MINUTES
SENATE FINANCE COMMITTEE
May 1, 2005
1:09 p.m.

CALL TO ORDER

Co-Chair Green convened the meeting at approximately 1:09:00 PM.

PRESENT

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

Also Attending: REPRESENTATIVE NORM ROKEBERG; REPRESENTATIVE VIC KOHRING; MIKE TIBBLES, Deputy Commissioner, Department of Administration; PHELAN STRAUBE, Staff to Senator Ben Stevens; HEATHER NORBREGA, Staff to Representative Norm Rokeberg; MIKE PAWLOWSKI, Staff to Representative Kevin Meyer; KAREN LIDSTER, Staff to Representative John Coghill; DEAN GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; LINDA HALL, Director, Division of Insurance, Department of Commerce, Community and Economic Development; KACI SCHROEDER, Staff to Representative William Thomas, Jr. and Committee Aide to the House Community & Regional Affairs Committee; SALLY SADDLER, Legislative Liaison, Department of Community and Economic Development; CHERYL FRASCA, Director, Office of Management and Budget, Office of the Governor; DEVEN MITCHELL, Debt Manager, Treasury Division, Department of Revenue; KEATH HILLIARD, Staff to Representative Mike Kelly; SAM KITO JR., Chair, Legislative Liaison Committee, Alaska Professional Design Council; PAT DAVIDSON, Legislative Auditor, Legislative Audit Division, Legislative Agencies & Offices; BEN MULLIGAN, Staff to Representative Bill Stoltze; RANDY RUARO, Assistant Attorney General, Legislation & Regulations Sections, Department of Law; MARIE DARLIN, AARP; IAN FISK, Staff to Representative William Thomas, Jr.;

Attending via Teleconference: From an Offnet Site: KATHRYN DODGE, Executive Director, North Star Borough Alaska Regional Economic Development Organization;

SUMMARY INFORMATION

SB 24-REEMPLOYMENT OF RETIREES

The Committee heard from the Department of Administration, adopted a committee substitute, and held the bill in Committee.

SB 156-LAYOFF/NONRETENTION OF TEACHERS

The Committee heard from the bill's sponsor and reported the bill from Committee.

HB 182-WAGE & HOUR ACT: EXEC/PROF/ADMIN/SALES/DP

The Committee heard from the bill's sponsor and reported the bill from Committee.

HB19-PESTICIDE & BROADCAST CHEMICALS

The Committee heard from the bill's sponsor. The bill was held in Committee.

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

The Committee heard from the bill's sponsor, adopted one amendment, and held the bill in Committee.

HB 91-INDECENT EXPOSURE TO MINORS

The Committee heard from the bill's sponsor and the Department of Law. The bill was held in Committee.

SB 108-INSURANCE

The Department of Commerce, Community and Economic Development provided an explanation of the bill, and the bill was held in Committee.

HB 119-AK REGIONAL ECONOMIC ASSISTANCE PROGRAM

The Committee heard from the bill's sponsor, the Department of Commerce, Community and Economic Development, and a representative of the Alaska Regional Economic Development Organization. The bill was held in Committee.

HB 136-DRUNK DRIVING TREATMENT PROGRAM

The Committee heard from the bill's sponsor. The bill was held in Committee.

SB 121-STATE OF AK CAPITAL CORP.; BONDS

The Committee heard from the Office of the Governor and the Department of Revenue. The bill was held in Committee.

SB 122-AMERADA HESS INCOME; CAPITAL INCOME ACCT.

The Committee heard from the Office of the Governor and the Department of Revenue. The bill was held in Committee.

SB 135-ASSAULT & CUSTODIAL INTERFERENCE
The Committee heard from the bill's sponsor, the Department of Law, and reported the bill from Committee.

HB 75-HUNTING, FISHING, TRAPPING

The Committee heard from the bill's sponsor and the industry. The bill was held in Committee.

HB 35-EXTEND BD ARCHITECTS/ENGINEERS/SURVEYORS

The Committee heard from the bill's sponsor, the Division of Legislative Audit, and the industry. The bill was held in Committee.

HB 132-CRIMES AGAINST ELDERLY

The Committee heard from the bill's sponsor, the Department of Law, and took public testimony. One amendment was considered but withdrawn from consideration. The bill was HELD in Committee.

HB 230-LOANS FOR COMMERCIAL FISHING TENDERS

The Committee heard from the sponsor. The bill was held in Committee.

SB 46-APPROP: CAPITAL BUDGET

This bill was scheduled but not heard.

HB 156-COMMISSION ON AGING

This bill was scheduled but not heard.

#sb24

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 24(STA)

"An Act relating to reemployment of and benefits for retired teachers and public employees and to teachers or employees who participated in retirement incentive programs and are subsequently reemployed as a commissioner; and providing for an effective date."

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

MIKE TIBBLES, Deputy Commissioner, Department of Administration, testified in support of the bill.

Co-Chair Wilken moved to adopt CS SS SB 24(FIN), Version 24-LS0211\X as the working document.

Co-Chair Green objected for explanation.

1:10:56 PM

Mr. Tibbles informed the Committee that this bill would address concerns that have been raised in the past regarding the State's rehiring of retirees practices. The Version "X" committee substitute would address "perceived abuses in the past and offer a solid management tool going forward for the State, school districts, and municipalities".

Mr. Tibbles communicated that the practice of rehiring retirees could be attributed to the difficulty the State has had in recruiting "specific job classifications" such as Nurse III positions in the Department of Health and Social Services Pioneer Homes. One such position was advertised for 34 days without success of attracting a qualified candidate. The "tool" being addressed in this legislation was utilized to rehire a retired nurse for that position. Another example of a difficult position to fill is the Children Services Manager position which requires a masters degree and four years of professional "social work experience providing programs or services focused on serving children at risk". This Range 21 position was advertised for 21 days and "neither of the two applicants met the minimum qualifications". A retired individual was rehired to fill this position as well. Retirees have also been successfully rehired to fill engineer and biologist positions.

1:13:05 PM

Mr. Tibbles stated that "the two primary concerns" regarding the rehiring of retirees are the "cost to the system" and that hiring

retirees prevents "other employees from moving up into higher level positions".

Mr. Tibbles communicated that the work draft before the Committee would allow "a program going forward that meets the original intent" and addresses these two concerns.

Mr. Tibbles stated that this bill would address the question regarding "the potential liability of what the State had told these individuals coming back from retirement", as the bill is "very very clear … that the program ends, the period of reemployment ends, at the point that the program sunsets". Intent Language and State Statutes would also further clarify the program.

Mr. Tibbles continued that Sec. 2 of Version "X" would require rehired retirees "to be covered by their employer's active health plan". In the past, employment contracts were negotiated that allowed the rehired retiree to be covered by their retirement health plans. This action was contrary to the intent of experiencing cost savings in the retirement health plan systems. Therefore, Sec. 2, which is specific to the Teachers Retirement System (TRS), would clarify that a rehired retiree would be offered, and must accept, the active health insurance offered to other full time employees within that school district.

1:14:54 PM

Co-Chair Green asked the reason that the continuance of retirement health benefits for rehired retirees was preferred to including them on the active health insurance benefit.

Mr. Tibbles explained that an employer would experience an expense of approximately $830 per month for each employee eligible for active health insurance. Therefore, allowing a rehired retiree to continue to be covered by the retirement health plan "would shift" that expense from the employer and save them money. This legislation would prevent that from occurring going forward.

Mr. Tibbles also conveyed the understanding that many of the active health plans have higher co-pays and deductibles than the retirement health plans. While the existing retirement plan benefits would continue to be available upon retirement, they would be suspended during the time of reemployment and the rehired employee would be subject to the conditions of the active health plan provided to their co-workers.

1:16:09 PM

Co-Chair Green characterized this as being "an integral part" of the proposed language in that neither the employer nor the employee would view the rehiring "as a great thing". The employer would be unable "to shift the cost" to the retirement medical plan and the employee would be subject to the conditions of the active health coverage "which might have less generous benefits".

1:16:52 PM

Mr. Tibbles noted that Sec. 4 of the proposed work draft would implement a change that is "consistent with Sec. 2, although it does specify that teachers coming back on a part time basis could continue to receive the retired medical benefit coverage". To that point, he expressed the Department's desire that all part-time rehired retirees would "be offered the same health benefits" as other active employees in that any employee working part-time hours of between 15 and 30 hours a week would be provided health insurance but could be required to pay half of the premium. Rehired retirees working less than 15 hours per week who might not be eligible for any health benefits would continue to be covered by their retirement benefit.

1:17:45 PM

Mr. Tibbles communicated that rehired retirees working less than full-time would be assured of having access to health coverage.

1:18:00 PM

Co-Chair Green asked whether the part-time provisions specified in Sec. 4 could be utilized as "a loophole … to avoid the participation of the employer".

Mr. Tibbles shared that a situation in which an employer might hire two part-time retirees rather than one fulltime one had been considered. The conclusion was that recruiting for a part-time position would be more difficult that recruiting for a full-time position. Furthermore, the hiring of a part-time rehired retiree would allow for the upward progression of another individual, as was previously mentioned as a concern. In addition, the employer would be required receive approval of the position and to adhere to the "tough standards" included in the bill prior to being able to rehire a retiree.

1:19:07 PM

Co-Chair Green asked whether language should be included in the bill regarding how the rehiring of a less than full time retired

employee would "recoup the costs to the system".

1:19:30 PM

Mr. Tibbles viewed the costs to the system "in terms of the unfunded liability and how we're paying off that through the employees' wage base. There's a provision in the bill that requires an employer to contribute the same past service rate for the rehire as they do for all other employees."

Co-Chair Green asked for confirmation that that provision would include those employees working less than full-time.

1:20:04 PM

Mr. Tibbles expressed that the language in Version "X" would require employers who are currently contributing for their half-time employees to do likewise for any rehired retirees working halftime. He was unsure of the scale of those obligations.

Co-Chair Green understood therefore that the bill would make employers' actions regarding rehired retired halftime employees consistent with the current hiring and rehiring practices.

Mr. Tibbles affirmed.

1:20:34 PM

Senator Stedman asked whether the Department of Fish and Game has developed a plan through which to address its "extensive number of rehires", were this bill not to advance or were a shorter termination date of the current practice implemented.

