

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 19, 2005

9:34 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Carl Gatto, Vice Chair
Representative Jim Elkins
Representative Bob Lynn
Representative Jay Ramras
Representative Berta Gardner
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 152

"An Act amending the definition of the term 'state agencies' as it presently applies to the provisions of law that establish the Telecommunications Information Council and as it applies under Executive Order No. 113; relating to information systems in the legislative branch and to the Telecommunications Information Council; and providing for an effective date."

- MOVED HB 152 OUT OF COMMITTEE

HOUSE BILL NO. 186

"An Act relating to quarterly payments of a permanent fund dividend, and to a permanent fund dividend and eligibility for public assistance; and providing for an effective date."

- MOVED HB 186 OUT OF COMMITTEE

SENATE BILL NO. 87

"An Act relating to motor vehicle safety belt violations."

- HEARD AND HELD

HOUSE BILL NO. 114

"An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent

fund dividends for certain children in the custody of the state; relating to child in need of aid proceedings and juvenile delinquency proceedings; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 23

"An Act relating to construction of a legislative hall."

- BILL HEARING POSTPONED

PREVIOUS COMMITTEE ACTION

BILL: HB 152

SHORT TITLE: STATE INFO SYSTEM PLAN: LEGISLATURE

SPONSOR(s): STATE AFFAIRS

02/16/05	(H)	READ THE FIRST TIME - REFERRALS
02/16/05	(H)	STA, JUD
03/15/05	(H)	STA AT 8:00 AM CAPITOL 106
03/15/05	(H)	Scheduled But Not Heard
03/19/05	(H)	STA AT 9:30 AM CAPITOL 106

BILL: HB 186

SHORT TITLE: PERMANENT FUND: QUARTERLY PAYMENTS

SPONSOR(s): REPRESENTATIVE(s) RAMRAS

02/28/05	(H)	READ THE FIRST TIME - REFERRALS
02/28/05	(H)	STA, HES, FIN
03/17/05	(H)	STA AT 8:00 AM CAPITOL 106
03/17/05	(H)	Scheduled But Not Heard
03/19/05	(H)	STA AT 9:30 AM CAPITOL 106

BILL: SB 87

SHORT TITLE: SEAT BELT VIOLATION AS PRIMARY OFFENSE

SPONSOR(s): SENATOR(s) BUNDE

02/02/05	(S)	READ THE FIRST TIME - REFERRALS
02/02/05	(S)	STA, JUD
02/17/05	(S)	STA AT 3:30 PM BELTZ 211
02/17/05	(S)	Moved SB 87 Out of Committee
02/17/05	(S)	MINUTE(STA)
02/18/05	(S)	STA RPT 2DP 2NR
02/18/05	(S)	NR: THERRIAULT, HUGGINS
02/18/05	(S)	DP: ELTON, WAGONER
03/01/05	(S)	JUD AT 8:30 AM BUTROVICH 205
03/01/05	(S)	Moved SB 87 Out of Committee

03/01/05 (S) MINUTE(JUD)
 03/02/05 (S) JUD RPT 3DP 2NR
 03/02/05 (S) DP: SEEKINS, FRENCH, GUESS
 03/02/05 (S) NR: THERRIAULT, HUGGINS
 03/03/05 (S) TRANSMITTED TO (H)
 03/03/05 (S) VERSION: SB 87
 03/04/05 (H) READ THE FIRST TIME - REFERRALS
 03/04/05 (H) STA, JUD
 03/19/05 (H) STA AT 9:30 AM CAPITOL 106

WITNESS REGISTER

PAUL DICK, Chief
 PFD Operations
 Permanent Fund Dividend (PFD) Division
 Department of Revenue
 Juneau, Alaska
 POSITION STATEMENT: Answered questions regarding HB 186.

LAUREN WICKERSHAM, Staff
 to Senator Con Bunde
 Alaska State Legislature
 Juneau, Alaska
 POSITION STATEMENT: Presented SB 87 on behalf of Senator Bunde,
 sponsor.

LIEUTENANT TODD SHARP
 Alaska State Troopers
 Juneau, Alaska
 POSITION STATEMENT: Testified on behalf of "law enforcement in
 the state of Alaska" in support of SB 86.

JOHN COOPER
 Juneau, Alaska
 POSITION STATEMENT: Testified on behalf of himself during the
 hearing on SB 87; related a story of his own son's death in a
 vehicle accident and said the legislature has an obligation to
 the people of the state of Alaska to set standards of conduct.

JO-ANNE COTTLE
 National Active and Retired Federal Employees (NARFE)
 Association;
 AARP Capital City Task Force
 Juneau, Alaska
 POSITION STATEMENT: Testified on behalf of AARP in support of
 SB 87.

DON SMITH, Administrator
Highway Safety Office
Division of Program Development
Department of Transportation & Public Facilities
Juneau, Alaska

POSITION STATEMENT: Offered details for various committee packet handouts during the hearing on SB 87, particularly pertaining to a survey conducted to record the behaviors and perceptions surrounding seatbelts; answered committee questions.

JAMES GARHART
aka "Lazy Mountain Jim"
Wasilla, Alaska

POSITION STATEMENT: Testified on behalf of himself during the hearing on SB 87.

CINDY CASHEN
National Council on Alcoholism and Drug Dependence
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the council that SB 87 would save lives and money.

DARWIN BIWER, President
Cabaret Hotel Restaurant & Retailers Association (CHARR)
Anchorage, Alaska

POSITION STATEMENT: Testified on behalf of CHARR in opposition to SB 87.

KEVIN QUINLAN, Chief of Safety Advocacy
National Transportation Safety Board (NTSB)
(No address provided)

POSITION STATEMENT: On behalf of NTSB, asked the committee to give a favorable report to SB 87.

DEBORAH CHOROMANSKI HULL-JILLY, Acting Chief
Community Health & Emergency Medical Services
Division of Public Health, Department of Health & Social Services (DHSS)

POSITION STATEMENT: Testified on behalf of the department in support of SB 87.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at [9:34:42 AM](#). Present at the call to order were Representatives Gatto, Elkins, Lynn, Ramras,

Gardner, and Seaton. Representative Gruenberg arrived as the meeting was in progress.

HB 152-STATE INFO SYSTEM PLAN: LEGISLATURE

[9:35:44 AM](#)

CHAIR SEATON announced that the first order of business was HOUSE BILL NO. 152, "An Act amending the definition of the term 'state agencies' as it presently applies to the provisions of law that establish the Telecommunications Information Council and as it applies under Executive Order No. 113; relating to information systems in the legislative branch and to the Telecommunications Information Council; and providing for an effective date."

CHAIR SEATON handed the gavel to Representative Gatto while he presented HB 152 on behalf of the House State Affairs Standing Committee, sponsor. He indicated that Executive Order (EO) 113 moved the telecommunications information council to the Department of Administration. He said the definition within [EO 113] included the legislature, which was an oversight. He explained that the legislature had the choice at the time of either not approving EO 113 or approving it and correcting the error with a future bill. The proposed HB 152 is such a bill. He specified that HB 152 would only correct the oversight; it would not exempt the railroad, the permanent fund, or the [Alaska Housing Finance Corporation (AHFC)].

CHAIR SEATON took back the gavel and opened public testimony.

[9:37:32 AM](#)

REPRESENTATIVE GARDNER asked if Chair Seaton knew of anyone who objected to this bill.

CHAIR SEATON replied that he had not heard objections.

[9:38:16 AM](#)

REPRESENTATIVE ELKINS moved to report HB 152 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 152 was reported out of the House State Affairs Standing Committee.

HB 186-PERMANENT FUND: QUARTERLY PAYMENTS

9:39:16 AM

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 186, "An Act relating to quarterly payments of a permanent fund dividend, and to a permanent fund dividend and eligibility for public assistance; and providing for an effective date."

9:39:40 AM

REPRESENTATIVE RAMRAS, as sponsor of HB 186, introduced the bill. He explained:

[The intent of the bill is to] try and broaden the dynamic nature of the permanent fund dividend [PFD] benefit that all Alaskans enjoy. The concern I have behind creating a quarterly payment program for the [PFD] is that in my own personal experience with people that I work with and people that I know, the sign-up period for the [PFD] ends March 31, and we all are paid by direct deposit or by check sometime generally in the month of October. There are a lot of retail inducements in the fall season, during the permanent fund season, that some of us can't withstand, and I have many friends by their own volition that will share with me that they're not good money managers and that, given the opportunity to use a \$1,000 [PFD] check, they will find themselves with \$19,000 in new term debt within a week of receiving their [PFD].

