

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

April 16, 2014

1:11 p.m.

**MEMBERS PRESENT**

Representative Wes Keller, Chair  
Representative Bob Lynn, Vice Chair  
Representative Gabrielle LeDoux  
Representative Max Gruenberg  
Representative Neal Foster

**MEMBERS ABSENT**

Representative Lance Pruitt  
Representative Charisse Millett

**COMMITTEE CALENDAR**

**SENATE JOINT RESOLUTION NO. 23**

Proposing an amendment to the Constitution of the State of Alaska relating to contracting state debt for postsecondary student loans.

- MOVED OUT OF COMMITTEE

**CS FOR SENATE CONCURRENT RESOLUTION NO. 2(JUD)**

Urging the United States Congress to act on the request of the governor to acquire for the state additional land in the Tongass National Forest from the United States government by purchase or negotiation or by seeking amendment to the Alaska Statehood Act.

- MOVED OUT OF COMMITTEE

**SENATE BILL NO. 170**

"An Act relating to a defense to the crime of prostitution for victims of sex trafficking."

- MOVED OUT OF COMMITTEE

**CS FOR SENATE BILL NO. 173(JUD)**

"An Act relating to a prohibition on the possession, offer, display, marketing, advertising for sale, or sale of illicit synthetic drugs."

- MOVED HCS CSSB 173(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 45

"An Act relating to harassment, intimidation, or bullying by students attending a public school in the state."

- MOVED OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SJR 23

SHORT TITLE: CONST. AM: STUDENT LOAN DEBT

SPONSOR(s): SENATOR(s) FAIRCLOUGH

02/14/14	(S)	READ THE FIRST TIME - REFERRALS
02/14/14	(S)	STA, EDC
03/06/14	(S)	STA AT 9:00 AM BUTROVICH 205
03/06/14	(S)	Moved SJR 23 Out of Committee
03/06/14	(S)	MINUTE(STA)
03/07/14	(S)	STA RPT 2DP 2NR
03/07/14	(S)	DP: COGHILL, GIESSEL
03/07/14	(S)	NR: DYSON, WIELECHOWSKI
03/07/14	(S)	FIN REFERRAL ADDED AFTER EDC
03/10/14	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
03/10/14	(S)	Heard & Held
03/10/14	(S)	MINUTE(EDC)
03/17/14	(S)	EDC RPT 3DP 1DNP
03/17/14	(S)	DP: STEVENS, HUGGINS, DUNLEAVY
03/17/14	(S)	DNP: STEDMAN
03/17/14	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
03/17/14	(S)	Moved SJR 23 Out of Committee
03/17/14	(S)	MINUTE(EDC)
03/31/14	(S)	FIN RPT 5DP 1NR
03/31/14	(S)	DP: KELLY, MEYER, BISHOP, DUNLEAVY, HOFFMAN
03/31/14	(S)	NR: OLSON
03/31/14	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/31/14	(S)	Moved SJR 23 Out of Committee
03/31/14	(S)	MINUTE(FIN)
04/11/14	(S)	TRANSMITTED TO (H)
04/11/14	(S)	VERSION: SJR 23
04/13/14	(H)	READ THE FIRST TIME - REFERRALS
04/13/14	(H)	JUD, FIN
04/16/14	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: SCR 2

SHORT TITLE: ACQUIRE TONGASS NATIONAL FOREST LAND

SPONSOR(s): SENATOR(s) STEDMAN

03/28/13 (S) READ THE FIRST TIME - REFERRALS  
 03/28/13 (S) JUD  
 04/05/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 04/05/13 (S) Heard & Held  
 04/05/13 (S) MINUTE(JUD)  
 02/17/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 02/17/14 (S) Heard & Held  
 02/17/14 (S) MINUTE(JUD)  
 02/19/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 02/19/14 (S) Scheduled But Not Heard  
 03/07/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 03/07/14 (S) Moved CSSCR 2(JUD) Out of Committee  
 03/07/14 (S) MINUTE(JUD)  
 03/10/14 (S) JUD RPT CS 2DP 1NR NEW TITLE  
 03/10/14 (S) DP: COGHILL, DYSON  
 03/10/14 (S) NR: OLSON  
 03/26/14 (S) TRANSMITTED TO (H)  
 03/26/14 (S) VERSION: CSSCR 2(JUD)  
 03/27/14 (H) READ THE FIRST TIME - REFERRALS  
 03/27/14 (H) JUD  
 04/11/14 (H) JUD AT 1:00 PM CAPITOL 120  
 04/11/14 (H) <Bill Hearing Canceled>  
 04/14/14 (H) JUD AT 1:00 PM CAPITOL 120  
 04/14/14 (H) Scheduled But Not Heard  
 04/16/14 (H) JUD AT 1:00 PM CAPITOL 120

