

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 4, 2008

1:32 p.m.

MEMBERS PRESENT

Senator Johnny Ellis, Chair
Senator Gary Stevens, Vice Chair
Senator Bettye Davis
Senator Lyman Hoffman
Senator Con Bunde

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 289

"An Act relating to home energy conservation and weatherization for purposes of certain programs of the Alaska Housing and Finance Corporation."

HEARD AND HELD

SENATE BILL NO. 293

"An Act relating to electronic communication devices and to personal information."

HEARD AND HELD

CS FOR HOUSE BILL NO. 65(FIN)

"An Act relating to breaches of security involving personal information, credit report and credit score security freezes, protection of social security numbers, care of records, disposal of records, identity theft, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; amending Rules 60 and 82, Alaska Rules of Civil Procedure; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 289

SHORT TITLE: HOME ENERGY CONSERVATION

SPONSOR(S): SENATOR(S) HOFFMAN

02/19/08 (S) READ THE FIRST TIME - REFERRALS

02/19/08 (S) L&C, FIN
03/04/08 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 293

SHORT TITLE: ELECTRONIC COMMUNICATION DEVICES

SPONSOR(s): SENATOR(s) MCGUIRE

02/19/08 (S) READ THE FIRST TIME - REFERRALS
02/19/08 (S) L&C, JUD
03/04/08 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 65

SHORT TITLE: PERSONAL INFORMATION & CONSUMER CREDIT

SPONSOR(s): REPRESENTATIVE(s) COGHILL, GARA

01/16/07 (H) PREFILE RELEASED 1/5/07
01/16/07 (H) READ THE FIRST TIME - REFERRALS
01/16/07 (H) L&C, JUD, FIN
01/31/07 (H) L&C AT 3:00 PM CAPITOL 17
01/31/07 (H) <Bill Hearing Canceled>
03/28/07 (H) L&C AT 3:00 PM CAPITOL 17
03/28/07 (H) Heard & Held
03/28/07 (H) MINUTE(L&C)
04/04/07 (H) L&C AT 3:00 PM CAPITOL 17
04/04/07 (H) <Bill Hearing Canceled>
04/16/07 (H) L&C AT 10:00 AM CAPITOL 17
04/16/07 (H) Scheduled But Not Heard
04/20/07 (H) L&C AT 3:00 PM CAPITOL 17
04/20/07 (H) Heard & Held
04/20/07 (H) MINUTE(L&C)
04/23/07 (H) L&C AT 3:00 PM CAPITOL 17
04/23/07 (H) Moved CSHB 65(L&C) Out of Committee
04/23/07 (H) MINUTE(L&C)
04/24/07 (H) L&C RPT CS(L&C) 2DP 3NR 1AM
04/24/07 (H) DP: GATTO, NEUMAN
04/24/07 (H) NR: BUCH, LEDOUX, OLSON
04/24/07 (H) AM: GARDNER
05/02/07 (H) JUD AT 1:00 PM CAPITOL 120
05/02/07 (H) Heard & Held
05/02/07 (H) MINUTE(JUD)
05/05/07 (H) JUD AT 8:00 AM CAPITOL 120
05/05/07 (H) Moved CSHB 65(JUD) Out of Committee
05/05/07 (H) MINUTE(JUD)
05/07/07 (H) JUD RPT CS(JUD) NT 4DP 2AM
05/07/07 (H) DP: HOLMES, LYNN, COGHILL, RAMRAS
05/07/07 (H) AM: DAHLSTROM, SAMUELS
01/23/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519

