

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 10, 2003

9:05 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

MEMBERS ABSENT

Representative Max Gruenberg

COMMITTEE CALENDAR

HOUSE BILL NO. 47

"An Act prohibiting discrimination by credit rating or credit scoring in certain insurance rates; and providing for an effective date."

- MOVED CSHB 47(STA) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 7

Expressing support for Vancouver, British Columbia's, bid for the 2010 Olympic Winter Games and the Paralympic Winter Games.

- MOVED HCS SJR 7(EDT) OUT OF COMMITTEE

HOUSE BILL NO. 229

"An Act relating to special medical parole and to prisoners who are severely medically and cognitively disabled."

- MOVED CSHB 229(STA) OUT OF COMMITTEE

HOUSE BILL NO. 5

"An Act prohibiting discrimination by credit rating or credit scoring in insurance rates; and providing for an effective date."

- MOVED CSHB 5(STA) OUT OF COMMITTEE

HOUSE BILL NO. 102

"An Act relating to concealed deadly weapons."

- MOVED CSHB 102(STA) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 55

"An Act expressing legislative intent regarding privately operated correctional facility space and services; relating to the development and financing of privately operated correctional facility space and services; authorizing the Department of Corrections to enter into an agreement for the confinement and care of prisoners in privately operated correctional facility space; authorizing the Department of Corrections to enter into agreements with municipalities to expand existing correctional facilities; and providing for an effective date."

- MOVED CSSH B 55(STA) OUT OF COMMITTEE

CS FOR SENATE JOINT RESOLUTION NO. 5(STA)

Urging the President of the United States and the Congress to act to ensure that federal agencies do not retain records relating to lawful purchase or ownership of firearms gathered through the Brady Handgun Bill instant check system.

- MOVED CSSJR 5(STA) OUT OF COMMITTEE

HOUSE BILL NO. 221

"An Act making it a class C felony to knowingly make a false statement relating to citizenship or residency on an application for voter registration or reregistration."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 47

SHORT TITLE: INSURANCE DISCRIMINATION BY CREDIT RATING

SPONSOR(S): REPRESENTATIVE(S) CHENAULT

Jrn-Date	Jrn-Page		Action
01/21/03	0043	(H)	PROFILE RELEASED (1/10/03)
01/21/03	0043	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0043	(H)	STA, L&C
02/05/03	0135	(H)	COSPONSOR(S): STEVENS
02/06/03		(H)	STA AT 8:00 AM CAPITOL 102
02/06/03		(H)	Heard & Held MINUTE(STA)

02/10/03	0173	(H)	COSPONSOR(S): CRAWFORD
03/29/03		(H)	STA AT 9:30 AM FAHRENKAMP 203
03/29/03		(H)	Heard & Held MINUTE(STA)
04/10/03		(H)	STA AT 9:00 AM CAPITOL 102

BILL: SJR 7

SHORT TITLE:VANCOUVER'S BID FOR 2010 WINTER GAMES
 SPONSOR(S): WORLD TRADE AND STATE/FEDERAL RELATIONS

Jrn-Date	Jrn-Page		Action
02/07/03	0132	(S)	READ THE FIRST TIME - REFERRALS
02/07/03	0132	(S)	L&C, STA
03/04/03		(S)	L&C AT 1:30 PM BELTZ 211
03/04/03		(S)	Moved Out of Committee
03/04/03		(S)	MINUTE(L&C)
03/05/03	0354	(S)	L&C RPT 2DP 1NR
03/05/03	0354	(S)	NR: BUNDE; DP: DAVIS, FRENCH
03/05/03	0355	(S)	FN1: ZERO(LEG)
03/11/03		(S)	STA AT 3:30 PM BELTZ 211
03/11/03		(S)	Moved Out of Committee
03/11/03		(S)	MINUTE(STA)
03/12/03	0469	(S)	STA RPT 5DP
03/12/03	0469	(S)	DP: STEVENS G, HOFFMAN, COWDERY,
03/12/03	0469	(S)	DYSON, GUESS
03/12/03	0469	(S)	FN1: ZERO(LEG)
03/13/03	0493	(S)	RULES TO CALENDAR 3/13/2003
03/13/03	0493	(S)	READ THE SECOND TIME
03/13/03	0493	(S)	ADVANCED TO THIRD READING UNAN CONSENT
03/13/03	0494	(S)	READ THE THIRD TIME SJR 7
03/13/03	0494	(S)	PASSED Y19 N- E1
03/13/03	0496	(S)	TRANSMITTED TO (H)
03/13/03	0496	(S)	VERSION: SJR 7
03/14/03	0531	(H)	READ THE FIRST TIME - REFERRALS
03/14/03	0531	(H)	EDT, STA
03/31/03		(H)	EDT AT 5:00 PM CAPITOL 120
03/31/03		(H)	Moved HCS SJR 7(EDT) Out of Committee MINUTE(EDT)
04/02/03	0735	(H)	EDT RPT HCS(EDT) 6DP
04/02/03	0735	(H)	DP: CISSNA, KOTT, KOHRING, MCGUIRE,
04/02/03	0735	(H)	CRAWFORD, HEINZE

04/02/03 0736 (H) FN1: ZERO(LEG)
04/10/03 (H) STA AT 9:00 AM CAPITOL 102

BILL: HB 229

SHORT TITLE: PAROLE FOR MEDICAL/COGNITIVE DISABILITY

SPONSOR(S): FINANCE

Jrn-Date	Jrn-Page		Action
03/31/03	0712	(H)	READ THE FIRST TIME - REFERRALS
03/31/03	0712	(H)	STA, FIN
04/10/03		(H)	STA AT 9:00 AM CAPITOL 102

