

HOUSE FINANCE COMMITTEE
February 18, 2008
1:43 P.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:43:08 PM](#).

MEMBERS PRESENT

Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Les Gara
Representative Mike Hawker
Representative Mike Kelly
Representative Mary Nelson
Representative Bill Thomas Jr.

MEMBERS ABSENT

Representative Mike Chenault, Co-Chair
Representative Harry Crawford
Representative Reggie Joule
Representative John Harris

ALSO PRESENT

Representative John Coghill; Eddy Jeans, Director, Education Support Services, Department of Education and Early Development; Michael Pawlowski, Staff, Co-Chair Meyer; Brad Thompson, Director, Division of Risk Management, Department of Administration; Jerry Burnett, Director, Division of Administrative Services, Department of Revenue; Karen Lidster, Staff, Representative John Coghill

PRESENT VIA TELECONFERENCE

Charles Springer, Alaska Search & Rescue, Anchorage; Lieutenant Rodney Dial, Deputy Commander, Division of Alaska State Troopers, Department of Public Safety

SUMMARY

HB 65 An Act relating to breaches of security involving personal information, credit report and credit score security freezes, consumer credit monitoring, credit accuracy, protection of social security numbers, care of records, disposal of records, identity theft, furnishing consumer credit header information, credit cards, and debit cards, and to the jurisdiction of the office of

administrative hearings; amending Rule 60, Alaska Rules of Civil Procedure; and providing for an effective date.

HB 65 was HEARD & HELD in Committee for further consideration.

HB 320 An Act relating to certification of search and rescue personnel and organizations; requiring certain search and rescue personnel to be considered state employees for purposes of workers' compensation coverage; and allowing municipalities to elect to provide workers' compensation insurance coverage for search and rescue personnel.

CS HB 320 (FIN) was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Administration, indeterminate note #2 by the Department of Administration and a new fiscal note by the House Finance Committee.

HCR 13 Establishing and relating to the Education Funding District Cost Factor Commission.

CS HCR 13 (FIN) was reported out of Committee with a "do pass" recommendation and with a new note by the House Finance Committee.

#HCR13
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HOUSE CONCURRENT RESOLUTION NO. 13

Establishing and relating to the Education Funding District Cost Factor Commission.

REPRESENTATIVE MIKE HAWKER, SPONSOR, explained that the resolution resulted from a long history of legislative contention regarding the district cost factor component of school district funding formula. He provided a brief history of the process, reiterating debates between Co-Chair Chenault and Co-Chair Meyer regarding school district cost funding formula. The dialogue resulted in the Legislature setting up a Task Force to review the funding cost formula in order to stabilize school funding across the State.

The House Finance Committee has discussed and passed on those funding component recommendations. The Task Force recognized that there were issues beyond their ability to provide a single policy recommendation. Amongst those issues are cost factor components, a factor built into the district cost formula, which attempts to recognize the differing costs from operations in various statewide

regional areas, recognizing it costs more to operate in the remote villages. Anchorage is viewed as the base community.

Representative Hawker continued, in the existing school funding formula, there is a table, established in statute, providing a fixed number. The accuracy of the numbers has become a gradation issue before the Legislature since 1998. While the funding formula changes recommended in a previously considered bill were the result of a compromise and consensus which included dissenting opinions.

The Task Force did acknowledge that the school differential numbers used in the recommendation are suspect and subject to query, question and debate. In order to break the deadlock forward funding, the Task Force opted to move forward with a phased-in implementation of cost factors recommended by the Legislative Budget and Audit Agency (LBA) hiring consultant. Representative Hawker expressed that the cost factors put in statute were no more or less precise than the numbers was being replaced. They represent a degree of change, which is a good thing. The five year phase in period for those cost factors was specifically included to allow the Legislature to implement another recommendation made by the Education Funding Task Force to continue the work with an additional approach bringing together legislators to help craft a durable mechanism for the recurring redetermination of the cost factors, which HCR 13 accomplishes.

