

MINUTES
SENATE FINANCE COMMITTEE
May 7, 2006
1:14 p.m.

CALL TO ORDER

Co-Chair Lyda Green convened the meeting at approximately [1:14:18 PM](#).

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Bert Stedman

Also Attending: MICHAEL PAWLOWSKI, Staff to Representative Kevin Meyer; RAY HICKLE, President, Anchorage Homebuilders Association; PAUL LISANKIE, Director, Workers' Compensation Division, Department of Labor and Workforce Development; LINDA HALL, Director, Division of Insurance, Department of Commerce, Community and Economic Development; JANET CLARKE, Assistant Commissioner, Department of Health and Social Services; SHARLEEN GRIFFIN, Director, Division of Administrative Services, Department of Corrections; PAUL LABOLLE, Staff to Representative Richard Foster; HEATHER BRADY, Staff to Representative Harry Crawford; DOUG WOOLIVER, Administrative Attorney, Alaska Court System; HEALTH HILYARD, Staff to Representative Tom Anderson;

Attending via Teleconference: From an offnet location: ROBERT VOGEL, Vice President of Operations, Pro Group Management, representing Anchorage Home Builders Association; DAVE KESTER, Workers' Compensation Committee of Alaska; MIKE COMBS, President, Alaska Independent Insurance Agent Association; KENTON BRINE, Property Casualty Insurance Association; From Anchorage: DUANNE BANNOCK, Director, Division of Motor Vehicles, Department of Administration.

SUMMARY INFORMATION

HB 51-EMPLOYER ASSN FOR WORKERS' COMP INS

The Committee heard from the sponsor, the Department of Labor and Workforce Development, the Department of Commerce, Community and Economic Development, representatives of the construction and insurance industries, and a workers' compensation organization. The bill was held in Committee.

HB 485-STATE PHARMACISTS/DOCTORS: EXEMPT SERVICE

The Committee heard from the Department of Health and Social Services and the Department of Corrections. The bill was reported from Committee.

HB 190-REQUIRED ID FOR PURCHASING ALCOHOL

The Committee heard from the sponsors, the Alaska Court System and the Department of Administration. The bill was held in Committee.

HB 150-LICENSING RADIOLOGIC TECHNICIANS

The Committee heard from the sponsor. A motion to report the bill from Committee failed 5-2, and the bill was held in Committee.

#hb51

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CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 51(FIN)

"An Act relating to associations of self-insured employers for purposes of providing workers' compensation coverage and allowing employers who are members of the same trade to form associations for providing self-insurance for workers' compensation coverage; and providing for an effective date."

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

MICHAEL PAWLOWSKI, Staff to Representative Kevin Meyer, testified that a single employer is currently allowed to self-insure for workers' compensation obligations, provided they meet certain requirements.

This bill would allow a group of smaller employers to cooperate with each other to meet the same requirements to self-insure their workers' compensation commitments.

Co-Chair Green moved for adoption of SCS HB 51 24-LS0233\R as a working document, and objected for explanation.

Mr. Pawlowski continued that the proposed committee substitute would "close loopholes" in the bill. A provision was deleted to clarify that the association of businesses was considered an insurer, not an employer.

Mr. Pawlowski located another change in subsection (b)(7) of Sec. 21.77.040. Board of directors; members; duties; prohibited acts., added by Section 1 on page 5 lines 11-12, which required that insurance claims adjusters employed by the association be residents of the State. That provision was added to address "oversight" concerns voiced by the Division of Insurance.

Mr. Pawlowski informed that an additional modification was made at the suggestion of the Division of Insurance, inserting language to provide a mechanism to "unwind" the association and go into receivership, and provides a guarantee mechanism. Mr. Pawlowski opined that the new provisions, coupled with the requirement of surety and solvency bonds, auditing assessments, and other financial controls in the bill render this a "policy decision".

Mr. Pawlowski noted that to conform to the intent of the Senate Labor and Commerce Committee, page 16 of the proposed committee substitute contained an amendment adopted by that committee to the companion bill SB 241.

Mr. Pawlowski concluded that the bill does not address larger issues with workers compensation, but would assist smaller employers by allowing them to "bind their businesses together" to self-insure for workers' compensation obligations.

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ROBERT VOGEL, Vice President of Operations, Pro Group Management, representing Anchorage Home Builders Association, testified via teleconference from an offnet location that he was available to respond to questions. He spoke to the proposed

legislation and its relation to a similar practice in the state of Nevada.

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Senator Bunde understood the program worked well in Nevada, and asked if the bill under consideration incorporated all the provisions of the Nevada law.

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Mr. Vogel responded that 37 states have comparable laws, and while there are slight variations between states, he considered the bill a good "fit" within the framework of Alaska law.

Senator Bunde questioned in any provisions of "substantial benefit" may have been omitted.

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Mr. Vogel did not believe so.

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Senator Stedman requested population comparisons, as Nevada and Alaska have different demographics.

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Mr. Vogel replied that when the law was initially passed in Nevada in 1993, the population was approximately 800,000. When New Mexico passed a corresponding law in 1991, that state's population was less than 1 million. Nevada currently has 13 self-insured groups, including auto dealers, home builders, trucking groups, and municipalities. New Mexico has approximately 14 groups of similar businesses. By comparison, California passed its version of the law in the early 1990s, but had no self-insured groups form until 2000. Since that time, California has instituted workers' compensation reform bills, and now has over 20 self-insured groups, with approximately 40 additional groups in the process of forming.

