

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

January 27, 2004
8:00 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 350

"An Act relating to adding personal injury, death, and property damage from arson in the first degree to the offenses compensable by the Violent Crimes Compensation Board."

- MOVED CSHB 350(STA) OUT OF COMMITTEE

HOUSE BILL NO. 337

"An Act relating to anatomical donor registries, to an anatomical gift awareness fund, to an anatomical gift awareness program, and to motor vehicle licenses and registrations."

- MOVED CSHB 337(STA) OUT OF COMMITTEE

HOUSE BILL NO. 241

"An Act relating to optional exemptions from municipal property taxes on residential property."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 350

SHORT TITLE: CRIME VICTIMS' COMPENSATION FOR ARSON

SPONSORS(S): REPRESENTATIVE(S) GATTO, GRUENBERG

01/12/04 (H) PREFILE RELEASED 1/2/04
 01/12/04 (H) READ THE FIRST TIME - REFERRALS
 01/12/04 (H) STA, JUD
 01/20/04 (H) STA AT 8:00 AM CAPITOL 102
 01/20/04 (H) <Bill Hearing Rescheduled to 1/22>
 01/22/04 (H) STA AT 8:00 AM CAPITOL 102
 01/22/04 (H) Scheduled But Not Heard
 01/27/04 (H) STA AT 8:00 AM CAPITOL 102

BILL: HB 337

SHORT TITLE: ANATOMICAL GIFTS REGISTRY
 SPONSOR(S): REPRESENTATIVE(S) MCGUIRE

01/12/04 (H) PREFILE RELEASED 1/2/04
 01/12/04 (H) READ THE FIRST TIME - REFERRALS
 01/12/04 (H) STA, HES, FIN
 01/20/04 (H) STA AT 8:00 AM CAPITOL 102
 01/20/04 (H) Heard & Held
 01/20/04 (H) MINUTE(STA)
 01/27/04 (H) STA AT 8:00 AM CAPITOL 102

BILL: HB 241

SHORT TITLE: MUNICIPAL PROPERTY TAX EXEMPTION
 SPONSOR(S): REPRESENTATIVE(S) CHENAULT

04/04/03 (H) READ THE FIRST TIME - REFERRALS
 04/04/03 (H) CRA, STA
 05/06/03 (H) CRA AT 8:00 AM CAPITOL 124
 05/06/03 (H) -- Meeting Canceled --
 05/08/03 (H) CRA AT 9:00 AM CAPITOL 124
 05/08/03 (H) Moved Out of Committee
 05/08/03 (H) MINUTE(CRA)
 05/12/03 (H) CRA RPT 3DP 1NR
 05/12/03 (H) DP: KOTT, WOLF, MORGAN; NR: CISSNA
 01/13/04 (H) STA AT 8:00 AM CAPITOL 102
 01/13/04 (H) <Bill Hearing Postponed>
 01/20/04 (H) STA AT 8:00 AM CAPITOL 102
 01/20/04 (H) Heard & Held
 01/20/04 (H) MINUTE(STA)
 01/27/04 (H) STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

REPRESENTATIVE CARL GATTO
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 350.

GERAD GODFREY, Chair
Violent Crimes Compensation Board
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Told the committee that the board has chosen to support [HB 350] as a piece of legislation beneficial particularly to victims of arson; answered questions from the committee.

SUSAN BROWNE, Administrator
Violent Crimes Compensation Board
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Answered questions for the committee during the hearing on HB 350.

KELLY NICOLELLO, Assistant State Fire Marshall
Division of Fire Prevention
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Offered statistics regarding arson-related deaths in Alaska; testified that the department is in agreement with HB 350 "the way it's written."

HEATH HILYARD, Staff
to Representative Lesil McGuire
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on behalf of Representative McGuire, sponsor of HB 337.

JILL STEINHAUS, Director of Development
LifeCenter Northwest
Bellevue, Washington

POSITION STATEMENT: Answered questions on behalf of LifeCenter Northwest during the hearing on HB 337.

DUANE BANNOCK, Director
Division of Motor Vehicles (DMV)
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 337.

RANDY HOFFBECK
Petroleum Property Assessor

Department of Revenue
State of Alaska
Anchorage, Alaska
POSITION STATEMENT:

STEVE PORTER, Deputy Commissioner
Department of Revenue
State of Alaska
Juneau, Alaska
POSITION STATEMENT:

SUE HECKS, Emergency Medical Services Chief
Seldovia Ambulance and Fire Department
City of Seldovia
Seldovia, Alaska
POSITION STATEMENT: Testified against the CS version of HB 241.

SHARALYN WRIGHT
Staff to Representative Mike Chenault
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified to clarify why CSHB241 removed language from the original bill.

STEVE VAN SANT, State Assessor
Central Office
Division of Community Advocacy
Department of Community & Economic Development
Anchorage, Alaska
POSITION STATEMENT: Answered questions during the hearing on HB 241.

ACTION NARRATIVE

TAPE 04-07, SIDE A
Number 0001

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

HB 350-CRIME VICTIMS' COMPENSATION FOR ARSON

Number 0060

CHAIR WEYHRAUCH announced that the first order of business was HOUSE BILL NO. 350, "An Act relating to adding personal injury, death, and property damage from arson in the first degree to the offenses compensable by the Violent Crimes Compensation Board."

Number 0117

REPRESENTATIVE SEATON moved to adopt the committee substitute (CS) for HB 350, [Version 23-LS1324\Q, Luckhaupt, 1/21/04, as a work draft. There being no objection, Version Q was before the committee.

Number 0150

REPRESENTATIVE CARL GATTO, Alaska State Legislature, as sponsor of HB 350, revealed that he spent 25 years in the fire department in Anchorage and as a result has responded to a countless number of small fires, fewer large fires, and many medical runs. He said he has seen many of the difficulties that people suffer as a result of fires. Representative Gatto, depicting the viciousness of arson, recounted a personal experience in his own community whereby a friend of his was asleep at home and his wife awoke at 3 a.m. to noises and found that the side of the house was on fire. The fire department said that at that hour of the morning, the fire had clearly been set by someone.

