

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 22, 2007

9:00 a.m.

MEMBERS PRESENT

Senator Lesil McGuire, Chair
Senator Gary Stevens, Vice Chair
Senator Hollis French
Senator Lyda Green
Senator Con Bunde

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 117

"An Act relating to proclamations issued by the governor calling the legislature into special session."

MOVED CSHB 117(JUD) OUT OF COMMITTEE

SENATE BILL NO. 92

"An Act relating to ignition interlock requirements; relating to limited driver's license privileges for persons convicted of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance and requiring certain persons to utilize ignition interlock devices to qualify for a limited driver's license; relating to probation for driving while under the influence of an alcoholic beverage, inhalant, or controlled substance, and refusal to submit to a chemical test; and providing for an effective date."

MOVED CSSB 92(STA) OUT OF COMMITTEE

SENATE BILL NO. 115

"An Act relating to gift certificates and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."

MOVED CSSB 115(STA) OUT OF COMMITTEE

SENATE BILL NO. 16

"An Act extending the termination date for the Regulatory Commission of Alaska; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 33

"An Act relating to DNA samples from persons charged with felonies."

MOVED CSSB 33(STA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 117

SHORT TITLE: PROCLAMATION CALLING A SPECIAL SESSION

SPONSOR(S): REPRESENTATIVE(S) HARRIS

02/01/07	(H)	READ THE FIRST TIME - REFERRALS
02/01/07	(H)	STA, JUD
02/20/07	(H)	STA AT 8:00 AM CAPITOL 106
02/20/07	(H)	Moved Out of Committee
02/20/07	(H)	MINUTE(STA)
02/21/07	(H)	STA RPT 6DP
02/21/07	(H)	DP: JOHNSON, DOLL, COGHILL, GRUENBERG, ROSES, LYNN
02/22/07	(H)	STA AT 8:00 AM CAPITOL 106
02/22/07	(H)	<Bill Hearing Canceled>
02/26/07	(H)	JUD AT 1:00 PM CAPITOL 120
02/26/07	(H)	Heard & Held
02/26/07	(H)	MINUTE(JUD)
02/28/07	(H)	JUD AT 1:00 PM CAPITOL 120
02/28/07	(H)	Moved CSHB 117(JUD) Out of Committee
02/28/07	(H)	MINUTE(JUD)
03/01/07	(H)	JUD RPT CS(JUD) 6DP
03/01/07	(H)	DP: GRUENBERG, LYNN, COGHILL, DAHLSTROM, HOLMES, RAMRAS
03/05/07	(H)	TRANSMITTED TO (S)
03/05/07	(H)	VERSION: CSHB 117(JUD)
03/07/07	(S)	READ THE FIRST TIME - REFERRALS
03/07/07	(S)	STA
03/22/07	(S)	STA AT 9:00 AM BELTZ 211

BILL: SB 92

SHORT TITLE: LIMITED LICENSE IGNITION INTERLOCK

SPONSOR(S): SENATOR(S) FRENCH

02/21/07	(S)	READ THE FIRST TIME - REFERRALS
02/21/07	(S)	STA, JUD, FIN
03/13/07	(S)	STA AT 9:00 AM BELTZ 211
03/13/07	(S)	Heard & Held
03/13/07	(S)	MINUTE(STA)
03/20/07	(S)	STA AT 9:00 AM BELTZ 211
03/20/07	(S)	Heard & Held
03/20/07	(S)	MINUTE(STA)

BILL: SB 115

SHORT TITLE: GIFT CARDS

SPONSOR(S): STATE AFFAIRS

03/12/07 (S) READ THE FIRST TIME - REFERRALS
03/12/07 (S) STA, L&C
03/20/07 (S) STA AT 9:00 AM BELTZ 211
03/20/07 (S) Heard & Held
03/20/07 (S) MINUTE(STA)

