

HOUSE FINANCE COMMITTEE  
April 5, 2008  
12:55 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [12:55:26 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

Ginger Blaisdell, Staff, Senator Lyda Green; Karleen Jackson, Commissioner, DHSS; Rod Betit, President, Alaska Hospital and Nursing Home Association; Paul Morris, CFO, Alaska Regional Hospital; Paul Fuhs, Alaska Open Imaging Center; Senator Joe Thomas; Marty Freeman, Division of Forestry, Department of Natural Resources; Senator Bill Wielechowski; Trevor Fulton, Staff, Senator Lesil McGuire; Debbie Richter, Director, Permanent Fund Division, Department of Revenue

PRESENT VIA TELECONFERENCE

Daniel Lynch, Soldotna; Patricia Senner, Nurse Practitioner, Alaska Nurses Association; Linda Barefoot, Regional Director, Purdue Pharma; Brian Howes, Investigator, OCC and Professional Licensing; Joel Gilbertson, Regional Director, Strategic Development and Administration, Providence Hospital; Robert Cimasi, President, Health Capital Consultants, Missouri; Nancy Cross, Physician, Fairbanks; Dr. Larry Stinson, Anchorage; Grant Roderer, Physician, Anchorage; Joanne Smith, Wasilla; Richard Cobden, Physician, Fairbanks; Kevin Dorey, Fairbanks; Mike Powers, CEO, Fairbanks Memorial Hospital; Jill Thorvald, Executive Director, Medical Facility, Fairbanks; Stephen Sutley, Fairbanks; Scott Bell, Fairbanks Memorial Hospital

Foundation Board; Maree Barney-Sutley, Fairbanks; Ryan Smith, CEO, Hospital, Soldotna; Roman Stevens, CEO Medical Center, Fairbanks; Mike McNamara, Surgeon, Anchorage; Mark Wade, Surgeon, Fairbanks; Murray Richmond, Chaplain, Fairbanks Memorial Hospital; Carone Sturm, Fairbanks; Mike Maddox, Fairbanks; Jennine Hinman, Health Care Consultant, Advanced Medical Centers of Alaska, Wasilla; Kathryn Monfreda, Chief, Criminal Records and Identification Bureau, Division of Statewide Services, Department of Public Safety

SUMMARY

CSSB 196(FIN)am

"An Act relating to establishing a controlled substance prescription database."

HCS CSSB 196 (FIN) was REPORTED out of Committee with no recommendations, a Senate Labor and Commerce Committee Letter of Intent, and an accompanying new fiscal note from the Department of Health and Social Services and a previously published fiscal note from the Department of Commerce, Community and Economic Development.

HB 337 "An Act establishing the Alaska Health Care Commission and the Alaska health care information office; relating to health care planning and information; repealing the certificate of need program for certain health care facilities and relating to the repeal; annulling certain regulations required for implementation of the certificate of need program for certain health care facilities; and providing for an effective date."

HB 337 was HEARD and HELD in Committee for further consideration.

CSSB 185(STA) (title am)

"An Act relating to the central registry of sex offenders and child kidnappers and to the registration requirements for sex offenders and child kidnappers; and providing for an effective date."

SB 185 was HEARD and HELD in Committee for further consideration.

SB 229 "An Act relating to the Tanana Valley State Forest and to assignment of certain forest land to the Minto Flats State Game Refuge; and providing for an effective date."

SB 229 was REPORTED out of Committee with a "do pass" recommendation and with zero fiscal note #1 by the Department of Natural Resources and zero fiscal note #2 by Department of Fish and Game.

CSSB 265(FIN)

"An Act relating to the payment of permanent fund dividends to certain individuals required to register as sex offenders or child kidnappers; relating to execution upon permanent fund dividends by civilian process servers using electronic procedures; amending Rule 89, Alaska Rules of Civil Procedure; and providing for an effective date."

CSSB 265 (FIN) was HEARD and HELD in Committee for further consideration.

SJR 17 Urging the United States Congress to provide a means for consistently sharing, on an ongoing basis, revenue generated from oil and gas development on the outer continental shelf with all coastal energy-producing states to ensure that those states develop, support, and maintain necessary infrastructure and preserve environmental integrity.

SJR 17 was REPORTED out of Committee with a "do pass" recommendation and with zero fiscal note #1 by the Senate Resources Committee.

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Co-Chair Meyer presented summary of the bills on the agenda.

CS FOR SENATE BILL NO. 196(FIN) am

"An Act relating to establishing a controlled substance prescription database."

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GINGER BLAISDELL, STAFF, SENATOR LYDA GREEN, presented an overview of the bill. She indicated that the medical community and the Alaska Pharmacy Association brought this need to the attention of Senator Green. Ms. Blaisdell described the legislation as a compilation of existing bills from forty other states. She referred to the PowerPoint presentation (Prescription Drug Monitoring Program and Database, copy on file). She reported that:

All states have laws and regulations that govern the distribution and handling of controlled substances.

Diversion of controlled substances and other pharmaceuticals is generally recognized as a serious problem throughout the United States.

Ms. Blaisdell referenced available support materials, including letters from the White House designating drug diversion as one of President Bush's top priorities. Ms. Blaisdell expressed that:

States have found that Prescription Drug Monitoring Programs (PDMPs) are among the most effective tools available to identify and prevent drug diversion.

Ms. Blaisdell defined drug diversion:

Diversion is taking a legal prescriptive substance and altering it to provide a different effect or selling/giving it to someone other than the person to whom it was intended.

Diversion affects the health of our citizens.

Diversion often promulgates other criminal activity.

Ms. Blaisdell indicated the goals:

Prescription Drug Monitoring Programs are intended to promote pharmaceutical care while deterring diversion through education and law enforcement.

Prescription Drug Monitoring Programs are aimed at upholding statutory mandates in a manner that is most supportive of and least disruptive to medical and pharmacy practices.

