

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 26, 2004

8:03 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. 351

"An Act relating to the devices, including carbon monoxide detection devices, required in dwellings; and providing for an effective date."

- MOVED CSHB 351(STA) OUT OF COMMITTEE

HOUSE BILL NO. 297

"An Act relating to wildfires and other natural disasters."

- MOVED HB 297 OUT OF COMMITTEE

HOUSE BILL NO. 422

"An Act repealing the special subaccount established in the constitutional budget reserve fund; relating to the powers of the Department of Revenue for the investment of amounts in the constitutional budget reserve fund; and providing for an effective date."

- HEARD AND HELD

DISCUSSION WITH DIVISION OF ELECTIONS

- HEARD

HOUSE BILL NO. 466

"An Act relating to investments of Alaska permanent fund assets;
and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 351

SHORT TITLE: CARBON MONOXIDE DETECTION DEVICES

SPONSOR(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)	L&C, STA
01/21/04	(H)	L&C AT 3:15 PM CAPITOL 17
01/21/04	(H)	Heard & Held
01/21/04	(H)	MINUTE(L&C)
01/23/04	(H)	L&C AT 3:15 PM CAPITOL 17
01/23/04	(H)	Moved CSHB 351(L&C) Out of Committee
01/23/04	(H)	MINUTE(L&C)
01/26/04	(H)	L&C RPT CS(L&C) 5DP
01/26/04	(H)	DP: CRAWFORD, LYNN, GATTO, GUTTENBERG,
01/26/04	(H)	ANDERSON
02/19/04	(H)	STA AT 8:00 AM CAPITOL 102
02/19/04	(H)	Scheduled But Not Heard
02/26/04	(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 297

SHORT TITLE: WILDFIRES AND NATURAL DISASTERS

SPONSOR(S): REPRESENTATIVE(S) STOLTZE

05/05/03	(H)	READ THE FIRST TIME - REFERRALS
05/05/03	(H)	STA, RES
01/13/04	(H)	STA AT 8:00 AM CAPITOL 102
01/13/04	(H)	<Bill Hearing Postponed>
02/03/04	(H)	STA AT 8:00 AM CAPITOL 102
02/03/04	(H)	Scheduled But Not Heard
02/05/04	(H)	STA AT 8:00 AM CAPITOL 102
02/05/04	(H)	Heard & Held
02/05/04	(H)	MINUTE(STA)
02/26/04	(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 422

SHORT TITLE: BUDGET RESERVE FUND INVESTMENT

SPONSOR(S): FINANCE

02/02/04	(H)	READ THE FIRST TIME - REFERRALS
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02/02/04 (H) STA, FIN
02/10/04 (H) STA AT 8:00 AM CAPITOL 102
02/10/04 (H) Scheduled But Not Heard
02/26/04 (H) STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

REPRESENTATIVE CARL GATTO
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as one of the sponsors of HB 351.

KELLY NICOLELLO, Assistant State Fire Marshal
Central Office
Division of Fire Prevention
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Answered questions during discussion of HB 351.

JOHN BITNEY, Lobbyist
for Alaska State Home Builders Association
Palmer, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 351.

THOMAS G. KEMPTON, Deputy Fire Chief
Anchorage Fire Department
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 351.

REPRESENTATIVE BILL STOLTZE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as sponsor of HB 297.

JAMES ARMSTRONG, Staff
to Representative William K. Williams
House Finance Committee
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 422 on behalf of the House Finance Committee, sponsor, which is co-chaired by Representative Williams.

TOMAS H. BOUTIN, Deputy Commissioner

Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 422.

ACTION NARRATIVE

TAPE 04-23, SIDE A

Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting to order at 8:03 a.m. Representatives Weyhrauch, Holm, Seaton, and Gruenberg were present at the call to order. Representatives Coghill, Lynn, and Berkowitz arrived as the meeting was in progress.

HB 351-CARBON MONOXIDE DETECTION DEVICES

CHAIR WEYHRAUCH announced that the first order of business would be HOUSE BILL NO. 351, "An Act relating to the devices, including carbon monoxide detection devices, required in dwellings; and providing for an effective date." [Before the committee was CSHB 351(L&C).]

Number 0072

REPRESENTATIVE CARL GATTO, Alaska State Legislature, one of the two prime sponsors of HB 351, pointed out that the committee packet should include a KTUU-TV news release [dated 2/25/04] that relates to a recent death from carbon monoxide poisoning. He said the original idea behind this legislation had more to do with [saving] children and [keeping] them from long-term exposure to low levels of carbon monoxide. Representative Gatto emphasized that children have a higher metabolic rate than adults; therefore, they accumulate carbon monoxide in their blood at a rate much faster than adults. He posed a situation in which there is a malfunctioning furnace that produces continual low levels of carbon monoxide. In such a situation, people could unknowingly live with a consistent, persistent low level of carbon monoxide for months or even years. He continued, the youngsters in this house would have a low-level load of carbon monoxide and when outside the house, say, at school, would tend to purge some of that, although the youngster, once returning home, would again reload with low levels of carbon monoxide.

Number 0431

REPRESENTATIVE GATTO explained that oxygen is carried through the body via hemoglobin, which is a molecule that is capable of attaching to red blood cells to carry the oxygen through the body. However, the hemoglobin can also carry carbon monoxide, which is very difficult to release [from the hemoglobin]. Therefore, when hemoglobin circulates in the body with only carbon monoxide, one is essentially starving the body of oxygen that should've been available.

