

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

April 9, 2009

1:09 p.m.

MEMBERS PRESENT

Senator Joe Paskvan, Chair
Senator Joe Thomas, Vice Chair
Senator Bettye Davis
Senator Kevin Meyer
Senator Con Bunde

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 187

"An Act relating to the state's participation in the federal Nationwide Mortgage Licensing System and Registry, and to mortgage lending regulation and licensing; and providing for an effective date."

MOVED SB 187 OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 129(RLS)

"An Act relating to the authority of the Real Estate Commission to revoke licenses of persons convicted of certain crimes."

MOVED CSHB 129(RLS) OUT OF COMMITTEE

SENATE BILL NO. 12

"An Act relating to limitations on mandatory overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 61

"An Act establishing an Alaska health care program to ensure insurance coverage for essential health services for residents of the state, the Alaska Health Care Board to administer the Alaska health care program and the Alaska health care fund, the Alaska health care clearinghouse to administer the Alaska health care program under the direction of the Alaska Health Care Board, and eligibility standards and premium assistance for health care coverage of persons with low incomes; creating the Alaska health care fund; providing for review of actions and

reporting requirements related to the health care program; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 153

"An Act relating to manufactured homes, including manufactured homes permanently affixed to land, to the conversion of manufactured homes to real property, to the severance of manufactured homes from real property, to the titling, conveyance, and encumbrance of manufactured homes, and to manufacturers' certificates of origin for vehicles; and providing for an effective date."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 126

"An Act amending the State Personnel Act to place in the exempt service the chief economist and state comptroller in the Department of Revenue and certain professional positions concerning oil and gas within the Department of Natural Resources; relating to reemployment of and benefits for or on behalf of reemployed retired teachers and public employees by providing for an effective date by amending the delayed effective date for secs. 3, 5, 9, and 12, ch. 57, SLA 2001 and sec. 19, ch. 50, SLA 2005; and providing for an effective date."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 175

"An Act establishing the Alaska Internet Access Authority and the Alaska Broadband Task Force; and providing for an effective date."

BILL HEARING CANCELED

SENATE BILL NO. 149

"An Act relating to the regulation of residential real property mortgage lending, including the licensing of mortgage lenders, mortgage brokers, and mortgage loan originators and compliance with certain federal laws relating to residential mortgage lending; and providing for an effective date."

BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 187

SHORT TITLE: MORTGAGE LENDING REGULATION

SPONSOR(S): LABOR & COMMERCE

04/08/09 (S) READ THE FIRST TIME - REFERRALS

04/08/09 (S) L&C, FIN
04/09/09 (S) L&C AT 1:00 PM BELTZ 211

BILL: HB 129

SHORT TITLE: POWER TO REVOKE REAL ESTATE LICENSES

SPONSOR(s): RAMRAS

02/13/09 (H) READ THE FIRST TIME - REFERRALS
02/13/09 (H) L&C
03/05/09 (H) L&C RPT 5DP
03/05/09 (H) DP: LYNN, BUCH, COGHILL, HOLMES, NEUMAN
03/25/09 (H) RLS RPT CS(RLS) NT 4DP 2NR
03/25/09 (H) DP: KERTTULA, GARDNER, OLSON, COGHILL
03/25/09 (H) NR: MILLETT, HERRON
03/25/09 (H) RETURNED TO RLS COMMITTEE
03/27/09 (H) TRANSMITTED TO (S)
03/27/09 (H) VERSION: CSHB 129(RLS)
03/30/09 (S) READ THE FIRST TIME - REFERRALS
03/30/09 (S) L&C, JUD

BILL: SB 12

SHORT TITLE: LIMIT OVERTIME FOR REGISTERED NURSES

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
03/09/09 (S) HSS AT 1:30 PM BUTROVICH 205
03/09/09 (S) Heard & Held
03/09/09 (S) MINUTE(HSS)
03/25/09 (S) HSS AT 1:30 PM BUTROVICH 205
03/25/09 (S) Moved SB 12 Out of Committee
03/25/09 (S) MINUTE(HSS)
03/27/09 (S) HSS RPT 1DP 3NR
03/27/09 (S) DP: DAVIS
03/27/09 (S) NR: THOMAS, DYSON, PASKVAN
04/07/09 (S) L&C AT 1:30 PM BELTZ 211
04/07/09 (S) -- MEETING CANCELED --
04/09/09 (S) L&C AT 1:00 PM BELTZ 211

BILL: SB 61

SHORT TITLE: MANDATORY UNIVERSAL HEALTH INSURANCE

SPONSOR(s): FRENCH

01/21/09 (S) PREFILE RELEASED 1/16/09
01/21/09 (S) READ THE FIRST TIME - REFERRALS
01/21/09 (S) HSS, L&C, FIN

03/02/09 (S) HSS AT 1:30 PM BUTROVICH 205
 03/02/09 (S) Heard & Held
 03/02/09 (S) MINUTE(HSS)
 03/13/09 (S) HSS AT 1:30 PM BUTROVICH 205
 03/13/09 (S) Moved CSSB 61(HSS) Out of Committee
 03/13/09 (S) MINUTE(HSS)
 03/16/09 (S) HSS RPT CS 2DP 1DNP 2AM SAME TITLE
 03/16/09 (S) DP: DAVIS, ELLIS
 03/16/09 (S) DNP: DYSON
 03/16/09 (S) AM: THOMAS, PASKVAN
 03/16/09 (S) HSS AT 1:30 PM BUTROVICH 205
 03/16/09 (S) Moved Out of Committee 3/13/09
 03/16/09 (S) MINUTE (HSS)
 04/07/09 (S) L&C AT 1:30 PM BELTZ 211
 04/07/09 (S) -- MEETING CANCELED --
 04/09/09 (S) L&C AT 1:00 PM BELTZ 211

WITNESS REGISTER

LORRIE HOVANICK, Director
 Division of Mortgage, Lending and Securities
 Department of Commerce, Community & Economic Development
POSITION STATEMENT: Supported SB 187.

