

HOUSE FINANCE COMMITTEE  
April 17, 2007  
1:43 P.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:43:41 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair  
Representative Kevin Meyer, Co-Chair  
Representative Bill Stoltze, Vice-Chair  
Representative Harry Crawford  
Representative Richard Foster  
Representative Les Gara  
Representative Mike Hawker  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Mary Nelson  
Representative Bill Thomas Jr.

MEMBERS ABSENT

None

ALSO PRESENT

Speaker John Harris; Representative Bob Buch; Representative Carl Gatto; Dwayne Peeples, Deputy Commissioner, Department of Corrections; Charisse Millett, Staff, Representative John Harris; Sandra Wilson, Intern Staff, Representative Carl Gatto; Eleanor Wolfe, Staff, Representative Kurt Olson; Philip Mitchel, State Registrar, Bureau of Vital Statistics, Department of Health & Social Services; Brett Carlson, Vice Chair, Alaska Travel Industry Association (ATIA); Stan Stephens, President, Stan Stephens Wildlife Cruises, Valdez

PRESENT VIA TELECONFERENCE

Richard Olson, Founder, National Stillborn Society, Arizona;  
Dave Feeken, Alaska Association of Realtors, Anchorage

SUMMARY

HB 133      An Act relating to requiring electronic monitoring as a special condition of probation for offenders whose offense was related to a criminal street gang.

CS HB 133 (FIN) was reported out of Committee with a "no recommendation" and with zero note #1 by the Department of Law and indeterminate notes #2, #3

and #4 by the Department of Administration, Department of Corrections and Alaska Court System.

HB 147 An Act relating to matching funds in state tourism marketing contracts with trade associations.

HB 147 was HEARD and HELD in Committee.

HB 159 An Act relating to the issuance of a certificate of birth resulting in a stillbirth.

HB 159 was HEARD and HELD in Committee.

HB 205 An Act relating to real estate broker and real estate salesperson licensing; and providing for an effective date.

HB 205 was HEARD and HELD in Committee.

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#HB133

HOUSE BILL NO. 133

An Act relating to requiring electronic monitoring as a special condition of probation for offenders whose offense was related to a criminal street gang.

REPRESENTATIVE BOB BUCH, SPONSOR, referenced the memo he submitted to the Committee dated 4/12/07, addressing previous concerns voiced by Representative Hawker. The issues were addressed during testimony taken in the House Judiciary Committee. He added that there is nothing unconstitutional about the bill before the Committee, which is fiscally responsible.

Representative Hawker noted that he had spoken with the Department of Law & the law enforcement community regarding these concerns and thought that the intended application would be narrowly utilized in the current form.

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Co-Chair Chenault mentioned the fiscal note from the Department of Corrections and asked what the intensive supervision of the current monitoring system would be. Representative Buch explained that in the original drafting, the use of "continuous" caused confusion as well as a fiscal note. The interpretation by the Department of Corrections differed from the State Police Department. He recommended a better way to monitor.

DWAYNE PEEPLES, DEPUTY COMMISSIONER, DEPARTMENT OF CORRECTIONS, addressed the continuous monitoring, in which there would be a 1 to 15 ratio for probation officers. He

discussed other adjustments reducing the pool of potential bodies by removing the reference to misdemeanors being charged to the felony category. The fiscal narrative has remained the same, documenting the pool. Mr. Peeples noted, currently, the Department is using a 1 to 40 probation officer ratio for problematic probations, reducing the numbers. Due to previous bill changes, the Department does not know when candidates will appear under the Department of Correction's supervision.

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Co-Chair Chenault assumed that the Department of Corrections would handle juveniles within the program. He understood that the current ratio, however, was concerned if prisoners moving outside areas they do not currently live in and how they would be monitored. Mr. Peeples explained that by removing the word "continuous", their movements would be reviewed on a daily basis, making sure they are complying with the conditions of probation.

