

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 18, 2009

3:19 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Mark Neuman, Vice Chair  
Representative Mike Chenault  
Representative John Coghill  
Representative Bob Lynn  
Representative Robert L. "Bob" Buch  
Representative Lindsey Holmes

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 90

"An Act relating to bonding limitations and confidentiality of records and information of the Alaska Industrial Development and Export Authority; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 101

"An Act exempting the full value of life insurance and annuity contracts from levy to satisfy unsecured debt, and amending the description of earnings, income, cash, and other assets relating to garnishment of life insurance proceeds payable upon the death of an insured."

- MOVED HB 101 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 90

SHORT TITLE: AIDEA: BONDING LIMITS; CONFIDENTIALITY

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/28/09	(H)	READ THE FIRST TIME - REFERRALS
01/28/09	(H)	L&C, FIN
02/18/09	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 101

SHORT TITLE: EXEMPTIONS: LIFE INSURANCE; ANNUITIES

SPONSOR(S): REPRESENTATIVE(S) COGHILL

01/30/09 (H) READ THE FIRST TIME - REFERRALS  
01/30/09 (H) L&C, JUD  
02/18/09 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

TED LEONARD, Executive Director  
Alaska Industrial Development and Export Authority (AIDEA)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 90.

VALORIE WALKER, Deputy Director, Finance  
Alaska Industrial Development & Export Authority (AIDEA)  
**POSITION STATEMENT:** Answered questions during the discussion of HB 90.

CHRIS ANDERSON, Deputy Director, Credit  
Alaska Industrial Development and Export Authority (AIDEA)  
Anchorage, Alaska  
**POSITION STATEMENT:** Answered questions during the discussion of HB 90.

BRIAN BJORQUIST, Senior Assistant Attorney General  
Labor and State Affairs Section  
Department of Law (DOL)  
Anchorage, Alaska  
**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 90.

AMANDA MORTENSEN, Intern  
Representative John Coghill  
Alaska State Legislature  
Juneau, Alaska  
**POSITION STATEMENT:** Testified and answered questions on behalf of the prime sponsor of HB 101, Representative John Coghill.

LINDA HULBERT  
Fairbanks, Alaska  
**POSITION STATEMENT:** Testified in support of HB 101.

**ACTION NARRATIVE**

3:19:08 PM

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Buch, Chenault, Coghill, Holmes, Neuman, and Olson were present at the call to order. Representative Lynn arrived as the meeting was in progress.

HB 90-AIDEA: BONDING LIMITS; CONFIDENTIALITY

3:19:52 PM

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 90, "An Act relating to bonding limitations and confidentiality of records and information of the Alaska Industrial Development and Export Authority; and providing for an effective date."

3:19:58 PM

TED LEONARD, Executive Director, Alaska Industrial Development and Export Authority (AIDEA), stated that the Alaska Industrial Development and Export Authority's (AIDEA) mission is to provide financing to promote economic growth and diversification in Alaska. He opined that AIDEA fulfills its mission by providing Alaska businesses and nonprofits agencies with long-term commercial and development financing at a reasonable cost. He related that HB 90 would allow AIDEA more flexibility when it issues bonds to ensure the authority receives the most favorable rates and to reduce overall costs to AIDEA and Alaskans. He explained that the bill would clarify and assure borrowers and development applicants that certain records will be kept confidential.