A quarterly payment program for the [PFD], which would pay out in October one quarter ... and another quarter in January, another quarter in April, and another quarter in July, would be available only for folks that opt for a direct deposit payment. There would be language that would discourage anybody who is receiving public assistance, because ... the dividend program offers one annual exemption which is in October. Anybody who is receiving public assistance would be ill advised to take this program because it might affect their public assistance the other three-quarters. ... Permanent fund folks have an objective of trying to get everybody on direct deposit so this dovetails nicely into their program. Our office has worked with the [PFD] board and the Department of Revenue in trying to tailor this program. We've had

correspondence with them for some weeks, so even if we don't agree on all points, we have been working closely with the [PFD] board.

[9:42:44 AM](#)

REPRESENTATIVE RAMRAS continued:

The notion is that for some single wage earner households or some dual wage earner households ... it might be useful and affective for people to receive partial payments in January to cover home heating oil expenses; April - spring projects; July - summer vacations. That might create an opportunity for people to see their [PFD] other than ... an annual dividend and/or a mechanism for saving in the university credits.

REPRESENTATIVE RAMRAS noted that the Anchorage Daily News carried an editorial stating that it was not in favor of this proposal, and that it wasn't the obligation of the PFD board to get involved in household budgeting. He responded, "I would question that because folks that I know that have participated in the university's education credit program have found that's been a very useful instrument in being able to set aside money for their kids' education." He said that his proposal is similar in that it would allow people to space out their dividend.

[9:43:49 AM](#)

REPRESENTATIVE RAMRAS reminded committee members that if nothing is changed in the PFD program, there will be significant dividend growth in the future. He noted that the bill would require the permanent fund division to make \$150,000 worth of changes to the computer system. The final fiscal note is \$300,000, which he said would basically cost each Alaskan 50 cents. He stated:

Because the permanent fund is legislated, it's a specific amount.... People that opted to participate in this program would not accrue interest in this program, meaning that the state would enjoy collecting quarterly dividend interest.... After the initial setup ... the program would be self-sustaining; it would actually generate a positive fiscal note. And so, you'll see when you review the attached fiscal

notes that the revenue coming into the permanent fund increases in later years....

[9:46:49 AM](#)

REPRESENTATIVE GARDNER remarked that this was an intriguing idea, but she was puzzled by implementation. She asked for further clarification about the quarterly payments.

REPRESENTATIVE RAMRAS said an individual would fill out the application in March and receive the first quarterly payment in October of this year, then additional payments in January, April, and July of the next year. The individual would have the option of changing back to single payments the next year. He mentioned that Michael J. Burns, the Executive Director of the Alaska Permanent Fund Corporation, is in favor of the program.

[9:49:11 AM](#)

REPRESENTATIVE LYNN commented that the state would be basically holding three-quarters of the checks, so [the state] would be earning the interest.

REPRESENTATIVE RAMRAS said that's correct. He noted that if an individual was to hold his/her PFD check for a year without cashing or depositing it, the state would earn interest on that check. He said the idea for the quarterly payments of the PFD came from the longevity bonus payments.

[9:53:15 AM](#)

REPRESENTATIVE ELKINS asked what would happen if the PFD check amounts went down. He asked, "Is there some point that if it goes down the quarterly dividend payment would not be available?"

REPRESENTATIVE RAMRAS said he doesn't think so. He commented, "At a certain point it would be a wash as to whether the program was able to be self-sustaining, but it would be within pennies." He offered an example to demonstrate that the state will be earning interest on the quarterly payment system.

[9:56:30 AM](#)

CHAIR SEATON noted that most lower income people don't have quarterly bills to pay. He asked why Representative Ramras didn't look into making the change to monthly payments rather

than quarterly payments. He also asked if the permanent fund division had indicated that there would be any difference in the fees [for monthly payments].

REPRESENTATIVE RAMRAS replied, "The thought process [was] that if it was a monthly payment, then we might invite an ineffectiveness If it's \$80 a month, I don't know whether that's especially helpful. I think that it would make it considerably more expensive for the permanent fund division." He commented that people's paychecks also don't correlate with bills either. He continued, "I think it would be a misnomer to think that this is designed for lower income families. I think that this is designed for middle income families." As an example, he described the possibility that a family would choose to receive one of the family's PFD checks quarterly for household budgeting.

[9:59:13 AM](#)

REPRESENTATIVE GATTO asked if a garnished PFD check would have to be garnished four times a year, or if there is some way to do it all at once.

REPRESENTATIVE RAMRAS deferred the question to the chief of permanent fund dividend operations. He commented:

I don't want folks who are on public assistance who are very important contributing members of our society ... to discourage a program that is really tailored toward lower ... [to] upper middle income folks that are collecting these [checks] across the state. I think that the notion is to steer clear of sticky pickets ... and to allow people to participate in the [PFD] fund in a little bit more of a dynamic fashion.

[10:01:05 AM](#)

REPRESENTATIVE GATTO remarked:

I think the current [public assistance] system is that because the person of public assistance gets \$1,000 [PFD check] all at one time, that for that month they don't qualify. And so we have this forgiveness built into the program that reimburses them for the amount they would lose. However, you're only entitled to that once a year. If they take quarterly payments then won't they get stung for payments two, three, and

four, because they don't have a forgiveness that they're eligible for anymore?

REPRESENTATIVE RAMRAS replied that this is correct, and therefore he reiterated that there would be language on the application that would discourage anybody who receives public assistance from participating in this program. He reiterated that this program is designed for middle-income people, not for people on public assistance or lower income people.

[10:03:20 AM](#)

REPRESENTATIVE GARDNER noted Representative Ramras' estimation that the cost of setting up this program would be about \$300,000, which he had stated would equal 50 cents per person in the state. However, she pointed out that if only 1 percent of the applicants participate, that cost to participants would be \$50 per person. Additionally, she noted:

And yet, if it's a \$1,000 dividend, the dividend would earn something less than the unclaimed funds that are sitting there for these 6,000 people, [and] would earn something less than \$20 apiece at [the] current interest rate, so basically the rest of the program and all the rest of the recipients would be bearing more than half of the cost for a very few people who might participate.

REPRESENTATIVE RAMRAS replied that if this was a one-time program, this assessment would be correct. However, he said, in the years 2007-2011, "the change in revenue actually exceeds the operating expense; this program actually makes money through the general fund, and we actually over time would recoup the \$300,000 in set up costs."

[10:04:50 AM](#)

REPRESENTATIVE GARDNER asked how many applicants would have to participate for this to work.

REPRESENTATIVE RAMRAS responded that he didn't know what the assumptions were in the completion of the fiscal note. He said that each participating individual's unpaid quarterly portions would generate for the state about \$15 in interest in the general fund, while the cost of administering the program would cost about \$3 per person. He remarked that representatives of the Alaska Permanent Fund Corporation have been asked by

residents if the PFD checks could be left in the permanent fund and have the money invested like a mutual fund. He continued:

The other benefit that may be derived here in the Bush and some of the more vulnerable members of our community is: oftentimes the permanent fund payout results in some degree of substance abuse and money that is spent less wisely. And it's not the state telling people what to do, but it is giving people, ... who may recognize that they don't spend money wisely when they get it in a lump sum, [the opportunity] to participate in a program that would stretch it out over time.

[10:07:26 AM](#)

REPRESENTATIVE GRUENBERG asked, "When does the person receiving the money become legally entitled to it? ... If there are going to be quarterly payments, is the person legally entitled to that money at the time of the first payment, or not until he's received each quarterly payment?"

REPRESENTATIVE RAMRAS responded that he thought it would be no different than a contract, where the recipient has agreed to the terms of the contractual agreement.

CHAIR SEATON attempted to clarify Representative Gruenberg's question; he explained that there are tax consequences if the recipient takes the money in one year versus the next year.

[10:09:11 AM](#)

REPRESENTATIVE GRUENBERG pointed out that his question was not about tax consequences. He asked who would receive the subsequent payments if a person died before the last three quarters of the payment were made.

CHAIR SEATON requested that technical questions such as this be posed to the representatives from the permanent fund.

[10:10:30 AM](#)

REPRESENTATIVE GARDNER commented:

[Representative Ramras was] talking about the people who don't manage money who are lower income who might use it on drugs or whatever, or people who are on

public assistance. ... When I first heard about this bill, I thought, "Well, that's really great for people who have a hard time managing money to get this in little bits." ... But it looks like the way this is worded and the way the bill is focused, it's not for those people. It's for people who still would have access to all their vices based on their own income if that's what they chose to do. So, ... it seems to me that the target population is not the people who would really benefit from having the amounts of money spread out over a long period of time.

[10:11:24 AM](#)

REPRESENTATIVE RAMRAS responded that he thinks the people who would benefit from the program are those that "voluntarily choose to check the box and would enjoy receiving their ... dividend on a quarterly basis." He noted that those people may be in any income range. He gave examples of other people who might wish to participate in this program.