Ms. Blaisdell noted it would only take two minutes a day to download information from the database; the new legislation is meant to be a helpful tool not a new mandated task. Ms. Blaisdell described national ads produced for the \$30 million U.S. drug awareness campaign. She stressed the importance of education:

There is a national presumption that the misuse of prescription drugs is safer than using illicit "street" drugs.

Prescription and over-the-counter medications are fast becoming the new "party" drugs for many teenagers and adults.

Twenty-five to forty percent of MySpace users include postings on how to get prescription medication on the internet.

Ms. Blaisdell revealed the most commonly abused medications:

Pain Killers  
Stimulants  
Sedatives and Tranquilizers  
Over-the-Counter Drugs

She described prescription abuse to include:

Children through elderly individuals abuse for themselves or for personal profit.

Nearly seventy percent of prescription drugs are obtained for free from friends and family.

Pain killers are the number one abused drug because of the feeling of euphoria and/or high resale value.

Ms. Blaisdell stressed the importance of this legislation, noting that:

The Department of Commerce, Community and Economic Development (DCCED), Board of Pharmacy, currently conducts research and licensee investigations regarding drug diversion practices.

A Prescription Drug Monitoring Program will provide the direction and tools for collecting accurate and timely prescription drug information to assist in the prevention of diversion and promote safe and effective health care for Alaska's citizens.

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Ms. Blaisdell continued on the importance of this legislation:

State and local law enforcement agencies are experiencing a rise in prescription drug diversion criminal activity.

This legislation was requested by Alaskan pharmacists, doctors and law enforcement officials.

With legislation, the state will be eligible for federal funding.

Ms. Blaisdell reported that this legislation:

Establishes a Prescription Drug Monitoring Program within the Board of Pharmacy.

Tracks all schedule I-V controlled substances in state and federal law.

Data will be electronic rather than paper.

Ms. Blaisdell explained:

Data can be used by licensed prescribers who have the authority to prescribe when caring for a patient.

Data can be used by a licensed or registered dispenser who is considering a controlled substance to an individual.

Data can be used by the personnel of the Board of Pharmacy regarding licensing inquiries, and for database management.

Data can be requested through the Board by law enforcement entities with a subpoena or court ordered warrant.

Ms. Blaisdell continued that data can be used to:

Improve health care for patients

Identify prescribing and dispensing practices that may be of question; and

Identify individuals who show a pattern of inappropriate use.

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Ms. Blaisdell revealed that the data is confidential and not subject to public disclosure:

Health Insurance portability and Accountability Act exceptions are allowed for state Prescription Drug Monitoring Programs.

Patient privacy is secured by the details of the contract for the vendor who will capture the data.

Privacy is insured by the Class A misdemeanor and Class C felony charges that would accompany inappropriate use of the data.

Ms. Blaisdell referred to the fiscal notes from the Department of Commerce, Community and Economic Development and the Department of Health and Social Services.

Ms. Blaisdell indicated that statewide insurance providers and individuals who self-pay are expected save \$1.4 million in the first year. She remarked that:

Senate Labor and Commerce adopted a committee substitute that addressed almost all concerns voiced by the medical community and government agencies. The side-by-side document is in the bill packet.

Senate Labor and Commerce adopted intent language regarding the impact of future funding. The intent memo is in bill packet.

She reassured the Committee that after checking through the bill with legislative legal every sentence and every paragraph has some sort of privacy protection or data security written into the bill.

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Representative Nelson questioned if the Native Health Service would have access to this database. Ms. Blaisdell replied that Maine is the only state to enter voluntary contracts with military and tribal health providers. Military and tribal health is governed by federal law rather than state law so they are exempt from participating. She added that those providers who choose to participate can receive permission.

Representative Nelson asked if this would be phrased as anyone who contracts and compacts with Indian Health Service. Ms. Blaisdell agreed that most people are entering into contracts.

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Representative Gara questioned if the main purpose of the bill would be to provide a database accessible to all pharmacists in the state. Ms. Blaisdell responded that the database would be accessible to all pharmacists who apply to have access to retrieve information. All pharmacists in the state would be required to report any dispensing of controlled substances.

Representative Gara asked if one of the purposes of the database would be for pharmacists to check on the other medications a patient may have been prescribed. He also inquired if this information would be available to the physician when prescribing a drug for a patient.

Ms. Blaisdell emphasized that not every prescription will be in the database. The database will only indicate drugs in Schedule I-V: painkillers, sedatives, tranquilizers, or

stimulants. She provided the example of an elderly person, always going to the same pharmacy, would have a prescription history at that pharmacy. A medical provider can access this database to look at the person's history when they are writing a prescription.

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Representative Gara inquired if pharmacists now have access to a database to determine if there is potential drug interaction.

Ms. Blaisdell responded that pharmacists are not the primary individual trying to discover every drug interaction. Discovering potential drug interactions will start with the medical provider. She signified that patients who "doctor shop" using multiple pharmacies could be tracked with this database.

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Vice-Chair Stoltze questioned the access individuals have to the database. He requested information on any fees involved.

Ms. Blaisdell remarked that any individual can request the report of their own history in the database. She reported that the fee will not exceed ten dollars but the patient can also ask their physician to run a history. She revealed that prescriptions listed in the database will use the medical term for the medication not the brand name.

Vice-Chair Stoltze asked if the database would be available to other professional boards, primarily for disciplinary cases. He also asked for comment on how the large chain pharmacies handle prescription information.

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Ms. Blaisdell reported letters of support from the National Association of Chain Drug Stores (Safeway, WalMart, etc). A large corporate drug store can share data within their own corporate chain but not among different drug store chains. The proposed database would capture all this information.

Vice-Chair Stoltze asked again about the availability to other professional boards.

Ms. Blaisdell responded that this information is only accessible by a court ordered warrant or subpoena.

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Representative Nelson referred to another database set up for antihistamines that expunges the records after one year.

She asked if there was a time frame to expunge records in this bill.

Ms. Blaisdell responded that there is a two year provision to dispose of the information. The database is looking for someone with a pattern of use, not a one-time incident.

Representative Nelson asked if pharmacists are privy to patient's drug history through a patient's insurance provider.

