

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

March 1, 2006

8:43 a.m.

**MEMBERS PRESENT**

Senator Ralph Seekins, Chair  
Senator Charlie Huggins, Vice Chair  
Senator Gene Therriault  
Senator Hollis French  
Senator Gretchen Guess

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE JOINT RESOLUTION NO. 20

Proposing an amendment to the section of the Constitution of the State of Alaska relating to marriage.

MOVED SJR 20 OUT OF COMMITTEE

SENATE BILL NO. 252

"An Act relating to the definition of 'child abuse and neglect' for child protection purposes; and providing for an effective date."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 301

"An Act relating to granting certain defendants an absolute right to change venue in civil actions; setting venue for civil actions based on employment at the employer's principal place of business; allowing multiple defendants to control venue by agreement; amending Rule 3, Alaska Rules of Civil Procedure; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 249

"An Act relating to criminal justice information."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 216

"An Act relating to bail."

MOVED CSSB 216(JUD) OUT OF COMMITTEE

SENATE BILL NO. 222

"An Act relating to breaches of security involving personal information, consumer report security freezes, consumer credit monitoring, credit accuracy, protection of social security numbers, disposal of records, factual declarations of innocence after identity theft, filing police reports regarding identity theft, and furnishing consumer credit header information; and amending Rule 60, Alaska Rules of Civil Procedure."

HEARD AND HELD

SENATE BILL NO. 284

"An Act relating to sentencing for the commission of a felony while under the influence of alcohol."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SJR 20

SHORT TITLE: CONST. AM: BENEFITS & MARRIAGE

SPONSOR(s): JUDICIARY

02/14/06	(S)	READ THE FIRST TIME - REFERRALS
02/14/06	(S)	JUD, FIN
02/16/06	(S)	JUD AT 8:30 AM BUTROVICH 205
02/16/06	(S)	<Pending Referral>
02/21/06	(S)	JUD AT 8:30 AM BUTROVICH 205
02/21/06	(S)	Heard & Held
02/21/06	(S)	MINUTE(JUD)
02/28/06	(S)	JUD AT 8:30 AM BUTROVICH 205
02/28/06	(S)	Heard & Held
02/28/06	(S)	MINUTE(JUD)

BILL: SB 301

SHORT TITLE: CHANGE OF VENUE IN CIVIL CASES

SPONSOR(s): SENATOR(s) SEEKINS

02/14/06	(S)	READ THE FIRST TIME - REFERRALS
02/14/06	(S)	JUD, FIN
02/22/06	(S)	JUD AT 8:30 AM BUTROVICH 205
02/22/06	(S)	Heard & Held
02/22/06	(S)	MINUTE(JUD)
03/01/06	(S)	JUD AT 8:30 AM BUTROVICH 205

BILL: SB 249

SHORT TITLE: REPORTING BAIL AND RELEASE INFORMATION

SPONSOR(s): SENATOR(s) FRENCH

01/23/06 (S) READ THE FIRST TIME - REFERRALS  
01/23/06 (S) JUD  
02/15/06 (S) JUD AT 8:30 AM BUTROVICH 205  
02/15/06 (S) Heard & Held  
02/15/06 (S) MINUTE(JUD)  
03/01/06 (S) JUD AT 8:30 AM BUTROVICH 205

**WITNESS REGISTER**

Liz Boario

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SJR 20

Doug Veit

Craig, Alaska

**POSITION STATEMENT:** Testified in opposition to SJR 20

Belinda Sessions

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SJR 20

Tammy Davis

Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to SJR 20

Mo McBride

No address provided

**POSITION STATEMENT:** Testified in opposition to SJR 20

Dr. Kathy Sweeney

Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to SJR 20

Susan Parkes, Deputy Attorney General

Department of Law

PO Box 110300

Juneau, AK 99811-0300

**POSITION STATEMENT:** Commented on SB 216

Portia Parker, Deputy Commissioner

Department of Corrections

431 N. Franklin, Suite 400

Juneau, AK 99801

**POSITION STATEMENT:** Commented on SB 216

Senator Gene Therriault

Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor of SB 284

Dave Stancliff, Legislative Aide  
Staff to Senator Gene Therriault  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Answered questions regarding SB 284

