

MINUTES
SENATE FINANCE COMMITTEE
April 28, 2005
9:58 a.m.

CALL TO ORDER

Co-Chair Green convened the meeting at approximately [9:58:26 AM](#).

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: CHERYL SUTTON, Staff to Senator Ben Stevens; CHERYL SUTTON, Staff to Senator Ben Stevens; NONA WILSON, Legislative Liaison, Department of Transportation and Public Facilities; KIP KNUDSON, Deputy Commissioner of Aviation, Department of Transportation and Public Facilities; ANNETTE KREITZER, Chief of Staff to Lieutenant Governor Loren Leman, Office of the Lieutenant Governor; BRIAN WEST, Intern, Office of the Lieutenant Governor; MICHAEL PAWLOWSKI, Staff to Representative Kevin Meyer; KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation; ANDREA DOLL; CHIP WAGONER, Executive Director, Alaska Catholic Conference; KIM CARNOT, Staff to Co-Chair Green; TIM BARRY, Staff to Senator Stedman; MARK VINSEL, Executive Director, United Fishermen of Alaska; KRIS NORRIS, Government Affairs, Icicle Seafoods, Inc.; JANE ALBERTS, staff to Senator Bunde; PAT DAVIDSON, Director, Division of Legislative Audit; RICK URION, Director, Division of Occupational Licensing, Department of Commerce, Community and Economic Development;

Attending via Teleconference: From an offnet location: DAVE EBERLE, Department of Transportation and Public Facilities; PAMELA MILLER, Biologist and Executive Director, Alaska Community Action on Toxics; ALAN COLTER; DOUG GRIFFIN, Director, Alcohol Beverage Control Board, Department of Public Safety; BRENDA STANSILL, Director, Center for Non-Violent Living, and chair of a steering committee of the Alaska Counsel on Domestic Violence and Sexual Assault; CHRISTI BRAND, President, Opticians Association of Alaska; From Anchorage: KEN PERRY, General Manager, PARATEX Pied Piper, and

representative, Certified Applicators in Alaska, National Pest Management Association, and RISE; ANNA FRANKS, Chief Executive Officer, Planned Parenthood of Alaska; CASSANDRA JOHNSON; MICHAEL MACLEUD-BALL, Executive Director, Alaska Civil Liberties Union; LARRY HARPER, American Board of Optometrists;

SUMMARY INFORMATION

SB 113-GULF OF ALASKA GROUND FISH FISHERY

The Committee heard from the sponsor. The bill was reported from Committee.

SB 130-WORKERS' COMPENSATION/ INSURANCE

A Subcommittee was formed to review the bill and make recommendations to the full Committee. The bill was held in Committee.

SB 153-INTERNATIONAL AIRPORTS REVENUE BONDS

The Committee heard from the Department of Transportation and Public Facilities. The bill was reported from Committee.

HB 97-OATHS; NOTARIES PUBLIC; STATE SEAL

The Committee heard from the Office of the Lieutenant Governor. An amendment was adopted and the bill was reported from Committee.

HB 19-PESTICIDE & BROADCAST CHEMICALS

The Committee heard from the sponsor, the Department of Environmental Conservation, industry organizations, public interest organizations, and members of the public. The bill was held in Committee.

HB 15-LIQUOR LICENSES: OUTDOOR REC. LODGE/BARS

The Committee heard from the sponsor and the Department of Public Safety. An amendment was adopted and the bill was held in Committee.

SB 20-OFFENSES AGAINST UNBORN CHILDREN

The Committee heard from the sponsor, the co-chair, representatives of interested organizations and a member of the public. The bill was reported from Committee.

SB 164-SALMON PRODUCT DEVELOPMENT TAX CREDIT

The Committee heard from the sponsor and industry representatives. The bill was reported from Committee.

SB 175-DISPENSING OPTICIANS

[9:58:44 AM](#)

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 113(RES)
"An Act relating to entry into and management of Gulf of Alaska groundfish fisheries."

This was the second hearing for this bill in the Senate Finance Committee.

[9:59:01 AM](#)

CHERYL SUTTON, Staff to Senator Ben Stevens, outlined two new fiscal notes drafted since the previous hearing. The receipt supported services fund source would be generated from fees.

The Committee had no questions regarding the new fiscal notes.

[9:59:41 AM](#)

Co-Chair Green pointed out this legislation relates to provisions in the recently passed SB 93, which would be soon transmitted to Governor Murkowski for signature into law.

Ms. Sutton affirmed.

Co-Chair Green remarked on the appropriateness of not utilizing general funds for this purpose.

[10:00:07 AM](#)

Co-Chair Wilken offered a motion to report the bill from Committee with individual recommendations and new fiscal notes.

Without objection COMMITTEE SUBSTITUTE SB 113 (RES) was MOVED from Committee with a new fiscal notes from the Department of Fish and Game dated 4/28/05; one for the Commercial Fisheries Entry Commission in the amount of \$20,000, and a the other for the Boards

of Fisheries and Game in the amount of \$45,600.

[10:01:02 AM](#)

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 130(FIN) am
"An Act relating to the grant of certain state land to the University of Alaska; relating to the duties of the Board of Regents; establishing the university research forest; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Green assigned Co-Chair Wilken, Senator Dyson and Senator Hoffman to a subcommittee and charged the subcommittee to review this legislation and make recommendations to the full Committee.

The bill was HELD in Committee.

[10:02:28 AM](#)

SENATE BILL NO. 153
"An Act relating to international airports revenue bonds; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

NONA WILSON, Legislative Liaison, Department of Transportation and Public Facilities, testified this would increase the "bond cap" for the issuance of International Airport System Revenue Bonds by \$288 million to total \$813 million. These bonds would be issued to finance projects at the Fairbanks International Airports, which are operated as a unit of the Alaska International Airport System. The airports are operated in accordance with an agreement that obligates the carriers to pay for the operation of the airport, including the redemption of these bonds.

[10:04:32 AM](#)

Senator Olson asked why the project size has increased and asked what the additional funds would be utilized for.

[10:04:53 AM](#)

Ms. Wilson replied the funds would be utilized for runway reconstruction.

KIP KNUDSON, Deputy Commissioner of Aviation, Department of Transportation and Public Facilities, explained the funds generated from the additional bond issuance would be utilized to fund the issuance costs and capitalized interest specifically for terminals projects until the terminals begin to generate revenue.

[10:05:37 AM](#)

Senator Olson requested written or oral testimony expressing the position of affected air carriers.

[10:05:53 AM](#)

Mr. Knudson stated he would provide a spreadsheet titled, "Alaska International Airports System, Capital Projects, Signatory Airline Ballot Summary, January 2005" [copy on file], which indicates that the air carriers support the Fairbanks projects.

[10:06:29 AM](#)

Co-Chair Wilken also noted language of the second paragraph of the sponsor statement reads, "Annual debt service on the revenue bonds will be paid for primarily through airline rates and fees. All the projects requiring bond funding were approved by the Alaska International Airport Systems' 26 signatory airlines in January of this year."

[10:06:51 AM](#)

Co-Chair Green understood the spreadsheet would list the names of the affected airlines and how each voted on the proposed projects.

[10:07:05 AM](#)

Mr. Knudson informed that 80 percent of these revenues are generated exclusively from cargo carriers.

[10:07:20 AM](#)

Co-Chair Green emphasized that cargo carriers would pay these bonds.

[10:07:26 AM](#)

Senator Hoffman asked how the Federal Express carrier voted, noting it is the major carrier that provides many jobs in the state.

Senator Hoffman had understood that an earlier appropriation to the Ted Stevens Anchorage International Airport was sufficient to fund homeland security improvements. He asked therefore why an additional \$14 million is requested for this purpose.

[10:08:39 AM](#)

Mr. Knudson replied that the project estimated to cost \$14.6 million has been "held off at arms length" for approximately ten years. The federal Department of Homeland Security now encompasses United States Customs, Border patrol, the Transportation Safety Administration and another federal agency that operates screening areas and occupy office space in the North terminal. These agencies have demanded that the State renovate the terminal to meet federal standards. The Alaska Department of Transportation and Public Facilities does not support these renovates and has delayed their undertaking as long as possible.

[10:09:36 AM](#)

Senator Hoffman clarified the entire \$14.6 million is designated for the North Terminal.

Mr. Knudson affirmed.

[10:09:49 AM](#)

Co-Chair Green asked when the information Senator Olson requested would be delivered.

Mr. Knudson anticipated ten minutes.

