

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 9, 2008

1:32 p.m.

MEMBERS PRESENT

Senator Johnny Ellis, Chair
Senator Gary Stevens, Vice Chair
Senator Bettye Davis

MEMBERS ABSENT

Senator Lyman Hoffman
Senator Con Bunde

OTHER LEGISLATORS PRESENT

Senator Joe Thomas
Representative Crawford
Representative Olson

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 25

Urging the United States Congress to support the freedom to choose unions.

HEARD AND HELD

SENATE BILL NO. 120

"An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date."

MOVED CSSB 120(L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 25

SHORT TITLE: SUPPORTING RIGHT TO FORM LABOR UNIONS

SPONSOR(S): REPRESENTATIVE(S) HARRIS

05/10/07	(H)	READ THE FIRST TIME - REFERRALS
05/10/07	(H)	STA
05/12/07	(H)	STA RPT 3DP 1NR 2AM
05/12/07	(H)	DP: GRUENBERG, DOLL, LYNN
05/12/07	(H)	NR: JOHANSEN
05/12/07	(H)	AM: ROSES, COGHILL
05/12/07	(H)	STA AT 9:00 AM CAPITOL 106

05/12/07 (H) Moved Out of Committee
 05/12/07 (H) MINUTE(STA)
 01/28/08 (H) TRANSMITTED TO (S)
 01/28/08 (H) VERSION: HJR 25
 01/30/08 (S) READ THE FIRST TIME - REFERRALS
 01/30/08 (S) L&C, STA, FIN
 02/07/08 (S) L&C AT 1:30 PM BELTZ 211
 02/07/08 (S) -- MEETING CANCELED --
 02/09/08 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 120

SHORT TITLE: UNEMPLOYMENT COMPENSATION BENEFITS

SPONSOR(s): LABOR & COMMERCE

03/14/07 (S) READ THE FIRST TIME - REFERRALS
 03/14/07 (S) L&C, FIN
 03/22/07 (S) L&C AT 1:30 PM BELTZ 211
 03/22/07 (S) Heard & Held
 03/22/07 (S) MINUTE(L&C)
 04/24/07 (S) L&C AT 1:30 PM BELTZ 211
 04/24/07 (S) Heard & Held
 04/24/07 (S) MINUTE(L&C)
 04/26/07 (S) L&C AT 4:30 PM FAHRENKAMP 203
 05/02/07 (S) L&C AT 5:30 PM FAHRENKAMP 203
 01/17/08 (S) L&C AT 1:30 PM BELTZ 211
 01/17/08 (S) -- MEETING CANCELED --
 01/22/08 (S) L&C AT 1:30 PM BELTZ 211
 01/22/08 (S) Scheduled But Not Heard
 02/05/08 (S) L&C AT 1:30 PM BELTZ 211
 02/05/08 (S) <Bill Hearing Canceled>
 02/09/08 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

PETER FELLMAN

Staff to Representative John Harris

Alaska State Capitol

Juneau, AK

POSITION STATEMENT: Commented on HJR 25 for the sponsor.

VINCE BALTRAMI, President

Alaska AFL-CIO

Anchorage, AK

POSITION STATEMENT: Supported HJR 25 and CSSB 120(L&C), version L.

TOM BRICE

Alaska District Council Laborers
Juneau, AK
POSITION STATEMENT: Supported HJR 25.

DENNY DEWITT, Alaska Director
National Federation of Independent Business
Juneau, AK
POSITION STATEMENT: Opposed HJR 25.

REPRESENTATIVE HARRY CRAWFORD
Alaska State Capitol
Juneau, AK
POSITION STATEMENT: Supported HJR 25 and SB 120.

SENATOR JOE THOMAS
Alaska State Capitol
Juneau, AK
POSITION STATEMENT: Supported HJR 25.

DANA OWEN
Staff to Senator Ellis
Alaska State Capitol
Juneau, AK
POSITION STATEMENT: Explained provisions of the CS for SB 120.

PAULA SCAVARA, Special Assistant to the Commissioner
Department of Labor and Workforce Development (DOLWD)
Juneau, AK
POSITION STATEMENT: Neutral position on SB 120 except for
Sections 1 - 8, which she supported.

