

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 9, 2010

8:31 a.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Bill Wielechowski, Vice Chair
Senator Dennis Egan
Senator John Coghill

MEMBERS ABSENT

Senator Lesil McGuire

COMMITTEE CALENDAR

SENATE BILL NO. 190

"An Act relating to biometric information."

- MOVED CSSB 190(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 108(JUD) AM

"An Act relating to real property foreclosures, to the sale of property on execution, and to deeds of trust."

- MOVED SCS CSHB 108(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 386(FIN)

"An Act establishing a uniform format and procedure for citations for certain violations of state law; relating to the form, issuance, and disposition of citations for certain violations; relating to certain crimes and penalties for noncompliance with citations; and providing for an effective date."

- MOVED CSHB 386 (FIN) OUT OF COMMITTEE

HOUSE BILL NO. 52

"An Act authorizing psychological counseling for jurors serving in criminal trials who are traumatized by graphic evidence or testimony."

- MOVED HB 52 OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 48

Urging the United States Congress to pass the Crime Victims Fund Preservation Act.

- MOVED HJR 48 OUT OF COMMITTEE

HOUSE BILL NO. 253

"An Act relating to the time periods affecting certain liens related to providing labor, material, service, or equipment to real property, including buildings and other improvements."

- HEARD AND HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 251(JUD)

"An Act relating to liens on vehicles and to towing, transporting, and storage of vehicles; and providing for an effective date."

- HEARD AND HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 287(JUD)

"An Act relating to the adoption of the Uniform Disclaimer of Property Interests Act, and to the disclaimer of property rights under the Uniform Probate Code."

- HEARD AND HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 355(JUD)

"An Act relating to criminal fines for organizations."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 190

SHORT TITLE: BIOMETRIC INFORMATION FOR ID

SPONSOR(S): SENATOR(S) WIELECHOWSKI

04/10/09	(S)	READ THE FIRST TIME - REFERRALS
04/10/09	(S)	STA, JUD
03/02/10	(S)	STA AT 9:00 AM BELTZ 105 (TSBldg)
03/02/10	(S)	Heard & Held
03/02/10	(S)	MINUTE(STA)
03/11/10	(S)	STA AT 9:00 AM BELTZ 105 (TSBldg)
03/11/10	(S)	Moved CSSB 190(STA) Out of Committee
03/11/10	(S)	MINUTE(STA)
03/12/10	(S)	STA RPT CS 1DP 3AM SAME TITLE
03/12/10	(S)	DP: KOOKESH

03/12/10 (S) AM: MENARD, PASKVAN, FRENCH
03/26/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/26/10 (S) -- MEETING CANCELED --
03/31/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/31/10 (S) Heard & Held
03/31/10 (S) MINUTE(JUD)

BILL: HB 386

SHORT TITLE: CITATIONS

SPONSOR(s): REPRESENTATIVE(s) HAWKER

02/23/10 (H) READ THE FIRST TIME - REFERRALS
02/23/10 (H) JUD, FIN
03/17/10 (H) JUD AT 1:00 PM CAPITOL 120
03/17/10 (H) Moved CSHB 386(JUD) Out of Committee
03/17/10 (H) MINUTE(JUD)
03/19/10 (H) JUD RPT CS(JUD) 1DP 6NR
03/19/10 (H) DP: GRUENBERG
03/19/10 (H) NR: LYNN, HERRON, DAHLSTROM, HOLMES,
GATTO, RAMRAS
03/29/10 (H) FIN AT 1:30 PM HOUSE FINANCE 519
03/29/10 (H) Moved CSHB 386(FIN) Out of Committee
03/29/10 (H) MINUTE(FIN)
03/30/10 (H) FIN RPT CS(FIN) 9DP 1NR
03/30/10 (H) DP: FAIRCLOUGH, N.FOSTER, THOMAS, GARA,
DOOGAN, JOULE, KELLY, STOLTZE, HAWKER
03/30/10 (H) NR: SALMON
03/31/10 (H) TRANSMITTED TO (S)
03/31/10 (H) VERSION: CSHB 386(FIN)
04/01/10 (S) READ THE FIRST TIME - REFERRALS
04/01/10 (S) JUD
04/05/10 (S) JUD AT 11:00 AM BUTROVICH 205
04/05/10 (S) Bills Previously Heard/Scheduled
04/07/10 (S) JUD AT 8:30 AM BUTROVICH 205
04/07/10 (S) -- Continued from 4/5/10 Meeting --
04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: HB 108