[10:09:59 AM](#)

DAVE EBERLE, Department of Transportation and Public Facilities, testified via teleconference from an offnet location that he was available to respond to questions.

[10:10:25 AM](#)

Senator Olson noted the sponsor statement indicates that the bond package would include \$91 million for projects at Concourses A and B of the Ted Stevens Anchorage International Airport. He cited significant cost overruns incurred on projects relating to Concourse C and asked the estimated cost overruns of the projects

at A and B.

Mr. Eberle expressed intent that no cost overruns would be incurred. A variety of measures are under consideration to ensure this. He offered to detail those measures.

Senator Olson requested such detail later.

Mr. Eberle assured he would provide this information.

The bill was HELD in Committee. It was brought back before the Committee later in the meeting.

[10:12:13 AM](#)

SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 97(COMMITTEE SUBSTITUTE)

"An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, to verifications, to acknowledgments, to fees for issuing certificates with the seal of the state affixed, and to notaries public; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

ANNETTE KREITZER, Chief of Staff to Lieutenant Governor Loren Lemman, Office of the Lieutenant Governor, introduced herself and Mr. West.

BRIAN WEST, Intern, Office of the Lieutenant Governor, read a statement into the record as follows.

House Bill 97 addresses changes in Alaska's notary statutes, which have not been updated since 1961. The changes being proposed today have been suggested by Alaskan notaries working together with Lieutenant Governor Lemman's office. These proposed changes are outlined to you in the notary statute comparison handout [copy on file], which should be in front of you today and I shall walk you through that.

They're arranged in categories of qualifications, terms, fees, bond, commission types, commission revocation, and notary data. Going to the handout under qualifications, currently the applicants must be a resident of the State and at least 19 years of age. We're proposing lowering that age to 18. At the

same time, we're proposing that felons may not become notaries in this state. The terms will remain the same for public notaries, which is four years. And we're proposing that limited governmental notaries public commissions would be open-ended with automatic revocation upon termination of government employment. For fees, currently there is a \$40 application fee and a \$2 fee for a certificate. We're proposing that the application fee will remain at \$40 but the certificate would be increased \$3 to \$5.

The bonds at this time will remain the same at \$1,000 and the lieutenant governor will be required to keep the bonds two years.

Commission types: Notary publics will serve four-year commissions as well as limited governmental notaries. The proposed change in the making is that limited government notaries will be expanded to include municipal and federal employees in addition to State.

Commission revocation, currently via administrative procedure act, must be invoked to review all complaints against notaries no matter how trivial. We're proposing that the lieutenant governor, for good cause, be a form of disciplinary procedure is an administrative hearing office.

Notary data: currently we collect information such as mailing address, surety information and commission dates. We would like to be able to collect more data including e-mail, for the purpose of communication and to collect additional information, which will not be available for the public.

For non-commissioned notaries, there will be no changes. And finally, this bill addresses electronic notarization, which currently is not addressed in the current statutes. This will remove impediments for notaries by electronic means.

[10:15:50 AM](#)

Co-Chair Green noted current statute provides that notary names, mailing address, surety information and commission dates are available to the public. She asked about the public availability of e-mail addresses.

Mr. West replied that the e-mail addresses of notaries would not be available to the public.

[10:16:40 AM](#)

Senator Olson asked why the minimum age requirement would be lowered from 19 years to 18 years.

[10:16:48 AM](#)

Mr. West replied that people could be hired for bank teller positions beginning at the age of 18. Bank teller positions usually include notary public duties as part of the job description.

[10:17:39 AM](#)

Co-Chair Green asked if the Lieutenant Governor received increased inquiries on this matter, which prompted this legislation.

[10:17:44 AM](#)

Ms. Krietzer explained that when Lieutenant Governor Lemman took office he directed staff to investigate how administration of the notary public could be done differently. Staff vetted with Alaska notary publics, companies that employ notaries, national organizations, lobbyists and other parties. It was determined that the bond amount should be changed although the fee for non-State employees to become a notary should remain unchanged. Consensus was reached with other legislative committees that have heard this bill on other changes to the current system.

[10:19:01 AM](#)

Co-Chair Green commented on the process undertaken to make these changes.

[10:19:07 AM](#)

Senator Hoffman asked if the proposed fee structure intends that any state employee could become a notary public at no charge.

[10:19:25 AM](#)

Ms. Krietzer clarified that the provision is written to waive the fee for State, municipal and federal government employees performing notary public services as a job duty to accomplish government business. One government agency should not charge another for notary services.

[10:20:22 AM](#)

Senator Hoffman surmised that the fee would not be automatically be

waived for any state employee wishing to become a notary. The notary functions must be included in the duties of the position held by that employee.

[10:20:38 AM](#)

Ms. Krietzer affirmed.

[10:20:43 AM](#)

Senator Hoffman asked the date of the last fee increase.

[10:20:51 AM](#)

Ms. Krietzer replied that no changes in the fee structure have been made since 1961. The House Finance Committee questioned this. However, it was determined that unless the Notary Public program is to be considered a revenue generator, a higher fee could not be justified.

[10:21:13 AM](#)

Senator Hoffman calculated the fee to be \$10 per year the certificate is valid.

Ms. Krietzer affirmed.

[10:21:31 AM](#)

Amendment #1: This amendment deletes the language of subparagraphs (A) and (B) of subsection (6) of Sec. 44.50.020. Qualifications., repealed and reenacted in Section 8 of SCS COMMITTEE SUBSTITUTE SB 97 (COMMITTEE SUBSTITUTE) on page 8, lines 16 through 22. New language is inserted to read as follows.

(6) may not, within 10 years before the commission takes effect,

(A) have had the person's notary public commission revoked under AS 44.50.068(a)(2) or (4) or under the notary public laws of another jurisdiction for a substantially similar reason;

(B) have had the person's notary public commission revoked under AS 44.50.068(1)(3), unless the person has reestablished residency in this state under AS 01.10.055 before the person submits the application;

(C) have been disciplined under AS 44.50.068 if, at the time the person applies for a notary public commission under this chapter, the disciplinary action

prohibits the person from holding a notary public commission; or

(D) have been disciplined under the notary public laws of another jurisdiction if, at the time the person applies for a notary public commission under this chapter, the disciplinary action prohibits the person from holding a notary public commission; and

This amendment also deletes the language of subparagraph (4) of Sec. 44.50.036. Denial of applications., added by Section 9 of the bill on page 10, lines 25 through 27 and inserts new language to read as follows.

(4) applicant's commission as a notary public has been revoked, within 10 years before the commission takes effect, in

(A) this state for a reason stated in

(i) AS 44.50.068(a)(2) or (4);

(ii) AS 44.50.068(a)(3), unless the person has reestablished residency in this state under AS 01.10.055 before the person submits the application; or

(B) another jurisdiction for a reason substantially similar to AS 44.50.068(a)(2) or (4).

This amendment also inserts a new subparagraph to subsection (a) of Sec. 44.50.068. Disciplinary action; complaint; appeal, hearing; delegation., added by Section 11 on page 16, following line 16 to read as follows.

(3) failure to maintain residency in this state under AS 01.10.055.

Co-Chair Wilken moved for adoption.

Co-Chair Green objected for an explanation.

Ms. Krietzer explained that the Division of Legal and Research Services determined that the language in the Senate State Affairs committee substitute was unclear. That language unintentionally barred a person from becoming a notary public who had moved from the state but then returned. This correction was necessary in three sections of the bill.

Co-Chair Green removed her objection.

Without further objection the amendment was ADOPTED.

[10:23:37 AM](#)

Co-Chair Wilken offered a motion to report SCS COMMITTEE SUBSTITUTE HB 97 (COMMITTEE SUBSTITUTE), as amended from Committee with individual recommendations and accompanying fiscal note.

There was not objection and SCS COMMITTEE SUBSTITUTE HB 97 was MOVED from Committee with zero fiscal note #1-corrected, from the Office of the Governor.

AT EASE [10:23:49 AM](#)

SB 153-INTERNATIONAL AIRPORTS REVENUE BONDS

This bill was heard and held earlier in the meeting.

Co-Chair Green noted the information Senator Olson requested had been distributed.

[10:25:39 AM](#)

Mr. Knudson reviewed the voting history of the air carriers as indicated on the aforementioned spreadsheet.

[10:27:05 AM](#)

Senator Hoffman was satisfied with the information regarding the position of Federal Express.

[10:27:29 AM](#)

Co-Chair Wilken offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

There was no objection and SB 153 was MOVED from Committee with fiscal note #1 from the Department of Revenue.