Mr. Tibbles replied that he has not seen such a plan; however, he noted that the Division of Personnel, Department of Administration, would be assisting departments in the development of business rules, hiring practices and recruitment efforts. The Version "X" committee substitute would provide sufficient time for this activity to occur.

Mr. Tibbles continued that any rehired retirees who had a waiver prior to the November 3, 2004 notification that the current program would terminate would be allowed to continue their waiver until December 2006. Sufficient time would be provided in which to develop such things as transfer plans and to identify "the critical components of a job" in regards to "what is so specific about that position" that makes it difficult to recruit for and to transfer some of those responsibilities to other employees.

1:21:53 PM

Senator Dyson asked whether the Alaska State Troopers have developed a plan to address its rehiring of retirees practice.

Mr. Tibbles stated that his response to the question about the Department of Fish and Game would apply here as well.

1:22:10 PM

Mr. Tibbles stated that Sec. 5 of Version "X" would provide conformity and consistency language pertaining to the rehiring of both the TRS and Public Employee Retirement System (PERS) retired employees, specifically commissioners.

Mr. Tibbles continued that Sec. 6 would require all employers to contribute the same unfunded liability rate for rehired retirees as contributed for other employees.

Mr. Tibbles communicated that Sec. 7 is the transition point at which the language in the bill moves from the TRS system to the PERS system. Language in Sec. 7(b), page four, beginning on line 27, would affirm that any current rehired retiree's employment would terminate when the current program is repealed. "This would eliminate any question in the future of whether or not there is an entitlement for the employee beyond the sunset date of the bill … Individuals on the program" must decide by the termination date of the current program as to "whether they want to continue to stay employed and stop their retirement benefits or to separate from service to continue to receive those retirement benefits".

1:23:12 PM

Co-Chair Green asked for further information regarding the time frame periods pertinent to the differing groups of rehired retirees.

Mr. Tibbles clarified that the rehired retirees could be separated into three groups. The first group would consist of those rehired prior to November 3, 2004 who might have been hired with the condition that they could remain in the program as long as they were continuously employed. That liability issue was addressed by notifying those individuals that, while the program would be terminated, their "window" would be extended until December 2006.

Mr. Tibbles stated that the second group of individuals would consist of those rehired retirees hired between November 4, 2004

and July 1, 2005. Those individuals were hired knowing that the program would terminate on July 1, 2005. The liability issue that applies to the first group would not apply to this group. This group must make a decision by July 1, 2005 as to whether they would "continue with State service" and pay in "and defer their retirement benefits or separate from service".

Co-Chair Green asked that the dates pertinent to the second group to be restated.

Mr. Tibbles clarified that these individuals must have been rehired between November 4, 2004 and July 1, 2005.

Mr. Tibbles continued that the third group of individuals would consist of those "brought back from retirement" after July 1, 2005, which is the effective date of this Act.

Co-Chair Green understood therefore that the third group of individuals would not include anyone who is currently rehired and in the system.

Mr. Tibbles concurred.

Co-Chair Green concluded therefore that the third group would consist of "anyone hired after July 1, '05 not currently under rehire".

1:25:01 PM

Senator Stedman asked for further discussion in regards to the conditions applicable to retirees hired after July 1, 2005.

Mr. Tibbles communicated that any retiree rehired after July 1, 2005 would be required to "sign a waiver to come back after retirement". They would "continue to receive their retirement benefit, and they would be allowed to stay in as long as they remained continuously employed, or the sunset date of this Act, which would be July 1, 2009".

Senator Stedman asked the reason for incorporating this scenario.

1:25:47 PM

Mr. Tibbles explained that, "the purpose of extending the window to allow new individuals to come in … is that" there are many jobs that the State is unable to fill. This "management tool" has been used successfully in the past to fill difficult to recruit for positions. The provisions would insure that the individuals coming

back would not "be costing the system". It would allow the program to continue forward "in a consistent and controlled manner".

1:26:24 PM

Senator Stedman understood therefore that were a retiree to be rehired in August 2005, for example, that individual would "stop receiving all his retirement benefits, and go right back on the payroll, and start paying back into the system".

Mr. Tibbles responded that a retired person rehired in August 2005, for example, would be offered "two options": one would be to come back and "pay into the system, accrue additional benefits, and defer their retirement benefit. That exists now outside this bill". This bill would allow that individual the option "to continue to receive their pension benefit, have the active health coverage from their employer, and not accrue any additional benefits and not pay the Normal Cost Rate going forward".

1:27:25 PM

Mr. Tibbles continued that Sec. 8 would primarily apply to municipalities. It would require, in a manner similar to that required of the TRS system, that a municipality must adopt a resolution demonstrating their recruitment problem in certain job classifications. Policy issues that must be adhered to include such things as that the person being rehired must have been separated from service for a minimum of 30-days and that the position must have been recruited for a minimum of 30-days.

1:28:44 PM

Co-Chair Green understood that the administrator of the plan must approve the rehire.

1:28:56 PM

Mr. Tibbles affirmed. The director of the Division of Retirement and Benefits, Department of Administration would be required to review the qualifying policy and Resolution. It would be a coordinated activity to which the administrator would have the ultimate authority.

Co-Chair Green asked whether this scenario would also apply to TRS positions.

Mr. Tibbles affirmed.

1:29:21 PM

Mr. Tibbles stated that Sec. 9 would address the unfunded liability. It would require PERS employers to contribute the same past service rate for the rehired retirees as they do for other active employees.

Senator Stedman referred to language in Sec. 8, and asked whether provisions in the bill would address a situation in which an employee retired with the intention of being rehired and who communicated that intention to other possible candidates.

1:30:14 PM

Mr. Tibbles responded that, currently, there is a minimum recruitment period of ten days. The effort could also be limited to internal recruitment. This has occurred in the past, with the outcome being that no qualified candidate emerged. This legislation would require a statewide recruitment for a minimum of 30 days and "tough standards" would be applied. Therefore, an individual who retired with the intent to be rehired would be taking "a gamble" that no other qualified candidates would emerge. Another qualified candidate could fill the position.

Senator Stedman communicated awareness of such an event having occurred. He opined that the scenario he presented would be difficult to control in a small area. Perhaps the requirement that a Statewide recruitment effort must occur might address the issue.

Mr. Tibbles stated that Sec. 10 would specify the various effective dates of the bill's provisions.

1:31:50 PM

Mr. Tibbles noted the Sec. 11 would add a PERS report to the reporting requirements. In addition, it would require the Administration to report the efforts being undertaken to address difficult to recruit for job classifications. Measures to address those jobs might include changing business rules to allow, for instance, for fewer Engineer V positions and more Engineer II, III, and IV positions as Engineer V positions are more difficult to recruit for. Allowing for more Engineer II, III, and IV positions would allow more people to become qualified for advancement over time. Rather than focusing on filling the current positions, efforts could be undertaken "to fill the need".

Mr. Tibbles stated that Secs. 14 and 15 outline the date determinations regarding the three aforementioned groups of retired

rehires. He read the Sec. 15 language as depicted on page seven, line 27 through page eight line seven as follows.

> Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to read:
>
> WAIVER OF APPLICABILITY OF SEC. 7 OF THIS ACT FOR RETIRED EMPLOYEES WHO MADE AN ELECTION UNDER AS 39.35.150(B) OR (E) BEFORE NOVEMBER 3, 2004, AND CONDITIONS APPLICABLE TO SERVICE FROM JULY 1, 2005 THROUGH DECEMBER 31, 2006. From July 1, 2005, through December 31, 2006, the amendment made to AS 39.35.150(b) by sec. 7 of this Act does not apply to a retired employee who was rehired and made an election under AS 39.35.150(b) or (e) before November 4, 2004, if that person continues to serve in the same position. However, this section does not apply to employees who are required to provide health and medical benefits under AS 39.35.150(b), as amended by sec. 7 of this Act, regardless of whether a member receives retirement medical benefits under this section.

Mr. Tibbles stated that this language would allow retirees rehired prior to November 3, 2004, before the notice went out regarding the program's ending, and who were told they could continue their employment, to continue their employment through December 2006. Those being paid solely out of the retirement health account would be the exception, as that aspect would be discontinued and their employer would be required to cover them through the active health plan.

Co-Chair Green understood therefore that that coverage would occur "in the meantime".

Mr. Tibbles concurred.

1:34:27 PM

Mr. Tibbles stated that Sec. 17 would change the termination date from July 1, 2005 to July 1, 2009.

Co-Chair Green understood that some amendments would be forthcoming.

Mr. Tibbles affirmed that some clarifying language pertaining to the termination dates and the continuing employment terms for the three different rehired retirees groups, specified in Sec. 14 and Sec. 15, is being developed.

1:35:33 PM

Co-Chair Wilken noted that a fiscal note pertinent to Version "X" would also be forthcoming. To that point, he asked whether the fiscal note would reflect the provisions being considered in SB 141-PUBLIC EMPLOYEE/TEACHER RETIREMENT/BOARDS and how that legislation might impact the PERS and TRS systems.

Mr. Tibbles responded that that impact was detailed in the analysis section of the previous Department of Administration fiscal note #1 dated March 7, 2005. That analysis anticipated a $106,000 a year impact in regards to the TRS component. No impact was anticipated on the PERS side until the point at which the program had 500 participants. There are currently 211 participants in the PERS program. There is an expectation that the PERS participant level would decrease under the new sideboards specified in this bill.

Co-Chair Wilken asked that a fiscal note specific to Version "X" be developed that specifically addresses the impact to the PERS and TRS systems. Those expenses should be considered.

Co-Chair Wilken noted that while he supports the bill, he would not care to add to PERS/TRS expenses.

1:38:10 PM

Co-Chair Green agreed. Continuing, she voiced the understanding that following the signing of the Governor's Administrative Order concerning the rehire of retired employees and the implementation of the Department of Administration's review, the rehiring of retirees scenario "really changed".

Mr. Tibbles stated that since the Governor's Administrative Order was released on March 8, 2005, not a single rehire has been approved for the State of Alaska. The first question asked by the Department's Administrator when a department submits a request is "how many qualified individuals did you receive through your recruitment process". It has been demonstrated in every case to date that there has been a qualified pool of applicants to choose from, and therefore, all requests have been denied.

Co-Chair Green understood that in the State of Alaska situation, the Administrator's "word would be final"; however, she asked whether this would be the case in regards to municipalities or school districts "that really had their mind set on hiring a certain retired person". To that point, she asked whether the Administrator's decision could be challenged.