JOHN MARTIN, President
 Alaska Association of Mortgage Lenders
POSITION STATEMENT: Supported SB 187.

REPRESENTATIVE JAY RAMRAS
 Alaska State Legislature
 Juneau, AK
POSITION STATEMENT: Sponsor of HB 129.

MARGARET DOWLING
 Staff to Representative Ramras
 Alaska State Legislature
 Juneau, AK
POSITION STATEMENT: Commented on HB 129 for the sponsor.

SHARON WALSH, Executive Administrator
 Alaska Real Estate Commission
 Member, Alaska Association of Realtors
POSITION STATEMENT: Supported HB 129.

TOM OBERMEYER
 Staff to Senator Davis
 Alaska State Legislature

Juneau, AK

POSITION STATEMENT: Commented on SB 12 for the sponsor.

MICHAEL WALLERI, General Counsel
Tanana Chiefs Conference

POSITION STATEMENT: Opposed SB 12.

SUSAN JOHNSTON, Regional Director
Human Resources
Providence Health Services

POSITION STATEMENT: Asked them to wait until negotiations were done to take action on SB 12.

ROGER LEWERENZ, Clinical Nurse Educator
Heart Center
Providence Health Center

POSITION STATEMENT: Supported the intent of SB 12, but didn't support the bill.

MARILYN EDWARDS, OR/RN
Providence Health Services,

POSITION STATEMENT: Opposed SB 12.

VALERIE DAVIDSON
Alaska Native Tribal Health Consortium (ANTHC)

POSITION STATEMENT: Opposed SB 12.

ANGEL DOTOMAIN, CEO
Alaska Native Health Board (ANHB)

POSITION STATEMENT: Opposed SB 12.

JAMIE EASTERLY
Representing quite a few nurses in Ketchikan

POSITION STATEMENT: Supported SB 12.

NICOLE WELCH, Interim Chief Human Resource Officer
Fairbanks Memorial Hospital (FMH)

POSITION STATEMENT: Opposed SB 12.

STACY ALLEN, RN
Palmer Laborers Local 341

POSITION STATEMENT: Strongly supported SB 12.

NANCY DAVIS, President
Alaska Nurses Association (ANA)

POSITION STATEMENT: Supported SB 12.

KENDALL SAWA, Vice President
Patient Care Services
Ketchikan General Hospital
POSITION STATEMENT: Opposed SB 12.

ROD BETIT, President
Alaska State Hospital Nursing Home Association (ASHNHA)
POSITION STATEMENT: Opposed SB 12.

LIANN COX, Human Resources Manager
Wildflower Court
Juneau, AK
POSITION STATEMENT: Opposed SB 12.

KRISTI ARTUSOU, Director
Neurosciences
Providence Alaska Medical Center and
Member, National Board of Directors of the Certification
Corporation of the American Association of Critical Care Nurses
POSITION STATEMENT: Opposed SB 12.

LORRIE HERMAN, Regional Director
Government Affairs
Providence Health and Services
POSITION STATEMENT: Asked them to wait to take action on SB 12
until negotiations were finished.

DEBBIE THOMPSON, Executive Director
Alaska Nurses Association,
POSITION STATEMENT: Supported SB 12.

KATHLEEN GEDES, President,
Providence Nurses Union
Providence Alaska Medical Center
POSITION STATEMENT: Supported SB 12.

BARBARA HUFF-TUCKNESS, Director
Governmental and Legislative Affairs
Teamsters Local 959
POSITION STATEMENT: Supported the concept of SB 12.

SENATOR HOLLIS FRENCH
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Sponsor of SB 61.

ANDY MODEROW

Staff to Senator French
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on SB 61 for the sponsor.

BEVERLY SMITH

POSITION STATEMENT: Said she would be available to answer questions regarding SB 61 at the next meeting.

ACTION NARRATIVE

[1:09:09 PM](#)

CHAIR JOE PASKVAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:09 p.m. Present at the call to order were Senators Bunde, Thomas, Davis and Paskvan.

SB 187-MORTGAGE LENDING REGULATION

[1:11:02 PM](#)

CHAIR PASKVAN announced SB 187 to be up for consideration.

LORRIE HOVANICK, Director, Division of Mortgage, Lending and Securities, Department of Commerce, Community & Economic Development, said this bill brings state statutes into alignment with federal law. It was brought forward to allow the state to participate in the National Mortgage Licensing System (NMLS) registry and to adopt emergency regulations to comply and institute this participation.

She said that primarily the regulations that will need changing involve the collection of fees from licensees to participate in the NMLS system and to allow applicants to send their background check fingerprint cards through the NMLS system; currently those have to be provided to the department.

CHAIR PASKVAN asked the intent is to comply with federal law.

MS. HOVANIC replied yes - by July 30, 2009.

CHAIR PASKVAN asked if the administration supports this bill.

MS. HOVANIC replied yes.

CHAIR PASKVAN asked her to explain the fee of \$50,000 for joining the system.

[1:14:22 PM](#)

MS. HOVANIC replied that is what is estimated to be needed to upgrade the state's systems and integrate them to interface with the NMLS. It also has a training component.

SENATOR BUNDE said it has been the state's practice that the cost to the licensee should break even with fees, and asked if that would be the case with this one.

MS. HOVANIC replied yes.

SENATOR BUNDE asked if all licensees will be licensed in a timely fashion.