REPRESENTATIVE GATTO said that although the simplest way to purge the body of carbon monoxide is to get fresh air for a period of time, the concern is with regard to the persistent low levels of carbon monoxide. Therefore, Representative Gatto viewed requiring carbon monoxide detectors as equally valuable as having smoke detectors. The goal is to identify when any source of carbon monoxide is detected, and thus this legislation requests that carbon monoxide detectors be dealt with in the same way as smoke detectors. He pointed out that when fire fighters arrive at a fire in which the smoke detector is ringing, they are able to fight the fire a bit differently because the fire fighters are fairly sure that the people have left the building and the fire can be addressed. In the absence of a ringing smoke detector, fire fighters have to perform a search and rescue before addressing the fire. A similar situation could occur with a carbon monoxide detector. Representative Gatto stressed that carbon monoxide detectors are enormously valuable in protecting people and usually only cost \$25 to \$50.

Number 0797

REPRESENTATIVE GATTO informed the committee that he has a carbon monoxide detector in every bedroom in his house, one by the furnace, and one in the living room. Occasionally, the carbon monoxide detector in the basement goes off due to a car being started [before] leaving the garage. Also, the carbon monoxide detector in the basement goes off when there is a temperature inversion. He explained that a temperature inversion is a situation in which the furnace hasn't started in some time and the chimney gets cold and thus cold air can come down the chimney and create a draft from the top heading down. In such a situation when the furnace ignites, it's not able to overcome the downdraft and thus the combustion products leak into the house. He said that although this situation is normal, one must know that it's happening.

CHAIR WEYHRAUCH noted that Representative Gruenberg is also a prime [sponsor] of this legislation.

Number 0851

REPRESENTATIVE GATTO, in discussing a tragedy resulting from carbon monoxide poisoning, pointed out that a carbon monoxide detector can be set off by construction, steam, and significant amounts of dust. In response to Chair Weyhrauch, Representative Gatto informed the committee that as a fire fighter, whenever he was called to a residence, he would go through the home and look for any dangers that were present. He estimated that in half the homes there was a smoke detector that was disabled. However, the beauty of a carbon monoxide detector is that it can be plugged in and it will work no matter the location. Furthermore, he noted that there are battery backups.

Number 1080

REPRESENTATIVE LYNN turned to the "installed and maintained" language in the legislation. He asked if a family's life insurance would be impacted if it were determined that a carbon monoxide detector wasn't maintained [in a situation in which death resulted from carbon monoxide poisoning].

REPRESENTATIVE GATTO stated his belief that carbon monoxide detectors are maintenance-free.

REPRESENTATIVE GRUENBERG, responding to Representative Lynn's question, explained that a carbon monoxide detector that wasn't maintained wouldn't impact life insurance because the death would simply be considered an accident.

Number 1207

REPRESENTATIVE GRUENBERG recalled that in the House Labor and Commerce Standing Committee, Representative Rokeberg raised an issue with regard to multi-family dwellings and whether this legislation would require every hotel to have a carbon monoxide detector in every room. He said that the answer to that question is no, because the definition of "dwelling unit" refers to AS 34.03.360, which specifies the following:

"dwelling unit" means a structure or a part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common

household, and includes mobile homes, and if located in a mobile home park, the lot or space upon which a mobile home is placed;

Number 1279

REPRESENTATIVE GRUENBERG surmised, then, that this legislation wouldn't apply unless an individual is permanently living in a hotel. If an individual is permanently living in a hotel, the hotel would need to place a carbon monoxide detector in the room.

REPRESENTATIVE GRUENBERG recalled that [in the House Labor and Commerce Standing Committee] Representative Lynn inquired as to why the legislation didn't have an immediate effective date. Representative Gruenberg explained that the legislation takes effect on January 1, 2005, because it was modeled after the smoke detector legislation which had an effective date that allowed time for installation.

REPRESENTATIVE LYNN clarified that his query regarding an immediate effective date was related to requiring the installation of a carbon monoxide detector when there is a transfer of property when other requirements such as a smoke detector are required to be installed. However, the effective date for the general population [could remain January 1, 2005].

REPRESENTATIVE GRUENBERG proposed that the effective date could be removed, which would make the legislation effective 90 days after the governor signs it.

Number 1472

REPRESENTATIVE SEATON referred to page 2, line 19, which says, "is adjacent to a parking space", and inquired as to what that language means. Representative Seaton opined that with the qualifications [listed on page 2, lines 16-19] almost no [dwelling] is going to be excluded.

Number 1544

REPRESENTATIVE GRUENBERG related his thought that there was concern that one could be in a motel room which sits adjacent to a parking space and thus fumes could enter into the room.

REPRESENTATIVE SEATON pointed out that earlier there was testimony that a motel wouldn't be covered under this

legislation. Therefore, Representative Seaton surmised that a motel room wouldn't be covered unless the individual is living there on a continual basis, regardless of whether the equipment is malfunctioning. Representative Seaton said, "I just have a concern as to the physical attributes of the situation we're trying to cover, and yet now we're saying it's not the physical situation that we're covering but it's the duration of your occupancy."

Number 1694

REPRESENTATIVE GRUENBERG reiterated that motels aren't covered, but announced that he wouldn't have a problem with accepting an amendment specifying that this legislation would cover motel units adjacent to a parking space.

REPRESENTATIVE GATTO noted that generally at a motel, people will start their car and then let it idle. And although the exposure time is probably limited, he highlighted that cold starts of automobiles are [major] contributors of carbon monoxide. In the case of a motel, he anticipated that a car would be idling for a brief period and it would be a one-time exposure versus [an exposure from, for example,] a defective furnace. However, he didn't believe that amount of carbon monoxide exposure in this situation would cause death. He explained the goal of this legislation is to address the continuous low-level carbon monoxide exposure in a home.