David Lawer, Senior Vice President  
First National Bank of Alaska  
**POSITION STATEMENT:** Testified in opposition to SB 222

Robert Fagerstrom  
Nome, Alaska  
**POSITION STATEMENT:** Testified in opposition to SB 301

Michael Shider, Attorney  
Anchorage, Alaska  
**POSITION STATEMENT:** Testified in opposition to SB 301

James Miller  
Anchorage, Alaska  
**POSITION STATEMENT:** Testified in support of SB 301

Wilford Ryan  
Anchorage, Alaska  
**POSITION STATEMENT:** Testified in support of SB 301

#### **ACTION NARRATIVE**

**CHAIR RALPH SEEKINS** called the Senate Judiciary Standing Committee meeting to order at [8:43:58 AM](#). Present were Senators Hollis French, Charlie Huggins, Gene Therriault, Gretchen Guess, and Chair Ralph Seekins.

#### **SJR 20-CONST. AM: BENEFITS & MARRIAGE**

CHAIR RALPH SEEKINS announced SJR 20 to be up for consideration.

[8:44:35 AM](#)

LIZ BOARIO informed the committee that she was testifying for herself as well as her husband. She echoed a remark from previous testimony that SJR 20 was discriminatory and divisive. She said it dishonors the hallmarks of Alaska and of the United States Constitution, specifically the Equal Protection Clause.

She has not heard serious argument that the resolution is not harmful. Instead what she is hearing is the mantra regarding the people's will, and history is full of tragic examples of majority manipulation. She suggested there were plenty of serious issues that need attention without people having to create new ones where none exist. She said she is deeply saddened to witness what she saw as a polite charade. Constitutional amendments are historically used to make things better for the people and SJR 20 would hurt talented people who work for the betterment of all Alaskans.

[8:48:02 AM](#)

DOUG VEIT testified in opposition to SJR 20. He said it was patently discriminatory; it singles out a particular class of people and systematically deprives them of economic and social resources simply because of their membership in the class. He suggested there were specific reasons for the separation of church and state. He said he has not heard any testimony of support for the resolution that passes the logic test.

[8:51:23 AM](#)

BELINDA SESSIONS testified in opposition to SJR 20 and said she spoke for her partner as well. She said the Alaska State Constitution should guarantee basic rights, not take them away. She described her 23-year lesbian relationship and said they gladly pay taxes, attend church, volunteer in the community, and contribute monetarily to organizations that help the needy. If the Legislature succeeds in overturning the Alaska Supreme Court, Alaska will be guilty of discrimination by giving some employees better benefits packages than others. It is an employment issue and not a marriage issue, she stated.

[8:53:47 AM](#)

MS. SESSIONS commented that equitable benefits packages would increase the ability of the schools to recruit and retain teachers. She urged the committee to reject the resolution.

[8:54:58 AM](#)

TAMMY DAVIS testified in opposition to SJR 20. She noted previous testimony in opposition to the resolution has been wrought with thoughtful, heartfelt, and intelligent comments. It is her opinion that SJR 20 mandates unequal compensation for equal work for individuals who choose domestic partnership as an alternative to church or state-sanctioned union as well as those who are not able by law to come into a legally binding marriage. She urged the committee to support the civil liberties of all Alaskan citizens and reject the resolution.

[8:56:46 am](#)

MO MCBRIDE testified in opposition to SJR 20. She said she is not in one of the groups affected by the issue but feels very strongly that the Alaska State Constitution was being threatened. She suggested committee members transpose another group of people into the resolution, such as Hispanics, and see whether that seemed like a fair resolution. She said adding exclusionary language to the Constitution is against what the creators of the document intended. She said the Preamble states very clearly they wanted to transmit to succeeding generations the heritage of political, civil, and religious liberty. They reiterated it again in the inherent rights section of Article 1. She strongly urged the committee to reject the resolution.