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Senator Bunde voiced concern that self-insured groups may become insolvent, despite the best intentions of those involved. He inquired if any of the groups in other states had become insolvent, and if so, who was ultimately responsible for a workplace injury claim.

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Mr. Vogel reported that none of the groups in Nevada have become insolvent; conversely they have "done very well", generating a "healthy" surplus over a period of ten years. Likewise, self-insured groups in New Mexico and California recount no incidence of insolvency. If a group did become insolvent, an injured worker would be covered by the group's tangible net worth, required by the Alaska law to be at least \$10 million. The net worth requirement is the strength and credibility of that group. Additionally, every group has excess insurance to protect against catastrophic losses. He offered the example of a worker injured in fire, one of the most expensive types of claims. In that case, the qualified excess insurer would protect the group, requiring perhaps a \$500,000 deductible. Furthermore, groups would be required to post solvency bonds, security bonds or a letter of credit in the event the group was not able to meet their obligations.

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Senator Bunde expressed concern over the possibility of "cherry picking" whereby employers with low rates of workers' compensation claims would bind together to self-insure their obligations. This would leave the higher-risk employers in the traditional workers' comp insurance pool, relative injury rates would increase, and rates would increase accordingly. He asked if workers' compensation costs had increased in states that allow groups to self-insure.

Mr. Vogel responded that California experienced an approximate 40 percent decrease in workers' compensation insurance costs since reforms were instituted. The advent of self-insured groups in New Mexico served to help strengthen the market. While insurance rates had been increasing, the introduction of the self-insured group option functioned to stabilize the market, prompting insurers to reenter the market with lower insurance rates. Similarly, Nevada's workers' compensation arena had been a monopolistic system with rising rates, but in the several

years since the law was enacted, rates had decreased an average of two to three percent per year.

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DAVE KESTER, Workers' Compensation Committee of Alaska, testified via teleconference from an offnet location in opposition to the bill. He described the bill as unnecessary, because regulations currently exist to allow for the formation of "reciprocal insurance arrangements" for groups of employers. He exemplified the Alaska Timber Exchange, the Alaska Municipal League Joint Insurance Association, and the Alaska Rural Electric Cooperative Association as groups that have been formed and successfully operate under current regulations.

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Mr. Kester observed that the bill is designed to exempt self-insured groups from the necessary regulation and financial oversight of the Division of Insurance. Without this oversight an injured worker could experience insolvency of the group and not receive adequate payment of the workers' compensation claim. He also spoke to the "inadequate guarantee mechanisms" within the bill, and was troubled by the prospect of significant financial burden forcing a small member employer in to bankruptcy.

Mr. Kester continued that the proposed legislation did not have the support of the Director of the Division of Insurance, Linda Hall. Her lack of support should alert members to problems with the bill.

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MIKE COMBS, President, Alaska Independent Insurance Agents & Brokers Incorporated, testified via teleconference from an offnet location that the association did not support the bill. The legislature adopted significant reforms to workers' compensation insurance in a recent special session and the impacts of those changes have not had adequate time to present themselves.

Mr. Combs furthered that while the proposed legislation contained joint and several liabilities, there was no provision for personal indemnification. Therefore, only business assets

would be available to an injured worker seeking relief under a workers' compensation claim, and business assets could be protected through actions such as incorporation. In contrast, under the "cross liability" provision of standard workers' compensation insurance plans, if one employer becomes insolvent, the other employers within the state are responsible for payment of the claim.

Mr. Combs voiced concern regarding the manner in which insurance rates would be established, as it appeared that none of the self-insured groups were members of the National Council on Compensation Insurance, and would therefore not have access to those rates. He preferred reciprocal insurance arrangements.

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KENTON BRINE, Property Casualty Insurers Association, testified via teleconference from an offnet location in Olympia, Washington, in opposition of the bill. He referenced a single claim in the State of Alaska that had warranted a \$7.7 million "set-aside" reserve in anticipation of final settlement. He offered the \$7.7 million claim by a single injured worker as evidence that the \$10 million guarantee provided for in the bill was inadequate. While he was not opposed to the formation of self-insured groups, he desired stronger financial protections and regulation. He appreciated and supported reforms made to workers' compensation the prior legislative session, and encouraged the Committee to continue in that direction by rejecting the proposed bill.

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RAY HICKLE, President, Anchorage Homebuilders Association, testified in Juneau in support of the bill. He stated that homebuilders need some "relief" to the workers' compensation issues, as insurance rates for carpenters and roofers are too high. He spoke to the Association's willingness to work with the Committee to revise the bill to address any concerns of the members.

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Senator Dyson asked the witness's response to the statement that this type of an association is already permissible under state law, and the proposed legislation is unnecessary.

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Mr. Hickle replied that "reciprocals are top heavy and they waste money."

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Senator Dyson asked regarding the statement that, as proposed, this bill would not provide adequate financial strength of the self-insured groups to address claims that would arise.

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Mr. Hickle responded that self-insured groups would have "reinsurance" with joint and several liabilities for catastrophic events. Currently, the requirements for a single company to acquire reinsurance include assets of \$5 million and one hundred employees.

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PAUL LISANKIE, Director, Division of Workers' Compensation, Department of Labor and Workforce Development, testified in Juneau that the Department was not opposed to the basic premise of self insurance for workers' compensation liability. He informed that the State has had a self-insurance program in operation for 47 years, which his Department administers. He characterized the Department's program as "successful".