Representative Hawker asked if the fiscal note was based on the 96 offender's currently on probation, asking if it was the same criteria for the mandatory element. Mr. Peeples did not know; it is now the current pool & no one in that pool has passed the aggravating probation factor hurdle.

Representative Hawker inquired if the factor was determined by the judge at the time of conviction. Mr. Peeples said yes and that only two have reached that as reported. It is a moving target & the prosecutors will need to bring it forward, there is an incentive.

Representative Hawker understood that the bill would have future advantage. He pointed out that the fiscal note is an unreasonable assumption and is not supported by the body of testimony. Mr. Peeples pointed out that the current version provides a sunset date.

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Representative Buch said it is important to place a sunset in order to determine if the project is functional. The sunset is five years.

Co-Chair Meyer indicated concern with the size of the note and asked if three years could work. Representative Buch said the Department of Corrections indicated three years would not be long enough to gather and implement required data.

Representative Thomas asked where the convicts currently are. Representative Buch replied they are not addressed through the legal issues of the legislation. HB 133 is the

initial step, providing tools to the police force so that they can enact some-kind of a stop-gap to prevent recidivism. Mr. Peeples thought that most are concentrated in the Anchorage area; no one yet has gone through the program.

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Representative Hawker MOVED to REPORT CS HB 133 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 133 (FIN) was reported out of Committee with a "no recommendation" and with zero note #1 by the Department of Law and indeterminate notes #2, #3 and #4 by the Department of Administration, Department of Corrections and Alaska Court System.

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RECONVENE: [2:05:26 PM](#)

#HB159

HOUSE BILL NO. 159

An Act relating to the issuance of a certificate of birth resulting in a stillbirth.

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SANDRA WILSON, STAFF & INTERIM, REPRESENTATIVE CARL GATTO, noted that HB 159 is meant to help bring closure to those who have suffered the loss of a stillborn child by providing them a Birth Certificate reflecting that they had a child who was stillborn. In existing law, parents of a stillborn child receive a Death Certificate. The bill would allow parents the option of requesting a certificate of birth for their child. The Birth Certificate would be optional. She added that there are an increasing number of states that are now offering Birth Certificates for parents of stillborns. Ms. Wilson urged the Committee's support for HB 159.

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REPRESENTATIVE CARL GATTO, SPONSOR, spoke to the "darkness" for those mothers that have stillborn babies. HB 159 would help provide that family a sense of closure by providing a document, acknowledging that there was a pregnancy and that there was a birth.

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Representative Gara indicated he supports the idea, however, asked if it was something that people want. Ms. Wilson explained that the bill had been requested by a constituent and since that time, there has been wide support indicated.

Representative Gara asked how women would be notified that they have the right to apply for the Birth Certificate. Representative Gatto commented that the legislation has been implemented in fifteen states, pointing out the birth certificate would clearly indicate that it was not a live birth; hence, none would be able to apply for a Permanent Fund Dividend or State aid.

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Co-Chair Chenault acknowledged that loosing a child in still birth is the same as having a death in the family.

Representative Thomas asked if the effective date would allow women who in the past that had experienced still births, to be able to get a certificate. Ms. Wilson responded that Section F provides language which allows a parent who has had a still born child to request, through Vital Statistics, a Birth Certificate and that information would be taken off the fetal Death Certificate. Representative Gatto added that the Division of Vital Statistics was willing to go back and offer that service. Representative Thomas asked how that would happen. Representative Joule pointed out that Paragraph F contains information on retroactive birth information.

Co-Chair Meyer inquired how the 20-week number had been determined. Representative Gatto noted that when looking at other state's legislation, 20-weeks was the identifying length beyond which accounted for. Fetal Death Certificates are issued at 20 weeks.

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Vice Chair Stoltze asked if the bill was intended to only cover still born births. Representative Gatto responded that the definition of a still born is death of a baby carried in the womb. Vice Chair Stoltze questioned the legal implications of the bill.

