

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

May 13, 2003

8:09 a.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 295

"An Act relating to the publishing and furnishing of certain public notices regarding regulations or rules of certain state agencies; relating to distribution of the Alaska Administrative Code, Alaska Administrative Register, and supplements to the code or register; and providing for an effective date."

- MOVED CSHB 295(STA) OUT OF COMMITTEE

HOUSE BILL NO. 312

"An Act giving notice of and approving the entry into and the issuance of certificates of participation for a lease-purchase agreement for a seafood and food safety laboratory facility; relating to the use of certain investment income for certain construction costs; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 228

"An Act relating to state employees who are called to active duty as reserve or auxiliary members of the armed forces of the United States; and providing for an effective date."

- MOVED CSHB 228(MLV) OUT OF COMMITTEE

HOUSE BILL NO. 272

"An Act relating to motor vehicle dealers."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 27

Relating to support for a federal appropriation for expansion of the Anchorage Jail.

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 149

"An Act requiring nonprofit corporations under the Alaska Net Income Tax Act to provide prior public notice of lobbying expenditures and an annual report of lobbying expenditures to the Department of Revenue; providing for a civil penalty for failure to provide the notice; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

#### PREVIOUS ACTION

BILL: HB 295

SHORT TITLE:REGULATIONS: NOTICE AND DISTRIBUTION

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
05/01/03	1236	(H)	READ THE FIRST TIME - REFERRALS
05/01/03	1236	(H)	TRA, FIN
05/01/03	1236	(H)	FN1: INDETERMINATE(GOV/ALL DEPTS)
05/01/03	1236	(H)	GOVERNOR'S TRANSMITTAL LETTER
05/01/03	1246	(H)	STA REPLACES TRA REFERRAL
05/07/03		(H)	STA AT 8:00 AM CAPITOL 102
05/07/03		(H)	Heard & Held
05/07/03		(H)	MINUTE(STA)
05/07/03		(H)	MINUTE(STA)
05/09/03		(H)	STA AT 8:00 AM CAPITOL 102
05/09/03		(H)	Scheduled But Not Heard Meeting postponed to a call of the Chair
05/13/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 312

SHORT TITLE:SEAFOOD AND FOOD SAFETY LABORATORY

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
05/08/03	1477	(H)	READ THE FIRST TIME - REFERRALS
05/08/03	1477	(H)	STA, FIN
05/08/03	1477	(H)	FN1: (DEC)
05/08/03	1477	(H)	GOV. TRANSMITTAL LETTER FORTHCOMING
05/09/03	1521	(H)	GOV. TRANSMITTAL LETTER RECEIVED
05/13/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 228

SHORT TITLE: STATE EMPLOYEES CALLED TO MILITARY DUTY  
 SPONSOR(S): REPRESENTATIVE(S) KERTTULA

Jrn-Date	Jrn-Page		Action
03/31/03	0712	(H)	READ THE FIRST TIME - REFERRALS
03/31/03	0712	(H)	MLV, STA, FIN
04/07/03	0831	(H)	COSPONSOR(S): LYNN
04/15/03		(H)	MLV AT 3:00 PM CAPITOL 124
04/15/03		(H)	Heard & Held
04/15/03		(H)	MINUTE(MLV)
04/16/03	1018	(H)	COSPONSOR(S): GARA
04/24/03		(H)	MLV AT 3:00 PM CAPITOL 120
04/24/03		(H)	-- Meeting Canceled --
05/01/03		(H)	MLV AT 3:00 PM CAPITOL 120
05/01/03		(H)	Moved CSHB 228(MLV) Out of Committee -- Recessed to a call of the Chair --
05/01/03		(H)	MINUTE(MLV)
05/02/03	1273	(H)	MLV RPT CS(MLV) NT 4DP 2NR
05/02/03	1273	(H)	DP: DAHLSTROM, CISSNA, GRUENBERG,
05/02/03	1273	(H)	LYNN; NR: MASEK, WEYHRAUCH
05/02/03	1274	(H)	FN1: ZERO(MVA)
05/02/03	1274	(H)	FN2: INDETERMINATE(ADM/ALL DEPTS)
05/09/03		(H)	STA AT 8:00 AM CAPITOL 102
05/09/03		(H)	Scheduled But Not Heard Meeting postponed to a call of the Chair
05/13/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 272

SHORT TITLE:MOTOR VEHICLE DEALERS  
SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

Jrn-Date	Jrn-Page		Action
04/16/03	1009	(H)	READ THE FIRST TIME - REFERRALS
04/16/03	1009	(H)	L&C, STA
04/28/03		(H)	L&C AT 3:15 PM CAPITOL 17
04/28/03		(H)	Scheduled But Not Heard
04/30/03		(H)	L&C AT 3:15 PM CAPITOL 17
04/30/03		(H)	Scheduled But Not Heard
05/01/03		(H)	STA AT 8:00 AM CAPITOL 102
05/01/03		(H)	Scheduled But Not Heard -- Recessed to Mon. 5/5 8:00 AM
05/05/03		(H)	L&C AT 3:15 PM CAPITOL 17
05/05/03		(H)	Heard & Held
05/05/03		(H)	MINUTE(L&C)
05/07/03		(H)	L&C AT 3:15 PM CAPITOL 17
05/07/03		(H)	<Bill Hearing Postponed to Fri. 5/9/3>
05/09/03		(H)	L&C AT 3:15 PM CAPITOL 17
05/09/03		(H)	Moved CSHB 272(L&C) Out of Committee
05/09/03		(H)	MINUTE(L&C)
05/12/03	1560	(H)	L&C RPT CS(L&C) 6DP 1AM
05/12/03	1560	(H)	DP: LYNN, GATTO, CRAWFORD, DAHLSTROM,
05/12/03	1560	(H)	ROKEBERG, ANDERSON; AM: GUTTENBERG
05/12/03	1560	(H)	FN1: ZERO(LAW)
05/13/03		(H)	STA AT 8:00 AM CAPITOL 102

**WITNESS REGISTER**

DEBORAH BEHR, Assistant Attorney General  
Legislation & Regulations Section  
Civil Division (Juneau)  
Department of Law  
Juneau, Alaska

POSITION STATEMENT: Presented HB 295 on behalf of the governor.

ERNESTA BALLARD, Commissioner  
Department of Environmental Conservation  
Juneau, Alaska

POSITION STATEMENT: Presented HB 312 on behalf of the governor.

DEVEN MITCHELL, Debt Manager

Treasury Division  
Department of Revenue  
Juneau, Alaska

POSITION STATEMENT: Provided information with regard to the fiscal aspects of HB 312.

KRISTIN RYAN, Acting Director  
Division of Environmental Health  
Department of Environmental Conservation  
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 312, answered questions.

DAVID WETZEL, Laboratory Manager  
Analytica Alaska  
Juneau, Alaska

POSITION STATEMENT: Testified on HB 312.

JULIE DECKER, Executive Director  
Southeast Alaska Regional Dive Fisheries Association  
Wrangell, Alaska

POSITION STATEMENT: Testified in support of HB 312.

RODGER PAINTER, Vice President  
Alaska Shellfish Growers Association  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 312.

