

HOUSE FINANCE COMMITTEE  
February 20, 2008  
1:37 P.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:37:27 PM](#).

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Les Gara  
Representative John Harris

ALSO PRESENT

Representative Lindsey Holmes; Representative Nancy Dahlstrom; Representative Bob Lynn; Peggy Brown, Executive Director, Alaska Network on Domestic Violence and Sexual Assault; Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; Sharleen Griffin, Director, Division of Administrative Services, Department of Corrections; Duane Bannock, Self; Matthew Kerr, Self; Kevin Brooks, Deputy Commissioner, Department of Administration

PRESENT VIA TELECONFERENCE

Josh Fink, Public Advocate, Office of Public Advocacy, Department of Administration; Lisa Donnelley, Attorney, Anchorage

SUMMARY

HB 3 An Act relating to issuance of identification cards and to issuance of driver's licenses; and providing for an effective date.

HB 3 was HEARD and HELD in Committee for further consideration.

HB 307 An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies.

HB 307 was HEARD and HELD in Committee for further consideration.

#HB351

HB 351 An Act relating to submission of fingerprints by applicants for a concealed handgun permit; and providing for an effective date.

HB 351 was SCHEDULED but not heard.

#

HJR 2 Proposing an amendment to the Constitution of the State of Alaska requiring an affirmative vote of the people before any form of gambling for profit may be authorized in Alaska.

CS HJR 2 (FIN) was reported out of Committee with "no recommendation" and with a new fiscal note by the Division of Elections.

#HJR2

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#### HOUSE JOINT RESOLUTION NO. 2

Proposing an amendment to the Constitution of the State of Alaska requiring an affirmative vote of the people before any form of gambling for profit may be authorized in Alaska.

Co-Chair Chenault MOVED to ADOPT work draft 25-LS0257\V, Luckhaupt, 2/14/08, as the version of the bill before the Committee. There being NO OBJECTION, it was adopted.

REPRESENTATIVE NANCY DAHLSTROM, SPONSOR, directed discussion to the work draft, addressing concerns voiced by the Committee. The work draft outlines potential affect on gaming and charitable games, while at the same time does not affect current existing operations.

REPRESENTATIVE CRAWFORD, SPONSOR, added, the draft also clarifies the voting process; initially, it had been optional.

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Vice-Chair Stoltze discussed appreciation for the changes made, while requesting backup documentation from each department affected, before the legislation moves to the House Floor. He emphasized that it is especially important because it is a proposed constitutional amendment.

Representative Dahlstrom replied, those concerns would be addressed. She referenced Page 2, Line 6 of the \V version, inquiring if there should be a period following the word "law" for clarification purposes. Vice-Chair Stoltze recommended that the Department of Law, Office of the Attorney General, respond to that query. He reiterated the written assurance stipulated by that Department. Representative Crawford interjected that letters of support had been requested, but have not yet arrived. He indicated that the sponsors will continue to press for that documentation.

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Representative Joule remembered that past attempts encouraging statewide gaming, had been defeated through the legislative process. He questioned why the resolution was being placed before the people. Representative Crawford explained that there is now an initiative on the ballot for the August election, which would remove the decision from the Legislature's preview. He and Representative Dahlstrom hoped to see the proposed verbiage written in the Constitution so that the Legislature will continue to have in-put.

Representative Joule was not familiar with that specific initiative but understood that initiatives passed by the voters were in effect only for two years. Representative Crawford acknowledged that in two years it could be repealed, however, by then it could be more difficult to undo what had been done, i.e. such as construction of casinos. He reiterated, it would be difficult to reverse any position. The resolution provides the populace the ability to make the decision to expand gambling or not. The initiative has been "marketed" more as a regulation of the gaming industry; it does not include the reality of a five member commission with the sole authority of expanding gambling or not.

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Co-Chair Chenault asked Representatives Crawford and Dahlstrom if those voting on an initiative could really understand what they were voting on. Representative Crawford said it depends on the way in which it is sold.