JAMES WILSON, Unemployment Insurance Actuary
Research and Analysis Section
Department of Labor and Workforce Development (DOLWD)
Juneau, AK
POSITION STATEMENT: Supplied information on SB 120.

BILL KRAMER, Chief
Unemployment Insurance
Department of Labor and Workforce Development (DOLWD)
Juneau, AK
POSITION STATEMENT: Answered questions on SB 120.

WAYNE STEVENS, President/CEO
State Chamber of Commerce
Anchorage, AK

POSITION STATEMENT: Could support CSSB 120(L&C) if it were revenue neutral.

DENNY DEWITT, State Director
National Federation of Independent Businesses (NFIB)
Juneau, AK

POSITION STATEMENT: In general supported the direction SB 120 was going, but really wanted it to be revenue neutral.

ACTION NARRATIVE

CHAIR JOHNNY ELLIS called the Senate Labor and Commerce Standing Committee meeting to order at [1:32:16 PM](#). Present at the call to order were Senators Stevens, Davis and Ellis.

HJR 25-SUPPORTING RIGHT TO FORM LABOR UNIONS

[1:33:47 PM](#)

CHAIR ELLIS announced HJR 25 to be up for consideration.

PETER FELLMAN, staff to Representative John Harris, sponsor of HJR 25, said there is no doubt that unions and corporate labor is a hotly debated subject, and both sides are right to some degree. It's easy to show that corporations have intimidated, harassed and threatened employees who have considered joining unions. Examples of that exist today. On the other hand it's easy to show that past unions have engaged in some of the same tactics. "It's history."

He said there are good examples of honorable companies that pay fair wages and treat their employees fairly and with good benefits. Unions have also negotiated good, fair contracts for people that needed representation.

MR. FELLMAN stated:

Members of the committee, you know, if we lived in a perfect world and people gave a fair days work and received a fair wage for that work, we wouldn't have this debate. Our concern on the other hand is for the working people. You know, some of those folks may not have the ability, the capability or the tools at hand to make sure that they can support themselves, and that they will have support from their employer or their employee relations.

[1:36:53 PM](#)

He related how the Iron Workers Union taught his son a good trade and that he admires what the labor unions do for people. On the other hand, he is a small business owner and he has never been in a situation where he has had someone come to him with a concern and because he didn't address it, threaten him with union activity. Going through that process would be very serious and stressful for him.

CHAIR ELLIS asked if he supported the resolution.

MR. FELLMAN answered yes.

VINCE BALTRAMI, President, Alaska AFL-CIO, said President Bush has threatened to veto this resolution if it passes Congress. The reason it was introduced is because the National Labor Relations Board (NLRB) elections are largely perceived to be a broken process. A lot of misconceptions exist about what the bill would do, but it doesn't take away the right for a group of people to have an election (secret ballot) if they so choose.

On the other hand, he explained, the National Labor Relations Board process is not like any other election process that people go through when they go to the polls, go behind a booth and check a box for a candidate or bond. That never has the same kind of coercion or negative outcome associated with casting that ballot.

[1:40:49 PM](#)

MR. BALTRAMI explained the way union elections work now is when employees sign an authorization card and put the election process in motion, if it's successful, that gives them the right to have a labor organization sit down with them and negotiate a contract. When the petition has been filed and a campaign has begun, however, is when a lot of things start happening - like discrimination, firing and intimidation. It's very unlike what happened when the National Labor Relations Act (NLRA) was first put into place in 1935. The Employee Free Choice Act (EFCA) is an attempt to try to put a little more control back into the hands of the employees for whom the NLRA was created.

He explained that under National Labor Relations Board (NLRB) procedure, it takes more than 30 percent of employees signing an authorization card to get the process of going. The EFCA says if more than 50 percent of the employees sign authorization cards, that, in fact, is the election. Upon verification of the signatures, the employees would sit down with the employer who would be committed to bargaining with them. Today, after a

successful election, employees can go for years without getting a contract through the employer's stalling tactics.

If this bill passes, it would require the employer and the union to come to an agreement within 120 days; if they didn't, it would go to mediation or arbitration. He said if 30 percent of employees still wanted a secret ballot election, it would still be available under this bill.

