

SENATE FINANCE COMMITTEE

March 3, 2015

9:01 a.m.

9:01:02 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:01 a.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Peter Micciche, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Erin Shine, Staff, Senator Anna MacKinnon; Mike Stedman, Owner, Alaska Seaplanes, Juneau; Craig Dahl, Executive Director, Juneau Chamber of Commerce, Juneau; Dan Corson, Operations Director, Wings Airways, Juneau; Jim Parise, Director of Fixed Income, Alaska Permanent Fund, Juneau; Stuart Cohen, Owner, Invisible World, Juneau; Tom Williams, Financial Officer, Ward Air, Juneau; Doug Gardner, Director, Legislative Legal Services; Hilary Martin, Attorney, Legislative Legal Services; Jordan Shilling, Staff, Senator John Coghill; Chuck Kopp, Staff, Senator Peter Micciche.

PRESENT VIA TELECONFERENCE

Lynn Willis, Self, Eagle River; Tom Laurent, Self, Petersburg; Paula Rak, Self, Wrangell; David Berg, Viking Travel, Petersburg; Marina Lindsey, Self, Juneau; Rick Currier, Self, Juneau; Dorothy Wilson, Self, Juneau; Patti Mackey, President and CEO, Ketchikan Visitors Bureau, Ketchikan; Posie Boggs, Self, Anchorage; Mary DeSmet, Self,

Juneau; Brett Carlson, Self, Coldfoot; Tom Mayor, Director, Division of General Services, Department of Administration, Juneau.

SUMMARY

SB 6 ELIMINATE DAYLIGHT SAVING TIME

CSSB 6 (FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (ADM).

SB 30 MARIJUANA REG; CONT. SUBST; CRIMES; DEFENSES

SB 30 was HEARD and HELD in committee for further consideration.

#sb6

SENATE BILL NO. 6

"An Act exempting the state from daylight saving time; and providing for an effective date."

9:01:46 AM

Vice-Chair Micciche MOVED to ADOPT the proposed committee substitute for SB 6, Work Draft 29-LS0111\N (Shutts, 3/2/15). Senator Dunleavy OBJECTED for discussion.

ERIN SHINE, STAFF, SENATOR ANNA MACKINNON, stated there were two new sections in the committee substitute. She looked at page 1, line 12, which added a requirement that the governor petition the U.S. Department of Transportation 21 days after the effective date of that section. She looked at page 2, line 11, which provided the immediate effective date for Section 2 for the petition. The effective date for Section 1, which was the elimination of daylight saving time remained January 1, 2017.

Senator Dunleavy wondered if the bill was intended to start a process for the U.S. Department of Transportation to examine the issue. The department could deny the change if they felt that it did not have a positive impact on commerce. Ms. Shine replied in the affirmative. She explained that the petition would not trigger the time zone change in Alaska.

Senator Dunleavy asserted that the department must find that the change had a positive impact on commerce. Ms. Shine responded in the affirmative.

Co-Chair MacKinnon queried the requirements that the department used to consider a time zone change. Ms. Shine referred to a document "Procedure for Moving and Area from One Time Zone to Another" (copy on file). The overarching substantial requirement would be to decide whether the change to a time zone was convenient for commerce.

Senator Dunleavy WITHDREW his OBJECTION. There being NO further OBJECTION, Work Draft 29-LS0111\N was ADOPTED.

MIKE STEDMAN, OWNER, ALASKA SEAPLANES, JUNEAU, testified against the legislation. He felt that the bill was did not benefit commerce. He stated that his company had several flights that operated late into the evenings, so losing an hour of daylight would affect those operations substantially. He stated that the five hour time difference from the east coast would be difficult for acquiring parts. He shared that he was also personally against the legislation, because it would affect evening recreation.

[9:07:09 AM](#)

Senator Olson wondered if there were conversations with the other extreme of the time zone in Alaska. Mr. Stedman replied that the other operators had similar concerns.

Senator Olson asked if those businesses were aligned with Mr. Stedman's perspective. Mr. Stedman replied in the affirmative.

Co-Chair MacKinnon shared that she had received a letter from a float plane operating company that was in support of the legislation, because they dealt with issues of fog in the early morning.

Senator Bishop asked for a timeframe of the most impacted evening flying. Mr. Stedman replied that the bill would negatively affect evening flying beginning in mid-July to mid-September.

CRAIG DAHL, EXECUTIVE DIRECTOR, JUNEAU CHAMBER OF COMMERCE, JUNEAU, spoke against the legislation. He shared that there was a survey conducted among the Chamber members, and over

25 percent of the members answered the survey. He stated that 74 percent of those responding were against SB 6. He furthered that 20 percent were in favor and 6 percent had no opinion. The comments fell into two groups: 1) the loss of one hour of daylight affecting tour operations; and 2) the differential in time change with the Alaska's adjacent market areas.