REPRESENTATIVE GATTO told the committee that when [fire fighters respond to] a fire at 2 a.m. and find a car in the driveway and no smoke alarm going off, they are fairly certain that people are inside; therefore, a search and rescue must be done. The situation [where his friends awoke to find the house on fire] clearly was attempted murder, he stated.

REPRESENTATIVE GATTO said that death is not the only devastating result of fire, but sometimes more devastating are injuries resulting from fires. That is why there are special facilities that provide long-term care. He mentioned military personnel coming back from war with burns. He continued as follows:

Because it is so ... devastating to people, and because it was not included in the list of violent crimes compensation, Representative Gruenberg and I looked at it, and it just seemed apparent that it was simply an error of omission. And it is our wish to simply add this to the list of violent crimes that can receive compensation through the board.

Number 0377

CHAIR WEYHRAUCH asked why the proposed legislation limits the addition to [the crime of] arson in the first degree.

Number 0400

REPRESENTATIVE GRUENBERG explained that the reason that he and Representative Gatto chose arson in the first degree is: "It requires that somebody be placed in immediate physical danger; the other crimes don't." He noted that the Violent Crimes Compensation Board compensates for physical injury or death. He said he supposes it would be possible to have a "criminally negligent burning with that result," and he said he doesn't think that [the sponsors] would have any objection to amending the bill to include "those."

REPRESENTATIVE GRUENBERG said there have been some recent crimes, particularly in Anchorage, that brought this omission to his attention. There didn't seem to be any reason not to have arson in the first degree on the list. He remarked that to prove the crime of murder, the intent to kill must be shown; however, with arson in the first degree, all that needs to be shown is that there is an intentional or reckless burning, and that somebody was thereby endangered. He added, "You don't even have to show that the person knew that the person was inside, just that they negligently set the fire." He said, "If you had the injury, then you'd have the [arson in the first degree]."

Number 0600

CHAIR WEYHRAUCH stated for the record, "This has to do with impacts to individuals, not to property." If it was opened up to impact to property in regard to compensation received from [the Victims of Crime Compensation Board], then "you've got the entire Title 11 to add in to the statute." He added that that would be a policy decision that he is not sure the committee wants to [make].

REPRESENTATIVE GRUENBERG noted that the original bill version did include property damage from arson in the first degree, because usually, if there is a fire sufficient to cause a significant injury, there will also be significant property damage. He noted that there had been immediate outcry from a number of different people that "this would soon exhaust the resources of that board."

CHAIR WEYHRAUCH asked, "Why not have an immediate effective date?"

REPRESENTATIVE GRUENBERG explained that, as a policy matter, whenever he introduces legislation he doesn't [include] an immediate effective date, unless there is a reason to do so. He said, "The statutes contemplate a 90-day period to give people time to gear up." He stated that he would not have any objection [to an immediate effective date]. He suggested asking a representative of the previously mentioned board what the impact on it would be.

Number 0846

GERAD GODFREY, Chair, Violent Crimes Compensation Board, Department of Administration, told the committee that the board has chosen to support [HB 350] as a piece of legislation beneficial particularly to victims of arson. He stated his personal belief that the bill stands on its own merit and sells itself. He said, "The absence of arson from the inception of the bill that created the parameters for this board was likely an oversight. Perhaps arson, at the time, didn't fit the traditional paradigm of the era for a violent crime." Ironically, he noted, fire, in and of itself, may be the most violent natural force on earth. Therefore, when an individual sets a fire with or without intent, that person unleashes the most violent, unpredictable, and often uncontrollable force. Any personally adverse results from that fire should be compensable by the Violent Crime Compensation Board, he opined. He gave credit to both Representatives Gatto and Gruenberg for addressing this long overdue and overlooked provision for victims of arson.

MR. GODFREY mentioned current fiscal limitations and said he would not normally look to increase the number of eligible claimants. He indicated that that was probably his first reservation upon looking at the initial draft of the bill. However, regarding [Version Q], he stated his belief that it is necessary to add Arson, which perhaps "epitomizes a violent crime." He stated that the victims of arson have the potential to suffer as much, or more than victims of gunshot wounds and assaults with any other type of weapon. He encouraged the committee members to support HB 350.

Number 1022

REPRESENTATIVE LYNN asked what the average award is "from this compensation front."

MR. GODFREY noted that the maximum allowable [award] is \$40,000 and there is no minimum. He surmised that the average falls around \$2,000. That typically would include counseling for victims. He offered more examples of how the money is awarded.

Number 1165

REPRESENTATIVE LYNN stated, "I assume that this doesn't preclude any civil liability for the ... arsonist; in other words, ... you still sue for civil damages. Is that correct?" In response to a request by Mr. Godfrey to clarify his question, he asked, "They can still sue for civil damages in addition to the compensation from the fund?"

MR. GODFREY answered that they can. He noted that the board has a caveat in place that if that person should recuperate his/her losses through avenues such as insurance, he/she does have an obligation to reimburse the board. He noted that that reimbursement does not go into the board's coffers, but rather into the general fund. He said that it is the board's purpose to help people as soon as possible, whereas he noted that civil law doesn't work in an expeditious fashion. He said that, occasionally, a person's attorney will contact the board and request that the board waive the person's repayment obligation, because, even after the settlement, that person is still in dire straits.

REPRESENTATIVE LYNN asked, "How much did we spend last year for this?"

MR. GODFREY deferred that question to the board's administrator.

Number 1330

SUSAN BROWNE, Administrator, Violent Crimes Compensation Board, Department of Administration, told the committee that the board awarded approximately \$1.3 million to fire victims in Alaska or their service providers.

Number 1400

CHAIR WEYHRAUCH mentioned reading about the board's binary report in odd number years. He asked if that was the figure given to the legislature last year.

