

MINUTES
SENATE FINANCE COMMITTEE
May 12, 2007
9:16 a.m.

CALL TO ORDER

Co-Chair Bert Stedman convened the meeting at approximately [9:16:39 AM](#).

PRESENT

Senator Bert Stedman, Co-Chair
Senator Lyman Hoffman, Co-Chair
Senator Charlie Huggins, Vice Chair
Senator Kim Elton
Senator Donny Olson
Senator Joe Thomas
Senator Fred Dyson

Also Attending: REPRESENTATIVE RALPH SAMUELS; REPRESENTATIVE BILL THOMAS; REPRESENTATIVE BILL STOLTZ; TOM WRIGHT, Staff to Representative John Harris; SIDNEY MORGAN, Staff to Representative Ralph Samuels; MARK DAVIS, Director, Division of Banking & Securities, Department of Commerce, Community and Economic Development; JESSE KIEHL, Staff to Senator Kim Elton; RICK SNOBODNY, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; DAVID GREISEN, Staff to Senator Bert Stedman; KACI HOTCH, Staff to Representative Bill Thomas; JERRY BURNETT, Director, Administrative Services Division and Legislative Liaison, Department of Revenue; EDDY JEANS, Director, School Finance and Facilities Section, Department of Education and Early Development; BOB LOESCHER; DR. MICHAEL BENNETT, Optometrist and President, Alaska Optometric Association; DR. JILL MATHESON, Optometrist and Chair, Alaska State Board of Optometry

Attending via Teleconference: From Offnet Locations: DAVID SCHADE, Director, Division of Statewide Services, Department of Public Safety; DR. DAVID CHAMBERLAIN, Ophthalmologist; DR. ERIC COULTER, Ophthalmologist; DR. CARL ROSEN, Ophthalmologist and President, Alaska Society of Ophthalmology; From Mat-Su: CHRIS SKINNER, Owner, Kelstar Alaska Mortgage Company and President, Alaska Association of Mortgage Brokers

SUMMARY INFORMATION

HCR 6-CIVICS EDUC/ CITIZENS ADVISORY TASK FORCE

The Committee heard from the resolution's sponsor and reported the resolution from Committee.

HB 113-OPTOMETRISTS' USE OF PHARMACEUTICALS

The Committee heard from the bill's sponsor and took public testimony. The bill was held in Committee.

HB 162-MORTGAGE LENDING

The Committee heard from the Department of Commerce, Community and Economic Development and took public testimony. A committee substitute and two amendments were adopted and the bill reported from Committee.

HB 90-CRIMES/CRIM PROCEDURE/SENTENCING

The Committee heard from the bill's sponsors, the Department of Law, and the Department of Public Safety. A committee substitute was adopted and the bill reported from Committee.

HB 166-CONTRIBUTIONS FROM PERM. FUND DIVIDENDS

The Committee heard from the bill's sponsor and the Department of Revenue. A committee substitute was adopted and the bill was held in Committee.

SB 178-EDUCATION FUNDING

The Committee heard an overview of the bill from the Department of Education and Early Development. The bill was held in Committee.

[9:17:05 AM](#)

Co-Chair Stedman reviewed the day's agenda.

[9:17:48 AM](#)

#hcr6

SENATE CS FOR CS FOR HOUSE CONCURRENT RESOLUTION NO. 6(SED)
Relating to civics education and a citizens' advisory task
force.

This was the first hearing for this resolution in the Senate
Finance Committee.

[9:18:04 AM](#)

TOM WRIGHT, Staff to Representative John Harris, the bill's
sponsor by request of the Alaska Association of School Boards,
explained that this resolution would establish a six person task
force to review the findings of the 2006 Alaska Civic Learning
Assessment Project (ACLAP) which had been conducted at the
direction of the Legislature. The proposed task force, which
would consist of two individuals appointed by the Speaker of the
House, two appointed by the Senate President, one appointed by
the Governor and one member of the Department of Education and
Early Development, would develop a list of recommendations that
would be provided to the Legislature within the first 30 days of
the 2008 Legislative Session.

Mr. Wright reminded the Committee that the ACLAP was conducted
the prior year to discuss how the State's education system
"could improve civics learning among K-12 students". A copy of
the ACLAP "Final Report and Policy Brief" dated November 2006
[copy on file] had been included in Members' packets.

[9:19:23 AM](#)

In response to a question from Senator Thomas, Mr. Wright
affirmed that civics was currently taught in schools. However,
the Alaska Association of School Boards (AASB) asked
Representative Harris to sponsor this legislation in an effort
"to enhance and encourage curriculum development in order to
help better prepare students as far as civics education is
concerned".

[9:19:51 AM](#)

Senator Huggins, a member of the Senate Education Committee,
disclosed that one issue discussed during that Committee's
hearings on this resolution was whether "this would manifest

itself as a mandatory curriculum" component. The determination was that it would not: AASB assured the Committee that it would be viewed as "a convincing argument" rather than a mandate.

[9:20:39 AM](#)

Co-Chair Hoffman moved to report the resolution from Committee with individual recommendations and accompanying fiscal notes.

[9:20:59 AM](#)

Without objection, SCS CS HCR 6(SED) was REPORTED from Committee with two previous fiscal notes: \$18,500 fiscal note #1 from the Legislative Affairs Agency and \$3,000 fiscal note #2 from the Department of Education and Early Development.

[9:21:47 AM](#)

#hb113

SENATE CS FOR CS FOR HOUSE BILL NO. 113(L&C)

"An Act relating to the prescription and use of pharmaceutical agents, including controlled substances, by optometrists; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

[9:22:08 AM](#)

REPRESENTATIVE RALPH SAMUELS, the bill's sponsor, identified the State's geography and small population base as factors that limit access to health care in the State. This bill would enhance health care services by extending prescriptive authority to optometrists. Alaska would join 45 other states that allow similar practice.

Representative Samuels declared that expanding the ability of optometrists, who far outnumber ophthalmologists in the State, "to do more" would benefit Alaskans.

Representative Samuels stated that the experience of states that allow optometrists to have prescriptive authority has been positive.

[9:24:02 AM](#)

Senator Thomas understood that college level optometry training programs include instruction on the use of needles as a matter of routine. Thus, the seven hours of training identified in this legislation would be in addition to that training.

[9:25:07 AM](#)

Representative Samuels could not speak to that matter, but was confident it could be addressed by one of the medical professionals who would be testifying on the bill.

[9:25:15 AM](#)

Senator Olson asked how the bill before the Committee differed from the original bill.

[9:25:44 AM](#)

Representative Samuels stated that changes were made to the education requirements.

[9:25:57 AM](#)

In response to a follow-up question from Senator Olson, Co-Chair Stedman and Representative Samuels advised that the seven hour training requirement for injecting nontopical therapeutic pharmaceutical agents, specified in Section 2 subsection (d)(2) on page 2 lines 16 and 17, was added to the bill.

Representative Samuels also noted that language pertaining to the use of Botox was added as specified in Section 3 subsection (a)(1)(E) page 3 lines 2 through 4.

[9:26:14 AM](#)

SIDNEY MORGAN, Staff to Representative Ralph Samuels, further discussed the various provisions that had been added to the bill to address concerns about injectibles including the provision that would specify a January 1, 2009 effective date for their use.

Ms. Morgan also noted that numerous changes had been made by the House Health, Education & Social Services (HES) Committee, so much so that the bill increased from two to four pages. The HES amendments addressed such things as the types of types of narcotics that could be prescribed and limited the duration of a prescribed medication to four days.

[9:28:37 AM](#)

Co-Chair Stedman asked whether the bill's sponsor was confident that the zero fiscal note from the Department of Commerce, Community and Economic Development was a true reflection of the costs associated with the bill.

[9:28:58 AM](#)

Representative Samuels affirmed the accuracy of the fiscal note.

In response to a question from Senator Olson, Co-Chair Stedman disclosed that numerous ophthalmologists and optometrists had signed up to testify on the bill.

[9:29:48 AM](#)

DR. DAVID CHAMBERLAIN, Ophthalmologist, testified via teleconference from an offnet location and informed the Committee that he has practiced in the State for more than ten years.

Dr. Chamberlain sought to correct misstatements made by a [unspecified] testifier before another committee of referral regarding access to health care. Contrary to that testimony, ophthalmologists do travel to small communities in the State such as Klawock and Craig.

Dr. Chamberlain stressed that this correction is important as supporters of the bill tout lack of access as "a big problem" and thus, reason to support this bill. This is not true. For example, either he or his practice partner conducts eye clinics in Klawock once or twice a year. Furthermore, he also regularly conducts clinics through his job with the Alaska Native Medical Center, in other small communities including Barrow, Nome, Kotzebue, Bethel, Dillingham, and Kodiak, and Sitka. The clinics are conducted in a cooperative effect with optometrists in those areas.

Dr. Chamberlain pointed out that the Alaska Native Medical Center also employs optometrists throughout the State. They serve both their community and its surrounding area.

Dr. Chamberlain continued. When a person with an eye problem "is sick enough to require an oral or an injectible medicine", the community's optometrists or village health aide or physician or nurse practitioner call an ophthalmologist. The State typically has two ophthalmologists or medical doctors on call at all times. The point was that this bill "does not increase access to an optometrist, and actually it may decrease access to an ophthalmologist, accidentally."

Dr. Chamberlain professed that this bill would reduce training requirements pertaining to injecting and prescribing medicines. It would also force a redefinition of the role between ophthalmologists and optometrists.

[9:33:34 AM](#)

Dr. Chamberlain declared that he has a good working relationship with optometrists throughout that State and that a good system is in place to address the State's eye care needs.

Dr. Chamberlain advised that medical issues concerning eye-care are complex. Oftentimes, an eye problem is associated with another medical issue such as diabetes; few medicines "treat just the eye". A topical medication applied by an optometrist in a remote area would allow for sufficient eye examination.