01/23/08	(H)	Heard & Held
01/23/08	(H)	MINUTE(FIN)
02/13/08	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
02/13/08	(H)	Heard & Held
02/13/08	(H)	MINUTE(FIN)
02/18/08	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
02/18/08	(H)	Heard & Held
02/18/08	(H)	MINUTE(FIN)
02/19/08	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
02/19/08	(H)	Moved CSHB 65(FIN) Out of Committee
02/19/08	(H)	MINUTE(FIN)
02/21/08	(H)	FIN RPT CS(FIN) NT 4DP 5NR
02/21/08	(H)	DP: HAWKER, CRAWFORD, GARA, NELSON
02/21/08	(H)	NR: KELLY, THOMAS, STOLTZE, MEYER, CHENAULT
02/27/08	(H)	TRANSMITTED TO (S)
02/27/08	(H)	VERSION: CSHB 65(FIN)
02/29/08	(S)	READ THE FIRST TIME - REFERRALS
02/29/08	(S)	L&C, JUD, FIN
03/04/08	(S)	L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

DR. JOHN WEISE
Staff to Senator Hoffman
Alaska State Capitol
Juneau, AK
POSITION STATEMENT: Commented on SB 289 for the sponsor.

DAN FAUSKE, CEO
Alaska Housing Finance Corporation (AHFC)
Anchorage, AK
POSITION STATEMENT: Supported SB 289.

BRIAN BUTCHER, Public Affairs Director
Alaska Housing Finance Corporation (AHFC)
Anchorage, AK
POSITION STATEMENT: Supported SB 289.

BOB BREAN, Director
Research and Rural Development
Alaska Housing Finance Corporation (AHFC)
Anchorage, AK
POSITION STATEMENT: Supported SB 289.

SCOTT WATERMAN, Energy Specialist II
Alaska Housing Finance Corporation (AHFC)

Anchorage, AK

POSITION STATEMENT: Supported SB 289.

PAUL KENDALL, representing himself

Anchorage AK

POSITION STATEMENT: Opposed SB 289 and thought the money should be spent on developing alternative energy projects.

TREVOR FULTON

Staff for Senator McGuire

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 293 for the sponsor.

ED SNIFFEN, Assistant Attorney General

Consumer and Anti-trust Protection

Department of Law (DOL)

Anchorage, AK

POSITION STATEMENT: Answered questions about SB 293.

ALLISON FLEMING

EPC Global

No address provided

POSITION STATEMENT: Opposed SB 293.

BEN ADERSON

American Electronics Association (AEA)

No address provided

POSITION STATEMENT: Opposed SB 293.

TERRY BANNISTER

Department of Law

Juneau, AK

POSITION STATEMENT: Was available to answer questions on SB 293.

KAREN LIDSTER

Staff to Representative John Coghill

Alaska State Capitol

Juneau, AK

POSITION STATEMENT: Presented HB 65 for Representative Coghill co-sponsor.

MEAGAN FOSTER

Staff to Representative Les Gara

Alaska State Capitol

Juneau, AK

POSITION STATEMENT: Answered questions on HB 65 for Representative Gara, co-sponsor.

GAIL HILLEBRAND
Financial Services Campaign Manager
Consumer's Union
San Francisco, CA

POSITION STATEMENT: Supported HB 65.

STEVE CLEARY, Executive Director
Alaska Public Interest Research Group (AKPIRG)
Anchorage, AK

POSITION STATEMENT: Supported HB 65.

JOHN BURTON, Vice President
Government Relations
Choice Point

No address provided

POSITION STATEMENT: Supported concept behind HB 65, but it needed redrafting for legal issues.

AUDREY ROBINSON
Reed Elsevier
No address provided

POSITION STATEMENT: Supported concept of HB 65, but it needed redrafting to cover legal issues.

KEVIN BROOKS, Deputy Commissioner
Department of Administration
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Neutral position on HB 65.

ED SNIFFEN
Department of Law (DOL)
Juneau, AK

POSITION STATEMENT: Available for questions on HB 65.

PAT LUBY, Advocacy Director
AARP
Anchorage, AK

POSITION STATEMENT: Supported HB 65.

ACTION NARRATIVE

CHAIR JOHNNY ELLIS called the Senate Labor and Commerce Standing Committee meeting to order at [1:32:13 PM](#). Present at the call to

order were Senators Bunde, Davis, Stevens, and Ellis. Senator Hoffman joined the committee shortly after.

