

**ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 25, 2004

1:43 p.m.

TAPE(S) 04-26, 27

MEMBERS PRESENT

Senator Con Bunde, Chair
Senator Ralph Seekins, Vice Chair
Senator Gary Stevens
Senator Bettye Davis
Senator Hollis French

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 337

"An Act relating to the powers of the Alaska Energy Authority to make grants and loans and enter into contracts; relating to the bulk fuel revolving loan fund; relating to the Alaska Energy Authority's liability for the provision of technical assistance to rural utilities; relating to the Alaska Energy Authority's investment of the power development fund; repealing the electrical service extension fund; and providing for an effective date."

MOVED CSSB 337(L&C) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 285(JUD)

"An Act adopting the Uniform Electronic Transactions Act; repealing certain statutes relating to electronic records and electronic signatures; amending Rule 402, Alaska Rules of Evidence; and providing for an effective date."

MOVED CSHB 285(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 15(FIN) am

"An Act relating to fair trade practices and consumer protection, to telephone solicitations, to charitable solicitations; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 368

"An Act relating to taxes on cigarettes and tobacco products; relating to tax stamps on cigarettes; relating to forfeiture of cigarettes and of property used in the manufacture, transportation, or sale of unstamped cigarettes; relating to licenses and licensees under the Cigarette Tax Act; and providing for an effective date."

MOVED SB 368 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 337

SHORT TITLE: ENERGY PROGRAMS & FUNDS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/16/04	(S)	READ THE FIRST TIME - REFERRALS
02/16/04	(S)	L&C, FIN
03/11/04	(S)	L&C AT 1:30 PM BELTZ 211
03/11/04	(S)	Heard & Held
03/11/04	(S)	MINUTE(L&C)
03/25/04	(S)	L&C AT 1:30 PM BELTZ 211

BILL: HB 285

SHORT TITLE: ELECTRONIC TRANSACTIONS & SIGNATURES

SPONSOR(S): REPRESENTATIVE(S) MCGUIRE

04/25/03	(H)	READ THE FIRST TIME - REFERRALS
04/25/03	(H)	L&C, JUD
05/07/03	(H)	L&C AT 3:15 PM CAPITOL 17
05/07/03	(H)	Scheduled But Not Heard
05/09/03	(H)	L&C AT 3:15 PM CAPITOL 17
05/09/03	(H)	Scheduled But Not Heard
05/12/03	(H)	L&C AT 3:15 PM CAPITOL 17
05/12/03	(H)	Moved Out of Committee
05/12/03	(H)	MINUTE(L&C)
05/13/03	(H)	L&C RPT 2DP 4NR
05/13/03	(H)	DP: LYNN, ANDERSON; NR: GATTO,
05/13/03	(H)	CRAWFORD, GUTTENBERG, DAHLSTROM
01/21/04	(H)	JUD AT 1:00 PM CAPITOL 120
01/21/04	(H)	Moved CSHB 285(JUD) Out of Committee
01/21/04	(H)	MINUTE(JUD)
01/23/04	(H)	JUD RPT CS(JUD) 7DP
01/23/04	(H)	DP: SAMUELS, HOLM, GARA, OGG,
01/23/04	(H)	GRUENBERG, ANDERSON, MCGUIRE
02/19/04	(H)	TRANSMITTED TO (S)

02/19/04 (H) VERSION: CSHB 285(JUD)
02/20/04 (S) READ THE FIRST TIME - REFERRALS
02/20/04 (S) L&C, JUD
03/25/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 15

SHORT TITLE: SOLICITATIONS/CONSUMER PROTECTION

SPONSOR(S): REPRESENTATIVE(S) FATE

01/21/03 (H) PREFILE RELEASED (1/10/03)
01/21/03 (H) READ THE FIRST TIME - REFERRALS
01/21/03 (H) L&C, STA, FIN
01/29/03 (H) L&C AT 3:15 PM CAPITOL 17
01/29/03 (H) <Bill Postponed>
02/07/03 (H) L&C AT 3:15 PM CAPITOL 17
02/07/03 (H) Moved CSHB 15(L&C) Out of Committee
02/07/03 (H) MINUTE(L&C)
02/10/03 (H) L&C RPT CS(L&C) NT 3DP 4AM
02/10/03 (H) DP: CRAWFORD, ROKEBERG, ANDERSON;
02/10/03 (H) AM: LYNN, GATTO, GUTTENBERG, DAHLSTROM
02/18/03 (H) STA AT 8:00 AM CAPITOL 102
02/18/03 (H) Heard & Held
02/18/03 (H) MINUTE(STA)
02/25/03 (H) STA AT 8:00 AM CAPITOL 102
02/25/03 (H) Scheduled But Not Heard
03/11/03 (H) STA AT 8:00 AM CAPITOL 102
03/11/03 (H) Heard & Held
03/11/03 (H) MINUTE(STA)
03/13/03 (H) STA AT 8:00 AM CAPITOL 102
03/13/03 (H) Moved CSHB 15(STA) Out of Committee
03/13/03 (H) MINUTE(STA)
03/26/03 (H) STA RPT CS(STA) NT 3DP 4NR
03/26/03 (H) DP: SEATON, GRUENBERG, WEYHRAUCH;
03/26/03 (H) NR: HOLM, LYNN, DAHLSTROM, BERKOWITZ
02/19/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/19/04 (H) Heard & Held
02/19/04 (H) MINUTE(FIN)
02/23/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/23/04 (H) Moved CSHB 15(FIN) Out of Committee
02/23/04 (H) MINUTE(FIN)
02/24/04 (H) FIN RPT CS(FIN) NT 7DP 3NR
02/24/04 (H) DP: HAWKER, CROFT, CHENAULT, FATE,
02/24/04 (H) MEYER, HARRIS, WILLIAMS; NR: STOLTZE,
02/24/04 (H) JOULE, MOSES
03/03/04 (H) TRANSMITTED TO (S)
03/03/04 (H) VERSION: CSHB 15(FIN) AM
03/04/04 (S) READ THE FIRST TIME - REFERRALS

03/04/04 (S) L&C, JUD
03/25/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 368

SHORT TITLE: TOBACCO TAX; LICENSING; PENALTIES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/19/04 (S) READ THE FIRST TIME - REFERRALS
03/19/04 (S) L&C, FIN
03/25/04 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

Ms. Sara Fisher Goad
Financial Analyst
Alaska Energy Authority (AEA)
Alaska Industrial Development and Export Authority (AIDEA)
Anchorage AK
POSITION STATEMENT: Commented on SB 337.

