

SENATE FINANCE COMMITTEE
March 4, 2008
9:13 a.m.

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at [9:13:43 AM](#).

MEMBERS PRESENT

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

MEMBERS ABSENT

None

ALSO PRESENT

Cliff Stone, Staff, Representative Wilson; Michael Eberhardt, Superintendent, Southeast, Division of Parks and Outdoor Recreation; Senator Bettye Davis, Sponsor; Tom Obermeyer, Staff, Senator Davis; Grey Mitchell, Director, Division of Labor Standards & Safety, Department of Labor & Work Force Development; Nancy Davis, Vice President, Alaska Nurses Association; Rod Betit, President, CEO, Alaska State Hospital and Nursing Home Association (ASHNHA); Senator Lesil McGuire, Sponsor; Pat Shier, Director, Division of Retirement and Benefits, Department of Administration Representative Peggy Wilson;

PRESENT VIA TELECONFERENCE

Harvey Brandt, Self, Sitka; Deborah Lyons, Executive director, Sitka Trail Works; Marlene Campbell, Citizens Advisory Board, Sitka; Ron Adler, Chief Executive Officer, Alaska Psychiatric Institute, (API); Susan Johnston, Director for Compensation and Benefits, Providence Hospital; Rebecca Bolling, Alaska Nurses Association, Ketchikan; Pat Huggins, Human Resource Director, North Star; Pamela Reid, register nurse; Tom Renkes, Executive Director, Alaska Nurses Association; Debbie Thompson, President, Alaska Nurses Association, Anchorage

SUMMARY

SB 28 "An Act relating to limitations on mandatory overtime for registered nurses and

licensed practical nurses in health care facilities; and providing for an effective date."

SB 28 was heard and HELD in Committee for further consideration.

SB 170 "An Act requiring that health care insurers provide insurance coverage for well-baby exams."

CSSB 170 was REPORTED out of Committee with a "do pass" recommendation and fiscal note #2 by the Department of Commerce Community & Economic Development.

CSHB 176(RES)

"An Act creating the Fort Rousseau Causeway State Historical Park."

CSHB 176(RES) was REPORTED out of Committee with a "do pass" recommendation and fiscal note #2 by the Department of Natural Resources.

SB 249 "An Act establishing the Alaska capstone avionics revolving loan fund and relating to the fund; and providing for an effective date."

SB 249 was SCHEDULED but not HEARD.

CS FOR HOUSE BILL NO. 176(RES)

"An Act creating the Fort Rousseau Causeway State Historical Park."

[9:14:45 AM](#)

REPRESENTATIVE PEGGY WILSON, Sponsor, presented HB 176. The legislation would establish Fort Rousseau Causeway State Historical Park. The area is currently managed under the Department of Transportation and Public Facilities (DOTPF). The legislation would transfer management to the Department of Natural Resources. In the build up for WWII, the Department of the Defense constructed fortifications at several locations encircling Sitka Sound. An 8,000 foot rock and gravel road was built connecting several small islands west of the then Navy's Sea Plane and Operating Base in Sitka. This causeway terminated at the Army's command headquarters named Fort Rousseau on Makhnati Island. The causeway has been added to the National Register of Historic places and designated a landmark by the National Park Service. To rehabilitate the Causeway, Sitka Trail Works has received federal and state grants, but cannot continue to proceed until the land is transferred to the Department of Natural Resources.

Co-Chair Stedman asked for more information regarding General Rousseo.

CLIFF STONE, STAFF, REPRESENTATIVE WILSON, explained that Rousseo was a brigadier general commissioned to accept Alaska on behalf of the United States on October 18, 1867. He also served 2 years in the United States House of Representatives and was buried in Arlington cemetery as a hero of the Civil War.

Co-Chair Hoffman, referencing fiscal note #2, asked if the \$14.5 thousand for personal services reflects costs for existing personnel or a new employee.

Mr. Stone understood that the fiscal note represented additional costs for existing personnel.

MICHAEL EBERHARDT, SUPERINTENDENT, SOUTHEAST, DIVISION OF PARKS AND OUTDOOR RECREATION, explained that the fiscal note represents additional funds for the existing park specialist position. The funds will be used for hiring additional seasonal employees to take over some of the more menial tasks in order for the park specialist to attend to needs of the Causeway.

