

HOUSE FINANCE COMMITTEE

April 6, 2011

1:42 p.m.

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CALL TO ORDER

Co-Chair Thomas called the House Finance Committee meeting to order at 1:42 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 Alan Austerman; Shirley Gifford, Director, Alcohol Beverage Control Board, Department of Public Safety; Sue Stancliff, Special Assistant, Office of the Commissioner, Department of Public Safety; Wyn Menefee, Acting Director, Division of Mining, Land and Water, Department of Natural Resources; Linda Hall, Director, Division of Insurance, Department of Commerce, Community and Economic Development; Representative Kurt Olson, Sponsor.

PRESENT VIA TELECONFERENCE

Dale Fox, President & CEO, Alaska Cabaret, Hotel, Restaurant and Retailers Association (Alaska CHARR), Anchorage; Belen Cook, Member, Alcohol Beverage Control

Board of Directors, Cordova; Elizabeth Ripley, Executive Director, Mat-Su Health Foundation, and Chair, Mat-Su Substance Abuse Prevention Coalition; Glen Brady, President, Silver Gulch Brewing, and Member, CHARR; Jerry McCutcheon, Anchorage; Bonnie Woldstad, North Pole; Richard Bouhan, Executive Director, National Association of Surplus Lines Offices, Ltd. (NAPSLO), Missouri.

SUMMARY

HB 125 ALCOHOLIC BEVERAGE CONTROL BOARD

HB 125 was HEARD and HELD in Committee for further consideration.

HB 146 LAND TRANSFER FROM STATE AND ALASKA RR

CSHB 146(FIN) was REPORTED out of Committee with a "do pass" recommendation and with previously published fiscal notes: FN1 (CED); FN2 (DNR).

HB 164 INSURANCE: HEALTH CARE & OTHER

CSHB 164(FIN) was REPORTED out of Committee with a "no recommendation" and with attached previously published fiscal note: FN1 (CED).

#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."

1:42:44 PM

Vice-chair Fairclough continued with public testimony related to HB 125.

DALE FOX, PRESIDENT & CEO, ALASKA CABARET, HOTEL, RESTAURANT AND RETAILERS ASSOCIATION (ALASKA CHARR), ANCHORAGE (via teleconference), continued his testimony. He commented that for many years significant cooperation existed between local police, State Troopers and the Alcoholic Beverage Control (ABC) Board. He believed that cooperation between agencies was necessary to enforce Title

4 statutes appropriately. A board relocation would not substantially affect enforcement. He referred to the document, "ABC Board Audit Review Subcommittee of the Legislative Budget and Audit Committee" (copy on file). The subcommittee concluded that the legislation would not significantly restrict or change the enforcement responsibilities of the ABC or the Department of Public Safety (DPS).

Mr. Fox concurred with the audit review. He informed the committee that the board's enforcement positions required a background in enforcement. Currently, two former police chiefs and a former state trooper held seats. Grant money for compliance checks must solely be used for that purpose. He expected enforcement efforts to remain robust. He opined that the Department of Commerce, Community and Economic Development (DCCED) was better suited to help businesses with the licensing process through education, training and support. He admitted that there were underage drinking problems. He asserted that youth did not obtain alcohol from licensees. Alaska was the best in the nation at refusing service to minors at licensed premises.

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Mr. Fox did not expect any adverse effects from the legislation.

BELEN COOK, MEMBER, ABC BOARD OF DIRECTORS, CORDOVA (via teleconference), testified in opposition to HB 125. She shared positive experiences related to the board. During a board meeting in Nome a restaurant owner thanked the board for providing compliance checks and took pride in passing her establishment's inspection. She relayed further positive experiences. Community members in Kotzebue voiced that the ABC was very accessible and supportive regarding local licensing and enforcement issues. Community members in Cordova and other parts of the state shared concerns about moving the board out of DPS. The residents feared underage drinking would increase.

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Ms. Cook declared that board inspections are not "sting operations." She urged the use of "compliance checks" in discussions.