SHORT TITLE: PROP. FORECLOSURE/EXECUTION/TRUST DEEDS

SPONSOR(s): REPRESENTATIVE(s) RAMRAS

02/02/09 (H) READ THE FIRST TIME - REFERRALS
02/02/09 (H) L&C, JUD
02/23/09 (H) L&C AT 3:15 PM BARNES 124
02/23/09 (H) Heard & Held
02/23/09 (H) MINUTE(L&C)
03/13/09 (H) L&C AT 3:15 PM BARNES 124

03/13/09 (H) -- MEETING CANCELED --
 03/16/09 (H) L&C AT 3:15 PM BARNES 124
 03/16/09 (H) Moved CSHB 108(L&C) Out of Committee
 03/16/09 (H) MINUTE(L&C)
 03/18/09 (H) L&C RPT CS(L&C) 1DP 5NR
 03/18/09 (H) DP: CHENAULT
 03/18/09 (H) NR: BUCH, COGHILL, NEUMAN, HOLMES,
 OLSON
 03/25/09 (H) JUD AT 1:00 PM CAPITOL 120
 03/25/09 (H) Scheduled But Not Heard
 03/30/09 (H) JUD AT 1:00 PM CAPITOL 120
 03/30/09 (H) Heard & Held
 03/30/09 (H) MINUTE(JUD)
 04/03/09 (H) JUD AT 1:00 PM CAPITOL 120
 04/03/09 (H) Moved CSHB 108(JUD) Out of Committee
 04/03/09 (H) MINUTE(JUD)
 04/07/09 (H) JUD RPT CS(JUD) 2DP 4NR 1AM
 04/07/09 (H) DP: COGHILL, RAMRAS
 04/07/09 (H) NR: LYNN, GRUENBERG, DAHLSTROM, GATTO
 04/07/09 (H) AM: HOLMES
 04/11/09 (H) TRANSMITTED TO (S)
 04/11/09 (H) VERSION: CSHB 108(JUD) AM
 04/13/09 (S) READ THE FIRST TIME - REFERRALS
 04/13/09 (S) L&C, JUD
 04/16/09 (S) L&C AT 3:45 PM BELTZ 211
 04/16/09 (S) Moved SCS CSHB 108(L&C) Out of
 Committee
 04/16/09 (S) MINUTE(L&C)
 04/17/09 (S) L&C RPT SCS 1NR 4AM SAME TITLE
 04/17/09 (S) NR: DAVIS
 04/17/09 (S) AM: PASKVAN, MEYER, THOMAS, BUNDE
 03/31/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/31/10 (S) Heard & Held
 03/31/10 (S) MINUTE(JUD)
 04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: HB 52

SHORT TITLE: POST-TRIAL JUROR COUNSELING

SPONSOR(s): REPRESENTATIVE(s) KERTTULA

01/20/09 (H) PREFILE RELEASED 1/9/09
 01/20/09 (H) READ THE FIRST TIME - REFERRALS
 01/20/09 (H) JUD, FIN
 02/26/10 (H) JUD AT 1:00 PM CAPITOL 120
 02/26/10 (H) Moved Out of Committee
 02/26/10 (H) MINUTE(JUD)
 03/01/10 (H) JUD RPT 5DP

03/01/10 (H) DP: LYNN, GRUENBERG, HERRON, DAHLSTROM,
RAMRAS
03/26/10 (H) FIN AT 1:30 PM HOUSE FINANCE 519
03/26/10 (H) Moved Out of Committee
03/26/10 (H) MINUTE(FIN)
03/29/10 (H) FIN RPT 10DP 1NR
03/29/10 (H) DP: THOMAS, GARA, DOOGAN, JOULE,
AUSTERMAN, SALMON, N.FOSTER,
FAIRCLOUGH,
03/29/10 (H) STOLTZE, HAWKER
03/29/10 (H) NR: KELLY
03/31/10 (H) TRANSMITTED TO (S)
03/31/10 (H) VERSION: HB 52
04/01/10 (S) READ THE FIRST TIME - REFERRALS
04/01/10 (S) JUD, FIN
04/07/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/07/10 (S) Heard & Held
04/07/10 (S) MINUTE(JUD)
04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: HJR 48