Co-Chair Chenault explained the education piece of selling an initiative. The people of Alaska should know what they are voting on and the consequences associated with that vote. Representative Crawford acknowledged that the weight of advertising can change the mind of the voters and he knew there would be a large amount of advertising against the initiative. Co-Chair Chenault agreed that there is always a

pro and con to each issue and that regardless of the dollars spent, the issue either fails or passes. He reiterated concern that voters might not fully understand the concern. Representative Crawford agreed & pointed out that is the beauty of the constitutional amendment process.

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Vice-Chair Stoltze addressed fiscal concerns, remembering the attempt to take big money out of politics, which he thought it could be an undo influence. He worried having the gambling issue on a ballot measure proposing a constitutional amendment, which is tied to "beating-back" a citizen's initiative in the coming election. He questioned if the legislation would be appropriate public policy. Representative Crawford noted strong support for the initiative process.

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Co-Chair Meyer pointed out that through the initiative process, the crew ship head tax was passed, which taxes gambling proceeds on the crew ships. He asked if HJR 2 would affect that. Representative Crawford advised that the language of the resolution is explicit: "It does not prohibit or restrict any form of gaming lawfully conducted under Alaska law".

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Vice-Chair Stoltze MOVED to REPORT CS HJR 2 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HJR 2 (FIN) was reported out of Committee with "no recommendation" and with a new fiscal note by the Division of Elections.

#HB307

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HOUSE BILL NO. 307

An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies.

REPRESENTATIVE LINDSEY HOLMES, SPONSOR, explained that HB 307 seeks to increase penalties for repeat offenders by making a 3<sup>rd</sup> misdemeanor case a felony. The bill is narrowly crafted, pertaining only for crimes against a person involving domestic violence. The repeat offenders will be subject to felony charge after their first two misdemeanors. The penalty will act as a deterrent for those persons who

are repeat offenders. She maintained that there needs to be a serious deterrent to stop the cycles of violence.

Alaska has one of the highest domestic violence rates in the nation. In 2005, there were over 6,000 reported cases of domestic violence in the State. Alaska ranks 1<sup>st</sup> in the Nation with the highest rate of female victims killed by male perpetrators, many of which are in the context of domestic violence.

HB 307 clarifies that for the 3<sup>rd</sup> actual conviction on a domestic violence misdemeanor charge, a Class A misdemeanor is increased to a Class C felony. Representative Holmes clarified that the bill does not address the question of filing a protective order. The bill targets only the repeat offenders.

Representative Holmes urged support for the legislation.

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Representative Kelly asked how many other states have adopted these recommendations. Representative Holmes responded that 18 other states have the penalty in law.

Vice-Chair Stoltze inquired if there were any retroactive provisions included in the bill. Representative Holmes advised that was the subject of debate in the House Judiciary Committee. She understood that the bill was prospective and that it requires the misdemeanor to have been a domestic violence offense. As of now, domestic violence has not been an element proven. To make it retroactive would require proof that prior offenses were domestic violence, which would be difficult. She recommended the Department of Law address that.

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Representative Hawker mentioned that these issues raise a personal conflict for him. He referenced the "sweeping" definition of domestic violence in statute and listed possible situations where there could be crimes categorized as domestic violence. He thought the legislation might be overly encompassing, worrying that after three strikes, someone could be looking at a felony conviction.

Representative Holmes acknowledged that there has been in-depth discussion with the prosecution and defense encouraging that definitions be left broad enough that they can be proven rather than convicting those not intended to be taken. She agreed the issue is real. Currently, the definition of domestic violence is in statute. She said she shares concerns voiced by Representative Hawker, adding that

she is currently taking language into consideration to help narrow the concern.

Representative Holmes referenced crimes of assault in the 4<sup>th</sup> degree and "fear assault", which is recklessly placing someone in fear of imminent physical injury. She understood that fear assault is not brought forward on a 1<sup>st</sup> time charge but is used when there has been a pattern of actual physical assaults. It is important to retain the language for the purpose of the domestic violence context.