[1:44:34 PM](#)

SENATOR STEVENS said he understands that no one can force an employee to vote one way or the other in a secret ballot; that is democracy at work. He asked him to explain, however, how signing an authorization card in front of someone was an improvement on the system.

MR. BALTRAMI explained that today if people want to have an election to get organized, at least 30 percent of them have to sign the authorization cards. People who sign those cards do so willingly, but the difference that this bill makes is that it says those signatures could constitute the election. When he was a union organizer, he related that he wouldn't go forward with a petition without at least 60 or 70 percent of the employees signing authorization cards because intimidation tactics would be used against them.

He said voting to organize is not like any other secret ballot election process. People are not subject to any kind of intimidation, harassment or firing for regular elections, but all those tactics are used today in almost every single NLRB election process.

MR. BALTRAMI stated that the authorization card process the EFCA would allow is one that a lot of employers have lived up to voluntarily. Cingular Wireless is the biggest example, where if a majority of its employees at any property sign these authorization cards, Cingular recognizes that and goes immediately to the bargaining process.

SENATOR STEVENS said that Mr. Baltrami didn't answer his question and repeated, if an employee has to sign a card in front of a union representative, the element of secrecy has been lost.

MR. BALTRAMI explained that authorization cards have been voluntarily signed by employees and given to the union organizer the same way since 1935 and that won't change.

1:49:30 PM

TOM BRICE, Alaska District Council Laborers, supported HJR 25. He explained that sometimes people view the unions as an outside entity coming in, but that is not true. The employees, themselves, are signing a petition saying they want a contract.

CHAIR ELLIS asked if his understanding was the same as Mr. Baltrami's, that nothing would change about revealing peoples' identities.

MR. BRICE answered that the point Mr. Beltrami was trying to make is once those cards are signed and presented to the labor relations board, the employer has an idea who has signed them. The employer can then try to get those cards thrown out or talk with those employees in closed door sessions and use certain tactics to influence that employee's voice. In 1992/93, the Fairbanks Fred Meyer's did that to its workers when they tried to organize. Just recently in Juneau, Wal-Mart had closed-door meetings where employees were required to come in and sit down and listen to three or four hours of anti-union propaganda. They were paid for the time, but people who did not attend weren't hired. He said that having a signed card serve as the vote would minimize that length of time the employer has to try to influence an employee's decision.

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SENATOR STEVENS said he still had trouble understanding what is wrong with having a secret election.

MR. BRICE answered the point is that after the cards are signed, there is no secrecy. The employer has the ability to know who those employees are and can try to unduly influence them through intimidation and coercion. The EFCA says if over half the employees have indicated by signing a card they want to join a union, then they have made their voice heard and that serves as the election. Employees should be able to go straight to negotiations at that point.

1:54:37 PM

MR. BALTRAMI added when the authorization cards are given to a union organizer, they are sealed and go to the NLRB. The names of the people who signed the cards are not revealed, but they can be discovered when the company provides a list of those employees to the board to confirm that they are, in fact, employees in the proper bargaining unit.

[1:56:33 PM](#)

DENNY DEWITT, Alaska Director, National Federation of Independent Business, said he didn't understand the full context of HR 800, but he had some concerns with moving away from the secret ballot. His concern was that currently, 30 percent or more of the employees can sign an authorization card and then can have a secret ballot election. But many folks, when presented with a card, might get a little pressure from colleagues to sign the card. However, when they have a secret ballot option, they can truly reflect on how they believe an issue ought to go. That's why elections traditionally are by secret ballot.

As he understands it, Mr. DeWitt said, this measure makes 50 percent of employees publically signing an authorization card the election. It's another bit of pressure that is also inappropriate. He thought it was appropriate for 51 percent of Cingular's employees to sign cards and then go to negotiations, and the law wouldn't need to be changed.

Another concern he had was that the bill had a lot of things in it that no one knew about and going forward with that was just poor public policy.

[2:00:09 PM](#)

REPRESENTATIVE HARRY CRAWFORD said he used to work as a union organizer and many times he was able to get 75 - 80 percent of employees on non-union jobs to sign the cards, but the actual NLRB vote would be delayed so that people could be worked on. People who were union supporters were laid off or fired and the vote would be delayed so long that the job would be over before the election happened. In all his years as a union organizer, he stated that he was never able to actually get to the point of having an election.

