

HOUSE FINANCE COMMITTEE  
March 30, 2011  
1:40 p.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:40 p.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair  
Representative Bill Thomas Jr., Co-Chair  
Representative Anna Fairclough, Vice-Chair  
Representative Mia Costello  
Representative Mike Doogan  
Representative Bryce Edgmon  
Representative Les Gara  
Representative David Guttenberg  
Representative Mike Hawker (alternate)  
Representative Reggie Joule  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Representative Wes Keller, Sponsor; James Armstrong, Staff, Representative Bill Stoltze; Richard Rogers, Natural Resources Specialist, Division of Forestry, Department of Natural Resources; Ron Wolfe, Manager, Natural Resources Manager, Sealaska; Shelly Wright, Executive Director, Southeast Conference; John Sandor, Self, Juneau; Duane Mayes, Director, Division of Senior and Disability Services, Department of Health and Social Services; Pat Luby, Advocacy Director, American Association for Retired Persons; Representative Alan Austerman, Sponsor; Steve Ricci, Staff, Representative Alan Austerman; Wanetta Ayers, Director, Division of Economic Development, Department of Commerce, Community, and Economic Development.

PRESENT VIA TELECONFERENCE

Stuart Thompson, Self, Mat-Su; Scott Sterling, Supervisory Attorney, Office of Public Advocacy, Department of Administration; Beth Russo, Supervisory Attorney, Public Guardian Section, Office of Public Advocacy, Department of Administration; Scott Sterling, Supervisory Attorney, Office of Elder Fraud and Assistance, Office of Public Advocacy, Department of Administration; Brenda Mahlatini, Program Manager, Office of Adult Protective Services, Division of Senior and Disabilities Services, Department of Health and Social Services; Kathy Monfreda, Chief and Criminal Justice Information System Officer (CJIS), Criminal Records and Identification Bureau, Department of Public Safety.

SUMMARY

HB 8 FEDERAL REGULATIONS & EXECUTIVE ORDERS

CS HB 8(FIN) was REPORTED out of committee with a "do pass" recommendation and with new zero impact fiscal note by the Department of Law.

HB 10 NONCOMMERCIAL TRAILER REGISTRATION FEE

HB 10 was SCHEDULED but not HEARD.

HB 64 PERMANENT MOTOR VEHICLE REGISTRATION

HB 64 was SCHEDULED but not HEARD.

HB 103 POWER PROJECT; ALASKA ENERGY AUTHORITY

HB 103 was SCHEDULED but not HEARD.

HB 104 ALASKA PERFORMANCE SCHOLARSHIPS

HB 104 was SCHEDULED but not HEARD.

HB 105 SOUTHEAST STATE FOREST

HB 105 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal note: FN1 (DNR).

HB 120 AIDEA: NEW MARKETS TAX CREDIT PROGRAM

HB 120 was SCHEDULED but not HEARD.

HB 121 LOAN FUNDS: CHARTERS/MARICULTURE/MICROLOAN

HB 121 was SCHEDULED but not HEARD.

HB 125 ALCOHOLIC BEVERAGE CONTROL BOARD

HB 125 was SCHEDULED but not HEARD.

HB 141 LOANS TO COMMUNITY QUOTA ENTITIES/PERMITS

HB 141 was HEARD and HELD in committee for further consideration.

HB 140 APPROP: COMMUNITY QUOTA ENTITY LOAN FUND

HB 140 was HEARD and HELD in committee for further consideration.

HB 150 PROTECTION OF VULNERABLE ADULTS/MINORS

HB 150 was HEARD and HELD in committee for further consideration.

HB 164 INSURANCE: HEALTH CARE & OTHER

HB 164 was SCHEDULED but not HEARD.

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JAMES ARMSTRONG, STAFF, REPRESENTATIVE BILL STOLTZE, discussed the future committee meeting schedule.

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Mr. Armstrong continued to discuss the schedule for the following week.

Co-Chair Stoltze communicated that his staff Joe Michel would be the point person on bills.

#hb8

HOUSE BILL NO. 8

"An Act relating to certain federal regulations and presidential executive orders; relating to the duties

of the attorney general; and providing for an effective date."

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REPRESENTATIVE WES KELLER, SPONSOR, discussed HB 8. He opined that the Sedition Act of 1798 was historically one of the most unconstitutional congressional acts, which had prompted the passage of numerous "reactionary" resolutions. He quoted Thomas Jefferson's words from the Kentucky Resolutions:

Resolved, states composing, the United States of America, are not united on the principle of unlimited submission to their federal government, but reserve each state to itself, the residuary mass of right to their own self-government; and whensoever the general or federal government assumes undelegated powers, its acts are unauthoritative, void, and of no force...each party or each state has an equal right to judge for itself, and the mode and measure of redress belongs to the state [sic].

Representative Keller communicated that the legislation incorporated the principle from the Kentucky Resolutions. He read from page 2, lines 14-16: "A federal statute, regulation, presidential executive order, or secretarial order that is unconstitutional or was not properly adopted in accordance with federal statutory authority many not be considered to preempt a state law." He relayed that the bill required the attorney general to notify the appropriate judiciary committee chairs if the attorney general found that a federal statute, regulation, presidential executive order, or secretarial order was unconstitutional or was not properly adopted (page 2, line 26). The "method, mode, or measure of the redress" was left up to the legislature. He asked the committee to adopt the committee substitute.

Vice-chair Fairclough MOVED to ADOPT Work Draft CSHB 8(FIN) (27-LS0052\B, Bullock, 3/14/11) as a working document before the committee.

Co-Chair Stoltze OBJECTED for discussion.

Representative Keller explained that the CS added the words "secretarial order" and "federal statute" throughout the

bill. He had initially thought that the attorney general's office would review all regulations and provide a report on any items that were potentially unconstitutional; however, that was not logistically possible for the Department of Law (DOL). He had received positive feedback on the bill. He reiterated that DOL would notify the legislature if it became aware of any federal statute, secretarial order, regulation, or presidential executive order that was potentially unconstitutional.

There being NO further OBJECTION the CS was ADOPTED.

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Representative Doogan wondered who would decide whether a federal statute, regulation, presidential executive order, or secretarial order was unconstitutional.

Representative Keller responded that the decision was outside the scope of the legislation. He added that the decision could be made by the U.S. Supreme Court, individuals, and legislators who had the responsibility of interpreting and understanding the U.S. Constitution.

Representative Doogan asked for verification that under the legislation, something would not be considered state law, if it fit the definition in the bill and was determined to be unconstitutional.

Representative Keller replied that the attorney general would make the determination and would notify the appropriate legislative chairs if an item was determined to be unconstitutional.

Representative Doogan understood the specific point. He did not understand the comment that individuals would be able to decide for themselves whether an item was unconstitutional.

Representative Keller responded that he did not believe the ability for a person to decide an item was unconstitutional was in the scope of the bill.

Representative Doogan thought it was clear that the bill did allow the specific ability for a person to determine whether an item was unconstitutional. He was happy to offer an amendment to remove the appropriate language.

Representative Keller asked about the precise language Representative Doogan was referring to.

Representative Doogan cited page 2, lines 12-16 as the specific language.

