

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 7, 2008

2:21 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Charlie Huggins, Vice Chair
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Gene Therriault

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 25

"An Act relating to landowners' immunity for allowing use of land without charge for a recreational activity; relating to landowners' liability where landowner conduct involves gross negligence or reckless or intentional misconduct; relating to claims of adverse possession and prescriptive easements, or similar claims; and providing for an effective date."

MOVED SCS HB 25(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 196(JUD)

"An Act relating to the handling of matters after a person's death."

MOVED SCS CSHB 196(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 354(JUD)

"An Act relating to adoptions, to subsidies for a hard-to-place child, to criminal sanctions for unlawful disclosure of confidential information pertaining to a child, to child support orders in child-in-need-of-aid and delinquency proceedings, and to civil actions on behalf of children in need of aid who are injured or die while in state custody; and providing for an effective date."

MOVED CSHB 354(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 331(L&C)

"An Act relating to motor vehicle insurance, license suspensions, and notices relating to motor vehicles and notices relating to driver's licenses."

MOVED CSHB 331(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 333

"An Act relating to the reporting of child pornography."

HEARD AND HELD

CS FOR HOUSE JOINT RESOLUTION NO. 28(FIN)

Proposing amendments to the Constitution of the State of Alaska relating to the budget reserve fund, and to appropriations to and transfers from the fund; and dedicating a portion of the petroleum production tax to the fund.

MOVED CSHJR 28(FIN) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 305(RLS) am

"An Act relating to campaign fund raising during a regular or special legislative session; and providing for an effective date."

MOVED SCS CSHB 305(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 25

SHORT TITLE: PUBLIC RECREATIONAL EASEMENTS/IMMUNITY

SPONSOR(S): REPRESENTATIVE(S) SEATON, WILSON

01/16/07	(H)	PREFILE RELEASED 1/5/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	RES, JUD
01/24/07	(H)	RES AT 1:00 PM CAPITOL 124
01/24/07	(H)	Moved Out of Committee
01/24/07	(H)	MINUTE(RES)
01/25/07	(H)	RES RPT 8DP
01/25/07	(H)	DP: GUTTENBERG, EDGMON, SEATON, KAWASAKI, WILSON, ROSES, JOHNSON, GATTO
01/31/07	(H)	JUD AT 1:00 PM CAPITOL 120
01/31/07	(H)	Heard & Held
01/31/07	(H)	MINUTE(JUD)
02/01/07	(H)	JUD AT 1:00 PM CAPITOL 120
02/01/07	(H)	Heard & Held
02/01/07	(H)	MINUTE(JUD)
02/05/07	(H)	JUD AT 1:00 PM CAPITOL 120
02/05/07	(H)	Moved Out of Committee

02/05/07 (H) MINUTE(JUD)
 02/07/07 (H) JUD RPT 1DP 3NR
 02/07/07 (H) DP: LYNN
 02/07/07 (H) NR: GRUENBERG, HOLMES, SAMUELS
 02/12/07 (H) TRANSMITTED TO (S)
 02/12/07 (H) VERSION: HB 25
 02/14/07 (S) READ THE FIRST TIME - REFERRALS
 02/14/07 (S) RES, JUD
 03/02/07 (S) RES AT 3:30 PM BUTROVICH 205
 03/02/07 (S) Heard & Held
 03/02/07 (S) MINUTE(RES)
 04/02/07 (S) RES AT 3:30 PM BUTROVICH 205
 04/02/07 (S) Moved HB 25 Out of Committee
 04/02/07 (S) MINUTE(RES)
 04/04/07 (S) RES RPT 2DP 4NR 1AM
 04/04/07 (S) DP: HUGGINS, STEVENS
 04/04/07 (S) NR: GREEN, MCGUIRE, STEDMAN,
 WAGONER
 04/04/07 (S) AM: WIELECHOWSKI
 02/20/08 (S) JUD AT 1:30 PM BELTZ 211
 02/20/08 (S) Heard & Held
 02/20/08 (S) MINUTE(JUD)
 04/07/08 (S) JUD AT 2:15 PM BELTZ 211

BILL: HB 196

SHORT TITLE: HANDLING MATTERS AFTER A PERSON'S DEATH
 SPONSOR(S): JUDICIARY

03/14/07 (H) READ THE FIRST TIME - REFERRALS
 03/14/07 (H) JUD
 04/04/07 (H) JUD AT 1:00 PM CAPITOL 120
 04/04/07 (H) Heard & Held
 04/04/07 (H) MINUTE(JUD)
 04/10/07 (H) JUD AT 1:00 PM CAPITOL 120
 04/10/07 (H) Moved CSHB 196(JUD) Out of
 Committee
 04/10/07 (H) MINUTE(JUD)
 04/11/07 (H) JUD RPT CS(JUD) 5DP 1NR
 04/11/07 (H) DP: GRUENBERG, LYNN, COGHILL,
 HOLMES, RAMRAS
 04/11/07 (H) NR: SAMUELS
 04/20/07 (H) TRANSMITTED TO (S)
 04/20/07 (H) VERSION: CSHB 196(JUD)
 04/23/07 (S) READ THE FIRST TIME - REFERRALS
 04/23/07 (S) L&C, STA, JUD
 02/21/08 (S) L&C AT 1:30 PM BELTZ 211
 02/21/08 (S) Heard & Held

02/21/08 (S) MINUTE(L&C)
 03/06/08 (S) L&C AT 1:30 PM BELTZ 211
 03/06/08 (S) Moved SCS CSHB 196(L&C) Out of
 Committee
 03/06/08 (S) MINUTE(L&C)
 03/10/08 (S) L&C RPT SCS 3DP SAME TITLE
 03/10/08 (S) DP: ELLIS, BUNDE, DAVIS
 04/01/08 (S) STA RPT SCS 2DP 3NR NEW TITLE
 04/01/08 (S) DP: MCGUIRE, BUNDE
 04/01/08 (S) NR: FRENCH, STEVENS, GREEN
 04/01/08 (S) STA AT 9:00 AM BELTZ 211
 04/01/08 (S) Moved SCS CSHB 196(STA) Out of
 Committee
 04/01/08 (S) MINUTE(STA)
 04/07/08 (S) JUD AT 1:30 PM BELTZ 211