[2:01:58 PM](#)

SENATOR STEVENS said he understood that, but asked if there is recourse other than changing the law if someone is fired because he wanted to unionize.

REPRESENTATIVE CRAWFORD replied that he was fired for trying to organize by the company that was expanding FedEx at the airport. He actually got a few weeks back pay about three years later, because he had proof of what happened, but all the other people who sided with the union didn't get anything.

SENATOR THOMAS said that most people discuss the authorization card with their significant other or another colleague before signing it. He found that the timeframe it takes to get to the election the real concern, because that is when there is usually a fair amount of intimidation by the employers.

[2:05:18 PM](#)

He knew of that happening at Prudhoe Bay when an election time was set. Then the only way to appear you were not in favor of unionization was to not show up on the day of the election. There is a great disparity between the number of people who sign the authorization cards and the number who actually show up to vote.

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CHAIR ELLIS closed public testimony and held the bill for further consideration.

SENATOR DAVIS said she supported HR 800 and wanted to know where it was now and why it wasn't referred to the Speaker of the House.

[2:08:32 PM](#)

MR. FELLMAN answered that HR 800 passed the House, but not the Senate. He would have to check on why this resolution wasn't referred to the Speaker of the House.

SENATOR STEVENS said he was concerned that HJR 25 covered other issues that hadn't been discussed.

MR. FELLMAN commented that was not his understanding.

CHAIR ELLIS set the resolution aside.

SB 120-UNEMPLOYMENT COMPENSATION BENEFITS

[2:12:16 PM](#)

CHAIR ELLIS announced SB 120 to be up for consideration. He recapped that they had an entire year of stakeholders' hearings before this session on this issue, and Governor Palin just announced some stunningly good news for employers about the rates over the next few years. It's a really good time to make a modest increase in benefits, which was his goal. Last Saturday the committee had a work session that resulted in a revised committee substitute, CSSB 120(L&C), 25-LS0622\L. He asked Mr. Owen to review it for the committee.

[2:14:08 PM](#)

DANA OWEN, staff to Senator Ellis, recalled that the previous CS discussed in the Saturday work session was trying to balance some equities. On one hand, the unemployment insurance benefits had not been changed in 10 years, and the need to raise them was widely recognized. However, employers regarded the unemployment benefit structure as costing them more than it needed to. Employer groups offered suggestions about how costs could be brought down for them.

The CS they discussed on Saturday attempted to do that in two ways. First, the CS shifted about \$2-million of tax liability from employers over to employees; an additional cost savings to employers of approximately \$5.4 million was found by denying benefits to employees who had been fired for misconduct. During and subsequent to that meeting, the committee heard vigorous testimony from labor that denying that benefit would cause a greater hardship and would give employers the incentive to abuse the system by firing people for misconduct unjustly.

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They looked for other ways to retain the total of \$7.4 million tax benefit to employers. Two options were suggested; one was to raise the minimum wage in the base period that it takes to qualify for benefits. Version L deletes the provision denying benefits to those fired for misconduct and retains the provision shifting the tax burden from employers to employees by amending the percentages. Currently employers pay 80 percent and employees pay 20 percent. Version L changes that to 73 percent paid for by employers and 27 percent paid for by employees. That shifts an approximate aggregate of \$7 million from the employers onto the employees. Another \$.8 million in savings to the employer was found by raising the minimum amount necessary to qualify for benefits from \$1000 to \$2500.

MR. OWEN said the savings of \$7.4 million in the previous CS for the employer increased to \$7.8 million in Version L.

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SENATOR STEVENS asked him to explain raising the minimum from \$1000 to \$2500.

MR. OWEN explained that current law says you have to have earned a minimum of \$1000 in each of two quarters to qualify for benefits; the CS raises that minimum to \$2500.