Number 1841

REPRESENTATIVE HOLM noted that in the Fairbanks area there is an ambient air restriction of 9 parts per million (ppm) of carbon monoxide and yet all the data specifies that 35 ppm for eight hours is tolerable. He inquired how many ppm of carbon monoxide would cause a carbon monoxide detector to go off.

REPRESENTATIVE GATTO answered, "They're time-weighted." He specified that an instant spike will cause the carbon monoxide detector to go off, and continuous low-level exposure will set it off as well. Representative Gatto said he didn't believe carbon monoxide detectors would be triggered at 35 ppm [because it is believed to be] tolerated.

Number 1968

REPRESENTATIVE HOLM returned to the fact that carbon monoxide exposure is cumulative, and he inquired as to when the 9 ppm

would accumulate to the point at which the detector would be triggered.

REPRESENTATIVE GATTO explained that the steady [exposure] is 9 ppm, and one can have exposure at 9 ppm and never reach 10 or 11 ppm. In further response to Representative Holm, Representative Gatto specified that the carbon monoxide detectors read the ambient air quality and maintain a reading of the highest level.

CHAIR WEYHRAUCH inquired as to why the language "qualifying dwelling unit" was used rather than "qualified dwelling unit".

REPRESENTATIVE GRUENBERG responded that was the language [Legislative Legal and Research Services] suggested, but noted that he didn't have a problem with a change to the language "qualified dwelling unit".

Number 2111

REPRESENTATIVE GATTO, in response to Chair Weyhrauch, noted that there are no carbon "monoxide detector police" or "smoke detector police," although there is usually an advisory committee. However, in the case of a landlord-tenant [relationship] it's clear that the landlord must make it available to the tenant on the first day of occupancy, after which it becomes the tenant's responsibility to maintain it. Representative Gatto characterized this [legislation] as more of an alert. For instance, firemen can come into a home, point out a violation, and distribute information [on the requirement]. Representative Gatto said he wasn't anticipating any level of enforcement.

Number 2150

REPRESENTATIVE GRUENBERG pointed out that this legislation amends AS 18.70.095, and a violation of that statute is a misdemeanor. This requirement would be tacked on to the smoke detector law.

REPRESENTATIVE SEATON returned to the "adjacent to a parking space" language, asking whether all the floors of a multi-level unit with parking spaces adjacent to the ground level would be considered adjacent to the parking space.

REPRESENTATIVE GRUENBERG answered that the upper levels wouldn't be considered adjacent to the parking space. However, he

requested that the committee address this question to Mr. Nicoletto, Department of Public Safety.

Number 2234

CHAIR WEYHRAUCH mentioned that every time there is legislation requiring people to do new things, the reaction is that government is replacing [an individual's] responsibility. Therefore, he questioned why this legislation is good policy.

REPRESENTATIVE GATTO agreed that individuals are entitled to live as they wish. However, one isn't entitled to damage other members of the family by the same activity. He pointed out that the government requires that people take care of their children.

CHAIR WEYHRAUCH asked, then, if the legislation should only apply to those dwellings with children.

REPRESENTATIVE GATTO opined that doing so would complicate the legislation.

Number 2382

REPRESENTATIVE GRUENBERG returned to the question regarding whether there is an enforcement penalty, pointing out that HB 351 amends AS 18.70.095, which is covered in statute as follows:

Sec. 18.70.100. Criminal penalty; appeal of administrative orders.

(a) A person who violates a provision of AS 18.70.010 - 18.70.100 or a regulation adopted under those sections, or who fails to comply with an order issued under AS 18.70.010 - 18.70.100, is guilty of a class B misdemeanor. When not otherwise specified, each 10 days that the violation or noncompliance continues is a separate offense.

Number 2430

REPRESENTATIVE GRUENBERG highlighted that a class B misdemeanor is currently the lowest misdemeanor. In response to Chair Weyhrauch's earlier question, Representative Gruenberg specified that this legislation is a home-safety measure of which there are many in order to make a home safe. The policy throughout the nation has been that it's important to make one's home safe. Returning to the motel/hotel issue, Representative Gruenberg

opined that local building codes address motel and hotel situations.

Number 2510

REPRESENTATIVE SEATON noted that many new houses are being built with "fresh air exchange systems." He asked if the legislation includes any mitigation measures for those devices.

REPRESENTATIVE GATTO specified that the legislation is only interested in whether carbon monoxide accumulates in the home.

Number 2596

KELLY NICOLELLO, Assistant State Fire Marshal, Central Office, Division of Fire Prevention, Department of Public Safety, said that Representatives Gatto and Gruenberg did a good job answering the questions and he would've answered them much in the same way. He indicated that [the intent] of the legislation was to address apartments with adjacent parking, more so than motels. However, a motel could fall under the same provision if someone was living there.

REPRESENTATIVE SEATON pointed out that the parking spot in front of a hotel room may not necessarily be used by the individual in that room; someone from an upper floor could start his/her car - which may be parked in front of an occupied room adjacent to that parking space - and let it warm up for quite some time.

Number 2706

REPRESENTATIVE GRUENBERG asked whether the above situation should be covered in the legislation.

MR. NICOLELLO characterized it as a judgment call, noting that there is no empirical data demonstrating that people have lost their lives [due to carbon monoxide poisoning from adjacent parking spaces] in motels. He mentioned that Anchorage is in favor of "that particular issue also." Mr. Nicoletto said that he didn't have any objection to including the motel issue. However, he noted [his assumption] that the [legislation] would be limited to those parking directly in front of or adjacent to the motel rooms. "Outside of that, there'd be no other reason to include those," he said.