BILL: SB 16

SHORT TITLE: EXTEND REGULATORY COMMISSION OF ALASKA

SPONSOR(S): SENATOR(S) THERRIAULT

01/16/07 (S) PREFILE RELEASED 1/5/07
01/16/07 (S) READ THE FIRST TIME - REFERRALS
01/16/07 (S) CRA, STA, FIN
02/15/07 (S) CRA AT 3:30 PM BELTZ 211
02/15/07 (S) Heard & Held
02/15/07 (S) MINUTE(CRA)
02/20/07 (S) CRA AT 3:30 PM BELTZ 211
02/20/07 (S) -- Meeting Canceled --
03/01/07 (S) CRA AT 4:00 PM BELTZ 211
03/01/07 (S) Moved CSSB 16(CRA) Out of Committee
03/01/07 (S) MINUTE(CRA)
03/02/07 (S) CRA RPT CS 5DP NEW TITLE
03/02/07 (S) DP: OLSON, THOMAS, WAGONER, STEVENS,
KOOKESH
03/22/07 (S) STA AT 9:00 AM BELTZ 211

BILL: SB 33

SHORT TITLE: DNA FROM PERSONS CHARGED WITH FELONIES

SPONSOR(S): SENATOR(S) BUNDE

01/16/07 (S) PREFILE RELEASED 1/5/07
01/16/07 (S) READ THE FIRST TIME - REFERRALS
01/16/07 (S) STA, JUD, FIN
03/13/07 (S) STA AT 9:00 AM BELTZ 211
03/13/07 (S) Heard & Held
03/13/07 (S) MINUTE(STA)
03/22/07 (S) STA AT 9:00 AM BELTZ 211

WITNESS REGISTER

REPRESENTATIVE JOHN HARRIS

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 117 as sponsor.

DUANE BANNOCK, Director
Alaska Division of Motor Vehicles
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding SB 92.

MARIT CARLSON VAN DORT, Staff
to Senator Lesil McGuire
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 115.

TERRY BANNISTER, Attorney
Legislative Affairs
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 115.

SENATOR GENE THERRIAULT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 16 as sponsor.

KATE GIARD, Chair
Regulatory Commission of Alaska
Anchorage, Alaska

POSITION STATEMENT: Spoke in favor of SB 16.

GEORGE GORDON, Director
Regulatory Affairs
Utility Services of Alaska
Fairbanks, Alaska

POSITION STATEMENT: Expressed support for SB 16.

KAREN FORREST, Deputy Director
Division of Juvenile Justice
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Suggested clarifying language to SB 33.

DAVID SCHADE, Director
Division of Statewide Services
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Spoke in favor of SB 33.

ACTION NARRATIVE

CHAIR LESIL MCGUIRE called the Senate State Affairs Standing Committee meeting to order at [9:00:13 AM](#). Senators McGuire, Green, and Bunde were present at the call to order. Senators French and Stevens arrived shortly thereafter.

HB 117-PROCLAMATION CALLING A SPECIAL SESSION

CHAIR MCGUIRE announced the consideration of HB 117. [Before the committee was CSHB 117(JUD).]

REPRESENTATIVE JOHN HARRIS, Alaska State Legislature, said HB 117 is very basic and stems from the frustration members felt last year regarding special sessions. The bill statutorily changes the number of notification days from 15 to 30, but it doesn't disable the governor from calling emergency special sessions. For a normal special session it gives people time to adjust their lives. "Many people have vacations; they have work schedules; they have other things they're trying to do as ordinary citizens outside the legislature—just a little longer period of time to try to adjust their schedules."

[9:01:35 AM](#)

CHAIR MCGUIRE asked if he gave thought to limiting the reasons for why a special session could be called.

REPRESENTATIVE HARRIS said no.

CHAIR MCGUIRE said she has heard a lot from her constituents about the number of special sessions, the costs, and whether they were being called for appropriate reasons—"if you don't get your way, I'm going to call you back-type thing."

REPRESENTATIVE HARRIS said he has heard that as well but didn't want to get into constitutional issues. He noted that the present governor doesn't have any problems with the bill, and he surmised it wouldn't be as big an issue "under this situation." A session could be called immediately under a declaration of disaster, he clarified.

SENATOR GREEN moved CSHB 117(JUD) from committee with individual recommendations and attached fiscal note(s). There being no objection, it was so ordered.

SB 92-LIMITED LICENSE IGNITION INTERLOCK

[9:03:04 AM](#)

CHAIR MCGUIRE announced the consideration of SB 92.