MS. HOVANIC replied yes; taking it up in a larger bill would make it harder for licensees to be licensed in time.

[1:15:47 PM](#)

SENATOR THOMAS asked if this was a reaction to the subprime loans that were made when people were licensed for insurance, but operated as mortgage lenders, as well.

MS. HOVANIC replied yes; and this is about making the collection of licensees more transparent.

SENATOR THOMAS asked if the state becomes qualified or disqualified from some things by doing it.

MS. HOVANIC replied if the state doesn't comply, federal law requires HUD to take over the mortgage licensing in Alaska.

[1:17:01 PM](#)

JOHN MARTIN, President, Alaska Association of Mortgage Lenders, supported SB 187. He said they worked on getting their licensing statutes passed a couple of years ago; since that time Congress has passed the Safe and Fair Enforcement Act (SAFE), which pertains to mortgage licensing. It sets the minimum standards all states must comply with by July 31, 2009. If the standards are not met in time, an extension can be granted to those states based on their good faith efforts to comply.

SB 149 was introduced to comply, but more changes are needed. There is not enough time in this legislative session to iron it all out. So they will work with the department and the Mortgage Bankers Association to get final language. The state can apply for an extension from HUD in regards to the SAFE Act based upon pending legislation, the fact that present statutes already

substantially comply with the SAFE Act and by joining the National Mortgage Licensing System and Registry (NMLSR). SB 187 will grant the state the necessary authority to join the NMLSR which will also help Alaska get closer to compliance.

[1:19:47 PM](#)

CHAIR PASKVAN closed public testimony.

[1:19:52 PM](#)

SENATOR THOMAS moved to report SB 187 from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

SENATOR MEYER joined the committee.

At ease from 1:19 p.m. to 1:21 p.m.

CSHB 129(RLS)-POWER TO REVOKE REAL ESTATE LICENSES

[1:21:46 PM](#)

CHAIR PASKVAN announced CSHB 129(RLS) to be up for consideration.

REPRESENTATIVE RAMRAS, sponsor of HB 129, introduced his staff, Margaret Dowling, who would present this bill for him.

[1:23:18 PM](#)

MARGARET DOWLING, staff to Representative Ramras, said HB 129 makes a simple, but needed correction to existing law that says the Alaska Real Estate Commission must revoke the license of a real estate broker or an associate broker if that person has been convicted of forgery, theft, extortion, conspiracy to defraud creditors, or fraud. They can also refuse to grant a license or they can deny renewal of a license. The problem is that this language does not apply to Alaska's 1,460 sales people; there are only 411 associate brokers and 483 brokers.

This issue was brought to their attention by the Real Estate Commission. This is a field where customers place faith in their agents' trustworthiness; they have unfettered access to clients' homes, and they often assist clients with sometimes complicated negotiations and financial transactions. HB 129 will empower the Real Estate Commission to appropriately regulate their profession including revoking and refusing to grant or deny renewal of a sales person's license, which protects both the profession and the public.

[1:25:44 PM](#)

SHARON WALSH, Executive Administrator, Alaska Real Estate Commission, said that they and the Alaska Association of Realtors supported HB 129.

CHAIR PASKVAN asked if the recent conviction for this kind of crime is the first time for Alaska.

MS. WALSH replied that it was the first time she has encountered this scenario, and she has been with the commission for five years.

[1:27:21 PM](#)

CHAIR PASKVAN closed public testimony.

SENATOR BUNDE moved to report CSHB 129(RLS) from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

At ease from 1:27 p.m. to 1:30 p.m.

SB 12-LIMIT OVERTIME FOR REGISTERED NURSES

[1:30:13 PM](#)

CHAIR PASKVAN announced SB 12 to be up for consideration.

TOM OBERMEYER, staff to Senator Davis, sponsor of SB 12, reviewed the intent of the bill. It prevents licensed nurses and licensed practical nurses in health care facilities from being forced to work mandatory overtime. It also requires reporting of any overtime with the overtime designated as voluntary or mandatory by the RN, and provides penalties. The intent is to eliminate mandatory overtime for RNs unless overtime is due to a grave and unforeseen event. Use of mandatory overtime in excess of the bill's limitations will result in a report to the Department of Labor and Work Force Development.

He explained that the overtime is beyond an agreed-to, predetermined, regularly scheduled shift and it protects patients from the dangers caused by overworked nurses. It applies to all hospitals and health care facilities in the state. Under this bill, a nurse may not be required or coerced directly or indirectly to work more than 14 consecutive hours without 10 hours of rest, beyond 80 hours in a 14-day work period, or to accept an assignment of overtime if in the judgment of the nurse it would jeopardize the patient's safety. Nurses can volunteer to work additional shifts beyond this limit

so long as they do not work more than 14 consecutive hours with the 10 hours of rest.

MR. OBERMEYER said that a number of concessions were made to Alaska's hospitals. The 14-hour maximum work day with 10 hours of rest exceeds that allowed in many other states, it permits a 2-hour transition for nursing supervisors to call in additional help after 12-hour shifts. This provision was intended to help remedy the problem of calling nurses back to work without adequate rest after working a 12-hour shift. Exceptions have been provided for flight nurses on medical transports, school nurses on school-sponsored field trips and official state emergencies. This bill limits hospital reporting hours to twice a year and eliminates triple time penalties for egregious violations, limits maximum fines and requires enforcement only for knowing violations.

He explained that there are few official overtime complaints by nurses due to their busy schedules and, to some extent, fear of direct or indirect retaliation by employees, which is forbidden under this bill. Many nurses have testified to overwork fatigue, disruption of family life, unexpected shift changes, mandatory overtime, and mandatory on-call over the course of several hearings on a similar bill last year.

