

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 21, 2006

8:07 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Jim Elkins

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Public Defender

Quinlan Steiner -

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 375

"An Act relating to the retirement benefit liability account and appropriations from that account; relating to deposits of certain income earned on money received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District); and providing for an effective date."

- MOVED HB 375 OUT OF COMMITTEE

SENATE BILL NO. 224

"An Act establishing Older Alaskans' Day."

- MOVED SB 224 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 12(STA)

"An Act relating to financial relationships with persons conducting business in or having headquarters in countries that support or ignore slavery and trafficking in persons."

- HEARD AND HELD

HOUSE BILL NO. 344

"An Act relating to the commissioner of administration's appointing agents to perform for compensation certain transactions related to vehicles; and providing for an effective date."

- HEARD AND HELD

HOUSE CONCURRENT RESOLUTION NO. 27

Urging the Alaska Retirement Management Board and the Alaska Permanent Fund Corporation to divest all holdings held in companies with business activities or holding investments in Iran and North Korea.

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 375

SHORT TITLE: RETIREMENT BENEFIT LIABILITY ACCT/PF

SPONSOR(S): WAYS & MEANS

01/17/06	(H)	READ THE FIRST TIME - REFERRALS
01/17/06	(H)	W&M, STA, FIN
01/20/06	(H)	W&M AT 9:00 AM CAPITOL 106
01/20/06	(H)	Heard & Held
01/20/06	(H)	MINUTE(W&M)
01/25/06	(H)	W&M AT 9:00 AM CAPITOL 106
01/25/06	(H)	Heard & Held
01/25/06	(H)	MINUTE(W&M)
01/27/06	(H)	W&M AT 9:00 AM CAPITOL 106
01/27/06	(H)	Heard & Held
01/27/06	(H)	MINUTE(W&M)
01/30/06	(H)	W&M AT 9:30 AM CAPITOL 106
01/30/06	(H)	Heard & Held
01/30/06	(H)	MINUTE(W&M)
02/01/06	(H)	W&M AT 9:00 AM CAPITOL 106
02/01/06	(H)	<Bill Hearing Canceled>
02/03/06	(H)	W&M AT 9:00 AM CAPITOL 106
02/03/06	(H)	<Bill Hearing Canceled>
02/06/06	(H)	W&M AT 9:00 AM CAPITOL 106
02/06/06	(H)	Moved CSHB 375(W&M) Out of Committee
02/06/06	(H)	MINUTE(W&M)
02/08/06	(H)	W&M RPT CS(W&M) NT 3DP 1NR
02/08/06	(H)	DP: WILSON, GRUENBERG, WEYHRAUCH;

02/08/06 (H) NR: SAMUELS
02/21/06 (H) STA AT 8:00 AM CAPITOL 106

BILL: SB 224

SHORT TITLE: OLDER ALASKANS' DAY

SPONSOR(s): SENATOR(s) STEVENS G

01/09/06 (S) PREFILE RELEASED 1/6/06
01/09/06 (S) READ THE FIRST TIME - REFERRALS
01/09/06 (S) STA
02/02/06 (S) STA AT 3:30 PM BELTZ 211
02/02/06 (S) Moved SB 224 Out of Committee
02/02/06 (S) MINUTE(STA)
02/03/06 (S) STA RPT 5DP
02/03/06 (S) DP: THERRIAULT, ELTON, WAGONER,
HUGGINS, DAVIS
02/08/06 (S) TRANSMITTED TO (H)
02/08/06 (S) VERSION: SB 224
02/10/06 (H) READ THE FIRST TIME - REFERRALS
02/10/06 (H) STA
02/21/06 (H) STA AT 8:00 AM CAPITOL 106

BILL: SB 12

SHORT TITLE: LIMIT RELATIONS WITH CERTAIN NATIONS

SPONSOR(s): SENATOR(s) DYSON

01/11/05 (S) PREFILE RELEASED 12/30/04
01/11/05 (S) READ THE FIRST TIME - REFERRALS
01/11/05 (S) STA, JUD
02/08/05 (S) STA AT 3:30 PM BELTZ 211
02/08/05 (S) Heard & Held
02/08/05 (S) MINUTE(STA)
04/14/05 (S) STA AT 3:30 PM BELTZ 211
04/14/05 (S) Moved CSSB 12(STA) Out of Committee
04/14/05 (S) MINUTE(STA)
04/15/05 (S) STA RPT CS FORTHCOMING 4DP
04/15/05 (S) DP: THERRIAULT, HUGGINS, DAVIS, ELTON
04/18/05 (S) STA CS RECEIVED
NEW TITLE
04/26/05 (S) JUD RPT CS(STA) 4DP 1NR
04/26/05 (S) DP: SEEKINS, FRENCH, THERRIAULT,
HUGGINS
04/26/05 (S) NR: GUESS
04/26/05 (S) JUD AT 8:30 AM BUTROVICH 205
04/26/05 (S) Moved CSSB 12(STA) Out of Committee
04/26/05 (S) MINUTE(JUD)
05/02/05 (S) TRANSMITTED TO (H)

05/02/05 (S) VERSION: CSSB 12(STA)
05/03/05 (H) READ THE FIRST TIME - REFERRALS
05/03/05 (H) STA, JUD
02/16/06 (H) STA AT 8:00 AM CAPITOL 106
02/16/06 (H) Heard & Held
02/16/06 (H) MINUTE(STA)
02/21/06 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 344

SHORT TITLE: VEHICLE TRANSACTION AGENTS

SPONSOR(S): REPRESENTATIVE(S) KOHRING, RAMRAS

01/09/06 (H) PREFILE RELEASED 1/6/06
01/09/06 (H) READ THE FIRST TIME - REFERRALS
01/09/06 (H) STA, FIN
02/16/06 (H) STA AT 8:00 AM CAPITOL 106
02/16/06 (H) Heard & Held
02/16/06 (H) MINUTE(STA)
02/21/06 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

QUINLAN G. STEINER, Director
Central Office
Public Defender Agency
Juneau, Alaska

POSITION STATEMENT: Testified as appointed director of the
Public Defender Agency.

REPRESENTATIVE BRUCE WEYHRAUCH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 375 as sponsor.

KEVIN RITCHIE
Alaska Municipal League (AML)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB
375.

SENATOR GARY STEVENS
Alaska State Legislation
Juneau, Alaska

POSITION STATEMENT: Introduced SB 224, as sponsor.

MARIE DARLIN, Coordinator
AARP Capital City Task Force

Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 224.

SENATOR FRED DYSON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of SB 12.

MICHAEL BARNHILL, Assistant Attorney General

Labor and State Affairs Section

Civil Division (Juneau)

Department of Law

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 12.

TOMAS H. BOUTIN

Deputy Commissioner

Office of the Commissioner

Department of Revenue

Juneau, Alaska

POSITION STATEMENT: Answered a question during the hearing on SB 12.

VERN JONES, Chief Procurement Officer

Central Office

Division of General Services

Department of Administration

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 12.

JASON HOOLEY, Staff

to Senator Fred Dyson

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Highlighted language in SB 12 on behalf of Senator Dyson, sponsor.