SB 289-HOME ENERGY CONSERVATION

[1:32:56 PM](#)

CHAIR ELLIS announced SB 289 to be up for consideration.

[1:34:02 PM](#)

DR. JOHN WEISE, Staff to Senator Hoffman, sponsor of SB 289, explained that Alaska has roughly 670,000 people who live in 260,000 - 280,000 homes; one third of them have an income under \$30,000 and it's estimated that 45,000 of those households are eligible for low income weatherization through Alaska Housing Finance Corporation (AHFC).

He said in developing the bill they looked for something responsive to Alaskans impacted by high energy costs. The proposal is a short-term fix that will update and expand the home energy efficiency and weatherization program and the rebate program in AHFC. Targeted improvements include insulation and improved heater efficiencies including water heaters.

Eligibility for the weatherization program is now based on 60 percent median income; the proposal changes that to 100 percent. Low income Alaskans will receive priority, but going to 100 percent will help even more Alaskans.

[1:37:43 PM](#)

DR. WEISE said in past years AHFC has spent \$4.8 million/year (\$1.8 million federal and \$3 million from AHFC) to help 600 households or 1,700 people. With \$48 million they can help a little over 4,000 households and almost 12,000 people. A survey showed that 45,000 households would meet the 60 percent median income requirements and the sponsor felt that wasn't enough. SB 289 recommends spending \$200 million to expand the program to 100 percent median income which is projected to help 17,000 households and almost 50,000 people.

[1:38:32 PM](#)

SENATOR STEVENS asked him how 60 percent of median income translates into annual income.

DR. WEISE replied according to AHFC's figures the 60 percent median goes from \$23,887 for a family of one up to \$71,660 for a family of 14. At 100 percent it goes from \$39,800 up to \$119,400.

[1:39:23 PM](#)

SENATOR HOFFMAN asked about families of 2 and 4.

DR. WEISE answered at 60 percent a family of 2 would be a little over \$31,000 and at 100 percent median at \$52,000. A family of four is at almost \$46,000 at 60 percent; and a little over \$76,000 for 100 percent.

[1:39:50 PM](#)

He said the second part of the proposal funds a home energy rating rebate program which is not income dependent. Any Alaskan could apply for it and would have to first be accepted by AHFC, then do an as-is and a post-energy rating on the home using an AHFC computer program. A one star rating would equal a \$2,500 rebate; each additional step would earn a \$500 rebate up to a maximum of \$5,000. AHFC would expect a 30 percent reduction in home energy costs.

[1:41:40 PM](#)

He said the cost for this portion is \$100 million, but investment would have to be made by the homeowners of \$175 - \$200 million. This is a great relief program until the housing market recovers.

[1:42:50 PM](#)

SENATOR STEVENS asked the rationale for cutting it off where they did because people earning \$50,000 are barely able to make ends meet. The cost of living in some communities like Dutch Harbor is more than Anchorage for instance.

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SENATOR HOFFMAN answered he did not feel comfortable going over 100 percent and realized further discussions were needed, but he didn't have any conclusions.

SENATOR BUNDE asked why he thought this would be a temporary program.

SENATOR HOFFMAN answered they are adding on to an existing program because he wanted to help as many Alaskans as possible. The program could be reevaluated in a few years.

[1:47:04 PM](#)

DR. WEISE commented that the bill cleans up language in existing statute that removes reference to two programs, the Craftsman Program and the Home Energy Program, that are no longer in existence or have been privatized.

SENATOR HOFFMAN clarified that both of these programs are existing, but have been modified in SB 289 as presented by Dr. Weise.

[1:47:54 PM](#)

DAN FAUSKE, CEO, Alaska Housing Finance Corporation (AHFC), said the rebate program had fallen off lately because of funding, but he still offers interest rate reductions for energy efficiency, which AHFC funds on a limited basis with arbitrage proceeds for its bonding capability, but it is a finite amount of money.