Ms. Vanessa Tondini
Staff to Representative Lisel McGuire
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on HB 285 for sponsor.

Mr. Art Peterson, Attorney
Uniform Law Commissioner
State of Alaska
POSITION STATEMENT: Supports HB 285.

Ms. Vicky Backus
State Recorder
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724
POSITION STATEMENT: Supports HB 285.

Mr. David Jones, Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300
POSITION STATEMENT: Commented on HB 285.

Ms. Cindy Drinkwater, Assistant Attorney General
Consumer Protection Unit
Department of Law

PO Box 110300
Juneau, AK 99811-0300
POSITION STATEMENT: Commented on HB 15.

Mr. Pat Luby
AARP Alaska
3601 C Street, Ste 1420
Anchorage AK 99503
POSITION STATEMENT: Supports HB 15.

Mr. Robert Flint, Atty.
Hartig Rhodes Hoge & LeKisch
Counsel for the Direct Marketing Association (DMA) &
Magazine Publishers of America (MPA)
717 K Street
Anchorage AK 99501
POSITION STATEMENT: Opposes HB 15.

Mr. Joel Gilbertson, Commissioner
Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601
POSITION STATEMENT: Supports SB 368.

Mr. Steve Porter, Deputy Commissioner
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Supports SB 368.

Ms. Johanna Bales, Program Manager
Cigarette and Tobacco Products Excise Tax
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Supports SB 368.

Ms. Carole Edwards
Alaska Nurses Association
3998 Diane Rd.
Juneau AK 99801
POSITION STATEMENT: Supports SB 368.

Ms. Jennifer App, Alaska Advocacy Director
American Heart Association
1057 W. Fireweed Lane, Suite 100

Anchorage AK 99518

POSITION STATEMENT: Supports SB 368.

Ms. Christie Garbe, Director
American Lung Association of Alaska
500 W. International Airport Rd., Suite A
Anchorage AK 99518

POSITION STATEMENT: Supports SB 368.

Ms. Mariah Warren
UAS student
Juneau AK 99801

POSITION STATEMENT: Supports SB 368.

Ms. Emily Nenon, Alaska Advocacy Manager
American Cancer Society
1057 W. Fireweed Lane, Suite 204
Anchorage AK 99503

POSITION STATEMENT: Supports SB 368.

Ms. Doris Robbins
PO Box 21011
Juneau AK 99802

POSITION STATEMENT: Supports SB 368.

Ms. Marguerite Stetson
AARP
Anchorage AK

POSITION STATEMENT: Supports SB 368.

Ms. Joelle Hall
Anchorage AK

POSITION STATEMENT: Supports SB 368.

Ms. Kattaryna Stiles
Alaska Native Health Board
Anchorage AK

POSITION STATEMENT: Supports SB 368.

ACTION NARRATIVE

TAPE 04-26, SIDE A

^#SB337

SB 337-ENERGY PROGRAMS & FUNDS

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at 1:43 p.m. Present were Senators Bettye Davis, Hollis French and Chair Con Bunde. Senator Gary Stevens arrived at 1:50 and Senator Ralph Seekins arrived at 2:35. The first order of business to come before the committee was SB 337. This was its second hearing.

SENATOR HOLLIS FRENCH moved to adopt amendment 1.

23G-2

A M E N D M E N T 1

OFFERED IN THE SENATE LABOR
AND COMMERCE COMMITTEE

TO: SB 337

Page 7, line 9:

Delete ", 42.45.200,"

Page 7, following line 9:

Insert new bill sections to read:

"* **Sec. 12.** AS 42.45.200 is repealed.

* **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: ELECTRICAL SERVICE EXTENSION FUND. Subject to appropriation, the money in the electrical service extension fund established in former AS 42.45.200, repealed by sec. 12 of this Act, is transferred to the general fund."

Renumber the following bill sections accordingly.

Page 7, following line 12:

Insert a new bill section to read:

"* **Sec. 15.** Sections 12 and 13 of this Act take effect July 1, 2004."

Renumber the remaining bill section accordingly.

Page 7, line 13:

Delete "This"

Insert "Except as provided in sec. 15 of this Act, this"

CHAIR BUNDE objected for discussion purposes.

MS. SARA FISHER-GOAD, Financial Analyst, Alaska Energy Authority (AEA), explained that amendment 1 repeals the Electrical Service Extension Fund effective July 1, 2005 and makes it subject to appropriation.

CHAIR BUNDE removed his objection and amendment 1 was adopted.

SENATOR FRENCH moved to adopt amendment 2.

23G-2

A M E N D M E N T 2

OFFERED IN THE SENATE LABOR
AND COMMERCE COMMITTEE

TO: SB 337

Page 1, line 2:

Following "loans":

Delete "and"

Insert ", to"

Following "contracts":

Insert ", and to improve, equip, operate, and maintain
bulk fuel, waste energy, energy conservation, energy
efficiency, and alternative energy facilities and
equipment"

CHAIR BUNDE objected for an explanation.

MS. GOAD explained that it expands the title to contain the
subject of the whole bill.

CHAIR BUNDE removed his objection and amendment 2 was adopted.
He recapped that SB 337 would change the AEA to make additional
loans for waste energy, energy conservation and efficiency
projects.

MS. GOAD agreed that was a good explanation of that section.

SENATOR FRENCH said his questions were cleared up.

CHAIR BUNDE said CSSB 337(L&C) would be set aside until other
members of the committee arrived.

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^#HB285

HB 285-ELECTRONIC TRANSACTIONS & SIGNATURES

CHAIR CON BUNDE announced CSHB 285(JUD) to be up for
consideration.

MS. VANESSA TONDINI, staff to Representative Lisel McGuire, said the uniform laws were promulgated by the Uniform Law Commissioners in 1999 in an effort to prepare state law for the electronic commerce era.

The objective of UETA (Uniform Electronic Transmissions Act) is to establish the legal equivalence of electronic records and signatures with paper writings and manually signed signatures removing barriers to electronic commerce. This is a very limited, but important objective - that an electronic record of a transaction is the equivalent of a paper record and that an electronic signature be given the same legal affect, whatever that may be, as a manual signature. UETA does not attempt to create a whole new system of legal rules for the electronic marketplace. It doesn't make any changes substantively to rules of law that currently apply, such as contractor agency law, and it's really a framework that allows for regulations and acceptance if - and this is important - both parties voluntarily choose to use electronic communication.