Dr. Chamberlain declared that safeguards must be in place to protect patients from eye injuries due to "inadvertent intra-ocular injections". This "accidental perforation of the eyeball" can occur even when the procedure is conducted by ophthalmologists and anesthesiologists. However, the highest percent of this incidence occurs when an injection is administered by someone other than an ophthalmologist.

[9:35:17 AM](#)

Dr. Chamberlain contended that access to quality medical "care would be reduced" under this bill. Furthermore, "the complexity of the human organism is such that we need to listen to the best" medical advice including that of the Controlled Substance

Advisory Committee and the State Medical Board. "Ophthalmologists are uniquely qualified to provide medical information, particularly in regards to when it would be acceptable for a non-ophthalmologist to perform a medical procedure.

[9:36:10 AM](#)

DR. ERIC COULTER, Ophthalmologist, testified via teleconference from an offnet location to voice concern about the legislation. He rebuffed the argument that this legislation would assist in addressing the "lack of care" in the State. He also thought that adopting this legislation would reduce the quality of eye care in the State as allowing optometrists "to delve into greater therapeutic options without proper training" would likely delay referral to an ophthalmologist.

Dr. Coulter pointed out that topical eye drops and other therapeutic medicines currently utilized by optometrists are the standard medical response to eye problems even by ophthalmologists. The need for injectibles is relatively "rare" and, when administered, is typically in the form of an intravenous antibiotic. A person requiring that level of care is likely receiving in-patient hospital care.

Dr. Coulter contended that a medical situation occurring in a remote area that required more than topical treatment would likely require more extensive medical care than an optometrist could provide.

Dr. Coulter advised the Committee that he had submitted written remarks [copy on file] which outlined many of his concerns. It also overviewed the optometry field's attempt to broaden their scope of practice nationwide. One of their arguments is that Alaska is behind the times because it has not passed similar legislation. To that point, he thought that each state should address its needs independently.

Dr. Coulter shared that the American Academy of Ophthalmology's research department considered this legislation to be "a more loosely written" and broader bill than any but five of the 45 States that have adopted legislation on this issue.

Dr. Coulter urged the Committee to conduct a thorough review of the bill before taking action on it; specifically in that

passage of the bill in its current form might have" unintended consequences". The argument that "a lack of care in the State warrants expanded pharmacologic privileges, in my mind, is just misleading". He urged the Committee to seek supporting evidence to that claim, particularly in respect to rural areas of the State.

Dr. Coulter argued that many communities experience regular eye care service and referrals to ophthalmologists are readily available.

Dr. Coulter shared that an ophthalmologist who practiced on the Kenai Peninsula for more than 30 years found very little use for injectibles and even let his narcotics license expire.

[9:41:38 AM](#)

Dr. Coulter urged the Committee to respect "the historical validity of our medical system and try not to rewrite what constitutes competent medical care in our communities." He reminded the Committee that the Alaska State Medical Board, the Alaska State Medical Association, the Alaska Ophthalmology Society, and the American Academy of Ophthalmology did not support this bill.

[9:42:14 AM](#)

Senator Thomas would have expected the American Academy of Ophthalmology to be against the bill. Continuing, he asked whether the concern is that "some obscure eye diseases would not be diagnosed properly based on" a patient being treated solely by an optometrist and that the patient would not seek further care because they had been treated by an eye doctor, irrespective of the fact the eye doctor was not an ophthalmologist.

[9:43:00 AM](#)

Dr. Coulter stated that the concern goes beyond that circumstance; it includes the complete evaluation of such things as "whose training is more adequate."

Dr. Coulter affirmed there was a good working relationship between the two professions as evidenced by the fact that he refers patients to optometrists and they refer patients to him.

The concern "is not so much a turf battle" as it is the misconception that expanded pharmacologics is somehow going to improve the care in rural areas if it is delivered by people that are more accessible.

Dr. Coulter agreed that there were more optometrists than ophthalmologists' practicing in the State, but that is true in every State in the nation "because of the different training requirements". The concern is not that optometrists are incapable of utilizing pharmacologics, it is to the "casual comments about the lack of care in communities because there are so few ophthalmologists". This is a misguided argument.

Dr. Coulter reiterated that a person who does not respond well to the topical medications currently available to optometrists is likely a person with a serious medical condition. Thus, if the intent is to enhance the quality of care in communities, the Committee should consider the fact that this legislation might be "counter-intuitive" to the goal: it might actually delay a referral to a specialist.

[9:45:03 AM](#)

DR. CARL ROSEN, Ophthalmologist and President, Alaska Society of Ophthalmology, testified via teleconference from an offnet location. He reviewed his extensive medical background and noted that as a result of his experience he had "a unique vantage point" regarding eye injections.

Dr. Rosen stated that the Society considers this a bad bill for a number of reasons. "One is that it is so extremely difficult to acquire acceptance into a medical school"; ophthalmology programs are very selective and once admitted, students are subjected to six years of rigorous training.

Dr. Rosen also pointed out that, unlike optometrists, ophthalmologists have hospital privileges and are on-call in case of an emergency. This has been the practice for more than 30 years.

[9:47:15 AM](#)

Dr. Rosen informed the Committee that ophthalmologists typically undergo 24,000 hours of clinical training; optometrists however typically undergo 2,000 hours of such training.

Dr. Rosen declared that this bill would expand optometrists' "scope of practice enormously," specifically their prescriptive authority. They would be authorized to prescribe Class III, IV, and V medications, including codeine, pain medications, valium, cardiac, diabetic, and anti-seizure medications to children, pregnant women, infants, and the elderly.

Dr. Rosen recommended the formation of a committee to determine "exactly what is needed". Their task should include a review of current health care services, timetables, limitations, and even what diseases should be addressed. He was confident that such a committee could develop workable solutions to the issues, with "better limits and boundaries that the ophthalmology and medical community can live with".

9:49:45 AM

REPRESENTATIVE BILL THOMAS declared that this bill is about the availability of adequate eye care, specifically for people living in rural communities. A person living in Haines, for example, would be required to spend approximately \$1,000 dollars to get their child to Juneau or Anchorage for treatment. Such costs would be alleviated where there an opportunity to be treated by an optometrists in their community.

Representative Thomas observed that the Legislature routinely strives to allow those in the medical field to "maximize their abilities". Rather than this being "a turf war", the effort should be on taking care of people.

Representative Thomas discussed a problem a family member had with treatment provided by an ophthalmologist. It was exacerbated by the fact that she had to travel from a rural community to Juneau for treatment.

Representative Thomas respected the services provided by ophthalmologists and urged them to respect the abilities of optometrists. The on-going challenge of attracting medical professionals to the State could be lessened by allowing them to perform duties they were trained for.

Representative Thomas urged the Committee to pass the bill. "It is important to small communities."

9:53:05 AM

BOB LOESCHER testified in Juneau and informed the Committee that as a legally blind man, he has received treatment from both optometrists and ophthalmologists.

Mr. Loescher, on behalf of health care consumers, questioned the reason the bill was not accompanied by a fiscal note that addressed whether this legislation would increase costs or risks to consumers.

Mr. Loescher provided a list of questions [copy on file] that should be asked on behalf of consumers. He contended that the legislation would impact the Department of Commerce, Community and Economic Development since they administer and assist boards pertinent to this legislation such as the State Medical Board and the Board of Optometry Examiners. New regulations, testing and monitoring pertaining to the expanded scope of practice for optometrists would be required.

Mr. Loescher agreed that the bill would increase service to people living in rural Alaska. However, there is concern that this expanded service might increase the cost of Medicaid for young people and the elderly. This should be addressed in a fiscal note.

Mr. Loescher has spent considerable time tracking this bill during its progression through the Legislature. The questions he has provided have been well-researched and should be addressed. For instance, this bill would require optometrists to undergo continuing education; the question is where and who would provide that training. This might require the involvement of the Department of Labor and Workforce Development. Other State agencies and departments might also be affected by this bill.

9:58:46 AM

Mr. Loescher summarized his goals. One is that adequate consumer protection be provided. This would require State boards and agencies to be involved in certifying and monitoring doctors. The other goal would be to ensure that the State has the "highest quality medical care for all Alaska citizens performed by the most qualified persons." State government is responsible for insuring these standards.

Mr. Loescher concluded that these responsibilities must be addressed in a fiscal note and reviewed by the Committee.

[9:59:56 AM](#)

Senator Elton informed the Committee he had previously met and discussed this bill with Mr. Loescher, who is one of his constituents. During that discussion, Mr. Loescher asked Senator Elton to read his list of questions to the Committee, however, Senator Elton did not deem that necessary now as it was part of the record and each Member of the Committee had received a copy of it.

Senator Elton stated that the list of questions was quite extensive and an immediate response was unlikely. Therefore, he committed to being responsible for getting the appropriate entities to respond.

Co-Chair Stedman acknowledged. Time would be available to further address concerns since the intent was to hold the bill in Committee.

[10:00:54 AM](#)

Senator Huggins addressed the concern raised in a May 11, 2007 letter [copy on file] from Mr. Loescher that optometrists would be allowed to administer Botox: optometrists would not be allowed to administer that drug under the Senate Labor and Commerce version of the bill before the Committee.

Mr. Loescher appreciated the clarification. Optometrists had been allowed to administer Botox in an earlier version of the bill.

[10:02:01 AM](#)

DR. MICHAEL BENNETT, Optometrist and President, Alaska Optometric Association testified in Juneau on behalf of the Association's 107 members and their patients.

Dr. Bennett considered the scope of the bill to be "far more limited" than it was being portrayed. Nine states have approved legislation allowing optometrists to utilize injectibles with zero requirements and limitations. At least ten states do not impose limits on the length of time a drug could be prescribed.

The variety of approaches taken by states on this type of legislation makes comparisons difficult.

Dr. Bennett expressly clarified that this bill "does not grant surgical privileges" to optometrists. Such privileges were not being sought by optometrists. There was no desire "to usurp the position" of ophthalmologists.

[10:04:27 AM](#)

Dr. Bennett reviewed the education received by optometrists. The "four rigorous years" of training beyond that required for a bachelors' degree, qualified them as a "doctoral level profession". The 200 hours of pharmacological training enables them to be well-qualified for the prescriptive rights provided in this bill. Other training they receive is closely aligned with that required of doctors and dentists.