Number 2792

REPRESENTATIVE GATTO commented that in extreme environments it would be unlikely for there to be an open window on a minus-30-degree day. Therefore, the air exchange in a motel room is probably governed more by the building's heating system to protect it. Therefore, he suspected that the building is already pretty tight.

MR. NICOLELLO said that he believes Representative Gatto has a good point with regard to the tightness of construction, especially in those homes built in the last five or so years. He pointed out that the tighter the house, the more probable it is that carbon monoxide that leaks from equipment in the house would stay there longer than in a home built in, say, the 1970s. The aforementioned is another reason to advocate for carbon monoxide detectors (indisc. - coughing).

Number 2869

JOHN BITNEY, Lobbyist for the Alaska State Home Builders Association (ASHBA), informed the committee that the state board of ASHBA has unanimously voted to support this legislation. With regard to the effective date, Mr. Bitney related that ASHBA believes a simple effective date is best. However, ASHBA is indifferent to how the effective date is established. In response to Chair Weyhrauch, Mr. Bitney explained that carbon monoxide detectors look similar in size to a smoke detector and sound an alarm similar to that of a smoke detector. He clarified that carbon monoxide detectors can be plugged into an outlet or used with a nine-volt battery.

REPRESENTATIVE GRUENBERG said that he wanted to have at least 90 days [after passage] for people to get up to speed on this. Furthermore, he said he wanted to have the same effective date for everyone. In light of Mr. Bitney's testimony, Representative Gruenberg related that he would be comfortable with the January 1st effective date or removing the effective date from the legislation.

Number 2985

REPRESENTATIVE LYNN indicated that, practically speaking, having no effective date and thus having the legislation take effect in 90 days [would be appropriate].

TAPE 04-23, SIDE B

Number 2982

REPRESENTATIVE GATTO said [the legislation] would be effective right after Christmas. He indicated that "these would be decent Christmas presents" that people would be encouraged to give as small gifts.

Number 2937

REPRESENTATIVE SEATON asked how many units would be required to service Alaska. He pointed out that once the bill goes into effect, it will be a class B misdemeanor not to have [a carbon monoxide detector] in place. He stated his concern that a 90-day effective date may be too short [for people to comply with the new law], thus resulting in "a lot of criminals."

REPRESENTATIVE GATTO responded that he doesn't know the number; however, he opined that in the free market, stores will probably take advantage of advertising time and keep a supply in stock.

Number 2877

CHAIR WEYHRAUCH noted that there are also problems with other gases in the air, such as radon. He asked if the legislature should also require detectors for radon gas.

Number 2861

MR. BITNEY responded, "Perhaps we should." He reminded the committee that the state does have an energy efficiency standard, under Alaska Housing [Finance Corporation], which requires "higher levels of air tightness" in homes. He mentioned that there are residential code areas. He said, "In the case of radon gas, ... [regardless] of your code or some of these other issues, I think you're facing a situation there that really can't be addressed."

Number 2766

REPRESENTATIVE GATTO proffered that the test for radon is a one-time test; either a home has radon leaking or it doesn't.

REPRESENTATIVE GRUENBERG indicated he is grateful for [Representative Gatto's work on] this legislation.

REPRESENTATIVE SEATON referred to a list of manufacturers [of carbon monoxide detectors] and asked if all of them have been approved for "satisfying the requirements of this bill."

Number 2721

MR. NICOLELLO replied that the requirement is that the unit be "UL [Underwriters Laboratories Inc.] listed for use." He added, "And if that's the case, then it would be approved by us."

REPRESENTATIVE SEATON remarked that the proposed legislation states that the devices must be approved by the state fire marshal, and he said he wants to make certain that they are.

MR. NICOLELLO responded that that may be an issue, because then the state would carry a liability for the type of device that is being used. He continued as follows:

We have all kinds of different types of systems and facilities - fire alarms, fire suppression systems - and we do not recommend any of these products either, because we're not a testing facility to say, "Yes, this will meet the requirement." We rely on third party testing to determine whether or not a product can be used (indisc. - coughing). And ... any third-party testing reference using a national standard that certifies that the product does as the standard says that it should do would be authorized for use through our office.

Number 2650

REPRESENTATIVE SEATON turned to the language on page 1, lines 7-8, which read: "The devices shall be of a type and installed in a manner approved by the state fire marshal." He said he wants to know if that language is or is not a problem for Mr. Nicoletto.

MR. NICOLELLO answered that it could be a problem from the standpoint of "putting our mark on something to say it's approved" and determining which models are appropriate versus those that are not. He explained that could create problems in the marketplace. He said "we" would rely on the third-party testing reference. He noted that each manufacturer includes instructions for installation [of the carbon monoxide detectors]. He said, "We would defer to that, because they are the expert on their own product and have the liability for their own product. We don't want to assume any of their liability in that area."

Number 2590

CHAIR WEYHRAUCH asked Mr. Nicoletto if he is saying, "If you have to approve it, ... it's going to increase your fiscal note."

MR. NICOLELLO answered no, it's more of "a liability on the state."

Number 2579

REPRESENTATIVE GRUENBERG began discussion of what became Conceptual Amendment 1. He indicated that a change made to the legislation on page 1, lines 7-8, would also apply to smoke detection devices. He explained that the language already states that [the devices] must be installed in a manner that's approved by [the state fire marshal].

MR. NICOLELLO responded that "that part is easy on the smoke detector," because the building code states where and what type of smoke detector "you will install in your home." He added, "It makes no mention of a carbon monoxide detector."

