

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 23, 2010

2:05 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Bettye Davis

COMMITTEE CALENDAR

SENATE BILL NO. 129

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

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

SENATE BILL NO. 296

"An Act relating to long-term care insurance, including provisions relating to incontestability, nonforfeiture, and producer training and authorizing the long-term care insurance premium assistance program."

- HEARD AND HELD

SENATE BILL NO. 278

"An Act allowing certain teachers, public employees, and private sector employees to take leave without pay when their spouses are on leave from deployment in a combat zone."

- HEARD AND HELD

SENATE BILL NO. 289

"An Act relating to the adoption of the Uniform Disclaimer of Property Interests Act, to the exemption from creditors of certain retirement plan interests, and to the disclaimer of property rights under the Uniform Probate Code."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 129

SHORT TITLE: RESIDENTIAL SPRINKLER SYSTEMS

SPONSOR(s): SENATOR(s) MENARD

02/27/09 (S) READ THE FIRST TIME - REFERRALS
02/27/09 (S) CRA, STA, L&C
03/17/09 (S) CRA AT 3:30 PM BELTZ 211
03/17/09 (S) Heard & Held
03/17/09 (S) MINUTE(CRA)
03/19/09 (S) CRA AT 3:30 PM BELTZ 211
03/19/09 (S) Moved SB 129 Out of Committee
03/19/09 (S) MINUTE(CRA)
03/20/09 (S) CRA RPT 1DP 2NR
03/20/09 (S) DP: MENARD
03/20/09 (S) NR: OLSON, THOMAS
03/24/09 (S) STA AT 9:00 AM BELTZ 211
03/24/09 (S) Moved SB 129 Out of Committee
03/24/09 (S) MINUTE(STA)
03/25/09 (S) STA RPT 1DP 2NR 2AM
03/25/09 (S) DP: MENARD
03/25/09 (S) NR: MEYER, KOOKESH
03/25/09 (S) AM: FRENCH, PASKVAN
03/02/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/02/10 (S) Heard & Held
03/02/10 (S) MINUTE(L&C)
03/09/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/09/10 (S) Heard & Held
03/09/10 (S) MINUTE(L&C)

BILL: SB 296

SHORT TITLE: LONG-TERM CARE INSURANCE

SPONSOR(s): SENATOR(s) MCGUIRE

02/24/10 (S) READ THE FIRST TIME - REFERRALS
02/24/10 (S) L&C, FIN
03/23/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 278

SHORT TITLE: LEAVE FOR MILITARY SPOUSES

SPONSOR(s): SENATOR(s) WIELECHOWSKI

02/12/10 (S) READ THE FIRST TIME - REFERRALS
02/12/10 (S) STA, L&C
02/25/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)
02/25/10 (S) Heard & Held

02/25/10 (S) MINUTE(STA)
03/11/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)
03/11/10 (S) Moved CSSB 278(STA) Out of Committee
03/11/10 (S) MINUTE(STA)
03/12/10 (S) STA RPT CS 2DP 2AM NEW TITLE
03/12/10 (S) DP: MENARD, FRENCH
03/12/10 (S) AM: PASKVAN, KOOKESH
03/23/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR LINDA MENARD
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Sponsor of SB 129.

SENATOR LESIL MCGUIRE
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Sponsor of SB 296.

ERIN SHINE, staff to Senator McGuire
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Commented on SB 296.

AMY OWNE, representing herself
Anchorage, AK
POSITION STATEMENT: Supported SB 296.

LINDA HALL, Director
Division of Insurance
Department of Commerce, Community and Economic Development
(DCCED)
Juneau, AK
POSITION STATEMENT: Answered questions related to issues in SB 296.

JOHN SHERWOOD, Medicaid Special Projects
Department of Health and Social Services (DHSS)
Juneau, AK
POSITION STATEMENT: Answered questions related to issues in SB 296.

SENATOR BILL WIELECHOWSKI
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 278.

GEORGE ASCOT, staff to Senator Wielechowski
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Explained the CS to SB 278 for the sponsor.