MS. BROWNE said that she is talking about fiscal year (FY) 2003. She noted that the report has not been completed yet, but is almost available on line and will be delivered sometime within the next month. In response to a question by Chair Weyhrauch, she said that the \$1.3 million was for one year. In response to a follow-up questions by Chair Weyhrauch, she said that the limit for awards is \$40,000 per victim, per incident, except in the case of homicide, where there are multiple dependents and the limit is then \$80,000. She added, "And that was raised, effective two years ago." The \$40,000 used to be \$30,000, and the \$80,000 used to be \$40,000. It is funded through PFD funds that are not given to those convicted of felonies and multiple misdemeanors. Also, she said, an application is made every year for an office of victims of crime fund, which is a Department of Justice fund where the federal convicts are fined and states can apply for a grant. Before the permanent fund, the money came from the general fund.

CHAIR WEYHRAUCH asked Mr. Godfrey if he has an opinion about an immediate effective date.

MR. GODFREY replied that he doesn't have a problem with that at all. He noted that there are not a large number of arson cases throughout the state, and he said he doesn't "expect this to really flood us with claims in [arson in the first degree]." He stated that his expectation is that the few [claims] the board will get will be from those in dire need.

Number 1553

CHAIR WEYHRAUCH asked if adding another crime to the list of what can be compensated would create a fiscal impact to the state.

MR. GODFREY answered that the board's funding will not be incrementally increased in any way by the addition of [arson in the first degree] to [statute]. He explained that the increase in applications will have the effect of ultimately reducing the amount of funds available for further applications. At the end of the fiscal year, he said, the board may be holding applicants off or deferring them until it gets new funding. He said, "That's unfortunate, but that's the way it is."

Number 1637

REPRESENTATIVE COGHILL asked the following three questions: Is there a priority list; have other states done this and what is the type of payout that has gone out to the victim because of arson-related crime; and has there been anything in Alaska that has gone wanting because of this not being in statute?

MR. GODFREY, addressing the question regarding a hierarchy of claims, said the board has a great deal of latitude and discretion and does everything on a case-by-case basis. He also noted that the board limits itself through approximately seven policies. Regarding the question about other states, he said he doesn't know. He noted that he has been seated on the board for only about a year now. However, he said the former board administrator stated that the disparity in the way states "do this" is "nothing short of a chasm." He noted that there is a person who serves as a director of a national violent crimes compensation board who is a wealth of information regarding other states.

Number 1890

MR. GODFREY said he would defer Representative Coghill's third question to the administrator. He explained that if there have been any applications [made by victims of arson], the office in Juneau would know, but the applications would never have been sent on to the board to consider in one of its meetings. He added that if such an application had made it to the board, it would have been denied as noncompensable. He surmised that [if the board covered compensation for victims of arson], the average claim awarded would be for personal injury and psychological counseling. The financial burden for a burn victim can be astronomical, he stated, because the victim may need skin grafts for years to come. That person may come back years later for reconsideration by the board after having their first claim granted. The board would then have to set a policy at that time to decide how long it would continue to cover that person. He indicated that some claims may be awarded \$15,000 to \$30,000 "a hit." He summarized that it's a choice of how many get helped how much.

Number 2075

REPRESENTATIVE GRUENBERG, regarding Representative Coghill's previously stated question whether there had been any interest in getting awards from the board in the past [for arson], returned to the subject of the recent events in the Mountain View area [in Anchorage]. He noted that he had asked the

constituents involved if they had applied to the Violent Crimes Compensation Board; however, he discovered that they were not eligible for compensation [because arson is not one of the crimes currently covered].

REPRESENTATIVE GRUENBERG recalled that one of the previous examples offered by Mr. Godfrey regarding uses of the fund was to sometimes relocate victims of stalking. He asked Ms. Browne if Alaska has a witness relocation program similar to that run by the federal government.

MS. BROWNE answered no.

MR. GODFREY interjected that he doesn't believe there is any program like that at all. He remarked, "It's a small world in Alaska and people know people, so I think ... if you're relocating, it would have to be outside the state." He offered his understanding that there are no states that run such a program; the federal marshals are the only ones who [relocate witnesses]. Mr. Godfrey indicated that in order for the board to even consider awarding money to a person who wants to relocate [to get away from a stalker, for example], that person would have to show that he/she has an entire plan in order.

Number 2235

REPRESENTATIVE GRUENBERG handed out a spreadsheet [showing deaths as a result of arson, included in the committee packet]. He also read statistics regarding incidents of arson and the resulting injuries, as follows: Four injuries in two incidents in 2001; seven injuries in three incidents in 2002; and, in an incomplete 2003 report, seven injuries in one incident.

Number 2280

KELLY NICOLELLO, Assistant State Fire Marshall, Division of Fire Prevention, Department of Public Safety, told the committee that he had supplied those statistics, as well as [the spread sheet]. He stated that [the State Fire Marshals] are the primary investigators for the crime of arson in determining the origin and cause. The criminal aspect is usually followed up by either the Alaska State Troopers, or the police force in the jurisdiction involved.

MR. NICOLELLO said the impact on family members, both those injured and those dealing with the loss of loved ones, is dramatic. He stated, "It's such a visible etching ... on their

mind, that to take the crime of arson in the first degree and not give it the same weight as somebody who is injured or dies by gunshot or stabbing is really a misnomer." He said, "We are in agreement with this bill the way it's written, based on injury and death versus the property rights issue, and we believe it's a good bill."

Number 2380

REPRESENTATIVE GATTO, as a former fire fighter, said it's certainly obvious that firemen are often injured and burned as a result of arson fires; however, "they're compensated in other ways." He added, "So, I'm going to take it that this is generally a needs-based situation when you award?"

Number 2395

MR. GODFREY replied, "Truth be told, again, that is something that this current seated board is operating by, or attempting to." Statutorily, he added, "that is not a criteria." Typically, he said, the board does give consideration regardless of somebody's financial status. He noted that the board would not double an award in the instance where a person had already been given money by his/her insurance company.

REPRESENTATIVE GATTO noted that the existing list of things that apply [towards consideration for compensation] includes murder and sexual assault "in any degree." He asked Mr. Godfrey how he feels about arson being considered only in the first degree.