MR. FAUSKE said people could make improvements to their homes that they won't have to make in the near future - simple things like re-insulating an attic and caulking windows and door seals. The energy savings used to be recouped in 6 to 7 years, but now with oil being \$100/barrel, it's 1.5 - 2 years.

He said there is a slowdown from the house building peaks of a few years ago, and while he didn't view it as a downturn, this is work that can be taken up by those homebuilders as well as the homeowner himself. He said the legislature and AHFC developed the rating software years ago, and it gets updated on a regular basis; it's known throughout the state and is easily used and quite accurate.

[1:52:35 PM](#)

BRIAN BUTCHER, Public Affairs Director, AHFC, explained that an energy rater rates the house (one to five stars) and lists what needs to be done. The more that gets done, the more the rebate. The rater would come back in and rate it again. Home construction has slowed and those folks are excited about getting involved in this program.

[1:53:40 PM](#)

MR. FAUSKE said he had seen numerous cases where a couple thousand dollar investment generates \$300 to \$500/mo. in savings; quality of life improves while reducing the demand for energy. He emphasized that this is an ongoing program so they would not be reinventing the wheel.

[1:55:33 PM](#)

SENATOR HOFFMAN asked how long ago the graduated \$2,500 - \$5,000 rates for the rebate program were set because construction costs have risen substantially in the last few years.

MR. BUTCHER replied those are estimates of what they thought reasonable costs would be right now.

SENATOR BUNDE asked if this program applies to existing homes or to homes that will be built.

MR. BUTCHER replied that it would apply to new homes, but most new homes are being built with a 4 and 5 star energy rating and this would probably apply mostly to older homes.

MR. FAUSKE added that combining this program with AHFC's existing program will deliver a double bang for their bucks.

[1:57:53 PM](#)

BOB BREAN, Director, Research and Rural Development, AHFC supported SB 289. He echoed comments made by Mr. Fauske and Mr. Butcher. These kinds of programs have a great payback. The opportunities for savings are greater in retrofitting existing houses, but they can make energy efficiency recommendations for new housing as well.

SCOTT WATERMAN, Energy Specialist II, AHFC, supported what previous comments on SB 289.

MR. FAUSKE added that the AHFC's existing program can't purchase mortgages on homes that don't meet a certain standard by state law.

[1:59:55 PM](#)

SENATOR BUNDE said the existing program was aimed at low income people, but this expands it to middle income people.

MR. FAUSKE agreed that it is an all-inclusive program that was designed to reach out across the state, and it could be changed. He said \$76,000/year sounds like a lot, but it depends on where you live. Some people in Fairbanks pay a couple thousand dollars a month for energy. This proposal is targeted specifically to affect the energy efficiency of homes, not to add solariums.

SENATOR STEVENS said he was thinking about a worker and spouse both working in a cannery in Kodiak and \$52,000 could be their annual income. They would be hard pressed to pay for weatherization themselves.

MR. FAUSKE agreed and said they should have frequent targeted reports. "It's our goal, if we are given the responsibility and privilege to do this, to make it work and do it right."

MR. BUTCHER said they are already talking with legislators about raising the current 60 percent, because it is clear that people in the over 60 percent category also don't have the means. The priority is and will continue to always be the lowest income and work up from there.

[2:05:02 PM](#)

PAUL KENDALL, representing himself, Anchorage, opposed SB 289. He said because it continues to fund the fossil fuel distribution network, it is a distraction to what needs to be done. He said 1 megawatt of wind covers 250-300 homes and taking that original \$500 million and putting it into a wind farm would generate electricity for 75,000 homes and would last over a 25-year period. This would not only move the technology forward, but it would begin to replace the gas that could be sold on the open market, which would generate more revenue for the state.

MR. KENDALL said that people in Las Vegas did a lot of energy conservation, but it was for nothing because programs like this come along and enable them to continue using that energy. He advised "You have to find a formula that says we all are accountable to each other for reasonable prices of energy and reasonable availability." That would exclude distribution and maintenance of lines. He said conservation is a big mistake and that big companies are already investing in alternative technologies. He called it a habit and a form of economic subjugation.

