee is to have "as much of the burden of the program pass to those who would take advantage of the consumer."

Number 2717

REPRESENTATIVE GRUENBERG stated a need for either an interstate compact or federal legislation. He suggested adding a provision to the bill requesting the federal government to legislate in this area, because these companies are not Alaskan companies.

REPRESENTATIVE FATE related his understanding that there is pending federal legislation.

Number 2804

STEVE CLEARY, Executive Director, Alaska Public Interest Research Group (AKPIRG), let the committee know that he would be available whenever HB 15 is scheduled again. He said he was in Colorado recently, and his relatives [lauded] the program there. He said, "The fact that it's more than paying for itself speaks to how worthy this program is."

Number 2869

MARIE DARLIN, AARP Capital City Task Force, testified in support of HB 15, noting that the committee had a letter of support from

[AARP's] state office in which it addressed the fact that there is currently proposed federal legislation. Notwithstanding that, she said AARP's members strongly feel that [Alaska] needs to have its own law, because the [pending] federal law does not go far enough and doesn't preclude states from having "stronger bills." She noted that the "black dot" program costs \$5 to \$8, depending on a person's phone company's rates. She said probably two-thirds of seniors [in Alaska] would pay \$1, if that amount were offered, in order not to be called [by solicitors].

Number 2946

REPRESENTATIVE HARRY CRAWFORD, Alaska State Legislature, cosponsor HB 15, said the amount of \$750 was set in an effort to establish a self-supporting program, after looking at other states' programs, which were between \$300 and \$800.

TAPE 03-19, SIDE B

Number 2996

REPRESENTATIVE CRAWFORD said the program should be paid for by the people who want to make money with it; consumers shouldn't have to pay to be left alone. He referred to the current "black dot" list and said, in some places in rural Alaska, it costs up to \$50 to get on it. He noted that only 2 percent of subscribers in Alaska get on that list, whereas in other states that have a do-not-call list, the number of subscribers is 10 to 20 percent. He offered his belief that \$750 would be an adequate amount to attract third-party contractors to administer the program at no cost to the state.

Number 2917

REPRESENTATIVE BERKOWITZ asked Representative Crawford if he knows if other states have a mandatory fine for violation of the provisions.

REPRESENTATIVE CRAWFORD answered, "It's all over the board as to what becomes a violation." He said he thinks two calls per month is probably the most lax. He noted that [the sponsor] had used much of the language from the Colorado bill, but added, "We left that part out."

REPRESENTATIVE BERKOWITZ said it seems that if there were mandatory sanctions for violations, those sanctions would help offset the cost of the program. He added, "There's unscrupulous

solicitors out there, and we ought to be dinging them for the cost of this, rather than the people of the state."

Number 2878

REPRESENTATIVE CRAWFORD said the State of Oregon is making more money back on the program with its prosecutions than it ever put out. It is a positive fiscal note once the program gets under way. He informed the committee that when Louisiana [adopted] a do-not-call list, 50,000 people signed up in the first week.

REPRESENTATIVE FATE mentioned including the Department of Law in discussions of HB 15 [that would take place between this meeting date and the next hearing on March 13, 2003].

CHAIR WEYHRAUCH announced that HB 15 would be held over.

CONFIRMATION HEARINGS

CHAIR WEYHRAUCH brought before the committee the confirmations of Paulette Simpson and Larry Wood, appointees to the Personnel Board and the Alaska Public Offices Commission, respectively.

Personnel Board

Number 2796

PAULETTE SIMPSON, Appointee to the Personnel Board, related her understanding that the function of the [Personnel Board] is to approve and disapprove amendments to the state personnel rules, to consider extensions of the partially exempt and classified service, and to hear appeals under the Alaska Executive Branch Ethics Act. She said she is pleased to be able to serve on the board.

Number 2760

REPRESENTATIVE BERKOWITZ asked Ms. Simpson to confirm that she is an official with the Republican Party.

MS. SIMPSON said she is vice chair [of the state party].

REPRESENTATIVE BERKOWITZ explained his reason for asking: Several years ago, when Katie Hurley was nominated to serve, the majority in the legislature at that time rejected her appointment because of her partisan affiliation. He asked Ms.

Simpson to comment on that action and how that might bear on her own nomination.

MS. SIMPSON responded that she thinks that is a judgment the legislature will have to make. She said she is reviewing the minutes of the past two years with regard to the activities of the Personnel Board. Saying she frankly doesn't see much of a conflict there, she invited members to review those minutes.

REPRESENTATIVE BERKOWITZ made the following statement:

When the legislature rejected Katie Hurley, I thought that was one of the most disgraceful moments during my service in the legislature. And I don't think that just because someone has a partisan office necessarily disqualifies [him or her] from serving on a public commission. I just wanted that to be clear.

