

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 15, 2010

3:27 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 277(RES) AM

"An Act exempting from regulation by the Regulatory Commission of Alaska and by municipalities certain generators of electricity from renewable energy resources that sell electricity to regulated utilities."

- MOVED HCS CSSB 277(L&C) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 129(L&C)

"An Act relating to municipal building code requirements for fire sprinkler systems in certain residential buildings."

- MOVED HCS CSSB 129(L&C) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 10(HSS)(EFD DEL)

"An Act requiring health care insurers to provide insurance coverage for medical care received by a patient during certain approved clinical trials designed to test and improve prevention, diagnosis, treatment, or palliation of cancer; directing the Department of Health and Social Services to provide Medicaid services to persons who participate in those clinical trials; and relating to experimental procedures under a state plan offered by the Comprehensive Health Insurance Association."

- MOVED CSSB 10(HSS)(efd del) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 234(FIN)

"An Act relating to the voting procedures of the Alcoholic Beverage Control Board; allowing the Alcoholic Beverage Control Board to release information contained in the statewide database of alcohol purchases and shipments to the person who purchased the alcohol or to whom the alcohol was shipped; relating to the access of persons under 21 to premises where alcoholic beverages are sold, served, or consumed; extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

- BILL HEARING CANCELED

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 243(FIN)

"An Act relating to the voting procedures of the Alcoholic Beverage Control Board; allowing the Alcoholic Beverage Control Board to release information contained in the statewide database of alcohol purchases and shipments to the person who purchased the alcohol or to whom the alcohol was shipped; relating to the access of persons under 21 to premises where alcoholic beverages are sold, served, or consumed; extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

- BILL HEARING CANCELED

2D CS FOR SENATE BILL NO. 303(RLS)

"An Act relating to the voting procedures of the Alcoholic Beverage Control Board; allowing the Alcoholic Beverage Control Board to release information contained in the statewide database of alcohol purchases and shipments to the person who purchased the alcohol or to whom the alcohol was shipped; relating to the access of persons under 21 to premises where alcoholic beverages are sold, served, or consumed; extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 277

SHORT TITLE: PUB. UTILITY EXEMPTION: RENEWABLE ENERGY

SPONSOR(S): ENERGY

02/12/10 (S) READ THE FIRST TIME - REFERRALS

02/12/10 (S) RES, JUD
 02/22/10 (S) RES AT 3:30 PM BUTROVICH 205
 02/22/10 (S) Heard & Held
 02/22/10 (S) MINUTE(RES)
 02/25/10 (S) RES AT 4:00 PM BUTROVICH 205
 02/25/10 (S) Moved CSSB 277(RES) Out of Committee
 02/25/10 (S) MINUTE(RES)
 03/02/10 (S) RES RPT CS 1DP 3NR NEW TITLE
 03/02/10 (S) DP: MCGUIRE
 03/02/10 (S) NR: WIELECHOWSKI, STEVENS, FRENCH
 03/19/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/19/10 (S) <Bill Hearing Postponed>
 03/22/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/22/10 (S) Heard & Held
 03/22/10 (S) MINUTE(JUD)
 03/24/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/24/10 (S) Moved CSSB 277(RES) Out of Committee
 03/24/10 (S) MINUTE(JUD)
 03/25/10 (S) JUD RPT CS(RES) 1DP 3NR
 03/25/10 (S) DP: MCGUIRE
 03/25/10 (S) NR: FRENCH, WIELECHOWSKI, EGAN
 04/02/10 (S) BEFORE THE SENATE IN THIRD READING
 04/02/10 (S) TRANSMITTED TO (H)
 04/02/10 (S) VERSION: CSSB 277(RES) AM
 04/05/10 (H) READ THE FIRST TIME - REFERRALS
 04/05/10 (H) ENE, RES, L&C
 04/09/10 (H) ENE REFERRAL WAIVED
 04/10/10 (H) RES REFERRAL WAIVED
 04/14/10 (H) L&C AT 3:15 PM BARNES 124
 04/14/10 (H) Scheduled But Not Heard
 04/15/10 (H) L&C AT 3:15 PM BARNES 124

BILL: SB 129

SHORT TITLE: RESIDENTIAL SPRINKLER SYSTEMS

SPONSOR(s): MENARD

02/27/09 (S) READ THE FIRST TIME - REFERRALS
 02/27/09 (S) CRA, STA, L&C
 03/17/09 (S) CRA AT 3:30 PM BELTZ 211
 03/17/09 (S) Heard & Held
 03/17/09 (S) MINUTE(CRA)
 03/19/09 (S) CRA AT 3:30 PM BELTZ 211
 03/19/09 (S) Moved SB 129 Out of Committee
 03/19/09 (S) MINUTE(CRA)
 03/20/09 (S) CRA RPT 1DP 2NR
 03/20/09 (S) DP: MENARD
 03/20/09 (S) NR: OLSON, THOMAS

03/24/09 (S) STA AT 9:00 AM BELTZ 211
 03/24/09 (S) Moved SB 129 Out of Committee
 03/24/09 (S) MINUTE(STA)
 03/25/09 (S) STA RPT 1DP 2NR 2AM
 03/25/09 (S) DP: MENARD
 03/25/09 (S) NR: MEYER, KOOKESH
 03/25/09 (S) AM: FRENCH, PASKVAN
 03/02/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 03/02/10 (S) Heard & Held
 03/02/10 (S) MINUTE(L&C)
 03/09/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 03/09/10 (S) Heard & Held
 03/09/10 (S) MINUTE(L&C)
 03/23/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 03/23/10 (S) Moved CSSB 129(L&C) Out of Committee
 03/23/10 (S) MINUTE(L&C)
 03/24/10 (S) L&C RPT CS 4DP NEW TITLE
 03/24/10 (S) DP: PASKVAN, BUNDE, MEYER, THOMAS
 03/31/10 (S) TRANSMITTED TO (H)
 03/31/10 (S) VERSION: CSSB 129(L&C)
 03/31/10 (H) READ THE FIRST TIME - REFERRALS
 03/31/10 (H) CRA, L&C
 04/09/10 (H) CRA REFERRAL WAIVED
 04/15/10 (H) L&C AT 3:15 PM BARNES 124

BILL: SB 10

SHORT TITLE: MEDICAID/INS FOR CANCER CLINICAL TRIALS

SPONSOR(s): DAVIS

01/21/09 (S) PREFILE RELEASED 1/9/09
 01/21/09 (S) READ THE FIRST TIME - REFERRALS
 01/21/09 (S) HSS, L&C, FIN
 02/18/09 (S) HSS AT 1:30 PM BUTROVICH 205
 02/18/09 (S) Heard & Held
 02/18/09 (S) MINUTE(HSS)
 02/20/09 (S) HSS AT 1:30 PM BUTROVICH 205
 02/20/09 (S) Moved CSSB 10(HSS) Out of Committee
 02/20/09 (S) MINUTE(HSS)
 02/23/09 (S) HSS RPT CS 4DP SAME TITLE
 02/23/09 (S) DP: DAVIS, ELLIS, THOMAS, PASKVAN
 03/12/09 (S) L&C AT 1:30 PM BELTZ 211
 03/12/09 (S) Moved CSSB 10(HSS) Out of Committee
 03/12/09 (S) MINUTE(L&C)
 03/13/09 (S) L&C RPT CS(HSS) 5DP
 03/13/09 (S) DP: PASKVAN, MEYER, THOMAS, BUNDE,
 DAVIS
 04/08/09 (S) FIN AT 9:00 AM SENATE FINANCE 532