BILL: SB 170

SHORT TITLE: AFFIRMATIVE DEFENSE TO PROSTITUTION

SPONSOR(s): SENATOR(s) GARDNER

02/12/14 (S) READ THE FIRST TIME - REFERRALS  
 02/12/14 (S) JUD  
 03/14/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 03/14/14 (S) -- MEETING CANCELED --  
 03/17/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 03/17/14 (S) Heard & Held  
 03/17/14 (S) MINUTE(JUD)  
 03/21/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 03/21/14 (S) Moved SB 170 Out of Committee  
 03/21/14 (S) MINUTE(JUD)  
 03/24/14 (S) JUD RPT 4DP  
 03/24/14 (S) DP: COGHILL, WIELECHOWSKI, MCGUIRE,  
 DYSON  
 03/28/14 (S) TRANSMITTED TO (H)  
 03/28/14 (S) VERSION: SB 170  
 03/31/14 (H) READ THE FIRST TIME - REFERRALS

03/31/14 (H) JUD  
04/09/14 (H) JUD AT 1:00 PM CAPITOL 120  
04/09/14 (H) Scheduled But Not Heard  
04/14/14 (H) JUD AT 1:00 PM CAPITOL 120  
04/14/14 (H) Heard & Held  
04/14/14 (H) MINUTE(JUD)  
04/16/14 (H) JUD AT 1:00 PM CAPITOL 120

BILL: SB 173

SHORT TITLE: SYNTHETIC DRUGS  
SPONSOR(s): SENATOR(s) MEYER

02/14/14 (S) READ THE FIRST TIME - REFERRALS  
02/14/14 (S) JUD  
03/05/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/05/14 (S) Heard & Held  
03/05/14 (S) MINUTE(JUD)  
03/12/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/12/14 (S) Moved CSSB 173(JUD) Out of Committee  
03/12/14 (S) MINUTE(JUD)  
03/14/14 (S) JUD RPT CS 3DP 1NR 1AM NEW TITLE  
03/14/14 (S) DP: COGHILL, MCGUIRE, DYSON  
03/14/14 (S) NR: OLSON  
03/14/14 (S) AM: WIELECHOWSKI  
03/14/14 (S) FIN REFERRAL ADDED AFTER JUD  
03/18/14 (S) FIN REFERRAL REMOVED  
03/28/14 (S) TRANSMITTED TO (H)  
03/28/14 (S) VERSION: CSSB 173(JUD)  
03/31/14 (H) READ THE FIRST TIME - REFERRALS  
03/31/14 (H) JUD, FIN  
04/10/14 (H) FIN AT 8:30 AM HOUSE FINANCE 519  
04/10/14 (H) <Pending Referral>  
04/11/14 (H) JUD AT 1:00 PM CAPITOL 120  
04/11/14 (H) Heard & Held  
04/11/14 (H) MINUTE(JUD)  
04/14/14 (H) JUD AT 1:00 PM CAPITOL 120  
04/14/14 (H) Heard & Held  
04/14/14 (H) MINUTE(JUD)  
04/16/14 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 45

SHORT TITLE: ELECTRONIC BULLYING IN SCHOOLS  
SPONSOR(s): REPRESENTATIVE(s) COSTELLO, GATTIS, HUGHES,  
JOSEPHSON

01/16/13 (H) PREFILE RELEASED 1/7/13  
01/16/13 (H) READ THE FIRST TIME - REFERRALS

01/16/13	(H)	EDC, JUD	
03/21/14	(H)	EDC AT 8:00 AM CAPITOL 106	
03/21/14	(H)	Heard & Held	
03/21/14	(H)	MINUTE(EDC)	
03/31/14	(H)	EDC RPT 5DP 1NR	
03/31/14	(H)	DP: P.WILSON, SEATON, DRUMMOND, SADDLER, GATTIS	
03/31/14	(H)	NR: LEDOUX	
03/31/14	(H)	EDC AT 8:00 AM CAPITOL 106	
03/31/14	(H)	Moved Out of Committee	
03/31/14	(H)	MINUTE(EDC)	
04/16/14	(H)	JUD AT 1:00 PM CAPITOL 120	

**WITNESS REGISTER**

SENATOR ANNA FAIRCLOUGH  
 Alaska State Legislature  
 Juneau, Alaska  
**POSITION STATEMENT:** Presented SJR 23 as sponsor.

SENATOR BERT STEDMAN  
 Alaska State Legislature  
 Juneau, Alaska  
**POSITION STATEMENT:** Presented SCR 2 as sponsor.

DICK COOSE  
 Ketchikan, Alaska  
**POSITION STATEMENT:** Testified in favor of SCR 2.