Mr. Tibbles specified that the Statute would provide the

administrator "the proper authority to deny somebody coming back and continuing their retirement benefits if they don't meet the new requirements laid out in the bill". He was uncertain to the steps that could be taken were someone to challenge the administrator's position in Court.

Co-Chair Green requested that clarification as to the proper authority in this regard be provided.

Co-Chair Green removed her objection to Version "X".

There being no other objection, Version "X" was ADOPTED as the working document.

The bill was HELD in Committee in order to consider forthcoming amendments.

1:41:09 PM

#sb156

SENATE BILL NO. 156
"An Act relating to notification to teachers of layoff or nonretention."

AT EASE: 1:41:39 PM / 1:41:50 PM

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

PHELAN STRAUBE, Staff to Senator Ben Stevens, the bill's sponsor, informed the Committee that this bill would address what is referred to "as the pink slip problem by aligning tenured teachers with non-tenured teachers within the law". Currently, tenured teachers must be notified by March 16th of each year that "they would not be retained for the following school year". "Non-tenured teachers must be notified by the last day of the school term". This legislation would align the two schedules by specifying that in both cases, the termination notification must be received by the end of the school term.

1:42:32 PM

Co-Chair Green inquired as to how this issue was brought to the attention of the Legislature.

Mr. Straube replied that the primary issue is that neither local

city/school assemblies' budgets nor the State's budget for the following fiscal year are completed by March 16th of each year. The requirement that notification must be provided by that date leads to a sense of instability on the part of teachers and speculation on the part of the school districts in regards to the funding level they would receive for the following school year.

Co-Chair Green ascertained therefore that the March 16th notification date has proven to be more harmful than beneficial.

Mr. Straube agreed. "It creates instability for teachers and for school districts; it unnecessarily scares parents and teachers."

Co-Chair Green asked whether this issue has ever been "challenged."

Mr. Straube had not discovered any challenge during his research on the issue. The practice was created in the 1960s "and has not been addressed since".

Co-Chair Green stated that while this is "a long-standing policy", it is inconsistent with budget cycles and is not beneficial to those concerned.

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, the SB 156 was REPORTED from Committee with previous zero fiscal note #1, dated April 18, 2005 from the Department of Education and Early Development.

1:45:02 PM

#hb182

CS FOR HOUSE BILL NO. 182(FIN)(efd fld)
"An Act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity or in an administrative, executive, or professional capacity; relating to definitions under the Alaska Wage and Hour Act and providing definitions for persons employed in administrative, executive, and professional capacities, for persons working in the capacity of an outside salesman, for persons working in the capacity of a salesman employed on a straight commission basis, and for persons that perform computer-related occupations; directing retrospective application of the provisions of this Act to work performed before the effective date of this Act for purposes of claims filed on or after the effective date of this Act, and disallowing retrospective

application for purposes of claims for that work that are filed before the effective date of this Act."

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

HEATHER NORBREGA, Staff to Representative Norm Rokeberg, the bill's sponsor, informed the Committee that this bill, which would change the definition of administrative, executive, and profession capacities, is a duplicate of SB 131, which had previously reported from Committee with the lone difference between the two bills being that, unlike SB 131, which specified an effective date of July 1, 2005, this bill has no effective date as the effective date failed approval on the House floor.

AT EASE: 1:47:35 PM / 1:47:36 PM

Co-Chair Green questioned the reason the bill is before the committee considering the fact that SB 131 had reported from Committee and advanced to the Senate Rules Committee.

Ms. Norbrega understood that "the theory" was to have at least one Senate committee referral on the bill.

REPRESENTATIVE NORM ROKEBERG, the bill's sponsor, affirmed that the Committee was familiar with the bill's language. Continuing, he requested that the Committee act with "due diligence" in regards to action on the bill.

Co-Chair Green asked for confirmation that the language of the bill is identical to that of SB 131.

Ms. Norbrega affirmed that the lone difference is that HB 182 does not contain the July 1, 2005 effective date.

At EASE: 1:49:04 PM / 1:49:26 PM

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, CS HB 182(FIN)(efd fld) was REPORTED from Committee with zero fiscal note #1, dated March 1, 2005 from the Department of Labor and Workforce Development.

1:49:44 PM

#hb19

CS FOR HOUSE BILL NO. 19(FIN)
"An Act relating to pesticides and broadcast chemicals; and providing for an effective date."

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

Co-Chair Green asked the bill's sponsor to recap the nature of the question that arose during the Committee's first hearing on this bill.

MIKE PAWLOWSKI, Staff to Representative Kevin Meyer, the bill's sponsor, stated that the question pertained to the Committee's perception that the March 18, 2005 Department of Environmental Conservation (DEC) $221,600 fiscal note #2 that accompanied the bill was incomplete. A new $221,600 DEC fiscal note, dated April 22, 2006 that explains how the amounts were determined has been provided.

Co-Chair Green acknowledged. She understood that in the future, the number of pesticide registrations would change due to such things as attrition and users' decisions not to re-register products that were seldom utilized.

Mr. Pawlowski affirmed that the fiscal note "assumes" there could be "up to a 40-percent drop rate in the State" of registered products. However, several chemical manufacturing companies argue that a significantly lower amount of pesticides would be un-registered than the amount projected by the Department. As a result of utilizing the Department's projections, "the level of receipt support services divided by the number of registered chemicals could lead to a lower fee on the manufacturers". Therefore, "the fiscal note is based on a worst-case scenario".

Co-Chair Green ascertained therefore, that the State would fare better, revenue-wise, were its projections incorrect.

1:52:03 PM

Co-Chair Green ordered the bill HELD in Committee.

1:53:08 PM

#hb15

CS 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 second hearing for this bill in the Senate Finance Committee.

Co-Chair Green recalled that the lingering issue on this bill "was the definition of businesses".

MIKE PAWLOWSKI, Staff to Representative Kevin Meyer, the bill's sponsor, agreed that including the definition of businesses in Statute would be appropriate, as it would clarify any ambiguity that might exist between a privately owned lodge for personal benefit and a lodge owned for profit. Inclusion of the latter is the intent of the bill's sponsor.

Conceptual Amendment #2: This amendment inserts the word "licensed" between the words "a" and "business" in Sec. 2(c) page one, line 14. The amended language would read as follows.

(c) In this section, "outdoor recreation lodge" means a licensed business that provides…

[NOTE: This amendment was inadvertently referred to as Amendment #1. It should be correctly referred to as Amendment #2, as a separate amendment, Amendment #1, had been adopted during the April 28, 2005 hearing on this bill.]

Co-Chair Wilken moved the Amendment.

There being no objection, Conceptual Amendment #2 was ADOPTED.

Co-Chair Green ordered the bill HELD in Committee.

1:55:49 PM

#hb91

HOUSE BILL NO. 91 am
"An Act relating to indecent exposure."

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

KAREN LIDSTER, Staff to Representative John Coghill, stated that the bill is best presented by the language in the Sponsor Statement that reads as follows.

> Several young girls in Delta Junction were subjected to a man exposing himself to them in the parking lot of a local store last summer. He was apprehended and arrested. In a background check it was reported that he had a prior conviction of a similar incident in Arizona. When arrested in the Arizona case, police reported that he matched the description of a man reported for the same activity several times but they could never catch him.
>
> In the Delta Junction incident, the local magistrate charged him with three felonies but because of the circumstances, he could not be convicted of a felony. He plea-bargained down to one misdemeanor.
>
> Children are more vulnerable and innocent than adults and children fall prey to sex offender more easily than adults. This legislation makes repeat convictions of indecent exposure within the observation of a person under the age of sixteen a felony.

1:58:02 PM

Senator Dyson voiced being "intrigued about the circumstances that kept" the offender from being charged. To that point, he asked how this bill would address those circumstances.

Ms. Lidster responded that, "the difference between a felony and a misdemeanor in an act of this nature is whether or not the offender touches himself". This is the reason that the Delta Junction offender "could only be charged with a misdemeanor ….it appears that it's possible that this person had been suspect of doing these kinds of things previously but seemed to understand" the line "that should not be crossed". This bill would correct this situation by specifying that if an individual had previously been convicted of indecent exposure before a minor, regardless of whether the person touched themself or not, they could be charged with a felony.

Co-Chair Green asked whether this legislation had been referred to the Senate Judicial Committee.

Ms. Lidster affirmed that the bill had reported from the Senate Judiciary Committee without any changes.

Co-Chair Green stressed the importance of the fact that the

Judiciary Committee had heard this legislation, as that committee has, as a matter of course, thoroughly discussed the misdemeanor verses felony issue.

Ms. Lidster affirmed. She noted that the bill's sponsor is conscious of "not ratcheting up penalties". The bill does specify that there must be an "intent to frighten or shock a person", specifically minors in this case. There must also be total disregard "for the person that this is happening in front of as opposed to sometimes stopping alongside the road" and inadvertently being observed.

AT EASE: 2:01:16 PM /2:01:17 PM

Ms. Lidster specified that, "an offender commits the crime of indecent exposure in the second degree if the offender knowingly exposes the offender's genitals in the presence of another person with reckless disregard for the offensive, insulting, or frightening affect the act may have."

Co-Chair Green asked whether such language was included in AS 11.41.460.

Ms. Lidster affirmed its inclusion.

In response to a question from Senator Olson, Ms. Lidster understood that parents would be protected from this penalty were their actions not intended "to frighten and have total disregard for the affect of the act on the children".

Senator Olson inquired to a situation in which a minor might be exposed to a child being borne.

Ms. Lidster voiced that the purpose of the bill would be to address intentional episodes of indecent exposure.

2:03:44 PM

Co-Chair Green asked whether the concerns begin raised by Senator Olson might be addressed by further clarification of the "knowingly" or "intentional" act language or "the shock" element in the bill. Care should be taken not "to exonerate all family members" in this regard.

DEAN GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law, informed the Committee that he had "never heard of indecent exposure prosecution being leveled against somebody in a family situation". However, he

agreed that a family member should not "be exempt from the law". Continuing, he noted that there is a relationship between indecent exposure and child abuse as well as "indecent exposure and grooming activities". "Sadly, a lot of that goes on in the family."

Mr. Guaneli voiced the hope that were "there two parents present, one would be watching out for the children".