Representative Wilson explained that there is a business plan for the Park. The plan indicates that modest tourism dollars would net approximately \$12,000.00 a year. As the program grows, a projected \$20,000 would be available for the General Fund.

Co-Chair Stedman asked how the Park is accessed. Representative Wilson said the area is accessible by boat.

Co-Chair Stedman asked why the area is not accessible by car. Representative Wilson explained that the area is closed off to traffic due to its proximity to the airport.

[9:21:27 AM](#)

Co-Chair Hoffman said there is no representation of contributions to the General Fund reflected in the fiscal note.

Mr. Eberhardt responded that the Department has not been involved with the private entity that authored the business plan since the area is not currently a state park. He had seen the numbers and agreed with them, but could not verify them.

Co-Chair Stedman provided some history of the site and observed that the Causeway is in front of Japonski Island.

He explained that there is a plan to put in a small dock to encourage the visitor industry to bring tourists in to visit the site. He further explained that considerable clean up is necessary, which requires addressing concerns regarding native historical sites.

Senator Thomas asked if there was a connection between Japonski Island and the mainland.

Co-Chair Stedman explained that a causeway was built by the military to bring equipment and artillery out to Japonski Island.

Senator Thomas asked if there was any connection to the mainland from Japonski Island. Co-Chair Stedman said Japonski Island is connected by the John W. O'Connell Bridge. Senator Thomas asked why the vehicle traffic had been cutoff. Co-Chair Stedman explained that vehicle access was cut off when the airport was built.

9:25:20 AM

HARVEY BRANDT, SELF, SITKA, testified via teleconference, a retired teacher and park ranger testified in support of HB 176. He provided some history of the Park, highlighting that some of the 150,000 young men and women who came to Alaska in WWII returned to make Alaska their home. He further pointed out the importance of the Tlingit Native history within the Park. He felt the establishment of the Park would promote and develop tourism in Sitka.

DEBORAH LYONS, EXECUTIVE DIRECTOR, SITKA TRAIL WORKS, testified via teleconference, in support of HB 176. The organization is in support of placing the management of the Causeway with the Division of Parks. Her organization has funds to continue to restore and renovate facilities. In answer to a question asked earlier regarding the business plan, she said numbers are based on comparisons of the existing tour company Sitka Bike and Hike. She informed the Committee that, in 2005, the company reported 4000 tours. In 2007, they reported an increase to 6000 tours. With that amount of visitors, she maintained that the revenue from tourism could pay for the Park's operation and supervision of the Causeway.

MARLENE CAMPBELL, CITIZENS ADVISORY BOARD, SITKA, testified via teleconference, in support of HB 176. She said citizens had worked for over two decades to get the Causeway into safe care to permit the public to access and enjoy the islands. She explained that the Department of Transportation and Public Facilities supports the transition to Park Management, which would allow for a plan to move forward. She maintained that the project is revenue positive and has the support of tourism companies and the

community. She further noted that Sitka Trail Works has received significant federal funds to clean up and restore the area.

[9:34:46 AM](#)

Co-Chair Stedman said the project provides the opportunity for state parks to be revenue positive rather than a cash consumer.

Senator Olson asked if any wild life concerns had been addressed with regards to the project.

Mr. Eberhardt clarified that a study regarding wildlife had not been done, since there are no plans for construction. He explained that the area is primarily used for picnicking and camping.

[9:37:07 AM](#)

Co-Chair Hoffman MOVED to REPORT CSHB 176 (RES) out of Committee with individual recommendations and the attached fiscal notes.

There being NO OBJECTION, it was so ordered.

CSHB 176(RES) was REPORTED out of Committee with a "do pass" recommendation and fiscal note #2 by the Department of Natural Resources.

AT EASE: [9:37:45 AM](#)

RECONVEINE: [9:42:36 AM](#)

SENATE BILL NO. 28

"An Act relating to limitations on mandatory overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date."

[9:42:43 AM](#)

SENATOR BETTYE DAVIS, SPONSOR, introduced SB 28.

