

SENATE FINANCE COMMITTEE

April 1, 2014

9:06 a.m.

9:06:58 AM

CALL TO ORDER

Co-Chair Meyer called the Senate Finance Committee meeting to order at 9:06 a.m.

MEMBERS PRESENT

Senator Pete Kelly, Co-Chair
Senator Kevin Meyer, Co-Chair
Senator Anna Fairclough, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Joe Balash, Commissioner, Department of Natural Resources; John "Chris" Maisch, Director, Division of Forestry, Department of Natural Resources; Rod Arno, Executive Director, Alaska Outdoor Council, Juneau; Senator Dennis Egan; Alida Bus, Staff, Senator Dennis Egan; Lieutenant Kris Sell, Police Officer, Juneau Police Department; Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; Brittany Hutchison, Staff, Senator Click Bishop; John Manly, Staff, Senator Click Bishop.

PRESENT VIA TELECONFERENCE

John Sturgeon, CEO, Ouzinki Native Corporation, Anchorage; Glen Holt, Self, Fairbanks; Mark Stahl, Self, Talkeetna; Erin McLarnon, Self, Willow; Nick Steen, Member, Ruffed Grouse Society, Wasilla; Barbara J. Miller, Self, Wasilla; Gary Stevens, Self, Chugiak; Carl Portman, Deputy Director, Resource Development Council, Anchorage; Thomas Malone, Chair, Tanana Valley State Forest Citizens Advisory

Committee, Fairbanks; Al Barrette, Self, Fairbanks; Tracey Wollenberg, Public Defender, Department of Administration, Anchorage.

SUMMARY

SB 28 SUSITNA STATE FOREST; SALE OF TIMBER

SB 28 was HEARD and HELD in committee for further consideration.

SB 66 IMITATION CONTROLLED SUBSTANCE

CSSB 66(JUD) was REPORTED out of committee with a "do pass" recommendation and with previously published zero fiscal notes: FN1(ADM) and FN2(ADM); previously published indeterminate note: FN3(LAW); and new zero fiscal note from the Department of Corrections.

SB 178 PASSENGER VEHICLE RENTAL TAX

SB 178 was HEARD and HELD in committee for further consideration.

CSHB 297(FIN)
HOME ENERGY RATING SYSTEMS

CSHB 297(FIN) was SCHEDULED but not HEARD.

CSHB 305(FIN)
JUNK DEALER & METAL SCRAPER LICENSING

CSHB 305(FIN) was SCHEDULED but not HEARD.

[9:08:48 AM](#)

AT EASE

[9:09:25 AM](#)

RECONVENED

#sb28

SENATE BILL NO. 28

"An Act relating to the sale of timber on state land; establishing the Susitna State Forest; and providing for an effective date."

9:09:47 AM

JOE BALASH, COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, explained the legislation. He stressed that the governor was interested in a positive investment, and he felt that the legislation was in line with the governor's intention. The bill would create a state forest in the Susitna Valley and expand the Department of Natural Resources (DNR) authority to offer negotiated timber sales statewide. He stated that DNR currently managed 9.5 million acres of state land in the Mat-Su valley under the area plans. This bill would establish the Susitna State Forest from land that the plans classify for forestry and DNR manages for timber harvest and multiple use. Remaining state land in the area was designated for land sales, agriculture, recreation, water resources, and fish and wildlife habitat, including over 3.1 million acres of legislatively designated state parks, refuges, and public use areas. The proposal excludes lands that were priorities for the state's land disposal program. It was consistent with the area plans, and was recommended by the Alaska Timber Jobs Task Force. The proposed state forest included approximately 686,800 acres of land in 20 parcels. The state forest would help meet the growing regional demand for state timber sales and personal use firewood harvesting. Local mills depend heavily on state timber for their raw materials. Interest in logs, chips, and wood pellets for commercial, public school, and residential space heating also continues to expand. Active forest management provided forest stand with a variety of ages to support diverse and healthy wildlife habitat. It also helped reduce wild land fire risk by breaking up large expanses of hazardous fuel types and encouraging regeneration by less-flammable hardwood species. The state forest would be managed as part of the State Forest System, and would continue to be open for public use and access, including wildlife habitat management, harvest, and recreational activities. He announced that DNR had conducted extensive outreach on the proposal. In addition to meetings on the area plans, DNR held community meetings, and made a presentation at a legislative town meeting in Wasilla.