Co-Chair MacKinnon wondered if the members were informed about the other issues of why the bill was proposed. Mr. Dahl replied that the members were presented a straightforward yes or no answer option. The members were also provided a link to the Senate Finance Committee survey.

[9:12:23 AM](#)

DAN CORSON, OPERATIONS DIRECTOR, WINGS AIRWAYS, JUNEAU, spoke against the legislation. He echoed Mr. Stedman's comments. He shared that the bill would cause a 15 percent loss of business.

Senator Olson wondered if there was a concern from federal officials as to whether the bill would have enforcement action against pilots or the air taxi. Mr. Corson replied that he had not heard from the federal government about enforcement action.

Senator Olson stressed that he was concerned with flight standards of the federal government. He wondered if federal agencies had voiced an opinion on the bill. Mr. Corson replied that he had not heard from any federal agencies.

JIM PARISE, DIRECTOR FIXED INCOME, ALASKA PERMANENT FUND, JUNEAU, commented against the legislation. He stressed that they often recruited employees, based on a nice quality of life in Juneau. He remarked that pushing the beginning of the day to 4am, would cause many employees to get to bed around 7pm.

Vice-Chair Micciche wondered if Mr. Parise would be in support of two time zones in the state, as long as Juneau was only four hours from New York City. Mr. Parise was only commenting on the original bill.

Co-Chair MacKinnon explained that the current bill stated that there would be an elimination of daylight savings, so half of the year would be a four hour difference and half

of the year would be a five hour difference from New York City. The bill would petition the federal government to advance Alaska to Pacific Time.

Mr. Parise felt that the Pacific Time would be less troublesome, but there would still be some confusion as to what time to conduct business with New York.

[9:17:19 AM](#)

Vice-Chair Micciche surmised that a new time zone would see an improvement from four hours to three hours. Mr. Parise agree.

Co-Chair MacKinnon wondered if Mr. Parise was in opposition. Mr. Parise stated that he was entering comments.

LYNN WILLIS, SELF, EAGLE RIVER (via teleconference), testified in support of the legislation. He felt that the arguments supporting daylight saving time were not sufficient in forcing 700,000 Alaskans to observe the archaic law twice a year. He felt that the intent of the federal law authorizing daylight saving time was to save energy, and he felt that there was no testimony indicating a reduction of energy costs by observing daylight saving time.

Co-Chair MacKinnon apologized for not hearing Mr. Willis's testimony at the bills previous hearing.

TOM LAURENT, SELF, PETERSBURG (via teleconference), spoke against the original version of SB 6. He shared that moving Southeast Alaska to the Alaska Standard Time lost an hour of daylight during the summers. He was did not want to lose another hour of evening daylight.

[9:21:51 AM](#)

PAULA RAK, SELF, WRANGELL (via teleconference), testified against the original version legislation. She did not want to lose an hour of daylight in the evenings. She felt that an hour of daylight at 2am did not provide for a better quality of life.

STUART COHEN, OWNER, INVISIBLE WORLD, JUNEAU, spoke against the legislation. He stated that the legislation would

impact his business in a number of ways. He shared that the evening tourist business after dinner was approximately 10 percent of the sales for the year. He felt that removing the light may force cruise ship passengers to remain on the boat.

[9:26:17 AM](#)

TOM WILLIAMS, FINANCIAL OFFICER, WARD AIR, JUNEAU, testified against the legislation. He felt that the legislation would adversely impact his business and personal life. He felt that the initial drivers of the legislation included health and safety issues; and also the time zone issue. He felt that the original bill would have an adverse effect on the Southeast Alaska economy.

DAVID BERG, VIKING TRAVEL, PETERSBURG (via teleconference), spoke against the legislation. He felt that the health issues that some likened to daylight savings time would still occur at various times of the year. He felt that the visitors to Alaska would be confused by the different time zones.

[9:32:18 AM](#)

MARINA LINDSEY, SELF, JUNEAU (via teleconference), spoke against the legislation. She felt that eliminating daylight saving time would only further separate Alaska from the contiguous United States. She worked in an office that was based in Maryland, and hoped that she would not need to arrive to work earlier, should the legislation pass.

RICK CURRIER, SELF, JUNEAU (via teleconference), spoke in opposition to the legislation. He shared that he and his wife were each teachers, and saw a disruption in students. Even though he had experienced a negative disruption, he was against the legislation. He felt that Juneau was already in the wrong time zone.

DOROTHY WILSON, SELF, JUNEAU (via teleconference), felt that Southeast Alaska should not be a different time zone than the rest of the state. She shared that she conducted business throughout the state, and felt that splitting time zones in the state would have an adverse effect on her business and personal life.