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Mr. Lisankie identified "distinctions" between the State's current self-insurance program and the proposed legislation. While the current program requires a minimum net asset value of \$5 million, the Department's primary focus, by statute, is the financial ability to pay of the business wanting to self-insure. He considered the \$5 million net asset requirement a "basic qualification" of the program, not a guarantee that the business would be approved for self-insurance. Therefore, the current regulation provision should be considered as a basic component of any proposal. He noted that the current program also contains an "excess insurance" stipulation to limit the company's exposure in the case of an extremely large workers' compensation settlement, such as a permanent total disability case. His

research revealed several self-insured entities had gone out of business for reasons unrelated to their workers' compensation liability. This is illustrative of the risks involved in allowing a business to self-insure. A company that is currently financially strong and meets the requirements for self-insurance of workers' compensation obligations could stop operating for any number of reasons. This could render an injured worker unable to collect their permanent total disability payments. He urged the Committee to consider all risks associated with self-insurance of workers' compensation liability.

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Mr. Lisankie told of a case involving Wein Airlines and an injured worker. Wein was a self-insured company that had gone out of business. The Division had to undertake great effort to secure the pass-through funding to provide to this injured worker. The benefits were paid for many years until the former worker passed away, and Mr. Lisankie used this case to illustrate how important it is for a self-insured company to be able to pay long-term benefits to injured workers, regardless of the health of the company.

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Senator Stedman recalled an earlier comment that rates for self-insurance were approximately 30 to 40 percent of the cost of traditional workers' compensation insurance, and earlier testimony that 13 businesses in Nevada had opted out of normal workers' compensation to form their own self-insured association. He wondered if Alaska would be faced with an adverse selection of traditional workers compensation participants, thus compounding the difficulties already facing the workers' compensation system.

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Mr. Lisankie replied that such a scenario is a viable concern, considering Alaska's large area and small population. He reviewed other states in similar situations. Of the seven states with comparable populations of fewer than one million, four of those states do not allow self insurance groups, with Idaho allowing only electrical utility companies to self-insure. Two of the states that allow for self-insurance of workers' compensation have established either a guarantee "fund" or

"mechanism". He cited only one state similar in population to Alaska that allowed self-insurance without a guarantee mechanism of some form.

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Senator Stedman recounted significant workers' compensation reforms made by the legislature, and understood these reforms had only recently been implemented and their effects were not yet tangible.

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Mr. Lisankie shared his observation that "things are starting to improve." He considered the reforms initiated by the legislature as the beginning of the improvement process, but agreed that they had not had adequate time to manifest themselves.

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Senator Olson commented that while businesses may "come and go", that is also true of insurance companies.

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Mr. Lisankie agreed. However, insurance companies are heavily regulated, and the State has a guarantee fund. He opined that insurance companies offer more security.

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Senator Olson asked the number of self insurance certificates granted by the State.

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Mr. Lisankie responded that a total of 31 entities are self-insured in Alaska, and of those, 23 were private companies and eight were public agencies, governments and school districts.

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Senator Olson asked the discrepancy between the \$5 million and \$10 million tangible net worth requirements.

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Mr. Lisankie had not fully reviewed the proposed committee substitute, and presumed the differences were a technical drafting error.

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LINDA HALL, Director, Division of Insurance, Department of Commerce, Community and Economic Development, testified in Juneau to her "strong" opposition to this legislation. Her statement was as follows.

The opposition is not just from the Division of Insurance. Mr. Lisankie from the Department of Labor and Workforce Development has also evidenced that, as have some other groups. It's been an uncomfortable position to be in to be in strong opposition to legislation proposed by members of this body. It's not something I've done often, and I don't do it lightly. It is a public policy decision and I'd like to share some thoughts with you.

As the lead regulator of the insurance industry in Alaska, it is the mission of the Division of Insurance to do three things: one is to enforce insurance statutes, second is to protect the consumer, third is to enhance the business environment. I think this legislation violates two of those things: consumer protection, and I will speak to both these, and the enhancement of the insurance business in our state.

I speak before you today to present my analysis of a proposal that I think is not good public policy. I had not seen the CS until I came here today, I had not asked for a CS to be done in the Senate. I have certainly made my concerns about the bill known from the time it started last year, and as I have worked with one of the major sponsoring groups over the course of the summer. The concerns that I have as we've gone through various committees, as I've voiced those concerns repeatedly, changes have been made. I'm not sure, today I have not had a chance to look at this, to have an idea if my concerns are met or not. I'm going to address those concerns. It would appear from the testimony some are met, some are not.

I will talk about my four major concerns. One is liquidity. I'm looking for real money to pay real claims. We have certainly increased from \$5 million to \$10 million a tangible net worth requirement for these groups. It's left up to the Director to define "tangible net worth." As I understand, tangible means thing you can touch, things you can see. I'm assuming when some director who follows me makes this definition it will include buildings, CATs [Caterpillar equipment], trucks, whatever the tangible net worth is. We can't pay work comp claims with buildings. We would guarantee a business would go out of business if they had to liquidate their assets to pay work comp claims. So I'm not today convinced that tangible net worth gives us the protection we're looking for. One of the, and I certainly will address one of the comments asked earlier about reciprocals and why I advocated that early in the process.