Co-Chair Meyer understood that the legislation would not make the land unavailable for property development for the private sector to add to the borough's property tax base.

Commissioner Balash replied that there were various conversations with the borough and in the region. He stated that DNR had a received an endorsement from the Mat-Su Borough assembly, and referred to a resolution in the member's packets. He stated that there were some concerns that were addressed in order to alleviate some impacts to municipal and residential developments.

Co-Chair Meyer wondered if the land could return to the private sector after it was designated as forest land. Commissioner Balash responded that state forests were public lands that were still managed for multiple use, but not considered for settlement or residential development. He stressed that there was still economic activity on the land. He stated that moving the land back to the general use category would require legislative action.

[9:16:16 AM](#)

Co-Chair Meyer wondered if there would be anything that would prevent timber harvest in the state forest. Commissioner Balash replied that all of the activities in the forest would be governed by the Forest Resources Practices Act, and other regulatory authorities. He stated that the forest would be sustainably managed with a long-term management plan.

Senator Olson wondered how the designation would result in the prohibition of exploiting the resources within the designation. Commissioner Balash replied that the designation of the forest did not preclude other uses of the land, particularly the mineral rights associated with the land. He stressed that DNR would still have the ability to issue mining leases and provide for exploration of the other minerals on the land. He agreed that the land would not be available for residential development.

Senator Olson queried the effect of the legislation on the traditional campsites that were used to harvest fish and game seasonally. Commissioner Balash replied that DNR must continue to maintain the other uses in the area. He deferred to Mr. Maisch.

Senator Olson queried the effects of the established camps. Commissioner Balash responded that the designations that were already public lands would remain in public lands. He

stressed that the inholdings would remain outside of the designated forest.

Senator Olson stressed that an individual with a camp might have their claim overrun. Commissioner Balash replied that he had worked hard to ensure that it would not be an issue.

[9:22:55 AM](#)

Senator Dunleavy asked for a brief history of the proposed concept. Commissioner Balash deferred to Mr. Maisch.

JOHN "CHRIS" MAISCH, DIRECTOR, DIVISION OF FORESTRY, DEPARTMENT OF NATURAL RESOURCES, explained the history of the proposed concept. He stated that there were two area plans that were updated in 2009, and public meetings were held in seven communities. He stated that the idea of state forest classified lands was discussed as part of an area planning process, and the concept that a state forest proposal would be drafted at the conclusion of the process. In addition, there were six open houses when the Division of Forestry took over the project. There were twelve additional public meetings, when the legislation was initially proposed three years prior. He stated that there had been recent meetings to outreach to local entities that were not on the road system. There was a concern for the need for community expansion lands in Houston, Willow, and Wasilla, so 70,000 acres were removed from the proposal to alleviate that concern. He shared that there was a blocking nature in the way that the state forest was proposed, because there was a forest inventory for the lands, which showed a good commercial interest. The area planning process determined that the proposed lands were the most preferred lands for the forestry process, which was why the location was spread across the valley with twenty parcels. He stated that there was some concern regarding access, and the need for access development, which was one of the key features of state forests.

[9:26:28 AM](#)

Senator Dunleavy looked at the earmarked parcels, and noted that there was a considerable amount of acreage that could be logged. He wondered how the approach was different from the forest designated parcels versus the state-owned parcels that were already designated for logging. Commissioner Balash replied that the area plan processes

for a particular primary use did not preclude other uses including disposals of the land. While the blocks may be designated for forestry purposes, in the area plan implementation, it would not preclude someone from applying for the land to be disposed in a different way.

Senator Dunleavy wondered if logging was the only activity that could occur on the state forest. He wondered if, for example, mining would occur on the land. Commissioner Balash responded that logging was the primary development interest, but mining could occur given the process time.

Co-Chair Meyer wondered if there would be a problem with bringing a pipeline through the forest area. Mr. Maisch responded that a pipeline in the forest would not be an issue, as there were utilities across other state forests.

