

SENATE FINANCE COMMITTEE
March 26, 2010
1:39 p.m.

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CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 1:39 p.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Charlie Huggins, Vice-Chair
Senator Dennis Egan
Senator Donny Olson
Senator Joe Thomas

MEMBERS ABSENT

Senator Johnny Ellis

ALSO PRESENT

Quinn Kendall, Staff, Senator Bettye Davis; Barry Fadem, President, National Popular Vote; Senator John Coghill, District F; Lela Klingert, President, Alaska Commercial Fishing and Agriculture Bank; Senator Kevin Meyer; Pat Davidson, Legislative Auditor, Legislative Audit Division, Legislative Affairs Agency.

PRESENT VIA TELECONFERENCE

Cam Carlson, Self, Fairbanks; Randy Griffin, Self, Fairbanks; Ralph Stevenson, Self, Anchorage; Trent England, Save Our State Project, Washington; Tara Ross, Self, Anchorage; Jim Gillef, Self, Anchorage; Stephan Peterson, Self, Anchorage; Debbie Joslin, Eagle Forum Alaska, Eagle River; Rob Carlson, Self, Fairbanks; Rex Goolsby, Self, Tok; Shirley Gifford, Alcohol Beverage Compliance.

SUMMARY

SB 92 U.S. PRESIDENTIAL ELECTION COMPACT

SB 92 was HEARD and HELD in Committee for further consideration.

SB 264 COMMERCIAL FISHING & AGRICULTURE BANK

SB 264 was HEARD and HELD in Committee for further consideration.

SB 234 EXTEND ALCOHOLIC BEVERAGE CONTROL BOARD

SB 234 was HEARD and HELD in Committee for further consideration.

#sb92

SENATE BILL NO. 92

"An Act ratifying an interstate compact to elect the President and Vice-President of the United States by national popular vote; and making related changes to statutes applicable to the selection by voters of electors for candidates for President and Vice-President of the United States and to the duties of those electors."

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Co-Chair Stedman introduced SB 92.

QUINN KENDALL, STAFF, SENATOR BETTYE DAVIS, discussed the legislation.

The U.S. Constitution gives each state exclusive control over the manner of awarding each state's electoral votes. The current winner-take-all rule practiced by 48 states is not in the constitution. The fact that Maine and Nebraska award electoral votes by Congressional district, is a reminder that electing a president is a state's right issue, and does not require an amendment to the U.S. Constitution.

Under the National Popular Vote Interstate Compact bill, all the electoral votes from the enacting states would be awarded, as a bloc, to the presidential candidate who receives the most popular votes in all 50 states (and DC). The bill would take effect only when enacted by states possessing a majority of the

electoral votes – that is 270 of 538, enough electoral votes to elect a President.

During previous hearings the question has been raised "Will a National Popular Vote be good for small populated states like Alaska?" The answer to this question is emphatically 'yes,' it would be tremendous for a state like Alaska. And with your indulgence, I'll briefly explain why.

Our relevance as a state in electing the President is governed solely by whether we are "winnable" or "not" to a candidate. In other words, are we a "battleground" state, like Iowa, Florida, Ohio and New Hampshire? In those states, the vote for President, are very close, and therefore candidates' allot copious amounts of campaign resources to win those states. In Alaska there are no similar efforts taken by candidates because we are not a closely contested state. In fact, Alaska has not been visited by a presidential candidate since Kennedy and Nixon arrived over 50 years ago.

Additional evidence supports the need for SB 92s passage. In past elections candidates have won the Presidency without winning the most popular votes nationwide. This has occurred in 4 of the nation's 56 presidential elections (or, 1 in 7 of the non-landslide elections). In 2004, a shift of fewer than 60,000 votes in Ohio would have defeated President Bush despite his substantial nationwide lead of 3 ½ million votes.

In conclusion, SB 92s sole purpose is to ensure that a small populated state like ours would have hundreds of thousands of votes that are Winnable, Important, and Valuable to a presidential candidate. And ultimately, whether its campaign spending in Alaska, or attention being paid to our important states issues, the National Popular Vote system is undeniably better for Alaska.

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Senator Olson asked about the effect this legislation has on minority groups throughout the nation. Mr. Kendall responded that with this bill, each and every vote counts.