Representative Gara stated concerns about the effective placement of the ABC. He queried the practical problems of a move to DCCED. Ms. Cook worried that moving the board to DCCED could result in slower and less efficient board operations. Representative Gara asked for specifics. Ms. Cook could not provide anything more concrete.

ELIZABETH RIPLEY, EXECUTIVE DIRECTOR, MAT-SU HEALTH FOUNDATION, AND CHAIR, MAT-SU SUBSTANCE ABUSE PREVENTION COALITION (via teleconference), testified against HB 125. She spoke in support of strong ABC enforcement. She announced that the coalition's mission was the prevention and reduction of youth substance abuse. She explained the three objectives of the coalition:

- Data driven strategies and decision making
- Coordinating community response to alcohol abuse
- Strive to be a leader in the state on the issue

Ms. Ripley relayed that the coalition sought to address substance abuse at the local level through changing community culture to support healthy families via sound public policy. She related "alarmingly" high statistics of teen alcohol use in the Mat-Su attributed to a coalition survey; 68 percent of eleventh grade students had used alcohol. Youth risk behavior survey data for Alaska determined that 77 percent of seniors had used alcohol. She opined that alcohol use had become a rite of passage for teens. Mat-Su teens reported that alcohol was readily available to them.

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Ms. Ripley furthered that the most prevalent access to alcohol for youth took place in the home. She offered that 7 percent of teen access came from licensed establishments that did not check identification. According to the ABC website, 15 percent of establishment compliance checks failed. The non-compliant establishments became portals to access. She alleged that the legislation was developed to curtail enforcement. Compliance checks were a proven strategy to reduce youth access and consumption.

Ms. Ripley declared that moving the board to DCCED would undermine enforcement. She emphasized that the coalition advocated for increased and more uniform enforcement. The coalition stood in strong opposition to HB 125.

Representative Hawker asked for evidence that HB 125 would curtail enforcement. Ms. Ripley acknowledged her statement was fear-based. She attributed her belief to testimony from Legislative Budget and Audit Committee (BUD) hearings and surmised that diminished enforcement was the motivation for the bill.

Representative Hawker did not believe her statement or conclusion was accurate. Ms. Ripley admitted that her remarks were founded on industry pushing hard for the bill.

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Representative Joule wondered whether Ms. Ripley had heard earlier testimony from industry member Bob Winn endorsing a "three-legged stool" approach. He relayed that Mr. Winn felt enforcement was at a minimum. He advocated increased enforcement with the additional licensing and commerce support. Ms. Ripley answered that she had heard the testimony.

GLEN BRADY, PRESIDENT, SILVER GULCH BREWING, AND MEMBER, CHARR (via teleconference), spoke in support of HB 125. He referred to earlier testimony that spoke to the negative consequences of ABC relocation in other states. He offered that Alaska was more proactive than other states. Alaska was only one of six states with mandatory alcohol server training.

Mr. Brady characterized a productive relationship between ABC and industry that addressed irresponsible retailers. He desired a more collaborative relationship. He reiterated that he did not support diminished enforcement efforts. The licensing and economic development aspect of the industry was adequately recognized. He thought the legislation would help move the industry forward with education and responsible business practices.

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Representative Wilson asked what the positive effects of switching the ABC Board to DCCED were. Mr. Brady discerned that board relocation would positively alter the nature of the relationship with industry and allow for a collaborative and open dialogue to address the issues.

JERRY MCCUTCHEON, ANCHORAGE (via teleconference), spoke against the legislation. He opined that weakening enforcement could lead to corruption and selective enforcement. He likened the situation to the adage, "Don't fix it if it isn't broke." He speculated that mandatory identification checks were on the way and industry feared that would mean less business. Industry could gain by not having enforcement function properly.

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Mr. McCutcheon concluded that HB 125 was about non-enforcement.