[9:30:28 AM](#)

Co-Chair Meyer queried the state royalty from the timber sale. Mr. Maisch responded that the sales were sold through a competitive process for the majority of timber. He stated that there was no royalty, but rather by sealed bid or outcry auction, so the best dollar took the sale which was known as "stumpage return."

Vice-Chair Fairclough wondered if the pale yellow on the map was current forestry. Commissioner Balash responded that the pale yellow was considered general state lands.

Vice-Chair Fairclough restated her question Commissioner Balash replied that the lands were designated as habitat under the area plans. Mr. Maisch furthered that the yellow lands were classified as forestry use, but were dropped from the designation in the state forest. The hatched lands were considered habitat classified lands under the area plans.

Vice-Chair Fairclough wondered if there was a separate land classification for habitat, which was not considered forest. Commissioner Balash replied in the affirmative, and stated that the habitat lands were currently not included in the legislation as part of the forest.

Senator Hoffman queried the number of acres that were considered for the proposal. Commissioner Balash replied that there was an initial proposal which was around 760,000

acres, but had been adjusted and was currently 688,000 acres.

Senator Hoffman queried the classifications within the proposed lands. Commissioner Balash replied that the land was currently designated forestry lands.

[9:36:07 AM](#)

Senator Hoffman asked if there was a plan for the private selection. Commissioner Balash responded that there was a planning cycle for the disposals, but was not certain that the map included any in the cycle.

Senator Hoffman requested those plans and how many acres were considered for the program in the region. Commissioner Balash agreed to provide that information.

Senator Dunleavy noted a testimony in the packet from the Grouse Society, and there were some issues raised. He wondered if those concerns were considered. Commissioner Balash stated that the Grouse Society would like to see that the forest be larger, and include some of the habitat lands to ensure that those lands were not disposed of for some other purpose.

[9:39:26 AM](#)

JOHN STURGEON, CEO, OUZINKI NATIVE CORPORATION, ANCHORAGE (via teleconference), testified in support of the legislation. He shared that he had been in the timber industry in Alaska for 43 years. He stated that his operation logged approximately 50 million board feet each year. He shared that there had been many conversations regarding losing the oil resource in Alaska. He felt that it was time to examine alternatives to bring additional revenue into Alaska, and he felt that the timber industry could provide some of that revenue.

[9:42:32 AM](#)

GLEN HOLT, SELF, FAIRBANKS (via teleconference), spoke in support of the legislation. He stated that he was in further favor of further land designations of habitat lands currently designated, because of the opportunity to enhance those lands through forest management programs.

[9:45:54 AM](#)

MARK STAHL, SELF, TALKEETNA (via teleconference), testified in favor of the legislation. He stated that he owned and operated a small saw mill in Talkeetna. He stated that many of his customers and neighbors expressed appreciation for access to local resources. His ability to grow the business was hampered by the lack of a predictable and reliable timber base. There was too little private land in the Susitna valley to provide a steady raw materials supply, so establishing a state forest would resolve the issue.

[9:48:27 AM](#)

ERIN MCLARNON, SELF, WILLOW (via teleconference), testified in support of the legislation. She stated that she was a business owner and six year Board of Forestry member. She stated that the Mat-Su valley was a wonderful place to live. She felt that a state forest would help to grow the local economy, and guarantees all users place to recreate. She frequently utilized state forest lands for her training, because of the access to trails.

ROD ARNO, EXECUTIVE DIRECTOR, ALASKA OUTDOOR COUNCIL, JUNEAU, testified in support of the concept of a state forest in the Mat-Su valley, multiple use in the state forest such as resource development and recreational pursuit. He stressed that the location should be kept intact. He felt that there were a number of Alaskans that were interested in food harvest. He stated that the tax burden on the Mat-Su valley could be counteracted by the resource development.

[9:56:28 AM](#)

NICK STEEN, MEMBER, RUFFED GROUSE SOCIETY, WASILLA (via teleconference), testified in support of the legislation. He believed that the establishment of a state forest would help solidify and expand the forest product industry. It would be an economic boost to the Mat-Su borough and all Southcentral Alaska residents. Through proper forest management, the forest should be either revenue enhancing or revenue neutral. In addition to the timber resource, the wildlife would greatly benefit.