SHORT TITLE: CRIME VICTIMS FUND PRESERVATION ACT
SPONSOR(S): REPRESENTATIVE(S) KERTTULA

02/23/10 (H) READ THE FIRST TIME - REFERRALS
02/23/10 (H) FIN
03/19/10 (H) FIN AT 1:30 PM HOUSE FINANCE 519
03/19/10 (H) Moved Out of Committee
03/19/10 (H) MINUTE(FIN)
03/22/10 (H) FIN RPT 9DP
03/22/10 (H) DP: GARA, DOOGAN, JOULE, KELLY,
AUSTERMAN, N.FOSTER, FAIRCLOUGH,
STOLTZE,
03/22/10 (H) HAWKER
03/25/10 (H) TRANSMITTED TO (S)
03/25/10 (H) VERSION: HJR 48
03/26/10 (S) READ THE FIRST TIME - REFERRALS
03/26/10 (S) JUD
04/07/10 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/07/10 (S) Heard & Held
04/07/10 (S) MINUTE(JUD)
04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: HB 253

SHORT TITLE: MECHANIC/MATERIALMEN LIENS
SPONSOR(S): REPRESENTATIVE(S) RAMRAS

01/08/10 (H) PREFILE RELEASED 1/8/10
 01/19/10 (H) READ THE FIRST TIME - REFERRALS
 01/19/10 (H) L&C, JUD
 03/01/10 (H) L&C AT 3:15 PM BARNES 124
 03/01/10 (H) Moved Out of Committee
 03/01/10 (H) MINUTE(L&C)
 03/04/10 (H) L&C RPT 5DP
 03/04/10 (H) DP: LYNN, BUCH, CHENAULT, T.WILSON,
 OLSON
 03/12/10 (H) JUD AT 1:00 PM CAPITOL 120
 03/12/10 (H) Moved Out of Committee
 03/12/10 (H) MINUTE(JUD)
 03/15/10 (H) JUD RPT 6DP
 03/15/10 (H) DP: LYNN, GRUENBERG, HERRON, DAHLSTROM,
 GATTO, RAMRAS
 03/26/10 (H) TRANSMITTED TO (S)
 03/26/10 (H) VERSION: HB 253
 03/29/10 (S) READ THE FIRST TIME - REFERRALS
 03/29/10 (S) L&C, JUD
 04/06/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 04/06/10 (S) Moved HB 253 Out of Committee
 04/06/10 (S) MINUTE(L&C)
 04/07/10 (S) L&C RPT 4DP
 04/07/10 (S) DP: PASKVAN, MEYER, THOMAS, BUNDE
 04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: HB 251

SHORT TITLE: VEHICLE LIENS/TOWING/STORAGE/TRANSPORT
 SPONSOR(s): REPRESENTATIVE(s) RAMRAS

01/08/10 (H) PREFILE RELEASED 1/8/10
 01/19/10 (H) READ THE FIRST TIME - REFERRALS
 01/19/10 (H) STA, JUD
 03/09/10 (H) STA AT 8:00 AM CAPITOL 106
 03/09/10 (H) Heard & Held
 03/09/10 (H) MINUTE(STA)
 03/11/10 (H) STA RPT 1DP 4NR
 03/11/10 (H) DP: LYNN
 03/11/10 (H) NR: JOHNSON, GATTO, GRUENBERG, PETERSEN
 03/11/10 (H) STA AT 8:00 AM CAPITOL 106
 03/11/10 (H) Moved Out of Committee
 03/11/10 (H) MINUTE(STA)
 03/25/10 (H) JUD AT 1:00 PM CAPITOL 120
 03/25/10 (H) Moved CSHB 251(JUD) Out of Committee
 03/25/10 (H) MINUTE(JUD)
 03/26/10 (H) JUD RPT CS(JUD) NT 2DP 3NR 1AM
 03/26/10 (H) DP: LYNN, RAMRAS

03/26/10 (H) NR: HERRON, DAHLSTROM, HOLMES
03/26/10 (H) AM: GATTO
04/01/10 (H) TRANSMITTED TO (S)
04/01/10 (H) VERSION: CSHB 251(JUD)
04/02/10 (S) READ THE FIRST TIME - REFERRALS
04/02/10 (S) STA, JUD
04/08/10 (S) STA RPT 4DP 1NR
04/08/10 (S) DP: MENARD, MEYER, PASKVAN, KOOKESH
04/08/10 (S) NR: FRENCH
04/08/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)
04/08/10 (S) Moved CSHB 251(JUD) Out of Committee
04/08/10 (S) MINUTE(STA)
04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: HB 287