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Representative Hawker understood Representative Holmes desire to "trust the system". He questioned the consequences placed on the Department of Corrections. He pointed out that without any new laws passed, the Department is looking at a billion dollar General Fund commitment. Representative Holmes acknowledged that there are a number of pieces of legislation increasing penalties for offenders and that HB 307 is one of them, which could lead to a penalty range for a Class C felony from zero to five years and might lead to longer jail sentences. HB 307 requires conviction, not just the charge of three separate times. She was comfortable with the request to increase penalties. Representative Hawker acknowledged that the argument had been compelling.

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Representative Nelson reiterated the bill charges only after three separate incidences, noting her support for the standard established through the legislation. By the third offense, it is clear that there is a pattern of anger, rage or abuse and that the offender needs treatment or counseling.

Representative Joule inquired if the other eighteen states had seen a deterrent with adoption of similar legislation. Representative Holmes did not have those numbers.

Representative Joule discussed the impact to the operating budget for the Department of Corrections; he worried about the long-term effect on the budget.

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Representative Thomas hoped that any future abuser would realize what they will be loosing, with a felony on their record. He encouraged that if the legislation is implemented, the public must be educated regarding possible retributions.

Representative Holmes agreed that discussion is critical as to what the extent is a deterrent and what extend is it punishment. She stated that one goal is in conjunction with the Task Force on Domestic Violence and Sexual Assault. The issue that continually comes forward is the need for education & awareness. She hoped that the legislation would help change attitudes and not simply to lock people up. She agreed that it is important that people know, the behavior is not to be tolerated.

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Co-Chair Chenault asked if a person could be arrested, prosecuted & convicted for verbal assault, domestic violence. Representative Holmes did not believe so; however, there is something called fear assault, which recklessly places another person in fear of imminent physical injury. She deferred to the Department of Law.

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JOSH FINK, (TESTIFIED VIA TELECONFERENCE), PUBLIC ADVOCATE, OFFICE OF PUBLIC ADVOCACY, DEPARTMENT OF ADMINISTRATION, offered to answer questions of the Committee.

Vice-Chair Stoltze asked if there could be a prosecution without acquiescence of the victim in a situation where the victim recants or does not want to press charges. Mr. Fink responded that it is not uncommon to see a victim recant and the State still move forward. Vice-Chair Stoltze asked if that would count as one of the misdemeanor convictions. Mr. Fink replied it could if the State obtained a conviction.

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Co-Chair Chenault asked if in a case where the wife and children were verbally or physically assaulted, how many misdemeanors could that one incident total. Mr. Find understood that it would be one occasion of conduct and would be one strike.

Representative Thomas asked the number of times Mr. Fink saw a recanting domestic violence situation. Mr. Fink thought about 15%-20% of the assault cases recant. There are cases in which the person does not realize that situation constitutes domestic assault.

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PEGGY BROWN, EXECUTIVE DIRECTOR, ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT, noted that the Network is not in total consensus & support for the bill. The Network does support the intention 100%, however, worries about the unintended consequences. She commented on the number of

domestic violence charges that are actually convictions, which is a difficult number to obtain because they are not tracked in the small communities. These are the areas that the Network "worries" the most about unintended consequences.

Ms. Brown commented that mandatory arrests have created the need for training resources to help determine the physical aggressor. She maintained that the unintended consequences might be severe and hoped to see them tracked.

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PUBLIC TESTIMONY CLOSED

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Vice-Chair Stoltze asked the approximate number of offenders that recant.

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW, acknowledged that the Department does prosecute cases in which the victim has recanted and the decision to do so depends on the available evidence.

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Vice-Chair Stoltze addressed the profound consequences associated with the bill.

Co-Chair Chenault reiterated his previous query regarding an assault on a family & the number of counts charged if more than one family member was involved. Ms. Carpeneti stated that the bill specifies that a conviction must be based on two or more convictions & occasions. That is common language in three strikes legislation.