04/08/09 (S) Heard & Held
 04/08/09 (S) MINUTE(FIN)
 04/13/09 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/13/09 (S) Scheduled But Not Heard
 04/16/09 (S) FIN RPT CS(HSS) 2DP 4NR
 04/16/09 (S) DP: THOMAS, ELLIS
 04/16/09 (S) NR: HOFFMAN, STEDMAN, HUGGINS, OLSON
 04/16/09 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/16/09 (S) Moved CSSB 10(HSS) Out of Committee
 04/16/09 (S) MINUTE(FIN)
 03/08/10 (S) TRANSMITTED TO (H)
 03/08/10 (S) VERSION: CSSB 10(HSS)(EFD DEL)
 03/10/10 (H) READ THE FIRST TIME - REFERRALS
 03/10/10 (H) HSS, L&C
 04/06/10 (H) HSS AT 3:00 PM CAPITOL 106
 04/06/10 (H) Scheduled But Not Heard
 04/08/10 (H) HSS AT 3:00 PM CAPITOL 106
 04/08/10 (H) Scheduled But Not Heard
 04/10/10 (H) HSS AT 3:00 PM CAPITOL 106
 04/10/10 (H) -- MEETING CANCELED --
 04/12/10 (H) HSS RPT 4DP 2DNP 1NR
 04/12/10 (H) DP: HOLMES, LYNN, CISSNA, SEATON
 04/12/10 (H) DNP: T.WILSON, KELLER
 04/12/10 (H) NR: HERRON
 04/12/10 (H) HSS AT 8:30 AM CAPITOL 106
 04/12/10 (H) Moved Out of Committee
 04/12/10 (H) MINUTE(HSS)
 04/15/10 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

SENATOR LESIL MCGUIRE

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of SB 277.

KONRAD JACKSON, Staff

Representative Kurt Olson

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented the changes to Version C of SB 277, as staff to the House Labor and Commerce Standing Committee; testified and answered questions during the discussion of SB 129.

ETHAN SCHUTT, Senior Vice-President

Land and Energy Development

CIRI

Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 277.

STUART GOERING, Assistant Attorney General

Commercial/Fair Business Section

Department of Law (DOL)

Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of SB 277.

SENATOR LINDA MENARD

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented SB 129 as the prime sponsor of the bill.

MICHAEL ROVITO, Staff

Senator Linda Menard

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified and answered questions on behalf of the prime sponsor of SB 129.

REPRESENTATIVE JAY RAMRAS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of SB 129.

JEFF TWAIT

Kenai Peninsula Builders Association

Soldotna, Alaska

POSITION STATEMENT: Testified in support of SB 129.

WALLY SMITH, President

Alaska State Home Builders Association (ASHBA)

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 129.

PAUL MICHELSON

Alaska State Home Builders Association (ASHBA)

Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 129.

DAVID OWENS

Alaska State Homebuilders Association (ASHBA)

Palmer, Alaska

POSITION STATEMENT: Testified in support of SB 129.

SENATOR BETTYE DAVIS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of SB 10.

LINDA HALL, Director
Division of Insurance (DOI)
Anchorage Office
Department of Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of SB 10.

LAURIE HERMAN, Director
Governmental Affairs, Alaska Region
Providence Health and Services
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 10.

SHEELA TALLMAN
Premera Blue Cross of Alaska
Mountlake Terrace, WA

POSITION STATEMENT: Testified during the discussion of SB 10.

MARY STEWART, Physician; Oncologist
Past President of the Denali Oncology Group
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 10.

EMILY NENON, Alaska Government Relations Director
American Cancer Society Cancer Action Network
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 10.

JEANNE ANDERSON, Physician
Medical Oncologist; Medical Director, Research Department
Providence Cancer Center
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 10.

HANNAH BRICE SMITH, Cancer Research Nurse
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of SB 10.

ACTION NARRATIVE

[3:27:42 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:27 p.m. Representatives Olson, Chenault, Lynn, Neuman, T. Wilson, and Buch were present at the call to order. Representative Holmes arrived as the meeting was in progress.

[3:27:44 PM](#)

SB 277-PUB. UTILITY EXEMPTION: RENEWABLE ENERGY

[3:27:48 PM](#)

CHAIR OLSON announced that the first order of business would be CS FOR SENATE BILL NO. 277(RES) am, "An Act exempting from regulation by the Regulatory Commission of Alaska and by municipalities certain generators of electricity from renewable energy resources that sell electricity to regulated utilities."

[3:28:31 PM](#)

SENATOR LESIL MCGUIRE, Alaska State Legislature, paraphrased from the sponsor statement which read as follows [original punctuation provided]:

The electric demand of the relatively small and dispersed population in Alaska has traditionally been served by regulated utilities. The Regulatory Commission of Alaska (RCA) is charged with certifying utilities, regulating their rates, resolving disputes and protecting consumers. Throughout most of the State, electric utilities are not-for-profit and/or member owned cooperatives that serve a defined geographic area and customer base. Regulation of these utilities, given their monopoly status may certainly be appropriate.

However, regulation can pose obstacles to investment. In many states, the generation of electricity has been deregulated in order to provide an avenue for private sector investment in the sector. In a traditionally regulated model, the investment risk is born by ratepayers where in a deregulated environment the risk is born by investors. In markets that have been

deregulated, investment in renewable energy is significantly higher than in strictly regulated markets. A study by the U.S. Energy Information Administration shows that the annual growth of renewable penetration in restructured electricity markets is 11.3% while it is a mere .6% in highly regulated markets. Recognizing the regulatory impediment to the development of renewables, the Federal government has provided avenues for renewable generators to escape state regulation through an application to the Federal Energy Regulatory Commission.

Senate Bill 277 attempts to find a middle ground between a thoroughly deregulated market and the highly regulated environment in Alaska. SB 277 exempts renewable generation from RCA regulation only if the power is sold to a regulated utility. This compromise maintains RCA oversight over the power sales agreements and thereby provides a layer of protection to ratepayers. SB 277 opens Alaska's electricity market to private sector investment in renewables and will encourage investment in a cleaner energy future for Alaska

SENATOR MCGUIRE explained that SB 277 is an effort to support renewable energy in Alaska. She pointed out that she has been working throughout the past year to attract and retain renewable energy resource companies to provide diversity in Alaska's energy options. She related that she has taken a broad look at what renewable energy companies must contend with in terms of regulatory structures outside of Alaska. She has examined "what are the kinds of things that move them and drive them to invest in places." She expressed that she has floated the idea of the use of renewable energy tax credits. This bill would streamline the regulatory process by exempting renewable energy projects from regulation by the RCA if the projects are less than 65 megawatts and do not receive state tax credits or grants. She pointed out that the debate thus far has centered on consumer protection. She offered that after a healthy debate received strong support in the Senate. The stop-gap is that renewable energy projects are allowed an exemption when the company is selling its power to a regulated utility. Thus, the contract with the utility is subsequently overseen by the RCA.