[8:59:38 AM](#)

KATHY SWEENEY testified in opposition to SJR 20. She said as a licensed healthcare official she found it unfathomable that elected officials were writing legislation that would deny healthcare to citizens of Alaska. She considered the irony that recently United States Senator Lisa Murkowski addressed members of the committee along with the entire Legislative body and encouraged them to work towards improving healthcare for all Alaskans.

Other legislative committees are working diligently to make Alaska an attractive state for young professionals to come and fulfill employment roles, she stated. SJR 20 works against that goal.

MS. SWEENEY noted that more than 99 percent of people who testified have opposition to the resolution. Members of the committee have suggested the issue was one of much contention yet she saw no evidence of it. She said abortion was a contentious issue and if that were the issue before the committee there would be much heated debate on both sides, yet testimony on SJR 20 was one-sided.

[9:04:02 AM](#)

MS. SWEENEY suggested that when it comes to politics, the majority of Americans are paralyzed by apathy and suggested it was due to elected officials not listening to their constituents.

CHAIR SEEKINS closed public testimony.

CHAIR SEEKINS announced a brief recess at [9:05:48 AM](#).

[9:10:25 AM](#)

CHAIR SEEKINS asked for discussion among committee members.

SENATOR GENE THERRIAULT commented the issue was difficult and should not be taken lightly. It would require a super majority to pass the Senate since it would be an amendment to the Alaska State Constitution. He said the debate had been good and the language of SJR 20 would be modified throughout the process and so he moved SJR 20 out of committee with individual recommendations.

SENATOR FRENCH objected. He said the measure was brought in response to a unanimous Alaska Supreme Court decision that was penned by one of the more conservative members of the court. The proposal seeks to overturn that decision. The Court found that the state could not deny health benefits to long-term partners of its gay employees consistent with the Equal Protection Clause. He said this was a clear message of equal pay for equal work. He said he could not let SJR 20 go forward because it chips away at the Equal Protection Clause of the Alaska State Constitution. He said that was more than he could bear and maintained his objection.

CHAIR SEEKINS announced a brief recess at [9:13:22 AM](#).

[9:13:35 AM](#)

CHAIR SEEKINS brought the committee meeting back to order and asked for further discussion.

SENATOR THERRIAULT stated a three-two vote out of committee did not amount to a two-thirds vote and he did not know whether the measure would see a two-thirds vote on the Senate Floor. He contended legislators continually hear testimony on decisions that the Court makes and said it is the way the system is designed. He insisted that suggesting an amendment to the Constitution could not be unconstitutional and that the voters should be trusted to do the right thing. He said since voters in his district voted 4-1 in favor of the Marriage Amendment, SJR 20 deserved further discussion and should not be halted in the first committee of referral.

[9:15:49 AM](#)

SENATOR GUESS suggested SJR 20 was not what people were looking for. She expressed sadness that Alaskans have had to come forward and speak about their sexuality in front of camera and that the Legislature was going to continue that process by

moving the resolution out of committee. She said the issue was about asking the majority to vote on minority rights and it is wrong and discriminatory. She said she would vote to keep the resolution in committee to die and voiced support for letting Alaska move forward.

CHAIR SEEKINS said he interpreted the Alaska Supreme Court opinion to mean that the 1998 Marriage Amendment did not speak to the issue. He said footnote 38 says the Court recognized the benefit programs became discriminatory only after the electorate adopted the Marriage Amendment in 1998. The courts have said that the people have forced the state to treat same-sex couples as though they were married even though they are not. The state needs to ask the people whether that was their intent. He said it was the right of the people to decide whether they accept the Alaska Supreme Court ruling.

[9:19:09 AM](#)

Roll call proved SJR 20 passed out of committee on a 3-2 vote with Senators Huggins, Therriault, and Seekins voting yea; and Senators French and Guess voting nay.

CHAIR SEEKINS announced a brief recess at [9:19:44 AM](#).