Senator Huggins asked if the function of the legislation is to eliminate the Electoral College. Mr. Kendall answered no.

Senator Huggins asked what the function of the Electoral College would be under this legislation. Mr. Kendall responded that with the Electoral College, each state is designated a certain number of electoral votes. Each state sends their electoral votes to the winner of the most votes nationwide. Senator Huggins suggested that if the total vote count has been tallied, then the Electoral College would exist as a formality. Mr. Kendall agreed that the Electoral College would be a formality.

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Senator Thomas struggled with the distinction this formula provides when compared to the current method.

Senator Olson understood that a pool of states is joined by the compact. He concluded that if Alaska joins the compact, then electoral votes are added to the pool of compacted states.

Co-Chair Stedman asked for an explanation of the compact along with a list of states included. He asked about marginalization for Alaska. Mr. Kendall responded that the compact cannot be enacted until 270 electoral votes are met. Currently there are five states enacting similar legislation: Hawaii, Washington, Maryland, New Jersey, and Illinois. Many people wonder how this bill will affect Alaska as electoral votes were originally designed to represent states with small populations. He noted that Wyoming, which is also a small state, has three and one half times more power in their Electoral College vote compared to their population. Florida is inundated with campaign visits because they are a battleground state. He opined that the Electoral College is not working for Alaska therefore Presidential Candidates do not care about campaigning here.

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Senator Huggins estimated that the "best guarantee Alaska has to get a Presidential candidate to visit is to have a Presidential candidate."

CAM CARLSON, SELF, FAIRBANKS (via teleconference), testified in opposition to the legislation. She opined that the United States does not have a basic democracy, but instead a representative republic. She stressed that the legislation eliminates one of the country's basic forms of government.

RANDY GRIFFIN, SELF, FAIRBANKS (via teleconference), testified in opposition to SB 92. He explained that he likes the Electoral College system because it accentuates state boundaries and rights. He opined that state liberties were at risk and the federal government has taken too much power. The electoral system does benefit small states because we get three electors to match the congressional delegation, which he opined was generous in comparison to the population.

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RALPH STEVENSON, SELF, ANCHORAGE (via teleconference), testified in support of SB 92. He stressed the need for legislation that allows each person's vote to count. The national popular vote ensures that each individual's voice is heard in a federal Presidential election. He believed that the bill is right for Alaska and the compact is right for our country.

TRENT ENGLAND, SAVE OUR STATE PROJECT, WASHINGTON (via teleconference), testified in favor of the legislation. He noted that the issue reaches far beyond the boundaries of each state. He opined that presidential elections recalibrate politics every four years. He discussed the interstate compact, which he deemed extremely fragile because it is not a change to the constitution.

TARA ROSS, SELF, ANCHORAGE (via teleconference), testified in opposition to the legislation. She stated that a nationwide discussion regarding the elimination of the Electoral College is necessary. Alaska could be forced to award its entire slate of electors to a candidate who is not on the ballot. She cited further inconsistencies that might skew election results.

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JIM GILLET, SELF, ANCHORAGE (via teleconference), testified in support of the legislation. He believed that the bill

allows the majority to rule and pulls the states together increasing state's rights.

STEPHAN PETERSON, SELF, ANCHORAGE (via teleconference), testified in support of SB 92. He stated that the constitution is an evolving and living document. He stressed that it is time for every citizen to be counted.

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DEBBIE JOSLIN, EAGLE FORUM ALASKA, DELTA JUNCTION (via teleconference), testified in opposition to the legislation. She opined that SB 92 would eliminate rights for Alaskans to have a meaningful part in the election of the President. Alaska's electors are pledged to vote for the person who wins the national popular vote.

ROB CARLSON, SELF, FAIRBANKS (via teleconference), testified in opposition of the legislation. He noted that the bill would undermine Alaska's three electoral votes.