SHORT TITLE: UNIFORM ACT: PROPERTY INTEREST DISCLAIMER
SPONSOR(s): REPRESENTATIVE(s) RAMRAS, GRUENBERG

01/15/10 (H) PREFILE RELEASED 1/15/10
01/19/10 (H) READ THE FIRST TIME - REFERRALS
01/19/10 (H) L&C, JUD
03/01/10 (H) L&C AT 3:15 PM BARNES 124
03/01/10 (H) Moved Out of Committee
03/01/10 (H) MINUTE(L&C)
03/04/10 (H) L&C RPT 1DP 4NR
03/04/10 (H) DP: LYNN
03/04/10 (H) NR: BUCH, CHENAULT, T.WILSON, OLSON
03/11/10 (H) JUD AT 1:00 PM CAPITOL 120
03/11/10 (H) <Bill Hearing Canceled>
03/17/10 (H) JUD AT 1:00 PM CAPITOL 120
03/17/10 (H) Moved CSHB 287(JUD) Out of Committee
03/17/10 (H) MINUTE(JUD)
03/19/10 (H) JUD RPT CS(JUD) 7DP
03/19/10 (H) DP: LYNN, GRUENBERG, HERRON, DAHLSTROM,
HOLMES, GATTO, RAMRAS
03/23/10 (H) TRANSMITTED TO (S)
03/23/10 (H) VERSION: CSHB 287(JUD)
03/24/10 (S) READ THE FIRST TIME - REFERRALS
03/24/10 (S) L&C, JUD
04/06/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
04/06/10 (S) Moved HB 287 Out of Committee
04/06/10 (S) MINUTE(L&C)
04/07/10 (S) L&C RPT 4DP
04/07/10 (S) DP: PASKVAN, BUNDE, THOMAS, MEYER
04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205

BILL: HB 355

SHORT TITLE: CRIMINAL FINES FOR ORGANIZATIONS

SPONSOR(s): REPRESENTATIVE(s) GRUENBERG

02/19/10	(H)	READ THE FIRST TIME - REFERRALS
02/19/10	(H)	JUD, FIN
03/10/10	(H)	JUD AT 1:00 PM CAPITOL 120
03/10/10	(H)	Heard & Held
03/10/10	(H)	MINUTE(JUD)
03/11/10	(H)	JUD AT 1:00 PM CAPITOL 120
03/11/10	(H)	Heard & Held
03/11/10	(H)	MINUTE(JUD)
03/15/10	(H)	JUD AT 1:00 PM CAPITOL 120
03/15/10	(H)	Moved CSHB 355(JUD) Out of Committee
03/15/10	(H)	MINUTE(JUD)
03/17/10	(H)	JUD RPT CS(JUD) 6DP
03/17/10	(H)	DP: LYNN, GRUENBERG, DAHLSTROM, HOLMES, GATTO, RAMRAS
04/02/10	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/02/10	(H)	Moved CSHB 355(JUD) Out of Committee
04/02/10	(H)	MINUTE(FIN)
04/05/10	(H)	FIN RPT CS(JUD) 4DP 3NR
04/05/10	(H)	DP: THOMAS, GARA, DOOGAN, N.FOSTER
04/05/10	(H)	NR: KELLY, FAIRCLOUGH, STOLTZE
04/07/10	(H)	TRANSMITTED TO (S)
04/07/10	(H)	VERSION: CSHB 355(JUD)
04/08/10	(S)	READ THE FIRST TIME - REFERRALS
04/08/10	(S)	JUD
04/09/10	(S)	JUD AT 8:30 AM BUTROVICH 205

WITNESS REGISTER

DON HABIGER, Staff
to Representative Jay Ramras
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: *Provided information related to HB 253.

REPRESENTATIVE JAY RAMRAS
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HB 253 and HB 251.

SHAWN HESS
S&S Towing and Recovery

POSITION STATEMENT: Testified in support of HB 251.

MAGGIE RABY

Alaska Towing Association (ATA)
Fairbanks, AK

POSITION STATEMENT: Testified in support of HB 251.

ELIZABETH GRISWOLD
Gabe's Towing
Fairbanks, AK

POSITION STATEMENT: Testified in support of HB 251.

TANYA WATSON, Office Manager
Rocky's Heating Service
Fairbanks, AK

POSITION STATEMENT: Testified in support of HB 253.