JULI LUCKY, Staff  
to Representative Beth Kerttula  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HB 228 on behalf of the sponsor.

JOHN CRAMER, Director  
Administrative Services Division  
Department of Military & Veterans' Affairs  
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 228, answered questions.

LINDA SYLVESTER, Staff  
to Representative Bruce Weyhrauch  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented CSHB 272(L&C) on behalf of Representative Weyhrauch, sponsor of HB 272.

JIM ARPINO

Fairbanks, Alaska

POSITION STATEMENT: Testified on behalf of Affordable Used Cars, a company in both Fairbanks and Anchorage, Alaska, to ask the committee's help in keeping the free trade of used vehicles.

TERI PETRAM

Anchorage, Alaska

POSITION STATEMENT: Testifying on behalf of Lyberger's Car & Truck Sales, LLC, asked the committee to remove Section 1 of HB 272 or modify its language.

**ACTION NARRATIVE**

**TAPE 03-61, SIDE A**

Number 0001

**CHAIR BRUCE WEYHRAUCH** called the House State Affairs Standing Committee meeting to order at 8:09 a.m. Representatives Holm, Seaton, Dahlstrom, Lynn, Crawford, and Weyhrauch were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

HB 295-REGULATIONS: NOTICE AND DISTRIBUTION

CHAIR WEYHRAUCH announced that the first order of business would be HOUSE BILL NO. 295, "An Act relating to the publishing and furnishing of certain public notices regarding regulations or rules of certain state agencies; relating to distribution of the Alaska Administrative Code, Alaska Administrative Register, and supplements to the code or register; and providing for an effective date."

Number 0340

DEBORAH BEHR, Assistant Attorney General, Legislation & Regulations Section, Civil Division (Juneau), Department of Law, highlighted that there will be some cost savings associated with HB 295, as reflected in the fiscal note. The legislation allows all agencies to use an abbreviated newspaper notice rather than the detailed notice. Furthermore, the legislation allows [the department] to furnish, upon request, electronic notice for certain [documents]. The legislation also allows the on-line public notice system as the primary means for giving information for certain "business and commerce programs." Finally, the legislation would require that local governmental entities that

want copies of regulations have to request a copy and pay for the cost of it. The cost to local governmental entities is estimated to be less than \$600. Ms. Behr noted that the aforementioned information is already available on the Department of Law's homepage.

MS. BEHR, in response to Chair Weyhrauch, explained that the on-line public notice system is geared toward businesses and industries and thus if there was the need to go to court, there would be no dispute that these folks have computers. She pointed out that the longevity bonus and the permanent fund dividend aren't on the on-line public notice system because it would be difficult to ascertain that those groups have access to a computer. Therefore, the legislation is a pilot project that is limited to business and commerce programs.

Number 0615

CHAIR WEYHRAUCH turned to Section 13 regarding the failure to furnish notice. He related his understanding that if the state is found to have failed to furnish notice, the state would be held harmless.

MS. BEHR pointed out that the provision in Section 13 has been in existing law since the Administrative Procedures Act (APA) was enacted. She explained that if an individual requests that a state agency mail him/her a notice of a regulation, but for some reason the individual doesn't receive the notice. In that case, the entire regulation project doesn't fail because there was general notice from the newspaper and/or the on-line public notice system. Therefore, the language refers to the individual not receiving the notice that he/she requested.

Number 0733

REPRESENTATIVE SEATON said that he doesn't have a problem with the change in the way in which the notice is done. However, he asked if anything in this legislation reduces or eliminates the notice requirement for regulations.

MS. BEHR replied no and specified that this legislation merely makes the on-line public notice system the primary means of notice for those business programs previously described. The same information will continue to be provided, although it will be in a different format. In further response to Representative Seaton, Ms. Behr confirmed that nothing in this legislation

changes the length of notice. Currently, a commissioner can adopt a regulation 30 days after giving notice in the newspaper.

Number 0830

REPRESENTATIVE HOLM turned to the change in Section 3 and inquired as to why the language "each judicial district of" was eliminated.

MS. BEHR explained that if notice is given in one newspaper, then [the notice has to be given in] one judicial district. She further explained that she would advise [the Alaska Teachers' Retirement Board] that it has to choose a newspaper of general circulation that's available throughout the state. She noted that the teachers' retirement law in this state has to be uniform, and therefore one newspaper of general circulation would be chosen for the notice. From her 11 years of regulation experience, she related that most people find their notice through individual mailings or professional associations. Generally, newspaper notice isn't the best notice for people, although it helps with regard to legal notice.

CHAIR WEYHRAUCH asked if there would be any deference with having notices published only in the Anchorage newspaper.

MS. BEHR explained that the "newspaper of general circulation" is a floating standard, and therefore the courts would review what is appropriate under the circumstances. For example, if the notice was regarding Sitka or Juneau fishing, the newspaper of general circulation may be the Juneau newspaper. She clarified that nothing in this legislation or current law would result in [using] one newspaper. In further response to Chair Weyhrauch regarding a definition of "newspaper of general circulation", Ms. Behr said that there is case law. There have been cases in the zoning area, although there has not been a test case on "newspaper of general circulation" in the regulations area. She agreed with Chair Weyhrauch in that there is some discretion given to the agency with regard to where the notice is published.

Number 1012

REPRESENTATIVE LYNN inquired as to the section of HB 295 that relates to the longevity bonus.

MS. BEHR clarified that nothing in the legislation directly impacts the longevity bonus program. She explained that the

longevity bonus program isn't a program that would be chosen to go to electronic [notices] because she didn't believe she could go to a judge and say that everyone in the program has a computer.

REPRESENTATIVE SEATON turned to the matter of the web site being available for documentation of notice. He asked if the log site is archived every day or is a printed copy kept as a record.

MS. BEHR answered that the Office of the Lieutenant Governor operates the Alaska On-Line Public Notice System, which has an archival feature. However, if HB 295 passes, Ms. Behr said she will give training to state agencies specifying that they print off the notices and do an affidavit at that time.

Number 1120

REPRESENTATIVE CRAWFORD remarked that he liked the streamlining, although he has a lot of trepidation that there will be less notice for oil and gas and pipeline regulation. He charged the department to do its best to ensure that people receive notice as they should.

CHAIR WEYHRAUCH commented that people have used newspapers for public notice information and advise for centuries. Public notice is a critical component of the public's right to know what government is doing. He indicated his belief that everyone in the legislature desires public notice regarding government's doings.

MS. BEHR said that's true and noted that the statutes are framed in that manner. Any important action requires public notice, she said.

REPRESENTATIVE SEATON moved to report HB 295 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GRUENBERG objected and offered [Amendment 1] as follows [original punctuation provided]:

Delete section 27(page 12, line 29 through page 13,  
lines 5)

REPRESENTATIVE GRUENBERG explained that Section 27 addresses the setting of rates for service providers and thus involves [regulations related to] adult public assistance, temporary cash

assistance, and services for needy families. He expressed concern that there will be less public notice for the aforementioned types of regulations that impact many people.