BILL: HB 5

SHORT TITLE: INSURANCE DISCRIMINATION BY CREDIT RATING

SPONSOR(S): REPRESENTATIVE(S) CRAWFORD

Jrn-Date	Jrn-Page		Action
01/21/03	0031	(H)	PREFILE RELEASED (1/10/03)
01/21/03	0031	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0031	(H)	STA, L&C
03/06/03		(H)	STA AT 8:00 AM CAPITOL 102
03/06/03		(H)	Heard & Held
03/06/03		(H)	MINUTE(STA)
03/17/03	0566	(H)	COSPONSOR(S): CROFT
03/29/03		(H)	STA AT 9:30 AM FAHRENKAMP 203
03/29/03		(H)	Heard & Held MINUTE(STA)
04/10/03		(H)	STA AT 9:00 AM CAPITOL 102

BILL: HB 102

SHORT TITLE: CONCEALED DEADLY WEAPONS LEGAL

SPONSOR(S): REPRESENTATIVE(S) CROFT

Jrn-Date	Jrn-Page		Action
02/14/03	0215	(H)	READ THE FIRST TIME - REFERRALS
02/14/03	0215	(H)	STA, JUD
02/19/03	0257	(H)	COSPONSOR(S): GATTO
03/13/03		(H)	STA AT 8:00 AM CAPITOL 102
03/13/03		(H)	Scheduled But Not Heard
03/27/03		(H)	STA AT 8:00 AM CAPITOL 102
03/27/03		(H)	Heard & Held
03/27/03		(H)	MINUTE(STA)
03/28/03	0688	(H)	COSPONSOR(S): ANDERSON
04/07/03	0830	(H)	COSPONSOR(S): DAHLSTROM, KOTT

04/08/03	(H)	STA AT 8:00 AM CAPITOL 102
04/08/03	(H)	Heard & Held
04/08/03	(H)	MINUTE(STA)
04/10/03	(H)	STA AT 9:00 AM CAPITOL 102

BILL: HB 55

SHORT TITLE:CORRECTIONAL FACILITIES

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

Jrn-Date	Jrn-Page		Action
01/21/03	0046	(H)	PREFILE RELEASED (1/17/03)
01/21/03	0046	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0046	(H)	STA, FIN
02/07/03	0154	(H)	COSPONSOR(S): KOHRING
03/05/03	0395	(H)	SPONSOR SUBSTITUTE INTRODUCED
03/05/03	0395	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0395	(H)	STA, FIN
03/13/03		(H)	STA AT 8:00 AM CAPITOL 102
03/13/03		(H)	Heard & Held MINUTE(STA)
04/10/03		(H)	STA AT 9:00 AM CAPITOL 102

BILL: SJR 5

SHORT TITLE:DESTROY BRADY BILL RECORDS

SPONSOR(S): SENATOR(S) WAGONER

Jrn-Date	Jrn-Page		Action
01/21/03	0014	(S)	READ THE FIRST TIME - REFERRALS
01/21/03	0014	(S)	STA, JUD
02/11/03		(S)	STA AT 3:30 PM BELTZ 211
02/11/03		(S)	Moved CSSJR 5(STA) Out of Committee
02/11/03		(S)	MINUTE(STA)
02/12/03	0170	(S)	STA RPT CS 4DP 1NR SAME TITLE
02/12/03	0170	(S)	DP: TAYLOR, COWDERY, DYSON, GUESS;
02/12/03	0170	(S)	NR: HOFFMAN
02/12/03	0170	(S)	FN1: ZERO(LEG)
03/12/03		(S)	JUD AT 1:30 PM BELTZ 211
03/12/03		(S)	Moved CSSJR 5(STA) Out of Committee MINUTE(JUD)
03/13/03	0490	(S)	JUD RPT CS(STA) 5DP
03/13/03	0490	(S)	DP: SEEKINS, ELLIS, FRENCH,

03/13/03	0490	(S)	OGAN, THERRIAULT
03/13/03	0491	(S)	FN1: ZERO(LEG)
03/31/03	0646	(S)	RULES TO CALENDAR 3/31/2003
03/31/03	0646	(S)	READ THE SECOND TIME
03/31/03	0646	(S)	STA CS ADOPTED UNAN CONSENT
03/31/03	0646	(S)	COSPONSOR(S): TAYLOR, OGAN, COWDERY,
03/31/03	0646	(S)	WILKEN, GREEN, STEVENS G, DAVIS,
03/31/03	0646	(S)	STEVENS B, SEEKINS, BUNDE
03/31/03	0646	(S)	ADVANCED TO THIRD READING UNAN CONSENT
03/31/03	0647	(S)	READ THE THIRD TIME CSSJR 5(STA)
03/31/03	0647	(S)	PASSED Y17 N- E3
03/31/03	0648	(S)	TRANSMITTED TO (H)
03/31/03	0648	(S)	VERSION: CSSJR 5(STA)
04/02/03	0728	(H)	READ THE FIRST TIME - REFERRALS
04/02/03	0728	(H)	STA, JUD
04/02/03	0751	(H)	CROSS SPONSOR(S): CROFT
04/10/03		(H)	STA AT 9:00 AM CAPITOL 102

WITNESS REGISTER

RICHARD SCHMITZ, Staff
to Senator John Cowdery
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SJR 7 on behalf of the Senate
Special Committee on World Trade and State/Federal Relations,
sponsor, which is chaired by Senator Cowdery.