Dr. Bennett stated that the 2,000 hours of "supervised direct patient contact" optometrists undergo is not limited to healthy young individuals. A large number of eye care problems "arise in people who are older or have other debilitating diseases." This is reflected in the patient contact training. Optometrists also participate in hospital-based training.

Dr. Bennett informed the Committee that optometrists conduct a complete medical background, including a review of the patient's medications, on each patient's initial visit. Optometrists are also trained to spot signs of such things as high blood pressure during an eye examination. Optometrists also work closely with patients' primary care doctors on a variety of health issues.

Dr. Bennett clarified that the course work identified in this bill, such as the seven hour training requirement pertaining to the injection of nontopical therapeutic pharmaceutical agents, should be viewed as "refresher" training, as that training is conducted in optometry school.

Dr. Bennett stated that the use of these new privileges would be rather limited and would not be utilized on a day to day basis. Typical infection treatment would tend to be an oral antibiotic or a topical medication. Extreme cases would continue to be referred to another doctor.

[10:08:44 AM](#)

Senator Olson asked the Board of Optometry's position on the bill.

Dr. Bennett deferred to the next testifier, who was the Chair of that Board.

Senator Olson, a medical doctor, asked regarding the training an optometrist would have in respect to treating a person who had an anaphylactic shock response to an injection.

Dr. Bennett clarified that the most common cause of an anaphylactic reaction in an optometrist's office is from dilating agents. This risk is ever-present to him since he conducts an average of ten dilations a day in his practice. Current law prohibits him from even using an EpiPen to address an anaphylactic situation even though "anyone with a bee string allergy" can. This could be considered one of "the most critical aspects" of this bill.

[10:10:22 AM](#)

Senator Olson inquired to the number of optometrists who possess an Advanced Cardiac Life Support (ACLS) certification, as that would allow them to administer to an anaphylactic individual.

Dr. Bennett did not know.

Senator Olson spoke to the testimony proclaiming that this legislation would provide optometrists in Alaska the authorities granted them in other states. Oklahoma, which is considered to have some of "the most liberal" regulations in this regard, has experienced some negative repercussions.

Senator Olson asked Dr. Bennett to compare the prescriptive authority this bill would provide to those of other states. Even though the sponsor statement indicates that marijuana use would not be allowed under this legislation, he understood that marijuana is reportedly effective in treating glaucoma.

Dr. Bennett affirmed that marijuana has been used to treat glaucoma; however, other medications are more effective.

Senator Olson asked how this legislation compared to legislation adopted by other states.

Dr. Bennett noted that Alaska currently ranks around 48th of 50 states in the authority granted to optometrists. This legislation would place Alaska in the fifteenth to twentieth place range.

Senator Olson asked how the State would rank in terms of the prescriptive authority granted in this legislation.

Dr. Bennett would provide that information.

10:12:26 AM

DR. JILL MATHESON, Optometrist and Chair, Alaska State Board of Optometry, addressed a question asked earlier by Senator Olson by stating that the Board, which consists of four optometrists and one member of the public, was in unanimous support of the bill.

Dr. Matheson next addressed some of the fiscal concerns that have been raised. The Board of Optometry is self-sufficient in that any expenses incurred to it by this bill or any other function it undertakes, are covered by optometrists' licensing fees. Therefore any expense incurred by the Department of Labor and Workforce Development or the Department of Commerce, Community and Economic Development as a result of this legislation would be addressed in that manner.

Dr. Matheson also clarified that no expense would be incurred to the State for any continuing education programs as optometrists pay those themselves.

Dr. Matheson informed the Committee that current regulations mandate that any continuing education program utilized by optometrists be from an accredited school of optometry. Since no such school is located in State, the Board would search for a national program that could provide the continuing education courses required by this bill.

10:15:09 AM

Dr. Matheson addressed the expense this legislation might incur to patients, insurance companies, and to Medicaid. Some of those costs might be reduced. For example, expanding the scope of what an optometrist could do would negate costs a patient might incur

by having to undergo another exam when referred to another provider.

10:15:52 AM

Senator Olson asked the level of disciplinary action the Board has taken during Dr. Matheson's tenure on it.

10:16:08 AM

Dr. Matheson stated that no disciplinary action has occurred in the two and a half to three years she has been on the Board. The open cases currently under review primarily deal with failure to renew a license.

Senator Olson observed that the lone fiscal note accompanying the bill is a zero fiscal note from the Department of Commerce, Community and Economic Development. He asked whether expanding the scope of what optometrists could do might increase the number of disciplinary actions coming before the Board.

Dr. Matheson expressed that the Board would be billed for any legal expenses incurred by the Department of Law's involvement in a disciplinary case.

Senator Olson directed attention to language in Section 4 subsection (a)(2)(B), page 3 lines 9 through 13 of the bill, which references a licensee's federal Drug Enforcement Administration registration number for controlled substances. He asked how many optometrists currently have such a license.

Dr. Matheson responded that no such license is held by any optometrist in the State because they currently do not have the authority to prescribe controlled substances.

Senator Olson next directed attention to Section 3 subsection (a)(1)(E), page 3 line 2, which specifically excludes the prescription of a certain type of drug. The question was whether this language could be expanded to also exclude "synthetic Botox-type drugs".

Dr. Matheson was unsure.

Senator Olson expressed that this could be further investigated since the bill would be held in Committee.

There being no further questions or testimony to come before the Committee, Co-Chair Stedman ordered the bill HELD in Committee.

AT EASE [10:18:40 AM](#) / [10:19:02 AM](#)

#hb162

CS FOR HOUSE BILL NO. 162(L&C)

"An Act relating to mortgage lenders, mortgage brokers, mortgage originators, state agents who collect program administration fees, and other persons who engage in activities relating to mortgage lending; relating to mortgage loan activities; relating to an originator fund; relating to fees for mortgage loan transactions; making certain violations unfair trade practices; relating to persons who are licensed under the Alaska Small Loans Act; and providing for an effective date."

This was the third hearing for this bill in the Senate Finance Committee.

Co-Chair Stedman acknowledged the significant amount of testimony this bill has generated. The Committee has worked with the bill's sponsor Representative Bob Lynn, and the Division of Banking and Securities in the Department of Commerce, Community and Economic Development as well as Senator Elton's office to develop a new committee substitute. The committee substitute primarily corrects drafting errors as opposed to making substantive changes.

Senator Huggins moved to adopt Finance committee substitute Version 25-LS0070\T, Bannister, dated May 11, 2007, as the working document.

There being no objection, the Version "T" committee substitute was ADOPTED as the working document.

[10:21:14 AM](#)

JESSE KIEHL, Staff to Senator Kim Elton, advised that Senator Elton's office had worked with the Division of Banking and Securities in the Department of Commerce, Community and Economic Development to make technical and stylist revisions to the bill.

This would include such things as removing extraneous, duplicative provisions and provisions not required under current law as well as conforming language in the bill to the Legislative drafting manual.

Mr. Kiehl affirmed that no substantive policy changes were made in the Version "T" committee substitute.

[NOTE: Amendment #1 was not offered.]

Amendment #2: This amendment makes the following additions and deletions to the bill.

The phrase "and licensee under AS06.60; in this paragraph, 'licensee under AS 06.60' has the meaning given to 'licensee' in AS 06.60.990" in Section 1, AS 06.01.050(3) on page 1 line 13 through page 2 line 2 is deleted and replaced with the following language.

"a licensee under AS 06.60, a small mortgage lender under AS 06.60, and an originator under AS 06.60 who is employed by or works under exclusive contract for a small mortgage lender; in this paragraph,

(A) "licensee under AS 06.60" has the meaning given to "licensee" in AS 06.60.990;

(B) "originator under AS 06.60" has the meaning given to "originator" in AS 06.60.990;

(C) "small mortgage lender under AS 06.60" has the meaning given to "small mortgage lender" in AS 06.60.990;"

Language on page 2 line 10 of subsection (b) of Section 06.60.010. License required. in Article 1. Licensing., added to Section 2 by the addition of a new chapter, Chapter 60. Mortgage Lending Regulation Act., is revised to read as follows.

(b) Except as provided by AS 06.60.017, a person may not operate as an originator in this state unless the person is a natural person who is

A new section is also added to Article 1 of Section 2, as amended by the addition a Chapter 60, following line 30 on page 3, as follows.

"Sec. 06.60.017. Small mortgage lenders and originators. (a) Notwithstanding AS 06.60.010, the department may register

(1) a person to operate as a small mortgage lender;

(2) a natural person to operate as an originator for a small mortgage lender if the person is an employee of, or working under exclusive contract for, the small mortgage lender.

(b) To qualify for registration as a small mortgage lender, a person shall

(1) submit an application on a form established by the department;

(2) pay a fee of \$150;

(3) certify that all money used in the operation of the person's business as a small mortgage lender belongs to the person and is not borrowed or received from another person; and

(4) be approved by the department under (d) of this section.

(c) To qualify for registration as an originator under this section, a person shall

(1) submit an application on a form established by the department;

(2) pay a fee of \$75;

(3) be approved by the department under (d) of this section.

(d) Before approving an application of a person under this section, the department shall determine that

(1) if the person is applying for registration as a small mortgage lender, the financial responsibility, experience, character, and general fitness of the person, and of the person's directors, officers, members, owners, and other principals, and the organization and operation of the applicant indicate that the business will be operated efficiently and fairly, in the public interest, and under the law; and

(2) the person has not

(A) been enjoined by a court of competent jurisdiction from engaging in an aspect of the business of providing financial services to the public; and

(B) within the previous seven years,

(i) been prohibited by a federal or state regulatory agency from engaging in,

participating in, or controlling a finance-related activity that involves providing financial services to the public;

(ii) been convicted, including a conviction based on a guilty plea or a plea of nolo contendere, of a felony or a misdemeanor involving fraud, misrepresentation, or dishonesty;

(iii) committed an act, made an omission, or engaged in a practice that constitutes a breach of a fiduciary duty;

(iv) made a false material statement on an application submitted under this chapter; or

(v) violated a provision of this chapter, a regulation adopted under this chapter, or an order of the department under this chapter.

