

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

February 20, 2008
1:04 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 359

"An Act relating to probation and the offense of minor consuming or in possession or control of alcohol."

- MOVED CSHB 359(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 256

"An Act relating to active game management and to the airborne or same day airborne taking of certain game animals; making conforming amendments; and providing for an effective date."

- MOVED CSHB 256(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 237

"An Act authorizing the governor to remove or suspend a member of the Board of Regents of the University of Alaska for good cause; establishing a procedure for the removal or suspension of a regent; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 359

SHORT TITLE: PROBATION AND MINOR CONSUMING

SPONSOR(S): JUDICIARY

02/08/08 (H) READ THE FIRST TIME - REFERRALS
02/08/08 (H) JUD, FIN
02/20/08 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 256

SHORT TITLE: ACTIVE GAME MANAGEMENT/AIRBORNE SHOOTING
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

05/11/07 (H) READ THE FIRST TIME - REFERRALS
05/11/07 (H) RES, JUD
01/30/08 (H) RES AT 1:00 PM BARNES 124
01/30/08 (H) Heard & Held
01/30/08 (H) MINUTE(RES)
02/04/08 (H) RES AT 1:00 PM BARNES 124
02/04/08 (H) Heard & Held
02/04/08 (H) MINUTE(RES)
02/08/08 (H) RES AT 1:00 PM BARNES 124
02/08/08 (H) Moved CSHB 256(RES) Out of Committee
02/08/08 (H) MINUTE(RES)
02/13/08 (H) RES RPT CS(RES) 2DP 1DNP 3NR 3AM
02/13/08 (H) DP: EDGMON, GATTO
02/13/08 (H) DNP: GUTTENBERG
02/13/08 (H) NR: SEATON, ROSES, JOHNSON
02/13/08 (H) AM: FAIRCLOUGH, KAWASAKI, WILSON
02/20/08 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 237

SHORT TITLE: REMOVING A REGENT
SPONSOR(S): STATE AFFAIRS

04/13/07 (H) READ THE FIRST TIME - REFERRALS
04/13/07 (H) STA, JUD
05/01/07 (H) STA AT 8:00 AM CAPITOL 106
05/01/07 (H) Moved CSHB 237(STA) Out of Committee
05/01/07 (H) MINUTE(STA)
05/01/07 (H) STA RPT CS(STA) NT 4DP 3NR
05/01/07 (H) DP: JOHNSON, ROSES, GRUENBERG, LYNN
05/01/07 (H) NR: JOHANSEN, COGHILL, DOLL
05/03/07 (H) JUD AT 1:30 PM CAPITOL 120
05/03/07 (H) Failed To Move Out Of Committee
05/03/07 (H) MINUTE(JUD)
02/01/08 (H) JUD AT 1:00 PM CAPITOL 120
02/01/08 (H) <Bill Hearing Canceled>
02/08/08 (H) JUD AT 1:00 PM CAPITOL 120
02/08/08 (H) <Bill Hearing Canceled>
02/20/08 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

EMILY BEATLEY, Staff
to Representative Jay Ramras
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 359 on behalf of Representative Ramras, chair of the House Judiciary Standing Committee, sponsor.

DOUG WOOLIVER, Administrative Attorney
Administrative Staff
Office of the Administrative Director
Alaska Court System (ACS)
Anchorage, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 359.

JOSHUA FINK, Director
Anchorage Office
Office of Public Advocacy (OPA)
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 359.

BRIGADIER GENERAL THOMAS H. KATKUS, Commander, Army Director
Alaska Army National Guard (AK ARNG)
Fort Richardson, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 359.

KEVIN SAXBY, Senior Assistant Attorney General
Natural Resources Section
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Presented HB 256 on behalf of the administration.

DOUG LARSEN, Director
Division of Wildlife Conservation
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Provided a comment during discussion of HB 256.

JOEL BENNETT

Alaskans for Wildlife
(No address provided)

POSITION STATEMENT: Provided comments during discussion of
HB 256.

JOE KLUTSCH, President

Alaska Professional Hunters Association, Inc. (APHA)
Copper Center, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 256, and urged passage of the bill.

JOHN TOPPENBERG, Director

Alaska Wildlife Alliance
Soldotna, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 256.

REUBEN HANKE

Soldotna, Alaska

POSITION STATEMENT: Testified in favor of HB 256.

MARTIN WADE WILLIS

Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 256.

ROD ARNO, Executive Director

Alaska Outdoor Council (AOC)
Wasilla, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 256, and asked that the bill be passed from committee.

JERRY McCUTCHEON

Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 256.

VICTOR VAN BALLEMBERGHE

Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 256, provided
comments and suggested a change to Section 8 of Version E.

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at [1:04:51 PM](#). Representatives Dahlstrom, Coghill, Samuels, Lynn, and Ramras were present at the call to order. Representatives Holmes and Gruenberg arrived as the meeting was in progress.

HB 359 - PROBATION AND MINOR CONSUMING

[1:05:18 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 359, "An Act relating to probation and the offense of minor consuming or in possession or control of alcohol."

[1:05:54 PM](#)

REPRESENTATIVE DAHLSTROM moved to adopt the proposed committee substitute (CS) for HB 359, Version 25-LS1377\M, Luckhaupt, 2/20/08, as the work draft. There being no objection, Version M was before the committee.

CHAIR RAMRAS noted that HB 359 was sponsored by the House Judiciary Standing Committee.

[1:06:47 PM](#)

EMILY BEATLEY, Staff to Representative Jay Ramras, Alaska State Legislature, on behalf of Representative Ramras, chair of the House Judiciary Standing Committee, sponsor, presented HB 359. She explained that under the current statute pertaining to minor consuming, the court is required to automatically place a convicted person on probation for one year from the date of conviction or until the person reaches the age of 21, whichever is later. House Bill 359 proposes to add a new [subsection] to AS 04.16.50, giving the courts the authority to terminate the probation of someone convicted of minor consuming - unless he/she is a habitual repeat offender - if he/she meets the conditions of probation set forth by the court and continuance of probation would interfere with the person's rehabilitation and growth.

MS. BEATLEY said that HB 359 was specifically drafted as a "betterment" bill, and is not specific to those applying for the military, although research indicates that this is a large issue. Others who might also benefit from HB 359 are those seeking entrance into certain colleges, and university students

traveling into or through Canada for sporting events. Under the bill, all who are convicted and serving probation for minor consuming - except for habitual repeat offenders - would be eligible for probation termination via petition to the court. The belief is, she relayed, that the bill will provide additional incentive to those convicted of minor consuming to succeed while on probation.