TOM WRIGHT, Staff
to Representative John Harris
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 229 on behalf of the House
Finance Committee, sponsor, which is co-chaired by
Representative Harris.

JOHN ROBERTSON, M.D., Medical Director
Division of Administrative Services
Department of Corrections (DOC)
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 229.

MARC ANTRIM, Commissioner
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 229.

LEITONI TUPOU, Special Assistant
Office of the Commissioner
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: Answered questions by the committee regarding HB 229.

BOB BRIGGS, Staff Attorney
Disability Law Center of Alaska
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 229.

REPRESENTATIVE ERIC CROFT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 102.

AMY SEITZ, Staff
to Senator Tom Wagoner
Alaska State Legislature

POSITION STATEMENT: Presented SJR 5 on behalf of Senator Wagoner, sponsor.

ACTION NARRATIVE

TAPE 03-39, SIDE A
Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting to order at 9:05 a.m. Representatives Weyhrauch, Holm, Seaton, Dahlstrom, and Lynn were present at the call to order. Representative Berkowitz arrived as the meeting was in progress.

HB 47-INSURANCE DISCRIMINATION BY CREDIT RATING

Number 0049

CHAIR WEYHRAUCH announced that the first order of business was HOUSE BILL NO. 47, "An Act prohibiting discrimination by credit rating or credit scoring in certain insurance rates; and providing for an effective date."

Number 0104

REPRESENTATIVE HOLM moved to adopt the proposed committee substitute (CS), Version 23-LS0306\H, Ford, 4/8/03, as a work draft. [No objection was stated, and Version H was treated as adopted.]

REPRESENTATIVE HOLM moved to report CSHB 47 [Version 23-LS0306\H, Ford, 4/8/03] out of committee with individual recommendations and the accompanying fiscal note.

Number 0125

REPRESENTATIVE SEATON noted that Version H is based on the National Conference of Insurance Legislators (NCOIL) model.

[The motion to report the bill from committee was withdrawn and then renewed.]

CHAIR WEYHRAUCH asked if there was any objection to the motion. There being no objection, CSHB 47(STA) was reported from the House State Affairs Standing Committee.

SJR 7-VANCOUVER'S BID FOR 2010 WINTER GAMES

Number 0240

CHAIR WEYHRAUCH announced that the next order of business was SENATE JOINT RESOLUTION NO. 7, Expressing support for Vancouver, British Columbia's, bid for the 2010 Olympic Winter Games and the Paralympic Winter Games. [Before the committee was HCS SJR 7(EDT).]

Number 0250

RICHARD SCHMITZ, Staff to Senator John Cowdery, Alaska State Legislature, presented SJR 7 on behalf of the Senate Special Committee on World Trade and State/Federal Relations, sponsor, which is chaired by Senator Cowdery. He explained that the resolution lends Alaska's support to Vancouver, British Columbia, in its effort to obtain the 2010 Olympic Winter Games and the Paralympic Winter Games. Indicating this would express cross-border friendship, Mr. Schmitz noted that Alaska has a lot of shared boundary with British Columbia and said there are many economic and cultural ties between the two.

MR. SCHMITZ opined that a practical aspect to the resolution is the economic boost of approximately \$1 billion; although Alaskans won't benefit directly from the games in Vancouver, a big carryover in terms of publicity for tourism is anticipated. He said when Calgary and Salt Lake City held the Olympic Winter Games, for example, there was a boost in Western Canada and the Western U.S., respectively. Mr. Schmitz said many former Winter Olympic athletes have hailed from Alaska, and the resolution would give Alaskans the chance to follow their athletes closer to home.

Number 0472

MR. SCHMITZ, in response to a question by Representative Seaton, said the two other cities competing [for the chance to host the Winter Olympics] are Salzburg, Austria, and [Pyeongchang], Korea.

REPRESENTATIVE SEATON moved to report HCS SJR 7(EDT) out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HCS SJR 7(EDT) was reported from the House State Affairs Standing Committee.

HB 229-PAROLE FOR MEDICAL/COGNITIVE DISABILITY

Number 0540

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 229, "An Act relating to special medical parole and to prisoners who are severely medically and cognitively disabled."

Number 0590

REPRESENTATIVE SEATON moved to adopt the proposed committee substitute (CS), Version 23-LS0885\H, Luckhaupt, 4/7/03, as a work draft. There being no objection, Version H was before the committee.

Number 0635

CHAIR WEYHRAUCH offered Amendment 1, a handwritten amendment to the original bill that read [original punctuation provided]:

At page 2, line 25, delete "and"

At page 2, line 29, after "noticeably" add:

"; and (6) an appropriate discharge plan has been formulated that addresses basic life domains for the prisoner, including care coordination, housing, eligibility for public benefits, and health care (including necessary medication)."

CHAIR WEYHRAUCH opined, "If we're going to discharge these prisoners, I think there needs to be some thought given to what's going to happen to them."

Number 0785

CHAIR WEYHRAUCH offered an amendment to Amendment 1 [to match the page and line numbers to Version H]. Amendment 1, as amended, would read as follows:

At page 3, line 2, delete "and"

At page 3, line 6, after "noticeably" add:

"; and (7) an appropriate discharge plan has been formulated that addresses basic life domains for the prisoner, including care coordination, housing, eligibility for public benefits, and health care (including necessary medication)."