AT EASE [10:27:48 AM](#) / [10:28:39 AM](#)

[10:28:40 AM](#)

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 19(FIN)

"An Act relating to pesticides and broadcast chemicals; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

MICHAEL PAULOWSKI, Staff to Representative Kevin Meyer, read a statement into the record as follows.

The intent behind the bill before you, House Bill 19, is twofold. First, to eliminate the State general fund obligation for what is a required pesticide program, and second to provide reasonable protections for the public health. I'll take these two intents twofold.

Speaking on general funds, the way the State's pesticides programs work is that the EPA [federal Environmental Protection Agency] approves a pesticide for sale in the United States. Then each state registers the pesticide for sale in that particular state. The state agency in our case is the Department of Environmental Conservation. They are responsible not only for the registration of pesticides, but the inspection and enforcement of pesticides that the EPA puts on the handling, distribution and sale of these chemicals. In every other state in the United States, the cost of this program is borne by fees that are levied along with the registration of the chemicals. Alaska is the only state that does not have such a fee. HB 19 would levy a fee on the chemical companies to pay for the cost of regulating the sale, distribution and use of their chemicals within the state of Alaska.

The second provision in HB 19 is those intended to protect the public health. There are two ways that the sponsor has gone about doing this. The first is that when pesticides or bypass chemicals are applied in a public place, they are applied by a certified applicator. This is someone that is trained in the use and application of these chemicals. The second is that reasonable public notice is posted when pesticides are applied. This is important because the sponsor's intent was to find that balance and strike that balance between added cost to the industry and reasonable protections for the public. You might hear today some testimony that will talk about previous public notice, something that's 48 hours in advance. The sponsor very carefully worked to something that is more along the lines of similar to a wet paint sign; that when the activity occurs and when the public should be concerned, that notice is given to them.

There are approximately between 5,500 and 5,700 different

chemicals that are used in the state of Alaska. Trying to write legislation that specifically addresses the handling and use of all of these chemicals, the sponsor found incredibly problematic. And so to reach these public health goals, HB 19 turns the Department of Environmental Conservation to in regulation achieve the ends that are put forth in HB 19.

[10:31:44 AM](#)

KEN PERRY, General Manager, PARATEX Pied Piper, and representative, Certified Applicators in Alaska, National Pest Management Association, and RISE, testified via teleconference from Anchorage, read a statement into the record as follows.

I am Ken Perry, a lifelong Alaskan and General Manager of PARATEX Pied Piper - Alaska's oldest Pest Management Company. I also represent Certified Applicators in Alaska, and speak by permission of the National Pest Management Association and a major chemical manufacturer's group known as RISE. As you are aware, I have been involved in this bill since Mr. Meyer first kindly asked us to meet with his assistant, Mr. Pawlowski and representatives from the Department of Environmental Conservation some months ago. I am grateful for this consideration on their part. At that time, I addressed the same concerns I have addressed continually through many committees, and have offered reasonable solutions as well. Frankly, the document before you today is so far removed from the original intent of the sponsors, that I am amazed it still has support. In that vein, I submitted to you via e-mail yesterday a workable set of amendments that can return the bill to its original course and meet most of our concerns. I urge you to either adopt those amendments or send the bill back to the sponsor to achieve those same goals.

On the issue of pesticide safety, the barrages of comments you are receiving from certain environmentalists have already been addressed at the federal level. While they certainly have every right to be heard on their claims, it is still the EPA who makes the decision on what chemicals can be safely used, when and where. While a pesticide free environment might seem to be a goal for them, we should not ignore the desire of others for a pest free environment. Their choices to buy products to achieve their desire should not be denied by excessive fees levied against the manufacturers, who will then simply remove their availability from the Alaska marketplace. Nor should the concerns you hear raised about five to ten products which they continually reference require 4600 other products to be punished. If you have not done so, I would urge

you to request a current list of the 4620 currently registered pesticides. The first thing you will notice is that the vast majority (perhaps 80%) are sanitizing agents, wood preservatives and animal care products. Continue to peruse the list for products that are "specialty use" items, registered and sold in small volumes to someone in Alaska or have trade store names that do not exist in our state. As you will see, very few of them, perhaps 4 percent, are used by the professional applicators, and many of those are used once or twice a year.

I would urge this committee to take the reasonable and responsible approach to this matter, not the inflamed and passionate but seriously misdirected sledge hammer one you see before you. Consider your decision carefully as the eyes of many major companies who may chose to do business with our state in the future are upon you.

[10:35:06 AM](#)

Co-Chair Green had learned from the Division of Agriculture that it receives requests each year for the registration form currently in use. Most companies are accustomed to this procedure. She asked how the current practice differs from that of other states.

[10:35:44 AM](#)

Mr. Perry characterized the difference as the imposition of various proposed fees where none currently exist. Manufacturers could not predict the amount of chemicals that would be sold. Many products are sold in small quantities and manufacturers would likely opt to not register to sell those products in the state. His organization suggested a fee of \$25, although he still anticipated a hardship in registering chemicals.

[10:37:11 AM](#)

PAMELA MILLER, Biologist and Executive Director, Alaska Community Action on Toxics, testified via teleconference from an offnet location about the nonprofit organization concerned about long-term affects of pesticides. The organization strongly supports this bill, as it would provide a useful method to track chemical use and impacts. This bill would be a good investment to protect public health.

Ms. Miller requested that further protection be extended to areas near vulnerable populations, such as day care centers.

[10:39:40 AM](#)

ALAN COLTER testified via teleconference from offnet location on behalf of himself. He told of a friend exposed to high levels of pesticides who experienced diminished health, reduced quality of life, and ultimately death at the age of 47. This friend underwent dialysis treatment and a kidney transplant. Many manufacturers assert that most pesticides are not harmful, however many are. Public health is a high concern.

[10:41:45 AM](#)

Co-Chair Green asked the witness's opinion on whether this legislation would advance efforts for addressing the matter.

[10:41:55 AM](#)

Mr. Colter emphasized that any action is worthwhile. He admitted to not closely reviewing the language of this bill, but understood it to be similar to legislation considered during a previous legislative session, which he supported.

[10:42:17 AM](#)

Co-Chair Green asked Ms. Miller the same question of whether this legislation would further efforts.

[10:42:31 AM](#)

Ms. Miller answered it would because any time parents and others are notified that chemicals would be sprayed allows those parents an opportunity to protect their children and others who could be at risk. The provisions of this legislation are reasonable not extreme.

[10:43:31 AM](#)

Co-Chair Green told of regulatory language related to health care and childcare facilities that is included in other legislation and that would complement and strengthen this bill. Just because these facilities are not specifically addressed in the bill currently before the Committee, it is not an indication that the issues had not been considered. Inclusion of too many details in a bill becomes a detriment because the assumption could be made that the overall provisions of the statute do not cover any inadvertently omitted listings.

[10:44:38 AM](#)

KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation, provided information on the pesticide program. The State has primacy and therefore implements the federal Environmental Protection Agency (EPA) requirements. The federal government provides funding for these efforts. State regulations allow the Department to issue permits for certain activities, including distribution of chemicals over water and the spraying of chemicals by air. In addition, the State imposes restrictions on chemicals determined to be harmful when used in cold climates. This occurs infrequently, and the State primarily relies on EPA scientific findings. Currently, the State does not charge users or manufacturers for these services it provides. This legislation proposes to do so. She assured that certain products, such as sanitizers, would be exempted, as it is not the intent to discourage cleaning activities. Other products would likely be exempted as well.

[10:47:17 AM](#)

Co-Chair Green asked whether the Committee should secure additional information.

[10:47:34 AM](#)

Ms. Ryan stated that some in the pesticide industry are of the opinion that this legislation would impose too many restrictions; others feel the Department should increase its efforts. This is typical for this issue. This legislation offers a compromise. It would impose certain restrictions in areas which children could be exposed and would require public notice of chemical distribution.

[10:48:28 AM](#)

Co-Chair Wilken pointed out that the fiscal note indicates an increased cost of \$280,000 for FY 06, which is not reflected in the Governor's proposed budget.

Co-Chair Wilken also noted the analysis in the fiscal note states that by FY 08, all general funds would be eliminated for this program. Therefore, the fiscal note should be amended to reflect this.

[10:49:22 AM](#)

Ms. Ryan agreed. The fees would need to be collected quickly if this bill becomes law.