### **SB 216-BAIL RESTRICTIONS**

[9:21:12 AM](#)

CHAIR RALPH SEEKINS announced SB 216 to be up for consideration.

SENATOR CHARLIE HUGGINS spoke approval of the amendment offered by Senator French the previous day.

SENATOR HOLLIS FRENCH moved Amendment 2.

24-LS1300\F.1  
Luckhaupt

### **A M E N D M E N T 2**

OFFERED IN THE SENATE

BY SENATOR FRENCH

TO: CSSB 216( ), Draft Version "F"

Page 1, lines 3 - 4:

Delete all material and insert:

"\* **Section 1.** AS 11.56.310(a) is amended to read:

(a) One commits the crime of escape in the second degree if, without lawful authority, one

(1) removes oneself from

(A) a correctional facility while under official detention;

(B) official detention for a felony or for extradition; or

(C) official detention and, during the escape or at any time before being restored to official detention, one possesses on or about oneself a firearm;

(2) violates AS 11.56.335 or 11.56.340 [AS 11.56.340] and, during the time of the unlawful evasion or at any time before being restored to official detention, one possesses on or about oneself a firearm; or

(3) removes, tampers with, or disables the electronic monitoring equipment, or leaves one's residence or other place designated by the commissioner of corrections for the service by electronic monitoring of official detention for a felony.

\* **Sec. 2.** AS 11.56.320(a) is amended to read:

(a) One commits the crime of escape in the third degree if one

(1) removes oneself from official detention during any lawful movement or activity incident to confinement within a correctional facility for a misdemeanor; or

(2) violates AS 11.56.335 or 11.56.340 [AS 11.56.340] and leaves or attempts to leave the state.

\* **Sec. 3.** AS 11.56 is amended by adding a new section to read:

**Sec. 11.56.335. Unlawful evasion in the first degree.**

(a) A person commits the crime of unlawful evasion in the first degree if, while charged with or convicted of a felony,

(1) the person fails to return to official detention within the time authorized following temporary leave granted for a specific purpose or limited period, including leave granted under AS 33.30.181; or

(2) while on furlough under AS 33.30.101 - 33.30.131, the person fails to return to the place of confinement or residence within the time authorized by those having direct supervision.

(b) Unlawful evasion is a class C felony.

\* **Sec. 4.** AS 11.56.340(a) is amended to read:

(a) A person commits the crime of unlawful evasion in the second degree if, while charged with or convicted of a [FELONY OR A] misdemeanor,

(1) the person fails to return to official detention within the time authorized following temporary

leave granted for a specific purpose or limited period, including leave granted under AS 33.30.181; or

(2) while on furlough under AS 33.30.101 - 33.30.131, the person fails to return to the place of confinement or residence within the time authorized by those having direct supervision."

Renumber the following bill sections accordingly.

Page 1, following line 12:

Insert a new bill section to read:

"\* **Sec. 6.** AS 33.30.141(b) is amended to read:

(b) The failure of a prisoner on a furlough to return to the place of confinement or residence within the time specified by those having direct supervision over the prisoner is an unlawful evasion under AS 11.56.335 or 11.56.340 [AS 11.56.340]."

(c)

Renumber the following bill section accordingly.

CHAIR SEEKINS objected for explanation.

SENATOR FRENCH explained the amendment would establish two classes of unlawful evasion. Unlawful evasion in the first degree would be that which occurs when a person is being held on a felony charge. Unlawful evasion in the second degree would be that which occurs when a person is being held on a misdemeanor charge. There is a reference on the bottom of page 2 to explain what would happen to a prisoner who does not come back from a furlough.

[9:23:52 AM](#)

SUSAN PARKES, Deputy Attorney General, Department of Law (DOL), said she supports Amendment 2 but noted Section 4 amends the current unlawful evasion but it doesn't change the title of the crime. She said the title of the crime needed to be changed so that it reads "unlawful evasion in the second degree."

SENATOR GENE THERRIAULT moved an amendment to Amendment 2. Conceptually insert the suggested title for Section 4.