CHAIR ELLIS said SB 289 would be held for another hearing.

SB 293-ELECTRONIC COMMUNICATION DEVICES

[2:11:12 PM](#)

CHAIR ELLIS announced SB 293 to be up for consideration.

TREVOR FULTON, staff for Senator McGuire, sponsor of SB 293, said this measure would regulate the use of Radio Frequency Identification (RFID) in the state of Alaska. SB 293 is really a consumer, personal and privacy protection bill that aims to nip the potential for identify theft in the bud.

MR. FULTON informed them that RFID is a wireless technology that typically includes three elements - a tag which has an antenna and is capable of transmitting data, a reader which receives data transmitted by the tag and a database that stores the data. Examples are employee access passes like the cards we use to get

into the capitol, passes on a toll way, and implanted dog IDs. He said a less obvious use of RFIDs is implanting ones in humans that contain patient records for use in hospitals. He said that many uses are very beneficial to businesses and people.

The convenience of using RFIDs could come at the cost of security, however. Private information - like bank account numbers, social security numbers and health records - transmitted by RFID tags and stored in databases can leave consumers vulnerable to identify theft. SB 293 aims to minimize that vulnerability and protect personal and consumer privacy by regulating the use of RFID technology in Alaska.

MR. FULTON said as RFID use becomes more widespread, it will become increasingly important that consumers know what products carry RFID tags and what businesses are using RFID technology in order to obtain consumer consent and adopt minimum security standards for RFID use like prohibiting scanning or remote reading of an RFID tag without consent. It will become increasingly important that enforcement measures for the misuse of RFID devices are established. He said SB 293 accomplishes all of these things and he urged that it's important to help the regulations to keep pace with this useful growing technology.

[2:16:04 PM](#)

SENATOR BUNDE asked if Alaska has actual problems or are they being proactive.

MR. FULTON answered that he wasn't aware of a current problem, but evidence in other states shows that RFIDs have been hacked and information has been stolen.

SENATOR BUNDE said the cell phone industry said this would be a problem.

MR. FULTON responded that he had been talking to one of the cell phone providers here who is encouraging that dialogue with their engineers to make sure this bill doesn't needlessly impact whatever plans they have for RFID use in the future.

SENATOR BUNDE said current passports have RFIDs and asked if SB 293 would somehow affect those.

MR. FULTON replied that he wasn't a lawyer, but there are no federal regulations on RFID devices. He would look into how it would affect passport use in Alaska.

[2:18:08 PM](#)

ED SNIFFEN, Assistant Attorney General, Consumer and Anti-trust Protection, Department of Law (DOL), Anchorage, responded to the question about problems in Alaska by saying he doesn't get any direct complaints about this technology, but he wouldn't be surprised if some identity theft victims in Alaska have had their identity stolen as a result of new technology that is able to remotely scan and get information. He said he supports consumer protection bills like this that will inform the consumer about the issue as well.

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ALLISON FLEMING, EPC Global, said EPC is a not-for-profit standards organization working on international standards for radio frequency identification applications. Industries that participate in the standards development process include aerospace, retail, entertainment, defense, health care, chemical, pharmaceutical, transportation and logistics. These industries use something called the electronic product code, which as an RFID application. The EPC is a unique number that is used to identify a specific item in a supply chain similar to a string of numbers on a bar code. This unique number is stored on an RFID tag which combines a silicon chip and an antenna. Once the EPC is read from the tag it can be associated with data stored in a secure database where other information can be found like the date of its production or where it originated. EPC RFID tags don't carry an individual's personal identifiable information.

MS. FLEMING said RFID technology is in its infancy now. In the short term it will be at the container, case, and pallet level. In a retail supply chain it is used to mechanically read the EPC on items as diverse as computer printers or a case of diapers. An EPC gives more information about a product than a typical bar code and in the future could expedite supply chain applications. It can help reduce counterfeiting in a variety of product categories from toys to electronics. It has the potential to save lives to help prevent counterfeit drugs from reaching consumers by tracking products from their source.