Co-Chair Chenault asked if there could be a felony charge if the perpetrator assaulted his wife the first day and his children the next. Ms. Carpeneti explained that each assault would have to be a conviction for crimes and be on two or more separate occasions.

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Vice-Chair Stoltze inquired about the retroactivity potential. Ms. Carpeneti advised that would be applied only prospectively as there is no formal fact-finding for prior offenses at the present time.

Representative Holmes agreed that was the original intent application. She offered to provide clarifying language.

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Representative Thomas asked if the perpetrator would receive counseling after the first offense. Ms. Carpeneti referred that question to Department of Corrections, adding that if they were incarcerated as a result of a conviction, she imagined that services would be available. She thought it would depend on the circumstances.

Representative Thomas thought it was important that the perpetrator seriously understand the consequences of a felony charge. Ms. Carpeneti elaborated it would be the person's third time through the judicial system and that they should have had an attorney appointed to represent them for the first two offenses. The presumptive range for a first Class C felony offense is zero to two years. That length is not "set in stone" for incarceration for a first time offense. There is a mandatory minimum for a domestic violence misdemeanor charge.

Representative Thomas explained that living in a rural area, often, the person does not load size for those attorneys. Sometimes, it is easier for the charged person to assume a guilty plea. Representative Thomas wanted a guarantee that they receive the necessary counseling. Representative Holmes recommended the question be directed to the Office of the Public Defender; the bill could change the way that agency counsels their clients. She thought that the legislation could address prevention & supported counseling being factored into the defense council.

Representative Thomas addressed to the pride that comes from having a job; he worried how high unemployment aggravates problems in the rural areas.

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Representative Joule asked the definition of counseling and the financial obligation that would create for the State. Representative Holmes addressed comments made by Representative Thomas regarding counseling and education. She agreed that counseling is a separate issue.

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Representative Hawker questioned the "factual findings" made in the Court process for a crime of domestic violence. He asked if it would be sufficient to place intent language in the bill for the Courts. He indicated concern that there was no fiscal note from the Court System. He asked if the Legislature could direct the Courts though the use of intent language & uncodified law.

Ms. Carpeneti understood the bill's intent language differently. She believed the language indicates that judges should not be accepting pleas of guilty without factual bases. She pointed out that some people plead guilty just to get out of jail even if they are not. With regard to "fact finding", the Department assumes it will become an element of the defense and proven without reasonable doubt.

In response to Representative Hawker, Ms. Carpeneti explained that in changes of plea proceedings, judges generally require the prosecutor to provide a factual basis for the plea. He thought that was the intent of the language. The concern is that there may be some who do not want to wait until the attorney makes the contact to inform them of their options.

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Representative Hawker discussed situations where the State would not be negotiating a plea but instead, conducting a court process to its conclusion. He asked if it was necessary there be factual findings when a person is convicted. Ms. Carpeneti responded that if the bill is to pass, the Courts would have to initiate the procedure so that there would be a definitive factual finding that the crime against the person was domestic violence.

Representative Hawker understood that it would be incumbent upon the Court to adopt the policy procedure; he asked if it was derived from the three strikes check list. Ms. Carpeneti responded that it could result from the Courts looking and interpreting that language. Representative Hawker pointed out that for the Courts to comply with the spirit and intent, they would have to change their procedures. Ms. Carpeneti replied yes.

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Representative Hawker referenced the fiscal notes, pointing out that there was no representation from the prosecutorial authority. Ms. Carpeneti advised that a late note had been submitted by the Department of Law. Representative Hawker apologized.

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Co-Chair Chenault indicated concern with the indeterminate fiscal notes received from Office of Public Advocacy, Department of Corrections, & the Public Defender Agency. The Department of Corrections anticipates between one to three offenders as a result of the legislation. There is an estimated impact of two to six beds annually. He requested actual dollar amounts included in the notes rather than an

indeterminate indication. He said that he agreed with the intent of the bill, however, worried about the fiscal impact to the State.