Representative Gara was comfortable allowing the Birth Certificate for those families that had past still born births. He pointed out that the definition only applies to that section and would not affect definitions in other statutes, pointing out on Page 2, Line 15.

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PHILIP MITCHEL, STATE REGISTRAR, BUREAU OF VITAL STATISTICS, DEPARTMENT OF HEALTH & SOCIAL SERVICES, testified in support of the bill, noting that they had received requests from parents to acquire a certificate as proposed. He added that the Division has addressed retroactivity on the bill.

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RICHARD OLSON, (TESTIFIED VIA TELECONFERENCE), FOUNDER, NATIONAL STILLBORN SOCIETY, ARIZONA, noted that he was a father of a stillborn birth and after much grief, created the National Stillbirth Society. He estimated the number of stillbirths that occur in the United States each year. He voiced support for the certificate, indicating that the 20-week number had been agreed upon by all the states and is an arbitrary point. He emphasized that people really support and want the proposed legislation.

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PUBLIC TESTIMONY CLOSED

Co-Chair Meyer proposed holding the bill in Committee to deal with the amendment addressing retroactivity. Ms. Wilson noted that she had checked with the Department of Law and that language had been redrafted in the House HESS Committee. Representative Gara supported the language, stating it is correct. Mr. Mitchel stated that the language was taken from other states, who passed legislation similar to HB 159.

HB 159 was HELD in Committee for further consideration.

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#HB205

HOUSE BILL NO. 205

An Act relating to real estate broker and real estate salesperson licensing; and providing for an effective date.

ELEANOR WOLFE, STAFF, REPRESENTATIVE KURT OLSON, testified that HB 205 would clarify and strengthen a number of items in current statute and increase consumer protection in the buying and selling process of homes. The Association of Alaska Realtors (AAR) strongly supports the bill. She noted that the committee substitute contains the changes recommended by the Division of Occupational Licensing, Department of Commerce, Community & Economic Development.

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Representative Gara referenced Page 3, which provides the Association the judgment to not suspend a license if they

are convicted of a crime of "dishonesty", which affects their ability to practice.

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DAVE FEEKEN, (TESTIFIED VIA TELECONFERENCE), ALASKA ASSOCIATION OF REALTORS, ANCHORAGE, stated that HB 205 is the modernization of existing statutes related to real estate brokerage, addressing issues of education of real estate licensees and the supervision relationship between brokers and licensees.

Sections 1, 4, 5, & 6: Realtors proposes clarifying the issuing a license to persons convicted of felonies. Current law is unclear as to time elapses since the completion of a sentence for those crimes. HB 205 clarifies and standardizes the 7 years as is required with the broker and the associate broker license with the language needed to protect the public from people convicted of felonies. Additionally, it standardizes language for all license, broker, associate broker, or sales associate, when a licensee is convicted of a felony or other crime committed while licensed under statute, in the judgment of the real estate commission, if the crime or felony affects the ability of that person to practice competently and safely, the commission may revoke it for a period of 7 years.

Section 2: The current requirement for 20 hours of pre-licensing education is 20 years old, when brokers controlled the information, however, with the world wide web, nearly 80% of current buyers use the web for their property search, no home inspections, a couple of loan programs available from Alaska Housing Finance Corporation (AHFC) have been replaced by hundreds from all over the country, with no concerns about wetlands maps, required disclosure of property condition, predatory lending issues, and that no one knew that mold endangered mental capacity; the list goes on.

Mr. Feeken stated that the Real Estate Commission has continued to increase the required course material for pre-licensing education, but the number of hours has not increased. HB 205 would increase the required education hours from 20 to 40 in order to take the exam. Even at 40 hours, Alaska is the lowest in the country.