[No objection was stated, and the amendment to Amendment 1 was treated as adopted.]

CHAIR WEYHRAUCH continued explaining his reasoning:

In developing this, it was my belief that the facilities have become an institution for many people with illnesses and cognitive impairment. And if those prisoners have been diagnosed with some sort of illness or discharged from correctional facilities without some sort of discharge plan in place [with] regard to the disability, at least it's an amendment with [the] attempt to have the facility ensure appropriate discharge planning would be required for, at least, the most severely impaired persons in the correctional system, if those people were judged to be severely impaired, so that at least [they] would be given some consideration to the after-correctional-facility sort of care of these type of individuals.

CHAIR WEYHRAUCH announced that he'd hold action on Amendment 1 [as amended] until the committee had heard testimony.

Number 0975

TOM WRIGHT, Staff to Representative John Harris, Alaska State Legislature, presented HB 229 on behalf of the House Finance Committee, sponsor, which is co-chaired by Representative Harris. He said the basic intent of HB 229 is to give the Alaska parole board the flexibility to grant or deny medical parole to applicants, and to give the Department of Corrections (DOC) a little more flexibility in its health care costs by allowing DOC to find other means to care for inmates with conditions that have deteriorated to a point that [the inmate] isn't likely to reoffend.

MR. WRIGHT recalled that the parole board considered two applicants last year, but [neither] was granted [parole]. Notwithstanding that, he stated, the parole board has had a "pretty good success rate." It has granted parole to approximately 45 percent of all discretionary parole applicants. Noting that there is a difference between discretionary and mandatory parole, he suggested that the commissioner [of DOC] could explain in detail if the committee so desired. He said less than 8 percent of those parolees violated their conditions by missing a meeting with a parole officer, for example; approximately 1 percent of those have committed a new offense.

MR. WRIGHT offered to explain the changes in Version H, which he said was drafted to tighten up some of the conditions found in the original bill.

Number 1112

REPRESENTATIVE BERKOWITZ said the [recidivism] rates seem good, but asked how they compare with rates for people who are [paroled] for other reasons.

MR. WRIGHT clarified that the numbers he'd previously stated were in regard to all parole applicants. He reiterated that there were only two medical parole applicants in 2002.

REPRESENTATIVE BERKOWITZ, referring to the fiscal note, asked how many would be in the potential applicant pool that would benefit from HB 229. He further asked, "You've got a \$500,000 net positive fiscal note. How did you get that?"

Number 1240

JOHN ROBERTSON, M.D., Medical Director, Division of Administrative Services, Department of Corrections, told the committee he has held the medical director and health service administrator position at DOC since 2001. In response to Representative Berkowitz's question regarding the applicant pool, Dr. Robertson said it's probably in the range of 10 to 15 inmates, individuals throughout the system who have advanced medical conditions that would render them extremely unlikely to reoffend; conditions run the gamut from terminal cancer to advanced heart failure or being more than 70 years old.

REPRESENTATIVE BERKOWITZ offered his assessment that the fiscal note analysis seems rather superficial. He mentioned the 15 people generating \$500,000 in costs to DOC. He asked if other state agencies would pick up the cost of services when those individuals are released.

Number 1348

MARC ANTRIM, Commissioner, Department of Corrections, said the theory is that [DOC] will "cost shift" over to Medicaid services, for example, possibly even working with the "interstate compact" in moving the individuals to other states. He said, "It not about dumping prisoners into the street by any means; it's about cost shifting into other health care providers."

Number 1400

CHAIR WEYHRAUCH asked Commissioner Antrim if he had any objection to Amendment 1 [as amended].

COMMISSIONER ANTRIM answered no.

Number 1420

REPRESENTATIVE LYNN asked how difficult it would be for a prisoner to fake a cognitive disability such as dementia.

DR. ROBERTSON responded that nothing in medicine is 100 percent, but there are objective as well as subjective findings. He explained that there are people with advanced disease states, such as Alzheimer's and multi-infarct dementia, for whom an MRI [magnetic resonance imaging] of the head will show abnormalities. He continued as follows:

The intent of this was that these would be carefully picked individuals that had all the other background corroborating medical information to ensure that this was not something that was short-term. There's a series of more formal, psychometric testing that can be performed. It's generally pretty hard to fake, once you get a more advanced state. And it's something that, obviously, has to be looked at carefully. But I think to have the latitude to do this would be very beneficial to us.

Number 1520

REPRESENTATIVE BERKOWITZ asked if any other cognitive conditions besides irreversible dementia would substantially reduce an individual's ability to commit an offense, or why the definition of cognitive condition is being limited solely to irreversible dementia.

Number 1550

DR. ROBERTSON related his understanding that [it isn't being limited]. For example, someone who'd suffered a massive head injury could be cognitively disabled. He noted that dementia has a different medical meaning and refers to a different process; the end result, clinically, would be someone who wouldn't be capable of being particularly aware of his/her surroundings. Someone in a vegetative state, for example, wouldn't [suffer from] dementia, but wouldn't be capable of functioning independently.

REPRESENTATIVE BERKOWITZ referred to Section 3 [page 3, lines 16-17], which read:

(11) "severely medically or cognitively disabled" means that a person has a medical condition, or a cognitive condition due to irreversible dementia,

He suggested the definition needs some reworking.

Number 1620

CHAIR WEYHRAUCH asked Dr. Robertson if there is a way to "finesse" the definition of "cognitively disabled".