[10:49:43 AM](#)

Co-Chair Green requested a spreadsheet detailing how the proposed fee amounts were established.

[10:50:01 AM](#)

Co-Chair Wilken surmised that beginning July 1, 2005, the Department would expect to collect \$318,000 in fees in one year.

Ms. Ryan affirmed.

Co-Chair Green asked how this amount was calculated.

[10:50:27 AM](#)

Ms. Ryan replied that originally the bill would have required three staff to oversee the program. This was changed to two. The cost of these positions along with the amount of eliminated general funding currently appropriated to the program was calculated to determine the amount of fees necessary. A small fee would be assessed to certified applicators. These applicators have indicated these fees would not cause a hardship.

[10:51:47 AM](#)

Senator Olson spoke to the delay in learning about the adverse affects of some chemicals. It has taken many generations before manufactures admit, under duress, the harm that a chemical has caused. This concerned him.

Senator Olson also noted that certification of applicators could be more difficult for rural residents. He favored a temporary waiver for these communities.

[10:52:54 AM](#)

Ms. Ryan acknowledged the difficulty in obtaining a certification for an applicator. One solution would allow for the issuance of a temporary license in the event a trainer was unable to travel to the community. The intent is not to hamper the elimination of pest infestation. Certification is not a difficult process; the course that has been given for years, is "easy" and has a zero failure rate.

[10:54:23 AM](#)

Co-Chair Green asked if the waiver could be granted in urban areas

as well in instances in which it was not "handy" for an applicator to obtain certification.

[10:54:47 AM](#)

Ms. Ryan replied that the waiver would be not restricted to remote areas

[10:54:56 AM](#)

Senator Dyson told of a friend who died five years ago after contracting leukemia after a trucking company used Benzene to kill bugs in his mattress. He asked what protections Alaskans have against chemicals used in the shipment of goods in to the State.

[10:55:56 AM](#)

Ms. Ryan replied that all states have regulations governing pesticide use. Federal law prohibits the use of products in a manner different than specified on the label. Therefore, in the instance of Senator Dyson's friend, the moving company violated the law if it applied more than the approved amount of the chemical. If the Department is informed of these instances, it can investigate. The commercial use of products is inspected, and if the Department is aware of a specific shipping company's questionable activities, that company is inspected.

[10:56:51 AM](#)

Senator Dyson asked about any provision that requires customer notification of any chemical distribution done by a shipping company.

[10:57:08 AM](#)

Ms. Ryan replied that no State requirement currently exists and that such a proposal would be subject to federal trade laws. She would investigate the matter.

[10:57:25 AM](#)

Senator Dyson requested additional information.

[10:57:31 AM](#)

Co-Chair Green informed that she was raised in an area in which chemicals were commonplace. Her father was a chemical researcher. In addressing the limiting of pesticide use, balance must be

understood.

[10:58:22 AM](#)

Co-Chair Green indicated the fiscal note required additional review.

The bill was HELD in Committee.

AT EASE [10:58:59 AM](#)/ 3:09 PM

[Note: A computer malfunction occurred during the following portion of the meeting. Periodic links to the For The Record (FTR) audio program were lost. Audio is still available by clicking on any timestamp above and forwarding to 3:09 pm when this meeting resumes. (A separate meeting was held in this location at 2:06 pm and is included in the audio file for this date.) It is not possible to select the exact portion of the recording relating to a particular topic until the computer system was restored at 4:15 pm.]

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 15(L&C) am
"An Act relating to outdoor recreation lodge alcoholic beverage licenses; relating to transfer of certain beverage dispensary licenses issued before June 6, 1985; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

MICHAEL PAWLOWSKI, Staff to sponsor Representative Kevin Meyer, testified this bill is intended to create a liquor license for outdoor recreation lodges. These lodges have are an important part of the State economy. A liquor license specific to the needs of these lodges has never been established. This creates problems for communities near the location of some of the lodges as well as for wholesale alcohol distributors. A wholesaler may not sell alcohol for resale to a party that does not possess a liquor license. Under the current system, lodges either provide alcohol to their guests at no charge or as part of the package rate. This is in violation of statute.

Mr. Pawlowski stated that this legislation would provide for the issuance of a limited liquor license that could not be transferred, allows alcohol to only be served to registered overnight guests or off duty staff, and only served on the licensed premises or in

conjunction with guided outdoor recreation activities.

Mr. Pawlowski explained this license is intended to address situations involving lodges located near communities that prohibit the use of alcoholic beverages.

Senator Hoffman asked the definition of an outdoor recreational lodge as it pertains to this bill.

Mr. Pawlowski cited subsection (c) of Sec. 04.11.225. Outdoor recreation lodge license., added by Section 2 of the bill. The language reads as follows.

(c) In this section, "outdoor recreation lodge" means a business that provides overnight accommodations and meals, is primarily involved in offering opportunities for persons to engage in outdoor recreation activities, and has a minimum of two guest rooms.

Mr. Pawlowski noted the intent is include lodges at which the primary purpose of its guests would be to partake in an outdoor recreation activity.

Senator Hoffman told of an outfit operating in the election district he represents. At this site, tents are temporarily erected on platforms. He asked if lodging such as this would qualify as guest rooms and if the operator would be eligible to obtain the license.

Mr. Pawlowski replied that other criterion would apply. A licensee must be available to serve alcohol and the alcohol could only be served in conjunction with a guided outdoor activity. If the sites were offered solely as a place to stay, the license would not be available.

Senator Hoffman stated that guided fishing activities are the purpose of this operation. Conflicts exist between the Native organization and the guides, who claim that alcohol is not served. Local residents however attest to witnessing cases of alcohol passing through the airport.

Mr. Pawlowski identified this situation as the reason this legislation is necessary. With the issuance of a license, communities can provide input and the State regulators have control over the business.

Senator Dyson asked if this license would apply to floating lodges.

Mr. Pawlowski understood that the license would apply to operations with at least two guest rooms that provide overnight accommodations and meals in which the primary purpose is to involve people in outdoor recreation.

Senator Dyson asked about self-propelled floating operations.

Mr. Pawlowski was unsure and deferred to the director of the Alcohol Beverage Control Board.

DOUG GRIFFIN, Director, Alcohol Beverage Control Board, Department of Public Safety, testified from an offnet location that the issue of floating lodges has been discussed. It was determined that these facilities could be licensed under the provision of this bill. Addressing certain factors would be necessary in the event the float would be present for any period within the boundaries of a local government. Providing this license to a float operating outside the boundaries of a local government could be preferable to the currently applied carrier license. The vessel specifically in question is a barge that is not self propelled but is towed from one location to another by a tugboat. This vessel did not meet the qualifications imposed for a carrier license, which applies to boats, ships, trains, airplanes, etc.

Co-Chair Wilken referenced the definition of "outdoor recreation lodge" as a business. He asked if this implies that the licensee would be a commercial entity that would possess a business license.

Mr. Griffin affirmed. He elaborated that the Board first determines whether an applicant is registered as a corporation before issuing a license. The Board must be able to deal with a legal entity in the event of problems pertaining to the license.

Co-Chair Green asked if the language of the bill is sufficient in stipulating that a business must be licensed.

Mr. Griffin replied that if the business is a corporation or a limited liability, the language is sufficient.

Co-Chair Wilken asked if a sole proprietor or partnership would be included.

Mr. Griffin deferred to the Division of Corporations of the Department of Revenue. The Alcohol Beverage Control Board's concern is the accountability and potential culpability of liquor license holders. The Board does have accountability and culpability for taking action against an individual in a sole propriety or partnership operation.

Co-Chair Wilken understood that a sole propriety or partnership must obtain a business license to conduct commercial operations.

Senator Hoffman asked the number of applications for this license the witnesses anticipates would be received.

Mr. Griffin was unsure and estimated approximately 50 applications would be submitted.

Mr. Griffin noted that some facilities are "over-licensed" in that they possess a liquor dispensary license, which allows for the distribution of alcohol to anyone, not just registered guests. This presents other problems especially in rural Alaska. The proposed lodge license would be preferred, as it limits distribution to guests.

Senator Dyson asked if a bed and breakfast operation that serves meals family style is allowed to serve a glass of wine to guests without obtaining a liquor license.

Mr. Griffin responded that the Board does not regulate a "true" bed and breakfast in which the owner or operator resides on site. In this instance the business is operated within the home. To regulate these operations would require a significantly higher budget.

Senator Hoffman qualified that such practices is not legal in a dry community.

Mr. Griffin confirmed.