JEFFREY MITTMAN, Executive Director
American Civil Liberties Union (ACLU) of Alaska

POSITION STATEMENT: Supported SB 278.

AL TAMAGNI, Sr.
Pension Services International, Inc.
Anchorage, AK

POSITION STATEMENT: Opposed SB 278.

RIC DAVIDGE, President
Viet Nam Veterans of America
Chairman, Alaska Veterans Foundation

POSITION STATEMENT: Supported SB 278.

STACY BANNEMAN, representing herself
No address provided

POSITION STATEMENT: Supported SB 278.

ACTION NARRATIVE

[2:05:08 PM](#)

CHAIR JOE PASKVAN called the Senate Labor and Commerce Standing Committee meeting to order at 2:05 p.m. Present at the call to order were Senators Meyer, Bunde, and Paskvan. Senator Davis was excused.

SB 129-RESIDENTIAL SPRINKLER SYSTEMS

[2:05:36 PM](#)

CHAIR JOE PASKVAN announced SB 129 to be up for consideration [CSSB 129(L&C) version M was before the committee]. He said they had extensive testimony at the last meeting and he had set the bill aside. The Alaska Fire Chief's Association had offered to prepare and provide to the Labor and Commerce Committee additional information that dealt with this topic, in particular, the Municipal Code adoption process that was being followed. He had received that document and shared it with his committee members. In a letter accompanying that document the president of the Fire Chiefs stated: "Our testimony has been

that municipalities far exceed the minimum standards of AS 29.25.020." The spread sheet that was provided supported that assertion. Chief Tucker's conclusion was that the committee substitute (CS) for SB 129 is not necessary.

On the other hand Chair Paskvan said that the bill's sponsor, Senator Menard, contends that the minimum standards for the public process should be extended for reasons that are in the sponsor statement.

[2:06:04 PM](#)

SENATOR JOE THOMAS joined the committee.

SENATOR CON BUNDE moved adoption of Amendment 1, labeled 26-LS0679\M.2.

26-LS0679\M.2
Cook

AMENDMENT 1

OFFERED IN THE SENATE BY SENATOR BUNDE
TO: CSSB 129(), Draft Version "M"

Page 2, lines 19 - 22:

Delete all material.

Insert "ordinance amendment to be held within a period of not less than 60 days and not more than 180 days."

SENATOR MEYER objected for purposes of discussion.

SENATOR BUNDE explained that in discussion with the sponsor and in order to reach both sides' goals more readily they decided to change the 60-day period to a 60-day period but no longer 180 days. Free disclosure would happen at a local hearing.

SENATOR MEYER removed his objection and Amendment 1 was adopted.

SENATOR BUNDE moved adoption of Amendment 2, labeled 26-LS0679\M.1.

26-LS0679\M.1
Cook

AMENDMENT 2

OFFERED IN THE SENATE
TO: CSSB 129(), Draft Version "M"

Page 2, lines 4 - 8:

Delete all material.

Insert "other requirements relating to the adoption of an ordinance, the governing body of the municipality shall"

Page 2, line 9:

Delete "(2)"

Insert "(1)"

Page 2, lines 12 - 13:

Delete "and the cost-benefit analysis"

Renumber the following paragraph accordingly.

SENATOR MEYER objected for discussion purposes.

SENATOR BUNDE explained that that this amendment removes what could be conceived by some as an unfunded mandate by deleting the cost benefit analysis language. His assumption is that the cost benefits of requiring fire sprinklers in residential homes would be adequately addressed in having two hearings during a six-month period.

SENATOR MEYER removed his objection. Without further objection Amendment 2 was adopted.

[2:13:30 PM](#)

SENATOR LINDA MENARD, sponsor of SB 129, said she supported both amendments. The Home Builders and realtors are okay with them, too. The Alaska Municipal League has stated they will stop opposing the bill with the amendments and take a neutral position. The 180-day cap was suggested by the Firefighters.

[2:15:15 PM](#)

SENATOR MEYER moved to report CSSB 129(L&C) as amended from committee with individual recommendations and attached zero fiscal note(s). There were no objections and it was so ordered.