DR. ROBERTSON responded that it could be expanded to say "other medical conditions that, in the opinion of the appropriate

specialist - a neurologist, a neuropsychologist, et cetera - leads to a state where a person is cognitively disabled." Thus it could be expanded to include more than just dementia. He surmised that examples could be included, and said the intent was not to be restrictive.

Number 1680

REPRESENTATIVE SEATON said he didn't think "a cognitive condition due to irreversible dementia" would have to mean that the only cognitive condition would be [dementia], because another cognitive medical condition could reduce the ability to commit the offense. He pointed out that the word "reduces" appears [in Section 3, page 3, line 18].

Number 1738

REPRESENTATIVE BERKOWITZ said he was "sort of agreeing with Representative Seaton," and suggested that removing the phrase "due to irreversible dementia" may solve the problem. He asked what the bill does that is not already permitted in statute. He commented that the [statute] already allows for "medical condition". He said it seems that a cognitive disability would be a medical condition.

Number 1812

LEITONI TUPOU, Special Assistant, Office of the Commissioner, Department of Corrections, informed the committee that he has worked with the [State Board of Parole] for probably less than three years. Referring to Representative Berkowitz's previous question regarding how the [proposed legislation] is different from existing law, Mr. Tupou said the current law is very tight, [which affects the ability of] the parole board to make decisions regarding any medical parole obligations. In layman's terms, he added, "You are basically ready to die before they even look at you." The legislation will give [the parole board] the flexibility to consider a lot of the applications that will be made, as well as give [DOC] the flexibility to consider the cost associated with most of the applications.

Number 1892

CHAIR WEYHRAUCH asked if there was any objection to Amendment 1 [as amended].

REPRESENTATIVE GRUENBERG asked for a definition of the phrase "basic life domain" [included in the amendment as "basic life domains"].

Number 1940

BOB BRIGGS, Staff Attorney, Disability Law Center of Alaska, told Representative Gruenberg he thinks the appropriate [committee] to provide a definition is the House Finance Committee. He explained, "It's basically focusing on the elements of how this person can be sustained once discharged." He said it is a common issue "in our work" that people with disabilities are discharged from the prison system and struggle, in particular, with housing. A convicted felon is not eligible for Alaska Housing Finance Corporation (AHFC) housing, which he said is an issue. He said, "We think that before people should be discharged, there ought to be an appropriate discharge plan in place."

MR. BRIGGS noted that [Amendment 1, as amended] doesn't state who will prepare the discharge plan, and he added, "But we certainly continue in our advocacy to favor partnerships with community mental health service providers, hospitals, [and] hospices, [for example], so that appropriate discharge planning takes place."

MR. BRIGGS, in response to a question by Representative Gruenberg, said "life domain" is "areas of function." He said it includes housing, shelter, food, and health care.

REPRESENTATIVE GRUENBERG asked Mr. Tupou if DOC understands that definition.

MR. TUPOU answered yes.

Number 2060

REPRESENTATIVE BERKOWITZ asked if anyone has done an analysis of HB 229 to ascertain consistency with the Americans with Disabilities Act (ADA).

MR. BRIGGS answered:

We don't find any problem with this bill in terms of discrimination. Our effort always is to seek the institutionalization of people with disabilities. ... You always are focusing on a least-restricted

environment for somebody with a disability. And I don't know about the fiscal note and whether it really will save as much as we anticipate it will save, but I can't say that we would be opposed to this.

Number 2103

REPRESENTATIVE HOLM asked, since "basic life domains" includes housing, why housing is specified as well.

MR. BRIGGS explained that the purpose for the delineation of areas of life domain was because those are the most common areas that would have to be addressed before somebody could reasonably be discharged from any facility. For someone who has been in a long-term institutional placement, housing is an issue after discharge, but the same isn't usually true when a person is discharged from a hospital, for example. He said the severely disabled and severely cognitively impaired may not have the ability to arrange for housing for themselves; care coordination for those people is important. He said [the legislation] doesn't resolve how that will be done, but "we recognize the fiscal situation, and we just all have to keep working on that issue."

Number 2194

REPRESENTATIVE HOLM said the conundrum is that "we want to let people out, but we want to give them the freedom when they're out to be as flexible as they can be." He said he doesn't quite "get that." He added, "It seems to me that if we're trying to help the State of Alaska reduce its medical treatments, we shouldn't be putting restrictions on the State of Alaska to provide all of these other things at the outside." He said he was having trouble grasping [Amendment 1, as amended].

REPRESENTATIVE HOLM said he understands the attempt to protect the people under someone's charge, but questions what is in the state's best interest. For example, a sociopath will have nothing to pay and "can go out and do anything he wants to." Representative Holm said he has a problem with writing laws that let people out, to be taken care of "any way that they want to be taken care of, or that someone chooses to take care of them."

Number 2324

MR. BRIGGS said this bill addresses a very narrow population of the correctional system, [including] people with severe mental

or cognitive impairment who aren't likely to be able to function well in total independence, but will need support and help to function at all outside of the prison system - if they are going to die in dignity, rather than just on a street corner. He said, "I think the folks sitting to my left recognize that discharge planning is an element of what is planned. The amendment just simply recognizes that."

MR. BRIGGS said he is satisfied with the colloquy if the amendment is not adopted, but said "we" think it ought to be in the statute to recognize that discharge planning is "an important piece of helping these people move on with whatever life they're going to have outside this institution."