[10:13:39 AM](#)

CHAIR SEATON remarked that he thinks Representative Gardner's question is well answered on a single page handout in the committee packet, which says, "Therefore an individual or family receiving public assistance should not apply for the quarterly dividend payment since the quarterly payments may make them ineligible for any public assistance for three-quarters of the year."

[10:14:26 AM](#)

PAUL DICK, Chief, PFD Operations, Permanent Fund Dividend (PFD) Division, Department of Revenue, reiterated the function of HB 186. Mr. Dick said that the division would foresee administering the program such that if a person's wages were garnished, the division would not allow that person the quarterly option. If a person's wage was garnished part way through the year, the division would process the garnishment records in full and then the balance would go to the applicant. He noted that the division has built into the fiscal note some costs for such scenarios.

[10:16:22 AM](#)

CHAIR SEATON asked what the tax consequences of this program would be, and when money is officially considered to be received.

MR. DICK responded that the Internal Revenue Service (IRS) can't answer this question for certain until the bill is in final form, but, he noted, "all indications seem to point to where the bill would be taxable as a whole in that dividend year, and they look at it as a deferment of payment. So you have a right to the dividend in October and then you are voluntarily opting to receive that money in quarterly payments thereafter."

[10:17:12 AM](#)

REPRESENTATIVE LYNN asked how many PFD garnishments there currently are statewide.

MR. DICK replied that last year the division processed 73,000 garnishment records for a total of \$30 million.

[10:18:03 AM](#)

REPRESENTATIVE GARDNER pointed out that the fiscal note supposes a 5,000-person participation in the program. She asked how that number was reached.

MR. DICK answered that it was estimated that roughly 1 percent would participate.

REPRESENTATIVE GARDNER asked, "So, if only 500 people participated, it'd be a pretty expensive program...."

MR. DICK replied that the fiscal note includes staffing costs to answer questions from the participants and from the public. He also noted that there are some "per transaction" fees on the direct deposits.

[10:19:14 AM](#)

REPRESENTATIVE GRUENBERG asked if the IRS will take the position [that the PFD check is taxable as a whole in that dividend year, even when the check is received quarterly] even if the individual is on a cash rather than an accrual basis.

MR. DICK answered that he "hadn't really explored that with them." He said, "I think we were looking at it as a cash basis orientation."

REPRESENTATIVE GRUENBERG remarked, "That sounds like an aggressive position to me. If this bill passes, I hope that you will do that, because otherwise these people will be taxed on the money even though they haven't received it."

MR. DICK replied that's correct.

REPRESENTATIVE GRUENBERG continued, "As I understand the current situation, if you're eligible and then you go through the formality of making the application between January and March, at that point you are legally entitled to the money, although it may not be payable until October of that year. Am I not correct?"

MR. DICK responded, "Assuming you're eligible, then payment comes in October."

[10:20:51 AM](#)

REPRESENTATIVE GRUENBERG asked how the division would handle the remaining payments if a person died after the first payment was received.

MR. DICK responded that he thinks the division would follow current procedure, in which the check is issued to the estate.

[10:22:02 AM](#)

REPRESENTATIVE GRUENBERG asked if it would be up to the recipient to advise the division of a new address, or if the state would be liable if the check was lost due to an address change.

MR. DICK pointed out that the quarterly payment would only be allowed for direct deposit checks.

[10:22:54 AM](#)

REPRESENTATIVE GRUENBERG, regarding garnished checks, asked about intervening creditors.

MR. DICK answered, "We would pull those persons out of that direct deposit quarterly option stream, wherever they are in that stream. If there's a garnishment against the record, we would process the garnishment record in whole and take the balance [to send to the applicant]."

10:23:51 AM

REPRESENTATIVE GRUENBERG said that normally a garnishment order is continued until satisfied or terminated. He asked if a garnishment order would stay through the whole four quarters.

MR. DICK responded, "When we'd process the dividend, we would honor that garnishment in whole and it wouldn't continue on." He confirmed that the creditor wouldn't have to wait until the following quarters to receive the money.

10:25:02 AM

CHAIR SEATON asked what kind of cost effects monthly PFD payments would have on the division.

MR. DICK stated concern regarding a monthly payment. He said the division could do it, but it is already involved in different processes, which would have to be interrupted 12 times a year in order to go through a direct deposit distribution, including getting paperwork out to the applicants and involving an accounting reconciliation process.

10:26:10 AM

CHAIR SEATON stated his understanding that once the information is in the system, the system automatically cuts a check, whether it happens monthly or quarterly. He commented that he would like to see an analysis of the proposed program. In comparing the proposed program to the longevity bonus, he remarked that people can count on monthly checks, whereas he isn't certain people "count on things quarterly."

MR. DICK said he would do that analysis.

10:27:10 AM

REPRESENTATIVE GATTO turned to the division's annual report and pointed out what he perceived to be a misprint. He then asked if the cost of the program is borne by the division or by the state. He offered his understanding that the interest gained by holding the money goes to the state.

MR. DICK replied that the cost of the program is through appropriation to the PFD program in annual appropriation. The

interest on the remaining quarterly payments would go to the general fund.

10:29:04 AM

REPRESENTATIVE RAMRAS turned to page 29 of the division's annual report and pointed out that about 1 percent of the PFD applicants opt into the university savings program. He asked Mr. Dick what the division's perspective is on this program.

MR. DICK replied that he thinks it's a positive program, and he hasn't heard any complaints about it.

10:30:00 AM

MR. DICK, in response to a question from Representative Ramras, confirmed that the university savings program is an annual optional program.

10:30:33 AM

CHAIR SEATON asked for further clarification regarding taxes on PFD income.

MR. DICK reiterated that the full amount of the dividend is taxed for that year.

CHAIR SEATON restated that he would like the permanent fund division to submit an analysis of monthly versus quarterly payments.

10:32:00 AM

REPRESENTATIVE GARDNER remarked that a middle-income person would be better off getting the whole PFD check in October and using it to buy a 90-day, 120-day, and 180-day bond.

REPRESENTATIVE RAMRAS responded:

Wouldn't it be great to get your per diem ... for working down here [in Juneau], all on January 10, and then budget it out? Or for that matter to get your annual paycheck and to get it in one single payment? The idea is just to provide another option, insofar as we look at the [PFD]. It is a very one dimensional product right now, and I think that it would behoove all Alaskans to look at it as a more dynamic vehicle

for us. And frankly, people as a whole, ... we're lazy. We don't demonstrate good savings habits.

[10:34:11 AM](#)

CHAIR SEATON asked what the monthly income is for a household of four that would fall under the public assistance program.

MR. DICK answered that he is not familiar with the public assistance program.

CHAIR SEATON asked the sponsor to find that information out.

[10:35:32 AM](#)

REPRESENTATIVE RAMRAS said he would be willing to have the committee hold the bill so that he could get those answers.

REPRESENTATIVE LYNN asked if these issues could be dealt with in the next committee [of referral].

CHAIR SEATON replied that would be fine.

[10:36:09 AM](#)

REPRESENTATIVE GATTO presented a scenario in which the PFD program was originally set up to be a quarterly paying system and then it was proposed that the checks be cut just once a year. Representative Gatto asked Representative Ramras, "Would you oppose it based on the fact that there are some people that might waste this money and buy things that would cause them to get in deeper debt? Or would you support that this one payment year sounds like a pretty good idea?"

REPRESENTATIVE RAMRAS replied that the word "waste" is not the word he's interested in, but the word "hopeful" is. He again referred to the proposal as a household budgeting tool. He noted that 98 or 99 percent of Alaskans will continue to receive the annual checks. He stated, "It simply puts another option on the table that doesn't cost the state anything, and the participant simply foregoes the opportunity cost of having saved it into a CD, and has lost the interest...."

[10:37:35 AM](#)

REPRESENTATIVE ELKINS moved to report HB 186 out of committee with individual recommendations and the accompanying fiscal

notes. There being no objections, HB 186 was reported out of the House State Affairs Standing Committee.

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The committee took an at-ease from 10:38:56 AM to 10:49:46 AM.

SB 87-SEAT BELT VIOLATION AS PRIMARY OFFENSE

10:49:57 AM

CHAIR SEATON announced that the last order of business was SENATE BILL NO. 87, "An Act relating to motor vehicle safety belt violations."

10:50:16 AM

LAUREN WICKERSHAM, Staff to Senator Con Bunde, Alaska State Legislature, presented SB 87 on behalf of Senator Bunde, sponsor. She noted that the bill would change the current seatbelt law from secondary to primary status. She stated that a change in enforcement powers would lead to a 10-15 percent increase in seatbelt use. That increase alone would save six lives in the first year. Additionally, Alaskan residents annually spend millions of dollars on motor vehicle crashes. Because wearing a seatbelt usually means a crash is less damaging, the law would save a significant amount of money in that respect, as well. Ms. Wickersham reported that in 2002 Alaska residents spent \$820 per person on motor vehicle crashes. She noted that 85 percent of all costs involved in those crashes are paid by society, whether directly through insurance premiums or indirectly through emergency services and medical costs.