Senator Hoffman asked if this would be allowed in a damp community.

Mr. Griffin replied that serving alcohol to guests in a home-operated bed and breakfast would be allowed.

Amendment #1: This amendment inserts "relating to brewpub licenses" into the title of the bill on page 1, following line 1. The amended bill title reads as follows.

An Act relating to brewpub licenses; relating to outdoor recreation lodge alcoholic beverage licenses; relating to transfer of certain beverage dispensary licenses issued before June 6, 1985; and providing for an effective date.

This amendment also inserts new bill sections on page 1, following line 6 to read as follows.

Section 2. AS 04.11.135(a) is amended to read:

(a) A brewpub license authorizes the holder of a beverage dispensary license to

(1) manufacture on premises licensed under the beverage dispensary license not more than 150,000 gallons of beer in a calendar year;

(2) sell beer manufactured on premises licensed under the beverage dispensary license for consumption on the licensed premises or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary;

(3) sell beer manufactured on the premises licensed under the beverage dispensary license in quantities of not more than five gallons per day to an individual who is present on the licensed premises;

(4) provide a small sample of the brewpub's beer manufactured on the premises free of charge unless prohibited by AS 04.16.030; and

(5) sell beer manufactured on the premises licensed under the beverage dispensary license to a person licensed as a wholesaler under AS 04.11.160 [; SALES UNDER THIS PARAGRAPH MAY NOT EXCEED 15,000 GALLONS OR THE AMOUNT SOLD UNDER THIS PARAGRAPH IN CALENDAR YEAR 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS GREATER].

Section 3. AS 04.11.135(a) is amended to read:

(a) A brewpub license authorizes the holder of a beverage dispensary license to

(1) manufacture on premises licensed under the beverage dispensary license not more than 150,000 gallons of beer in a calendar year;

(2) sell beer manufactured on premises licensed under the beverage dispensary license for consumption on the licensed premises or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary;

(3) sell beer manufactured on the premises licensed under the beverage dispensary license in quantities of not more than five gallons per day to an individual who is present on the licensed premises;

(4) provide a small sample of the brewpub's beer manufactured on the premises free of charge unless prohibited by AS 04.16.030; and

(5) sell beer manufactured on the premises licensed under the beverage dispensary license to a person licensed as a wholesaler under AS 04.11.160; sales under this paragraph may not exceed 15,000 gallons or the amount sold under this paragraph in calendar year 2001, plus 10 percent, whichever

amount is greater.

Section 4. AS 04.11.135(d) is amended to read:

(d) Notwithstanding (a) of this section, the holder of a brewpub license who, under the provisions of AS 04.11.450(b), formerly held a brewery license and a restaurant or eating place license and who, under the former brewery license, manufactured beer at a location other than the premises licensed under the former restaurant or eating place license may

(1) manufacture not more than 150,000 gallons of beer in a calendar year on premises other than the premises licensed under the beverage dispensary license;

(2) provide a small sample of the manufactured beer free of charge at the location the beer is manufactured unless prohibited by AS 04.16.030; and

(3) sell the beer authorized to be manufactured under this subsection

(A) on the premises licensed under the beverage dispensary license or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary;

(B) to a wholesaler licensed under AS 04.11.160; [SALES UNDER THIS SUBPARAGRAPH MAY NOT EXCEED 15,000 GALLONS OR THE AMOUNT SOLD UNDER THIS SUBPARAGRAPH IN CALENDAR YEAR 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS GREATER;] or

(C) to an individual who is present on the premises described under (A) of this paragraph, or where the beer is manufactured, in quantities of not more than five gallons per day.

Section 5. AS 04.11.135(d) is amended to read:

(d) Notwithstanding (a) of this section, the holder of a brewpub license who, under the provisions of AS 04.11.450(b), formerly held a brewery license and a restaurant or eating place license and who, under the former brewery license, manufactured beer at a location other than the premises licensed under the former restaurant or eating place license may

(1) manufacture not more than 150,000 gallons of beer in a calendar year on premises other than the premises licensed under the beverage dispensary license;

(2) provide a small sample of the manufactured beer free of charge at the location the beer is manufactured unless prohibited by AS 04.16.030; and

(3) sell the beer authorized to be manufactured under this subsection

(A) on the premises licensed under the beverage dispensary license or other licensed premises of the beverage dispensary licensee that are also licensed as a beverage dispensary;

(B) to a wholesaler licensed under AS 04.11.160; sales under this subparagraph may not exceed 15,000 gallons or the amount sold under this subparagraph in calendar year 2001, plus 10 percent, whichever amount is greater; or

(C) to an individual who is present on the premises described under (A) of this paragraph, or where the beer is manufactured, in quantities of not more than five gallons per day."

This amendment also provides that sections 2 and 4 take effect July 1, 2005 and sections 3 and 5 take effect December 31, 2005.

Co-Chair Wilken moved for adoption.

Co-Chair Green objected for an explanation. She noted a title change would be required if this amendment were adopted.

Mr. Pawlowski relayed that Representative Meyer supports this amendment. It would create a temporary compromise for brewpubs and brewers in an attempt to "better solution to the operation of their business in the State." It would provide a five-month reprieve of the restriction on the amount of beer that a brewpub is allowed to sell to a wholesaler. The intent is that the impacted groups would present a long-term solution to the legislature the following year.

Co-Chair Green noted the presence of representatives of brewpubs available to respond to questions.

Senator Olson requested assurance that this amendment would not impact dry or damp communities.

Mr. Pawlowski replied that the amendment would have no impact on dry communities. A local option always supersedes any other license. He qualified he was unfamiliar with the laws regulating the wholesale distribution of liquor to damp communities.

Co-Chair Wilken expressed initial concern, as a constituent is involved in brewpub operations. Upon consulting this constituent, he learned that the "little guy" is protected in this amendment. He therefore supported the amendment.

Co-Chair Green removed her objection to the adoption of the amendment.

The amendment was ADOPTED with no further objection.

Co-Chair Wilken remained uncertain that the language in the bill would require that lodges owned by a sole proprietor or a partnership obtain the alcohol dispensary license. He suggested the definition of business be clarified in this instance or that a provision inserted to require that an outdoor recreation lodge must possess a business license to qualify for the alcohol dispensary license.

Mr. Pawlowski remarked the sponsor's intent is that the legislation is to apply to businesses. Therefore a provision requiring an operator to secure a business license before qualifying for the alcohol license is appropriate. The language currently in the bill is based on the AS 4.11.090(d) statute governing beverage dispensary license.

Co-Chair Wilken requested an opportunity to have an amendment drafted to provide for the clarifying language.

The bill was HELD in Committee.

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 20(JUD)
"An Act relating to offenses against unborn children."

This was the first hearing for this bill in the Senate Finance Committee.

Senator Dyson, sponsor of the bill, testified this legislation had undergone extensive review in the Senate Health and Social Services and Judiciary committees. He requested the Committee work from COMMITTEE SUBSTITUTE SB 20 (JUD), Version "R" rather than COMMITTEE SUBSTITUTE SB 20 (2ndJUD), Version "U".

Co-Chair Green noted no objection was voiced to this request and COMMITTEE SUBSTITUTE SB 20 (JUD) was before the Committee.

Senator Dyson stated that this legislation "follows" the federal Unborn Child Protection Act. It was discovered that the federal law only applies in those instances when a federal crime was committed on federal property. The State attorney general recommended a parallel State law be enacted to allow for the prosecution of an assault or murder of an unborn child in conjunction with the prosecution of an assault or murder of a pregnant woman.

Co-Chair Green reminded that the Senate Finance Committee considered similar legislation the previous session. The legislation before the Committee presently is an improvement.

Senator Dyson concurred.

ANNA FRANKS, Chief Executive Officer, Planned Parenthood of Alaska, testified via teleconference from Anchorage to the COMMITTEE SUBSTITUTE SB 20 (2ndJUD) version of the bill. She read her testimony into the record as follows.

We would like to thank Senator Dyson for his ongoing commitment to children and families. First and foremost, Planned Parenthood agrees with Senator Dyson that the loss of a pregnancy due to an act of violence is a tragic event. We share his goal of making it a greater crime when such an unfortunate circumstance happens.

However, we are unable to support the bill as currently written. As I have indicated when meeting with many of you individually, we have an alternative approach that would accomplish greater penalties when a pregnant woman is harmed. We view legislation such as this as part of a national trend designed to erode the foundation of a woman's right to choose as set forth in Roe v. Wade by elevating the legal status of all stages of prenatal development under state laws.