Number 2682

REPRESENTATIVE GRUENBERG surmised that [the board] acts on executive ethics complaints.

MS. SIMPSON answered, "When there are some, yes."

REPRESENTATIVE GRUENBERG asked whether it sits in a quasi-judicial capacity. He said there is concern, not on a partisan basis, but as to whether there is an inherent conflict. He explained, "When somebody sits in a quasi-judicial capacity, and when they have an official partisan office, ... they may each impact on each other. And I haven't figured out exactly what the right result is yet, but I just wanted that on the record, because we went through this on the House floor last week." He told Ms. Simpson it sounds as though she is in a similar situation to the one involving Mr. Ruedrich [a Republican Party official who is also on the Regulatory Commissioner of Alaska (RCA)], and that this is a quasi-judicial body.

Number 2589

REPRESENTATIVE BERKOWITZ asked Ms. Simpson how she would act if, for example, there were an ethics complaint against Mr. Ruedrich. He asked if she would recuse herself.

MS. SIMPSON responded, "I expect I would be required to." Regarding her familiarity with the board's responsibilities, she said she has read all the minutes. Most of the ethics

complaints are not made public, and it is difficult to tell when reading the minutes which ones have been considered. In further response, Ms. Simpson said she believes she can sit "fairly and objectively." She added that she doesn't believe she'd have been nominated to serve if she weren't viewed as being as fairly objective.

REPRESENTATIVE BERKOWITZ explained that Ms. Simpson's name had come up in conjunction with taking over party services because Mr. Ruedrich had said he was not going to be serving in that capacity; thus she clearly would be working closely with him in her party position.

MS. SIMPSON explained that [Mr. Ruedrich] had taken over all of the federal issues of the party, whereas she is working in districts and on statewide fundraising. She said although she contacts [Mr. Ruedrich] from time to time, a division of responsibilities exists.

CHAIR WEYHRAUCH noted that Ms. Simpson's work with the school district and raising her children was not included on her resume.

MS. SIMPSON added, "Or the museum."

Number 2485

REPRESENTATIVE GRUENBERG clarified that none of his previous comments were meant to reflect personally on Ms. Simpson.

[Although no formal motion was made, the nomination of Paulette Simpson, appointee to the Personnel Board, was treated as advanced from the House State Affairs Standing Committee.]

Alaska Public Offices Commission

[Contains discussion of HB 157]

Number 2470

LARRY WOOD, Appointee to the Alaska Public Offices Commission (APOC), told the committee he was born in Alaska in 1950; spent some "growing-up years" in Washington State; and has spent the last 18 years in Alaska, in Fairbanks and then in Eagle River. He is married with four children. He is an attorney who has been practicing in Alaska for 28 years, the last 12 years with Alyeska Pipeline Service Company, currently as assistant general

counsel. He said he has previously served as a general counsel at the Alaska Railroad Corporation and, prior to that, as chief assistant attorney general for the State of Alaska in Fairbanks.

MR. WOOD noted the irony of being before the committee while pending legislation exists [HB 157, which would eliminate APOC]. In response to a question by Representative Berkowitz, he clarified that his name might be familiar because a different Larry Wood, perhaps from Palmer, ran for a House seat this past fall.

Number 2348

REPRESENTATIVE GRUENBERG asked Mr. Wood to describe his views on the role of APOC and his role as a commissioner.

MR. WOOD listed four central functions of the commission: campaign financing, lobbying registration, disclosure of income and interests of public officials and candidates, and regulation and enforcement of complaints for the aforementioned areas. He described the role of commissioners as follows: to help oversee the work of the staff and the director in enforcing and ensuring that those laws are fairly administered and, from time to time, to adjudicate complaints that come before the body. In further response, he said his philosophy is that those things are very important. The agency has its roots in 1974 legislation. Across the country, historically, there have been campaign finance reform bills and legislation impacting all the states. He said he believes in the firm administering of those laws and he expects that [Alaska] will continue to ensure that [those laws] are protected and honored.

REPRESENTATIVE BERKOWITZ asked Mr. Wood if he had any thoughts regarding the proposed elimination of APOC.

MR. WOOD responded that obviously oil production and revenues are declining. He said he is sympathetic to the task faced by the governor and the current legislators to attempt to identify efficiencies in state government. Furthermore, this is a regulatory and quasi-judicial agency. He noted that [the commission] held a teleconference yesterday and is beginning to assemble facts and a history. He mentioned a brief discussion of what [the commission's] functions are and what it's doing in order to assist the governor and the legislature. He said, "I think it's incumbent now, in our agency, to ensure you have all the facts and information you'll need to make the right decisions."