BILL: HB 354

SHORT TITLE: CHILD IN NEED OF AID/ADOPTIONS

SPONSOR(S): REPRESENTATIVE(S) COGHILL

02/06/08 (H) READ THE FIRST TIME - REFERRALS
 02/06/08 (H) HES, JUD, FIN
 02/28/08 (H) HES AT 3:00 PM CAPITOL 106
 02/28/08 (H) Moved CSHB 354(HES) Out of
 Committee
 02/28/08 (H) MINUTE(HES)
 02/29/08 (H) HES RPT CS(HES) NT 7DP
 02/29/08 (H) DP: CISSNA, KELLER, GARDNER,
 FAIRCLOUGH, SEATON, ROSES, WILSON
 03/13/08 (H) JUD AT 1:00 PM CAPITOL 120
 03/13/08 (H) Moved CSHB 354(JUD) Out of
 Committee
 03/13/08 (H) MINUTE(JUD)
 03/17/08 (H) JUD RPT CS(JUD) NT 5DP
 03/17/08 (H) DP: GRUENBERG, COGHILL, DAHLSTROM,
 HOLMES, RAMRAS
 03/18/08 (H) FIN REFERRAL WAIVED
 03/27/08 (H) TRANSMITTED TO (S)
 03/27/08 (H) VERSION: CSHB 354(JUD)
 03/28/08 (S) READ THE FIRST TIME - REFERRALS
 03/28/08 (S) HES, JUD
 03/31/08 (S) HES AT 1:30 PM BUTROVICH 205
 03/31/08 (S) Moved CSHB 354(JUD) Out of
 Committee
 03/31/08 (S) MINUTE(HES)
 04/01/08 (S) HES RPT 4DP 1NR
 04/01/08 (S) DP: DAVIS, THOMAS, DYSON, COWDERY

04/01/08 (S) NR: ELTON
04/07/08 (S) JUD AT 1:30 PM BELTZ 211

BILL: HB 331

SHORT TITLE: MOTOR VEHICLES:LICENSES/INSURANCE/NOTICES

SPONSOR(s): REPRESENTATIVE(s) ROSES

01/18/08 (H) READ THE FIRST TIME - REFERRALS
01/18/08 (H) L&C, JUD
02/20/08 (H) L&C AT 3:00 PM CAPITOL 17
02/20/08 (H) Moved CSHB 331(L&C) Out of
Committee
02/20/08 (H) MINUTE(L&C)
02/21/08 (H) L&C RPT CS(L&C) NT 1DP 3NR 3AM
02/21/08 (H) DP: GARDNER
02/21/08 (H) NR: LEDOUX, RAMRAS, OLSON
02/21/08 (H) AM: BUCH, NEUMAN, GATTO
03/12/08 (H) JUD AT 1:00 PM CAPITOL 120
03/12/08 (H) Moved CSHB 331(L&C) Out of
Committee
03/12/08 (H) MINUTE(JUD)
03/13/08 (H) JUD RPT CS(L&C) NT 3DP 3NR
03/13/08 (H) DP: COGHILL, DAHLSTROM, RAMRAS
03/13/08 (H) NR: GRUENBERG, SAMUELS, HOLMES
03/19/08 (H) TRANSMITTED TO (S)
03/19/08 (H) VERSION: CSHB 331(L&C)
03/21/08 (S) READ THE FIRST TIME - REFERRALS
03/21/08 (S) L&C, JUD
04/03/08 (S) L&C AT 1:30 PM BELTZ 211
04/03/08 (S) Heard & Held
04/03/08 (S) MINUTE(L&C)
04/05/08 (S) L&C AT 11:00 AM BELTZ 211
04/05/08 (S) Moved CSHB 331(L&C) Out of
Committee
04/05/08 (S) MINUTE(L&C)
04/06/08 (S) L&C RPT 2DP 1NR
04/06/08 (S) DP: ELLIS, DAVIS
04/06/08 (S) NR: STEVENS
04/07/08 (S) JUD AT 1:30 PM BELTZ 211

BILL: HB 333

SHORT TITLE: COMPUTER PERSONS REPORT CHILD PORNOGRAPHY

SPONSOR(s): REPRESENTATIVE(s) FAIRCLOUGH

01/18/08 (H) READ THE FIRST TIME - REFERRALS
01/18/08 (H) JUD
03/13/08 (H) JUD AT 1:00 PM CAPITOL 120

03/13/08 (H) Moved Out of Committee
03/13/08 (H) MINUTE(JUD)
03/17/08 (H) JUD RPT 5DP
03/17/08 (H) DP: GRUENBERG, COGHILL, DAHLSTROM,
HOLMES, RAMRAS
03/27/08 (H) TRANSMITTED TO (S)
03/27/08 (H) VERSION: HB 333
03/28/08 (S) READ THE FIRST TIME - REFERRALS
03/28/08 (S) JUD
04/07/08 (S) JUD AT 1:30 PM BELTZ 211

BILL: HJR 28

SHORT TITLE: CONST. AM: BUDGET RES. FUND/OIL & GAS TAX

SPONSOR(s): REPRESENTATIVE(s) SAMUELS

01/11/08 (H) PREFILE RELEASED 1/11/08
01/15/08 (H) READ THE FIRST TIME - REFERRALS
01/15/08 (H) JUD, FIN
01/25/08 (H) JUD AT 1:00 PM CAPITOL 120
01/25/08 (H) -- MEETING CANCELED --
01/28/08 (H) JUD AT 1:00 PM CAPITOL 120
01/28/08 (H) Heard & Held
01/28/08 (H) MINUTE(JUD)
02/04/08 (H) JUD AT 1:00 PM CAPITOL 120
02/04/08 (H) Heard & Held
02/04/08 (H) MINUTE(JUD)
02/06/08 (H) JUD AT 1:00 PM CAPITOL 120
02/06/08 (H) Moved CSHJR 28(JUD) Out of
Committee
02/06/08 (H) MINUTE(JUD)
02/08/08 (H) JUD RPT CS(JUD) NT 2DP 3NR 1AM
02/08/08 (H) DP: SAMUELS, RAMRAS
02/08/08 (H) NR: COGHILL, DAHLSTROM, HOLMES
02/08/08 (H) AM: DOOGAN
02/12/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/12/08 (H) Heard & Held
02/12/08 (H) MINUTE(FIN)
02/21/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/21/08 (H) Scheduled But Not Heard
02/22/08 (H) FIN AT 1:35 PM HOUSE FINANCE 519
02/22/08 (H) Heard & Held
02/22/08 (H) MINUTE(FIN)
03/04/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
03/04/08 (H) Moved CSHJR 28(FIN) Out of
Committee
03/04/08 (H) MINUTE(FIN)
03/10/08 (H) FIN RPT CS(FIN) NT 4DP 3NR

03/10/08 (H) DP: HAWKER, CRAWFORD, THOMAS,
MEYER
03/10/08 (H) NR: GARA, STOLTZE, JOULE
03/19/08 (H) TRANSMITTED TO (S)
03/19/08 (H) VERSION: CSHJR 28(FIN)
03/21/08 (S) READ THE FIRST TIME - REFERRALS
03/21/08 (S) JUD, FIN
04/04/08 (S) JUD AT 1:30 PM BELTZ 211
04/04/08 (S) Heard & Held
04/04/08 (S) MINUTE(JUD)
04/07/08 (S) JUD AT 2:15 PM BELTZ 211