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Representative Hawker continued. HCR 13 creates the Education Funding District Cost Factor Task Force, which is tasked with examining school district cost differentials and determining a formula to adequately fund education throughout Alaska.

Representative Hawker opined that the only way to achieve any harmony in the Legislature as well as achieving parity across the State is to create a calculation mechanism, acceptable to the Legislature in an open, public task force approach, bringing everyone together dedicated to the cause for redefining cost factors. He emphasized that the State has historically failed to recalculate the cost factors. Everything that went into the calculation was not acceptable to the body politics. He envisioned that the Task Force would develop a by-in and consensus along the way, proving a methodology that works. He urged the Committee's support of the resolution.

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Representative Gara asked if the proposal was unanimously supported by the Task Force. Representative Hawker replied

that there had been unanimous agreement that the district cost factor calculations are one of the biggest issues for the State. He hesitated to say that everyone supported the numbers. He recollected that the process did provide concurrence for establishing an approach to create a durable model. There is a strong difference of opinion as whether the process should be dominantly a legislative or administrative one.

Representative Hawker concurred with the consensus recommendation of the Task Force, making it a legislative process, which he believed would be appropriate. He noted that by operating in a bicameral, bipartisan basis, a buy-in was achieved, necessary to carry the policy decisions forward. He reiterated his support for using the legislative approach.

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Representative Gara asked about dissenting voices in the process. He understood that there had been disagreement regarding what the cost factors should be. He said he was sympathetic to the argument that the rural schools have been substantially underfunded and that the resolution provides an opportunity to look at those issues.

Representative Hawker advised that the Task Force report contains an extensive response supporting the proposal & arguments for another perspective. The debate has been entered into the public record.

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Representative Thomas pointed out that the University has not complained about the cost differentials and asked if there is a better formula used by them. Representative Hawker commented that cost differentials exist across the State in a number of business arenas. He believed that the University encounters similar issues. He hoped that the Legislative body could come up with a modeling system that provides sufficient buy-in support.

Representative Kelly advised he had voted against the recommendations of the Task Force. He was concerned that the tasks of the study commission would fail. These issues have been more successfully addressed in the State. He noted concern that if the State is going to provide a cost study reflective of the issue, the concern should focus on how cost factors not harm the delivery of a first class education to rural areas, while significantly improving that delivery. He hoped it would be more inclusive. He mentioned offering an amendment later.

Representative Kelly outlined his concerns:

- The academic outcomes should be the chief driver
- /schools with 10 students or less, should be a part of the debate regarding whether the system can deliver 1st class education to them
- An understanding regarding when schools help
- Consideration of using delivery technology
- Concerns of offering high salaries paid in certain parts of the State where at the same time, those areas have huge unemployment rates

Representative Kelly encouraged that more rural students go through the teacher training programs so that they can return to teach in the village areas. He thought that could help address the high teacher turnover. It has not happened to date and many students seeking education do not return to the State, particularly the rural areas.

He recommended that life success be addressed rather than creating more difficulties for the State. The Legislative Body should discuss first-class education in the rural areas and excellent outcomes. In order to make a model work, other items will be affected. He added that the Task Force should have been awarded more time to accomplish the vastness of these goals.

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Representative Hawker maintained that points raised by Representative Kelly is the type of discussion that should take place in a properly managed task force. There is a fine line between rewriting the school district funding formula and fixing a broken component within the existing formula. There is nothing in the format of the Task Force that prohibits a new vision approach to school operations funding management. The Task Force concept recognizes that there is a funding mechanism in place and that there are real problems with the school district cost factors. He maintained that a managed task force approach could address many of the identified problems. He referenced the Moore decision, which had been addressed in the Alaska Court last summer [2007], a response to a lawsuit against the State of Alaska for not providing adequate funding for schools across the State. There was extensive discussion and the outcome of that decision determined that the Legislature is responsible for the outcome in the schools. He maintained, it is imperative to examine the true differentials between the urban and rural areas, a critical step addressing the comprehensive manner of the issues.

