

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 26, 2007

8:04 a.m.

MEMBERS PRESENT

Representative Anna Fairclough, Co-Chair
Representative Gabrielle LeDoux, Co-Chair
Representative Nancy Dahlstrom
Representative Mark Neuman
Representative Sharon Cissna
Representative Woodie Salmon

MEMBERS ABSENT

Representative Kurt Olson

OTHER LEGISLATORS PRESENT

Representative Bryce Edgmon
Representative Mary Nelson

COMMITTEE CALENDAR

COMMUNITY SERVICES BLOCK GRANT PROGRAM

- HEARD

HOUSE BILL NO. 232

"An Act relating to the sale, distribution, and purchase of alcoholic beverages; relating to a state database for records of certain purchases of alcoholic beverages; relating to the relocation of a license to sell alcoholic beverages; relating to procedures for local option elections for control of alcoholic beverages; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 232

SHORT TITLE: ALCOHOL SALE/PURCHASE/DISTRIBUTION

SPONSOR(S): REPRESENTATIVE(S) MEYER

04/04/07	(H)	READ THE FIRST TIME - REFERRALS
04/04/07	(H)	CRA, JUD, FIN

04/12/07 (H) CRA AT 8:00 AM BARNES 124
04/12/07 (H) Heard & Held
04/12/07 (H) MINUTE(CRA)
04/26/07 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

JILL DAVIS, Grants Administrator III
Division of Community Advocacy
Department of Commerce, Community, & Economic Development
Juneau, Alaska
POSITION STATEMENT: Provided remarks regarding the Community Services Block Grant (CSBG) Program.

DAVID HARDENBERGH, Executive Director
Rural Alaska Community Action Program, Inc. (RurAL CAP)
Anchorage, Alaska
POSITION STATEMENT: Provided remarks regarding RurAL CAP and the work it does with the funds from CSBG.

JO GROVE, Grants Manager
Fairbanks Office
Division of Community Advocacy
Department of Commerce, Community, & Economic Development
Fairbanks, Alaska
POSITION STATEMENT: Commended RurAL CAP on its work.

MIKE PAWLOWSKI, Staff
to Representative Kevin Meyer
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented HB 232 on behalf of the sponsor, Representative Meyer.

ANNE CARPENETI, Assistant Attorney General
Legal Services Section - Juneau
Criminal Division
Department of Law
Juneau, Alaska
POSITION STATEMENT: During hearing of HB 232, answered questions.

DOUGLAS GRIFFIN, Director
Alcoholic Beverage Control Board ("ABC Board")
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 232, answered questions.

LOUISE STUTES
Kodiak, Alaska

POSITION STATEMENT: Expressed a concern with HB 232.

ACTION NARRATIVE

CO-CHAIR GABRIELLE LEDOUX called the House Community and Regional Affairs Standing Committee meeting to order at [8:04:36 AM](#). Representatives LeDoux, Fairclough, Dahlstrom, and Neuman were present at the call to order. Representatives Cissna and Salmon arrived as the meeting was in progress. Also in attendance were Representatives Edgmon and Nelson.

Community Services Block Grant Program

[8:05:08 AM](#)

CO-CHAIR LEDOUX announced that the first order of business would be to take public comment on the state's draft plan for the Community Services Block Grant (CSBG) Program in fiscal year 2008.

[8:05:48 AM](#)

JILL DAVIS, Grants Administrator III, Division of Community Advocacy, Department of Commerce, Community, & Economic Development (DCCED), paraphrased from the following written remarks [original punctuation provided]:

I am pleased to participate in this Public Hearing concerning the Draft State Plan for the Community Services Block Grant Program for Federal Fiscal Year 2008. The Department of Commerce Community & Economic Development would like to accept comments from the public on the proposed use and distribution of these funds.

Community Services Block Grant funds are allocated to the Department of Commerce Community & Economic Development for distribution to the State's only Community Action Agency, RurAL CAP Inc. We anticipate receiving approximately \$2.4 Million in FFY 08 although that number could increase or decrease

slightly. The State is authorized to keep a maximum of 5% of the funds to cover administrative costs. The balance of funds are made available to RurAL CAP.

The purpose of the CSBG Program includes supporting activities designed to address one or more of the following:

- to assist low-income families and individuals, homeless persons, migrant or seasonal farm workers, and elderly low-income persons
- to remove obstacles and solve problems that block the achievement of self-sufficiency;
- to secure and retain meaningful employment;
- to attain an adequate education with particular attention toward improving literacy skills;
- to make better use of available income;
- to obtain and maintain adequate housing and a suitable living environment;
- to obtain emergency assistance to meet immediate and urgent needs;
- to achieve greater participation in the affairs of the community;
- to address the needs of youth in low income communities through youth development programs;
- and to make effective use of and coordinate with other programs related to the purposes of the Community Services Block Grant Program.