GRACE RUDY
Overhead Door Company
Fairbanks, AK

POSITION STATEMENT: * Testified in support of HB 253.

GRETCHEN STAFT, Staff
to Representative Max Gruenberg
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented HB 287 on behalf of the sponsor.

TERRY THURBON, Chief Administrative Law Judge and
Uniform Law Commissioner
Office of Administrative Hearings
Department of Administration (DOA)

POSITION STATEMENT: Provided supporting testimony on HB 287.

DAVID SHAFTEL, representing himself
Shaftel Law Offices, PC

POSITION STATEMENT: Provided supporting testimony on HB 287.

GRETCHEN STAFT, Staff
to Representative Max Gruenberg
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented HB 355 on behalf of the sponsor.

REPRESENTATIVE MAX GRUENBERG
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HB 355

RICK SVOBODNY, Deputy Attorney General

Criminal Division
Department of Law (DOL)
Juneau, AK

POSITION STATEMENT: Testified that DOL supports HB 355.

ACTION NARRATIVE

[8:31:03 AM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 8:31 a.m. Present at the call to order were Senators Coghill, Wielechowski, ...

SB 190-BIOMETRIC INFORMATION FOR ID

[8:31:17 AM](#)

CHAIR FRENCH announced the consideration of SB 190 and asked for a motion to adopt the committee substitute (CS).

SENATOR WIELECHOWSKI moved to adopt the proposed work draft CS for SB 190, labeled 26-LS0332\W, as the working document.

SENATOR COGHILL objected for an explanation.

[8:34:01 AM](#)

SENATOR EGAN joined.

GEORGE ASCOTT, Staff to Senator Bill Wielechowski, explained that the bill was redrafted at the recommendation of the Attorney General's Office. He outlined the following changes:

- Biometric information is referred to in a new chapter that does not reference DNA. That information is on page 1, lines 3-4.
- The term "collect" was removed from the bill to accommodate the concern that it could prevent legitimate social and economic practices.
- The bill provides an exception for the retention, analysis, disclosure, or distribution of biometric information for law enforcement purposes, or when authorized by state or federal law. It clarifies that private investigation in cases of fraud or arson is legal, and that biometric information can be collected for criminal background checks.
- The word "willing" is removed from the "informed and written consent." It mirrors the language found in the current Genetic Privacy statute.

- It clarifies that biometric data cannot be required for personal identification if the person provides a valid U.S. passport and valid state or military ID.
- The definition section was expanded and distinguishes between "biometric information," "biometric data," and a "biometric system." To the extent practicable the section also uses the National Science and Technology Council definitions for the specific forms of biometric information referenced in the bill.

[8:36:37 AM](#)

SENATOR COGHILL removed his objection and expressed satisfaction that the new chapter was added.

CHAIR FRENCH announced that without further objection, version W is before the committee.

SENATOR COGHILL asked where it says that the biometric information has to be collected by a specific machine.

MR. ASCOTT replied it would be found in the definitions section.

SENATOR COGHILL observed that it's a good addition.

[8:39:19 AM](#)

SENATOR WIELECHOWSKI moved to report CS for SB 190, version W, from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection CSSB 190(JUD) is moved from the Senate Judiciary Standing Committee.

HB 386-CITATIONS

[8:39:52 AM](#)

CHAIR FRENCH announced the consideration of HB 386. [HB 386(FIN) was before the committee.] It was heard previously at which time the substantive changes were discussed.

SENATOR COGHILL reported that his questions were answered satisfactorily.

SENATOR WIELECHOWSKI moved to report CS for HB 386 from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection CSHB 386(FIN) moved from the Senate Judiciary Standing Committee.

HB 108-PROP. FORECLOSURE/EXECUTION/TRUST DEEDS

[8:40:52 AM](#)

SENATOR FRENCH announced the consideration of HB 108. It was heard previously. [Senate committee substitute (CS), labeled 26-LS0318\M, was before the committee.]

SENATOR WIELECHOWSKI moved to report CS for HB 108 from committee with individual recommendations and attached fiscal note(s).

[8:42:20 AM](#)

CHAIR FRENCH announced that without objection SCS CSHB 108(JUD) moved from the Senate Judiciary Standing Committee.

At ease from 8:42 a.m. to 8:44 a.m.