[2:15:49 PM](#)

CHAIR PASKVAN announced an at ease for signing.

[2:18:10 PM](#)

SB 296-LONG-TERM CARE INSURANCE

[2:18:17 PM](#)

CHAIR PASKVAN announced SB 296 to be up for consideration.

[2:18:30 PM](#)

SENATOR LESIL MCGUIRE, sponsor of SB 296, explained that this bill was borne out of a working group made up of people in long-term care delivery and insurance. They looked at how other states were addressing long-term care strategies. Alaska has higher costs for assisted living and home health care, but overall all of the states are facing this similar challenge for long term care. The national average for nursing home costs is \$198/day; in Alaska it is over \$618/day. The national average for assisted living cost is \$3,131/mo; in Alaska at the low end it's over \$4,314 - more than 37 percent above the national average. For home health costs that have an hourly amount, the national average is \$21/hr; in Alaska it's \$25/hr - 19 percent above the national average.

The group looked at the costs of long term care and those in the group, one of whom owns some assisted living homes, who would speak later said that around 90 percent of her clients are on Medicaid. So, the state is paying in her homes for roughly 90 percent of all of the people being cared for. People try to shift assets and look for ways to cover long term care, but unfortunately by the time you have reached that point in life, your prospects of going into the workforce and changing any of the decisions made prior to that are bleak. So that burden shifts to the state.

SENATOR MCGUIRE said in the case of folks who live in the Lower 48, the majority of them have a tax base that is made up of actual taxpayers - they have a personal income tax, sales tax, or consumption tax. Alaska doesn't have a tax; all its tax revenue comes from the Trans Alaska Pipeline System (TAPS). That being said, they have an obligation to think about Alaska's tax base because it may someday be borne by individual citizens.

[2:22:21 PM](#)

The idea behind this bill is to create a premium assistance program within the state of Alaska. Other states have asked individual citizens of the state to put forward an amount of money from their own wages that would be matched by the state and subsequently be matched in an equal amount by the long term insurance provider, creating a partnership. In the end a policy develops which is meant to insure that person for long-term care.

She added that Medicare applies to those 65 and older, but in the case of long term care the burden with very few exceptions falls back to Medicaid. Next year the state projects those 65

and older to increase by 5.1 percent. In 2009, 8,300 elderly were enrolled in Medicaid and an enrollment of 22,300 is projected for 2029 based on that 5 percent average. Looking at the growth Alaska would experience in the Medicaid budget for those who would need long term care, she thought it was incumbent on the state to start looking for ways to address that. SB 296 attempts to do that.

SENATOR MCGUIRE said Alaska is unique because it has the Permanent Fund Dividend (PFD). When the click to donate program was finally adopted last year, it caused the group to start thinking about what kind of an application there might be for an individual to think both at the time they were receiving that dividend of how they might want to give to charity and how they might want to look at their own health needs and at their own long term care options for the future.

She said that cynics like Senator Bunde might say that Alaskans should be thinking about that already and why do they need the government to remind them. He is right; but unfortunately people get busy and don't take that time to think about it, and it is a long ways away for most people.

If this bill passes, they are hoping Alaskans would have an opportunity when they apply for their PFD to think about long term care. She said they have tried to minimize the fiscal implications to the division and will ask them to forward information about this program to Alaskans and let them consider it and decide. If they do, they would be giving \$500 of their own money that will be matched by the state and then by the long term care provider.

2:27:30 PM

ERIN SHINE, staff to Senator McGuire, said sections 1-14 conform statutes to allow for long term care partnerships which are in place in 23 other states. It creates a group policy that is transferable between the states and it adds provisions for anyone who is selling or administering long term care insurance as a partnership to do so under these guidelines.

SENATOR MCGUIRE said essentially the first part of the sections establishes the mechanism, which is the certificate that would come into place once an Alaskan elected to create the policy. Other sections were put in to deal with preexisting conditions, for example. She highlighted that the committee might want to consider what liability the state would have with entering into these transferability agreements.