It has been estimated that 500,000 licensed registered nurses in this country have left or are not working in the profession. He explained that Congress is addressing the nursing shortage by discussing bills for financial aid for education and more rigorous regulation of overtime hours. The Journal of American Medical Association October 2002 reported that nurses who suffer from fatigue, increased workloads and shifts in excess of 12 hours greatly increase nursing errors and mortality rates among patients who have common surgeries.

[1:34:56 PM](#)

They estimate about 98,000 deaths each year are attributed to errors in hospitals. Nursing fatigue is one of the factors. Other safety sensitive jobs like commercial airline pilots, FAA controllers, railroad engineers and long-haul truckers have established workload guidelines.

He said the nursing profession has to attract more young people to replace the aging nurse workforce, the national average of which is 46 years - 95 percent of them are women. In the year 2000, only 9 percent of RNs were under the age of 25 compared to 25 percent in 1980, which indicates that they are leaving the

profession. SB 12 will encourage employers to employ more nurses rather than using mandatory overtime and mandatory on-call with short staffs to fill routine and critical care positions on a regular basis. The greatest beneficiaries will be the patients who receive the care and safety they deserve.

[1:36:26 PM](#)

SENATOR BUNDE said that legislative findings on page 2, line 6, states that health care facilities shall provide safe and adequate nursing staff without the need for overtime. Research has shown that there is a shortage of nurses and he didn't want a health care facility to be in violation of the law if they simply couldn't find nurses.

MR. OBERMEYER replied that that section could be removed.

SENATOR MEYER said one hospital has negotiated two 16-hour days. Would this bill make that contract a violation?

MR. OBERMEYER replied that he was referring to North Star, a part of Universal Health Services, Inc., the most profitable hospital association in the country. Yes; it is an issue; several of their nurses testified that they like these long hours, but he didn't know if the average nurse in Alaska at age 48 wanted to work those hours every week. However, he recognizes that some nurses want to work those long hours.

SENATOR MEYER asked why they wouldn't just let the employees and management negotiate this personnel matter rather than making a law about it that could make matters worse.

MR. OBERMEYER replied this country is facing a nursing crisis; nurses are not coming into the profession, and there is an aging population. These nurses are the backbone of the hospital systems in the country; if they are overworked and have too many patients to attend to, they will make errors. At the same time it creates dissatisfaction with work among these nurses. He agreed that most facilities want to work with their nurses, but the bottom line is they find them somewhere. The irony is that overtime that was designed many decades ago to try to encourage employers to hire more people is no longer a limiting factor. It has become a routine part of staffing and has no remedy.

[1:41:21 PM](#)

SENATOR DAVIS stated that she would prefer that the concerned parties could negotiate a resolution instead of passing legislation. Other states have had to pass legislation, because

they have not been able to agree among themselves. She has given every opportunity for that to take place here, and she hoped something would happen in the current negotiations between hospitals and nurses, but she wasn't sure they could come up with a solution on their own.

[1:42:31 PM](#)

CHAIR PASKVAN added that he met with a representative of Providence Hospital this morning, and he was assured they were working on this issue and expected to conclude negotiations in May or June 2009. If they cannot reach a resolution, they would not oppose this legislation next year.

[1:43:13 PM](#)

SENATOR DAVIS said she was glad to hear they had that discussion with him; they had that discussion with her, too. But it would be an injustice to not move the bill forward; her goal was to at least get it to Finance this year.

SENATOR MEYER said he didn't see this as a Providence Hospital bill, and they shouldn't hold it up because one hospital was having negotiations.

[1:46:10 PM](#)

MICHAEL WALLERI, General Counsel, Tanana Chiefs Conference, said it is a regional health corporation serving the Interior of Alaska and operates the Chief Andrew Isaac Health Clinic. He said he opposed SB 12 in its current form, because it covers federal facilities. Some issues are unique to Indian health service contracted facilities that would make the situation much worse for them.

He explained that their nursing staff is composed of direct hires which may or may not be subject depending on whether or not the bill applies to federal facilities. But they also have commissioner corps Indian health service employees who are nurses operating under the Intergovernmental Personnel Act (IPA) that this legislation would not affect. In this situation the bill would apply to their non-IPA positions, but would not apply to their IPA positions, which would increase the burden of mandatory staffing over to the IPA nurses, which exacerbates burnout and overwork among that group.

Additionally, he said the bill does not cover nurses who are traveling outside of the borough. Fundamentally, he said, Alaska is dealing with a nursing shortage. The University of Alaska developed a comprehensive program to develop and train nurses

who would be uniquely qualified to serve Alaska and focusing on the resident Native population, which will be less mobile. The same thing was done for UAA's Licensed Clinical Social Work program (LCSW). At first they tried to regulate the area and that didn't work. They think they can do the same thing here.

[1:49:46 PM](#)

SUSAN JOHNSTON, Regional Director, Human Resources, Providence Health Services, asked them to allow negotiations to conclude with the Alaska Nurses Association before taking any action on this bill. Their analysis has indicated this bill would increase Providence's budget by \$9.3 million.

Some of the potential actions they believe would be required by Providence to insure compliance with this bill would be the elimination of on-call and call-back nurses, the elimination of some of their overtime that may lead to unintentional violation, and moving their nurses from 12-hour to 8-hour shifts. Although a move of this nature could potentially provide a significant cost savings for Providence, it would also be a "dissatisfier" for their nurses.