Guarantee fund is my second concern. I do understand that the CS that I haven't read contains a provision for the guarantee fund. I've been in front of this body looking for solutions to an insolvent insurance company. There is a mechanism and it's worked. I will address that later in my comments also. The licenses that are required I believe are in the CS. I have made that an issue as I've talked. It's disturbing to me that I've had to go till the third to the end day of session and numerous committee hearings to have somebody now, at the last minute, bring these to the table. Process to deal with an insolvent group, the version I prepared my comments on had an ability for the Director if an association was insolvent, to withdraw their certificate. It had no process to do that. Insurance statutes clearly, in chapter 78, set out both rehabilitation and liquidation provisions. There needs to be a mechanism, whether this bill now includes that I really don't know.

I would like to address some of the comments that have been made as I have made my opposition known. There's been an indication from a number of people to me that, "Well, you have the authority to decline applications. If one of these associations comes to you and presents the application you can decline it." I think it is my obligation under Alaska statute to try to implement the things that this body passes. I can't imagine any director looking at

applications and being able to deny that application because you didn't think, you didn't like, the provisions of this particular chapter. I don't operate that way and I can't imagine you would tolerate anyone operating that way. There are numerous financial requirements as I've mentioned before. The most important element to me today is liquidity. A number of other states who allow self-insurance associations do have working capital requirements. There needs to be money. The excess insurance is certainly there. Again, there is authority in this legislation for the Director to make a determination of the level of excess insurance. You heard testimony earlier of an insurance company having a single claim reserved at \$7.7 million. If in fact I were the director requiring an applicant to provide me evidence of insurance of \$10, \$15, \$20 million excess insurance, I think I would probably get push back that those were excessive, we don't need those, our claims won't be that big. So there's a lot of balancing here.

I would also present to you that I don't think this bill does what it's purported to do. We're looking at small employers. In this bill there is a minimum \$10,000 assessment from each member, so when you put five members together there's an aggregate assessment of \$300,000 to have a sufficient size to begin to work. But each individual member must have a minimum of a \$10,000 assessment, and because it's self-insurance we don't call it "premium" we call it "assessments." Many of our small businesses who are looking for relief, and I will certainly grant they need relief, are not going to be helped by this. They can't pay \$10,000. That's what we're looking for is ability to find options for those types of businesses. This is not going to do that.

So what we're doing is benefiting larger groups and leaving those that I see in this point, most vulnerable to still be in the system that, admittedly even by the sponsor statements, I'm sorry, not the sponsor statements, the proponent statements, is a broken system.

My other major area of concern is my marketplace. I'm responsible for the insurance marketplace. Is it working wonderfully? Of course not. But am I seeing good things happen? I am. And I'd like to detail some of those.

We have a small marketplace. That's been alluded to, questions about population. As we allow more and more groups to opt out of that marketplace, our market becomes less and less attractive. We don't have people in here trying to compete for the business. There isn't enough business here for them to truly be able to use their assets and really get a return on those. I believe the term has already been used and I've used it. There is certainly an ability to do "cherry picking". I've heard testimony that "Well, we will only take the best groups to do this." What does that mean to an employer who's had a couple losses? And maybe isn't one of the best groups?

There's an ability to do safety programs today. I think, "Shame on any employer who doesn't have a safety program." That is the best thing to do for workers' compensation. I looked at someone's individual experience this week, a member of this body who had, it's called... an "experience modification" that gave him a thirteen percent credit on his business because he had good claims experience as an individual. Those things can happen, and they are an impact. There is today legislation that mandates premium credits for safety programs. So when we allow groups to pick off the best accounts we're spreading the risk over a lesser group of employers who, maybe by no reason of their own have a bad accident. I've insured employers, worked with employers, for 20 years in Alaska. I've seen some incredibly serious claims. When a steel erector with an employee-fall off a roof, that's a bad experience. Didn't mean they didn't have safety programs. They did. But they happen. Claims happen. It's very unfortunate.

I'm going to give you some regulatory examples that I've gotten from people around the country who sit in my role that show some need for oversight and a different kind of protection. Recently in Kentucky, a self-insured group became insolvent. Court-ordered \$90.7 million assessment, they were able to collect \$68 million in cash and notes from the group members. There's a \$22 million gap there. I don't know where that comes from. I understand all employers in Kentucky are being assessed for that. Ohio had a scandal. Fifty million dollars in work comp money was invested in rare coins. There was also a theft of over a million dollars. We regulate the kinds of investments

groups can make. New York has 62 workers self-insured trusts, work comp trusts. In October the workers' compensation board in New York acknowledged that at least half were operating under-funded, and at least were assessing members to reduce shortfalls that were running as high as \$15 million per trust, \$163 million in aggregate. Kansas recently, documents came out of the 11 self-insured funds, five either lost money or had negative fund balances.

Self-insurance can work, but it has the same problems as insurance. The costs are high. The cost of systems, the cost of the benefits, are high. I have seen in the three years I've been in this position starting little glimmers of hope in our system. We have an assigned risk pool. It is supported solely by insurance companies. It has been a deterrent in our marketplace of competition. In the last eight years Alaska, for the first time in 2005, had, did not lose money in the assigned risk pool. That makes it a more attractive place for insurance companies to do business. Our market shares in the pool in 2003 were 20 percent. Twenty percent of our premium was in the assigned risk pool. 2005, we've dropped that to 15 percent. More accounts are being written outside of that pool in a traditional market.