Number 2531

REPRESENTATIVE GRUENBERG asked Mr. Nicoletto if he would like [the previously cited language on page 1], line 7, to be changed to read: "Smoke detection devices shall be of a type and installed in a manner approved by the state fire marshal." He added, "And we have another sentence relating to these carbon monoxide devices."

MR. NICOLELLO responded that that would be appropriate.

Number 2502

REPRESENTATIVE HOLM said he suspects what would be looked at would be the manufacturers' recommendations, "and then that's what should be maybe put into the statute here, rather than putting the onus on the state."

Number 2482

REPRESENTATIVE HOLM offered the foregoing as [Conceptual Amendment 1].

MR. NICOLELLO replied that he would recommend "something to that effect."

REPRESENTATIVE GRUENBERG stated that that would be agreeable with the sponsors of the bill.

Number 2460

CHAIR WEYHRAUCH offered his understanding that Conceptual Amendment 1 would read as follows:

Page 1, line 7:
Between "The" and "devices"
Insert "smoke detection"

CHAIR WEYHRAUCH asked if there were any objections to adoption of Conceptual Amendment 1. There being none, it was so ordered.

Number 2441

REPRESENTATIVE HOLM suggested [Conceptual Amendment 2], to say, "The carbon monoxide detection devices shall be installed in a manner consistent with manufacturers' recommendation[s]."

Number 2417

MR. NICOLELLO responded that if the language were to say, "installed and maintained to manufacturers' specifications", it would "cover you on both accounts."

Number 2390

REPRESENTATIVE SEATON noted that there are a couple of different kinds of devices. For example, there are devices with warning signals and those with passive meters with buttons that change color. He asked if it is the sponsors' intention that these devices will have an audible signal. He added, "If we don't have something, we're going to have little 79-cent passive devices on the wall that you have to see that they turn black."

Number 2354

REPRESENTATIVE GATTO agreed. He said he has "had those devices in flying airplanes." He said, "They wouldn't be of any value in a home. It didn't even occur to me that they would even be marketed, and they certainly wouldn't be approved by [the] fire marshal or be UL-listed. So, I'm guessing they would be excluded under those bases." He indicated that language added to elicit an audible alarm would be excellent.

Number 2317

CHAIR WEYHRAUCH turned to page 1, line 8, and clarified that proposed Conceptual Amendment 2 would read as follows:

Page 1, line 8:

After "fire marshal."

Insert: "The carbon monoxide detection device shall have an audible alarm and be installed and maintained according to manufacturers' recommendations."

Number 2295

REPRESENTATIVE GRUENBERG revealed that he comes from a family that is almost totally deaf and can't even hear doorbells. He asked if there are other kinds of devices [that would be effective for a deaf person's use].

Number 2276

MR. NICOLELLO responded that the basic alarm mode in [the carbon monoxide detection devices] is sound. However, they are also available with visual devices for the hearing-impaired. He said he imagines that a home built to ADA [Americans with Disabilities Act] requirements would have both the sound and visual alarm; however, most [hearing] people's homes would only have the sound-alarm device.

Number 2250

REPRESENTATIVE GRUENBERG said, "With that, Mr. Chair, I would request that we just leave it as [Representative Holm] suggested initially."

Number 2240

THOMAS G. KEMPTON, Deputy Fire Chief, Anchorage Fire Department, Municipality of Anchorage, told the committee that yesterday, the department responded to a carbon monoxide call. He referred to the man who was found dead and the woman who was found poisoned. He stated that a vehicle left running in the garage had been the source of the carbon monoxide in the home. If the carbon monoxide detector had been present, he said, those people at least would have received some alert to the odorless, colorless gas that was produced by that vehicle.

Number 2170

CHAIR WEYHRAUCH asked, "Do we agree that there should be some sort of alarm, whether it's visual or audible?" [No objections were stated.]

Number 2159

CHAIR WEYHRAUCH restated Conceptual Amendment 2 [text provided previously]. He asked if there was any objection to adopting it. There being none, it was so ordered.

Number 2086

REPRESENTATIVE GRUENBERG moved to remove the effective date [by deleting line 10 on page 4].

Number 2071

CHAIR WEYHRAUCH asked, "Why not have an immediate effective date? Somebody could die between the passage of the bill and 90 days."

REPRESENTATIVE GRUENBERG withdrew his motion.

CHAIR WEYHRAUCH stated that he thinks the committee is trying to meet the public's interest in having safe homes that are protected from carbon monoxide, as well as [to consider] the people's ability to get [carbon monoxide detectors] installed in their houses and get educated "as to the requirement."

Number 2051

REPRESENTATIVE GRUENBERG asked if the committee would like to change the word "qualifying" [on page 2, line 15] to "qualified".

Number 2015

REPRESENTATIVE COGHILL stated, "Since we are going to make it a criminal offense, 'qualified' might mean that we have to go and inspect people's houses. I would object to that."

CHAIR WEYHRAUCH closed public testimony.

Number 1970

REPRESENTATIVE LYNN moved to report CSHB 351(L&C), as amended, out of committee with individual recommendations and the accompanying fiscal notes.

Number 1960

REPRESENTATIVE COGHILL objected for discussion purposes. He revealed that some good friends of his died because they didn't have a [carbon monoxide] detector; thus he is sensitive to the need [for this legislation]. He said he is and will continue to be an advocate for people putting [carbon monoxide] detectors in their houses. He said he understands "why manufacturers ... [and] housing builders should do it," and why it might be "a code issue," but he struggles with the government's involvement in mandating the requirement. He said he is probably in the minority on this viewpoint, but would like to have the chance to vote on it.