Number 2381

REPRESENTATIVE GRUENBERG said it sounds as if there is a plan and then the person is cut loose. He said both he and Representative Holm are speaking to the issue of aftercare and "after supervision" and are concerned about protecting the public. He indicated there is another concern regarding protection of the prisoner and assurance that he/she is able to function "on the outside." He said there is a common solution to both concerns that is not specifically addressed in Amendment 1, but may be elsewhere. He asked, "What is the required supervision and care of these people after they're discharged, or are they just cut loose?"

MR. BRIGGS responded that a focus of disability and health care laws involves trying to recognize the freedom of individuals to have a choice in the matter. He said he thinks the short answer is that there's no strict requirement; it will [depend on] the conditions imposed by the parole board. He said he thinks [HB 229] gives the parole board the flexibility to ensure public safety.

REPRESENTATIVE GRUENBERG asked who would take care of practical things such as arranging for housing.

MR. BRIGGS replied that he thinks that is left open in [HB 229]. He added, "But I don't think ... existing law resolves that question. It is something that we will have to continue to work on." He said the [issue] is the strength of [the State of Alaska's] social service network outside the institutions, and its ability to interact with the correctional system. Mr. Briggs opined that it's a larger question than this bill can address.

REPRESENTATIVE GRUENBERG referred to page 1 [line 8], which says an application [for medical parole] could be made by the "prisoner or the commissioner". He gave an example of a prisoner who applies to get out, but can't understand that he/she is not going to be able to function; as a cost-saving or administrative measure, the corrections system cuts that person loose and he/she is out on the street. He asked if there is any provision in the law to ensure that that doesn't happen. He said people on the street will reoffend and be back in [prison], which will be "a revolving door situation."

MR. BRIGGS reiterated that the population addressed by the bill is a very limited part of the [prison] population, made up of severely disabled people who aren't likely to reoffend; therefore, "revolving door" is really not a part of the current debate. In response to a follow-up comment by Representative Gruenberg, he said with Amendment 1, the bill will solidly demonstrate that there should be a discharge plan in place before the parole board can sign off on discharge. He explained that the discharge plan should include care coordination; it would become the care coordinator's responsibility to ensure the safety of that individual out on the street.

Number 2612

REPRESENTATIVE SEATON referred again to Section 3. He said the population being considered is not made up of people who are going to "go out and recommit offenses." He referred to Amendment 1 and said it [would] solve "the other problems of mandating it." He said people [on] the parole board aren't just "cutting these folks loose," but have a responsibility for them. Representative Seaton indicated Medicare isn't available to those in prison, and said it is more economical to [release] people [who don't have] the ability to reoffend and to get them into more economical [care] programs.

Number 2701

REPRESENTATIVE BERKOWITZ emphasized that parole is permissive, not mandatory. He referred to [Section 1, subsection (a)], page 1, which read in part, "a prisoner who is serving a term of at least 181 days, may, upon application by the prisoner or the commissioner, be released by the board on special medical parole if the board determines". He emphasized that the word used is "may", not "shall". A medical or cognitive condition doesn't

require the parole board to grant parole; thus he said that safety valve is still present.

Number 2739

CHAIR WEYHRAUCH moved to adopt Amendment 1 [text provided previously, as amended to conform to Version H]. There being no objection, Amendment 1, as amended, was adopted.

Number 2758

REPRESENTATIVE BERKOWITZ moved to adopt [Conceptual Amendment 2] as follows:

Page 3, line 17

Delete "due to irreversible dementia"

Number 2791

DR. ROBERTSON said he has no objection to it and thinks it "clarifies." He added, "It was our intent to have flexibility here."

REPRESENTATIVE SEATON asked Dr. Robertson if, without the language [that would be deleted with Conceptual Amendment 2], there would be any possibility that the parole board wouldn't understand that dementia would be one of the cognitive conditions considered under this bill.

DR. ROBERTSON explained the process as follows:

Prior to the parole board reviewing these requests, I write up a medical summary [that] tells exactly what the medical condition consists of and what the medical prognosis and expectations are. So, I can clarify that. And then the parole board has the opportunity to either bring me to them, to further discuss or explain it in person, or to provide them more written material so that at the time they're looking at it, they have a full overview, pretty much in layperson terms, so they can understand exactly what it means. So if it was a case like you're referring to - of dementia - I would make it clear what that meant, and I would define it in my report to the parole board.

Number 2900

CHAIR WEYHRAUCH asked if there was any objection to adopting Conceptual Amendment 2. There being no objection, it was so ordered.

Number 2929

REPRESENTATIVE GRUENBERG related his concern that people would fall through the cracks after [being released].

MR. TUPOU explained that there is an unwritten policy of law that the parole board requires DOC to basically "explain and come up with a plan for this person who comes in front of them ... asking for special medical parole." He said there is no way the parole board will even look at the person until it sees a detailed plan regarding who will be taking care of the person. He said the community is the foremost concern of the parole board.

Number 2964

REPRESENTATIVE GRUENBERG clarified that the situation he is postulating is when the person is no danger to the community; his concern is with regard to the person's ability to function and [ensuring] follow-up for that person.

TAPE 03-39, SIDE B

Number 2992

REPRESENTATIVE GRUENBERG posited, "If somebody's in for a long period of time, society has a responsibility for them while they're in." He reiterated that he wants to be sure follow-up supervision is available.