If we don't set this framework up on a state level, the federal E-sign Law will apply and UETA is much more comprehensive than that. Forty-five states have already adopted UETA to date, so we're a little bit behind the curve. I believe that Alaska should now join the rest of the nation in adopting this bill. The version that you have before you is the version that unanimously passed the House.... The only change from the original version of the bill is the addition of AS 45.02 in section 1...the UCC chapter on sales. Its omission was just a drafting oversight.

MR. ART PETERSON, Uniform Law Commissioner, State of Alaska, said he is one of the five commissioners. He said this bill is a product of the Uniform Law Conference along with the Uniform Commercial Code, the Uniform Probate Code, Child Custody Jurisdiction. The conference covers a broad variety of subjects in the legal world that are thoroughly analyzed, studied, well-written, etc. He supported Ms. Tondini's testimony in favor of this bill and speculated that not enacting it would hinder commerce within the state and interstate commerce significantly. It's the first comprehensive state law for the electronic commerce era.

It doesn't change contract law; it simply says that when you engage in contracts, when you engage in transactions by means of electronics, it will have the same effect as the old-fashioned paper method.

MR. PETERSON said the federal E-Sign Law has a provision that says if states enact UETA essentially verbatim, state law would govern and not the federal one.

It's a very unusual situation. I believe it's the first time federal law has actually included a provision that specific to a product of the national conference.

He said that section 7 of AS 09.80.040 is the heart of the act and sets out some basic rules on page 3, line 19. Page 10 deals with governmental entities.

CHAIR BUNDE politely asked Mr. Peterson to stay on hand to answer questions.

MS. PAULA KELSEY, Recorder Manager, State Recorders Office, deferred testimony to Vicky Backus, but said she was available to answer questions.

MS. VICKY BACKUS, State Recorder, supported UETA saying:

A high percentage of mortgage transactions in Alaska today involve out-of-state lenders and standardizing the electronic recording process within the framework of a uniform law like UETA will benefit commerce in those states with a uniform approach. The handful of states that don't have uniform laws may find themselves at a disadvantage when we get into the world of electronic commerce and recordation. E-Sign and UETA permit state and federal agencies to allow and control electronic filings, but E-Sign doesn't provide any authority for establishing filing standards and this must be derived only from UETA or from other state law. So, UETA will encourage government filing offices to promote consistency and inner operability and that's what we're looking for.

MR. DAVID JONES, Assistant Attorney General, wanted to answer any question and to clarify that 43 states, the District of Columbia and the U.S. Virgin Islands have adopted UETA in the five years since the Uniform Law Commissioners drafted it. "It's

clear that it's not particularly controversial." It primarily gives folks who choose to conduct their transactions electronically the ability to enforce them in court. It will allow efficiencies not only to private sector transactions, but to governmental operations, as well.

CHAIR BUNDE observed that there was no opposition to the bill.

SENATOR HOLLIS FRENCH said the signature section of the bill on page 12, lines 3 - 5, is a crucial aspect and asked how it works.

MR. JONES said he had some background in electronic signatures.

Currently under Alaska statutes, which would be repealed by this bill, we have very technologically specific definitions of electronic signatures that are sort of the Cadillac version of electronic signatures. They require that the electronic signature be attached to the electronic record in such a way that if any change is made to the electronic record, that will be evident and the signature will be registered as invalid by what is known as a certifying authority.

It's a fairly complicated process to explain, but the UETA has the advantage in the beauty of not making the technological choices in defining electronic signatures. One, because there may be different levels of security that are appropriate for different transactions. Just as when we go to the store, some may require that we show an i.d., some may be satisfied with just a signature or for some transactions it may be necessary that we provide a notarized signature, a birth certificate, a passport. Depending on the significance of the transaction, there may be different types of the electronic signatures that would suffice. In one case, a personal identification number, a PIN, might do the trick. In another case, you might want the Cadillac version, which involves the public in private key infrastructure and a certifying authority that I referred to earlier.

Another reason it's a good idea not to be technologically specific in the definition is that technology is changing so rapidly that the definition we adopt today, if it's technologically specific, may

be obsolete in another five years or sooner. So, this definition of electronic signature is not very definite; it's fairly broad and that is very useful for purposes of a uniform law.

CHAIR BUNDE asked if signing a credit card at a store is one level of electronic signature where others might be a typewritten name with a PIN.

MR. JONES replied that is correct.

SENATOR FRENCH said that answers his question and asked another - if buying something from Amazon.com and clicking "I Accept" is another version of electronic signature.

MR. JONES replied that is correct.

SENATOR FRENCH said it looks like they are leaning toward raising or lowering the level of formality a person chooses to use. He was wondering what kinds of formality and trustworthiness were going to follow the new transactions. "It sounds to me like you're saying it's just going to be up to the players?"

MR. JONES replied that is correct.

They are going to be in the best position to decide between themselves what level of security and formality they need for those electronic signatures.

SENATOR FRENCH asked if the act has fraud provisions.

MR. JONES replied:

There are not specific fraud provisions in the act. The same fraud rules that would apply to a paper contract or transaction will apply to electronic records and transactions.

SENATOR FRENCH said he would have to reread the forgery statutes in light of this bill.

CHAIR BUNDE said it appears that the bill is running the gamut from buying a book on Amazon.com to signing a 30-year mortgage.

At one level, my electronic signature could simply be "I Accept." The other would have to be an actual

physical replication of my signature something along the Cadillac that you've mentioned.

MR. JONES replied that is correct.

MR. PETERSON commented that the House Judiciary Committee discussed fraud also and he wrote a letter to Professor Pat Fry who chaired the committee that drafted this act and her response regarding the fraud question was:

Use of electronic technology is consensual. No one is required by statute to use them. Accordingly, parties are free to condition their assent to the use of electronic technologies on the use of agreed security procedures. Consequently, any security technologies to be used are to be taken into account when courts consider issues of identity and agreement. The strength of the technology should go directly to the evidentiary weight of the electronic record or signature.

As to opening up people to fraud, all UETA does is say that people may deal electronically. As I noted, it does not require one to do so. There are fraudsters on line. UETA is not designed to, nor does it in any way supersede, the common law or statutes dealing with various forms of fraud and larceny. [Indisc.] statute has been on the books for years or is newly enacted specifically for the on-line environment. UETA is not a regulatory or criminal statute; it's a piece of infrastructure validating electronic transactions and records. [Indisc.] tells courts to accept electronic evidence; it should assist in the prosecution of frauds. At the same time, it validates millions of legitimate transactions entered into by individuals every day.