[9:38:59 AM](#)

PATTI MACKEY, PRESIDENT AND CEO, KETCHIKAN VISITORS BUREAU, KETCHIKAN (via teleconference), spoke against the legislation. She relayed that some of the tourism businesses in Ketchikan would be negatively impacted by the loss of evening daylight. She remarked that some of the maritime vessel operations would also be negatively impacted. She focused her comments on the impact on the cruise ship industry.

POSIE BOGGS, SELF, ANCHORAGE (via teleconference), spoke against SB 6. She shared that there were 23 national health centers that were reflected in Alaska's health non-profits. She shared that she was a volunteer for literacy non-profits, and her colleagues were online late at night from the eastern part of the U.S. She felt that it would disrupt the health work, because it often took weeks to take phone meetings with researchers.

MARY DESMET, SELF, JUNEAU (via teleconference), spoke against the legislation. She stated that she had experienced all of the time zone changes in Alaska. She stressed that Alaska was a large state, so most of the impacts were related to Southeast Alaska. She felt that issue was extremely complicated. She urged the committee to examine the issue further, and she felt that the statistics in the polls did not reflect accurate data. She urged the committee to focus on other issues.

[9:46:12 AM](#)

BRETT CARLSON, SELF, COLDFOOT (via teleconference), testified against the legislation. He appreciated the efforts of the committee. He stressed that it started to get darker in the Arctic region beginning in August. He stated that it was important that there be sunlight for the flight seeing industry. He remarked that time zone change would eliminate the ability to operate the tours in the last quarter of the season.

Senator Olson stressed that safety was the paramount concern in the air travel industry. He wondered how the legislation would impact Mr. Carlson's safety operations. Mr. Carlson replied that he also operated an air taxi service. He stated that Alaskans tended to fly later in the evening. He stressed that the adjustment to early evening departure times in the late summer was in order to avoid

the darkness. He remarked that many rural aircrafts did not have sophisticated lighting and navigation systems.

Co-Chair MacKinnon CLOSED public testimony.

Co-Chair MacKinnon remarked that there was a zero fiscal note. She wondered if the committee substitute would require a change in the fiscal note.

[9:53:22 AM](#)

TOM MAYOR, DIRECTOR, DIVISION OF GENERAL SERVICES, DEPARTMENT OF ADMINISTRATION, JUNEAU (via teleconference), responded that the department did not anticipate a change to the fiscal note.

Vice-Chair Micciche MOVED to REPORT CS SB 6 (FIN) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

Senator Hoffman commented that he understood the impacts of the legislation on Southeast Alaska. He was a strong supporter of keeping the capital in Juneau. He shared that he represented western Alaska, and remarked that Dutch Harbor was closer to Tokyo than it was to Washington D.C. He stressed that there were many parts of the state that would see a great benefit to the legislation. He stated that every portion of the state of Alaska supported the legislation in the survey that was provided by the committee.

Co-Chair MacKinnon explained that there was a survey that Alaskans could take on the Senate Finance Committee website.

CSSB 6 (FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (ADM).

[9:57:37 AM](#)

AT EASE

[10:04:22 AM](#)

RECONVENED

#sb30

SENATE BILL NO. 30

"An Act relating to controlled substances; relating to marijuana; relating to driving motor vehicles when there is an open marijuana container; and providing for an effective date."

10:05:30 AM

DOUG GARDNER, DIRECTOR, LEGISLATIVE LEGAL SERVICES, introduced himself.

HILARY MARTIN, ATTORNEY, LEGISLATIVE LEGAL SERVICES, introduced herself.

Mr. Gardner shared that he would present an overview of the initiative. He understood that Vice-Chair Micciche had some experience with the bill and the issue. He shared that the goal of the presentation was to provide some working familiarity of the initiative.

Co-Chair Kelly wondered if the PowerPoint was drafted by legal services. Mr. Gardner replied in the affirmative.

Mr. Gardner discussed the PowerPoint presentation, "2014 General Election Ballot Measure No. 2" (copy on file). He announced the title of the initiative, "An Initiative to Tax and Regulate the Production, Sale, and Use of Marijuana."

Mr. Gardner slide 2, "Purpose and Findings":

- Allow law enforcement to focus on violent crimes and property crimes
- Enhance individual freedom
- Declare marijuana should be legal for persons 21 years of age or older
- In the interest of health and public safety, production and sale of marijuana should be regulated
 - Individuals show proof of age before purchasing
 - Legitimate taxpaying business people, and not criminal actors will conduct sales of marijuana

- Marijuana sold by regulated businesses will be labeled and subject to regulation to inform and protect consumers

- Does not intend to diminish the Alaska Supreme Court's holding in Ravin v. State

- Does not require any individual or entity to violate federal law, or exempt any individual or entity from federal law

Senator Dunleavy wondered how the initiative would align with federal enforcement. Mr. Gardner responded that the initiative did not align with federal law. He did not believe that the federal government would interfere with the operation of the law. He stated that there could be federal exposure in certain areas, such as federal lands.