(e) A registration issued under this chapter remains in effect for two years after the registration is issued.

(f) A small mortgage lender may renew a registration by submitting to the department 30 days before the expiration of the registration

(1) a renewal application in the form and manner established by the department;

(2) a biennial registration fee of \$150; and

(3) a report identifying any changes in the information provided under (b) of this section.

(g) An originator may renew a registration as an originator by submitting to the department 30 days before the expiration of the licensee's registration

(1) a renewal application in the form and manner established by the department;

(2) a biennial registration fee of \$75; and

(3) a report identifying any changes in the information provided under (c) of this section.

(h) An application under this section is considered granted unless, within 30 days after the department determines it has received a complete application, the department notifies the applicant that the department has denied the application because of the applicant's noncompliance with this section.

(i) The department may adopt regulations to implement this section

(j) In this section,

(1) "registration" means registration under this section;

(2) "small mortgage lender" means a person who is registered under this section.

Changes made to Article 4. Discipline and Investigation., added to Section 2 by the addition of Chapter 60, are as follows.

The language "or a registration under AS 06.60.017" is inserted following "license" in subsection (a) of Section 06.60.200. Disciplinary action., page 16 line 22 and "or small mortgage lender" is inserted following "licensee" on page 16, line 23.

The phrase "or small mortgage lender" is inserted following "licensee" in Section 06.60.200 subsection (a)(2) on page 17, line 4 and in subsection (a)(2)(C) on page 17, line 8.

The language "or a registration under AS 06.60.017" is inserted following "license" in Section 06.60.200 subsection (a)(2)(E) of on page 17 line 10.

Furthermore, the words "or the registration under AS 06.60.017" are added following "license" in Section 06.60.200 subsection (a)(2)(F), page 17 line 13. Also on lines 14 and 15 of subsection (F), the phrase "is not fit to engage in the activities for which that licensee was licensed" is deleted and replaced with "or small mortgage lender is not fit to engage in the activities for which the licensee was licenses or small mortgage lender was registered".

In addition, the phrase "or the small mortgage lender's business" is inserted following "business" in Section 06.60.200 subsection (a)(2)(G) on page 17, lines 18 and 19.

The phrase "or the registration under AS 06.60.017" is inserted following "license" in Section 06.60.200, subsection (a)(3) page 17, line 22.

The language ", or the registration of a small mortgage lender," is inserted following "licensee" on page 17, line 24 of Section 06.60.200, subsection (b). Also in subsection (b), the language ". A person whose license" is deleted and replaced with "or registered under AS 06.60.017. A person whose license or registration under AS 06.60.017" on page 17, line 27.

Furthermore, the words "or another registration under AS 06.60.017" are inserted following "license" in subsection (b) on page 17, line 28.

The words "or a registration of a small mortgage lender" are inserted following "license" in Section 06.60.230. Divestment. of Article 4, page 18 line 11.

Also in Section 06.60.230, the phrase "or the small mortgage lender" is inserted following "licensee" on page 18, line 12 and the words "or small mortgage lender" are inserted following "licensee" on page 18, line 13.

The words "of revoked license" are deleted from the title of Section 06.60.240. Reinstatement of revoked license" on page 18 line 15 of Article 4. The revised heading would therefore read Section 06.60.240. Reinstatement.

Also in Section 06.60.240, the words "if the licensee" on page 18, line 16 are deleted and the words "or registration under AS 06.60.017 if the licensee or small mortgage lender" are inserted.

On page 18 line 18 of that same section the words ", the licensee" are deleted and replaced with "or registration under AS 06.60.017, the licensee or small mortgage lender".

The words "or a small mortgage lender" are inserted following "chapter" in subsection (a) of Section 06.60.250. Investigation and examination. of Article 4, page 18, line 22. That same language is inserted in that same subsection following "licensee" on page 18, line 27.

Furthermore, the words "or small mortgage" are inserted following "licensee" in Section 06.60.250., subsection (b)(1) on page 18, line 31 and in subsection (b)(2) on page 19, line 1.

A new paragraph is added following language on page 17, line 3 of Article 4 as follows.

"(2) the small mortgage lender has violated a provision of this chapter applicable to the small mortgage lender;"

Changes to Article 5. Business Duties and Restrictions., added to Section 2 by the addition of Chapter 60, are as follow.

The phrase ", including a small mortgage lender," is inserted following "person" on page 20, line 9 in Section 06.60.320. False, misleading, or deceptive advertising prohibited.

Also added to Section 06.60.320 is the phrase ", including a small mortgage lender," following "person" on page 20, line 13.

Added to Section 06.60.340. Prohibited activities. of Article 5 on page 20, line 26 following the word "chapter," is the language "a person who is a small mortgage lender,".

In addition, the word "registration," is inserted following "license," on page 22, line 10, of Section 06.60.340 subsection (10).

The phrase "or small mortgage lender" is inserted following "licensee," on page 24, line 1 in subsection (a) of Section 06.60.370. Criminal liability of licensee.

Also, in subsection (b) of Section 06.60.370, the words ", including a small mortgage lender," are inserted following "person" on page 24, line 5.

Furthermore, in subsection (c) of Section 06.60.370, the words ", person who is a small mortgage lender," are inserted following "licensee" on page 24, line 7.

In subsection (d) of Section 06.60.370, the words "or a small mortgage lender" are inserted following "licensee" on page 24, line 11.

Finally, in subsection (e) of Section 06.60.370, the words " or without being registered under AS 06.60.017," are inserted following "license" on page 24, line 14.

Changes made to Article 6. Enforcement., added to Section 2 by the addition of Chapter 60, are as follows.

The words ", including a small mortgage lender," are inserted following "person" in Section 06.60.400. Cease and desist orders. on page 24, line 21.

In subsection (a) of Section 06.60.410. Censure, suspension, or bar. of Article 6, the phrase "suspend the registration of a small mortgage lender for a period not to exceed 12 months," is inserted following "months," on page 24, line 25. In addition, the words "or a small mortgage lender" are inserted following "licensee" on page 24, line 26.

The words ", to the small mortgage lender," are inserted following "licensee" in subsection (a)(3) of Section 06.60.410 on page 24, line 30

In subsection (b) of Section 06.60.410, the phrase "or registration as a small mortgage lender" is inserted following "license" on page 25, line 3.

Furthermore, in subsection (c) of Section 06.60.410, the words "or a small mortgage lender" are added following "licensee" on page 25, line 6. Also in subsection (c), the words "licensee is conducting the licensee's business" are deleted and replaced with "licensee or small mortgage lender is conducting the licensee's or small mortgage lender's business", on page 25 line 7.

Finally in subsection (c) the words "or a small mortgage lender" are inserted following "licensee" on page 25, line 9.

Language in subsection (a) of Section 06.60.420. Civil penalty for violations. of Article 6 is also changed. The words ", including a small mortgage lender," is added following "person" on page 25, line 10.

Language in subsection (a) of Section 06.60.430. Additional enforcement provisions, actions, and rights. of Article 6 is also changed. The words "or a small mortgage lender" are inserted following "licensee" on page 25, line 17.

Also in subsection (c) of Section 06.60.430, the words ", a small mortgage lender," are inserted following "licensee" on page 25, line 21. In addition, "or small mortgage lender" is inserted following "licensee" on page 25, line 22.

A new section is inserted into Article 6 following line 30, page 25 as follows.

"Sec. 06.60.440. Definition. In AS 06.60.400 - 06.60.440, "small mortgage lender" includes a natural person who is an employee of, or working under exclusive contract for, a small mortgage lender."

Changes made to Article 10. Miscellaneous Provisions., added to Section 2 by the addition of Chapter 60 are as follows.

The phrase ", including a small mortgage lender," is inserted following the first occurrence of "person" in Section 06.60.890. Application to Internet activities. on page 32, line 23.

In addition, the words ", including a small mortgage lender to the extent this chapter applies to a small mortgage lender," are added following "person" in Section 06.60.905. Untrue, misleading, or false statements. on page 33 line 3.

Finally, the last change made by the amendment is to Article 11. General Provisions., added to Section 2 by Chapter 60, is the insertion of the phrase "(26) "small mortgage lender" means a person registered under AS 06.60.017" following "purposes" following line 7 on page 37.

Senator Huggins moved Amendment #2.

Co-Chair Stedman objected for discussion.

[10:22:39 AM](#)

MARK DAVIS, Director, Division of Banking & Securities, Department of Commerce, Community and Economic Development explained that this amendment would, in essence, establish an exemption for persons who make six or less mortgage loans a year. "This is essentially a private banking exemption."

Mr. Davis clarified however, that the person would still be subject to the examination and enforcement provisions specified in the bill. This is important because activities in the private banking category are currently unregulated.

Mr. Davis considered the exemption provided by the amendment to be "a workable solution" in regards to these individuals. While this limited exemption would allow these persons to continue their commercial and residential lending activities, it would now require them to meet both federal and State regulations, be

subject to examinations, and to be held liable for civil penalties if they violate the Act. This would prevent predatory lending activities from occurring.

[10:24:17 AM](#)

Senator Thomas asked the definition of "person" in this case.

Mr. Davis clarified that the reference to "person" would apply to "either a legal entity or a natural person".

Senator Thomas understood therefore that this exemption could apply to an entity other than a person.

Mr. Davis affirmed. For instance, it could apply to a limited liability company provided certain terms were met. The entity being exempted must be putting its "own money at risk", not money that had been borrowed. This is a very important element in the amendment.

[10:25:06 AM](#)

Senator Thomas understood that the maximum number of transactions that could occur would be six.

Mr. Davis responded that the requirement of "six or less" was deemed appropriate.

Co-Chair Stedman asked whether the Department was in support of the amendment.

Mr. Davis responded in the affirmative.