MS. BEHR, in response to Chair Weyhrauch, said that she didn't now whether such an amendment would change the fiscal note, although she didn't anticipate that it would have any significant impact. Ms. Behr explained that [Section 27] is only related to rate setting of facilities, such as hospitals and nursing homes. The Medicaid rate executive director assured her that these programs have ready access to computers. Historically, those who attend the public hearings and comment on rate setting are facility representatives.

REPRESENTATIVE GRUENBERG asked if any representatives of clients or client groups have shown any interest in these rates.

MS. BEHR replied yes and informed the committee that in the past Alaska Legal Services has been a strong advocate for indigent people. However, she couldn't recall whether [Alaska Legal Services] has been involved at the level of rate setting, although she said it has been very active in the area of eligibility.

REPRESENTATIVE GRUENBERG expressed concern if there is a change in a facility in one part of the state and the [public notice] is provided in a newspaper in another location. In the aforementioned situation, the client groups may not receive the notice.

CHAIR WEYHRAUCH recalled that in such a situation, the failure of the agency to provide notice to an interest group wouldn't void the action the administrative agency took.

MS. BEHR agreed and pointed out that most interest groups receive notice in several forms, such as direct mailings. Furthermore, most of the departments do a good job on advocacy, such as having town hall meetings or meetings with interest groups. Also, the hospital association is a strong advocate of this. Again, all that [Section 27] does is make on-line public notice the primary means of receiving notice.

REPRESENTATIVE GRUENBERG asked if Ms. Behr could say that none of the client groups of which she is aware would be adversely impacted if Section 27 was left in HB 295.

MS. BEHR replied that she didn't believe anyone could say that. In her experience, especially in the health and social services area, people who need the services are so busy trying to get their lives together that they aren't the group that comments on regulations.

Number 1591

REPRESENTATIVE GRUENBERG maintained his motion to adopt Amendment 1.

REPRESENTATIVE HOLM objected.

REPRESENTATIVE LYNN objected and said he couldn't imagine that anyone [Section 27] would apply to would fail to receive the notice they should have. He expressed the need to streamline [the public notice process].

CHAIR WEYHRAUCH turned attention to the new language in Section 27 on page 13, lines 2-5. He asked if that language means requirement for publication on the state's web page.

MS. BEHR pointed out that the qualifier is the [AS 44.62].190(a)(7). She informed the committee that the APA contains an odd provision. For example, if there is a mining journal, it may be the newspaper of general circulation. She mentioned that this is a provision of law that's rarely used.

Number 1735

REPRESENTATIVE SEATON surmised that regulations to which this pertains don't have anything to do with the services for the facilities but the rates of reimbursement to the facilities.

MS. BEHR related her understanding that it's limited by the sites that are specified. She noted that much care was taken not to move into the eligibility of welfare or individual services because not everyone in the state has a home computer. The legislation is designed to speak to business-to-business commerce, which includes hospitals.

CHAIR WEYHRAUCH reminded the committee of the motion to adopt Amendment 1 and the objections to it.

A roll call vote was taken. Representatives Crawford, Gruenberg, Seaton, and Weyhrauch voted in favor of Amendment 1.

Representatives Lynn, Holm, and Dahlstrom voted against it. Therefore, Amendment 1 was adopted by a vote of 4-3.

Number 1845

REPRESENTATIVE SEATON moved to report HB 295, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 295(STA) was reported from the House State Affairs Standing Committee.

HB 312-SEAFOOD AND FOOD SAFETY LABORATORY

CHAIR WEYHRAUCH announced that the next order of business would be HOUSE BILL NO. 312, "An Act giving notice of and approving the entry into and the issuance of certificates of participation for a lease-purchase agreement for a seafood and food safety laboratory facility; relating to the use of certain investment income for certain construction costs; and providing for an effective date."

Number 1925

REPRESENTATIVE SEATON moved to adopt CSHB 312, Version 23-GH1134\D, Bannister, 5/12/03, as the working document. There being no objection, Version D was before the committee.

Number 1950

ERNESTA BALLARD, Commissioner, Department of Environmental Conservation (DEC), explained that Version D merely provides clarity in the title to make it clear that the laboratory would be operated by the department. Ms. Ballard paraphrased from the following written testimony [original punctuation provided]:

Imagine it is 5:00 p.m. on Friday, you are a dairy processor and your pasteurization equipment breaks down. The scenario is not uncommon. To fulfill your school and military contracts, FDA requires that a State lab certify your equipment is operating correctly again and test the product to make sure. Milk can't wait until Monday morning. The Seafood and Food Safety Laboratory staff are there to make sure your product is safe for consumption and makes it to market while it's fresh. Ours is the only lab certified in Alaska to test dairy products to ensure

successful pasteurization so they can be sold to the military and schools.

HB 312 provides the funding mechanism to build a new Seafood and Food Safety Lab. The expense is already in our proposed capital budget. The facility we have leased for 34 years will not be available after 2006. It is overcrowded and not fully compliant with safety codes and laboratory design standards. It was developed in Palmer when the principal lab business was agriculture and dairy. In recent years entrepreneurs in coastal Alaska have developed a wide variety of value added seafood products adding a significant and time sensitive testing responsibility for our lab. Our proposed new lab will be in Anchorage where valuable hours can be saved between sample collection and test results for raw and live seafood industries.

A core function of government is protection of human health and the environment. Government must be prepared to respond to unanticipated outbreaks of disease or the presence of contamination in food, water and animals. The Alaska seafood and food safety laboratory fulfills these functions. We analyze raw, finished, and value-added food products for bacteria, chemicals, and toxic contaminants.

The laboratory protects Alaskans by monitoring animals for zoonotic diseases--transferred from animals to humans--such as Brucellosis. Lab technicians test food products for Botulism, Salmonella, Listeria and fecal coliforms and also test public drinking water for Giardia, a common contaminant found in surface water, and Cryptosporidium.

The laboratory supports the seafood, dairy and shellfish industries. To successfully market Alaska's high quality shellfish and seafood, the public must be assured they are safe. Federal requirements for shellfish are very strict because the health risks are great. Through monitoring and testing the lab assures the safety of Alaska's growing shellfish industry, including geoducks, mussels and oysters. Through new PSP sampling and testing procedures, live geoduck sales have begun to enable the industry to ship approximately 50-60 percent of its geoduck quota live,

increasing its value from three fold. When the industry reaches its goal of 85 percent live shipment, the industry's value will be worth approximately \$2.5 million.

A perfect example of how this lab has and will continue to help Alaska's economy grow is the farmed oyster industry. As I'm sure you all know, Alaskan oysters are top quality and easily merit their good wholesale price. In the recent past, this industry did not exist. DEC lab staff are some of the experts who helped oyster farmers get started. With our assistance, farmers set up operations that met National Shellfish Sanitation standards which must be met to sell raw product. Those standards require that DEC sample the growing water to ensure it is free from contamination. As the industry grew, it became more difficult for our staff to travel to remote locations for the collection of water samples. We developed a method for harvesters to collect their own water samples thereby increasing the opportunity for growing areas to be approved.

The laboratory is also providing proof that Alaska's commercial fish species are of the highest quality and free of contaminants by monitoring commercially caught species for pollutants. Over 600 samples were collected last year and the results will be available next month.