Our guarantee fund, I mentioned that earlier, for me it was probably the thing I would point to most since I've been coming before this legislature, the ability to find a fix for a huge hole that left over 800 injured workers with no benefits. It left over 400 Alaskan employers with a financial responsibility they never expected to have. This legislature worked with me to find a solution. We did increase assessments; it has increased the cost of workers' comp for the last couple years. 2006 those assessments were no longer made. That fix has worked, and that guarantee association has recouped money from other insolvent insurance company estates. I've worked with them diligently to try to do that. We've seen that work.

I'm seeing expansions of insurance companies in our state. I've watched two insurance companies who had one adjuster operating out of their home open claims offices, increase their staff, sign long-term leases. Are they writing tons of business yet? No. But they are really looking at our

market and they're having an increased renewed interest in expanding what they're doing here.

A member of the House of Representatives, just this week, told me a story of a constituent that I would like to relay to you. He had a constituent who was complaining about having to close his business. He could no longer afford workers' compensation. You hear those comments from constituents. I hear those comments from employers. This gentleman told him that after we did reforms, this year he had bids from three insurance companies, reduced his cost by \$50,000. Some of the prior speakers are correct: we haven't yet the chance to see the full effects of reform, but I'm seeing signs in our workplace that this can work.

California, from July of 2003 to January 2006, has seen a 46 percent decrease in their premiums, based on the California work comp study. They also indicate in that same study that without the reform, that actually would have been a 60 percent decrease over what they would have expected. Pennsylvania, rates have dropped \$100 million due to reforms.

We have tried to do reform. We did reform last year. We've tried to do more. I'm really disappointed. There are a number of groups who have signed on to support this bill that did not become involved in the system reforms we did last year, and now they're looking for "carve out". We can do a better job. I really think it's not a level playing field to let them out of a system that they don't want to help work with. I prepared, I believe in Senate Labor & Commerce, even, although they looked at me like I was nuts now. Not the first time. We have [indiscernible] guidelines. If we're going to look at something, we need to help our system. We need to do something about the cost. It really doesn't matter who writes that claim check if the system costs are X. I've heard comments about reciprocals being top heavy, charging too much. If you look at this bill, 35 percent is allowed there for administrative fees. That leaves 65 percent to pay claims. I don't think that's really any different than any system I see. I see the filings from insurance companies. We're seeing the same expense ratios at the top; what it costs to administer, what it costs to do things. This isn't that different. I'm not sure there's any savings here.

I will wrap up, thank you for your patience. Self-insurance, in itself, works well in some circumstances if safeguards in place. I would really like to work with our system. I think it's broken. Director Lisankie and I have worked relentlessly for two years to work in that system. I have sat in this chair and proposed solutions. I don't think the solution is to let more groups opt out. If Alaska addresses the issues of cost, it too will see a reduction in premiums. If we just think changing the entity that writes the checks will bring down costs, I think we're mistaken. If we think claims can be controlled better by changing the entity that handles them, I'm thinking we're facing potential harm to injured workers.

We have standards that have to be met. There are standards that are not in this bill where, in my department, we have what are called "unfair trade practices." That includes handling claims. I have today in my office a very serious allegation against a company who's handling claims. They are probably, right now, subject to several hundred thousand dollars worth of fines for the way they handle claims. I want to make sure that I still have that ability. I want to make sure that those injured workers are treated according to our statutes. I certainly mean no disrespect for the sponsors of this bill, but I really would urge you to consider the pitfalls, and to oppose it.

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Senator Dyson recalled conversations he had with Ms. Hall several years prior regarding methods of reducing costs in the health insurance arena. He summarized those exchanges as indicating that increased numbers of self-insured individuals had the effect of making the health insurance industry in Alaska less attractive to insurance companies, and wondered if the same was true for workers' compensation insurance companies.

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Ms. Hall affirmed. She explained that the same dynamics and "cost drivers" apply with fewer participants in a system. Approximately 67 percent of workers' compensation expenses are medical costs, an increase from 40 percent five years ago. The

increases in both fields are due to increased self-insurance and lack of regulation and oversight.

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Senator Stedman understood Ms. Hall had testified that workers' compensation issues appear to be improving, and more insurers are considering entering the market place.

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Ms. Hall clarified that she did not know of new companies entering the marketplace, but those that currently write policies in Alaska are looking to expand their businesses and increase investment in the State. She expected changes to be positive and gradual. She divulged that her office was working with one new health insurance company, something she considered "a wonderful step", and something that had not happened before statutory and regulatory changes occurred.

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Senator Stedman had surmised the Department did not support this bill.

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Ms. Hall agreed that was an "accurate assessment".

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Senator Stedman offered that when both the State's regulatory department and the independent insurance association oppose a bill affecting the industry, the legislature must proceed with caution.

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Co-Chair Green ordered the bill HELD in Committee.

#hb485

[2:23:07 PM](#)

HOUSE BILL NO. 485 am

"An Act amending the State Personnel Act to place in the exempt service pharmacists and physicians employed in the Department of Health and Social Services or in the Department of Corrections; and providing for an effective date."

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

JANET CLARKE, Assistant Commissioner, Department of Health and Social Services, testified that this bill would transfer the pharmacist job class into exempt status from the current placement in classified status. Currently ten positions in the Department of Health and Social Services and the Department of Corrections would be affected by this legislation. The Department of Health and Social Services is advocating the passage of this bill in an attempt to address difficulties in recruiting for these positions. Pharmacist positions in both departments require specific training. For example, the positions within the Department of Health and Social Services call for specialized medical credentials, with the pioneers' homes necessitating geriatric experience and credentials.