MR. GODFREY responded that he is "at peace with" arson in the first degree, because it is cut and dry regarding the crime having taken place. He offered the example of the fire that was out in the Big Lake area. If someone had started that fire as a campfire that got out of control and it enveloped the whole area to include "a house where people didn't get out in time," he said he doesn't believe that that would be arson in the first degree. He stated that although he personally thinks it's an unfortunate incident that was a violent occurrence, he questions whether the intent to violence was there. He said he would be reluctant to "increase the degrees there on that."

MR. GODFREY noted that the board still has the option and the discretion to consider compensation for [victims of arson in the second degree]. He stated his reluctance has always been getting people's hopes up and making them "jump through a bunch of hoops, only to shoot 'em down," when it's a foregone

conclusion that there's nothing the board is going to be able to do for them. He revealed that the board has some severe fiscal restraints it has continually faced over the last year. He added, "It's very difficult to see a scenario off the top of my head, whereby something beyond [arson in the first degree] would be compensated."

Number 2639

MS. BROWNE noted that a few states compensate both arson and hit and run; therefore, there would be some precedence for compensating arson. She told the committee that there are currently a couple of claims involving arson that would be affected when the committee decides upon an effective date. She noted that Mr. Godfrey would not have known that, because the board has not received those claims yet. She said [the Department of Administration] receives two to three arson claims each year that end up "getting closed" because arson is not currently a crime that is compensated.

Number 2685

REPRESENTATIVE GRUENBERG said he hadn't realized that hit and run is not compensated. He suggested that the House Judiciary Standing Committee, the next committee of referral, consider adding that to the bill. He said there are a lot of hit and runs around, which may "bust the bank," and he remarked that he is very protective of the board and doesn't want to see it get too many claims that it cannot respond to.

REPRESENTATIVE GATTO said, "I'm with you on that."

REPRESENTATIVE GRUENBERG explained that he doesn't want to add that in the House State Affairs Standing Committee, because that would be "quite a step."

MR. GODFREY said he appreciates that.

CHAIR WEYHRAUCH asked if there is any opposition to an immediate effective date.

REPRESENTATIVE GRUENBERG reiterated that this is an issue that he has not contemplated, but it seems like it might "help some people" [to add an immediate effective date].

MS. BROWNE agreed that it would.

Number 2776

CHAIR WEYHRAUCH asked if there was any objection to adding an immediate effective date to HB 350. There being none, it was so ordered.

CHAIR WEYHRAUCH closed public testimony.

NUMBER 2793

REPRESENTATIVE HOLM moved to report CSHB 350, Version 23-LS1324\Q, Luckhaupt, 1/21/04, as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 350(STA) was moved out of the House State Affairs Standing Committee.

HB 337-ANATOMICAL GIFTS REGISTRY

Number 2833

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 337, "An Act relating to anatomical donor registries, to an anatomical gift awareness fund, to an anatomical gift awareness program, and to motor vehicle licenses and registrations."

Number 2846

REPRESENTATIVE HOLM moved to adopt the committee substitute (CS) for HB 337, Version 23-LS1257\S, as a work draft. There being no objection, Version S was before the committee.

TAPE 04-07, SIDE B

Number 2955

[The committee aide, in response to a question from Representative Gruenberg, said that Version S is the formal committee substitute.]

Number 2909

REPRESENTATIVE BERKOWITZ turned to page 2, line 19, of Version S, which read as follows:

(b) A registry must include only residents of this state.

REPRESENTATIVE BERKOWITZ asked if it is correct that nonresidents can get driver's licenses [currently].

HEATH HILYARD, Staff to Representative Lesil McGuire, Alaska State Legislature, answering questions on behalf of Representative McGuire, sponsor, offered his understanding that Representative Berkowitz is correct.

REPRESENTATIVE BERKOWITZ asked, "So, if a nonresident were to fill out the donor registration card, what happens then?"

MR. HILYARD replied that when the Department of Revenue's Permanent Fund Division looks at qualifications for residency, obtaining a driver's license is "one measure"; therefore, he stated his understanding that [applying for] a driver's license is a declaration of residency.

REPRESENTATIVE BERKOWITZ said his question is not in regard to residents, but rather to nonresidents. He stated his understanding that not only can nonresidents get licenses in [Alaska], but also in some circumstances they are required to do so, if they are working here for some period of time, for example. He asked what the protocol [for issuing an] organ [donor] card would be when a nonresident gets a driver's license.

Number 2847

JILL STEINHAUS, Director of Development, LifeCenter Northwest, responded that people who go through the driver's license application can make their decision about donations at that time and will be included in the Alaska registry. If anything were to happen to them while they were in Alaska, that information would be used for indicating their decision to donate. If those people were to move outside of the state and have a driver's license issued in a different state, then that newer license would "trump" the previous one, as far as an indication of organ donation.

REPRESENTATIVE BERKOWITZ clarified that his concern is that the registry must include only residents of the state. He asked how a nonresident who wants to register [as an organ donor] would be accommodated.

MS. STEINHAUS answered that typically, procurement organizations have contacted a nonresident's state of residency and "ensured

that they're able to register through their state's registration system," and then have made note of that in their own system.

REPRESENTATIVE BERKOWITZ noted that there are, unfortunately, many nonresidents who perish while on the road, and he wants to make certain that their organs are available for donation; otherwise they're lost to everybody.

MS. STEINHAUS responded yes. She noted that what would happen when someone dies while "on the road" is [the procurement organizations] would revert to following the statute of the state that person is from, based on the card that he/she is carrying.

Number 2747

REPRESENTATIVE BERKOWITZ responded, "Yes and no." He said he understands what would happen in the instance where someone is [in Alaska] carrying a Minnesota driver's license; however, when a Minnesota resident has acquired an Alaska driver's license, and the statute specifically precludes them from being registered [as an organ donor in Alaska], they may fall through the cracks.

CHAIR WEYHRAUCH asked if Representative Berkowitz is referring to temporary driver's licenses that the state issues.

REPRESENTATIVE BERKOWITZ responded as follows:

I know if people come up here and work for more than 30 ... or 45 days - ... I don't recall the exact time period - they're required to get an Alaskan operator's license. ... Truckers who come up here, [for example]. I just want to make sure that someone who wants to make a contribution, whether they're an Alaska resident or not, ... [doesn't] just fall through the cracks because our paperwork precludes them from being involved.