[10:25:25 AM](#)

Senator Olson asked whether anyone from the industry was available to address the amendment as the nine page amendment appeared to be a complicated one.

[10:26:04 AM](#)

Co-Chair Stedman asked whether anyone from the industry wished to testify to the amendment.

No one came forward.

Senator Olson considered that to indicate there was no industry concern to the amendment.

Co-Chair Stedman removed his objection.

Without further objection, Amendment #2 was ADOPTED.

[10:27:27 AM](#)

Amendment #3: The amendment deletes the entirety of language in subsection (8)(B) of Section 06.60.340. Prohibited activities. under Article 5. Business Duties and Restrictions, on page 21, line 30 through page 22, line 1, added to Section 2 of the bill by Chapter 60. Mortgage Lending Regulation Act. The language being deleted reads as follows.

(B) the person funds the loan at the rate, terms, and costs state in the good faith estimate provided to the borrower at the time the prequalification letter was issued or the loan commitment was made;

The amendment also allows for technical changes in subsection (8) resulting from the removal of subsection (B).

Senator Elton moved Amendment #3.

Co-Chair Stedman objected for discussion.

AT EASE: [10:27:51 AM](#) / [10:29:09 AM](#)

Mr. Davis explained that this amendment would remove language that allowed a person to provide a "cure" for a falsehood they made in a commitment letter. The Division supported the amendment.

Co-Chair Stedman removed his objection.

There being no further objection, Amendment #3 was ADOPTED.

[10:29:54 AM](#)

CHRIS SKINNER, Owner, Kelstar Alaska Mortgage Company and President, Alaska Association of Mortgage Brokers, testified via teleconference from Mat-Su and informed the Committee that she

had provided written testimony [copy not on file] in support of the bill provided it did not contain any language recommended by the American Financial Services Association (AFSA).

[10:31:01 AM](#)

Senator Thomas asked what was referred to under Alaska Statute (AS) 06.20, as referenced in the definition of a "covered person" on page 24 line 16 of the bill.

Mr. Davis stated that AS 06.20 referred to the State's Small Loan Act.

Senator Thomas acknowledged.

[10:32:05 AM](#)

Co-Chair Hoffman moved to report Senate Finance committee substitute for HB 162, Version 25-LS0070\T from Committee with individual recommendations and accompanying fiscal notes. [NOTE: The motion did not include a reference to the two amendments adopted by the Committee; however, that was the Committee intent.]

There being no objection, SCS CS HB 162(FIN) was REPORTED from Committee with three previous fiscal notes: zero fiscal note #1 from the Department of Law, indeterminate fiscal note #2 from the Department of Administration, and \$377,500 fiscal note #3 from the Department of Commerce, Community and Economic Development.

AT EASE [10:32:37 AM](#) / [10:34:40 AM](#)

#hb90

SENATE CS FOR CS FOR HOUSE BILL NO. 90(JUD)

"An Act relating to the purchase of alcoholic beverages and to access to licensed premises; relating to civil liability for certain persons accessing licensed premises; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole and relating to fees for the marked license or card; relating to the information contained on driver's licenses; requiring the surrender and cancellation of driver's

licenses and identification cards under certain circumstances; relating to the reporting of certain crimes; relating to prostitution; relating to the DNA registration system; relating to credit toward service of a sentence of imprisonment; relating to violation of probation and parole conditions by sex offenders; relating to bail; relating to distribution of certain materials to minors; relating to time limitations for prosecution of certain crimes; relating to sex offender registration; relating to the maximum time for probation; relating to certain post-conviction relief applications; relating to good time; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Stedman expressed that this bill proposes a fairly substantial policy change.

[10:35:21 AM](#)

REPRESENTATIVE RALPH SAMUELS, co-sponsor of the bill, considered the majority of the changes proposed in the bill as small policy changes. Most were proposed by the Governor Sarah Palin Administration to address loopholes in the State's criminal justice system. The Department of Law would provide more in-depth information on the more substantive changes included in the bill

[10:36:33 AM](#)

Representative Samuels reviewed the key components of the bill. It would allow a sex offender who violated certain conditions of their probation or parole to be charged with a class A misdemeanor. This provision was requested by the law enforcement community.

Representative Samuels stated that the bill would also expand the penalty for sending indecent material to minors. Currently this is only a crime if the material being sent portrays minors. This bill would expand that to include pornographic material depicting adults.

Representative Samuels stated that the bill would also allow for the forfeiture of property such as computers that might be used to electronically distribute indecent material to minors.

Representative Samuels advised that the bill would also add murder, attempted murder, and kidnapping to the list of crimes exempted from the State's statute of limitations.

[10:37:34 AM](#)

Representative Samuels stated that expanding the list of crimes exempted from the statute of limitations would assist the State's cold case investigative unit's activities. This unit, which has received increased funding from the Legislative in recent years, has had success in solving several old murder cases including the "infamous case" about the murder of a woman named Bonnie Craig.

Representative Samuels stated that other changes include further defining what would be considered "new information" as it relates to bail hearings and disallowing electronic monitoring time in a private residence from qualifying as a credit toward a person's sentencing time.

[10:38:56 AM](#)

Representative Samuels continued his review of the bill. It would increase the maximum time a person convicted of a sex offense could be on probation to 25 years. This would allow conformity with sex offender legislation adopted the previous year.

Representative Samuels also pointed out that the bill would change current law to require individuals convicted of distributing indecent materials to minors electronically to register as a sex offender.

[10:39:35 AM](#)

Representative Samuels stated that a new provision of the bill also addressed post-conviction relief. This refers to the situation where a person would "go to court yet again to try and get" their conviction mitigated after they had been convicted and the appeals they filed failed.

Representative Samuels explained that this provision resulted from a victims' rights movement that started after a 1985 murder in Anchorage that was "perpetrated by a 15 year old girl and a 19 year old man". The daughter of a woman who was involved in that case, and who has since died, is still "being dragged into court 22 years later" due to continuing post-conviction relief proceedings. This legislation would further efforts to tighten up post-conviction relief hearings.

[10:40:31 AM](#)

Representative Samuels stated that the bill also specifies that a person could not receive "good time" sentencing deductions for time spent in a treatment program. This would apply to programs outside of the Department of Corrections programs which are conducted in house.

[10:40:56 AM](#)

Representative Samuels advised that the changes he would now address might be more appropriately addressed by the Department of Law or by Senator Dyson's staff as they had assisted in their development.

Representative Samuels continued. Changes were made to statutes through which individuals accused of victimizing women and children by forcing them into prostitution, are prosecuted. This provision, which had been proposed in a separate bill, had been "rolled in" to this bill by the Senate Judiciary Committee. He and the bill's co-sponsor, Representative Bill Stoltze, support that provision's addition.

Representative Samuels advised that the Senate Judiciary Committee also added language to the bill that would allow for deoxyribonucleic acid (DNA) genetic testing collection at the time of arrest. The DNA language in this bill mirrors that of legislation enacted a few years prior which has allowed the State's cold case prosecutors to use DNA evidence to arrest a man in the case of Bonnie Craig, an 18-year old University of Alaska Anchorage student who was murdered.

Representative Samuels informed the Committee that this bill "would allow DNA to be collected like a fingerprint" at the time of arrest. This could be further addressed by the Department of Law.

Representative Samuels qualified that the DNA sample would be destroyed if there was no conviction.

[10:42:37 AM](#)

Representative Samuels continued. The Senate Judiciary Committee also added a provision to the bill, referred to as Kiva's Law, which would require a person who witnesses a crime against a child to report it.

[10:43:01 AM](#)

Representative Samuels informed the Committee that the Senate Judiciary Committee also rolled in language from HB 14-RESTRICT ACCESS TO ALCOHOL which had recently passed the House, into this bill. This language would require the driver's license or other legal identification of a person who was ordered by the court not to purchase alcohol to be marked with some identifying color. This would alert an establishment not to sell alcohol to that individual. This language would not hold an establishment liable and would in fact, allow the establishment to bring a \$1,000 civil penalty case against such a person.

Representative Samuels concluded his review. The Department of Law would review the more legal and technical nature of the bill. Other than the DNA testing, the majority of the bill could be considered an effort to clean up the laws.

[10:44:24 AM](#)

REPRESENTATIVE BILL STOLTZ, co-sponsor of the bill, communicated that the primary goal of this bill was to close existing loopholes in sex offender laws and further victim's rights. The bill was expanded to assist with such things as cold case investigations. He and Representative Samuels consider the bill "a pretty good omnibus measure".

[10:45:23 AM](#)

RICK SVOBODNY, Deputy Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law, informed the Committee that the Department supported the bill with one exception. That being Sections 5 through 9, page 4 line 27 through page 7, line 13 which pertain to the Kiva's Law

provisions. This language would "criminalize" an innocent bystander were they to witness a crime against a child and not report it.

Mr. Svobodny stated that incorporating this requirement into the bill "is not necessarily a bad change" since people should be "socially responsible" particularly in regards to situations incurring serious harm to children. However, there is concern that this provision would create "difficult problems" for the prosecutor who tries the murderer or a rapist in that case in court. This is because a witness not reporting the crime would themselves be charged with a crime and would thereby "have the Fifth Amendment privilege not to testify".

Mr. Svobodny clarified however that this could be accommodated because the Legislature has provided the Attorney General "the authority to grant immunity to a witness".

Mr. Svobodny informed the Committee that he had once been the person designated by the Attorney General to make the witness immunity decisions. In his 30 years as a prosecutor, that "was the hardest thing to do".

[10:48:04 AM](#)

Mr. Svobodny explained that the problem was not "that the person witnessed a crime but didn't call"; it is because determining whether to grant immunity to a witness with Fifth Amendment privileges is "a guess". The system established in this State allows the witness to tell the court, in secret, information specific to their involvement in the case. The judge in turn tells the Department of Law designee whether the witness's action was "a serious felony, a felony, a misdemeanor, or the person doesn't have the privilege".