SENATOR GREEN moved to adopt the Committee Substitute (CS) for SB 92, labeled 25-LS0439\M, Luckhaupt, as a work draft. Hearing no objections, Version M was before the committee.

SENATOR FRENCH said the CS addresses the previously discussed issue of remote locations where it is impractical to require an interlock system. He described a person who may live in a small village but gets a DWI in Anchorage or vice versa. The solution roughly parallels the requirements for automobile insurance; whereby some parts of the state are exempt. He adopted the same geographic divisions for SB 92. There will be no differentiation based on who gets the DWI, but the requirement to have an interlocking device is based only on geography, he explained.

[9:06:03 AM](#)

SENATOR FRENCH said there is a new subsection on pages 6 and 7, which says: notwithstanding all the requirements that you must have the ignition interlock, the court will waive the requirement when operating a vehicle in certain communities. The communities are listed on a separate handout, he said.

SENATOR STEVENS said it's convoluted, and he asked about rental cars.

SENATOR FRENCH said there is a mark on driver's licenses indicating if a person needs an interlock device. He said he doesn't know if the rental car company would notice it, but the onus is on the individual. He or she would be breaking the law by driving a rental car without the device.

SENATOR BUNDE said the list of where one could get a waiver is substantial. He thought it was based on the connection to state highways. He noted that Iliamna has many roads.

[9:09:01 AM](#)

DUANE BANNOCK, Alaska Division of Motor Vehicles, said AS 28.10.011 says vehicle registration and mandatory insurance are exempted for a vehicle driven or moved in an area that is off of the highway system and has a traffic count of less than 500.

SENATOR BUNDE asked how often the traffic counts are taken, because Iliamna, Fort Yukon, and Kotzebue have a lot of traffic.

MR. BANNOCK said he relies on data from the Department of Transportation.

[9:11:00 AM](#)

CHAIR MCGUIRE said agreed that those three communities do stand out. She noted that Senator French worked with the committee to strike a balance. It is now an issue of educating people, but there will always be those who try to skirt the law, she stated.

MR. BANNOCK said the bill is pretty darn good.

[9:12:01 AM](#)

SENATOR BUNDE said the intent is to protect the innocent driver from the habitual drunk, and people in rural Alaska should have the same kind of protection as urban Alaskans. He suggested that adjustments need to be made to the list of exempt communities, but that is beyond the scope of this discussion.

SENATOR STEVENS moved the CS for SB 92, labeled 25-LS0439\M, from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 92(STA) passed from committee.

SB 115-GIFT CARDS

[9:13:28 AM](#)

CHAIR MCGUIRE announced the consideration of SB 115. There is a concern in combining the term "certificate" with "gift card" and so there should be a definition of both in the bill. There also was a question about the value of a gift card remaining into perpetuity or not.

[9:14:57 AM](#)

MARIT VAN DORT, Staff to Senator McGuire, said leaving the value in perpetuity strikes a nice balance between providing consumer protection and giving business owners the choice of issuing gift cards. Alaska is making money off of the unclaimed property, and there is no reason to limit it. She said Rachel Lewis noted that the law isn't being changed; gift cards are just being added. Instead of going through the Attorney General's office, a person can go to the Department of Revenue website and get the value of a gift card back if it has been reported as unclaimed property. If someone held a gift card for a long time and the business had not recorded it as unclaimed property, the person with the gift card can tell the business to honor it or threaten to report the business to the Department of Revenue.

[9:17:24 AM](#)

CHAIR MCGUIRE said a business is required to report an aggregate of \$750 worth of unclaimed property. The bill doesn't change that, but it includes gift cards. Whether a consumer buys a gift card or a product, "the business can choose, at that point in time, to calculate it for however they want into their profit statements. Later, if they decide, put it off the books and three years later report it as unclaimed property." If the business has reached an aggregate \$750, it is required to report the unclaimed property, giving the consumer the right to get that money back. "I think that's a really nice consumer protection to have in Alaska." She noted elderly consumers, and "somebody has given their money toward that gift to you, so it still ought to have a value." This is a nationwide movement, she noted. The bill also eliminates fees and interest. Merchants have no obligation to issue gift cards, she said, but she believes they will because of the money they can make from them.