SHIRLEY GIFFORD, DIRECTOR, ALCOHOL BEVERAGE CONTROL BOARD, DEPARTMENT OF PUBLIC SAFETY, addressed the audit recommendations by the Division of Legislative Audit. She reported that the board developed and wrote policies and procedures. New fee, revenue, and reconciliation procedures were implemented. New manuals for fee, revenue, and reconciliation and licensing were distributed for key positions in the agency. She informed the committee that the board developed a strategic enforcement plan that involved an inspection tracking form to ensure regular inspections.

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Ms. Gifford expounded that the compliance check program was a significant piece of the strategic enforcement plan. Under the plan the state was divided into eight regions with separate goals. She added that FY 11 was the first year all of the goals were met. The board would perform compliance checks once each year per establishment. She furthered that the board implemented other improvements. She created a check-list for board meetings. She improved board meeting notification. Meeting notices and public testimony were posted on the board's website. She enhanced quality control measures. She established recording compliance checks to ensure professional behavior by the ABC investigator.

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Ms. Gifford referred to age assessment. The board researched and wrote a compliance and procedure manual. She studied procedures of 26 other states and incorporated the

best practices into Alaska's compliance check program. For example, one particular state employed a panel of judges, teachers, and citizens to approve the participants involved in age assessment. She implemented a similar procedure and believed the process was fair and objective to the industry.

Vice-chair Fairclough noted that Ms. Gifford was speaking to HB 206 [Extend Alcoholic Beverage Control Board] and HB 125. She asked for Ms. Gifford's position on HB 125. Ms. Gifford felt her testimony was relevant. She wanted to illustrate ABC's efforts to achieve an objective and fair agency that cooperated with industry. The board was committed to the same level of professionalism in any department they resided.

Ms. Gifford addressed the issue of access to law enforcement. She informed that the Board has two investigators (Juneau and Fairbanks) housed with the Alaska State Troopers. The investigators travel with the troopers to remote areas. She worried that contact would be lost if the agency was moved.

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Ms. Gifford stated concerns about private membership clubs. She explained that private clubs were licensees and had to show compliance with state statute and regulations. She recommended private clubs exemption from compliance checks; industry protested. She related problems gaining entry into private clubs for compliance checks and requested magnetic key or identification cards for random entry. She noted instances of cooperation with clubs that provided magnetic cards to the ABC. The clubs were 76 percent compliant compared to other establishments 85 percent compliance rate. She wondered how provisions in CS HB 125(L&C) would affect private club compliance checks.

Representative Hawker asked how the board would operate differently if relocated to DCCED.

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Ms. Gifford did not anticipate a change. Representative Hawker referred to concerns outlined in public testimony. He asked whether relocation would curtail the board's

enforcement activities. Ms. Gifford responded that she intended to carry out enforcement.

Representative Hawker asked if she felt coerced to curtail enforcement. Ms. Gifford responded in the negative.

Representative Hawker cited the collaboration with state troopers and asked whether change to DCCED would adversely affect those relationships. Ms. Gifford worried that physical removal from DPS could result in enforcement delays. The move could jeopardize the board's ability to communicate and share proprietary information with the troopers on a daily basis.

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Representative Hawker offered that the legislation would relocate the ABC Board to DCCED from an administrative standpoint. He asked if she thought the legislation would prohibit the ABC investigators from being housed with state troopers. Ms. Gifford answered that she did not. Representative Hawker suggested that the committee request an affirmation from DPS that it would not abandon or compromise its relationship with ABC's investigative and enforcement personnel.

Representative Edgmon requested clarification of industry compliance statistics. Ms. Gifford answered that the 85 percent success rate was based on compliance checks conducted. She felt it was a fair representation of the industry.

Representative Edgmon asked what relocation to DPS would entail for the board. Ms. Gifford reported that she did not discuss the logistics of the move with DPS. She noted that the commissioner of DPS offered assurance that the board could remain in its current office for the near future.

Representative Doogan asked for clarification on the meanings of "age assessment," "compliance check," and "sting." Ms. Gifford explained how age assessment was done. The board chose candidates between the ages of 18 to 20.5 years of age to pose as underage buyers. The board determines if the "buyer" looked their age. She defined that a compliance check was the attempt of the underage buyer to purchase alcohol in an establishment. Sting was

the slang terminology the industry liked to use for compliance check.