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EDDY JEANS, DIRECTOR, EDUCATION SUPPORT SERVICES, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, advised that the Department of Education and Early Development and the Office of the Governor support HCR 13.

PUBLIC TESTIMONY CLOSED

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Representative Gara voiced confidence in the resolution, pointing out that that the argument has come forward every year with regards "who gets what money". The answer can only be determined once the needs of each school district are known. He maintained that more information is needed to determine the needs and that there must be further discussion within the statewide education system.

Representative Nelson addressed disparaging comments regarding rural schools made by Representative Kelly. She pointed out that many rural schools, which hover around ten students, are doing well, making the Adequate Yearly Progress (AYP) 0 multiple years in a row. The larger schools are not doing that well. She pointed out that there are cases of small schools offering generational teachers. She listed school districts with Native success rates. There are Native teachers that went to University of Alaska-Fairbanks (UAF), returning to their village areas, who are now retiring out of the system. She maintained that there are advances being made in some of those small, fewer than ten student schools and noted that not every school hovering around ten should be considered to be closed because of low student enrollment.

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Representative Hawker MOVED to ADOPT Conceptual Amendment 1. Co-Chair Meyer OBJECTED for discussion purposes.

Representative Hawker noted Amendment 1:

- Page 2, Line 1, following "differentials", deleting "and" and inserting","
- Page 2, Line 2, following "providing education", inserting ", and contracting for research, consultants and experts, as the commission considers necessary, to create the model".

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Representative Hawker explained that the amendment addresses a question raised in a previous committee. The amendment clarifies that it is expected that the Task Force process contracts with economists or other professionals to assist

determining the intent to utilize outside consultant skills. The amendment language acknowledges that.

Co-Chair Meyer WITHDREW his OBJECTION. There being NO further OBJECTION, it was adopted.

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Co-Chair Meyer referenced the fiscal note submitted by the Legislative Affairs Agency (LAA). Representative Hawker requested latitude to revise the fiscal note. He pointed out that fiscal notes often submitted in addition to the operating budget. It is envisioned that all the costs of the Task Force could be encompassed in existing legislative authority. He added that the Legislative Budget and Audit (LBA) Committee ran the two previous studies that never reached sufficient legislative buy-in to provide consensus. Co-Chair Meyer agreed.

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Vice-Chair Stoltze MOVED to REPORT CS HCR 13 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

[2:16:22 PM](#)

CS HCR 13 (FIN) was reported out of Committee with a "do pass" recommendation and with a new zero note by the House Finance Committee.

[2:16:43 PM](#)

#HB320

HOUSE BILL NO. 320

An Act relating to certification of search and rescue personnel and organizations; requiring certain search and rescue personnel to be considered state employees for purposes of workers' compensation coverage; and allowing municipalities to elect to provide workers' compensation insurance coverage for search and rescue personnel.

MICHAEL PAWLOWSKI, STAFF, CO-CHAIR KEVIN MEYER, addressed the philosophy behind the bill and some of the changes made during the committee process. He stated that the concern had been brought forward by a constituent involved in the Search and Rescue community.

He pointed out that Section 3, AS 18.60.125, addresses civil immunity and provides the essence of the bill. Through the workers compensation statute, an employee and employer come to an agreement that in an injury, the workers comp system

would be used rather than going to court to deliver benefits to the injured employee.

At present time, Search & Rescue volunteers are expressly prohibited from suing the State under existing statute, indicated as civil immunity located in Section 3. There has been a voluntary policy issued through the Division of Risk Management is not consistent; it is a secondary policy. He emphasized that these are a group of volunteers, whom the State relies upon to deliver search & rescue services and assist Alaska State Troopers for statewide outdoor activities. He noted that the sponsor believes that this group of people are basically State employees for the purposes of those missions.