Senator Dunleavy surmised that the approach was in violation of federal law. Mr. Gardner replied that the wording was in violation of federal law.

[10:10:51 AM](#)

Co-Chair MacKinnon shared that there would be a presentation from the Department of Law on the federal issues.

Vice-Chair Micciche felt that it was important to understand the issues with the federal law limitations that could possible collide with state law.

Mr. Gardner commented that the Department of Law would have the best insight on the federal law issues.

Mr. Gardner looked at slide 3, "Personal Use of Marijuana":

The following acts by persons 21 years of age or older are lawful

- Possessing, using, displaying, purchasing, transporting, growing or processing

- Marijuana accessories

- One ounce or less of marijuana

- No more than 6 marijuana plants (3 or fewer mature)
- Including marijuana produced by the plants on premises where plants are grown
- Transferring one ounce or less of marijuana and up to six immature plants to a person 21 or older without remuneration
- Consumption of marijuana (except in public)
- Assisting a person 21 years of age or older in the above

Mr. Gardner highlighted slide 4, "Restrictions on Personal Cultivation; Penalty":

- Personal cultivation is subject to
 - Plants not subject to public view without binoculars, aircraft, etc.
 - Secure plants from unauthorized access
 - Only on cultivator's property or with consent of person in lawful possession of property

[10:15:53 AM](#)

Mr. Gardner shared that the initiative provided a penalty of up to \$700 for violation of the provision.

Mr. Gardner looked at slide 5, "Public Consumption Banned":

Violation of up to \$100

Mr. Gardner addressed slide 6, "False Identification Penalty":

- Person under 21 years of age may not offer false identification to
 - Purchase marijuana or attempt to procure marijuana or marijuana products

- Gain access to a marijuana establishment

Mr. Gardner discussed slide 7, "Marijuana Accessories Authorized":

For persons 21 years of age or older

Mr. Gardner highlighted slide 8, "Lawful Operation of Marijuana-Related Facilities":

- A person 21 years of age or older with valid registration, may operate a retail marijuana store, marijuana cultivation facility, marijuana product manufacturing facility, or marijuana testing facility
- Lease or allow use of property for activities above
- Authorizes penalties for marijuana establishments that violate their registration/license
- Personal use provisions do not apply to marijuana establishments

Mr. Gardner looked at slide 9, "Marijuana Control Board":

At any time the legislature may create a marijuana control board in DCCED to assume the duties given to the ABC Board

Mr. Gardner highlighted slide 10, "Rulemaking":

Not later than 9 months after the effective date of the initiative, the board shall adopt regulations for marijuana establishments including procedures for licensing, application fees, etc.; qualifications for registration; security requirements; requirements to prevent sales to persons under21; labeling requirements; health and safety regulations reasonable restrictions on advertising; and civil penalties for failure to comply with regulations.

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Senator Hoffman queried the exact date of "not later than 9 months after the effective date of the initiative." Mr. Gardner deferred to Ms. Martin. Ms. Martin replied that it would be November 24, 2015.

10:20:50 AM

Mr. Gardner looked at slide 11, "Marijuana Establishment Registrations":

- Applications and renewal applications; board shall forward half of the registration fee to the local regulatory commission for the local government in which the establishment will operate.
- If local government has enacted a numerical limit on marijuana establishments, board will ask local government for input on location, etc.

Mr. Gardner discussed slide 12, "Local Control":

- Local governments may prohibit operation of marijuana establishments by an ordinance or voter initiative.
- Local governments may
 - Enact ordinances not in conflict with the initiative relating to time, place, and manner restrictions on marijuana establishments
 - Designate a local regulatory authority to review applications
 - Establish procedures for issuing or revoking a registration issued by a local government
 - Establish annual schedule of fees
- Local governments may issue permits directly to marijuana establishments if the board does not act on an application within 90 days or if the board does not adopt regulations within 9 months of the effective date of initiative.

Mr. Gardner addressed slide 13, "Employers, Driving, Minors, Property":

Initiative does not

- require an employer to permit use, etc.

- Alter DUI laws
- Permit transfer of marijuana to person under 21
- Prohibit a person or entity who owns or controls private property from prohibiting or regulating marijuana

Mr. Gardner addressed slide 14, "Medical Marijuana":

Not limited by the initiative

[10:25:51 AM](#)

Co-Chair MacKinnon shared that the current version of the bill was not actual decriminalization, but rather attempted to make marijuana products legal. She stressed that SB 30 did not have regulatory aspects of the initiative. She stated that SB 60 was related to the Marijuana Control Board. She stressed that SB 30 was strictly about the criminal portion of the initiative.