[1:51:35 PM](#)

ROGER LEWERENZ, Clinical Nurse Educator, Heart Center, Providence Health Center, said he had been a nurse for 14 years, 12 of those at Providence. He is responsible for staff that work in the cardiac catheterization lab as well as the cardio vascular observation unit and the cardio vascular intervention unit, a 24-hour nursing unit. The technical nature of the work requires an extra one year of technical training. While many other areas can supplement staff with nurses from the float pool, he can't take just any nurse into the lab.

He explained that it is infrequent, but not unusual, for a nurse to work more than 14 hours caring for patients there. Limiting a nurse to 14 hours could jeopardize the availability of this unit to provide care for a patient in an emergency. It's impossible to schedule for emergencies. Anything outside of those hours are covered by a "call team" which completes cases that are added during the day. Because of that they occasionally stay longer than 14 hours.

He agreed with the intent of this bill, and agreed that nurses should not be scheduled for mandatory overtime, but this scenario would be nearly impossible to implement. Many nurses would be frustrated and quit their jobs. He summarized that he wants the most competent nurses, not the most rested.

1:54:32 PM

MARILYN EDWARDS, Head OR Nurse, Providence Health Services, opposed SB 12. Her immediate concerns revolve around safe quality patient outcomes and a safe work environment for her OR staff. Some of the concerns they have expressed are that restrictions on overtime would mean her staff would work their scheduled shifts and then go to other facilities in the area to get their additional hours. They expressed other concerns that the bill encompasses issues that are highly individualized by circumstances and that SB 12 is a one-size solution to a problem that does not exist at the PNCOR. They provide quality care to all patients needing surgical intervention while providing optimal work/life balance. She has 48 RNs who can choose to work 8, 10, or 12-hour shifts; 22 of them work full time; the other 26 work either a .9, .8 or .6. She has zero vacancies, and she has one "traveler" whose contract is up this week.

MS. EDWARDS summarized that the OR staff like their current shifts. They don't want their call assigned on days when they are not scheduled to work. Current practice is to group their workdays with their calls so that their scheduled off-days are not encumbered with call responsibilities. This practice is their preference and their professional choice.

1:56:54 PM

VALERIE DAVIDSON, Alaska Native Tribal Health Consortium (ANTHC), said they were formed pursuant to federal law to provide a range of medical and community health services to over 130,000 Alaska Natives; ANTCH and Southcentral Foundation jointly manage the Alaska Native Medical Center (ANMC) in Anchorage and employ 500 nurses. They do not support SB 12. In January of this year ANMC was recognized for a second time as a "magnet hospital," a highly prized award given by the American Nursing Association. Only 5 percent of all U.S. hospitals achieve this status and even fewer are designated a second time. ANMC is the first and only Alaska hospital to receive it. She explained that magnet hospitals have demonstrated that they meet a set of criteria designed to measure the strength and quality of their nursing including the ability of its nurses to contribute to patient outcomes and with nurse job satisfaction, low turnover rates and appropriate grievance resolution are part of the standard.

MS. DAVIDSON said they don't support SB 12 or any bill that legislates work schedules and ties the hands of managers who are constantly juggling the demands of patient care against work

force availability, rising costs and chronic underfunding of the Tribal Health System.

They have three primary concerns as the bill is written. First is that it would have a detrimental and disproportionate impact on patients in Alaska, especially in rural Alaska, but because they are transferred into Anchorage for tertiary care it would impact the Alaska Native Health Medical center as well. Second, it conflicts with Alaska's long-standing policy of supporting access to health care through allowing health care facilities an appropriate degree of flexibility in scheduling direct health care providers. Third, it creates the inaccurate impression that it applies to federal and tribal facilities.

[1:59:42 PM](#)

She explained that in rural Alaska, when nurses aren't available, patients must be diverted to another facility. The challenge is that then those patients get diverted to the Alaska Native Medical Center, which disrupts the continuity of care for patients and poses an additional financial burden on an already underfunded health care system.

MS. DAVIDSON said under federal law, a federal facility performing a federal function is not subject to state regulation even if the function is carried out by another entity. Congress has not authorized state regulation of federal health care facilities serving tribes.

She said the Fair Labor Standards Act was recently revised with the benefit of comprehensive comments from nursing associations, patient advocacy groups and health care facilities. It allows for that degree of flexibility.

[2:01:04 PM](#)

ANGEL DOTOMAIN, CEO, Alaska Native Health Board (ANHB), said they represent 24 Alaska tribal health entities and opposed SB 12. She said collectively they employ 7,000 Alaskans and provide health services to approximately 130,000 Native customers. In many areas they are the only providers of health services servicing Natives and non-Natives, alike.

[2:02:14 PM](#)

JAMIE EASTERLY, staff nurse, said she represents quite a few nurses in Ketchikan and that patient safety is their number-one concern. They all support SB 12. She said that money is not the issue, but rest periods are. She said it may be time to look at nursing in a different form and reminded them that it was a very

big deal when pilots' time in an airplane was limited, but many lives were saved because of it. They also need to think about the new young nurses coming into this profession; some of them don't come into nursing because they are not willing to give their lives away to the hospital.

[2:04:44 PM](#)

NICOLE WELCH, Interim Chief Human Resource Officer, Fairbanks Memorial Hospital (FMH), opposed SB 12, because their facility has been able to work directly with staff regarding scheduling to come up with the best plan to meet their patient needs. They do so through a variety of shifts including 8, 10, and 12-hour shifts as well as varying full-time, part-time and per diem statuses and using on-call and call-back. They have not had to mandate overtime and have been able to staff through the ability to be flexible. The hospital needs to be able to maintain its ability to work directly with its nursing staff and specific patient needs. This flexibility also leads to their ability to retain the nursing staff who are looking for creative scheduling to accommodate their work/life balance.