The laboratory supports Alaska's private labs by certifying them to conduct drinking water analysis. We train 190 private lab staff a year on how to test drinking water according to EPA standards, and assist private laboratories in obtaining certification and approval to perform federally regulated tests.

We cannot depend on private laboratories to maintain testing and analytical capabilities for situations when there is no profit margin. When private markets develop, our laboratories get out of the business. For example, the Seafood and Food Safety Laboratory does not test drinking water for fecal coliform because private labs are capable of conducting those tests. The DEC laboratory only conducts tests that are federally required to be done by a State lab or are not provided elsewhere in the state.

The health of Alaskans and the success of Alaska's seafood, shellfish, and dairy industries are contingent upon the smooth and continued operation of the seafood and food safety laboratory. Through our testing, monitoring, and technical support, the laboratory assures the health of Alaskans and our environment, and supports the development of our abundant resources.

CHAIR WEYHRAUCH asked if the estimated lease total lease payments of \$20,862,400 includes the lease-purchase payments, construction, acquisition, and other costs.

Number 2400

DEVEN MITCHELL, Debt Manager, Treasury Division, Department of Revenue, specified that the \$20,862,400 is an estimate of the total principal and interest that would be repaid on the Certificates of Participation (COP). The COP is subject to appropriation and backed obligation by the state. Mr. Mitchell, in response to Chair Weyhrauch, said that the lease-purchase agreement will include the cost of construction, acquisition, and equipment. In further response to Chair Weyhrauch, Mr. Mitchell specified that the \$20,862,400 is just the lease payment. When the legislation was drafted the anticipated lease payments were about \$1,391,000 annually. The \$140,000 is the investment earnings on the proceeds of the money borrowed and it will be used for the facility itself. Therefore, the total construction cost is \$14,285,000. He confirmed that this is not a private activity bond rather it's for a governmental purpose.

Number 2525

REPRESENTATIVE GRUENBERG directed attention to page 2, line 5, refers to "lease-purchase". However, the intent language isn't limited to lease-purchase. He questioned whether there needs to be a bit more flexibility.

MR. MITCHELL explained that folks have tried to be as conservative as possible with the structuring of the financing for this project. The technique in which [the department] tries to anticipate investment earnings is called net funding rather than gross funding in which the department could've requested authorization for the full amount anticipated for the project and any earnings could provide additional flexibility. In today's budget circumstances, there has been a concerted effort

to [be fiscally conservative], and therefore any unanticipated costs will require coming to the legislature for additional approval.

REPRESENTATIVE GRUENBERG asked if the additional approval would have to be done through additional authorizing legislation or can it be done through the appropriations process.

MR. MITCHELL answered that if there were funds available, it could be done through the appropriations process. If there weren't additional investment earnings or there was a desire not to use general fund, some additional borrowing authorization would be required. However, he said that it would have to be a very catastrophic event that would result in this project needing more fiscal authorization.

COMMISSIONER BALLARD informed the committee that the project has reached a design stage in which the drawings are referred to as 70 percent complete drawings. The site already has a building pad with utilities stubbed to it. Therefore, some of the construction risk has already been absorbed in the design phase of this project, which has been underway for seven years now. Commissioner Ballard specified that the site is next to the Public Health laboratory that was constructed a few years; the Public Health laboratory used COPs as its financing method as well.

REPRESENTATIVE SEATON noted his support of this legislation and the cost containment that has been utilized with the project. He asked if the Water Quality laboratory in Homer will have the capability to perform water quality sampling for the [aquaculture] in Kachemak Bay.

Number 2700

KRISTIN RYAN, Acting Director, Division of Environmental Health, Department of Environmental Conservation, replied no and explained that laboratory has to be certified by the Food and Drug Administration (FDA) to test the growing waters for the oysters and shellfish.

REPRESENTATIVE SEATON noted that grants have been received for the Water Quality laboratory in Homer. When the laboratory is running, is there a plan to have it certified, he asked.

MS. RYAN said that the [division] hasn't been approached regarding interest in certification. Upon such an expression of

interest, the division would be happy to work the laboratory to try to have the certification set up.

Number 2757

DAVID WETZEL, Laboratory Manager, Analytica Alaska, explained that Analytica Alaska is a small laboratory in Southeast Alaska. Mr. Wetzel related that in general Analytica Alaska is supportive of the construction of this laboratory. Mr. Wetzel informed the committee that certification of drinking water testing and chemical testing provided by the Food and Safety laboratory in Palmer and the Chemistry laboratory in Juneau impact Analytica Alaska tremendously. He explained that there is concern with regard to the transfer of that service to the laboratory in Palmer. These certifications, including underground storage tank and contaminated site testing, are critical for Analytica Alaska to continue its business. Mr. Wetzel pointed out that currently the microbiology certification officer is housed in the Food and Safety laboratory in Palmer while the chemistry certification officer is housed in the chemistry laboratory in Juneau. With the possible closure of the Juneau laboratory, Analytica Alaska is concerned with the continuation of the certification service and the location of its staff.

MS. RYAN assured Mr. Wetzel that [the division] will continue to certify private laboratories to test drinking water for microbiology and chemical analysis of public water supplies. The microbiologist will continue to be housed in the new seafood and food safety laboratory. The chemical certification officer will remain in the Juneau area.

Number 2827

MR. WETZEL said he was happy to hear Commissioner Ballard say that the state will not compete with private laboratories. He asked if any of the actual testing services will be moved to the new facility in Palmer or will some of those testing services be doled out to the private sector.

MS. RYAN specified that the services provided at the chemistry laboratory won't move to the Palmer facility or the microbiology laboratory either. The services provided at the [state's] current chemistry laboratory are already provided by private laboratories such as Mr. Wetzel's. There are no plans to move any testing [from the state's chemistry laboratory] to the proposed laboratory.

REPRESENTATIVE HOLM asked if there is any predicted increase in employment due to this change or is this merely a consolidation.

[Not on tape, but reconstructed from the committee secretary's log notes, was the following: MS. RYAN said that she didn't foresee any increases.]

**TAPE 03-61, SIDE B**

MR. WETZEL remarked that this proposed laboratory is a needed facility that supports some of the needs [Analytica Alaska] can't.

Number 2958

JULIE DECKER, Executive Director, Southeast Alaska Regional Dive Fisheries Association SARDFa, testified in support of HB 312. She noted that she had submitted written testimony, and therefore would touch on a couple of the main reasons SARDFa supports the proposed laboratory. Firstly, the proposed laboratory is closer which is critical for the time-sensitive water samples out of Southeast Alaska. Furthermore, increasing the value of the geoduck fishery hinges upon the paralytic shellfish poison (PSP) testing of the animal and thus this proposed laboratory would be a critical component to increasing the value of this resource. Ms. Decker concluded by saying that the Palmer laboratory staff that will now be relocated to Anchorage have been an excellent and efficient group.