[2:23:01 PM](#)

She said consumer privacy and trust are very important to the adoption of any new technology. She noted further that their consumer guidelines include giving consumers clear notice of the presence of an EPC on a product and informing them of the choices they have to discard or remove or disable an EPC tag from a product. They will have access to information about EPC

and its applications as well as the companies that use, maintain and protect records generated through the EPC in compliance with all applicable laws. These guidelines are flexible and allow for enhancements and modifications as the technology continues to evolve. The next years will be crucial for this technology and laws should not stifle innovation or delay the potential benefits for consumers and businesses in Alaska. She urged them to be prudent and pragmatic in considering measures to regulate EPC or RFID technology.

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SENATOR BUNDE asked her if this bill was prudent.

MS. FLEMING answered no, not at this point. Requiring the specific type of notice, written consent and deactivation at the point of sale could hurt the technology as it's currently evolving.

CHAIR ELLIS asked the status in other state with regards to statutes along this line.

MS. FLEMING answered that Washington State has a bill that would just affect the illegal use or scanning of an RFID tag for fraud. SB 293 is comprehensive, and she hasn't seen anything like it adopted.

[2:25:29 PM](#)

BEN ADERSON, American Electronics Association (AEA), echoed EPC's testimony. Their concerns about SB 293 are very similar; it goes well beyond banning bad behavior and restricts a very beneficial technology. It provides enormous security. Hacking hasn't happened even though there are claims it has.

MR. ADERSON said this would be landmark legislation, but the reason other states have not enacted it is the detrimental affect it can have on small businesses. Generally information is used from warehouse to warehouse.

[2:29:18 PM](#)

TERRY BANNISTER, Department of Law, was available to answer questions.

CHAIR ELLIS said he would hold SB 293 for further work.

[2:30:06 PM](#)

CSHB 65(FIN)-PERSONAL INFORMATION & CONSUMER CREDIT

[2:30:23 PM](#)

CHAIR ELLIS announced CSHB 65(FIN) to be up for consideration.

KAREN LIDSTER, staff to Representative John Coghill, co-sponsor of HB 65, presented a sectional analysis of the bill. Section 1 talks about the care of records and how they are to be managed from creation to disposal. Section 2 adds a new paragraph relating to the breach of security involving personal information. Section 3 adds a new Chapter to AS 45 on personal information protection act with seven articles - the substance of the bill.

MS. LIDSTER said Article 1 describes what is required if there is a breach of information and definitions. Article 2, pages 7-16, allows a consumer to put a freeze on their personal information and tells how to lift it as well. Article 3, on pages 16-21, establishes parameters for the collection, use, sale loan or trade of social security numbers; it also provides for exceptions and penalties. Article 4, pages 21-24, outlines the measures to follow when disposing of personal information; it also provides for exceptions, penalties and definitions.

[2:34:47 PM](#)

Article 5, pages 24-26, outlines the rights an individual has when trying to establishing their innocence after their identity has been stolen. Article 6, pages 26-27, describes the limits on businesses regarding the printing of credit or debit card numbers on consumer receipts and allows the last four digits on receipts. Article 7, pages 27-29, provides for the definitions and cites the short title.

[2:38:33 PM](#)

Significant changes include giving a business the time to decide whether harm was caused if there was a breach in their information (page 2, lines 19-24). The breach needs to be documented, but notification is not required. The damages section was changed to target arbitrary lawsuits against large businesses that might have a breach or mishandle it without any harm being done to them personally by adding "actual economic damages" on the civil side of the penalties. The definition of personal information was narrowed down to delete information that is easily or readily available or public information.

[2:40:02 PM](#)

MEAGAN FOSTER, staff to Representative Les Gara, co-sponsor of HB 65, added they have worked hard on this bill for a number of years and that they would be happy to answer questions.

[2:40:54 PM](#)

GAIL HILLEBRAND, Financial Services Campaign Manager, Consumer's Union, San Francisco, said Consumer's Union is a non-profit publisher of Consumer Reports. Its mission is to test, inform and protect, and she is with the protective pieces of the organization.