CHAIR ELLIS said updating the \$1000-minimum seemed like a good idea to him because it was established a long time ago, and \$2500 seemed like a reasonable figure. He explained that everyone thought that under the suggested dismissal provision no one would be ever laid off again. They would be dismissed for conduct, and the appeals process is a hassle as well as time consuming. That seemed to be a show stopper for this legislation, so he decided to leave it out and give more significant benefit to the employers without significantly impacting the employee. He didn't know how he could be any more fair or impactful in a positive way to the employees.

MR. OWEN said some states raise the minimum amount to qualify regularly with either an escalator clause or as a routine, but Alaska hadn't raised it since 1970.

CHAIR ELLIS said if this bill passes, Alaska would still be below the middle of the pack among other states for average weekly benefits.

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PAULA SCAVARA, Special Assistant to the Commissioner, Department of Labor and Workforce Development (DOLWD) said she is also the legislative liaison. She offered to answer questions.

CHAIR ELLIS asked her to explain the 73/27 percent split between employer and employee and trying to save money for employers without harming anyone's interest significantly. He also asked her to put the cost savings into context, especially since Governor Palin announced the system was being changed on the federal level to show savings anyhow.

MS. SCAVARA deferred to Mr. Wilson for the answer.

[2:25:18 PM](#)

JAMES WILSON, Unemployment Insurance Actuary, Research and Analysis Section, Department of Labor and Workforce Development (DOLWD), said over the last few years Alaska has been enjoying lower-than-average tax rates and in the last three years they have come down significantly. Figures from 2008 show they were the lowest employer tax rates in 30 years. Unemployment and the cost of the program are both at low levels and he sees that trend continuing. He said the bill attempts to increase the maximum benefit amount. The existing schedule qualifies workers for an increased benefit of \$2 per each \$250 increment; this bill adds additional steps on top of that schedule. The last modest benefit increase was in 1997. He said that Alaska has

fallen further down the ladder in past years at being able to replace wages compared to other states. This bill would move Alaska up more toward the center.

2:29:31 PM

MR. WILSON explained that it increases the benefit maximum to \$370; it also increases the cost per worker for the average employer from \$470 to \$548. It would take until 2013 for that cost to work its way into the financing system, a result of the WBA increase. The new CS dropped the disqualifying issue. Also the tax share was changed significantly in the new CS from 80/20 employer/employee contribution to 73/27, a \$7 million shift.

MR. WILSON said the proposal to raise the minimum qualifying wage from \$1000 to \$2500 was a modest increase that would result in \$.8 million of savings, an additional savings to the employer of \$5 per worker.

2:32:48 PM

SENATOR STEVENS asked how many employees did not reach the \$1000 minimum and how many won't reach the \$2500 minimum.

MR. WILSON answered that approximate 1466 claimants were between the \$1000 and \$250, and he didn't have a number for those who weren't able to reach the \$1000 point.

2:34:05 PM

CHAIR ELLIS asked if the department would get an updated chart on employer figures for the committee.

MS. SCAVARA replied she didn't have enough time to put the charts together for today, but she would have it ready later in the week. She asked Mr. Wilson to comment on how much the employer pays now compared to the changes in the bill.

MR. WILSON explained that under the proposal, by 2013 the full cost of the benefit increase to employers would be \$548 per worker. Factoring in the change of going from 80/20 to 73/27 would make that go down to \$498. The employee portion alone, with the WBA increase by 2013, would amount to \$157, which is essentially what they are paying currently. That would go up to \$197. These numbers are before factoring in the \$.8 million that would result from changing the minimum qualifying wage from \$1000 to \$2500. He speculated it would amount to about \$1/hr. increase on the employee side.

CHAIR ELLIS asked Ms. Scavara to "do a commercial" about the confidentiality provisions in this legislation and explain how important it is for the state to comply with federal law.

MS. SCAVARA responded that sections 1-8 conform state law to federal law; without them, the state would be sanctioned by the U.S. Department of Labor for millions of dollars.

[2:38:49 PM](#)

SENATOR STEVENS asked if something is happening on a national level for people who are fired for misconduct and if other states successfully address the issue of denying benefits to those people.

[2:40:09 PM](#)

BILL KRAMER, Chief, Unemployment Insurance, Department of Labor and Workforce Development (DOLWD), explained that the current law puts the responsibility on the employer to show that there was actually misconduct in connection with the work. Simple incompetence on the job does not rise to misconduct and a worker wouldn't be denied benefits. Typically an employer has to show that a policy was explained and that the worker understood it - like for drinking or drugs or treating customers rudely.