[9:58:38 AM](#)

BARBARA J. MILLER, SELF, WASILLA (via teleconference), urged the committee to develop the west side of the Susitna River. She encouraged the private development of the land on the east side of the Susitna River. She felt that the land on the east side would provide a boundary, because it was difficult to determine where one was located.

[10:00:10 AM](#)

GARY STEVENS, SELF, CHUGIAK (via teleconference), felt that the forest aspect of the legislation was too disconnected, and would be difficult to manage.

[10:01:51 AM](#)

CARL PORTMAN, DEPUTY DIRECTOR, RESOURCE DEVELOPMENT COUNCIL, ANCHORAGE (via teleconference), spoke in strong support of the legislation. He felt that the new state forest would enhance access and encourage a broad range of multiple uses. The new state forest would allow the Division of Forestry to more actively manage lands and vegetation to promote a variety of forest ages, which in turn would maximize the sustainable supply of timber to provide a more diverse and healthy habitat for wildlife. He added that active forest management would reduce the risk of wildfires. The Division of Forestry would manage the forest to help meet growing regional demand for state timber sales.

[10:04:37 AM](#)

THOMAS MALONE, CHAIR, TANANA VALLEY STATE FOREST CITIZENS ADVISORY COMMITTEE, FAIRBANKS (via teleconference), spoke in favor of the legislation. He felt that dedicated lands would provide the multiple use aspects of the land, in addition to specific forestry uses.

[10:07:51 AM](#)

AL BARRETTE, SELF, FAIRBANKS (via teleconference), spoke in support of aspects of the proposal, but remarked that there should be a focus on maintaining traditional uses.

Co-Chair Meyer CLOSED public testimony.

[10:10:41 AM](#)

Co-Chair Meyer wondered if this was the same bill that was proposed two years prior, and asked why that particular bill did not pass through the legislature. Commissioner Balash replied that the legislation that was proposed two years prior included more parcels than the current legislation. There was local opposition, and the local assembly did not support the bill.

Mr. Maisch added that there was a difference in the definition from timber to fiber in the current legislation, and there was also a recommendation of three clauses for the 118 timber authority in order to apply authority statewide.

Co-Chair Meyer noted that the Alaska Outdoor Council (AOC) did not previously support it, and still expressed some concerns that the legislation was not robust enough. He wondered if the current legislation was considered a compromise. Commissioner Balash replied that there were some suggestions, and remarked that he would be willing to work with the committee to establish a more workable outline for the proposal.

Co-Chair Meyer noted that the fiscal note was currently zero, but wondered if the proposal may have a positive fiscal impact to the state. Commissioner Balash replied that the state forests were, at worst, revenue neutral. The funds that were raised from the sale of the timber resources supported the expenses of managing them and building infrastructure.

Co-Chair Meyer wondered if the Mat-Su borough was in favor of the bill. Senator Dunleavy indicated that there was support from the borough.

[10:15:49 AM](#)

Vice-Chair Fairclough noted three concerns that were worth addressing: 1) the establishment of language of the patchwork; 2) the natural boundary issue, and posting trespassing warnings; and 3) the issue of public access.

Commissioner Bishop stated that Vice-Chair Fairclough had pointed out his concerns.

Senator Dunleavy queried a timeline for the proposal. He wondered what was expected of the individuals who had

contracts. Mr. Maisch replied that there was a published five year timber sale program.

SB 28 was HEARD and HELD in committee for further consideration.

[10:19:57 AM](#)

AT EASE

[10:23:18 AM](#)

RECONVENED

#sb66

SENATE BILL NO. 66

"An Act relating to imitation controlled substances; and providing for an effective date."

[10:23:55 AM](#)

SENATOR DENNIS EGAN, stated that the legislation made it easier for law enforcement to crack down on drug dealers by making illegal any substance represented by a controlled substance. Currently a drug dealer could sell a felony drugs during a sting operation, the officer could not make a charge, because the substance did not contain a specific ingredient on the list of imitation controlled substances in statute. The current definition of imitation controlled substances in AS 11.73.099 listed chemicals, a substance must contain, in order for it to be illegal. He stated that SB 66 changed the definition of an imitation controlled substance to more generally make illegal that was made to look like an already illegal drug. He stated that the most recent version of the bill reduced the penalties for crimes under the statute.