She said HB 65 is a moderate but strong measure and that identity theft is now a world wide crime. The crook can be anywhere in the world, and the victim can be anyone with good credit. HB 65 offers prevention as the best remedy, and it does it in a couple of ways. Article 1 provides notice of breach which tells consumers when certain very narrowly defined categories of important information have been released to the public, stolen or lost and might be in the hands of a crook. More than 35 states have enacted some legislation on this issue. Alaska takes an in-between approach by narrowing the scope of the information, saying it has to include the consumer's name and that a determination cannot be made that there is no risk before a consumer has to be told about it.

With a security freeze the concept is the consumer gets to lock up who gets to see their credit files. Everyone gets a choice of using it with a state security freeze law.

MS. HILLEBRAND said the pricing and fees are kind of in the mid-range and she pointed out that in Indiana consumers pay no fees and Montana has them pay \$3/pop. She summarized that "it's kind of a mid-range but well-crafted proposal."

She said this measure has some social security provisions that are common in a dozen or more states such as don't print social security numbers on a card and don't mail it except in certain circumstances. She said they were very pleased to support this measure.

[2:44:00 PM](#)

STEVE CLEARY, Executive Director, Alaska Public Interest Research Group (AKPIRG), supported HB 65. He said this issue had been on their front burner for a number of years. Identity theft costs consumers time and money and on the average it takes over 200 hours to clear a name.

[2:46:59 PM](#)

JOHN BURTON, Vice President, Government Relations, Choice Point, said it is a publicly traded company that provides data and

information services to businesses, government, legal and law enforcement communities at the local, state and federal level. They don't make loans, but help facilitate them with their products. He said they had spent a lot of time on this bill on the House side and that he would continue to work with them on it. He said HB 65 is "quite a large bill" and covers three primary issues: social security number regulation, data breach notification and the credit breaches. While he had on-going concerns about many of those provisions, he said he would focus his comments on the social security number provisions.

MR. BURTON clarified that Choice Point and companies like it don't oppose these issues. Approximately 39 states have passed credit freeze legislation. The three national credit reporting agencies have voluntarily adopted this procedure where a person can call up and freeze access to their credit report. Another 39 states have already passed breached notification bills, and approximately 29 states have passed legislation that seeks to protect the public access and availability of social security numbers. Most of these states are modeled after the California law. His interests are two-fold, he said: state by state consistency and Choice Point's ability to be compliant with all of them. None of the state laws are exactly identical, but he works to get them as consistent as possible on core applications.

[2:49:38 PM](#)

MR. BURTON said all companies like Choice Point that do activities related to non-public personal information (which could include social security numbers) are already regulated on the federal level in addition to whatever state laws may be in existence; these include the federal Fair Credit Reporting Act, the Gramm-Leach-Bliley Act and to a lesser extent, the federal Drivers Privacy Protection Act. If companies like his can't work under these laws, services will become slower, less efficient and more expensive. An interruption in services that are taken for granted now could occur - like the ability to walk in and get on-the-spot credit and the ability to get an instant binder from an insurance company to buy a car and drive it off the lot.

Unfortunately, Mr. Burton said, as drafted the bill does not give them the kind of state by state allowance to continue their operations - even under existing federal law. They have far less problem with the legislative aspect of this bill than with the legal aspect. Many provisions that are in other state laws that they need in this bill are there, but as drafted they don't have

any legal effect. So, he asked them not to delete anything, but to redraft certain sections.

[2:51:27 PM](#)

SENATOR DAVIS asked for a copy of his drafted legal concerns.

[2:52:02 PM](#)

AUDREY ROBINSON, Reed Elsevier, said they own Lexus Nexus, and provide legal services like looking up case law and public records information. However, they also provide many of the same services that Choice Point provides and she echoed Mr. Burton's sentiments. She didn't oppose HB 65, but wanted it to be consistent and workable for businesses. She wanted to focus on the social security provisions and how they would affect business here.