HB 52-POST-TRIAL JUROR COUNSELING

[8:44:03 AM](#)

CHAIR FRENCH announced the consideration of HB 52. It was heard previously. He relayed that after working in the area of criminal law and criminal prosecution you get numb to the graphic and difficult cases that you deal with so it can be eye-opening to talk to grand jurors who are stunned and sometimes very disturbed by certain cases. Although some folks initially were cautious about this bill and there's been a little pushback, it's really a pretty good idea, he said.

SENATOR WIELECHOWSKI moved to report HB 52 from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection HB 52 moved from the Senate Judiciary Standing Committee.

HJR 48-CRIME VICTIMS FUND PRESERVATION ACT

[8:45:46 AM](#)

CHAIR FRENCH announced the consideration of HJR 48. It was heard previously.

SENATOR WIELECHOWSKI moved to report HJR 48 from committee with individual recommendations and attached fiscal note(s).

[8:46:30 AM](#)

CHAIR FRENCH announced that without objection HJR 48 moved from the Senate Judiciary Standing Committee.

At ease from 8:46 a.m. to 8:48 a.m.

HB 253-MECHANIC/MATERIALMEN LIENS

CHAIR FRENCH announced the consideration of HB 253.

[8:48:27 AM](#)

DON HABIGER, Staff to Representative Jay Ramras, related that HB 253 is informally known as Rocky's bill.

REPRESENTATIVE JAY RAMRAS, sponsor of HB 253, said he introduced the bill to addresses a problem faced by small business persons working in the trades. Current law allows people who supply labor, material, services, or equipment for the construction, alteration, or repair of property just 90 days after the work or service is completed to secure payment of the debt. After that time they lose the right to file a lien on the home or facility where the work was done. This legislation extends by 30 days that time period.

[8:53:19 AM](#)

REPRESENTATIVE RAMRAS encouraged the committee to listen to the public testimony.

CHAIR FRENCH said no one signed up to testify, but the packet contains letters from Rocky [Pavey], North Pole Heating, and Alaska Best Plumbing.

REPRESENTATIVE RAMRAS added that small shops try to accommodate their customers, but often they don't get paid in a timely fashion and they are faced with the difficult decision of filing a lien on the property for non-payment. HB 253 is an excellent remedy for those small shops, he said.

CHAIR FRENCH found no further testimony and set HB 253 aside.

HB 251-VEHICLE LIENS/TOWING/STORAGE/TRANSPORT

CHAIR FRENCH announced the consideration of HB 251. [CSHB 251(JUD) was before the committee.]

[8:55:56 AM](#)

REPRESENTATIVE JAY RAMRAS, sponsor of HB 251, said this legislation serves two purposes and will be helpful to both tow truck operators and to consumers who have had a vehicle impounded. First, it gives towing companies first position, in front of the lienholder or lender, for the purpose of recouping costs for contractual vehicular towing and storage. Second, the bill requires tow truck companies to notify the registered owner or primary lienholder within seven working days that the vehicle has been impounded. Currently up to 60 days elapse while the fees add up, leaving the owner stunned by the amount owed to the impound yard. This addition is a consumer protection.

[9:00:22 AM](#)

CHAIR FRENCH asked for confirmation that the new language in Section 1 means that a tow truck company's charges stand on top of a lienholder's claim.

REPRESENTATIVE RAMRAS agreed.

SENATOR WIELECHOWSKI asked what would prevent a tow truck operator from charging an exorbitant amount and attaching a lien to secure payment.

REPRESENTATIVE RAMRAS replied the legislation doesn't address fees but he believes that there are customary fees in the industry.

[9:02:48 AM](#)

SENATOR WIELECHOWSKI asked if the bill puts tow truck operators ahead of a bank that holds a home mortgage.

REPRESENTATIVE RAMRAS said no; the phrase "on the vehicle" in Section 1 was added by the House Judiciary Committee to address the banking community concern that the original bill might have given priority over real estate. Section 1 now clearly states that the towing company's possessory lien only has priority over other liens on the vehicle.

SENATOR COGHILL noted that he received a letter from Jim Carter asking if there could be a public process that allows a dispute on unreasonable fees. He said he agrees that the bill shouldn't address the fee structure, but he doesn't want the process for settling disputes to be ambiguous.

[9:05:24 AM](#)

REPRESENTATIVE RAMRAS said he hadn't seen the letter but some of these issues came to light in the Senate [State Affairs

Committee.] While the bill doesn't address the fee structure, he would encourage the 27th Legislature to consider tightening the relationship between emergency services and consumers.