Vice-Chair Micciche wondered if SB 60 dealt with marijuana regulations.

Co-Chair MacKinnon announced that SB 60 dealt with the Marijuana Control Board, and SB 62 dealt with the marijuana regulations.

Senator Dunleavy queried the difference between "legalization" and "decriminalization." Mr. Gardner replied that the initiative was careful to create an allowable set of uses for marijuana. He felt the initiative could be looked at as a non-applicability section. He explained that the bill attempted to allow, and not make criminal penalties applicable to certain conduct. The bill allowed for use consistent with personal use, other than the establishments that sold into the market.

[10:30:06 AM](#)

Co-Chair MacKinnon shared that the Judiciary Committee originally approached the bill with an affirmative defense. The affirmative defense declared that there would not be a charge for possession of marijuana. The committee took the statute from the medical marijuana affirmative defense. The Judiciary Committee further examined how a citizen would

defend itself, therefore putting on the state the burden of proof. Mr. Gardner agreed that the state must prove that the person was guilty.

Co-Chair MacKinnon shared that the committee substitute would remove marijuana as a controlled substance, but still regulate the marijuana.

Senator Dunleavy heard that decriminalization allowed for the use of pot, and legalization allowed for an entire industry to regulate a business built around marijuana. Mr. Gardner shared that he did not fully understand the question.

Ms. Martin shared that removing penalties for the activities was one way to interpret the definition of "decriminalization."

Senator Dunleavy felt that the question of federal enforcement was important for Alaska.

Co-Chair Kelly commented that marijuana was illegal in Alaska, because it was against federal law.

[10:37:21 AM](#)

Senator Bishop stated that the U.S. Attorney General did not believe that marijuana should be legal.

Co-Chair MacKinnon shared that there would be a presentation from Department of Law regarding the federal ramifications of the legalization of marijuana in the state.

Vice-Chair Micciche understood that there was a discrepancy between the federal law and the state's rights.

Mr. Gardner understood the issue and furthered that there would be different locations that the law would need to adjust against.

JORDAN SHILLING, STAFF, SENATOR JOHN COGHILL, introduced himself.

CHUCK KOPP, STAFF, SENATOR PETER MICCICHE, introduced himself.

10:42:11 AM

Mr. Shilling shared that the legislature had examined ways to implement the ballot measure into statute. The ballot measure's goal was to legalize marijuana, but did not accomplish all of the necessary law adjustments. He stated that there were several different approaches to drafting the legislation. He stated that the affirmative defense approach was used in medical marijuana and murder statutes. There was some significant pushback to the affirmative defense, because there remained the possibility that one would need to defend themselves. There was also pushback to using the defense approach. The current approach removed marijuana from the controlled substance schedules. The removal caused the bill to grow from 9 pages to almost 100 pages. There were many conforming amendments that simply added the word, "marijuana." He shared that there were approximately 130 conforming sections in the current version of the bill.

Co-Chair MacKinnon asked for an explanation of a couple of the conforming changes in the bill.

Mr. Kopp looked at Section 1, which dealt with reckless operation of aircraft. The section stated that a person may not operate an aircraft occupied by a crew member or passenger who was obviously under the influence of intoxicated liquor or a controlled substance. He stated that "marijuana" was added to that description, because it was removed from the list of controlled substances. He shared that Section 2 dealt with possession, control, or consumption by persons under 21 years of age, and required the court, as a condition of probation, to prohibit the use of inhalants, controlled substances, and alcohol as a condition of probation. He explained that "marijuana" was added to that section. He further highlighted some sections that added the word, "marijuana."

Vice-Chair Micciche noted that Section 54 started with conforming amendments again. He wondered if the committee should examine Sections 44 through 54.

10:45:10 AM

AT EASE

10:45:25 AM

RECONVENED

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Co-Chair MacKinnon queried the committee members as to whether they wanted to go through the bill section by section.

Senator Olson felt that he wanted to go through the bill by section in order for his constituents to understand the legislation.

Senator Dunleavy asked if Mr. Kopp would repeat the section related to skiers. Mr. Kopp explained that the section would amend current law dealing with duties and responsibilities of skiers, prohibiting skiers from moving uphill on a tramway or using a ski slope or trail while impaired by alcohol or a controlled substance. He stated that marijuana was added to that list.

Senator Dunleavy surmised that snowboarders would be allowed to use marijuana. Mr. Kopp stated that snowboarders were included in the definition of "skiers."

Senator Olson asked why skiers are singled out rather than other recreational members of society. Mr. Kopp replied that the skiing section was included under the "Amusement and Sports" title. Skiing was considered a "hazardous sport", because of impact and collisions. It was an attempt to provide a safe environment for downhill recreation sports.

Senator Olson wondered why hunters were not included in that section. Mr. Kopp stated that hunters were included in the "Misconduct Involving Weapons" statutes.