Number 2690

MS. STEINHAUS responded that that would not preclude them from donating. She said, essentially, HB 337 is setting up a database system for information specifically [regarding] the residents of Alaska. She stated her understanding that Representative Berkowitz is concerned about those people who are nonresidents of Alaska who have documents identifying them as

being in Alaska for "at least a period of time." She said, "What we would do is work with them on an individual basis, identify their decision about donation, and ensure that no individual who may perish here in the state of Alaska would be exempt from donating." She said that, in a sense, that would be a separate process than "what we're establishing here." She mentioned federal guidelines enacted in 1998, which require that every individual who passes away be considered a potential donor at the time of death.

Number 2661

REPRESENTATIVE SEATON offered his interpretation that the only people who can be in the registry are Alaskan residents. Therefore, a student who maintains his/her voting registry in another state, but gets an Alaska driver's license, could get the [donor sticker] on that [license], but would not be included in the registry. He asked if that is the intent of the bill.

Number 2626

MS. STEINHAUS responded that that is not the intent of the bill.

Number 2613

REPRESENTATIVE GRUENBERG said he thinks Representatives Berkowitz and Seaton share his concern, which is the use of word "must" on page 2, line 19. That can be read two ways: as a term of direction - you must do it, or as a term of exclusion - you can only do it. He asked what the sponsor's intent is.

MR. HILYARD indicated the original bill version and said, "That was a particularly sticky phrase." He pointed to [page 2, beginning on line 19] of the original bill version, which read:

(b) A registry must include all residents of this state, regardless of their residence within the service area designated by the federal government.

REPRESENTATIVE GRUENBERG noted that the language deleted had been the word "all" and the phrase following the comma; however, the term "must" was there and was equally ambiguous. He asked Mr. Hilyard what he wants to do in order to be clearer in the drafting.

MR. HILYARD responded by asking at what point residency is declared or someone is considered to have become a resident. He

suggested that someone from the Department of Motor Vehicles (DMV) [may better answer that question].

REPRESENTATIVE GRUENBERG asked Mr. Hilyard to put aside the DMV and asked him if he wants to "limit it to only residents of the state."

MR. HILYARD answered, "Generally, no."

Number 2523

REPRESENTATIVE BERKOWITZ asked what would happen if that line were just deleted.

MR. HILYARD answered, "Nothing, to my understanding." He mentioned that [the sponsor] had held a discussion with [Legislative Legal and Research Services] debating the use of the word "only" versus "all".

Number 2490

DUANE BANNOCK, Director, Division of Motor Vehicles (DMV), Department of Administration, stated that when a person comes to the DMV who is not a resident and he/she applies for a driver's license, the DMV will collect [donor registry] data, even if that person is a resident of Washington state, for example. He said that if Life Alaska gets that information, it will disseminate it to, presumably, the Washington state registry. He stated that the DMV tends to ask 100 percent of its customers to become an organ donor.

REPRESENTATIVE BERKOWITZ asked Mr. Bannock if he would have any heartburn if the committee were to remove [line 19, on page 2 of Version S].

MR. BANNOCK answered no. He noted, "Section 13.50 isn't necessarily the DMV section."

MS. STEINHAUS, in response to the same question posed this time by Chair Weyhrauch, replied that her only concern is that "what we're addressing here is a registry that is for the purposes of use in Alaska." She said that, providing [the committee members] are okay with striking that language, it would be in the best interest of the bill.

Number 2375

REPRESENTATIVE HOLM asked how the change being discussed might affect the size of the registry, and if [that decision] would run the risk of making [the registry] so complex that it cannot be accessed easily.

MS. STEINHAUS explained that essentially it would open up the registry to be utilized by individuals from other states. The downfall to that, she said, is that other states' statutes may be different from the statutes in Alaska, regarding anatomical gifts. She said, "In Alaska we're able to use an anatomical gift as consent for donation, so this system allows us to access that individual's decision." She noted that that may not be the case for somebody in another state, where other state statutes would apply. It would be the responsibility of the procurement organization to be aware of those statutes and to facilitate that donation appropriately. She concluded, "It won't limit the ability to recover organs and tissues from individuals and to allocate them to the people most in need."

Number 2313

REPRESENTATIVE SEATON turned to the language in the original bill version regarding this issue [previously provided] and said it appears there may be some legal parameters of residency within "this federal service area." He suggested that the word "must" could be replaced by the word "may". He said that Legislative Legal and Research Services may be defining the federal service area. He said that, at this point, he is uncomfortable "expanding or contracting too much."

CHAIR WEYHRAUCH summarized that if the committee chooses to delete the language [on page 2, line 19 of Version S], it would be indicating its intent to broaden the effect of the registry. In regard to Representative Seaton's concern regarding the legal issue related to removing the language as it may relate "to some federal area," he noted that some of the members on this committee sit on the bill's next committee of referral. He suggested that they prepare a legal analysis for the benefit of that next committee of referral.

Number 2181

MR. HILYARD clarified that the federal service [area] to which the language in the original bill version referred, is a service area recognized by the U.S. Department of Health and Human Services for organ procurement organizations. He offered his understanding - regarding the drafting of Legislative Legal and

Research Services and whether or not the language in question "can remain in or be removed" - that the Alaska DMV [is] responsible for collecting and distributing the information collected from "it's residents." He stated that he thinks the committee is getting stuck on the definition of resident and what is residency.

CHAIR WEYHRAUCH offered that the word [being questioned] is "must".

Number 2147

REPRESENTATIVE BERKOWITZ moved to delete line 19 on page 2 of Version S. There being no objection, it was so ordered.

Number 2100

CHAIR WEYHRAUCH closed public testimony.

Number 2087

REPRESENTATIVE SEATON stated that he would like the sponsor to get a legal analysis of the removal that was just made by the committee, before the bill is taken up by the next committee of referral.

Number 2069

REPRESENTATIVE SEATON moved to report CSHB 337, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 337(STA) was moved out of the House State Affairs Standing Committee.

Number 2043

The committee took an at-ease from 9:06 a.m. to 9:07 a.m.

