

SENATE FINANCE COMMITTEE

April 9, 2016

10:07 a.m.

[10:07:18 AM](#)

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 10:07 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Donny Olson

ALSO PRESENT

Emmie Van Wyhe, Staff, Senator Cathy Giessel; Jane Conway, Staff, Senator Cathy Giessel; Janey Hovenden, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development; Senator Mia Costello, Sponsor; Sorcha Hazelton, Intern, Senator Mia Costello; Alise Galvin, Self, Juneau; Eddie Grasser, Self, Juneau; Senator Bill Stoltze, Sponsor; Senator Johnny Ellis, Sponsor; Sarah Evans, Staff, Senator Johnny Ellis.

PRESENT VIA TELECONFERENCE

John Cotter, Chair, Board of Pharmacy, Fairbanks; Dirk White, Self, Sitka; Tara Ruffner, Alaska Pharmacists Association, Kenai; David Nees, Self, Anchorage; Rob Carter, Division of Agriculture; Ronda Marcy, Chief Executive Officer, Alaska Hemp Industries; Don Hart, Self, Wasilla; Jack Bennett, Self, Homer; Lacey Eshleman, Self,

Wasilla; Casey Eshleman, Self, Wasilla; Frank Turney, Self, Fairbanks; Guy Archibald, Inside Passage Water Keepers, Juneau; Raymond Sensmeier, Self, Yakutat; Rosemarie Hotch, Self, Anchorage; Rick Solie, Self, Fairbanks.

SUMMARY

SB 8 INDUSTRIAL HEMP PRODUCTION LICENSES

SB 8 was HEARD and HELD in committee for further consideration.

SB 163 NATL. RES. WATER NOMINATION/DESIGNATION

SB 163 was HEARD and HELD in committee for further consideration.

SB 200 MANDATORY PHYSICAL ACTIVITY IN SCHOOLS

SB 200 was HEARD and HELD in committee for further consideration.

SB 201 PHARMA BD & EMPLOYEES;DRUG DIST/MANUFAC

SB 201 was HEARD and HELD in committee for further consideration.

SJR 12 CONST. AM: ELECTED ATTORNEY GENERAL

SJR 12 was HEARD and HELD in committee for further consideration.

Co-Chair MacKinnon discussed the schedule.

#sb201

SENATE BILL NO. 201

"An Act relating to the Board of Pharmacy; relating to the licensing and inspection of certain facilities located outside the state; relating to drug supply chain security; and creating a position of executive administrator for the Board of Pharmacy."

10:08:34 AM

EMMIE VAN WYHE, STAFF, SENATOR CATHY GIESSEL, offered a sponsor statement (copy on file):

Passage of SB 201 will create a more secure drug supply chain by allowing for licensing and inspection of wholesale drug distributors outside of the state. Currently, Alaska is one of the few remaining states that does not license out-of-state wholesale drug distributors. With laws and regulations varying from state to state, licensing an out-of-state wholesale distributor can prove arduous. With this legislation, Alaska can take action to eliminate wholesalers looking for loopholes in the regulatory system and ensure that all out-of-state applicants seeking licensure comply with the same regulations as Alaska wholesalers.

This legislation is critical and necessary to bring Alaska into compliance with the Drug Quality Security Act (DQSA) and create a new license category for "Out-of-State Wholesale Drug Distributors. Currently, there is no authority by the Board of Pharmacy to regulate Out-of-State Wholesale Drug Distributors or third party logistic providers (3PLs). SB 201 would ensure safe delivery of controlled, non-counterfeit medications to Alaskans.

SB 201 would require that any out-of-state wholesale drug distributor or outsourcing facility follow specific guidelines including obtaining a license, authorizing inspection of the facility by a designee of the board, and appointing an agent before shipping, mailing or delivering prescription drugs to a licensee in the state or advertising in the state.

Additionally, this legislation allows the Board of Pharmacy to create a new position titled "Executive Administrator" to serve as a liaison to the legislative and executive branches of state government, the media, and other state pharmacy boards, as well as implement board statutes and regulations, and aid in managing current licensees.