Due to the specialized nature of these positions, the Department requested they be transferred from the classified status to exempt status, as they are more similar to other exempt positions in the Department of Health and Social Services.

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Senator Dyson asked about bargaining unit issues related to the bill.

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Ms. Clarke reported that the affected individuals would move from their current bargaining unit participation.

Co-Chair Green had heard from State departments about the "great need" for pharmacists and the difficulties in hiring under the current job classification.

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Co-Chair Wilken noted the seven fiscal notes accompanying the bill, of which six were zero, with the Department of Corrections fiscal note was \$30,000. The other departments would absorb the additional costs into their budgets and he asked why the Department of Corrections would not be able to do so as well.

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Ms. Clarke related that the Department of Health and Social Services had agreed in hearings before the House Finance Committee to a zero fiscal note, as the Department has many more appropriation components from which to absorb costs than does the Department of Corrections.

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SHARLEEN GRIFFIN, Director, Division of Administrative Services, Department of Corrections, testified that the Department has only one budget component for pharmacy costs. The previous two years witnessed supplemental appropriation requests for that component. The State's unhealthy inmate population makes absorbing additional personnel costs unfeasible.

[2:27:39 PM](#)

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

Without objection, HB 485 am, was MOVED from Committee with fiscal note #3 for \$30,700 from the Department of Corrections, and the following zero fiscal notes: #1 from the Department of Commerce, Community and Economic Development; #8 from the House Finance Committee for the Department of Health and Social Services, Public Health Results Delivery Unit (RDU); #9 from the House Finance Committee for the Department of Health and Social Services, Behavioral Health RDU; #10 from the House Finance Committee for the Department of Health and Social Services, Health Care Services RDU; #11 from the House Finance Committee for the Department of Health and Social Services, Alaskan Pioneer Homes RDU; and #12 from the House Finance Committee for the Department of Revenue, Tax and Treasury RDU.

#hb190

[2:28:01 PM](#)

SENATE CS FOR CS FOR HOUSE BILL NO. 190(JUD)

"An Act relating to the purchase of alcoholic beverages and to access to licensed premises; relating to civil liability for certain persons accessing licensed premises; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole and relating to fees for the marked license; and requiring the surrender and cancellation of driver's licenses under certain circumstances."

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

PAUL LABOLLE, Staff to Representative Richard Foster, testified that this bill would attempt to reduce incidents of Driving Under the Influence (DUI). Although Alaska currently has strict DUI statutes, approximately 30 percent of motor vehicle fatalities involve a DUI. This bill would prohibit those convicted of a DUI from consuming alcohol as a term of sentencing and probation. The term Restriction on Consumption (ROC) would appear on their drivers' license. The bill would not require an alcohol vendor to card every customer, but the bill includes a provision allowing for a \$1000 civil penalty to be levied by a vendor that found an individual to be in violation of the restriction while attempting to purchase alcohol.

[2:30:18 PM](#)

Senator Bunde explained the civil penalty provision as it related to selling alcohol to a minor. In that case, a vendor who determines an individual attempting to purchase alcohol is not of age may assess a \$1000 trespass fee. The method had worked well to discourage attempts by minors to purchase alcohol in Anchorage.

[2:31:13 PM](#)

Co-Chair Green asked if the display of "ROC" on the drivers' license is currently allowed.

Mr. Labolle replied that this bill would allow for the display.

[2:31:30 PM](#)

Senator Bunde was willing to support the bill, but anticipated that older DUI offenders were unlikely to be carded when purchasing alcohol. He supposed the threat of a \$1000 fine could provide enough of a deterrent effect to discourage DUI offenders from attempting to procure alcohol.

[2:32:39 PM](#)

Co-Chair Green asked if Members supported the ROC designation on an offender's drivers' license.

[2:32:40 PM](#)

Senator Dyson commented on the "significant" and possibly "radical" measures contained in the bill. He expressed concern regarding the indeterminate fiscal note, and asked if the anticipated cost to the Division of Motor Vehicles (DMV) was known.

[2:33:32 PM](#)

Mr. Labolle responded that the DMV had testified that implementation of this program is within its capability and "easy to do". The fiscal note assigns all costs and fess associated with the printing of the ROC designation to the DUI offender.

[2:34:06 PM](#)

Senator Dyson continued, asking if it would be the responsibility of the DUI offender to go to the DMV and request that the ROC designation be printed on their license.

[2:34:40 PM](#)

Mr. Labolle affirmed.

[2:34:56 PM](#)

Co-Chair Green asked if the courts currently restrict consumption.

Mr. Labolle replied positively.

[2:35:11 PM](#)

Senator Dyson recalled previous technical complications with relaying information between the courts and the DMV, and asked if their computer systems were now compatible.

[2:35:52 PM](#)

Mr. Labolle deferred to the Alaska Court System or the DMV for a response.

[2:36:06 PM](#)

Co-Chair Wilken referenced a letter from the president of the Cabaret, Hotel, Restaurant and Retailers Association (CHARR) [copy not provided] that claimed the bill "will require bars and liquor stores to purchase expensive electronic equipment and hire personnel to operate that equipment." He asked regarding this "equipment".

Mr. Labolle understood the letter was out of date.