First it involves Patriot Act compliance. Under that federal law, banks are required to get identifying information, including a social security number, to check against a known terror watch list. They do this to make sure the person opening the account isn't funding fundamental extremists or terrorism. Reed Elsevier maintains those lists, but the banks don't. The banks can gather that information through the Patriot Act, but they would no longer be able to transmit it to her to check against the terror watch list, and they similarly wouldn't be able to transmit it back to them so they could issue a bank account. Though the bill seeks to say that federal and state laws would not be harmed by this, they would say their business practices would, in fact, be harmed by not being able to engage in that transaction.

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An additional transaction Reed Elsevier wouldn't be able to engage in is reporting judgments for credit reporting purposes. They receive lien and judgment information from states and when this information is transmitted to them it has social security numbers for matching to the appropriate person. Under this bill, they would no longer be able to collect that information or transmit it to the credit bureaus. If credit bureaus can't receive the judgment information from them, it won't appear on the credit report, and if that's the case, she didn't think the judgment would be satisfied. She asked the committee to keep the status quo for businesses that are using social security numbers for legitimate business purposes.

CHAIR ELLIS asked if the problem is that the bill drafting needs to have legal import.

MS. ROBINSON replied yes. For example the Fair Credit Reporting Act gives seven permissible uses for non-public personal information which includes the social security number; she clarified that they are "permitted" to use them under this act. They are also "authorized" to get it under the Gramm-Leach-Bliley Act. The language in the bill isn't consistent and refers to "authorized use" and "express authorized use". It's a semantic issue that needs to match with federal language that says "permits."

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KEVIN BROOKS, Deputy Commissioner, Department of Administration, said he is pleased with the amendments. But he said the Department of Law still has concerns over exposure issues. The state collects data from many different sources like vital statistics, motor vehicles or the Permanent Fund. Through governing it is required to collect and keep data on citizens of the state and others.

MR. BROOKS explained that their networks and systems had been developed incrementally over the last 20-plus years and they are doing as thorough of an analysis as they can on the state's security. The state had a data breach when some of its servers were breached in January 2005. Since that time they have been making significant investments in security infrastructure, and he anticipates having to continue doing that. He said security folks tell him it happens on a daily basis now, and it's not someone in their garage anymore. It's often very sophisticated government to government operations.

CHAIR ELLIS asked if he shared private business concerns about semantic language issues.

MR. BROOKS answered that is beyond his purview, and he suggested asking Mr. Sniffen at the Department of Law about it.

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ED SNIFFEN, Department of Law (DOL), said he would look into questions and get back to them.

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SENATOR STEVENS stated the key issue is if businesses have to react to passed laws, that it is the responsibility of Mr. Brooks and others in the administration to meet with those people and let the legislature know if it's true or not so they can decide how to proceed.

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PAT LUBY, Advocacy Director, AARP, said identity theft is a growing concern for its members. He said many veterans went through this experience when the Army's computer was stolen, because their social security numbers were used as their Army identification numbers. He and Senator Stevens have just dealt with it, and until they were notified, the computer located and no breach was found, many veterans had a certain anxiety.

He said one of the concerns is the impact on business throughout the U.S. of all the identity theft that takes place. It costs millions for the individuals who have lost their identity and have money stolen from them, but it costs billions for many of the businesses that have suffered losses because of identity theft. Finally, he said AARP studies identity theft because it is a very serious issue for its members; but it's also a health issue. Research has shown that identity theft victims have a higher death rate than non-victims. "Identity theft can kill you."

MR. LUBY said HB 65 builds on some excellent work that Senator Gene Therriault and Senator Gretchen Guess worked on in the last session. "It was good a couple of years ago, it's even better right now, and we encourage your positive support of it."

CHAIR ELLIS remarked that his bill was subsumed into the Therriault/Guess effort. He said HB 65 would be held for further work. There being no further business to come before the committee, he adjourned the meeting at [3:05:50 PM](#).