Mr. Pawlowski mentioned other groups who receive workers compensation that are also volunteers such as the volunteer fire fighters, volunteer emergency medical attendants and emergency relief workers. They are all considered State employees for the purposes of workers compensation. When considering the volunteer needs, HB 320 was drafted to provide workers with compensation coverage.

Mr. Pawlowski acknowledged that there have been few accidents in the history of Search & Rescue in the State. The bill attempts to be proactive, in the past six years, more than 2,300 people have been saved by the efforts of search and rescue volunteers, assisting State Troopers.

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Mr. Pawlowski highlighted changes made to the bill during the committee process. The requirement for certification and registration was removed and some volunteers did not like that. A fiscal note was included, requiring one statewide full time employee to work with the volunteers in coordinating the effort.

Mr. Pawlowski summarized, HB 320 provides coverage to a group of people in the State, who perform an important and valuable service and guarantees they are covered in case of an accident. Certification has been removed and authority for training was added.

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Representative Gara asked if a person were entitled to workers compensation insurance, would they lose their ability to be able to sue in Court. He understood that if the injured person did not have workers comp insurance, they could sue. He asked if there was 100% certainty that only those that receive State workers comp insurance would not be entitled to sue.

Mr. Pawlowski explained that in existing statute; civil immunity already exists. The legislation provides coverage currently unavailable in existing statute. He requested that the Department of Labor and Workforce Development address the issue.

Representative Gara requested the classification of those who would not be able to sue in Court.

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Representative Gara did not want to see a circumstance, where someone doing search and rescue work and not covered by insurance, if they were injured, then not being allowed to sue. Mr. Pawlowski replied that in existing law, it is not an either/or situation. Right now, there is no coverage and there is prohibition from suing so the civil immunity statute would remain in place and they would receive coverage.

Representative Gara asked if the bill was passed, would all volunteers doing search and rescue receive either coverage by insurance or the ability to sue. Mr. Pawlowski addressed two areas where a person does not have coverage under the proposed bill:

- A person performing a Search & Rescue outside the State Troopers with no authorization for the mission; and/or
- When the request is drawn-up by a municipality, as indicated in Section I.

He acknowledged there are places where a volunteer would not be covered and did not know how civil immunity would be affected.

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Representative Gara maintained that if the intent was to protect the search & rescue workers, language could be added to clarify that the State have immunity to the extent that they provide insurance to that person. If the State has not provided insurance to the volunteer, they have no immunity. Mr. Pawlowski referenced that observation to the Division of Risk Management.

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Co-Chair Meyer hoped the legislature would make the statute consistent with the voluntary Emergency Medical Technician's (EMT) workers compensation coverage.

Representative Kelly inquired how many other states offer the coverage. Mr. Pawlowski did not know, but offered to check. In Title 23, there are extensive lists of statewide groups that receive compensation. Some sections of the bill were taken directly from AS 23.32.44, the emergency disaster relief volunteers.

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CHARLES SPRINGER, (TESTIFIED VIA TELECONFERENCE), ALASKA SEARCH & RESCUE, ANCHORAGE, testified in support of the legislation which will provide basic protection for volunteers who put their health and safety at risk in volunteer efforts for the State.

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PUBLIC TESTIMONY CLOSED

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BRAD THOMPSON, DIRECTOR, DIVISION OF RISK MANAGEMENT, DEPARTMENT OF ADMINISTRATION, advised that the Division administers the State of Alaska's self insurance program, which extends to State agencies and employees. HB 320 would create a statutory employee for a search and rescue participant under the direction of the Department of Public Safety. Mr. Thompson pointed out that it would be a new extension of the workers compensation benefit for the member under the direction of that Department. It has been the policy and practice to extend to those participants that volunteer for State service under a similar provision. The volunteer is not eligible to receive the workers compensation benefit but there has been a service agreement which extends to the participant a similar benefit paid only if there is no other source of coverage. In the proposed statute, it would be noted that there is a service agreement that medical costs be paid. The proposed statute makes the State primarily responsible to pay medical indemnity for wage loss based on the average weekly wage.