10:52:04 AM

MS. WICKERSHAM reported that surveys indicate nationally and in Alaska that individuals support strong seatbelt laws. She directed attention to a telephone survey in the committee packet, which was taken of 586 Alaskans. The survey showed that 79.6 percent supported laws requiring seatbelt use. Ms. Wickersham stated that Alaska has one of the highest rates of injury and unintentional death of all 50 states, and motor vehicle crashes are the leading type of accidents - by twice the amount of the next leading cause. She concluded by telling the committee members that Senator Bunde urges their support of SB 86.

10:53:17 AM

LIEUTENANT TODD SHARP, Alaska State Troopers, stated that he was testifying on behalf of "law enforcement in the state of Alaska" in support of SB 86. He said seatbelts reduce injuries, reduce the risk of death, keep people from being ejected, and help the driver maintain control of the vehicle. Lieutenant Sharp urged the committee to listen to all the testimony being provided during the meeting and to support primary seatbelt laws.

[10:54:16 AM](#)

REPRESENTATIVE GATTO said the seatbelt restricts him from being able to fully turn to look back before changing lanes, so in a sense it interferes with his ability to drive safely.

[10:54:59 AM](#)

LIEUTENANT SHARP explained that what he had meant is that when people are in a situation when they may be losing control of the vehicle, the seatbelt can help keep the occupants in place. He added that when a seatbelt is worn properly, it's not supposed to inhibit a person's ability to drive.

[10:56:00 AM](#)

LIEUTENANT SHARP, in response to a follow-up comment from Representative Gatto, said that the same seatbelt can work for a wide variety of people, because many modern vehicles are being designed with alternate seatbelt adjustments and there are adjustments that can be purchased for seatbelts.

[10:56:19 AM](#)

REPRESENTATIVE GATTO asked about school buses and airplanes that don't require the use of a seatbelt. He asked Lieutenant Sharp, "Would you say there are plenty of instances where the use of a seatbelt is certainly of no benefit?"

[10:56:33 AM](#)

LIEUTENANT SHARP replied that he would not say there are incidents where a seatbelt, when worn properly, does not assist a person in a crash.

[10:57:05 AM](#)

REPRESENTATIVE LYNN commented that shoulder harnesses are worn in most military-type aircraft and in many light planes.

[10:57:32 AM](#)

REPRESENTATIVE RAMRAS expressed appreciation of Lieutenant Sharp's service to the state and for the Alaska State Troopers and all public safety workers. He said the same arguments [for wearing seatbelts] could be made in regard to gun control, and he offered an example. He voiced his concern that [the proposed legislation] may just make things harder on people who are good citizens and would be bad citizens who are stopped for not following laws. He said, "Who can not agree with all the data? We want to save lives, we want people to be happier and healthier, but they don't want to wear [seatbelts]." He asked Lieutenant Sharp how he would address that.

[10:59:33 AM](#)

LIEUTENANT SHARP reminded Representative Ramras that the state currently has a secondary seatbelt law. The bill would make it a primary one, which would allow law enforcement to "make a stop on somebody solely because they were not wearing a seatbelt"; however, probable cause still would have to be established before the officer would try and make a stop for that particular offense.

[11:00:05 AM](#)

REPRESENTATIVE RAMRAS asked, "Sir, why would you stop me? Because I'm not wearing it?"

[11:00:26 AM](#)

LIEUTENANT SHARP said that, during his drive to the capitol this morning, he probably passed 100 cars, but only saw one person he could say with certainty was not wearing his seatbelt. If the proposed legislation had already been law, he could have stopped that one person with probable cause. In response to a follow-up question from Representative Ramras, he said the present fine for not wearing a seatbelt is \$15.

[11:02:02 AM](#)

REPRESENTATIVE RAMRAS, regarding the primary seatbelt law, asked, "Does it enhance compliance or is it just kinda ... a pain in the butt for folks?"

11:02:34 AM

LIEUTENANT SHARP noted that there are already plenty of reasons to stop a vehicle. For example, with the inclement weather in Alaska, vehicles take abuse and many times license plates are obscured. He said this is not about looking for a reason to stop someone in a vehicle; it's about saving lives and protecting people. He concluded, "The object is not me issuing you a citation; it's simply getting you to wear your seatbelt. And perhaps you would go away with wearing your seatbelt, and I would go away with telling you to have a good day, knowing that you would be driving down the street with your seatbelt [on]."

11:03:31 AM

CHAIR SEATON asked Lieutenant Sharp to detail the procedures he would go through during the process of stopping someone for not wearing a seatbelt [under a primary seatbelt law].

11:03:47 AM

LIEUTENANT SHARP said that, after establishing probable cause for the stop, before initiating the stop he would already have contacted dispatch to report the license number of the vehicle, how many people were in the vehicle, the location, and any other concerns. Then he said he would initiate the stop in the safest location possible, contact the driver and ask the driver for his/her driver's license and registration. If everything checked out and there were no other problems, he said he would choose at that time to issue a warning and let the person know that there is a primary seatbelt law, or he would issue the citation and provide the driver with a copy of it. In response to follow-up questions from Chair Seaton, he said the \$15 fine [for the current secondary seatbelt law] is a "bailable" offense, and he said there is not presently any "escalation" for stopping someone for a second or third time.

11:05:56 AM

REPRESENTATIVE GATTO asked, "Isn't there always something that you can stop a car for?"

11:06:52 AM

LIEUTENANT SHARP answered no. He said there are vehicles in Alaska that are well maintained and "appear perfectly fine driving down the road, without any other problem."

[11:07:11 AM](#)

REPRESENTATIVE GATTO surmised that the occupants [in those well-maintained cars] are wearing their seatbelts.

[11:07:19 AM](#)

LIEUTENANT SHARP said officers generally are not looking for the offense [of not wearing a seatbelt], because there is currently no primary seatbelt law. He said, "We're looking for violations that are going to establish probable cause so we can make a stop on a vehicle."

[11:07:38 AM](#)

REPRESENTATIVE LYNN asked for clarification regarding the man in the vehicle without a seatbelt on, to whom Lieutenant Sharp had previously referred.

[11:07:58 AM](#)

LIEUTENANT SHARP explained that under current law he could not stop the man for not wearing a seatbelt, because he saw no other defects that he noticed on that vehicle at that time. In response to a follow-up question from Representative Lynn, he specified that if, for example, he stopped a car for speeding and could articulate that he had observed the occupant was not wearing a belt at present or before the stop - in the case of someone quickly putting the seatbelt on after being stopped - then he could issue a ticket for the speeding and for the failure to wear a seatbelt. In response to a question from Chair Seaton regarding someone who had not had the seatbelt on but put it on upon being stopped, he said there would be no further offense for lying to a police officer; the fine would still be \$15.

[11:09:50 AM](#)

REPRESENTATIVE ELKINS suggested that if the fine was raised to \$100, for example, that may accomplish almost as much as [passing a primary seatbelt law].

[11:10:22 AM](#)

LIEUTENANT SHARP responded that certainly more people have adhered to other regulations in greater numbers when the penalties for them have been increased, simply because the penalties are so significant. Notwithstanding that, he reminded the committee of [Ms. Wickersham's] previous testimony that in those states that have passed a primary seatbelt law, the result has been that a significant number of people wear their seatbelt because there is a law and they are aware of it.

[11:10:48 AM](#)

CHAIR SEATON indicated that in the statute relating to driving under the influence (DUI), a person is [considered to be operating a vehicle even] when he/she is sitting in a parking lot behind the wheel of a vehicle with its engine running. He asked, "Is that also the case here? Is that same definition of operating a vehicle or driving a vehicle ... applicable here, as well?"

LIEUTENANT SHARP offered his understanding that Chair Seaton was asking: "Whether or not your keys are in the ignition, is that operating the vehicle?"

CHAIR SEATON said yes.

LIEUTENANT SHARP said, "That definition is the same across the board for operating a vehicle."

[11:11:10 AM](#)

CHAIR SEATON said he is leery of local police in small towns who may be "very down on somebody." He asked if [that "somebody"] could be cited for [a driving violation] if he/she gets in the car and has just put the key in the ignition.

[11:12:13 AM](#)

LIEUTENANT SHARP responded as follows:

I think I misunderstood your question before about operating the vehicle. It would be a moving vehicle for your seatbelt use, and private property would be not ... covered under this regulation. It would be on state or public roadways.

