

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 11, 2003

3:30 p.m.

MEMBERS PRESENT

Senator Robin Taylor, Chair
Senator Fred Dyson
Senator Gretchen Guess
Senator Lyman Hoffman
Senator John Cowdery

COMMITTEE CALENDAR

SENATE BILL NO. 9

"An Act relating to the evaluation and cleanup of sites where certain controlled substances may have been manufactured or stored; and providing for an effective date."

MOVED CSSB 9 (STA) OUT OF COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 1

Relating to economic development generated by new road construction and to the design and construction of the Hot Springs Loop Road to connect Chena Hot Springs and Circle Hot Springs.

MOVED CSSCR 1 (STA) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 5

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

MOVED CSSJR 5 (STA) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 6

Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session.

HEARD AND HELD

PREVIOUS ACTION

SB 9 - No previous action to record.
SCR 1 - No previous action to record.
SJR 5 - No previous action to record.
SJR 6 - No previous action to record.

WITNESS REGISTER

Tim Rogers
Municipality of Anchorage
P.O. Box 196650
Anchorage, Alaska 99510
POSITION STATEMENT: Supports SB 9

Al Storey
Department of Public Safety
PO Box 111200
Juneau, AK 99811-1200
POSITION STATEMENT: Supports SB 9

Kurt Kornchuk
Anchorage Police Department
Anchorage, Alaska 99510
POSITION STATEMENT: Supports SB 9

Larry Dietrick
Director, Division of Spill Prevention & Response
Department of Environmental Conservation
410 Willoughby
Juneau, AK 99801-1795
POSITION STATEMENT: Testified on SB 9

Senator Gary Wilken
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor SCR 1

Mac Carter
President, Community of Central
Central, Alaska 99730
POSITION STATEMENT: Supports SCR 1

Amy Seitz
Staff to Senator Wagoner
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced SJR 5

Carl Rosier
Territorial Sportsman Representative
Juneau, AK 99801
POSITION STATEMENT: Supports SJR 5

ACTION NARRATIVE

TAPE 03-2, SIDE A

CHAIR ROBIN TAYLOR called the Senate State Affairs Standing Committee meeting to order at 3:30 p.m. Present were Senators Guess, Hoffman, Dyson, and Chair Taylor.

The first order of business was SB 9.

#SB 9

SB 9 - CLEANUP OF ILLEGAL DRUG SITES

SENATOR GUESS, bill sponsor, explained the purpose of the bill is to ensure illegal drug sites are cleaned up before they are reoccupied. The responsibility for the clean up rests with the property owner although the government does set standards and procedures for the clean up.

In Alaska there are between 25 and 50 sites that require cleaning each year. It's important these sites are cleaned because of the adverse health effects on children in particular.

SENATOR GUESS advised members the bill passed the House during the previous session and had been scheduled for the Senate floor. She introduced a draft committee substitute (CS) that made two changes. At the request of law enforcement, she added new drugs and chemicals to the list. This change occurs on page 5 beginning on line 16. The second change is at the request of the Administration to make sure the testing procedures are adequate and the sampling of the site is appropriate. This change occurs on page 4, line 30. The Administration also requested a change on page 6, line 9 making it possible for the owner to certify and submit satisfactory evidence that the property is clean.

In Alaska there is currently no process to follow after law enforcement posts a notice on a property following an illegal lab bust. SB 9 will ensure the property owner is notified of the procedures of sampling, testing and decontamination and that they self certify that all the procedures have been met before the property is reoccupied. She noted a property could be sold prior to clean up provided the owner disclosed the condition of the property.

To date no police force or municipality has stated any objection to the bill.

CHAIR TAYLOR asked the record to reflect Senator Cowdery joined the meeting.

CHAIR TAYLOR called for a motion to adopt the CS for discussion purposes.

SENATOR COWDERY made a motion to adopt 23-LS0186\H Lauterbach 2/11/03 as the work draft.

There being no objection it was so ordered.

SENATOR COWDERY asked whether the state would be responsible for clean up of the sites, since the Department of Environmental Conservation (DEC) has the testing equipment, and would a borough or municipality be financially responsible.

SENATOR GUESS said DEC would set the clean up standards but the property owner would be the responsible party.

SENATOR COWDERY asked whether lien holders would be notified.

SENATOR GUESS said the property owner of record would be notified.

SENATOR COWDERY pointed out the property owner and lien holder were not one and the same.

SENATOR GUESS replied, to her knowledge, the lien holder would be notified as well.

SENATOR COWDERY asked about neighbor notification in multi unit facilities and who would be responsible for residuals that might migrate to adjoining units such as in a town home.