[2:06:07 PM](#)

STACY ALLEN, RN, Palmer Laborers Local 341, said it represents about 250 nurses at Alaska Regional Hospital. She remarked what other industry lets the boss and employees work out matters of public safety? She said so far the health care facilities and the health care associations had not showed a willingness to work together to come up with a solution; and this indicates to her that it will take a legislative solution.

Most of her members work construction and are highly aware of safety, but nurses don't have the choice of walking away from an unsafe situation. They may be putting their licenses and patients on the line; nurses are torn by this issue. People are being driven out of the profession particularly in the OR and the dialysis unit. The Local very much supports SB 12 as a public safety issue.

[2:07:37 PM](#)

NANCY DAVIS, President, Alaska Nurses Association (ANA), Juneau, said she has over 1,000 RN members. They have been working together for over five years to address this issue of mandatory overtime and excessive work hours for registered nurses and licensed practical nurses. They support SB 12 because it addresses both the patients' and the workers' safety. She thought that they should be able to come together on the side of

safety and SB 12 facilitates that in a standard way whether a nurse has a collective bargaining agreement or not.

[2:10:11 PM](#)

KENDALL SAWA, Vice President, Patient Care Services, Ketchikan General Hospital, opposed SB 12. Overtime there is strictly voluntary and he has heard of no complaints in the calendar year of 2008 around inappropriate use of overtime, nor do they expect any in the future as they continue their unrestricted practices. To prevent burnout many hospitals emphasize creative scheduling practices. One such practice is to allow nurses to work at partial FTEs - .8 or .9 for 36 hours/wk for full benefits. This is in the midst of a nursing shortage and to respond to an aging nursing population.

[2:11:43 PM](#)

ROD BETIT, President, Alaska State Hospital Nursing Home Association (ASHNHA), opposed SB 12. He said his members are meeting the intent of the legislation already. Patient safety is paramount to his members and their facilities are equal to or better than those happening nationally. Mandatory overtime is not used in their facilities to make up for short staffing. This is what happens in other states, and that is what has caused legislation to come forward there. Their chart indicates that very little mandatory overtime has been reported; it was at API, but that was addressed two years ago. Overtime is voluntary and generally comes at the request of nursing staff rather than any kind of mandating imposed by management. There are local flexibility issues; Petersburg has reported being on 12-hour shifts because the nursing staff asked for it. It is not cost effective for many facilities to have 12-hour shifts because they end up having 3/12s for 36 hours and lose 4 hours per week per individual employee.

He pointed out that hospitals had taken a number of steps to solve this problem; not the least of which was making contributions to the University of Alaska to grow its nursing program from 100 to 200 graduates each year.

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SENATOR THOMAS said they are already complying.

MR. BETIT responded that they are complying with the findings and intent of the bill, which is to treat nurses fairly and to provide top patient care. They are doing that by not using mandatory overtime, for one thing, and by using other techniques

to get there. Temporary nursing hours is one of those provisions.

SENATOR THOMAS said even though their longest shift is 12 hours, he was still concerned with exemption language on page 3, line 14, that precludes anything longer than 14-hour shifts as long as they were not back-to-back and there was a 10-hour break.

MR. BETIT responded that a number of exceptions are set out on page 3 and he didn't know how they played out against each other, but the 14-hour limit seems to be the most controlling one. If someone has worked a 12-hour shift and has to stay either voluntarily or mandatorily, that 14 hours comes into play. There are times when that will happen either because the nurse wants to do it or because there is a need, particularly in rural facilities, where they don't have other staff immediately available.

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SENATOR THOMAS asked what kind of impact the increase in the University's nursing program had.

MR. BETIT replied it is having a positive effect. Every year he tries to get a subjective opinion from his CEOs as to whether they see the nursing situation as better, worse or about the same. About 12 of them responded that it's the same, 8 said it was worse and 4 said it was better; overall they are not seeing a major deterioration, but the challenge is still there and the vacancy percentage is still pretty significant in many of the facilities.

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SENATOR THOMAS asked how it could be getting worse.

MR. BETIT replied that nurses don't come out of the University nursing program ready to go to work on the floor of a hospital or a nursing home. So, there is a real need to continue to build those work ready programs or to have capacity for the larger hospitals to actually train nurses that could then go out to the rural areas.

[2:19:50 PM](#)

LIANN COX, Human Resources Manager, Wildflower Court, opposed SB 12. She explained that they are a small non-profit skilled nursing facility with 57 beds and have 14 full-time nurses and 3 casual nurses. In the past three years they have had no mandatory overtime at all. They have had no complaints about

overtime or the shifts. They have 8, 10, and 12-hour shifts and try to be flexible based on what the employees want. SB 12 would needlessly set a precedent for government intervention, she said. Statistics reinforce their position that statewide the use of mandatory overtime is rare in hospitals and nursing facilities.

Further, she said, SB 12 would require them to document work hour details for employees affected by this legislation and since it is a facility that doesn't implement the mandatory overtime, she didn't see why they would want to be additionally burdened with the extra reporting.

SENATOR DAVIS asked if she had provided that information to the committee.

MS. COX replied that she had commented through ASHNHA, but she would submit the information she has today.

[2:22:08 PM](#)

KRISTI ARTUSOU, RN, Director, Neurosciences, Providence Alaska Medical Center, said she also sits on the National Board of Directors of the Certification Corporation of the American Association of Critical Care Nurses. They are the largest specialty organization in the country and represent over 500,000 nurses. They do not advocate mandatory overtime for staffing; however, they also do not believe that government interference is required for a nurse's ability to schedule her work hours and to balance their work and personal life. So, she opposed SB 12. She related how she worked overtime to get extra money to buy a home, to raise kids, and to take trips with her children. At no time were her patients in jeopardy, because she is capable of deciding how many hours she can work. She is a nationally recognized expert in critical care, progressive care, and neuroscience nursing.