BILL: HB 305

SHORT TITLE: CAMPAIGN FUND RAISING DURING SESSIONS
SPONSOR(S): REPRESENTATIVE(S) MEYER

01/11/08 (H) PREFILE RELEASED 1/11/08
01/15/08 (H) READ THE FIRST TIME - REFERRALS
01/15/08 (H) STA
01/22/08 (H) STA AT 8:00 AM CAPITOL 106
01/22/08 (H) Moved CSHB 305(STA) Out of
Committee
01/22/08 (H) MINUTE(STA)
01/23/08 (H) STA RPT CS(STA) NT 4DP 2NR
01/23/08 (H) DP: JOHNSON, JOHANSEN, ROSES, LYNN
01/23/08 (H) NR: COGHILL, DOLL
02/04/08 (H) RLS AT 4:30 PM CAPITOL 106
02/04/08 (H) Moved CSHB 305(RLS) Out of
Committee
02/04/08 (H) MINUTE(RLS)
02/06/08 (H) RLS RPT CS(RLS) NT 5DP 2AM
02/06/08 (H) DP: FAIRCLOUGH, HARRIS, KERTTULA,
SAMUELS, COGHILL
02/06/08 (H) AM: GUTTENBERG, JOHNSON
02/06/08 (H) RETURNED TO RLS COMMITTEE
02/19/08 (H) MOVED TO RETURN TO SECOND TO
RESCIND ACTION
02/19/08 (H) LEDOUX ABSTAIN VOTING FLD Y18 N17
E5 PER UR 34(B)
02/20/08 (H) TRANSMITTED TO (S)
02/20/08 (H) VERSION: CSHB 305(RLS) AM
02/21/08 (S) READ THE FIRST TIME - REFERRALS
02/21/08 (S) STA
02/21/08 (S) JUD REFERRAL ADDED BEFORE STA
04/05/08 (S) JUD AT 9:00 AM BUTROVICH 205
04/05/08 (S) Heard & Held
04/05/08 (S) MINUTE(JUD)

04/07/08

(S)

JUD AT 2:15 PM BELTZ 211

WITNESS REGISTER

KATIE SHOWS, Staff

to Representative Paul Seaton

POSITION STATEMENT: Introduced HB 25 on behalf of the sponsor.

REPRESENTATIVE JAY RAMRAS

Alaska State Capitol

Juneau, AK

POSITION STATEMENT: Sponsor of HB 196.

JANE PIERSON, Staff

to Representative Ramras

Alaska State Capitol

Juneau, AK

POSITION STATEMENT: Answered questions related to HB 196.

ROBERT MANLEY, Attorney at Law

Anchorage, AK

POSITION STATEMENT: Provided information related to HB 196.

MICHAEL c. GERAGHTY, Attorney at Law

and State Law Commissioner

National Conference of Commissioners

on Uniform State Laws (NCCUSL)

Anchorage, AK

POSITION STATEMENT: Provided information related to HB 196.

SHERRY BADILLO-MARINO (ph), Volunteer

Life Alaska

Anchorage, AK

POSITION STATEMENT: Testified in support of HB 196.

RYNNIEVA MOSS, Staff

to Representative John Coghill

Alaska State Capitol

Juneau, AK

POSITION STATEMENT: Introduced HB 354 on behalf of the sponsor.

SUSAN COX, Assistant Attorney General

Civil Division

Department of Law (DOL)
Juneau, AK

POSITION STATEMENT: Provided information on Section 6 of
HB 354.

CRYSTAL KOENEMAN, Staff
to Rep Roses
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Introduced HB 331 on behalf of the
sponsor.

WHITNEY BREWSTER, Director
Division of Motor Vehicles
Department of Administration
Juneau, AK

POSITION STATEMENT: Answered questions related to HB 331.

REPRESENTATIVE ANNA FAIRCLOUGH
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Sponsor of HB 333

LINDA HAY, Staff
to Representative Ralph Samuels
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Co-Sponsor of HJR 28

MIKE POWLOWSKI, Staff
to Representative Meyer
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Introduced HB 305 on behalf of the
sponsor.

ACTION NARRATIVE

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing
Committee meeting to order at [2:21:46 PM](#). Present at the
call to order were Senators French, Huggins, McGuire, and
Wielechowski.

HB 25-RECREATIONAL LAND USE LIABILITY/ADV. POSS

[2:22:08 PM](#)

CHAIR FRENCH announced the consideration of HB 25 and asked for a motion to adopt the Senate committee substitute (CS).

SENATOR WIELECHOWSKI moved to adopt the Senate CS for HB 25, 25-LS0174\C, Bailey, as the working document.

CHAIR FRENCH objected for discussion purposes. He explained that the CS makes three changes. First, on page 1, line 10, the phrase "directly or indirectly" was deleted. It is no longer needed since the bill now requires that landowners directly allow the use of their property through the filing of an easement. Next, on page 2, lines 7-8, a new subsection (b) was added to clarify that improved land does not include buildings, structures, machinery, or equipment. Finally, new Sections 2, 3, and 4 were added outlining a procedure for recording the public easements and establishing that a recording fee will not be charged. He believes the sponsor will support the changes.

[2:23:57 PM](#)

KATIE SHOWS, Staff to Representative Paul Seaton, sponsor of HB 25, affirmed that the sponsor supports the changes.

CHAIR FRENCH removed his objection and finding no further objection, announced that the CS is before the committee. He noted the letter of intent that provides sample language for drafting an easement and highlighted that people that grant the public free use of a portion of their land will get better liability coverage in exchange.

[2:25:14 PM](#)

SENATOR HUGGINS moved to adopt the letter of intent.

CHAIR FRENCH found no objection, and announced the letter of intent is adopted. Also, a title change concurrent resolution will accompany the bill from committee to reflect the use of public easements and that collecting fees for recording the easements is prohibited. Finding no further committee discussion, he asked for a motion.

SENATOR WIELECHOWSKI motioned to report [Senate] CS for HB 25, Version \C, from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection, SCS HB 25(JUD), 25-LS0174\C, is moved from the Senate Judiciary Committee.

SENATOR McGUIRE motioned to report a conforming title change resolution from the Senate Judiciary Committee. There being no objection, it was so ordered.

CSHB 196(JUD) - HANDLING MATTERS AFTER A PERSON'S DEATH

CHAIR FRENCH announced the consideration of HB 196. [The committee was working from SCS CSHB 196(L&C).]