[2:37:04 PM](#)

HEATHER BRADY, Staff to Representative Harry Crawford, testified that CHARR had misunderstood the provisions. While the bill requires the DMV to make the ROC restriction a "scanable" item when possible, it would also require a visual display of the restriction on the license, so no additional equipment would be necessary.

[2:37:54 PM](#)

Co-Chair Wilken spoke to a memorandum from legislative legal council dated May 3, 2006 [copy not provided] that questioned, and possibly challenged, the bill itself. He requested a response to that letter.

[2:38:21 PM](#)

Mr. Labolle advised that the concerns addressed in the memorandum related to a drafting disagreement between Division

of Legal and Research Services and the Department of Law. He deferred to Doug Wooliver.

[2:39:04 PM](#)

DOUG WOOLIVER, Administrative Attorney, Alaska Court System, had not seen the memorandum in question. He understood the drafter's concern to "capture municipal ordinances". Nearly half of all misdemeanor DUIs are charged under Anchorage municipal code, not under State statutes.

[2:40:09 PM](#)

Co-Chair Green suggested the memorandum asked how the Department of Administration would garner all information on previous DUIs from other states, and how the Department would identify those on probation and implement the provisions.

[2:40:36 PM](#)

Mr. Wooliver was not aware of how the DMV learns of DUIs committed in other states.

[2:41:02 PM](#)

Mr. Wooliver responded to an earlier question regarding an electronic connection to relay judgments between the Alaska Court System and the DMV. He informed that the two agencies did not currently have such a system, but were working on a multiple-agency connection so the courts could share information with other affected departments more readily.

[2:41:45 PM](#)

Senator Dyson summarized the current method of transferring information in which one agency must print out the information and the receiving agency then must reenter the information into a separate system. This information is of high importance to the DMV as well as police officers, who may need to know as quickly as possible if a warrant has been issued for a person, if a home has a foster child, or other important factors in law enforcement. He asked if a computerized system to facilitate information sharing was "months or years away".

[2:43:11 PM](#)

Mr. Wooliver estimated the State was years away from implementing the ideal system, although each year saw improvements. It is a very costly project, and all departments involved must receive upgrades. For example, while the Court's computer system has been improved, the receiver must also have upgrades to take delivery of this information.

[2:44:09 PM](#)

Senator Dyson asked if completion of the upgrades was two, five, or ten years away.

[2:44:24 PM](#)

Mr. Wooliver projected conclusion within a five year range. However, other needs and priorities, such as bail conditions and collections issues, would continue to be identified and addressed.

[2:44:54 PM](#)

Senator Bunde clarified the process by which a person would obtain an ROC designated drivers' license. If, during sentencing, a restriction on consumption was placed on an individual, that person must surrender their license in court upon sentencing. That person must then go to the DMV within two days and apply for a new, restricted license. The process was not as "voluntary" as it may have been portrayed.

Senator Bunde asked about the provisions inserted by the House Judiciary Committee that had caused concern to members of the Division of Legal and Research Services.

[2:45:57 PM](#)

Mr. Labolle located the language in subsection (a) of Sec.04.16.160. Privilege to purchase alcoholic beverages., added by Section 2 on page 2, lines 9 and 10, and in AS 28.15.191(g) added by Section 7 on page 4, lines 5 through 7. A sponsor amendment was offered during a hearing in the Senate Judiciary Committee, and the adopted amendment was an attempt to broaden the language to include as many violations as possible.

[2:47:06 PM](#)

Senator Bunde asked the sponsor's opinion regarding the ability to enforce the sections described in the memorandum.

Mr. Labolle had not received the memorandum.

Senator Bunde was inclined to support the bill, and asked if deleting the provisions in question would remove the requirement for a concurrence vote.

Mr. Labolle assumed the deletion would remove the requirement for concurrence, but would exclude approximately 50 percent of DUI convictions, those charged under the Anchorage ordinance, which are included under the current language.

[2:48:09 PM](#)

Senator Bunde suggested removing only the portion of the provision that referred to out-of-state convictions, as it would be easier to facilitate communications between the State DMV and the Municipality of Anchorage than between states.

[2:48:27 PM](#)

Mr. Labolle would not oppose the language, and had prepared a draft of the amendment.

[2:49:05 PM](#)

DUANNE BANNOCK, Director, Division of Motor Vehicles, Department of Administration, testified via teleconference from Anchorage, that the Division struggles with both "practical" and "philosophical" issues. He explained that he could not avoid preparing an indeterminate fiscal note, as he did not know the number of drivers who would be affected by the proposed regulation.

Mr. Bannock was also concerned that the definition of the "restriction on consumption" was not clear in the bill, and enforcement could be an issue. He asked if the ROC designation would prohibit a person from both entering a licensed establishment and purchasing alcohol, or if the restriction would be solely on the consumption of alcohol.

[2:53:03 PM](#)

Mr. Bannock directed attention to Sections 4 and 6, which instruct the DMV to cancel the drivers' license or identification card of a person charged with a DUI offense upon notification from the court. He stated that the bill was unclear as to whether the license was to be surrendered to the arresting officer, the court, or simply cancelled in the DMV database. After the required cancellation, the bill did not specify the terms of the cancellation, or if that affected a person's driving privilege. The bill also failed to address other aspects of licensing, and he exemplified a case of a person who retained their original "canceled" license, and asked if it would be the responsibility of the DMV to monitor the length of the ROC, then "uncancel" a license upon expiration of that period. This would be a burdensome requirement of the Division.