The Draft State Plan, on which we are accepting comment today, outlines how the Department administers the CSBG program and the activities which RurAL CAP proposes to undertake during Federal Fiscal Year 2008. Because the State Plan is lengthy, I will briefly outline the major components which the Department and RurAL CAP have identified for the FFY 08 program.

RurAL CAP will utilize the CSBG funds to serve low-income people throughout the State in several program components. These include **Administrative Services; Anchorage Services; Child Development; Community Development; Public Policy and Advocacy; and Rural Housing & Planning Services.**

Administrative Services Division: CSBG funds are used to support agency clerical, logistical, public

information, development, and office managerial services. This component also supports a **Research Information Center** (library); **Planning and Training and Program Evaluation**.

Anchorage Services Division: CSBG funds are used to support the **Homeward Bound Reintegration Program** and an **Affordable Housing** Component. Program products include education, employment, job skills, training, independent living skills, improved housing, decreased substance abuse, and healthier families.

Child Development Division: CSBG provides funds for the administrative oversight of **Head Start, Early Head Start, and Parents as Teachers** programs in **24 communities** and a **Child Development Center** in Anchorage serving 27 children between the ages of 9 mos and 6 years of age.

Community Development Division: CSBG funds are used to support the **AmeriCorps Program; VISTA (Village Council Management Program and the Vista Energy Program); Rural Providers Conference;** and also supports the coordination and implementation of other initiatives on **substance abuse prevention, tobacco prevention and control, the Early Decisions Fetal Alcohol Spectrum (FAS), and the protection of indoor air quality in rural homes.** Program products include education, employment, job skills, training, independent living skills, improved housing, lower fuel bills, less substance abuse, and improved environmental conditions and healthier families.

Public Policy and Advocacy: This component strives to empower communities, develop leaders, and to increase the capacity of low income people to impact public policy and to inform decision makers. These efforts are best accomplished by developing relationships between low income people and decision makers; by increasing skills and understandings of low income people which increase their ability to change conditions which do not work in their communities and beyond.

Rural Housing and Planning Services Division: CSBG funds assist RurAL CAP in forming strategic relationships with Tribally Designated Housing

Entities, U.S. Department of Agriculture, U.S. Department of Housing & Urban Development, Alaska Housing Finance Corporation, and private sources to secure funding for Housing Rehabilitation and Weatherization Services; Self-Help Housing; Capital Project Services; and Housing Advocacy. This component also assists with Community Planning activities; Capacity Building; and Interagency Coordination activities.

Each of these components are described in detail in the Draft State Plan. In addition, David Hardenberg, Executive Director and Shauna Hegna, Deputy Director of RurAL CAP INC. are on-line in Anchorage.

David or Shauna will provide a more detailed overview of each of these program components and answer any specific questions you may have.

Also included in this year's State Plan are Outcome Measures for each of the program components. Program results are tracked and reported on a quarterly basis in terms of the number of clients who achieve a given milestone. Progress is reviewed by both RurAL CAP and state staff and is used to evaluate results and make program changes when necessary.

Both the Department of Commerce Community & Economic Development and RurAL CAP place a strong emphasis on promoting maximum participation by rural people in the elimination of the causes and conditions of poverty. RurAL CAP has demonstrated a sincere interest in helping low income Alaskans and are recognized nationally as a leader in providing not only innovative programs which meet the needs of their clientele, but also in developing exemplary Outcome Measures. They are to be commended for their hard work and their success.

Thank you for your interest in the Community Services Block Grant program. Again, our purpose today is to educate the public about the program and to accept comment on the proposed use and distribution of funds. With that, I would like to turn this over to David Hardenberg.

[8:14:22 AM](#)

DAVID HARDENBERGH, Executive Director, Rural Alaska Community Action Program, Inc. (RurAL CAP), paraphrased from the following written remarks [original punctuation provided]:

Thank you Chairman LeDoux and good morning to the members of House Community and Regional Affairs Committee. My name is David Hardenbergh and I am the Executive Director of the Rural Alaska Community Action Program, also known as RurAL CAP. I started working at RurAL CAP in 1986 and I've been the Executive Director for the past three years.

The Community Services Block Grant is federal funding that comes to the State of Alaska with the goal of reducing poverty through community-based activities which lead to a greater degree of self-sufficiency for low-income people.

The funding comes to the Division of Community Advocacy of the Alaska Department of Commerce, Community and Economic Development and is administered by the state Block Grant Program Manager, Jo Grove, and Grant Administrator Jill Davis. They do an excellent job handling the day-to-day responsibilities of the CSBG program including preparing and monitoring the State Plan.

As the only Community Action Agency in Alaska, RurAL CAP is the only eligible recipient for 90% of the state's CSBG funds. In FY 2008, RurAL CAP expects to receive approximately \$2.4 million in CSBG funds to support programs and services for low-income people.