3:21:52 PM

MR. LEONARD reviewed the bill sections, stating that Section 1 of HB 90 would amend the bond limitation's section by excluding refunding and conduit revenue bonds. He related that this section limits the amount of bonds that can be issued in a 12-month period to \$400,000. He offered that the main types of bonds that AIDEA issues are general obligation (GO) bonds, revenue bonds, conduit revenue bonds, and refunding bonds. He clarified that GO bonds and revenue bonds are typically issued for project development and to fund AIDEA's loan participation

bonds. He explained that GO bonds pledge the general assets of the authority while revenue bonds pledge the revenue of the bond. He further explained that revenue bonds were issued for Snettisham Dam, and are repaid directly from the receipts AIDEA receives from the Alaska Electric Light and Power (AEL&P). He explained that refunding bonds are used to refinance and replace existing bond debt in order to obtain more favorable terms. He offered an analogy by stating that when mortgage rates drop, homeowners want to refinance to obtain lower finance rates. He reiterated that similarly, refunding bonds replace existing debt with new debt at more favorable terms. He highlighted that refunding bonds cannot be issued unless economic benefits can be demonstrated to the bond market. Thus, the refunding bonds are self-limiting since the bonds are only used to replace existing debt.

[3:23:51 PM](#)

MR. LEONARD offered that conduit bonds are used to provide financing to businesses and nonprofits, where AIDEA acts as a "conduit" for the issuance for the taxable and tax exempt bonds. He explained that under its program, AIDEA has financed over 309 projects through \$1.2 billion in conduit bonds. He related that the bonds are slowly repaid by the developer through the revenue derived from the developer's project. However, the AIDEA has no financial obligation or risk for the debt when it issues conduit revenue bonds. He highlighted that the Internal Revenue Service (IRS) limits the amount of conduit revenue bonds that the state can issue to \$260 million annually. He indicated that AIDEA must obtain approval from the bond committee before issuing conduit revenue bonds.

MR. LEONARD summarized that the refunding bonds and conduit bonds help promote the AIDEA's mission without substantially increasing the amount of its outstanding debt. He stated that the purpose of the bill is to ensure that the 12 month bond limitation would not hamper AIDEA's ability to issue debt that would provide the authority and businesses with more favorable terms or lower capital cost. He further stated that the bill helps to ensure that AIDEA's conduit revenue bond program is not limited from providing conduit revenue bonds for businesses.

[3:25:44 PM](#)

REPRESENTATIVE HOLMES related her understanding with respect to refunding bonds that AIDEA can issue up to \$400,000 in a 12-

month rolling period. She asked for clarification for the exception for refunding bonds.

[3:26:44 PM](#)

MR. LEONARD responded that the issue is one of timing. He highlighted that if the municipal market is positive, and rates dropped, and AIDEA issued \$250 million in refunding bonds for an economic development project, and turned \$100 million of variable debt to fixed debt, that the total issuance of bonds would be \$350 million. If that happened during the same time period, then AIDEA could not issue debt through the conduit program for perhaps six months or longer, until the 12-month period passed, he stated. He said he anticipates that the conduit revenue bond program may become more active since the Congress just passed legislation that changes what can be included in industrial development bonds, such as allowing intangible assets to be included. Thus, the changes make it easier to issue bonds under the tax exempt status, he added.

REPRESENTATIVE HOLMES inquired as to whether refunding bonds always refund underlying debt or can debt be added to an existing bond.

MR. LEONARD related his understanding that the refunding bonds could also include issuance cost, but he offered his belief that new debt could not be added in the process.

[3:29:08 PM](#)

VALORIE WALKER, Deputy Director, Finance, Alaska Industrial Development & Export Authority (AIDEA), stated that she agrees with Mr. Leonard. She explained that refunding bonds could include cost of issuance and additional amounts to fund reserves but the costs would be related to the original issue of bonds.

[3:29:51 PM](#)

REPRESENTATIVE HOLMES related her understanding that additional costs could be added but that the underlying obligation would not be doubled.

MR. LEONARD agreed.

[3:30:06 PM](#)

MS. WALKER, in response to Representative Buch, stated that Bradley Lake was Alaska Energy Authority bonds so this bill would not apply to those bonds.

MR. LEONARD, in response to Representative Chenault, explained that conduit revenue bonds amount to \$464 million outstanding since 1995.