Representative Keller responded that the language was a principle and did not specify who was making a determination that a federal statute, regulation, presidential executive order, or secretarial order was unconstitutional. He explained the unconstitutionality of an item could be determined in a variety of ways, and in such cases the law was deemed to be invalid.

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Representative Guttenberg wondered about the origin of the language in Section 2, page 2, article 5.

Representative Keller asked for clarification on the question.

Representative Guttenberg wondered about the specific source of the language in Section 2.

Representative Keller responded that the wording of the bill had come from Legislative Legal Services. He had drafted the bill and had quoted the words of Thomas Jefferson during earlier testimony; however, he did not know the specific origin of the language.

Representative Guttenberg thought it appeared that the bill put federal statute into state law. He wondered whether the goal was to preempt federal law or to put it into Alaska statute.

Representative Keller replied that under the bill a federal law that was unconstitutional could not preempt state law. The bill did not dictate what would be done after an item was determined to be unconstitutional. He emphasized that the bill did not attempt to insert federal law into state statute.

Representative Guttenberg was concerned that the bill attempted to decide whether a law was unconstitutional prior to a U.S. Supreme Court case or decision.

Representative Keller responded that it was the responsibility and right of the country's citizens to police the Constitution.

Representative Guttenberg discussed that it was possible to challenge the constitutionality of a law by taking it to court or through an act of civil disobedience; however, ultimately it was the U.S. Supreme Court that determined whether a law was unconstitutional.

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Representative Keller replied that there had been a number of cases where federal law had been deemed unconstitutional and invalid. He cited the California "Compassionate Use Act," which had legalized medical marijuana. He explained that U.S. Supreme Court had determined that the law was unconstitutional; however, the federal government had left the matter in the hands of the state and did not attempt to police noncompliance in each of the 14 states with similar laws.

Representative Guttenberg agreed with comment regarding rights of the states. He expressed uncertainty about other aspects of the bill.

Representative Wilson asked whether the state had adopted numerous federal regulations that were represented by a number and were not written in statute, meaning that the state did not always see the changes made to the regulations.

Representative Keller believed that the state had too many references to federal regulations, but he did not know whether the references were automatically altered when changes to the regulations occurred.

Representative Wilson asked whether the bill required the state to review any changes that were made to federal regulations that it had previously adopted.

Representative Keller answered in the negative. He clarified that the bill asked the attorney general to notify the legislature in the event that an item violated the state or federal Constitutions.

STUART THOMPSON, SELF, MAT-SU (via teleconference), described himself as a "sovereign citizen" and discussed his support of HB 8. He believed the legislation represented a clear support and defense of the 9th and 10th Amendments of the United States. He asked that the committee read the written testimony that he had provided to the House Judiciary Committee. He stated that the legislative oath of office read "I do solemnly swear or affirm that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska and that I will faithfully discharge my duties to the best of my ability." He wondered whether legislators had specifically supported or defended the U.S. Constitution against opposition during the current legislative session. He believed that the passage of state law to acquire rights for federal money did not defend the Constitution; it used "infrastructure and tradition to follow a path of least resistance to gratify constituents." He believed that fighting for state funds for legislators' districts did not support or defend the constitution, but worked to secure legislators' bids for reelection. He discussed other items that did not support or defend the constitution. He opined that the bill was "probably the most ethically substantial bill ever presented to the Alaska legislature." He urged the passage of the bill.

Representative Guttenberg asked Mr. Thompson for his definition of "sovereign citizen."

Mr. Thompson responded with a reference to the Declaration of Independence. He believed that people had the right and obligation to implement change if they did not believe the government was working to assist in the right to life, liberty, and the pursuit of happiness.

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Co-Chair Stoltze CLOSED public testimony.

Representative Edgmon asked whether the goal of the bill was to give Alaska better capability to respond to items such as the recent federal health care legislation that may or may not have been constitutional.

Representative Keller replied in the negative. He clarified that the bill asked the attorney general to notify the legislature if a problem was found.

Vice-chair Fairclough spoke in favor of the legislation. She was interested in a discussion about how Alaskans advocated for their rights. She discussed that when she had been the executive director of Standing Together Against Rape (STAR) there were federal laws that were inconsistent with State of Alaska Constitution. She cited the Adam Walsh law or other that worked to implement a retroactivity clause for the state's sex offender list. The agency had tried to determine how to bring the state into compliance with the law; however, the law was essentially in violation of Alaska's constitution. She wondered whether the state should defend its constitution or align the constitution with the federal government. She thought that it was important to address the points of contention as a legislative body. She discussed her allegiance to the United States, the U.S. Constitution, and to Alaska's constitution. She questioned what should be done in the event that the Constitutions of the United States and Alaska conflicted with each other. She asked whether the state should make changes to its constitution when the federal government changed a law that the state had no input in. She acknowledged that the state's Congressional leaders could argue on its behalf, but she thought the state should also have a voice. She supported the bill because it helped to address Alaskans' right to challenge items that were not in the state's best interest and were in violation with the state's constitution.

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Representative Doogan believed that the goal was to get the attorney general to let legislators know when a federal action was potentially unconstitutional or would preempt state law. He thought that amending the bill to include only Section 4 would achieve the sponsor's goal; it would also eliminate other concerns about a person's ability to assert authority that they did not have. He thought the amendment would do everything in a practical sense that the legislation sought out to do.

Representative Doogan offered a conceptual Amendment 1 that maintained only Sections 4 and 5 of the CS.

Co-Chair Stoltze asked for verification that the amendment would delete the findings and Sections 1 through 3.

Representative Doogan answered in the affirmative.

Vice-chair Fairclough OBJECTED.

Vice-chair Fairclough did not understand the purpose of the amendment. She asked why the findings and Sections 1 through 3 of the bill were objectionable.

Representative Doogan did not understand the particular sections. He believed that the sections did not have an impact on anything that the bill aimed to accomplish. He thought the language represented a philosophical statement; the committee was not in the habit of passing philosophical statements with the exception of resolutions. He did not know why the legislature would put something into law that did not have an impact on the law. He communicated that he did not feel comfortable with the inclusion of the language if it did impact the law, given that he did not know what the impact was.

Representative Wes Keller was not in favor of the conceptual amendment. He would have been "shocked" if the bill had included language specifying that a federal law would preempt state law even when it was found to be unconstitutional. He explained that the language was a statement of "what is." He thought the federal government had recently overstepped or potentially overstepped a number of times. He thought the inclusion of the language was important for the context of the bill.

Representative Doogan believed that the problematic portion of the bill made statements that were not attributed to anybody. He cited language in Section 2 that referred to a federal statute or other that was unconstitutional. He wondered how to judge what was unconstitutional. He surmised that the specific language was referring to a violation of the federal Constitution. He was not comfortable asserting that violations of the federal Constitution were happening or with a law that allowed a person to determine an item was unconstitutional and therefore invalid. He did not support the language.

Co-Chair Stoltze opposed the conceptual amendment. He thought the bill started a committee process when the attorney general notified the legislature that a problem existed.

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Representative Hawker requested that the conceptual amendment be clearly restated.

Representative Doogan explained that the conceptual Amendment 1 began on page 1, line 5 and would delete Sections 1, 2, and 3. The sections would be renumbered accordingly and the title would be changed as necessary.