Mr. Guaneli determined that it would be difficult to imagine that such situations would "come to the attention of authorities unless they are particularly egregious circumstances that we would not want to exempt from the coverage of the law". He was unsure as to "how to draft in some sort of an exemption that wouldn't sweep too broadly and protect activity that we don't want to protect".

2:05:59 PM

Senator Dyson noted that the term "masturbate" is included in Section 1(a)(1), page one, line eight of HB 91(am), Version 24-LS0098\A.A. The inclusion of the word "and" in Section 1(a), page one, line six, indicates that the act of masturbation must accompany the offense in order for it to deemed as first-degree indecent exposure. This would "limit the application". Family members should be prosecuted were that activity to occur.

Ms. Lidster responded that the intent of bill was to prevent someone who continues to knowingly expose himself or herself to a minor, and who knows that they could only be charged with a misdemeanor were they to not touch themselves, from simply being charged with a misdemeanor. Evidence has concluded that indecent exposure offenders elevate their offenses overtime.

Co-Chair Green pointed out that the word "or" in Section 1(a)(1), page one, line nine would negate Senator Dyson's concern that the felony charge could not be levied unless masturbation accompanied the indecent exposure act.

Co-Chair Green ordered the bill HELD in Committee.

2:08:59 PM

#sb108

CS FOR SENATE BILL NO. 108(L&C)
"An Act relating to the regulation of insurance, insurance licensing, surplus lines, insurer deposits, owner-controlled and contractor-controlled insurance programs, health discount plans, third-party administrators, and self-funded multiple

employer welfare arrangements and self-funded governmental plans; and providing for an effective date."

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

Co-Chair Green conveyed that the purpose of this hearing was to hear an explanation of the bill.

LINDA HALL, Director, Division of Insurance, Department of Commerce, Community and Economic Development, stated that this bill would propose statutory changes that would make the regulation of insurance more efficient for the Division, make regulations more uniform for the insurance industry, and provide increased protection to Alaskan consumers. Expressing that many of the bill's sections were "very technical", she stated that her testimony would review the bill's components by generalized topic area, rather than in a detailed manner.

Co-Chair Green noted that Members' packets include a Sectional Analysis of the CS SB 108(L&C), Version 24-GS1083\Y [copy on file].

Ms. Hall stated that one issue addressed in the bill would be to change licensing regulations in order to streamline the licensing processes and further the efforts to conform to the National Association of Insurance Commission Models and National Standards. Sec. 2 and Sec. 3 would remove the requirement that the Division notify an insurer's agent of the suspension or revocation of an Insurer's Certificate of Authority. Such notification would become the responsibility of the insurer. While Sec. 8 and Sec. 9 would eliminate the requirement that insurers or agents must file appointments with the Division, they would require that insurers provide written notification when an agent's appointment is terminated "for cause".

2:11:57 PM

Co-Chair Green asked for further clarification regarding the termination process.

Ms. Hall clarified that when an insurance company terminates an agent's appointment, they must notify the agent in writing of that action.

Ms. Hall continued that Sec. 10 would allow the Division to conduct license renewals via such things as electronic mail. Currently non-resident new license applications could be conducted

electronically, and efforts to allow resident and renewal licenses to be conducted electronically would be completed in the near future. The Division would also endeavor to provide notification of renewals by electronic means.

Ms. Hall communicated that several sections of the bill address the issue "of surplus lines". Major changes in the Division's surplus line Statutes were provided for by legislation that was enacted in the year 2004. This bill would "clean up requiring some minor changes in documents that are required to be signed by surplus line brokers and changes in documents that are required to be filed in order to allow "alien insurers to report at the same time as they do their stockholder reports".

Ms. Hall noted that the bill would also eliminate unused provisions regarding the use of safety deposit boxes for insurers' deposits.

Ms. Hall stated that language in Sections 21, 22 and 24 would address "a fairly new phenomena called Health Discount Plans". During the years 2000 to 2002 there were approximately "200,000 programs that resulted in $252,000,000 in unpaid claims nationally. In order to protect Alaskans from illegal products", the Division is seeking "to add some specific authority to regulate these types of plans". Language in this bill would enhance current trade practice authority to clarify that such plans "could not be sold in Alaska unless they are licensed by the Division and the carrier providing them is licensed". She had recently signed "a cease and desist order against an entity that was providing a health insurance discount plan in our State". The Division had received complaints from consumers who had authorized that plan to debit their checking accounts and who had been assured that their health providers participated in the health discount plan even though they did not. "Consumers are being ripped off by scam artists." Such plans typically advertise on television or fax information to offices and offer low rates. Their advertising is misleading in that, while it utilizes health insurance terminology, the plan does not provide health insurance.

Ms. Hall stressed that she regarded this component of the bill as being very important. The Division's Consumer Protection Program Press is developing press releases to alert the public to this situation.

2:16:43 PM

Co-Chair Green asked whether Legislators might have received notification of this issue by a doctor's office approximately six weeks earlier.

Ms. Hall assured that that was quite possible. The Division had notified the Alaska Medical Association of these types of activities in the summer of 2004. They in turn "had issued an alert to Alaska physicians to watch for these". She noted that the Division is actively pursuing other plans that are targeting the State.

Co-Chair Green asked whether identities of the offenders could be released.

Ms. Hall stated that the group to which she had recently signed a cease and desist order was named Signature Health Group Health Care Advantage or Signature HCA. She noted that the Division has developed press releases that identify this entity.

Co-Chair Green asked whether the Division anticipates that there could be other such entities.

Ms. Hall affirmed there would be. This is a national issue and some of the work being conducted by the Division is in cooperation with other state regulators in an effort to prevent the entities from moving from one state to another.

2:17:24 PM

Co-Chair Green asked whether the term "health discount plan" was new terminology.

Ms. Hall affirmed that it was. As health insurance costs have increased, there has been an increase of plans offering health discounts. Some plans are offered by insurance companies and are legitimate. However, it should be noted that these plans do not provide medical coverage; they might provide such things as a 20-percent discount for a visit to a participating doctor or a 20-percent discount on a drug prescription with a provider. Some plans might advertise no waiting periods and allow coverage for preexisting conditions; such things "are problematic for some individuals in the health insurance arena".

2:18:15 PM

Co-Chair Green understood therefore that a legitimate health discount plan would have a list of providers who would offer discounts, similar to a coupon book.

Ms. Hall affirmed. However, she noted that the plans that the Division has investigated do not have such service provider lists.

Co-Chair Green disclosed a conflict of interest in the discussion as her husband sells insurance, albeit not health discount plans. Furthermore, she would be willing to remove herself from the discussion and abstain from voting were that the will of the Committee.

Ms. Hall noted that one of the more technical sections of the bill deals with Third Party Administrators (TPA), which are entities that administer health insurance programs. Aetna is the third party administrator for the State's Select Benefits health insurance program. Third party administrators are not required to be licensed in the same manner as insurance salesmen or companies are; however they must register with the Division. This bill would require that these administrators must "file certification if they are exempt from the State's registration process". Provisions would also allow the Division's director "to immediately suspend registration if the TPA was financially impaired". Some states have had TPAs that collect premiums, administer the program, and pay the providers. While this practice has not, of yet, been experienced in Alaska, the Division would like to insure that the State would have the ability to stop a TPA from operating were they to become financially impaired.

2:20:59 PM

Ms. Hall directed the Committee's attention to Sec. 31, which would allow the Division to establish requirements regarding the State's bargaining union health trusts. Current Statutory provisions provide that "if an entity is not regulated by another regulatory body, they would be subject to regulation by the Division of Insurance." The federal government under the Employee Retirement Income Security Act (ERISA) regulates many self-funded plans; however, it should be noted that government plans are exempt from ERISA. To that point, the Division has been requesting information from the Union Health Trust since March 2004. The information being requested would allow the Division "to conduct a legal review of whether or not they are regulated by another entity or whether they should come under the purview" of the Division. This bill contains language that she viewed as being a policy decision that the Legislature should make in that it would propose that the union health trusts must provide such things "as financial statements and actuarial opinions both on the level of contribution rate and reserves for claims" to the Division.

Ms. Hall continued that this bill "has generated some discussion" that would be appropriately discussed by this Committee.

2:23:20 PM

Ms. Hall stated that, "there are 19,000 State employees whose health coverage is provided through one of five union health trusts. A substantial amount of general fund monies are contributed to the health trust for the provision of health coverage." In the year 2004, the Alaska State Employees Association (ASEA), for example, managed $56,000,000 of general fund money. The Public Employees Local 71 managed approximately $12,000,000 of general fund money. The policy decision being introduced to the Committee "is whether there should be some level of oversight of those funds". Such oversight would require the trusts to incur actuarial opinion expenses of approximately $40,000 to $50,000. Therefore, the $50,000 expense that might be associated with acquiring an actuarial opinion that could affirm that ASEA's "reserving practices are such that would allow for continued solvency" would amount to seven-tenths of a percent of the State's and employee's contribution rate. The cost of such an opinion from Local 71 would amount to approximately one-third of a percent. She opined that "this would be good public policy but it is not something" that the Division should do without Legislative concurrence.

2:25:21 PM

In response to a question from Co-Chair Green, Ms. Hall expressed that 19,000 State employees' insurance coverage is managed by five union health trusts. This number would not include dependents.

Co-Chair Green understood therefore, that since these five plans are governmental plans, they would not be required to report to ERISA. They also do not report to the Division of Insurance.

Ms. Hall replied that that is the Division's determination.

2:26:15 PM

Ms. Hall stated that the last major component of the bill would address project owner or contractor controlled insurance programs. This information is located in Sections 23 and 25 of the bill. These types of insurance programs typically accompany large construction projects such as the Trans Alaska Pipeline System. A single program is written to provide the insurance needs of the subcontractors and the primary contractor. The rules for such programs are included in the Divisions Worker Compensation Manuals. The Division has determined the need to codify these rules. Attempts have been made to expand such programs into general operation and maintenance functions. The Division believes such action would have "a detrimental affect" on both the small

insurance marketplace currently existing in the State as well as to small individual subcontractor programs. Such action would make it less and less attractive to insurance companies to conduct business in the State. In addition, subcontractors who have either their own self-insured or fully insured insurance programs, would experience diminished ability to support those insurance programs were they required to utilize payroll monies to support a project's on-going maintenance program insurance.