[2:27:17 PM](#)

REPRESENTATIVE JAY RAMRAS, Sponsor of HB 196, said this legislation updates the statutes on wills and addresses the subject of anatomical gifts

JANE PIERSON, Staff to Representative Ramras, explained that the estate portion of HB 196 is in Sections 1-5 and Section 37. It provides a penalty clause for contesting a will or instituting other proceedings even if there is probable cause, which is in alignment with provisions in revocable trusts. Also, it amends AS 13.16.680(a) to change the statement in an affidavit to be used by a decedent's successor to collect personal property in a small estate to say that The statement says that the estate does not consist of vehicles worth more than \$100,000 or personal property worth more than \$100,000. The bill also lays out protections for benefits paid under life insurance and retirement plans.

[2:29:22 PM](#)

MS. PIERSON highlighted an issue that the committee might wish to consider. Section 2, page 2, line 10, says that a small estate can be passed to a successor via an affidavit if the personal property is valued at less than \$100,000. Initially the bill increased the amount from the current \$15,000 to \$25,000 and then the Senate Labor and Commerce Committee amended it to \$100,000. The attorneys working on the bill believe \$50,000 would be more in line with Alaska's other statute on small estate administration, which allows a short probate if the estate is less than \$55,000 and assuming there is a spouse or minor children.

REPRESENTATIVE RAMRAS noted that the figure was raised at the request of Senator Bunde.

MS. PIERSON relayed that the trust attorneys believe this may be problematic. In the circumstance of two successors

of interest, one could write an affidavit that he or she was the successor of interest and remove \$100,000 from the estate. That's a lot of money that couldn't be recouped, she said.

REPRESENTATIVE RAMRAS restated that all the parties worked cooperatively and they suggest that a fair accommodation is to roll the amount back to \$50,000.

CHAIR FRENCH flagged that as a point for further discussion and noted the individuals who would be testifying on the trust principles and the anatomical gifts.

MS. PIERSON said the rest of the bill clarifies and updates statutes dealing with anatomical gifts. That portion of the bill was drafted cooperatively with the Department of Law, the Department of Health and Social Services, the Office of the State Medical Examiner, Life Alaska Donor Services, and representatives from the National Conference on Commissioners on Uniform State Laws to ensure a sound piece of legislation. The provisions are drawn from the Uniform Anatomical Gift Act (UAGA) that aims to harmonize anatomical gift laws in all 50 states. Similarly, HB 196 aims to facilitate organ and tissue donation and transplants. It removes obstacles in the donation process and hopefully it will increase participation in organ donor programs.

MS PIERSON said that there have been significant changes in this field over the years and HB 196 will bring Alaska into line with these changes. Close to thirty percent of the state's population participate in the Alaska donor registry program, but more can be done. Currently in this state 180 patients are awaiting life-saving transplants and many more are awaiting tissue transplants. This bill improves the anatomical gift laws in Alaska and encourages badly needed organ donations that will save and improve lives statewide and throughout the country.

[2:33:42 PM](#)

SENATOR THERRIAULT joined the meeting.

REPRESENTATIVE RAMRAS added that in spite of the strides that hospitals across the state have made, Alaska currently does not have the breadth of services available to do anything but harvest organs. Alaska does have an intrastate compact with other states to accommodate organ and tissue

donations, but it's important to update these laws so that Alaska conforms with other states and can continue to facilitate this life-giving service, he said.

[2:36:16 PM](#)

SENATOR THERRIAULT asked if the wills and probate subcommittee of the Alaska Bar had reviewed the bill.

MS. PIERSON replied it has been vetted through them.

CHAIR FRENCH said that Section 1 seems to flip current law with respect to the ability of a person to challenge a will. Current law says:

A provision in a will purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings.

Under that law a person would not be penalized for challenging a will as long as there is probable cause. As currently drafted HB 196 says that the penalty clause is in effect and enforceable even if probable cause exists for instituting proceedings. He asked if that is a huge change and if it's becoming the majority rule.

[2:38:20 PM](#)

ROBERT MANLEY, Attorney at Law, said he is part of the group of estate planning attorneys who work on keeping Alaska trust law current and efficient so that Alaskans can have their wishes implemented with a minimum of expense and tax cost. He explained that Section 1 brings the law governing wills into conformity with current law governing revocable trusts. Those are the two primary vehicles used in estate planning and there are various reasons for using one versus the other. Trust law currently provides that a no-contest clause is effective regardless of probable cause for bringing a challenge to the trust.

CHAIR FRENCH asked if it's a uniform provision or the majority rule with respect to trusts, that you can not institute challenge proceedings penalty free if that clause is in the trust.

MR. MANLEY replied he believes that from a statutory point of view it's the minority rule, and probably the minority

rule from a general judicial point of view where the issue isn't specifically addressed by the statute.

CHAIR FRENCH asked about the will side of the equation.

MR. MANLEY explained that the will provision provides that if there is a no-contest clause and there is probable cause to bring a contest, then the penalty set forth wouldn't be effective or enforceable. A no-contest clause simply indicates that a beneficiary is provided something under a will or trust, but if the beneficiary objects to the gift or to the other provisions he or she is at risk of losing that gift. For example, if a decedent wanted to favor his children and stepchildren equally, in the absence of an effective no-contest clause, the children who might gain greater benefit if the will was ineffective could challenge the capacity of the individual making the will without any risk of loss. There may be very good reasons for excluding or favoring one person or entity over another, and without this provision it makes it too easy for the person who benefits less, to leverage the risk of litigation and the potential challenge and extract some sort of settlement. He noted that this isn't applicable with respect to spouses; they are protected under different provisions. This applies to children, shirttail relatives and the like, but if there is a true case of undue influence, then the no-contest clause is ineffective because the entire instrument is ineffective. This is simply a way for testators to preserve their plan, he said.

[2:42:50 PM](#)

MR. MANLEY said that the trust provision makes Alaska a more favored jurisdiction to administer trusts. The no-contest provision was added to bring the laws governing wills into conformity with the laws governing trusts and allow people to do, with simpler less expensive wills, what they could do with trusts, he said.

CHAIR FRENCH responded that that's the source of his concern. He thinks of trusts as belonging to a more sophisticated class of testators while wills fall on the lower end of the sophistication scale. This statute has been on the books for a long time and he sees probable cause as the barrier to bad challenges. If there is probable cause, he questions whether a person should be penalized for bringing a challenge. He asked how many

jurisdictions have a clause that's similar to the one that's being proposed in Section 1.

MR. MANLEY said he doesn't know, but he could get the information and forward it to the committee.

CHAIR FRENCH said that's important to him. Alaska has adopted an aggressive set of trust laws to attract sophisticated investors nationwide, but he's had a lingering concern about this provision.