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SHARLEEN GRIFFIN, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF CORRECTIONS, explained how the Department determined that one to three offenders could create the need for the two to six beds annually. Ms. Carpeneti added, it would depend which felony the conviction was for on that offender - the first, second or third and then the severity of that crime.

Ms. Griffin clarified that the span of the costs depend upon the out-of-state offender population and if there exists sufficient in-State bed space. Co-Chair Chenault inquired cost differences between housing in & out of State. Ms. Griffin explained that the amounts in the note were not reflective of those differences.

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Representative Hawker addressed base-costs for offenders having serious medical conditions. Ms. Griffin acknowledged that costs would skyrocket and that there are catastrophic cases, which happen every year. The population is generally not healthy and the costs are unpredictable.

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Co-Chair Meyer asked if the language indicated on Page 2, Lines 6-8, should be deleted since it has been determined that the legislation will be prospective.

"APPLICABILITY. AS 11.21.100, added by sec. 2 of this Act, applies to offenses committed on or after the effective date of this Act. References to previous convictions include convictions before, on or after the effective date of this Act."

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Representative Holmes assumed if the determination was made that the legislation is only prospective, there should be changes made to the language. Vice-Chair Stoltze interjected that he hoped to "push the envelope" with whatever the Court System will allow. He asked the sponsor's intent.

Representative Holmes noted she did not have that intent when the debate began, understanding it would be difficult to include prior offenses. The language as currently

drafted, leaves it opens to return to prior offenses. She reiterated it would be difficult. Vice-Chair Stoltze suggested it only requires a good prosecutor.

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Co-Chair Meyer stated that the bill would be held in Committee to review the fiscal notes. Co-Chair Chenault recommended that the Alaska Court System submit a note.

Representative Hawker referenced previous testimony during the House Judiciary Committee. When the bill passed from that Committee, Representative Coghill had requested the bill be amended. He asked what those concerns had been.

Representative Holmes recalled discussion regarding whether the language should be prospective or not. Representative Hawker was not surprised.

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Co-Chair Chenault asked if a case were plea bargained, would it remain a misdemeanor. Ms. Carpeneti replied that if the person agreed to plead guilty & it was a domestic violence offense, then it would stay a misdemeanor.

Representative Nelson supported the language of the bill being retroactive. It is not difficult to track convictions in domestic violence on the Court's database. She directed comments to the impact of the fiscal note, elaborating that the loss of life is a much bigger concern & should trump the concern with dollar costs. She observed that it is not appropriate for the State to allow misdemeanor after misdemeanor in cases of domestic violence. Studies show that in domestic violence situations for most perpetrators, their actions tend to escalate. By the third time that there is a conviction, the path is set. She agreed that the bill has a high priority.

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Co-Chair Meyer recalled concerns in the attempt to make the legislation retroactive. Ms. Carpeneti advised that there are constitutional reasons when increasing the penalty for the conviction after the fact. The problem exists that there has not been a formal, factual, finding of domestic violence in cases up to now. To date, there has been no formal procedure for proving it. The Department of Law agrees it would be good to be retroactive, however, reiterated it would be difficult to prove.

Co-Chair Chenault addressed concerns voiced by Representative Nelson regarding whether the State can afford the costs. He responded that the Legislature is charged

with protecting the State's finances. He agreed that even one offense is too many but reiterated that the citizens of Alaska voted legislators into office with the obligation of law and money management. Costs must be listed.

Discussion was concluded on HB 307.

HB 307 was HELD in Committee for further consideration.

[3:04:09 PM](#)

#HB3

HOUSE BILL NO. 3

An Act relating to issuance of identification cards and to issuance of driver's licenses; and providing for an effective date.

REPRESENTATIVE BOB LYNN, SPONSOR, testified in support of HB 3. He stated that the bill requires:

- An applicant for an Alaska driver's license to have a legal presence in the United States (U.S.) and by extension, a legal presence in the State of Alaska.
- The legislation makes a license expire when the legal presence in Alaska State expires.