DUANE BANNOCK, Director

Director's Office

Division of Motor Vehicles

Department of Administration

Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 344.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at [8:07:24 AM](#). Representatives Gatto, Lynn, Ramras, Gardner, and Seaton were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

CONFIRMATION HEARING(S)

Public Defender

[8:08:52 AM](#)

CHAIR SEATON announced the first order of business, the confirmation hearing for the appointee to the position of Public Defender.

[8:08:53 AM](#)

QUINLAN G. STEINER, Director, Central Office, Public Defender Agency, as appointed director of the Public Defender Agency, imparted his personal history, including his educational background and job experience. He said he has tried cases and spent considerable time in appeals. Since being appointed to the Public Defender agency, he stated, he has been working to create efficiency and better-managed caseloads. He said the Public Defender's costs are driven primarily by caseload increases beyond its control; the agency is obligated to take all cases appointed by the court.

[8:10:46 AM](#)

MR. STEINER offered examples of the steps being taken to be more efficient, including: training lawyers, shifting resources, and working on a database management system. He said there are 13 offices, statewide, and 140 employees.

[8:11:32 AM](#)

CHAIR SEATON asked what the public defender client load is per attorney.

[8:11:52 AM](#)

MR. STEINER answered that it depends on the case. For example, felony cases take longer, so the attorneys working on them take fewer cases than attorneys working on misdemeanors. A felony

attorney may have a pre-trial caseload of up to 25, whereas a misdemeanor attorney may carry as many as 100-150 cases.

[8:12:17 AM](#)

CHAIR SEATON asked if one of the efficiency measures is to have lawyers specialize in certain cases.

[8:12:32 AM](#)

MR. STEINER responded that that is true in Anchorage, where there are specialized units; however, the outer lying offices don't have enough work to specialize in that fashion. He noted that post-conviction relief applications don't necessarily require a lot of investigation in the community where they have taken place, so one efficiency measure is to have those cases be handled in Anchorage. The same applies to appeals, he added.

[8:13:57 AM](#)

MR. STEINER, in response to a question from Representative Gatto, explained that under statute, the public defender actually represents all clients and he/she appoints an assistant public defender to handle the case. In more complicated cases, two attorneys are assigned to handle the matter.

[8:14:40 AM](#)

MR. STEINER, in response to a question from Representative Gardner, confirmed that when he was younger he had a few speeding tickets, but no other convictions.

[8:14:45 AM](#)

REPRESENTATIVE RAMRAS thanked Mr. Steiner for being willing to serve in the capacity of public defender.

[8:15:14 AM](#)

REPRESENTATIVE GRUENBERG directed attention to letters in the committee packet from Margi A. Mock, Assistant Public Defender, and Paul E. Malin, expounding upon the multitude of positive aptitudes and skills of Mr. Steiner, especially in terms of the appointee's ability to testify in a capable and unflappable manner. Considering those traits, he asked Mr. Steiner, "Why do you believe it's in the agency's and the state's best interest

for you to make a conscious choice not to testify before the legislature on important issues of policy?"

[8:19:11 AM](#)

MR. STEINER replied that he is happy to testify and answer questions, but will stop short of rendering an opinion regarding whether or not a particular piece of legislation is or is not good public policy. He stated his willingness to provide feedback as to the effect of legislation on the Public Defender's client base and budget, and whether or not the legislation is constitutional. He explained, "Our statute does not appear to authorize devoting resources to developing a position on a public policy matter, and therefore I have decided not to render an opinion on such matters.

[8:19:50 AM](#)

REPRESENTATIVE GRUENBERG noted that previous public defenders have taken the opposite position.

[8:20:07 AM](#)

MR. STEINER said he doesn't know for certain what the specific policy has been in the past. In response to a follow-up question from Representative Gruenberg, he said he has spoken with at least two of the prior public defenders, but he is not certain that issue was discussed; however, he said he has discussed the issue with others in the agency, and some of them agree with his position, while others do not.

[8:20:36 AM](#)

REPRESENTATIVE GRUENBERG explained that his concern with the issue stems from the fact that a number of members of the House Judiciary Standing Committee have noted Mr. Steiner's absence and feel that the position he is taking is a very unfortunate one. He asked Mr. Steiner if he would commit to taking a more active position in the future.

[8:21:26 AM](#)

MR. STEINER responded that he is happy to testify on any piece of legislation, subject to the aforementioned limitations.

[8:21:39 AM](#)

REPRESENTATIVE GRUENBERG said it would be helpful if Mr. Steiner were available to answer questions and illustrate how pieces of proposed legislation would affect his clients.

[8:21:43 AM](#)

MR. STEINER said he would be happy to do that.

[8:21:55 AM](#)

REPRESENTATIVE GRUENBERG said he would like to have both sides of the argument present, and he stated his appreciation for Mr. Steiner's cooperative attitude.

[8:22:42 AM](#)

MR. STEINER, in response to a request for clarification from Chair Seaton, said if a committee is certain they want him to come he will, but he noted that making himself available for every single bill would take him away from other responsibilities that he has. He concluded, "I elect to appear when I think it's very important to [the] agency, or there's a dramatic effect that should be considered"

[8:23:14 AM](#)

REPRESENTATIVE GRUENBERG moved to advance the name of Quinlan Steiner to the joint session of the House and Senate; he requested unanimous consent. There being no objection, the nomination of Quinlan Steiner, as appointee to the position of Public Defender was advanced.

HB 375-RETIREMENT BENEFIT LIABILITY ACCT/PF

[Contains discussion of HB 376, HB 377, and HB 238.]

[8:23:42 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 375, "An Act relating to the retirement benefit liability account and appropriations from that account; relating to deposits of certain income earned on money received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District); and providing for an effective date."

[8:24:11 AM](#)

REPRESENTATIVE BRUCE WEYHRAUCH, Alaska State Legislature, introduced HB 375 as sponsor. He noted that the bill had been introduced by and first heard in the House Special Committee on Ways and Means as part of a group of bills that dealt with the unfunded liability in the public employees' retirement system (PERS) and the teachers' retirement system (TRS). He said HB 375, 376, and 377 all dealt with unfunded liability, the latter dealing with a \$340 million appropriation to PERS and TRS to aid in reducing the unfunded liability. The other two bills would have established a mechanism to take money from the Alaska Housing Finance Corporation (AHFC) dividend and the Amerada Hess funds in the permanent fund and put them into a liability account proposed in HB 375. He continued:

What the committee basically recognized is that because of the political machinations associated with the use of those funds ..., probably the best thing to do was to establish the fund first so that if there [were] any funds that were to be appropriated to address the PERS and TRS liability ..., the money would be used for that purpose.

REPRESENTATIVE WEYHRAUCH noted that the last section of the bill addresses Title 39 of PERS and Title 14 of TRS. He continued:

So, ... this bill ... does not set up a designated account, because those are unconstitutional. It does set up an account, though, that money can be paid into for payment of the unfunded liability for those two ... retirement systems.

REPRESENTATIVE WEYHRAUCH said the account would be somewhat similar to Alaska's public education fund.

[8:26:08 AM](#)

CHAIR SEATON asked if it would be left up to the administration to determine payments out of the account.