[9:25:46 AM](#)

Hearing no objections, the conceptual amendment to Amendment 2 was adopted.

CHAIR SEEKINS removed his objection.

[9:26:14 AM](#)

Hearing no further objections, Amendment 2 was adopted.

SENATOR THERRIAULT pointed out that the Department of Corrections would be expected to handle more escorts and asked Ms. Parker the reason for the zero fiscal notes.

PORTIA PARKER, Deputy Commissioner, Department of Corrections (DOC) said they have very few escorting situations and the DOC does them already. Also when the DOC performs the escorts, the offender or the offender's family pays for it in advance.

SENATOR THERRIAULT asked for clarification whether the DOC would be offering drug and alcohol treatment on site.

MS. PARKER said they accommodate the provider to come into the facility to do the assessment.

SENATOR HUGGINS moved CSSB 216(JUD) out of committee with individual recommendations and attached fiscal notes. Hearing no objections, the motion carried.

[9:28:55 AM](#)

### **SB 222-PROTECTION OF PERSONAL INFORMATION**

[9:31:07 AM](#)

CHAIR RALPH SEEKINS announced SB 222 to be up for consideration.

SENATOR GRETCHEN GUESS, sponsor, asked for the testimony of David Lawer.

[9:31:46 AM](#)

DAVID LAWER, Senior Vice President, First National Bank of Alaska testified on Section 1, Personal Information Protection Act. He said SB 222 has far reaching implications, not only for financial institutions but also for every person in the state. He said the bill poses substantial risks for all people and that violations would be brought about for situations where personal information was not even divulged.

[9:33:57 AM](#)

MR. LAWER asserted financial institutions have intense information security systems yet they can be breached unintentionally. He said he left his computer on the night before and the janitor could have accessed his accounts. He said

SB 222 would make the bank notify over 55,000 people of that security breach.

[9:36:08 AM](#)

MR. LAWER said the bank shares personal information with other entities such as their credit card system. Taking the bill to a personal level, he said as a landlord, he possesses information regarding his tenant and said he would be in violation of SB 222 if he were to leave a rent check on his desk at home. He hoped that was not the intended consequences of the legislation. He advised the committee that he had technical amendments suggested by other banking officials to submit.

[9:38:27 AM](#)

SENATOR THERRIAULT noted he and Senator Guess were studying the different suggestions made and were attempting to strike a fair balance. He asked the reason that the public shouldn't expect a tighter security system at the bank.

MR. LAWER conceded the consumer should expect better security and said his computer at work has a series of passwords as a firewall. His worry was that simply by having a janitor alone his office with his computer would be a breach of security as he sees the bill written. Nevertheless, under the definition of security breach the bank would be obliged to notify the 55,000 customers of the incident.

[9:41:24 AM](#)

SENATOR FRENCH questioned whether it would be a breach when a person attempted to access a computer but was halted due to a password request.

MR. LAWER said yes since there was no definition of "breach of security" in the bill.

SENATOR GUESS stated for edification, that "breach of security" is defined on page 3, line 29, and "information systems" is defined on page 24, line 12 in version I.

[9:43:53 AM](#)

SENATOR GUESS said she was unclear whether Mr. Lawer was suggesting that the bill sponsors add violations for security breaches within Section 1.

MR. LAWER responded it was the position of the banker's association that the violation be "the failure to disclose the fact of unauthorized disclosure of the information," and they

need only alert the person whose information they have reason to believe was compromised.

[9:46:08 AM](#)

CHAIR SEEKINS asked the number of people in the bank systems that have access to information that would be protected under SB 222.

MR. LAWER said everyone. Every account starts with an application and every application contains not only the customer's name but also one or more of the other elements.

CHAIR SEEKINS asked whether they were required by federal law to obtain a person's social security number.

MR. LAWER said correct.

CHAIR SEEKINS asked Mr. Lawer to describe security measures as pertained to by federal law.