Representative Lynn pointed out that HB 3 offers safeguards that will insure that Alaska license or identification (ID) card holders are who they say they are. He emphasized that the bill is not the Federal Real ID Act. The Alaska Division of Motor Vehicles (DMV) has the statutory mandate to determine if an applicant has the necessary documents to receive a license. He urged the Committee's support of the bill.

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DUANE BANNOCK, SELF, spoke in favor of HB 3. He claimed the bill is about the Alaska Statutes mandating that illegal aliens are not allowed to obtain or have an Alaska driver's license or identification card (ID). It is not about the national databases, tracking chips, a gun registry or constitutional rights protecting free travel or privacy. He stated that through the drafting and committee hearings, there has been meaningful discussion on good public policy of the proposed legislation.

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Representative Hawker requested Mr. Bannock's qualifications for the record. Mr. Bannock explained he had testified for

himself; however, indicated he had served as the Director of the Division of Motor Vehicles from 2003-2007. Through various versions, the bill has been a piece of priority legislation and the Senate companion bill passed in 2006.

Co-Chair Meyer wondered if the bill as written would bring Alaska into compliance with provisions and security requirements of the Federal Real ID Act. Mr. Bannock responded that is partially true, noting that last year, he had testified in the House Judiciary Committee on that point & as defined under the Real ID Act, legal presence is the tenant of real identification. HB 3 is drafted to be a legal presence bill; however, the "grandfather" clause is missing from the proposed bill. Under HB 3, there is a presumptive clause in which the person is presumed to have met the test if they currently have an Alaska driver's license and that is not consistent with federal regulations, mandating every driver's license be renewed. When HB 3 becomes law, for Alaska to become fully Real ID compliant, the measure will require another legislative visitation to the statute.

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MATTHEW KERR, SELF, testified against HB 3. He acknowledged that although the bill does not fulfill 100% of the Federal Real ID Act, the bill's language is very close. He acknowledged that most Alaskans probably support the illegal presence requirements, however, oppose the Real ID Act.

Mr. Kerr pointed out that Alaska already has an illegal presence requirement in regulation. The net result of the bill allows the State to implement the Real ID Act, which is why he opposes the bill.

Mr. Kerr continued, as the bill is written, it will cause potential problems for those people that are legally residing here and have little affect on those that are not. Illegal residents will not be deterred by a driver's license. If the bill is intended to pass, he recommended changes to be made to preserve the intent.

- It is possible to copy the existing legal presence regulation into statute, which would require a legal presence with no Real ID issues and costing nothing.
- It is possible to be legally present in the United States without being in possession of documentary evidence. The U.S. Immigration Service is not known for efficiency, good communication or expedience. He proposed that a grace period be added to the bill.
- It is important to clarify that the license expires on the end of someone's legal status or on the

expiration date of their visa, whichever is later. Visa validity and legal status are different terms under Immigration Law.

- Those citizens from certain countries that qualify to enter the country under the federal visa waiver program, should be exempt from the regulations.

Mr. Kerr concluded that even though the bill is not the Real ID Act, the only required statute change needed could permit the Real ID Act to be implemented. He reiterated there is already a legal presence requirement in regulation. He added there are necessary changes needing to be made in the bill to prevent causing trouble for people that are legally present.

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Co-Chair Meyer asked about Mr. Kerr's comments regarding the ability to accomplish the legislation's intent through regulations. Mr. Kerr pointed out, there is an existing DMV regulation that requires someone applying for an original license, have legal presence in the United States. That is current existing practice.

Co-Chair Meyer asked if someone applied for a driver's license and had only a one year visa, would their license be good for the full five years. Mr. Kerr explained that there is a difference between the visa and a legal presence. If they have a one year visa with a 30-day entry period, under HB 3, their license would be valid for 30-days. He recommended language be clarified if the bill were to pass, the expiration date be set to either the visa or the expiration date, whichever is greater.

Co-Chair Chenault asked why a person would have a one year visa when they have only a 30-day limit to be in the country. Mr. Kerr explained that a visa under the Immigration Law provides permission to enter the U.S.