MR. MANLEY observed that if Alaska laws on wills and trusts don't conform, that allows the person wishing to provide for a no-contest clause to do so by spending more money on lawyers. It doesn't seem reasonable to deny that ability to less sophisticated people, he said. Also, we usually have a good indication of what a testator or decedent wanted to do because that's what's in the trust or will. Anyone challenging that is trying to defeat their intent rather than figuring it out.

CHAIR FRENCH said those are good points. Acknowledging that it's somewhat weak to make a decision by counting jurisdictions with a similar provision, he relayed that at some level he needs to know how prevalent this is in will and trust law across the country.

MR. MANLEY agreed to get the information, hopefully by the end of day.

[2:47:21 PM](#)

SENATOR MCGUIRE said she respects the right of an individual to put what they want in their will, but there's a healthy tension in current law that allows people to challenge wills and she'd hate to quash or chill any healthy debate.

CHAIR FRENCH turned to Section 2 and clarified that the suggestion that was made pertains to subparagraph (B). Current statute allows a person to use an affidavit to pass their personal property if the entire estate is worth less than \$15,000. The current draft proposes that an affidavit can be used if vehicles in the estate are not worth more than \$100,000 and the personal property does not exceed \$100,000. The suggestion was to reduce the value of the personal property to not exceed \$50,000.

MS. PIERSON agreed that was the suggestion.

CHAIR FRENCH asked for an explanation for keeping the total value of vehicles at \$100,000 and dropping personal property to \$50,000.

REPRESENTATIVE RAMRAS commented that this accommodates motor homes and campers.

MS. PIERSON added that vehicles are titled and won't be dissipated.

CHAIR FRENCH moved Amendment 1.

AMENDMENT 1

Page 2, line 10 following "exceed"
Delete "\$100,000"
Insert "\$50,000"

SENATOR McGUIRE objected for discussion purposes. She asked what year the underlying statute was crafted that came to the \$15,000 figure.

MS. PIERSON replied she isn't sure, but believes it was in the '60s.

MR. MANLEY clarified that in 1962 the amount was \$6,000 and in 1984 it was adjusted to \$15,000.

SENATOR McGUIRE removed her objection and said that this is a good provision; probate can be onerous.

CHAIR FRENCH announced that without objection Amendment 1 is adopted.

CHAIR FRENCH turned to the anatomical gift portion of the bill beginning with Section 5 and asked Mr. Geraghty to explain those provisions.

MICHAEL C. GERAGHTY, Attorney at Law, and State Law Commissioner to the National Conference of Commissioners on Uniform State Laws (NCCUSL), explained that NCCUSL drafts appropriate uniform legislation for consideration by the 50 states. One area NCCUSL has worked is organ donation. The original Uniform Anatomical Gift Act was promulgated by the NCCUSL in 1968 and quickly enacted by all 50 states and the

District of Columbia. Minor revisions were made in 1957 and those were adopted in 26 states. The current revisions found in HB 196 bring the original act up to date with the advances in medical technology, the widespread use of electronic records, and evolving practices in transplantation. HB 196 is the revised Uniform Anatomical Gift Act. It was promulgated in 2006 and has already been adopted in over 20 states. Because it's very common for a decedent, the donor, and the donor's family to be in different states, this is an area where uniformity is critical.

[2:54:27 PM](#)

MR. GERAGHTY explained that the revised act strengthens the first-person consent to make a donation of an individual's organs, eyes and tissue to bar others from amending or revoking a gift made by the donor. Likewise, the revised act strengthens the provision of a person who refuses to donate and prevents others from interfering. Absent first-person consent, gifts by family members and agents are facilitated if the deceased hasn't acted to make or refused to make an anatomical gift. This is done by expanding the roster of people who can make a gift on that person's behalf to include a health-care agent, a grandchild or another family member who has exhibited special care. Also, it clarifies the manner in which the consent must be obtained in those circumstances.

Gifts on donor registries and state-issued identification cards are specifically authorized under HB 196, registries are encouraged, and standards are provided for their operation. Alaska has a donor program through the division of motor vehicles (DMV) and it's been very successful. Finally, it provides for coordination between procurement organizations and medical examiners, particularly with regard to procuring organs and tissue from donors under the jurisdiction of the medical examiner. Doctors Butler and Fallico went over the changes and at their suggestion some minor tweaks were made, he said. The goal, of course, is to expand the opportunity for gifts of organs and tissue to be taken from donors.

MR. GERAGHTY said the revised act, which is embodied in HB 196, is endorsed by the American Medical Society, the American Bar Association, the American Academy of Ophthalmology, the American Association of Tissue Banks, the American Society of Cataract and Refractive Surgery,

the Association of Organ Procurement Organizations, the federal Health and Human Services Advisory Committee on Organ Transplantation, the Cornea Society, and the Eye Bank Association of America. He encouraged the committee to act on HB 196 and join the other states that have adopted the revised Uniform Anatomical Gift Act.

[2:57:31 PM](#)

CHAIR FRENCH commented that it gives him some comfort that the doctors and lawyers are in agreement on the bill. He asked if the model provisions begin in Section 18 and go on for several sections.

MR. GERAGHTY said that's right.

CHAIR FRENCH asked if the small tweaks that the doctors suggested are in preceding sections where references are inserted in statute to those model provisions. For example, Section 6 takes up a DMV statute.

MR. GERAGHTY replied that's where some of the changes occur, but the major changes occur on page 18, Sec. 13.52.255 - Cooperation between coroner, state medical examiner, and procurement organization. Although based on the model act some accommodations were made to acknowledge the vast jurisdiction of the medical examiner and the limitations on his services. Those minor changes were reviewed by and agreed upon by the National Conference of Commissioners and the original drafters.

[2:59:49 PM](#)

SHERRY BADILLO-MARINO (ph), Life Alaska Volunteer, said she's a donor mom; her 17-year-old daughter died in an auto accident in 2003 while on her way to work. She became a tissue, heart valve, skin, and bone donor and has helped 48 people across the country, including a six-year-old boy and a 65-year-old woman. Her heart valve will become lifesaving to either an infant or young child, her skin has been used in burn and reconstructive surgeries, her bone and tissue could be used in joint and back surgeries.

She referenced a poem her daughter wrote when she was 12 called, "Cherish the Moments" that speaks about living every moment to its fullest and not taking anyone in your life for granted. You never know when someone will be gone and you'll never be able to relive a moment that's passed.

When Life Alaska called and asked about tissue and organ donation, she didn't hesitate because she knew that's what her daughter would want. "That is part of why I continually offer to help and to encourage others to consider tissue and organ donation, because it has helped me and her sister immensely to move forward," she said.