Everyone I have contacted as someone who has been thoroughly immersed in these technologies and the law surrounding them feel that this is not opening up any fraud potential that's really any different from current potential on paper.

CHAIR BUNDE said, "Senator French, I note that you will have another bite at this apple if you want to bone up on your fraud."

SENATOR FRENCH responded, "Fair enough, Mr. Chairman."

CHAIR BUNDE noted there were no more witnesses and closed public testimony.

SENATOR GARY STEVENS moved to pass CSHB 285(JUD) out of committee with individual recommendations and the attached fiscal note.

CHAIR BUNDE asked for the roll call vote. Senators Bettye Davis, Gary Stevens, Hollis French and Chair Con Bunde voted yea; and CSHB 285(JUD) moved from committee.

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^#HB15

HB 15-SOLICITATIONS/CONSUMER PROTECTION

CHAIR CON BUNDE announced CSHB 15(FIN)am to be up for consideration.

MR. JIM POUND, staff to Representative Hugh Fate, sponsor, said HB 15 was introduced to put a stop to annoying telemarketing telephone calls that people get during the dinner hour. He related that Congress passed HR 385 establishing the national do-not-call list and the 10th Circuit Court recently affirmed that it does not violate the U.S. Constitution. CSHB 15(FIN)am puts language in statute that acknowledges there is a national do-not-call list, establishes registration for telemarketers and enhances the federal restrictions they must follow while conducting business in the State of Alaska. It gives the Alaska Department of Law authority to enforce and go after those people who do not comply. The language is a combined effort of Representative Fate and the Department of Law and is aimed at filling in the gaps left by the federal law, which was very broad.

CHAIR BUNDE asked for information on the fee that was established and if the state was going to make money on this.

MR. POUND replied that the fiscal note indicates that the state should bring in \$76,000 per year from telemarketing registration fees.

CHAIR BUNDE asked, "Is this a break-even proposition or an actual net gain?"

MR. POUND replied:

There will be a net gain. The original bill...requires us to set up our own do-not-call list and of course, there's a negative fiscal note on that because of the amount of labor-intensive aspects of it. Tying in with the federal legislation basically makes it a lot easier as far as us not having to maintain a do-not-call list specifically for Alaska.

CHAIR BUNDE asked him to expand on the exemptions in section 21.

MR. POUND explained that language was in existing statute and essentially exempts people from paying the registration fees.

SENATOR HOLLIS FRENCH asked if an embalmer or funeral director has to abide by the national do-not-call list.

MR. POUND replied, "Yes, he does."

SENATOR FRENCH asked if they would have to pay a fee.

MR. POUND replied that they don't.

SENATOR FRENCH said they would have to register, though.

MR. POUND indicated that was correct.

CHAIR BUNDE asked how an entity goes through the process of registering with the department and if there is criteria for approval or disapproval.

MR. POUND deferred that answer to Ms. Drinkwater, Department of Law, who helped draft the legislation.

MS. CINDY DRINKWATER, Assistant Attorney General, Consumer Protection Unit, answered:

If a telemarketer wants to solicit in the state, they can either request from the Department of Law a copy of the registration form or they can simply down-load it off our website. It's a fairly straight forward form that requests that they attach copies of their articles of incorporation, that they provide a description of any affiliated companies or parent companies, that they provide a list of the actual solicitors who would be making the calls and the managers of those solicitors. They are asked to attach

a copy of the scripts or the sales presentation that they use over the phone to customers and they are asked to attach a copy of a written contract. Our registration statute requires that telemarketers who are going to be selling over the phone in terms of accepting a credit card number, that before that transaction happens, they need to have a signed purchase agreement from the consumer. So, as part of the registration process, they would need to show us an example of the contract form they intend to use.

CHAIR BUNDE asked how a national firm would know about registering and how would the department enforce it.

MS. DRINKWATER replied that it's not unusual for states to have registration statutes like Alaska's. Any national company would know it has to make the inquiry about registration statutes. Her office gets quite a few phone calls and hits on its website on that question.

Regarding enforcement, she said the department relies on consumers to file complaints of telemarketers who are breaking the law. Because of the large number of exemptions to the registration statute, many telemarketers can conduct business in the state without having to register.

CHAIR BUNDE said that might take quite a few teeth out of this bill.

MS. DRINKWATER agreed and explained that is existing statute. The amendments in HB 15 include requiring businesses that are registering to pay a fee and tightens up other aspects of the current law such as for paid solicitors, who in addition to paying fees, would have to submit financial reports after their solicitation campaign ends.

CHAIR BUNDE said that the trend is for user fees to equal the cost of providing the service, but HB 15 has a positive fiscal note and asked Representative Fate to explain his thoughts on that.

REPRESENTATIVE FATE replied that it was felt that this service should pay for its own way under today's fiscal regime.

SENATOR FRENCH asked if this act applied to charities.

MS. DRINKWATER replied:

Basically, HB 15 amends not only the Consumer Protection Act and, in particular, the state do-not-call bill, which is in existence now, but it also amends the Charitable Solicitations Act and Telephone Solicitations Act, as I mentioned before, as well as a separate statutory scheme called the Business Opportunities Act, although the amendments to that are fairly minor.

As to your question, does this affect charities - it does affect charities and their paid solicitors in terms of the registration requirements. Perhaps your question is more directed to the do-not-call aspect of the bill and the answer to that would be that under the federal do-not-call registry, charities do not have to purchase the registry. They do not have to scrub their lists of people who do wish to be called. However, there is also another means by which people can express their desire not to receive telephone calls. Not only can they sign up for the do-not-call list, but they can also tell companies on a case-by-case basis that they do not want to be called and that is referred to as the internal do-not-call list. In other words, the paid telemarketers for charities would have to abide by that internal do-not-call list, although they would not have to purchase the federal registry.

SENATOR FRENCH asked if he puts himself on the federal do-not-call list, would the local television station that he contributes to be free to call him once a year to remind him that he is a contributor.

MS. DRINKWATER replied, "Yes, they would be able to do that, because they do not have to scrub their lists from the federal do-not-call registry."

SENATOR FRENCH asked if that would apply to any other charities that he has not contributed to. "It sounds like you're saying these charities sort of fall out of the blocked category."