CHAIR FRENCH said it wouldn't be fair to address the fee structure in this bill because that's a highly contentious topic.

SENATOR COGHILL observed that some cars now cost more than the house he bought in the '70s and while he believes that the bill is good for tow truck companies and consumers, he isn't sure it's good for the major lienholder.

[9:08:03 AM](#)

REPRESENTATIVE RAMRAS said the bill wasn't drafted for the benefit of the lienholder, but public testimony repeatedly indicated that vehicle lienholders come to the tow yard with a possessory lien, remove the vehicle, and leave the tow truck operator with no means to recover payment for their services.

SENATOR COGHILL said he understands that that has happened but there's also tension over tow companies that have imposed large storage fees in addition to the towing fee. He said he wanted to ask the questions in this venue, but he believes that the seven day notification and giving the tow operator preference in the lien is exactly right.

[9:10:07 AM](#)

SHAWN HESS, S&S Towing and Recovery, said he supports HB 251. His company often responds to late night calls to pick up vehicles and tow them to their yard only to have the bank send a truck to remove the vehicle from his yard without compensating him for the towing and recovery service.

MAGGIE RABY, Alaska Towing Association (ATA), said most members of ATA believe that HB 251 is a good first step in fixing the towing problems in Alaska. It stops lienholders from exploiting tow truck companies and it protects consumers by requiring notification within seven days of towing and storage fees. The bill provides a good balance and is a start in improving the system.

[9:13:08 AM](#)

ELIZABETH GRISWOLD, Gabe's Towing, said her company recently had a credit union try to take possession of their collateral without paying the bill because the perfected lien stands before the possessory lien. This is a loophole that lienholders exploit

to the detriment of tow companies. She and other members of the Fairbanks towing ordinance committee would like the statutes to be updated so that they are fair to both parties.

[9:15:46 AM](#)

CHAIR FRENCH asked if there has been any pushback from the vehicle lending industry.

REPRESENTATIVE RAMRAS said initially some lobbyists were aggressive. He added that he likes the bill because it fixes a problem for the small service provider.

CHAIR FRENCH announced he would hold HB 251 in committee.

HB 253-MECHANIC/MATERIALMEN LIENS

CHAIR FRENCH returned attention to HB 253 to take public testimony.

[9:17:51 AM](#)

TANYA WATSON, Office Manager, Rocky's Heating Service, stated support for HB 253. She related that some of their larger invoices are due to insurance claims and some insurance companies don't pay any of the service providers until all the work has been done. This means that Rocky's Heating might not get paid for six months and by the time they realize that they might have difficulty collecting, it's generally too late to file a lien.

GRACE RUDY, Overhead Door Company, stated support for HB 253. She said the additional 30 days will provide service providers more time to work with their customers to receive payment for services rendered. Filing a lien for nonpayment is unpleasant and alienates the customer.

[9:20:20 AM](#)

CHAIR FRENCH held HB 253 in committee.

HB 287-UNIFORM ACT: PROPERTY INTEREST DISCLAIMER

CHAIR FRENCH announced the consideration of HB 287. [CSHB 287(JUD) was before the committee.]

[9:20:47 AM](#)

GRETCHEN STAFT, Staff to Representative Max Gruenberg, said HB 287 makes it easier to disclaim a property interest. A disclaimer occurs when a person who is left a property interest

in a will or trust says for any reason, "I don't want it." HB 287 establishes the rules by which a property interest can be disclaimed and establishes where that disclaimed interest will go. The Uniform Disclaimer of Property Interest Act was promulgated in 1999 and this legislation updates the Act.

[9:23:03 AM](#)

MS. STAFT said the only substantive change to the uniform act relates to child support on page 9, lines 9-15. This provision would bar a disclaimer to the extent that the disclaimant may have child support obligations. The sponsor's reasoning is that it's bad public policy to allow somebody to disclaim a bequest when they have a child who needs financial support. The bill has not been controversial, she said.

TERRY THURBON, Chief Administrative Law Judge, Office of Administrative Hearing, Department of Administration (DOA), said she is an Alaska delegation commissioner to the National Conference of Commissioners on Uniform State Laws. She related that despite the child support provision, the national conference has characterized HB 287 as substantially similar to the uniform bill and has no concern with it being titled as a Uniform Act.