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RECONVENE

BARRY FADEM, PRESIDENT, NATIONAL POPULAR VOTE, testified in support of the legislation. He discussed the minority issue. The National Association for the Advancement of Colored People (NAACP) supports the national popular vote proposal because African Americans in battleground states represented 72 percent in 1976, which fell to 34 percent for the last election. Hispanic groups face the same dilemma. Issues for states without proper representation due to their size are never discussed during presidential campaigns. Six of the states are red and six are blue. He believed that a vote cast in Juneau should be as important as a vote cast in Miami, Florida. The size of the state is irrelevant. Whether or not it is a battleground state is the determining factor. He spoke to the argument that the legislation eliminates the Electoral College. He stated that the allegations were false. He believed that the Electoral College is a rubberstamp for the vote in each of the fifty states. The founding fathers decided in their immanent wisdom to give state legislatures the power to decide how to award the electoral votes. Under the legislation's proposal, state action determines the method of the election process. All reform regarding Presidential elections begins at the state level.

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REX GOOLSBY, SELF, TOK (via teleconference), testified in opposition of the legislation. The compromise of creating the Electoral College was for the protection of small states. He opined that the passage of the proposal would benefit the states with large population centers.

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Co-Chair Stedman mentioned one zero fiscal note.

Mr. Kendall thanked the committee for the opportunity to testify on behalf of SB 92. He stated that the goal of the legislation was to benefit the entire country.

SB 92 was HEARD and HELD in Committee for further consideration.

#sb264

SENATE BILL NO. 264

"An Act relating to the board, investigations, and examinations of the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date."

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SENATOR JOHN COGHILL discussed the legislation. He explained that SB 264 addressed two different issues with regard to the commercial fishing and agricultural bank. It eliminates the requirement for the resident farmer and places them under an examination of the Department of Commerce, Community and Economic Development division of banking for a review in intervals of thirty six months.

Senator Coghill provided a sectional analysis. He explained that Section 1 adds the commercial fishing and agricultural bank to the list of requirements for institutions. Section two deletes the requirement of resident farmer for the board of directors of the Commercial Fishing and Agricultural Bank. Section three is the confidentiality section of the records required when utilizing financial information. The authority to audit is added under Title 44. Section 4 addresses the authorization for examinations as the requirement for the Department of Commerce,

Community and Economic Development Banking Division Audits. Section 5 is a repealer of the resident farmer language. Section 6 addresses the immediate effect of the resident farmer language by removing it altogether. Section 7 includes a later effective date that deals with the bank examiner.

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Senator Olson asked why representation from the general public was discouraged. Senator Coghill explained the difficulty in finding qualified people to serve on the board. The current requirement states that the seat cannot be filled unless a resident farmer is found to sit on the position. Senator Olson asked about the extension of the interval. He asked how many loans are delinquent.

Co-Chair Stedman reviewed one fiscal note for \$10,600 in Commercial Fishing and Agricultural Bank (CFAB) receipts to cover the cost of examination, travel and per diem.

Senator Coghill stated that the fiscal note anticipates that CFAB would cover the cost listed in the fiscal note. The fiscal note is a necessity for the auditors. The fiscal note exhibits a reimbursable cost to the state.

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LELA KLINGERT, PRESIDENT, ALASKA COMMERCIAL FISHING AND AGRICULTURE BANK delivered her testimony.

When CFAB was created by the Legislature in 1979 and 1980, there was considerable emphasis on the development of agriculture in Alaska and there was hope that CFAB would be a significant player in the financing of that development. While CFAB has made many agricultural loans, and continues to offer agricultural loans today. However there have been very few new agricultural loans made, or applications received, in the last ten years. Because of this CFAB's pool of eligible farmer members from which a farmer director candidate can be recruited has dwindled.

This has resulted in increasing pressures on the individuals involved, on CFAB's other directors, and on CFAB's efforts to maintain its viability and to

properly serve its various constituencies. Despite the logical and well-intended requirement of the past, it has now become critical for CFAB's members to reach into the broad pool of its total membership, in order to maintain the highest level of competence within its governing body

With regard to the request for examination, it admittedly may seem odd that a financial institution would seek some new level(s) of oversight and/or potential criticisms, especially where it will involve new and uncontrollable financial costs.

CFAB represents a collection of diverse fiduciary responsibilities. It borrows and lends money and it operates as a cooperative corporation. Therefore, it has a fiduciary obligation to those who have borrowed in the past, those who borrow today, and to those who borrow in the future. It also has a fiduciary responsibility to the State of Alaska - First, because it was a financial investment of the State (since repaid) and, Second, because CFAB is the only private enterprise with the authority to encumber a Commercial Fishing Limited Entry Permit with a consensual lien.