SENATOR GUESS replied it is her intent that the property owner where the bust was made is responsible for the entire clean up including any residuals that might migrate to adjoining or adjacent units.

She thought someone from law enforcement could explain how they handle notification in multi unit complexes.

SENATOR COWDERY asked how an adjoining property owner would become aware of an event if they were away from home at the time of the posting and arrived home after the clean up was completed and the sign was removed.

SENATOR GUESS replied that case is not explicitly addressed but it was a matter of how law enforcement agencies notify.

SENATOR COWDERY then asked if the bill includes every controlled substance.

SENATOR GUESS said it includes those substances law enforcement and other experts deem hazardous to human health.

SENATOR COWDERY asked whether there was anything currently in statute or regulation setting contamination levels to trigger a clean up.

SENATOR GUESS replied there is nothing in regulation or statute.

CHAIR TAYLOR pointed out required notification information is given beginning on page 1, line 13 and concluding on page 3, line 18. However, he didn't find mention of a requirement to notify lien holders. He asked whether the bill contained all the changes requested when the bill was heard in the Senate Judiciary Committee the previous session.

SENATOR GUESS assured him the changes were included.

SENATOR DYSON agreed with Senator Guess that property owners have an obligation to know what happens on their property, but he wondered whether the bill addressed the drug manufacturer's responsibility for decontamination costs.

SENATOR GUESS replied the bill does not address that responsibility. That would have to be in the rental or lease agreement. Page 4, line 5 says the lease or rental agreement isn't voided so a property owner could look for restitution under that contract. She has yet to find a way to place direct responsibility on the shoulders of the individual(s) who caused the contamination.

SENATOR DYSON noted tradition suggests the person who did the harm pays for the remedy and property owners should be held responsible only after all opportunities to recapture clean up costs from the perpetrator have been exhausted. He admitted to the difficulty involved in that approach. Although drug manufacturing is lucrative, the manufacturer frequently has few or no resources to attach.

He asked whether property owners would be required to do a pre test before starting clean up procedures.

SENATOR GUESS said there is no pre test requirement; property owners may clean up then test.

SENATOR DYSON asked how much the testing might cost.

SENATOR GUESS said estimates range from one and two thousand dollars per site.

SENATOR COWDERY expressed continued concern about contaminant migration in condominium and town home situations. Although the intent is good, he is troubled about ultimate responsibility and the level of contamination that would trigger a clean up requirement.

SENATOR GUESS said she would make sure his concerns were addressed. She made it clear the process starts when a law enforcement officer determines there has been an illegal lab.

SENATOR DYSON admitted to having reservations about the bill saying he must remind himself of the central issue, which is the health of the next tenant or owner. He thought there should be ways to make sure judges pay attention to getting restitution for property owners for clean up costs when imposing sentences.

CHAIR TAYLOR clarified that under a rental agreement there is a requirement to return the property, fair wear and tear excepted, in the same condition as when rented. A security or damage deposit is usually given to secure this agreement. That contractual relationship is available for the property owner to bring a suit against the individual for a minimum of six years. Because the owner would be notified almost immediately if their property was posted as an illegal drug site, the owner could quickly find out the extent of their obligations and the potential costs of clean up. Restitution would be available through the criminal action at sentencing or through a civil action brought by the damaged property owner after the fact. Unfortunately, frequently there are no assets to attach.

CHAIR TAYLOR asked Tim Rogers whether he had anything to add.

TIM ROGERS testified via teleconference the Municipality of Anchorage supports the bill.

AL STOREY testified via teleconference the Alaska State Troopers support the legislation.

KURT KORNCHUK, Anchorage Police Department representative, testified via teleconference and reported there were 25 drug labs seized in 2000, 35 in 2001 and to date they have cleaned up 13 drug labs in 2003. Any law enforcement officer involved in the seizure of the labs has been involved in at least 40 hours of training. They are generally able to identify sites that are grossly contaminated and could bring DEC in to determine whether contaminants had migrated. He said the department does support the legislation.

CHAIR TAYLOR expressed concern about enforcement personnel's exposure to contaminants.

He then asked Larry Dietrick why it would cost the state \$98,000 to develop the regulations and protocols.

LARRY DIETRICK, Acting Director for the DEC Division of Spill Prevention and Response, explained the fiscal note is based on the prior bill and reflects the costs associated with property owners providing evidence to the department that the clean up was done. The department was to review the information and verify that decontamination, sampling and testing was done to an acceptable standard. This was a review and approval capacity, which would require an estimated half time position.