He said 45 or 46 other states disqualify benefits indefinitely if someone is discharged for misconduct in connection with their work. The person is denied indefinitely or until he goes back into the workforce and earns wages and gets laid off again.

Alaska's current statute denies benefits to people who are discharged for misconduct for six weeks from the date of the discharge. Their benefits are reduced by three times the weekly benefit amount, and they are ineligible for any federal extensions that may be available.

SENATOR STEVENS commented that this bill basically says the state is going to deal with people who are fired for misconduct and that will cost \$5.4 million, but it is going to deny 1460 people benefits who earn between \$1000 and \$2500. Denying those benefits saves \$.8 million, but the state is losing \$5.4 million by giving benefits to people who have been fired for misconduct. He wasn't sure this was where the state wants to go.

MS. SCAVARA said the department didn't draft this bill.

SENATOR STEVENS asked her why the misconduct language shouldn't be deleted.

MS. SCAVARA replied that the department is neutral on the bill after the first 8 sections, and it will follow whatever policy decisions the legislature makes.

[2:46:26 PM](#)

SENATOR DAVIS said she appreciated some things in the bill, but she also understood where Senator Stevens was coming from.

CHAIR ELLIS remarked that this bill would not change the status quo for misconduct dismissal.

[2:48:05 PM](#)

VINCE BALTRAMI, President, AFL-CIO, said he was not happy with some of the compromises in SB 120 because he didn't want to see anything that was more punitive to the employees. He saw some punitive things in light of the fact that the employers got such a break on their taxes. However he supported this bill because he didn't think they could do much better at this point.

[2:49:29 PM](#)

REPRESENTATIVE HARRY CRAWFORD said sometimes it's hard to tell who is at fault when someone is fired. He has been fired a number of times for his union organizing activities. And while he got back wages for it, they came two or three years down the road. Other states have found that the misconduct provision gives employers the incentive to fire people when the job is almost finished rather than laying them off. Six weeks is a pretty severe penalty as it is, and he didn't want the state to go to a longer penalty and give an unscrupulous employer that additional incentive to fire people.

WAYNE STEVENS, President/CEO, Alaska State Chamber of Commerce, said he appreciated all the efforts made on this issue. He pointed out that while the rates have virtually stayed the same, the taxable amounts have increased every year for the employer. Since 1996 the taxable amount to the employer and the employee has gone from \$24,400 to \$31,300. He said the state is in a period of low unemployment, and as a result the contributions to the trust fund have gone up. He saw no benefit to employers other than that the draw on the fund has been reduced; so this notion that perhaps employers are getting an unfair advantage was not correct. He encouraged them to make SB 120 revenue neutral, because he understood the need to make the change.

[2:54:30 PM](#)

SENATOR STEVENS moved to adopt CSSB 120(L&C) version L. There were no objections and it was so ordered.

[2:55:01 PM](#) at ease [3:03:06 PM](#)

[3:03:10 PM](#)

DENNY DEWITT, State Director, National Federation of Independent Business (NFIB), commented that he appreciated their efforts on this issue also. He said the NFIB has not been supportive of employees being charged more nationally, and this moves more in that direction and away from eliminating benefits for workers discharged for cause. He wanted something as close to revenue neutral as possible, and appreciated changing the \$1000 to qualify for benefits to \$2500. In general, he said that he supported the direction in which the bill was going, but he also wanted to look at it more closely and get back to the committee with a more coherent response.

[3:05:06 PM](#)

CHAIR ELLIS recapped and asked for further testimony.

[3:05:58 PM](#)

SENATOR DAVIS moved to report CSSB 120(L&C) version L from committee with individual recommendations and updated and attached fiscal notes.

SENATOR STEVENS said he didn't object to moving it on to Finance, and he recommended that it would be amended because he was still concerned about people being fired for misconduct and the additional 1400 people being denied benefits who make between \$1000 and \$2500.

CHAIR ELLIS saw no further discussion or objection and the bill moved from committee. There being no further business to come before the committee, he adjourned the meeting at [3:07:40 PM](#).