[2:31:21 PM](#)

She said a sectional analysis goes through the mechanism. The fiscal note is fairly substantial, which is important. The question comes down to whether one believes that partnering in a premium assistance program would offset costs that come in later on in the form of Medicaid claims as people age. By 2030 she reminded them that 23,000 Alaskans will be 65 and older, and some of that burden will fall to the State of Alaska.

SENATOR BUNDE said he shared their concerns about Medicaid costs, and said he wanted to hear from the Department of Revenue what the net gain would be between someone going on Medicaid and actually following this program.

SENATOR MCGUIRE agreed and said there is a federal tax incentive, but to the extent that the long term care insurance provider got a state credit, they would want to add up the dollars on both sides and compare. If the committee ends up deciding there is a benefit she thought it would be interesting to observe it in other areas of the Medicaid budget as well, because it is the one part of the state's budget that is growing at extraordinary levels. She said 50 percent of all live births in Alaska are now paid for by the state, as one example.

CHAIR PASKVAN said someone purchasing a long term care contract has a number of years to pay for it. It's not just a one-time click and he asked if she was representing that it be done for five years or ten. Is it a fixed amount? His concern is that people might just check in one year, but then lose 100 percent of that money because they don't click it the next year. And then they don't have the benefit.

SENATOR MCGUIRE responded those were excellent questions. She just asked Hank Hodges, New York Life, a similar question. She said that long term care insurance is also for people who become disabled. It was May Owne's (assisted living home owner) belief that by the next year so long as it wasn't a preexisting condition, the person would have a policy. How many years would you need to pay into the policy is another good question. This issue was brought to her by constituents who deal with this every day.

[2:38:02 PM](#)

SENATOR BUNDE wanted to know how this is impacted by the recent health care reform, which he thinks is an unfunded mandate on our grandchildren. Is it more essential than car or house

insurance? If the state is going to subsidize one, would it do this for all kinds of insurance?

SENATOR MCGUIRE said those were great questions, especially how it relates to Obama care, because the definition of a pre-existing condition is now changed. She also wanted to know if there would be federal incentives in the land of stimulus money that would go toward a program like this. She would find out. The Litmus test would be at what level the state has a financial obligation in those other categories for unfunded liability. The issue with long term care insurance is that the state is paying more than \$4000-5000/mo. out of Medicaid coffers for those seniors who did not get long term care insurance.

2:40:05 PM

AMY OWNE, representing herself, said she has four assisted living homes in Anchorage, but she is not directly affiliated with this bill. However, it has brought to her attention an area of conservative interest in getting long term care costs back into the private sector. She said she had been in the assisted living business since 2002; she has 20 beds and has never had a long term care insurance client even approach her. So even though they have products, she hasn't seen them. She said it's painful to see these people who have worked their entire lives spend down their entire savings and go on to become indigent to get into the Medicaid program. Because when they were going through the depression era and afterwards, even fathoming the fact that her assisted living home could cost them \$7000/mo is staggering. What do we do to help these people?

She said that Senator Bunde actually inspired a lot of this conversation when a couple years ago at an Anchorage caucus when they were struggling against the rate freeze she remembered he said, "Well if you don't like it; it's a business decision to stay in the environment." Now she is back to say that her business model for taking care of these residents is actually pretty sound; so maybe it's time to change the environment and find out what is wrong so that Alaskan seniors can be taken care of better.

MS. OWNE said this is what she has come up with. If you can encourage people to purchase the long term care insurance, the partnership program is an excellent way to do it. She found 22 states with another 10-18 in the process of creating it. It provides a mechanism to purchase the long term care insurance. If you purchase \$100,000 worth of coverage you can keep \$100,000 worth of assets at the end before going into the Medicaid

program. So, you wouldn't have to give up everything you have worked your whole life for. She suggested using outside funds to pay down the initial coverage of long term expenses. Of the people who go into long term care, 43 percent of them will need a nursing home at some point. Of that 43 percent, 55 percent will stay at least one year and 21 percent will stay five years. At current rates (\$610) staying in a nursing home for 365 days will cost \$222,650 per year and you would have to spend of your own personal money to be in there. Most adults 65 and older put away about \$170,000 for their own retirement. So before the end of the first year without any kind of insurance they would be on Medicaid.