MR. LAWER said they perform periodic risk assessments and in circumstances where they detect the possibility of unauthorized disclosure they notify customers about that circumstance. The regulations are fluid. The bank is examined and audited annually, including the security system and the systems of the entities they contract with. The scope of the audit continually increases and as a result, identifies the need for greater security measures.

[9:49:08 AM](#)

Credit card companies are a good example. The bank is obliged to see to the integrity of that security system as well.

CHAIR SEEKINS asked whether the federal regulators audit the security practices of the bank's contractors.

MR. LAWER said yes.

CHAIR SEEKINS asked whether they meet the same standards as the bank.

MR. LAWER said he suspected they meet higher standards.

CHAIR SEEKINS asked whether the auditors generally find areas of weaknesses.

MR. LAWER said auditors have a different perception of weaknesses. For instance the last audit suggested a need for seven character passwords that include at least one number. He questioned whether that constituted a weakness in the security system.

CHAIR SEEKINS asked Mr. Lawer his opinion of the risk of unauthorized penetration of the bank's security system.

MR. LAWER said he believed their only exposure was internal. The bank's computer systems cannot be accessed by anyone not connected internally. The greater risk is of exposed physical records and the bank has suffered a burglary in the past.

[9:52:44 AM](#)

CHAIR SEEKINS asked Mr. Lawer whether his bank had clear policies for employees on how to comply with all privacy policies.

MR. LAWER said yes. They support extensive personnel policies as well as other procedures relating to information security.

CHAIR SEEKINS announced a brief recess at [9:53:35 AM](#).

[9:53:53 AM](#)

CHAIR SEEKINS held the bill in committee.

#### **SB 284-SENTENCING FOR ALCOHOL-RELATED CRIMES**

[9:54:31 AM](#)

CHAIR RALPH SEEKINS announced SB 284 to be up for consideration.

SENATOR GENE THERRIAULT advised committee members there were questions in the previous bill hearing that his staff would answer.

DAVE STANCLIFF, Staff to Senator Therriault, brought committee members up to speed on the bill. There are three conceptual changes that the drafters are working on. In response to Senator Guess's question about the definition of "alcoholic beverage," it would be the same as "consumption of alcohol."

[9:57:05 AM](#)

MR. STANCLIFF continued with reference to Senator French's suggestion for considering multiple DUIs. Staff is working on language to say if a person is convicted of three or more DUIs that the judge, who would have the discretion to impose any

length up to a lifetime ban, could use the new sentencing option. The Department of Law has stated that the use of alcohol monitoring devices is exceptionally effective.

[9:59:03 AM](#)

SENATOR THERRIAULT said during the previous day's discussion, he failed to bring to light that the bill would only be made applicable under the certain crimes listed under AS 11.41.

MR. STANCLIFF added AS 11.41 is the section of statute that deals with felonies and crimes against persons, such as murder, rape and assault. The minimum in that section would be third degree assault.

SENATOR THERRIAULT asked for testimony from the Department of Law.

[10:01:10 AM](#)

DOUG WOOLIVER, Assistant Attorney General, Department of Law (DOL), noted that there would be no way for the courts to know whether anyone has violated the conditions of probation unless the person was arrested on another offense. He said it wasn't a problem but just wanted to let them know.

SENATOR HOLLIS FRENCH said SB 249, which is his bill, would assist in letting the officers do a search to determine whether they were violating the terms of their probation.

[10:03:08 AM](#)

MR. WOOLIVER agreed.

SENATOR THERRIAULT asked Mr. Wooliver whether a private citizen would be able to report when a person was violating conditions of probation or parole.

MR. WOOLIVER said yes and then it would be up to the police whether they followed up on it.

SENATOR FRENCH noted an officer could then get a warrant and arrest the person.

CHAIR SEEKINS held the bill in committee.

**SB 301-CHANGE OF VENUE IN CIVIL CASES**

[10:05:15 AM](#)

CHAIR SEEKINS announced SB 301 to be up for consideration.