HB 241-MUNICIPAL PROPERTY TAX EXEMPTION

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 241, "An Act relating to optional exemptions from municipal property taxes on residential property."

Number 1983

REPRESENTATIVE GRUENBERG moved to adopt the proposed committee substitute (CS) for HB 241, Version 23-LS0851\D, Cook, 1\22\04, as a work draft. There being no objection, Version D was before the committee.

Number 1947

RANDALL HOFFBECK, Petroleum Property Assessor, Tax Division, Department of Revenue, testified regarding the ramifications this bill will have on the "43-56" properties if residential properties are exempted. If the municipalities choose to increase the mill to compensate for the exemptions, it could effect the amount of revenue the state would collect on 43-56 oil and gas properties. Mr. Hoffbeck said the calculation that the Department of Revenue made was based on a projection that if all municipalities raise the mill rate to offset the exemption, it could have the effect of up to \$1.6 million on the revenue collected on oil and gas properties.

Number 1888

STEVE PORTER, Deputy Commissioner, Office of the Commissioner, Department of Revenue, addressed the fiscal note on behalf of the Department of Revenue.

CHAIR WEYHRAUCH clarified that the fiscal note was dated 1/27/2004 and was prepared by Dan Dickinson.

MR. PORTER referred the committee to the worksheet found on page 3 of the fiscal note. The Department of Revenue examined this legislation to determine its effects. The maximum effect, based on the current information, was about \$1.6 million to the State of Alaska. Mr. Porter said that if the exemption for \$50,000 is included, "we're assuming that the boroughs have three choices": to reduce their budgets, to increase their sales tax, or to increase the mill rate. He said, "So there [are] a number of possibilities that the boroughs have before them as tools to manage their budgets. This is just one tool with a maximum impact being \$1.6 million." Mr. Porter emphasized that the key here is to understand that it's \$1.6 million to the state, but for them to capture that \$1.6 million, the borough itself is paying \$12.1 million ... to its own businesses. He said, "It's really seen as a tool for management."

CHAIR WEYHRAUCH mentioned a concern that by adopting [HB 241] and giving the option to local municipalities to adjust their property taxes for residential property in this way, local

residents may be benefiting, but the burden to replace the revenues lost will shift to the state legislature. He continued as follows:

And they'll say, "Well, we have these exemptions, now ... you pay us what we're giving up from these exemptions." ... It shifts the burden to ..., well I guess the oil companies who are financing state government.

MR. PORTER responded that the burden is shifted to the commercial property owners, not the 43-56 properties, but to all the properties. He continued:

In fact, the residential properties in excess of \$150,000 - in this environment, ... anything above \$50,000 exemption - that property too (indisc.) increase the mill rate. Each individual property pays their proportion of part of the mill rate. That's why the numbers show up as \$12.1 million and 1.6. So, ... there is a slight shift, but the majority shift really is to the local residents and their businesses.

Number 1665

REPRESENTATIVE HOLM asked if "we're" really just shifting the burden from one side to the other side, not changing the methodology on a statewide basis.

MR. PORTER responded that if this bill passes there will be a certain amount of shift in the 43-56 properties - the oil and gas properties. He indicated that there is "about a \$1.6 million shift." He explained, "The reason for that is the oil and gas property values versus the residential and commercial property values in any particular borough." He deferred to Randy Hoffbeck for further explanation.

Number 1457

REPRESENTATIVE HOLM asked why this bill is needed.

MR. PORTER explained that the impact of this bill would be to shift from residential property to nonresidential property. He explained that residential property is the exemption, so everything else picks up that exemption, assuming that the same revenue is maintained. He noted that a portion of that nonresidential property is 43-56 property and "the state would

pick up their proportionate share on that shift; that's where the million dollars comes from."

MR. HOFFBECK explained that the state, by statute, collects a 20-mill levy on all oil and gas property. He continued as follows:

The local municipalities are allowed to collect that portion of the 20 mills that they tax everybody else. The companies take it as a credit against the 20 mills that they pay the state. So, for instance, if a jurisdiction ... had a mill rate of 15 mills, they would collect 15 mills of the 20 mills and the state would get 5 mills. If ... they increase their levy to 16 mills, the local jurisdiction would collect 16 mills of the tax and the state would only collect 4. And so, if the local jurisdictions raise their mill rate to offset this exemption, effectively, they will take a greater proportion of that 20-mill tax levy that the state has on oil and gas property.

Number 1344

REPRESENTATIVE HOLM asked Mr. Porter if there is no limit as to how much a borough can collect within the 20 mills on 43-56 property.

MR. PORTER replied that if the borough increased its mill rate to 20 mills, the oil companies could basically take that as a credit against the state's 20-mill tax.

REPRESENTATIVE SEATON said he understands that several boroughs and cities already do that and this practice isn't something that is created by this bill. He asked for clarification regarding the city of Valdez and the entry on the chart [page 3 of the fiscal note].

MR. PORTER clarified that the city of Valdez would have to exceed the 20 mills in order to pick up the extra amount. He noted there is an argument that they could pick up that additional amount and the oil companies would take that full amount as a credit, up to a total statewide credit of 20 mills. He added, "That's an evaluative process." He said that none of the boroughs have exceeded the 20 mills at the present time, so there's a high likelihood that the City of Valdez would not raise its mill rate above 20 mills. He referred to a letter in

the file from the mayor that states there would be no impact to the City of Valdez.

Number 1072

MR. PORTER, in response to a follow-up question by Representative Seaton regarding the fiscal note, explained as follows:

This is the absolute, maximum, possible ... exposure that the state could receive. There's a high likelihood that the City of Valdez will not pick up any of that. And in the Fairbanks, Kenai, and the Northslope Borough[s] the question is, "How much are their businesses willing to accept that additional mill rate?"