REPRESENTATIVE GRUENBERG said he strongly supports HB 359. He asked whether the term "growth" as used on page 2, line 3, would cause the courts difficulty.

MS. BEATLEY offered her belief that it would be up to the courts to interpret that term.

1:10:15 PM

DOUG WOOLIVER, Administrative Attorney, Administrative Staff, Office of the Administrative Director, Alaska Court System (ACS), said he doesn't know what "growth" means, but surmised that it was included in the bill to give judges discretion beyond just rehabilitative goals, and that how judges interpret that term will vary and be closely tied to the specifics of the defendant.

REPRESENTATIVE GRUENBERG said he would hope that the courts would be able to apply common sense and thus alleviate the need for the legislature to define the term.

MR. WOOLIVER agreed. In response to a question, he offered his recollection that historically, there have been about 4,000 minor consuming charges filed each year, but he doesn't know how many end in convictions or how many of those charged are on probation at any given time, though he estimated that the number of the latter is probably in the thousands. He noted that Version M somewhat narrows the category of who could petition the court to have his/her probation terminated - the procedure would be much like a suspended imposition of sentence (SIS) procedure - but he is unable to estimate at this time how many might petition the court.

CHAIR RAMRAS offered that the impetus behind [the bill] is that as long as the State of Alaska "has its thumb on one of these minors, the U.S. government can't own them"; as such, "the best vocational rehab program available across the country" is not available to some of the youth who might most benefit from it.

REPRESENTATIVE SAMUELS questioned Ms. Beatley's use of the term, "habitual," and whether the bill would apply only to first time offenders.

MS. BEATLEY explained that AS 04.16.050(d) currently says in part, "A person is guilty of habitual minor consuming or in possession or control if the person was placed on probation under (c) of this section, or has been previously convicted twice", and that a reference to subsection (d) was specifically left out of the bill so as to exclude those who fit in that category. In response to a question, she offered her understanding that the procedure provided by the bill could be used by someone who only had one prior conviction for minor consuming but not by someone who had two prior convictions.

[1:14:42 PM](#)

JOSHUA FINK, Director, Anchorage Office, Office of Public Advocacy (OPA), Department of Administration (DOA), opined that while the State should never condone underage drinking, the punishment should be proportionate to the crime, and offered his belief that the legislature did not intend for kids who are cited for underage drinking to be precluded from being able to join the military. He relayed that when he was a public defender, he saw kids who got cited for underage drinking because they were at a party and who then found out later that they couldn't enlist in the military, and he characterized this as an unintended consequence of the current minor consuming law that will be fixed by HB 359.

[1:16:10 PM](#)

BRIGADIER GENERAL THOMAS H. KATKUS, Commander, Army Director, Alaska Army National Guard (AK ARNG), said that the AK ARNG abides by all the [enlistment] standards of the U.S. Army for age, citizenship, education, trainability, physical fitness, and moral standards. If the courts had the ability to terminate probation for those youths who've been convicted of utilizing alcohol but who don't have any other criminal charges, it would give those youths the opportunity to join the military, which could provide them with better mentors and more options for getting out of a bad situation. Any time a person has more options available, the better his/her chances of success, he concluded.

REPRESENTATIVE GRUENBERG observed that there are no accompanying fiscal notes for HB 359.

MR. WOOLIVER explained that if the ACS were to submit a fiscal note, it would be based on an anticipated increase in the number of hearings the court would have. For example, if there are 8,000 people currently on probation for minor consuming, the court might anticipate a significant number of probationers requesting a hearing. However, he added, he is not sure what percentage of those convicted might qualify for the procedure proposed by the bill, and so he will be researching that issue further to see if a fiscal note is warranted.

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REPRESENTATIVE GRUENBERG referred to the language of proposed AS 04.16.050(1)(2) and (3), and said he is having an amendment drafted to address his concern that the person will continue to make payments for the court-ordered programs and the fines that the court imposes; for example, any unpaid amount could be entered as a judgment against the person. He asked whether the ACS would be amenable to such an amendment.

MR. WOOLIVER indicated that he is not sure that [such an amendment] would be an issue for the ACS.

REPRESENTATIVE COGHILL expressed concern that the language of proposed AS 04.16.050(1)(4) isn't written correctly.

MS. BEATLEY explained that the Department of Law (DOL) had wanted the bill to also stipulate that the person has to have substantially complied with other conditions of probation, and it appears that the drafter simply added that stipulation to the stipulation that the continuance of probation would interfere with the rehabilitation and growth of the person. She suggested that perhaps the two aspects of proposed AS 04.16.050(1)(4) could instead be separated into two different paragraphs.

REPRESENTATIVE COGHILL indicated that he felt something still needed to be done to clarify those stipulations.

REPRESENTATIVE SAMUELS said he is reading proposed AS 04.16.050(1)(4) to say that a person need not completely comply with the conditions of probation before being allowed to join the service if doing so would interfere with his/her rehabilitation.

REPRESENTATIVE COGHILL said he understands that concept, but opined that the language doesn't currently say that.

REPRESENTATIVE GRUENBERG posited that the language means that before the court can grant the motion [to terminate probation], the court must find that the defendant has complied with any other conditions of probation - in other words, that he/she hasn't been committing any other crimes - and must find that if probation continues and the motion is not granted, that would interfere with the defendant's rehabilitation and growth. He opined that the courts would interpret the language of proposed AS 04.16.050(1)(4) in that fashion.

MR. WOOLIVER concurred with Representative Gruenberg's summation of the language, but cautioned that he can't say how judges will actually interpret the language.

CHAIR RAMRAS closed public testimony and set HB 359, Version M, aside until later in the meeting.

HB 256 - ACTIVE GAME MANAGEMENT/AIRBORNE SHOOTING

[1:28:26 PM](#)

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 256, "An Act relating to active game management and to the airborne or same day airborne taking of certain game animals; making conforming amendments; and providing for an effective date." [Before the committee was CSHB 256(RES).]

REPRESENTATIVE SAMUELS moved to adopt the proposed committee substitute (CS) for HB 256, Version 25-GH1076\E, Kane, 2/15/08, as the work draft.

REPRESENTATIVE HOLMES objected, and asked whether the only change between Version E and CSHB 256(RES) is that the effective date has been changed from July 1, 2007, to July 1, 2008.

CHAIR RAMRAS offered his understanding that that is the only change.

REPRESENTATIVE HOLMES removed her objection.

CHAIR RAMRAS relayed that Version E was before the committee.