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Representative Gara recapped that the board's physical relocation could create inefficient, untimely communication between the troopers and the board. Ms. Gifford agreed.

Vice-chair Fairclough clarified that Ms. Gifford stated that the commissioner of DPS assured that ABC could remain in its present office. She asked whether that was accurate. Ms. Gifford answered in the affirmative. She added that there was uncertainty about future relocation.

Representative Gara requested a commitment from DPS that the board could stay in its present location and maintain a close relationship with the troopers. He asked whether she had other concerns. Ms. Gifford replied that physical location was only one aspect of being a part of DPS. There were additional benefits to the board's identification with the agency.

Co-Chair Stoltze contended that the board considered itself an enforcement agency rather than a regulatory agency. The industry was mostly compliant and not a criminal class. He did not want to diminish the state's enforcement of illegal activities, but endorsed a focus on regulation.

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Co-Chair Stoltze continued to discuss compliance and club licenses. He believed that an ABC industry board member pressed for compliance checks for clubs because they are competitors with business establishments. He related concerns about the way industry directed the board's treatment of military organizations, VFW Halls, Elks, and other fraternal organizations. He expressed dissatisfaction with the industry for its competitive treatment of clubs, but he was also unhappy with the way DPS treated industry. He divulged that he was torn on the issue. He advocated for strong regulation, but felt the industry was policed and not treated as a regulated form of commerce. Ms. Gifford did not believe that the board's approach was to single out and go after private clubs. The board reasoned that clubs should be included if other licensees were subject to

compliance checks. Co-Chair Stoltze wondered whether the board had been directed by an industry member of the board.

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Ms. Gifford refuted the claim that the board conspired against private clubs. She reiterated that she initially excluded clubs from compliance checks because of the difficulty to gain entry by ABC investigators. She reexamined the policy and included clubs for compliance checks. Private clubs were licensees and subject to the same laws and regulation.

Vice-chair Fairclough referred to testimony from a police officer in Fairbanks who believed private clubs should not be subject to compliance checks.

Representative Wilson was alarmed to learn that the state was employing underage adults to perform compliance checks. Ms. Gifford replied that using older people would defeat the purpose of the inspection, since no illegal act occurred. The participants understood the purpose of the program. The activity was covered by statute. The underage employee was supervised by law enforcement or ABC investigators.

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Representative Costello wondered about the mission of the ABC Board. Ms. Gifford replied that the board's mission was to protect the safety of communities through enforcement of statute. Representative Costello referred to testimony by Bob Winn, who had discussed the three legged stool concept of regulation. She asked whether the board devoted time to other areas besides enforcement. Ms. Gifford explained that the ABC administered enforcement and licensing. Licensing was a huge responsibility for the board. Two board examiners and a licensing supervisor worked with licensees on a daily basis. She added that licensing consumed more of its time than enforcement.

Representative Edgmon wondered whether the board worked with the Division of Occupational Licensing. Ms. Gifford replied that ABC did their licensing in-house. The board worked with the Department of Environmental Conservation

(DEC), the Department of Revenue (DOR), and local governing bodies.

Representative Edgmon wondered whether information technology services and ABC's statewide database were provided by DPS. Ms. Gifford responded that the database was provided by the agency.

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Vice-chair Fairclough CLOSED public testimony.

Vice-chair Fairclough requested that DPS address the issue of housing the ABC Board if the legislation was adopted.

SUE STANCLIFF, SPECIAL ASSISTANT, OFFICE OF THE COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY, shared that there was much discussion within the department but no decision was made.