RurAL CAP is a private, statewide, non-profit organization with 501(c)(3) tax exempt status. It is one of more than 1,000 Community Action Agencies in the nation which all work to build self-sufficiency and empowerment among low-income people who desire to pull themselves up out of poverty.

RurAL CAP is governed by a 24-member Board of Directors representing every major region of the state. The tripartite board is a balance of target area village representatives, elected public officials and private sector organizations.

The board meets quarterly, identifies major issues affecting low-income people and sets agency policy. The staff implements board policy through an applied strategic plan and oversight of agency programs and services.

RurAL CAP will use this core funding from CSBG to leverage approximately \$15 to \$20 million in other public and private sector funds to benefit low-income Alaskans. The agency employs more than 350 people annually in rural communities across Alaska through Head Start, Early Head Start, Parents As Teachers, AmeriCorps, VISTA, and Weatherization programs. In 2006 RurAL CAP provided services in 63 communities across Alaska.

As an organization focused on alleviating poverty, RurAL CAP applies the majority of its resources to rural communities where poverty rates are typically three times higher than in urban Alaska. Yet as the only community action agency in Alaska, and one with a mandate to serve people statewide, RurAL CAP also provides:

- Head Start services to pre-school children and their parents in Ketchikan;
- Home weatherization to qualifying low-income residents in Juneau;
- Affordable housing opportunities to families in Anchorage; and
- Support to UAF social work students through an AmeriCorps partnership in Fairbanks.

Typical of the way RurAL CAP uses CSBG funds to leverage services for some of Alaska's most needy and disenfranchised is the story of the Homeward Bound program. Based in Mountain View, this program serves Anchorage's chronic homeless alcoholic population with the goal of reintegrating people back into healthy and productive lives.

The average Homeward Bound resident is a 48 year old Alaska Native male who has been drinking for the last 26 years. He has spent the last 9 years homeless and spent 116 nights in the last year sleeping in a local sobering station. Many social service professionals refer to this population as the "hard core street

alcoholics" and believe they are the hardest population to serve.

Seed money from CSBG was used to help build partnerships and obtain funding from HUD, the Alaska Housing Finance Corporation, and other funders to support a 25-bed facility and individualized case management program which has measurably improved the lives of dozens of Homeward Bound residents. Through participation in Homeward Bound, our residents have moved from decades of homelessness to meaningful lives in the Anchorage community. This program has been so successful that the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services recently inducted it as a Promising Practice. This national recognition has confirmed what RurAL CAP has known since we started the program ten years ago - Homeward Bound gets chronic homeless alcoholics off the streets. It helps the residents secure and maintain stable housing and jobs. Simply put, the program works.

The State Plan before you today contains detailed examples of outcome measures for each of RurAL CAP's CSBG-supported programs. This system of Results Oriented Management and Accountability, or ROMA, has received national recognition within the network of social service and community action agencies as a landmark model of comprehensive outcome evaluation.

With laser-like attention focused on identifying and documenting measurable changes in the conditions and behaviors of the people we serve, RurAL CAP's system of program evaluation and accountability keeps both our human and financial resources focused on improving the lives of low-income Alaskans in ways that produce measurable results.

If I were to put myself in the shoes of a member of the general public, an elected official or one of our funders, this is what I might think:

So ... you got all this money. You ran all these programs. So what! So what difference did you make? How many lives did you actually improve? How did you improve them? What did we buy with such valuable public resources?

Well we can tell you that. We can tell you exactly what difference we made.

- We can tell you that during the 2005 - 2006 program year, we conducted **1,622** developmental screenings through our Head Start, Early Head Start, and Parents As Teachers programs. Through these early detection screenings we were able to identify if a child had difficulty with hearing, vision, language, or other potential learning barriers so that we could provide them with the services they need before they enter Kindergarten.
- We can tell you that our AmeriCorps members installed carbon monoxide alarm detectors in **963** homes protecting **3,456** rural residents from the harmful affects of this silent killer.
- We can tell you that during the 2006 program year, **64** low-income households experienced an average 31% savings in their annual energy costs during the first year after their homes were weatherized.
- We can tell you that during the 2006 fiscal year, **8** disabled Elders received accessibility improvements to their homes through our rehabilitation and weatherization program ensuring that they could continue to live independently.
- We can tell you that our AmeriCorps and VISTA members organized or supported **1,758** healthy activities for youth and that our VISTA members brought **\$10.5 million dollars** in cash and in-kind resources into their rural communities.
- We can tell you that **100%** of the preschool age children who graduated from our Child Development Center last year entered kindergarten school-ready and prepared to learn.
- And we can even tell you that in 2006, **17** formerly homeless residents of the Homeward Bound

program, who had been picked up more than 100 times by the Community Service Patrol during the 12 months before coming into the program, have successfully graduated and moved into homes of their own.