[1:32:11 PM](#)

KEVIN SAXBY, Senior Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law

(DOL), after relaying that he is assigned to the Board of Game and the Alaska Department of Fish & Game (ADF&G) and that work on the bill began during the Murkowski Administration when interested legislators requested that the DOL and the ADF&G come up with language that would improve and make more workable both the "intensive management law and the same-day airborne law," said that work on the bill began before the current litigation challenging Alaska's predator control programs and before "the current initiative that's on the ballot for the next election." He then offered his understanding that Sections 1 and 2 don't make any substantive changes but instead merely adopt conforming language necessitated by changes proposed elsewhere in the bill.

MR. SAXBY explained that [in drafting the bill], the underlying assumption of the DOL and the ADF&G was that the legislative intent was to maintain both the "intensive management law on the books" and the "same-day airborne law on the books" while making them more workable. The departments had no intention, therefore, to significantly alter what they believed were the underlying core principles of both laws. Section 3, he relayed, rewrites the "intensive management law," which resulted from Governor Hickel's 1992 shutdown of predator control in the face of a tourism boycott. That original law was written to force the Board of Game, in certain instances, to adopt predator control programs. The departments are assuming, he remarked, that the legislature continues to want to require the Board of Game to have a duty to act intensively, to manage intensively, in certain instances. He went on to say:

We believe the core principles of that law have always been, first of all, that the Board [of Game] is to identify populations of game [for which] ... it's important to manage intensively ... [because they] are important for high levels of human consumption; second, that once those populations are identified, that the Board [of Game] set objectives for the size of the population and for the harvest level ... that's to come out of that population; and, third, that ... the Board [of Game] is then to adopt regulations that ... implement this duty to manage intensively, and, if objectives aren't being met, that the Board [of Game] ... take what measures ..., within reason, are necessary in order to attempt to reach those objectives. And that's what Section 3 begins; Section 3 ... restates the duty - ... in a much clearer fashion than ... stated under the existing law - for the Board [of Game] to identify [game]

populations that are important to manage for high levels of human use, and then to ... set ... population and harvest objectives for those populations.

MR. SAXBY explained that [one provision of] Section 4 requires the Board of Game to manage moose, caribou, and deer populations so as to meet its set objectives. He characterized this as a broader requirement than under current law because currently the Board of Game only has to adopt intensive management regulations when a population is depleted or when the Board of Game is [otherwise] forced to reduce the taking of that population, whereas under HB 256, the Board of Game will always have that duty, since once a population is identified as important to manage for high levels of harvest by humans, it is always important to do so. [Game] populations sometimes need to be reduced, for example, because they are over populating their range, and so the Board of Game needs to have a duty to take action to maintain the population's productivity in those instances as well.

MR. SAXBY said that another provision of Section 4 stipulates that if objectives are not being met, then the Board of Game is to adopt regulations to restore productivity and increase harvest, including instituting active management measures and programs. The final provision of Section 4 was added by the House Resources Standing Committee to ensure that this duty to identify populations to be managed for high levels of harvest by humans doesn't mean that the Board of Game can't identify other uses for populations or can't identify other populations that are to be managed differently. The departments did not envision this provision as causing any problems, because they felt it was already part of current law, but it was added to alleviate concerns that the duty outlined in Section 3 appears to only consider high levels of harvest by humans as an important use.

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MR. SAXBY pointed out that the term, "intensive management" has been changed to the term, "active management", which is now defined in Section 5 as including predator control." Section 5, furthermore, eliminates a number of what he characterized as very problematic definitions that have provided a lot of fodder for litigation; a lot of these terms, he added, are not necessary to enable the Board of Game to reach the goals the legislature intended via adoption of the "intensive management law." He offered his belief that the term, "active management"

is being defined the same way via HB 256 that the term, "intensive management" is currently defined in statute. Within the management community, he relayed, the term, "active management" in general carries a broader connotation in Alaska than the term, "intensive management" because the latter term is now being equated with just predator control. He added:

Our intent with this term, here, is to encourage innovative thinking. ... There's a number of situations where predator control may not be the answer but there's still a need to do something beyond just regulating [harvest by humans] ... and bag limits and seasons, and do something affirmative, and so we're introducing this term, "active management" to encourage that kind of thinking and to let the public know that is our intent.

1:40:54 PM

REPRESENTATIVE HOLMES asked how the term, "intensive management" is currently defined.

MR. SAXBY offered that existing AS 16.05.255(j)(4) reads:

(4) "intensive management" means management of an identified big game prey population consistent with sustained yield through active management measures to enhance, extend, and develop the population to maintain high levels or provide for higher levels of human harvest, including control of predation and prescribed or planned use of fire and other habitat improvement techniques.

REPRESENTATIVE HOLMES noted that [proposed AS 16.05.255(j)(1)] simply says, "(1) 'active management' includes predator control;". She asked whether there is a broader definition of "active management" elsewhere in statute.

MR. SAXBY said there certainly could be one already, but noted that the ADF&G and the DOL have created a broader definition in case the legislature decides it would prefer to broaden the definition of that term beyond what the bill currently provides for. The departments intentionally left the definition provided for in proposed AS 16.05.255(j)(1) open. He explained that the word, "includes" is defined in Title 1 to mean "including but not limited to". The departments don't mean to limit "active management" to predator control, he relayed, but do want to

ensure that predator control is included in the statute in order to clarify, both to the public and to the departments, that the legislature still intends to "ratify the use of" predator control.

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MR. SAXBY said that that broader definition retains, almost word for word, the current definition of "providing for a high level of human harvest", because it's the departments' view that that is the very core of the "intensive management" principle and the duty that the legislature sought to impose, but makes one small change to clarify that the issue pertains to the current biological capabilities rather than some future harvestable surplus. He then offered his understanding that Sections 6 and 7 do not make substantive changes but instead merely adopt conforming language necessitated by changes proposed elsewhere in the bill.

MR. SAXBY, in response to a question, relayed that existing AS 16.05.255(j)(2) reads in part, "(2) 'high level of human harvest' means the allocation of a sufficient portion of the harvestable surplus ...", whereas proposed AS 16.05.255(j)(2) reads in part, "(2) 'providing for a high level of human harvest' means allowing allocation of a sufficient portion of the harvestable surplus ...". He opined that although this seems to be a small change, it bears on an argument made in court that the current statutory wording requires that the Board of Game must base its objectives in setting high levels of harvest by humans on whatever the current harvestable surplus is even if that's a depleted harvestable surplus; the opposing argument made by [the departments] is that the purpose of the "intensive management law" is to restore game populations to abundance. Addition of the word, "allowing", therefore, is meant to indicate that the language refers to a future action rather than a current action.