[10:11:14 AM](#)

Co-Chair MacKinnon requested a sectional analysis.

JANE CONWAY, STAFF, SENATOR CATHY GIESSEL, addressed the sectional analysis (copy on file):

**Section 1:**

**AS 08.80.130(13):** Allows licensing and inspecting for out-of-state drug distributors and outsourcing facilities.

**AS 08.80.130(14):** Establishes qualifications and duties of executive administrator. Executive administrator is delegated authority in order to conduct board business.

**Section 2:**

**AS 08.80.03(c):** Specifications for facilities, equipment, personnel, and procedures for control of drugs

**Section 3:**

**AS 08.80.157(k):** Applies to wholesale drug distributors and outsourcing facilities outside the state under AS 08.80.159, regarding licensing.

**Section 4:** Amends AS 08.80 by adding a new section:

**Sec. 08.80.159:** Requires that a wholesale drug distributor or outsourcing facility have a license in Alaska before shipping, mailing, or delivering prescription drugs to a licensee in the state or before advertising in the state, an agent must be appointed in the state, and a designee of the board must authorize inspection of the facility.

An outsourcing facility, in addition, must comply with the Drug Quality and Security Act of 2013. The board may require an inspection of facilities located outside of the state, approve a designee to inspect. The board shall adopt regulations to implement this section.

**Section 5:** Amends AS 08.80 by adding new section to Article 2:

**Sec. 08.80.270:** Allows the Board to create an executive administrator position. Defines the role of the executive administrator.

**Section 6:**

**AS 08.80.480(37):** Defines "outsourcing facility"

[10:13:50 AM](#)

Co-Chair MacKinnon solicited questions on the intent of the legislation.

[10:14:01 AM](#)

Senator Bishop understood that the legislation was driven by the Drug Supply Chain Act of 2013.

Ms. Conway replied in the affirmative. She added that Alaska would be the final state to comply with the regulations.

Senator Bishop referred to section 2 of the bill, and wondered how much complying with the legislation would cost pharmacies in the state.

Ms. Conway replied that the legislation should not cost pharmacies in the state any funds. She explained that the bill solely pertained to the regulation of out-of-state wholesalers in order to protect pharmacies in Alaska from receiving counterfeit, or contaminated, drugs.

[10:16:04 AM](#)

Co-Chair MacKinnon OPENED public testimony.

[10:16:44 AM](#)

JOHN COTTER, CHAIR, BOARD OF PHARMACY, FAIRBANKS (via teleconference), testified in support of the bill. He noted that the major component of the bill was the licensure of wholesalers, which would insure the integrity of the drugs being sold within the state. He added that the Drug Quality Security Act (2013) had secured the pedigree of drugs, and the bill would ensure that out-of-state wholesalers were compliant to that end. He said that the hope was that any revenue from the bill would offset the cost of adding an executive administrator to manage the Board of Pharmacy and the growing complexity of board business.

[10:19:09 AM](#)

DIRK WHITE, SELF, SITKA (via teleconference), testified in support of the legislation. He echoed the testimony of the previous speaker. He believed the bill would bring the

state in to compliance with the Drug Quality Security Act. He restated that the bill was financially neutral to pharmacies in the state. He reiterated that the bill would protect the integrity of the pedigree of the drugs that are sold to the state.

[10:21:25 AM](#)

TARA RUFFNER, ALASKA PHARMACISTS ASSOCIATION, KENAI (via teleconference), testified in support of the bill. She believed that the legislation would make sure pharmaceuticals were tracked through the supply change in a transparent way.

[10:22:49 AM](#)

Co-Chair MacKinnon asked whether the outsourcing facility had to be in the United States, or would the tracking reach international borders.

Ms. Ruffner replied that she was not sure of the answer. She offered to get back to the committee with the information.

[10:23:18 AM](#)

Vice-Chair Micciche asked whether an Alaska resident could order pharmaceuticals from outside the state, and if so, would the bill cover internet suppliers.

Ms. Ruffner stated that anyone could go on the internet and order drugs, and doubted that they were regulated.