The\H version CS reflects the self-certification provisions, which would drop the annual \$58,200 Personal Services costs from the fiscal note. Contractual costs of \$35,000 are for the department to work with a clean up contractor to develop standards for the property owner. Analytical methods, contaminant standards, sampling protocols, laboratory methods and decontamination methods would be established. The intent is to develop a book the property owner could use to plan and carry out the clean up. The \$35,000 is a one-time cost. Out year costs of \$11,000 are contingency costs for additional contaminants that weren't initially identified.

CHAIR TAYLOR observed the out year costs are hypothetical and significant.

SENATOR COWDERY asked if the owners could perform the clean up work.

MR. DIETRICK explained the intent of the bill is for the department to establish the procedures and the property owner to consult those guidelines and see that the work is done.

SENATOR COWDERY asked if drug clean up presented a hazard like asbestos abatement.

MR. DIETRICK replied the current draft of the bill calls for the department to maintain a list of contractors with expertise to perform analysis and clean up. Some states require contractors to be certified by the state, but that isn't what is currently proposed. For the smaller situations that are generally found in Alaska, listing rather than certification is acceptable.

CHAIR TAYLOR made a motion to amend by inserting "and any lien holders of record" after the word "property" on page 2, line 3 and after the word "property" on page 3, line 7.

There was no objection to amendment 1.

There was no further testimony.

CHAIR TAYLOR asked for a motion to move the bill from committee.

SENATOR COWDERY made a motion to move CSSB 9 (STA) and modified fiscal note from committee with individual recommendations.

There being no objection it was so ordered.

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#SCR 1

SCR 1-SUPPORT ROADS/HOT SPRINGS LOOP ROAD

SENATOR GARY WILKEN, bill sponsor, explained the resolution was about more than just building a road. He used a map to show members the Steese Highway leading northeast from Fairbanks 130 miles to Central and Circle Hot Springs and the Chena Hot Springs Road leading east from Fairbanks about 60 miles to the Chena Hot Springs. Both hot springs are well developed and provide Alaskans and Alaska visitors a great deal of pleasure. To him this is an obvious loop road and the resolution supports looking at the feasibility of connecting the two. There are RS 2477 rights of way that have yet to be identified.

This is the first time in the seven years he has been a legislator that there has been support for building roads. There are many roads around the state that individuals are asking this legislature to support. SCR 1 is the vehicle for the legislature to express their support to the Governor for building roads for economic development in Alaska.

SENATOR COWDERY asked if there are any obvious engineering, construction or geologic difficulties associated with connecting the two roads.

SENATOR WILKEN wasn't aware of any such difficulties. The Steese National Conservation Area lies between the hot springs so the road would have to go through or around that area. The area was studied in the 1980s but the study has not been located.

CHAIR TAYLOR asked what the length of the road would be.

SENATOR WILKEN replied it would depend on the route, but as the crow flies, it would be about 40 miles.

SENATOR HOFFMAN asked if both hot springs are in the North Star Borough.

SENATOR WILKEN said just the Chena Hot Springs is in the North Star Borough.

SENATOR HOFFMAN asked whether the North Star Borough supports the resolution.

SENATOR WILKEN replied he had every indication the assembly will support the resolution, but they haven't taken it up yet.

SENATOR HOFFMAN asked which borough has jurisdiction over Circle Hot Springs.

SENATOR WILKEN replied it is in an unorganized area of the state.

CHAIR TAYLOR asked whether he would oppose an amendment adding the Bradfield Road.

SENATOR WILKEN did not object.

CHAIR TAYLOR introduced work draft 23-LS0228\H Utermohle 2/11/03 and said he would entertain a motion to adopt the same for discussion purposes.

SENATOR COWDERY made a motion to adopt amendment 1, work draft 23-LS0228\H Utermohle 2/11/03 for discussion purposes.

There being no objection amendment 1 was adopted.

CHAIR TAYLOR said he didn't have a map, but the purpose of the amendment is to add that project to the bill. He thought the bill would grow over time.

He said he would entertain a motion to amend to add the Knik Arm Crossing.

SENATOR COWDERY made a conceptual motion to include the Knik Arm Crossing in SCR 1.

There being no objection amendment 2 was adopted.

SENATOR DYSON made a conceptual motion to include the road from Iliamna Bay to Pile Bay in SCR 1. A pioneer road runs from salt water on Cook Inlet to the northeast corner of Lake Iliamna making the river toward Lake Clark and the Kvichak River to Bristol Bay accessible. That road could be a major link to developing major gold and other minerals in the area as well as giving residents an alternative source for freight and fuel delivery.