REPRESENTATIVE GRUENBERG questioned whether use of the term, "allowing" might be interpreted to allow the Board of Game to do things other than what Mr. Saxby is suggesting. From a legal point of view, he proffered, the use of the term, "allowing" means that the Board of Game "may, but need not" allocate a sufficient portion of the sustainable harvest to achieve a high probability of success, thus giving the board more discretion to do things other than what the departments intend.

MR. SAXBY pointed out, though, that in court, the argument being made regarding the existing definition of "high level of human harvest" is that the allocation must be made now based on whatever the current harvestable surplus is. Changing the definition via proposed AS 16.05.255(j)(2) will clarify that "this isn't a current allocation - it's something that will happen in the future," he remarked. The departments did not want to change the overall definition very much, he added, because it's held in very high regard among proponents of intensive management and it's the very core of what the legislature intended to require the Board of Game to do.

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REPRESENTATIVE GRUENBERG again argued, however, that the proposed definition might give the Board of Game more discretion than intended.

MR. SAXBY said that he doesn't have a suggestion for different language, and doesn't know how the Board of Game would be able to twist the proposed definition around into allowing it to manage for some other purpose - the underlying principle would still be that the Board of Game is obligated to manage game for high levels of harvest by humans.

REPRESENTATIVE GRUENBERG noted that the proposed definition says that the Board of Game shall consider "all hunter demand", whereas the current definition says that the Board of Game shall consider "hunter demand". He asked why the word, "all" was added.

MR. SAXBY indicated that the addition of the word "all" is meant to clarify that the legislature intends for the Board of Game to manage for all consumptive uses of a population, not just the local subsistence use. One of the arguments repeatedly raised in court is that the purpose of the "intensive management law" must have been only to provide for the often fairly low-level local subsistence use and it wasn't intended to require management for abundance in order to provide for, say, urban sport hunters, for example. Addition of the word "all" should preclude that argument, he posited.

REPRESENTATIVE GRUENBERG offered his understanding that the proposed language would limit consideration to all hunter uses, and not other uses as well.

MR. SAXBY concurred that the consideration would be limited to all "consumptive" uses, and again offered his understanding that that's the core of the "intensive management law" and what the legislature intended to require in adopting that law in 1994; the changes proposed by Version E would just make that law more workable.

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MR. SAXBY went on to explain that Section 8, in part, adds "brown bear" to the "same-day airborne law" - both in the prohibition provision and in the exception provision - though this doesn't change the status quo because brown bears are already included in the regulations pertaining to this law; it was felt that if there is a need to have statutory language in place for wolves and wolverines, there is also a need to have statutory language in place for brown bears because they too are a high-level "keystone" predator and as slow breeding as wolverines, for example. The "same-day airborne law," he offered, has two core principals: one, that the animals that are covered should not routinely be shot on the same day that a person has been airborne, and, two, that there should be an exception for when doing so is necessary for some biological purpose. The departments are trying to preserve both principles in proposing the changes in Section 8.

MR. SAXBY said that another of the changes proposed by Section 8 alters the existing exception for when it's necessary "to mesh it with the intensive management law." This is the first time that the "same-day airborne law" will actually "mesh" with the "intensive management law"; as currently worded, and as sometimes worded in the past, those two laws have been pretty contradictory. Section 8 also proposes to eliminate some of the language that the departments feel is not necessary to achieve the underlying goals of "this law." Section 9 adds language that would make it legal for an authorized person to fly into a remote area and take a wolf or a brown bear, for example, for public safety purposes. Under the current language of the "same-day airborne law," such would be a misdemeanor crime, even if done by a State employee. Section 10 defines the word, "shooting" to clarify that one can dart animals [with tranquilizers or other nonlethal drugs]. Sections 11-14, he offered, are merely transitional provisions and effective date provisions.

[1:56:00 PM](#)

DOUG LARSEN, Director, Division of Wildlife Conservation, Alaska Department of Fish & Game (ADF&G), concurred with Mr. Saxby's explanation of HB 256.

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JOEL BENNETT, Alaskans for Wildlife, indicated that his organization is sponsoring and promoting "the initiative that will be voted on by Alaskans in August" regarding same-day airborne hunting - 05HUNT - and that that initiative is substantially the same as the initiative that the voters approved in 1996 but which was largely repealed by legislative action three years afterwards. Subsequent to "that," in the year 2000, his organization brought forth a referendum dealing with "one of the main aspects of the previous initiative, that is to say, whether or not the public or department personnel would be [the] people who would undertake airborne predator control," and that [referendum was approved] as well. Unfortunately, he remarked, that [referendum] was also repealed after two years via legislative action. The initiative yet to be voted on - 05HUNT - deals entirely with the statutory language that Section 8 of Version E is proposing to change: AS 16.05.783(a).

MR. BENNETT noted that he'd served on the Board of Game for over 12 years, and that he's testified in the House Resources Standing Committee against HB 256 in general because he feels that it doesn't meet "any of the threshold standards" that are contained in either of the aforementioned initiatives. Given that an initiative can be taken off the ballot when the legislature enacts substantially similar legislation, it will be up to the attorney general to determine whether Section 8 of the bill is substantially the same as the aforementioned [upcoming] initiative. However, Mr. Bennett pointed out, during Senate Resources Standing Committee hearings on the Senate companion bill, the DOL representative declined to answer the question of whether that bill's Section 8 is substantially similar to the initiative and instead posited that the bill should stand or fall on its own merits.

MR. BENNETT said that that has lead his organization to assume that the departments are being evasive with the legislature and with the public, and that the departments want to avoid saying whether Section 8 is substantially similar to the initiative because "they know that it will cause a serious reaction from the 57,000 people who signed this initiative over the past year." Once [HB 256 or its companion bill] passes the

legislature, he predicted, then the DOL will advise the lieutenant governor that the bill is substantially similar to the initiative and ask that it be removed from the ballot. As a sponsor of the upcoming initiative, he said he doesn't think that Section 8 is substantially similar to the initiative; "any common sense and plain reading of [the] two documents, I think, would reach that conclusion."

MR. BENNETT explained that the goal of the upcoming initiative is to revise the current law so that it is nearly the same as what [it became when] the 1996 initiative was approved by the voters, and the key part of that law was a reference to "biological emergency". Section 8 of HB 256, however, makes no reference to "biological emergency". He went on to say:

To demonstrate how dissimilar it is, all you have to do is look at what's happened this year and last year and the previous two years: the Board [of Game] adopted five predator control programs for killing large numbers of wolves on tens of thousands of acres of state and federal lands, [but] not a single one of these programs would satisfy the initiative's standard. Every single one ..., however, would satisfy the vague standards in Section 8.