[2:45:00 PM](#)

CHAIR PASKVAN asked how much it would cost to purchase long term care coverage annually.

MS. OWNE answered that the goal is probably set for someone in their 40s to plan ahead. A \$300/day nursing home benefit (half of what it is in Alaska but more than the standard national rate), with \$300/day for staying at your home, a 90-day wait, and a policy maximum of \$547,000, the premium would be \$897.87 annually. This would pay for roughly two years in a nursing home.

CHAIR PASKVAN calculated that \$500 would come from the individual under her system and the state's match would be \$500. Is there another match?

MS. OWNE said the next match is a discount. They tried to create a three-legged stool so that everyone was giving something. They talked to a couple of providers to get this going on a large scale and they could give a 10 percent discount. This is what they are trying to make happen. It is not supposed to be a double dip from the state.

SENATOR BUNDE asked why a private enterprise would give him money for his long term care.

MS. OWNE answered they would give him a discount. Why would anyone not give a bulk rate to a large corporation, for instance?

CHAIR PASKVAN asked if the state's involvement would result in gross cost savings to the consumer.

MS. OWNE said that is absolutely the goal. The idea is to decrease the Medicaid budget.

CHAIR PASKVAN said he is looking at it from the premium cost that they would be putting on the market. He asked if her example of a \$900/annual premium assumed the state's participation in the program or is that the current market.

MS. OWNE answered that is the current market.

CHAIR PASKVAN asked assuming the state gets involved, does that \$900 become \$750. Does the state get an 18-percent discount because it has a larger pool?

MS. OWNE said that is exactly the point. The companies they have already talked to have offered a 10 percent discount. Whether or not that is legal has to be worked out through Ms. Hall and the Division of Insurance. Her point is that they are willing to step up to be on the short list of companies that offer this program.

[2:50:02 PM](#)

SENATOR BUNDE said his understanding is that you would never get more from the state than you put in yourself under this plan. The tax credit on the premium is still basically state money somewhere along the line in terms of taxes that didn't go to the state. He asked Ms. Owne if Jeff, Labor and Commerce committee aide, bought long term care insurance today, could he keep \$100,000 of his assets and still go on Medicaid.

MS. OWNE explained that could happen with the partnership. If he bought a \$100,000 policy under this partnership plan, if he went into a nursing home, the first \$100,000 would be paid by the insurance company. If Jeff had \$1 million in assets he would have to spend down to \$100,000 to go on Medicaid. You couldn't underinsure just to get on it.

[2:53:03 PM](#)

LINDA HALL, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), said she was available to answer questions on SB 296, but as she had listened she developed comments. The first section through section 14 are policies that are part of a model bill developed through the National Association of Insurance Commissioners (NAIC).{ They would allow the Division of Insurance to actually approve a policy form if an insurance company wanted to participate in one of these long term care partnerships. This

policy is different than the ones that the department has filed today; so they would need the model language in order to approve one.

She explained that her staff worked with Legislative Legal in drafting policy regulatory approval using the NAIC model, but not on the actual working of the long term care partnership. The companies that offer those policies in other states participate in some way in a partnership. The first tax credit in this bill is exactly that - against their premium tax, which in turn reduces funds going into the general fund.

SENATOR BUNDE asked if the current state benefit package provides a long term care option and what level the state participates in that. Would this then provide an option to the rest of the citizens for something that is only available now to state employees? He didn't think there was any state match for the current program. If there is, will the state program be undermined with the program?

MS. HALL answered that she understands there is a state retiree long term care program. The daily limits are relatively low and she didn't think there was a state match, and it is done as a group program. Frequently you will have some type of reduced premium for group participation, although when she does rate approvals she makes sure it's not unfairly discriminatory.