Vice-Chair Micciche hoped the sponsor would address the issue.

[10:24:02 AM](#)

Co-Chair MacKinnon CLOSED public testimony.

Co-Chair MacKinnon asked Ms. Conway to respond to the two previous questions regarding international and internet activity.

Ms. Conway stated that she would provide a response to those issues to the committee at a later date.

[10:25:09 AM](#)

Vice-Chair Micciche discussed the fiscal notes attached to the legislation (copy on file).

[10:26:04 AM](#)

Co-Chair MacKinnon queried the perspective of the Department of Commerce, Community and Economic Development on the estimation of receipts coming in to monitor the program.

[10:26:27 AM](#)

JANEY HOVENDEN, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, stated that the cost of the fiscal note was expected to be covered by new licensees.

SB 201 was HEARD and HELD in committee for further consideration.

[10:27:06 AM](#)

Co-Chair MacKinnon welcomed Co-Chair Kelly to the table.

#sb200

SENATE BILL NO. 200

"An Act relating to physical activity requirements for students in kindergarten through grade eight."

[10:27:22 AM](#)

SENATOR MIA COSTELLO, SPONSOR, offered a sponsor statement on the legislation:

Senate Bill 200 amends state law to ensure Alaskan students receive a minimum recommended amount of physical activity at school. Under the bill, school districts would provide at least 90% of the recommended exercise time for adolescents by the U.S. Center for Disease Control & Prevention (CDC). School districts would have the flexibility to meet this requirement, equating to 54

minutes, through physical education classes, recess, or a combination of activity types.

The amount of time students spend in school has grown over the years. Changes to the school day and curriculum have led to less time for students to participate in unstructured physical activity. Lack of exercise can have a detrimental effect on youth, and can cause obesity and other health concerns. This bill aims to ensure Alaskan students in kindergarten through eighth grade are involved in physical activity and have breaks from the classroom that allow youth to destress and improve their focus. Currently, slightly more than half of school districts in Alaska have a written policy for elementary and middle school recess. This bill will set a minimum standard to ensure students receive adequate opportunities for physical activity.

Breaks in the school day have been proven to aid information retention and focus. Unstructured physical activity, like recess, lets students process classroom lessons and allows for an education outside the classroom from their peers. A CDC report reviewed 50 peer-reviewed studies and documented links between physical activity and academic performance, including achievement, behavior, cognitive skills, and attitude. The American Association of Pediatrics has also found that recess, either indoor or outdoor, led to more attentive and productive students, in addition to learning on playgrounds from peers.

Ensuring adequate physical activity will allow Alaska's students the opportunity to learn from each other, to improve their academic performance, to fight childhood obesity through exercise, and to reduce the stress levels that have adverse effects on our children. This bill helps them grow into successful adults.

Representative Costello shared that she suffered from scoliosis as a child, which had prompted her to become a life-long swimmer. She stressed that the benefits of regular physical activity were numerous.

[10:30:31 AM](#)

SORCHA HAZELTON, INTERN, SENATOR MIA COSTELLA, stated that the legislation would ensure that Alaska's kids were physically active and mentally healthy, setting a balance of structured and unstructured time during the school day. She said that the bill would amend state law to ensure school districts provided a daily minimum of physical activity for kindergarten through 8th grade students. She stated that the state did not have a policy requiring or recommending recess or physical activity breaks at any grade level. She furthered that only half of Alaska's school districts had a written policy for elementary and middle school recess, and one-third of the school district policies for elementary schools did not meet the CDCs daily recommended amount of physical activity in a full school week. She stressed that physical activity had many benefits for students, such as: combating childhood obesity, improving academic performance, and fighting the rise of youth mental disorders.