[11:12:36 AM](#)

CHAIR SEATON said, "So, this is different than the drunk driving statutes - operating vehicles while intoxicated." He said he had a friend who was in a parking lot, with the key in the ignition and the heater on. That friend fell asleep in the car and "they got him for drunk driving," even though he was not on a road or "doing anything." He stated that he wants to ensure that it's clear that "this statute doesn't fall into those same parameters."

LIEUTENANT SHARP responded, "That's my understanding."

[11:12:52 AM](#)

REPRESENTATIVE RAMRAS asked if a good way to crystallize the argument [for and against a primary seatbelt law] is that some people feel it does not encourage personal responsibility and think that education is more effective than enforcement, while others believe that it would save lives. He indicated that he had read various e-mails, as well as the written testimony of Kevin E. Quinlan, Chief, Safety Advocacy Division, National Transportation Safety Board (NTSB), included in the committee packet. He noted that the testimony from Mr. Quinlan states that the primary enforcement of seatbelt laws can make a difference in seatbelt use. That increase in use has been shown to be greater for minorities, males, youth, and those driving pick-up trucks, and is based on the perceived risk of being stopped.

[11:15:32 AM](#)

LIEUTENANT SHARP responded that the way that Representative Ramras described the argument was pretty good. He reiterated that [the reason for a primary seatbelt law] is "all about saving lives, preventing injury, and keeping people from being ejected."

[11:15:59 AM](#)

REPRESENTATIVE RAMRAS asked Lieutenant Sharp if he would concur that there is a misperception by people that law enforcement cares more about ticketing folks than about people's safety. He pointed out that it's the Department of Public Safety - not the Department of Public Ticketing.

[11:16:38 AM](#)

LIEUTENANT SHARP replied that's correct. He said, "If I never had to issue a summons like this or deal with arresting folks ..., I'd have the greatest job going, going around and saying 'hello' to folks."

11:17:09 AM

LIEUTENANT SHARP, in response to a question from Representative Gatto regarding what steps the department would take in the event that the primary seatbelt law is passed, said he foresees that it would undergo an education process similar to the current "Click It Or Ticket" campaign, as well as talking to the community and to children in public schools to advocate the use of seatbelts and inform them of the new primary seatbelt law. Furthermore, the department may decide to issue people warnings rather than tickets in the beginning. He reiterated the issue of safety and prevention of injury and death.

11:18:06 AM

REPRESENTATIVE GATTO said police and troopers won't have time to address other issues if they are stopping people to talk to them about using a seatbelt, because the department won't spend extra money and the force will be the same. He listed several examples of bad driving. He suggested that [a primary seatbelt law] would make this issue the most dangerous thing that happens and everything "below it" will be ignored. He asked if that makes sense.

11:19:18 AM

LIEUTENANT SHARP said the Alaska State Troopers are out looking for the more significant offenses, not the minor ones.

11:19:50 AM

REPRESENTATIVE GARDNER noted that, according to the previously mentioned handout from Lieutenant Sharp, 23 percent of Alaskans currently do not wear a seatbelt. She asked if it is known who these people are and why they don't buckle up. For example, do they drive older cars with no seatbelts in the back seat?

11:20:15 AM

LIEUTENANT SHARP deferred comment to someone involved in public safety or with the Department of Transportation & Public Facilities.

11:20:44 AM

JOHN COOPER, testifying on behalf of himself, told the committee that his youngest son was killed in car accident last Halloween. He said there were two other people in the vehicle who were injured. He added, "One of those said that they weren't wearing seatbelts." He said he and the boy's mother had drummed into their son's head the importance of wearing a seatbelt. He said, "The autopsy report indicated injuries consistent with him having been wearing a seatbelt, even if the other two weren't." Mr. Cooper said that if the primary seatbelt law had been in effect and the occupants of the car had seen a police officer at the right time, his son's life might have been saved, and the injuries of the other two people in the vehicle might have been significantly reduced.

11:22:10 AM

MR. COOPER revealed that he is a consulting engineer and, as such, writes construction contracts. He said there is a lot of similarity of contract writing and "what you're looking at right now," and he offered analogies between the two. He talked about the difference in using "will" versus "shall"; the former does not carry as much weight as the latter. Currently there is language in the law that says, "You will wear seatbelts." He said there is a little bit of a penalty if a person does not wear a seatbelt, but "the ways of getting to that penalty are so difficult that nobody will pursue them." He added, "It also carries the message that we really don't care all that much."

11:24:09 AM

MR. COOPER said that morality and intelligence cannot be legislated, but the legislature can set standards of conduct and "put teeth in those standards." He opined that, regarding the primary seatbelt law, whether or not an officer ever writes a ticket is irrelevant. What is relevant is that the legislature cares enough and places enough importance on the issue to put it in writing.

11:26:31 AM

MR. COOPER said he doesn't know if a primary seatbelt law would have saved his son's life or not. He told of an accident his wife had in the 70s and of the injuries she sustained, which he said probably could have been avoided if she had been wearing a

seatbelt. Mr. Cooper said he flew in the military and believes in the four-point harness system, which he said is the ultimate in safety. He concluded as follows:

But we do have something that is a whole lot better than nothing. You all [have] the ability to move forward what I see as essentially being a specification that says, "Thou shalt." And I think it's your obligation to the people of the state of Alaska to set that standard of conduct, and say, "Thou shalt wear a seatbelt."

[SEVERAL COMMITTEE MEMBERS] expressed sympathy for Mr. Cooper's loss.

[11:28:40 AM](#)

JO-ANNE COTTLE, National Active and Retired Federal Employees (NARFE) Association; AARP Capital City Task Force, stated that AARP strongly supports the seatbelt law. She said, "It will keep us old folks alive, and probably we won't get quite as badly hurt if we get into vehicle accident."

[11:29:13 AM](#)

DON SMITH, Administrator, Highway Safety Office, Division of Program Development, Department of Transportation & Public Facilities, said he began his service as a member of "this body" just over 38 years ago, during the Fifth Alaska State Legislature. He said he wishes he had known many years ago what he knows today about highway safety issues. He reported that since January of 1967, over ... 3,633 Alaskans have died in highway crashes in Alaska. He directed attention to [a five-page] handout in the committee packet, [entitled, "2005 Alaska Highway Fatalities"], which shows the numbers of deaths per year [from 2000 through March 2005]. Since speaking on this issue last year before the legislature, 85 Alaskans have died in automobile crashes on Alaska's highways. He said that it's realistic to assume that 9 of the 85 people would probably be alive today if they had worn seatbelts.

MR. SMITH turned to [pages 3-5] of the handout. He said the seatbelt bill, if enacted, would reach a category of Alaskans that primarily fall in the age group from 16 to the late 20s, men or boys, and pick-up truck drivers. He said, "Those are the

three major statistics that the national studies have shown would be most affected by having a seatbelt law on the books.

MR. SMITH directed attention to the last three pages of the handout, which show a report of the deaths on Alaska's highways in 2004. He noted that he listed only first names. He said he thinks there are seven or eight names on the list that "relate to either a daughter-in-law, or a son-in-law, or a grandchild." He said, "I did it because I thought it might personalize what we're talking about. He broke the list down into how many people perished in various areas of the state. He asked the committee to consider the value of the lives that were lost that might have been saved.

[11:32:47 AM](#)

MR. SMITH talked about a survey that was conducted by Hellenenthal and Associates during the month of February. He said 586 Alaskans were randomly selected, phone calls were made, and 84 percent of the overall numbers claimed they wear their seatbelts. He said, "Our observations show 77 percent, so it's iffy on that number." He listed the number of people by region who said they wear their seatbelts as follows: 76 percent in the Kenai Peninsula, 87 percent in the Anchorage area, 84.7 percent in the Matanuska-Susitna (Mat-Su) [Valley], and 82 percent in Fairbanks. Mr. Smith reported that 79.6 percent of the people surveyed said they favor laws requiring seatbelt use. He broke down the numbers of those who would favor a law as follows: 73 percent in the Kenai Peninsula, 75 percent in the Anchorage area, 75 percent in the Mat-Su Valley, and 83 percent in Fairbanks. Only 5.4 percent of those people surveyed had ever received a ticket. Mr. Smith continued as follows:

The correlation I think needs to be made is that it's a perception issue. It's not that we have troopers or city police that are out running around writing tickets; it's the fact that people know that that's a possibility and therefore they're going to try to follow the law, or they just want to follow the law because it's a good thing to do. So, it's not like we've got police out there chasing people down.

MR. SMITH returned to the survey and reported the numbers of those who actually received a ticket as follows: 10.7 percent in the Kenai Peninsula, 4.1 percent in Anchorage, 7 percent in the Mat-Su Valley, and 7 percent in Fairbanks. He said 60.8

percent of the people who were surveyed had had a family member or friend who was hurt or killed in an automobile accident.