[2:56:48 PM](#)

JOHN SHERWOOD, Medicaid Special Projects, Department of Health and Social Services (DHSS), Juneau, Alaska, said this is "kind of a novel program" for the department in terms of administering it. They made the best assumptions they could in costing it out with limited experience and information. He said the department is always looking for ways of fostering personal responsibility and planning for the future to avoid assuming more of the burden for long term care in the Medicaid program. He said there is uncertainty about how much this program would actually save Medicaid.

A lot of the discussion he read comes down to how many new people this would encourage to get insurance versus just provide an additional benefit in the Medicaid program to people who would already buy long term care insurance to protect their assets. But this kind of program does have potential of saving Medicaid some money long term. They aren't able to quantify it and they wouldn't expect to see the savings in the lifespan of a fiscal note that only goes about five years out.

CHAIR PASKVAN asked if in general the assumption is there would be a fiscal savings to the state because premiums would be paid that defer the state's obligation. Can that be measured if people buy in and stay bought in?

MR. SHERWOOD replied that he wasn't aware of something that would let them quantify it specific to Alaska. Because these long term care partnerships do provide an exemption when they look at people's assets to the extent the insurance company is paid long term care benefits, some people can qualify for Medicaid quicker because they don't have to spend down all of their own assets. On the other hand, to the extent this encourages more people to buy insurance so that even if they qualify for Medicaid, long term care insurance is still paying for some benefit or if the insurance substantially puts off the point at which they might qualify for Medicaid it could save money. There is a high degree of uncertainty in knowing what demographic would be attracted to this program. To date, his observation is that people tend to seek long term care insurance if they have significant assets that they want to protect. To get the most savings they would want something that would reach "a broader range of people."

[3:01:17 PM](#)

CHAIR PASKVAN said he wonders what happens to the failure to renew rate people have if they are buying long term care insurance. There have to be some industry standards on that where people start out with the best of intentions, spend \$1000 a year, do it for three years and then they can't do it anymore. If the state is involved in taking the money that would have to be addressed.

MS. HALL said those are called "lapse rates" and that information could be found in the 5,000 long term care policies that are in effect in the state today. She said they could also continue to pursue finding statistics from other states.

[3:02:33 PM](#)

SENATOR BUNDE noticed a representative from the Permanent Fund Division, and in the past those folks have been rather resistant to getting these check off things because they "Christmas tree up." It would be good to hear their position.

CHAIR PASKVAN said they need to receive a lot of information before advancing this bill. He said it would be held for further information.

[3:03:49 PM](#)

CHAIR PASKVAN announced an at ease from 3:03 - 3:05 p.m.

SB 278-LEAVE FOR MILITARY SPOUSES

[3:06:05 PM](#)

CHAIR PASKVAN announced SB 278 to be up for consideration.

[3:06:09 PM](#)

SENATOR BILL WIELECHOWSKI, sponsor of SB 278, explained that this bill allows spouses of soldiers serving in combat zones to take 10 days of unpaid leave from work while that soldier is on leave from the field of battle. He said the many of the concerns have been addressed. Two changes were suggested at the end of the last hearing. One was to fix the language currently describing a period of military contact. The other change was at Senator Kookesh's request to clarify that schools with 20 or fewer employees are not required to provide 10 days of leave to their teachers without pay, but they are also not prohibited from doing that.

[3:07:45 PM](#)

GEORGE ASCOTT, staff to Senator Wielechowski, said the changes can be found in committee (CS) that had not been adopted labeled 26-LS1034\C. The first change was made because of an error that required Congress to have formally declared war in order for a person in the regular armed forces to qualify for this. It turns out that Congress has not formally declared war since WWII, but they have authorized it. That clarification was made on page 3, lines 7-8, page 5, line 22, and page 7, lines 11-12.

The second change was on page 2, lines 1-4, to make it absolutely clear that teachers that work for schools with less than 20 employees, particularly rural schools that may have only one teacher, may provide this leave if they want to but are not required to.

[3:09:57 PM](#)

SENATOR KEVIN MEYER asked how this bill differs from the Federal Family Medical Leave Act.