DAVID BEEBE  
 Kupreanof, Alaska  
**POSITION STATEMENT:** Testified against SCR 2.

JAMES SULLIVAN  
 Southeast Alaska Conservation Council (SEACC)  
 Juneau, Alaska  
**POSITION STATEMENT:** Testified against SCR 2.

SENATOR BERTA GARDNER  
 Alaska State Legislature  
 Juneau, Alaska  
**POSITION STATEMENT:** Presented SB 170 as sponsor.

STEVE HANDY, Staff  
 to Senator Berta Gardner  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Presented SB 170 on behalf of Senator Gardner.

SCOTT DATTAN  
Defense Attorney  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 170.

WALLY TETLOW, Partner  
Tetlow Christie, LLC  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 170.

EDRA MORLEDGE, Staff  
to Senator Kevin Meyer  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented SB 173 on behalf of Senator Meyer.

SARAH PAGE, Staff  
to Representative Mia Costello  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 45 on behalf of Representative Costello.

RON FUHRER, President  
National Education Association (NEA), Alaska  
Juneau, Alaska

**POSITION STATEMENT:** Testified in favor of HB 45.

#### **ACTION NARRATIVE**

[1:11:35 PM](#)

**CHAIR WES KELLER** called the House Judiciary Standing Committee meeting to order at 1:11 p.m. Representatives Foster, Lynn, Gruenberg and Keller were present at the call to order. Representative LeDoux arrived as the meeting was in progress.

#### **SJR 23-CONST. AM: STUDENT LOAN DEBT**

[1:11:45 PM](#)

CHAIR KELLER announced that the first order of business would be SENATE JOINT RESOLUTION NO. 23, Proposing an amendment to the

Constitution of the State of Alaska relating to contracting state debt for postsecondary student loans.

REPRESENTATIVE LYNN moved to adopt SJR 23, labeled 28-LS1394\U, as the working document.

[1:12:13 PM](#)

SENATOR ANNA FAIRCLOUGH, Alaska State Legislature, said SJR 23 is an opportunity to reduce student loan debt for Alaska students who choose to borrow money. "Our forefathers could never have thought about the student loan debt that this nation currently carries or an individual student carries in their effort to seek a life in the professional sector," she stated. The Alaska Student Loan Corporation (ASLC), under this bill, would have the power to issue debt with the full faith and credit of the State of Alaska, she explained, and then the state could offer a lower interest rate to students.

[1:13:04 PM](#)

REPRESENTATIVE LYNN asked what the interest rate is.

SENATOR FAIRCLOUGH said the ASLC currently offers a 7.3 rate, and by using the full faith in credit, she expects it would drop at least one percent. She noted that she has another bill in the House Finance Standing Committee that would help streamline the ASLC and how student loans are provided in Alaska.

CHAIR KELLER closed public testimony.

[1:14:00 PM](#)

REPRESENTATIVE GRUENBERG said he has had various pieces of legislation over the years, and the last one was HJR 31, "which simply removes all limiting language from that section, so it would no longer be limited to capital improvements or housing loans for veterans." He said he is glad "we're moving in this direction, because this is one of a very few provisions in the [Alaska] Constitution; this one sentence now will have been amended twice, mainly because different subjects come up for loans than they had in the mid-1950s." He surmised that at some point there will be a desire to have loans floated that will allow entering into some business deals—it may not be capital construction but maybe things that just technically do not fit under "one of these things." He said that he wants future legislatures to be able to run this state with the most

flexibility possible and to let them decide if they need to use this as a method. He referred to a recent article by former Governor Frank Murkowski urging that the Alaska Permanent Fund be used for "this," and Representative Gruenberg said he does not want to have to use the permanent fund.

[1:16:24 PM](#)

REPRESENTATIVE LYNN moved to report SJR 23 out of committee with individual recommendations and the accompanying fiscal notes. Seeing no objection, SJR 23 passed out of the House Judiciary Standing Committee.

REPRESENTATIVE GRUENBERG said he had Legislative Legal and Research Services write a paper on the very few sections of the Alaska Constitution that have been amended more than once. There are only two others, he explained, and one deals with the terms of legislators and the other deals with the number of judges. "Nothing at all like this," he added.

[1:17:25 PM](#)

**SCR 2-ACQUIRE TONGASS NATIONAL FOREST LAND**

[1:17:39 PM](#)

CHAIR KELLER announced that the next order of business would be CS FOR SENATE CONCURRENT RESOLUTION NO. 2(JUD), Urging the governor to acquire land in the Tongass National Forest from the United States government by purchase or negotiation or by seeking amendment to the Alaska Statehood Act.