[9:19:54 AM](#)

SENATOR GREEN said one store has racks of cards from different vendors, so either the store receives a cut from selling the card or it must add a fee.

MS. VAN DORT said unless the gift card is issued from a bank, the fees will not be allowed.

SENATOR FRENCH said Carrs has \$50 Nordstrom gift certificates, so there must be an agreement that Nordstrom gets \$48 of those dollars, for example, and Carrs gets \$2.

CHAIR MCGUIRE said the two companies can make those arrangements, but the consumer won't be required to pay more. "So when you buy the \$50 card at the checkout stand, you get 50 bucks worth of merchandise. What happens between Nordstrom and Carrs is not impacted by this."

[9:21:40 AM](#)

SENATOR GREEN said right now a person will pay about \$6.50 in fees for a \$150 gift card.

CHAIR MCGUIRE said the merchants will have to make that decision. She offered that it has been extremely valuable for Nordstrom and others to make gift cards available. She got a card and got the full value, she added, but the bill is necessary because of an increasing trend to tack on fees that the consumer pays.

9:23:10 AM

SENATOR GREEN said the businesses should be alerted in case they want to testify. Gift cards are convenient, she stated.

CHAIR MCGUIRE suggested reaching out to Carrs and Kroger and having them come and talk about the gift card structures.

9:24:21 AM

MS. VAN DORT said gift certificates are defined in statute under gift cards, "so we cannot add gift certificate in there because we would have two terms meaning the same thing."

CHAIR MCGUIRE said the committee sees the gift card and gift certificate differently, although they do the same thing.

TERRY BANNISTER, Attorney, Legislative Affairs, said a different term, like "gift device", could be used to cover certificates and cards, but right now gift card is the main definition and it is used throughout the bill. Adding gift certificate, "we would have a separate term being used, but gift card covers it." The title uses the term gift certificate because "we're affecting gift certificates; we're changing the names and all that, and that's why I was trying to be very careful to say: oh, we're talking about gift certificates to the extent that we're kind of replacing the terminology with gift cards. So we wanted to notify everybody that we were addressing this." She said on page 1, line 5, the section title should be corrected to read gift card and credit memos, and that could be done by the revisor. "Whenever we delete something or change a term we try to evaluate whether or not we need to alert people to tell them that this has been affected."

9:27:04 AM

CHAIR MCGUIRE said prior to this bill, gift certificate was defined and not gift card. "So now the question is whether you define them both separately, or whether you replace the term gift certificate with gift card, or whether we call it a gift device."

SENATOR STEVENS asked how it differs from a credit memo, and he gave an example of selling something to a second-hand store in return for credit in the store.

MS. BANNISTER said she will have to check the uniform act to see how credit memo is defined. She assumes that wouldn't fit, but it could be included under gift card. It seems to be a totally

different item, she stated. "It is not affected by the bill; we've left it as it is."

[9:29:24 AM](#)

SENATOR BUNDE said there is no simple issue that we can't convolute. The bill is focused on the new phenomena of gift cards, "and I would say that gift certificate is a distinction that doesn't make a difference." He said, "Go ahead with the card," which is electronic and is used like a credit card. Some merchants charge a fee for using a credit card, he noted.

CHAIR MCGUIRE said her inclination is to keep the bill as is, but also to make the technical change. She offered Amendment 1, as follows:

Page 1, line 5:
Delete "**certificates**"
Insert "**cards**"

Hearing no objection, Amendment 1 carried.

[9:31:08 AM](#)

SENATOR GREEN said she doesn't see where a gift certificate is defined under gift card. It looks like it only applies to gift cards, she stated.

MS. BANNISTER said gift card is a broad definition, and it means a device—any kind of device. It could be a certificate. By its terms, the gift card definition includes gift certificates.

SENATOR FRENCH said line 26 defines the device as including an electronic card but doesn't say it could be a hand-written piece of paper issued by a store.

MS. BANNISTER said, "You may want to do that." The language uses the term "includes," so it is not limited to an electronic card.

[9:33:17 AM](#)

CHAIR MCGUIRE suggested the following: includes a paper certificate or an electronic card.