[8:26:37 AM](#)

REPRESENTATIVE WEYHRAUCH said the legislature would appropriate money out into the account that would be used for payment of those funds. The administration, he said, would have a voice in the process.

[8:27:10 AM](#)

CHAIR SEATON explained that he is weighing this bill in relationship to HB 238, the latter of which established a specific mechanism for a payment schedule and "how that went through communities." He surmised, "Under this system we don't say how that will be done; we would just set it up, and then the administrator of the [Division of] Retirement & Benefits could pick the winners or the losers"

[8:27:19 AM](#)

REPRESENTATIVE WEYHRAUCH responded, "That's correct; it leaves it discretionary."

[8:27:34 AM](#)

CHAIR SEATON noted that HB 375 would allow the money to go to school districts.

[8:27:37 AM](#)

REPRESENTATIVE WEYHRAUCH confirmed that's correct.

[8:27:43 AM](#)

REPRESENTATIVE GATTO, regarding the fiscal note for HB 375, offered his understanding that school districts would get help to pay off their PERS/TRS liability. He said the state already does that. He clarified, "Whenever we allocate the money for education it includes a whopping portion to help the districts pay off their PERS/TRS. So, this is in addition to that."

[8:28:18 AM](#)

REPRESENTATIVE WEYHRAUCH said the money in the fund could be used in addition to that, and the appropriation bill - if approved without amendment - would appropriate roughly \$300 million into TRS. The legislature on it's own could appropriate additional funds into those systems, he said. He concluded, "So, the answer to your question is yes."

[8:28:36 AM](#)

REPRESENTATIVE GATTO said the proposed bill would put a burden on Amerada Hess earnings, when there are other people looking toward that fund. He suggested that if the goal is to help

school districts with their PERS/TRS liability, "why not just take the governor's \$90 million and make it ... whatever number's appropriate to include this, rather than go after this individual fund?"

[8:29:26 AM](#)

REPRESENTATIVE WEYHRAUCH noted that the bill in its original form would have used funds from Amerada Hess and AHFC dividend; however, the current version of the bill does not recommend using pools of money from those either of those funds. He explained that he mentioned those funds in his introduction to give a history of the bill. He said, "The intent of the [House Special Committee on Ways and Means] in moving this bill in its form out to [House State Affairs Standing Committee] was to indicate that there's no specific fund or monies identified that would go into this fund whatsoever." He added that those funds could be used to appropriate money into the fund; however, that is a broader legislative determination that would be made "down the line" that has nothing to do with the establishment of this fund.

[8:30:18 AM](#)

REPRESENTATIVE GATTO asked if the House Special Committee on Ways and Means has heard requests for Amerada Hess money.

[8:30:40 AM](#)

REPRESENTATIVE WEYHRAUCH answered no. He said after the House Special Committee on Ways and Means held meetings around the state [during the 2005 interim], it became apparent that there is a huge unfunded liability that needs to be addressed in order to help local communities, local governing bodies, and school districts with their financial situation. Another signal coming from the administration, he noted, was that a recurring source of revenue needed to be found to address those unfunded liabilities in the local entities' PERS and TRS systems. He stated that the only source of recurring revenue Alaska has is oil revenue from the North Slope, certain small tax revenues, and interest on income earned on existing accounts such as the Constitutional Budget Reserve (CBR), the permanent fund, and existing PERS and TRS accounts. The only other recurring sources that were identified through the committee process were either to make a direct appropriation from the legislature, which uses recurring sources of revenue, or to use funds from Amerada Hess or the AHFC dividend - both recurring sources of

revenue. Representative Weyhrauch said it also became apparent that to identify specifically those pools of money created broader political and policy issue and would have weighed the bill down.

[8:31:52 AM](#)

REPRESENTATIVE GARDNER suggested that since the fiscal note still includes mention of Amerada Hess, an updated fiscal note may be needed.

[8:32:26 AM](#)

REPRESENTATIVE WEYHRAUCH said he anticipates that the fiscal note will be changed in the next committee of referral.

[8:32:46 AM](#)

REPRESENTATIVE GRUENBERG referred to [subsection (b) in Section 1, on page 1, lines 8-12 of the bill, which read as follows:

(b) Money in the retirement benefit liability account may be appropriated to the state and political subdivisions of the state, including regional educational attendance areas, for employer contributions to pay past service liabilities of the public employees' retirement system and the teachers' retirement system. Income earned on money in the account may be appropriated to the account.

REPRESENTATIVE GRUENBERG asked why a limitation was being made to employer contributions, past liabilities, and service liabilities, instead of broadening the language to say just liabilities.

REPRESENTATIVE WEYHRAUCH responded that the past service liability is primarily what has lead to the unfunded liability in the existing system.

[8:33:49 AM](#)

REPRESENTATIVE GRUENBERG said he understands that; however, he explained the reason for changing the language to the broader term of "liabilities" would be to take into consideration that the legislature is incapable of determining all the future needs and benefits of the fund. He said it would give the legislature more flexibility.

[8:34:10 AM](#)

REPRESENTATIVE WEYHRAUCH, in response to a question from Representative Gruenberg, said he would not oppose such an amendment.

[8:34:33 AM](#)

CHAIR SEATON opened public testimony.

[8:34:53 AM](#)

KEVIN RITCHIE, Alaska Municipal League (AML), stated that [the unfunded liability] truly is a big problem. It is higher in some communities than in others. The only two choices available on the local level, he relayed, is to raise taxes or to cut services. He said probably 50 percent of a boroughs appropriation goes to schools. He stated, "The only reason that we're asking for state assistance in this problem is simply [that] that's what states are set up to do. And in this particular case, we're very lucky that the state has vastly superior revenue sources to help out the problem" In most communities, he said, taxes have been rising steadily. This year, the State Chamber of Commerce has adopted addressing the PERS/TRS and community dividend problems as two of its top six business issues.

[8:37:02 AM](#)

MR. RITCHIE, responding to a previous question from Representative Gatto, said the state is putting money into school districts each year, but the problem is bigger than is visible on the surface. He offered a comparison of a home loan and only putting part of the money needed each year to pay off the home loan. He continued:

I've been sitting with the Alaska Retirement Management Board, and I think the way they're looking at the problem is we're doing two things at the same time. One is: the annual appropriations are keeping that immediate level of percent of salary contributions suppressed, so we're not feeling the impact of that. But essentially it's kind of like we're, at the same time, putting money in to the system to pay off some of that liability - it sort of

shaves off the top of the mountain, so you don't end up rising as high in the future.

MR. RITCHIE said the bill is a vessel and, from that standpoint, he said he thinks it's a "very good first step."

CHAIR SEATON asked Mr. Ritchie if AML has any questions regarding leaving the appropriation up to administrative determination.

[8:39:41 AM](#)

MR. RITCHIE said it's a tough issue. He said school districts are all in one big program, but in municipalities, some communities will have significantly higher liabilities than others. He reminded the committee that when a number, such as \$6 billion in liability is comprised of the individual liabilities of 120 cities and boroughs that are added together. He said the formula has not been figured out yet as to "how do you achieve the goal of not burdening citizens [who] really had no part in making this problem?" He emphasized AML's desire to be involved in that discussion.