[3:31:12 PM](#)

SENATOR MCGUIRE reiterated that the Regulatory Commission of Alaska (RCA) will regulate any contracts when renewable energy companies sell to Alaska's electric utilities. She has also observed this approach happening in other jurisdictions. She pointed out that the Fire Island Wind Project in Anchorage could be the beneficiary of this streamlining, but the broader concern is to "making it a level playing field" and attractive for the companies to operate in Alaska. She also offered to provide a copy of the legislative research report she received. She reported that no other state regulates renewable energy resources the way Alaska does, and Alaska has a different layer of regulation which attorneys practicing in the field advised represents a barrier to entry. She characterized the current regulatory oversight as "a unique overlay" that will prove to be a deterrent for renewable energy companies. She suggested that Alaska should be a competitive market that invites renewable energy companies to operate in Alaska, but still maintains consumer protection by stipulating that the contract be overseen by the RCA. She also pointed out that if the legislature does not make this change, companies could simply obtain a federal exemption. She explained that the federal law is specific and the detriment would be that Alaskan utilities would be forced to buy energy from renewable energy companies that become qualifying companies under the Federal Energy Regulatory Commission (FERC). She stated that the rules are very complicated. She said, "The fact remains that if they are a qualifying facility under FERC, we're going to be forcing our utilities to buy their energy and I don't think any of us want to see that, either." She further said she thinks this is the right way to handle this under Alaska law to protect the consumer and promote renewable energy in Alaska.

[3:33:54 PM](#)

SENATOR MCGUIRE provided a section-by-section analysis of the bill. She stated that Section 1 clarifies the exemption applies to subsection (q) and page 2, lines 5-19, which read as follows [original punctuation provided]:

(q) A plant or facility that generates electricity entirely from renewable energy resources, as that term is defined in AS 42.45.045, is exempt from regulation under this chapter if

(1) the plant or facility is

(A) first placed into commercial operation on or after the effective date of this subsection and before January 1, 2016; and

(B) does not generate more than 65 megawatts of electricity;

(2) the electricity generated by the plant or facility is sold only to one or more electric utilities that are regulated by the commission; and

(3) the person that constructs, owns, acquires, or operates the plant or facility has not received from the state

(A) a grant that was used to generate the electricity from the renewable energy resources; or

(B) a tax credit related to the generation of electricity from the renewable energy resources.

SENATOR MCGUIRE recalled an earlier question with respect to a grant that CIRI received from the state. She related that CIRI received a \$20 million grant several years ago, but the specific grant was for the purpose of building a transmission line to connect the utility to consumers in Cook Inlet. Thus, the grant received by CIRI fell outside the scope of this bill, she reported.

[3:35:51 PM](#)

REPRESENTATIVE NEUMAN commented that the contract between Cook Inlet producers and the Beluga Power Station is not currently regulated by the state, but is attributed to market trends and private contract negotiations between Cook Inlet gas producers and the Beluga Power Plant. The plant sells electricity to Chugach Electric Association, Inc. and the Anchorage Municipal Light and Power, which are both regulated. He further commented that this bill provides a similar set of circumstances, including regulatory oversight of a private business arrangement. Thus, if CIRI owns the power plant and sells the power, it represents a private arrangement, with the RCA between the consumer and the wholesaler of electricity. He thanked Senator McGuire for her "good work" on this issue.

[3:38:15 PM](#)

SENATOR MCGUIRE agreed with his analogy. She pointed out that the process creates an "arms length" transaction between two sophisticated commercial entities but in the final analysis the state's consumer protection agency and the RCA oversee the contract with the utility, and the utility provides electricity to Alaskan consumers.

[3:38:54 PM](#)

REPRESENTATIVE CHENAULT related that he initially had some concerns over the RCA process. He referred to a letter dated April 13, 2010, from Margy Brown, CIRI, which discusses the Fire Island Wind Project and the federal grant. He stated that reading this letter removed his concerns. He also recalled that CIRI received \$25 million in state funds with the stipulation that the RCA oversee a power sales agreement. He reiterated that his comfort level has increased considerably.

[3:42:13 PM](#)

REPRESENTATIVE CHENAULT made a motion to adopt the proposed House committee substitute (CS) for SB 277(L&C), labeled 26-LS1353\C, Kane, 4/14/10, as the work draft.

CHAIR OLSON objected for the purpose of discussion.

[3:42:30 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, on behalf of the House Labor and Commerce Standing Committee stated that the proposed committee substitute (CS) labeled 26-LS1353\C, Kane, 4/14/10, Version C, makes one small change. On page 2, line 9, "service" is deleted and "commercial operation" is inserted. The purpose is to ensure that the facility must be up and running and this change addresses the concern.

CHAIR OLSON removed his objection.

There being no further objection, Version C was before the committee.

[3:43:52 PM](#)

ETHAN SCHUTT, Senior Vice-President, Land and Energy Development, CIRI, agreed with Senator McGuire's testimony. This bill is an important bill that would enable private investment in renewable power projects in the Railbelt. This should help to diversify the "power mix" and bring a "little bit of decoupling from energy prices that are tied to oil and gas." It will foster commercial negotiations and ultimate compromise in the commercial relationship between renewable independent power producers (IPPs) and the Railbelt utilities. He stated

that exempting small renewables projects from direct regulatory oversight by the RCA avoids duplicative and expensive oversight. It also "fixes the problem" that the current regulatory RCA regime, which is not quite appropriate for a true IPP that generates power but does not have any monopoly service territory. He commented that is an important distinction that was not previously mentioned. He said he believes that Version C will serve to protect the public interest. The bill fosters a balance between "loosening" the regulations and "lightening" that delay, expense, and project development risk while ensuring adequate commercial and regulatory oversight and protective mechanisms for the public and the ratepayer. Further, he offered his belief that this bill strikes an important balance. As the project developer for the Fire Island Wind Project, CIRI believes this is an important bill. He explained that the current regulatory process does not work with the Fire Island Wind Project CIRI is attempting to complete. He detailed that CIRI is attempting to bring the Fire Island Wind project on line to take advantage of the full benefit of the existing federal subsidy that is available through a cash grant, which is referenced in the April 13th letter previously mentioned. Additionally, that benefit will be passed through to the ultimate purchasing utilities and their ratepayers, he stated.

MR. SHUTT reaffirmed CIRI's commitment to "pass through" the full benefit of that programmatic federal grant to the Railbelt utilities that purchase the project's power, currently estimated to be worth more than \$45 million to the purchasing utilities and their respective ratepayers. This is also affirmed in the April 13th letter, noting that enough information must be shared about cost and financial structure of the project to allow the utilities to validate the project as an "arms length commercial negotiator. He clarified that the \$25 million appropriation to build the intertie transmission line does not actually flow through to CIRI. The intertie transmission line is a public asset and is not part of the project asset. Thus, the prior appropriation does not trigger the regulatory oversight since CIRI did not receive a direct grant.