TOM OBERMEYER, STAFF, SENATOR DAVIS, observed that SB 28 was modeled after Congressional Resolution #791. He read from the sponsor statement:

SB 28, hereafter also to be known as "The Alaska Safe Nursing and Patient Care Act," prevents Alaska registered and licensed practical nurses from being forced to work mandatory overtime, *i.e.*, compulsory as opposed to voluntary work in excess of an agreed to, predetermined, regularly scheduled shift, and it

protects patients from the dangers caused by overworked nurses. Too often Alaska's nurses are overworked, underpaid, and undervalued. This bill will improve the lives of nurses and their families and enhance the quality of patient care in communities across the state. It will let nurses decide if they can provide their same quality care while working overtime. SB 28 strictly limits the use of mandatory overtime for nurses to situations in which an official state of emergency is declared by federal, state or a local government, or other stated exceptions. It does, however, allow nurses to work overtime voluntarily when they feel they can continue to provide safe, quality care. This legislation also protects nurses from discrimination and retaliation by employers who continue to force them into working hours beyond what they believe safe for quality care. SB 28 requires that health care facilities monitor, document, and report overtime semiannually and face penalties for knowing violations. Faced with nursing shortages nationwide, Alaska needs to encourage and support nurses to enter and stay in the profession. SB 28 is a long overdue step in that direction.

[9:49:18 AM](#)

Senator Olson asked if the provision effected all nurses regardless of classification. Mr. Obermeyer clarified that the bill includes all licensed practical nurses and all registered nurses with some exceptions.

Senator Olson asked if rural hospitals had expressed concerns regarding mandatory overtime. Mr. Obermeyer said he had not heard from rural areas. He commented that there were members of nurse's organizations in the audience that could respond to the question. Senator Davis observed that there had been no testifiers from rural communities in any of the previous committee hearings.

Senator Olson stressed that unanticipated delays can happen in rural areas. He described situations that would not allow for the 10 hour rest requirement, specifically medical airlift situations. Mr. Obermeyer explained that there were changes made to SB 28 to accommodate emergency situations, specifically medical airlift situations.

Co-Chair Stedman asked if the legislation would provide a management tool to reduce the nursing gap. Senator Davis differed to the nurses association.

Co-Chair Stedman asked if the mandatory overtime is a negotiated labor issue.

Senator Davis said the issue should be worked out between employer and employee, but acknowledged that this was not happening. Nurses maintain that they are putting in more hours than is appropriate, hence the need for legislation.

[9:53:03 AM](#)

Co-Chair Stedman asked if the provision would alleviate the nursing shortage. Senator Davis responded that, though it might not alleviate the situation, it may promote retention of nurses in Alaska.

Senator Steadman asked who opposes SB 28. Senator Davis observed that that the Alaska State and Hospital and Nursing Home Association (ASHNHA) would be testifying in opposition to the bill.

Senator Steadman questioned the Department of Labor and Workforce Development's fiscal note for \$97.2 thousand for a new wage and hour investigator. He expected that the Committee would look at zeroing out the fiscal note.

GREY MITCHELL, DIRECTOR, DIVISION OF LABOR STANDARDS & SAFETY, DEPARTMENT OF LABOR & WORK FORCE DEVELOPMENT, addressed the \$97.2 thousand fiscal note. He explained the fiscal note represents the cost of one investigator to deal with complaints from nurses regarding mandatory overtime and discrimination issues. He said, as of February 28, 2008, there are potentially 10,000 complainants. He maintained that the fiscal note is conservative in view of the potential amount of complaints.

[9:55:21 AM](#)

Co-Chair Stedman asked if the Department supports SB 28. Mr. Mitchell said the Department has no position on the bill.

Senator Huggins asked if the provision is precedent setting. He further inquired if there are other mechanisms available to the Department to address the issue of mandatory overtime.

[9:59:54 AM](#)

Mr. Mitchell said he could not suggest another mechanism. He explained that if the provision is enacted the burden of enforcement falls on the Department of Labor and Workforce Development, as outlined in the provision.

Senator Huggins asked if there are any innovative ideas for addressing the issue.

Co-Chair Hoffman addressed the fiscal note and asked what the \$19.1 thousand under contractual represented.