She said that nurses are resourceful individuals, but this bill would directly impact a their ability to actually control work hours and therefore, negatively impact their ability to provide access to quality health care services for Alaskan patients.

[2:25:31 PM](#)

SENATOR THOMAS asked what part of the bill would preclude her from working voluntary overtime.

MS. ARTUSOU went to the language that limits overtime to 14 hours. She explained that although 8-hours shifts are much

easier for a hospital and an administration to manage, 12-shifts were created across the country to meet the nurses' need. Most nurses in her units are on 12-hour shifts, but if they want to stay the extra 4 hours; that would be a 16-hour shift. That would not be permitted under this bill. What about the nurse who works a 16-hour shift on Monday and Friday because those are the days her husband is home to take care of the children, or the one who choose to work back to back Wednesday Thursday?

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SENATOR THOMAS asked if she would like the bill if allowed 16 hours of voluntary work and still disallowed mandatory overtime.

MS. ARTUSOU replied that professionally she didn't think nurses should have legislation that interferes with their professional decisions. It would impact a nurse's interest in wanting to stay in the profession.

SENATOR MEYER said he was glad to hear that flexible schedules make nurses happy, but the ultimate concern is the safety of the patient.

MS. ARTUSOU explained how after 18 months of consistent 16-hour shifts 3-days a week her performance was stellar; she was even asked to become the manager of the Emergency Room in a New York hospital. She said as a professional, you have to recognize your own limitations.

[2:31:25 PM](#)

LORRIE HERMAN, Regional Director, Government Affairs, Providence Health and Services, said they are in negotiations with their nursing union and hope to conclude those by June. If the overtime issue hasn't been settled by then, she was committed to working with nurses, other hospitals in the state and tribal organizations to come up with a compromise so legislation wouldn't be needed.

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SENATOR MEYER asked if negotiations had started.

MS. HERMAN replied yes.

SENATOR MEYER asked how long have they had been going on.

MS. HERMAN replied that she is not a member of the negotiating team, but knew of two meetings. At the first meeting, Providence submitted its list of issues, and she was sure that mandatory

overtime was on it. The nurses union presented its list of issues at the second meeting. The third meeting is scheduled for Monday, April 13 is when negotiations would begin.

2:34:14 PM

DEBBIE THOMPSON, RN, Executive Director, Alaska Nurses Association, supported SB 12. She impressed on them that this is a patient and nursing safety bill. She pointed out that 50 percent of nurses are not represented by unions nor do they have the option to negotiate overtime with their employer. Mandatory overtime was brought up in one facility in her hospital and the negotiating team was told it would be settled in Juneau as a legislative matter; so it has not come up in negotiations at Providence, yet. She reminded them that the Baylor Plan was never intended to be two 16-hour shifts. It was intended to be two 12-hour shifts and pay the nurses for 40 hours to have coverage on the weekends.

2:35:53 PM

KATHLEEN GEDES, RN, Providence Alaska Medical Center, said she is the Union President. She feels compelled to set the record straight. She submitted a Providence job description for the record and said in the description they are held accountable for medical mistakes. She referenced a book called "Wall of Silence" written by Rosemary Gibson. It's the untold story of the medical mistakes that kill and injure millions of Americans daily.

MS. GEDES related that her mother when she was 41 years old because of a misdiagnosis. She then had to drop out of school to take care of her three siblings; but she ended up graduating with a social work degree. So, instead of going over all the error rates, she wanted them to see her, an error rate.

She did not want this to be a Providence issue, but rather an Alaskan consumer safety issue. Mandatory overtime was not brought forward by Providence on the first day of negotiations, nor on the second day, contrary to what the previous speaker said. She is the one who brought it up. Further, Ms. Gedes, corrected that there are actually 15 states, not 13, that have developed laws and 14 other states are lining up. National legislation is also pending to ban the use of mandatory overtime, and Representative Young actually signed on to that bill.

MS. GEDES said that 73 percent of Providence nurses fill vacancy holes by working voluntary overtime. The problem is that all the studies look at mandatory overtime; they don't look at the error

rates for voluntary overtime. With the nursing shortage they have employee travelers; the adult critical care unit alone has 21 travelers. They have no investment in the community nor is there continuity of care when their 6 or 11 weeks is finished.

She also remarked that she graduated from high school in 1983 when Ms. Artusou bought her first house. She was a spry 18 years old and didn't have a grey hair, but she couldn't be confident that at 16 hours of work she provided safe care. How do you know? There are errors of omission and errors of commission, the ones you don't even know happened because you were too fatigued.

MS. GEDES closed saying that the Alaskan public has a right to expect when they walk into a health care facility that the nurses taking care of them are alert and properly rested. Every family member should ask their bedside nurse how many days they have worked in a row and how many hours they had worked in the last few days, how many hours they had worked today, and if they had received any meals or breaks today. Get the facts. She said eliminating mandatory overtime is common sense; it will protect the patient and the nurses; it will help retain and recruit nurses.

[2:41:06 PM](#)

BARBARA HUFF-TUCKNESS, Director, Governmental and Legislative Affairs, Teamsters Local 959, said she supported the concept of SB 12. She represents nurses and actually the entire health care work force at South Peninsula Hospital and at Kodiak Island. They they have a somewhat semi-private facility as well as a Providence Kodiak Island facility. Collective bargaining agreements have been in place at South Peninsula Hospital since 1989. Their agreement has language that addresses mandatory versus voluntary hours, and nurses are allowed to work voluntarily up to 16 hours. She said they are concerned about some of the flexibility, but agreed with some of the points made today.