[8:41:24 AM](#)

CHAIR SEATON said there has been a suggestion to take out the specificity of the past service cost liability, which could mean money could be distributed - not based on the past vagrancies of the state system that had contribution rates that weren't enough to pay for past liabilities - to communities that don't have a past service cost or don't have an unfunded liability. He asked Mr. Ritchie, "Would you see that as positive or as a negative in trying to get over this?" He clarified that in one way the money would be spread to a lot of different communities that don't have a past service cost, but then there will be less money to address those unfunded liabilities. He said, "I'm trying to figure out where AML would come down on whether you want to keep this to addressing the hole that has been dug by the system, or whether you want to allow it to be just address the system liabilities, which could include normal cost rates."

[8:42:48 AM](#)

MR. RITCHIE said that he appreciated the flexibility for the future. He pointed out that if the state paid the past service liability, the \$6 billion debt, "we'd be fine." In other words, he explained, it makes more sense to target the [\$6 billion]

problem and use legislation to address problems that arise in the future.

[8:43:55 AM](#)

CHAIR SEATON, upon determining that no one else wished to testify, closed public testimony.

[8:44:03 AM](#)

REPRESENTATIVE GRUENBERG said that due to testimony by Mr. Ritchie, he would not offer the amendment.

[8:44:59 AM](#)

CHAIR SEATON commented that this legislation is similar to HB 238, and therefore if the committee would like to forward it from committee, he would not object. However, he said he would be happy to hold the legislation for further consideration if the committee so desires.

[8:46:08 AM](#)

REPRESENTATIVE GATTO moved to report CSHB 375(W&M) out of committee with individual recommendations and the accompanying fiscal note that will be modified. There being no objection, CSHB 375(W&M) was reported out of the House State Affairs Standing Committee.

SB 224-OLDER ALASKANS' DAY

[8:47:44 AM](#)

CHAIR SEATON announced that the next order of business was SENATE BILL NO. 224, "An Act establishing Older Alaskans' Day."

The committee took an at-ease from [8:47:55 AM](#) to [8:51:06 AM](#).

SENATOR GARY STEVENS, Alaska State Legislation, introduced SB 224, as sponsor. He said the bill would designate the second Wednesday of September as "Older Alaskans' Day." He said the idea came about during a recent visit to the senior center in Kodiak. He stated the importance of Alaska's seniors, noting that they are among the fastest growing population in the country. He said Alaska's seniors contribute millions to the economy, give an enormous amount of volunteer time to many organizations, and share their wisdom and experience to

everyone. He stated that he thinks it would be fitting to set a day aside to recognize the accomplishments of Alaska's older citizens.

[REPRESENTATIVES LYNN and GRUENBERG mentioned a conflict of interest.]

[8:53:44 AM](#)

REPRESENTATIVE GRUENBERG moved Amendment 1, as follows:

On page 1, line 7:
Delete "quiet"
Insert "raucous"

REPRESENTATIVE GRUENBERG withdrew Amendment 1.

[8:54:19 AM](#)

CHAIR SEATON closed public testimony, then reopened it to accommodate a testifier present in the room.

[8:54:36 AM](#)

MARIE DARLIN, Coordinator, AARP Capital City Task Force, testified in support of SB 224. She stated that older Alaskans contribute much to the community. She noted her letter of support included in committee packet.

[8:55:38 AM](#)

CHAIR SEATON closed public testimony.

[8:55:59 AM](#)

REPRESENTATIVE GARDNER stated her support of SB 224.

[8:56:10 AM](#)

REPRESENTATIVE LYNN moved to report SB 224 out of committee with individual recommendations. There being no objection, SB 224 was reported out of the House State Affairs Standing Committee.

SB 12-LIMIT RELATIONS WITH CERTAIN NATIONS

[8:57:02 AM](#)

CHAIR SEATON announced that the next order of business was CS FOR SENATE BILL NO. 12(STA), "An Act relating to financial relationships with persons conducting business in or having headquarters in countries that support or ignore slavery and trafficking in persons."

8:57:15 AM

SENATOR FRED DYSON, Alaska State Legislature, as sponsor of SB 12, told the committee that leaving in Section 4, on page 3 of CSSB 12(STA), was an oversight, and he would appreciate a motion from the committee to remove that language.

8:57:49 AM

REPRESENTATIVE GATTO moved Amendment 1, to delete Section 4 from the bill. There being no objection, Amendment 1 was adopted.

8:58:40 AM

SENATOR DYSON said subsequent to the last hearing of SB 12 on 2/16, he spoke with the people in the governor's office who expressed concern that the bill goes beyond the [Administrative Order No. 227 (AO 227)] issued in December of 2005 in two ways. First, he said AO 227 only covers purchases made by the executive branch, and does not include the judicial and legislative branches. Second, while encouraging purchasers and contractors in the administration to inquire into the policies of the companies that are headquartered in Tier 3 countries, it does not preclude companies from purchasing from Tier 3 companies. The proposed legislation would preclude Alaska from purchasing from Tier 3 companies, as well as from companies that are headquartered in those countries. Additionally, companies that conduct business in those countries "may" be requested to state their policy when doing business there.

SENATOR DYSON stated, "It is our intention that we not be aiding and abetting those who are trafficking in human bodies - women and children, mostly - by inhuman conduct while we're there." He spoke of an article which reported that during the United Nations' efforts rebuilding in Kosovo, it was revealed that there were contractors and United Nations officials who were, during the course of their stay in Kosovo, contracting for child prostitutes to live in their home and be servants. Senator Dyson said he asked every one of the major oil companies that deal with Alaska [how SB 12 would affect them]. He said they responded that this is something that ought to be done.

SENATOR DYSON told committee members that they may hear from the administration that it is concerned about the bill's requirement that Alaska not make purchases from companies that have their headquarters in Tier 3 countries. He said, "If you look at the list for the Tier 3 countries, I think it's very unlikely that that will happen."

[9:02:02 AM](#)

SENATOR DYSON said the committee may also hear that whenever an investment firm or entity gets involved in doing anything except being a prudent investor, it opens the door to all kinds of problems. He said he expects the administration to warn the legislature that it needs to be extremely careful when it starts "serving social purposes and idealistic purposes with [its] fiscal policy - [its] purchasing and investments." Senator Dyson indicated that he thinks the committee has taken care of most of the problems in the bill with the adoption of Amendment 1.

[9:03:22 AM](#)

CHAIR SEATON, referring back to Senator Dyson's mention of the individuals in Kosovo who had "contracted for child prostitutes," asked, "This doesn't address individual acts at all, does it?"

[9:04:02 AM](#)

SENATOR DYSON answered that's correct. He added, "But we're interested in the company having an exclusive policy."

[9:04:14 AM](#)

CHAIR SEATON reasoned, "If a company has an explicit policy precluding any of those kind of actions, but they're headquartered in one of the countries that gets identified, we would be precluded from buying from that company, even though it has that policy." He then surmised that the intent is to get the companies headquartered in those countries to put pressure on the countries in order to do business with the State of Alaska.

[9:04:59 AM](#)

SENATOR DYSON responded that's correct. He offered his understanding that the governments of all the Tier 3 companies are often openly complicit in the human rights abuses that are going on.