Representative Costello surmised that the bill provided an avenue for DOL to communicate with the legislature when an unconstitutional federal item occurred. She had heard about departmental budget increases that had happened in response to some of the items. She wondered what the next step would be after the attorney general brought an unconstitutional item to the attention of the legislature. She discussed that if the item was egregious enough that the executive branch of the State of Alaska would sue the federal government.

Representative Keller replied that he had thought significantly about the next step; however, there was no way to outline it in statute due to the wide scope of potential responses. The language that allowed the legislature to consider information it received from DOL would be deleted in the proposed conceptual amendment. He believed that rights of the state were one step away from rights of the individual and there was a responsibility to protect their sovereignty. He stressed that the legislature needed to work with the administrative branch, given that a law suit initiated by the administrative branch would be funded by the legislature. He thought the bill helped all branches of state government to be informed and a part of the process. He opined that the alignment may have helped the state in the process related to the current federal health care bill.

Representative Costello asked whether Sections 1 through 3 that would be deleted by the amendment, were necessary to lead up to and explain the core of the bill in Section 4.

Representative Keller answered that the without Sections 1 through 3 there was no context to understand the legislative intent of the bill. He did not believe that there was anything fundamentally wrong with including the

language. He noted that there would not be much left in the bill if language that read "may be done" was deleted.

Vice-chair Fairclough had looked at all of the statutes that the bill would impact. Section 2 inserted AS 44.23.020 after the statehood act (Section 1 of the statute) and asked the legislature to look at the laws. Section 3 of the bill (AS 24.05.188), was inserted under Article 5 as legislative space. Section 4 of the bill was inserted under DOL related to the duties and powers of the attorney general's office. She explained that the three sections supported AS 44.23.020 and did not change other law.

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Representative Edgmon referenced language in the bill that read "the attorney general shall report the findings to the chairs of the house and senate committees having jurisdiction over judicial matters." He wondered whether the language compromised the options that the attorney general may have if he or she wanted to pursue a legal remedy.

Representative Keller replied that DOL had not brought the concern forward.

Representative Joule discussed that the bill mandated the attorney general (who worked for the governor) to take a specific action. He opined that individuals may have problems with the current federal administration, but in 10 or 20 years the shoe would be on the other foot. He felt neutral about the bill, but cautioned that it was important for a person to be careful about what they asked for because it may come to fruition.

Representative Keller believed that regardless of a person's political affiliation, he would welcome their concern about a bill that was potentially unconstitutional.

Representative Hawker was opposed to the conceptual amendment. He voiced that historically he had opposed the inclusion of findings in statute because they were either irrelevant or did not provide the appropriate contextual framework. He communicated that he felt differently about the current legislation and believed that the conceptual amendment would remove findings that represented an important factual basis for the context of the statute

change. He opined that removing the findings would have led to greater ambiguity. He believed that Section 2, which affirmed the state's sovereignty, was the "heart and soul" of the bill. He advised that the language in Section 2 related to the unconstitutionality of an item, stated a fact, and was based on the opinion of the attorney general or another person. The implementation of the findings occurred under Sections 3 and 4. He believed that the legislation went as far as possible in an effective and responsible manner.

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Representative Guttenberg observed that the sections of the Alaska constitution that had been adopted by the convention were very succinct. He felt that amendments to the constitution and statute could get convoluted. He believed that Section 4 of the bill included many of the same items from Sections 1, 2, and 3; Section 4 outlined the action that would take place if the attorney general found an item to be unconstitutional. He discussed that the attorney general did not need legislative approval to challenge federal law, which was evident in current actions by the governor. He believed that Sections 1 through 3 were redundant and contained the same points that were depicted in Section 4; the sections were not as focused and did not provide a specific action. He supported the idea that legislative committees would receive reports about items that were potentially unconstitutional.

Representative Wilson wondered whether the sponsor had asked the offices of the attorney general or the governor about their opinion on the importance of Sections 1 through 3 of the bill.

Representative Keller replied that they had heard from the offices at the House Judiciary Committee hearing on the legislation. There had been concern that the original bill required the attorney general's office to catch all of the unconstitutional regulations, which was a larger job than the office was prepared to handle. He had spoken with the attorney general and had received no negative response.

Representative Wilson asked whether in the absence of the legislation, it would not be a priority for the attorney general's office to look for the potential unconstitutional items. She wanted the office to catch any federal items

that were potentially unconstitutional and that conflicted with the state's constitution; she believed that the attorney general and the legislature were mandated to do so. She wondered whether the sponsor believed the bill was necessary to ensure that the desired outcome was met.

Representative Keller responded in the affirmative. He explained that the attorney general's office currently may not realize that the legislature should be officially notified when it came across a potentially unconstitutional item.

Representative Doogan wrapped up his conceptual Amendment 1. He believed that the language in Sections 1 through 3 was not necessary if it did not do anything; however, if it did do something, he believed that the active portion related to a person's view that an item in violation of federal statute or the Constitution would not be state law (page 2, lines 15-16). He felt that the language was "nullification language" and he was not in favor of supporting a bill that would allow the legislature to nullify the U.S. Constitution or federal law. The legislature could dispute federal law and he had generally supported the action. He believed HB 8 was something more than a dispute and allowed anyone who opposed something the federal government did to decide that it was unconstitutional or a violation of federal law. He did not support the aspect of the legislation.

Co-Chair Stoltze clarified that the amendment would delete all but Sections 4 and 5 of the legislation.

A roll call vote was taken on the motion to adopt the conceptual Amendment 1.

IN FAVOR: Doogan, Guttenberg

OPPOSED: Costello, Edgmon, Fairclough, Joule, Hawker, Wilson, Stoltze, Thomas

The MOTION FAILED (8/2).

Co-Chair Stoltze pointed to the zero fiscal note by the Department of Law.

Vice-chair Fairclough MOVED to report CSHB 8(FIN) out of committee with individual recommendations and the accompanying fiscal note.

Representative Wilson OBJECTED for discussion.

Representative Wilson relayed that the fiscal note was indeterminate.

Co-Chair Stoltze clarified that the fiscal note had changed from indeterminate to zero.

Representative Wilson WITHDREW her OBJECTION.

Representative Doogan MAINTAINED his OBJECTION.

A roll call vote was taken on the motion to report CS HB 8(FIN) from committee.

IN FAVOR: Wilson, Costello, Edgmon, Fairclough, Joule, Hawker, Thomas, Stoltze, Gara  
OPPOSED: Doogan, Guttenberg

The MOTION PASSED (9/2). There being NO further OBJECTION it was so ordered.

CSHB 8(FIN) was REPORTED out of committee with a "do pass" recommendation and with new zero impact fiscal note by the Department of Law.

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AT EASE

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RECONVENED

#hb105

HOUSE BILL NO. 105

"An Act relating to the Southeast State Forest; and providing for an effective date."