[Although no formal motion was made, the nomination of Larry Wood, appointee to the Alaska Public Offices Commission, was treated as advanced from the House State Affairs Standing Committee.]

EXECUTIVE ORDER 108 - TRANSFER FUNCTIONS TO DEPARTMENT OF HEALTH & SOCIAL SERVICES

Number 2140

CHAIR WEYHRAUCH announced that the next order of business was Executive Order (EO) 108, transferring functions to the Department of Health & Social Services.

Number 2063

BOB LABBE, Deputy Commissioner, Office of the Commissioner, Department of Health & Social Services (DHSS), explained that most of the reorganization of DHSS isn't included in EO 108 because it could be done without an executive order. The primary action called for in EO 108 is the movement by statute of some programs that are currently in other departments and of some "commission and board activity" into DHSS. The goal is to improve program alignment and to consolidate similar programs within the department. Mr. Labbe said the department would be giving a presentation and providing details at the 3:00 p.m. House Health, Education and Social Services Standing Committee meeting on this date.

CHAIR WEYHRAUCH noted the need for the current committee to hear it too.

MR. LABBE suggested starting with the presentation and then addressing the executive order. He reiterated that the intent [of EO 108] is to integrate the services and combine similar programs for alignment, with the idea to improve customer service, efficiency, and coordination of programs. For example, he said [DHSS] worked with the Division of Senior Services, which is part of the Department of Administration, to administer home- and community-based care programs for seniors and persons with disabilities. During that time [DHSS] found that to make certain improvements often required two commissioners and three or four division directors to get together. He said it was a great collaboration, but things didn't move as efficiently as they could have by putting everything under one department and into a single division.

MR. LABBE noted that the reorganization will create several new divisions by combining divisions. He referred to page three of a document ["Reorganizing Alaska's Department of Health & Social Services for Better Customer Service," included in the committee packet, of which page three was henceforth handed out in a larger print]. He explained that the Division of Longevity Programs, including the Longevity Bonus and the Pioneers' Homes, will be moved [from the Department of Administration] to DHSS. "Child Care Assistance" and Child Care Licensing will be moved from the Department of Education and Early Development (EED) into DHSS, and the Commission on Aging and the Alaska Pioneers' Homes Advisory Board will be moved into DHSS, he noted.

Number 1676

MR. LABBE said [DHSS] has changed the designation of the Division of Alcohol and Drug Abuse - separately identified in statute - by putting its duties and responsibilities under DHSS generally. Other adjustments in the proposed restructuring include creating these new divisions. Two new offices are established within the department. One, an office of rate review, would oversee rate setting for all of the fee-based programs; work on alignment; and make sure rates are well thought out, reasonable, and well-managed, and that they make sense "across things that are similarly performed throughout the year [by] the department." He explained:

This would include such things as our hospital and nursing rates through Medicaid, our foster care rates, our childcare facility rates, that sort of thing. We wanted to create a body of expertise. We've also created an Office of Program Review, which will be primarily into ensuring that the programs are working well together and to provide oversight, and to make sure that we're maximizing our use of federal funds and diminishing our use of state general funds.

One of the things we can do, by some of these consolidations, is to combine some of our federal funding program with some of our general fund programs that are providing similar services, so that we can look at the opportunities to replace the general fund because of our fiscal issues that we're dealing with.

We're also going to increase our emphasis on program integrity, aiming to curb instances of fraud and abuse

in program services, and we're going to have an increased focus on our faith-based initiative. Karleen [Jackson] will be heading that upward. We're ... very interested in improving customer service so that we are responding appropriately and promptly to constituents, not always getting what you're asking for, but at least getting a response promptly. And I think with the way some of it has been organized in the past has ... just sort of evolved over time. People are kind of bounced around too many spots sometimes, because of the way the programs have been placed.

Number 1449

MR. LABBE said a third deputy [commissioner] position is being established and will replace the director of the current Division of Family & Youth Services (DFYS), which will essentially be eliminated; a new Office of Children's Services will be created. He mentioned that the traditional child protection activity will be in that office. [A large chart was placed in position for viewing.]

MR. LABBE noted that some programs which currently reside in the department in other divisions, primarily in the Division of Public Health, will be moved into the new Office of Children's Services: the WIC Program [Special Supplemental Nutrition Program for Women, Infants and Children], the Infant Learning Program, and the Healthy Families Program. In response to a query by Chair Weyhrauch, he said the chart is the proposed reorganization, supported both by EO 108 and adjustments made under the commissioner's authority. The majority of functions are currently in DFYS. The governor wished to elevate the position, acknowledging the importance of this area, he said, and [DHSS] has renamed it the Office of Children's Services. He added, "We also wanted to put in some family support service activity, so the focus was not simply on the child protection and foster care, but also to provide some additional services in that, so we can consolidate services for children in a single division."