[11:34:50 AM](#)

MR. SMITH said it's important to know where the law is directed. He said, "It really is reaching into the young. For some reason, a kid turns 16 and the brain goes soft, and they forget about [wearing their seatbelts]."

[11:35:11 AM](#)

REPRESENTATIVE GARDNER directed attention to the 2005 Alaska Highway Fatalities and said two of the people listed were young men well known to her family. One of them who was normally a seatbelt user did not use one on that day. The other one was wearing a seatbelt. She asked, "Of the 23 percent - give or take - Alaskans who do not use seatbelts, who are they and would having a primary seatbelt law change their behavior?"

[11:36:10 AM](#)

MR. SMITH said he could not say with certainty, but traditionally, around the country, "the numbers have gone up by about 10-12 percent," which would mean 6-8 people in Alaska that would not have been killed. He said approximately 54 percent of the people who were killed in [vehicle-related] accidents in Alaska were not using their seatbelts.

[11:36:57 AM](#)

REPRESENTATIVE GARDNER echoed the previous question from Representative Elkins asking if a comparable result could be had by raising the fine and increasing education about the importance of [seatbelt use], "without allowing the Big Brother aspect."

[11:37:14 AM](#)

MR. SMITH said that may be an answer. He noted that Washington state [fines those who don't wear seatbelts] \$101, which he said gets people's attention fast. He offered his understanding that the legislature cannot legislate fines - it is a court process.

[11:37:35 AM](#)

CHAIR SEATON directed attention to page 6 of the survey. He recalled that Mr. Smith had noted that many more people in the Kenai Peninsula had received a ticket for not wearing a seatbelt, yet he noted it has the lowest number than any other area in the state for using a seatbelt.

[11:38:01 AM](#)

MR. SMITH responded, "It would appear to be a correlation. It says here 10 percent had received tickets for not wearing a seatbelt and the number of seatbelt use was 76 percent." In response to a follow-up question from Chair Seaton regarding whether people are just ignoring the \$15 fine, he said it's hard to make a judgment. He said: "There's zero points; it's \$15 dollars; it isn't a painful thing; but I think more of it is the perception that Alaska requires that you wear your seatbelt and [that] you can be ticketed." He reiterated that 21 states with primary seatbelt laws "have seen their numbers increase."

[11:39:24 AM](#)

MR. SMITH, in response to a question from Representative Elkins, said he doesn't know how many of the deaths listed for 2004 were due to motorcycle [accidents], but he said he could find out.

[11:39:33 AM](#)

REPRESENTATIVE RAMRAS reiterated that on one hand there are people who don't want the government "in the front seat of their car," while on the other hand, passing [SB 87] would save lives. He stated that he has had people tell him not to [pass the bill]. He indicated that he is torn and asked how to build an argument "to help."

[11:40:19 AM](#)

MR. SMITH responded that the argument he would make is that it's a very vocal minority [who are against a primary seatbelt law]. Those people, he said, are obviously organized and are contacting their legislators. He said he believes the survey is accurate, and it indicates that the vast majority of Alaskans do want a primary seatbelt law.

[11:40:52 AM](#)

REPRESENTATIVE RAMRAS asked, "What if it's not a vocal minority? ... How do you build a bridge between these two groups of

people without dismissing the value of the opinion of either group?"

[11:41:56 AM](#)

MR. SMITH said the reason he requested that the survey ask people whether or not they support a primary seatbelt law was because that was the only way he could think to answer the question of what percentage of people in the state of Alaska have strong feelings about the state enacting that law. He reiterated that 79.6 percent thought it was a good idea. He said he doesn't know how else to answer.

[11:42:36 AM](#)

JAMES GARHART, aka "Lazy Mountain Jim," testifying on behalf of himself, stated, "I don't think that this should take place." He said, "I'm one-eighth Choctaw, so I'm used to meaningless assurances." He stated that when the original [secondary] seatbelt law was being discussed, assurances were made that it would never become a primary law. He said if [HB 87 passes], the original seatbelt law should be overthrown "for having been passed with fraud and deceit."

MR. GARHART said he imagines that the six or seven people it's said would be alive today if a primary seatbelt law had existed at the time probably wouldn't have worn their seatbelts anyway and would still [have died].

[11:45:35 AM](#)

CINDY CASHEN, National Council on Alcoholism and Drug Dependence, stated that 84 percent of Alaskans are already using their seatbelts. She noted that the gap is in teenagers and young adults, ages 16 to the late 20s, as was noted previously. She said last year the legislature passed a graduated driver's license law, which provided an incentive for youth to wear seat belts, because if they get pulled over for any infraction, they have to start the count over for their six-month without infractions before qualifying for their licenses. She concluded that having a primary seatbelt law is an incentive for youth to wear their seatbelts.

MS. CASHEN mentioned Mr. Cooper's late son, Brant Cooper, and said, "We'll never know if he would have worn his seatbelt." She stated that her own son, who is nearly 17, "will be wearing his seatbelt if he knows the police might pull him over." She

added, "That's what it takes." She indicated that when youth are in a vehicle with their parents they may even be the ones to remind everyone to wear a seatbelt, but when they are in a vehicle with only other youth, they get distracted. She said, "If one of them is not wearing their seatbelt in the vehicle and there's a crash, they become a weapon to the other people." She said she just attended a Lifesavers Conference [on Highway Safety Priorities], during which she saw footage of what happens when one person is not buckled in. She remarked that "it's not pretty; no one ever wants to see that."

[11:47:45 AM](#)

MS. CASHEN echoed Mr. Smith's remarks that there is a vocal minority, but studies show that the silent majority supports a primary seatbelt [law]. She speculated that the reason that people may be opposed to the bill and don't want to be pulled over is because they could be repeat drunk driving offenders, for example.

[11:48:43 AM](#)

CHAIR SEATON said he doesn't want it said that anyone who comments against the bill is a drunk driver. He stated that there are school board members that have written in opposition to the bill.

[11:48:56 AM](#)

MS. CASHEN reiterated that it's a silent majority that supports that bill and a vocal minority that opposes it. She said, "This is not about Big Brother; this is about saving lives and saving a lot of money."

[11:49:40 AM](#)

CHAIR SEATON said unfortunately the survey question just asks, "Should seatbelts be required?" He noted that seatbelts are already required. He stated his concern that people answering this question may be considering whether the state should not make it a requirement or leave the law as is.

[11:50:00 AM](#)

REPRESENTATIVE GATTO said there is another minority group: those who drive into a bridge abutment. He said those people are trying to commit suicide and rarely live through it. He

said, "I don't think a primary seatbelt bill will affect that subgroup of people." Second, he stated that vocal minorities have rights and are entitled to make their point known. He emphasized that he thinks the fact that these people are writing is important.

CHAIR SEATON reminded Representative Gatto and the other committee members that he would like to continue with public testimony and hold committee discussion for later.

11:51:12 AM

DARWIN BIWER, President, Cabaret Hotel Restaurant & Retailers Association (CHARR - formerly: Cabaret Hotel and Restaurant Retail Association, from which the acronym derived), testified on behalf of CHARR in opposition to SB 87. He said there currently exists a seatbelt law. The survey points out that a high percentage of Alaskans are in favor of a mandatory seatbelt law, which the state has. He said the question is whether "these people want to have the primary seatbelt law." He stated, "We feel that this is an infringement on Alaskans' right to choose." He offered his understanding that "80-some percent" already wear their seatbelts, whereas "70-some percent" felt that there should be a mandatory seatbelt law. He concluded that more people already voluntarily wear seatbelts than even say there should be a law for requiring it. He said, "It is a Big Brother issue; it is an issue of whether or not Alaskans have their rights infringed by being stopped for another reason." He said it's already been noted that there are already many reasons to [stop someone driving a vehicle].

REPRESENTATIVE RAMRAS said there is one group that argues that a primary seatbelt law would save lives, because if it's a law more people will buckle up, and another group advocates that "it will reduce drunk driving, because drunk drivers don't want to have another probable cause reason for being stopped." He asked why CHARR takes an opinion on the issue. He clarified, "Is it because they're interested in primary safety, or are they interested in probable cause stops for ... drunk driving."

MR. BIWER responded that Alaska already has some of the toughest drunk driving laws. For example, the [blood alcohol concentration] (BAC) for drunk driving has been reduced to .08. He continued:

If a police officer is unable to tell whether or not a person is impaired by their ability to drive, then ... why is there another reason to stop this person other than a seatbelt? We're talkin' seatbelts that are visible - that would be the shoulder harness. Some seatbelts don't have a shoulder harness, and that would not be visible to a police officer. It's not a drunk driving issue; this is a matter of invasion of privacy.