[10:32:32 AM](#)

Ms. Hazelton relayed that physical activity allowed students to learn from their peers outside of a classroom. She lamented the growing issue of childhood obesity in the state and the associated medical healthcare costs. She said that 26 percent of Alaskan high school students were overweight or obese, while 36 percent of K-12 students were overweight or obese in the 2010-2011 school year. 40 percent of Alaskan 3 year-olds were either overweight or obese according to the 2014 Alaska Obesity Facts Report. She shared that the legislation would address the issue through a simple, daily activity. She noted that recess and P.E. had been cut in schools across the nation in order to implement more instructional time. She stressed that physical activity had been proven to improve focus and information retention. She noted that the American Academy of Pediatrics had found that children's brains processed information best if given a period of interruption after instruction; best served through unstructured breaks, rather than shifting subject matter. She expounded on the merits of recess and physical activity for children and young adults.

[10:36:09 AM](#)

Co-Chair MacKinnon referred to an inability to hold recess due to inclement weather. She wondered whether schools

would suffer repercussions for not getting students outside due to bad weather.

Ms. Hazelton stated that inclement weather was always a challenge. She asserted that many of the physical activities listed in the bill could be done indoors; the bill would not rule out in-classroom exercises. She added that many students did not mind playing outside in the rain.

[10:38:03 AM](#)

Senator Dunleavy commented on the issue of students being inappropriately dressed for outdoor recess. He acknowledged that appropriate dress for appropriate climate would need to be stressed.

[10:39:01 AM](#)

Co-Chair MacKinnon discussed the safety issue of ice on the playground. She thought that children could move indoors to a gym or auditorium for exercise, but noted that all schools in the state were not equip with those facilities.

[10:39:35 AM](#)

Co-Chair MacKinnon OPENED public testimony.

[10:40:04 AM](#)

ALISE GALVIN, SELF, JUNEAU, testified in strong support of the bill. She expressed that as a mother of four children she believed that all children needed more physical activity. She expressed concern with limited adult supervision during outdoor playtime, and training for those overseeing physical activities indoors.

[10:41:59 AM](#)

EDDIE GRASSER, SELF, JUNEAU, discussed the bill. He mentioned a program sponsored by the Department of Fish and Game called the National Archery in the Schools program, which he believed mirrored the goals discussed by the bill sponsor. He asserted that getting children active and outdoors was a positive thing.

[10:43:31 AM](#)

DAVID NEES, SELF, ANCHORAGE (via teleconference), offered some history of recess and physical education in public schools. He relayed that physical activity was important but worried about the cost of paying trained, licensed professionals to instruct children. He shared that poorly taught physical education could be detrimental to students. He stressed the need for clear language in the bill that recognized the difference between physical education and recess as ways for children to be physically active.

[10:46:59 AM](#)

Co-Chair MacKinnon asked whether he was advocating that the bill call for licensed professionals to administer physical education to students.

Mr. Nees thought that programs in the state's schools should be reviewed by a licensed professional to ensure that the curriculum was safe.

[10:47:44 AM](#)

Co-Chair MacKinnon CLOSED public testimony.

[10:48:07 AM](#)

Vice-Chair Micciche discussed the zero fiscal note.

SB 200 was HEARD and HELD in committee for further consideration.

#sjr12

SENATE JOINT RESOLUTION NO. 12

Proposing amendments to the Constitution of the State of Alaska relating to the office of attorney general.

[10:49:01 AM](#)

Co-Chair MacKinnon directed the committee's attention to SJR 12.

SENATOR BILL STOLTZE, SPONSOR, noted that the bill topic had come before the legislature many times in the past. He offered a sponsor statement:

The State of Alaska has grown from being a frontier state in 1959 to being a major player in the world's

oil and gas industry today. With economic growth, has come vast growth in population.

As the state looks to the future, and the challenges of emerging as a strong independent state, it is time to examine how the state selects its Attorney General.

Alaska is one of seven states that currently does not elect its Attorney General in a general election, by the people. In addition to Alaska, Hawaii, New Hampshire, New

Jersey and Wyoming leave selection of the Attorney General to an appointment by the governor. The Attorney General in Maine is elected by the Legislature and the Tennessee Supreme Court elects the Attorney general.

The people of Alaska would like to have an attorney general that is accountable to the people.

Voting for SJR 12 and passing it along to the voters will show Alaskans that we are willing to move forward and trust the people of Alaska to select an Attorney General who will vigorously represent the will of the people of our great state.