[10:01:58 AM](#)

Mr. Mitchell explained that the contractual line represents a wide range of overhead costs. He clarified that the Department is not contracting with any entity.

Senator Olson asked how many complaint actions have been brought to the Department. Mr. Mitchell said there were approximately 500 wage claims filed per year.

Senator Elton asked how many wage and hour investigators were employed by the Department. Mr. Mitchell said there are 10 wage and hour investigators statewide.

Senator Elton reasoned that additional responsibilities added to the position would result in a 10 percent increase in the work load. Mr. Mitchell said that was a reasonable approximation.

Senator Elton surmised that if investigators were located around the State and no position was added, the travel and contractual component would be unnecessary. Mr. Mitchell said the travel component would be necessary as investigators need to travel to investigate complaints. Discrimination cases in particular require travel to the place where the complaint initiates.

Senator Elton ascertained that if there are investigators available around the state it would preclude the need for travel funds. Mr. Mitchell agreed that was a fair assessment.

[10:05:13 AM](#)

Senator Thomas asked if the fines imposed in SB 28 are standard for wage violations.

Mr. Mitchell said the fines proposed in SB 28 are civil fines. There are no civil fines pursued by the Wage and Hour Division under the wage enforcement requirements. In cases where an employee does not get paid overtime or minimum wage, the statute provides for liquidated damages to be paid to the employee. The difference in SB 28 is that civil penalties would be applied to those in violation of the provision to be paid to the state.

[10:06:49 AM](#)

RON ADLER, CHIEF EXECUTIVE OFFICER, ALASKA PSYCHIATRIC INSTITUTE, (API), testified via teleconference. He noted that API is neutral on the bill. He explained that if the

provision passed there would be ramifications for the hospital. He informed the Committee that prospective employees are notified that mandatory overtime is used. There have been not had a grievances filed to date.

SUSAN JOHNSTON, DIRECTOR FOR COMPENSATION AND BENEFITS, PROVIDENCE HOSPITAL, testified via teleconference, in opposition to SB 28. She stated that the hospital would rather work with the management team to address nurse's concerns. She informed the Committee that the hospital has provisions within the collective bargaining agreement to minimize overtime.

Senator Elton asked if the hospital had nurses who are working more than 14 hours without a 10 hour break between shifts. Ms. Johnston explained that the hospital does have nurses working overtime. She explained that there is a provision within the contract that provides premium pay for those with less than an eight hour break between shifts. There is no mandatory overtime at Providence Hospital.

Senator Elton asked for an explanation of mandatory overtime and questioned if it differs from mandatory call. Ms. Johnston replied that only three units in their largest hospital have mandatory call. Mandatory call requires nurses to be available "on call". Nurses are paid for that time. Nurses within that group understand the requirement when they are hired for the position.

Senator Elton asked if mandatory call can be applied even after a nurse has had a fourteen hour shift. Ms. Johnston confirmed that there is potential for that circumstance.

REBECCA BOLLING, ALASKA NURSES ASSOCIATION, KETCHIKAN, testified via teleconference, in support of SB 28. She explained the challenges and difficulties of working overtime. She said if a nurse is on call they can, after working a 12 hour shift, return five hours later and still work the regularly scheduled shift the next day. She added that mandatory overtime is frequently used in the operating room and poses a safety risk to both patients and staff. She further noted that the present conditions are not conducive for recruitment of new staff.

Senator Olson asked Ms. Bolling if there is equity in the request when considering some registered nurses serve in administrative positions, rather than direct patient care. Ms. Bolling said that administrative staff is not called in for mandatory overtime. Mandatory overtime is generally used for nurses in direct patient care.

[10:15:21 AM](#)

Senator Thomas asked if nurses work beyond a 12 hour shift within a 14 day period. Ms. Bolling said that it is routine with approximately 20 nurses working more than 80 hours in a week.

PAMELA REID, REGISTERED NURSE, testified via teleconference, in opposition to SB 28. She disagreed with the provision for three reasons: 10 hours rest required between shifts, restricted work hours to 14 hours, and no provision for bailor nurses. She explained that bailor nurses work a reduced number of hours, during inconvenient times, and are paid for working a full shift. She said there is no mandatory on call or overtime at North Star. She pointed out that the provision does not preclude nurses from putting in extra shifts at another facility. She recommended a change in Sec. 18.20.400 (c),6: delete "14 consecutive hours without a 10 hour break" insert "16 hours with 7.5 hour break". She concluded by requesting that language be added to address bailor nurses.