Mr. Svobodny stated that making the immunity determination, particularly in the middle of a murder trial, is difficult. It also delays trials and the issue often arises when a trial is occurring. He recounted some of the scenarios he experienced when having to make a witness immunity decision.

Mr. Svobodny restated the position that requiring someone to report a crime against a child is a good social policy. It would however, incur problems for prosecutors, for victims whose trials might be delayed as a result of the process, and would

increase expenses to the public defenders office due to such things as conflict of interest matters.

Mr. Svobodny suggested that "an easy solution" to the problem could be to change the penalty from being a Class C felony to being a violation. This would maintain the social obligation of reporting the crime but would not incur Fifth Amendment privileges. This is the recommendation of the Department of Law.

[10:50:26 AM](#)

Mr. Svobodny concluded by stating that the Department of Law supports the bill with the exception of the witness reporting provision.

Co-Chair Stedman asked whether Mr. Svobodny wanted to review in more detail any other section of the bill.

Mr. Svobodny reiterated that the Department was in support of other sections in the bill. He was more familiar with some sections than others, specifically those proposed by Senator Dyson and the two bill sponsors.

[10:50:59 AM](#)

Mr. Svobodny noted, for instance, that he was not very familiar with the provision prohibiting a person on probation from purchasing alcohol. Nonetheless, he would attempt to answer any questions the Committee might have.

[10:51:17 AM](#)

Senator Elton directed attention to language in Section 24 subsection (d) page 13 lines 1 and 2 which would not allow the time an individual spent being electronically monitored or in a private residence to count toward their sentencing. During Committee discussion on a separate bill regarding electronic monitoring, testimony had touted electronic monitoring "in lieu of incarceration". It was also "less expensive".

[10:52:09 AM](#)

Mr. Svobodny surmised that the bill being referenced related to the electronic monitoring of gangs.

Mr. Svobodny informed the Committee that the State's appellate courts have determined that people who are in the "functional equivalent of jail" as a result of a court order "should get credit for that time served". The provision in this bill would establish a procedure through which the courts could make a determination as to whether the circumstances of the electronic monitored or restricted to home individual to whom this bill applied met established "functionally equivalent" criteria; if not, the time would not be credited.

[10:53:35 AM](#)

Mr. Svobodny shared that one such alcohol treatment program was held in the Sergeant Preston Hotel bar outside of Anchorage. The argument was that a person attending that program was stuck in the hotel for the three days the program was being conducted. Some judges allowed that time to be credited against the sentence and some did not. The language in this bill would not allow "good time credit" for attending that program. Good time credit is a jail "administrative tool" in that if a person behaves in jail they would receive one day off for every three days served. "You aren't in jail if you're at home or on electronic monitoring.

[10:54:33 AM](#)

Co-Chair Stedman asked Mr. Svobodny to address the drunk-driving provisions in the bill.

Mr. Svobodny asked whether the provisions in question were those in Sections 1 through 3 of the bill.

Co-Chair Stedman affirmed.

[10:54:47 AM](#)

Mr. Svobodny expressed that these sections were not necessarily drunk driving provisions. They would, however, restrict a person on probation or parole from drinking alcohol by prohibiting them from being in a bar and purchasing alcohol. A mark on their identification would identify them as a person prohibited from drinking alcohol.

[10:55:32 AM](#)

Co-Chair Stedman asked for further information about the DNA provisions.

[10:55:38 AM](#)

Mr. Svobodny noted that the State presently collects DNA from individuals convicted of felony offenses or a crime against a person. That action would not be altered by the provision proposed in this bill. This bill would however, align Alaska with other states that "have changed when they go through that collection process," in that the DNA collection would be taken at the time of arrest just as fingerprinting and photographing the individual are currently done.

Mr. Svobodny noted that the DNA collection is a simple process in which fluid is collected by swabbing the inside of a person's mouth with a Q-tip. The sample is then sent to the State crime laboratory where it is processed and stored in the national law enforcement Combined DNA Index System (CODIS). If the person is acquitted or the case dismissed, their DNA profile would be removed from the database. He noted that this is not the case with fingerprints: they are retained in the database.

Mr. Svobodny further noted that the national DNA collection standard is specific to only 13 of the millions of DNA markings that could be analyzed. Those 13 loci have been determined to have "no known information other than identifiers". For example, they could not provide information as to whether the individual "was at greater risk of having breast cancer" than another. The national standard was designed so that only identifying loci could be captured for forensic purposes.

Mr. Svobodny informed the Committee that Alaska law makes it a crime for someone to use DNA collected in this manner, for other than forensic purposes. The limited loci collected, makes it difficult to use for any other purpose anyway.

[10:58:44 AM](#)

Mr. Svobodny informed the Committee that the bill would add a new provision to State law in that it would require DNA to be processed and updated into CODIS within 90 days. Because this will be a challenge to the State crime lab to accommodate, this provision would not go into effect until 2009. The difficulty is that in order to do DNA processing, the processor must undergo a

six month training period and then a six month supervised in the field training period. The Department of Public Safety fiscal note addressing this issue anticipates that four additional staffers would be required to address the added workload this provision would produce.

Mr. Svobodny specified that the Bonnie Craig murder case was resolved due to DNA information maintained in the CODIS national database. DNA taken at the crime scene was processed and stored in CODIS. A hit was made in CODIS when another state, which collects DNA from individuals when they are arrested, loaded an arrested person's DNA to CODIS.

Mr. Svobodny stated that, as is standard practice, the State then ran new DNA samples to verify the information.

[11:00:58 AM](#)

Senator Thomas supported the concept of the "good time" administrative tool as well as the electronic monitoring tool, particularly in regards to individuals with a history of gang associations. Therefore, he was concerned that the opportunity for early release would be affected by this legislation. He inquired whether this restriction might have resulted from the concern that individuals released early might have a tendency to re-associate with gang-members.

[11:01:52 AM](#)

Mr. Svobodny considered the provisions in this bill to differ from the concept of good time associated with individuals convicted of gang-related crimes. Those individuals complete their jail term and then are electronically monitored while on probation. The process established in this bill would assist in determining whether, for example, time a person spent being electronically monitored should count toward their sentence. The provisions in this bill would not have any affect on gang crime sentencing.

Senator Thomas stated that the further questions he had regarding the DNA provisions in the bill could be addressed outside of this hearing.

Co-Chair Stedman ordered the bill HELD in Committee.

[NOTE: This bill was readdressed later in the hearing. See Time Stamp [1:53:34 PM.](#)]

[11:03:35 AM](#)

#hb166

CS FOR HOUSE BILL NO. 166(FIN)

"An Act relating to contributions from permanent fund dividends to community foundations, to certain educational organizations, and to certain other charitable organizations; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Stedman stated that the intent today was to discuss the bill, consider a new committee substitute, and hold the bill in Committee for further consideration.

[11:04:13 AM](#)

AT EASE [11:05:12 AM](#) \ [11:05:14 AM](#)

Co-Chair Hoffman moved to adopt committee substitute, Version 25-LS0678\L, Cook, dated May 9, 2007, as the working document.

Without objection, the Version "L" committee substitute was ADOPTED as the working document.

[11:05:50 AM](#)

DAVID GREISEN, Staff to Co-Chair Stedman, informed the Committee that the changes incorporated into the Version "L" committee substitute were intended to reduce costs and assist the Department of Revenue in administering the program proposed in this legislation.

Mr. Greisen advised that the change in Section 2, subsection (f) on page 4 lines 8 through 13 would allow the Department of Revenue to charge a \$50 fee to each non-profit entity applying for inclusion on the authorized list of charities a person could elect to donate a portion of their Permanent Fund Dividend (PFD) to. The expectation is that 700 of the 2,000 applicants

anticipated to apply for inclusion on this list would be approved. The application fee would assist in covering the costs associated with the selection process.

[11:07:02 AM](#)

Mr. Greisen identified the next change as being in Section 2 subsection (j) page 4 lines 27 through 30. This section would continue the previous committee substitute's requirement that the Department provide an annual report depicting each organization and the donations they garnered the previous year as a result of this legislation; however, the requirement that the report be provided to the Legislature was eliminated as a cost-saving measure. The Department would now simply be required to notify the Legislature that the report was available.

Mr. Greisen stated that the application requirements specified in Section 2, subsection (d)(4) and (d)(8) on page 3 line 14 and line 24, respectively, were revised to accommodate non-profit organizations' internal accounting and federal filing restrictions.

Mr. Greisen noted that in order to make the administration of the program run efficiently, language in Section 2 subsection (a)(1) on page 2 line 14 was altered to clarify that people could not change the non-profit entities they had chosen to donate to once they had submitted their PFD application.

[11:08:53 AM](#)

Mr. Greisen next addressed the two changes made in the bill at the request of the Department of Revenue. The first, in Section 1 subsection (b) page 1 line 8, was the removal of the words "and furnish" after the word "prescribe". This would reduce the cost of mailing out hard copy PFD application forms to residents of the State. He noted that the "vast majority of people" now file their PFD application online. The revised language would read as follows.

"(b) The department shall prescribe an application form for claiming a permanent fund dividend. ...

Mr. Greisen stated that the Department would continue to mail out PFD application forms "to rural areas that don't have

internet penetration". Thus, people living in those areas would not experience any negative affects.

Mr. Greisen stated that not conducting a bulk mailing of the PFD application forms would save the State a significant amount of money.

AT EASE [11:10:27 AM](#) / [11:11:31 AM](#)

Mr. Greisen noted that the second change requested by the Department is depicted in Section 3 subsection (a)(2) page 5 lines 16 through 21. This language "would allow the Department to set up an electronic system for civilian process servers to garnish PFDs." An electronic system would significantly reduce the amount of paperwork involved in this process as currently all garnishing processing is conducted on paper and mailed.

Mr. Greisen informed the Committee that the two changes requested by the Department are anticipated to save approximately \$100,000 each year.

[11:12:09 AM](#)

KACI HOTCH, Staff to Representative Bill Thomas, the bill's sponsor, affirmed that this bill would allow individuals receiving a PFD to contribute a portion of their PFD to a non-profit organization. The goal of this effort is to increase the amount of charitable donations made by Alaskans each year, particularly as the level of charitable contributions made by Alaskans who earn more than \$100,000 a year is amongst the lowest in the nation.