RurAL CAP strives to be a responsible steward of public funds. We run some of the most scrutinized federal and state programs in the nation including Head Start, Alaska Housing Finance Corporation programs, AmeriCorps, and CSBG. We pride ourselves on being a grantee in good standing for all of our programs and services. We place a high value on getting clean financial and program audits, and we strive to provide cost-effective services that get results.

Again I want to thank our grant administrators and the members of the House Community and Regional Affairs Committee for participating in this hearing and for your interest in the Community Services Block Grant FY 2008 State Plan.

[8:25:23 AM](#)

REPRESENTATIVE CISSNA expressed frustration with the lack of indexing in the CSBG State Plan book. She then asked whether she could obtain a breakdown of statistics for specific areas.

MR. HARDENBERGH said he would provide that to Representative Cissna. He pointed out that there are some additional summary documents that present some of the very detailed outcomes in a more readily accessible format.

MS. DAVIS then pointed out that following the attachments in the CSBG State Plan book is the final report, which includes most of the statistics mentioned.

[8:27:50 AM](#)

REPRESENTATIVE NEUMAN recalled Mr. Hardenbergh's testimony regarding the 17 individuals who participated in the [Homeward Bound program] and ultimately moved in to affordable housing. He asked if those homes were subsidized by RurAL CAP.

MR. HARDENBERGH explained that some of the Homeward Bound graduates do move into some of the 40 units of affordable

housing maintained by RurAL CAP in Anchorage. However, he pointed out that the aforementioned housing is open to the public and thus it's a matter of timing. Mr. Hardenbergh also pointed out that individuals in those units pay full rent, although there's a subsidy in that the Alaska Housing Finance Corporation (AHFC) provided RurAL CAP with below market loans in order to purchase the properties. In order to obtain the below market loans, RurAL CAP has to verify that they're occupied by low-income residents.

REPRESENTATIVE NEUMAN surmised then that the housing of those [17] individuals was subsidized through RurAL CAP. Recalling comments that \$2.4 million is going to rural Alaska, he inquired as to what is considered rural Alaska.

MR. HARDENBERGH opined that Alaska law contains many different definitions of rural. He reiterated that RurAL CAP doesn't limit its services to rural Alaska as RurAL CAP is a statewide organization that provides services throughout the state.

REPRESENTATIVE NEUMAN asked if all of RurAL CAP's programs are available to all low-income people in Alaska.

MR. HARDENBERGH replied yes, where there's a program. For example, RurAL CAP provides Head Start services in 24 communities, but doesn't have the option of serving those low-income individuals interested in Head Start outside those 24 communities.

[8:32:44 AM](#)

JO GROVE, Grants Manager, Fairbanks Office, Division of Community Advocacy, Department of Commerce, Community, & Economic Development, added that she has personally worked with RurAL CAP on the CSBG program for over 16 years. She opined that RurAL CAP has demonstrated a sincere interest in helping low-income Alaskans. Furthermore, it has been recognized nationally as a leader in providing innovative programs and developing exemplary outcome measures.

[8:34:09 AM](#)

CO-CHAIR LEDOUX, upon determining no one else wished to testify on the CSBG program, closed public testimony.

[8:34:54 AM](#)

REPRESENTATIVE NEUMAN asked if these programs are available to everyone in the state equally.

MS. DAVIS pointed out that the 24-member board of RurAL CAP represents the entire state and makes decisions on programs and policies.

[8:36:06 AM](#)

CO-CHAIR FAIRCLOUGH asked if individual programs submit grant applications to RurAL CAP since it receives 90 percent of the [CSBG program] funding.

MR. HARDENBERGH informed the committee that the RurAL CAP board of directors goes through a strategic planning process for the entire organization and submits a single funding application to the state for the use of CSBG. He noted that RurAL CAP also submits many other funding applications to other federal, state, and private sources for funds to meet the mission of RurAL CAP.

CO-CHAIR FAIRCLOUGH surmised then that RurAL CAP doesn't help other nonprofits by providing a grant opportunity to dovetail with what RurAL CAP is requesting.

MR. HARDENBERGH said that RurAL CAP doesn't use the CSBG funding for such, but RurAL CAP does have a small separate private foundation that provides small grants to other nonprofits or other local city or tribal governments for small projects.

CO-CHAIR FAIRCLOUGH explained that she brings this issue forward because there are many nonprofits in local communities that already have structure to provide a service. The federal, state, and local governments, she opined, don't want duplicate services. Therefore, she expressed concern if RurAL CAP's strategic plan isn't folding in the resources available in local communities in rural Alaska. She highlighted that there are many other resources with bureaucracies in place that have connections inside some communities to implement programs. Co-Chair Fairclough expressed the need for there to be some collaboration in local communities to support what's already being done with RurAL CAP funding.