[1:19:25 PM](#)

SENATOR BERT STEDMAN, Alaska State Legislature, said the resolution deals with the Tongass National Forest and indicated that the Tongass National Forest was created in 1907. At the end of WWII, Japan needed a timber supply and looked to Southeast Alaska for that, and that helped create pulp mills in Sitka and Ketchikan. Both had sawmills as well, he said. Based on the economics at that time, the desire was to create year-round jobs in Southeast Alaska on federal forest lands. He said that the political climate has changed since, and the 50-year logging contracts were shortened to account for that. Today, the pulp mills are being closed and removed and both sawmills are gone, he explained. He noted a medium-sized sawmill on Prince of Wales Island, and said the timber industry is unlike

it was 30 years ago. If Anchorage lost its airport, it would be of similar impact to the economy, he stated.

1:21:33 PM

SENATOR STEDMAN said what he is trying to do now is to stabilize the economy in Southeast Alaska; the population "has been paralyzed for quite some time while the growth is in Anchorage and Mat-Su." A few years ago it was forecasted that the region would lose up to 20 to 30 percent of its population, and that has not happened because of the hard work of many. "But we could do better," he said. In trying to ensure timber for the remaining saw mill and the other operators and to have more local and state control, Alaska needs to select some lands out of the Tongass National Forest, he opined. If Alaska cannot get the land through the Statehood Act, SCR 2 encourages the governor to discuss purchasing the land, out right, from the federal government. He said, "Do whatever we can to get more land into the State of Alaska's hands...and other private individual's hands," including Alaska Native corporations. The less federal land there is in Alaska, the better off the state is, because Alaska is a resource extraction state and is different from the East Coast, he explained. He said it is difficult to keep year-round jobs when the economic strings are pulled out of Washington D.C. instead of locally. He added that it is important to support the governor in his endeavors to push back against the federal government and to try to get some private land and state land out of the Tongass.

1:24:02 PM

CHAIR KELLER said he is on a citizen's advisory commission that had a summit last summer on federal overreach. The testimony was that the U.S. Forest Service has gone from a philosophy of "working forests" to preservation.

DICK COOSE, Ketchikan, said he is retired from the Forest Service but is speaking for himself. He worked as a land manager on the Tongass National Forest for 14 years, he noted. He said he supports SCR 2, because the federal government no longer has the desire or the capability to manage federal lands for the health of the lands and the benefit of the local people. He said he sees little hope that the federal government will change its attitude, but the state has a proven record of good forest management, and the Statehood Act's limit of 400,000 acres was OK when there were two pulp mills, but today that limitation is not necessary. The mills were driven out by "the

feds," he opined, and the state would be the best manager. Alaska needs to take ownership of the entire national forest or it should select 5 million acres, he added.

[1:26:18 PM](#)

DAVID BEEBE, representing the City of Kupreanof, said SCR 2 is at odds with Article VIII, Section 4, of the Alaska Constitution, which mandates managing fish, forests, and wildlife under sustained yield principles. He said sustained yield requires that ecosystems function without significant impairment, and the state has long known that impairing forests in Southeast Alaska precludes the sustainable yield of Sitka black-tailed deer. He told the committee that a major symposium in Juneau in 1978 documented the concern for future deer populations from clearcut logging, and in 1993 the Alaska Board of Game passed a resolution unanimously recommending the protection of high-volume old growth forests because the Alaska Constitution mandates wildlife resources to be managed on a sustained-yield basis for all of the people of Alaska. Emergency closures and significant restrictions on deer hunting presently exist in a 20-mile radius around the City of Kupreanof, he stated, and it is not a new problem.

[1:27:54 PM](#)

MR. BEEBE said Mitkof Island first suffered severe restrictions to its deer populations in the early 1970s, and the deer numbers are not recovering 40 years later. He explained that the structure and function of the habitat, according to the best available science, will not be restored for two centuries or more. If SCR 2 passes and its ultimate ends are achieved, Alaska can expect a much larger rural subsistence predicament to occur across more of Southeast Alaska. He noted that Gordon Harrison, the author of the Alaska Constitution Citizen's Guide, said that Alaska's delegate to Congress, Bob Bartlett, wanted to defend against "freewheeling disposals of public resources and colonial style exploitation," and that is precisely the central premise of SCR 2. The constitution establishes the obligation of the government, including the legislature, to assure sustained yield management, and he urged the committee to uphold the oath the members took to defend the constitution by voting no on SCR 2.

[1:29:28 PM](#)

JAMES SULLIVAN, Southeast Alaska Conservation Council (SEACC), said that SEACC also opposes SCR 2. The resolution proposes a return to a "timber-first" forest policy on the Tongass National Forest, and it attacks the Forest Service's attempt to create an integrated forest plan that takes into account the numerous aspects and uses of the forest, he stated. The resolution ignores the needs and desires of the local communities in order to cater to a single industry. Federal law requires multi-use and sustained yield of all renewable forest resources, he stated, but state forests are managed primarily for timber, which is in direct conflict with the Alaska Constitution.