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Ms. Blaisdell responded that a patient's drug history can not be obtained through their insurance provider. She noted that the use of cash to pay for a prescription is one of the key data elements that may reveal drug diversion.

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Representative Gara stressed concern about information becoming accessible to the general public. He pointed to a provision in the bill indicating that law enforcement may obtain information from the database through a search warrant or subpoena. He noted in civil cases information can be obtained through a "discovery process" and voiced his concern that information may be obtained in this manner.

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Ms. Blaisdell disclosed that the data is not accessible for "discovery" or civil suits only through a court order, warrant or subpoena. She cited an example that a medical doctor could not provide a person's medical history to another member of the family.

Representative Gara asked where in the bill it states information may not be obtained through a discovery order.

Ms. Blaisdell replied that there is no provision that says it is not accessible through a discovery order because the only provision for accessing this information, outside of the physician or pharmacist, is through a court warrant or subpoena

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DANIEL LYNCH, SOLDOTNA testified via teleconference and voiced his concern about privacy information being disclosed. He noted the widespread internet and database theft. He cautioned that hackers have entered many national corporate databases and a potential hacker into this drug database would obtain personal information for possible theft or sale to insurance companies or employers. He noted

the long-standing confidentiality between patients and physicians and hoped privacy can be maintained. He wondered if possible new hiring to enter these prescriptions will raise the price of medications.

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PATRICIA SENNER, NURSE PRACTITIONER, ALASKA NURSES ASSOCIATION testified via teleconference spoke in support of the bill. As prescribers, the association welcomed the opportunity of receiving accurate information for controlled medication prescribed to their patients but warned that someone in a physician's office, hospital or pharmacy could go on a "fishing" expedition to locate private information, noting the recent Britney Spears case. She suggested at third layer manager who would give permission before any information could be released from the database.

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LINDA BAREFOOT, REGIONAL DIRECTOR, PURDUE PHARMA testified via teleconference in support of this legislation.

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BRIAN HOWES, INVESTIGATOR, OCCUPATIONAL AND PROFESSIONAL LICENSING testified via teleconference and was available for questions.

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Co-Chair Meyer CLOSED PUBLIC TESTIMONY.

Co-Chair Meyer MOVED to ADOPT Amendment 1 25-LS1092\V.2.

Page 2, line 25:

Delete "an inpatient in a licensed"

Insert "those administered to a patient at a"

Vice-Chair Stoltze OBJECTED for discussion.

Ms. Blaisdell explained that Amendment #1 clarified language confusion in the bill.

Vice-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, it was so ordered.

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Co-Chair Meyer MOVED to ADOPT Amendment 2, 25-LS1092\V.1.

Page 5, lines 7-9

Delete "The board may enter into agreements with dispensers that are not regulated by the state and practitioners in this state to submit information to and access information in the database subject to this section and the regulations of the board."

Insert "The board may enter into agreements with (1) dispensers in this state that are not regulated by the state to submit information to and access information in the database, and (2) practitioners in this state to access information in the database, subject to this section and the regulations of the board."

Vice-Chair Stoltze OBJECTED for discussion.

Vice-Chair Stoltze requested if there were any other dispensers not regulated by the state.

Ms. Blaisdell disclosed that originally the paragraph only mentioned military or tribal but it was broadened to include the internet or medical doctors on ships inside Alaska waters.

Vice-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, it was so ordered.

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Co-Chair Meyer referred to the fiscal notes.

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Representative Gara questioned the date information is removed from the database.

Ms. Blaisdell replied that it would be two years from the date the prescription was obtained.

Representative Gara asked if there would be a problem reducing it to one year. Ms. Blaisdell replied that forty states have this database and most have a three year provision. Representative Gara inquired about the classification for the Class C and Class B offenses.

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Ms. Blaisdell deferred to legislative legal or the Department of Law. She mentioned that the legislation is written this way in other states and seems to be the accepted nationwide practice.

Representative Gara pointed out that "knowingly" is only written in regards to part of the crime. He wanted to make

sure that the legislation is properly written so someone is not put in prison if they did not "know" what they were doing was wrong.

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Ms. Blaisdell remarked that this issue was brought up before in House Judiciary with the example that if a janitor finds personal information that has been thrown in the trash of a doctor's office, the office did not "knowingly" give it away. But if the janitor then illegally uses that information, then that would be classified as "knowingly."

Representative Gara wondered if someone who works for a pharmacist and "unknowingly" gives the medication to an improper individual would that be classified as "knowingly".

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Ms. Blaisdell remarked that in the federal grant there is a significant emphasis on education for the proper use of the database. There has been discussions if the access to the database could be delegated to another individual on staff in a pharmacy or medical office and the resounding answer was no.

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Vice-Chair Stoltze MOVED to REPORT HCS CSSB 196 (JUD) out of Committee, with a Letter of Intent, individual recommendations and accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCS CSSB 196 (JUD) REPORTED from the Committee with a Letter of Intent, no recommendations, and accompanying new fiscal note from the Department of Health and Social Services, and a previously published fiscal note from the Department of Economic Development.

[1:44:15 PM](#)

HOUSE BILL NO. 337

"An Act establishing the Alaska Health Care Commission and the Alaska health care information office; relating to health care planning and information; repealing the certificate of need program for certain health care facilities and relating to the repeal; annulling certain regulations required for implementation of the certificate of need program for certain health care facilities; and providing for an effective date."

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KARLEEN JACKSON, COMMISSIONER, DEPARTMENT OF HEALTH AND SOCIAL SERVICES presented an overview of the bill. She indicated this was the Governor's Health Care Transparency Act crafted after a year's work with input from two different reports, the Governor's Health Care Planning Strategy Council and the Certificate of Need Task Force. The intent of bill was to have three components that worked together to improve Alaska Health Care. She indicated the three components of the bill to achieve this goal were to:

1. Create a Health Commission charged with making sure Alaska has a state-wide plan responsive to changing demographics and Market conditions to guide public and private investments in the health care service system. Begin policy discussion about tough issues like end of life care.
2. Promote self-responsibility by giving Alaskans new tools to take charge of their health and health care options through a web-based information source that makes clear the cost, availability, and quality of those options.
3. Encourage healthy competition among providers of health care so that consumer choice rather than government and court intervention determines the cost, availability and quality of health care by eliminating Certificate of Need program.