[9:05:21 AM](#)

REPRESENTATIVE GARDNER asked for clarification regarding language [relating to requirements for procedures] on page 2, lines 12-13, which read: "must be adapted to the special needs of the judicial branch".

[9:05:53 AM](#)

SENATOR DYSON said he will find out the meaning of that language and get back to Representative Gardner.

[9:06:06 AM](#)

REPRESENTATIVE GARDNER asked if the State of Alaska currently has any contracts or dealings that would be modified or invalidated as a result of SB 12.

[9:06:28 AM](#)

SENATOR DYSON said he doesn't know. He said, "In light of some information that Representative Ramras has come up with in another related field, it's very possible." He said he has heard that on a federal level the ranking of the nations has had a salutary effect, and he expressed his hope that as other states adopt this kind of legislation, the financial pressure will have an impact. He noted that the State of California ranks as the eighth or ninth biggest economy in the world, and getting states to do what Alaska is doing - to be responsible about their investments - should be helpful.

[9:07:29 AM](#)

REPRESENTATIVE LYNN noted that there are 14 nations listed [at the Tier 3 level], mentioning in particular an issue about port security and the United Arab Emirates. He also mentioned the countries of Saudi Arabia, Qatar, and Kuwait. He asked Senator Dyson to comment on helping to "liberate these people."

[9:08:12 AM](#)

SENATOR DYSON responded:

Several of the oil companies that do business here are also doing major business in those countries, and I am hoping that this will be a clarion call for those guys to have an explicit policy that they communicate to those governments that in this area of trafficking in human beings, you can't go on with business as usual.

[9:08:39 AM](#)

REPRESENTATIVE GRUENBERG observed that the bill talks about whether a company has headquarters in another country, whereas Administrative Order No. 227 talks about the company being established and headquartered, or incorporated and headquartered in the country. He said he can see why "established and incorporated" was eliminated because of the conjunctive "and"; however, he noted, "You could have a company that isn't 'headquartered,' but is incorporated in the country, or is established in the country, or is owned in whole or in major part by a person residing in the country." He asked the bill sponsor how he would feel about including that type of language in the bill.

[9:10:31 AM](#)

SENATOR DYSON said he would have no problem adding that language to the bill, because it is more explicit and complete.

[9:10:52 AM](#)

CHAIR SEATON opened public testimony.

[9:11:25 AM](#)

MICHAEL BARNHILL, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Juneau), Department of Law, explained that his purpose in being present for the hearing was to answer questions regarding Section 4, which was removed.

[9:12:31 AM](#)

CHAIR SEATON asked if the bill would cause the state to avoid contracts that are currently constructed or if it would just apply to future contracts.

[9:12:40 AM](#)

MR. BARNHILL replied, "I think it would only apply with prospective effect, because it requires the implementation of procedures, and I would assume that those procedures would only take effect for the future, not for the past."

[9:13:09 AM](#)

CHAIR SEATON asked Mr. Barnhill to give the matter further consideration.

[9:13:25 AM](#)

MR. BARNHILL explained that the Alaska State Constitution includes a contracts clause; the state cannot unilaterally void contracts that are in existence. He indicated that the state could seek to amend those contracts through a process of negotiation.

CHAIR SEATON said, "So then, the contract provision in the constitution would basically prevent this from putting us into a situation where we would be violating a contract and ... would have financial liabilities for the violation of that."

MR. BARNHILL responded, "I believe that's correct."

[9:13:58 AM](#)

REPRESENTATIVE GRUENBERG said there is a statute that says that acts are prospective only, unless there is a retroactivity clause adopted.

[9:14:05 AM](#)

MR. BARNHILL said that is true with respect to the effective date of the legislation.

[9:14:20 AM](#)

REPRESENTATIVE GRUENBERG asked Mr. Barnhill if, with that in mind, he thinks it would be necessary to add an applicability clause to the bill stating that "this only applies to ... future contracts."

[9:14:27 AM](#)

MR. BARNHILL answered no. He explained that SB 12 calls for the implementation of new procedures, thus, the applicability could be taken up in the regulations or the procedures.

[9:15:08 AM](#)

REPRESENTATIVE GARDNER referred again to the language on page 1, beginning on line 8, which read:

The procedures must be based on the competitive principles consistent with this chapter and must be adapted to the special needs of the legislative branch, as determined by the legislative council

REPRESENTATIVE GARDNER noted that the same language exists on page 2, beginning on line 11, but pertaining to the judicial branch. She asked Mr. Barnhill for a definition of "special needs".

[9:15:46 AM](#)

MR. BARNHILL explained, "This is existing language in the state's procurement code, so I can only assume that both the legislative and the judicial branches, when this statute was being drafted, felt they had special needs that were unique to their branches, with respect to procurement, and so, this would give them flexibility to tailor their procurement needs to the uniqueness of those branches."

[9:16:13 AM](#)

REPRESENTATIVE GARDNER asked Mr. Barnhill if he thinks those "special needs" could be used as an excuse or a reason to not comply with the intent and provisions of SB 12.

[9:16:35 AM](#)

MR. BARNHILL answered, "I doubt it."

[9:18:17 AM](#)

CHAIR SEATON asked, "When the administrative order went in that dealt with these same issues in a ... slightly different way, ... was there an impact on contracts at that time?"

[9:18:38 AM](#)

TOMAS H. BOUTIN, Deputy Commissioner, Office of the Commissioner, Department of Revenue, answered, "Not to my knowledge."

[9:18:55 AM](#)

VERN JONES, Chief Procurement Officer, Central Office, Division of General Services, Department of Administration, stated that AO 227 requires the state to seek a certified copy of a company's policy against human trafficking if that company was incorporated and headquartered in a Tier 3 country. The proposed legislation would prevent the state from doing business with any of those same companies. Since AO 227 was enacted in December, the administration knows of no instances where it has received a copy of the certified statement against human trafficking. Mr. Jones stated, "The only conclusion that we can draw from that is that since then, I believe, we have not done business with any countries that are headquartered ... and incorporated in those Tier 3 countries." He said there is a lack of data relating to how much business is done with companies that are headquartered in [Tier 3] countries. Furthermore, he said there is no good way of determining which companies are or are not headquartered in Tier 3 countries, other than asking the question each time the state does a procurement, which is what it has been doing.

[9:20:38 AM](#)

CHAIR SEATON asked Mr. Jones to confirm that the administration normally doesn't know where companies are headquartered when they contract with the state.

[9:20:57 AM](#)

MR. JONES answered that's correct. He said the companies are only required to have an Alaska business license and be qualified to do business within Alaska.

[9:21:09 AM](#)

REPRESENTATIVE GARDNER asked Mr. Jones if it is reasonable to conclude that SB 12 is about making an important statement and perhaps having a certain leadership role in an attempt to address the issues, but won't have any "real effect on the ground here in Alaska."

[9:21:46 AM](#)

MR. JONES told Representative Gardner that she is probably correct; the information that the administration has been able to collect indicates that it doesn't do much business with [companies] that are headquartered in Tier 3 countries.

[9:21:56 AM](#)

REPRESENTATIVE GATTO expressed concern about the word "headquarters". He said the company Sony is headquartered in Japan; however, there may be other headquarters for the same company elsewhere. He asked, "Do ... we define it as a single location in one of these Tier 3 countries?"