Vice-Chair Micciche clarified for Senator Olson that the skier was more about safety on the moving tramway.

Co-Chair MacKinnon reiterated her question to ask if the committee would like to go through the bill. She stressed that the addition of the word "marijuana" did not change current law. It only put the word "marijuana" beside the word alcohol. Mr. Kopp agreed. He reiterated that marijuana had always been regulated as a controlled substance. The bill specified the word, "marijuana" outside of the definition of "controlled substance."

Co-Chair MacKinnon wondered if there was an additional law included in the new sections. Mr. Kopp replied that there were no new laws in the conforming amendments.

Senator Olson would like to understand the overall changes.

Co-Chair MacKinnon shared that Sections 1 through 40, 42, and 43 were conforming amendments. She looked at Section 44, which began the substantive information about the initiative.

Mr. Shilling stated that Section 44 was already highlighted by Mr. Gardner. He felt that the "meat of the bill" started with Section 50.

[10:50:36 AM](#)

Mr. Kopp agreed that Sections 44 through 49 were the initiative language. Section 51 began with local control.

Co-Chair MacKinnon asked how the Sectional Analysis was drafted.

Mr. Shilling looked at the Sectional Analysis for Version F (copy on file). He stated that the first page of the document was an overview, addressing the conforming amendments. There were three identifiers in the remaining Sectional Analysis, "conforming", "initiative", and "substantive."

Vice-Chair Micciche stressed that the public was interested in knowing that the initiative was covered in the legislation. He wondered how the initiative was included in the bill. Mr. Kopp replied that the initiative was covered in Section 44, beginning with "personal use of marijuana", referring to the all the provisions under which it was legal. He announced that Section 45 was initiative language that dealt with the lawful operation of marijuana related facilities, which pertained to retail marijuana stores. He explained that Section 46 dealt with marijuana cultivation facilities. He stated that Section 47 dealt with marijuana product manufacturing facilities. He explained that Section 48 dealt with the lawful operation of marijuana testing facilities. He shared that Section 49 explicitly stated it was lawful for a person to lease their property to someone engaging in the activities, and that they were not subject to seizure or forfeiture under Alaska laws.

Co-Chair MacKinnon wanted to look at Section 50, and continue with an overview of the bill.

Mr. Shilling looked at Section 50:

AS 17.38.090. Rulemaking.
Directs the marijuana control board to adopt a regulation that will prohibit a retail marijuana store from selling more than five grams of marijuana concentrate per day to a customer.

Mr. Shilling addressed Section 51:

AS 17.38.110(a). Local Control.
Allows for a local governments and established villages to prohibit the operation of marijuana cultivation, manufacturing, testing, or retail facilities through the act of an ordinance.

[10:55:10 AM](#)

Vice-Chair Micciche surmised that four ounces could be allowed in someone's home in a dry village. Mr. Shilling agreed. He stated that the section allowed for communities to ban the retail outlet, but not ban the personal possession limits in the initiative.

Senator Bishop looked at Section 50, and wondered if there was a provision limiting the amount of marijuana that could be purchased. Mr. Shilling replied in the negative. He believed that one could purchase an unlimited amount.

Senator Dunleavy wondered if there was any place that marijuana was not added to the list of alcohol and controlled substances in the legislation. Mr. Kopp replied that that there was an exception in Title 11. The criminal implications were removed for marijuana.

[10:56:49 AM](#)

Mr. Kopp highlighted Section 52.

AS 17.38.200. Misconduct involving marijuana in the first degree.

A person commits the crime of MIM in the 1st degree, which is a class A misdemeanor, if they do any of the following without a license:

- Possesses 25 or more marijuana plants.
- Manufactures more than six marijuana plants.
- Delivers or transports more than one ounce of usable marijuana or more than six marijuana plants.
- Gives any amount of marijuana to a person under 21.
- Manufactures a marijuana concentrate using a volatile or explosive gas.
- Delivers or transports one ounce or less of usable marijuana for remuneration.
- Delivers or transports up to six immature plants for remuneration;

A person with a registered marijuana establishment commits the crime of MIM in the 1st degree if they do not comply with the license requirements and knowingly:

- Possesses 25 or more marijuana plants.
- Manufactures more than six marijuana plants.
- Transports more than one ounce of usable marijuana or more than six marijuana plants.
- Delivers any amount of marijuana to a person under 21.
- Manufactures a marijuana concentrate using a volatile or explosive gas.

Senator Hoffman queried the penalty for providing alcohol to someone under the age of 21. Mr. Kopp replied that it would be a Class A misdemeanor.

Senator Dunleavy noted that a child could sit near a person while the person consumes alcohol. He remarked that a child may become under the influence of marijuana, if a person smokes marijuana near the child. He wondered if there were a law prohibiting that behavior. Mr. Kopp responded replied that the issue had not been regulated.