The original bill had seven hearings in the House Health and Social Services committee that resulted in the current version of the bill.

Ms. Jackson presented a sectional analysis of HB 337, Version N (copy on file).

#### Section 1

Provides for Legislative findings and intent to mandate an evaluation of the state's health care needs, propose reforms, and improve health care in Alaska by establishing the Alaska Health Care Commission for the purpose of developing a comprehensive policy that better meets the current and long-range health care needs in the state.

#### Sec. 2 AS 18.05.010(b)

Requires the Department of Health and Social Services to implement a statewide health plan under AS 18.09, which is a new chapter creating the Alaska Health Care Commission.

#### Sec. 3 AS 18.07.031(e)

Amends definition of "expenditure" under the Certificate of Need program.

Sec. 4 AS 18.07.111(8)

Under the Certificate of Need program, applies the definition of "health care facility," if the hospital facility or center is located in a municipality or borough that has a critical access hospital or that has a population of 60,000 or fewer persons (excluding recipients of military or Indian Health Service health care); and nursing homes, residential psychiatric treatment centers; excludes Alaska Pioneers Homes, offices of private physicians or dentists, and military and tribal health entities.

Sec. 5 AS 18.07.111

Amends definitions of facilities in which Certificate of Need applies, including: ambulatory surgical facility, critical access hospital, independent diagnostic testing facility, intermediate care facility, kidney dialysis center, nursing home, office of private physicians (50 percent owned and operated by physicians), and psychiatric hospital.

Sec. 6 AS 18

Adds new Chapter 9, Statewide Health Information Office; Article 1. Sec. 18.09.100 Establishes an Alaska Health Care Information Office in the Department of Health and Social Services to provide consistently updated health care facility information to aid consumers of health care services, and information to encourage personal responsibility in prevention and healthy living.

Sec. 18.09.110

Requires the department to establish and maintain a database on an Internet website about health care facilities services and cost. Information in the data base includes health care facility information; health care providers licensed in Alaska; a list of not more than 1500 commonly prescribed medications in the state and the cost; a list of not more than 250 most commonly conducted medical procedures in the state and the cost; hospital ratings; consumer education information on health, insurance information, clinics that cater to uninsured and self-pay patients; and quality of health care facilities; and information regarding prevention and healthy living.

Sec. 18.09.120

Requires health care facilities to provide the department information related to the facility's health care services for placement on the database developed under AS 18.09.110.

Sec. 18.09.130

The Department of Administration, the Department of Commerce, Community and Economic Development, and the Department of Labor and Workforce Development, and the Department of Law shall provide information for placement on the database regarding adverse actions taken against a health care facility or against licensed professionals practicing in health care facilities in the state and cooperate with the department in performance of its duties under AS 18.09.100-18.09.130.

## Article 2

### Sec. 18.09.900

Allows the Department of Health and Social Services to adopt regulations under AS 44.62 to carry out purposes of this chapter.

### Sec. 18.09.990

Provides definitions of facilities from which the department would collect information.

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### Sec. 7

Establishes a 16-member Alaska Health Care Commission within the Department of Health and Social Services. The purpose of the Commission is to consider the spectrum of health care related issues and formulate policy recommendations to be presented to the legislature and executive branch; to develop a statewide plan to address the quality, accessibility and affordability of health care for all citizens of the state; to provide an annual report to the legislature that includes a comprehensive list of policy options considered by the commission; and to review and approve facility health care information for placement on the department's Internet database established under AS 18.09.110.

### Section 2

Specifies that the plan contain a health care policy and a strategy for encouraging: personal responsibility and reductions in health care costs; access to safe water and wastewater systems; development of a sustainable health care workforce; accessible quality health care; and an increase in the number of residents who are covered by insurance.

Ms. Blaisdell described that the membership of the commission includes:

1. The department medical director (chair)

2. A representative of the Mental Health Trust Authority, appointed by the authority
3. A representative of the University of Alaska health education and training programs appointed, by the university
4. Seven public members including:
  - a. one member representing the Alaska Native Tribal Health Consortium appointed by the consortium
  - b. one member representing the Alaska Primary Care Association, appointed by the association
  - c. one member representing the Alaska State Nurses Association, appointed by the association
  - d. one member representing the health insurance industry appointed by the governor
  - e. two health care consumers or advocates appointed by the governor, one of whom will be a small business owner in the state
  - f. six members of the legislature, three appointed by the president of the senate and three appointed by the speaker of the house of representatives.

Ms. Blaisdell remarked that the terms of office are staggered terms of three years. She noted that the commission shall employ an executive director who is not a member of the commission. She stressed that the Health Care Commission will sunset on June 30, 2014.

Sec. 8

Directs the commissioner of the Department of Health and Social Services and Department of Law to immediately take steps to seek dismissal of pending administrative appeals and court actions concerning the issuance of certificates of need, as appropriate, under AS 18.07, as amended.

Sec. 9

Allows the Department of Health and Social Services to adopt regulations that are necessary to implement changes made by this Act.

Sec. 10

Provides for the department of contract with an entity to conduct a comprehensive study of the effects of the certificate of need program in the state, and provide a copy of the study to the legislature.

Sec. 11

Section 9 takes effect immediately (for the development of regulations).

Sec. 12

Except as provided in sec. 11, the Act takes effect July 1, 2008.

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Ms. Jackson summarized that the bill would put together a health commission and an outline for an information office to move Alaskans toward a better health care system. However, as originally crafted, the Governor's Health Care Transparency Act repeals the CON program moving Alaska to full competition in the health care market and away from thirty years of a government controlled and, most recently, court-determined health care delivery system that is one of the most expensive and least accessible in the country.

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Co-Chair Meyer questioned why the Commission would sunset.