REPRESENTATIVE CHENAULT related his understanding that by excluding refunding bonds and conduit revenue bonds AIDEA would expand its ability to bond for different projects. However, currently the AIDEA is restricted by a total amount of \$400 million. He inquired as to how much additional bonding authority would be provided by this bill.

MR. LEONARD responded that it would depend on how many bonds come to us. He explained that the AIDEA has \$200 million in outstanding bonds. Additionally, \$463 million in conduit revenue bonds are outstanding. However, he reminded members that the conduit revenue bonds do not appear on AIDEA's financial statements, except as a note to mention the program. He reiterated that refunding bonds are self limiting to bonds that are outstanding. Thus, those bonds are replaced with new bonds. An overall limitation exists on the conduit revenue bonds with the state, but the AIDEA is essentially a "conduit for nonprofits and businesses" to have access to the capital market.

[3:33:41 PM](#)

REPRESENTATIVE CHENAULT expressed his concern that the state could double its bonding authority. He inquired as to whether AIDEA would need to come back to the legislature for approval prior to issuing bonds. He summarized that he did not want AIDEA to have unlimited bonding authority.

MR. LEONARD explained that the conduit revenue bonds do not affect AIDEA's bonding capacity since they are "conduit" bonds. He related that the conduit revenue bonds help economic development access to the capital markets. Additionally, small businesses in manufacturing or that meet certain criteria can use tax-exempt bonding authority instead of a taxable bond, which can lower the rate.

[3:36:12 PM](#)

MS. WALKER explained that HB 90 would limit AIDEA's ability to issue new money bonds to \$400 million in any 12-month period. This section of the bill requests the ability to exclude refunding bonds and conduit revenue bonds. However, the limitation of \$400 million in any 12 month period would still apply. She highlighted that this issue arose when AIDEA initially issued bonds the bonds tended to be small bonds ranging from under \$1 million or under \$10 million. However, the IRS rules changed. She explained that the conduit revenue bonds are used by tax-exempt organizations under Section 501(c)(3) of the Internal Revenue Code. Typically, the conduit revenue bonds are used by hospitals, for very large dollar amounts. She related that the AIDEA has no control over the timing of conduit revenue bonds. She stated that AIDEA is currently working on refunding a conduit revenue bond that three weeks ago was not known. She related that the bond could be for \$127 million. In the event that AIDEA needed to refund an outstanding variable rate debt or issue a refunding bond, that the \$127 million could limit the AIDEA's authority to issue any additional bonds during a 12-month period, or to issue bonds for a conduit, since the bonds are all lumped together.

[3:38:19 PM](#)

MR. LEONARD, in response to Representative Chenault, answered that the AIDEA is not over the limit on its bonding authority since the \$400 million refers to the limit that AIDEA can issue in bonds during a 12-month period. He related that since the 1980s that AIDEA has issued about \$1.2 billion in conduit revenue bonds and the amount left outstanding is \$463 million.

[3:39:13 PM](#)

MR. LEONARD, in response to Chair Olson, stated that the state's Standard & Poor's rating is AA. He stated that the state went from a rating of A to AA, which is better than many states.

[3:39:45 PM](#)

REPRESENTATIVE BUCH inquired if Section 2 of HB 90 would remove the obligation for AIDEA to come to the legislature for approval would not be necessary.

MR. LEONARD responded that Section 2 of HB 90 removes the sunset authority. Additionally, this would allow AIDEA to issue bonds under \$10 million, but requires AIDEA to seek legislative approval on any bonds issued over \$10 million. However, the

limit in Section 1 would still apply, which is not to exceed \$400 million during a 12-month period.

[3:40:55 PM](#)

REPRESENTATIVE CHENAULT inquired as to whether there are any big projects that would need legislative approval.

MR. LEONARD answered that while no official action has been taken, that Fairbanks Natural Gas, as well as possible Alaska Energy Authority's (AEA) energy projects could need legislative approval.