[2:55:31 PM](#)

Mr. Bannock was "worried" that the DMV would not be able to satisfy the intent of the bill, which he understood to be the reduction of "death and injury caused by drunk drivers." He opined that the proposed legislation would not stop lawbreakers from obtaining and consuming alcohol. It would only provide a visual notice of the court order. Most adults are not carded when purchasing alcohol. He therefore had no expectation that the proposed legislation would accomplish the bill's intended goals.

[2:56:31 PM](#)

Senator Bunde asked if it was a crime to drive with a revoked license.

[2:57:03 PM](#)

Mr. Bannock clarified that the language speaks to "cancellation" of a license, not revocation. His concern in that regard involved a situation in which a person's license was cancelled and they never went to the DMV to get their restricted ROC-imprinted license. If the period of revocation had expired but that individual had not gone in to the DMV to get a new license, was that person driving with a cancelled license in violation of the law?

Mr. Bannock continued that in every other scenario in which the DMV becomes involved, there is an action the driver must take at the DMV that triggers reinstatement of driving privileges. For example, if a person is involved in an accident that impacts their legal ability to drive, they must present the DMV with proof of insurance, restitution or other documentation before their driving privileges are reinstated. This bill does not have a requirement for such action, so the burden would be on the DMV to monitor restrictions and their expirations.

[2:59:13 PM](#)

Senator Olson realized the complexity related to this bill and the burden to the Division. He asked if Mr. Bannock anticipated a reduction in DUI offenses if this bill became law.

[2:59:46 PM](#)

Mr. Bannock responded that he "regretfully" did not expect the proposed legislation would reduce DUIs. Discussions within the Department did not identify any strong correlation between the restrictions in the legislation and a reduction of DUIs.

[3:00:20 PM](#)

Senator Olson did not agree.

[3:00:23 PM](#)

Senator Bunde asked if the restriction on consumption would appear only on the physical drivers' license or if it would also be in the database used by police officers during routine stops.

[3:01:06 PM](#)

Mr. Bannock replied that he assumed the restriction would appear in both locations. This would be an important factor in the legislation, as he anticipated many people would not be compliant with this law. Therefore, only law enforcement personnel would have access to the computerized information, and any purveyor of alcohol would have to rely on the printed ROC on the identification.

[3:01:53 PM](#)

Senator Bunde remarked that the bill in its current form has potential positive effects. If a person with an ROC designated license happened to be carded when purchasing alcohol, they would be subject to a \$1000 fine. Additionally, if a person who failed to go to the DMV and apply for their ROC license was stopped while driving, they would be subject to arrest for driving without a valid license.

Mr. Bannock agreed, a driver could be arrested for failing to obtain an ROC license, even if the restriction period had ended.

[3:02:41 PM](#)

Co-Chair Wilken aligned himself with Mr. Bannock's concerns about the bill. He continued that the legislation needed refining and further efforts to ensure it would accomplish its goals before it became law. He would not support the bill in its current form, but encouraged continued efforts on the part of the sponsor.

[3:03:30 PM](#)

Senator Dyson identified with Co-Chair Wilken comments. He was uncomfortable with the access issues the proposed legislation raised. He identified the goal of the legislation as preventing a person who was restricted from drinking from consuming alcohol, not necessarily restricting them from the premise where alcohol is served. He contended the bill did not address his concern.

[3:05:02 PM](#)

Senator Bunde wanted to support this bill, but understood the will of the Committee

The bill was HELD in Committee.

#hb150

[3:05:35 PM](#)

SENATE CS FOR CS FOR HOUSE BILL NO. 150(L&C)

"An Act requiring licensure of occupations relating to radiologic technology, radiation therapy, and nuclear medicine technology; and providing for an effective date."

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

HEALTH HILYARD, Staff to Representative Tom Anderson, testified that he was available to answer questions.

[3:06:22 PM](#)

Senator Bunde noted that approximately equal numbers of his constituents support or oppose this bill. He was concerned that the bill would increase bureaucracy by creating another board. He went on record in opposition of expanded bureaucracy.

[3:07:12 PM](#)

Senator Stedman recalled testimony one day prior that the legislation was unnecessary.

[3:07:39 PM](#)

Co-Chair Wilken asked what "problem" the legislation was attempting to resolve. He characterized the bill as "feel good legislation" with more potential to harm rural communities than to improve their health and safety. He considered the bill unnecessary and would not support it.

[3:08:16 PM](#)

Senator Dyson was of the opposite opinion. This bill makes allowances to get the level of training and supervision necessary in remote areas. Dr. Mandsager had successfully explained the need for this legislation due to the potential harm from overexposure to radiation.

[3:09:06 PM](#)

Senator Hoffman opposed this bill, as he surmised it would only cause "additional harm to Rural Alaska".

[3:09:21 PM](#)

Senator Olson commented that he supported education and training for medical workers, but considered this legislation "a step too far". The bill would cause a strain in Rural Alaska.

[3:10:40 PM](#)

Senator Dyson offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

Senator Hoffman objected.

A roll call was taken on the motion.

IN FAVOR: Senator Bunde and Senator Dyson.

OPPOSED: Senator Hoffman, Senator Olson, Senator Stedman, Co-Chair Wilken and Co-Chair Green.

The motion FAILED (2-5).

The bill was HELD in Committee.

#

ADJOURNMENT

Co-Chair Lyda Green adjourned the meeting at [3:12:33 PM](#)