[9:34:20 AM](#)

CHAIR MCGUIRE asked about any other material that a certificate could be written on besides paper. "Should we just say certificate?" There may be another kind of material, and she noted a business card made out of metal.

SENATOR FRENCH said he liked using the term "paper."

MS. BANNISTER said since the language starts with "includes," it does not exclude a metal certificate.

CHAIR MCGUIRE offered Amendment 2, as follows:

Page 2, line 26, following "includes":
Insert "**a paper certificate or**"

Hearing no objection, Amendment 2 carried.

SENATOR FRENCH moved SB 115, as amended, from committee with individual recommendations and the attached zero fiscal note. There being no objection, CSSB 115(STA) moved from the Senate State Affairs Committee.

SB 16-EXTEND REGULATORY COMMISSION OF ALASKA

[9:36:10 AM](#)

CHAIR MCGUIRE announced the consideration of SB 16. This is the first hearing and the bill would not move today.

SENATOR GENE THERRIAULT, Alaska State Legislature, sponsor of SB 16, said the original bill contained the auditor's suggestion of an eight-year sunset extension for the Regulatory Commission of Alaska (RCA), but CSSB 16(CRA) is before the committee, and it rolls the extension back to six years and adds a two-year report card. The report card would not be a full-fledged audit but simply information on the RCA meeting its timelines. The two-year report card makes it important to keep the extension at multiples of two. He noted that regulated entities have requested changes to the RCA, but he suggested extending the RCA first. Without the RCA, all the issues will end up in the legislature's lap. "We do need to extend the RCA; the bill that is before you is that specific policy call." He said he has been working on the proposed changes, and he hoped the administration would support a separate package of changes to the way the RCA operated, but the administration is too busy so he will look for a sponsor.

[9:40:22 AM](#)

SENATOR THERRIAULT said there is growing consensus to make changes including commissioner salaries, adding an executive director, and adding statutory timelines. If the regulated community doesn't get too greedy, a package can be created with broad support. He said he is working on that. The legislature

may want to bundle the two issues together, but keeping the sunset extension clean is his preference, he stated.

[9:41:43 AM](#)

SENATOR STEVENS asked what the two-year report does, and asked if changes can occur at that time.

SENATOR THERRIAULT said certainly the legislature can introduce a bill at any year if it thinks the RCA has gone way off course. The report card provides that information to the legislature to indicate if something is going astray, like missing timelines or increasing the number of appealed cases. It is useful information to have before the sunset, he said. The RCA is a quasi-judicial entity overseeing a lot of dollars, he noted.

[9:43:37 AM](#)

SENATOR STEVENS asked if the report would just go to the Budget and Audit committee.

SENATOR THERRIAULT said it would be done by the "audit shop" and submitted to the legislature.

SENATOR STEVENS asked how it will arrive and who will see it.

SENATOR THERRIAULT it would just be a report that is presented to the bodies with the secretary reading it across. He noted that anyone in the regulated community with a concern will certainly bring it to the attention of legislators.

[9:44:44 AM](#)

SENATOR FRENCH asked why Sections 2 and 3 are repealers and reenactments, and what has changed or been lost.

KATE GIARD, Chair, Regulatory Commission of Alaska, said there was language that changed a reporting date. November 15 is far timelier and gives auditors a chance to look at it and report to the legislature by January. There was also language that required the RCA to report on things that it did not actually do, including the status of the development of utilities, which it has never done. Repealing that will clean things up.

[9:46:57 AM](#)

CHAIR MCGUIRE read the statute that is being eliminated. AS 42.05.211 currently states:

The commission shall by February 15 of each year publish an annual report reviewing its work and notify the legislature

that the report is available. The report must contain information and data that bear a significant relationship to the development and regulation of public utility services in the state and include an outline of the commission's program for the development and regulation of public utility services in the forthcoming year.

MS. GIARD said the RCA doesn't develop the public utilities, so it took the language out. "We've never obeyed that law in our annual report," she explained

[9:47:53 AM](#)

SENATOR FRENCH said the language has a forward-looking aspect about plans for the following year. "It certainly looks like that is being lost."