MR. LEONARD, in response to Representative Chenault, answered that AEA has bonding authority. He surmised that AIDEA probably has better capacity to service debt than for AEA to start its own program.

REPRESENTATIVE CHENAULT inquired as to whether AEA could bond more since the state would be "on the hook" versus if AIDEA bonded that AIDEA or the consumer would be "on the hook".

MR. LEONARD offered his belief that AEA could not own a project, but AIDEA could bond and have a development project, such as the Red Dog Mine in Western Alaska. He acknowledged that he is not an expert on AEA's statutes.

[3:43:27 PM](#)

REPRESENTATIVE COGHILL, in response to Chair Olson, related his understanding that Fairbanks Natural Gas, LLC was seeking a \$250 million bond. However, he offered that private capital is available. Thus, asking for bonding would create a big hurdle for him since private capital is available, he opined.

MR. LEONARD offered that AIDEA will look at any project. He stated that AIDEA does not conduct due diligence on projects initially.

REPRESENTATIVE COGHILL clarified that the project is conceptual and that the \$250 million is also conceptual and has not been vetted.

[3:45:35 PM](#)

MR. LEONARD, in response to Chair Olson offered possible projects for AIDEA involvement include the Red Dog Mine for an

estimated \$300 million for a deep port, and Ketchikan shipyard for an additional \$40 to \$50 million for expansion of its dock. He related that AIDEA has not yet been asked for assistance, but that it is ready and willing to help.

REPRESENTATIVE COGHILL mentioned that a preliminary agreement has been reached on the Healy Clean Coal issue.

MR. LEONARD related that AIDEA has assets of approximately \$930 million. Thus, AIDEA has its own bonding capacity, but that as it issues bonds its ability goes down, except when it issues conduit revenue bonds.

[3:47:42 PM](#)

MR. LEONARD, in response to Representative Neuman, explained that the bill was formulated as AIDEA projected its programs and realized the potential existed that could affect the conduit revenue bond program and in terms of the confidentiality sections, whether borrowers' proprietary information could be kept confidential.

MR. LEONARD, in response to Representative Neuman, explained that when AIDEA issues a conduit revenue bond, the bond market understands AIDEA's role. He related his understanding that the bonds are based on the borrower's financial statements and the project. He said, "They realize they cannot go back against AIDEA for those bonds so they know they are not buying AIDEA bonds. They're actually buying Fairbanks Hospital bonds." He related that this helps businesses use AIDEA's expertise and bond attorneys to issue these bonds. He pointed out that AIDEA does charge an application fee of \$500, plus one percent for the \$1 million, then a half a percent from \$1 to \$5 million, and a quarter percent from \$5 to \$15 million. Thus, in essence when people buy these bonds, they have knowledge that AIDEA is not pledging its assets or its credit.

[3:50:38 PM](#)

REPRESENTATIVE NEUMAN related that with the economy collapsing, he confessed a general uneasiness that a state agency would be used as a conduit for businesses that cannot obtain their own bonding authority.

MR. LEONARD said:

In actuality, that is the function of AIDEA. AIDEA is there to allow access to capital markets. We do that through our loan participation program. We have about \$400 million in small loans to businesses, and our conduit revenue bond, again, is the way that nonprofits can get to the capital markets.

[3:51:38 PM](#)

REPRESENTATIVE COGHILL related his understanding that AIDEA, along with AEA and the Alaska Housing Finance Corporation (AHFC) were specifically designed to turn some of Alaska's oil riches into a method to reinvest in economic development. He offered that the argument all along as been whether this is "real economy" or "subsidized economy".

[3:52:11 PM](#)

REPRESENTATIVE NEUMAN inquired as to the amount of delinquent bonds.

MR. LEONARD responded that none of AIDEA's bonds are delinquent. He opined that of about \$370 million that the loan delinquency rate is one-tenth of a percent.