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RICHARD ROGERS, NATURAL RESOURCES SPECIALIST, DIVISION OF FORESTRY, DEPARTMENT OF NATURAL RESOURCES (DNR), spoke in support of HB 105. He detailed that the bill was part of the state's effort to ensure that local timber processing continued to be a part of the Southeast Alaska economy. The majority of timber in southern Southeast Alaska was on

federal land, but federal timber sales had drastically declined. Local sawmills heavily depended on state timber for survival. He relayed that the Southeast timber demand for energy had been increasing, which heightened the importance of a secure timber base for the region. The wood pellet boiler that had recently been installed in the Sealaska Corporation's Juneau building illustrated an increased movement towards the commercial usage of wood for energy. A 25,291 acre Southeast State Forest had been established in June 2010 as a result of the passage of SCS HB 162(RES). An additional 23,181 acres of state lands available for timber harvest would be added the Southeast State Forest if HB 105 became law. Consequently, the Division of Forestry would be able to manage the combined 48,472 acres for a long-term timber supply and would retain the lands in state ownership for multiple uses. The lands would be managed as an integrated unit according to a state forest management plan that would be developed through a public process during the following two years. The state forest designation would ensure that the productive forest lands would remain in state ownership and would contribute to the long-term viability of the timber based economy in Southeast.

Mr. Rogers discussed that in 2009 the prior forest inventory for the lands had been updated by DNR to include forest management intent language per the region's area plans. The data provided the required supporting information regarding timber volume, acreage, and allowable harvest. The allowable harvest for the lands was approximately 8.3 million board feet per year. The department managed over 150,000 acres of uplands in southern Southeast Alaska; the state actively managed one-third of the land and supplied wood to local processors. The remaining land was designated for other uses including land sales, recreation, water resources, and fish and wildlife habitat that included over 65,000 acres of legislatively designated state marine parks and critical habitat areas. He voiced that adding lands to the state forest would ensure that the state's more suitable lands in Southeast remained available for contribution to the state's ongoing timber sale program. A significant portion of the state-owned timberland in Southeast Alaska was inherited from the U.S. Forest Service and was comprised of young, second-growth stands. Compared to unmanaged second-growth stands, actively managed second-growth stands provided more timber volume per acre on shorter rotations

and could result in improved "deer browse." A thinning of state lands would increase timber yield and timber supply. He elaborated that thinning was a long-term investment and was only justified if the land continued to be available for forest management. Timber sales from the lands would be a mix of domestic and round log export based on economic conditions and locations. A 1984 U.S. Supreme Court Case of South-Central Timber Development vs. the former DNR commissioner Esther Wunnicke, established that the state could not restrict round log export due to interpretation of the interstate commerce clause of the U.S. Constitution.

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Mr. Rogers furthered that the division had done a good job encouraging local manufacturing of logs from state timber sales in spite of the legal constraints. He stated that 87 percent of the timber sold from state lands in southern Southeast over the past six years had been processed by Alaska manufacturers. The proposed additions to the state forest included 23 parcels that were outlined in a handout (copy on file). Approximately 21 percent of the lands were from 5 parcels that had been previously reserved pending a prior legislative attempt to transfer the lands to the University of Alaska. The legislation had not passed and the lands were freed for the long-term forest management in the state forest. The bill included general use lands on the Islands of Prince of Wales, Tuxekan, Gravina, Kosciusko, Revillagigedo, Wrangell, Suemez, Mitkof, Kuiu, Dall, and Zarembo. Six of the parcels were adjacent or near existing state forest parcels.

Mr. Rogers communicated that the Division of Forestry had worked with the Division of Mining, Land, and Water to identify and exclude lands that were priorities for the state land disposal program. Additionally, a consultation had been initiated with the University of Alaska Statewide Office of Land Management and university officials. He explained that an important difference between the state forest designation and a transfer of lands related to the long-term public ownership of the lands compared to other development uses, as had been contemplated under prior university legislation. Through a consultation with the Department of Fish and Game (DFG), the division had ensured that there was internal alignment on the list of parcels. Several other parcels had been considered in the division's

due diligence; however, they had not been included because of known concerns or the potential for high controversy.

Mr. Rogers continued to discuss reasons behind the division's support of the legislation. He relayed that fish habitat and water quality were key components of the Forest Resources and Practices Act, which included a series of regulations that would apply to the management of the parcels. Stream buffers had a no-cut 100 foot minimum width on anadromous and high-value resident fish streams; the next 100 foot to 300 foot zone could allow timber harvest, but consistent activity was necessary for the maintenance of important fish and wildlife habitat. He discussed that area plans provided for coastal buffers of 300 feet to 500 feet and had additional recommendations for specific parcels. During the development of the management plan, a significant consideration for the Neets Bay parcel would be the maintenance of water quality and quantity for the fish hatchery operation at the head of the bay. He relayed that there had been an ongoing dialog about the bill with the Southern Southeast Regional Aquaculture Association.

Mr. Rogers discussed that the Southeast State Forest would be managed as a part of the state forest system under AS 41.17.200 through AS 41.17.230. He read from subsection (a) of AS 41.17.200:

The primary purpose in the establishment of state forests is timber management that provides for the production, utilization, and replenishment of timber resources while allowing other beneficial uses of public land and resources.

Mr. Rogers detailed that in addition to timber management that state forests were open to multiple uses including, wildlife habitat and harvest, mineral exploration and development, transportation, recreation, and tourism. State forest lands would be managed consistent with the management intent under the current Prince of Wales Island and Central Southeast area plans. He expounded that changes to management intent would require public and interagency review through the adoption of a State Forest Management Plan under AS 41.17.230.

Mr. Rogers highlighted that one of the other demands on state land in southern Southeast was to fulfill land entitlements for new municipalities. In order to avoid

conflict with the Wrangell borough entitlement, HB 105 specified that the new Wrangell borough may select state forest land within the borough boundary. The boundary encompassed three parcels in the existing state forest (Crittenden Creek and Bradfield Canal East and West) and four parcels in the bill's proposed additions (Eastern Passage, Pat Creek, Pat Creek uplands, and Earl West Cove). Lands that were vacant, unappropriated, or unreserved prior to the establishment of the state forest would be included in the calculation of the municipal entitlement acreage (but may not be selected), if additional municipalities were incorporated before June 30, 2019.

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Mr. Rogers noted that DNR had briefed many statewide groups and entities across Southeast Alaska on the proposal, including the Board of Forestry, SE Conference, local governments, and the various groups that were participating in the Tongass Futures Roundtable. Letters of support had been received from the following entities: the City of Coffman Cove, Resource Development Council, Alaska Forest Association, Alaska Chapter of the Society of American Foresters, Southeast Conference, Juneau Chamber of Commerce, and George Woodbury (Wrangell resident and forestry consultant).

Representative Gara asked whether any sport, commercial, or other fishing organizations had taken a position on HB 105. Mr. Rogers did not believe that any fishing organization had taken a position on the bill.

Representative Gara wondered there would be stream buffers in addition to the no-logging buffer zone of 300 feet to 500 feet that would exist along some coastal areas. He asked whether only the forestry act rules would apply or if there would be special rules on stream buffers.

Mr. Rogers responded that the Forest Resources and Practices Act rules required a 100 foot no-cut buffer on each side of both anadromous and high-value resident fish streams. There was an additional 100 foot to 300 foot area of special consideration where trees could be harvested if it could be demonstrated that there would be no adverse impact to the resources.

Representative Gara queried whether any of the areas were in high value fishing streams.