Number 1294

MR. LABBE said the Division of Health Care Services is new and is a creation from the current Division of Medical Assistance, which has administered the Medicaid program. He continued:

We also have combined, in this program, some other ... Division of Public Health programs, such as the Breast and Cervical Cancer screening program [and] Infant Screening and Testing programs. And in this health care services area, we have also taken out of the Division of Medical Assistance some responsibilities that have been tied to the Medicaid program for behavioral health and long-term-care services and moved these other divisions [that] we'll get to.

MR. LABBE said the intent with regard to the Division of Health Care Services is as follows:

The primary customer focus is the health care provider community that receives provider payments for health services. This would be your physicians and hospitals and doctors and pharmacists. And we found that the provider groups that these other public health programs were working with were essentially the same they were receiving for similar health services. So, that's really what's behind that area.

MR. LABBE noted that the Division of Alaska Longevity Programs is transferred by EO 108 and that there are no other changes within the structure at this time.

Number 1173

REPRESENTATIVE SEATON asked about public health.

MR. LABBE answered that it will continue to exist as the Division of Public Health, but the focus will be on its core public function. He elaborated:

This division focuses on, primarily, disease prevention and control, homeland security related to public health. I think you're all aware of the work that's being done in the bioterrorism activity and the infrastructure that's being put together there, the recent discussions with smallpox and whatnot - this is all being handled in that division.

We're also consolidating some of our ... planning functions. ... Part of our facility planning has been in our Division of Administrative Services that is handling certificate-of-need functions, and we are

putting those into this reconstituted Division of Public Health.

And we're also anticipating consolidation of licensing of health care and other department providers. That would not happen immediately, but would happen probably the following year; ... we would bring in not only our hospital and nursing home licensing functions, but also the assisted living, childcare licensing, and foster-care licensing into one section. That won't show up in the '04; that would be probably an '05 action. That's sort of further down.

MR. LABBE indicated the Division of Senior and Disability Services on the chart. He said EO 108 will bring in some functions that have been in the Division of Senior Services, Department of Administration. He noted that currently there is a Division of Mental Health and Developmental Disabilities. The developmental disabilities part will be merged into the new Division of Senior and Disability Services, which will provide a broader array of long-term care services, community-based services that are provided under Medicaid waivers for both the "DD" [developmental disabilities] and the senior and disabled populations, currently administered by two different divisions and two different departments. The Medicaid financing, he said, which had all been part of the current Division of Medical Assistance, would be moved into that division. He said the Division of Health Care Services would have "sort of" the acute care; the Division of Senior and Disability Services would have the long-term care and "Medicaid financing."

Number 0899

REPRESENTATIVE HOLM asked whether "independent living" fits into this department.

MR. LABBE said he believes that can be found in the Department of Labor [& Workforce Development], associated with the Division of Vocational Rehabilitation. At this point, he said, it isn't part of the restructuring being addressed, although it might be something to consider later. Returning to his presentation, he continued:

The other piece here that is sort of what we would call our "phase two," ... the Adult Public Assistance Program, which is ... cash assistance for persons with disabilities and seniors that's currently administered

in the Division of Public Assistance. We envision transferring that whole set of responsibilities to the Division of Senior and Disabilities Services, but it won't show up in the '04 budget; it will be most likely the following year, because it's a significant restructuring in itself. But the idea when we're done is that you would have all of the senior and disabilities services in one place. Application[s] for cash grant, medical assistance, [and] community-based care all can be handled through that one stop.

MR. LABBE invited his colleague to outline the next column on the chart.

Number 0758

KARLEEN JACKSON, Deputy Commissioner, Office of the Commissioner, Department of Health & Social Services), noted that Mr. Labbe has been working [with the proposed changes] "forever," whereas she is looking at it with "new eyes," more like the committee members. She returned attention to the Office of Children's Services [column] and noted that all the items listed without something in parentheses are already within what is now called DFYS. She clarified that unless there are parentheses, nothing has changed.