[1:30:47 PM](#)

MR. SULLIVAN said that Southeast Alaska has adapted to a new Tongass. He noted that the sponsor of SCR 2 spoke of decisions made after WWII, but that is a step back in time and in the wrong direction, he opined. Communities have transitioned to a new economy and are improving wages and the quality of life. He said the Southeast Conference Annual Report states:

It is a good time to live and work in Southeast Alaska. The economy of Southeast Alaska is in an expansion phase and has been since 2008. Between 2010 and 2012, the economic growth of the region has intensified. Nearly every single economic indicator for the region is up and continues to rise.

MR. SULLIVAN said the report also states that the region has more workers than ever, along with the highest total payroll, even when adjusted for inflation. He added that Southeast Alaska has gone through a difficult transition with the loss of the two pulp mills, but the region is diversifying and turning into a more vibrant economy. He asked that the committee let the Tongass National Forest transition the way it is.

[1:32:49 PM](#)

MR. SULLIVAN said the sponsor of SCR 2 has previously stated that the resolution is designed to open up a discussion about the Tongass, but any discussion about land use should acknowledge it as a "salmon forest" and incorporate tourism, fishing, subsistence use, and energy along with timber. All are important to Southeast Alaskans, he said, and all are being ignored in the resolution. He said he does not want to kill the timber industry, but he wants an industry that will not destroy all the other industries. He also encouraged the governor and

legislators to establish mechanisms for developing government-to-government processes with the tribes in Southeast Alaska regarding resource use.

REPRESENTATIVE LYNN asked how many jobs have been lost due to the "basic shut down of the forestry industry" and how much revenue has been lost due to restrictions on logging.

[1:34:24 PM](#)

MR. SULLIVAN said there were over 500 jobs lost [when the pulp mills shut down] in the early 1990s. Currently, Southeast Alaska has the most job growth ever, he added. Timber is a much smaller part of that industry in the region, he said, and even though the large pulp mills are gone and there is a diminished number of logs being exported, there are well over a dozen small working mills within the communities. "We would encourage this legislature to find ways of enhancing and finding ways to help those small mills that live in the community and are creating jobs in the community and putting food on the plates of their families." For the most part, the small mills have access to enough timber, but, he suggested, the legislature could help them diversify.

[1:35:30 PM](#)

REPRESENTATIVE LYNN asked how much revenue has been lost to Alaska from what some would call a shutdown of logging.

MR. SULLIVAN said there is no shutdown; over 150 million board feet of timber was taken out of Southeast Alaska last year.

CHAIR KELLER noted that the Department of Fish and Game has primary management of wildlife. He asked if the state will be incapable [of management]. He then said that DNR (Alaska Department of Natural Resources) is fully capable of handling management under the state.

MR. SULLIVAN said the danger is not who is managing Alaska's wildlife. The danger is what decision are made for Alaska's habitat, he clarified. He said wildlife managers will be forced to make decisions that they do not want to make, and the Endangered Species Act may come into play that could actually affect the small communities.

[1:37:04 PM](#)

REPRESENTATIVE GRUENBERG said he has not intimately lived with this issue, but there seems to be a mixing of two topics, and the mixing is having an effect on the tenor of this discussion. The first issue is whether Alaska is entitled to get the remainder of its promised acreage and whether it should come from the Tongass National Forest, and a different issue, he said, is what the state would use the land for. It may not be the time to discuss that until the state takes ownership.

[1:38:39 PM](#)

CHAIR KELLER said he is absolutely right, and he would rather not make that a dialogue between "you and the testifier," because there is a lot of talk about the revised TLMP [Tongass Land Management Plan].

REPRESENTATIVE GRUENBERG asked if this is the time to discuss if Alaska should be entitled to proceed with its selections.

CHAIR KELLER surmised that the question posed by the bill is to support the governor's attempt to negotiate for land settlement that includes the Tongass National Forest in order to increase logging in Southeast Alaska.

[1:39:59 PM](#)

MR. SULLIVAN said regardless of who is actually managing the land, it would be SEACC's hope that the acres are managed for the multiple uses of the forest.

SENATOR STEDMAN said the intent of a land selection in the Tongass would be to increase the timber supply, but there is a lot of recreational needs. He said there are state forests in the Tongass, and the intent is not to get land from the federal government and clearcut it all, but to get it into the control of the state so it can control its own destiny. The state has been a very good steward of game: "Where I live in Sitka, I can shoot six deer; my wife can shoot six; my daughter can shoot six." He said his only limit is on how much he can eat.