REPRESENTATIVE RAMRAS indicated that he doesn't know why CHARR and MADD are testifying, other than the fact that they have the right to do so.

MR. BIWER answered, "Because we are members of Alaska ... society, and we have a right to be here, as well. And we're just expressing our opinion." He noted that [CHARR] just had a board meeting last week and this issue was raised. As a representative of the industry, he said he is just making the point that [those in the industry] don't like the invasion of privacy which [the bill] would provide.

CHAIR SEATON thanked Mr. Biber for pointing out the statistical comparison between those who favor a seatbelt law and those who already wear a seatbelt.

[11:56:42 AM](#)

KEVIN QUINLAN, Chief of Safety Advocacy, National Transportation Safety Board (NTSB), announced that he is testifying with the authority of Ellen Engleman Connors - Chair, who was appointed by President George W. Bush two years ago. He said NTSB is an investigation agency; it does not regulate or tell states what to do, but asks states to do the right thing. In this case, he added, [NTSB] is asking the committee to give a favorable report to the bill. He reported that over 90 percent of all transportation fatalities occur on highways, and the number one defense against motor vehicle injuries and fatalities is to use a seatbelt. He added that that's also the number one defense against drunk drivers. He reminded the committee that [wearing a seatbelt] does prevent ejections and will reduce fatalities and injuries.

MR. QUINLAN noted that the previously referenced survey is consistent with studies done throughout the country. He said there's about a 70-80 percent approval rate of primary seatbelt laws. He added that "the questions have been worded differently

than was done in Alaska." He noted that there has been much discussion on the effect on high-risk populations. He expressed his profound sympathy to [Mr. Cooper] over the loss of his son, and said seat belt use among teens is so low. He added, "And we know that it will increase with the primary seatbelt law, just as it will increase safety belt use among alcohol-involved drivers." He reported that, nationally, 72 percent of Hispanics and 68 percent of African Americans support the [seatbelt] laws. In the states that have the laws, he said, the objective is not to write tickets but to get people to wear their seatbelts. He said, "You certainly want to have enforcement, but more importantly, you want to have education about enforcement."

MR. QUINLAN said the NTSB believes that [a primary seatbelt law] is the most effective action that can be taken to reduce highway fatalities and injuries. He said it will pay benefits every year, much like the benefits of the permanent fund. He expressed support of the previous testimony of Mr. Smith, Ms. Cashen, and Mr. Cooper. He concluded that Americans are basically law-abiding people who look to the legislature to set the standard. He said, "If you set the standard saying that you shall, most Americans will, and most of the remainder will change their behavior based on enforcement and education." He said, "You can reach 95 percent," and he listed states that have, including: Hawaii, California, Oregon, and Washington. He added that the only way he knows [it is possible to reach that percentage] is through a primary seatbelt law.

CHAIR SEATON said he was stuck by reading that Mr. Cooper's son's autopsy revealed marks indicating that he had been wearing a seatbelt, while his friends who survived had not been. He asked Mr. Quinlan whether he has found through his investigations that that scenario is common or not.

[12:01:42 PM](#)

MR. QUINLAN responded that Chair Seaton is asking him to speculate based on an investigation and crash of which he doesn't know the details. Notwithstanding that, he said, having been involved in a crash which totaled his own car, he did have seatbelt injuries, including bruising and stiffness. He said he didn't go through the windshield, and he was driving. He said, "I don't know what particular factors might have been lifesaving for the two other people in the car, but I find that to be atypical."

CHAIR SEATON clarified that he was just asking if this scenario is atypical and if there is any data available. He said he thinks Mr. Quinlan answered the question.

REPRESENTATIVE GATTO asked if there is any data that indicates that airbag deployment has more to do with preventing injury than seatbelts.

MR. QUINLAN answered that, as Representative Gatto well knows, the preferred combination is the use of the seatbelt plus the airbags, because the airbags in most cars are frontal air bags designed for frontal crashes. He noted that "side curtain" airbags are very effective in reducing injuries, but are most effective when used with a safety belt. The answer to the question, he concluded, is that "you have to use both."

[12:04:49 PM](#)

REPRESENTATIVE GRUENBERG noted that Alaska statute exempts school busses. He asked Mr. Quinlan if he believes that [the use of seatbelts should be required on school buses].

MR. QUINLAN replied that that's an excellent question. He said NTSB has investigated between 5-10 school bus crashes over several years, and in each the dynamics of the crash have been documented, including what happened to the passengers inside the school bus. He said school buses are designed with "compartmentalization" to keep the student in their seat area. The seats, as they are currently constructed, are not designed for seatbelts. When the forces of the bus crashes were analyzed and documented in simulations, it was determined that if seatbelts had been used they would have actually caused more harm than good. He concluded that while seatbelts in school buses may be advisable, the seats would have to be redesigned first.

REPRESENTATIVE GRUENBERG asked if the seats should be redesigned.

MR. QUINLAN said NTSB has recommended that the National Highway Traffic Safety Administration do the research into that. In response to a follow-up question from Representative Gruenberg, he said the administration has begun the process, but he doesn't know the current status.

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REPRESENTATIVE GRUENBERG said he would like that information. He noted that during his early terms in the legislature back in 1986 and 1987, there was legislation regarding this issue. He said he doesn't know why that research, which could save some children's lives, has not been completed in 20 years.

MR. QUINLAN reiterated that NTSB's purpose is to be objective, find out what's wrong, and make recommendations for change.

REPRESENTATIVE GRUENBERG noted that Alaska statute also exempts those delivering the U.S. mail and newspapers. He asked Mr. Quinlan if he believes that those people should be required to wear seatbelts.

MR. QUINLAN replied that the board does not have a specific recommendation on that. He said there may be good and valid reasons to exempt them, and the board would certainly leave that to the wisdom of the legislature. In response to a follow-up question from Representative Gruenberg, he clarified that he literally is not authorized to talk about something "where we don't have a recommendation."

[12:10:44 PM](#)

DEBORAH CHOROMANSKI HULL-JILLY, Acting Chief, Community Health & Emergency Medical Services, Division of Public Health, Department of Health & Social Services (DHSS), testified on behalf of the department in support of SB 87. She pointed out that what is true about seatbelt use nationally is also true in Alaska, based on data that both DHSS and the Department of Transportation & Public Facilities (DOT&PF) collects on motor vehicle crashes. She reported: "In 2002, in Alaska, unbelted occupants in motor vehicle crashes were 17 times more likely to die than belted occupants, and 6 times more likely to sustain a major injury." She reported that the consequences of serious crash injuries in Alaska are also graver than in other states, because access to medical care is more challenging. She stated that the Alaska Trauma Registry, within Community Health & Emergency Medical Services reports that unbelted crash victims are more likely to sustain a serious brain injury and more likely to be discharged with a permanent disability. Every year there are about 100 new brain-injured Alaskans added to that population and 30 new permanently disabled crash victims. She reported that unbelted crash victims are also more likely to be uninsured and to bill Medicaid for their medical care. She continued, "About one-third of them fall into one of these categories, but all crashes resulting in injury have an economic

impact on society." She noted that between the close of session last May and the beginning of the current one [in January], 42 unbelted crash victims died in Alaska, and 29 suffered head injury. Sixty percent of those injury crashes during that time occurred in non-urban centers of Alaska, while 20 percent occurred in small communities. She stated, "This is an issue that affects all Alaskans."

CHAIR SEATON requested that Ms. Hull-Jilly provide the committee with a copy of the statistics she just quoted and where the accidents occurred.

REPRESENTATIVE RAMRAS asked for the number of motorcycle fatalities.

MS. HULL-JILLY said she doesn't know but can find out.

[12:15:06 PM](#)

CHAIR SEATON invited Mr. Smith back before the committee to offer a perspective regarding previous testimony.

[12:17:10 PM](#)

MR. SMITH offered the following:

I think that Mr. Cooper misspoke. His son was ejected from that automobile crash when it hit the rock wall 32 miles off the highway. And the two ... 17-year-old girls - one was also ejected. And there has not been a final disposition in her case, but basically she went to Seattle and was connected to equipment. I mean she's in terrible, terrible shape if she's not already dead. And the third girl was paralyzed from the neck down in that crash.

MR. SMITH, in response to Chair Seaton, said he would ask [Mr. Cooper]. He added, "I know that his son was ejected"

CHAIR SEATON said he doesn't know if the seatbelt broke or not.

MR. SMITH responded, "I've not heard anything about seatbelts in relationship with his son."

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REPRESENTATIVE GRUENBERG noted that statute says a person may not operate a motor vehicle unless restrained by a safety belt. He said the term motor vehicle is defined as "a vehicle which is self-propelled, except a vehicle moved by human or animal power." He opined that that would include motorcycles and all-terrain vehicles (ATVs). He asked whether the use of the term "motor vehicle" needs to be redrafted, because he said he doesn't think anyone intends to put seatbelts on motorcycles.