MR. PORTER, in response to a concern voiced by Representative Seaton, offered the following explanation:

The boroughs have the right to tax up to 30 mills. ... None of them have gone beyond 20. If Valdez ... went above 20 mills and picked up that additional amount, so long as the total amount of the entire state of 43-56 property doesn't exceed 20 mills to the oil companies -- in other words, ... if you look at the state, three boroughs cover a lot of the pipeline, a lot of the 43-56 properties. There's a piece of the state that is not organized into boroughs. We get that full 20 mill. So there's a margin that ... the state actually picks up in revenue. If Valdez exceeds it's proportionate part of the 20 mills, that proportionate part - as long as it doesn't exceed that extra amount - the oil companies can claim it as a credit against the state, even though ... the amount that Valdez is asking for exceeds the 20 mill.

MR. PORTER indicated that that is hypothetical, because it has never been tested.

Number 0985

MR. HOFFBECK said Mr. Porter is correct that the regulations, as they are currently structured, state that there is a 20-mill levy against all properties within the state. Theoretically, he said, the companies could reach out into an area where they are

not paying 20 mills and take that additional credit against those properties. He offered the following example:

For instance, they could reach out into the pipeline corridor that's in the unorganized borough and actually take that excess credit that they're paying in Valdez against that property in the unorganized borough.

MR. HOFFBECK noted that there is an attorney general's opinion that says that that is an appropriate interpretation.

Number 0935

REPRESENTATIVE BERKOWITZ asked if there would be anything to preclude the legislature acting as the assembly for the non-organized boroughs and imposing a 20-mill tax on industry property. After a brief response by Mr. Porter, Representative Berkowitz said, "You're telling me right now that there is untapped tax revenue from the pipeline in the unorganized borough. Is that correct?"

MR. PORTER responded no. He explained that that tax revenue already comes to the state; there is a statewide 20-mill tax on the oil and gas industry. In response to a follow-up question by Representative Berkowitz, he said, "I would define it as -- that it is a net zero to the industry, and the contest is really a proportionate part. And that's where the \$12 million and the \$1 million go." He stated there are three players: the state, local government, and local businesses.

REPRESENTATIVE BERKOWITZ inquired as to the current amount of municipal assistance and revenue sharing that the state provides, that is projected in the upcoming budget.

MR. PORTER said he did not have this information.

REPRESENTATIVE BERKOWITZ stated his understanding that the amount was going to be zero. He said he thinks that if the legislature is going to push the responsibility down to local government to provide services, because the state is no longer doing it, it should give [the local government] the maximum amount of flexibility. He stated that the local governments are now able to determine if their residents get a tax break if it is running a surplus, for example. He indicated that this bill is a tool for providing increased flexibility to local government and has no impact on the industry. He said he sees

it as a way for local government to secure what is due them because the state has ceased its obligation with municipal assistance and revenue sharing.

Number 0710

REPRESENTATIVE SEATON noted the difference between municipal and borough taxing jurisdictions. He explained that some municipalities and boroughs have instituted sales tax; therefore, they are taxing their 43-56 properties at a lower rate than other boroughs that have opted to have a high mill rate and no sales tax. He pointed out that there is a differential between the monies that are being received from boroughs that have a sales tax versus only a property tax.

Number 0567

REPRESENTATIVE GRUENBERG mentioned again the letter from the City of Valdez and the potential \$1.7 million loss to the state. He suggested a "hold harmless" amendment be considered. He proffered, "If a municipality wants to shift this around internally, it's up to them." He stated that he does not want to see the current fiscal gap increased by this bill. He asked Mr. Porter what he thinks [about the suggestion to add a hold harmless provision in the bill].

MR. PORTER replied, "That is the legislature's prerogative."

REPRESENTATIVE GRUENBERG noted that the CS before the committee shows that "lines 6-8" and Section 2 of the original bill had been deleted. He stated that he would like to know what the impact of those deletions will be before the bill is moved out of committee.

REPRESENTATIVE GRUENBERG mentioned the possible introduction of a bill that would allow the Alaska School Boards and the Alaska Municipal League to prepare a fiscal note, at their expense, which would "travel along with the bill." He remarked that the Alaska Municipal League and a number of municipalities have supported the idea. He added, "Frankly, we are seeing in this day and age that a lot of legislation does have a fiscal impact on municipalities." He said he didn't know if there would be any interest in putting forth that idea as an amendment into [HB 214], or not.

Number 0278

MR. PORTER commented that the Department of Revenue and other departments are "responsible to define the impact to the state." He added, "And that's why we are very thorough in our analysis, so that you understand the total exposure that you're dealing with on ... any particular bill. He noted that the Alaska Municipal League and many [other] organizations are impacted directly by any piece of legislation. Furthermore, any one of them has the opportunity to draft "anything they want to draft and provide the legislature with that information." He clarified that it's important to maintain the distinction between fiscal notes that are the responsibility of the State of Alaska and comments or communications explaining impacts from any individual or group that is not a representative of the state.

REPRESENTATIVE GRUENBERG indicated that [he] "certainly wouldn't want to impinge on that."

Number 0170

SUE HECKS told the committee that she is the Emergency Medical Services (EMS) Chief, Seldovia Ambulance and Fire Department, City of Seldovia, as well as the EMS coordinator for the Kenai area and the statewide chair for the EMS regional directors coordinators' group. She stated that she was particularly interested in Section 2 that had been removed from the bill. She expressed curiosity as to the committee's rationale for dropping lines 6-8 and Section 2.

CHAIR WEYHRAUCH stated his understanding that those deletions were made at the request of the sponsor and suggested Ms. Hecks contact the sponsor for further clarification.

The committee took an at-ease from 9:35 a.m. to 9:36 a.m.

TAPE 04-8, SIDE A

Number 090

MS. HECKS testified that the rationale behind adding fire and emergency medical services to statute for a \$10,000 property tax exemption began in 1998. She stated that she had worked hard on Senate Bill 4 in 2002 to get this language in for certified Fire and EMS personnel. She noted that statewide there is a recruitment and retention issue regarding fire and EMS personnel in volunteer departments. She said, "It was documented in the EMS and Crisis document in 1997 and 1998." She said the

committee may be familiar with the Code Blue Project - a partnership between Federal, State, Denali Commission, Rasmussen Foundation funding, and some local dollars, to replace the aging infrastructure of the equipment and vehicles for EMS services throughout the state. She noted that that did not address the recruitment and retention issues. She continued as follows:

Back in 1998, the Kenai Peninsula EMS Council identified a property tax exemption as a high priority for volunteer departments within the Kenai Peninsula, and we began to work with the borough to make this occur. Unfortunately, that language is not allowed in state statutes for municipalities or boroughs to be able to provide that option. So, SB 4 ... was passed that did add that language to statute for certified EMS and firefighters. ... That could be an optional exemption at the municipal or borough levels, if they so chose, ... to recognize those personnel, to assist with the recruitment and retention issues for staffing in the volunteer departments statewide. It's not a huge sum of money ..., but it is a way to say thank you for these folks' commitment to their community and their departments.