[3:52:53 PM](#)

CHRIS ANDERSON, Deputy Director, Credit, AIDEA, estimated that right now the delinquency ratio is close, at .13 of a percent which is for loans that are delinquent 90 days or more. She related that is the lowest rate in the past two and a half years. She said, "Our delinquencies on the participation program, at least currently are in very good shape."

[3:53:44 PM](#)

REPRESENTATIVE COGHILL made a motion to adopt Amendment 1, labeled, 26-GH1043\A.1, Bannister, 12/9/10, which read:

Page 2, line 30, through page 3, line 3:  
Delete all material.

Renumber the following bill sections accordingly.

There being no objection, Amendment 1 was adopted.

[3:54:05 PM](#)

MR. LEONARD explained that the language in Section 4 of HB 90 is existing statute for AS 44.88.215 (b).

[3:54:33 PM](#)

BRIAN BJORQUIST, Senior Assistant Attorney General, Labor and State Affairs Section, Department of Law, explained that a mistake was made in the process of developing the bill, but since no changes were made to the AS 44.88.215 (b), the entirety of Section 4 of the bill can be deleted.

[3:55:07 PM](#)

MR. LEONARD explained that Section 2 of HB 90 would reinstate the authority's ability to issue bonds that existed prior to July 1, 2007, which essentially removes the sunset provision. This also would clarify in statute that AIDEA may use proceeds from refunding bonds to fund reserves and finance certain costs and expenses associated with issuing the refunding bonds. He stated that due to the statutory sunset AIDEA currently requires legislative approval to issue any bonds except the refunding bonds and conduit revenue bonds. He reiterated that Section 2 would eliminate the sunset and enable the authority to issue most types of bonds less than \$10 million, but would require AIDEA to seek legislative approval on bonds over \$10 million that would assist the financing of AIDEA-owned development projects. He mentioned that provision refers primarily to GO bonds and refunding bonds on its own projects.

[3:56:31 PM](#)

REPRESENTATIVE HOLMES related her understanding that under existing law and this proposed bill that AIDEA can issue bonds under \$10 million, but must come to legislature for approval on bonds over \$10 million.

MR. LEONARD responded that this section would restore the language prior to the sunset. He confirmed that AIDEA would need to have legislative approval for bonding over \$10 million.

[3:57:21 PM](#)

MR. LEONARD explained that Section 3-6 of HB 90 would help clarify that certain records and information provided to AIDEA are confidential, and would establish processes for the authority to determine confidentiality. He reiterated borrowers

held concerns about the type of records that AIDEA would keep confidential and the type of process AIDEA would use to determine confidentiality. He stated that Section 6 further clarifies by adding a definition for trade secrets based on existing AS 45.50.940. He detailed that Section 5 establishes a process for AIDEA to determine which records will be kept confidential. The applicant must request confidentiality, and make an adequate showing to the executive director that the records should be kept confidential, who will then decide if the records or information meet the statutory criteria for confidentiality. He related that these sections give applicants greater assurance from the beginning of the process which records are confidential. He noted that during the due diligence process, that in order to determine the applicant's financial ability, "we delve very deeply into the records and their business." He stated that applicants expressed concern that a competitor might request public records and confidential information would be released.

[4:00:01 PM](#)

REPRESENTATIVE COGHILL related his understanding that more of a burden would be placed on the executive director. He inquired as to whether "adequate showing" is a term of art that is understood or if it would result in a lawsuit.

[4:01:14 PM](#)

MR. BJORQUIST stated that the requirement for an adequate showing would require that the applicant provide sufficient information to the executive director to demonstrate that the information fits within the list of types of documents that under the statute are confidential. He related that rather than listing confidential documents, a process is set up so the person demonstrates the documents meet the criteria for confidentiality. He said that the executive director, under Section 5 would make a determination that it fits in the list. Currently, anyone who provides information and fits into the list of confidential documents is automatically confidential. However, the difficulty is that a mechanism is not in place to make a determination at the outset, whether the statutory criteria have been met or not. Thus, the adequate showing and the subsequent determination by the executive director merely puts into place a process that would allow the determination to occur earlier in the process, rather than leaving a question about when the determination will be made and ultimately which documents will be considered confidential.