MR. BENNETT asked that the DOL be required to provide the legislature with its best advice on the question of whether the initiative and the bill are similar and regarding what the DOL will advise the lieutenant governor should Section 8 of the bill pass. He added:

We don't want to be tricked, and neither should you - and certainly the public deserves a fair and open discussion of this point - I think the only way that you can [ensure] ... that doesn't happen is to debate the "substantially similar" question openly, with the best advice you can get from the [DOL] on this issue. It's not about predator control, it's not about airborne hunting; it's about democracy. Without a critical analysis, by passing this bill out with Section 8 as written, you could be denying the people of Alaska their right to vote.

REPRESENTATIVE COGHILL asked Mr. Bennett whether he is involved in litigation pertaining to the initiatives.

MR. BENNETT said he is not.

REPRESENTATIVE GRUENBERG asked why the bill was referred to the House Judiciary Standing Committee.

REPRESENTATIVE COGHILL said he didn't know.

CHAIR RAMRAS indicated that he didn't know either.

REPRESENTATIVE GRUENBERG said he is just wondering whether there is something in HB 256 that the House Judiciary Standing Committee should be specifically looking at. In response to a comment, he added that he hopes it is not setting a precedent to send bills to the House Judiciary Standing Committee just because there might be a conflict between an initiative and a previous legislature, regardless that the bill raises an issue that has garnered a lot of interest.

2:06:19 PM

JOE KLUTSCH, President, Alaska Professional Hunters Association, Inc. (APHA), relayed that he would be speaking on behalf of the APHA's hunting-guide members and himself. He said that there is a great hunting tradition in Alaska, and offered the following quote from the ADF&G publication "Understanding Predator Management in Alaska": "It is integral to lifestyles, traditional cultures, the economy, and basic food needs for many Alaska families." He added that a lot of those families are guiding families that share substantial amounts of meat with people who would otherwise not have access to wild game. The issue at hand, he opined, is the dwindling number of moose, caribou, and, in some areas, deer, and other ungulate species that's occurred over the last 15 years. Again referring to the aforementioned publication, he said it offers historical data from territorial and early statehood days, and suggested that members read it.

MR. KLUTSCH posited that most declines [in prey populations] can be directly attributable to ever-increasing predator populations, particularly wolf populations, especially in Western and Southcentral Alaska. Historically, active predator management resulted in high numbers of game species, allowing for sustainable, long-term use by hunters. Since the 1980s, efforts to manage predator populations have been curtailed, with the result being a continual loss of opportunity [for hunting prey populations]. Those opposed to HB 256, he opined, would like people to believe that no predator control efforts should be undertaken until a threshold of biological emergency [has

been attained]; however, it's just not acceptable to allow [prey] populations to be depleted, by predation or overhunting or any other activity, to a level of biological emergency.

MR. KLUTSCH said that doing so intentionally ignores the fact that at that point in the allocation equation, nonresident and general resident seasons [would be] closed, and, in most cases, subsistence seasons [would be] curtailed to Tier I or Tier II [because there wouldn't be] enough animals to allow for a sustainable harvest. Also, if such is allowed to occur, recovery of many game species could take decades. There is a constitutional and even a moral obligation to prevent such from happening. He mentioned that he's sat on a "fish and game advisory committee" for 28 years, and has watched many seasons for caribou and moose be closed systematically as a result of increases in predator populations, particularly wolf populations.

MR. KLUTSCH opined that nothing in the bill spells doom for predators. To the contrary, it gives the ADF&G and the Board of Game - with thorough public input from all affected parties - the ability to authorize and undertake properly-justified and measured predator management programs; it allows the ADF&G and the Board of Game to act before the state finds itself in a management crises. Acting only in the case of a biological emergency is acting too late. Failure to actively manage predator species, particularly wolves, is now having and will continue to have a devastating effect on all Alaskans who rely on prey species, and that includes those who watch wildlife and those who don't have an opportunity to get out into the wilderness but take comfort from knowing that wildlife is abundant in Alaska. Everybody can benefit from including predators in a management equation, he concluded, and urged passage of HB 256.

REPRESENTATIVE COGHILL offered his understanding that the vast majority of deaths in prey populations result from predators. He asked Mr. Klutsch what percentage of prey populations he takes for human consumption compared to what predators take.

MR. KLUTSCH said it varies from prey population to prey population. With regard to moose populations in Game Management Unit 17 (GMU 17) and GMU 9, for example, harvest by humans can account for approximately 2-3 percent of those prey populations' reduction, whereas reduction from predation can be as high as 60-80 percent, particularly since cows and cows with calves are especially vulnerable to both bears and, primarily, wolves. It

is the duty of the Board of Game and the ADF&G - with good public input - to sort this issue out on a case-by-case, unit-by-unit, proposed-regulation-by-regulation basis, he opined, adding that he doesn't see anything in the bill that provides wholesale authorization to eliminate predators - that's not the intent of the bill.

[2:12:48 PM](#)

JOHN TOPPENBERG, Director, Alaska Wildlife Alliance, said he would like to address one aspect of HB 256, that being what he characterized as "the abdication" of any requirement that available biological science be a part of the decision-making process. Mr. Toppenberg said his organization disagrees with Mr. Saxby's interpretation of much of HB 256 as it applies to that specific [point]. The Board of Game, he remarked, only sometimes gives minimal consideration to available science; the Board of Game has implemented predator control programs that cause mainstream scientists serious concern - note that research data compiled by the ADF&G is available to any interested scientist. Scientific organizations opposed to the current, extreme predator control programs include the National Research Council (NRC), the American Society of Mammalogists (ASM) - which comprise 500 scientists that "signed off" on two different letters to the governor - as well as 172 individual scientists, both inside and outside of Alaska, who signed a letter he delivered to the governor, making it clear that they see little scientific justification for the extreme predator control programs now in place.

MR. TOPPENBERG offered his belief that HB 256 eliminates both the requirement to consider the minimal scientific information normally brought to the Board of Game, and the requirement that predators be the proximate cause of possible lowered numbers of prey. This legislation should be opposed by anyone who supports modern concepts of wildlife management, which recognize that healthy populations of both predator and prey are necessary for healthy ecosystems in Alaska.