Section 3: Additionally, the required topics of Post Licensing education should be increased from 20 to 30 hours to adequately teach the required course material. He pointed out that the Alaska Association supports an increase in hours verses a reduction in course content, in order to meet the publics need for competent real estate practitioners.

Section 7: Multiple Business Operations: The issue of a single broker owning, operating, or being employed by multiple corporations or partnerships is further clarified to require all organizations to share a single physical address. Many brokerage firms are multiple companies for insurance and other reasons.

Section 8: Statutes have always stated that brokers are responsible for the actions of their licensees, until the Alaska Supreme Court ruled in the 80's that the broker is not responsible for conduct they had no knowledge of, which requires the broker to have a written policy and procedure addressing issues:

1. Require real estate licensees to comply with all real estate laws
2. Require real estate licensees to act fairly and honestly in all dealings
3. Require real estate licensees to notify the broker or a broker designee of any legal dispute or allegation of wrong-doing from a seller, buyer, lesser, or lessee
4. Require real estate licensees to maintain regular communication with the broker or a broker designee

Mr. Feeken concluded, in order to implement the education hour changes, the Association requests an effective date of Feb 1, 2008, the renewal date for all licensing.

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Representative Gara pointed out sections in the bill where the crimes for which one could lose their license was changed and asked if that was for the public's best. Mr. Feeken responded that in the original draft, they only addressed the sales associate license & was language that had been added by the Department of Law, wanting to eliminate specific crimes, while providing the Commission latitude.

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Representative Gara countered that the Department most likely wanted to give the Commission the discretion to revoke the license for any felony. He asked if the Association would object to leaving the language the way it is, noting that if the felony is already on the books, it be left there. Mr. Feeken explained that the intent was not to limit it to five; the Commission needs the authority to regulate people with a license and those wanting to obtain the license should not have a felony record. Representative Gara requested leaving the new language as is, but adding the inclusion of old language, which provides the Commission discretion to take away the felons license.

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Representative Hawker addressed Section 7 and questioned why the principal office must share a physical address. Mr. Feeken explained that there was a problem with a broker that owned separate businesses at separate locations. The intention was to make the licensure for a single business.

Representative Hawker suggested that there could be occasions when successful businesses could have legitimate occasion to have separate offices. Mr. Feeken replied, in one Anchorage case, a broker reported to be under the supervision of a broker in Denver. He voiced support maintaining the language.

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Co-Chair Chenault questioned how many real estate agents had lost their licenses due to felonies in the last five years. Mr. Feeken did not respond, but emphasized that it is an issue of moral turpitude. He noted that the current Commission denies licenses for Driving While Intoxicated (DWI's). The intent is to expand the net.

In response to a question by Co-Chair Chenault, Mr. Feeken observed that the Commission denied a license to a broker with a multiple DWI record. Co-Chair Chenault said he would be concerned if a license were denied based on minor offenses.

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Representative Hawker expressed concern with the broadness of the "moral turpitude" language, since that is indefinable and objective. Representative Gara agreed with concerns regarding definable terms.

HB 205 was HELD in Committee for further consideration.

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#HB147

HOUSE BILL NO. 147

An Act relating to matching funds in state tourism marketing contracts with trade associations.

CHARISSE MILLETT, STAFF, REPRESENTATIVE JOHN HARRIS, explained that the legislation changes the current 50/50 to 90/10 match for tourism funding. The Alaska Travel Industry Association (ATIA) does not believe that they are able to do a good job at marketing the State of Alaska at the 50/50 match.

BRETT CARLSON, VICE CHAIR, ALASKA TRAVEL INDUSTRY ASSOCIATION (ATIA), COLDFOOT, spoke in support of HB 147, noting that it is a "critical must have" piece of legislation to the future of the tourism industry.

Mr. Carlson pointed out that Alaska's destination marketing program is facing a 60% fund cut unless the bill passes. The focus of HB 147 is to determine language to govern ATIA's ability to access dollars, changing the level at which the private sector is required to match dollars. He provided chart handouts - Tourism Marketing Industry Payment in Lieu of Taxes (Copy on File.)