Mr. Rogers answered that most state, federal, or other lands in Southeast had high-value fish streams. The division worked closely with DFG to catalog fish streams and to identify salmon streams that may not have been included in the official catalog; the information was used to design timber sales and to protect fisheries resources. He discussed that the Neets Bay parcel housed an aquaculture hatchery. The division had met with the hatchery staff; it would consider the resources through the state's forest management planning process and the individual timber sale process.

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Representative Gara wanted to be assured that streams with important fish habitat had buffer zones that exceeded 100 feet. His biggest concern was that the minimum 100 foot buffers could blow down in windfall and were sometimes up to three trees deep.

Mr. Rogers replied that with or without the bill, the lands inside and outside the state forest were available for timber harvest and subject to the same forest practices rule and planning guidelines. Consideration was given to site specific circumstances and in some cases protections may have exceeded the statutory requirements. A robust "effectiveness monitoring" program existed under the forest practices act and the division had done research on the effectiveness of stream buffers in conjunction with the Department of Environmental Conservation, Environmental Protection Agency, Sealaska Corporation, and other land owners. The protection of fisheries and water quality was taken very seriously and was factored into the program for lands inside and outside of the state forest.

Representative Gara wondered why the bill was necessary if the areas could already be logged and were currently under the same buffer zones.

Mr. Rogers replied that the bill established that the state was dedicated to a long-term commitment and tenure for the (new growth to growth to harvesting) tree cycle. With a dedicated land base that was not likely to be disposed of, transferred to a municipal government, or used for another

purpose, foresters would have the ability to take the long-view, make the necessary investments, maximize the growth on the lands to maximize yield, and provide the most economic benefit with the smallest footprint.

Representative Guttenberg wondered what differences existed between state land and a state forest that operated under a management plan. He understood that the state lands would be designated for inclusion in the Southeast State Forest and because the forest was relatively new there had not been the opportunity to develop a management plan through a public process. He thought the management plan process was effective and would serve multiple segments of the state.

Mr. Rogers responded that a planning process called "area plans" currently existed for all state land. The lands in the Prince of Wales and the Central Southeast area plans were in a "general use" classification that specified allowable uses, including forestry. For a state forest, the area plans would be in place until a state forest management plan was written. The state forest plan would have similar elements, but would be more focused because the timeframe would be longer-term and the lands would emphasize forestry use. He explained that an area plan typically had a shelf-life of approximately 10 years; it could be general use for a decade and could change to something else under a new plan. The state forest management plans could also be modified, but the primary forestry emphasis and multiple-use would not be modified.

Co-Chair Thomas believed that Senator Lisa Murkowski had started the Southeast State Forest to subsidize the loss of federal timber for the small timber mills that remained. He noted that the Alaska Forest Resources and Practices Act was a result of solicitation to former Representative Adelheid Herrmann by village and regional corporations. Representative Herrmann had created a task-force that passed the Act in a vote of 25 to 23. He added that the regional and village corporations had requested the Act because they had been criticized for logging too close to streams.

[3:08:20 PM](#)

RON WOLFE, MANAGER, NATURAL RESOURCES MANAGER, SEALASKA, supported HB 105. He discussed that the population in most of the villages and communities in Southeast had declined

in the past decade. He relayed that populations would continue to decrease and referred to statistics included in his written testimony (copy on file). Population declines adversely impacted property values, the ability of a community to operate basic items such as schools, fuel and grocery delivery, transportation, and other essential services. He emphasized the need for all of the industries in Southeast for survival and believed that the timber industry was a "mere shadow of itself." The timber industry had changed and currently the timber supply came from the Sealaska Corporation, the Tongass National Forest, the State of Alaska, and other private landowners. He discussed that the groups depended on each other to create enough "critical mass to hang on," and used the same logging contractors, fuel suppliers, tug operators, and entire infrastructure to support Southeast Alaska.

Mr. Wolfe relayed that timber sales from state lands designated as state forest under the bill, would help to support existing domestic manufacture and potential round log export. Both markets were important; round log export could potentially provide higher revenues that would make timber sales economic and wood designated for the few remaining domestic sawmills helped their survival. He recapped that the industry had changed and that those involved depended on each other. He disputed concerns that round log exportation exported jobs and referred to a related McDowell Group report that had been commissioned by Sealaska Corporation (copy on file). The report had found that round log export and domestic manufacturing created the same number of jobs on a per million board foot basis. Jobs related to round log export came from a different source and tended to be in villages that did not have sawmills, which made the employment very important to communities such as Kake, Hydaburg, and other. In order to work, individuals had to move to villages with sawmills, such as Craig and Klawock. Domestic jobs tended to be on stevedoring, sort-yard manufacture, and other. He reiterated the corporation's support for HB 105. He believed that the reasons provided by Mr. Rogers helped to explain why the commitment of a state forest base allowed future investment and provided certainty for long-term planning related to forest management.

Representative Wilson wondered whether it had become easier or more difficult to log federal grounds for use in sawmills in Southeast.

Mr. Wolfe replied that the situation in the Tongass National Forest was not good. He explained that approximately 87 percent of Southeast Alaska's 23 million acre land base did not allow development and was designated as park, roadless, or wilderness lands. Development could only occur on the remaining area provided that resource protection was achieved, including the Alaska Forest Resources and Practices Act, Tongass National Forest management plan, the Clean Water Act, the Bald Eagle Protection Act, and more. The remaining 13 percent of the Southeast acreage supported the timber industry. He opined that people in Southeast were becoming "conservation refugees."

[3:15:23 PM](#)

Representative Gara asked whether the no-logging buffer zone along stream banks was different for private lands than for public lands under the Alaska Forest Resources and Practices Act. Mr. Wolfe replied in the affirmative.

Representative Gara wondered what the buffer zone was on private lands. Mr. Wolfe responded that the private land buffer zone started with a 66 foot no-harvest buffer, but when necessary the act allowed a more stringent standard.

Representative Gara queried whether the more stringent standard came as a result of negotiation or a requirement. Mr. Wolfe answered that the stringent standard was determined through negotiation.

Representative Gara wondered why the corporation would ever agree if the state proposed a broader buffer zone. Mr. Wolfe explained that the Act allowed the land manager on the ground to make decisions with the agencies. He detailed that a wider zone may have been a segment of a negotiated process that would allow variation harvest within the 66 foot buffer zone.

Representative Gara asked whether Sealaska would ever agree to a request from the state that would broaden a buffer zone to protect a fish stream.

Mr. Wolfe replied that he could not answer the question in a committee hearing. He described that in relation to stream protection the Act allowed decisions to be made in

the field with professionals on the ground, which was more desirable than a cookie cutter approach that prescribed a minimum buffer zone. He opined that whoever had told Representative Gara that 100 foot buffers tended to blow down was incorrect. Sealaska had worked in conjunction with federal and state agencies and had approximately 20 years of data based on repeat observations of the same stream that verified the effectiveness of the Act buffer standards related to fish habitat protection.

Representative Gara remarked that there was established peer reviewed literature that indicated the tendency for small buffer-zones to blow down in high wind areas. He believed that the shade provided by strong buffer-zones was important for fry, smolt, and adult fish. Mr. Wolfe responded that they would respectfully disagree on the point.