ALIDA BUS, STAFF, SENATOR DENNIS EGAN, stated that she had nothing to add to the testimony.

[10:26:16 AM](#)

LIEUTENANT KRIS SELL, POLICE OFFICER, JUNEAU POLICE DEPARTMENT, testified that the legislation was a request from the Juneau Police Department. She stated that the legislation was as written because of the police experience in field operations in purchasing narcotics. She found that there were some instances where drug dealers would sell

"sham narcotics" such as salt, sheet rock dust, or other unidentified substances. She shared that there were some states that identified the sale sham narcotics as a drug charge. She examined Alaska's law, and noticed that there were limitations by the list of very specific chemical compounds that could be charged as selling imitation controlled substances. Those chemicals were mostly precursors or "cut" that was used for controlled substances. She stressed that many of those chemicals were expensive, and sometimes more difficult to find than an average household products, so many drug dealers did not use those chemicals when selling the sham drugs. She shared that sometimes she had been required to make sham drugs when there was a controlled delivery, because the police operation did not want to run the risk of losing a large amount of controlled substances. She stated that she could make a very realistic version of the drug, meth, with flour and a heavy coating of hair spray. She announced that many known drug dealers were getting a pass on selling the fake drugs to the customer, but the customer did not have the option to complain to law enforcement, they would just use a new dealer.

Senator Dunleavy wondered if the legislation was age-specific. Lieutenant Sell replied that the draft version of the committee substitute was age-specific.

Senator Dunleavy surmised that anyone over 19 could be convicted of selling drugs. Lieutenant Sell responded that the committee substitute from the Judiciary Committee did not have an age requirement.

[10:33:38 AM](#)

AT EASE

[10:34:28 AM](#)

RECONVENED

Senator Dunleavy wondered if the age was contingent on prosecution, because there was an age specified in statute. Lieutenant Sell replied that age was referenced, but was a higher penalty to expose a younger person to the substances.

Senator Dunleavy wondered if the crime was different, if a person buying the substance was only one year younger than

the person selling the substance Lieutenant Sell deferred to the Department of Law (DOL).

Co-Chair Meyer queried how the substances were deemed authentic controlled substances or an imitation. Lieutenant Sell replied that there were presumptive field tests conducted, before the substance was sent to the crime lab.

Co-Chair Meyer wondered how often people were prosecuted under the existing statute. Lieutenant Sell replied that, in her experience, no one had been prosecuted under the existing statute.

Senator Dunleavy wondered how big of an issue this is in Juneau. Lieutenant Sell replied that there were several instances per year.

Senator Dunleavy wondered if the Alaska Civil Liberties Union (ACLU) had expressed an opinion on the bill. Lieutenant Sell replied that she did not know if the ACLU had expressed an opinion the bill.

Senator Dunleavy asked what would happen to a child that sells an imitation drug to a friend in middle school or elementary school. Lieutenant Sell replied that there would be an examination of whether the child understands the implications of their actions. She shared that there were some cases of children in middle school that brought marijuana to school, but had not seen the imitation controlled substances in schools yet.

Senator Olson felt that the legislation may be a focus on "thought policing." He felt that there may be a person that would not necessarily be guilty, but be more innocent than presumed. Lieutenant replied that the intent of the bill is for known drug dealers who sometimes sold sham substances. She stressed that there was not an intent to determine the thought, rather than the tried and true test of the reasonable person. The two-prong approach would be the appearance of the drug and a representation.

Senator Olson felt that there could be an issue of objectivity of the officer over a person who was obviously not guilty.