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Representative Gara remarked that the governor's office did not have a position on the bill. He asked if ABC relocation would affect enforcement. Ms. Stancliff stated that the governor welcomed the public debate and did not endorse a position. She reported that DPS shared the concerns related to board relocation. The department was committed to do whatever it took to make enforcement work if relocation occurred. Alcohol issues were a serious problem in the state. She referred to comments made by Commissioner Masters that the department's single focus was "public policy protecting the public's best interest...and safety." The department's concern was that moving the agency would be contrary to the express recommendations of two studies: The Alaska Plan to Reduce and Prevent Underage Drinking and the Alaska Strategic Safety Plan. Both plans were developed with extensive public input.

Representative Joule asked whether DPS intended to reach out to ABC in the event of physical relocation. Ms. Stancliff responded that the department did not intend to abandon the board. The department would include the board's enforcement personnel in strategic planning. The department would not include Ms. Gifford in the department's internal directors meetings. She characterized the department's fear as, "Out of sight, out of mind." She reiterated that

Commissioner Masters would do everything possible; his overall goal was public safety.

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Representative Joule asked whether staying connected to ABC included reaching across departmental lines for meetings to continue. Ms. Stancliff answered in the affirmative.

HB 125 was HEARD and HELD in committee for further consideration.

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AT EASE

[3:07:29 PM](#)

RECONVENED

#hb146

HOUSE BILL NO. 146

"An Act authorizing the transfer of land from the State of Alaska and the Alaska Railroad Corporation to property owners along the Eielson Spur Line; and providing for an effective date."

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Vice-chair Fairclough MOVED to ADOPT CS Work Draft CSHB 146 (FIN) 27-LS0505\I (4/5/11 Kane) as a working document before the committee.

Co-Chair Stoltze OJBECTED for discussion.

REPRESENTATIVE TAMMY WILSON, SPONSOR spoke to the title change in the CS. She remarked that the title of the House Resources Committee version was very specific. The legislation was thoroughly vetted and discussed between all parties and their attorneys before it was drafted. House Bill 146 was a culmination of seven years of negotiation and hard work between involved parties. She shared that her constituent, Bonnie Wolstad was instrumental in the process.

Representative Wilson explained that HB 146 restored a reversionary property right taken away from property owners along the Eielson Spur. In 2003, Congress repealed

reversionary sections of the Alaska Railroad Transfer Act (ARTA) at the request of the Alaska Railroad Corporation (ARC) to address title issues. In the process, the landowner's reversionary rights were repealed. The bill restored ownership of their property after the easement was no longer used. She stressed that the legislation only restored a right that was taken away and does not grant anyone special privileges beyond the original rights established in ARTA. In addition, all affected parties agreed on the bill.

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Representative Wilson believed that the issue was simple. The property owners granted the railroad easements to enable railroad expansion. Subsequently, the federal government changed the law. She emphasized that the legislation restored property owner's rights. She confirmed that the bill would not affect the military.

BONNIE WOLDSTAD, NORTH POLE (via teleconference), recapped that HB 146 reinstated the original ARTA provisions (Sections 1208-1209) that provided a mechanism to revert property ownership back to the landowners if the ARC abandons use of the property.

Co-Chair Stoltze reported that ARC retained many easements in his district. He expressed disappointment that legislation was required for the railroad to "do the right thing." Representative Wilson assured that the attorneys from all parties approved the language in the bill. She cautioned that the CS title change could complicate passage of the bill. Co-Chair Stoltze read the new title, "An Act relating to the Alaska Railroad Corporation; and providing for an effective date." He maintained that the substance of the bill did not change. He remained committed to fixing the problem.

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Co-Chair Stoltze asked whether the new CS would ensure resolution of the issue between ARC and the landowners.

WYN MENEFFEE, ACTING DIRECTOR, DIVISION OF MINING, LAND AND WATER, DEPARTMENT OF NATURAL RESOURCES, responded that the change would not affect the outcome.

Representative Gara asked if the landowners received compensation in exchange for ARC easement. Representative Wilson answered that compensation was not part of the reversionary agreement.

Co-Chair Stoltze closed public testimony.

Vice-chair Fairclough MOVED to report CSHB 146(FIN) out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 146(FIN) was REPORTED out of Committee with a "do pass" recommendation and with previously published fiscal notes: FN1, CED; FN2, DNR.