Co-Chair Thomas had been involved as a village corporation president and explained that compensation was not received for the loss of timber on any private lands that were given to the state. He did not think that many people would devote 66 feet of their land along a lake, river, or stream. Selective cutting of trees was allowed with a forest manager or forester and large trees in danger of blowing down could be worth \$60,000.

[3:21:13 PM](#)

SHELLY WRIGHT, EXECUTIVE DIRECTOR, SOUTHEAST CONFERENCE, spoke in support of HB 105. She quoted a proclamation by President Roosevelt:

And now, first and foremost you can never forget for a moment what is the object of our forest policy. That is not to preserve the forests because they are beautiful, though that is good in itself, not because they are refuges for the wild creatures of the wilderness, though that too is good in of itself; but the primary object of our forest policy, as the land policy of the United States, is making of prosperous homes. It is part of the traditional policy of home making in our country. Every other consideration comes as secondary. You yourselves have got to keep this practical object before your minds; to remember that a forest which contributes nothing to the wealth, progress or safety of the country is of no interest to

the government and should be of little interest to the forester. Your attention must be directed to the preservation of the forests, not an end in itself, but as a means of preserving and increasing the prosperity of the nation.

Ms. Wright read from her personal testimony:

The communities in Southeast Alaska are struggling to survive. Part of the struggle is a lack of jobs. There used to be a timber industry in our region that supported our communities...people had wage earning jobs and financial support for our schools and infrastructure. We depended on this for security and for our future. Now our industry is almost gone...I have been told the timber industry is a thing of the past...but recently I read an article in the Juneau Empire that gave me indications to the contrary...Seems the State of Alaska's retirement fund officials are looking at investing in a timber industry in the lower 48...to make the Alaska State retirement fund more secure they are investing in Timber in the Southeastern states from Texas to the Carolinas...while we sit on 17 million acres of the Tongass National Forest. That tells me we are missing the mark here in our region. This state forest will be a small way to stabilize our investments in the future of our communities. Allowing the State to have designated lands to manage for timber harvest will give our local mills a little more security and therefore maybe be able to employ a few more folks. We are down to one medium sized mill on Prince of Wales Island and 9 or 10 mom and pop mills throughout the region that rely on the bigger mills to stay in business. We are encouraged by the progress the state department of forestry has made with its industry development and with the partnership they have with the Federal Government. However these efforts are almost unfortunately too little too late...our region is in emergency mode now. We need this forest designation in order to survive. The existence of a timber industry in Southeast Alaska depends on immediate action to provide a supply of economically viable sales. There has been a concerted effort by the State working with the Forest Service to improve the quantity and quality of the Forest Service timber sales. This effort continues but has not resulted in

the improvement needed. There are 17 million acres in the Tongass National Forest...this bill will secure 48,472 acres for timber harvest management by the Division of Forestry.

3:25:08 PM

Ms. Wright continued with her personal testimony:

It is a very small amount of land in the big picture but it could go a long way in maintaining the stability of our people in Southeast Alaska. As a representative of the logging communities in Southeast Alaska I urge you to support the expansion of the Alaska State Forest and support the passage of HB 105. This designation will enable the Department of Natural Resources Division of Forestry to sustainably manage the timber, fisheries, wildlife, waters, recreation, and other multiple benefits that will strengthen the local economy, provide jobs, and improve quality of life of all Southeast Alaska communities. And I also encourage you...as representatives for the State of Alaska and individually...to continue to look for ways to assist the Federal Government in implementing the Tongass Land Management Plan and open the Tongass National Forest to responsible resource development.

JOHN SANDOR, SELF, JUNEAU, spoke in favor of HB 105. He had been a regional forester for the forest service and had served as the commissioner of the Department of Natural Resources. The bill would add 23,181 acres of State lands to the 25,291 acre state forest that had been established the prior year. He believed that the state forest was not large but would significantly help the economy in Southeast Alaska's communities. He recalled that the timber harvest level had been 420,000 million board feet in 1984 and that currently it was less than 50,000 million board feet. He opined that the reinstatement of the 2001 Clinton Administration's Roadless Rule had the potential to limit resource development projects on all Tongass National Forest areas. He expounded that two-thirds of the 27 renewable energy projects that were currently being reviewed by the forest service would be adversely impacted by the federal Roadless Rule. The specific requirements of the Roadless Rule precluded the extension of power lines over roadless areas and roads that led to renewable energy projects. He emphasized that the adverse impact on the

communities of Southeast Alaska would be significant. He relayed that the Alaska-Canada Energy Coalition had asked the governor and the attorney general to bring legal action against the Roadless Rule. He discussed that the Alaska State Forest would meaningfully benefit the remaining sawmills in Southeast Alaska and would provide communities with new opportunities to improve their economy and quality of life.

[3:30:35 PM](#)

Co-Chair Thomas thanked Mr. Sandor for his contribution to the timber industry. He reflected on how the loss of timber jobs in Southeast Alaska had resulted in a population decline of 17,000 individuals in the past 10 years. He had seen how the loss of industry had adversely impacted population in villages.

Mr. Sandor commented that the Department of Labor and Workforce Development projected that the population in Southeast Alaska would decline 14 percent by 2034. He believed that the bill would help to reduce the decline.

Co-Chair Thomas CLOSED public testimony.

Vice-chair Fairclough MOVED to report HB 105 out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION it was so ordered.

HB 105 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal note: FN1 (DNR).

[3:32:49 PM](#)

AT EASE

[3:43:20 PM](#)

RECONVENED

#hb150

HOUSE BILL NO. 150

"An Act relating to the protection of property of persons under disability and minors; relating to the crime of violating a protective order concerning certain vulnerable persons; relating to aggravating

factors at sentencing for offenses concerning a victim 65 years or older; relating to the protection of vulnerable adults; amending Rule 12(h), Alaska Rules of Criminal Procedure; amending Rule 45(a), Alaska Rules of Criminal Procedure; amending Rule 65, Alaska Rules of Civil Procedure; amending Rule 17, Alaska Rules of Probate Procedure; amending Rule 9, Alaska Rules of Administration; and providing for an effective date."

[3:43:42 PM](#)

DUANE MAYES, DIRECTOR, DIVISION OF SENIOR AND DISABILITY SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, explained that HB 150 related to the protection of "vulnerable adults," who were identified as Alaskans with disabilities over the age of 65. The bill specifically related to the protection of property and the violation of a protective order. He communicated that financial exploitation of elder and other vulnerable populations was increasing along with the growth in Alaska's elderly population. The Department of Labor and Workforce Development estimated that there were approximately 50,000 or more adults that were aged 60 and older; the number was expected to change to approximately 80,000 by 2017. He delineated that the legislation would strengthen Alaska law to increase the protection of elders and other vulnerable adults against fraud and financial exploitation. He stressed that vulnerable adults needed assistance to stop the theft of their money.