[10:55:43 AM](#)

Senator Dunleavy pointed out to the sponsor that the attorney general in Maine was appointed by the Legislature. He was curious whether Senator Stoltze had researched how that arrangement had worked for the state.

Senator Stoltze replied that he had not. He assumed that, anecdotally, the process was sometimes political and sometimes was not. He added that 43 states had direct election of the attorney general; 5 states had appointment by governor, Maine had election by Legislature, and Tennessee had a selection by the Supreme Court. He asserted that he did not believe in modeling Alaska's method by "how they do it on the outside."

[10:56:49 AM](#)

Co-Chair MacKinnon OPENED public testimony on SJR 12.  
Co-Chair MacKinnon CLOSED public testimony.

[10:57:21 AM](#)

Vice-Chair Micciche discussed the zero fiscal notes.

Co-Chair MacKinnon informed the committee that Legislative Affairs Agency would be informed that their zero fiscal note lacked backup documentation.

SJR 12 was HEARD and HELD in committee for further consideration.

[10:58:49 AM](#)

AT EASE

[10:59:34 AM](#)

RECONVENED

#sb8

SENATE BILL NO. 8

"An Act relating to the regulation and production of industrial hemp."

[11:00:10 AM](#)

SENATOR JOHNNY ELLIS, SPONSOR, voiced that the bill had growing support and no known opposition. He contended that the bill would give Alaskans the freedom to farm industrial hemp. He asserted that the state should not be hindered by the federal government in producing industrialized hemp, as it was not related to marijuana. He felt that the bill would help out Alaska farmers and take a stand against the federal government. He offered a brief history of industrialized hemp in the United States. He dubbed the bill a "freedom to farm" bill, which would unite lawmakers in bipartisan support. He revealed that it was not certain where in the state the product would grow, but insisted that Alaskan farmers wanted to make the attempt. He shared that the uses for industrialized hemp were numerous. He referred to support letters in member packets (copy on file).

[11:04:32 AM](#)

SARAH EVANS, STAFF, SENATOR JOHNNY ELLIS, discussed the sectional analysis of the bill (copy on file):

**Section 1** establishes a license procedure in the Department of Natural Resources (DNR) for production of industrial hemp, including planting, growing, harvesting, processing, possessing, selling, or buying industrial hemp. This section also requires the Commissioner of DNR to adopt regulations relating to industrial hemp.

**Section 2** creates an affirmative defense to a prosecution under AS 11.71.030 - 11.71.060 for the manufacture, delivery, possession, possession with intent to manufacture or deliver, or display of a schedule VI controlled substance if the person was licensed to produce industrial hemp and in compliance with the term of license.

**Section 3** authorizes the Department of Public Safety to conduct a national criminal history record check for licensure as an industrial hemp producer in AS 12.62.400.

**Section 4** states that a person who is licensed under sec.1 of the bill to produce industrial hemp is not required to be licensed as a marijuana establishment under AS 17.38.100.

[11:06:45 AM](#)

Co-Chair MacKinnon queried the difference between the intent of the bill, and that of the citizens' initiative, which would require a license for industrial operations related to cannabis.

Senator Ellis responded that there was an understood difference between the two crops. The cannabis crop had a much greater THC level than that of industrial hemp.

[11:07:49 AM](#)

Co-Chair MacKinnon OPENED public testimony.

[11:08:18 AM](#)

ROB CARTER, DIVISION OF AGRICULTURE (via teleconference), testified in support of the bill. He clarified that the CS would not have fiscal impact for the division.

Co-Chair MacKinnon rebutted that the fiscal not had been for \$160,000 the previous day. She whether the industrial hemp would need to be tested for THC levels.

Mr. Carter explained that as the CS was written, there were no requirements for the division to provide testing services.

Co-Chair MacKinnon wondered whether public safety or state troopers would be able to identify visually the difference between industrial hemp and marijuana.

Mr. Carter responded in the negative. He believed that the difference between marijuana and hemp would have to be left to the good faith of the producer.