Ms. Jackson agreed this was a good question and admitted to being happier if it was not there.

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Representative Gara asked what prevents this Commission from studying things but not implementing anything. He noted that the Governor appointed a Commission last year that recommended changes to the Denali KidCare program to two hundred percent eligibility but a bill never came from the Governor's Office.

Ms. Jackson responded that the first task force was time limited. The task force looked at the long and short term strategies that could be developed but did not have time to put fiscal notes to the policies. One of the recommendations included an ongoing Commission to provide an annual report with policy recommendations to the Legislature and the Governor. The difference with this Commission would be the deliverance of a report every year.

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Representative Gara noted that the Commission proposal on Denali KidCare at two hundred percent was known but never acted upon.

Ms. Jackson responded that there were many issues to deal with in regard to health reform. The health care commission insures that all the different strategies and goals have timelines and a possibility of being implemented over time.

Representative Gara disagreed and thought Denali KidCare, with a known fiscal note, should not wait from another

report from another Commission. He referred to the Commission composition as being heavy in group representation but little representation from the consumers affected.

Ms. Jackson responded that the original legislation did not have the specific seats but was the evolution of seven meetings. She believed this to be a balance of all suggestions. She shared his concerns to make sure consumers were involved but suggested that any work by the Commission would include public testimony.

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Representative Gara requested to see the alternative proposals for the board. He believed the suggested board would not be reflective of the vast majority of people without health insurance.

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Ms. Jackson pointed out that the Alaska Primary Care Association does work toward trying to make sure that the uninsured have insurance.

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ROD BETIT, PRESIDENT, ALASKA HOSPITAL AND NURSING HOME ASSOCIATION supported the legislation with some reservations. The Association supported Sections 1 and 2 which they believed would improve the functioning of the department. The Association opposed Section 3 and believed the current language is recommended over the new proposed language.

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Mr. Betit signified concern in Section 4 in that it redefined the definition of a health care facility. The bill states this is a way to increase competition and decrease costs but the Association believed this would have the exact opposite effect. He stated the repeal of the CON would be detrimental to Alaska consumers. A 2001 study by Chrysler, Ford and General Motors examined health care costs over several years in eight states and found that costs were eleven to thirty-nine percent lower in states with CON requirements than in those without it. The amount of bad debt increased fifty five percent in Alaska hospitals between 2006 and 2007. Mr. Betit stressed that the repeal of CON would reduce hospitals revenue from more profitable service areas used to offset part of growing bad debt problem.

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Mr. Betit referred to Section 5 and the proposed new definitions. Definition #13 deals with Independent Diagnostic Testing Facility versus a physician practice with imaging equipment. He believed Definition #13 should be replaced with language from HB 345 that clarifies when imaging equipment purchased for a physician's office is exempt from CON review. He speculated that this added language would eliminate eighty percent of the lawsuits and appeals currently before the state on imaging CON decisions. He believed Definition #17 should be entirely deleted as there is no useful purpose for attempting to define what is or is not a physician office. Physician offices have always been exempt from CON in Alaska and this proposed definition would simply create interpretive complexity to an area that is already very clear. Mr. Betit observed Section 6 deals with the Health Care Information Office and mandatory reporting. The Association strongly supports efforts to provide consumers with better information to guide their health care purchases with a few additional language clarification amendments.

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Mr. Betit referred to Section 7 that establishes the Health Care Commission and remarked the Association strongly supports this commission but strongly recommends amending it to give the Commission authority to define the reporting requirements for each health care category. The Commission is the more appropriate body for determining what is most useful to consumers in weighing health care decisions that must be made.

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Mr. Betit discussed the importance of the sunset for the Commission. He remarked the Commission needs to be monitored to see if it is fulfilling its purpose. If the Commission is not fulfilling its purpose, it would go away. The Association does not support Sections 8 and 9. He noted Section 10 strongly supports competition of an Alaska specific CON study to address the question of what impact a CON repeal would have in Alaska. The Association does not support any repeal of CON and therefore believed this diction should be deleted. In Section 11, which deals with a mandatory reporting date, the Association believes it is unrealistic to expect for receiving and posting reported information prior to July 1, 2009.

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Representative Gara inquired if the Committee decided to pass part of this bill and passed the consumer information

sections 6 and 7 would the Association support this. Mr. Betit said yes.

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PAUL MORRIS, CFO, ALASKA REGIONAL HOSPITAL supported this legislation as a great first step in Alaska Health care. An independent study is needed to evaluate where the state is going, the language used, and how it will affect the consumer. He listed several pro and CON studies and overwhelmingly each group decided to retain the CON. He also referenced the definition of physician practice.

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Representative Gara inquired if Mr. Morris would support the bill if two sections, the Health Information Section and the Planning Commission were passed and then a study was initiated on the CON. Mr. Morris agreed. He agreed that all three components are good but more detailed data collection on the CON was needed.

Representative Gara requested where the CON study was in the bill. Representative Hawker replied it was in Section 10.

[2:20:00 PM](#)

Mr. Morris referred to the extensive study in the state of Maine that indicated the CON should be retained.

Representative Gara agreed but was troubled by each group wanting their view to be represented but he believed the greater importance was what is best for the state. A study could provide an independent judgment on the best decision.

[2:21:06 PM](#)

Mr. Morris agreed with Representative Gara that a study was needed and if one was not done, then the problem would keep reoccurring and the debate would continue.

[2:21:42 PM](#)

PAUL FUHS, ALASKA OPEN IMAGING CENTER, remarked that all agree on defining an individual independent diagnostic testing facility and physician's office. The result of not having a good definition is having nine lawsuits filed. In order to come under the \$1 million threshold, people are turning to old technology and equipment. He believed the Medicare services guidelines should be followed that do not require any percentage of ownership. He noted the fifty percent number was added because people did not want a store front taking imagining with no doctor on premises.

[2:24:51 PM](#)

Mr. Fuhs continued that data collection is important for people to be able to make informed choices, otherwise medical expenses are being driven up.