An EMT I class is a minimum of 120 hours, plus, you add to that continuing education, recertification requirements, and responses within their areas, that's a huge time commitment for a volunteer to face. [The] same with firefighters - they have a 160-hour course to become a Firefighter I, and then you add on training and responses on top of that. So, for these particular individuals there is a huge time commitment from their lives and their families in order to provide these services within their communities, and we were looking for a way that we could reward ... and recognize them for their commitment to service in their communities.

Fairbanks Northstar Borough [the] City of Ketchikan, and the Kenai Peninsula Borough have taken advantage of this, and within the Kenai Peninsula Borough, three of the six municipalities, plus the borough, have taken advantage of this as well. The City of Kenai has no volunteers, so this does not impact them. That's a little bit of the background as to how this did come about and why that was included in statute.

REPRESENTATIVE GRUENBERG, who represents Mountain View in Anchorage, said there are real problems in his district because it is a high crime area and there are very few police who choose to live there. He said he has made efforts to attract police to live there because this would reduce crime. He thinks that [a property tax exemption] is a great idea; he would like to see municipalities be able to permit an exemption when police move into designated high-crime areas.

Number 0499

REPRESENTATIVE SEATON noted that the CS that eliminated the exclusion does not apply to taxes for service areas. He asked Ms. Hecks, "If this exclusion would go in, and also ... bump the property tax exemption to \$50,000 on those service areas, do you see a major impact on the service area funding?"

MS. HICKS replied that if the \$50,000 exemption did go through, depending upon where people may be receiving this exemption, she sees a potential impact to service area budgets. She stated her belief that that's why "that language went into this statute." If the funding for the special service areas is reduced then they won't be able to provide those services within those specified boundaries. She added that she has not been educated on the issue to be able to fully address that question.

REPRESENTATIVE SEATON responded that he would like to hold HB 241 until the committee can get further analysis of the impacts and gather comments from boroughs and service districts.

SHARALYN WRIGHT, Staff to Representative Mike Chenault, Alaska State Legislature, testified that the language that created questions - including the service area issue, which is a borough issue and can be discussed and decided by the boroughs and municipalities - was removed. The last section was removed because of a concern that property tax credits would be given to groups that should not qualify. She gave an example of a possible question that could arise regarding a person who does volunteer work once a year: "Would you be qualified or are you being discriminated against because you are not a volunteer fire fighter or an EMT?" She said this concern caused removal of that section of the bill. She opined that decisions affecting fire service areas should be made by municipalities, not [by the legislature] in this bill.

REPRESENTATIVE SEATON asked Ms. Wright if her reading of the current bill is "The borough could adopt a \$50,000 tax exemption

and then exclude that exemption from particular service areas so that if they didn't want this exemption to apply to a library service area, the borough has the authority to say we're getting a tax exemption but we're not going to apply that tax exemption to service areas. Is that your understanding?"

Number 0930

MS. WRIGHT replied that boroughs could exempt in part, for example, only the exemption that would affect that fire service area. She feels that it is better that boroughs make decisions about exemptions and how to apply them within their municipalities; it is better left on the local level.

REPRESENTATIVE SEATON replied that he wanted to make sure that the committee is clear about their intention in CSHB 241, "That the borough still has the ability to exempt this property tax from service areas, otherwise we are impacting not only the boroughs tax base but every service area within the borough."

REPRESENTATIVE HOLM stated that it is his understanding that the CS for HB 241 does not impact service areas. He stated that service areas, in addition, could choose to tax themselves for particular services that they want to provide for themselves.

STEVE VAN SANT, State Assessor, Central Office, Division of Community Advocacy, Department of Community & Economic Development, offered the following explanation:

The statute actually says, "You may exempt or partially exempt," and knowing what the intent of the committee is on this bill, certainly wouldn't give us any heartbreak on it and it would certainly exclude it from any major error decisions on that. So, I don't see any problem with it from our perspective on municipality exempting the \$50,000 from part of the mill rate there.

CHAIR WEYHRAUCH brought two conceptual issues to Ms. Wright's attention: One is in regard to the previously stated indications of Mr. Porter that "this would potentially affect business, transferring taxes onto businesses from residences. He said he doesn't know what the response may be from the business community. The second issue is in regard to whether there is going to be a later impact to the state treasury, with municipalities coming to the state for fiscal salvation, if there is a fiscal impact locally. He said the state treasury

really can't stand an additional impact or request for funds without some other plan in place.

Number 1350

MS. WRIGHT stated that the key word in the chair's statement was "potential" and went on to say:

As far as the municipalities coming back to us after they made a decision to enact the \$50,000 exemption, I would assume that - since this was a municipal-based request and they would have the authority to either enact or not enact this \$50,000 exemption - ... they would take the time to think this through. The only thing that this bill does, at this point in time, is give the municipality the authority. It doesn't say they have to do it [and] it doesn't say how they have to do it, as long as they remain within Title 29 and other statutes that may apply. The only thing we are doing now is giving them the authority to do it. Whatever decision they make, they have to live with.

MS. WRIGHT opined that the potentials cannot be anticipated here in this meeting, "with any variable that's going to come down the line for the next five years." She stated that it's a local issue that needs to be addressed on the local level.

MR. VAN SANT noted that there already exist several optional exemptions that many municipalities have taken advantage of. He offered examples. He added, "This is just another tool that gives [municipalities] an option to shift their burdens around."

Number 1538

CHAIR WEYHRAUCH announced that HB 241 would be held.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:57 a.m.