MS. JACKSON listed the items in the third column on the chart, which read [with a few technical and formatting changes]:

Division of Public Assistance

Current functions of DPA (except APA)
Denali KidCare Outreach (from DPH)
Childcare Assistance

Division of Administrative Services

Current functions of DAS (except Health Planning
& CON)

Division of Juvenile Justice

No changes

Division of Behavioral Health

Mental Health Programs
Alaska Psychiatric Institute
Residential Psychiatric Treatment Centers (RPTCs)
(from DMA)
Inpatient Psychiatric Care (from DMA)

Substance Abuse Programs (from ADA)
Fetal Alcohol Syndrome Program (from ADA)

Boards and Commissions

Suicide Prevention Council
Alaska Mental Health Board
Governor's Advisory Board on Alcoholism and Drug
Abuse
Alaska Commission on Aging
Governor's Council on Disabilities and Special
Education
Pioneers' Homes Advisory Board

MS. JACKSON said the biggest change within this block lies in the Division of Behavioral Health, a new concept of dealing with co-occurring disorders which so many of the department's clients have, involving mental health and substance abuse. She said the boards and commissions are essentially the same, except for the addition of the Alaska Commission on Aging and the Alaska Pioneers' Homes Advisory Board.

Number 0535

MR. LABBE, in response to a question from Representative Seaton, said the Public Health Nursing section remains in the Division of Public Health. He reiterated that the Infant Learning Program and the Healthy Families [Alaska] are moving to the Office of Children's Services. He mentioned the Breast and Cervical Cancer [Screening] and the Infant Screening and Testing [programs, listed under the Division of Health Care Services]. He said he thinks it has been found that the Public Health Nursing section of the Division of Public Health is also a service provider, and will continue to provide services that would be partially supported through the Division of Health Care Services. He mentioned the Medicaid program's having paid for nurses to provide more child screening, for example, and said that will continue, "especially in those areas that don't have that kind of capacity in the private sector, or other types of providers to do that work."

REPRESENTATIVE SEATON summarized his understanding, then, that a public health nurse would serve as a contract agent for the Division of Health Care Services, doing infant screening in appropriate areas, or that a private clinic also could do that screening as a contractor.

MR. LABBE responded, "I believe that would be the way I would look at it."

Number 0410

MR. LABBE said part of the department's initial concept was the decentralization of the Medicaid program, which was in excess of \$800 million. He said it is, essentially, a federal program that pays for state services and requires state matching funds. He said the types of services supported by that program are sometimes referred to by people as "health services"; however, he stated the following:

This whole long-term-care area, which is heavily Medicaid-financed around the country, including Alaska, ... includes your nursing facilities and your homecare services. [It] really takes on a different focus and constituency around it in, say, your physician services and your hospital services. Splitting those up allows more management oversight and more focus on that.

A number of states have moved in this direction and, ... given our fiscal issues today, I think that for a long time we thought, "Well, we can make this work the way we were doing it." But it creates more fiscal responsibility in the divisions that are actually doing the day-to-day administration of community-based care service and the authorization.

In the past we've had, through Division of Medical Assistance, agreements with other divisions to, say, screen people and sign them up for these programs, but the fiscal responsibility all went to the Division of Medical Assistance. And so the Division of Medical Assistance budget would grow and grow and grow, and those people making the decisions about the services were somewhere else.

And so, by moving the fiscal responsibility and the regulatory responsibility there, I think that the directors and I, ... our intent is to hold the directors of these divisions accountable, provide them the tools and flexibility to manage these areas. ... We believe that we can make a significant improvement in not only the access and service ... in the customer service, but also the efficiency of the program - not

only administrative efficiency, but also fiscal, simply looking at program opportunities.

And the Division of Behavioral Health is another good example where we have Medicaid through the prior division paying for like mental health services to psychiatric hospitals and psychiatric facilities, and the Division of Mental Health providing grants - the community providers. And by putting this institutional community together under a director whose job it is to make sure all that's working well, ... there's some opportunity to providing a broader array of community services and probably reducing institutional costs, which are generally so much higher than community-based service.

There's a number of programmatic issues that are buried in the structure, and the structure we believe will move us closer to a model that will allow us to focus on these things.

Number 0071

REPRESENTATIVE SEATON said, "I think what I'm hearing you say is that we're qualifying too many people, and if we put the budget in with each one of those purposes, then we'll have the people not qualify as many people." He mentioned making individual judgments.

TAPE 03-20, SIDE A

Number 0001

MR. LABBE responded that the person responsible for a budget in an area will be accountable to make sure that the decision making is accurate. That person will also have authority to develop regulations to make sure only the most appropriate services are being provided, for example. There will be more "direct line" responsibility. The issue right now, he said, is who is in charge. He said [the department] will be working through the Office of Program Review on program integrity.

Number 0164

REPRESENTATIVE SEATON stated concern that in some areas there are aggressive providers who, following regulations, bring people into the system, which increases the load. He continued:

I'm a little uncomfortable, if what we're saying is we're going to give the budget over here so that individual providers have to pick and choose who is going to receive services, instead of changing the regulations to limit who is going to receive, statewide, those services.