MS. BADILLO-MARINO said she and her daughter had never discussed becoming a donor, but after her death she found a signed tissue and organ donation card in her room. As a grieving mother that solidified the decision she had already made for her daughter to become a tissue and organ donor. In her heart she knew she'd done the right thing and that's part of what she says to everyone she contacts. "Share your wishes with your family."

She relayed that her father was so proud of his granddaughter and the fact that she became a tissue donor, that he changed his stand and become a donor as well. He is now helping others along with his granddaughter, she said.

[3:06:06 PM](#)

CHAIR FRENCH thanked her for her very moving testimony. Finding no one else who wished to testify on behalf of HB 196, he closed public testimony.

SENATOR MCGUIRE said we spend time in these meetings and you wonder if anything you do makes a difference. This is one of the circumstances that makes her think it does. She reminded the committee that 2004 she sponsored a bill that created the Alaska donor registry. At that time she thought it was something that would make a difference, but it's overwhelming to see that over 330,000 Alaskans have joined and between 800 and 1,000 new registrants are added each week. She described HB 196 as a step to continue those efforts, and then declared a conflict and asked to refrain from voting on the bill. her father is the founder and chair of Life Alaska Donation Services, one of the groups supporting this bill.

CHAIR FRENCH noted her conflict and said that while the meeting is in recess he'd find out if that's in order. He thanked the sponsor for accommodating two bills into one and set HB 196 aside.

CSHB 354(JUD)-CHILD IN NEED OF AID/ADOPTIONS

CHAIR FRENCH announced the consideration of HB 354. [Before the committee was CSHB 354(JUD).]

3:08:57 PM

RYNNIEVA MOSS, Staff to Representative John Coghill, sponsor of HB 354, explained that as currently drafted the bill: 1) clarifies in statute best practices of the Office of Children's Services (OCS), 2) fixes contradictory language that resulted in 18-year-olds being adopted, and 3) incorporates HB 377. Initially the Department of Health and Social Services (DHSS) approached the sponsor because of uncertainty in the language dealing with the department subsidizing hard-to-place children. As currently written the statute could be interpreted to mean that even if a child did not have a special need at the time, DHSS would have to provide a subsidy. Under HB 354 the decision is turned over to the department and it can adopt regulations to clarify when a hard to place child can receive a subsidy. This makes the decision more fair and equitable to everyone.

CHAIR FRENCH asked what the subsidy is, who pays for it, and how much it is.

MS. MOSS first explained that fetal alcohol syndrome (FAS) is an example of how it came about that you would have a hard to place child subsidy when you didn't know that the child was hard to place. An infant at birth might show no sign of problems, but when the child is 2 or 3 years old signs of fetal alcohol syndrome (FAS) or other issues becomes apparent. Sometimes the issues continue through childhood and into adulthood. This would allow DHSS to initiate a subsidy at that time to pay for medical costs and assistance to foster parents to care for the child, not to exceed the current rates for foster care. The state could also subsidize an adoption through Medicaid coverage and a subsidy that would not exceed the foster care subsidy limit. The upper limit of the subsidy is the amount that foster parents are paid to take in foster children, and she believes that's in the neighborhood of \$850 a month.

3:12:28 PM

MS. MOSS continued to say that Section 4 clarifies that a public official or employee who discloses confidential information about a child that is in OCS custody could be convicted of a misdemeanor. Sections 3 and 4 clarify in statute that OCS can change a child custody support order

by administrative action rather than having to go to court. OCS currently does this, so this simply brings the statute and regulation into alignment, she said.

CHAIR FRENCH said he's trying to understand the thinking on that.

MS. MOSS explained that child support enforcement already has the authority to change support orders through administrative review, but the state statutes don't clarify that this applies to OCS as well.

[3:14:36 PM](#)

MS. MOSS relayed that two issues came up subsequent to DHSS coming to the sponsor. The first relates a conflict in state statute regarding notification of absent parents. This clarifies in statute that a person who is 18 years of age and wants to be adopted is treated as an adult. There is no requirement to seek notification of the absent parents. Finally, this bill incorporates HB 377, which clearly says that the state is civilly liable for the action of its employees who are on duty and make decisions that result in the injury or death of a child in state custody.

[3:16:22 PM](#)

SUSAN COX, Assistant Attorney General, Department of Law (DOL), reported that she is here to speak to Section 6. DOL helped redraft that section to incorporate HB 377. It was done with Representative Gara's permission and agreement. The existing AS 47.10.960 is unchanged; it becomes subsection (a) and states that the statutes in Title 47 cannot form the basis for a civil action against the state. Subsection (b) clarifies that a common law action or wrongful death case would not be prohibited.

CHAIR FRENCH asked if that was done with the full support from the bill sponsor and Ms. Cox said yes.

CHAIR FRENCH found no one who wished to testify on behalf of HB 354, and closed public testimony. He asked for discussion or a motion.

[3:18:35 PM](#)

SENATOR HUGGINS motioned to report CSHB 354, Version M, from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection CSHB 354(JUD) is moved from committee.

CSHB 331(L&C)-MOTOR VEHICLES:LICENSES/INSURANCE/NOTICES

CHAIR FRENCH announced the consideration of HB 331. [Before the committee was CSHB 331(L&C).]

CRYSTAL KOENEMAN, Staff to Representative Roses, sponsor of HB 331, said the bill does three things. First, it drops the penalty for failure to notify the Department of Motor Vehicles (DMV) of a name or address change from a class B misdemeanor to a fine of not more than \$25.

[3:20:06 PM](#)

SENATOR WIELECHOWSKI asked if she knows whether anyone has ever been convicted of that crime.

MS. KOENEMAN replied she doesn't know.

SENATOR WIELECHOWSKI asked if there's a mechanism to force a person to update their license.

MS. KOENEMAN deferred to Ms. Brewster with DMV. She continued to explain that The second change adds an affirmative defense clause. It states that it is an affirmative defense if someone is charged with driving without insurance and can prove to the court that they did have valid insurance at the time. The third change is in Section 3, which states that if a person doesn't have vehicle insurance, he or she is guilty of a class B misdemeanor and a fine of at least \$500. Currently the only fine for driving without insurance is a license suspension of 90 days to one year.

CHAIR FRENCH recalled a more severe penalty for that violation.

MS. KOENEMAN responded that she knows that municipalities impose different penalties, but at this time it's up the municipality.

CHAIR FRENCH said he may be harking back to a time when he was more familiar with that statute. Perhaps he's forgotten, but he would double check.

SENATOR WIELECHOWSKI asked for clarification that this is in addition, and the license would still be suspended.