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Representative Gara wanted a guarantee that those persons who do search & rescue work are protected in either their ability to go to Court to get the coverage or to get insurance. He asked if there could be any gap, to any person that volunteers for search and rescue efforts. Mr. Thompson reiterated that the bill creates a statutory benefit of workers compensation; the State is self-insured. It would pay the same benefit to those participants that it would to a State employee with the benefit based on an average weekly wage. Existing civil immunity language does address the State & municipality's exposure for liability

claims from Search & Rescue missions and extends to those individuals.

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Representative Gara advised that in the general workmen's comp language, if an individual is not covered, there would be no benefit from immunity; it would be one or the other. He asked if there would be objection from the Administration to guarantee that every person doing search and rescue work, has one or the other option. Mr. Thompson argued that there is no direct action and that the employee has the exclusive remedy listed under the workers compensation law. There is no direct-action legal ability to pursue a civil action against an employer. The present civil immunity statute addresses participants and third parties. The proposed benefit enacts a practice, which provides commitment to pay workers compensation and does not change the existing civil immunity. If the volunteers were under the control of the Department of Public Safety, they would be paid the benefit. The State is self-insured and would make that benefit payment.

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Representative Gara asked the recourse under the bill, if the State or municipality did not provide insurance for the individual if that person was hurt. Mr. Thompson explained that if the volunteer was acting under the control of State authority, they would be covered; if a municipality offered their own Search & Rescue, not under the direction of the Department of Public Safety, they would have the option to extend similar statutory benefits to those responders. If they choose not to offer it, there could be a situation in which the volunteer would be without compensated benefits. Representative Gara asked if they would be without the right to get a remedy in Court. Mr. Thompson said yes.

Representative Gara asked if Mr. Thompson would support language added to address that. Mr. Thompson said he was not sure that tweaking the civil liability statute should be undertaken.

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Representative Gara inquired how it could be fair for someone risking their life to save another not receive coverage either through insurance or court. Mr. Thompson responded that if working for the State through the Department of Public Safety, the volunteer would not be placed in that dilemma. However, it is the municipality's choice not to extend the statutory benefit. He could not respond for them. Co-Chair Meyer agreed.

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Mr. Thompson was not aware of other states offering the extension. He explained the difference between what is being offered and what is being proposed and that the State would assume out of pocket payment; otherwise, there would be no covered medical.

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Representative Kelly inquired if a volunteer was hurt while performing the operations, would the State be paying them for the next two years. Mr. Thompson explained that the benefit would be based on the Alaska average weekly wage, whether prior earnings or not.

Vice-Chair Stoltze suggested that HB 320 would increase the number of people with coverage. The bill provides a tangible benefit to volunteers. He spoke in support of the bill as it increases benefit and coverage to more volunteers that help with statewide safety.

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Representative Thomas provided a hypothetical situation based on personal experience when responding to emergency situations. He wondered if there would be an authorization period required by the bill.

Representative Kelly observed that the current situation allows for lawsuits; he wondered how many of the volunteers have sued over the past five years. Mr. Thompson reported that the State has received no such civil action claims. Representative Kelly asked if small claims payments could involve paying wages in the old scenario. Mr. Thompson replied that the State would have paid wage replacement based on the minimum comp rate available at that time.

Representative Gara noted frustration with the Department's testimony. He reiterated that the volunteer is not allowed to sue under current law, which is why almost no one has sued. He emphasized his frustration that the Department has not provided "straight answers" to the questions being asked.