11:10:18 AM

RONDA MARCY, CHIEF EXECUTIVE OFFICER, ALASKA HEMP INDUSTRIES (via teleconference), testified in support of the bill. She clarified that affirmative defense would shift the burden of testing onto the field producer. She relayed that the hemp would be tested numerous times, and that certified seeds, verified to be less than 3 percent THC, would be used. She offered an anecdote about industrialized hemp in Kentucky, and the benefits the plant had offered the state. She said that her company was ready to help farmers to produce products that ranged from insulation and concrete, to fish food. She expressed excitement about bringing the industry to Alaska.

11:12:40 AM

Senator Bishop asked about the use of hemp in concrete.

Ms. Marcy shared that there was a substance known as "hempcrete," which had been used to build the Roman aqueducts. She discussed the high value of hemp insulation. She explained that the hempcrete had a bit of a "give" to it, making it optimal for use in buildings in Alaska. She added that the high insulation factor of hemp would help to lower energy costs in the state.

11:14:24 AM

Co-Chair MacKinnon asked whether the recent initiative would legalize the opening hemp retail establishments.

Ms. Marcy replied that she had submitted an application for a license, but added that hemp sales and marijuana sales were separate issues. She had been legally advised that growing hemp was legal, provided the producer could prove that the product contained less than three percent THC. She asserted that she would strive to be in compliance with all regulations. She offered that the nutritional content of hemp was higher than alfalfa.

[11:16:34 AM](#)

DON HART, SELF, WASILLA (via teleconference), testified in support of the bill. He pointed out that the previous testifier was a bastion of information related to hemp and marijuana. He discussed the legalization of industrial hemp in Canada. He explained that at the present time, hemp was generating funds for Canada, which he thought would be good for Alaska. He discussed the hemp seed, which had nine grams of protein in three tablespoons; higher than salmon. He believed that industrialized hemp could bolster the Alaskan economy.

[11:19:17 AM](#)

JACK BENNETT, SELF, HOMER (via teleconference), testified in support of the bill. He discussed sustainable building, and had worked on building a tiny home model utilizing hemp products. He discussed heating in rural areas of the state, and highlighted the importance of energy efficiency and sustainability that could be provided with green building materials such as hemp products. He lauded the high geothermal mass of hempcrete. He discussed the waste produced with concrete production. He relayed that Mercedes Benz and BMW used hemp plastics in their car doors. He expounded on the many useful qualities of industrialized hemp.

[11:23:02 AM](#)

LACEY ESHLEMAN, SELF, WASILLA (via teleconference), testified in support of the bill. She had an extensive farming background, and acknowledged that challenges of farming in Alaska. She thought there would be benefits to farming hemp. She discussed her personal farming experience and history. She expressed excitement about the industrial applications of hemp. She possessed currently unused

farmland and was interested in growing hemp. She thought industrialized hemp would help to stimulate the economy.

[11:25:26 AM](#)

CASEY ESHLEMAN, SELF, WASILLA (via teleconference), testified in support of the bill. He was interested in industrialized hemp for the health and industrial benefits the plant would provide. He shared that agricultural benefits of the hemp plant included the rejuvenation of depleted soils. He relayed that, as a contractor, he was excited to use industrial hemp in his construction. He encouraged the passage of the legislation.

[11:27:21 AM](#)

FRANK TURNEY, SELF, FAIRBANKS (via teleconference), testified in support of the bill. He shared that he had been trying to educate his community on the benefits of industrial hemp, and the difference between it and smokeable cannabis, for two decades. He mentioned the Fairbanks Northstar Borough's resolution in support of the bill. He stated that hemp biomass was the fastest growing biomass on the planet. He discussed the products that could be made using hemp. He offered a brief explanation of cannabis and hemp. He directed the committee's attention to the website [www.hemp.com](http://www.hemp.com) as a source of information.

[11:30:46 AM](#)

Co-Chair MacKinnon CLOSED public testimony.

[11:31:04 AM](#)

Vice-Chair Micciche discussed the fiscal note.