Senator Dunleavy stressed that the child would be inhaling second-hand marijuana smoke. He wondered if the issue of second-hand inhaling had been addressed. Mr. Kopp replied that it was not included in the bill.

Mr. Shilling shared that the marijuana may be included in the "endangerment to the child" crime. He deferred to the bill drafter for more information.

[11:00:57 AM](#)

Senator Dunleavy stressed that there may be an issue with someone under the age of 21 testing positive for marijuana, because they may be in a home with marijuana smoke. He wanted to know what may occur under that scenario. Mr. Kopp responded that there would be various circumstances that would eventually be addressed in the legislative process.

Senator Dunleavy stressed that it was a complex issue.

Co-Chair MacKinnon asked that the concern may be a part of the regulatory legislation.

Vice-Chair Micciche felt that the home consumption may be protected in the home. He agreed that a child would be in danger in that scenario.

Senator Dunleavy felt that the issue could be addressed under the ingestion section of the legislation.

Co-Chair MacKinnon agreed to address the issue at a later date.

[11:04:38 AM](#)

AT EASE

[11:05:40 AM](#)

RECONVENED

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Mr. Kopp shared that "reckless endangerment of a child" would cover a situation where a minor child were put at risk of harm.

Mr. Kopp continued to discuss Section 52:

A person with a registered marijuana establishment commits the crime of MIM in the 1st degree if they do the following with criminal negligence:

- Allows a person to deliver marijuana to a person under 21 who is not a medical marijuana patient 18 years of age or older.
- Allows a person under 21 years to enter and remain in the licensed premise who is not a medical marijuana patient 18 years of age or older.
- Allows a person under 21 years to use marijuana within the licensed premises.
- Allows a person under 21 to deliver marijuana.
- Delivers marijuana to a person under 21 who is not a medical marijuana patient 18 years of age or older.

Mr. Kopp looked at AS 17.38.210:

AS 17.38.210. Misconduct involving marijuana in the second degree.

A person commits the crime of MIM in the 2nd degree, which is a class B misdemeanor, if, at the time of the misconduct, the person:

- Is at least 21 years of age, is not a registered marijuana establishment and knowingly:

Possesses 6-25 marijuana plants or possesses; or
 Delivers more than one ounce of usable marijuana in a public place or possesses or delivers more than six marijuana plants.

- Is a registered marijuana establishment not in compliance with the registration requirements and knowingly:

Possesses 6-25 marijuana plants
 Delivers or sells any amount of marijuana

- Is not a registered marijuana establishment and knowingly sells any amount of marijuana.

Mr. Shilling highlighted AS 17.38.220:

AS 17.38.220. Misconduct involving marijuana in the third degree.

A person commits MIM in the 3rd degree, which is a violation, if they:

- Manufacture marijuana in a location where the plants are in public view, not secure from unauthorized access, or on property not in possession of the person or without consent of the property owner.
- Are under 21 and attempts to purchase marijuana with false identification, or otherwise misrepresents the person's age.
- Are under 18 and possesses, uses, or displays any amount of marijuana.
- This section does not apply to a person assisting enforcement.

[11:10:13 AM](#)

Mr. Shilling looked at AS.38.230:

AS 17.38.230. Misconduct involving marijuana in the fourth degree.

A person commits MIM in the 4th degree, which is a violation, if they:

- Are over 21 and use any amount of marijuana in a public place
- Are between 18-20 and use, display, or possess 1 ounce or less of marijuana.

Senator Dunleavy wondered if there was a provision that addressed a nuisance factor for a residence that was extremely close to another dwelling, and the smoke that may carry over to the neighbor's side. Mr. Shilling responded that there was nothing in the bill related to that issue. He continued that the Fairbanks Northstar Borough recently had an ordinance that attempted to define "nuisance."

Co-Chair MacKinnon queried the violations of the misconduct. Mr. Shilling replied that misconduct involving marijuana in the third degree was a fine of \$300. He furthered that misconduct involving marijuana in the fourth degree was a fine of \$100.

Senator Dunleavy wondered if the Department of Law would address how the fines and penalties relate to the federal law.

Co-Chair MacKinnon replied that she hoped that the Department of Law would address that issue at a later meeting.

Mr. Kopp looked at AS 17.38.240, 250, 260, and 270.

AS 17.38.240. Proof of registration to be exhibited on demand; penalty.

Requires a licensee to have a copy of their marijuana license at all times when transporting more than one ounce of marijuana, and shall present the license on demand by a peace officer.

AS 17.38.250. Bail forfeiture for certain offenses.

Requires the court to make a bail schedule allowing defendants to pay the fine for violations without a court appearance for MIM 3rd (AS 17.38.220) and MIM 4th (AS 17.38.230.)