Mr. Carlson noted that in 2001, the Millennium plan was introduced, in which the Alaska tourism industry faced two options:

- Tax themselves, trusting that future legislatures would reinvest new travel industry tax dollars back into destination marketing, or
- Attempt to raise destination marketing funds through voluntary payments in lieu of taxes, from cruise ships. That is what ATIA choose.

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Mr. Carlson pointed that during the years of a payment in lieu of taxes scenario, destination marketing did survive, but did not thrive. ATIA met match through payments in lieu of taxes. He recommended the need for change.

In recent years, legislators through the vehicle rental tax and cruise taxes made the tax versus the payment in lieu of taxes decision. Changes in the tax landscape called for a return to a more traditional destination funding model.

Mr. Carlson informed members that travelers come to Alaska and leave their money behind. State and local governments take a portion and reinvest it, as does private industry. He maintained that HB 147 returns the legislation to the norm.

Mr. Carlson continued, \$2 million dollars is the level of non-cruise, pay to play dollars that can be generated by ATIA. The goal is \$20 million, \$18 million, which hopefully will come from the State.

Mr. Carlson stressed that if the State only contributes \$8 million, ATIA would still contribute \$2 million. There is incentive to contribute the maximum possible. ATIA's goal is to have a match that will work this year and in the future without additional legislative changes. ATIA

believes that the 90/10 match is the answer & will help prepare Alaska for the future.

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Representative Gara questioned the number of ATIA members that contribute. Mr. Carlson estimated that there is about 1,000 contributing members. Representative Gara observed then the average would then be about \$2,000 each. Mr. Carlson indicated there are large and small contributors. Representative Gara asked the percentage of businesses that pay a corporate tax back to the State. Mr. Carlson did not know.

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Co-Chair Meyer inquired if a bed tax had been considered, noting that Anchorage collects a bed tax & then pays it into regional tourism. Mr. Carlson acknowledged that a bed tax was a potential option. He noted that small businesses are concerned with additional taxes being reinvested; he discussed the vehicle rental tax, which initially was not reinvested.

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Co-Chair Meyer advised that car rental tax brings in about \$8 million dollars, of which about \$5 million is reinvested into tourism. He expressed concern that the tourism industry relies so heavily on support from the General Fund.

STAN STEPHENS, PRESIDENT, STAN STEPHENS WILDLIFE CRUISES, VALDEZ, spoke in support of HB 147. He noted that the changes that took place last fall with the new cruise ship tax initiative changed the financial structure of the ATIA marketing program. Two-thirds of the ATIM Board represents small businesses in Alaska reflecting the make-up of membership. Also, even though the cruise industry represents the smaller number of board members, they still voluntarily contributed 60% of State required match. With the amount of unknowns about the initiative, ATIA's mission is to find a way to save the marketing program, hence HB 147.

Mr. Stephens continued, in FY07, the total combined funds from the State and private contributions was \$10 million dollars; \$5 million State matched by \$5 million voluntarily contributed by the travel industry. With the passage of the cruise ship initiative, the cruise industry will now be required to pay millions of dollars directly to the State and no longer is likely to pay a voluntary contribution to Alaska's travel marketing campaign targeted at the non-cruise travelers.

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Representative Crawford referred to the Cruise ship Initiative, questioning what would occur if the cruise ship industry withheld their contribution. Mr. Stephens said they would have to wait to see, emphasizing the importance of marketing.

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Co-Chair Meyer questioned if the cruise ship industry would withhold their support. Mr. Stephens emphasized that all business must help in the generic marketing program.

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In response to a question by Co-Chair Meyer, Mr. Carlson noted that the cruise ship industry has indicated that they would not contribute the previous \$2 million. Mr. Carlson stressed that those benefits do not spread evenly into each area and that the independent visitors must be reached. The program should be by and for Alaskans, offering vacation planning and allowing all visitors to connect with the 3,000 plus independent tourism businesses.