Indeed, Senator Dyson has indicated that this is the intent of the bill. With all respect, however, Senator Dyson also stated during his comments to Senate Judiciary that the intent of the bill is not to undermine the right to legal abortion.

I therefore suggest that an alternative we can all agree on: a penalty enhancement approach that would make it one felony count higher to harm a pregnant woman when the result ends in miscarriage or stillbirth. We've consulted with our legal staff and have learned this approach is more likely to reach offenders because the language is much clearer. The resulting penalty would be as stiff as the penalties outlined in the current version of SB 20.

There's an area within this bill I hope this committee will address, particularly because the fiscal notes to this bill are zero or unknown. The current bill does not exclude actions a mother may take against herself. Perhaps, but I don't think so, the Department of Law is there and could speak to this. In particular, I call your attention to page 3, Section 2 and specifically the provisions within the first and second-degree

assault sections. The language now says that a premature birth, that is the birth before 37 weeks, or the birth of a baby weighing less than five and one-half pounds is [indiscernible] evidence of serious physical injury. Under this bill, premature births would be considered a basis for examining whether or not a woman would be guilty of assault against her own child in uterus. I find this to be incomprehensible.

My close friend gave birth to her baby at 28 weeks, almost three months premature. Her son weighed just three pounds. She herself was a premature baby who also weighed just three pounds but the evidence as to whether or not this may be hereditary is inconclusive. She did not smoke. She did not drink and in fact had a healthy pregnancy. Yet if this bill passes, births like these, or perhaps even spontaneous miscarriages, would be called into questions.

Smoking while pregnant is my final example. The new State website for pregnancy [indiscernible] states that pregnant who smoke should be aware of increased risks to their offspring including spontaneous abortion, low birth weight, sudden infant death syndrome, etc. Would smoking while pregnant then result in charges against a woman? Is this what we want to accomplish through this bill.

Women need to understand the risks of smoking and everything must be done to sway their behaviors. But do we want to criminalize this and suffer the emotional implications and indeed the financial implications when approximately one in ten children in Alaska are low birth weight?

This is a policy call that should be seriously considered.

In closing, the current version of SB 20 could create an environment of fear, as women risk their lives to protect themselves or forego medical treatment because they're afraid they may be charged.

I urge this committee to amend the bill to include language that allows women to have healthy children and allows us to have stricter penalties against those in society who harm women. Planned Parenthood is very willing to work with the committee to accomplish this.

CASSANDRA JOHNSON testified via teleconference from Anchorage as follows.

I worked for nine years with domestic violence victims and survivors including two years with the State Counsel on Domestic Violence and Sexual Assault. I'm grateful the legislature is willing to address this devastating problem that is all too prevalent in our state. But I cannot support this bill in its current draft.

Domestic violence experts nationwide are unanimous in their opposition to bills such as this. Previous committees have heard from several such experts in our own state and they've done a wonderful job about [indiscernible] the issues. But some points are worth repeating.

Since the late 1970s, Alaska has been in the top five states for reported sexual assault. I think we can all agree it is not a distinction that we want to have [indiscernible]. Homicide is the number one killer of pregnant women in our country: 240,000 pregnant women, six percent of all pregnant women are battered each year. Injury to the fetus is first and foremost an injury to a pregnant woman where the fetus resides. She is the one who deals with the increased emotional tensions and stress that usually precede a violent episode. She feels the constant fear. She feels the physical pain. She works hard to hide the physical and emotional scars from family and friends. It is imperative that any fair and just legislation deal with that as a primary issue.

In 2002 Alaska led the nation in women killed by a significant other. Clearly something needs to be done. What can be done. Shelters and domestic violence programs in Alaska do extraordinary things every day to improve the lives of women and children. And they do it with relatively little funds. They can definitely use an increase in State funding beyond what has been appropriated this session.

We need to educate all members of our society that we will not tolerate gender violence in Alaska. This education needs to start at a very early age. This body could mandate comprehensive age-appropriate education programs about gender violence in all schools in the State.

Certain enhancements would recognize the crime committed against a pregnant woman and give courts the flexibility to consider the harm or loss of the fetus.

While I understand this bill would not criminalize the pregnant women who returns to an abusive partner. What about the woman who delays or does not seek proper medical attention

after a violent beating for fear her partner or herself will be charged under this bill. That could have disastrous effects on her physical and emotional health and she will most likely return to suffering in silence.

Acts of violence against women are abhorrent but they are especially disturbing when committed against a pregnant woman. When a violent crime causes an injury to a pregnant woman that results in a miscarriage or stillborn we all share the desire to ensure that the criminal justice system responds decisively and firmly to exact the appropriate punishment. Protecting pregnant women and families from violence is a serious problem that deserves to be elevated above political agendas and partisan politics.

MICHAEL MACLEUD-BALL, Executive Director, Alaska Civil Liberties Union, testified via teleconference from Anchorage to "echo" the comments of the previous two speakers. He continued his testimony as follows.

The Alaska Civil Liberties Union opposes the passage of this bill in its present form. We do also support efforts to enhance punishment for attacks against pregnant women.

We think that the current bill in its current form has some potential constitutional problems. In particular its related to the lack of an exemption for a woman committing harmful acts against herself resulting in harm to the fetus. The privacy right as you know guarantees the woman's right to control her own body in the absence of a compelling state interest. The Roe v. Wade decision has interpreted that right to protect the right to abortion unilaterally, in some stages during the pregnancy and conditionally in other times.

This law would criminalize activity with respect to the fetus anyway, that is less harmful than abortion. If a woman has the right to abort under the constitution, it simply stands to reason that she has the right to do other things during her pregnancy that fall short of abortion.

The other interest affect of this bill is that it will encourage more abortions. Consider a woman who's anxious about an activity that she has engaged in during pregnancy that may result in harm to the fetus. Why would she risk criminal liability by bearing that child when she could avoid it simply by having an abortion.

This bill unfairly penalizes wholly innocent and legal

behavior. So for example lets assume that a woman is pregnant but she does not yet know she's pregnant. She might be drinking and smoking up a storm and ultimately have harmful affect on the child. It seems to me that there are a couple of implications to this. First and foremost, the cost to the State in attempting to prove criminal activity will sky rocket it seems to me because it will be very difficult to determine from what behavior the harm to the child might have resulted. Would it be the drinking that occurred in the early stages of pregnancy or was it drinking that occurred in the late stages of pregnancy? Would it have been one particular act or several different acts and how does one prove exactly where the dividing line is there? ... Let's just take the strict hypothetical, where a woman drinks a lot during the early stage of pregnancy when she doesn't even know she is pregnant. Is she criminal [indiscernible]? How does the State prove that the harm to the fetus happened from the activities during that stage.

We think there are real proof problems for the State that will increase their prosecution costs. I don't have any numbers on this because it's a purely hypothetical situation. Suffice to say though that we do think that there are practical problems as well as constitutional problems with this bill in its present form and therefore the Alaska Civil Liberties Union continues to oppose its passage.

Senator Dyson asked if the witness intended to infer that the ACLU hold the position that a woman should be allowed to cause any damage to her unborn child and that such behaviors would be a protected act.

Mr. Macleud-Ball replied that the ACLU does not take that position, but rather supports the position of the constitutional right to an abortion that is unilateral during certain stages of the pregnancy. Subsequently a woman should be protected against prosecution for other activities that would be less harmful to the fetus. There is no clear answer to the question as the issue has not been brought before the courts. However, the ACLU deems important the concern of whether this legislation would cause a constitutional violation.

Senator Dyson concluded that his evaluation of the witness' position was correct.

BRENDA STANSILL, Director, Center for Non-Violent Living, and chair of a steering committee of the Alaska Counsel on Domestic Violence and Sexual Assault, testified via teleconference from an offnet location in appreciation of the language inserted into the bill

providing that victims of domestic violence would not be held accountable for the actions of someone else as a result of returning to an abusive situation. However, this was just one of many concerns the Center had with regard to this legislation.

Ms. Stansill remained concerned about the woman "riding the roller coaster" who does know she is pregnant. In addition she questioned whether snowmachiners, horseback riders, water skiers, marathon runner and other active women would be protected against prosecution under the provisions of this legislation. Would a pregnant woman be held liable for any strenuous activity. She was unsure "where this bill stopped" and noted the "never ending question of 'what if'".

Ms. Stansill suggested returning the focus to a crime against the mother. If a woman is abused and miscarries or the fetus is damaged, the offender should be charged with a higher-level crime. She cited a North Carolina state law as a viable solution.