[10:42:45 AM](#)

TRACEY WOLLENBERG, PUBLIC DEFENDER, DEPARTMENT OF ADMINISTRATION, ANCHORAGE (via teleconference), testified in response to some concerns from some committee members. She felt that the bill may capture conduct that was not intended to capture, especially pertaining to individuals who have an intent to deceive someone into thinking that the substance was an imitation controlled substance. The memo from legislative services (copy on file) discussed a hypothetical situation from the Morrow Case: When someone, without any intent to deceive, gives caffeine diet pills to someone indicating that the pills were as effective for weight loss as any prescription medicine. In the 1985 Court of Appeals case, Morrow versus State, both parties agreed that the statute would cover that hypothetical situation, even though it may not be the hypothetical situation that the drafters of the bill were intending to capture. She stressed that the hypothetical situation was repeated from the legislative memo. She stressed that the statute was written to capture situations where the recipient might reasonably believe that the substances was a controlled substance, but the distributor had no intent for the recipient to believe that it was a controlled substance. One way to correct the over-breadth problem would be to write an intent to deceive requirement or a requirement that the person intentionally misrepresented that the substance was a controlled substance. She felt this addition would narrow the statute to conform to the concern of law enforcement.

Senator Olson assumed that Ms. Wollenberg was not supportive of the legislation. Ms. Wollenberg replied that she has concerns with the bill as written.

Vice-Chair Fairclough wondered if Ms. Wollenberg had been referencing a memo from Legal Services from February 6, 2014. Ms. Wollenberg replied in the affirmative.

Vice-Chair Fairclough looked at page 1, paragraph 2, speaking to the grounds of vagueness and over breadth of the state statute. She wondered if Ms. Wollenberg was speaking to that paragraph. Ms. Wollenberg explained that the Morrow versus State case was the only case on the subject, and discussed the hypothetical situation in paragraph 3. She share that there was a challenge to the statute on vagueness and over breadth. That was resolved in the case by saying that the scope of the statute did not

need fixing, because the facts of the case showed a clear misrepresentation.

[10:48:12 AM](#)

Vice-Chair Fairclough looked at page 2 and the substantive due process and equal protection. She stated that the bill would eliminate the requirement that the imitation controlled substance contain a pharmaceutical active substance. A felony sentence might be challenged under the circumstances as sufficiently unfair, arbitrary, or disproportionate to the offence to constitute a violation to a right to due process. Ms. Wollenberg responded that under current statute, manufacturer delivery of an imitation controlled substance was a Class C felony. At the time that the legal memo was written those penalties had not yet been addressed, so there was some concern that the penalties for selling or manufacturing an imitation controlled substances were, in some cases, more severe than the corresponding penalties for distributing actual controlled substances like marijuana.

Co-Chair Meyer CLOSED public testimony.

[10:51:25 AM](#)

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW, responded to a question from Senator Dunleavy regarding children. She stated that juveniles who would be committing the conduct would not be committing crimes, rather they were possibly committing delinquent acts. She looked at the age differential, and stated that the three-year age difference was a common provision in law. She stressed that it was against the law for an adult to sell imitation substances under current law. She replied to a question from Senator Olson about thought policing. When a person is prosecuted for a crime, the state was the thought police, because culpable mental state must be determined.

Co-Chair Meyer wondered if there were concerns regarding whether legitimate substances could be made illegal under the legislation. Ms. Carpeneti responded that the bill made non-controlled substances illegal. She stressed that current law made it a crime to take a substance that was not a controlled substance by misrepresentation.

Co-Chair Meyer queried Ms. Carpeneti's view of the legislation. Ms. Carpeneti responded that it made sense to reduce the penalties for the crimes to make the penalties for the conduct similar to drunk driving. She understood the concern of law enforcement, but stressed that DOL did not have any specific concerns with the bill.

Co-Chair Meyer wondered if the legislation would make it a more serious crime than actual possession of a real controlled substance. Ms. Carpeneti responded that it was the intent of reducing the penalties, so they were not more serious than bad conduct with connection with controlled substances.

Co-Chair Meyer asked if there were any cases that were prosecuted under the current statute. Ms. Carpeneti stated that there were one or two convictions per year.

Senator Olson asked how many prosecutions were successful. Ms. Carpeneti responded that there were some that were referred to DOL, and accept prosecutions at a similar level. She shared that, depending on evidence, a theft charge may be implemented because it was part of the conduct through the sale of the sham drug.

[10:56:35 AM](#)

AT EASE

[10:57:47 AM](#)

RECONVENED

Co-Chair Meyer wondered if there was not an anticipation for more cases, if the fiscal note could be changed to zero. Ms. Carpeneti explained that the fiscal note was indeterminate, because the effect of removing the substances was unknown.