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Co-Chair Chenault inquired how many tourism businesses exist statewide. Mr. Carlson estimated that there are between 2,500 to 3,000. He explained that some businesses are so small that they contribute only to their local tourism marketing effort.

Co-Chair Chenault commented on the tourism level in Kenai.

Mr. Stephens noted that ATIA does represent all the very small business statewide even though there are not members. The State has a responsibility to help all business advertise.

Co-Chair Meyer commended the track taken, while encouraging the membership to participate at a higher level. Representative Kelly noted something must shift. ATIA was funded at a higher amount than last year; he was intrigued with the percentage option, but supported the cruise ship choice.

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Representative Hawker observed that the issue appears to be the passage of the cruise tax, which changed the Industry. He noted the number of communications from the general public and the tourism industry was done deliberately and is off limit funds. Understanding that, he commented that the

cruise industry will pass the tax on to their customers. He did not have sympathy for that industry. He emphasized that the concern is "big".

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Vice Chair Stoltze mentioned the vehicle rental tax relationship to the visitor industry and questioned if "history was being revised". Mr. Carlson recalled that it was not a tax that the visitor industry supported or proposed. The final bill did hurt the independent traveler. There was language added indicating that funds raised would be placed into a separate account and could be used for marketing.

Vice Chair Stoltze asked if a lower rate had been proposed for recreational vehicles. Mr. Carlson said yes, lowered from 10% to 3% for recreational vehicles only.

In response to a question by Vice Chair Stoltze, Mr. Carlson commented on the long term vision for Alaska's marketing program. It would not be bad if the independent small business, in order to meet their match, could be completely cruise focused. He wanted to see that the State of Alaska program become a generic program to help all travelers.

Vice Chair Stoltze asked about language requiring ATIA to come in at least 10%, if that allows the Department of Community & Economic Development the required flexibility. Mr. Carlson determined that should be the minimum.

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Representative Gara commented that the legislation initially "rubbed him the wrong way" when anticipating that the Industry should not get the rental car tax funds back; he did not accept that tourism related dollars should be returned.

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Representative Gara commented on his personal frustration on the \$15 million dollar increase request to the tourism industry. He thought that the industry should be taxed at the State level. He asked the total amount included in the operating budget for tourism marketing. Co-Chair Meyer advised that the State was in for \$6 million dollars for the 50/50 match program and another \$3 million dollars for the independent travelers. Representative Kelly pointed out that the difference comes from the Senate's position. The House Finance Committee version proposed \$6 million dollars plus \$720 thousand for the independent marketing. Mr. Carlson corrected, the Senate has recommended \$8 million and \$1.5 million for the independent traveler portion.

Representative Joule was surprised by the various approaches. He commented that tourists are no longer coming to his area. He hoped for an arrangement with the cruise industry to bring more visitors in. He pointed out that his district gets about 1,000 tourists a year now. He did not think that the State's tourism dollars would get to people off the beaten track. He commented that it was important to invest in Rural Alaska. He appreciated the effort of the legislation.

Mr. Stephens concluded that the tourism industry puts about \$20 million dollars into the General Fund. The Industry is between a rock and hard spot at this time. In FY06, ATIA placed \$1.5 billion dollars into the State's economy. Many statewide businesses could not survive without tourism during the summer. If the future holds corporate and gambling taxes, then maybe there could be funds taken from those 1090's.

At present time, the gas line is about 10 years away. If not for the price of oil, Alaska would be hurting. He thought that tourism was the answer until the gas line comes on. Alaska has tourism potential and the Legislature needs to help find that potential. He urged a long range plan, which includes funding tourism.

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HB 147 was HELD in Committee for further consideration.

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ADJOURNMENT

The meeting was adjourned at 3:56 P.M.