MR. ASCOTT explained the major difference is that SB 278 would allow more Alaskan soldiers to qualify. Under federal law an employee must work for an employer with 50 or more employees. This bill applies to an employer with 20 or more employees. Under the federal act an employee must have worked for a full

year and a total of 1,250 hours during that year; SB 278 requires an employee to have worked more than 20 hours per week. This is in response to the fact that military families typically tend to move every couple of years; the spouse is often raising children and can't necessarily work for a full year for that many hours - or hasn't during a deployment.

CHAIR PASKVAN asked for the difference in hours per year.

MR. ASCOTT said under SB 278 an employee must work for an employer that has more than 20 employees for more than 20 hours per week. Under the federal law an employee has to have worked for a full year of not less than 1,250 hours to qualify.

SENATOR MEYER asked how they arrived at 20 employees or more; he liked the federal limit of 50 because more employees are available to cover for the person who would be gone.

MR. ASCOTT replied they reviewed what other states did; many of them have a 20 employee limit and hadn't discovered any problem with meeting that criterion.

SENATOR MEYER mentioned he liked the correction that they are now requiring a two-week notice. That gives the employer a chance to get a temporary to fill in.

[3:14:07 PM](#)

JEFFREY MITTMAN, Executive Director, American Civil Liberties Union (ACLU) of Alaska, said they worked with the Senate State Affairs Committee on constitutional issues on SB 278 and they now fully support it. The current version is in compliance with the Alaska Supreme Court's ruling in AKCLU v Alaska.

[3:15:01 PM](#)

AL TAMAGNI, Sr., Pension Services International, Inc., Anchorage, said they looked at the House version of this bill initially and determined that the other states had passed their bills before the enactment of the Defense Authorization Act of 2010 that was signed by President Obama on October 28, 2009. The federal act grants 5 days of unpaid leave and the Alaska proposal grants 10 working days. He didn't think the sponsors were aware of this passed legislation when it was in the House. Basically the federal act takes care of all these problems. Some parts of the CS are regulated by the Employee Retirement Income Security Act of 1974 (ERISA), which can't be superseded by state law. Most importantly there has been no evidence at all that this is being abused by Alaskan employers. He considered the

suggestion in this bill a "slap in our face." It is trying to solve a problem that does not exist.

[3:18:26 PM](#)

CHAIR PASKVAN asked if he had a problem with the 20 versus 50 employee limit.

MR. TAMAGNI answered yes.

CHAIR PASKVAN asked if he had a problem with the two-week notice.

MR. TAMAGNI replied yes, because there are times when deployments happen that they don't have two weeks' notice. It's military tactics to change deployment times in the event of war so that no one knows precise times of transportation. He didn't see why this bill was needed because the federal law takes care of everything and has exempted all small entities with less than 50 employees under the Family Medical Leave Act.

SENATOR MEYER followed up saying 50 is better than 20. It just seems like 20 employees didn't give a whole lot of flexibility to an employer for filling in for someone who would be gone for 10 days. Fifty days would give an employer enough time to cover for the person who is absent.

MR. TAMAGNI agreed. Just leave the federal act in place because it addresses everybody's concerns.

SENATOR MEYER said that was a good point. He didn't know the differences between the federal act and this bill.

MR. TAMAGNI said the federal act allows five days of unpaid leave for the spouse. This bill wants 10 working days of unpaid leave and to apply to employers who have more than 20 employees when the federal act says 50. There is no demonstrated evidence of any abuse or problems. He said they have checked with employers in Anchorage and Fairbanks and lot of them are veterans themselves.

[3:21:59 PM](#)

RIC DAVIDGE, President, Viet Nam Veterans of America, said he is also Chairman of the Alaska Veterans Foundation. With all due respect to the person who testified before him, he said that military families don't always get much notice, and, yes, most Alaskan businesses have been very helpful for spouses and families to spend time with their warrior, but this bill is not

just dealing with deployment and return. It is also dealing with when a soldier is given R&R time but is unable to return to the country and the spouse would like to go over and meet their warrior and spend some time with them too. That is why the 10 days is important.