[3:49:06 PM](#)

REPRESENTATIVE BUCH asked whether CIRI has received any pushback on this bill. He stated that he wants to be able to move forward without any constraints. He wants his district to know how this bill will contribute renewable resources to Alaska's communities. He further asked if Mr. Shutt has any reservations.

3:50:16 PM

STUART GOERING, Assistant Attorney General, Commercial/Fair Business Section, Department of Law (DOL), stated that he is the Assistant Attorney General assigned to represent the RCA. While the RCA has not taken a commission position on this issue, he can act as a resource to answer questions about the regulatory process. In terms of policy, he is not in position to assist. He previously produced a series of observations with technical concerns to the sponsor's staff, which members may find interesting and helpful.

3:51:59 PM

REPRESENTATIVE BUCH asked whether the Assistant Attorney General would be required to examine this matter if the bill passed the legislature.

MR. GOERING replied that he understood legislators would like him to give them assurances but he is not in the position to do so. He said, "What I guess I can tell you is the RCA is a creature of statute. Its powers and authorities are those delegated by the legislature, and certainly the RCA's primary interest is in knowing with a pretty high degree of certainty what the legislature expects of it and then simply moves forward to implement those wishes."

MR. GOERING pointed out that the exemption proposed in AS 42.05.711 (q) applies to a plant or facility. Normally, the Public Utilities Regulatory Act provides in terms of regulation of or exemption of certain activities. For example, the statute refers to public utilities in terms of whether utilities are furnishing electricity or natural gas to the public for compensation. This exemption provides a different concept in the regulatory structure. The second aspect pertains to the discussion of an "arms-length transaction" between a public utility and a renewables generator. However, this statute does not actually state that the utility and the exempt facility must not be affiliates. Under current law, there is a higher level of scrutiny applied to contracts between a public utility and an affiliate of that public utility. Under this exemption the possibility exists that a higher level of scrutiny may not occur since the affiliate would be exempt from RCA oversight. He stated that raises ambiguity. He pointed out the bill contains what he would describe as a number of technical concerns. Additionally, under current law the idea of a public utility

being regulated can be anything from the requirement of the public utility to have a Certificate of Public Convenience and Necessity (CPCN) and nothing else, as in the example of a cooperative that has been deregulated under AS 42.05.711(h) and 42.05.712.

[3:55:42 PM](#)

MR. GOERING elaborated that in such a case, the utility would be subject only to the requirements of transferring the CPCN "all the way up" to full economic regulation with some intermediate steps in between. For example, electric utilities can qualify for "simplified rate filing procedures" which allows them to change their rates without going through the full rate making process within certain parameters. He characterized those as "partially regulated or partially deregulated" utilities. He was not certain what level of scrutiny the legislature anticipates will trigger the exemption since the bill only indicates selling to one or more utilities that are regulated will trigger the exemption. However, the bill does not clarify the level of regulation for the utilities. He stated that anything the committee or the legislature could do to clarify these issues would make easier for the RCA to implement any legislation that is passed.

[3:57:12 PM](#)

REPRESENTATIVE BUCH stated that he appreciated having this placed on the record. He stated that these issues may be there for future consideration. He suggested that the legislature cannot consider "every potential possibility" but he hoped the legislature's oversight and stewardship will allow that to happen. He said that he did not wish impede the bill.

[3:57:44 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 277.

[3:58:44 PM](#)

REPRESENTATIVE NEUMAN moved to report the proposed committee substitute (CS) for SB 277 labeled 26-LS1353\C, Kane, 4/14/10 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 277(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:01:21 PM](#)

SB 129-RESIDENTIAL SPRINKLER SYSTEMS

[4:01:23 PM](#)

CHAIR OLSON announced that the next order of business would be CS FOR SENATE BILL NO. 129(L&C), "An Act relating to municipal building code requirements for fire sprinkler systems in certain residential buildings."

CHAIR OLSON related the committee heard the companion bill several months ago.

[4:01:35 PM](#)

SENATOR LINDA MENARD, Alaska State Legislature, explained that the CS for SB 129(L&C) is exactly the same bill as the companion bill the committee previously heard this legislative session. She stated that there are not any changes in the Senate version of the bill. She paraphrased from the sponsor statement, which read, as follows [original punctuation provided]:

Senate Bill 129 is a proactive response to a national movement to require fire sprinkler systems in one and two-family dwellings. This legislation does not take away local control from municipalities and cities, it simply lays the framework for a public process necessary to mandate sprinklers in certain areas.

What SB 129 seeks to avoid is broad mandates for home sprinkler systems that will drive up costs for consumers in areas where sprinklers may not necessarily be needed.

Residential fire sprinkler systems are expensive. Conservative estimates indicate that Alaskans could expect to pay between 3 to 5 dollars per square foot to have a system included in the construction of their new home

According to the National Association of Home Builders (NAHB), for each additional \$1,000 added to the price of a home, 250,000 potential buyers are priced out of the market. The NAHB estimates the entire cost of an average home sprinklers system at \$3,000.

Furthermore, changes in residential construction technology over the last twenty years have dramatically dropped the number of fatal fires in the U.S. including Alaska. Code provisions for fire separation, fire blocking and draft stopping, emergency escape and rescue openings, electrical circuit breakers, capacity and outlet spacing, reduced need for space heaters in energy efficient homes and many other improvements have made our homes more "fire safe" without undo financial burden to the homeowner.

This senate bill realizes there may be cases in Alaska where requiring sprinklers in one and two-family dwellings is necessary. Often, the geography at the location of new builds is such that fire fighters cannot make it swiftly to a burning home. In those cases, SB 129 would not prohibit sprinkler mandates, so long as the municipality or city follows the public process set out in the bill.

Studies show is the effectiveness of smoke alarm warning systems in homes. Not only are these devices cheaper to install, but they have a proven track record of saving lives because of early warning. According to the NAHB, builders can install a sufficient smoke alarm system for less than \$400.

Senate Bill 129 will continue to allow elected officials in municipalities and cities to explore a mandate on sprinklers, but will ensure the public is involved in the transparent process and government does not overstep its regulatory bounds.

I hope you will support this bill and prevent undue financial hardships on potential home owners.

SENATOR MENARD related that numerous conversations have been held and this bill represents a compromise. She stated that this bill should pass.

[4:03:55 PM](#)

REPRESENTATIVE NEUMAN asked whether this bill is for voluntary compliance for residential fire sprinklers and would not make it mandatory.

SENATOR MENARD explained that this bill would require the public hearing process to range from 60 to 180 days for municipalities who wish to mandate fire sprinklers for one- and two-family residences. She related that this would apply to about a third of the residents in the Mat-Su Borough. She reported that she is supporting this bill for home builders and home owners in her district.

REPRESENTATIVE NEUMAN explained that as many Mat-Su Borough residents, he is on a well and the first thing that happens when a fire breaks out is the electricity is turned off. He surmised that adding home fire sprinklers would not likely work. He asked whether the bill would allow the Mat-Su Borough to make changes to the building code to require someone who remodels his/her home to install a fire sprinkler system in their home.