[8:39:16 AM](#)

REPRESENTATIVE CISSNA asked if [CSBG] is part of the legislature's budget process and if so, has it been fully funded.

MS. GROVE related that the department requests federal receipt authority for what it estimates it will receive for the CSBG program. In terms of individual budgets for each program, those are included in the CSBG State Plan, but those would be estimates at this point. Once the department knows the amount of [federal funds] it will receive, Rural CAP provides an update with the exact amount received by the program. In further response to Representative Cissna, Ms. Grove confirmed that no matching state funds are required or provided for the CSBG program. The department would probably know the amount of funds available next fall, in October or November.

[8:42:20 AM](#)

CO-CHAIR FAIRCLOUGH clarified that the CSBG program may not have a requirement for matching state funds, but the Community Development Block Grant in Anchorage does. She suggested that Representative Cissna may be thinking of the Community Development Block Grant program.

REPRESENTATIVE CISSNA opined that it would be a good idea to have an understanding of the potential overlap of services and even obtain some reporting to compare budget requests.

[8:43:48 AM](#)

REPRESENTATIVE NEUMAN expressed interest in a smaller report. He then inquired as to what will happen when the projected federal funding decreases and deficit situation of the state arrive.

MS. GROVE said that the department doesn't know exactly what will happen with federal funding. This plan and the projected \$2.4 million estimate of federal funds is based on the historical funding of the program. Since the CSBG program doesn't require a state match, [any change in federal funding] would have no bearing on the state. In further response to Representative Neuman, Ms. Grove confirmed that there's no contingency plan for a time of decreased federal funding.

[8:45:38 AM](#)

REPRESENTATIVE CISSNA expressed the need to grasp how best to coordinate [programs and funding] in order to avoid overlap and waste.

The committee took an at-ease from 8:47 p.m. to 9:02 a.m.

HB 232-ALCOHOL SALE/PURCHASE/DISTRIBUTION

9:02:41 AM

CO-CHAIR LEDOUX announced that the final order of business would be HOUSE BILL NO. 232, "An Act relating to the sale, distribution, and purchase of alcoholic beverages; relating to a state database for records of certain purchases of alcoholic beverages; relating to the relocation of a license to sell alcoholic beverages; relating to procedures for local option elections for control of alcoholic beverages; and providing for an effective date."

CO-CHAIR LEDOUX further announced that she's not planning on moving HB 232 out of committee today. She then noted that members of the Bush Caucus were invited to participate since HB 232 impacts rural communities of the state. She then noted the presence of Representatives Edgmon and Nelson.

9:03:33 AM

MIKE PAWLOWSKI, Staff to Representative Kevin Meyer, Alaska State Legislature, explained that Sections 1-2 establish a statewide database for the written order system. The written order system sets a limit in the amount of what a person can purchase in a given month or what a licensee can ship. The database is envisioned to allow the licensee to stay within the law and the individual to track the amount of alcohol they have had shipped. Section 3 prohibits a package store from shipping alcohol to a person other than that person's address. Although the aforementioned is specified in statute, this clarifies the intent in statute. Sections 4-5 address the transfer of a liquor license within a borough to a city, in which the Mat-Su Borough expressed interest in order to foster economic development. He explained that since liquor licenses are limited by population and under a limited entry system, there might be several licenses in a borough while very few available in the city. Sections 4-5 specifies that when a local governing body decides that the transfer of a liquor license from a borough to a city is appropriate, it can allow the transfer. Sections 6, 7, 11, and 12 prohibit an individual from purchasing alcoholic beverages in a local option area from an individual selling alcohol in violation of the local option. Mr. Pawlowski pointed out that current statute only specifies that it's illegal to sell [alcohol to individuals in violation of a local

option] while it doesn't speak to the individual purchasing [alcohol in violation of a local option]. Section 8 changes the time between the adoption of a local option and an election to change that option from 12 months to 24 months. Section 9 prohibits a person from purchasing alcohol by written order on behalf of another person. Section 10 prohibits the possession of ingredients for home brew. Sections 13-14 are clarifications to forfeiture provisions. Section 15, a substantive provision, allows the establishment of a pilot project for alcohol delivery sites. Sections 16-20 are instructions to the revisor.

[9:07:09 AM](#)

REPRESENTATIVE NEUMAN expressed concern with Section 10, and inquired as to who determines "intent". He then stressed his concern with regard to a state database that tracks individuals' liquor purchases, which would seem to be personal information. Representative Neuman then turned attention to Andy Lundquist's email in which she highlights that computer access is necessary to fulfill the mandate in HB 232, which could be a burden for small licensees.