[9:22:38 AM](#)

MR. JONES said he is not certain what the definition of headquarters is. Notwithstanding that, he noted that in AO 227, the administration defined the companies in question as "established and headquartered" or "incorporated and headquartered" in a Tier 3 country. He deferred to Mr. Barnhill for further definition.

[9:23:30 AM](#)

REPRESENTATIVE GRUENBERG said he would be offering an amendment regarding that issue. Regarding language in the bill, he noted that the bill drafter had written the legislature and the court system adopts procedures, whereas the administration adopts regulations, [as shown on page 2, line 26]. Representative Gruenberg asked Mr. Jones if he would be amenable to changing the word "procedures" to "regulations" on page 2, line 28, to be consistent. He said procedures is "an informal kind of a thing."

[9:24:47 AM](#)

MR. JONES responded that changing that language would clarify that the administration does have to enact regulations and that "the administrative order would have to be superseded by regulations more specific to this bill."

REPRESENTATIVE GRUENBERG remarked that AO 227 is interesting, and he said he thinks it's an excellent idea for people submitting responses to requests for proposals (RFPs) to have to disclose their policy concerning human trafficking. He said he is considering whether it would be a good idea also to require

companies that are involved in state procurement to "have to disclose what you have in the administrative order." He added, "Not that it would be an either/or, but that we would engraft that into the bill itself." He asked Mr. Jones for his feedback.

[9:26:17 AM](#)

MR. JONES said the governor's administrative order requires a certified copy of the company's policy against human trafficking, only if that company is headquartered and established in a Tier 3 country. He stated that it may be problematic for the state to be collecting that paper for each and every [company] that operates in a Tier 3 country. He pointed out that there are several South American countries on the Tier 3 list, and virtually every major corporation that Alaska deals with has operations in those countries. He concluded, "Of course, we'll defer to the legislature, as far as complying with the laws that you pass, but in my opinion, that might be a bit onerous for us."

[9:27:17 AM](#)

REPRESENTATIVE GRUENBERG said he sees benefits in this, because it would focus companies' attention on this particular issue. He asked if companies typically have written policies on human trafficking.

[9:27:39 AM](#)

MR. JONES guessed that probably some of them do, but a majority of them don't. He expressed his fear that a lack of compliance would "prevent us from making an award in probably numerous instances."

REPRESENTATIVE GRUENBERG said, "I'm not sure I'm satisfied totally, but I'll come back to this."

[9:28:20 AM](#)

CHAIR SEATON closed public testimony.

[9:29:35 AM](#)

CHAIR SEATON clarified the differences between the administrative order and the bill.

9:30:30 AM

REPRESENTATIVE GRUENBERG turned to Section 2 of the bill [beginning on page 2, line 8]. He directed attention to a handout he had provided [included in the committee packet], which shows Administrative Rules. He referred to the introductory sentence for Rule 1, which read:

There shall be an administrative director of courts who shall, under policy guidelines provided by the supreme court:

REPRESENTATIVE GRUENBERG then directed attention to subsection (o), which read:

(o) Adopt and publish procedures to govern the procurement of supplies, services, professional services, and construction by the judicial branch.

REPRESENTATIVE GRUENBERG said:

My question is whether Section 2 of this bill modifies that court rule and, if so, whether constitutionally we need to put in that this is an indirect amendment of the court rule, which will ensure that this is constitutional. It'll require a concurrent resolution and a title change.

9:31:53 AM

MR. BARNHILL responded that he has never thought about the extent to which modification of the court's administrative rules requires the enhanced vote.

9:32:09 AM

REPRESENTATIVE GRUENBERG said he would ask the Legislative Legal and Research Services to consider that matter, "because if we don't do it, it's not constitutional."

9:32:26 AM

REPRESENTATIVE GARDNER asked the bill sponsor if he wants to get a legal opinion as to whether the language adopted to the special needs of the judicial or legislative branches could be used "to step around the provisions of this bill."

[9:33:07 AM](#)

SENATOR DYSON responded that he suspects it could be used that way; however, both those branches of government are mostly buying supplies, contract services, and a little bit of equipment, and he doesn't think "it will practically have any difference."

[9:33:13 AM](#)

REPRESENTATIVE GATTO reiterated his question regarding the interpretation of the meaning of the word headquarters.

[9:33:23 AM](#)

MR. BARNHILL said he believes it is possible for corporations to have multiple headquarters. He said he suspects that the bill sponsor intends the term "headquarters" to be used broadly.

[9:34:04 AM](#)

CHAIR SEATON offered an example wherein a company had its main headquarters in the United Kingdom [a Tier 1 country], and also had regional headquarters in Saudi Arabia, or the United Arab Emirates [both Tier 3 countries]. He asked if that company could be prevented from contracting with the State of Alaska.

[9:34:52 AM](#)

MR. BARNHILL answered that that is a potential possibility. He said he thinks there is a difference between an office and a headquarters in the United Arab Emirates. However, if the company characterized its operations in the United Arab Emirates as a headquarters, then [Alaska could be precluded from doing business with that company]. He deferred to the bill sponsor for clarification on his intent for the meaning of the word "headquarters."

[9:35:25 AM](#)

SENATOR DYSON responded that he meant the word to mean "the [emphasis on 'the'] headquarters." He stated that any of the companies doing business in a Tier 3 country will quickly make the adaptation to make sure that "they either have sufficient company policy to meet our standards, or that we're doing business with one of their other headquarters in a non-Tier 3 country."

[9:36:09 AM](#)

CHAIR SEATON asked Mr. Barnhill if he thinks "that clarification is ample on the record that this is talking about the main headquarters of the corporation."

[9:36:19 AM](#)

MR. BARNHILL answered yes.

[9:36:37 AM](#)

REPRESENTATIVE GRUENBERG urged the bill sponsor to define "headquarters" in the bill and leave the definition as broad as possible. In response to a remark made by Senator Dyson, he offered his understanding that a definition of "headquarters" is not in AO 227. He suggested he could work on the issue with the sponsor and Legislative Legal and Research Services.

SENATOR DYSON said he wants to understand what Representative Gruenberg means by "as broad as possible." He pointed to the phrases [previously mentioned by Representative Gruenberg] regarding headquarters, which are written in the first paragraph at the top of page 2 in AO 227: "established and headquartered, or incorporated and headquartered".

[9:38:55 AM](#)

REPRESENTATIVE GRUENBERG responded that that's a very narrow definition and asked Senator Dyson if that's what he wants.

SENATOR DYSON answered yes.

[9:39:20 AM](#)

REPRESENTATIVE GRUENBERG suggested he and Senator Dyson could continue the conversation later.

[9:39:41 AM](#)

CHAIR SEATON turned to the list of tier placements and noted that Mexico is listed on the Tier 2 Watch List. He asked, "Would we be creating an absolute treaty violation if we require this of [North American Free Trade Agreement (NAFTA)] countries?"

[9:40:06 AM](#)

MR. BARNHILL said he doesn't know, but would research that question and get back to the committee with an answer.