[2:25:29 PM](#)

JOEL GILBERTSON, REGIONAL DIRECTOR, STRATEGIC DEVELOPMENT AND ADMINISTRATION, PROVIDENCE HOSPITAL (testified via teleconference), shared that healthcare is becoming more unaffordable throughout the nation and the state. He believed a clear first step would be the creation of a Commission. He agreed that more information is needed to represent the consumers for recommendations in health care reform. The information needs to be relevant and accurate to make better decisions. Health care costs are driven by what is ordered and charged by physicians and facilities.

[2:29:24 PM](#)

Mr. Gilbertson signified that Providence does not support the proposed language to repeal the Certificate of Need in communities over 60,000. He believed this eliminates public participation and input in health care planning and infrastructure in the communities. There is research for and against the CON. The Task Force agreed that the CON is a relevant public policy tool that needs to be preserved. He supported a study to be completed on the CON.

Representative Gara asked if that if there was an agreement on how to rewrite the CON law would he support a bill that passed out with the Health Care Office, the Commission, and the CON study. Mr. Gilbertson agreed that with some minor amendments they would support the legislation. Representative Gara remarked that the Commission would address the availability of medical care. He contended that one of the big indicators for keeping a doctor in state is whether they can attend a residency program in this state. He noted that Mr. Gilbertson has a family practice residency that may be expanding. Representative Gara inquired how many people annually come out of this practice and if it was the only one in the state.

[2:32:54 PM](#)

Mr. Gilbertson answered that there was only one residency program in Alaska. It is a three-year program with eight residents and is subsidized by Providence. Providence has prioritized growing the program; the current first-year class has 12 residents. National studies show that one of the leading determinants of where a physician will practice is where they did their residency. However, the residency

program loses money. It is a working clinic for uninsured and Medicaid/Medicare patients, and is subsidized by the hospital at \$2 million per year.

Representative Gara offered to work with Mr. Gilbertson on the subject.

Vice-Chair Stoltze stated concerns.

[2:35:44 PM](#)

ROBERT CIMASI, PRESIDENT, HEALTH CAPITAL CONSULTANTS, MISSOURI (testified via teleconference), spoke in support of HB 337. He summarized his written report to the Committee ("Alaska Health, Education and Social Services Committee, Testimony on Certificate of Need," Copy on File).

Mr. Cimasi referred to the many studies done on CON programs and cautioned the Committee to read them carefully as they each address different issues.

Mr. Cimasi thought that health care should be about providing care to patients and their families. He addressed cross subsidization as a "hidden tax." Hospitals provide a broad range of services. Those with CON raise prices. Costs go up on the promise that there will be cross subsidization of other services. He referred the Committee to a Health Affairs article by Clark Havighurst, who states that health insurance greatly increases the profitability of monopoly. If costs are allowed to be raised and there is no commitment against cross subsidization, the result is higher costs with no benefit to anyone.

Mr. Cimasi referred to an extensive study by the Federal Trade Commission, "Hospital Competition and Charity Care," which states there is a lack of statistical evidence for the cross subsidization hypothesis. Other studies support that. He asked the Committee to focus on the consumer and the patient. CON regulation is favorable to hospitals, not consumers.

[2:47:12 PM](#)

NANCY CROSS, PHYSICIAN, FAIRBANKS (testified via teleconference), spoke in support of HB 337. She has not been able to secure privileges at the local hospital. She cannot do hospital based procedures, but must take patients to Anchorage, which limits patients who cannot afford to travel. She described the long process of applying, inquiring and being given privileges and having them taken away.

[2:51:46 PM](#)

DR. LARRY STINSON, ANCHORAGE (testified via teleconference), spoke in favor of the bill. He thought it had been demonstrated to be effective other places. In current literature CON hasn't been shown to be of benefit, but drives up costs. The state program has been in place since 1986. Each year the study is delayed it hurts the patient. He is wary of a study if it does not represent the consumer. Hospitals in other states without CON still make profits.

[2:55:33 PM](#)

GRANT RODERER, PHYSICIAN, ANCHORAGE (testified via teleconference), asked the Committee to repeal the CON. He would like the population limit lowered.

JOANNE SMITH, WASILLA (testified via teleconference), spoke in favor of the bill. The current CON regulations are outdated and should be repealed. The population base should be eliminated. Alaska has the highest price and lowest quality in health care, and a shortage of physicians. CON was repealed on the federal level over twenty years ago because it did not work. Competition is a good thing in health care. She thought more physicians would come to Alaska after CON was repealed.

[3:01:57 PM](#)

RICHARD COBDEN, PHYSICIAN, FAIRBANKS (testified via teleconference), spoke in support the legislation with some reservations, including eliminating MatSu, Anchorage and Fairbanks from the process. He agrees that CON increases costs without increasing care. There has been no consumer input on the Commission. He thought legislators have the responsibility to tax but are abrogating that to hospitals. He wanted to address the problems of health care directly.

[3:06:30 PM](#)

KEVIN DOREY, FAIRBANKS (testified via teleconference), spoke in support of the bill as a consumer and economist. The CON law as applied in Alaska is a violation of federal anti-trust law. He thought there would be more opportunity to move forward if the State did not wait until the federal government removed CON. He did not think Fairbanks was a rural community and did not need the protections of the CON system. When individuals have applied for CON, they have been saddled with endless lawsuits.

MIKE POWERS, CEO, FAIRBANKS MEMORIAL HOSPITAL (testified via teleconference), opposed all sections in the legislation that support CON. He listed his thoughts on each of the sections. He spoke to the other testifiers who had issues with the Fairbanks hospital.

[3:15:12 PM](#)

JILL THORVALD, EXECUTIVE DIRECTOR, MEDICAL FACILITY, FAIRBANKS (testified via teleconference), gave her perspective as an operator in a private facility. She supports the Governor's bill on CON. Physicians will view Alaska as more attractive without CON. More specialties will keep money in Fairbanks instead of patients traveling outside Alaska and to Anchorage. She thought Medicare is an entirely different issue that needs to be dealt with separately. She did not see the bill as an anti-hospital bill.