Number 2883

RODGER PAINTER, Vice President, Alaska Shellfish Growers Association, announced the association's strong support for the construction of the proposed laboratory. Mr. Painter reviewed the difficulties in using the present facility. For example, there is a 30-hour window from the time the sample is taken to the time it needs to be delivered to the laboratory. The time it takes to move packages from the Anchorage airport to Palmer and Wasilla is lacking and that last leg of the journey is critical. Having the laboratory located in Anchorage would alleviate the difficulties that have manifested with transporting packages from the Anchorage airport to Palmer. Additionally, Mr. Painter informed the committee that he has been a purchaser of geoducks and the timely testing of the product is extremely critical because the product has a very short self-life. He echoed the earlier comments that the value

of the product triples when it's shipped live. Mr. Painter invited any member who doubted the need for a new laboratory to come to the Palmer laboratory, which he characterized as hopelessly outdated 15 years ago when he visited the laboratory.

CHAIR WEYHRAUCH, upon determining that no one else had signed up to testify, announced that public testimony would be closed.

MS. RYAN, in response Representative Gruenberg, informed the committee that the current facility closes in 2006, which is the deadline. If this legislation proceeds quickly, ground could be broken next year.

CHAIR WEYHRAUCH informed the committee that he has a question about HB 312 in to the governor's office, and therefore he announced that HB 312 would be held over.

#### HB 228-STATE EMPLOYEES CALLED TO MILITARY DUTY

CHAIR WEYHRAUCH announced that the next order of business would be HOUSE BILL NO. 228, "An Act relating to state employees who are called to active duty as reserve or auxiliary members of the armed forces of the United States; and providing for an effective date." [Before the committee is CSHB 228(MLV).]

Number 2578

JULI LUCKY, Staff to Representative Beth Kerttula, Alaska State Legislature, testified on behalf of the sponsor. Ms. Lucky explained that HB 228 will give the governor the authority to extend benefits and pay to state employees that are called to active duty or on orders. The state employees would receive less pay while working for the military service. She offered to answer any questions.

REPRESENTATIVE SEATON pointed out that the legislation includes a retroactive provision back to September 2001. However, the fiscal note seems to indicate that no one was called to active duty.

MS. LUCKY related her understanding that eight [state employees] could be eligible. She explained that the legislation gives the governor the authority to issue the administrative order, which has tremendous latitude. The fiscal note is indeterminate.

REPRESENTATIVE SEATON surmised then that the authorization would be the difference between the [state employee's] regular pay and

his/her military pay, which is a known quantity as are the benefits. However, there is no knowledge with regard to the maximum authorization amount. He asked if the aforementioned merely hasn't been calculated.

MS. LUCKY pointed out that the Department of Military & Veterans' Affairs prepared the fiscal note. Ms. Lucky related that the sponsor feels that when people are hired and a budget is created, the departments have already incurred those costs. Therefore, the only time that additional costs would be incurred if someone had to fill the position of an employee called to active duty.

REPRESENTATIVE SEATON asked if people have been pulled in to fill the employees' positions over the several year period specified in the legislation.

MS. LUCKY said she understood that when people were called to duty during the retroactive period the employees were, on average, only gone for around three months. Ms. Lucky acknowledged that the retroactive provision has been an issue for the administration. She explained that those covered under the retroactive provision are looking for the known net loss in their retirement benefits and accrual of time. Obviously, the [state] wouldn't extend the pay and health benefits to these people at this time. These individuals are looking for the time that they were called to duty to count toward their retirement and retirement benefit credit.

Number 2360

REPRESENTATIVE DAHLSTROM asked if this legislation would basically bring the state into compliance with what other businesses are required to do when employees are called to active duty.

MS. LUCKY answered that the state meets the requirements now. However, since [the terrorist attacks of September 11, 2001] businesses and employers have tried to provide their employees with no net loss. The thought is that if one is willing to fight for the country, that individual's family shouldn't lose health benefits and the individual shouldn't lose retirement benefits or pay while on active duty. She informed the committee that the states that have some sort of pay differential or medical coverage to make up the difference [between the individuals regular pay and benefits and those received from the military] are as follows: Tennessee, New

York, Florida, Virginia, California, Delaware, Kansas, New Jersey, Ohio, Oklahoma, West Virginia, Washington, and Wyoming. She noted that some of the private companies that are doing this are as follows: American Express, Boeing, Co., Coca Cola, Ford Motor Co., Hewlett Packard, Sara Lee, UPS, and Xerox. Ms. Lucky specified that the benefits would only go to those individuals who would make less while on active duty than if at home. The past testimony has related that the average deployment is three months and dependents don't receive benefits until the deployed individual has been gone for about 180 days. The sponsor's intent is to allow the governor to say that those fighting for the country shouldn't have to suffer additional financial hardships while serving.

REPRESENTATIVE DAHLSTROM related her understanding that when men and women are called to active duty there is no choice.

MS. LUCKY said that she believes HB 228 would cover both voluntary and involuntary service.

Number 2210

REPRESENTATIVE HOLM remarked that he has no problem with the idea behind this legislation. However, he noted his discomfort with a fiscal note that doesn't have limits. Representative Holm questioned whether it's good policy to pass legislation when there is no way to know if it can be funded or not.

REPRESENTATIVE GRUENBERG characterized HB 228 as a type of unfunded mandate. Representative Gruenberg said he believes it's time for the federal government to review the cost of serving and who should bear that cost and whether this is an unfunded mandate. Perhaps the state should ask Congress to consider this part of the cost of waging war and perhaps Alaska should be the first state to speak up for those who sacrifice not only their lives but also their entire family savings. Representative Gruenberg said he would like to know whether it's appropriate to insert such language in this legislation.

REPRESENTATIVE LYNN agreed with Representative Gruenberg regarding this legislation being an unfunded mandate. The families of those serving are often the ones who bear a large part of the burden. Representative Lynn suggested that a resolution on this matter would probably be appropriate. He offered to work with Representative Gruenberg on such a resolution.

Number 1913

CHAIR WEYHRAUCH inquired as to how many individuals would be impacted by this legislation now.

MS. LUCKY said that last year eight state employees would've qualified.

CHAIR WEYHRAUCH inquired as to the policy justification to have this retroactive and he asked if the legislation would be harmed if the retroactive provision wasn't included.

MS. LUCKY reiterated that the retroactive provision was included to help those called to duty during [the terrorist attacks of September 11, 2001] and the subsequent events. The sponsor intended for those individuals to recoup some of the retirement benefits that were lost. The retroactive provision has been an item of discussion and is left to the committee's discretion.

CHAIR WEYHRAUCH related his understanding that the retroactive provision would bestow health benefits on one of the eight.

MS. LUCKY explained that the legislation is permissive, and therefore it would depend upon the language of the administrative order.

CHAIR WEYHRAUCH inquired as to how health benefits would be given retroactively.

MS. LUCKY said that in her opinion, the health benefits wouldn't be something that [an administrative order] would give. The intent is to allow the governor to put out an administrative order that would allow people who might not have been able to qualify or vest in their retirement to receive credited time for the time they were away. It wasn't [the sponsor's] intent to give these people back pay or health benefits.

Number 1775

REPRESENTATIVE DAHLSTROM pointed out that if a family member had surgery during the time [when the individual was called to active duty], with the passage of this legislation the individual would be able to submit the costs for that and recover those costs. Representative Dahlstrom characterized the aforementioned as a good thing.