REPRESENTATIVE SEATON asked that [the department] "incorporate that into this, so that everybody is playing with the same ball."

Number 0271

REPRESENTATIVE BERKOWITZ commended and thanked [Mr. Labbe and Ms. Jackson]. He asked them to remember, as they go through the budget battles, that the department is about people, not programs, and to fight hard for their budget dollars. He noted that Denali KidCare, for example, has been viewed sometimes as being on the chopping block or at least being trimmed back. Asking them to continue to aggressively expand the program, he said there were some innovative results in the task force that the last administration initiated, suggesting ways of pooling pharmaceutical costs with other states that result in reduced costs. He indicated there are many initiatives in other states to ensure quality medical care and reducing the overall cost of medicine; he posited that [the department] needs to continue [looking at those options].

REPRESENTATIVE BERKOWITZ said the courts have been very aggressive with mental health. He remarked, "I want to make sure that we're continuing in that direction." He said he has heard overmuch discussion regarding programs, and he reemphasized that he is watching what the reorganization does in terms of how it affects people. He spoke of homes devastated by domestic violence, child abuse, people who have an inability to get access to health care, and making people choose between children as to who gets what. He said, "Those are really dramatic choices. I don't think we should be trying to balance the budget on the backs of those people." He asked Mr. Labbe and Ms. Jackson to carry that message where it needs to go.

Number 0472

MS. JACKSON said she really appreciates Representative Berkowitz's comments and, having newly come from the nonprofit sector and having dealt with those families, agrees with his statements. Part of her personal focus, she said, is ensuring

that there are program alignments that allow those being served to see the state as invisible - not to have to deal with different divisions or programs, but to be able to walk in with complex needs and get the services they require. She noted that Mr. Labbe not only is an expert at the details of program and budget, but also has "a heart for the people we serve."

Number 0559

MR. LABBE told the committee the reorganization plan was announced on March 4 [2003] and the governor released his budget on March 6, which reflects a number of the previously discussed changes in the FY 04 budget. He said EO 108 would take effect July 1, 2003, which is when most of the implementation would take place. Some [changes] would be implemented in 2004, such as the Adult Public Assistance and the licensing-functions consolidation. He said it is an ambitious agenda, with a lot of work to do internally and externally.

Number 0665

REPRESENTATIVE SEATON asked if the Division of Senior and Disabilities Services would include all disability services, for example, "children" and "disabled" as well as seniors.

MR. LABBE responded, "The disabilities would include children, as well, that are receiving the Medicaid community-based services." He mentioned that the Infant Learning Program provides some services to children with disabilities, but the Medicaid-financed services and the developmentally disabled grant services would be part of that disability distribution.

MR. LABBE told the committee, regarding the federal Medicaid program, that there are only certain things that the federal government will allow when "you break up the package." For example, [the department] can't split physician services between two divisions. As a result, [the department] ends up with not just seniors in the Division of Senior Services, but with younger people who, for example, are receiving "some type of ... personal care attendant - it could be a family member - because you just have to administer the one spot." He mentioned "smaller numbers of individuals that are in that group" and added, "So, the larger group is served when you consolidate it."

CHAIR WEYHRAUCH noted that this is the only committee of referral for EO 108.

Number 0880

REPRESENTATIVE SEATON moved to advance EO 108 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, EO 108 was advanced from the House State Affairs Standing Committee.

Number 0956

REPRESENTATIVE BERKOWITZ suggested it would be appropriate for the House Health, Education and Social Services Standing Committee to view [EO 108] as well.

CHAIR WEYHRAUCH said that could be a consideration.

REPRESENTATIVE BERKOWITZ said the committee did not hear any contrary opinion and he doesn't know if it exists. If there is criticism, he suggested, perhaps the legislature could "constructively modify components of this change."

CHAIR WEYHRAUCH responded that public notice of the current hearing was given and no one was present to testify on EO 108 or criticize it. No one responded by e-mail or in writing, either, he noted. He said the other EOs are getting more attention. [EO 108 was advanced from committee.]

HB 158-ELIMINATING LONGEVITY BONUS PROGRAM

CHAIR WEYHRAUCH announced that the last order of business was HOUSE BILL NO. 158, "An Act eliminating the longevity bonus program and making related conforming changes; and providing for an effective date."

Number 1070

MIKE MILLER, Commissioner, Department of Administration (DOA), explained that his role was to give some background regarding HB 158 and the Alaska Longevity Bonus program. He reminded the committee that there have been three major votes in the legislature regarding the Alaska Longevity Bonus program; he was in the legislature for two of those votes, while his older brother was in the legislature for the first vote. He said he discussed the first vote at length with his brother. The vote was taken in the mid-1970s and created the Alaska Longevity Bonus program; at that time, it had a type of sunset clause because the only people who could qualify were those who'd been in Alaska before 1959 - before statehood. Commissioner Miller

said, according to his older brother, it was an effort to reward Alaskans who had been in the state during the territorial days.