2:28:02 PM

Ms. Hall noted that Sec. 23, beginning on page 13, line 29 and continuing through page 15, line twelve is the predominate section regarding this issue.

Co-Chair Green understood Sec. 23 to include new language.

Ms. Hall affirmed. It would expand and codify existing rules.

Co-Chair Green determined that this section would apply to an owner controlled insurance program or a contractor controlled insurance program. She asked for an example of such a program.

Mr. Hall responded that the best example of an owner controlled insurance program would have been the Trans Alaska Pipeline. In these cases, "the liability and the workers compensation coverage were all provided in one package." The Division considers "it appropriate" for either the owner or the general contractor of a large construction project to purchase the insurance plan. However, "the line is drawn" at the point where the concept "is expanded to cover large on-going operations".

Co-Chair Green understood therefore that the desire it that the program "should not morph" into an ongoing insurance program.

Ms. Hall affirmed.

Ms. Hall stated that the bill contains "a few miscellaneous sections. Sec. 27 sets the standards for rate making in health insurance at the same statutory standards" the State currently has for all lines of insurance. "The rates cannot be excessive, inadequate or unfairly discriminatory." Section 1 would allow the Division director to examine or require documents from producers provided there was "reasonable cause". Sections 29 and 30 would authorize the Director's designee to accept financial statements within 45 days after the end of each quarter.

Co-Chair Green ascertained that some sections of the bill are new,

some are "creative", and some would allow the State to align with nationwide practices.

Ms. Hall stated that the majority of the bill would serve "to keep Alaska statutory language in conformity" with national trends. This has been an on-going effort; otherwise, the State's regulations might discourage business.

2:31:43 PM

Senator Dyson asked whether State law should be changed to accommodate health savings accounts (HSAs), particularly in regards to State employees.

Ms. Hall responded that in terms of insurance regulation, the answer is no. The Division has conducted analyses in this regard. "Companies are beginning to offer HSAs more readily than they were before." She could not speak to the matter involving State employees. "The plans could be very beneficial to Alaskan consumers." No changes in the insurance title would be required.

2:32:45 PM

Senator Dyson understood therefore that there would be no need to include language in this "omnibus insurance bill to encourage HSAs to go forward in this State".

Ms. Hall stated that this issue had been discussed. The determination was that such inclusion would be unnecessary.

Senator Dyson, having been absent for a portion of Ms. Hall's comments, asked whether language in Sec. 31 regarding Self-funded Governmental Plans, had been addressed.

Ms. Hall affirmed that she had addressed that section.

Senator Dyson specifically asked that the major benefit that would be derived by including the bargaining unit trust plans under the Division's purview, be identified.

Ms. Hall responded that the major benefit would be that the Division would be provided a financial statement and an actuarial analysis that determined that the contribution rates "were adequate for payments" and that the reserving practices would continue to allow the program "to remain solvent".

Senator Dyson asked whether the Division had concerns that the funds had either been mismanaged or misused.

Ms. Hall responded that, "there is no indication that anything has been misused. That is not the purpose of this legislation."

Senator Dyson continued however, that, "there is the possibility that they are inadequately funded or actuarially not sound."

Ms. Hall responded that, "that is a possibility".

The bill was HELD in Committee.

AT EASE: 2:35:05 PM / 2:35:34 PM

#hb119

> CS FOR HOUSE BILL NO. 119(FIN)
> "An Act extending the termination date of the Alaska regional economic assistance program; and providing for an effective date."

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

KACI SCHROEDER, Staff to Representative William Thomas Jr., the bill's sponsor, and Committee Aide to the House Community & Regional Affairs Committee, explained that the bill would reauthorize the Alaska Regional Economic Development Organizations (ARDORs) assistance program through 2010. This program, which began in 1988, currently provides approximately $50,000 annually to each of the eleven ARDORs in existence today. These non-profit organizations are comprised "of local volunteers working together to promote economic development within their regions". ARDOR activities include working with other economic development activities in their regions, collecting and distributing economic information, and being a liaison between the region, the State, and the federal government.

Ms. Schroeder noted that each ARDOR could use the funds they are provided, as they deem appropriate. The Legislature has repeatedly reauthorized the ARDOR program since its inception.

Co-Chair Wilken opined that while some ARDORs are doing a good job, others are simply taking the money and "having meetings". He noted that he had previously expressed concern in this regard, and that he was pleased that three ARDORs had dissolved. As a result, additional funds had been provided to the remaining ARDORs that "are trying to do a good job". Nonetheless, he preferred that the

ARDOR program be extended three years rather than the five-years proposed in this legislation, as a shorter timeframe would allow for more Legislative oversight of the ARDOR activities.

Co-Chair Wilken also asked whether some component of the program is being expanded as a halftime position appears to have been added in the Department of Commerce, Community and Economic Development $650,000 Fiscal Note #2 dated April 6, 2005.

Ms. Schroeder deferred to the Department of Commerce, Community and Economic Development.

2:40:35 PM

KATHRYN DODGE, Executive Director, Fairbanks North Star Borough Alaska Regional Economic Development Organization, testified via teleconference from an offnet site in support of the bill on behalf of the 11 ARDORs existing in the State. The bill would allow ARDORs to continue their economic development activities. In addition, the proposal to extend the program for a five-year period rather than the historical every-other year reauthorization period would allow the program to concentrate on development activities as opposed to concentrating on whether or not the program would be reauthorized.

Ms. Dodge disclosed that ARDORs return nine dollars for each State dollar "invested" in the program. In addition, the program has implemented an accountability program which "defines what a highly performing ARDOR does; measures and rewards the activities and programs"; and assists ARDORS in improving their performance. She urged that the bill be moved out of Committee.

Co-Chair Green commented that while ARDORs have accomplished "some very good things", she, like Co-Chair Wilken, has some reservations. Rather than the program continuing as an entitlement program, she would prefer it being a competitive grant program. The Department of Commerce, Community and Economic Development and other program analysts have communicated to her that the initial program funding was intended to be "start-up" money; there was no intent to support the program indefinitely. She agreed with Co-Chair Wilken that the reauthorization timeframe should be shortened. While some mechanism might currently exist, she would like a process instilled through which both the Legislature and the Department would be provided information about the ARDOR decision-making process, activity follow-up procedures, and the end result of the activities.

2:42:56 PM

SALLY SADDLER, Legislative Liaison, Department of Commerce, Community and Economic Development, communicated that approximately one-third of the Department's professional local government specialists provide support and coordination for the ARDOR program. The half-position referenced by Co-Chair Wilken would provide administrative staff to support those individuals. The Department focused on the accountability concern for approximately the past one-and-a-half years, and as a result, a performance accountability system has been developed. The system has been implemented and has provided incentives for performing ARDORS, while placing the "non-performing ARDORs on a two-year notice that their funding might be in jeopardy".

Co-Chair Green asked whether funding has ever been withheld from any ARDOR.

Ms. Saddler responded in the negative, as the performance system was just recently implemented. A non-performing ARDOR would be provided a one to two-year timeframe in which to "correct, remedy, and improve performance" before any action would be taken.

Co-Chair Green asked that a sample of the performance system guideline be provided.

Ms. Saddler responded that she would provide a copy of the "FY06 ARDOR Tier Application" [copy on file], which lists "the criteria for the different" ARDOR tiers. Funding is based upon tier level.

Co-Chair Green ordered the bill HELD in Committee.

2:45:04 PM

#hb136

HOUSE BILL NO. 136
"An Act restricting the authority of a court to suspend execution of a sentence or grant probation in prosecutions for driving while under the influence and prosecutions for refusal to submit to a chemical test; and allowing a court to suspend up to 75 percent of the minimum fines required for driving while under the influence and for refusal to submit to a chemical test if the defendant successfully completes a court-ordered treatment program."

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

REPRESENTATIVE NORM ROKEBERG, the bill's sponsor, informed the Committee that this bill would accomplish three things. First it would increase the percent of a fine that could be waived or reduced in the Therapeutic Court from the current 50-percent to 75-percent. This would "enhance the ability" of an offender to pay for the cost of therapy counseling and other activities that they would be required to participate in under State law.

Co-Chair Green asked for confirmation that the proposed 25-percent reduction "wouldn't be through the Court; it would be independent" of the Court.

Representative Rokeberg explained that the Court would impose the fine mandated by State Statute, and, upon the individual's completion of the therapeutic program, a portion of the fine could be waived or suspended. Thus, the individual could utilize that money to pay for their program participation. He stressed that the intent would not be to waive or suspend the entirety of the fine.

Representative Rokeberg stated that the bill would also allow felony Driving Under the Influence (DUI) cases to utilize the Statutory authority provided to the Therapeutic Courts. Two felony DUI Court pilot programs had been previously authorized by the Legislature and are currently operating in the Municipality of Anchorage. This bill would provide those felony DUI courts "the same authority" as provided to the District Court so they could reduce their fines by 75-percent as an incentive for their offenders to participate in Wellness Court programs. The effort currently being exercised by the two courts is uncodified law.

Co-Chair Green asked whether individuals who committed a felony could participate in the Wellness Court.

Representative Rokeberg expressed that while the majority of the individuals in the Wellness Court had committed misdemeanors, some felons have been allowed in the program.

Co-Chair Green acknowledged. To that point, she conveyed that she had heard this issue being discussed by people in "some of the auxiliary departments". They become "nervous" when individuals who had committed a felon participate in the program, as "they consider that a very different circumstance than the misdemeanor."

Representative Rokeberg stressed that the two aforementioned courts are pilot programs. "They are subject to renewal by the Legislature." The two courts must be provided "the same tools" at the felony level as exists at the District Court level. The authority to continue the pilot programs would continue to be with

the Legislature.

Co-Chair Green asked for confirmation that the intent would not be to change "the misdemeanor court to a felony court" and that two separate levels would be "clearly defined".

Representative Rokeberg affirmed. He referenced previous DUI legislation he had sponsored that had provided Statutory authority to the misdemeanor courts. Those courts currently operate under codified law.

[NOTE: Due to static in the recording, some of Representative Rokeberg's remarks were inaudible.]

Representative Rokeberg noted that the third provision proposed in this legislation would require that the Courts must impose the mandated minimum DUI fine levels. The minimum fine for a first offense DUI is a minimum of $1,500. To this point, "an obscure older Court of Appeals case", *Curtis v. State*, has been utilized to allow the courts to suspend a portion or all of the fines specified in State Statute. This bill "would basically repeal that case" and require that the fines authorized by the Legislature be imposed. He noted that the First Judicial District in Southeast Alaska has been "the biggest offender" in this regard. The Juneau Empire newspaper's Court reports consistently reflect the fact that the majority of DUI fines are suspended.