[4:03:28 PM](#)

REPRESENTATIVE COGHILL related his understanding that this narrows the process to make a clearer process for determining confidentiality of proprietary documents. He inquired as to whether the additional language in Section 5 will make the process more entangled. In response to Mr. Leonard, Representative Coghill stated he reviewed the definition of "trade secrets" in AS 45.50.940. He expressed concern that Section 5 of the bill may cause litigation as written.

[4:05:24 PM](#)

CHAIR OLSON offered that it not his intention to move HB 90 today.

[4:05:32 PM](#)

MR. LEONARD stated that Section 8 would add an effective date of July 1, 2009.

[4:06:05 PM](#)

MR. BJORQUIST explained that this bill would take effect July 1, 2009. However, the 12-month period overlap before and after the dates in Section 1 apply so the terms of this provision would apply to any bonds issued after July 1, 2009, but would also include any bonds issued 12-months prior to that date.

[4:06:44 PM](#)

CHAIR OLSON, after first determining no one wished to testify, closed public testimony on HB 90. He clarified that Amendment 1 was previously adopted, and the bill would be held over.

HB 101-EXEMPTIONS: LIFE INSURANCE; ANNUITIES

[4:07:47 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 101, "An Act exempting the full value of life insurance and annuity contracts from levy to satisfy unsecured debt, and amending the description of earnings, income, cash, and other assets relating to garnishment of life insurance proceeds payable upon the death of an insured."

4:07:55 PM

AMANDA MORTENSEN, Intern, Representative John Coghill, Alaska State Legislature, speaking on behalf of the prime sponsor, Representative John Coghill, explained that HB 101 would exempt the full value of life insurance and annuity contracts from levy to satisfy unsecured debt. This bill would protect Alaskan families and their ability to plan for the future. She related an example in which "person A" is involved in a car accident hits "person B" and that person could sue for the assets of "person A". This bill would protect "person A's" life insurance and annuity contract so that his/her family could survive in the event of "person A's" death. However, "person B" would not be prevented from pursuing "person A's" other assets to fulfill a settlement award. Additionally, HB 101 would protect the death benefits of the spouse or a dependent of the debtor in the event the debtor survives. Currently, retirement plans are protected under federal law. This bill would help in instances in which an employer does not provide an employee with retirement plan. The employee would be allowed to use an annuity as a retirement plan to provide financial security for their family. She remarked that given the uncertainty of the federal social security system that Alaskan families need to be able to legitimately provide for their futures. She related that HB 101 falls under AS 09.38.025, which provides exemptions for the code of civil procedure.

4:10:02 PM

MS. MORTENSEN explained that Section 1 removes the \$10,000 exemption cap on life insurance and annuities and Section 2, removes the language "or payable" to clarify potentially ambiguous language that would allow garnishment of death benefits prior to a person's death. She offered that 10 other states have exempted life insurance and annuities from creditors.

4:11:01 PM

LINDA HULBERT stated that she has lived in Alaska for 40 years. She offered that for the past 20 years she has worked as an agent for New York Life Insurance. She also offered that she has been helping Alaskan families plan for estate and retirement planning. She opined that HB 101 is very important to the future of Alaska's families due to the economic environment. She related that many retirement plans are being cancelled, companies are not always making contributions to retirement

plans on behalf of their employees, and many families have limited savings. This bill would allow Alaskan families to plan and have life insurance without being subject to the loss of the life insurance. Additionally, it would allow individuals to plan for their retirement. She surmised that fewer defined benefit plans exist. This bill would allow employees to set aside money that would be protected and not taxed until the retirement funds were used. She said she strongly supports HB 101. She reiterated that ten other states have adopted these provisions. She surmised that the trend is for more states to enact legislation to protect employees' retirement plans. She related that Arizona passed similar legislation a few years ago. She stressed the importance of this bill to assist families in planning for their future. Plus, she opined that HB 101 encourages personal responsibility to plan and save for the future. She asked the committee to consider passing HB 101.