MR. PAWLOWSKI said that the sponsor is aware of those issues. He acknowledged that the concern with Section 10 is valid, but suggested that having the ingredients in conjunction with the equipment necessary to brew alcohol would seem to make it clear that an individual is brewing alcohol. With regard to the concern surrounding privacy, he pointed out that the state already tracks written orders. To address the privacy concern, he suggested that perhaps the database could be purged on a regular basis. Therefore, the state would collect information, but not retain it. The concern for small licensees is fair, but he pointed out that the written orders are done mainly through larger businesses. In fact, most often the small licensee is purchasing large volumes from one of the hub communities. Mr. Pawlowski related that the sponsor feels that licensees have a responsibility to ensure that he/she isn't violating the law.

[9:11:19 AM](#)

REPRESENTATIVE NEUMAN pointed out that with the methamphetamine database the store keeps the database and the state requests the database if it's needed. Perhaps, the aforementioned could be done with alcohol, he suggested.

MR. PAWLOWSKI said it's something the sponsor could review.

[9:12:06 AM](#)

CO-CHAIR FAIRCLOUGH reminded the committee that HB 232 implements several of the recommendations made in the Alaska Rural Justice and Law Enforcement Commission Report. This legislation allows Village Public Safety Officers (VPSOs) as well as state troopers to enter dry and damp communities to garner a better case when enforcing the local option in place. Co-Chair Fairclough reviewed the committee's concerns from the last meeting and today's meeting. With regard to concerns expressed regarding the local elections, she opined that the state isn't trying to control local elections but rather that more time is allowed for a community to [settle into] its local option before changing it.

[9:14:53 AM](#)

REPRESENTATIVE NELSON related her understanding that under HB 232 there can't be an election [on the local option] prior to 24 months after the existing local option was implemented.

MR. PAWLOWSKI explained that Section 8 specifies longer timeframes in which [a community with a local option in place] can have a special election to remove or go to a less restrictive option.

CO-CHAIR LEDOUX surmised then that a community with a local option could go to more restrictive option within short period.

MR. PAWLOWSKI deferred to Ms. Carpeneti.

[9:16:05 AM](#)

ANNE CARPENETI, Assistant Attorney General, Legal Services Section - Juneau, Criminal Division, Department of Law, pointed out that Section 8 is current law. Current law provides that there can't be an election that would remove a local option or adopt a less restrictive option within 12 months [of adopting or changing a local option]. After hearings throughout the state, the Alaska Rural Justice and Law Enforcement Commission decided that the aforementioned probably wasn't adequate time for a local option to take effect. Therefore, the recommendation was to extend the time from 12 months to 24 months. In further response, Ms. Carpeneti noted that statute allows elections for several local options sooner than 12 months.

[9:17:44 AM](#)

REPRESENTATIVE NELSON asked if anything precludes a community from placing such a question on a regular ballot.

MS. CARPENETI said she believes that's allowed, but offered to confirm that.

9:18:35 AM

REPRESENTATIVE EDGMON inquired as to the meaning of the language in Section 8 on lines 19-20.

MS. CARPENETI explained that under current law there are limitations regarding how often a community can hold local option elections. She surmised that the Alaska Rural Justice and Law Enforcement Commission was probably thinking that since the time between elections was changed from once every 12 months to 24 months, then it would probably be necessary to extend the general time period between elections. Ms. Carpeneti reiterated her understanding that the notion was to provide local options more time to take effect as there are adjustments that have to be made, such as the closure of package stores. In further response to Representative Edgmon, Ms. Carpeneti clarified that current law provides that a community can't remove an option, but it can adopt a more restrictive option in less time.

9:21:30 AM

CO-CHAIR LEDOUX related her understanding that communities will have to abide by this election law; it isn't a local option to adopt the time periods specified in HB 232.

MS. CARPENETI replied yes.

MR. PAWLOWSKI related his understanding that the ballot comes at a regular special election that's left to the municipality to decide, which is clearly stated in AS 04.11.507(b):

(b) Upon receipt of a petition of a number of registered voters equal to 35 percent or more of the number of votes cast at the last regular municipal election, the local governing body of a municipality shall place upon a separate ballot at the next regular election, or at a special election, whichever local option, change in local option, or removal of local option constitutes the subject of the petition. The

local governing body shall conduct the election under the election ordinance of the municipality.

[9:23:02 AM](#)

MS. CARPENETI, in response to an earlier question by Representative Neuman, clarified that the database applies to local option areas that are damp only. Furthermore, the database applies to written orders by people who live in local option damp areas. Currently, before responding to a written order from a resident of a local option community, the licensee is required to keep records of purchases for a year. The licensee is required to notify the Alcoholic Beverage Control Board ("ABC Board") of those ordering more alcohol than the local option allows. Ms. Carpeneti explained that currently there is no mechanism for a licensee to see if other licensees have filled the order for the month, which the proposed database in HB 232 would provide.