[4:07:21 PM](#)

MICHAEL ROVITO, Staff, Senator Linda Menard, Alaska State Legislature, on behalf of the prime sponsor of SB 129, stated that under the bill, municipalities would still have the ability to mandate fire sprinklers in residences, but the concept is on a situational basis. Thus, mandating fire sprinklers "could not be fast tracked." For example, fire sprinkler systems would be required in some instances, such as for new construction next to a historical building or when a house located at the top of a hundred steps poses problems for fire responders to assist during a fire. He related that in the instance that a municipality or borough decides to mandate a fire sprinkler system, the bill would provide a public process to allow homeowners in the area to address concerns and pose questions.

[4:08:32 PM](#)

REPRESENTATIVE NEUMAN asked whether anything in SB 129 would allow a person to opt out if he/she remodels their home or builds a new home but does not wish to install a sprinkler system. He said he believes in local control, but he does not want municipalities to have the ability to mandate sprinkler systems.

SENATOR MENARD answered no. She explained that some home builders expressed concern over the cost of installing fire sprinklers, which could range from \$7,000 to \$10,000 for a new home. Given the downturn in the economy, home builders expressed concern that the cost of the fire sprinkler system would increase the overall cost of a new home, making

competitive sales difficult. She stated that is part of the reason that she agreed to "carry" the bill.

[4:11:12 PM](#)

REPRESENTATIVE T. WILSON related her understanding that currently a municipality could pass a law to require fire sprinklers in residential homes. This bill would "force more hearings over a longer period of time" to allow people time to convince public officials not to mandate fire sprinklers.

SENATOR MENARD answered that is correct. She pointed out that the cost benefit analysis was "stripped out" of the bill. She offered her belief that sufficient information would be provided during three public hearings spanning a 60 to 180 day period. She stated that she is not against fire sprinklers, but is against having building codes forced on homeowners. She stated that she seeks a better public process prior to mandated fire sprinklers one- or two-family residences being adopted.

[4:13:06 PM](#)

REPRESENTATIVE HOLMES related her understanding that this bill would make it harder to mandate fire sprinkler systems in homes.

SENATOR MENARD answered yes.

[4:13:36 PM](#)

REPRESENTATIVE CHENAULT asked whether any municipalities in Alaska mandate sprinkler systems.

SENATOR MENARD answered that currently fire sprinkler systems are handled on a case-by-case basis.

REPRESENTATIVE CHENAULT recalled that the Alaska Municipal League (AML) expressed concerns about the state dictating to municipalities the length of the process when making decisions on building code issues. He related his understanding that many people want local control. In this instance, SB 129 would mandate to municipalities the length of the public process. He asked for further clarification.

SENATOR MENARD observed that municipalities sometimes have "turf wars." While municipalities do not want to be "stripped" of their powers, homeowners also have rights and the bill would

request a public process consist of at least three meetings and span a 60-180 day period.

REPRESENTATIVE CHENAULT asked for the normal public comment period for a municipal code change. He stated that he lives in a borough that does not mandate building codes. He asked for clarification whether this bill would mandate a public process that is outside the normal timeframe.

SENATOR MENARD answered that the timeframe for the public process depends on the topic and the municipality. She stated that she did not believe the current public process is adequate for adopting building codes that contain mandates for fire sprinkler systems in residential homes.

[4:18:46 PM](#)

REPRESENTATIVE CHENAULT asked whether this bill applies only to new home construction.

SENATOR MENARD agreed that SB 129 only applies to new home construction.

REPRESENTATIVE CHENAULT related his understanding that the new homeowner may have to pay more, but the state is not forcing anyone to retrofit their home.

SENATOR MENARD agreed this bill applies only to new construction. However, she anticipated that municipalities could expand the requirement for fire sprinklers to include residential home remodels. In further response to Representative Chenault, she confirmed that the bill only applies to new homes.

[4:20:44 PM](#)

REPRESENTATIVE BUCH stated that in Anchorage, code changes such as this would be subject to the Planning and Zoning process and then permitting. Thus, any changes would be subject to the public process. He offered his belief that in Anchorage it would take a minimum of four separate meetings, which may take two years. He asked for clarification on new home construction.

MR. ROVITO referred to page 1, line 10, which read, "...all new residential buildings..."

[4:22:19 PM](#)

REPRESENTATIVE T. WILSON related her understanding that currently a municipality could require fire sprinklers. She related her understanding that this bill would expand the public process for new construction. She suggested that the greatest burden would be to homeowners since a municipality could adopt new codes that require fire sprinkler systems be installed. She asked for clarification as to why the bill does not apply to existing homes as well as new homes. She remarked that she likes the longer time frame.

[4:23:24 PM](#)

SENATOR MENARD explained that due to the downturn in the economy, many builders building new construction may be building only one or two homes. She stated that the additional costs posed problems. Currently, the bill is to address just new construction.

REPRESENTATIVE T. WILSON supported the concept but did not believe that SB 129 goes far enough. She suggested that the municipality should have to adhere to the extended public hearing process whether it is mandating fire sprinklers for new homes or for residential remodels.

[4:24:32 PM](#)

SENATOR MENARD stated the bill could be amended to add remodels.

MR. ROVITO highlighted that the 2009 International Code Committee (ICC) adopted building codes for new construction that contain provisions for home fire sprinklers. The International Code has been widely adopted in municipalities around the country. The bill is limited to new construction since the 2009 ICC building codes only require fire sprinkler systems in new homes.

REPRESENTATIVE T. WILSON recalled discussions in her district on the definition of "new construction." She recalled that if a fire destroyed 25 percent of a home, the home fell under "new construction." She stated that she is not going to submit an amendment on the bill, but thought it should be expanded to include residential remodels.

[4:28:19 PM](#)

SENATOR MENARD, in response to Representative Neuman, agreed that adding a kitchen to an existing home would fall under the category of residential remodel.

REPRESENTATIVE NEUMAN offered his belief that this bill allows a municipality the flexibility to decide. He asked for clarification that the sponsor's intent is not to allow municipalities to force homeowners to add fire sprinklers to their homes during residential remodels.

SENATOR MENARD agreed it was not her intent to do so.

[4:28:29 PM](#)

REPRESENTATIVE NEUMAN offered Conceptual Amendment 1, which read [original punctuation provided]:

Page 1, line 2
Following "buildings"
INSERT "and providing for an effective date"

Page 2, following line 17

INSERT "This act takes effect on July 1, 2010."

REPRESENTATIVE HOLMES objected for the purpose of discussion.

REPRESENTATIVE NEUMAN explained Conceptual Amendment 1 adds an effective date to the bill.

MR. JACKSON explained Conceptual Amendment 1, which inserts an effective date of July 1, 2010. He explained that the effective date would give municipalities an opportunity to make code changes to comply with the statutes.

[4:30:09 PM](#)

REPRESENTATIVE HOLMES stated that without an effective date the bill would go into effect in 90 days, which she estimated as the same timeframe.