CFAB's Board of Directors, Managements, and staff members have always been sensitive to those diverse fiduciary responsibilities. It is true that CFAB is subject to, and welcomes, an annual financial audit by a professional firm; but such audits are focused primarily on quantitative values and accounting protocols. Only peripherally, do they touch upon the qualitative aspects of lending policies, practices, and results. The State's bank examiners, however, are trained in analytical and evaluative procedures, and they are prepared to express a judgment, in each case, as to the likelihood of a loan's repayment in full. In addition, the examiners have access to the results and experiences of numerous other financial institutions and can establish norms or guidelines by which CFAB's effectiveness can be measured. So, in total, CFAB's Board of Directors and Management are enthusiastic in their support of the measure at hand.

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Co-Chair Stedman requested information regarding defaults or delinquencies. He asked to know the status of the loan portfolio. Ms. Klingert stated that CFAB enjoys some of

its lowest delinquency rates in history at five percent. Co-Chair Stedman requested more detailed and recent information regarding the percent of the delinquencies in dollar amounts.

Co-Chair Hoffman asked for the breakdown ratio between commercial fisheries and agricultural loans.

Ms. Klingert responded that CFAB has less than \$2 million in agricultural loans in a portfolio of approximately \$27 million loans.

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Senator Coghill appreciated the bill's consideration. He believed that the legislation provided one way to improve the lending institutions.

SB 264 was HEARD and HELD in Committee for further consideration.

#sb234

SENATE BILL NO. 234

"An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

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SENATOR KEVIN MEYER explained the legislation.

[AS 04.06.010](#) established the Alcoholic Beverage Control Board (ABC Board) and provided for the appointment of members by the governor. The ABC Board consists of five members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. Two members of the board shall be persons actively engaged in the alcoholic beverage industry; at least three members of the board shall represent the general public.

SB 234, if enacted, would extend the ABC Board for one year to June 30, 2011.

In the opinion of Legislative Audit, the Alcoholic Beverage Control Board (ABC Board) should continue to

regulate the manufacture, sale, barter, and possession of alcoholic beverages in Alaska in order to protect the public's health, safety, and welfare. The Board has demonstrated a need for its continued existence by providing protection to the general public through the issuance, renewal, revocation, and suspension of liquor licenses. Protection has also been provided through active investigation of suspected licensing violations and enforcement of the state's alcoholic beverage control laws and regulations.

During the review process of the sunset audit, there were questions raised about the decision of the Legislature to move the ABC Board from the Department of Revenue to the Department of Public Safety. These questions should be asked and the issue investigated in depth. This one year extension will give the Legislature time over the interim of 2010 to review the decision and move forward with extending the Board to 2014 as recommended by the Division of Legislative Audit.

Senator Olson asked to know more about the difference in the board's department. Senator Meyer responded that the board has demonstrated a need for its continued existence by providing protection to the general public. The responsibilities of the board include the issuance, renewal, suspension of liquor license, and active investigation of suspected license violations and enforcement of the estate's alcohol beverage control laws and regulations. The review process of the sunset audit raised questions about the decision of the legislature to move the Alcohol Beverage Compliance (ABC) board from the Department of Revenue (DOR) to the Department of Public Safety (DPS). He requested additional time to investigate the questions regarding the best home for the ABC board. The original audit recommended board extension to 2014, but he requested an extension of one year.

Senator Olson asked why Senator Meyer chose not to extend the board for a longer time period as recommended by Legislative Budget and Audit (LB&A). Senator Meyer informed that the board may shift departments. The extension would not allow the opportunity to move the board among the departments.

Co-Chair Stedman mentioned one fiscal note from the Department of Public Safety.

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SHIRLEY GIFFORD, DIRECTOR, ALCOHOL BEVERAGE COMPLIANCE (via teleconference), expressed awareness of licensee's dissatisfaction with the ABC board. She opined that an extension of the ABC board offers stability. She explained that she made recommended changes. She exemplified the issues. She applauded the efforts of the agents and servers who make the correct decisions. She anticipated that the changes would be well received. She wished to provide an agency that is supportive of licensees. She understood that licensing and enforcement comprised the two aspects of ABC. Without enforcement, laws will be broken. When people are held accountable and responsible then they act accordingly.