Number 1840

REPRESENTATIVE GRUENBERG responded, "In those areas where they are covered by code, I'm sure there's already a penalty for violating that." He explained that [the proposed legislation] would bring "the areas where there's no building code" into compliance. He said he hopes the majority party of the legislature would feel that although this may be an intrusion, it would be a small intrusion that may save some lives.

Number 1785

REPRESENTATIVE COGHILL said he actually agrees with that. However, he offered an example of a public campaign that was called for by the mayor of Anchorage, whereby the American Red Cross got involved, donations were made by the companies, and a huge public awareness campaign took place. He said, "To me, that's society working together. This is government making a mandate - putting a criminal offense on it - and I don't know that it helps that much."

Number 1730

REPRESENTATIVE HOLM concurred with Representative Coghill. He stated that while he has no problem with telling people that [using a carbon monoxide detector] is something they should do, he struggles with the issue of creating a class of criminals because they may choose not to [use a carbon monoxide detector] or cannot afford one. He said he and his wife, who is a

schoolteacher, see numerous cases where people put their children at risk, and yet "we don't make criminals out of the parents." He said he thinks it is sometimes problematic to suggest that parents are criminals because they may not do the thing that "we, in our zeal to protect people" think is the right thing. He added that he doesn't know how far "we" should go, and he is glad that Representative Coghill brought up the issue.

Number 1621

REPRESENTATIVE SEATON said he has plug-in carbon monoxide detectors, but many people live without electricity. He noted that although there is a battery backup, it doesn't last many days. He said he wants to ensure that reasonably priced battery-operated carbon monoxide detectors will be made readily available to those who live without electricity.

Number 1555

REPRESENTATIVE GATTO noted that some smoke detectors have eight-year batteries. He stated his belief that "a great many homes simply will not comply with this law." He added that there are no carbon monoxide police. He said he thinks that [the proposed legislation] would give a level of awareness [through] advertising campaigns, for example. He explained that he is a defender of [the legislation], because people who take the single action to provide themselves with a carbon monoxide detector now could be thankful for that action in the future.

Number 1390

MR. NICOLELLO, in response to Representative Seaton's previously stated concern about those living without electricity not being able to comply with the proposed law, stated that both battery backup and fully battery-operated carbon monoxide detectors exist and are approved for use.

Number 1357

A roll call vote was taken. Representatives Holm, Seaton, Lynn, Berkowitz, Gruenberg, and Weyhrauch voted in favor of moving CSHB 351(L&C), as amended, out of committee. Representative Coghill voted against it. Therefore, CSHB 351(STA) was reported out of the House State Affairs Standing Committee by a vote of 6-1.

HB 297-WILDFIRES AND NATURAL DISASTERS

CHAIR WEYHRAUCH announced that the next order of business would be HOUSE BILL NO. 297, "An Act relating to wildfires and other natural disasters."

Number 1273

REPRESENTATIVE BILL STOLTZE, Alaska State Legislature, spoke as sponsor of HB 297. Representative Stoltze explained that he and his staff had tried to answer the questions that were posed the last time HB 297 was heard before the House State Affairs Standing Committee. Representative Stoltze stated the reasons that he is presenting this bill haven't changed. He said that HB 297 deals with self-reliance and allowing people to help themselves despite the government's desires.

REPRESENTATIVE STOLTZE said that in his district the people who had violated the well-intentioned barricades set up by the police and fire departments in order to protect their property, animals, or other cherished items were often the ones responsible for saving those things. Admitting that HB 297 still needed some refining, Representative Stoltze said that it is a start, and he wants to have a mechanism in place whereby people can help themselves to protect their cherished items from fires. He said he agreed with the recommendation of the House State Affairs Standing Committee that HB 297 should receive a House Judiciary Standing Committee referral instead of a House Resources Standing Committee referral. He also pointed out that since HB 297 has an indeterminate fiscal note, it will receive more scrutiny from the House Finance Committee. Representative Stoltze offered to answer questions.

Number 1107

REPRESENTATIVE BERKOWITZ commented that the title of HB 297 needed to be tightened up.

CHAIR WEYHRAUCH stated that those issues had been discussed conceptually and it was on the record. He stated that those issues needed to be reaffirmed, but there was discussion about changing the title to add a new crime and to the rights related to persons affected by the bill.

REPRESENTATIVE BERKOWITZ, expressing that he is probably the last person in the legislature who believes in keeping the criminal code as simple as possible, referred to Section 1 of

the bill. He said that instead of putting the specific crime under AS 11.56.210, it should be under the false-information section of AS 11.56.800. He noted that AS 11.56.800 already has a section making false reports to the Department of Natural Resources (DNR) a class A misdemeanor.

REPRESENTATIVE BERKOWITZ shared that he thought that the language in AS 19.70.500 could also be "tightened up" so the statute wouldn't be quite so long. He inquired about [subsection] (c) where the DNR is given the regulatory authority, whereas in most of Title 18 the regulatory authority belongs to the Department of Public Safety. He stated that there were some issues there that needed to be resolved.

Number 1006

REPRESENTATIVE BERKOWITZ posed a hypothetical circumstance where someone was unable to return to his/her home, and wanted to designate someone else to do so for him/her. He noted the way that HB 297 was currently written, no one other than the resident would be able to return to the property, and he wanted to address that issue.

Number 0963

REPRESENTATIVE WEYHRAUCH made the statement that HB 297 was a House Judiciary Standing Committee bill, since it dealt with the criminal code and the liability of individuals. He said that HB 297 establishes some good policies that need to be moved forward, but they need to be adapted to the current codes a little better.

REPRESENTATIVE STOLTZE agreed with the previous sentiments. He stated that the committee process, although sometimes difficult, yields a lot of valuable results.