REPRESENTATIVE COGHILL asked Mr. Toppenberg, "In your science review, did you do it with regard to just the management of the population, or management for human consumption of these [populations]."

MR. TOPPENBERG said that the assessments, according to his interpretation and understanding, "would be a notation" that the Board of Game has given inadequate justification for the extreme

nature of the predator control programs now in place regardless of whether they are structured for consumptive or non-consumptive use - it's simply an acknowledgment that modern scientific concepts are not a part of the decision-making process but should be.

REPRESENTATIVE COGHILL said he does not accept that answer because it is not scientific. He attempted to clarify his question: "Was it with regard to human consumption or just the ecosystem?"

MR. TOPPENBERG indicated that his interpretation is that the scientists to whom he is referring believe that it is in the best interest of both predator and prey to have healthy ecosystems; that predators are a necessary part of healthy, intact, functioning ecosystems; and that severe, extreme depletion of predator numbers - by as much as 80 percent, which is now the stated goal for wolf reduction in five areas of the state - doesn't meet any currently-accepted scientific standards.

[2:17:02 PM](#)

REUBEN HANKE, after mentioning that he holds a current, aerial wolf-control gunner's permit, said he would be speaking in favor of HB 256. He relayed that since "we" started the aerial wolf control project in GMU 16B, he has personally noticed an increase in the numbers of moose that are present in a small area in which he hunts and traps. Prior to 2005, he said, he would typically count between 20-40 moose - generally just in one spot and rarely were any of them calves - whereas since 2005, he has seen moose in several different location in that area and the number of calves has increased dramatically. Acknowledging that GMU 16 still has problems with overall moose numbers, he offered his belief that moving forward with existing [predator control] programs will result in an increase [in moose populations] throughout the GMU, and that HB 256 will help as well.

[2:19:04 PM](#)

MARTIN WADE WILLIS noted that he has a degree in biology, has in the past served as a biologist for the ADF&G, now owns "an outfitter business, and is an avid moose hunter. He said he is continually amazed at the biased testimony the legislature is receiving from the DOR and the ADF&G; the departments intentionally omit [speaking about] the serious consequences of

the bill, and don't want the legislature to know that they are removing any requirements to use science to document whether or not predator control is necessary. The departments are giving a carte blanche open ticket to the Board of Game to just use its opinion to institute "one of the most contentious issues that face wildlife management" in Alaska. Three "initiatives" have been before the public, and the people have voted, giving a clear indication of how they feel about aerial predator control - that being that they definitely want science involved. House Bill 256 allows the Board of Game to use its opinion only and not justify whether that opinion reflects reality.

MR. WILLIS offered his understanding that the Board of Game is mandated to manage Alaska's wildlife for the benefit of all Alaska residents, and that the House Judiciary Standing Committee is responsible for making sure that the bills that come before it [align with] that mandate. How is it, then, that the committee can justify giving the Board of Game [the authority to base its decision regarding such a contentious practice on the wishes of] only 15 percent Alaska's residents - the hunters; HB 256 removes the ability of the remaining 85 percent of Alaska's residents to have a say in how Alaska's wildlife is managed. The existing statute is not improved by replacing science with opinion, or by legislating the public out of the process.

MR. WILLIS, noting that the bill would also authorize the aerial shooting of bears, surmised that since the public has been so vocal with regard to "predator wolf control," it will be just as vocal with regard to bear control. He opined that the legislature shouldn't hand such a contentious issue over to the Board of Game, which he characterized as a special interest group because it doesn't represent all Alaskans. Again, he remarked, HB 256 is attempting to legislate the public out of the process, and he requested that the committee ask the DOL why science needs to be removed from the equation in order to improve the statute. In response to a question, he offered his understanding that the DOL has "removed the specific words that say, 'need to base predator management on' ... 'the best science available' ... and replaced it with the opinion of the Board of Game." He offered his belief that this will result in the public being denied the ability to interact with the Board of Game. What resource does the public have when the only mandate the Board of Game has is to have an opinion regarding such a contentious issue?

[2:24:56 PM](#)

ROD ARNO, Executive Director, Alaska Outdoor Council (AOC), after relaying that the AOC has a membership of 3,000 individuals and 47 clubs, offered that in watching HB 256 move through the legislative process, and in watching the Board of Game implement the bill's provisions after it was introduced, he can say that state government is doing something right and doing it for the right reasons. He elaborated:

What they're doing is successfully managing our predator/prey relationships - on a limited area of the state, less than 10 percent - and the reason they're doing it is to allow for the continuation of our traditional, cultural, wild-food harvest. Since the law was passed in '94 - [the law] that empowered our professional wildlife managers to implement predator control management programs - there's been a number of legal challenges by outside, or outside-funded, animal rights groups. The State has prevailed in every single case so far. While [the State's] ... record is commendable, it has taken a considerable amount of State time, money, and brainpower. So now, our State employees have done what has been reasonably expected [of] them ...; they've taken a look back, they've seen what could be done to tighten up the law as it was amended throughout the years, and have offered those improvements to you in the form of HB 256.

MR. ARNO pointed out that when the ADF&G appears to stray from its mission, the AOC is quick to call the department into account. He suggested, therefore, that when the ADF&G is doing something right, it should be supported and given the tools it needs to do the job it's been asked to do. He concluded by asking the committee to pass HB 256 in order to clean up the law.

REPRESENTATIVE COGHILL asked whether removing the requirement that the department use good science is of concern to the AOC.

MR. ARNO said it is not, and offered his belief that the ADF&G's mission will remain the same, that being to protect, maintain, and improve the fish and game and aquatic-plant resources of the state, and to manage their use and development in the best interest of the economy and [for] the wellbeing of the people of the state consistent with the sustained yield principle.

REPRESENTATIVE COGHILL asked whether the ADF&G has been collecting data and making decisions based on good science.

MR. ARNO offered his belief that it has, and suggested that the ADF&G publication "Predator Management in Alaska" includes over 60 references to such data. Alaska currently has the most knowledgeable predator/prey management scientists in the world, and legislative funding has allowed the necessary information to be gathered.