MR. JACKSON agreed it is possible, but adding an effective date clause guarantees that the bill would not be in effect prior to that timeframe.

REPRESENTATIVE HOLMES stated that she would continue to contemplate the ramifications of the bill.

REPRESENTATIVE NEUMAN related that if a community in process of adopting building codes to require fire sprinklers it is important to have a specific effective date. He said he thought this provided good public policy. He thought the effective date would eliminate confusion.

[4:32:11 PM](#)

REPRESENTATIVE HOLMES maintained her objection.

A roll call vote was taken. Representative Neuman, T. Wilson, Buch, and Olson voted in favor of Conceptual Amendment 1. Representative Holmes voted against it. Therefore, Conceptual Amendment 1 was adopted by a vote of 4-1.

[4:33:09 PM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, stated that this bill represents good public policy. This bill would require a good, deliberative process. He said he "sees this as a defensive effort" for those of us that prefer local control. He further views SB 129 as protecting citizens from "federal control." He thought this bill would be helpful to municipalities. He hoped the committee would focus on the policy and not on the bill's history.

[4:37:01 PM](#)

JEFF TWAIT, Kenai Peninsula Builders Association, spoke in support of SB 129.

WALLY SMITH, President, Alaska State Home Builders Association (ASHBA), encouraged members to pass out SB 129.

PAUL MICHELSON, Alaska State Home Builders Association (ASHBA), explained that he had three pages of testimony and has spent over two years on this bill. The bill is designed to help educate and protect constituents. Please pass the bill out of committee. Please do not amend the bill further. He stated that this bill represents a consensus and has support from many groups, including realtors, the Alaska Municipal League, and the Alaska Firefighters.

DAVID OWENS, Alaska State Homebuilders Association (ASHBA), spoke in support of SB 129. He said he appreciated the

sponsor's efforts. He asked the committee to please move the bill forward.

[4:40:30 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 129.

[4:41:50 PM](#)

REPRESENTATIVE NEUMAN moved to report the proposed committee substitute for CSSB 129(L&C), as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HCS CSSB 129(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:42:05 PM](#)

The committee took an at-ease from 4:42 p.m. to 4:44 p.m.

[4:44:11 PM](#)

SB 10-MEDICAID/INS FOR CANCER CLINICAL TRIALS

[4:44:14 PM](#)

CHAIR OLSON announced that the final order of business would be CS FOR SENATE BILL NO. 10(HSS)(efd del), "An Act requiring health care insurers to provide insurance coverage for medical care received by a patient during certain approved clinical trials designed to test and improve prevention, diagnosis, treatment, or palliation of cancer; directing the Department of Health and Social Services to provide Medicaid services to persons who participate in those clinical trials; and relating to experimental procedures under a state plan offered by the Comprehensive Health Insurance Association."

[4:44:24 PM](#)

SENATOR BETTYE DAVIS, Alaska State Legislature, stated that SB 10 addresses a critical need in Alaska. A group of oncologists asked her to introduce the bill. She remarked that cancer has touched many of our family and friends. Clinical trials are important yet Alaska does not have statutory authority for clinical trials. This bill would allow clinic trials. She related that she has provided extensive background information in members' packets.

SENATOR DAVIS referred to the sponsor statement in members' packets. The sponsor statement read as follows [original punctuation provided]:

CS Senate Bill 10: "An Act requiring health care insurers to provide insurance coverage for medical care received by a patient during certain approved clinical trials designed to test and improve prevention, diagnosis, treatment, or palliation of cancer;..."

... directing the Department of Health and Social Services to provide Medicaid services to persons who participate in clinical trials; relating to experimental procedures under a state plan offered by the Comprehensive Health Insurance Association; and providing for an effective date."

Clinical trials are research studies that test how well new medical approaches work in patients. Each study answers scientific questions and tries to find better ways to prevent, screen for, diagnose, or treat disease. Patients who take part in cancer clinical trials have an opportunity to contribute to the knowledge of, and progress against cancer. They also receive state-of-the art treatment from experts in the field. The National Cancer Institute, as part of the U.S. National Institutes of Health, reports 6,000 cancer trials in the United States any one time. They include trials in prevention, screening, diagnosis, treatment, quality-of-life, and genetic studies.

CSSB 10 removes important barriers to the participation of patients in cancer clinical trials in Alaska. It requires that applicable health care plans, including Medicaid, cover routine patient care costs for patients enrolled in all phases of clinical trials, including prevention, detection, treatment, and palliation (supportive care) of cancer. Medicare, the VA and military insurance already cover the benefits that SB 10 provides. Currently Alaska health plans may exclude coverage for routine patient-care costs while a patient with cancer is enrolled in a clinical trial. Providers of health care plans often conclude that money is saved by excluding care while patients participate in clinical trials. But these patients, if not enrolled in clinical trials, will

continue to receive conventional therapy at roughly the same or slightly increased costs.

Over 2600 Alaskans are diagnosed with cancer each year. In FY 2007 an estimated 4,600 patients received cancer treatments through Alaska's Medicaid program at a cost of \$21.5 million. The average payment per beneficiary was about \$4,675. The federal government reimburses the state at about 50% of the total costs. Without in-state facilities and support of clinical trials participants in Alaska currently have to travel out of state, increasing the cost of non-emergency transportation which is about 3% of total Medicaid costs.

Studies have shown that only 2% to 3% of adult cancer patients and less than 0.5% Medicare patients enroll in clinical trials of the approximately 20% who are eligible -largely due to fear of denial of insurance. A recent study found only slight increase in treatment costs for adult clinical trial patients compared to nonparticipants, \$35,418 versus \$33,248 or about 6.5% increase in costs for clinical trial participants compared to nonparticipants. Even if enrollment was increased to the full 20%, it is unlikely that these numbers will significantly impact overall costs to health plans. See National Conference of State Legislatures, "Clinical Trials: What are States Doing? February, 2009 Update,"

www.ncsl.org/programs/health/clinicaltrials.htm.

Twenty-three or more states have passed legislation or instituted special agreements requiring health plans to pay the cost of routine medical care patients receive while participating in clinical trials. Passage of CSSB 10 will result in more successful outcomes in cancer treatments in Alaska, increase retention of patients in Alaska for their cancer care, and also, after full implementation, result in cost savings in the short and long term.

A description of "The Access to Cancer Clinical Trials Act of 2009" H.R. 716, 111th Congress 2009-2010, (Rep. Sue Myrick) per "The Hill's Congress Blog" January 30, 2009 sums up to a large extent what CSSB 10 is attempting to do:

"Clinical trials are so critical for patients and or medical research, yet many patients find that their health insurance won't cover the rest of their routine cancer treatment if they decide to enroll in clinical trials. We're not asking insurance companies to pay for clinical trials. This bill simply states that insurers must continue to pay for routine treatments – that they would be paying for regardless – if patients enroll in a clinical trial.

No patient should ever have to fear exploring all treatment options at the cost of losing coverage. We should be encouraging participation in clinical trials, not discouraging it by removing coverage for routine care. Were it not for patients who have enrolled in past trials, the medical advancements we've experienced toward finding a cure for cancer would not be possible."