COMMISSIONER ANTRIM said [the released prisoner] is on parole and would be supervised by a probation officer. He referred to Section 1, page 3, lines 1-2, which read:

(5) the prisoner is incapacitated to an extent that incarceration does not impose significant additional restrictions on the prisoner;

COMMISSIONER ANTRIM said [DOC] envisions that the person will be in a managed care facility. He added, "This is really about cost shifting."

REPRESENTATIVE GRUENBERG indicated that made him feel "much better."

Number 2914

DR. ROBERTSON stated, "We would not put this up to the parole board unless we had a medically prudent discharge plan." He told the committee that he has not "put anybody forward to the board" without having an idea "where they were going," whether it was [to] a family member or community health center, for example. If there were no plan available to the department, he said, the request wouldn't go forward. He added, "That's one of the stop-gaps, and that's just a pure matter of professionalism, in terms of a physician. We have a duty to [ensure] that there is a continuity of care and a plan." Regarding [the people released on this plan], Dr. Robertson said it's a matter of maintaining those people in a setting different from that in DOC, where there really are no inpatient facilities "in that capacity."

Number 2855

REPRESENTATIVE HOLM moved to report CSHB 229 [Version 23-LS0885\H, Luckhaupt, 4/7/03, as amended] out of committee with individual recommendations and the attached fiscal note.

Number 2841

REPRESENTATIVE BERKOWITZ objected for purposes of making the following comments:

The fiscal note here is wholly inadequate, and there's only one of them. This ... measure's been described as a cost-shifting exercise. If costs are going to be [shifted], I think that the other departments that are going to incur costs ought to include fiscal notes as part of this package.

Furthermore, this fiscal note is based on assumptions. It's not based on any sort of empirical evidence. It's not based on anything specific at all. And, to me, these are just numbers that have been conjured out of thin air. And for us - particularly in these budgetary times - to try and make decisions, we need better evidence. We need better fiscal notes.

REPRESENTATIVE BERKOWITZ concluded by asking Commissioner Antrim to revise the fiscal note and "put more substance behind it" before it is viewed by the House Finance Committee.

Number 2795

REPRESENTATIVE BERKOWITZ withdrew his objection.

[No further objection was stated, and CSHB 229(STA) was reported from the House State Affairs Standing Committee.]

HB 5-INSURANCE DISCRIMINATION BY CREDIT RATING

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 5, "An Act prohibiting discrimination by credit rating or credit scoring in insurance rates; and providing for an effective date."

Number 2767

CHAIR WEYHRAUCH announced that before the committee was a proposed committee substitute (CS), Version 23-LS0021\H, Ford, 4/2/03. [No objection was stated, and it was treated as adopted.]

Number 2730

REPRESENTATIVE HOLM moved to report CSHB 5 [Version 23-LS0021\H, Ford, 4/2/03] out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 5(STA) was reported from the House State Affairs Standing Committee. [An amendment was adopted later in the meeting.]

HB 102-CONCEALED DEADLY WEAPONS LEGAL

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 102, "An Act relating to concealed deadly weapons." [Before the committee, adopted as a work draft on 4/8/03, was a proposed committee substitute (CS), Version I, labeled 23-LS0515\I, Luckhaupt, 4/2/03.]

Number 2708

REPRESENTATIVE ERIC CROFT, Alaska State Legislature, sponsor, noted that the three issues raised at the [hearing on April 8, 2003] related to the bill's title, the so-called Patriot Act [the federal Act entitled "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001"], and the definition of "contacted by an officer".

REPRESENTATIVE CROFT indicated he'd distributed a memo from the bill's drafter, Mr. Luckhaupt, regarding the definition of and some history on "contacted by an officer". He agreed with Mr. Luckhaupt's contention that "it is a sufficient definition that has worked well in the old permit system, and can continue to work well." He suggested that any further questions about the definition be addressed in the House Judiciary Standing Committee, the next committee of referral.

REPRESENTATIVE CROFT noted that the Patriot Act is new and that the bill deals with "concealed carries." He indicated there would be extended discussion regarding the Patriot Act and said a resolution regarding it is coming before the committee.

CHAIR WEYHRAUCH remarked that the Senate is seriously debating the Patriot Act.

Number 2590

REPRESENTATIVE CROFT emphasized that all the restrictions in current law would be kept. He mentioned privacy rights and Section 6 [beginning on line 5], which read in part: "permits, and renewals are not public records under AS 40.25.110-40.25.125 and may only be used for law enforcement purposes". He remarked, "Whatever the results of that, I didn't feel like I could tackle them or even adequately deal with them in this bill." With regard to the breadth of the title, he indicated he wasn't aware of any reason for tightening it to prevent some action in the Senate, for instance.

CHAIR WEYHRAUCH said the subject of the title had simply been brought up [during the prior hearing], and that he wasn't proposing anything. In response to a question by Representative Dahlstrom, he said public testimony was closed at the last hearing.

Number 2466

REPRESENTATIVE DAHLSTROM moved to report CSHB 102 [Version 23-LS0515\I, Luckhaupt, 4/2/03] out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 102(STA) was reported from the House State Affairs Standing Committee.

HB 5-INSURANCE DISCRIMINATION BY CREDIT RATING

CHAIR WEYHRAUCH returned attention to HOUSE BILL NO. 5, "An Act prohibiting discrimination by credit rating or credit scoring in insurance rates; and providing for an effective date."