#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."

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LINDA HALL, DIRECTOR, DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, addressed two areas of major concern related to HB 164. She identified page 50, Section 79, of the legislation. She explained that Section 79 intended to act as a disincentive for employers to drop their group health coverage. She read Section (a), lines 6-7, "an insurer may not issue an individual health care insurance policy to an employee of an employer." She

related that a group plan must adhere to specific statutory requirements that protect consumers. Guarantee issue insurance coverage for the small group market (2 to 50 employees) provided that an insurer could not deny coverage to small employers. She furthered that Section (b) allowed for two exceptions. An employee and insurer may provide an individual health insurance policy with employer funds if the employee was eligible as defined by statute. She listed eligible employees: part-time, temporary, and seasonal employees not eligible for a group plan. The second exception exempted employers that did not provide health insurance coverage and had not within the last six months. She elaborated that individual coverage was more restrictive than group coverage. For example, the individual market excluded maternity coverage; small group plans provided it. The Division of Insurance opted to help people denied coverage due to existing conditions in Section 79. Employees forced to purchase individual policies due to a dropped group plan would be underwritten for deniable health conditions. The section would not protect the other employees that must wait six months or more for other health coverage.

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Vice-chair Fairclough referred to testifiers concerns that Section 79 would severely limit employer's flexibility. Her interpretation was that the employee received the penalty in the event an employer can only provide individual coverage, not the employer. The employee was left at risk. She felt the policy decision was left open for debate.

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Ms. Hall directed attention to Section 46 (line 16, page 27) t related to surplus lines.

REPRESENTATIVE KURT OLSON, SPONSOR, spoke in support of Section 46. He explained that the National Conference of Insurance Legislators (NCOIL) proposed model legislation, a national tax and collection authority that relinquished the authority from states Division of Insurance.

He reported a conflict of interest as a member of the Executive Committee of NCOIL and member of the Interstate Insurance Product Review Committee (IIPRC).

Representative Olson declared that he was in wholehearted support of Section 46. He believed that the NCOIL model legislation was hastily crafted and not fully developed. He believed that Section 46 was thoughtfully fashioned by the division and conformed to the federal mandate. He noted that 20 other states proposed legislation similar to Section 46. The Alaska Surplus Lines Association was the main opposition to Section 46. He concluded that the division had the existing structure and experience to carry out the provisions of Section 46. Passage will save the state money and lead to faster implementation.

Vice-chair Fairclough understood that existing state statute granted the division tax-collecting authority. The provisions of Section 46 would enable Alaska to benefit if particular [insurance] products were sold.

Representative Gara read page 28, lines 3-4, Section 46: "The tax paid by the insurer under this section is in lieu of all insurer taxes..." He wondered how the section influenced the amount of tax the state could collect from insurance companies. Ms. Hall replied that HB 164 did not change the amount of taxes owed. The bill defined the surplus lines tax rate. The only change combined a 2.7 percent tax and a 1 percent stamping fee to a single 3.7 percent tax.

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Representative Gara asked for an explanation of surplus lines. Ms. Hall explained that surplus lines were a type of insurance written differently than admitted insurance. Admitted insurers must file authorizations for form and rate approval. A class of "other" insurers underwrote more difficult lines of insurance such as earthquake or some marine coverage. They did not file forms and rates for approval. The taxes were paid by surplus lines brokers as opposed to the actual insurance company.

Ms. Hall elaborated that Section 46 introduced a new "home state" concept based on changes in the federal law that preempted state statutes from the type of tax collection. The state currently collected premium taxes only on the portion of a multi-state surplus line insurance policy with a risk located in the state of Alaska. In compliance with the new federal law, the state would collect 100 percent of the tax debt if Alaska was declared the home state of the multi-state business owner.