MS. GIARD said this year the RCA annual report shows the new cases that were filed, and that hasn't been done before. There is a great amount of time that goes by, she stated. "We put it in here because the time was so different we wanted you to know what's happening today."

[9:49:10 AM](#)

MS. GIARD said the RCA regulates approximately \$1.5 billion worth of commerce, and decisions can impact one entity for hundreds of millions of dollars. Its decisions can impact the state's economy, as well. If the Federal Energy Regulatory Commission (FERC) follows the decisions of the RCA on the TAPS pipeline case, it will have an impact of \$818 million a year on royalty revenue, so the RCA should be held accountable and transparent. She appreciates that the legislature checks on the RCA. Since Ms. Giard became chair three years ago, the RCA has been working with utilities to bring deep institutional change. The effort requires the help of the legislature and the RCA going out to the utilities to listen to complaints and fix them. The companies will not say they love all of the decisions, but she hopes they will say that the RCA is getting better. That was said in the audit report, and 55 percent of the regulated utilities and pipeline carriers said the RCA had improved. She said the RCA is comfortable with the six-year extension. A four-year extension is too short and too challenging to a new governor. "We put in the two-year audits because we believe we should be held accountable for the transparency, and we're going to put it in our annual report, and we want it audited."

[9:53:45 AM](#)

CHAIR MCGUIRE said she would like the committee to look at the information and consider rolling the substantive changes into the sunset bill. She said she wants to have time to formulate meaningful questions.

9:54:56 AM

SENATOR STEVENS asked if the issues of concern are addressed in the committee packet.

MS. GIARD said the RCA provided information from a public process that the utilities participated in. It has all of their comments of what they would like see changed. The RCA held public hearings, "and then voted on some to bring forward to you." She said the governor's office was unable to sponsor a second piece of legislation, so she combined what she thought the public wanted with SB 16 and HB 209. She said it is balanced and addresses timelines, "and there's conversations we need to have about those. I am really excited about shortening those timelines." Commissioner salaries are also addressed, she said.

9:57:12 AM

CHAIR MCGUIRE asked committee members to read RO6-10 and distinguish between what the public commented on and what was included. This committee could create a bill or add it to the current one. It is incumbent on the Senate to come up with concerns and the method to deal with them.

GEORGE GORDON, Director, Regulatory Affairs, Utility Services of Alaska, said he was once President and CEO of College Utilities Corporation and Golden Heart Utilities that provided water and waste water service to Fairbanks. He supports the legislation, and he agrees with the RCA on many issues. It is necessary to reduce the statutory time allowed for rate cases, he said, from 16 months down to 9 months. It is important to limit discovery during regulatory matters. He said the RCA is considering opening up a rule-making docket that would limit discovery. It is too open ended and not in the public interest, he stated. The salary and qualifications of the RCA need to be raised. The commissioners should earn what superior court judges earn. He supports having a staff person to exercise staff control and to act as a liaison to utilities. He said he doesn't care if the issues are addressed in the sunset bill or a separate bill.

10:01:09 AM

CHAIR MCGUIRE said visitors to her office have made those points to her.

DEAN THOMPSON, Attorney, Alaska Power Association (APA), said the APA is a trade association for electric utilities throughout Alaska. The APA has 39 member utilities, and it supports the reauthorization of the RCA. The general perception is that the RCA has improved significantly over the past few years in terms of docket management and seeking input from the industry. He said Chair Giard is doing a good job of improving efficiency and effectiveness, but there are further improvements as promoted by Mr. Gordon. The regulated entities have to interact with the RCA, so continuity and predictability are important. He said the APA has not taken a position on the term for the extension, but it doesn't oppose CSSB 16(CRA). Members of APA might support some of the proposed changes but would like to see them first.

[10:05:42 AM](#)

CHAIR MCGUIRE said she would like to hear more detail from the APA next week. She thanked Chair Giard. Regarding public input, she said, "What a difference a few years makes."

CHAIR MCGUIRE held SB 16 over.

SB 33-DNA FROM PERSONS CHARGED WITH FELONIES

[10:07:25 AM](#)

CHAIR MCGUIRE announced consideration of SB 33.