[3:19:36 PM](#)

STEPHEN SUTLEY, FAIRBANKS (testified via teleconference), spoke in support the legislation, although he considers it a poor compromise as populations are not well defined. The health care issue is major in the national elections, and thought it should be an issue in the state elections. Well documented studies from many organizations show that the CON does not work as it stifles free market enterprise, consumer choice, and physician recruitment. Fairbanks is among the fastest growing cities in the nation, yet it lacks physicians.

[3:25:06 PM](#)

SCOTT BELL, FAIRBANKS MEMORIAL HOSPITAL FOUNDATION BOARD (testified via teleconference), supported many parts of the bill, but was very opposed to Sec. 4 which would have a strong negative impact on the quality of health care available. He spoke to an award the hospital had gotten recognizing its commitment to community health. He felt CON is important in providing high quality health care. He highlighted a wide range of services at the Fairbanks hospital.

[3:28:22 PM](#)

MAREE BARNEY-SUTLEY, FAIRBANKS (testified via teleconference), spoke as a consumer and senior in support of eliminating CON. She urged the Committee to move the bill through.

RYAN SMITH, CEO, HOSPITAL, SOLDOTNA (testified via teleconference), supported the study but not the elimination of CON. The hospital does not have a parent company outside of Alaska. He thought the regulation committee had been poorly represented. The group voted against CON being removed.

[3:31:10 PM](#)

ROMAN STEVENS, CEO, MAT-SU MEDICAL CENTER, FAIRBANKS (testified via teleconference), said the committee was balanced and thought it was misrepresented. He wanted to maintain the CON and protect community hospitals. He was supportive of the study.

MIKE MCNAMARA, SURGEON, ANCHORAGE (testified via teleconference), spoke in opposition of the bill. He agreed with the need for further information on CON, and with the plan to create a Commission. Regarding CON, none of Anchorage centers are full capacity. They have become very specialized and rarely have to send people outside of Alaska. He thought more centers would dilute that care and worried about losing peer oversight of big centers. There is a shortage of nursing in all centers. If CON is repealed, then centers will be competing for specialty nursing staff and physicians. The larger centers have the power to negotiate contracts with insurance companies and unions, which brings costs down.

[3:36:56 PM](#)

MARK WADE, SURGEON, FAIRBANKS (testified via teleconference), spoke in support of the legislation. He told his experience with CON. He had been given one to open a center, but could not build the center as he has lawsuits against him. He believes that freedom of choice is best for the people of Alaska. He resigned from the committee, where citizens were not represented. He wanted a free market.

[3:42:14 PM](#)

MURRAY RICHMOND, CHAPLAIN, FAIRBANKS MEMORIAL HOSPITAL (testified via teleconference), spoke in opposition to the legislation. He spoke to the variety of excellent services in Fairbanks and thought the system was working for the consumer. He did not want health care to be subject to the forces of the market.

CARONE STURM, FAIRBANKS (testified via teleconference), spoke as a consumer in Fairbanks in support of HB 337. She wants the CON repealed. She has a child with a serious health concern and said the costs are very high.

[3:46:31 PM](#)

MIKE MADDOX, FAIRBANKS (testified via teleconference), spoke in support of the bill. Fairbanks is the only community in the country of its size with one hospital. He spoke to decreased service to the community. Fairbanks has only one image center. Costs in some cases are doubled (testimony garbled due to technical difficulties).

[3:50:44 PM](#)

JENNINE HINMAN, HEALTH CARE CONSULTANT, ADVANCED MEDICAL CENTERS OF ALASKA, WASILLA (testified via teleconference), spoke in favor of the bill. Instead of getting another task force, she suggested repealing the CON and providing for a review of that in five years. She spoke to the future need for care for disabled veterans from Iraq.

PUBLIC TESTIMONY CLOSED.

HB 337 was HEARD and HELD in Committee for further consideration.

RECESS [3:56:17 PM](#)

RECONVENE [7:23:52 PM](#)

SENATE BILL NO. 229

"An Act relating to the Tanana Valley State Forest and to assignment of certain forest land to the Minto Flats State Game Refuge; and providing for an effective date."

SENATOR JOE THOMAS, SPONSOR, explained that the bill amends the boundaries of the Tanana Valley State Forest by adding and deleting boundaries to the legal descriptions, increasing it by around 35,000 acres. The legislation also moves approximately 4300 acres from the state forest to the Minto Flats State Game Refuge (Sponsor Statement, Copy on File). The forest is open to mining and other development. He described the history of the state forest and its many uses. He has received no negative comments on the bill.

[7:27:09 PM](#)

Co-Chair Chenault applauded the bill and asked if the changes affect ability for oil and gas exploration on the lands.

MARTY FREEMAN, DIVISION OF FORESTRY, DEPARTMENT OF NATURAL RESOURCES, clarified that there is no change to the status of the land going into the Tanana Valley State Forest. It continues to be open for oil, gas and mining leasing. The land going into the refuge is closed to mining. It is primarily managed for wildlife habitat.

Co-Chair Chenault asked how much land would go into the reserve. Senator Thomas answered 4300 acres.

PUBLIC TESTIMONY CLOSED.

Vice-Chair Stoltze MOVED to REPORT SB 229 out of Committee with individual recommendations and with accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

SB 229 was REPORTED out of Committee with a "do pass" recommendation and with zero fiscal note #1 by the Department of Natural Resources and zero fiscal note #2 by Department of Fish and Game.

AT EASE [7:30:56 PM](#)

RECONVENE [7:44:57 PM](#)

SENATE JOINT RESOLUTION NO. 17

Urging the United States Congress to provide a means for consistently sharing, on an ongoing basis, revenue generated from oil and gas development on the outer continental shelf with all coastal energy-producing states to ensure that those states develop, support, and maintain necessary infrastructure and preserve environmental integrity.

Co-Chair Meyer noted for the record that he works for an oil company that does offshore exploring in Alaska.