REPRESENTATIVE NEUMAN expressed concern that small business owners, under HB 232, would be required to have a computer in order to report this information to a database. He questioned how far government can go into a private business.

MS. CARPENETI pointed out that the written orders are mainly filled by large licensees in Anchorage. Depending upon how the database is established, the law requires that the ABC Board work with licensees, which she assumed could be done with a phone call.

[9:26:20 AM](#)

CO-CHAIR FAIRCLOUGH clarified that the data is already required to be gathered. The only thing that's new is that the ABC Board would have that data from those who distribute alcohol to dry or damp communities. Co-Chair Fairclough opined that more people could access the existing database than would be the case under the proposed database in HB 232.

[9:27:34 AM](#)

REPRESENTATIVE NELSON related her understanding that very few companies do written orders for which a log must be kept. Furthermore, a limit as to how much can be imported per person in damp communities already exists. She pointed out that there are ways in which to play the system and make it more difficult to track the importation of alcohol. The reason, she opined,

that a database is necessary is for those who want to import more alcohol than is legally allowed for personal consumption. This legislation attempts to prevent gaming the existing laws. She further opined that Alaska is a frontier state, which is evident in the hub communities where residents feel they have a constitutional right to drink alcohol. However, the Alaska Constitution doesn't specify that. Representative Nelson pointed out that many rural communities want to be dry, but have difficulty doing so because the neighboring community is wet. Many rural communities want to be dry and are saying that a system that's harder to buy and sell alcohol is necessary, she said. Representative Nelson noted her agreement with Co-Chair Fairclough's earlier statements, adding that she isn't as concerned with the statewide database as others.

[9:31:09 AM](#)

REPRESENTATIVE EDGMON asked whether those who do ship alcohol to rural Alaska were consulted in terms of the additional work and cost to them.

MR. PAWLOWSKI replied yes, [the sponsor] has spoken with a few [licensees that ship alcohol to rural Alaska]. He then posed the licensee's perspective in which the licensee would want to ensure that he/she follows AS 04.11.150(g), although [currently] it's next to impossible for a licensee to comply because of the possibility of gaming. Therefore, the database provides a tool for the licensees to ensure they are complying with the law and for the communities to control the importation of alcohol.

[9:32:50 AM](#)

CO-CHAIR LEDOUX asked if it's currently illegal to consume alcohol in a dry community.

MS. CARPENETI replied yes.

CO-CHAIR LEDOUX then asked if that's been challenged on the same grounds as the consumption of marijuana in the Raven decision.

MS. CARPENETI related that the local option laws were litigated in relation to constitutionality back in the 1980s and early 1990s when first adopted. The local option laws have been upheld by the court system. In further response to Co-Chair LeDoux, Ms. Carpeneti related her understanding that the local options were upheld in the context of criminal prosecutions. She offered to provide the committee with the decisions. She

then mentioned, in response to earlier queries regarding methamphetamines, that the federal government is discussing the use of a database to thwart situations in which individuals purchase the maximum amount of cold medicine from various stores. Therefore, the use of the proposed database in HB 232 isn't that unusual.

[9:34:35 AM](#)

REPRESENTATIVE NELSON informed the committee that for those making a written order in Bethel, it's not delivered to a person's residence but rather it's sent via air carrier and is picked up from the air carrier. The aforementioned is addressed in Section 3 of the legislation. Representative Nelson offered that a large reason for the alcohol delivery site is so that residents of a dry community can't order and pick it up from the freight office and drive home. Those picking up alcohol from the alcohol delivery site must be from a damp community.

CO-CHAIR LEDOUX posed a situation in which a resident of Kwethluk, a dry community, visits Bethel for a week and that Kwethluk resident wants to do some entertaining while in Bethel. She asked whether that Kwethluk resident would be able [to purchase alcohol while in Bethel].

REPRESENTATIVE NELSON said that those from a Barrow area village can't pickup alcohol from the delivery site.

[9:36:44 AM](#)

MS. CARPENETI, in response to an earlier question from Representative Edgmon, pointed out that the definition of "established village" is found in AS 04.24.080(9), which says:

(9) "established village" means an area that does not contain any part of an incorporated city or another established village and that is

(A) an unincorporated community that is in the unorganized borough and that has 25 or more permanent residents; or

(B) an unincorporated community that is in an organized borough, has 25 or more permanent residents, and

(i) is on a road system and is located more than 50 miles outside the boundary limits of a unified municipality, or

(ii) is not on a road system and is located more than 15 miles outside the boundary limits of a unified municipality;

REPRESENTATIVE EDGMON asked then whether HB 232 applies to those communities with populations of 25 or less.

MS. CARPENETI related her understanding that an area with a population of less than 25 wouldn't be considered an established village and wouldn't be able to adopt a local option. In further response, Ms. Carpeneti specified that HB 232 doesn't change the local option law in any major way that would [change the aforementioned].