On-call is a much bigger issue at their facility. They are also looking at the number of patients per nurse. She is currently in negotiations with South Peninsula facility and next month will be going into negotiations for Providence Kodiak.

She remarked that a large number of nurses are unorganized. So if they don't pass this legislation, it would be an opportunity to continue organizing or there would be protection for those unorganized workers. She the concept embodied in SB 12 is an issue that needs to be addressed.

[2:43:37 PM](#)

SENATOR MEYER asked if overtime can be negotiated.

MS. HUFF-TUCKNESS replied yes; it has been in their contracts for eight years. She said organization as an option for nurses outside of the union would not be guaranteed if this doesn't pass.

SENATOR MEYER reasoned that if unorganized nurses see organized nurses getting something they are not, they will either ask it and management will grant it or they may become organized.

MS. HUFF-TUCKNESS said she has dealt with employers, herself, and she wouldn't guarantee that would be the case.

[2:45:27 PM](#)

CHAIR PASKVAN closed public testimony.

SENATOR BUNDE asked if people in federal facilities wouldn't be affected by SB 12, why would they be concerned about it one way or the other.

SENATOR DAVIS responded that she was confused also. This bill was before the committee last year and an amendment was negotiated that they said was okay. Now they are saying that was not their only issue.

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CHAIR PASKVAN held SB 12 until Tuesday.

SB 61-MANDATORY UNIVERSAL HEALTH INSURANCE

[2:48:56 PM](#)

CHAIR PASKVAN announced SB 61 to be up for consideration.

SENATOR FRENCH, sponsor of SB 61, said 115,000 Alaskans don't have a health insurance policy. A majority of them work at jobs that don't provide it. The idea behind this bill is to make insurance affordable so their health needs can be addressed in a fashion that allows early action to be taken instead of waiting to go to the emergency room and all that entails. The bill is modeled loosely after the Massachusetts plan that was crafted with the help of the Heritage Think Tank. It leaves the current insurance landscape in place; it does not affect anyone that has insurance coverage they wish to keep. It only makes new private insurance affordable for those who can't afford it.

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SENATOR BUNDE asked if he had an age demographic breakdown of people who don't have insurance.

SENATOR FRENCH said it is skewed toward the ages 18-30 demographic. Anyone who is 65 years or older has access to Medicare and the very poor have access to Medicaid. The health concerns of these young people will get treated in the event of an emergency or a catastrophe, but those costs are passed off to everyone else in the state. He believes that a health insurance plan can be crafted that will allow them to pitch in to the pool. Obviously, the more people in an insurance pool the farther and better the risks are spread.

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ANDY MODEROW, staff to Senator French, flipped through the sections of the bill. The findings are on pages 1 and 2; on page 2, line 24, language establishes what the bill tries to accomplish. Language on page 3, line 9, establishes the Health Care Board that will implement the plan; page 4, line 5, starts the section on the board's powers and duties. It will oversee the health care fund, which pays for this reform and a health care clearing house that gives them some oversight into recommending how health care plans can better serve Alaskans and in other publicly funded program.

The Massachusetts uses an electronic Expedia-style format for its clearing house where people can compare health plans side-by-side. The site works with public/private partnerships and other formats to get information out that connects people to health care plans.

The next section deals with essential health care services and this is the most controversial part of the plan; it requires that individuals in the state have access to some kind of health care. Being enrolled in a health care plan already would count as being an IHS beneficiary.

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Once everyone is in the pool there is the opportunity to continue to make other health care reforms. One of those is that a health care plan be offered to any individual regardless of preexisting conditions or other health issues they have that might prevent them from getting coverage today.

Page 7 lists some essential health care services that should be included in any health care plan. The bill does not set out financial criteria, and the goal is to increase consumer choice that includes high deductible health care plans so long as they protect people in times when they need health care. The board must help ensure this provision.

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Page 8 deals with the employer provisions. Depending on an employer's payroll size, there are different levies that can be assessed to help pay for this plan. This bill would not affect employers with a payroll below \$500,000/yr. whether they provide health coverage or not. Employers with a payroll from \$500,000 - \$1,000,000 are levied 1 percent of their payroll if they don't provide health insurance. If the bar for providing health insurance is relatively low, either the employer must offer to pay 33 percent of a health care plan for premium or they must successfully enroll 25 percent of their employees in the plan that they do offer regardless of how much they offer to pay.

Employers with a payroll of \$1,000,000 or more have to pay 2 percent of payroll. Since that is a chunk of money, there is a big opt out clause. If an employer merely establishes a Section 125 account, which allows an employee to purchase health coverage with pre-federal tax dollars, they are exempt from the levy. The cost of establishing those accounts is several hundred dollars for an entire employer for all employees for one year.

Page 9 deals with provisions that don't allow denying anyone coverage who seeks it through the clearing house framework; it allows different financial criteria, but does not allow a preexisting condition limitation to extend for more than one year. If there is a preexisting condition limitation, a plan is required to give credit for prior coverage. So if you are leaving a great state job and don't want to buy COBRA, you can buy a new plan and have it be continuous.

Page 10 deals with the health care fund with funds coming from a variety of sources. Page 11 under disputes and appeals allows the right to a hearing. It also provides a variety of different things the board must come to the legislature with recommendations. Regulations can be implemented to establish this.

CHAIR PASKVAN noted that the committee had written testimony from Beverly Smith.

2:58:41 PM

BEVERLY SMITH said she would be available to answer questions at the next meeting.

2:59:14 PM

CHAIR PASKVAN said he would hold SB 61 for another hearing.

There being no further business to come before the committee, Chair Paskvan adjourned the meeting at 2:59 p.m.