SENATOR BILL WIELECHOWSKI, SPONSOR, explained that SJR 17 urges Congress to provide Alaska with a fair share of federal revenue from oil and gas leasing and development off Alaska's coast. Under current law, Alaska receives virtually no revenue from oil and gas leasing and development that occurs more than six miles off the coast. The federal government has allowed other states 37.5 percent of revenues from newly leased federal waters off their coasts. Like other energy-producing states, Alaska bears the costs of infrastructure in support of offshore development, and coastal resources and residents bear the impacts of that development. (Sponsor Statement, Copy on File)

[7:48:30 PM](#)

Co-Chair Meyer asked if Cook Inlet was considered state waters. Senator Wielechowski thought Cook Inlet was state waters. He said the states get no revenues after 6 miles. A lot of leases occur 60 miles out in the Chukchi Sea. Co-Chair Meyer asked if Representative Joule's district would be affected. Senator Wielechowski said it would be.

Vice-Chair Stoltze asked about sending the Resolution to delegations of other states. Senator Wielechowski said the other state most affected by the issue is California.

[7:50:06 PM](#)

Representative Gara wondered if Alaska would get any of the money retroactively.

Vice-Chair Stoltze spoke to the polar bear issue.

Vice-Chair Stoltze MOVED to REPORT SJR 17 out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SJR 17 was REPORTED out of Committee with a "do pass" recommendation and with zero fiscal note #1 by the Senate Resources Committee.

CS FOR SENATE BILL NO. 185(STA)(title am)

"An Act relating to the central registry of sex offenders and child kidnappers and to the registration requirements for sex offenders and child kidnappers; and providing for an effective date."

SENATOR WIELECHOWSKI, SPONSOR, explained that the bill requires sexual offenders and child kidnappers to register their email addresses and other internet identifiers. Alaska has the highest percentage of internet use in the country and the highest percentage of sexual offenders.

[7:54:03 PM](#)

Representative Gara asked if page 2, line 25, made additional requirements related to drivers license numbers. Senator Wielechowski explained that section as technical clean-up.

Representative Hawker stated that he is uncomfortable with the bill. Page 3, lines 27-31, essentially requires the Department of Public Safety (DPS) to publish the list in its entirety. He thought that gave the Department too broad authority. It could help sexual offenders connect with one another. Senator Wielechowski responded that the intent is to allow parents of children to type in someone's name and find out if they are a registered sex offender. He wanted DPS to be able to communicate with internet providers and organizations so that they can prohibit sex offenders from having websites. MySpace prohibits convicted sex offenders from having sites. He was open to the will of the Committee.

[7:57:17 PM](#)

PUBLIC TESTIMONY CLOSED.

SB 185 was HEARD and HELD in Committee for further consideration.

CS FOR SENATE BILL NO. 265(FIN)

"An Act relating to the payment of permanent fund dividends to certain individuals required to register as sex offenders or child kidnappers; relating to execution upon permanent fund dividends by civilian process servers using electronic procedures; amending Rule 89, Alaska Rules of Civil Procedure; and providing for an effective date."

[7:59:28 PM](#)

TREVOR FULTON, STAFF, SENATOR LESIL MCGUIRE, explained the bill's intent to bring sex offenders into compliance with the state sex offender registry. Approximately one out of ten convicted sex offenders in the state is non-compliant with the registry. The bill would withhold Permanent Fund Dividends (PFD) from anyone not properly registered and would allow the Permanent Fund Division to issue the writs electronically. Currently there are approximately 4,200 people on the registry.

[8:02:00 PM](#)

Representative Nelson asked for clarification regarding the writs. Mr. Fulton explained writs as court orders for the Division to sign over a PFD check to a debtor.

DEBBIE RICHTER, DIRECTOR, PERMANENT FUND DIVISION, DEPARTMENT OF REVENUE, explained that a writ is the court document issued when a person owes any debt. It functions as permission for an agency or bank to pay the funds elsewhere.

[8:05:33 PM](#)

There was a discussion about PFD payment related to eligibility and compliancy.

[8:07:04 PM](#)

Co-Chair Chenault asked if police agencies have access to the PFD database. Ms. Richter answered that they could if they had a memorandum of agreement with the Division. Co-Chair Chenault stated concerns.

Representative Gara asked for clarification. Mr. Fulton explained that a person could not get the PFD if they had not registered or if they were out of compliance. The intent was to have DPS and the Division of Motor Vehicles (DMV), which houses the sex offender registry, run a check.

[8:11:13 PM](#)

KATHRYN MONFREDA, CHIEF, CRIMINAL RECORDS AND IDENTIFICATION BUREAU, DIVISION OF STATEWIDE SERVICES, DEPARTMENT OF PUBLIC

SAFETY (testified via teleconference), stated that she managed the sex offender registry. She explained that there are numerous ways to be out of compliance. Sex offenders are required to register quarterly and can go in and out of compliance repeatedly. Efforts are made monthly to get local police department to locate people and get them to comply.

[8:14:34 PM](#)

Representative Hawker questioned what the bill would accomplish since most of the people don't qualify for the PFD anyway. Mr. Fulton said that the sex offender registry examined some of the data and found that two-thirds of out-of-compliance sex offenders filed for the PFD last year. There was further discussion about compliance and dividends.

[8:18:19 PM](#)

PUBLIC TESTIMONY CLOSED.

Representative Joule asked about the fiscal note.

Ms. Richter explained that all of the funding supporting the dividend program comes from the earnings before they are distributed.

Representative Crawford asked who the dividend would go to if it is under garnishment. Ms. Richter said that a dividend that has not been paid cannot be garnished. Representative Crawford stated concerns.

[8:22:01 PM](#)

Representative Gara was concerned about the Division using resource unnecessarily. Ms. Richter said the identification of people who would be affected would be done through a computer data match. The people identified would be flagged. The Division would be dealing with only a small segment of applicants. There was further discussion about the process.

CSSB 265 (FIN) was HEARD and HELD in Committee for further consideration.

ADJOURNMENT

The meeting was adjourned at 8:26 PM.