[2:29:41 PM](#)

JERRY McCUTCHEON opined that "biological science" is an art rather than a science, an art like medicine. Gone are the days, he remarked, when great herds of caribou and bands of sheep roamed the foothills of Mount McKinley, bands of sheep so numerous and thick that they would not move out of the way of the oncoming dog teams of the miners, trappers, and post-office-mail dog-team drivers; the sheep immediately in front of the dogs would just jump up on the backs of other sheep and then fall back in as the dog teams passed through. The park service took hunting and trapping out of the equation, and the wolves slowly destroyed those big herds of caribou and bands of sheep to the point where the wolves resorted to killing and eating each other before finally relocating. The parts of the park that still held game resulted from the territorial government, and then the state government, practicing aerial wolf hunting. There were more wolves and more game years ago when aerial wolf hunting was allowed. In conclusion he said he is a firm believer in aerial wolf hunts. None of this land-and-shoot [controversy], he added - it's not about fair chase - it's about predator control. No wolf hunting or bear hunting by the ADF&G, or relocating animals by the ADF&G, he suggested; just raise the bounty until the state has an active community of aerial wolf hunters.

[2:33:59 PM](#)

VICTOR VAN BALLEMBERGHE relayed that he is a professional wildlife biologist, has been doing that type of work in Alaska since 1974, and has served on the Board of Game three different times since 1985. He suggested that in order to determine exactly what changes HB 256 is proposing to the current statutes regarding intensive management and same-day airborne hunting, the bill and those two existing laws need to be looked at side by side. If one does that, he relayed, one will find that Section 3, for example, proposes to delete from existing AS

16.05.255(e) several guidelines that the Board of Game now uses when adopting intensive management regulations, one of those guidelines being that intensive management be applied only to depleted moose and caribou populations or to those experiencing reduced productivity. Those [existing guidelines] were adopted for a reason, he opined, and yet the bill proposes to allow intensive management to be applied to any populations, even those that aren't depleted or experiencing reduced productivity. That's a significant change.

MR. VAN BALLEMBERGHE relayed that another of the guidelines Section 3 is proposing to delete is that intensive management programs must be feasibly achievable using recognized and prudent active management techniques. "Why would we want to delete that," he queried. Referring to Section 4, which proposes to alter AS 16.05.255(f), he also asked, "Why would we want to delete the provision that intensive management programs do not apply if they are ineffective, inappropriate, or against the best interest of subsistence users"; this provision will be deleted by Section 4. And the most serious provisions of the existing, same-day airborne hunting law that are being deleted can be found in Section 8, which proposes to alter AS 16.05.783(a). Those provisions are guidelines for the Board of Game, that based on information from the ADF&G, the Board of Game must find that predation is the cause for the problems and, if so, that predator control is a likely solution.

MR. VAN BALLEMBERGHE asked, "Isn't it just common sense that before we launch a wolf control program we'd want to establish that predation is the problem and reducing it is the ... solution?" If so, why should the bill delete that guideline? Regardless that Mr. Saxby says it is unnecessary language, Mr. Van Ballenberghe argued, it is instead an important guideline for the Board of Game and is language the removal of which would be objected to by every competent biologist he knows. So although members have been told that HB 256 would improve and simplify existing statutes and would make things more workable, he remarked, he is of the belief that it will instead remove virtually every guideline the Board of Game uses when adopting intensive management programs and replace them with the simple requirement that what the Board of Game institutes must be "conducive" to achieving the intensive management objectives. "Conducive" is a standard so weak as to be meaningless, he opined.

MR. VAN BALLEMBERGHE, in conclusion, urged the committee to amend the bill such that Section 8 no longer proposes to delete the language of AS 16.05.783(a)(1)-(2) that currently reads:

has determined based on information provided by the department

(1) in regard to an identified big game prey population under AS 16.05.255(g) that objectives set by the board for the population have not been achieved and that predation is an important cause for the failure to achieve the objectives set by the board, and that a reduction of predation can reasonably be expected to aid in the achievement of the objectives; or

(2) that a disease or parasite of a predator population

(A) is threatening the normal biological condition of the predator population; or

(B) if left untreated, would spread to other populations.

[2:39:47 PM](#)

MR. VAN BALLEMBERGHE, in response to a question, posited that that language is critical to guiding the Board of Game when it's making some important determinations regarding whether to institute a predator control program. Again, those determinations are whether predation is the problem and, if so, whether reducing predation is the solution; it is only common sense that the Board of Game would want to make those determinations based on information from the ADF&G - the entity that gathers the biological information. That language is critical to having a regulation related to predator control that will work in the long run. Deleting that language and depriving the Board of Game of that guideline, he opined, is a major mistake.

REPRESENTATIVE GRUENBERG asked Mr. Van Ballenberghe whether he would be in favor of also deleting the new language being proposed via Section 8 that currently reads:

determines that the program would be conducive to achieving the objectives established for human harvest or population size of a moose, caribou, or deer population identified under AS 16.05.255(e) or would be conducive to the health of a predator population,

and if the program is limited to the area necessary
for that purpose

MR. VAN BALLEMBERGHE indicated that he would be in favor of deleting that language.

[2:42:10 PM](#)

REPRESENTATIVE GRUENBERG asked Mr. Van Ballenberghe whether he has problems with Section 8's proposal to add brown bears to AS 16.05.783(a).

MR. VAN BALLEMBERGHE indicated that he does have problems with that addition. He elaborated:

Brown bears, in the state of Alaska, have been considered a ... big-game trophy species since statehood - since the legislature set up the basic authorities and ... functions of the [ADF&G]. In recent years they have become predators, and the ... existing intensive management statute fully allows the [Board of Game] to have predator control programs that are designed to reduce ... [predation by bears] and bear populations when that is the problem.

MR. VAN BALLEMBERGHE, in response to another question, said that research started illustrating in the late 1970s that brown bears were a significant predator of moose and caribou calves. His point, however, is that the Board of Game already has all the authority it needs under the existing intensive management law to reduce brown bears when they are in fact documented to be a [problem], so there is no need to consider the drastic measure of shooting them from the air. The Board of Game had, in 1982, "adopted a regulation" to just that effect, but there was such immediate public resistance to that that the Board of Game rescinded it under huge amounts of public pressure; the concept of shooting brown bears from the air is just so repulsive to most people that it should not be instituted.

REPRESENTATIVE GRUENBERG asked Mr. Van Ballenberghe whether he would also be in favor of altering Section 8 such that it no longer proposes to delete from AS 16.05.783(a) the language that currently reads: "as part of a game management plan".

MR. VAN BALLEMBERGHE said he would be in favor of such an alteration. He added:

Why should we object to having the provision, the guideline for the [Board of Game] when it adopts predator control programs, that they be part of a game management plan? Again ..., most biologists and managers would applaud that. ... There must be overriding considerations that guide these actions, and what better way than to put them in a ... game management plan of which predator control is a part. It's a puzzle to me why that would be taken from the existing statute, other than, as has been suggested, it is one of the issues on which the litigation has been based.