Co-Chair Chenault inquired why immigration service would allow someone to come into the country on the last day of their visa and then provide them a 30-day extension. Mr. Kerr clarified that would not be an extension. He explained that foreign students typically receive a visa for one or two years, although they are permitted to stay until the completion of their four year program. Under U.S. Federal law, the visa document is permission to apply to the U.S. The actual date of the legal presence is decided by an immigration officer at the port of entry.

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Co-Chair Chenault asked how it would be addressed when a student comes to U.S. for four years and they only have a two year visa. Mr. Kerr replied that would not be the case. The document that establishes the legal presence as a foreign student is granted by the university [I-20 form] and as long as the student remains enrolled at the university, they are permitted to stay in the U.S. without a current visa, although if the student departs from the country, then they would have to reapply for a new visa to be able to return.

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LISA DONNELLEY, (TESTIFIED VIA TELECONFERENCE), ATTORNEY, ANCHORAGE, spoke in opposition to HB 3. She noted that she is an immigration attorney in Anchorage. She commented that many of her clients are businesses in Anchorage that sponsor foreign workers but indicated that she was not testifying on behalf of those clients. She echoed comments made by Mr. Kerr.

Ms. Donnelley explained the difference between a visa and legal status. A visa is a document that allows a person to make an application for admission into the United States. Once at the port of entry, the U.S. Department of Homeland Security determines how long a person is allowed to stay in the country. Upon expiration of the status, the person may apply for an extension, which could take up to seven months to receive. During that waiting time, the person may not have any documents to verify that they have legal status in this country. In many cases, it is the employer that is filing the document of application of status. She emphasized that the bill could have an adverse effect on legal immigrants and employers. She advised the bill's verbiage is imprecise and ambiguous when it refers to visas. Visas are not an indicator of legal status.

Ms. Donnelley pointed out that the bill fails to list all the classes of aliens who should be entitled to obtain a drivers license. She mentioned "withholding of removal" , granted by an immigration judge to someone who is likely to be persecuted if returned to their home country. These people are not included in the list. They are entitled to indefinitely reside in the U.S.

Co-Chair Chenault asked if he understood correctly that U.S. Department of Homeland Security determines who is legally able to enter the U.S. Ms. Donnelly said yes.

Co-Chair Chenault asked about the I-20 forms. Ms. Donnelley explained that an I-20 form is the form issued by the university to the foreign student. Co-Chair Chenault asked if at the point that the I-20 form is completed and approved by the university, would the university control how long the

visa lasts rather than the Department of Homeland Security. Ms. Donnelly responded, it is more complicated than that. The I-20 form is issued by the university and allows the student to apply for the visa. Once the student receives the visa, they can then apply for admission into U.S. At that point, the Department of Homeland Security will admit them into the U.S. for usually, the duration of that status. The I-20 form normally stipulates the length of the program, providing a 60-day grace period.

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PUBLIC TESTIMONY CLOSED

KEVIN BROOKS, DEPUTY COMMISSIONER, DEPARTMENT OF ADMINISTRATION, stated the Administration is supportive of efforts to pass HB 3. He noted it provides DMV the flexibility to issue a driver's license with a flexible termination date. He added that the regulations attached to the Real ID Act as issued in January 2008, carries a component for a legal presence. The bill in and of itself, does not make the State compliant with the Real ID Act. He noted that the Department has submitted a request for an extension and received approval of that through December 31<sup>st</sup>, 2009, as it relates to the entirety of the Federal Real ID Act.

Co-Chair Meyer asked if that was the target date for the State to be in compliance with the Act. Mr. Brooks imagined that there could be another opportunity for an extension, however, to obtain a second extension, the State would have to be in substantial compliance and working toward final compliance.

Co-Chair Meyer asked if the bill places the State in compliance. Mr. Brooks responded that the legislation makes sense and that it had been offered in 2003, prior to the Real ID Act of 2005.

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HB 3 was HELD in Committee for further consideration.  
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ADJOURNMENT

The meeting was adjourned at 3:33 P.M.