Ms. Hotch specified that this legislation would allow the State to compile a list of approved non-profit 501(c)(3) organizations. That list would be provided to PFD applicants who could, at the time they submit their application, specify an amount, if any, they would like to contribute to one or more of the organizations.

Ms. Hotch pointed out that in order to be approved for the list, the organization must meet criteria specified in the bill.

Ms. Hotch specified that while the bill contained a three year termination date, but could be re-authorized by the Legislature. There would be no fiscal impact to the State resulting from this

legislation as the Rasmussen Foundation has agreed to administer the program and absorb any associated expenses.

[11:13:40 AM](#)

Senator Elton asked for further discussion regarding the proposed change to how PFD application forms would be distributed.

Co-Chair Stedman advised that that question would be addressed by a representative from the Department.

Mr. Greisen agreed that the Department could best respond to the question.

[11:14:31 AM](#)

In response to a question from Senator Thomas, Mr. Greisen reiterated that the expectation is that 700 of the 2,000 organizations expected to apply for inclusion on the list of non-profit entities would be approved.

[11:15:00 AM](#)

Senator Olson suggested that the approach proposed in this legislation might also be considered as an avenue through which the State, "as a larger body", might be able to provide Alaskans an opportunity to purchase health insurance.

Ms. Hotch acknowledged having talked to Senator Olson's staff about this suggestion. She had not had an opportunity to explore the suggestion and was unsure how adding such language to this bill might impact it. The sponsor would however support "the concept" where it proposed in a separate bill at a later time.

[11:15:38 AM](#)

JERRY BURNETT, Director, Administrative Services Division and Legislative Liaison, Department of Revenue, addressed Senator Elton's question by expressed that the Department of Revenue and the Department of Law have been actively discussing whether the State is required by law to send a PFD application packet to every household in the State as is current practice. In addition to its expense, it is a wasted effort as more than 70 percent of

Alaskans apply for their PFD online and thereby, do not use the mailed out paperwork.

Mr. Burnett specified that the proposed change would allow paper application packets to be "selectively" mailed out to anyone who requests them and to those who have applied for their PFD on paper in the past. The intent is to stop bulk mailing the PFD packets as has been past practice.

[11:17:22 AM](#)

Senator Elton asked how new applicants would be contacted, particularly since it could be extrapolated from the Department's statistics that one-third of the prospective applicants would apply by mail. Legislators would be inundated by questions if access for new applicants was not adequately addressed. While filing electronically was a viable option, he was "uncomfortable taking away the mandate that the Department provide an application."

[11:18:19 AM](#)

Mr. Burnett acknowledged the concern and noted that, as Legislative Liaison for the Department, any calls Legislators receive ultimately get routed to him.

Mr. Burnett compared the proposed application changes to current operations of the federal Internal Revenue Service (IRS) in that as people transition from filing their tax returns on paper to filing online, the IRS stops mailing those individuals paper filing material.

Mr. Burnett thought it unlikely that newcomers to the State would be unaware of the PFD program. The prospect of receiving a \$1,600 PFD check would prompt a newcomer to contact the State about the PFD application process.

[11:19:33 AM](#)

Senator Elton asked whether language in the current appeal process could be revised to accommodate an individual who claimed to have been waiting for a paper application and thus had not applied.

Mr. Burnett stated that the Department would be willing to work with Senator Elton to address this concern. The Department does not desire to "disenfranchise anyone or make it difficult for people". The goal is to discontinue mailing out PFD application packets because they are not being used.

[11:20:38 AM](#)

Senator Huggins voiced concern that the Department might be inundated by requests from non-profits entities to be included on the list of approved organizations.

[11:21:04 AM](#)

Mr. Burnett acknowledged that "the Department is very concerned about the initial effects of this bill on the workload of the Department" in regards to the donation element. To address that concern, an "external organization" such as the United Way would be hired to manage the donation aspect of the program. They would be responsible for sorting the applications. The funds for that entity would be provided by the Rasmussen Foundation.

[11:22:00 AM](#)

Co-Chair Stedman ordered bill HELD in Committee.

RECESS TO CALL OF THE CHAIR [11:22:13 AM](#) / [1:53:34 PM](#)

#hb90

SENATE CS FOR CS FOR HOUSE BILL NO. 90(JUD)

"An Act relating to the purchase of alcoholic beverages and to access to licensed premises; relating to civil liability for certain persons accessing licensed premises; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole and relating to fees for the marked license or card; relating to the information contained on driver's licenses; requiring the surrender and cancellation of driver's licenses and identification cards under certain circumstances; relating to the reporting of certain crimes; relating to prostitution; relating to the DNA registration system; relating to credit toward service of a sentence of imprisonment; relating to violation of probation and parole

conditions by sex offenders; relating to bail; relating to distribution of certain materials to minors; relating to time limitations for prosecution of certain crimes; relating to sex offender registration; relating to the maximum time for probation; relating to certain post-conviction relief applications; relating to good time; and providing for an effective date."

The bill was again before the Committee.

Co-Chair Stedman announced that a new committee substitute has been developed for consideration.

[1:53:54 PM](#)

Co-Chair Hoffman moved to adopt Senate Finance committee substitute, Version 25-LS0331\N, Luckhaupt, May 12, 2007, as the working document.

Senator Dyson objected.

[1:54:23 PM](#)

Senator Dyson pointed out that the Version "N" committee substitute eliminated [unspecified] language which had been supported by two members of the Senate Bipartisan Working Group. He considered that language to be a valuable component of the bill.

[1:54:34 PM](#)

Co-Chair Stedman clarified that Sections 5 through 9 of SCS CS HB 90(JUD) had been struck from the Version "N" committee substitute.

[1:54:56 PM](#)

RICK SVOBODNY, Deputy Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law, advised the Committee that the deletion of this language "aids in the prosecution of criminal cases." Language in Sections 5 through 9 would have hindered the Department's ability to prosecute cases. While requiring people who witness a crime to report it, "sounds good" and is essentially a "good social goal", the granting of

immunity to individuals charged for non-reporting would place "the prosecution at a disadvantage because the defense can always challenge a witness."

Mr. Svobodny explained that a person testifying in a case who has been granted immunity means that that person has "done something bad" and is "getting away with it". For instance, a drug dealer testifying in a murder case might be granted immunity because the murder was a worse crime than their drug dealing. Retaining this language in the bill would also "criminalize the average citizen."

Mr. Svobodny provided numerous arguments against retaining this language in the bill, including such things as delays in trials and allowing someone to go free who otherwise would be held accountable for their deviant behavior.

1:58:48 PM

Senator Dyson considered legislators' actions in establishing laws to reflect the values and conduct that communities in the State support. The deletion of Sections 5 through 9 is contrary to the behavior western civilization has supported for centuries. That being that when someone sees someone in harms way they "have either a responsibility to help or report".

Senator Dyson contended that the adoption of Version "N" would be detrimental to that responsibility. This language, particularly the legal ramifications, "was widely debated" during hearings on this bill in the Senate Judiciary Committee. Their decision was to retain the language in the bill.

Senator Dyson had particular respect for the Chair of the Senate Judiciary Committee [Senator Hollis French] and his extensive criminal law background. Since he "passionately believes in this", Senator Dyson "would accede to his wisdom, knowledge, values, and I want it to stay in."

2:00:56 PM

Mr. Svobodny did not "disagree with the philosophy". However, it could be argued that if it was considered to be such "a good policy", perhaps it should be expanded to all crimes. Thus, a legislator witnessing something bad on the Chamber Floor would have to report it immediately to federal authorities and a

mother who sees her 18 year old hit his 16 year old brother must report it to the authorities.

[2:01:45 PM](#)

Co-Chair Stedman interjected to note that another bill in Committee, SB 5-FAILURE TO REPORT CRIMES, would address the issue being deleted from this bill. That bill would be a better vehicle to address this issue than this bill.

[2:02:40 PM](#)

A roll call was taken on the motion.

IN FAVOR: Senator Elton, Senator Huggins, Senator Olson, Senator Thomas, Co-Chair Hoffman and Co-Chair Stedman

OPPOSED: Senator Dyson

The motion PASSED (6-1)

Committee substitute Version "N" was ADOPTED as the working document.

[2:03:20 PM](#)

Senator Thomas directed attention to language in Section 5, page 4 line 27 through page 5 line 8. He interpreted the language to indicate that a person who was at least 18 years of age, who transmitted a picture of a female breast to a minor could be charged with a sexual offense. Furthermore, if that person was convicted they would be required to register as a sexual predator for 15 years.

[2:04:43 PM](#)

Mr. Svobodny affirmed that was correct. If it was the person's first offense, they would be required to register for 15 years. They would be required to register for life for a repeat offense.

[2:04:57 PM](#)

Senator Thomas understood that this situation would be limited to the transmittal of stated material via the internet.

Mr. Svobodny confirmed that Section 5 was specific to the electronic transfer of such material. The determination was that a person stalking or "grooming" a child would likely transmit adult material as opposed to child pornography.

Mr. Svobodny had conferred with Anne Carpeneti, Assistant Attorney General in his Division, about this. She informed him that the issue of transmitting adult pornography to a child over the internet had not specifically been addressed before.

[2:06:05 PM](#)

Mr. Svobodny understood that prosecuting a young adult for this action might be of concern. To that point, he reminded the Committee that the Legislature had separately enacted provisions relating to "young offenders" and the sexual abuse of a minor. Those provisions specified that the perpetrator be at least 18 years or older and be at least four years older than the person they offended against. Such language could be incorporated into this bill if deemed necessary.

[2:06:58 PM](#)

Senator Thomas considered the majority of the offenses identified in Section 5 substantial enough to warrant the penalty. The lone area of concern however was the question of whether "the offense" of transmitting an image of a female breast over the internet "fit the crime".

[2:07:22 PM](#)

Mr. Svobodny understood the concern.