[1:41:36 PM](#)

CHAIR KELLER asked about the Alexander Archipelago wolf, which is having a status review. It would be speculation on the impact on whether it is federal or state land, he said.

SENATOR STEDMAN said there is the wolf, the spotted owl, and a multitude of issues with land and aquatic animals that a person could point to as an excuse to maintain federal control. There are no wolves on Baranof Island, he stated, but there are brown bears, so he is not as familiar with [the wolf]. "If it wasn't for the wolf, it would be just another creature," he explained, and the basic argument is over development.

CHAIR KELLER closed public discussion.

[1:42:57 PM](#)

REPRESENTATIVE LYNN moved to report CSSCR 2(JUD) out of committee with individual recommendations and the accompanying fiscal notes.

CHAIR KELLER objected.

REPRESENTATIVE GRUENBERG said he would like to see what can be done, with good management, to help the economy here. We are all Alaskans, he said, and it is time that the legislature did something to help this part of the state—and other parts.

CHAIR KELLER removed his objection. Seeing no others, CSSCR 2(JUD) moved out of the House Judiciary Standing Committee.

**SB 170-AFFIRMATIVE DEFENSE TO PROSTITUTION**

[1:44:29 PM](#)

CHAIR KELLER announced that the next order of business would be SENATE BILL NO. 170, "An Act relating to a defense to the crime of prostitution for victims of sex trafficking."

SENATOR BERTA GARDNER, Alaska State Legislature, said the discussion on SB 170 at the last hearing was not thorough, because the committee was rushed. Currently, 23 states, and others in progress, offer an affirmative defense against prostitution charges [for victims of sex trafficking]. When she spoke with law enforcement, including the FBI [Federal Bureau of Investigation] and police officers, she found them to be very enthusiastic about this tool for going after traffickers. Those who are opposed are opposed because the legislation does not go far enough, she said. There are some people who want to decriminalize prostitution and vacate previous convictions, she noted, and there are others who want to vacate convictions of trafficking victims and offer immunity for other offenses

(sometimes the victims are forced to sell or use drugs, for example). She stated that all of those proposals are worthy, but SB 170 "is not going there." The heart of the bill is to not re-victimize sex traffic victims by prosecuting them for prostitution, and the other is to help law enforcement go after the traffickers, she said.

[1:46:51 PM](#)

CHAIR KELLER noted that there were two private defense attorneys and a public defender on line.

STEVE HANDY, Staff to Senator Berta Gardner, Alaska State Legislature, noted that the main concern voiced at the last hearing was how the affirmative defense would hurt the victim by subjected him or her to intense scrutiny from the prosecution. He explained that the affirmative defense "is just that; it ends right there." The defense must be declared pretrial, and in the trial it is given to the jury, he stated. If the jury believes by a preponderance of the evidence (the lowest form of evidence) that the victim was induced or caused to engage in the act, then the victim is excused at that point. There is no obligation for prosecution or negotiation—"that is it."

CHAIR KELLER opened public testimony.

[1:48:47 PM](#)

SCOTT DATTAN, Defense Attorney, said he does a lot of federal criminal defense work and some state defense work. After discussing the bill with Mr. Handy, he concluded that the legislation was an appropriate thing to do. The affirmative defense should be offered to young women who are pressed into this type of occupation and into illegal conduct, he opined. He said he sees no negative aspect to a defendant, who can choose not to offer the defense. It would, however, be statutorily available if a defendant and her attorney chose to avail themselves of it.

[1:50:59 PM](#)

WALLY TETLOW, Partner, Tetlow Christie, LLC, said he has practiced criminal defense in Alaska state courts for over 20 years. He opined that SB 170 is important, and it provides an opportunity for an individual charged with prostitution to prove to a jury that he or she was induced to do so by sex traffickers. He stated that the bill does not provide a free

pass to engage in prostitution, but it provides an affirmative defense. Regarding the concern of the bill causing victims to make themselves targets of law enforcement and be charged for prostitution, "in actuality, the affirmative defense will not do that—it will have the opposite effect." With law enforcement's support of SB 170, "the last thing that the Department of Law or law enforcement would want" is for the victims to come forward to reveal information about sex traffickers and then law enforcement turns around and punishes those individuals by charging them with offenses. "I don't see that occurring," he stated.

[1:53:15 PM](#)

MR. TETLOW continued:

The way the affirmative defense works in the real world is that at trial the defense must produce some evidence in support of the defense in order to even have the jury decide whether the defense applies. So, the first thing that happens in court is that the defense is required to put on some evidence to justify the jury instruction that would go to the jury and allow the jury to consider the issue. If there is no evidence offered in support of the affirmative defense, the jury never gets the issue, he explained, so that is the first hurdle. The second hurdle is that the jury decides, by a preponderance of the evidence, whether or not the defense applies, and it is the defendant's burden to prove the defense, but the jury's decision. Ultimately the affirmative defense not only plays out at trial, but, in many cases, it will play out before trial, thereby lessening the anxiety and pressure and stress on the victim of sex trafficking.