CHAIR WEYHRAUCH asked if the military would have health benefits that the individual called to duty could obtain.

MS. LUCKY related her understanding that the individual would be covered by those health benefits and after 180 days the health benefits would be available to the dependents. However, the problem is that the [dependents] would only receive the state benefits through the month the individual called to duty was working unless the individual had enough leave to cover the time he/she was gone. Therefore, the dependents wouldn't be covered under the individual called to duty.

Number 1705

REPRESENTATIVE SEATON asked if the eight individuals this would address were volunteers to duty or were called to duty.

MS. LUCKY said that she didn't have that information.

Number 1660

JOHN CRAMER, Director, Administrative Services Division, Department of Military & Veterans' Affairs, responded to Representative Seaton's question by saying that he believes the eight individuals were called to duty.

CHAIR WEYHRAUCH pointed out that in the PERS information handbook it addresses the call to active duty by specifying the following: "If you are called to active duty either voluntarily or involuntarily during your active PERS service and you return to the same PERS employer within 90 days of honorable discharge from active duty, your military service is considered membership service time. You will need to submit a written request along with a copy of your military discharge papers to have this service time credited. There is no cost for this service." He inquired as to how that worked with what is being accomplished in this legislation.

MS. LUCKY said she could get an answer for the committee.

MS. CRAMER said he couldn't comment and deferred to the Division of Retirement and Benefits.

REPRESENTATIVE LYNN indicated that one of the basic issues is with regard to the dependents who experience a gap in coverage. The person recalled to active duty receives military pay,

health, and benefits. This lapse in coverage for the dependents isn't helpful for morale.

REPRESENTATIVE SEATON surmised from the excerpt from the PERS information handbook that the retirement benefits of [an individual called to active duty] is covered if they return to state service and apply [to receive] it. Therefore, it seems the retirement benefit is already addressed. He noted that he has problems with retroactive clause.

Number 1486

REPRESENTATIVE DAHLSTROM said that she shared some of Representative Seaton's concerns regarding the fiscal impacts of this. However, she said that she has such great respect for those willing to put their lives on the line that perhaps there are some costs that [the state] does need to incur and thus she is comfortable with the legislation.

REPRESENTATIVE SEATON commented that he doesn't have a problem with the legislation. However, every time there is a retroactive clause it seems to create a "sticky wicket."

REPRESENTATIVE CRAWFORD turned to Representative Seaton's "sticky wicket" remark and said that [some of] the retroactive dates changed court orders or cases, which isn't the case with this legislation. It seems that legislation very similar to this was passed out of this committee; he inquired as to what happened with that legislation.

MS. LUCKY confirmed that there was [similar] legislation last year in both the House and the Senate. The legislation [from last year] ended up permanently residing in the Senate State Affairs Standing Committee.

Number 1221

REPRESENTATIVE SEATON asked if the health benefits of these [eight] individuals is restored [for that time of active duty], would it mean that [the state] would pay for the health insurance premiums that those folks may or may not have used. He expressed concern that this retroactivity allows the governor to give these individuals pay for the time gone from state service. Therefore, he moved that the committee adopt Conceptual Amendment 1 as follows:

Page 2, line 20, after "2001"

Insert "for health and accrual of retirement benefit qualifications only"

REPRESENTATIVE GRUENBERG objected and expressed his desire to meet on this topic this afternoon when perhaps someone from the Division of Retirement and Benefits could be available. Therefore, he requested that Conceptual Amendment 1 be held on the table until that time.

REPRESENTATIVE CRAWFORD noted his opposition to Conceptual Amendment 1 because he believes the intent is to make up the difference in people's pay if called to active duty. Those individuals shouldn't be made to suffer for doing their duty for the country. He remarked that he believes the intent of this legislation is the right intent.

REPRESENTATIVE DAHLSTROM said that she would like to leave the legislation as it stands.

REPRESENTATIVE LYNN echoed Representative Dahlstrom's sentiment.

A roll call vote was taken. Representatives Holm, Seaton, and Weyhrauch voted in favor of Conceptual Amendment 1. Representatives Dahlstrom, Lynn, Crawford, and Gruenberg voted against it. Therefore, Conceptual Amendment 1 failed by a vote of 3-4.

Number 0858

REPRESENTATIVE DAHLSTROM moved to report CSHB 228(MLV) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 228(MLV) was reported from the House State Affairs Standing Committee.

HB 272-MOTOR VEHICLE DEALERS

Number 0750

CHAIR WEYHRAUCH announced that the last order of business was HOUSE BILL NO. 272, "An Act relating to motor vehicle dealers." [Before the committee was CSHB 272(L&C).]

Number 0730

LINDA SYLVESTER, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, sponsor of HB 272, explained that Sections 2-8 of CSHB 272(L&C) include technical and grammatical changes to

an omnibus bill that passed the legislature last year, which dealt with automobile dealers and manufacturers and contained some consumer protection benefits, as well.

MS. SYLVESTER said that Section 1 is the "primary controversial issue involved in the bill." She noted that, currently, Alaska statute prohibits the sale of any current-model used vehicle being sold. She said, "Whatever you do, Section 1 has to be altered, because every used-car ... and new-car dealer is operating outside of the law, currently ...." Ms. Sylvester read highlights of the changes made to Section 1 for the committee.

MS. SYLVESTER said that used car fleets, such as Avis, purchase used vehicles, rent them, and often "turn them over within nine months." She indicated that although current statute disallows that, the proposed legislation would allow it. She said that the focus [of this legislation] is on the "grey-market"; "vehicles that are bound for the Canadian market that are being picked up in Canada through fraudulent means and turned over to auctions, or are acquired in other ways in the United States." She explained that these grey-market vehicles are for sale in Alaska and have "different impediments." She revealed the following examples:

Many manufacturers don't honor the vehicle warranty. The vehicles also have been modified. The modifications have been standardized over the years. For example, running lights are now dealt with and these vehicles ... are almost interchangeable in the U.S. and Canadian markets; however, the odometer is changed. And that is a very serious consumer protection issue. And the other thing is ... that they ... come into the American market in violation of the franchise agreement ... that the manufacturers have with the franchised dealers of the new vehicles.

Number 0421

CHAIR WEYHRAUCH announced that he would now hear public testimony.

Number 0400

JIM ARPINO, testifying on behalf of Affordable Used Cars, a company in both Fairbanks and Anchorage, Alaska, told the committee that he caught the last plane out of Fairbanks last

night with essentially only the clothes on his back. His impetus for such action, he explained, was to "shed some light on this bill - [HB] 272 - specifically Section 1." He reiterated Ms. Sylvester's notation that there is currently a statute that states that no dealer can sell a current-model used vehicle. He said that everybody understands that this makes no sense. He said that the AG's office has publicly stated that this [law] is not enforceable. He said the question is, "How can it be enforced?" Section 1, he remarked, was drafted to "help, or amend the currant law." If [HB 272] is passed, he opined, the new law will actually be worse.