[2:07:41 PM](#)

Senator Dyson contended that historically, judges and juries in our country "have been reasonably understanding about the extenuating circumstances and I'm not worried about the overly harsh penalties being levied against people that are trafficking this kind of material on the internet." To that point, he emphasized that the entirety of Section 5 dealt with the distribution of the identified material "to minors, not to adults."

Senator Dyson assumed that a person would not be prosecuted for material that "inadvertently got to a minor". The act must be intentional in order for someone to be prosecuted.

[2:09:20 PM](#)

Senator Olson asked whether people in the medical profession would be exempt from the language in the bill.

[2:09:44 PM](#)

Mr. Svobodny affirmed that medical contact would be exempt. "Sexual contact, including sexual penetration, "excludes recognized medical treatment".

[2:10:10 PM](#)

Mr. Svobodny furthered clarified that Section 5 contains language that currently exists under Alaska's Child Pornography and Child Exploitation Statutes.

[2:10:31 PM](#)

Senator Olson pointed out that some of the language in Section 5 was new language as it was indicated as such.

[2:10:42 PM](#)

Mr. Svobodny clarified his remarks. While the language currently exists under the aforementioned Statutes, it was new language for the Statute addressed in this bill.

[2:11:09 PM](#)

Co-Chair Stedman asked the Department of Public Safety to speak to their fiscal note.

DAVID SCHADE, Director, Division of Statewide Services, Department of Public Safety, testified via teleconference from an offnet location. The DNA collection provision specified in this bill is new and would increase the workload of the Department. The Department had previously utilized federal grant money to support DNA collections from convicted offenders. Those samples were sent to a federal laboratory.

Mr. Schade stated that the Department recently became pro-active and began processing samples in-house. This enables them to get results faster and allow "for earlier intervention into criminal careers".

[2:12:23 PM](#)

Mr. Schade stated that in order to accommodate the increased workload, the Department would be required to dedicate four people to the program as a tremendous amount of time would be required to track the samples. For example, if there was no conviction, the samples must be removed from CODIS. He reviewed the responsibilities of each of the four positions that would be required.

Mr. Schade also noted that new computer programs and supplies would be acquired. A 70 percent increase in samples is anticipated.

[2:14:12 PM](#)

Co-Chair Stedman specified that the Department had submitted a \$540,000 fiscal note.

Senator Elton asked what would occur were a "hit" to occur on a DNA sample that should have been destroyed due to a lack of a conviction; specifically whether that hit would be admissible as evidence in the other case.

Mr. Svobodny stated that the case would get litigated. This issue is not addressed in the bill. Consideration could be given to adding language to the bill that would hold the State harmless in such an event.

[2:15:58 PM](#)

Representative Samuels voiced no objection to the adoption of the Version "N" committee substitute. The deletion of the Kiva Law language was done at the recommendation of the Department of Law.

[2:16:35 PM](#)

Co-Chair Hoffman moved to report committee substitute, Version 25-LS0331\N from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, SCS CS HB 90(FIN) was REPORTED from Committee with previous zero fiscal note #2 from the Department of Law Administrative Services Division; indeterminate fiscal note #3 from the Department of Administration Office of Public Advocacy; indeterminate fiscal note #4 from the Department of Administration Public Defender Agency; indeterminate fiscal note #7 from the Department of Corrections; and new \$540,000 fiscal note from the Department of Public Safety, dated May 11, 2007.

RECESS TO CALL OF THE CHAIR [2:16:53 PM](#) \ [5:19:19 PM](#)

#sb178

SENATE BILL NO. 178

"An Act relating to school funding, the base student allocation, district cost factors, the local contribution, and the intensive services adjustment for state funding of public education; providing for an effective date by repealing the delayed effective date of sec. 6, ch. 41, SLA 2006; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

AT EASE: 5:19:54 PM / [5:20:04 PM](#)

EDDY JEANS, Director, School Finance and Facilities Section, Department of Education and Early Development, conducted an overview of the bill. He also provided a handout titled "Two-Year Education Funding Proposal SB 178" [copy on file] which provided a written analysis of the bill sections.

Mr. Jeans noted that Section 1 of the bill "adds a hold harmless provision to the foundation program. It's there to assist school districts that have decline enrollment." This section is addressed in item number four on the aforementioned handout.

Mr. Jeans continued that the hold harmless provision in Section 1 would accommodate school districts that might be consolidated for efficiency and those whose funding might change due to the

funding formula, specifically as this bill would specify that a community with an enrollment of more than 100 students would receive funding equivalent to two schools. A community whose enrollment is below 100 would be funded as one school. "The adjustment in that is pretty substantial" and Section 1 would provide some "transition money for a three year period to allow districts to adjust for that".

[5:21:44 PM](#)

Mr. Jeans directed attention to language in Section 1 subsection (b)(2) on page 3 beginning on line 15. This provision would change the local city or borough contribution to its school district from a four mill tax levy to a three mill tax levy. This provision would be further clarified in forthcoming remarks.

Mr. Jeans then addressed the intensive needs funding for school districts as specified in Section 2 subsection (a)(2)(A) on page 4 line 2. This provision would provide "a two percent block funding approach for school districts with a student enrollment of 1,000 or more." This calculation would involve "taking the districts average daily membership" and multiply that by two percent in order to determine how many students would be funded under this component.

Mr. Jeans communicated that the funding level for this component would continue as specified in current State Statute at "five times the base student allocation".

[5:23:06 PM](#)

Senator Elton contended that a technical amendment would be required in this regard as the current Statute does not specify a two percent funding mechanism limitation on special needs student funding; it specifies that anything over two percent would be subject to an audit. The proposed language would be problematic for some school districts. For example, the current special needs student component in the Juneau School District is 2.9 percent. He would work with the Department to further the original intent of this consideration.

[5:23:59 PM](#)

Mr. Jeans affirmed that Senator Elton's statement was correct.

Mr. Jeans stated that Section 3 beginning on page 4, line 7 through page 6 line 2 depicts districts' cost differentials as recommended by the Institute of Social and Economic Reform (ISER) report.

Mr. Jeans stated that the base student allocation would be increased from \$5,380 to \$5,580 as specified in Section 4 page 6 lines 3 through 5 effective with Fiscal Year 2009 (FY 09).

Mr. Jeans noted that the handout also depicts the costs anticipated for the changes proposed in the bill.

Mr. Jeans stated that Section 5 of the bill also instructs that the local contribution equate to a minimum of three percent.

Mr. Jean continued. Section 6 would repeal the current provision that requires the Department to only count 50 percent of the increased property values since the year 1999. This would return districts "to a level playing field of applying three mills across the board for all municipalities in the State of Alaska as their required contribution under the foundation program."

[5:25:35 PM](#)

Senator Dyson asked for clarification as to which section repealed the 50 percent match.

Co-Chair Stedman specified that the provision in question is addressed by Section 6 on page 6 line 14.

[5:25:59 PM](#)

Mr. Jeans directed attention to the bill's cost estimates as depicted on the handout. Going to three mills in FY 2008 would cost the State approximately \$9,900,000. Going to the two percent block funding for school districts with 1,000 or more students would increase that component by approximately \$18,700,000. The implementation of 50 percent of a district's cost factor would amount to approximately \$48,600,000. Based on current FY 08 student projections, the hold harmless provisions would cost the State approximately \$400,000. Thus the total formula increase would be approximately \$77,600,000.

Mr. Jeans noted that Governor Sarah Palin's FY 08 operating budget included a one-time grant funding of \$34,600,000. Thus, once that amount is subtracted from the projected \$77,600,000 total, the general fund increase in FY 08 would be approximately \$43 million.

Mr. Jeans noted that the FY 08 funding contribution for the Teachers Retirement System (TRS) contribution is anticipated to \$77,500,000. That increased funding combined with the Total Two-Year Education Funding proposed in this bill would amount to approximately \$120,500,000.

[5:27:21 PM](#)

Co-Chair Hoffman noted that the Committee and the Senate as a whole had eliminated the aforementioned \$34,600,000 proposed in the Governor's Operating Budget. Therefore, that amount should be added to the \$120,500,000. Thus, the total affect to the Operating Budget adopted by the Senate would be \$155 million.

Mr. Jeans affirmed.

[5:28:03 PM](#)

Mr. Jeans noted that neither of these items has yet been addressed by the Operating Budget Conference Committee.

Co-Chair Hoffman verified this to be true.

[5:28:16 PM](#)

Mr. Jeans noted that increasing the Base Student Allocation (BSA) from the current \$5,380 to \$5,580 would result in a \$23,700,000 increase in the FY 2009 budget.

[5:28:38 PM](#)

Co-Chair Stedman deduced therefore that the BSA for FY 08 would remain level.

Mr. Jeans confirmed that a BSA of \$5,380 would remain in effect for FY 08.

[5:28:57 PM](#)

Senator Dyson understood that eliminating the 50/50 match would increase the Municipality of Anchorage's property tax obligation by approximately \$34 million and the Matanuska-Susitna Borough's by approximately \$40 million over the next five years.

Mr. Jeans could not speak to how this legislation might affect an area's local tax base. "The required local effort within the foundation program may change in those amounts that you've suggested there."

[5:29:53 PM](#)

Mr. Jeans recalled having shared with the Committee, during a separate presentation on the foundation funding program, that the existing provision was "creating a disparity in the required local contribution amongst our municipalities." This will "bring uniformity back to that required local effort."

[5:30:07 PM](#)

Co-Chair Hoffman recalled that when that [unspecified] legislation was being considered by the Legislature, the Department had not been supportive of it.

Mr. Jeans could not recall the Department's position in that regard.

Co-Chair Hoffman stated that he would research the matter.

There being no further questions from the Committee, Co-Chair Stedman ordered the bill HELD in Committee.

#

[5:31:03 PM](#)

Co-Chair Stedman reviewed the Committee's forthcoming meeting schedule.

ADJOURNMENT

Co-Chair Bert Stedman adjourned the meeting at [5:31:15 PM](#).