[9:40:54 AM](#)

REPRESENTATIVE RAMRAS stated his support of SB 12. He said he thinks the bill "addresses a very germane and important issue," and is "an appropriate moral direction" for the legislature to take after carefully constructing the language it adopts.

[9:41:32 AM](#)

REPRESENTATIVE GRUENBERG moved Amendment 2, as follows:

On page 2, line 28:
Delete "procedures"
Insert "regulations"

[9:41:56 AM](#)

CHAIR SEATON objected for discussion purposes.

[9:42:03 AM](#)

REPRESENTATIVE GRUENBERG noted that this change would effect the commissioner of administration, who would be required to adopt changes to the regulatory process, which he said is set up in the administrative procedures Act and provides for public input, notice, and hearing if necessary.

[9:42:40 AM](#)

REPRESENTATIVE GARDNER asked Representative Gruenberg if he wanted the amendment to also apply to the court system and the legislature.

[9:42:53 AM](#)

REPRESENTATIVE GRUENBERG answered no. He explained that both the court system and the legislature use the term "procedures" rather than "regulations", which he said, "probably gets back to the interplay between the statute and the court rule."

[9:43:18 AM](#)

JASON HOOLEY, Staff to Senator Fred Dyson, Alaska State Legislature, on behalf of Senator Dyson, sponsor of SB 12, noted that the word "procedures" appears again in the section of the bill relating to the administration, on page 3, line 1.

[9:44:29 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 1 to Amendment 2, as follows:

On page 3, line 1:
Delete "procedures"
Insert "regulations"

CHAIR SEATON asked if there was any objection to Amendment 1 to Amendment 2. There being none, it was so ordered.

[9:44:46 AM](#)

CHAIR SEATON removed his objection [to Amendment 2, as amended]. He asked if there was any further objection to Amendment 2, [as amended]. There being none, it was so ordered.

[9:45:17 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 3, which read as follows [original punctuation provided, with some formatting changes]:

Page 1, line 12
After "that has headquarters in" insert:
" , is incorporated in, is established in, or is owned in whole or in major part by a person residing in."

Page 2, line 15
After "that has headquarters in" insert:
" , is incorporated in, is established in, or is owned in whole or in major part by a person residing in."

Page 2, line 28
After "that has headquarters in" insert:
" , is incorporated in, is established in, or is owned in whole or in major part by a person residing in."

[9:45:50 AM](#)

CHAIR SEATON objected to Amendment 3.

[9:46:05 AM](#)

REPRESENTATIVE GRUENBERG spoke to Amendment 3. He said the purpose is not only to include the companies that are headquartered in Tier 3 companies. He said the language was basically taken from AO 227. He explained the reason for using the phrase "**owned in whole or in major part**" is so that "we are not dealing with a subsidiary of some company." He said "**person**" is defined in Title 1. He said Amendment 3 casts a broader net.

[9:46:43 AM](#)

CHAIR SEATON spoke to his objection. He said he thinks it would be administratively impossible to enforce "the percentage of ownership of a corporation of a person who owns part of a corporation and where that person lives."

[9:47:39 AM](#)

MR. JONES said he would agree with Chair Seaton. He said presently the honor system is used, asking people to let the state know if they are headquartered in [Tier 3] countries.

[9:48:51 AM](#)

REPRESENTATIVE GRUENBERG suggested asking if the company is "**owned in whole or in major part by a person residing in**" [a Tier 3 country], and having the person who answers that question do so under oath. He explained that if the person is false swearing, then he/she would be committing a crime. He asked Mr. Jones if that would be administratively difficult.

[9:49:50 AM](#)

MR. JONES replied that it would not be "difficult to ask a second question."

[9:49:54 AM](#)

REPRESENTATIVE GARDNER told Representative Gruenberg that she runs a small business and every once in awhile there is a potential customer with documentation requirements, and her

business complies with certain regulations "at the point of origin." She stated, "I throw them in the trash and don't even reply. I don't even pursue taking an order. They can give us an order or not, but I'm not willing to spend a lot of time on these kind of things." She continued:

And this bill, as I think we've established, isn't going to have a huge impact on anything we do. It's a statement of purpose, and it's taking a position on a very important issue and, as I said, hopefully a leadership position. But on the ground, in the actual contracts of the State of Alaska, it may not affect a single one. So, I don't think we need to worry about whether people have to say under oath where they reside I mean, I think it just becomes unnecessarily cumbersome and doesn't do anything to really help our real goal here.

[9:51:19 AM](#)

MR. JONES concurred with Representative Gardner. He said some people believe that procedures that the state follows now are already overly complicated, bureaucratic, and burdensome, and [Amendment 3] may not have any practical impact, given the activity that has been seen since the administrative order was enacted. He said, "I think we'd tend to, on occasion, discriminate or eliminate an otherwise responsive proposal or bid because they didn't get their paperwork in on time, and it would be that much more paper for us to chase."

[9:52:11 AM](#)

REPRESENTATIVE GATTO said, "We could be dealing with a place where there are only administrators and not dealing with the country that is full of the production, because the headquarters is in a safe place, but the production is scattered across Tier 3"

MR. JONES opined that that is certainly a possibility.

[9:53:17 AM](#)

CHAIR SEATON said a corporation would have to know who owns a major portion of its stock and will have to certify that the major stockholder does not reside in any of the [Tier 3] countries. He said it would be administratively difficult for a corporation.

[9:53:50 AM](#)

REPRESENTATIVE GRUENBERG asked if there would be any benefit to deleting the words, "is owned in whole or in major part by a person residing in".

[9:54:15 AM](#)

SENATOR DYSON said, "My guess is the chair's right: ... demanding to know who their major owners are is probably a step beyond ... that which is practical and [wouldn't] really do us any good." He said the state is already saying to companies that are bidding that it wants them to be compliant in many areas, and [Amendment 3] would just be "adding ... another phrase to the requirements of who we're going to do business with." He concluded:

When I talked to the major oil companies about this, they said, "This isn't a problem. If our company doesn't have a good policy about how our citizens will conduct themselves - our employees in these countries - we will get one, and should have done it." And I think that's really true. And, by and large, the folks that the state is doing business with that are overseas are not ... Mom and Pop shops like you and me, they are ... big countries.

[9:56:08 AM](#)

REPRESENTATIVE GRUENBERG withdrew Amendment 3.

[SB 12 was heard and held.]

HB 344-VEHICLE TRANSACTION AGENTS

[Contains brief mention of HB 383.]

[9:57:20 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 344, "An Act relating to the commissioner of administration's appointing agents to perform for compensation certain transactions related to vehicles; and providing for an effective date."

[9:57:35 AM](#)

CHAIR SEATON closed public testimony.

9:58:05 AM

REPRESENTATIVE RAMRAS mentioned a conversation with former testifier, Jim Arpino, of Affordable Used Cars, related to the issue of document "doc" fees. He mentioned HB 383, sponsored by Representative Gara, which would clarify the issue of the doc fee. He stated, "I would like to draw a bright line between what HB 344 does and what document fees do." He explained that he wants the discussion to stay focused on "incentivizing dealers to participate in the advance business partner [(ABP)] programs"

10:02:38 AM

REPRESENTATIVE RAMRAS, in response to a comment by Chair Seaton, clarified that his comment that the Division of Motor Vehicles is hated - made at a previous hearing - was intended to mean that the wait time at the division is what is disliked.