Ms. Stansill also suggested that such offenses be considered an aggravator in sentencing guidelines. Currently a perpetrator guilty of beating a pregnant woman with fists is convicted of third degree assault, a misdemeanor. In most instances, if such an offender pleads guilty to this offense, the charge would be reduced to fourth degree assault. The penalty should "fit the crime".

Ms. Stansill expressed support for protecting children and asserted that those who perpetrate violence against a pregnant woman that results in harm to an unborn child should be held accountable. However, she doubted this bill would accomplish this mission. Instead, as with other efforts nationally, the focus has been directed at the possibility of pregnant mothers inflicting damage on their unborn children.

Ms. Stansill recommended the bill be returned to the Senate Judiciary Committee for further amendments.

Co-Chair Green emphasized that activities associated with sports would not be criminalized under the provisions of this legislation. She pointed out the multiple stipulations of "intent" "knowingly" and "extreme indifference" required for prosecution.

Co-Chair Green spoke to the primary difference between the two Senate Judiciary Committee versions of the bill. The work order number of the second committee substitute adopted by that committee is 24-LS0197\U. She noted that the previous witness' comments to the provision exempting pregnant women who return to an abusive relationship, were directed to Version "U".

Senator Hoffman established that the language in Version "U" relating to holding harmless a pregnant woman who returns to a domestic violence situation was not included in Version "R".

Co-Chair Green affirmed.

ANDREA DOLL testified on her own behalf in Juneau that this is a "fairly dangerous bill" because it provides status to an unborn child and to the mother as two separate legal entities. This would make it impossible for a woman to make decisions about her body without the threat of criminal ramifications. She suggested that a differential be made between a fetus that is totally dependant upon the mother's body and a fetus that could be self-sustained. However, this is not the issue. Rather the issue is that a woman has a right to govern her body. If a woman does not have this right she questioned the claim that lawmakers support human rights. Support for human rights should include the rights of women.

Ms. Doll assumed that violence against women is a crime. She argued for greater protection of women. She recalled the history of women's rights when women were jailed and tortured because they wanted the right to vote. Women still fight today for their human rights. Although women are allowed the right to vote, the right to her body had been circumvented.

Ms. Doll requested the Committee amend the bill to make it less "radical", as it appears to be written in "black and white terms". It should reflect more compromise and should be returned to the Senate Judiciary Committee for greater review.

Senator Dyson remarked that he had attempted to respond to criticisms raised. The Department of Law advised that the first Senate Judiciary Committee substitute should be considered rather than the second version. He asserted to the "virtual impossibility" that a woman would be charged for her activities unless those activities were "raised to the level" of "knowingly and recklessly endangering" the fetus. In discussion over attempts to eliminate all the "what ifs", it was determined that the language of Version "R" is sufficient.

Senator Dyson shared that he and Senator Hollis French investigated the option of increasing penalties for crimes of violence committed against a pregnant woman. They concluded that such provision is pertinent to a different section of law and would create "several areas of possible conflict" including the possibility of a double jeopardy offense. The two senators agreed to work together to enhance penalties for assaults on women, particularly in instances

of domestic violence. However, this legislation is not the appropriate method.

CHIP WAGONER, Executive Director, Alaska Catholic Conference testified in Juneau that the Conference is the "official public policy voice of the church in Alaska". The church supports this bill. At least nine other states have adopted similar legislation. He continued his testimony as follows.

As creatures created in the image of God, we all have an inherent dignity that comes not from our successes, titles or bank accounts, but from God himself. As such, each and every human being from conception to natural death, has a fundamental right to life and to those things that make life truly human: food, clothing, housing, health care, education, security, social services and employment.

Senate Bill 20 recognizes that a child in the womb deserves protection just as you and I deserve protection. This is dramatically brought home to me earlier this session as I was listening to testimony before this very committee from members of the Key Campaign, the parents of disabled children and the disabled children themselves. One of the parents said, sitting in this very chair, when you are pregnant you have great and wonderful dreams for your child. That is so true. Therefore, when an unborn child is taken and those dreams are shattered, the responsible party should be held accountable much as they would if you or I were the victim.

Many changes have been made to this statute as its gone through the legislative process, which is one of the reasons why the legislative process is one of the great inventions of mankind and humankind.

A woman who has a drinking addiction under this bill no longer would be held accountable for a crime of harming her child because she really is a victim herself.

With regard to violence in the home, domestic violence, there are many women for many reasons that will not leave or cannot leave that situation. Some might even say for religious reasons. Others fear of own life. Others fear their children's live because many times in a domestic violence situation it's not the women who's threatened, it's the children who are threatened if the woman does something. And there's economic reasons - just lots of reasons, particularly in some of our rural areas where you can't get away as easily as just driving down the busy street of a city.

So the Catholic Conference would support keeping in the bill, a provision that the mere fact of living in a domestic violence situation does not rise to the conduct in any way shape or form that could lead to her being charged with the crime under this bill. We feel that this is the right way to go. It just makes it clear, by having it written in the bill and we think it will help the bill in its eventual passage. We don't see it coming up the criminal justice system if that's made clear in the bill.

Senator Hoffman clarified the witness supports the second version passed from the Senate Judiciary Committee, Version "U".

Mr. Wagoner affirmed.

Co-Chair Green directed a member of her staff to explain the differences between the two Senate Judiciary Committee substitutes and why the Senate Finance Committee should choose to consider Version "R".

KIM CARNOT, Staff to Co-Chair Green, testified to her understanding of the reason Senator Dyson decided to recommend Version "R" to the Committee. The language adopted in Version "U" was too broad. This bill was designed to criminalize conduct and inserting exemptions into criminal language is problematic as it is difficult to define the activities intended for exemption. The sponsor had attempted to include a provision relating to fetal alcohol syndrome but encountered difficulty in defining and measuring the condition. Mental states are established to determine whether conduct rises to a certain criminal level. Version "R" does not include language that stipulates that the action of a woman who remains in a violent situation manifests to the extreme indifference to the value of human life. Conduct that demonstrates such a manifestation includes "walking into a crowded room and opening fire".

Ms. Carnot shared that the Department of Law and the Division of Legal and Research Services advised that a woman's decision to remain in a battered relationship ordinarily would not rise to that level of conduct. However, circumstances would occur in which the decision to remain in the relationship may rise to the level of extreme indifference. Also considered was whether to establish timelines on domestic violence incidents. For example, if the offense occurred five years prior, it could be understandable that the woman was currently in the relationship. However, the exemption would excuse not only this woman, but also the woman who returns after being beaten every day for the previous four weeks and required hospitalization. At some point the conduct, mental state

and intent of the second woman would rise to a criminal level. For this reason a "blanket exemption" was not supported.

Co-Chair Green surmised that the issue is fundamentally the mental state of the woman. The intent to not prosecute all pregnant women who return to an abusive relationship is expressed elsewhere in the legislation.

Senator Hoffman asked if the aforementioned dialog was considered by the Senate Judiciary Committee in it's action in adopting Version "U", which provided the exemption.

Senator Dyson replied that adequate review of this matter was not given at that time. He accepted fault for this, as he was attempting to move the bill through the legislative process.

Senator Dyson offered a motion to report SB 20, 24-LS0197\R, from Committee with individual recommendations and accompanying fiscal notes.

Senator Hoffman announced he would not object to the motion. However he expressed "serious reservations" about the choice of Version "R" over Version "U".

There was no objection and COMMITTEE SUBSTITUTE SB 20 (JUD) was MOVED from Committee with zero fiscal note #1 from the Department of Public Safety, fiscal note #2 from the Department of Administration in an indeterminate amount, and zero fiscal note #3 from the Department of Corrections.

SENATE BILL NO. 164

"An Act relating to the salmon product development tax credit; providing for an effective date by amending an effective date in sec. 7, ch. 57, SLA 2003; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

TIM BARRY, Staff to Senator Stedman, the bill's sponsor, noted the proposed committee substitute.

Co-Chair Wilken offered a motion to adopt CS SB 164, 24-LS0589\L, as a working document.

Co-Chair Green objected for an explanation.

AT EASE 4:12:14 PM / [4:15:01 PM](#)

[Note: Computer malfunction was corrected. Periodic timestamps are available from this point forward.]

Mr. Barry read the sponsor statement into the record as follows.