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Mr. Pawlowski addressed concerns voiced by Representative Gara. He commented that Mr. Thompson did explain the municipal exception well. In drafting the bill and working with the communities, the intent was not to create an unfunded mandate where the community would be required to add coverage. Changing the civil liability statute places a municipality at risk for being sued. He recommended hearing

testimony from Kevin Smith of the Municipal League regarding the joint insurance arrangement discussing types of liabilities the communities could be at risk for. If the bill passes, concerns voiced by Representative Gara would be mute.

Representative Gara understood the intent was to expand coverage to people barred from suing. If the municipalities have concerns, it would not surprise him. He believed that the work of the Division of Risk Management should be to protect the State from liability, not to provide remedies. He wanted the loopholes addressed.

Co-Chair Meyer pointed out that the municipalities have the option to either opt in or out.

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LIEUTENANT RODNEY DIAL, (TESTIFIED VIA TELECONFERENCE), DEPUTY COMMANDER, DIVISION OF ALASKA STATE TROOPERS, DEPARTMENT OF PUBLIC SAFETY, spoke to the fiscal note. He requested one additional full time position to oversee and provide training for the program.

Representative Hawker recommended the fiscal note be zeroed out. He acknowledged that the Department of Public Safety is understaffed; however, HB 320 is not the vehicle for solving those problems. Lt. Dial pointed out the bill requires required oversight, training and management for over 1,000 statewide volunteers. Representative Hawker disagreed.

Representative Kelly aligned with comments made by Representative Hawker, noting the hidden expenses contained in the note.

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In response to Representative Kelly, Mr. Pawlowski pointed out the expanded responsibilities of the Commissioner and different from the version submitted by the House Labor and Commerce Committee. Section 1 does not requiring it and the language provides coverage for the authorized training mission. The Department envisions some sort of training coordination within the communities will need to happen. He added, the certification provisions had been removed.

Representative Gara agreed that the cost to the State should be less than zero, but acknowledged that there could be unanticipated expenses. Mr. Thompson explained that Risk Management is funded by inter-agency receipts. Cost of risk is based on:

- The cost of claims; and
- Exposure.

The actual costs generated from the claims are collected for a 5-year window and then proportionately shared to each department. The portfolio of risk changes every year. The revision could increase a portion of it. Each year when the Risk Management budget request is prepared, all payments are taken into account.

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Co-Chair Meyer MOVED to ADOPT Amendment 1. (Copy on File).
Vice-Chair Stoltze OBJECTED.

Page 3, Line 17, following "wage" would delete "but the gross weekly earnings for calculating compensation may not be less than the minimum wage computed based on 40 hours of work a week".

Mr. Pawlowski explained the intent of the Amendment to provide clarification.

Vice-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 1 was adopted.

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Representative Hawker asked the decision on the Department of Public Safety fiscal note. Co-Chair Meyer recommended cutting it in half.

Representative Hawker MOVED to zero out the note. Co-Chair Meyer OBJECTED.

Representative Hawker restated the request urging that more in depth discussion occur on the Department of Public Safety operating budget.

Co-Chair Meyer suggested consideration of an indeterminate note. Representative Hawker emphasized zeroing out the note, suggesting that the Division of Risk Management may or may not carry a consequence.

Co-Chair Meyer WITHDREW his OBJECTION. There being NO further OBJECTION, the fiscal note was zeroed out for the Department of Public Safety and an indeterminate note for Division of Risk Management.

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Vice-Chair Stoltze MOVED to REPORT CS HB 320 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. Representative Kelly OBJECTED.

Representative Kelly indicated his concern about moving away from a volunteer system throughout the State. He restated that it could end up costing a lot more. He emphasized that the current system works well.

Representative Kelly WITHDREW his OBJECTION.

Representative Gara OBJECTED, but disagreed with comments made by Representative Kelly. He maintained if there was universal health care, the State would not need the bill.

Representative Gara WITHDREW his OBJECTION.

There being NO further OBJECTION, it was so ordered.

CS HB 320 (FIN) was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Administration, indeterminate note #2 by the Department of Administration and a new fiscal note by the House Finance Committee.