2:50:35 PM

Co-Chair Green asked whether any other Statutes exist that would prevent a judge from exercising his or her discretion to impose fines below the specified minimum fine level.

Representative Rokeberg understood that there were; however, he deferred to the Department of Law in that regard.

Co-Chair Green stated that further information in this regard would be sought.

Representative Rokeberg characterized this as a "good bill" and requested that it be reported from Committee.

Co-Chair Green voiced the need to know whether "instructing the Court to do this and no less than this" was common practice.

Representative Rokeberg responded that a significant number of hearings were conducted in conjunction with previous legislation that increased DUI fine levels, mindful of the fact that there is

"a point of diminishing returns". To that point, the public "is very concerned" about such behavior, and, the intent of the Legislature was to mandate $1,500 as being the minimum fine for a first offense DUI, with there to be no Court discretion allowed in this regard. However, after that legislation became effective, the *Curtis v. State* case was utilized by the Court as a means through which to lower fines below the level authorized by the Legislature. He understood that there are those who conduct what could be likened to "judge shopping" in the First Judicial District, as defense councils are aware of which judges are stricter than others. This situation "has cost the judicial system" a significant amount of money. Revenues would increase were the minimum fine levels upheld, even were a portion of the fines suspended or waived for those participating in the Wellness Court programs. The bill is accompanied by several zero fiscal notes as well as a Department of Law fiscal note that depicts an increase in revenue as a result of mandating the minimum fine level, even with the allowance of increasing the amount of a fine that could be suspended or waived in the Therapeutic Court, as that would affect "a relatively small number of people". The Public Defenders Office's fiscal note reflects that this bill would incur an indeterminate increase in its expenses. Nonetheless the overall impact of this legislation would be to increase revenue.

Co-Chair Green asked whether the State is the recipient of any National Highway Traffic Safety Administration funding, as that entity is often involved in these sorts of efforts.

Representative Rokeberg noted that there is consideration of expanding the pilot program to include the communities of Ketchikan, Juneau, and Fairbanks. The Wellness Court program is anticipated to generate a significant amount of money. The Therapeutic Court concept is receiving significant federal government support because it is producing results in "breaking the revolving door cycle" of DUI behavior. People's lives are being changed. This effort is also saving money in the Department of Corrections and other State programs.

Co-Chair Green understood that a felony DUI is issued at the time of a third offense.

2:55:27 PM

Representative Rokeberg affirmed that it would be a third offense conviction within a ten-year period.

Co-Chair Green asked regarding the DUI Court procedure; specifically who might be "the contact point" between court visits.

Representative Rokeberg responded that each Court might have its own procedure; however, the typical "template" would include the judge and the Court's case coordinator who oversees each person's treatment program. Historically, the case coordinator might have been a Department of Corrections Probation Officer (PO); however, through a cooperative effort between the Department of Corrections and the Department of Health and Social Services, a transition is occurring at the felony level in which an employee of the Department's Alcohol Safety Action Program (ASAP) and case coordinators might absorb some of the workload from the POs. Additional cooperation would be required from the District Attorneys in the Department of Law and the Public Defender Agency and private councilors in regards to the admissions screening procedure. "Not just everybody gets into these various programs. They have to have potentiality."

Representative Rokeberg stated that one of "the new features" would be the use of pharmacological drugs that has been proven successful "in helping people break their dependency on alcohol". "Some controversy" has accompanied this treatment. Nonetheless, he voiced concern that this type of treatment is not frequently utilized in the two Anchorage felony pilot programs. He also disclosed the existence of a "cultural problem" at the felony level and "some resistance" on the part of the Department of Corrections and the Department of Law prosecutors. To that point, he ascertained that that resistance is "breaking down".

2:58:21 PM

Representative Rokeberg continued that the findings of the Anchorage pilot program indicate that, with the support of the various agencies, the program would work.

Senator Dyson voiced concern about the inability of the Department of Law's Civil Division's computers to link information to the Department's Criminal Division. As a result, a judge might not be aware of the complete situation. Currently, the Civil Division prints out their information and someone carries it to the Criminal Division, who must enter it into their computer. The Court System is addressing this; however, this significant administrative link "has not been working well".

Representative Rokeberg responded that he had investigated this issue four years earlier when he was the Chair of the House Judiciary Committee. It has been frustrating that "the Legislature seems to be unable to impress upon the bureaucracy that we are in the 21st Century now. Technology works and the only way we're going

to save money is to increase our productivity."

Co-Chair Green understood that some of this issue would be addressed in the FY 06 budget.

Senator Dyson affirmed.

Representative Rokeberg urged the Finance Committee to support such action, as it would be necessary in order to increase productivity. "The private sector does it all the time."

Co-Chair Green stated that support would be sought.

Co-Chair Green ordered the Bill HELD in Committee.

3:00:56 PM

#sb121
#sb122

SENATE BILL NO. 121
"An Act establishing the State of Alaska Capital Corporation; authorizing the issuance of bonds by the State of Alaska Capital Corporation to finance capital improvements in the state; and providing for an effective date."

SENATE BILL NO. 122
"An Act establishing the Alaska capital income account within the Alaska permanent fund; relating to deposits into the account; relating to certain transfers regarding the Amerada Hess settlement to offset the effects of inflation on the Alaska permanent fund; and providing for an effective date."

This was the first hearing for these bills in the Senate Finance Committee.

CHERYL FRASCA, Director, Office of Management and Budget, Office of the Governor, informed the Committee that these bills contain the Governor's proposal pertaining to funding provided by the lawsuit that the State brought in the 1970s against oil companies over the valuation of the State's royalty oil and gas. The case was eventually settled in the mid 1990's. During the 15-year appeal process, the oil companies asked the federal courts to move the case outside of Alaska. The argument was that because all Alaskans are potential jurors, they would be biased because they would

potentially benefit from the proceeds going into the Permanent Fund. The federal court asked the Alaska Legislature to attempt to resolve this issue.

Ms. Frasca continued that two separate Legislative pieces, one under the Governor Steve Cowper Administration and one under the Governor Walter Hickel Administration, were passed to address the concern. One prevented the interest earnings from the Amerada Hess settlement from counting toward the calculation of the Permanent Fund Dividend (PFD). That effort served to remove the potential bias, and the lawsuit was ultimately settled out of Court.

Ms. Frasca stated that the money from the settlement was deposited into the Permanent Fund, and its balance, as of the end of FY 2004, amounted to approximately $424,000,000. The proposal contained in SB 122-AMERADA HESS INCOME; CAPITAL INCOME ACCT. would establish an income account and the proposal in SB 121-STATE OF AK CAPITAL CORP.; BONDS would establish a corporation through which $30,000,000 in annual earnings would be leveraged to issue bonds to fund State capital projects. The capital projects that would be funded by the Capital Corporation bond revenue were included as such in the capital budget the Murkowski Administration presented in December 2004.

Ms. Frasca noted that Deven Mitchell with the Department of Revenue would be presenting information pertinent to SB 121, regarding the Capital Corporation structure.

3:04:48 PM

DEVEN MITCHELL, Debt Manager, Treasury Division, Department of Revenue, expressed that tremendous work has been conducted in regards to the structure of the Alaska Capital Corporation; specifically in consideration that it's structure should not impact the State's credit rating. The process would first involve the establishment of the Alaska Capital Income Account, as specified in SB 122, as a subaccount of the Permanent Fund Earnings Reserve Account (ERA). "The money doesn't flow to the general fund and therefore it can be construed as being self-supporting and not included in the State's net tax supported debt. This is a very important feature of the proposal."

Mr. Mitchell stated that, "money in the Alaska Capital Income Account would then be available for annual appropriation for any legitimate purpose including to the State of Alaska Capital Corporation". The Alaska Capital Corporation would be a new public corporation created in the Department of Revenue. The Corporation's Board would include the State Bond Committee supported by existing

Department of Revenue staff. "The Corporation would be able to enter into operating leases that would provide for the annual transfer of money from the Capital Income Account to the Corporation, subject to annual appropriation." The bond structure being proposed is a flexible amortization-type of bond issuance, often referred to as a "turbo" structure. It would require interest only payments for up to a 40-year schedule with a final balloon payment at the end. This structure would also allow for "a paying down of principal in the short years as you had principal available". It would allow for volatility in the market. The historical realized return of the Permanent Fund over the past twenty years has been 8.94 percent; the current realized return assumption is 7.04 percent. Were a 7.04 percent return realized, approximately $29,800,0000 a year would be generated by the settlement funds. That "anticipated revenue stream" could be leveraged over 17 years to obtain the $340 million in capital projects being proposed.

Mr. Mitchell qualified however, that it would be unrealistic to anticipate "a flat 7.04 percent return a year". Returns have fluctuated from a low of 1.15 percent to "double-digit percents in other years"; thus the need to address the volatility issue. The proposed turbo structure concept has been deemed acceptable by the State's credit agencies. It has also been discussed with underwriters, and while the various underwriters "have different ideas on how the actual implementation of the program might occur, there seems to be a consensus that there are means of dealing with the revenue stream, the volatile revenue stream, insuring a high probability of ability to pay". He noted that "one important credit feature" of this proposal is that the Corporation would have "a moral obligation on a reserve fund". A "moral obligation is that there would be a reserve requirement…"

Mr. Mitchell stated that one component of the tax code "is the maximum annual service, and, if there is ever a draw on that reserve fund, then the Board is charged with requesting replenishment from the Legislature". The State currently has approximately $1.1 billion in outstanding bonds that have such a moral obligation associated with them. This in effect would establish "a floor" in regards to the bond issuance. He explained how the State's investment grade credit rating could be affected were bonds sold without such a floor.

3:11:05 PM

Ms. Frasca informed the Committee that further information could be found in the Office of Management and Budget background paper titled "Use of the Amerada Hess Settlement to Fund Capital

Projects" [copy on file] included in Members' packets. The schematics of the two proposals are located on page seven and eight.

3:11:30 PM

Senator Dyson asked whether it would be possible "to issue too many bonds and overload the system".