SENATOR DAVIS concluded by offering to answer questions.

[4:45:59 PM](#)

CHAIR OLSON made a motion to adopt Conceptual Amendment 1.

The committee took an at-ease from 4:46 to 4:47 p.m.

REPRESENTATIVE NEUMAN objected.

[4:47:13 PM](#)

REPRESENTATIVE NEUMAN read Conceptual Amendment 1, which read [original punctuation provided]:

Page 1, Line 6,
Following "Association"
INSERT "and providing for an effective date"

Page 5,
Following Line 7
INSERT
Section 4. "This act takes effect January 1, 2011."

REPRESENTATIVE T. WILSON objected.

[4:47:47 PM](#)

CHAIR OLSON related from his 25 years of experience in the insurance agency that companies will sometimes "pull out of Alaska" when new requirements are made on short notice. He stated that not many companies are "writing" small major medical policies. He suggested that extending the effective date to January 1, 2011 would allow companies time to respond. He offered his support for SB 10. He hoped that adopting Conceptual Amendment 1 would make the bill stronger to give companies adequate time to adapt. He acknowledged that he does not want any companies to leave Alaska.

[4:48:55 PM](#)

SENATOR DAVIS said she does not think Conceptual Amendment 1 is necessary. She understood the purpose of Conceptual Amendment 1, but offered her belief that insurance companies will not leave the state. She related that some companies have testified and made recommendations, some of which have been adopted. She does not believe this matter should be put off for a full year. She said, "Look at the lives that we could save if we do this immediately and not have to wait for a full year for this bill to go into effect." She expressed concern over the short timeframe to adopt Conceptual Amendment, given the legislature is nearly ready to adjourn and any changes would need to be approved by the Senate. She also was not certain how the doctors would feel about adding an effective date, although some will testify via teleconference today. She said that she prefers that the committee pass the bill out without the effective date.

[4:50:09 PM](#)

CHAIR OLSON asked to hold any action on Conceptual Amendment 1 until after public testimony is taken.

[4:50:19 PM](#)

LINDA HALL, Director, Division of Insurance, Anchorage Office, Department of Community & Economic Development (DCCED), stated that she has testified previously. She stated that the bill applies to programs regulated by the Division of Insurance, and would affect approximately 23 percent of Alaskans and those Medicaid, as well as members in the high-risk insurance pool. This bill does will not apply to self-insured plans regulated by the federal government under the Employee Retirement Income Security Act (ERISA). Thus, large employers will not be required to abide by this mandate so to a certain extent this

creates an imbalance between small and large employers. She provided informational comments since she views SB 10 as a policy determination for the legislature to decide. She pointed out that Alaska has nine mandates to insurance coverage, while many states have up to 40. The Division of Insurance has evaluated various insurance policies and found that currently coverage does not specifically exclude routine care during clinical trials. She stated that the endorsements and coverage forms pertain to experimental procedures. Some companies provide coverage for routine care, usually during cancer phases two and three. Others exclude certain aspects of clinical trials. Two companies have endorsements available for groups to purchase that include clinical trial coverage. She characterized the coverage as spanning "a wide range." She addressed Conceptual Amendment 1. She did not think adopting Conceptual Amendment 1 would postpone coverage for a full year. She noted that insurance companies cannot change the policy forms without submitting them to the Division of Insurance (DOI) for approval. While it takes time to review the request, the division tries to approve them as quickly as possible. An immediate effective date also does not necessarily mean that the coverage will be effective immediately, since the DOI must first approve the request.

[4:53:58 PM](#)

MS. HALL, in response to Chair Olson, related that there is delay in implementing any legislation due to the approval process.

[4:54:20 PM](#)

REPRESENTATIVE HOLMES recalled that frequently smaller companies are the first to cover what the legislature approves. She related her understanding that Medicaid and Medicare cover this and a number of larger employers are voluntarily complying. She commented that although the bill would mandate clinical trial coverage, smaller employers are not being asked to be the first ones to "step up." She asked for confirmation.

MS. HALL said she thought Representative Holmes gave an accurate analysis of the bill's effect.

[4:55:15 PM](#)

REPRESENTATIVE T. WILSON asked how many larger companies cover clinical trials.

MS. HALL replied that she had no idea.

REPRESENTATIVE T. WILSON asked whether the legislature has the power to send a resolution to the federal government to require all companies must comply.

MS. HALL answered that federal laws preempt Alaska's law and while the legislature could pass resolutions or could ask Alaska's Congressional Delegation to take action, but the legislature does not have the ability to mandate employer coverage under federal law. In further response to Representative T. Wilson, she said she was not aware of any previous effort to do so.

[4:56:23 PM](#)

LAURIE HERMAN, Director, Governmental Affairs, Alaska Region, Providence Health and Services, asked to go on the record that Providence Health and Services has a self-insured plan and almost a year ago opened plan to the coverage of clinical trials. During this limited timeframe, their experience has been that the cost to provide patient care is the same whether the patient is involved in clinical trials or is not participating in clinical trials. She urged favorable consideration on the bill.

[4:57:34 PM](#)

SHEELA TALLMAN, Premera Blue Cross of Alaska, explained that Premera Blue Cross of Alaska understands the importance of clinical trials. Premera Blue Cross covers routine medical care cost for members participated in phase 2 and 3 clinical trials. She expressed concern with phase 1 trials since direct additional costs will apply to all members. Phase 1 trials have not established the toxicity or certain levels of interventional agents. These trials are designed to determine the toxic effect. Thus, there is a risk of unintended consequences which means higher cost of treating these unintended consequences. When Premera Blue Cross is required to cover patients who participate in phase 1 trials, Premera also covers the cost of the unknown effects. She stated that covering phase 1 clinical trials while the drug is still being evaluated goes against the purpose of an insurance benefit, which is really to cover the care based on evidence that will benefit a member's condition. Private insurers pay for services and drugs once they have been determined to be safe and effective for patient safety and to

allocate premium dollars for services that provide a benefit to members. She pointed out that the federal Health Care Reform law will require coverage in 2014 for new plans. She suggested it may be good to wait until that time in order to be consistent.

[5:00:03 PM](#)

MARY STEWART, M.D., Hematologist, Oncologist, Past President of the Denali Oncology Group, stated that she has testified in support of SB 10 in the past. She expressed interest in obtaining coverage for patient's routine care. She stated that cancer care is difficult and in order to develop more effective treatment strategies, which are developed through clinic trials, the clinical trials must be offered for phases 1 through 4. She urged members to please support SB 10 and move it from committee today.