COMMISSIONER MILLER said there was a case against a longevity bonus program in 1984 - the Vest case - which challenged the constitutionality of the territorial clause; the State of Alaska lost in the Alaska Supreme Court. Commissioner Miller said he was in the legislature at that time and it had two choices: abolish the program or open it up to all seniors. He noted that [the state] was "awash in oil dollars" at the time and opened the program up to all seniors. He indicated, in retrospect, that this was a mistake.

Number 1237

COMMISSIONER MILLER said in 1994 the program's costs were beginning to "run wild" in the amount of \$67 million and were projected to be over \$100 million within the next couple of years, with no end in sight; [the legislature] decided something had to be done and chose to "stair step" the program. He took responsibility for that decision which, he opined, turned out to be the wrong one. Two classes of seniors were unintentionally created: those who collect [the bonus check] and those who don't. He estimated that there are 18,000 people collecting [longevity bonus] checks. His sources tell him that there are approximately 38,000 people in Alaska over the age of 65. He added that there's no rationale of "why you get it, or why you do not get it."

COMMISSIONER MILLER shared stories illustrating that the result of the stair stepping was that some seniors born and raised in Alaska, but born one year past the cutoff date, did not qualify, whereas others qualified for the program after having moved up from "Outside," for example. He said the program no longer serves its original intent; the program passed in the '70s bears no resemblance to the one in existence today. Commissioner Miller said this is one reason he is personally supporting the bill to eliminate the program. In response to a question by Chair Weyhrauch, he said the original bill [required that a person had to be] 65 years old. He said he believes that currently the youngest senior on the program is 72.

REPRESENTATIVE BERKOWITZ said, "That's correct."

CHAIR WEYHRAUCH offered his understanding that [the current qualifications] require a senior to be 72 to collect it.

COMMISSIONER MILLER answered yes, "assuming that they were in the state at the time that the last step took place." He said his mother is 86 years old, was out of the state approximately five years during the stair stepping, is now back in the state, but does not qualify, even though he believes she paid her dues in the territorial days and early statehood. In further response, he said he doesn't know the exact number of people in Alaska who are at least 72 years old. He reiterated that there are two groups of seniors for whom, in his opinion, there is little rhyme or reason why they've been divided that way.

Number 1514

REPRESENTATIVE BERKOWITZ disagreed. Noting that a statute came into effect in 1996, he said about the program, "It was a promise that apparently that legislature felt it couldn't keep in perpetuity, so, in essence, it phased out the program; that constitutes rhyme and reason." He said he appreciates the difficult financial position it puts the state in, but a promise was made to seniors, many of whom are depending on the income from the longevity bonus and most of whom are on fixed incomes. For example, according to some surveys he has viewed, he said up to 65 percent of the people in the Matanuska-Susitna area who collected [the bonus] in 1993 indicated it was absolutely essential for their well-being. He told Representative Miller, "You might disagree with it, but to dismiss it as being without sense, I think, overstates your case."

COMMISSIONER MILLER explained that the "rhyme or reason" referred to the legislature's lacking the political courage to say, "Enough is enough." He said he would agree to disagree [with Representative Berkowitz].

Number 1610

CHAIR WEYHRAUCH asked if there had ever been an analysis done during Commissioner Miller's time in the legislature to consider making the program needs-based.

COMMISSIONER MILLER said there had been some discussion; however, there was disagreement within the senior community as to whether to make it needs-based. He said he believed that the prior [Knowles] administration offered proposals a couple of times to make it needs-based, but the legislature, for whatever reason, decided not to do that.

CHAIR WEYHRAUCH asked if there had been discussion regarding having people "check off" whether they want the longevity bonus or not.

COMMISSIONER MILLER said he doesn't believe that discussion took place, although people could make that choice by not applying for the bonus. In response to a question regarding how people sign up each year, Commissioner Miller explained that people who receive the check each year fill out a form found on each check.

CHAIR WEYHRAUCH asked if there'd ever been an attempt to send a form out to qualifying seniors asking if they want to receive a longevity bonus, asking them to sign and send the form back.

Number 1735

COMMISSIONER MILLER said he doesn't believe that sort of "blanket statement" had even been discussed. He reminded the committee that unlike an executive order, a bill can be changed [to incorporate] different ideas. He agreed to a request made by Chair Weyhrauch to "send us the form." In further response, he related his belief that checks go out either at the end of the month or at the first of the month.