MS. DRINKWATER replied:

That is correct.... The best thing that a consumer can do in terms of if they are receiving charitable solicitations that they do not wish to receive,

chances are that the calls are being placed by a paid solicitor and they can request on an individual basis that they do not wish to receive any calls in the future.

MR. PAT LUBY, AARP Alaska, said:

Thousands of Alaskans are signed up for the national do-not-call list. AARP's interest is in maintaining the privacy of our citizens who have signed up for the national do-not-call list. Older persons are home most of the day. They get many more calls than those of us who are in the workplace - in particular, magazine sales are the most notorious ones. We get complaints from our members. These are folks who bother people; they have what they call goose lists that they sell to each other and anything we can do to control some of those calls is going to be helpful to those constituents.

If an Alaskan citizen is signed up for the national do-not-call list, they should not be subjected to telemarketing calls that originate in Fairbanks or Anchorage or anywhere else in the state. Federal courts have reaffirmed that citizens have the right to privacy in their homes. They should not be subject to home invasion over the telephone if they indicate that they do not want to be bothered. We hope that you'll give us back our dinner hour and respect the wishes of Alaskans who have signed up for the national do-not-call list. AARP requests your support of Representative Fate's HB 15. Thank you.

SENATOR STEVENS asked for an explanation of violation on page 2, in section 4.

MR. POUND replied that section refers to someone who did not mean to make the call, for instance, a solicitor who got a wrong number.

SENATOR STEVENS asked who decides what the violations are and whether the punishments fit the crimes.

MS. DRINKWATER replied that the penalty for a violation of this provision is in the state's Consumer Protection Act. That means that if the state were to seek a lawsuit, it could ask up to \$5,000 per violation, restitution for damages, injunctive relief

and any other remedy that might be appropriate. The other key feature is that it gives the private right of action to consumers, because the Consumer Protection Act has a provision awarding triple damages.

If we're left with just trying to enforce the federal law, which state attorneys general have the authority to do, we would be limited to bringing cases in federal court, although the amount of the possible fine or civil penalty is higher - it's up to \$11,000 per violation. There is more flexibility in terms of other relief under our Consumer Protection Act in state court.

SENATOR STEVENS asked if penalties are just a fine of money.

MS. DRINKWATER replied that injunctive relief is a possibility. That means shutting a business down or ceasing the illegal conduct at the very least.

TAPE 04-26, SIDE B

MR. ROBERT FLINT, Hartig Rhodes Hoge and Lekisch, said he represents Direct Marketing Association (DMA) and Magazine Publishers of America (MPA).

These are trade associations of businesses that market products directly to consumers by mail, advertising and telephone. Products include periodicals, sound recordings, books, CDs videos and similar items. Promotions often include free gifts or trial periods with a cancellation option if the customer is not satisfied or has a change of mind. In all cases, the customer specifically accepts the offer before it goes into effect.

HB 15 contains a Section 21 on page 8, line 14, that would remove the exemption for magazines and other periodicals and similar items from the Alaska Telemarketing Act, AS 45.63.80(10). I want to hasten to add I'm talking about this particular section and not the direct call provision. The concern that my clients have is with this exemption, which is an exemption from the Telemarketing Act. We have no testimony or complaint about the do-not-call list either state or federal.

For reasons I will discuss, the direct marketing publishers oppose the removal of this exemption. I was saying also that from the beginning the summary of the bill says that the changes to the exemption statues are technical. This is not a technical amendment. It takes a large segment of the industry, removes it from exemption of the act and subjects it to severe criminal penalties for violation of that act.

The origin of the Alaska Telemarketing Act...is an anti-fraud statute that was originally aimed at fly-by-night telemarketers. It requires registration, which is easier to charge as a violation than proving fraud. So, the charge and the penalties are for failure to register rather than the fraud, itself. But here, to underline the non-technical aspect of the change of section 21, are the criminal penalties, which you will find in the Telemarketing Act, [AS] 43.63.060. That hasn't been changed, so it's not in the CS bill.... This is in AS 43.63.060, the Telemarketing Act. A person who sells or attempts to sell property or services by telephonic means by making substantially the same offer and substantially the same terms to two or more persons without complying with the registration - that's one - or who solicits or receives payment for a purchase before receiving the written contract required, is guilty of a class C felony. The people who are after the fly-by-nighters were serious about this and that is why this is a [indisc.] statute. We're not talking about a fine or an injunction or even a misdemeanor for heaven's sakes. It's a class C felony. So, for example - let me back up just a second - to sell property or services by telephonic means is defined in the act - 'Telephonic means includes a letter, postcard, notice or other written communication advising, requesting, motivating or otherwise encouraging a person to contact a seller by telephonic means.' So a small publication, for example Archeology Today.... It has an ad in its publication...on the newsstand in Alaska, which says you can subscribe to this magazine by calling this number. If they are not registered, that is a violation of the act and subject to felony penalties.

The other circumstance is the written contract, which simply does not conform with what national business

does. First of all, I'd like to put it in context here. The calls we all love to hate are the solicitors that call us at dinnertime. We all have that; we all hate them. That's why there is a do-not-call list. But the Telemarketing Act is not determined by the origin of the call. An incoming call from a customer to a seller is covered by the act. So, someone sees the ad. It may be the ad in a magazine, which is already a class C felony, or it may be someplace else. A magazine may have placed an ad in the newspaper. It could even be on the Internet, I suppose, these days - definitely these days. So, the customer originates the call to the operator at Rapid City, South Dakota, or India, wherever these people are these days, and says I'd like to subscribe to your magazine. And she says fine, thank you, you can pay by credit card. What is your credit card number? The customer gives the credit card number; she books the sale and she's guilty of a class C felony because there's no written contract. Now, how do you cure that? Well, the way you cure it is you either, first, conform to the act and you have a written contract or you redline Alaska. The practical fact is that this national business, which does transactions in the hundreds of thousands, doesn't do business that way.

A written contract in advance has the effect of selling twice, I guess. It just isn't the way national business is done. So, the seller of Archeology Today magazine or Time magazine or anything else isn't going to conform the national market to Alaska. After all, the national market is - well let's see - my figures were Alaska is one quarter of one percent of the American market. So, they would have to create a special procedure for Alaska that would be costly and raise the cost for them, at least, for the Alaska consumer. They'll absorb it, if they could do it. Generally, these people have uniform prices across the country. This, after all, is a national marketing business to the entire country.