MR. ARPINO explained that the current law is equally unenforceable to everyone. Conversely, he said, the changes proposed in Section 1 would definitely [negatively] impact used-car dealers in the state of Alaska. Mr. Arpino described the difference between new and used vehicles as follows: "If you want a new vehicle, you go to a new car store. If your budget or preference wants a used vehicle, you go to a used-car dealer, or seek it in the newspaper from a private individual, or you go to a used-car department in a new car store." But the one thing that everybody knows, he said, is that the used vehicle is most likely cheaper. The choice of whether to buy new or used - and there is nothing really in between - is up to the customer, he said. He told the committee that he has never had a customer come to a Affordable Used Cars lot thinking he/she was buying a new vehicle. He said the company has zero complaints in that department, a fact to which he said the AG's office could probably attest.

Number 0169

MR. ARPINO listed the following sources from which [Affordable Used Cars] purchases used vehicles for resale: auto auctions; trade-ins from individuals; other dealers, including new-car dealers; and banks and credit unions. Of those, he said, the most frequent source is the auto auction, which he noted is for dealers only. At the auctions, he said, "no matter who you are or who we buy from, the vehicles at these auctions are used." He added, "We don't even have new vehicles available to us through the course of doing business, because we're not new-car dealers." To illustrate his point, Mr. Arpino said, "If I'm looking at a 2003 vehicle to purchase it, it's going to be a used one."

MR. ARPINO said that Affordable Used Cars in Fairbanks and Anchorage currently has approximately over 800 vehicles on the

lot for sale. Out of those, as of yesterday, only five are current-year, or "2003-used vehicles." He said a person could question why he is before the committee if such a small percentage of the business [would be affected]. The answer, he offered, is that as the year goes on, those 2003 vehicles will become available to his company in large numbers. He stated that he wants to buy those vehicles, resell them to the public, and attempt to make a profit, because "that's what we do."

**TAPE 03-62, SIDE A**

Number 0001

MR. ARPINO [noted that the amended Section 1 would allow dealers to buy used vehicles from individuals]. He said that that helps a little, but suggested that it's just common sense. He reiterated, "That's what we do." He pointed out that Section 1 also states that dealers can buy rental cars that have been in service for six months, which sounds generous, but in most cases, the rental cars in Alaska show up in May and are sold in September after the tourists leave. Some of those vehicles will be sold directly to dealers, but most of them will be sold at auto auctions. He asked, "At that point, how are we supposed to know how long they've been in service?"

MR. ARPINO posited that an auto auction is a great place to buy a vehicle for resale, and is "a great place to see American capitalism at work." He continued as follows:

When you purchase a vehicle at these dealer-only auto auctions, you get a title for that vehicle when you pay for it. It's that simple. You ship these vehicles to Alaska for resale on our lots in hopes of a profit.

MR. ARPINO stated that he doesn't want to be an Alaskan dealer at these auctions and see good used vehicles go by that could be sold due to an "Alaskan-only law" forbidding [dealers] from buying and selling these vehicles.

Number 0158

MR. ARPINO remarked that Section 1 is really about selling imported vehicles in Alaska. He noted that it is currently legal to buy a vehicle that has been imported from another country, as long as it's done properly. He said that dealers have nothing to do with the actual process of importation. Dealers receive the U.S. titles from the auction companies, and

at that point, the vehicles have already been imported and are already "American vehicles with U.S. clean titles." He told the committee that the registered import agents handle the paperwork and the "speedo" (ph) changeover. Those agents are regulated by [U.S.] Customs and the [National Highway Traffic Safety Administration (NHTSA)]. Mr. Arpino indicated that [NHTSA] is part of the [U.S.] Department of Transportation, in Washington, D.C. He said, "They seem to have no problem with this activity. Any questions pertaining to imported vehicles should be directed to them, for I am not an authority on this matter, nor is anyone who is not a registered import agent or working or administering the process."

MR. ARPINO asked the committee members for their help in keeping the free trade of used vehicles, "regardless of (indisc.) in Alaska," by deleting Section 1, or at least holding the bill until all the facts are before the committee. He continued as follows:

This bill says nothing about Canadian vehicles - not a peep. It's only about restriction, and this is not a state issue. This is a federal trade issue. ... Dealers are not importers, and I think that might have a lot to do with the complications.

MR. ARPINO distributed a handout [labeled, "The Detailed Registered Importer Process" and available in the committee packet], which shows the lengthy process involved. He emphasized that the chance of odometer fraud "appears very, very unlikely." He indicated that questions in regard to the importer process should be directed to those involved in that process. He concluded, "So, the vehicles that we're buying currently are good used vehicles for the Alaskan public."

Number 0447

REPRESENTATIVE HOLM asked Mr. Arpino how he relates to the dealers in "our area," with regard to "the accusation of predatory pricing, et cetera."

Number 0490

MR. ARPINO replied that the accusation of predatory pricing is not accurate, because the vehicles are not "apples to apples," but are instead "apples to oranges." He reiterated that there is no misunderstanding between dealers and consumers that the vehicles are used. He noted that people don't get certain

things when buying a used vehicle from a dealership, for example, a nice show room, a parts department, and a service department. He said that that is the risk that [consumers] take.

MR. ARPINO said that if those consumers were to have a legitimate problem, they would contact the AG's office, which he said has "no bones about straightening businesses out." He praised the Anchorage attorney general's office, in particular noting that Ed Sniffen has been helpful in "getting everybody on the same sheet of paper, with the exception of this Canadian issue." He reiterated that that issue is not a state issue, but a federal one. He noted that, at this point, the bill states that "this particular vehicle" cannot be imported, because it's coming from Canada. He asked, "Are we going to then stop importing vehicles from Germany? Are we going to stop motorcycles, refrigerators? Where does it stop?"

MR. ARPINO revealed that his current relationship with dealers is a good one. He noted that he is currently on "the board" with Mr. Allwine, and he sees many things eye-to-eye; however, on this particular issue, he said his view differs from Mr. Allwine's. Overall, he said, the relationship between used- and new- [car] dealers is a good one.

Number 0677

REPRESENTATIVE CRAWFORD asked if the bill, as currently written, makes it illegal for everybody to sell current-model Canadian cars.

MR. ARPINO stated his belief that there are not a lot of new-car franchises buying previously imported vehicles, although he noted that there used to be a lot in the past, but now "they're staying away from it, because it helps this bill process, I believe, pass." He said his interpretation of the bill is that "it would limit the ability for us to go to auctions, because it doesn't specifically say in there." He noted that imported vehicles from Canada are "running through" auctions. He added, "We are not involved in the importation of those vehicles; they are just available for us to purchase." The only way to determine if a vehicle has been imported, he said, is to look for an authorized import sticker on the door. He explained that it is important to make certain that sticker is there, because that shows that the vehicle was imported properly [into] the U.S., and it provides information regarding who imported the vehicle, when it was imported, and whether it meets all the

requirements. At that point, he said, the seller provides the free-and-clear title.

Number 0876

TERI PETRAM, testifying on behalf of Lyberger's Car & Truck Sales, LLC, paraphrased her written testimony as follows:

In testimony heard by those supporting HB 272, Section 1, several concerns were mentioned in regard to the importation of Canadian vehicles for resale. It's odd, though, that the word Canadian is not in the bill, except debate from supporting parties always leads there. So, while Lyberger's isn't actually importing the vehicles themselves, I'm going to go ahead and address a few of those issues for you:

One was odometer discrepancies; two was voided manufacturers warranties; three was the availability of independent mechanics and technology to repair newer vehicles; four was recall notifications sent to subsequent owners; and five was the selling of [vehicles damaged by flood, for example] ....