[5:01:15 PM](#)

EMILY NENON, Alaska Government Relations Director, American Cancer Society Cancer Action Network, pointed out that the National Council State Legislature's (NCSL) website shows comparable costs do not change for patient care whether or not the patient participates in clinical trials. She related that many groups do cover the costs, including Medicare and Medicaid, Providence Alaska Medical Center, the State of Alaska, and some self insurance providers. She followed up on something that came up at the last legislative hearing about who is running the clinical trials. She pointed out that the federal government is a major funder of clinical trials. This is not just about pharmaceutical companies, she stated. When comparing the efficacy of different drugs, the pharmaceutical companies are not involved. She restated that this is not just about pharmaceutical companies. She related that the federal government is also the largest funder of cancer research in the United States. She concluded by sharing a personal story on insurance assurance and the impact of clinical trials on Alaskans. She related that Susan Smalley from Kenai asked her to share her story. When she was going through breast cancer treatment she endured 35 radiation treatments Monday through Friday for seven weeks, which was effective treatment. Five years later her friend was diagnosed with the same breast cancer. Her friend had only 20 radiation treatments over a four week timeframe. This is because during the intervening five years through clinical trials, researchers found that 20 treatments at a slightly higher dosage were found to be as

effective as 35 treatments. She stated when patients live outside Fairbanks or Anchorage that treatment is more costly due to travel. She asked members to support the bill.

[5:05:32 PM](#)

JEANNE ANDERSON, Physician, Medical Oncologist; Medical Director, Research Department, Providence Cancer Center, stated that she has been involved in clinical trials for cancer patients for the past 20 years. She has been involved in all phases, including phase 1 clinical trials. She said, "The question comes up of how much of a problem is it that patients face insurance denial; that question came up at the last committee meeting." The research nurses compiled the Providence Cancer Center Research Data. In 2009, 9 of 47 patients enrolled in clinical trials were specifically denied participation on clinical trials based on insurance denial. Once a patient receives denial, they do not appeal since the patient needs to get moving on treatment, which is a time-sensitive issue. In the first quarter of 2010, 5 of 15 patients enrolled on clinical trials were denied. She concluded that it is a significant problem and she is concerned about a delay of one year since it could affect another 15 situations, perhaps, which could be denied.

[5:08:01 PM](#)

MS. ANDERSON said she would like to discuss issues raised by Premera Blue Cross, with respect to phase 1 studies. She explained that phase 1 studies are very complex. Often a Food and Drug Administration (FDA) approved drug is looked at in a different situation or in combination with a new drug. Toxicity is monitored extremely closely. Patients are "very selected" with strict eligibility criteria. Thus, the patients participating in phase 1 studies are "just about the healthiest cancer patients you'd imagine." She explained that in her experience it is extremely rare that these patients have unnecessary costs since they are otherwise healthy. They typically have routine scans and routine labs. She offered that the concern that cost will be driven higher when a patient participates in a phase 1 clinic trial study is wrong. She said that many research personnel, whose cost is not paid for by the insurance company, provide additional oversight when a patient is on a clinical trial. Thus, several built-in layers of monitoring are essentially free to the insurance company. Medical staff "catches toxicity" very early. It is likely safer for a patient to be on a clinical trial study than not. She was

not aware of any publication or data to support the increased cost for phase 1 studies. She strongly encouraged phase 1 cancer patients be included in the bill, as written.

5:09:38 PM

HANNAH BRICE SMITH stated that she is a Cancer Research Nurse in Fairbanks. She explained that she has four points. She related that she works with patients, sometimes for hours at a time, to determine the best treatment. She further stated that in Fairbanks, pharmaceutical funded trials are not accepted due to the regulatory issues. She stated that it would require two additional nurses to do so. Thus, Fairbanks offers government sponsored National Cancer Institute (NCI) trials, basically looking at drugs that are approved and known to work. The trial examines the various combinations and timeframes. She said, "When we used to look at cancer, we used to say, 'Go get cancer with the biggest gun you have and shoot it down.'" She explained that casualties occurred and people were killed from the treatment they received. She stated that clinical trials have brought medicine to a place in which it can use "the smallest possible bullet and get the biggest possible bang" and that is what we are trying to do. This bill would help remove barriers in Alaska for patients participating in clinical trials. Phase 1 trials simply bring "noise" into the conversation. Nothing more is requested when treating patients on phase 1 clinical trials than for other phases, such as phase 4 clinical trials, including drugs or different treatments. The routine care is based on the cancer diagnosis. She pointed out that her mother is involved in a clinical trial in Arizona. All of her routine care is covered by Medicare and her secondary insurance. She stated that travel is paid for by her parents since the policy excludes travel costs. Thus, her mom can participate. She said she wished members could "sit down in my room with me and all of my patients." She also said:

Every one of them has a story. Look someone in the eye and explain to them why there are barriers in Alaska that don't exist in other states. I just wish you could sit with me, I guess. I have so many patients that are just desperate to be on clinical trials and they call me. They want the very best. Everything they read from the NCI and everything they read from the NIH says the very best care is given to patients on clinical trials.

MS. SMITH said that she heard Dr. Anderson allude to something. She stated that the insurance company receives a lot of benefit from her. Since she is a cancer research nurse and her time is not billed out. Her full responsibility is to assess the patients who are on clinical trials to ensure that their lab values never "get out of the norm." She stated that if any patient shows up with any side effect, that she must report the patient to the federal government within 24 hours. The patient is assessed and decisions are made on what will happen differently. She stated an entire protocol is established to monitor patients with adverse effects. She said, "We monitor our patients so closely" for any kind of problem, which is reported directly to the federal government. Thus, it is not as though this information can get hidden or buried. She closed by saying, "If you change the wording and eliminate the phase 1 trials; it says loud and clear that phase 1 are scary and bad. And phase 1 trials are not scary, not bad, and absolutely no documented proof that there is any increase in routine care costs." She said, "Be careful the message you're sending. I appreciate so much you listening to me."

[5:15:33 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 10.

CHAIR OLSON withdrew Conceptual Amendment 1.

[5:15:47 PM](#)

REPRESENTATIVE NEUMAN moved to report CSSB 10(HSS)(efd del) out of committee with individual recommendations and the accompanying fiscal note.

REPRESENTATIVE NEUMAN remarked that his mother is dying from cancer.

[5:16:23 PM](#)

REPRESENTATIVE T. WILSON objected to make a comment. She stated that this bill may not help everyone, depending on their insurance. She expressed concern for small businesses when the big businesses make more money and are not required to do the same thing.

REPRESENTATIVE T. WILSON withdrew her objection.

[5:16:57 PM](#)

REPRESENTATIVE HOLMES objected for the purpose of a comment. She stated that her mother died of cancer. She said, "Dr. Stuart was her doctor. She was diagnosed at the age of 36, which is the age I am now. She died at 44. I am thankful for all the people who have gone through clinical trials in the intervening years because I am in a high risk group. Thank you."

[5:17:14 PM](#)

REPRESENTATIVE BUCH commented that some ERISA's do cover clinical trials. He stated that he is a member of a former ARISA that did have coverage.

REPRESENTATIVE HOLMES removed her objection.

CHAIR OLSON commented that he was in the clinical trials for the Prostate-specific-antigen (PSA) test over 20 years ago. He said he is also grateful for the baseline.

[5:18:22 PM](#)

REPRESENTATIVE NEUMAN restated his motion to move CSSB 10(HSS)(efd del) out of committee with individual recommendations and the accompanying fiscal notes. There being no further objection, CSSB 10(HSS)(efd del) was reported from the House Labor and Commerce Standing Committee.

[5:19:31 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:19 p.m.