Mr. Mitchell responded that regardless of whether the question pertained to the State's overall bonding or specifically to this proposal, the answer would be "yes". To that point, the Department of Revenue "has a strong desire to maintain the State's" AA credit rating. In order to maintain that credit rating "outside analysts" are utilized to review the State's action on a continual basis. While some states' debt management department might be able to develop "a debt capacity based on projected revenues for the next twenty years", such action would be impossible in Alaska as the State's primary source of revenue is extremely volatile. This is the reason for requiring large reserves in such funds as the Constitutional Budget Reserve. Therefore, in response to the question as to whether there would be a limitation on the State's ability to leverage, this proposal would be recognized as being sustainable. It could survive a very negative earnings scenario or cash flow scenario. On a broader scope, it would provide the State money that would not impact the State's credit rating.

3:13:40 PM

Co-Chair Wilken voiced being "surprised" that on the 111th day of the Legislative Session, even though it has been discussed by Legislators and the Administration, the status of this legislation is as it was on the first day of the Session. While he has no issue with utilizing Amerada Hess earnings, he does have a problem with "the complicated system" being proposed. He would support using Amerada Hess earnings for the debt retirement account as it would provide approximately $30,000,000 to support this year's $140,000,000 debt to fund schools, harbors, and other needs. That action would be "perfectly defensible".

Co-Chair Wilken deemed the activities associated with the Alaska Corporation Income Account and the Capital Corporation, as depicted on the aforementioned schematics, as being "unnecessary". A simpler solution would be to move the money from the Amerada Hess Fund into the Debt Retirement Fund.

Co-Chair Wilken shared his objection to some of the projects proposed to be funded in this manner, because doing so would amount

to committing "15-year money" to fund three-year projects. While he voiced support for the array of projects, funding them in this manner would not be considered "good fiscal management". Other funding sources are available.

3:16:16 PM

Co-Chair Wilken continued that he could not support the establishment of a new bureaucracy through which to fund capital projects, as it would not be necessary. The Amerada Hess money could be deposited into an account that is currently utilized to fund bonds.

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Ms. Frasca appreciated Co-Chair Wilken's comments. She reminded that the Administration had provided its budget proposal in December 2004 and that work on it had begun as early as October 2004. The options through which to fund the infrastructure were uncertain at that time. She recognized that "shifting" the Amerada Hess funding to the Debt Retirement Fund was an option; however, that Fund would be utilized to fund prior years' obligations. The desire with this legislation was to finance and develop future infrastructure needs. "We share the same goals in terms of where we want to go, and the question is how best to finance it." At the time the budget was being developed, this was considered the best option as it met the criteria and did not jeopardize the State's credit rating. It is still considered "a good mechanism".

3:18:16 PM

Co-Chair Green stated that the question is how to best balance the funds that are available. There is a "different feel to this year's budget" than in previous years, because, other than Department of Transportation and Public Facilities transportation and federally funded projects, the amount of capital budget projects was held to a minimum. There are numerous funds out there and efforts should be exerted to reach a balance in utilizing the funds that are available.

Co-Chair Green voiced appreciation for the information that has been provided.

Senator Stedman voiced that he holds a similar position to that of Co-Chair Wilken.

The bills were HELD in Committee.

3:20:00 PM

#sb135

CS FOR SENATE BILL NO. 135(JUD)
"An Act relating to the crimes of assault and custodial interference; and providing for an effective date."

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

Senator Dyson, the bill's sponsor, stated that he had sponsored the bill on behalf of the Governor Frank Murkowski Administration. Therefore, he would defer to the Department of Law to present the merits of the bill.

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DEAN GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law, stated that this bill would address "two child protection matters that were made necessary by a couple of opinions by the" State's Court of Appeals. One case involved a woman who went to work and left her new boyfriend to baby-sit her nine-month old infant child. When she returned, she discovered that the infant was bruised around its head and face. She called the hospital and was told to observe the child for a few hours. She eventually took the child to the hospital. A Cat Scan was conducted on the child to determine whether there might be internal injuries and a blood test was administered. The child recuperated without any lasting injuries. Based on law that existed at the time the boyfriend, who claimed that the child's actions caused it to fall out of bed, "was prosecuted for assault". The Department of Law believed a provision of State law would allow a person who assaulted child to the point where medical attention were required, to be charged with a felony offense. The State "Court of Appeals took a very narrow view of what the term treatment meant and said that mere tests for diagnosing what's wrong with the child", even if the test is fairly extensive, would not constitute medical treatment. The tests that were administered were considered as a medical diagnosis, and therefore, the individual could only be charged with "a misdemeanor instead of a felony assault".

Mr. Guaneli informed the Committee that the State of Alaska has a serious problem with assaults against small children including such things as "shaken baby syndrome". The Department believes that people who react angrily against such things as crying babies

"really need the kind of felony level supervision and probation that a felony prosecution provides".

Mr. Guaneli stated that Section 1 of the bill "would change the provision of assault in the third degree" which is a felony level of assault, "to make it clear that if the level of injury to the child would cause a reasonable caregiver to seek medical attention in the form of diagnosis or treatment that that would be sufficient to establish a felony level assault". The goal would be to protect children as much as possible and to ensure that the people who injure a child seriously enough to go to the hospital should be placed "under the appropriate form of supervision".

3:25:25 PM

Mr. Guaneli stated that Sec. 2 of the bill would address situations involving child custody disputes in which a non-custodial parent with visitation rights might leave the State with the child. This situation in not uncommon, and the custodial parent might not hear from either the child or the other parent "for months or sometimes years". The Department's position has been "that the parent who took the child couldn't tell the jury later that" that there action was to protect the child. However, a recent Court of Appeals ruling allowed that argument. That ruling related to a case in which a father with visitation rights had repeatedly told the Alaska State Troopers and the Department of Health and Social Services that the "child wasn't being cared for"; however, no evidence supported that claim. The father eventually "took the child and left the State". Upon being caught, the father was allowed to explain to the jury that he had acted to protect his child.

Mr. Guaneli stated that Sec. 2 would reverse that Court of Appeals' ruling. Current State Statute specifies that if "something is done out of necessity because it would prevent the greater harm from occurring", then it would be "an affirmative defense to a crime". This bill would allow that "affirmative defense of necessity in a custodial interference prosecution, but only if you hold the child for a maximum of 24 hours or until you have an opportunity to go to the police".

Mr. Guaneli stated that this approach has been utilized for other offenses such as an escape from prison were the escapee to claim that such action was "to protect yourself from being brutalized". However, that person "must immediately turn" themselves into the police.

Co-Chair Green asked regarding the reference to "an incompetent person" as reflected in Sec. 2(c), page two, line 20; specifically

whether that language meant that that person must be "under the custody of another, even if they weren't a minor".

> (c) The affirmative defense of necessity under AS 11.81.320 does not apply to a prosecution for custodial interference under (a) of this section if the protracted period for which the person held the child or incompetent person exceed the shorter of the following:

3:28:58 PM

Mr. Guaneli affirmed that to be correct. The underlying crime of custodial interference would involve "someone who takes either a child or an incompetent person, someone who is in custody of somebody else".

Co-Chair Wilken asked the significance of specifying that Section 1 must apply to harming a child ten years of age or younger.

Mr. Guaneli responded that that age reference is in existing law. The Statute was originally developed in response to assaults to children under the age of ten. "They were the least likely to be able to either defend themselves or run and get help."

Co-Chair Green noted that the language being referenced, Sec. 1(C), page one, beginning on line 11, would also indicate that the person conducting the assault be age 18 or older. To that point, she asked whether State Statute exists that would address assaults conducted by those younger than 18 years old.

Mr. Guaneli expressed that this language "was designed to apply to adults and not take into account children who may interact with other children". The goal was to draw a line "to avoid having juvenile delinquency proceedings if someone under 18 is causing injury to a child".

Co-Chair Green asked whether other State Statutes might address the issue of a person under the age of 18 assaulting children.

Mr. Guaneli clarified that standard misdemeanor assault provisions would apply to a person under 18 years of age who commits such an assault. The language in this bill would specify that a person age 18 or older would be subject to a felony. A person under the age of 18 would "be subject to the jurisdiction of the Children's Court".

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, CS SB 135(JUD) was REPORTED from Committee with zero fiscal note #1, dated April 4, 2005 from the Department of Administration; zero fiscal note #2, dated April 1, 2005 from the Alaska Court System, and zero fiscal note #2, dated April 5, 2005 from the Department of Law.

#hb75

SENATE CS FOR CS FOR HOUSE BILL NO. 75(RES)
"An Act relating to the powers and duties of the commissioner of fish and game, Board of Fisheries, and Board of Game in promoting and preserving fishing, hunting, and trapping in the state; and repealing the power and duty of the commissioner of fish and game to assist the United States Fish and Wildlife Service in the enforcement of federal laws regarding fish and game."

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

KEATH HILLIARD, Staff to Representative Mike Kelly, the bill's sponsor, stated that SCS CS HB 75(RES) was an improved version of the original bill. The bill was introduced to preserve and promote "the cultural heritage of hunting, fishing, and trapping" in the State. Such a bill would be consistent with the State's Constitution dealing with "the common use and sustained yield elements in regards to our natural resources". The major change that occurred in the Senate Resources committee substitute, Version 24-LS0359\L was the removal of "the current Statutory obligation that the commissioner of Fish and Game work with the federal Fish and Wildlife Department to enforce all federal regulations".

Co-Chair Green understood that Version "L" included a title change.

M. Hilliard affirmed and noted that the title change resolution has not yet been developed.

Co-Chair Green ordered the bill HELD in order to allow the Senate Concurrent Resolution for the title change to be developed.

3:35:14 PM

#hb35

SENATE CS FOR HOUSE BILL NO. 35(L&C)
"An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors;

extending the term of a temporary member of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

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

REPRESENTATIVE VIC KOHRING, the bill's sponsor, stated that this "simple bill" would extend the State Board of Registration for Architects, Engineers, and Land Surveyors for four years. The ten-member Board, whose members are appointed by the Governor, is charged with adopting regulations and providing oversight for the issuance of licenses to the aforementioned professionals. The Legislative Audit Division recently conducted an audit [copy not provided] and recommended that the Board be continued as it "successfully carries out its mission" and operates in the public interest.

Representative Kohring noted that the Senate Labor & Commerce (L&C) committee substitute contains a change that would best be explained by the organization that lobbied for it. In conclusion, he asked for the Committee's support of the bill.