MS. KOENEMAN said that's correct. She continued to say that Section 4 of the bill changes the notification procedure. Current statute requires a person who is in an accident to fill out and submit to DMV a form saying he or she did have insurance at the time. DMV sends a notice if a person fails to send in the form and a second notice is sent by certified mail if there is no response. If there is no response after 30 days, the driver's license is suspended. Currently the notice is sent to the address on file, not to the address that is listed on the accident report. Section 4 changes that procedure and allows DMV to send the notice to the address on the accident report.

CHAIR FRENCH recalled an instance of a person losing their license because the notification was sent to an old address. This provision has DMV send the notification to either the address that's on file or to the address shown on the accident report, which is probably the best information. You give that information to the officer and you should be telling the truth.

[3:23:47 PM](#)

MS. KOENEMAN agreed.

CHAIR FRENCH asked Ms. Brewster if she had anything to add to the discussion on HB 331.

WHITNEY BREWSTER, Director, Division of Motor Vehicles, Department of Administration, said the DMV supports HB 331 because it allows the division more flexibility on where license suspension notifications are sent. This will increase the odds that notice gets to the proper individuals. What is listed on the accident report is sometimes more current than information on file. Current law requires DMV to send the notice to the address on record and this allows the notice to be sent to the most current address, whether it is the one on the accident report or the one DMV has on file. Responding to the question raised earlier, she relayed that no one has been convicted of a misdemeanor for not changing their address with the DMV.

SENATOR WIELECHOWSKI asked if it becomes an issue for DMV if people change their address multiple times and don't notify DMV.

MS. BREWSTER replied DMV likely wouldn't be aware that it was happening.

CHAIR FRENCH asked if there's an A misdemeanor on the books for driving without vehicle insurance.

MS. BREWSTER replied she isn't sure.

[3:26:28 PM](#)

CHAIR FRENCH set HB 331 aside.

At ease from [3:26:43 PM](#) to [3:27:22 PM](#).

HB 333-COMPUTER PERSONS REPORT CHILD PORNOGRAPHY

[3:27:30 PM](#)

REPRESENTATIVE ANNA FAIRCLOUGH, sponsor of HB 333, stated that HB 333 is an Act relating to reporting child pornography. It expands the reporting requirements to include individuals providing computer, Internet, cellular telephone and related services to the list of individuals who are required to report finding images of unlawful exploitation of a minor. The Internet provides vast opportunity, but it also allows unparalleled opportunity to exploit children. As images become prolific in the Internet environment, children are being exploited and sometimes that continues on into adult years since the images can linger and get passed on to other generations. This is relatively new technology and we need to address it differently, she said.

[3:28:50 PM](#)

SENATOR THERRIAULT referred to line 12 asked if she wants the report to go to the nearest law enforcement agency without regard to the level that might be.

REPRESENTATIVE FAIRCLOUGH replied she is open to an amendment. Representative Gara proposed an amendment saying the nearest local, state, or federal authority. There was question about whether the village public safety officer (VPSO) is the right person, but that could be the appropriate person, she said.

REPRESENTATIVE FAIRCLOUGH relayed that a national organization advancing the business of technology suggested amending the bill to include reporting to the National Center for Missing and Exploited Children. Her response was that the report should go to the local authorities so that Alaska's children would be protected as quickly as possible. To clarify her intent, NCMEC asked her to read the following into the record:

Mr. Chairman, I want to acknowledge for the record that there has been an existing federal law passed in 1999, 42 USC 13032, already requiring Internet Service providers to report suspected child pornography through the cyber tips line of the National Center for Missing [and Exploited] Children (NCMEC). NCMEC coordinates its law enforcement activities with both federal and local agencies.

[3:30:41 PM](#)

REPRESENTATIVE FAIRCLAUGH continued to say that she is in no way trying to make Internet service providers a target in this legislation. As long as those providers fully fulfill their existing federally mandated reporting, they meet the requirements in HB 333, she said. "I want local law enforcement agencies to know where that computer is at inside the state of Alaska and to act so that children are protected in a timely manner."

CHAIR FRENCH remarked it's tempting to add a provision that requires anyone who ever sees child pornography to call the police. He noted that he and Senator McGuire have supported mandatory notification laws and have run into opposition.

REPRESENTATIVE FAIRCLOUGH said this issue was brought to her because members of her community who work on electronic equipment have seen these images. The concern is that if the field isn't level, some people won't do the right thing for a child that's placed in danger.

SENATOR MCGUIRE reminded the sponsor that, as a result of forfeiture legislation she introduced in years past, law enforcement is able to confiscate hard drives and other pertinent materials in the course of an investigation. That can provide an opportunity to learn a lot, she said.

SENATOR WIELECHOWSKI asked if the federal law the sponsor mentioned has any preemptive effect on the Internet provision, and if there are any privileges. For example, would a doctor or lawyer be obligated to make a report if he or she happened across these images while looking at images on your camera for another purpose.

REPRESENTATIVE FAIRCLOUGH replied that a detailed explanation of unlawful exploitation is referenced in AS 11.41.455. And if the second question is asking if people other than the ones listed would be required to report, she said it's unfortunate that they are not.

SENATOR WIELECHOWSKI said he's thinking of a situation where you take your camera to your lawyer to look at and print a digital picture for another reason. If the lawyer flips through the images and sees child pornography he questions whether that would fall under the reporting requirement for "printed matter processing" under Sec. 47.17.023. "I guess I'd be interested in hearing what legal had to say about that," he said.

[3:34:52 PM](#)

CHAIR FRENCH held HB 333 in committee to provide an opportunity to check on several matters.

CHAIR FRENCH recessed the meeting to a call of the chair.

[4:41:02 PM](#)

CHAIR FRENCH reconvened the meeting. Present were Senators French, Huggins, and Therriault. Senator McGuire arrived shortly thereafter.

CSHJR 28(FIN)-CONST. AM:BUDGET RES.FUND/OIL& GAS TAX

CHAIR FRENCH announced the consideration of CSHJR 28(FIN). The bill was heard previously.

[4:41:24 PM](#)

LINDA HAY, Staff to Representative Ralph Samuels, co-sponsor of HJR 28, introduced herself.

CHAIR FRENCH described HJR 28 as an interesting idea that should advance to the next committee. That being said, he has two reservations - one philosophical and one practical. Philosophically he questions how rich government should grow. He recognizes that this state is different than

others because it's a resource state so HJR 28 isn't reaching into people's pockets to do this. I don't think we could get away with that, he said. But because we live in a resource state and because most everyone recognizes that the resource isn't infinite, we should save some.

The more practical issue revolves around what happens in the future. I think that we all recognize that at some point in the future the five percent payout won't be enough to sustain government, he said. When that happens, lawmakers will have the choice of imposing an income tax or using the money in the "strongbox." He said he has a hard time believing that as a body the legislature will have the wherewithal to impose an income tax if all that rainy day money is sitting there. He believes that at some point the legislature will undo this and reach in and get the money out.