Number 0906

REPRESENTATIVE COGHILL asked Chair Weyhrauch if it was his intention to pass along the information discussed in the House State Affairs Standing Committee to the other committees that HB 297 is referred to, or whether the committee should adopt a committee substitute (CS) for HB 297 to record the information.

Number 0853

CHAIR WEYHRAUCH at first stated that the House State Affairs Standing Committee would have to adopt a CS for the bill in order to reflect the discussion about it during the committee meetings. He then announced, however, that it is his intention to provide a report containing all the amendments to accompany the bill when HB 297 is reported out of the House State Affairs Standing Committee.

REPRESENTATIVE STOLTZE agreed to incorporate the ideas that were brought up during the meeting into HB 297, stating that everything brought up made sense.

Number 0807

REPRESENTATIVE BERKOWITZ commented that on page 2, line 7, of HB 297, there is a reference to AS 26. He said that he thought it should be further specified to refer to AS 26.23, which specifically deals with fires and other disasters.

CHAIR WEYHRAUCH suggested further changes he thought were relevant to HB 297. He thought that under Section 2, where HB 297 amends AS 18.70.500, the word "disaster" should be changed to "disasters", since the bill deals with many types of natural disasters. He added that the title needed to be amended to reflect that HB 297 imposes a new crime. Referring to page 2, subparagraph (B), Chair Weyhrauch stated that the person should be liable for any property damage, as well as death, and that he thought subparagraph (B) should reflect that. He pointed out a legal issue: on page 2, subsection (a), lines 5 and 6, the statement "clear and immediate threat" needs to be further defined.

CHAIR WEYHRAUCH informed Representative Stoltze that it was his intention to ask the House State Affairs Standing Committee to move HB 297 [unamended] with a report to accompany the bill to the House Judiciary Standing Committee. He added that it would be Representative Stoltze's responsibility to get the House Resources Standing Committee referral removed and to get a House Judiciary Standing Committee referral in its place.

Number 0575

REPRESENTATIVE HOLM moved to report HB 297 out of committee with individual recommendations, accompanying fiscal notes, and the previously mentioned committee analysis. There being no objection, HB 297 was reported from the House State Affairs Standing Committee.

HB 422-BUDGET RESERVE FUND INVESTMENT

Number 0495

CHAIR WEYHRAUCH announced that the next order of business would be HOUSE BILL NO. 422, "An Act repealing the special subaccount established in the constitutional budget reserve fund; relating to the powers of the Department of Revenue for the investment of amounts in the constitutional budget reserve fund; and providing for an effective date."

Number 0411

JAMES ARMSTRONG, Staff to Representative William K. Williams, presented HB 422 on behalf of the House Finance Committee, which Representative Williams co-chairs. He explained that HB 422 was sponsored by the House Finance Committee at the request of the Department of Revenue to repeal the subaccount in the constitutional budget reserve fund (CBRF) created in the year 2000.

Number 0296

REPRESENTATIVE BERKOWITZ stated that it would be more helpful for the committee to have the backup information, particularly about the rates of return for the different accounts. He reminded the committee that then-Senator Torgerson had introduced this legislation initially with the intent of increasing the rate of return for the CBRF portions that weren't likely to be used to fund the government on a regular basis.

REPRESENTATIVE BERKOWITZ pointed out that this is an opportunity for the House State Affairs Standing Committee to address the minimum balance of money that [the state] needs to keep in the CBRF. He noted that Governor Murkowski prefers a \$1-billion minimum. Representative Berkowitz shared that he thought \$1-billion was too low. He followed that up with his beliefs that a \$1-billion minimum jeopardizes bond ratings and [the state] risks losing the interest income that comes from the CBRF as a way to bridge the fiscal gap. He asked what the expectations from [the Department of Revenue] are by drawing down the CBRF.

TAPE 04-24, SIDE A

Number 0001

TOMAS H. BOUTIN, Deputy Commissioner, Department of Revenue, explained the derivation of HB 422, stating that the CBRF isn't being replenished, it is being drawn down regularly, and now some \$7 billion is owed to it. He added that investing equities for a time horizon of five years isn't an appropriate investment and [the Department of Revenue] feels that it is better fiscally to repeal the subaccount in the CBRF and thus had requested introduction of HB 422 to do so.

Number 0148

CHAIR WEYHRAUCH asked for clarification on the amount of money owed to the CBRF, and how much money the CBRF currently has in it.

MR. BOUTIN stated that \$7 billion has been taken from the CBRF and the current balance of the CBRF is \$1.89 billion, including the subaccount that is involved in HB 422.

Number 0202

CHAIR WEYHRAUCH asked why the sum of the money owed to the CBRF is \$7 billion.

MR. BOUTIN replied that the money hasn't been replenished, and if it had been replenished, then he believes another look at the range of investments would be in order. But the way the CBRF is being used now, it doesn't suggest that a five-year time horizon is financially responsible.

Number 0306

REPRESENTATIVE HOLM asked if he was correct in thinking that right now [the state] borrows the money [from the CBRF], and never pays it back.

MR. BOUTIN stated it was his understanding that is what happens. He qualified the borrowing from the CBRF by explaining that the Department of Revenue, Treasury Division, borrows from the CBRF regularly for cash flow reasons. He went on to explain that because of the mismatch in cash flow throughout the year, it is often necessary to draw from the CBRF early in the fiscal year and then reimburse it when they collect the money from the federal government or the other sources of revenue. He added that within the last six weeks \$100 million was paid back to the CBRF from the general fund for cash flow purposes, and it

doesn't look as though there will be another draw from the CBRF this fiscal year.