Let me point out that these are all legitimate issues facing consumers today, on both U.S. and Canadian vehicles - they're not characteristics of only Canadian imports - and we agree that the enforcement of the existing laws - that are already on the books - that address them should be made.

None of these "Canadian vehicle issues" - and I say that in quotes because they're not just Canadian vehicle issues - are being addressed or put to rest by allowing section one to pass as written. Importation of Canadian vehicles will continue. Used-car dealers will still buy 2001 and 2002 Canadian vehicles and resell them in Alaska. Why?, because it is legal, and it makes good business sense, and the supply and demand is there to support it. New car dealers will still buy current-model Canadian vehicles when they can't get a particular type of vehicle from their manufacturer, and they'll still sell them here in Alaska.

So, the fact is, each of those issues that were brought up are already addressed in Alaska Statutes -

it's Section 3, [AS] 45.50.147, I believe - and [in] business advisories from the Attorney General's office, and they're already regulated by the National Highway Transportation Safety Administration, the U.S. Department of Transportation, the U.S. Environmental Protection Agency, [and] U.S. Customs, and they must comply with federal motor vehicle safety standards. The issues are already handled in other areas.

Apparently, there seems to be a sympathetic attitude towards local franchised dealers and the investment they have made with their respective franchises. The picture being painted is that there's no way of competing with the prices of Canadian vehicles, aside from having a showroom, ... [a] parts department, ... and other convenient factors that customers can appreciate. The exchange rate from Canada to the US is favorable, but franchised dealers have access to: factory subsidized interest rates - you see zero percent advertised all the time, [and] it's very difficult for us to compete with that, because we have local lenders; factory rebates - in excess of ... \$3000-\$4,000 on some vehicles; holdback and dealer only incentives for moving specific vehicles; and ... factory-backed advertising - you see Ford, [Chevrolet], [or] Dodge commercials on television all the time that your local dealer didn't necessarily pay for. Once you compare the facts, new-car dealers have as good a bottom-line price as used-car dealers, but are unwilling to accept the same smaller profit margin.

The only objective Section 1 will meet is the elimination of competition from used-car dealers with new-car dealers. We, used-car dealers, will no longer be able to bid against our fellow dealers for current-model vehicles at various auctions, or in any situation that's not a private owner or rental vehicle, because we won't be able to sell them.

In the last four to five years, used-car dealers in Alaska have evolved from the dirt lot with 20-30 cars for under \$10,000, to paved, well-lit lots with 100 or 200 high-quality vehicles. We've sliced out a chunk of the new-car dealers' pie, and that's why they support ... Section [1]. If their past customers had

been treated well the last few decades, maybe we wouldn't be so successful.

So you might wonder why ... [we aren't] happy with cars from rental fleets, also. Well, let's look at the type of inventory that a rental fleet carries: ... sedans, minivans, and a few sport [utility vehicles]. When was the last time you saw a rental fleet of Eddie Bauer Ford Expeditions, or three-quarter-ton crew cab diesels?

CHAIR WEYHRAUCH informed Ms. Petram that the bells calling the representatives onto the House floor had just rung. He stated his desire to hear Mr. Lyberger's testimony, as well.

MS. PETRAM continued paraphrasing her written testimony, as follows:

Those are the vehicles Alaskan buyers are looking for - they want the trucks and the bigger sport [utility vehicles], not the sedans and minivans.

[Used-car] dealers also use local lenders. Ninety percent of the time we use Alaska USA [Federal Credit Union], Denali [Alaskan Federal Credit Union], Credit Union 1, [or] Alaska State Employees [Federal Credit Union]. New-car dealers, when they sell a new vehicle, ... primarily use ... out-of-state factory-lending institutions - like [General Motors Acceptance Corporation], Ford Motor [Company] Credit, [or] Chrysler Credit - with subsidized rates [of] zero percent [or] 2.9 percent, [for example].

Again, a "2003" is obviously a more expensive vehicle than a "2001." When you limit the used-car dealers to just a few current-model vehicles that they can sell and arrange financing for, you're also hurting Alaskan banks and credit unions' portfolios. They're missing out on the high-dollar 2003 loans. Right now, Alaska's credit unions have some of the lowest rates in the country, like 4.99 percent with Alaska USA [Federal Credit Union], and support from their local dealers is a big factor in keeping the rates low.

Just this year - January ... [through] ... [part of] May - our dealership alone sent the local banks \$12,925,991 in high-quality loans. And I say high

quality, because usually you have to have good credit to buy a \$30,000 truck. Since the "2003s" cost more than the older models, it is safe to say ... that about 50 percent of that money was on current models. So, that's [\$6,500,000] of lending money that went to local institutions that won't be there.

CHAIR WEYHRAUCH ascertained that Mr. Lyberger was able to come back later in the day to give his testimony. He then asked Ms. Petram to wrap up her testimony.

MS. PETRAM continued paraphrasing her written testimony as follows:

It's not just us. There's also other dealers: Affordable, Quality, Budget, Phil Hawes, [and] Variety - that's just to name a few. So, there's that chunk of money that [is] coming from those dealers, also.

Also, when an Alaskan bank has a current-model repossession that they want to recoup some of their losses on - like a first-payment default ... - how many dealers will they be able to ask to bid on that vehicle? Say, for example, a Cadillac or a Mazda - there's only one in Anchorage. So, basically, they have to take what that dealer gives them for the vehicle; they can't send it out to bid and get the most money back on their loss.

Used dealers also spend millions of dollars with local independent mechanics and parts suppliers. New car dealers get all their parts from the factory, or ... [a] large portion of ... [them].

So, how exactly does Section 1 help the State of Alaska or its people? Aside from taking a huge chunk of money away from local Alaskan businesses [and] lending institutions, it ensures the \$1,995 and the \$2,995 additional dealer mark-up ... or addendum sticker ... on new vehicles will stay. It also forces any intelligent car buyer looking for a good deal on a late-model vehicle to spend their money out of state and have the vehicle shipped from Washington or Idaho, or any other state without a law prohibiting competition. Every \$1,000 that a customer saves on a vehicle is \$20 disposable income - every month, in their pocket - to spend on whatever else they choose

.... So, I thought we were trying to stimulate the economy and increase consumer spending in Alaska, not stifle it.

So, in conclusion, after browsing through the already existing Alaska Statutes in the handout that Jim gave you, you have to ask yourself what the real intent of Section 1 is, and [if it's] fair and just. And wouldn't your constituents appreciate the chance to make their own decision on where they'll buy a current-model vehicle?

I would submit that Section 1 needs to be removed from HB 272 or rewritten without the words "current model".

[HB 272 was held over.]

#### **ADJOURNMENT**

Number 1519

The House State Affairs Standing Committee meeting was recessed at 10:03 a.m. to a call of the chair. [The meeting was reconvened May 14, 2003.]