CHAIR FRENCH asked if she knows why the national Uniform Act doesn't contain a provision that relates to child support.

MS. THURBON replied she isn't sure that some other states haven't entertained a similar variance. She opined that now that it's been brought to the attention of the national conference, that exception might be included when the Act is next revised.

[9:26:10 AM](#)

SENATOR COGHILL offered the view that the disclaimant might be under some duress and asked if other protections exist so that they don't disclaim their interest before thoroughly understanding what it is they're disclaiming.

MS. THURBON said the disclaimant isn't necessarily a person under duress and she suspects there are sufficient protections in law against coercion.

SENATOR COGHILL said he's just looking for protections against mischief or fraud.

[9:28:47 AM](#)

DAVE SHAFTEL, representing himself, said he is an attorney who works in the area of estate planning and trust administration. He is a member of an informal group of attorneys and trust officers who have been working with the Legislature since 1997 to recommend provisions to improve the Alaska law. This bill was first introduced several years ago and his group has had an opportunity to study it and consult with a law professor at Florida State University who has written a number of articles on the Uniform Act. The professor made several procedural recommendations to improve the Act and those have been included in this bill.

MR. SHAFTEL said that in 35 years of practice in this area he's never had a client disclaim because they were trying to get out of some other obligation. Most of the disclaimers are used as a tool for postmortem planning, to help rearrange things when a family agrees that the planning didn't as well as they wanted. Disclaimers can also be used for tax purposes, because a spouse was left out of the will, or because the disclaimant wanted their children to receive the property interest.

[9:31:37 AM](#)

Addressing Senator Coghill's concern, he said the courts are sensitive to the fact that some people take advantage of others. This is particularly true in the area of estates and trusts because often you're dealing with elderly people. Alaska law provides good remedies for this.

[9:34:52 AM](#)

CHAIR FRENCH closed public testimony and announced he would hold HB 287 in committee.

HB 355-CRIMINAL FINES FOR ORGANIZATIONS

CHAIR FRENCH announced the consideration of HB 355. [CSHB 355(JUD) was before the committee.]

[9:35:06 AM](#)

GRETCHEN STAFT, Staff to Representative Max Gruenberg, sponsor of HB 355, explained that the bill amends the statute that provides the maximum criminal fines that may be levied against an organization upon conviction of an offense. Page 1, lines 7-13, provides the following:

- The maximum fine for a felony offense that results in death or a misdemeanor offense that results in death is increased [from \$1 million to \$2.5 million.]

- The maximum fine for a class A misdemeanor offense that does not result in death is increased [from \$200,000 to \$500,000.]
- The maximum fine for a class B misdemeanor offense that does not result in death is increased [from \$25,000 to \$75,000.]
- The maximum fine for a violation is increased [from \$10,000 to \$25,000.]

MS. STAFT noted that the fines for the less serious misdemeanors and a violation haven't changed since 1990 and inflation alone would have increased those by about 60 percent. The fine for a felony offense or a misdemeanor offense resulting in death was last raised in 2002, but the sponsor believes that the increase is justified because of the seriousness of the offense and because crimes by organizations are more sophisticated and yield great benefit to the organization. She clarified that these are maximum fines and the judge can order anything from zero to the maximum depending on the egregiousness of the offense.

[9:37:57 AM](#)

Page 1, line 14, through page 2, line 7, relates to treble damages. Current law provides that a judge can order an organization to pay triple the amount of damages gained by the defendant in the crime or three times the loss sought by the defendant.

MS. SHAFT said there's a loophole in the current law because in some crimes, like bribery or conspiracy, there might not be a gain to the defendant or a loss to the victim. HB 355 closes that loophole and allows the court to issue treble damages in those cases as well.

[9:39:53 AM](#)

REPRESENTATIVE MAX GRUENBERG, sponsor of HB 355, said a recent news article about the Massey Coal Mine explosion that resulted in multiple deaths caught his eye because it could potentially lead to a charge of negligent homicide against the corporation. This bill would potentially help in that sort of case, he said.

[9:42:18 AM](#)

RICK SVOBODNY, Deputy Attorney General, Criminal Division, Department of Law (DOL), said the department supports the bill.

SENATOR WIELECHOWSKI commented that it's a great bill.

CHAIR FRENCH announced he would hold HB 355 in committee.

There being no further business to come before the committee, Chair French adjourned the Senate Judiciary Standing Committee hearing at 9:43 a.m.