[3:05:38 PM](#)

#HB65

HOUSE BILL NO. 65

An Act relating to breaches of security involving personal information, credit report and credit score security freezes, consumer credit monitoring, credit accuracy, protection of social security numbers, care of records, disposal of records, identity theft, furnishing consumer credit header information, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; amending Rule 60, Alaska Rules of Civil Procedure; and providing for an effective date.

REPRESENTATIVE JOHN COGHILL, SPONSOR, commented on the amendments to the work draft \L version, previously adopted by the Committee on 2/13/08. He mentioned the need for discussion, whether to keep the Permanent Fund reporting inclusion. He preferred leaving it out of the bill.

Representative Coghill referenced Amendment 1, the risk harm component of reporting located on Page 4, Line 3, which creates a new subsection.

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Co-Chair Meyer MOVED to ADOPT Amendment 1. (Copy on File). Representative Hawker OBJECTED.

Page 4, after Line 3, inserting a new subsection (c) "Notwithstanding (a) of this section, notification is not required, if after an appropriate investigation or after consultation with relevant federal, state, or local agencies responsible for law enforcement, the person or government entity determines that no reasonable likelihood of harm to the consumers whose personal information has been acquired has resulted or will result from the breach. Such a determination must be documented in writing and the documentation must be maintained for five years."

Page 14, Line 28, after "discovering", inserting "or notification of".

Representative Coghill explained the proposed language would address concerns with a breach of information, maintaining a notification requirement. Notification could attempt to balance risk and harm. The amendment clarifies the risk assessment. There has been an attempt to provide reasonable effort when information has been compromised. He voiced support for the amendment.

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Representative Hawker concurred with the appropriateness associated with the risk of harm provision. He cautioned that the language does not accomplish the intent. One of two things which must occur is an appropriate investigation or a consultation with the agency. He was not sure what "an appropriate investigation" was or who would make that determination; the burden of decision will be vested to the information provider.

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Representative Gara thought that language stipulates a "good neighbor" aspect. The bill indicates that it is mandatory to tell. The companies came forward saying that they do not want to always tell; if a decision is made, no one gets the information. Representative Gara offered three choices:

- If personal privacy is violated, they must be informed.
- The companies want a standard indicating that if the person finds out that their information has been breached and determine that they have been harmed, then the company has to notify them. He commented, the consumer might never find that out.
- Middle ground: If the company determines that the information was accidentally released and no one

will ever see it, as long as it is documented, they would not have to send out the notices.

Representative Gara supported Amendment 1, which he thought would provide reasonable middle ground.

Representative Coghill added, it would accompany acquisition of information. He differed from ideas of Representative Gara regarding the companies' responsibility during the assessment process. He realized the risk in information taken, which requires an investigation and consultation with the enforcers. There also would be a need for the reasonable likelihood of harm, which is the standard language.

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Representative Coghill pointed out that Section B provides a similar standard making exposure of time possible without unreasonable delay. There are ways to determine that the companies did not take reasonable efforts; i.e., soft standards.

Representative Hawker WITHDREW his OBJECTION to Amendment 1. There being NO further OBJECTION, Amendment 1 was adopted.

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Representative Gara MOVED to ADOPT Amendment 2, #25-LS0311\L.3, Bannister, 2/18/08. (Copy on File). Co-Chair Meyer OBJECTED.

Page 6, Line 16, following "however" inserting "(1)";
Page 6, Line 19, following "\$50,000", inserting "; and
(2) damages that may be awarded against the information collector under (A) AS 45.50.5311 are limited to actual economic damages that do not exceed \$500; and (B) AS 45.50.537 are limited to actual economic damages".

Representative Gara advised that there had been concerns regarding the actual economic damages. Legislative Legal wrote the bill to clarify that the person could not receive non-economic damages, however, left out the limitation needed on Page 6.

Co-Chair Meyer WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 2 was adopted.