[1:54:37 PM](#)

MR. TETLOW noted that normally in criminal cases, long before a case goes to trial, there is a negotiation phase, and, at that time, defense attorneys offer information to the prosecutor in an effort to dismiss charges. Such negotiations are often successful in weeding out cases that should not go to trial, he explained. The hope would be, he said, that in most cases with prostitutes who are victims of sex traffickers, the prosecution will get that information and determine that it is valid and elect to dismiss the charges.

[1:55:07 PM](#)

MR. TETLOW said he was told there were concerns of adding stress to the victims if they have to testify against the traffickers and be subject to cross-examination. Simply by offering evidence at trial or in the negotiation phase, the victims do not automatically make themselves a witness against the traffickers. He said victims can elect not to cooperate, and they may not always be the best witnesses for the prosecutors or investigators. Law enforcement will want to amass more evidence than just the victims' statements, but their information may allow law enforcement to pursue other avenues of evidence that they might not have been otherwise aware of.

CHAIR KELLER asked if a victim chooses not to become a witness, will the affirmative defense still be available.

[1:58:12 PM](#)

MR. TETLOW said that in the victim's prostitution trial there are a number of ways for the victim to present the affirmative defense. One way, he said, is for the victim to testify on his or her own behalf, but it is not required. There are other ways of establishing the affirmative defense without having the victim testify, he explained. However, he said, his previous comments were more directed at the concern that not only would the victim have to, perhaps, testify in his or her own trial, but he or she would be the subject of a subpoena by prosecutors to testify in other trials [of the traffickers].

[2:00:25 PM](#)

CHAIR KELLER closed public testimony.

REPRESENTATIVE FOSTER thanked the sponsor for the legislation, and said that not only is it good for all victims across the state, but it is good "particularly [for] Alaska Natives, who come from rural areas and they end up in places where they have little or no support group and are easily influenced."

REPRESENTATIVE LYNN concurred with Representative Foster, and he moved to report SB 170 out of committee with individual recommendations and the accompanying fiscal notes.

CHAIR KELLER noted no objection, and SB 170 moved out of the House Judiciary Standing Committee.

[2:01:36 PM](#)

**SB 173-SYNTHETIC DRUGS**

[2:02:03 PM](#)

CHAIR KELLER announced that the next order of business would be CS FOR SENATE BILL NO. 173(JUD), "An Act relating to a prohibition on the possession, offer, display, marketing, advertising for sale, or sale of illicit synthetic drugs."

REPRESENTATIVE LYNN moved HCS CSSB 173, labeled 28-LS1242\Y, Strasbaugh, 4/15/14, as the working document. Hearing no objection, Version Y was before the committee.

[2:02:33 PM](#)

EDRA MORLEDGE, Staff to Senator Kevin Meyer, Alaska State Legislature, noted that there were suggested changes regarding enforcement and penalties as well as a suggestion regarding listing all the known names of the synthetic drugs. She said she contacted the bill drafter, Kathleen Strasbaugh of Legislative Legal and Research Services, who provided a memo to the committee and gave her opinion that the enforcement and penalty section of SB 173 does not need to be changed. If it were changed to a civil penalty [instead of a violation], she explained, it would be necessary for the department to file a civil lawsuit in order to prosecute anyone.

[2:03:55 PM](#)

MS. MORLEDGE said she requested that all of the [synthetic drug product] names be removed from bill, as the list will likely be outdated soon. She reminded the committee that there were two fiscal notes that were zeroed out from Public Defenders Agency and the Office of Public Advocacy that would need to be adopted with this version.

CHAIR KELLER said he is disappointed that the list of names will not be in the law, but they are on the record.

[2:04:46 PM](#)

REPRESENTATIVE FOSTER said he supports the bill. The products have made their way to rural Alaska, like Nome, he said, and someone told him how her son was affected by "spice" and how it

wreaked havoc in his plans to move forward in his life. This issue came up at a rural Native conference, and his region has come out whole heartedly against these drugs, he declared.

CHAIR KELLER thanked Ms. Strasbaugh for her second memo, which was well done. He closed public testimony.

[2:06:05 PM](#)

REPRESENTATIVE LYNN moved to report the HCS of CSSB 173 (JUD), labeled 28LS-1242\Y, Strasbaugh, 4/15/14, out of committee with individual recommendations and the accompanying fiscal notes. There being no objections, HCS CSSB 173(JUD) moved out of the House Judiciary Standing Committee.