[4:13:00 PM](#)

REPRESENTATIVE HOLMES inquired as to the typical range of life insurance or annuity account that people currently hold.

MS. HULBERT explained that it really depends on the size of family, their assets, and the number of children and grandchildren. She ventured that policies typically range from \$100,000 to \$250,000. She opined that some people are carrying larger policies as they counted on other assets to protect their families and the assets are difficult to sell. She said that it is not uncommon to have policies in the \$500 thousand range, and sometimes up to \$1 million in insurance. She explained that annuity contracts may not be lump sum, but families may set aside a certain amount per month, or a family may try to preserve an inheritance. She concluded that pinning down a typical amount is difficult due to the varied circumstances.

[4:14:39 PM](#)

REPRESENTATIVE HOLMES expressed concern that some people might try to "game the system". She inquired as to how to offer protection for an employee's retirement account without keeping unscrupulous people from "gaming the system" and sinking money into life insurance or annuity contracts in order to shelter their assets.

MS. HULBERT responded that this statute addresses fraudulent transfers. She opined that if a question arose that someone tried to hide assets or protect assets, the courts would

consider the transfer of assets a fraudulent transfer, which would be subject to the claims of creditors. She further opined that HB 101 protects individuals but at the same time does not allow abuse. She related that other states, including Alaska have taken measures to ensure that fraudulent transfers are subject to the claims of creditors.

[4:16:35 PM](#)

MS. MORTENSEN added that the state of Florida completely exempts life insurance and annuities. She described an instance in which a debtor transferred a non-exempt individual retirement account (IRA) into an annuity with the intent to defraud creditors, which was determined to be a fraudulent transfer. Thus, cases of this type have been upheld in other states, she said.

[4:17:18 PM](#)

CHAIR OLSON, after first determining no one wished to testify, closed public testimony on HB 101.

[4:17:27 PM](#)

REPRESENTATIVE BUCH offered his belief that these are the kinds of issues that this state needs to address. He thanked the bill's sponsor for bringing the issue of retirement and life insurance protections forward.

[4:17:54 PM](#)

REPRESENTATIVE HOLMES stated that she likes the intent of HB 101. She expressed some concern that she has not considered other possible issues, such as whether an account is automatically protected in instances in which a person inherits a trust fund that is in the form of an annuity. She offered that a few outlying scenarios need to be considered.

[4:18:23 PM](#)

REPRESENTATIVE COGHILL offered his belief that Alaska has tried to stay "in the front of the pack" on trust fund issues and has built in significant fraud protection. He opined that the issues have been addressed through the years. He recalled at least eight bills that have come before the House Judiciary Standing Committee that fall into that category. He stated that annuities generally deal with death benefit issues. He said

that he shared Representative Holmes's concern, but that he has not observed any way to escape the law. He expressed interest in Representative Holmes's review, since he supports legitimate claims but does not want anyone to be able to game the system. He opined that he has not found any loophole to date.

[4:19:41 PM](#)

REPRESENTATIVE HOLMES maintained her belief that HB 101 has good intent. She noted that she will be privileged to hear the bill when it comes to the House Judiciary Standing Committee for review.

[4:19:55 PM](#)

CHAIR OLSON offered to hold the bill over.

[4:20:13 PM](#)

Representative Holmes responded that if the rest of the committee wished to move the bill she will further review the bill and take up any issues before the House Judiciary Standing Committee.

[4:20:22 PM](#)

REPRESENTATIVE COGHILL moved to report HB 101, Version 26-LS0176\R, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 101 was reported from the House Labor and Commerce Standing Committee.

[4:21:05 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:21 p.m.