Co-Chair Meyer asked for Ms. Carpeneti to comment on Ms. Wollenberg's testimony. Ms. Carpeneti replied that she did not share the same concerns with Ms. Wollenberg regarding "culpable mental state." The Morrow case specifically provided that the statute should read, to avoid the vagueness and over breadth problem, that it was an intentional misrepresentation.

Vice-Chair Fairclough remarked that Ms. Wollenberg suggested adding legislation that had stronger "intent to

deceive" language. Ms. Carpeneti felt that the law as interpreted was adequate.

Senator Egan shared that the legislation would not affect many people in the state, but fixed a loophole in current statute.

Vice-Chair Fairclough MOVED to REPORT CSSB 66(JUD) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSSB 66(JUD) was REPORTED out of committee with a "do pass" recommendation and with previously published zero fiscal notes: FN1(ADM) and FN2(ADM); previously published indeterminate note: FN3(LAW); and new zero fiscal note from the Department of Corrections.

[11:02:42 AM](#)

AT EASE

[11:07:01 AM](#)

RECONVENED

#sb178

SENATE BILL NO. 178

"An Act relating to the application of the passenger vehicle rental tax; and providing for an effective date."

[11:08:07 AM](#)

Commissioner Bishop explained that SB 178 would provide clarification of the intent of the rental car tax. It would amend statute to make it clear that the rental vehicle tax would not apply to Alaska business making long-term rentals to other Alaska businesses.

[11:09:52 AM](#)

AT EASE

[11:10:15 AM](#)

RECONVENED

[11:10:31 AM](#)

Co-Chair Kelly MOVED to ADOPT the committee substitute CS SB 178(FIN), work draft 28-LS1406\Y (Strasbaugh, 3/28/14). There being NO OBJECTION, it was so ordered.

BRITTANY HUTCHISON, STAFF, SENATOR CLICK BISHOP, explained the changes to the CS. Section 1, page 1, line 4 was a housekeeping section, which consolidates a terms for passenger and recreational in order to better organize the statute. Section 2, page 1, line 10 reduces the term from 90 days to 28 days of which a rental vehicle is exempt from the tax. Therefore, a rental vehicle was exempt if it was 28 days or more and had a written contract. It also exempted an extension of the contract, as long as the extension took place before the 28 day period, with no break in the initial period and extension. This was intended to coincide with current rental company contracts, and because most visitors did it for less than 28 days. Section 3, page 2, line 6 consolidated the terms passenger and recreational, and the statute clearly stated that passenger vehicles were taxed at 10 percent of all costs and fees, and recreational vehicles were taxed at 3 percent of all costs and fees. Section 4, page 2, line 13 repeals AS 43.52, sections 30 and 40, because the consolidations in Sections 1 and 3 eliminated the requirement. The committee substitute from the Transportation Committee had two sections that had since been removed: a section decreasing the gross vehicle weight and the other dealt with further defining a passenger vehicle. She stated that the definition of a passenger vehicle was removed, because the department stated that it would be too difficult to implement. Currently in statute, vehicles currently over 8500 pounds were exempt from the tax. The purpose of the legislation was to clarify which rental vehicles would be covered by the tax. It was intended that only passenger rental cars as described in AS 43.52 should be taxed.

Co-Chair Meyer wondered if the letter of intent would follow the bill. Ms. Hutchison replied the letter of intent would not be attached to the bill.

JOHN MANLY, STAFF, SENATOR CLICK BISHOP, introduced himself.

SB 178 was HEARD and HELD in committee for further consideration.

#hb305

CS FOR HOUSE BILL NO. 305(FIN)

"An Act relating to the records of metal scrappers; repealing the requirement that a junk dealer or metal scrapper obtain a license; and providing for an effective date."

CSHB 305(FIN) was SCHEDULED but not HEARD.

#hb297

CS FOR HOUSE BILL NO. 297(FIN)

"An Act recognizing the Alaska Housing Finance Corporation as the authorizing agency to approve home energy rating systems for the state; and providing for an effective date."

CSHB 297(FIN) was SCHEDULED but not HEARD.

#

ADJOURNMENT

[11:16:40 AM](#)

The meeting was adjourned at 11:16 a.m.