MR. VAN BALLEMBERGHE suggested that instead of removing the aforementioned guideline, to the detriment of the Board of Game, the committee should just ensure that the Board of Game follows existing statute. It's not that complex, he opined; furthermore, when the existing statutory language has been challenged, the State has prevailed.

[2:46:21 PM](#)

REPRESENTATIVE GRUENBERG asked Mr. Van Ballenberghe what he thinks about Section 8's proposal to change the phrase "the same day that a person has been airborne" in AS 16.05.783(a) to, "the same day that the person has been airborne".

MR. VAN BALLEMBERGHE said he doesn't see any problem with that proposed language change.

CHAIR RAMRAS, after ascertaining that no one else wished to testify, closed public testimony on HB 256.

REPRESENTATIVE GRUENBERG asked Mr. Saxby why HB 256 was referred to the House Judiciary Standing Committee, and whether the bill has any legal issues that the committee ought to address.

MR. SAXBY said he doesn't know why the bill was referred to the House Judiciary Standing Committee, and indicated that it contains no legal issues that need to be addressed by the committee.

CHAIR RAMRAS noted that Article VIII, Section 4, of the Alaska State Constitution says in part: "Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the

sustained yield principle, subject to preferences among beneficial uses.

[2:49:24 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 1 such that the only change Section 8 would continue to propose to AS 16.05.783(a) would be that of changing the phrase, "the same day that a person has been airborne" to the phrase, "the same day that the person has been airborne".

REPRESENTATIVE SAMUELS objected.

MR. SAXBY, in response to a question, said that the proposal to change "a" to "the" is intended to clarify that that provision applies to the person who has been airborne, rather than to just any person.

REPRESENTATIVE SAMUELS surmised that Conceptual Amendment 1 would eliminate all the other changes proposed by Section 8 except for that one.

REPRESENTATIVE GRUENBERG concurred with that summation, and said he supports that change, but not the others that Section 8 currently proposes.

REPRESENTATIVE SAMUELS suggested that they instead move an amendment to delete Section 8 and, if that amendment is adopted, that they then move another amendment to add back the proposed change of "a" to "the" in AS 16.05.783(a).

REPRESENTATIVE GRUENBERG said: "I was just thinking I could do it in one amendment rather than two." He surmised that Conceptual Amendment 1 would make Section 8 simpler in that it would no longer contain any of its other currently-proposed changes.

[2:53:32 PM](#)

A roll call vote was taken. Representative Gruenberg voted in favor of Conceptual Amendment 1. Representatives Dahlstrom, Coghill, Samuels, and Ramras voted against it. Therefore, Conceptual Amendment 1 failed by a vote of 1-4.

REPRESENTATIVE DAHLSTROM moved to report the proposed CS for HB 256, Version 25-GH1076\E, Kane, 2/15/08, out of committee with individual recommendations and the accompanying fiscal

notes. There being no objection, CSHB 256(JUD) was reported from the House Judiciary Standing Committee.

HB 359 - PROBATION AND MINOR CONSUMING

[2:54:47 PM](#)

CHAIR RAMRAS announced that the committee would next return to the hearing on HOUSE BILL NO. 359, "An Act relating to probation and the offense of minor consuming or in possession or control of alcohol." [The proposed committee substitute (CS) for HB 359, Version 25-LS1377\M, Luckhaupt, 2/20/08, which had been adopted as the work draft earlier in the meeting, was before the committee.]

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 1, labeled 25-LS1377\M.1, Luckhaupt, 2/20/08, which read:

Page 1, lines 12 - 13:

Delete "has either paid for the programs or has made a good faith effort to pay for the programs"

Insert "has either

(A) paid for the programs; or

(B) made a good faith effort to pay for the programs, agreed to have the debt reduced to a civil judgment, entered into a repayment plan with the provider or the state, and agreed that the civil judgment may be enforced in the manner provided for restitution and fines in AS 12.55.051"

Page 1, line 14, through page 2, line 1:

Delete "has paid the fine for the offense or has made a good faith effort to pay the fine"

Insert "has either

(A) paid the fine; or

(B) made a good faith effort to pay the fine, agreed to have the remaining fine amount reduced to a civil judgment, entered into a plan with the state, and agreed that the civil judgment may be enforced in the manner provided for restitution and fines in AS 12.55.051"

CHAIR RAMRAS objected.

REPRESENTATIVE GRUENBERG explained that Amendment 1 would require that a person, in addition to making a good faith effort to pay for the programs, must also agree to have the debt

reduced to a civil judgment, enter into a repayment plan, and agree that the civil judgment may be enforced in the manner provided for in statute for restitutions and fines. He offered his understanding that Mr. Wooliver from the Alaska Court System (ACS) doesn't, at this time, see a problem with Amendment 1.

CHAIR RAMRAS removed his objection to Amendment 1. [Amendment 1 was treated as adopted.]

[2:57:21 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 2, labeled 25-LS1377\M.2, Luckhaupt, 2/20/08, which read:

Page 1, lines 1 - 2:

Delete "**probation and the offense of minor consuming or in possession or control of alcohol**"

Insert "**termination of probation for certain persons convicted of minor consuming or in possession or control of alcohol or repeat minor consuming or in possession or control of alcohol**"

CHAIR RAMRAS objected.

REPRESENTATIVE GRUENBERG explained that Amendment 2 would tighten the title so as to limit what may be added to HB 359.

CHAIR RAMRAS removed his objection. [Amendment 2 was treated as adopted.]

[2:58:35 PM](#)

REPRESENTATIVE GRUENBERG moved to report the proposed committee substitute (CS) for HB 359, Version 25-LS1377\M, Luckhaupt, 2/20/08, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 359(JUD) was reported from the House Judiciary Standing Committee.

HB 237 - REMOVING A REGENT

[2:58:59 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 237, "An Act authorizing the governor to remove or suspend a member of the Board of Regents of the University of Alaska for good cause; establishing a procedure for the removal

or suspension of a regent; and providing for an effective date."
[Before the committee was CSHB 237(STA), which had failed to be reported from committee on 5/3/07 by a vote of 3-3.]

3:00:40 PM

REPRESENTATIVE GRUENBERG reminded members that HB 237 provides a due-process procedure by which the governor, for [good] cause, can suspend or remove a member of the University of Alaska Board of Regents.

CHAIR RAMRAS indicated that at a future hearing the committee might consider the question of whether to rescind its action in failing to report CSHB 237(STA) from committee.

[CSHB 237(STA) was held over.]

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:01 p.m.