Mr. Mayes detailed that the bill would address the difficulty that victims had with accessing the courts and would help them to obtain prompt and inexpensive relief. Two frustrations that victims had with the courts would be solved under the legislation: First, the temporary conservatorship provisions of HB 150 would help victims of financial exploitation who may not need a guardian, but who needed assistance to stop the immediate theft of their money. The temporary conservatorship procedure would be similar to the existing temporary guardian procedure; the victim would retain autonomy while receiving assistance, which would enhance their ability to stop exploitation or loss before they suffered irreparable harm. Second, the "ex parte" relief was similar to the existing domestic violence protection law and would allow vulnerable adults to independently obtain straightforward, expedited relief

without an attorney, from any magistrate or judge throughout Alaska.

Mr. Mayes described that HB 150 would amend the Adult Protective Services statutes to enhance the investigative authority of vulnerable adults and would expand the list of mandatory reporters to include nursing home employees. The bill included "undue influence" language related to the mistreatment of a vulnerable adult by a person of trust.

Co-Chair Stoltze asked whether the undue influence provision was similar to the standard that had been applied in the Satch Carlson case, which had focused on a teacher's sexual exploitation of a student in his role as a person of trust. Mr. Mayes responded in the affirmative.

Mr. Mayes summarized that the bill would enhance penalties in criminal cases related to the abuse of vulnerable adults and would provide the State of Alaska with the necessary tools to combat the growing problem of financial abuse against the elderly and disabled population.

[3:49:52 PM](#)

PAT LUBY, ADVOCACY DIRECTOR, AMERICAN ASSOCIATION FOR RETIRED PERSONS, vocalized the organization's support of HB 150. He stated that the abuse and exploitation of older adults was unfortunate and often times the offender was a family member, trusted advisor, or caregiver. The bill increased mandated reporters, including lower-level staff in long-term care facilities. The use of conservators was expanded and included temporary conservators that were available on an emergency basis. The fastest growing age group nationwide was adults over the age of 85 and was the most likely group to be subjected to some type of abuse. He voiced that HB 150 would not solve all of the problems, but that it would be helpful. He pointed out that the title of the bill included the age of 65 and page 8, line 9 and page 11, lines 8 and 16 used the age 60. He thought the committee may want to determine whether the two ages were necessary. He reiterated the organization's support of the bill that would help vulnerable adults, children, and individuals with disabilities.

Representative Guttenberg asked whether the definition of "vulnerable adult" was broad enough to cover all of the necessary circumstances. Mr. Luby replied that the

organization relied on and respected the attorney general's ability to provide the best definition.

SCOTT STERLING, SUPERVISORY ATTORNEY, OFFICE OF ELDER FRAUD AND ASSISTANCE, OFFICE OF PUBLIC ADVOCACY, DEPARTMENT OF ADMINISTRATION (via teleconference), supported the legislation. He discussed that the Office of Public Advocacy had contributed to the provisions related to the temporary conservatorship and protective orders for financial exploitation. He noted that Kelly Henriksen with DOL had been involved in the other provisions of the bill related to adult protective services and other. The temporary conservatorship program was intended to be a mirror of the existing temporary guardianship provision in AS Title 13; the current provision existed in order to provide courts with express statutory authority to appoint temporary conservators to prevent immediate or imminent financial harm to a vulnerable adult. The court system had expressed reservations about its authority to issue temporary conservatorships because they were not currently allowed in Alaska statute; the proposed legislation would eliminate the problem.

Mr. Sterling communicated that the financial protection orders were intended to permit inexpensive and expedited relief without the need to hire an attorney and were similar to existing orders that were available to domestic violence victims. He explained that in his profession it was generally accepted that fraud and financial exploitation were a form of domestic violence. The bill would permit any citizen aggrieved by financial mistreatment to apply for relief from the exploitation before a judge or magistrate without the involvement of an attorney; however, the bill did not prevent citizens from using an attorney. The goal was to provide people with the ability to put a stop to exploitation that had become more prevalent due to the ease in which technology overcame barriers privacy rights. The purpose of the provision was to offer statutory remedies and procedures that were accessible and allowed individuals to protect themselves from financial abuse.

[3:57:54 PM](#)

Representative Costello wondered whether identity theft was considered under the definition of exploitation. Mr. Sterling responded in the affirmative. He added that many

of the fraud and financial exploitation cases in the Office of Elder Fraud Assistance had involved identity theft.

BETH RUSSO, SUPERVISORY ATTORNEY, PUBLIC GUARDIAN SECTION, OFFICE OF PUBLIC ADVOCACY, DEPARTMENT OF ADMINISTRATION (via teleconference), voiced the agency's support of the bill. The agency believed the bill would be a significant aid to its clients and any person subject to a protective proceeding, and would eliminate the need for the appointment of a public guardian or conservator.

BRENDA MAHLATINI, PROGRAM MANAGER, OFFICE OF ADULT PROTECTIVE SERVICES, DIVISION OF SENIOR AND DISABILITIES SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (via teleconference), introduced herself and was available for questions.

KATHY MONFREDA, CHIEF AND CRIMINAL JUSTICE INFORMATION SYSTEM OFFICER (CJIS), CRIMINAL RECORDS AND IDENTIFICATION BUREAU, DEPARTMENT OF PUBLIC SAFETY (via teleconference), explained that CJIS was responsible for database maintenance for files such as protective orders. She was available to answer questions.

Co-Chair Stoltze CLOSED public testimony, but noted that he would reopen it in a future meeting if necessary.

HB 150 was HEARD and HELD in committee for further consideration.

#hb141

HOUSE BILL NO. 141

"An Act relating to loans for the purchase of fishing quota shares by certain community quota entities; and providing for an effective date."

[4:01:54 PM](#)

REPRESENTATIVE ALAN AUSTERMAN, SPONSOR, introduced his staff that would discuss the bill.

STEVE RICCI, STAFF, REPRESENTATIVE ALAN AUSTERMAN, discussed that HB 141 established a revolving loan fund for the Community Quota Entity (CQE) Program. The program was created in 2004 by the North Pacific Management Council in response to the significant outmigration of commercial

longline quota from rural villages in the Gulf of Alaska. The program allowed 21 communities in Southeast and 21 communities in Southcentral to purchase and lease quota to residents, which would enable communities and fishermen to be active participants in the fisheries that occurred off of their shores. Since the inception of the CQE program and purchase quota, only one of the eligible communities had been able to utilize the legal authority that the program provided. The most significant barrier to participation was the ability to access financing. The bill established an independent revolving loan fund to assist the communities in the procurement of quota, which would help to support the economy of rural, coastal communities; an active fishing fleet would employ residents, provide tax revenues, spend income locally, and allow the communities to be sustainable and self-reliant. He pointed to the success of a similar program (Community Development Quota (CDQ) Program) that had been implemented to aid local residents that did not have significant access to fisheries occurring off their shores in the Bering Sea as a result of the Individual Fishing Quota (IFQ) system; residents had been provided 10 percent of the pollock quota.

[4:05:42 PM](#)

Representative Edgmon supported the legislation. He had worked as the CDQ program manager when the CQE program was in development. He highlighted the significance of the economic development and number of jobs that could result from the program.

Co-Chair Thomas wondered what the loan cap was per community. He thought that poorer communities may not be able to leverage as much as others such as Kodiak.

Mr. Ricci responded in two parts: First, Kodiak would not be an eligible community under the program. Second, there was a \$1 million cap per community, which was approximately 33,000 pounds at current day prices.