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Representative Nelson MOVED to ADOPT Amendment 3, #25-LS0311\K.2, Bannister, 2/07/08. (Copy on File). Representative Hawker OBJECTED.

Page 1, Line 1, deleting "the disclosure of permanent fund dividend applicant records,"; Page 2, Line 4 through Page 3, Line 18, deleting all material and then renumber the following bill sections accordingly: Page 29, Line 17, deleting "sec. 5", inserting "sec. 3"; Page 29, Line 21, deleting "sec. 5", inserting "sec. 3"; Page 29, Line 24, deleting "sec. 5", inserting "sec. 3"; Page 29, Line 26, deleting "sec. 6", inserting "sec. 4".

Representative Nelson commented that the Permanent Fund Dividend (PFD) application being distributed to business owners was counter-intuitive to the bill. She maintained that Alaska should not need be in the business of distributing personal information.

Vice-Chair Stoltze added that the amendment seeks to return the State to the policy of privacy for dividend application information; he did not think the request should be stuck inside a privacy bill and recommended other avenues for delivery by considered. He mentioned concerns expressed by victims of domestic violence. He thought that would be a worthy discussion.

Representative Hawker indicated his opposition to Amendment 3, which seeks to remove language added in the House Judiciary Committee following extensive discussion. He reiterated that it would be inappropriate to treat the two databases of the registered voters in a different manner than the Permanent Fund database. There was language added placing an appropriate sidebar around access and utilization of that data. He encouraged that the Committee consider the protection of individuals as well as presumptive evidence. He wanted to see the language of the bill preserved.

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Vice-Chair Stoltze stated that the information on the Permanent Fund Dividend (PFD) is the most current by necessity. It is not as common to update information on one's driver's license or voter registration card because the nature of the dividend is that applicants want to receive their checks. He maintained the need for extra effort to protect individuals.

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A roll call vote was taken on the MOTION to ADOPT Amendment 3.

IN FAVOR: Nelson, Stoltze, Thomas, Gara
OPPOSED: Hawker, Kelly, Meyer

Representatives Joule, Crawford, Harris and Chenault were not present for the vote.

The MOTION FAILED (4-3).

Representative Nelson requested the amendment be HELD for RESCIND at the next meeting, when enough members are present.

Representative Thomas asked if the social security numbers listed in the PFD information, would be distributed. Co-Chair Meyer remembered that was optional information. Representative Nelson pointed out that Representative Coghill has sponsored numerous pieces of legislation attempting to protect individual's social security numbers.

Representative Hawker requested clarifying testimony from authorities.

[3:29:07 PM](#)

Representative Hawker MOVED to ADOPT Amendment 4, #25-LS0311\K.1, Bannister, 1/20/08. (Copy on File). Representative Nelson OBJECTED.

Page 2, Line 22, following "information" inserting "except applicant information about individuals who are under 18 years of age".

Representative Hawker explained that the amendment provides language determined by the Department of Revenue and another interested party's to resolve concerns of access of children's information. He understood that the Department of Revenue fully supports the amendment.

Representative Kelly asked if the sponsor was in supported the amendment. Representative Coghill affirmed.

Representative Nelson WITHDREW her OBJECTION. There being NO further OBJECTION, it was adopted.

[3:30:22 PM](#)

Representative Gara recommended that Amendment 3 be addressed on the House Floor. Representative Nelson did not agree, maintaining her request.

Representative Kelly anticipated an answer to the social security question relative to Amendment 3. Representative Coghill recommended that the Permanent Fund Dividend representative address that issue.

[3:31:57 PM](#)

JERRY BURNETT, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF REVENUE, responded to the query regarding whether or not social security numbers could be released with PFD information under the bill as written. The answer is that the bill limits information to only names and addresses not social security numbers. There is a limitation in the bill regarding what applicant information can be distributed.

HB 65 was HELD in Committee for further consideration.
#

ADJOURNMENT

The meeting was adjourned at 3:32 P.M.