Co-Chair Green identified SCS CS HB 35(L&C), Version 24-LS0273\Y as being before the Committee.

SAM KITO JR., Chair, Legislative Liaison Committee, Alaska Professional Design Council, spoke in support of the bill. The Senate L&C committee substitute "added the temporary extension of a Landscape Architect position" on the Board. However, the bill drafter inadvertently omitted a paragraph that provided transition language in this regard. The desire would be that this Committee address that inadvertent language omission.

Co-Chair Green asked whether the addition of the Landscape Architect position to the Board would increase the Board to eleven members.

Mr. Kito explained that action in the House of Representative's Finance Committee had changed the temporary Landscape Architect to a permanent position. Concerns that that action might be "premature" were expressed by other House members as well as by the Alaska Professional Design Council. The bill adopted by the House Finance Committee, CS HB35 (FIN) would have increased the Board to eleven members. The Senate L&C committee substitute would specify a ten member Board "plus the one non-voting Landscape Architect position".

Co-Chair Green stated that the Senate L&C bill, Version "Y", before the Committee did not specify the make-up of the ten-member Board.

Co-Chair Wilken moved to adopt the Version "Y" committee substitute (L&C) as the working document.

PAT DAVIDSON, Legislative Auditor, Legislative Audit Division, Legislative Agencies & Offices, affirmed that the Audit recommended a four-year extension of the Board, as the Board operated in the public's interest and the license fees were "sufficient to maintain the operations of the Board". In addition, the audit recommended that the Board consider "the use of sub-specialties or sub-disciplines in the engineering field". Such action is occurring in other states, and thought was that a study should be conducted in this regard to determine what costs and benefits such action might provide.

Co-Chair Green asked for further information about the study.

Ms. Davidson stated that the study would examine the use of specialties in engineering fields or sub-disciplines. Currently licenses are provided to the core areas of Civil, Engineering, Chemical, Electrical, and Mechanical Engineering as well as Mining and Petroleum Engineering. Continuing, however, she noted that there is a list of approximately 13 actual specialties and sub-disciplines. It is unknown whether the activities associated with those areas would warrant their being licensed. That determination would be the purpose of the study.

[NOTE: No formal action regarding the motion to adopt the Senate L&C Committee Version "Y" committee substitute occurred.]

Co-Chair Green ordered the bill HELD in Committee.

3:40:56 PM

#hb132

SENATE CS FOR CS FOR HOUSE BILL NO. 132(JUD)
"An Act relating to certain crimes committed against the elderly; and providing for an effective date."

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

BEN MULLIGAN, Staff to Representative Bill Stoltze, noted that this

bill would increase the penalty for crimes against the elderly for as the population of older citizens in the nation and in Alaska is increasing so are the crimes that target that demographic group. The purpose of the legislation would be to act as a deterrent against such crimes.

Amendment #1: This amendment inserts a new subsection into Section 1 of the bill as follows.

> (c) In addition to any other penalty imposed by law, a person sentenced to an increased sentence under (a) of this section for a crime specified in (b)(9) of this section must immediately surrender any business license issued by the State of Alaska and may not obtain, possess, or hold a business license in the state for two years from the date of sentencing.

Senator Dyson moved to adopt Amendment #1. He noted that this amendment is being sponsored on behalf of Senator Bunde who had introduced a companion bill to this legislation. He also noted that Representative Stoltze was agreeable to the amendment's language.

Mr. Mulligan stated that this amendment would provide a tool through which a person, such as a handyman, who defrauds a senior citizen, would loose the right to hold a State issued business license. Currently no such tool exists.

Co-Chair Green asked how the age of 65 was determined to be the appropriate age for the persons to whom such crimes might be committed.

RANDY RUARO, Assistant Attorney General, Legislation & Regulations Sections, Department of Law, noted that a review of similar legislation in other states indicated that the age of 65 was the most commonly age specified. The age of 65 was an arbitrary decision.

3:44:51 PM

Co-Chair Green viewed the age of 65 as being very "arbitrary", as people in their forties could be devastated by such an "attack".

Mr. Ruaro stressed that as the number of seniors has increased, it has become apparent that they are being "specifically targeted by con artists".

Mr. Mulligan noted that 65-years of age is the approximate age at which the majority of people retire and enter into a fixed income

lifestyle. Crimes committed against people on fixed incomes could be "more significant" than a crime committed against someone in a different phase of life.

In response to a question from Senator Olson, Co-Chair Green clarified that the discussion has morphed from an explanation of the amendment to the age specification. She emphasized her discomfort with age related legislation, as people the age of 65 should not be labeled as being more vulnerable.

Senator Dyson opined that the age of 65 could be viewed as a point at which people "deserve much more respect"; this bill would just affirm that people that age should not be "messed" with.

Senator Olson spoke to the amendment in that the immediate surrender of a business license would affect more than just the business owner, it would affect employees who depend on that business.

Senator Dyson responded that it would be unfortunate to work for such "jerks". The intent of the amendment would be to remove the business license related to the crime.

Mr. Mulligan affirmed that the intent would be the elimination of the business license used to defraud the person.

Co-Chair Green asked for clarification as to whether this amendment could affect a business license that was totally unrelated to the crime.

Mr. Ruaro suggested that the amendment language be revised to tie the business license removal to that associated with the crime. The language is "a bit broad".

Co-Chair Green objected to the amendment.

Senator Dyson moved to withdraw Amendment #1.

Without objection, Amendment #1 was WITHDRAWN.

3:50:35 PM

MARIE DARLIN, Representative, AARP, spoke in support of the bill. She noted that while violent crime receives the most media attention, fraud and identity theft crimes are increasingly targeting the elderly, particularly individuals 65 years of age or older. The loss of any amount of money could be more devastating to a retired victim living on a low or fixed income. AARP research has

found that people over the age of 50 are increasingly staying home at night due to fear of becoming a crime victim. She noted that AARP would not object were the age specified in the bill changed. This bill would assist in deterring those who prey on the oldest victims, regardless of whether it was violent crime, property crime, fraud, or identity thief. Reducing crimes against older persons would assist in restoring their freedom and help prevent them from essentially becoming "prisoners" in their own home.

Co-Chair Green asked whether Ms. Darlin would anticipate this legislation to be a deterrent to such crime.

Ms. Darlin declared, "yes", the increased penalties would be a deterrent. AARP would be conducting seminars on identity theft and other scams. It could take years for a person to recover from identity thief. The seminars would be open to people of all ages.

Co-Chair Green stated that the bill would be HELD in Committee to allow the amendment's language to be reworked.

#hb230

HOUSE BILL NO. 230
"An Act authorizing the making of loans for upgrade of commercial fishing tender vessels and gear."

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

IAN FISK, Staff to Representative Bill Thomas, the bill's sponsor, informed the Committee that this bill would address "commercial fishing tenders and their ability to access the Commercial Fishing Revolving Loan fund". Tenders could be likened to truckers, as their job is to receive fish from the harvesters on the fishing grounds and transport them to the processing plants on shore. "The Revolving Loan Fund is a mechanism that the State used to promote the State ownership of fishing permits and vessels." The problem with the Revolving Loan Fund is that tenders "are not considered fisherman" and as such are not eligible for loans from the fund.

Co-Chair Green asked whether a tender was a person or a vessel.

Mr. Fisk responded that a tender is a vessel that is operated by a tenderman.

Mr. Fisk continued that the bill would allow tenders to be eligible for the Commercial Fishing Revolving Loan fund, specifically the

Product Quality Improvement Loan component of the Fund. The purpose of that component is to provide funds to fisherman to add equipment to their vessels that would assist in maintaining "the quality of the fish after it is harvested". Provided tenders the ability to acquire loans in this regard would further the State's endeavor to maintain the quality and value of its fish and further State residents ownership abilities.

Co-Chair Green asked the history of the bill.

Mr. Fisk communicated that the Alaska Independent Tenderman's Association brought this issue to Representative Thomas' attention. He noted that this is companion legislation to SB 145-LOANS FOR COMMERCIAL FISHING TENDERS, which was sponsored by Senator Stedman.

3:57:28 PM

Co-Chair Wilken asked the reason for furthering this endeavor through the State's Commercial Fishing Revolving Loan Fund when options are available through the privately owned Alaska Commercial Fishing and Agriculture Bank (CFAB).

Mr. Fisk expressed that the issue of whether "CFAB was truly an independent private entity" would be debatable. The Division of Investments, which is the State division that manages the Commercial Fishing Revolving Loan Fund, could provide better terms to the industry. "They are an excellent organization to work with." Due to the inherent risk involved, it is "often difficult" for people in the fishing industry to find private financing. "That is the reason that the Revolving loan fund was created to begin with." This bill would "correct an inconsistency in that program".

Co-Chair Wilken asked whether "the credit worthiness requirements" were the same for both the State and CFAB.

Mr. Fisk responded that the Division of investments would best answer that question. Continuing, however, he shared that "the Revolving Loan Fund has been very successful" and has not utilized general funds since its inception in 1985. It has more than compensated the initial capitalization and it essentially "operates independently". The Fund provides the entirety of the Division's operating expenses, and "is an excellent example of a program that promotes Alaskan ownership … in an independent manner, in that it does not require Legislative assistance to operate each year. The Fund has also supported other programs.

3:59:40 PM

Co-Chair Wilken understood the answer to be that the State provides better terms. The question remains as to whether its credit worthiness terms differ from those offered elsewhere.

Mr. Fisk responded that the Division of Investments conducts a thorough scrutiny of the applicants. "Credit worthiness is definitely" a factor. "The fact that the program is as successful as it is would testify to the Division's ability to scrutinize applications and to determine credit worthiness."

Co-Chair Wilken voiced being okay with that; however, he continued to voice concern about the State competing with CFAB for business.

4:01:18 PM

Mr. Fisk responded that the Commercial Fishing Revolving Loan Fund was established after the Limited Entry Act with the intent of ensuring that Alaskans had access to the fisheries. CFAB was created following that. He had no knowledge regarding the inception of CFAB. Nonetheless, both entities "are quasi private". The Division of Investments is the more "popular" of the two programs, within the industry.

Co-Chair Green ordered the bill HELD in Committee in order to further address Co-Chair Wilken's questions.
#

ADJOURNMENT

Co-Chair Green adjourned the meeting at 04:02 PM.