Now, we are an association. The Direct Marketers and the Magazine Publishers Association is a trade group. So, they don't actually do it. And there are hundreds and literally thousands of marketers and they all had to make their own decisions. But the fact of the matter is to do that for a small market would be

extraordinarily costly and, I think, the only conclusion that they would come to basically with one quarter of one percent of the market is, as I say, to take Alaska out of the market. So, that the ads would have, in small print I guess, offer not valid in Alaska. And the operators would have to be instructed to basically not take the call over the telephone. I think that's a pretty drastic solution, particularly because when this law was enacted in Alaska in 1993 - it was originally enacted in California in 1985 - that actually, I gather, happens to be where a lot of this back room stuff goes on - where people do this telemarketing, get credit cards and then move and basically have no fixed address. So, California would start that and Alaska followed along with a lot of other states.

In 1993, the Direct Marketing Association was involved with the Attorney General's Office. Attached to my testimony I've given you a letter from the assistant attorney general at the time who worked with, in fact, the principal that I work with now [indisc.].... At that time, the Attorney General's Office seemed to be in sync as to who the target of the Telemarketing Act really was and who was not a target and the legitimate businesses represented by the association were not the target. This law changes that substantially to bring them under basically the same as the fly-by-nighters.

The [indisc.] of my testimony here is that what we have substantial businesses nationwide who have long done this legitimately. They are subject to Federal Trade Commission regulations that are extensive and govern these items; they were not involved in the rash, as I've noted here, in the 80s and early 90s where there was prosecution by the state and federal governments for this type of fraud....

As I say, it's deliberately onerous. The registration itself is 20 questions including the name and address and principal address of each seller. So, I assume the telephone operator in India would have to be listed. We are not sure what the impetus for this removal of the exemption is. In my discussions with the Department of Law, magazines were supposed to be a problem. Now, whether that's an inbound problem or an outbound problem, I don't know and can't tell. I've

asked for statistical information from the Department of Law. I've filed a freedom of information request to try to see what the scope of the problem is, but have heard nothing back from that. So, basically, for this amendment, there is actually no empirical data that supports the removal, much less the imposition of criminal penalties. Again, I would note that the association, as you see from my correspondence, makes every effort to work with states and work with attorney generals to deal with these problems. It is as much in their interest as it is in the consumer's to have honest business conducted so they don't get mud splashed on them.... Nothing of the kind happened here. I must say that I do not believe an effort has been made by the Department of Law to educate itself on how this business works and the impact.

CHAIR BUNDE asked him to summarize.

MR. FLINT summarized:

The people I represent aren't the crooks and we don't think we should be made the crooks. There are significant regulations and we believe those are adequate. We do not believe the exemption should be removed.

CHAIR BUNDE asked Ms. Drinkwater if he went to a magazine stand and bought a magazine with a printed solicitation for him to call in and order a magazine, would that company be in violation of HB 15 as currently written.

MS. DRINKWATER replied that was a possible interpretation. An amendment could exclude that kind of situation, because the purpose of that definition, which is found in AS 45.63.100, that is not part of the bill, was to include letters, postcards, notices or other written communications to a consumer encouraging them to call.

What the problem that we see is that people sometimes get postcards that have very little information on them and it will say we've been trying to reach you. Please call us at our 800 number. The consumer doesn't know what the nature of the postcard is or why someone has been trying to contact them. They call and find that it's a magazine offer that's being presented to

them.... So, I think that's something that can be fixed.

MS. DRINKWATER explained that magazine scams have a lot of effect on consumers in Alaska, often senior citizens. She outlined four consumer complaints from 2003. One gentleman complained that for a year he had received magazines and had been billed for them, but he had never ordered them. He spent considerable efforts over 18 months trying to resolve the problem. When he left the country to be a missionary in South Africa, his subscriptions were forwarded to his sister in California and the bills continued to arrive.

Another example is a woman received a phone call offering a subscription to some magazines for a year. She told them she was on disability and could only afford payments of \$29.90 per month. That amount was debited electronically from her bank account. Suddenly the company started taking out twice that amount. When she called about it, they told her it was because she had two separate accounts and they were going to continue billing her in that same fashion.

A third example is of magazine renewal scams. Another gentleman complained about receiving a subscription renewal, but the information did not come from the company that had sold him the magazine, rather from a fraudulent business that somehow learned subscribers' information.

A fourth complaint is from an 86-year old gentleman who did not order any magazines, but was suddenly billed for them. When the department wrote to the company with his complaint attached, the company responded that he did, in fact, make the order on tape. It appeared that he had consented over the phone to receive the magazines, but he didn't recall that phone conversation. A written contract would have provided him with the paperwork necessary to review the information.

CHAIR BUNDE asked the bill's sponsor, Ms. Drinkwater and Mr. Flint to work together to address the concerns that were raised.

REPRESENTATIVE FATE pointed out that language on page 3, line 18, exempts a customer who initiates a phone call from being in violation of this act.

CHAIR BUNDE related a solution he used once for a long-play record club. He was sent to Germany by the military and tried to discontinue his subscription, but the company never got any of

his cancellation notices. It sent "tons" of records to Germany that arrived in multiple pieces. He wrote to the company many times saying he never received the records and asked to be left alone, but they threatened to sue him. When he got married, his wife took the situation seriously and tore a piece of paper out of a spiral notebook and wrote in pencil, "My husband, he ain't workin'. We ain't got no money." They never bothered him again.
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^#SB337

SB 337-ENERGY PROGRAMS & FUNDS

CHAIR CON BUNDE announced CSSB 337(L&C) to be back before the committee.

SENATOR RALPH SEEKINS moved to pass CSSB 337(L&C) from committee with individual recommendations and attached fiscal note. Senators Gary Stevens, Bettye Davis, Hollis French, Ralph Seekins and Chair Con Bunde voted yea; and CSSB 337(L&C) moved from committee.

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^#SB368

SB 368-TOBACCO TAX; LICENSING; PENALTIES

CHAIR CON BUNDE announced SB 368 to be up for consideration.