Vice-chair Fairclough asked how many insurers sell multi-state surplus lines. Ms. Hall identified approximately 900 surplus lines brokers; 100 were residents of Alaska. Vice-chair Fairclough asked whether the state stood to benefit from Section 49 if an Alaskan surplus lines broker sold their product in another state. Ms. Hall replied that it did not matter where the insurer selling a product was located; what mattered was the location of the insured property. Vice-chair Fairclough asked how Alaska would benefit from the statute change. Ms. Hall informed that the provision enabled the state to continue to collect taxes on surplus lines risk. She contended that the division could not collect taxes on multiple state risks, estimated at \$500 thousand, if the state failed to conform to the new federal mandate.

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Representative Gara referred to Section 64 of the bill. He inferred that long-term care insurance could not deny coverage for a pre-existing condition. He noted the change in the definition of "pre-existing". He asked whether the statute made it easier or harder to deny coverage. Ms. Hall responded that "the intent was to take away the subjectivity of an ordinary prudent person and instead to rely on medical advice or treatment as opposed to the opinion of an ordinary prudent person."

Representative Gara asked whether HB 164 made it harder or more expensive to procure insurance or reduced coverage. Ms. Hall answered in the negative.

Representative Wilson asked whether HB 164 was written in response to changes in federal law. Ms. Hall responded that only Section 46 (the section on surplus lines) was included due to federal law. She elaborated that the legislation was influenced by the National Association of Insurance Commissioners (NAIC), loosely described as a trade association of all the insurance regulators in the country. The Association attempted to implement self-imposed uniformity of insurance laws. The division was accredited by NAIC and many of the changes in HB 164 were included to maintain accreditation standards. She noted that all 50 states were accredited, which ensured financial oversight of insurance companies.

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Representative Wilson asked if a state board of insurance existed. Ms. Hall replied in the negative.

RICHARD BOUHAN, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF PROFESSIONAL SURPLUS LINES OFFICES, LTD. (NAPSLO), MISSOURI (via teleconference), spoke in opposition to the surplus lines and tax collection provisions in HB 164. He alleged that the legislation would not conform to the new federal law. The legislation required the establishment of an allocation formula for surplus lines tax collection. The formula proposed by NAIC in their "non-admitted insurance multi-state agreement" was burdensome to brokers and did not simplify the tax payment process as mandated by federal law. He opposed paying taxes to a clearinghouse that allowed states to distribute revenue from taxes collected on multi-state surplus lines risk policies. He felt that the tax rates established under the structure did not comply with federal regulations. He added that only 5 to 15 percent of surplus lines were multi-state. He was uncertain that any state would gain revenue by entering into a multi-state compact.

Vice-chair Fairclough asked the witness if he had contacted any Alaskan insurers on the issue. Mr. Bouhan answered that he contacted insurance companies and brokers dealing in Alaska.

Vice-chair Fairclough CLOSED public testimony.

Representative Wilson MOVED to report CS HB 164 (L&C) 27-LS0444/B out of Committee with individual recommendations and the accompanying fiscal note.

[3:50:27 PM](#)

AT EASE

[3:51:04 PM](#)

RECONVENED

Representative Wilson WITHDREW her motion.

Representative Wilson MOVED to Adopt CS HB 164 (FIN) (27-LS0444\I, Bailey, 4/1/11) as a working document before the committee.

Vice-chair Fairclough OBJECTED for discussion on the difference between the versions.

Ms. Hall reported that the CS reflected minor corrections or formatting changes and did not contain any substantive changes. She listed the revisions. She referenced page 38, line 13, the addition of three words "the sum of." She identified that page 62, line 13, corrected a repealer. She concluded that on line 15, page 62, the number 14 replaced 13 as the correct number.

Vice-chair Fairclough REMOVED her OBJECTION. There being NO further OBJECTION, it was so ordered.

Representative Wilson MOVED to report CSHB 164(FIN) out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 164(FIN) was REPORTED out of Committee with a "no recommendation" and with attached previously published fiscal note: FN1, CED.

[3:54:06 PM](#)

ADJOURNMENT

The meeting was adjourned at 3:54 PM.