CHAIR WEYHRAUCH asked if there had been any analysis to determine what the predominate use of the money received by seniors is.

COMMISSIONER MILLER indicated he didn't know.

CHAIR WEYHRAUCH offered that he has heard the money is used to offset the cost of prescription drugs.

COMMISSIONER MILLER said he understands what a tough decision is before the committee. [The state] would spend approximately \$47.5 million on the program [in 2003]. The legislature needs to ask if that's affordable or whether some of that money would be better spent in other areas for seniors. The question he posed to the committee is whether it should spend limited dollars as a "blanket" to all seniors, or to help those most in need. He said he personally believes in the latter.

Number 1900

CHAIR WEYHRAUCH asked that top department officials be involved on future hearings [of HB 158]. He also requested the presence of the [assistant] attorney general tasked with drafting the

bill, and asked for as much information as possible on the program to be given to the committee and made public in advance of the next scheduled hearing. He said this issue is an important one.

Number 1982

REPRESENTATIVE LYNN remarked that he is over 70 years old and doesn't receive the longevity bonus. He said he supports Governor Murkowski's "courageous" [financial] plan, but that he also believes in keeping his own campaign promises, one of which he read as follows, "Bob Lynn believes in your longevity bonus as a contract between Alaska seniors and the State of Alaska. I'll protect [the] longevity bonus contract."

REPRESENTATIVE LYNN said he thinks people need to be able to trust their government and those they elect. In the world of politics, he said, "old folks are too often a target of fiscal opportunity." He noted that 18,000 [seniors] does not constitute a large portion of the overall state population of approximately 650,000. He added, "So it's kind of easy pickings to pick up \$47 million dollars there." He agreed that [the state] obviously needs the \$47 million, because it facing a fiscal crisis; however, he suggested that a cruise ship tax would raise that amount, for example, or a car rental tax. He said the list goes on regarding where money can be raised. He added, "The pickings are easier from the elderly than they are from the big guys who have lobbyists and who have the bucks to fight this type of thing." He said he will keep his promises and respect his elders. He noted that this isn't a personal issue, but a political one.

Number 2139

REPRESENTATIVE BERKOWITZ asked if anyone had conducted a recent economic analysis of the impact of cutting the longevity bonus. He said he was aware of a 2000 analysis by the McDowell Group and another done by Legislative Research about 10 to 15 years ago. He asked for an update containing the following information: the contribution this \$47 million makes to the economy, who the beneficiaries are, where the money is spent, and whether it has a different multiplier than multipliers from other aspects of the economy.

REPRESENTATIVE BERKOWITZ shared a concern raised to him by a senior constituent that seniors on fixed incomes spend a lot of their money in the state, and that seniors on fixed incomes

might be forced to sell their homes [if HB 148 passes]. He asked if the administration had given any consideration to those concerns and, if so, what evidence it has to support the elimination of a longevity bonus.

Number 2215

COMMISSIONER MILLER said he would do his best to find "whatever information we have on hand."

REPRESENTATIVE BERKOWITZ stated: "It is somewhat appalling that a change of this magnitude was contemplated without doing the preliminary homework."

Number 2235

REPRESENTATIVE GRUENBERG said [\$47] million is a lot of money. Given the lengthy history of various administrations' attempts to attack this program and the lengthy history of legislative support for the program, he suggested that the administration knew HB 158 would be controversial; therefore, it must have an alternative plan. He asked Commissioner Miller, "Where else can you cut into your department?"

COMMISSIONER MILLER said his department has large areas where general fund dollars exist, such as the Office of the Public Defender, OPA [Office of Public Advocacy], and "leasings," but "leasings" is the only area that can and is being considered for cuts. He indicated that Pioneers' Homes and Senior Services have large amounts of general fund dollars, but will be moving to the Department of Health & Social Services. He mentioned the [Division] of Motor Vehicles [within the Department of Administration] as another agency with general fund dollars. He indicated some things just cannot be touched.

Number 2357

REPRESENTATIVE GRUENBERG said his previous question was partly rhetorical because he knows there aren't many areas [where cuts can occur]. He then mentioned an issue before the committee the prior week regarding public facilities, which are administered by several different departments. He asked Commissioner Miller if he believed there would be any cost savings in consolidating the administration of public facilities.

COMMISSIONER MILLER responded that some of those issues are being considered now and he believes there would be some cost savings, but he could not say how much at the present time.

REPRESENTATIVE GRUENBERG suggested this committee would be interested in Commissioner Miller's views on that.

COMMISSIONER MILLER reiterated that the committee is faced with a big policy call.

CHAIR WEYHRAUCH announced that HB 158 would be held over.

ADJOURNMENT

Number 2441

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:12 a.m.