MR. JOEL GILBERTSON, Commissioner, Department of Health and Social Services (DHSS), explained why it is important for the state to address the tobacco levy this year. It is the number one public health crisis threatening the state of Alaska according to a new report called Tobacco in the Great Land - A Portrait of Alaska's Leading Cause of Death, published Feb 2004. He summarized:

Tobacco is the number one cause of death, disability and chronic illness in this state. We have already seen in Alaska, alone, the impact of increasing the tobacco tax on consumption of tobacco products. Since 1997, which is the year in which the most recent tax was increased, we've seen a 30 percent decline in the consumption of tobacco products in Alaska. Those are round numbers done for the section of Epidemiology. It's also true to say that there is an absolute link between the price of a tobacco product and its consumption both by youth and adults. Increasing the unit price of tobacco products is one of the most

effective ways in decreasing the utilization of tobacco products by minors. Young individuals have limited resources; they are least prepared to afford higher tobacco prices and for that reason we see a very beneficial affect on the consumption of tobacco products by minors.

As youth are especially sensitive to the proposed \$1 per pack tax increase, we believe this will add to the 50 percent decline we have seen in the consumption of tobacco since 1995. In 1995, we conducted a statistically valid youth risk behavior survey and we have completed another statistically valid survey in 2003, just last year. The numbers between those two studies have shown a 50 percent decline in consumption. We believe that can be built upon and additional successes can be realized with the increase in the tobacco tax. A further drop in youth smoking of just 15 percent from the current levels would translate to 1,800 lives saved from premature death due to smoking.

Adults will also see a great benefit from this tax increase, because it is also an effective way of discouraging continued use of tobacco products and to incentivize the use of tobacco cessation programs. It is estimated that the increased cost of purchasing cigarettes following this tax increase will lead to about 350,000 adult smokers to finally quit smoking. For every 3,500 smokers who quit, that means you'll have about 800 individuals who will not die because of a smoking caused death.

We have some other vulnerable populations in the state as a result of tobacco consumption. Smoking among expectant mothers would also reduce significantly and we believe that this would result in an estimated 850 babies being spared from exposure to maternal smoking while in utero during the next five years.

With the smoking prevalence of 44 percent, Alaska Natives have the most to benefit from this program. Alaska Natives disproportionately consume tobacco products. It's one of a number of unacceptable health disparities that we're working in the department to correct. We see it in suicide, we see it in alcohol consumption, but it's also in tobacco consumption. The

Alaska Natives who smoke is nearly double the rate of non-Natives. Among the high school population, of those who participated in the youth risk behavior survey, smoking is almost four times that of the non-Native population. We believe that is another great reason to move ahead with the tobacco tax increase.

This reduction in Alaska's health burden due to tobacco will translate into health care cost savings. Within five years, Alaska's health care savings from fewer smoking related pregnancies and births will amount to \$1.6 million in savings and that came from the Campaign for Tobacco-Free Kids.... In 1998, the medical expenditure cost in this state, alone, was \$133 million as a result of tobacco consumption. In terms of lost productivity just because of tobacco related deaths was \$137 million. That does not include illness, sickness, breaks - that's just deaths from tobacco.

This proposed increase will raise \$45.5 million.... I would say that we did look at some of the econometric studies that were done. We looked at the 17 largest econometric studies and they analyzed the effects of price increases on tobacco use prevalence and consumption in the general population. In every single study, in each one of the 17 econometric studies, they did find a correlation between an increase in price and a decrease in consumption of tobacco products. That has ranged from 1.5 to 3.7 percent. It's more acute in juvenile populations. There are strong public health reasons.

I started out by saying that tobacco is the number one public health problem for the State of Alaska. It is our leading cause of death; it is our leading cause of disability; it's our leading cause of chronic illness and I can go through a litany of health care complications that come from tobacco consumption. I think you're aware of them and, ironically enough, so are smokers. We did do an analysis of what smokers, themselves, think of the health consequences of smoking.... Alaska ATS in 2003, found that 5 of 6 Alaska adults who smoke wish they could quit. Of 85 percent that were surveyed, 85 percent said that they would like to quit and would like to have assistance.

Three out of four adults who smoke believe that people should be protected from second hand smoke.

We know there's a public health problem here and this is an appropriate step to bring our tobacco tax in alignment with other states, but also to insure that we're protecting young people from beginning to smoke. People don't start smoking when they are 30, 40 or 50. Some do, but very few. Most start when they are under the age of 18. The more we can do to make the cost prohibitive for the consumption of tobacco products, the less we will have of downstream consequences of tobacco. On behalf of the governor, I urge your consideration of this bill and moving it forward.

CHAIR BUNDE observed that during the previous tobacco tax war, many people didn't believe that price would have any impact, but later acknowledged that the consumer was affected by price. He said a lot of people wanted to testify on this issue and limited the time to two minutes a person.

MR. STEVE PORTER, Deputy Commissioner, Department of Revenue, said the governor totally supported this bill, which increases the excise tax from \$1 to \$2 per pack. The total revenues for a fiscal year is estimated to be \$35 million.

MS. JOHANNA BALES, Program Manager, Cigarette and Tobacco Products Excise Tax, Department of Revenue, pointed out that this bill has some clean up measures from old tax law in the first sections that weren't addressed last year when the cigarette excise tax stamp legislation passed. The issue of double taxation where the tax had to be paid again in state if the licensee was from out of state and had already paid the tax.

A couple other items had to do with technical corrections to the same legislation. Current law has no provision that allows a distributor who makes sales of product out of state to get a credit for taxes that may have been paid in Alaska. Now there is a credit provision. Another issue was corrected by providing credit for tax stamps that get lost in transit.

The new legislation increases the cigarette tax from \$1 to \$2 per pack. Tax on other tobacco products would increase from 75 percent to 100 percent of the wholesale price. There are also forfeiture provisions, which means if someone imports unstamped cigarettes into the state for sale, that the state would be able

to seize assets that were used in the commission of that crime, which is a felony tax evasion.

The final, major, provision would require a floor stock tax to be paid on all inventories that are currently in the state at the time of the effective date of the act. A floor stock tax is the difference between the old and new tax rates. Every person who stocks cigarettes for sale would be required to take an inventory and pay the tax to the Department of Revenue within 30 days. This is an important provision because in 1997 when the tobacco tax was originally increased without a floor stock tax, a significant amount of stock piling occurred. She estimated about 200 million sticks of cigarettes were stockpiled primarily by retailers who didn't pass the savings on to consumers. Approximately \$7 million of revenue was lost and the department received numerous complaints about it.

MS. CAROLE EDWARDS, Alaska Nurses Association, said she has been an oncology nurse for 20 years.

The Alaska Nurses strongly support the tobacco tax. Tobacco use, as you know, is directly linked to cancer and it is the most preventable cause of death in our society. Second-hand smoke causes illness and death to innocent victims who have chosen not to smoke or in our children who cannot make that decision for themselves.