[9:38:46 AM](#)

CO-CHAIR LEDOUX drew attention to Levelock, a community with a population of less than 25 permanent residents, and asked whether it would be able to adopt a local option to be dry.

MS. CARPENETI said she would need more information. However, she noted that [the local option law] is based on permanent residents.

CO-CHAIR LEDOUX then posed a situation in which a village with 30 residents enacts a law to be damp or dry. She inquired as to what happens when six people move away from such a village.

[9:40:50 AM](#)

DOUGLAS GRIFFIN, Director, Alcoholic Beverage Control Board ("ABC Board"), Department of Public Safety, said that [the ABC Board] doesn't really address/monitor a community that experiences a decline in population. The [ABC Board] makes sure that a community meets the threshold of [25] permanent residents at the time the local option is adopted.

[9:42:50 AM](#)

CO-CHAIR FAIRCLOUGH, drawing from her local government experience, said that a local vote on a matter not covered by [or at a more restrictive level] than state law would be a local control issue.

[9:43:49 AM](#)

REPRESENTATIVE CISSNA inquired as to how PO Boxes are addressed.

REPRESENTATIVE NELSON said she believes that it's illegal to ship alcohol through the mail.

MR. GRIFFIN pointed out that under 13 ACC 104.645(c)(5) it requires the resident address of the purchaser.

[9:45:05 AM](#)

REPRESENTATIVE SALMON requested explanation of Sections 13-14.

MS. CARPENETI characterized Sections 13-14 as conforming amendments. She explained that current law prohibits a person from bootlegging alcohol but doesn't prohibit a person from purchasing bootleg alcohol. This legislation would make the purchase of alcohol from a bootlegger a class A misdemeanor. She further explained that the forfeiture statutes in Title 4 allow forfeiture of airplanes, boats, automobiles, and various other types of transportation that transport bootleg alcohol into a community in violation of the law. This legislation would allow the existing law, forfeiture of the alcohol in connection with a conviction for selling, to continue while excluding the forfeiture of vehicles in connection with the conviction for purchasing.

MR. PAWLOWSKI pointed out that the provision cited [04.11.499(a)] in Sections 13-14 is from Section 7.

MS. CARPENETI commented that to make the minor change, all the forfeiture provisions had to be changed to exclude forfeiture under the circumstances of the purchase.

[9:47:22 AM](#)

REPRESENTATIVE EDGMON said that Section 10 is of concern with the definition of "material and equipment" and "with the intent". Drawing upon his experience living in rural Alaska, he said that there are times when law enforcement is at odds with the local leadership or a specific resident and thus "with the intent" could mean various things. He questioned the implications if the language if it's broadly interpreted.

MS. CARPENETI said that it's a specific intent and defense, which isn't an uncommon defense in criminal law. Furthermore, it's the most difficult to prosecute because it has to be proven that a person did an act with the specific intent to do something else. She pointed out that there are other [similar

statutes] with regard to the possession of precursors to methamphetamine with the intent to manufacture meth, which is illegal. She also pointed out that it's illegal to possess burglary tools with the intent to commit burglary. Ms. Carpeneti emphasized that it's very difficult to prosecute this because it has to be proven that the individual possessed the item(s) with the specific intent to perform an illegal act. Therefore, she opined that the crime addressed in HB 232 will probably only be prosecuted if there is an admission or an extraordinary situation.

[9:49:55 AM](#)

REPRESENTATIVE SALMON commented that just merely being charged [with purchasing alcohol in a dry community] is a hindrance itself.

MS. CARPENETI pointed out that the aforementioned is the case with all laws.

[9:50:14 AM](#)

REPRESENTATIVE EDGMON surmised that the term "vehicle" refers to snow machines and all terrain vehicles (ATVs).

MS. CARPENETI replied yes.

REPRESENTATIVE NELSON thanked the committee for inviting [the Bush Caucus] to comment on HB 232.

[9:51:12 AM](#)

CO-CHAIR LEDOUX re-opened public testimony.

[9:51:25 AM](#)

LOUISE STUTES expressed concern with the provision allowing a license [to sell alcohol] from the borough to be brought into the city.

[9:52:38 AM](#)

CO-CHAIR LEDOUX, upon determining no one else wished to testify, closed public testimony. She then announced that HB 232 would be held over.

[9:53:04 AM](#)

CO-CHAIR FAIRCLOUGH mentioned that there is a possible amendment to Section 10 that would address the concern that law enforcement could misuse their powers. Per the amendment the language on page 5, line 29, would read as follows: "may not possess quantities of sugar, artificial sugar, malt, yeast that exceed personal use in excess of one year; and any other material or equipment with the specific intent to use the material or equipment to create an alcoholic beverage."

[9:54:44 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at [9:54:50 AM](#).