[2:06:43 PM](#)

The committee took an at-ease from 2:06 p.m. to 2:08 p.m.

**HB 45-ELECTRONIC BULLYING IN SCHOOLS**

[2:08:27 PM](#)

CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 45, "An Act relating to harassment, intimidation, or bullying by students attending a public school in the state."

SARAH PAGE, Staff to Representative Mia Costello, Alaska State Legislature, said HB 45 was proposed by a senior from Dimond High School. Section 1 deletes "whether verbal or physical" [from AS 14.33.220(b)], indicating that no matter the form of delivery, [harassment, intimidation, or bullying] shall be reported to school administrators by any witness. Section 2 inserts "electronic" into the definition of the type of harassment, intimidation, or bullying, she said. Currently, schools must have harassment policies, and HB 45 updates the definition to say that electronic forms of communication are also considered. The bill has no effect on the weight of different actions or what disciplinary actions should be taken, she clarified.

[2:10:07 PM](#)

CHAIR KELLER noted that Ms. Page was presenting Version U.

[2:11:00 PM](#)

RON FUHRER, President, National Education Association (NEA) Alaska, said NEA Alaska represents 13,000 educational support professionals and teachers, and it advocates for 130,000 public school students. He noted that cyberbullying occurs in the shadows and can be difficult to detect. Teachers are the first line of defense in stopping it in schools, he said, and the cyberbullying often carries over into classrooms. Only 1 in 10 victims will inform a parent or a trusted adult of the abuse, he explained, and the consequences of cyberbullying are significant, causing emotional and psychological distress. The victims of bullying can experience fear, low self-esteem, depression, and anxiety, and the cyberbullying victim will also experience feeling overwhelmed, vulnerable, powerless, exposed, humiliated, isolated, and even disinterested in life, he stated. Victims are two to nine times more likely to consider suicide, and according to PEW research, about one third of all teenagers who have used the internet have been the target of cyberbullying. He added that some research shows that nearly 43 percent of kids have been bullied online, and 70 percent of students report seeing frequent bullying online. There needs to be a community effort by teachers, parents, administrators, and other students to send a clear message that cyberbullying will not be tolerated. "HB 45 is a first step towards ensuring that Alaskan students can attend school in a safe learning environment, free from the threat of cyberbullying," he said.

[2:13:47 PM](#)

REPRESENTATIVE LYNN noted that any type of bullying is bad, including, "the big kid on playground bullying the little kid," but it essentially stops quickly. Cyberbullying on Facebook is there forever, he expressed, and that is what makes it so bad. He said there are cameras on cellphones, and they can be taken everywhere, including into restrooms. "If you try to get a job 10 years later, they find that on the internet," he said, so he strongly supports HB 45. "This won't fix it but it will certainly help," he stated.

[2:14:59 PM](#)

REPRESENTATIVE LEDOUX said she will not object to HB 45, but she has some problems with all of the non-physical harassment statutes. She said she remembers getting teased in school and sometimes it was mean and awful, but her dad told her to remember that "sticks and stones will break your bones but names will never hurt you." The names did hurt, she said, "but we can't let some of these statutes interfere with the First

Amendment right to freedom of speech," and it is not just this bill, it is many. "People are just mean to each other; sometimes people even hold other people's bills, which is a form of bullying, but we live with it," she opined.

[2:16:35 PM](#)

MS. PAGE said the statute also addresses physical bullying.

REPRESENTATIVE LEDOUX said she sees that in [subparagraph] (A), but not elsewhere. So verbal teasing, for example, might have the effect of interfering with some students' education, if they are very sensitive, but that is not necessarily physical harassment, she said.

[2:17:40 PM](#)

MS. PAGE said she understands and appreciates her comments, "but I do think that it doesn't need to be repeated in (B), (C), and (D), because it is in the first definition, and (B), (C), and (D) are just really clarifying the intensity of the bullying or the teasing or what have you, if it's severe or persistent or substantially interfering, so I don't think we need to repeat 'physical'."

[2:18:16 PM](#)

CHAIR KELLER asked why "whether verbal or physical" was deleted.

MS. PAGE said it was taken out so the language would include students who have been subjected to any type of harassment, intimidation, or bullying.

CHAIR KELLER spoke of a bill that basically did the same thing in a different section of law, and his staff looked where this behavior was already covered in law, "and the only thing unique, that I see, really, is the fact that we're pulling it into Title 14," and he asked for an explanation.

MS. PAGE said that someone from Legislative Legal and Research Services can speak to that.

[2:20:20 PM](#)

REPRESENTATIVE LYNN moved to report HB 45 out of committee with individual recommendations and the accompanying fiscal notes.

CHAIR KELLER, noting no objections, announced that HB 45 moved out of committee.

[2:22:04 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:22 P.M.