Tobacco use is alarmingly high in our Alaska Native population, particularly in children and adolescents. Statistics do show that increased cost of tobacco decreases the use particularly in our youth.

MS. EDWARDS related a short story about how she became a cigarette smoker at the age of 17. She tried to quit many times, but was unsuccessful, even after her second child was born seven weeks prematurely and almost died. "It is an extremely addictive disease and very difficult to quit once you have started." She finally quit when her husband left the army and she didn't have access to cheap cigarettes any more. This happened 31 years ago.

MS. JENNIFER APP, Alaska Advocacy Director, American Heart Association, strongly supported SB 368.

Cardiovascular disease takes a big toll in the State of Alaska. It is the number one cause of death in this state, if you combine heart attacks and strokes. The

number one preventable cause of cardiovascular disease is cigarette smoke.

She supported the testimony of Commissioner Gilbertson regarding the costs of smoking.

If we actually wanted to recoup the amount of money that this state subsidizes every year in terms of taking care of people sickened by cigarettes or in terms of lost productivity, we would need to tax each pack of cigarettes at \$6.38 per pack. So, when we talk about increasing this tax to \$2 a pack, we're not even making up the difference. So, I really urge this committee to think hard about both the financial aspects and also the important health costs.

MS. CHRISTIE GARBE, Director, American Lung Association, strongly supported SB 368.

High school smoking rates have dramatically dropped since 1995 and it's a commitment from all these program elements working together. One of the big features in that was increasing the tax in '97. What we're talking about is children not picking up that first cigarette... and don't have to quit later....

I just heard yesterday in the Alaska Tobacco Control Alliance meeting [that] the number one cause of cancer with Alaska Natives is now lung cancer and this has come upon them as a new horizon and this is a very serious problem.... The reason we are here today supporting the tax has nothing to do with the revenue. It has only to do with lives saved and future health care costs reduced.

MS. MARIAH WARREN, Alaskan resident, said she is a student at the University of Alaska Southeast and works at a local super market and it's very apparent to her that the cost of cigarettes has a very direct link to who smokes. She fully supported SB 368.

MS. EMILY NENON, Alaska Advocacy Director, American Cancer Society, supported everyone's testimony and passage of SB 368.

CHAIR BUNDE asked her what percentage of the general Alaska public supported the tobacco tax.

MS. NENON replied that 67 percent of Alaska voters support increasing the tobacco tax. The support is the same whether it is at 50 cents or \$1. There is consistent support from all regions of the state.

MS. DORIS ROBBINS, Juneau resident, said she is on a crusade against tobacco. She agreed with everything that has been said here today. The tax would obviously lower the number of kids starting to smoke and encourage adults to stop. She has read biological data that says when children get addicted to something, it is much harder for them to stop. Something happens to their brains in their formative years. She also heard Dr. Urata say on KTOO radio that if tobacco was introduced as a new product today, the Federal Drug Administration (FDA) would never allow it to be put on the shelves.

MS. ROBBINS thought that stopping kids from ever starting was important, but focusing on the cost was important as well. Data from Alaska Tobacco-Free Kids said that in 1998, \$60 million was spent in Medicaid costs for tobacco related illnesses.

TAPE 04-27, SIDE A

MS. ROBBINS related how a friend of hers died last year after contracting pancreatic cancer from smoking. She lasted about four months and in that time she used all of her savings and had to go to the hospital because the pain was so severe she could not be at home. She spent the last months of her life in the hospital trying to relieve pain.

Personally, she has permanently reduced lung function and asthma caused by second-hand smoke and has to take daily medications to be able to breath. That costs her \$4,800 per year if she doesn't get sick. She pointed out that a few people in senior housing smoke and it affects all the other people who live there; she is personally trying to help one of them now.

Apparently, smoking is allowed in all [senior] Alaska housing which is partially financed with state funding. In order to save the state money, we need to look at tobacco as a whole - what it is costing the state. I look at this tobacco tax as pre-insurance for tobacco users, because they're going to wind up at the end of their ropes on Medicaid.... This is a big bill for the State of Alaska.

MS. MARGUERITE STETSON, State Coordinator for Advocacy, AARP Alaska, supported SB 368.

...a higher tobacco tax will help prevent our youth from beginning to smoke. It will also help some current smokers to stop. If raising the cost of a pack of cigarettes helps prevent any of Alaska's grandchildren from starting to smoke, we are strongly in favor of it.

We are concerned with the data in the governor's transmittal letter indicating that Alaska Natives, and particularly Alaska Native high school students, smoke at a much higher rate than the non-Native population. We strongly recommend that some of the new revenue coming in to state government from the tax increase be used to target cessation efforts to Native smokers and, in particular, to our Native youth.

This week we heard a report from the Medicare trustees indicated that health care costs were higher than expected. In AARP, we worry about Medicare's financial status. We also know that Medicare would be in better financial shape if so many current retirees had not been smokers. Increasing tobacco taxes in Alaska has immediate beneficial health consequences. It also will have beneficial long-term financial consequences for both Medicare and Medicaid. SB 368 is good economic policy and good health policy. It makes sense and it is fair.... Thank you.

MS. JOELLE HALL, mother of two young children, said when they reach 12 and 13 years old, she really hopes that smoking is cost prohibitive for them.

I hope you will consider this inflation proofing of Alaska's tobacco tax and that you will consider doing it again in a couple years, because I think we need to keep it expensive and keep it away from our kids. Thanks.

MS. KATTARYNA STILES, Alaska Native Health Board, said:

I do think this proposal is a good idea. It's a good idea because it will save lives. It's a good idea because it will raise money; and it's a good idea because it will reduce health care costs....

She supported previous testimony, especially comments on what it means particularly to the Alaska Native community.

In western Alaska, among pregnant women, the tobacco use rate is as high as 67 percent. Sixty-seven percent of any demographic using tobacco is unacceptable, but 100 percent of those unborn children are ingesting tobacco products.

CHAIR BUNDE asked if anyone else wanted to testify. There was no response and he closed public testimony. There were no amendments and he asked the will of the committee.

SENATOR SEEKINS moved to pass SB 368 from committee with attached fiscal note and individual recommendations.

CHAIR BUNDE asked for a roll call vote. Senators Hollis French, Ralph Seekins, Gary Stevens, Bettye Davis and Chair Con Bunde voted yea; and SB 368 moved from committee. There being no further business to come before the committee, he adjourned the meeting at 3:30 p.m.

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