DEBBIE THOMPSON, PRESIDENT, ALASKA NURSES ASSOCIATION, ANCHORAGE, testified via teleconference, in support of SB 28. She outlined her history in the field. She noted the danger of overworked nurses and opined that nurses coming into the profession would not want to work in the current environment.

[10:25:12 AM](#)

TOM RENKES, EXECUTIVE DIRECTOR, ALASKA NURSES ASSOCIATION, testified via teleconference, testified in support of SB 28. He outlined his extensive work history in the nursing field and read from statement (copy on file).

In the last 5 months I have personally visited and spoke with nurses in Fairbanks Valdez, Anchorage, Wrangell, Ketchikan, Juneau, and Wasilla, as well as several groups of nursing students from UAA and their faculty. One hundred of those nurses interviewed said mandatory overtime is a problem in their career, while the students indicated they would not work at a facility where overtime was the rule and mandatory overtime was a policy.

There is major arbitration occurring as we speak for one facility's inability to offer meals and breaks to nurses during the course of a work day. There is another facility that has on RN on her 7th 12 hour shift in 8 days, which is why she cannot be here today. Finally, one nurse at a Southeast facility indicated it was just expected they take mandatory call because they always work short.

Mr. Renkes continued his testimony with a quote from the National Academy of Science, Institute of Medicine, Authored by John Howard MD: Report section 6.1 "To reduce error producing fatigue, state regulatory bodies should prohibit nursing staff from providing patient care in any combination of scheduled shift, mandatory overtime, volunteer overtime in excess of 12 hours in any given 24 hour period, in an excess of 60 hours in a seven day period". By 2002, eight states prohibited mandatory overtime, after the reports five other states immediately enacted legislation.

There is similar legislation nationally that covers airline pilots, railroad engineers, police officers, firefighters, maritime personnel, physicians and pilots in military combat. He referenced an editorial on fatigue from February 27, 2008, Anchorage Daily News. The article mentioned several cases of fatigue among nursing staff and determined that by increasing nursing staff to reduce fatigue, hospitals could save money. He informed the Committee that there are 9,000 registered nurses licensed in the state. Six thousand registered nurses live in Alaska: 4,500 work in acute care. It has been proven by the Board of Nursing that newly licensed nurses are leaving Alaska due to the work environment.

Senator Elton asked if patients have the right to request a nurse that has worked only four hours that day. Mr. Renkes said a patient does not have that right.

[10:30:16 AM](#)

NANCY DAVIS, VICE PRESIDENT, ALASKA NURSES ASSOCIATION, testified in support of SB 28 and outlined her history in the nursing field. She provided some information on the Bailor plan explaining that originally the intent was to establish two, 12 hour nursing shifts to cover weekends. The plan has changed considerably from its original intent. She maintained that extending the shifts creates a safety risk to patients as well as to the nursing staff. She informed the Committee that in the Gallup poll nurses have been rated as the number one profession for professional honesty and ethics. As an extension of that, patients expect that nurses speak for patient safety. She asked the Committee to support nurses and patient safety by passing SB 28.

ROD BETIT, PRESIDENT, CEO, ALASKA STATE HOSPITAL AND NURSING HOME ASSOCIATION (ASHNHA), testified in opposition to SB 28. He presented a chart, ASHNHA 2004 and 2005 Nurse Overtime Survey Results - Version 'D', 2/03/06 (copy on file). He clarified that 10 of the facilities represented in the chart have negotiated labor agreements governing mandatory overtime. The other 21 facilities deal with overtime issues among staff. The survey revealed that there is no significant use of mandatory overtime other than at the

Alaska Psychiatric Institute. He explained that the psychiatric facilities have unique circumstances that require the need for mandatory overtime. He further clarified that there is an expectation that nurses be on call in certain units. He pointed out that the mandatory overtime for Bartlett Hospital is a result of excess hours of nurses in surgery. He further explained that there is a pattern of temporary nurse hours purchased to fill the gap in nursing hours.