Number 0466

MR. BOUTIN further explained that his previous comments didn't really relate to HB 422. He stated that HB 422 was directed towards eliminating the five-year investment subaccount that is currently in effect because it isn't good fundamental investment policy and it should be a part of the main CBRF account.

REPRESENTATIVE BERKOWITZ asked Mr. Boutin to contrast the rate of return on the subaccount with the rate of return on the main CBRF.

MR. BOUTIN, referring to the "CBR subaccount" graph, noted that the subaccount has had a "rollercoaster" ride and has just recently gotten back to the original amount that it had in the year 2000. He added that the most recent numbers that he has for the subaccount are from the second quarter for fiscal year 2003 and that the rate of return is at 7.81 percent. He stated that the main CBRF's rate of return for fiscal year 2004, to date, is at 0.78 percent.

Number 0711

REPRESENTATIVE BERKOWITZ asked for clarification on the request to move money from the subaccount that is yielding almost 8 percent to an account that is yielding less than 1 percent.

MR. BOUTIN stated that [the Department of Revenue employees] are not "market timers"; they just use the best investment methodologies that they adopt in the quarterly meetings. He said that it wouldn't be appropriate for [the Department of Revenue] to be market timers. He added that the long-term investment horizon that is in effect with the subaccount isn't appropriate for the way that the CBRF is used by the state. He explained that the Department of Revenue, on behalf of the [Alaska State] Pension Investment Board, has investments in private equity and real estate, and major investments in equities. He continued that the way the CBRF is used, from a fundamental standpoint, doesn't suggest that anything besides a fixed income should be used. He said that if the CBRF were used differently later, then the investment strategy should be revisited. But the way it is used now, it isn't financially sound to have the five-year horizon.

Number 0876

REPRESENTATIVE BERKOWITZ pointed out that the 7-percent difference that would exist if the \$400 million was shifted from the subaccount to the main CBRF account would yield \$28 million less per year, which is substantially in excess of most of the revenue-raising measures that the current legislature has passed. He voiced his concern that the Department of Revenue's proposal portrays a real pessimism about [the legislature's] ability to solve the fiscal gap. He stated his opinion that he wasn't sure if HB 422 is the prudent course for [the legislature] to take at this point.

Number 0937

REPRESENTATIVE GRUENBERG stated that the amendment in Section 1 wasn't really necessary because if the management of responsibility is not transferred to the Alaska Permanent Fund Corporation, then automatically the commissioner of the Department of Revenue would invest the money in the CBRF.

REPRESENTATIVE BERKOWITZ asked if the managerial function proposed in Section 1 of the bill would be something that could be done by executive order.

Number 1042

MR. BOUTIN answered that he wasn't really sure if that could happen.

REPRESENTATIVE BERKOWITZ asked about the impact on the state's bond rating if the change proposed in HB 422 is put in effect.

MR. BOUTIN said that there would be no bond-rating impact by changing from one investment to another. He explained that the CBRF is used by the state as a cash flow buffer, and commented on the importance of a cash flow buffer to the credit-rating agencies. He added that he doesn't believe the choice in investments that money managers can decide from is a credit-rating issue. He went on to explain that if the cash flow buffer is invested in something other than liquid assets, like real estate, then it may be an issue.

Number 1158

REPRESENTATIVE BERKOWITZ asked if the Department of Revenue had checked with any of the bond-rating entities. He said he feels

that removing one of the bulwarks of protection from the CBRF could have some adverse consequences. He stated that due diligence would require the Department of Revenue to at least ask the credit-rating agencies before proceeding.

MR. BOUTIN said that the Department of Revenue is in touch with all three major credit-rating agencies, and moving the subaccount from equities into fixed income does not pose any concern.

Number 1211

REPRESENTATIVE BERKOWITZ asked if the Department of Revenue has been affirmatively told by a credit-rating agency that it would have no effect, or if Mr. Boutin was pulling from his experience dealing with the credit-rating agencies.

MR. BOUTIN said that this issue doesn't rise to the level that would require direct input from the credit-rating agencies. He explained it was an investment management move and that they need the authority to do it. He added that if the Department of Revenue was proposing to eliminate the CBRF, then that would be a credit-rating issue, but shifting a \$400-million subaccount over time from equities to a fixed-income account has no credit-rating issues.

Number 1281

REPRESENTATIVE BERKOWITZ asked if the Department of Revenue was signaling to the credit-rating agencies that something was wrong by raiding this \$400 million dollar subaccount to balance the state budget. He added that it seems like a very strong signal to Wall Street.

MR. BOUTIN explained that the Department of Revenue is not spending any money from the CBRF with HB 422; it is merely moving investments from one account to another. He added that if this were an expenditure of \$400 million, it may be a credit issue. Mr. Boutin clarified that HB 422 would just allow the Department of Revenue to transfer investments to a different account that it feels is a more prudent type of investment, given the way the CBRF is currently used.

Number 1382

CHAIR WEYHRAUCH summarized the questions that he felt needed to be answered by the Department of Revenue the next time the House

State Affairs Standing Committee heard HB 422. He explained that some of the concerns are somewhat philosophical in terms, relating to long-term versus short-term investments and the relationship to the creditor bond rating, since HB 422 would remove the money from a long-term account.

[HB 422 was held over.]

DISCUSSION WITH DIVISION OF ELECTIONS

Number 1448

CHAIR WEYHRAUCH turned attention to questions to be submitted from the House State Affairs Standing Committee to the Division of Elections for response. There was discussion of a possible forthcoming list of questions for response from the discussion.

ADJOURNMENT

Number 1527

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:02 a.m.