[4:43:38 PM](#)

SENATOR THERRIault commented that if this is set up, it would take a constitutional amendment to undo, so reaching in to get the money out may be easier said than done.

CHAIR FRENCH said he thinks that procedurally a resolution would go to the people asking if they want to be taxed or if they want to take the money from the strong box.

SENATOR McGUIRE said her hope is that government growth is controlled. The main point the sponsor made was that continued growth in the operating and capital budgets is unsustainable. I hope we live within our means, she said.

CHAIR FRENCH said the slide showing the relationship between the surplus and government spending was very persuasive.

[4:45:11 PM](#)

SENATOR HUGGINS motioned to report CSHJR 28 from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection, CSHJR 28(FIN) is moved from the Senate Judiciary Committee.

CSHB 305(RLS) am -CAMPAIGN FUND RAISING DURING SESSIONS

[4:46:51 PM](#)

CHAIR FRENCH announced the consideration of HB 305 and asked for a motion to adopt Version \0 committee substitute (CS).

SENATOR HUGGINS moved to adopt Senate CS for CSHB 305, 25-LS1226\0, as the working document.

CHAIR FRENCH objected for discussion purposes. He explained that the CS makes one change he suggested and one change brought by the sponsor. The first removes from the bill the references to federal offices. The legal precedent is so far beyond debate that it's clear that the state would spend money to defend a statute that would ultimately yield no positive result. The sponsor has agreed to avoid that fight, he said. The second change is to replace the phrase "location outside the capital city" with the phrase "municipality other than the capital city." The sponsor suggested that change because the word "location" isn't clear and meaningful.

[4:48:18 PM](#)

MIKE POWLOWSKI, Staff to Representative Meyer, sponsor of HB 305, clarified that the Legislative Ethics Committee suggested the change in terminology. The sponsor does support both changes, he added.

CHAIR FRENCH removed his objection and finding no further objection, announced the CS is before the committee. He stated that in his view the CS continues to operate in areas where he has constitutional qualms and he wants them on the record. This is an extremely tricky area of law and there are a welter of opinions on the topic so it's easy to get lost. He felt strongly about the reference to federal office and has suspicions about other matters, but those aren't strong enough to bottle the bill up in committee. It seems that the real heart of the matter is disclosure. Buckley v. Vallejo went on about that and said that is the least restrictive manner in which you can impose some kind of a restriction on someone's ability to participate in the marketplace of ideas.

If you disclosed every seven days during session and every month during the rest of the year, you could raise money whenever you wanted to, he said. This bill lets you raise money in Anchorage then hop on a plane to Juneau and vote on a big bill. Most people would say that's absurd, but his view is that if it's disclosed 24 hours later the voters

would know what's going on. "That's a qualm of mine about the approach taken here, but again this is one of those issues that people wrangle over for months and years," he said. In response to a question from Senator McGuire he relayed that Buckley v. Vallejo is the original Supreme Court case on campaign free speech.

SENATOR THERRIAULT asked if the example of hopping on the plane to Juneau is only within 90 days.

CHAIR FRENCH said yes; HB 305 maintains the flat prohibition on fundraising during a legislative session unless the session is within 90 days of an election.

MR. POWLOWSKI said that's correct for your own race for office.

CHAIR FRENCH added that even in this year you could see that happening. If for some reason the governor's office can't make a recommendation until September 19, people would be raising money in Anchorage for their elections and flying down to Juneau to vote on the gas line, he said.

SENATOR THERRIAULT asked if individual legislators would be prohibited from signing on as a host and raising money for someone else's campaign within 90 days of the election.

MR. POWLOWSKI said yes, but if a legislator was in a joint fundraiser it would be permissible because it's fundraising for him or herself, too. It's a subtle nuance that the sponsor thinks is important, he said.

SENATOR HUGGINS asked if there's a fiscal note.

CHAIR FRENCH said there's a zero fiscal note from APOC.

MR. POWLOWSKI said they asked for the APOC fiscal note because of the adjustment to AS 15.13.072 in bill section 1.

[4:53:04 PM](#)

SENATOR HUGGINS motioned to report committee substitute for CSHB 305 from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection SCS CSHB 305(JUD), 25-LS1226\0, is moved from the Senate Judiciary Committee.

CSHB 331(L&C)-MOTOR VEHICLES:LICENSES/INSURANCE/NOTICES

CHAIR FRENCH announced the consideration of HB 331. [Before the committee was CSHB 331(L&C).] Referring to the discussion during the bill hearing earlier in the afternoon, he said he was right about the penalties for driving without insurance.

[4:54:09 PM](#)

CHRYSTAL KOENEMAN, Staff to Representative Bob Roses, sponsor of HB 331, agreed he is correct. Driving without insurance is an unclassified misdemeanor. It is punishable by a fine of not more than \$500, imprisonment for not more than 90 days, or both.

CHAIR FRENCH summarized that driving without insurance is an unclassified misdemeanor in statute now and HB 331 makes it a class B misdemeanor with a minimum \$500 fine. Discussion before the hearing began indicated that 9 out of 10 cases are dropped in exchange for someone going out and buying a policy, which is the idea.

Finding no one who wished to testify on behalf of HB 331, he asked for a motion.

[4:55:23 PM](#)

SENATOR McGUIRE motioned to report CS for HB 331 from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection, CSHB 331(L&C) is moved from the Senate Judiciary Committee.

CSHB 196(JUD)-HANDLING MATTERS AFTER A PERSON'S DEATH

CHAIR FRENCH announced the consideration of HB 196. [Before the committee was CSHB 196(JUD).] He said he understands that the sponsor and the interested parties are willing to drop Section 1.

JANE PIERSON, Staff to Representative Jay Ramras, sponsor of HB 196, said that's correct.

CHAIR FRENCH moved Amendment 2.

AMENDMENT 2

Page 1, lines 6-10
Delete all material

Renumber sections accordingly.

CHAIR FRENCH, hearing and seeing no objection, announced that Amendment 2 is adopted.

[4:58:08 PM](#)

SENATOR THERRIAULT asked what Amendment 1 was.

CHAIR FRENCH replied Amendment 1 changed on page 2, line 10, \$100,000 to \$50,000.

SENATOR McGUIRE motioned to report SCS CSHB 196, as amended today, from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection, SCS CSHB 196(JUD) is moved from the Senate Judiciary Committee.

SENATOR McGUIRE moved the Senate concurrent title resolution to accompany HB 196 from the Senate Judiciary Committee. There being no objection, it was so ordered.

CHAIR FRENCH recessed the Senate Judiciary Committee to a call of the chair at [4:59:15 PM](#).