Number 2458

REPRESENTATIVE GRUENBERG explained that he'd been informed of something about the bill that doesn't appear to be true. He referred to the previous hearing [April 5, 2003] and said his concern had been that the Division of Insurance would be able to get the information regarding Fair Isaac's [model] so that it would know internally the basis for the credit scoring; that information would remain confidential. He continued:

I was informed that there was a provision in there that dealt with this. And I'm looking at the proposed CS. It's on page 4 and 5. And this was supposed to have been taken off of the version that passed the -- it was Senate Bill 320 that passed the House last time. There were four subsections in that. And the first three subsections are on pages 4 and 5: [Section] 21.39.035 (b)(1), (2), and (3). But there was a fourth that is not in the current version of the bill, and I don't know why. And that would add the phrase: "may be displayed by the insurer that files the information."

REPRESENTATIVE GRUENBERG expressed concern because he'd been informed that [the two were] identical.

CHAIR WEYHRAUCH said he hadn't noticed that discrepancy.

Number 2307

REPRESENTATIVE GRUENBERG moved that the committee rescind its action [in reporting CSHB 5, Version 23-LS0021\H, Ford, 4/2/03, out of committee earlier in the meeting]; that an amendment be adopted to put paragraph (4) in, as previously described; and that CSHB 5 [Version 23-LS0021\H, Ford, 4/2/03, as amended] be reported out of committee [with individual recommendations and the accompanying fiscal note]. There being no objection, the action was rescinded, the amendment was adopted, and CSHB 5(STA) was reported from the House State Affairs Standing Committee.

HB 55-CORRECTIONAL FACILITIES

Number 2275

CHAIR WEYHRAUCH announced that the next order of business was SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 55, "An Act expressing legislative intent regarding privately operated correctional facility space and services; relating to the development and financing of privately operated correctional facility space and services; authorizing the Department of Corrections to enter into an agreement for the confinement and care of prisoners in privately operated correctional facility space; authorizing the Department of Corrections to enter into agreements with municipalities to expand existing correctional facilities; and providing for an effective date."

Number 2267

REPRESENTATIVE HOLM moved to adopt the proposed committee substitute (CS), Version 23-LS0285\W, Luckhaupt, 4/9/03, as a work draft. [No objection was stated, and Version W was treated as adopted.]

Number 2236

REPRESENTATIVE DAHLSTROM moved to report CSSSHB 55, Version 23-LS0285\W, Luckhaupt, 4/9/03, out of committee with individual recommendations and the accompanying fiscal note.

The committee took a brief at-ease at 10:10 a.m.

Number 2156

CHAIR WEYHRAUCH informed the committee that Version W maintains the title of the original version regarding a privately operated correctional facility; maintains the intent in Section 1; removes specific language where the legislature expects [the Department of] Corrections to contract with the City of Whittier; anticipates a competitive management style being brought to Alaska; allows the facility to be built in the city; and adds the language "whichever is less" to Section 2, subparagraph (A). He said he thinks the most significant amendment in Version W makes the facility generic, rather than a correctional facility in Whittier.

CHAIR WEYHRAUCH, in response to a question by Representative Gruenberg, confirmed that the Department of Corrections would make the decision where to build the prison.

Number 2070

REPRESENTATIVE GRUENBERG asked if there is a procedure set forth or in law as to how that decision is made.

CHAIR WEYHRAUCH answered no. He said that would be decided in [the House Finance Committee].

CHAIR WEYHRAUCH announced that he was closing public testimony. He asked if there were any more comments or questions.

[No objection was stated to the motion, and CSSSHB 55(STA) was reported from the House State Affairs Standing Committee.]

SJR 5-DESTROY BRADY BILL RECORDS

CHAIR WEYHRAUCH announced that the last order of business was CS FOR SENATE JOINT RESOLUTION NO. 5(STA), Urging the President of the United States and the Congress to act to ensure that federal agencies do not retain records relating to lawful purchase or ownership of firearms gathered through the Brady Handgun Bill instant check system.

Number 2025

AMY SEITZ, Staff to Senator Tom Wagoner, Alaska State Legislature, presented SJR 5 on behalf of Senator Wagoner, sponsor. Noting that a similar House resolution hadn't passed the previous year, she explained that when Congress passed the so-called Brady Handgun Bill in 1993, it did so to promote gun safety and reduce gun-related violence. A criminal background check system was enacted; those with criminal backgrounds couldn't purchase firearms. When the Act was established, it wasn't meant to retain records of law-abiding citizens who could legally purchase and own firearms. Thus SJR 5 urges the President and Congress to ensure that federal agencies don't retain these records, and that they make statutory changes to ensure that this doesn't happen in the future.

Number 1941

CHAIR WEYHRAUCH referred to language on page 1, lines 13-14, that read: "the system shall ... destroy all records of the system with respect to the call". He asked if that would be done electronically.

MS. SEITZ replied that she believes the system is electronic. She said the intent of the original Brady Handgun Bill was that

as soon as an individual was approved to legally purchase and own a firearm, all information except for the identifying number and the date was supposed to be destroyed from the system.

Number 1895

CHAIR WEYHRAUCH asked, when the FBI [Federal Bureau of Investigation] indicates its intent to keep records gathered through the Brady Handgun Bill, whether it's under any statutory authority or is "a terrorist thing," for example.

MS. SEITZ responded that it was the interpretation of the administration in 1993 after the Act was voted in.

Number 1862

REPRESENTATIVE SEATON moved to report CSSJR 5(STA) out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSSJR 5(STA) was reported from the House State Affairs Standing Committee.

ADJOURNMENT

Number 1834

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:17 a.m.