Co-Chair Stedman noted the four recommendations listed in the audit report. Ms. Gifford explained that one major recommendation was an enforcement plan. The other item concerned a procedural manual. She stated that she had organized a ten year strategic plan. All three items have been approved by the board of directors. She stated that she was grateful to have the audit occur at the beginning of her appointment. She explained that the audit allowed a road map to efficiency for the operation of the agency.

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Co-Chair Stedman expressed concern about "sting operations" with underage persons sent into a liquor establishment to purchase alcohol. His concern included the risk associated with the licensed premises operator and the effect on his insurance premiums along with potential felony charges for the bartender.

Ms. Gifford responded that she was also concerned about the issue. She stated that Representative Ramras had a bill that addressed minors using illegal identification. She stated that law enforcement must retain the focus and priority. She mentioned that she is a member of a committee addressing statistical crime reporting. She was pleased to be included because departments across the state should report Title 4 violations.

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Co-Chair Stedman clarified several concerns about minors testing the liquor establishment by attempting to purchase liquor as part of a "sting operation." He understood that it was illegal to have an underage minor in a liquor establishment although the ramifications exist only for the business proprietor and the bartender if they sell to the minor.

Ms. Gifford responded that Title 4 for AS 41.60.490 covers access of persons under the age of 21 to licensed premises. She continued that Section F of the statute reads that a person under 21 years of age does not violate the section if the person enters or remains on premises licensed under this title at the request of a police officer. She stated that the ABC board is afforded the ability to do these compliance checks. She explained that an increase in compliance checks led to a decrease in violations. Co-Chair Stedman responded that the shifting of the ABC board to the Department of Public Safety has led to increased discomfort among proprietors.

Ms. Gifford stated that the compliance check program was not initiated because the ABC board was placed under the Department of Public Safety. The compliance check program occurs across the nation in an effort to combat underage drinking.

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Co-Chair Hoffman pointed out number 4 and number 3 of the audit recommendation. He referred to the policy stated in number 4 addressing a board vote during a tie breaking situation. Ms. Gifford responded that Alaska statute covers this issue. Ms. Gifford believed that this statute should be changed. She noted that she agrees with the auditors because she is in a position where she has more information than the board.

Co-Chair Hoffman mentioned number three and the compliance. He asked if the board records were complete and accurate. Ms. Gifford replied that the record keeping has improved tremendously.

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Senator Olson asked how a tie might occur with a five member board. Ms. Gifford answered that a tie might occur

if a member of the board was absent, as a quorum exists with four people.

Senator Thomas asked how long Ms. Gifford had been the director. Ms. Gifford answered that she has been the director since January 5, 2009.

Senator Thomas asked about other issues in the audit. He asked if the four agents employed by the ABC board were sufficient. Ms. Gifford answered that she requested additional investigators because of duties including inspections of licensed premises and investigations for violations of the law. She explained that she depends on the state troopers for help.

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Senator Thomas commented on the audit and the compliance check program. Ms. Gifford responded that the enforcement of the strategic plan adds a mechanism limiting visits to establishments.

Senator Thomas asked about mailings to the licensees. He asked about the mailings and the cost to the state. Ms. Gifford was not aware of state mailings, but agreed to respond to Senator Thomas at a later date.

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Co-Chair Stedman wondered how much time is given to the entity to achieve compliance prior to elimination.

PAT DAVIDSON, LEGISLATIVE AUDITOR, LEGISLATIVE AUDIT DIVISION, LEGISLATIVE AFFAIRS AGENCY offered that the improvements observed in the prior audit occurred under the current executive director. She stated that the major issue for LB&A was establishing quantifiable and objective enforcement goals. Enforcement is a large segment of the ABC board. Compliance checks should not be based on the location of the inspectors. Issues about record retention and data input are smaller issues and do not require reorganization of the board.

Co-Chair Stedman asked about the potential extension of the board. He asked if one year was ample time to come into compliance with the audits.

Ms. Davidson stated that an extension of one year means that LB&A will revisit the board and provide the committee with a status of the current audit recommendations.

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SB 234 was HEARD and HELD in Committee for further consideration.

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ADJOURNMENT

The meeting was adjourned at 3:03 PM.