Senate Bill 164 extends the deadline for salmon processors to receive a salmon product development tax credit. Under current law (AS 43.75.035), processors can claim the credit only for property first placed into service by the end of this calendar year (December 31, 2005). SB 164 would give processors three more years (until December 31, 2008) to claim the credit. The legislation also clarifies what types of items are eligible for the tax credit, to more effectively achieve the legislature's goal of encouraging Alaska's seafood processors to develop innovative value-added salmon products.

[4:15:51 PM](#)

Mr. Barry continued reciting the sponsor statement as follows.

In 2003, the legislature passed and the Governor signed legislation that allows processors to claim a credit on the tax liability on new equipment they have purchased to add value to salmon using innovative processing techniques. The bill (HB 90) that became this law was proposed by the Joint Legislative Salmon Industry Task Force, and was part of an effort by Alaska's elected leaders and the fishing industry to create incentives for the industry to take investment risks and produce new salmon products that add value to our salmon. It has worked: a number of processors have taken advantage of this tax credit. SB 164 extends the deadline for applying for the credit for another three years, to the end of 2008. In addition, the bill defines the kind of investment that qualifies for the credit, making it clear that processors should be producing new, innovative salmon products in order to benefit from this program. The legislation has been drafted in consultation with the Tax Division of the Department of Revenue, incorporating lessons learned in the first two years of administering the credit, to ensure that management and enforcement are efficient and effective.

Senate Bill 164 is supported by many Alaska salmon processors and fishermen as a valuable tool in improving the quality and net worth of our wild salmon.

[4:17:56 PM](#)

Mr. Barry noted the Senate Resources Committee substitute, which incorporated a conceptual amendment offered after the testimony of an at-sea processor. The original version of the bill did not allow

the tax credit to apply to any canning equipment. The intent was to transition from canned salmon products. However, processors requested the credit extend to equipment used for "pop top" cans, as this is new type of product. The committee substitute reflects this allowance.

[4:19:29 PM](#)

MARK VINSEL, Executive Director, United Fishermen of Alaska, testified in support of the bill and the committee substitute. He continued his testimony as follows.

Since the Joint Legislative Salmon Task Force passed this bill and some other bills, the ex-vessel value total for salmon for Alaska is up \$73 million. That's a 45 percent increase from 2002. That increase has also brought an increase of \$2 million in the raw fish tax, based on the ex-vessel price to fishermen.

Other good news is [that] the total imports of salmon were down last year to the US domestic market. So there's a better opportunity for product development to move forward. SB 164 is an important tool in the transition of these new products to compete in the marketplace.

Pop top cans are important. Yesterday there was a press release from Lisa Murkowski that we expect to be getting canned salmon in the Women, Infants and Children program in the domestic market. Government purchase programs - we're always looking to increase canned salmon in the government purchase programs. The requirement for a can opener has been one impediment to some of the foreign aid programs.

UFA supports this bill for continued product development to help continue the trend of increase wholesale and ex-vessel prices, which should show a return in revenues to the State.

[4:21:13 PM](#)

Co-Chair Green, noting Section 1, amending AS 43.75.035(b)(2) on page 1, lines 10 and 11, asked the significance of extending the date that property eligible for the tax credit must be first placed into service from December 31, 2005 to December 31, 2008. She asked if such an extension would be continually sought.

[4:21:34 PM](#)

Mr. Vinsel responded that product development is a long-term process. He attributed the limited product development made in the previous years to the low salmon prices. With the stabilized market, such efforts are feasible. He predicted significant

increases in product development would occur in the next three years.

[4:22:31 PM](#)

Senator Hoffman asked if the salmon industry was still ranked as the number one employer in Alaska.

[4:22:53 PM](#)

Mr. Vinsel replied that the Department of Labor and Workforce Development reports that the construction industry has surpassed the fishing industry as the top employer in the state.

[4:23:03 PM](#)

KRIS NORRIS, Government Affairs, Icicle Seafoods, Inc., testified about the 40-year history of the corporation that operates throughout the coastal areas of Alaska. Icicle Seafood supports this bill and has participated in this program in the last three years. These efforts have increased customer acceptance of some new products. One project involved salmon roe packaged in a "modified atmosphere" that allows for a longer shelf life. This subsequently brings some stability to the market place and has been widely accepted by customers.

Ms. Norris remarked that many companies develop business plans for future years and that the original deadline of 2005 did not provide adequate time to implement changes. Extension of the program would benefit Alaska.

[4:25:11 PM](#)

Co-Chair Wilken offered a motion to report CS SB 164, 24-LS0589\L, from Committee with individual recommendations and accompanying fiscal note.

There was no objection and CS SB 164 (FIN) was MOVED from Committee with zero fiscal note #1 from the Department of Revenue.

[4:25:35 PM](#)

CS FOR SENATE BILL NO. 175(L&C)

"An Act relating to dispensing opticians, to dispensing optician apprentices, to the Board of Dispensing Opticians, and to the practice of dispensing opticianry; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

JANE ALBERTS, staff to Senator Bunde and aide to the Senate Labor and Commerce Committee, presented the bill sponsored by that Committee. This bill would allow the statutes providing for the Board of Dispensing Opticians to lapse, transferring its authority of regulating opticians to the Division of Occupational Licensing. Dispensing opticians would continue to be licensed.

Ms. Alberts relayed that although the Murkowski Administration has indicated that the number of boards and commissions should be reduced, Senator Bunde had noticed this was not occurring.

Ms. Alberts stressed that the continuation of the licensing program would ensure that the quality of care would remain high.

[4:28:14 PM](#)

Senator Olson asked the number of actions taken against licensees in the past.

[4:28:24 PM](#)

Ms. Alberts was unaware of the amount and recalled one instance several years prior. She noted that 28 states continue to license these activities.

[4:29:03 PM](#)

Senator Olson asked how infractions would be prosecuted in the absence of formal review.

[4:29:12 PM](#)

Ms. Alberts replied that this function would be transferred to the Division of Occupational Licensing.

[4:29:25 PM](#)

PAT DAVIDSON, Director, Division of Legislative Audit, testified that in the most recently completed audit of this board, the Division of Legislative Audit recommended the board be allowed to sunset. A registration process was suggested rather than mandatory licensing. This bill would allow the board to sunset, retain the licensing requirement, and implement three other audit

recommendations.

[4:30:29 PM](#)

LARRY HARPER, American Board of Optometrists, testified via teleconference from Anchorage in support of the bill.

[4:30:37 PM](#)

CHRISTI BRAND, President, Opticians Association of Alaska testified via teleconference from an offnet location in support of the bill and its passage from Committee.

[4:30:50 PM](#)

Amendment #1: This amendment changes language in AS 08.71.090. Examination requirement., amended in Section 4 on page 2, following line 13, of the Senate Labor and Commerce Committee substitute, to provide that the Department of Commerce, Community and Economic Development adopt an examination established by "a nationally recognized professional organization" for "contact lens examiners" and "dispensing opticians examiners". Current statute stipulates that the Contact Lens Registry examination and the National Opticianry Competency examination be administered.

This amendment also amends AS 08.71.090 to provide that these examinations "may" be administered, rather than "shall".

This amendment also changes the language in AS 08.71.110(a)(2)(B) amended in Section 5 on page 3, lines 15 through 18, to provide that at least 2,000 hours as a dispensing optician in eyeglasses or at least 2,000 hours as a dispensing optician in contact lenses may be required for licensure. Current language of the committee substitute requires both prerequisites be met.

Co-Chair Wilken moved for adoption.

[4:30:58 PM](#)

RICK URION, Director, Division of Occupational Licensing, Department of Commerce, Community and Economic Development, testified he has been coordination with opticians to ensure a smooth transition. This amendment would clear ambiguity in the bill language.

[4:32:24 PM](#)

Co-Chair Green understood the changes made to Section 5 were

grammatical.

Mr. Urion affirmed.

Mr. Urion explained the changes proposed to Section 4 are to provide assurances that the Division would not attempt to "reinvent the wheel" and would instead administer recognized examinations.

[4:33:02 PM](#)

Co-Chair Green appreciated the resolution to this issue, given concerns expressed to her by constituents.

[Note: The amendment was not formally adopted, although this was the intent of the Committee.]

Co-Chair Wilken offered a motion to report CS SB 175 (L&C), as amended, from Committee with individual recommendations and accompanying fiscal note.

Without objection, CS SB 175 (FIN) was MOVED from Committee with zero fiscal note #1 from the Department of Commerce, Community and Economic Development.

ADJOURNMENT

Co-Chair Green adjourned the meeting at 4:34 PM.