Mr. Betit reported that ASHNA has been working with the University Of Alaska Anchorage to improve the nursing shortage. Members of ASHNHA contribute financially to the expanded nursing program, which is now producing 200 nurses a year with 93% of the nurses continuing to work in Alaska. ASHNHA has not seen supportive documentation that mandatory overtime is a problem and does not support SB 28.

Senator Elton referenced earlier comments regarding Bartlett Regional Hospital mandatory overtime for operating room (OR) nurses. He asked if mandatory overtime for OR nurses is an issue for other facilities. Mr. Betit said at other facilities OR nurses have worked out the issue through labor agreements.

Senator Elton referenced the chart and asked if "on-call" represents mandatory overtime. Mr. Betit confirmed that was correct.

Senator Elton asked who had been surveyed. Mr. Betit said the survey went to each CEO of the facilities to give to their personnel department to collect the information.

Senator Thomas asked what hospitals consider a safe amount of hours for someone to work in acute care. Mr. Betit said the facilities consider that with staff when scheduling.

[10:38:41 AM](#)

Senator Thomas asked if the hours are based on a five day work week. Mr. Betit explained that if you are working a 12 hour shift, typically that would be a three day week.

Senator Thomas asked why Providence Hospital was not represented in the temporary nursing hour's column. Mr. Betit said they do have temporary nurses, but their data was not collected in that specific detail.

[10:39:50 AM](#)

Senator Olson asked how many lawsuits have been filed against any of the institutions due to mistakes made by nurses. Mr. Betit said he is unaware of any lawsuits and referenced the chart.

Senator Elton asked if the grievances are filed by nurses or patients. Mr. Betit said the chart represents grievances filed by nurses.

In response to Senator Elton's question, Mr. Betit said a grievance can be filed any time a person feels they have been treated inappropriately by an employer.

Senator Elton asked if patients can request a nurse that is not on overtime.

[10:41:35 AM](#)

Mr. Betit said he did not think that was possible at any facility. He offered to follow up on the question.

Senator Olson asked if physicians have commented on the provision. Senator Davis said that there is one letter of support from Dr. Patrick Nolan in the packets.

SB 28 was HEARD and HELD in Committee for further consideration.

AT EASE: [10:43:44 AM](#)
RECONVIENE: [10:44:15 AM](#)
SENATE BILL NO. 170

"An Act requiring that health care insurers provide insurance coverage for well-baby exams."

Co-Chair Hoffman MOVED to ADOPT Work Draft for SB 170, 25-LS0868/K. There being NO OBJECTION, it was so ordered.

SENATOR LESIL MCGUIRE, SPONSOR, explained that the Committee Substitute changes the coverage for well baby exams from a mandated coverage to a mandated offering. She explained that the National Federation of Independent Business (NFIB) expressed some concern that smaller businesses may not see a benefit to providing well baby coverage. The changes in the Committee Substitute represent a compromise to address those concerns.

Co-Chair Stedman pointed out a letter form NFIB withdrawing their previous opposition to the bill. He also noted that Senator Huggins had requested the Sponsor submit the income guidelines for Denali Kid Care (copy on file).

PAT SHIER, DIRECTOR, DIVISION OF RETIREMENT AND BENEFITS, DEPARTMENT OF ADMINISTRATION, testified in support of the Committee Substitute. He informed the Committee that Commissioner Kreitzer had just signed a memo adding well baby coverage for the 5,500 state employees covered under

the select benefits plan. The addition of that coverage was the result of part of an extensive cost benefit analysis. He observed that consultants identified a return of \$4.30 in direct medical costs savings for every \$1.00 invested in routine child immunizations.

Co-Chair Stedman asked if the Department is in support of the legislation. Mr. Shier said the Department could not comment on what the effects may be for the insurance industry. He maintained that for the State's self-insured plan, the bill makes fiscal sense.

Co-Chair Hoffman MOVED to REPORT CSSB 170 (FIN) out of Committee with individual recommendations and the attached fiscal notes.

There being NO OBJECTION, CSSB 170 (FIN) version K was moved from Committee with individual recommendations and attached fiscal notes.

ADJOURNMENT

The meeting was adjourned at 10:49 AM