CHAIR TAYLOR asked about the length of the road.

SENATOR DYSON replied it was just 15 miles.

There being no objection amendment 3 was adopted.

MAC CARTER, Central, Alaska representative, testified his community is very enthusiastic in its support of the resolution. The economic opportunity would foster new business and community growth. The bill speaks to the need for Alaska to expand its infrastructure.

SIDE B
4:20 p.m.

CHAIR TAYLOR asked for a motion.

SENATOR COWDERY made a motion to move CSSCR 1 (STA) from committee with individual recommendations.

There being no objection it was so ordered.
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#SJR 5

SJR 5-DESTROY BRADY BILL RECORDS

AMY SEITZ, staff to Senator Wagoner, introduced the committee substitute (CS) for SJR 5. She explained that on page 2, line 9 the word "prevent" was deleted and "ensure that" was inserted. On the same line, "comply with the law prohibiting them" was inserted after the word "agencies". She explained the changes are wording preferences.

CHAIR TAYLOR noted the sponsor was absent.

MS. SEITZ told him Senator Wagoner was in another committee meeting.

CHAIR TAYLOR said that was understandable and he appreciated her appearance to explain the changes.

He called for a motion to adopt the CS.

SENATOR COWDERY made a motion to adopt CS 23-LS0182\H Luckhaupt 2/6/03.

There being no objection it was so ordered.

CHAIR TAYLOR explained the bill would impact the Brady Handgun Bill and the instant check system required by the federal government.

CARL ROSIER, Territorial Sportsmen representative, testified in strong support of the resolution. He wasn't previously aware of the CS, but the proposed wording changes were acceptable.

There was no further testimony on SJR 5.

CHAIR TAYLOR called for a motion to move the bill.

SENATOR DYSON made a motion to move CSSJR 5 (STA) from committee with individual recommendations.

There being no objection the bill moved from committee.

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#SJR 6

SJR 6-CONST AM: 90 DAY LEGISLATIVE SESSION

SENATOR GRETCHEN GUESS, bill sponsor, explained the resolution would place a constitutional amendment on the ballot to change

the current 120-day legislative session to a 90-day legislative session. She opined legislators could accomplish their work in that time frame and save the state \$888 thousand a year.

CHAIR TAYLOR called for questions.

SENATOR COWDERY asked whether she would support elimination of the five-day notification rule.

SENATOR GUESS said she would give it some thought.

CHAIR TAYLOR said the issue needs periodic debate. Legislators haven't received a salary increase for 16 years and perhaps reducing the length of the session would allow more people to participate in the legislative process.

He thought the work could be accomplished in a shortened time frame, but he couldn't say whether it would result in better legislation for the people of Alaska.

SENATOR COWDERY noted he has been as busy in the interim as he is during the 120-day session.

CHAIR TAYLOR said legislative leaders always have demands upon their time and are busy year round. The questions of how they go about doing business and whether more or less should be done in the interim are policy calls that are deserving of review.

SENATOR DYSON identified with the Chair's ambiguous feelings and expressed a desire to hear additional testimony before passing the bill to the next committee. He wanted to hear about any impacts experienced by other states after shortening their legislative sessions. He also wanted to hear from political scientists because he could argue that shortening session length could change the balance of power vis-à-vis the administration. In addition it might rob power from a minority that uses deadlines to force the majority into accommodations.

He asked what the other committees of referral were and where the Chair expected the continued debate to occur.

CHAIR TAYLOR replied the next committee is Judiciary and then the bill would be referred to Finance because a fiscal note would be attached to put the issue on the ballot.

He anticipates the major debate would occur in the Judiciary Committee. The Senate President is seated there and he hopes

they would take the time to discuss the bill. Moving bills stimulates interest in a debate.

SENATOR DYSON said that would be fine, but because it is a bill dealing with a fundamental role of a branch of government, he thought State Affairs is the committee where substantive debate on the philosophical and policy issues should occur.

SENATOR GUESS made a commitment to Senator Dyson to begin collecting information on lessons learned from other states as well as from the academic community.

CHAIR TAYLOR had no objection to holding additional hearings in the State Affairs Committee, but he contends movement from one committee to another serves to stimulate interest and discussion.

He said he would entertain a motion to move the bill, but none was forthcoming.

SENATOR DYSON assured members his questions were not meant to kill the bill and he looked forward to hearing enlightened and expert opinion on the matter.

CHAIR TAYLOR held SJR 6 in committee and announced the bill would be heard in two weeks.

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There being no further business to come before the committee, Chair Taylor adjourned the meeting at 4:49 p