AS 17.38.260. Restriction on prosecution for certain persons in connection with a significant adverse marijuana reaction.

A person may not be prosecuted for various marijuana misconduct crimes if that person seeks, in good faith, medical or law enforcement assistance for another person who is believed to be experiencing a significant adverse marijuana reaction and the person remains at the scene until assistance arrives and cooperates with medical or law enforcement personnel.

AS 17.38.270. Affirmative defense to a prosecution under AS 17.38.200 - AS 17.38.230; medical use of marijuana.

In a prosecution for certain MIM crimes, it is an affirmative defense that the defendant is a patient, or the primary caregiver for a patient, and:

- At the time of the alleged misconduct, the person is a medical marijuana cardholder.

- The alleged misconduct complies with requirements of AS 17.37 and the defendant is the primary or alternate caregiver.

[11:15:01 AM](#)

Mr. Kopp looked at AS 17.38.380:

AS 17.38.280. Court records of violations by minors confidential.

The court records of a MIM crime or violation are confidential if the person is under 18 years of age.

Mr. Shilling addressed AS 17.30.290:

AS 17.38.290. Local option.

An established village shall prohibit the operation of marijuana establishments if a majority of the voters in the election approve the ban. A ballot to adopt a local option must contain language substantially similar to the following: "Shall (name of village) adopt a local option to prohibit the operation of marijuana establishments? (yes or no)."

Senator Hoffman wondered if the boroughs or local communities had the authority to opt out. He queried the order, if the local government decided to opt in. He wondered if the community or borough had the authority. Mr. Shilling replied that initiative gave the municipalities the ability to opt-out through their city council or assembly. He furthered that the local option provisions addressed the parts of Alaska did not have a formal local government.

Senator Dunleavy asked what would occur in areas of the state that were in trust status, like Metlakatla. Mr. Shilling agreed to provide that information.

Senator Olson wondered if a borough could enact a law that prevailed over the municipality. Mr. Shilling replied that a borough could opt out of allowing a retail store in the borough.

Senator Olson asked if the borough's choice would have precedence over the local village. Mr. Shilling agreed to provide that information.

Senator Dunleavy agreed that he would like to know if the local option allowed for the borough to supersede the city choice. Mr. Kopp replied that the legislation gave local option authority to the established villages. He shared that 35 or more residences must sign a petition to put the option on the ballot.

Senator Hoffman wondered if the definition varied between the unorganized and organized communities in the state. Mr. Shilling replied that the definition of "established village" had statewide application.

[11:21:31 AM](#)

Mr. Shilling looked at AS 17.38.300:

AS 17.38.300. Removal of local option.

An established village shall remove a local option if a majority of the voters vote to remove the option. The option is repealed effective the first day of the month following certification of the election results. A ballot question to remove a local option must at least contain language similar to the following: "Shall (name of village) remove the local option currently in effect, that prohibits the operation of marijuana establishments, so that there is no longer any local option in effect? (yes or no)." When issuing a registration in an area that has removed a local option, the board shall give priority to an applicant who was formerly licensed.

AS 17.38.310. Effect of local option on registrations of prohibition of marijuana establishments.

If a local option is in effect, the board may not issue, renew, or transfer a registration for a marijuana establishment located within the perimeter of the village.

Vice-Chair Micciche felt that it may be necessary to save the conversation about the local option issue.

11:22:32 AM

Mr. Shilling looked at AS 17.38.320:

AS 17.38.320. Procedure for local option elections.
An election to adopt or remove a local option shall be conducted as follows:

- The lieutenant governor shall place on a separate ballot at a special election the content from a petition that received at least 35 percent of registered voters within the village.
- The election may not be conducted during the first 24 months after the local option was adopted or more than once in a 36-month period.
- Another petition may not be filed until after the question presented in the first petition has been voted on. Only one local option question may be presented in an election.

Mr. Shilling looked at AS 17.38.330:

AS 17.38.330. Establishment of perimeter of established village.

For purposes of the local option law, the perimeter of a village is a circle around the village that includes an area within a five-mile radius of the post office of the village, or a five-mile radius of another site selected by the local governing body, or the board, if the village doesn't have a local governing body. If the perimeter overlaps with another village's perimeter, and that other village has not adopted a local option, then the local option does not apply in the overlapping area.

Mr. Shilling highlighted AS 17.38.340:

AS 17.38.340. Notice of the results of a local option election.

If a majority of the voters approve or remove a local option, the lieutenant governor shall notify the board of the results immediately following the election, and the board shall immediately notify the Department of Law and the Department of Public Safety.

Vice-Chair Micciche remarked that the statute pointed toward "impairment." The statute formerly only said "alcohol", and it now also included "marijuana."

SB 30 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

[11:24:59 AM](#)

The meeting was adjourned at 11:24 a.m.