SENATOR BUNDE, Alaska State Legislature, sponsor of SB 33, said he would prefer that DNA samples be taken at the time of arrest of an individual, which is when fingerprints are taken, instead of only when the person is charged. He said he assumes that the Department of Public Safety would also have that preference. Most people who are arrested are charged with something. "I'm asking the committee to review the two options: whether the sample be taken at arrest or at the charging."

[10:09:36 AM](#)

CHAIR MCGUIRE said Version E requires DNA when arrested, and Version C is when charged. Both are on the table, she said.

KAREN FORREST, Deputy Director, Division of Juvenile Justice, Department of Health and Social Services (DHSS), suggested a minor clarification. Existing law makes a distinction between DNA collection for persons and minors, so she suggested adding "or minors" following "the persons".

[10:11:38 AM](#)

CHAIR MCGUIRE said she sees what she means. For Version C, the change will be on page 1, lines 15, 18 and 19. In version E, the change will be on lines 14, 17, and 18.

SENATOR FRENCH asked if two versions of a bill can be before the committee.

CHAIR MCGUIRE said Version E was adopted and is technically before the committee as a working document. She then said, "So we had C before us, and it is a bit unorthodox, I don't disagree, but in the interest of time...we will be working from C, but E is a version that is pro-offered by the sponsor just to be considered."

10:14:33 AM

DAVID SCHADE, Director, Division of Statewide Services, Department of Public Safety (DPS), said the department supports the bill. DNA is already required for convicted persons. That sample doesn't always get collected or it's delayed, he noted. This bill will give the state another opportunity to make sure that that requirement is completed.

10:15:33 AM

SENATOR STEVENS asked which version he supports.

MR. SCHADE said DPS prefers collecting the DNA when a person is arrested because there is not a good mechanism for collecting it when a person is charged.

SENATOR BUNDE said an arrest is a physical activity with an enforcement officer present. Being charged is a paper transaction, and the arrestee may not even be present.

CHAIR MCGUIRE said it is a policy call. An arrest is a point when someone thinks a person might have done something and probable cause is there. The charge is a higher standard, and conviction is higher yet--so it's just a policy call.

SENATOR STEVENS asked when the DNA sample is shared in the database.

10:17:58 AM

MR. SCHADE said the sample will be analyzed and put in the CODIS database to see if any matches occur.

SENATOR STEVENS said it is better to get that information sooner rather than later.

SENATOR BUNDE noted that John Dillinger wasn't arrested for murder but for tax evasion. People committing petty crimes are often involved in larger crimes. The opportunity at arrest, while it is a broad net, serves to solve crimes, he said.

[10:19:18 AM](#)

SENATOR FRENCH said physical arrest is the most efficient time to collect a sample, but he is philosophically more comfortable with a prosecutor reviewing a charge before taking the sample. Most states are going with DNA collection at the time of arrest, he noted. He agreed that a person may not be present when being charged.

SENATOR GREEN moved to adopt the committee substitute for SB 33, labeled 25-LS0260\E, Luckhaupt, as the working document. Hearing no objection, Version E was before the committee.

SENATOR BUNDE said 34 states are considering expanding or initiating the use of DNA for fighting crime, and 19 are choosing arrest as the point of collection.

[10:21:24 AM](#)

CHAIR MCGUIRE said she wants a strong letter of intent that those wrongly arrested will have their DNA information retrieved from CODIS. There is a severe penalty for the misuse of the DNA, but she would like to emphasize that intent.

SENATOR STEVENS offered to move the bill.

CHAIR MCGUIRE asked, "Did we make those changes?"

SENATOR FRENCH said they were conceptual and the bill can be cleaned up in the judiciary committee.

CHAIR MCGUIRE suggested Amendment 1 on behalf of Senator Bunde, as follows:

Page 2, lines 14, 17, and 18, following "**persons**":
Insert "**or minor's**"

Hearing no objections, Amendment 1 carried.

SENATOR STEVENS moved the committee substitute to SB 33, labeled 25-LS0260\E, as amended, with attached fiscal notes and individual recommendations. Hearing no objections, CSSB 33(STA) passed from committee.

CHAIR MCGUIRE adjourned the Senate State Affairs Committee at [10:23:38 AM](#).