10:03:23 AM

REPRESENTATIVE GARDNER directed attention to a handout in the committee packet, entitled, "History of the DMV Business Partnership Program," and the following page, entitled, "Proposal to allow Advanced Business Partners to retain a portion of revenue generated," the third paragraph of which read:

While this concept is a terrific bargain to the state, if the surcharge exceeds a customer comfort zone, the business will be returned to the DMV, defeating the original purpose.

REPRESENTATIVE GARDNER stated that title and registration cannot be returned to the DMV; under current legislation, dealers are required to process title and insurance. Representative Gardner turned to a letter in the committee packet from [Duane Bannock, Division of Motor Vehicles], Department of Administration, dated February 17, which read in part:

While their customers always have the right to take their business to the DMV, these Advanced Business Partners sell a service that they market as quicker

and more convenient and proof has shown that Alaskans are willing to pay.

REPRESENTATIVE GARDNER said, again, that may refer to some services offered, but not to title and registration. She said she just wanted to clarify that matter, because it seems to be a source of confusion. She concluded, "So, it's true that dealers are required to do that, and they have been doing it without any state compensation." She said she personally does not have a problem with compensation for services. She stated, "What I do have a problem with is if they're getting it from both sides."

[10:05:43 AM](#)

CHAIR SEATON said there are three issues to discuss: a proposal to retain 7.5 percent of the fees collected; documentation preparation fees, which are a totally private and separate charge made by the dealer; and a surcharge. He said he would like the director of the Division of Motor Vehicles to explain the surcharge.

[10:06:51 AM](#)

DUANE BANNOCK, Director, Division of Motor Vehicles, Department of Administration, said he is the author of not only the letter dated 2/17, but also the "History of the DMV Business Partnership Program" handout - both aforementioned by Representative Gardner. Mr. Bannock explained that "customer," as he uses the word, can mean a citizen or a dealership. He specified that the statutory requirement that dealerships complete the vehicle registration is not to say that dealerships are statutorily required to be business partners. He indicated that business partnerships created to allow ["select auto dealerships to process the registration and titles of vehicles sold"] have allowed four of the eight DMV staff previously occupied with that work to instead provide customer service. There are approximately six of these ABPs in Alaska.

[10:09:26 AM](#)

MR. BANNOCK noted that one of the ABPs does the DMV work for eight small dealerships in Alaska, and for that work, the ABP charges a surcharge, because without it she collects nothing from the State of Alaska for doing the work that in the past only state employees were able to do.

[10:10:56 AM](#)

REPRESENTATIVE GARDNER asked Mr. Bannock if it would be fair to say what is really being done is the privatization of state services.

[10:11:15 AM](#)

MR. BANNOCK indicated that there is a debate over the definition of "privatization," which he would not [address at this time]. He reiterated the benefit of lightening the workload of the DMV through the use of ABPs, and he emphasized his commitment to reducing the wait time at DMV.

[10:12:34 AM](#)

CHAIR SEATON asked Mr. Bannock if the surcharge of which he spoke is the same as the \$10 charged by the DMV for in-office work, versus by-mail work.

[10:12:46 AM](#)

MR. BANNOCK answered no. He said, "I just used that in my letter as a simple comparison."

[10:12:54 AM](#)

CHAIR SEATON asked if there is a limitation on the surcharge exacted by the ABP.

[10:13:12 AM](#)

MR. BANNOCK said there is no governmental limit on that fee; however, as Representative Gardner noted by reading from his own proposal information, "if the surcharge exceeds a customer comfort zone, the business will be returned to the DMV, defeating the original purpose." In response to a follow-up question from Chair Seaton, he said he has seen that happen. He offered an example.

[10:17:04 AM](#)

REPRESENTATIVE GATTO questioned why a 7.5 percent fee should be allowed when there is already a surcharge.

[10:17:35 AM](#)

CHAIR SEATON, in response to Mr. Bannock and Representative Gatto, said the surcharge is permissive. The bill, he clarified, would allow 7.5 percent of what is generated in revenue to be returned to the preparer, in compensation for the work done, whether he/she charges a surcharge or not. He said he thinks the question is whether having both the surcharge and the 7.5 percent would allow compensation for the same action. He suggested another question to ask is whether [the 7.5 percent that would be paid by the state] is needed, or whether the service provided by the ABPs generates enough customer service to be continued without that 7.5 percent. He asked Representative Ramras if his comments offered a clearer view of the discussion on the table.

[10:19:42 AM](#)

REPRESENTATIVE RAMRAS answered yes. He said:

We've got two really separate issues, and one is on the table, and one may be taken up by this committee or the Twenty-Fifth Legislature to address. We've uncovered a pretty interesting ... issue, but I think that you have it.

[10:20:02 AM](#)

REPRESENTATIVE GRUENBERG noted that in Mr. Bannock's "Proposal to allow Advanced Business Partners to retain a portion of revenue generated," he notes that ABPs are at liberty to set their own surcharge. He asked, "If they can do that, why in the world are we allowing them an additional 7.5 percent?" He said he does not see any justification for that kind of governmental handout. He observed that the fiscal note shows a cost of \$486.6 thousand the first year, increasing over the next five years. He asked what justification there is for giving the auto industry of Alaska a half million dollars of taxpayers' money. In response to Mr. Bannock, he specified that he wants to know if there is anything that prevents car dealerships from "using the surcharge." He clarified as follows:

I guess the question becomes, "At some point in time, are we going to have to increase registration fees, so that we have the ability to pay private individuals ... or companies to prepare the documents, and is there anything at all that prevents the car dealerships from utilizing and putting on the ... \$10- or \$20-dollar surcharge?"

[10:23:45 AM](#)

MR. BANNOCK said he doesn't think there is anything in law today that prevents "anyone from charging any fee."

[10:23:59 AM](#)

REPRESENTATIVE GRUENBERG said the only people who have testified in support of the bill are car dealers, and those opposed to the bill are customers. He stated his concern that the industry is clearly anticipating that HB 344 will "provide additional funds to it."

[10:25:07 AM](#)

MR. BANNOCK said he has seen one letter of objection, which was written by one of his employees whose opinion he values, although he does not concur with her assessment. He emphasized his belief that "we've done a good job of proving that this program works." He said there is data to support the proposed legislation, and he encouraged the committee to support the bill. He recommended that if committee members feel there is a problem with allowing general fund monies to go to private organizations, they should review the same policy used by the Alaska Department of Fish & Game (ADF&G), on which he based "this theory."

[10:26:18 AM](#)

CHAIR SEATON said there are requirements for ADF&G's fishing license program which prevent those vendors from attaching any surcharge.

[10:26:47 AM](#)

REPRESENTATIVE GRUENBERG said the economics of people who sell fishing tackle is much different than those who sell vehicles. The latter makes thousands on a sale.

[10:27:25 AM](#)

CHAIR SEATON clarified that this issue addresses ABPs, which does not necessarily mean auto dealers.

[10:27:47 AM](#)

CHAIR SEATON announced that HB 344 was heard and held.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [10:27:53 AM](#).