MR. SMITH agreed regarding there being no intent to put seatbelts on motorcycles and he suggested that is an issue to be considered. He added that he is not a lawyer.

[12:19:40 PM](#)

REPRESENTATIVE GRUENBERG - regarding the term "operate" - reminded the committee that that can include turning on the radio. He said he doesn't think anybody intends to require a seatbelt to be worn while someone is sitting in a car just operating a radio.

MR. SMITH concurred.

REPRESENTATIVE GRUENBERG stated that there is a long history of "some legislation concerning ... seatbelts in school busses." He asked Mr. Smith if he is aware of anything that has been done in Alaska towards this issue. He added, "I wasn't very satisfied with the answer we got."

MR. SMITH said he is not familiar with any studies done or efforts being made. He said he received the same explanation that the committee did regarding the construction of school buses in a compartmentalized way.

REPRESENTATIVE GRUENBERG asked Mr. Smith to comment on the other previously mentioned exemption for newspaper and mail delivery people.

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MR. SMITH indicated that the exemption is meant for the time when those drivers are driving down a residential street and getting in and out of the vehicle, but that it is not intended to exempt them from wearing seatbelts while driving a longer distance, for example, from the starting point to the delivery area.

REPRESENTATIVE GRUENBERG remarked that now [mail] boxes are sometimes set up in a way that allows the driver to deliver the mail without ever having to get out of the vehicle. He suggested that Mr. Smith might consider that issue.

[12:22:52 PM](#)

REPRESENTATIVE GATTO said he was on a school board that looked into the issue of seatbelts on school buses. He pointed out that school buses are very tall, and he explained that that is a deliberate design to keep the children well above the height of impact from another vehicle. He said, "When it falls over on its side, that's another story. Regarding mail delivery, he surmised that the exemption may exist because it would be impossible for the contracted mail carriers [who drive their own vehicles] to deliver the mail on the right side of the vehicle where the mail boxes are while sitting on the left.

[12:24:26 PM](#)

MS. WICKERSHAM spoke to a previous analogy that was given as to the right to bear arms. She said she thinks Senator Bunde would argue that the ability to bear arms is a right, driving is a privilege. Driving is conducted on public roads. With a privilege, she said, comes responsibility. The legislature has, in the past, worked to create statute that protects people's safety when they are "in a somewhat vulnerable position," and the Division of Motor Vehicles has created regulations to further that effort, as well. She concluded, "Senator Bunde would argue that - being as though it's a privilege, not a right - when it starts to negatively affect other individuals through insurance premiums, ... medical costs, [and] ... perhaps in a situation where one passenger isn't wearing a seatbelt and is thrown around the vehicle injuring other people, that's when we need to reevaluate the privilege and determine what is in the best interest of the residents as a whole."

CHAIR SEATON remarked that, because of the unanswered questions still at large, the bill would not be passed out of committee today.

REPRESENTATIVE GARDNER offered a scenario whereby she is driving and asks her husband, who is a passenger in the car, to put on his seatbelt, which he declines to do. She asked who would get the ticket if she were pulled over.

MS. WICKERSHAM answered that Representative Gardner's husband would receive the ticket. However, if it was her child who was not belted in, it would be Representative Gardner who received a ticket. In response to a question from Chair Seaton, she confirmed that the responsibility of the driver applies to him/herself and "children below the age of 16."

CHAIR SEATON closed public testimony.

12:28:02 PM

REPRESENTATIVE LYNN stated his strong support for wearing seatbelts and said that people who don't wear them are either foolhardy, rebellious, or don't care about their life or the lives of others, and he said that "all of us have probably fit into one of those categories at one time or another." He compared not wearing a seatbelt as being similar to playing Russian roulette. He expressed respect for the sponsor of the bill and to the people who testified; however, he stated that he is unable to support the bill in its present form. He said he thinks the state needs appropriate laws, but he doesn't want to turn Alaska into some kind of Big Brother or "nanny" state. He said, "We already have seatbelt laws and, at some point, I think people need to start taking personal responsibility for their actions." He said the kindest thing he can say about the bill is that it is impractical. He explained, "No cop can drive down the highway, as far as I'm concerned, and tell if a driver is wearing his seatbelt. Ergo there's no probable cause to pull ... somebody over to write a ticket, unless we put a flashing light on top of the car to indicate a seatbelt's not being worn." He said he's almost afraid to have brought that up, because someone may decide that's a good idea.

REPRESENTATIVE LYNN said the bill appears to give a carte blanche opportunity for law enforcement people to pull someone over at any time, without probable cause, and he emphasized that he thinks that's a dangerous thing in a free society. He added, "The fact of the matter is, ... any law enforcement officer ... worth his salt can already find legitimate reasons to pull somebody over." He reminded the committee that he is an ex-police officer and, as such, he has pulled cars over for various reasons, including basic traffic violations, driving like a drunk, having burned out license plate lights, and operating the vehicles unsafely in some manner. He reiterated that he strongly supports wearing a seatbelt, but added, "Unfortunately, we can't legislate common sense."

REPRESENTATIVE RAMRAS stated his intention of speaking directly with Senator Bunde. He reiterated his conflict is over the two basic issues of saving lives versus invading privacy. He expressed his appreciation of the testimonials from Lieutenant Sharp and Mr. Cooper, and of those who have been on location at accidents, such as Representative Gatto.

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REPRESENTATIVE GRUENBERG said he appreciates both sides of the issue. He stated his concern is that in some parts of his district when people are pulled over, many times the police stop goes beyond the original reason for the stop. He offered an example that if someone doesn't have the current proof-of-insurance card in the car, the car is impounded, which results in an expensive and long process to get the vehicle back.

[12:34:22 PM](#)

REPRESENTATIVE GRUENBERG reiterated his concern that the terms "motor vehicle" and "operate" need to be more narrowly defined. He also questioned the term "safety belt", and he stated concern that there has not been a clear answer regarding the school bus issue. He said he participated in the House Health, Education and Social Services Standing Committee meetings of 1985 regarding the school bus issue and the studies had not been completed at that time. He added, "And kids have died since then."

REPRESENTATIVE GARDNER said she tries to keep an open mind during bill hearings. She revealed that she walked into the hearing for SB 87 thinking she could not support the bill and questioning whether she would support moving the bill out of committee; however, the testimony really affected her. She said she doesn't know if she will ultimately support the bill or not. Notwithstanding that, she said she thinks it's unarguable that, with rare exceptions, seatbelts do save lives. She stated that that's not the issue and that's not what the bill addresses. What the bill addresses, she said, is whether to have "primary stops." She said she has a primary problem with that, and she wishes that the survey had specifically asked that question. She said she thinks a better approach might be having higher fines and promoting education regarding seatbelts.

[12:36:31 PM](#)

REPRESENTATIVE ELKINS stated that, in its present form, he cannot support the bill, but he would certainly support raising the fines for not wearing a seatbelt and increasing education regarding public safety.

[12:36:51 PM](#)

CHAIR SEATON announced that SB 87 was heard and held.
#

CHAIR SEATON announced that a subcommittee would meet at 7:45 a.m. on Tuesday, March 22 to address HB 114. He said a new committee substitute would be made available. Chair Seaton said the bill would be rolled into a broad omnibus bill - HB 53. He thanked the members of the subcommittee.

SB 87-SEAT BELT VIOLATION AS PRIMARY OFFENSE

[12:39:27 PM](#)

REPRESENTATIVE GRUENBERG referred back to SB 87. He noted that some members of the Bush caucus and people from rural Alaska have contacted him regarding SB 87. He asked [the sponsor] to be certain that their voice is heard.

[12:40:12 PM](#)

CHAIR SEATON let the committee know that there would be a potential amendment offered to exempt communities with fewer than 5,500. However, considering the data given by the Department of Health and Social Services, he said it sounds like the majority of the accidents resulting in deaths and brain trauma are occurring in [rural] areas. He said it will be a difficult balancing act, but he looks forward to working with the sponsor to find out if he wants to include motorcycles and four-wheelers, for example.

REPRESENTATIVE GATTO referred to [Representative Ramras'] reference to testimony from Mothers Against Drunk Driving (MADD). He stated for the record that no member of MADD had testifying [on behalf of MADD].

[12:41:33 PM](#)

MS. CASHEN, in response to a request for clarification from Chair Seaton, reiterated [out of range of the microphone] that [although she is a member of MADD], her testimony today on SB 87

was made on behalf of the National Council on Alcoholism and Drug Dependence.

[SB 87 was heard and held.]

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [12:44:17 PM](#).