Co-Chair Thomas wondered whether similar to the harbor grant program, the loan fund would not allow revenue sharing or direct capital grants from the legislature to be used as matching grants. Mr. Ricci did not know.

Co-Chair Thomas remarked that he had helped to write the program.

4:08:14 PM

Representative Costello requested that Mr. Ricci's written comments be provided to the committee. Mr. Ricci responded that he would provide them.

Representative Doogan asked whether the problem was that people did not have the money to fish their quota. Mr. Ricci replied that residents of the communities had seen quota migrate from their communities to larger communities. Individuals that had participated in the fishery had either left or sold the quota and residents had been left with no access to the fishery. The loan program would help the communities to purchase quota and would allow individuals to lease it from the community. The program required the lessee to be a resident of the community that held the quota.

Representative Hawker understood that the bill created a revolving loan fund for the purpose of making loans under the existing CQE program. He asked the sponsor to determine whether there were underutilized funds in other revolving loan programs that could be accessed to pay for the program, which would eliminate the need for the general fund appropriation request included in HB 140.

Mr. Ricci responded that he would work with the department on the request.

Representative Wilson wondered why the state would hire more employees to administer the program instead of offering the loan through a financial institution.

Mr. Ricci responded that there would be one additional person hired in the Division of Investments. He explained that private banking institutions would not be able to provide the necessary loan program terms to meet the needs of the CQE communities. Since the inception of the CQE program in 2004, private financial institutions had been in place; however, they had not been able to provide the financing that was necessary to make the program work properly.

Representative Edgmon added that recipients could get a much better interest rate through the loan program that had been constructed much like the commercial fishing revolving

loan program that had been established in the early 1980s to help fishermen access lower capital. He noted that the commercial fishing loan program had been successful and had contributed money back to the general fund.

Representative Hawker asked the sponsor to contemplate whether it was possible to achieve the desired outcome without creating a new revolving loan fund. He wondered whether it could be structured as a loan guarantee program or an interest subsidy to facilitate participation in the commercial fisheries revolving loan funds. He did not want to grow government or to create new agencies and programs. He thought it would be more beneficial to capitalize and take advantage of programs that already existed.

Representative Doogan wondered where the \$45 million figure in the bill came from. Mr. Ricci responded that each of the 42 communities would be eligible for \$1 million under the loan fund.

[4:14:38 PM](#)

Co-Chair Thomas noted that only a few entities were able to use permits and IFQs as collateral for a loan, including the State of Alaska and a halibut commission.

WANETTA AYERS, DIRECTOR, DIVISION OF ECONOMIC DEVELOPMENT, DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT, agreed that it was problematic for financial institutions to put a lien against a quota share and was the reason the division had historically served the purpose.

Co-Chair Thomas discussed that he had been involved in fisheries for 35 years. He had watched the number of employees on larger boats decrease from up to eight people down to four. Individuals who had fished in the past were left out of the fishery and were struggling in their communities. He stressed that permits and IFQ's were leaving Alaska; the loan program provided a key solution to problem, given that it required the fishermen and employees to be residents of the community that owned the CQE. Communities would rotate who they leased the CQE to, which provided an opportunity to spread jobs to multiple residents.

[4:18:07 PM](#)

Representative Costello asked whether the program competed with the Alaska Commercial Fishing and Agriculture Bank (CFAB). Ms. Ayers responded that the question would be best addressed by CFAB, but she did not believe that a CQE would meet the CFAB lending standards.

Representative Hawker clarified that the intent of a loan guarantee program that would access existing programs would be to make borrowers credit worthy.

Co-Chair Stoltze CLOSED public testimony, but noted that he would reopen it in a future meeting if necessary.

HB 141 was HEARD and HELD in committee for further consideration.

#hb140

HOUSE BILL NO. 140

"An Act making a special appropriation to the community quota entity revolving loan fund; and providing for an effective date."

[4:20:01 PM](#)

Co-Chair Stoltze discussed that HB 140 included a \$45 million appropriation. He added that the funding would most likely be included in another appropriation bill if the committee decided to provide it.

Co-Chair Thomas CLOSED public testimony.

HB 140 was HEARD and HELD in committee for further consideration.

#hb10

HOUSE BILL NO. 10

"An Act relating to the registration fee for noncommercial trailers and to the motor vehicle tax for trailers."

HB 10 was SCHEDULED but not HEARD.

#hb64

HOUSE BILL NO. 64

"An Act relating to permanent motor vehicle registration; and providing for an effective date."

HB 64 was SCHEDULED but not HEARD.

#hb103

HOUSE BILL NO. 103

"An Act relating to the procurement of supplies, services, professional services, and construction for the Alaska Energy Authority; establishing the Alaska Railbelt energy fund and relating to the fund; relating to and repealing the Railbelt energy fund; relating to the quorum of the board of the Alaska Energy Authority; relating to the powers of the Alaska Energy Authority regarding employees and the transfer of certain employees of the Alaska Industrial Development Export Authority to the Alaska Energy Authority; relating to acquiring or constructing certain projects by the Alaska Energy Authority; relating to the definition of 'feasibility study' in the Alaska Energy Authority Act; and providing for an effective date."

HB 103 was SCHEDULED but not HEARD.

#hb104

HOUSE BILL NO. 104

"An Act renaming the Alaska performance scholarship and relating to the scholarship and tax credits applicable to contributions to the scholarship; establishing the Alaska performance scholarship investment fund and the Alaska performance scholarship award fund and relating to the funds; making conforming amendments; and providing for an effective date."

HB 104 was SCHEDULED but not HEARD.

#hb120

HOUSE BILL NO. 120

"An Act creating a new markets tax credit assistance guarantee and loan program within the Alaska Industrial Development and Export Authority; and providing for an effective date."

HB 120 was SCHEDULED but not HEARD.

#hb121

HOUSE BILL NO. 121

"An Act establishing the commercial charter fisheries revolving loan fund, the mariculture revolving loan fund, and the Alaska microloan revolving loan fund and relating to those funds and loans from those funds; and providing for an effective date."

HB 121 was SCHEDULED but not HEARD.

#hb125

HOUSE BILL NO. 125

"An Act moving the Alcoholic Beverage Control Board to the Department of Commerce, Community, and Economic Development and relating to duties of that department; and providing for an effective date."

HB 125 was SCHEDULED but not HEARD.

#hb164

HOUSE BILL NO. 164

"An Act relating to insurance; relating to health care insurance, exemption of certain insurers, reporting, notice, and record-keeping requirements for insurers, biographical affidavits, qualifications of alien insurers assuming ceded insurance, risk-based capital for insurers, insurance holding companies, licensing, federal requirements for nonadmitted insurers, surplus lines insurance, insurance fraud, life insurance policies and annuity contracts, rate filings by health care insurers, long-term care insurance, automobile service corporations, guaranty fund deposits of a title insurer, joint title plants, delinquency proceedings, fraternal benefit societies, multiple employer welfare arrangements, hospital and medical service corporations, and health maintenance organizations; and providing for an effective date."

HB 164 was SCHEDULED but not HEARD.

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ADJOURNMENT

4:21:02 PM

The meeting was adjourned at 4:21 PM.