He thanked Senator Wielechowski for sponsoring this. He said the core issue is that the State of Alaska is making a statement, preemptive of problems, to allow 10 working days without pay with reasonable notice to be given to a spouse to spend time with their warrior during overseas deployments.

He said a woman called the Foundation last year and would have made an extraordinary witness because her warrior was, in fact, wounded. Her employer was unwilling to give her time off to go overseas. While they were able to eventually resolve it, the situation was unimaginable. Having a law would make it very clear and it is a reasonable request.

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STACY BANNEMAN, representing herself, supported SB 278. Said she is the wife of an active duty Army Guard soldier who has already served two tours in Iraq. He received a bronze star in combat and a combat infantry badge. During both deployments she was working full or part time for employers for whom the recent changes to the federal Family Medical Leave Act for military families will never apply.

She explained that for the first year of the Viet Nam war married men were exempt from the draft; married men with children were given draft deferments because it was thought to constitute too much of hardship on the families. During Viet Nam the majority of troops served one tour and comparatively few citizen soldiers served in combat. However, in comparison, the bulk of the boots on ground in Afghanistan and Iraq are married, they have served or are serving multiple tours; most of them have children. "But America doesn't seem to care about that anymore even as military families are increasingly stretched and stressed to the breaking point."

She said nearly 70 percent of military spouses work outside the home, but a lot of spouses are unable to spend time with their loved one immediately prior to a deployment during a two-week R&R if it even happens or when their husband comes home. With every single deployment they have to make impossible choices between work and family. Forcing military families to make these choices over and over again when a nation is at war is the very

definition of a lack of patriotism and a failure to support the troops and their military families.

Shortly before her husband's most recent deployment she had started a new job and couldn't get any time off. After several months of training at Ft. McCoy, WI, he left for Iraq. She didn't see him for more than a year, but he returned safely. But the reality is that some soldiers are coming home in a box and some will spend the rest of their lives wishing for those last two weeks with them.

She acknowledged recent changes to the federal Family Medical Leave Act, but they do not cover temporary, part time, seasonal or contract workers. They don't take into account the reality and frequency of relocation required of active duty personnel and their families, and the fact that many spouses have to cut back to part time work in order to handle child care and household responsibilities during deployment (they are also the primary unpaid caretakers of veterans as well). The Act doesn't take into account that most Guard Reserve spouses work for small businesses, many in rural communities, or that an increasing number of employers are creating a virtual workplace in hiring contract workers.

She said in order to be eligible for the federal law, military spouses are required to have been working for an employer for at least 12 months, worked at least 1,250 hours during the prior 12 months and be located at a work site where there are at least 50 employees within a 75 mile radius. So, for all intents and purposes the federal law is meaningless for the majority of military family members.

In 2008 Washington State passed the Military Family Leave Law and in 2009 Oregon State followed suit. She strongly encouraged Alaska to pass SB 278.

SENATOR MEYER said he was a little shocked that she couldn't get some time off to meet her spouse.

MS. BANNEMAN replied she couldn't get time off during either deployment.

SENATOR MEYER asked if that was an employer in Alaska.

MS. BANNEMAN answered no; it was in the Lower 48, but she said her story is not an anomaly. The thing is they can't afford to complain to their employers. When you are a military spouse

enduring these deployments your plate is so full that you don't have the time or energy to pursue other avenues and filing complaints.

SENATOR MEYER said he has never heard of an employer in Alaska not letting an employee have time off to see their spouse during an R&R. He said Alaska really appreciates its military.

CHAIR PASKVAN asked if she had lived here in the last six years.

MS. BANNEMAN replied no; she has lived in Washington State and in Oregon.

SENATOR MEYER said he takes offense at someone who lives in Washington and Oregon saying Alaskans don't appreciate and honor its military because they do.

MS. BANNEMAN apologized if he took offense. She clarified that she wasn't talking about Alaska. She said this is her experience and she had stated she has not lived in Alaska.

[3:32:01 PM](#)

CHAIR PASKVAN said this bill raises significant policy changes and he held SB 278 for further consideration. Finding no further business to come before the committee, he adjourned the meeting at 3:32 p.m.