ROBERT FAGERSTROM informed the committee that he sent in a public opinion message (POM) the day before and wished to add that he served in United States Navy and in the Alaska Army National Guard. He is aware of the uniform code of military justice (UCMJ). He has served on a jury in Nome and he has also been a defendant and a plaintiff. He said he knows the high cost of litigation and does not believe that any Legislature has the right to second-guess the American way of justice. He maintained that the system does not need to be fixed and opposed the bill.

10:08:00 AM

MICHAEL SCHUEIDER, attorney, testified in opposition to SB 301. He said the reason that court proceedings are held in the city where the incident occurred is because the people who live there have an interest in the conduct that occurs in their town. He asked the committee to imagine they were legally crossing the street when an out-of-town citizen runs them over and seriously injures them. If SB 301 were enacted, they, along with their lawyer and staff, doctor, and any other witnesses would be the ones who would have to travel to the city where the offender lived in order to hold the court proceedings.

10:10:53 AM

MR. SCHEUIDER said he is aware that the committee has heard some outcomes that they might not approve of but the jury is the entity that heard all the facts, not the committee members. He said he recently tried a case in Bethel and the jury did not award to the defense. He suggested the system works in most jurisdictions in the United States. Insurance is a hugely lucrative industry that gets paid to take risks and they make money on those risks, he stated.

10:12:55 AM

SENATOR THERRIAULT expressed concern over the unintended consequences of the bill, but he disagreed with Mr. Schueider's suggestion that the situation was fine because of the insurance factor. He noted the committee has heard testimony that western Alaska does not fit the bell curve and is lopsided to the point where attorneys boast about large jury awards.

MR. SCHUEIDER responded the committee members must make certain that things are out of balance before passing the legislation. He respectfully suggested the committee was not hearing both sides of the issue.

CHAIR SEEKINS asked Mr. Schueider whether he was a member of Alaska Action Trust.

[10:16:10 AM](#)

MR. SCHUEIDER affirmed he is a member, a past chairman, and a frequent participant.

CHAIR SEEKINS said Alaska Action Trust attempted to demonstrate that a defendant has a right to trial by its peers and a plaintiff has the same right. He asked whether there was case law that showed the plaintiff has an absolute right to a trial by the plaintiff's peers and that a plaintiff gets to decide the venue.

MR. SCHUEIDER responded the plaintiff is constrained by existing venue rules. The circumstances and existing law define where cases must be brought. He said it wasn't that plaintiff's have an absolute right to choose venue, plaintiff's have the fact that determine where venue is appropriate and the existing rules provide fair venue for both parties in most settings.

[10:18:59 AM](#)

CHAIR SEEKINS asked Mr. Schueider whether he agreed that the Alaska rules of general procedure on venue are subject to state statute, which could be modified.

MR. SCHUEIDER said by a two-thirds majority, yes. He said he does not challenge the power of the Legislature but he contended the bill was poor public policy and would generate many worse outcomes than the current system.

CHAIR SEEKINS said he would look at Rule 3, which he said subordinates the court's authority to change venue to the Legislature without having to change the rule.

[10:20:35 AM](#)

JAMES MILLER, owner and general manager of Alaska Weather Operations, testified in support of the bill. His company does construction work for up to 60 communities in Alaska. He said it was important to maintain impartial juries and that is sometimes difficult to obtain due to village sizes and location.

[10:23:38 AM](#)

SENATOR FRENCH asked Mr. Miller to imagine being a landlord whose tenants trashed his property to the tune of \$5,000 and then moved to another city. The landlord and his witnesses would

probably have to drop the claim because they would not be able to handle all the travel costs to get to the changed venue.

MR. MILLER agreed that was a good point. He said it works both ways. He suggested that the bill should state a provision for an impartial jury.

10:27:22 AM

WILFORD RYAN, member of Alaska Air Carriers Association, testified in support of SB 301. He said businesses should have the opportunity to defend themselves in their home area.

10:30:45 AM

CHAIR SEEKINS held SB 301 in committee.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at 10:33:45 AM.