Vice-Chair Micciche thought that the zero fiscal note would be defensible if the cost were shifted to the producer. He wondered why the sponsor had not considered the shift.

Senator Ellis explained that any hemp production in Alaska would require the importation of hemp seeds from elsewhere. He believed that the affirmative defense written into the bill that related to the producer using less than 3 percent THC seeds would be enough legal coverage for the farmer and the state. He said that he would accept any suggestions that the committee had to offer.

Vice-Chair Micciche thought that the bill could be more prescriptive.

SB 8 was HEARD and HELD in committee for further consideration.

#sb163

SENATE BILL NO. 163

"An Act relating to the nomination and designation of state water as outstanding national resource water; and providing for an effective date."

[11:34:18 AM](#)

Co-Chair MacKinnon OPENED public testimony.

[11:35:04 AM](#)

GUY ARCHIBALD, INSIDE PASSAGE WATER KEEPERS, JUNEAU (via teleconference), testified in opposition to the bill as written. He thought it should not be harder to the citizens of Alaska to protect clean water than it was for industry to pollute it. He pointed out that the Department of Environmental Conservation did not currently require baseline data on the receiving water, as part of the application for discharge. He furthered that the significant economic benefit analysis conducted by the department had no minimum economic benefit level. He thought there had to be waters in the state that were so critical to the communities that they could be designated without burdensome bureaucracy. He asserted that this issue was not one of land use, but of water quality. He argued that land owners did not retain the right to pollute the water. He added that it was the responsibility of the legislature and administrative agencies to protect clean water.

[11:37:21 AM](#)

RAYMOND SENSMEIER, SELF, YAKUTAT (via teleconference), testified in opposition to the bill as written. He read from a prepared letter (copy on file):

On August 26 the Yakutat Tlingit Tribal Council unanimously voted to seek Tier 3 Natural Resource Water Designation, The Yakutat Tlingit Tribal Council

represents Yakutat Tlingit Tribe (Petitioners) in nominating the Yakutat Forelands for ONRW status and protection under 18 AAC 70.015(a)(3). To qualify as a Tier 3, or ONRW water, one of two criteria must be met. The water must either be in a national or state park or wildlife refuge **or** be a water with exceptional recreational or ecological significance (Emphasis added). Under these criteria the Yakutat Forelands qualify as both an exceptional recreational area and as having special ecological significance. Additionally, these lands contain many historic, traditional, sacred and cultural sites vital to the Yakutat Tlingit Tribe. The area is currently under congressionally designated protection and within an inventoried Roadless Area.

Even though the State of Alaska has no nomination producers yet in place, the federal antidegradation policy provides guidance for Petitioners. ONRW designation offers special protection for waters of "exceptional ecological significance." These are water bodies that are important, unique, or sensitive ecologically, but whose water quality, as measures by the traditional parameters such as dissolved oxygen or pH. may not be particularly high or whose characteristics cannot be adequately described by these parameters (such as wetlands).

Guidance for developing implementation methods for antidegradation policies is provided through EPA's Regional Offices.

[This 9 page document, in its entirety, can be found on BASIS under the bill]

[11:43:36 AM](#)

ROSEMARIE HOTCH, SELF, ANCHORAGE (via teleconference), testified against the bill as written. She felt that the legislation was example of Alaska Natives being maligned in waste water issue discussions. He hoped that the legislature could move forward with legislation that supported protecting Alaska's waters.

[11:45:52 AM](#)

Co-Chair MacKinnon CLOSED public testimony.

Co-Chair MacKinnon discussed housekeeping.

[11:47:30 AM](#)

RICK SOLIE, Alaska Miners Association, FAIRBANKS (via teleconference), testified against the bill as written. He expressed that that the association had significant concerns with regard to AS 46.03.185, and believed that Sub section (a) should be removed from the bill. He hoped that the association could work with the committee to craft a bill that would address the situation and allow the administration to comply with EPA requirements.

[11:49:32 AM](#)

Co-Chair Kelly refuted previous testimony that the bill would make it harder for Alaskans to protect clean water than for corporations to pollute waters. He contended that corporations kept water clean and offered the Red Dog Mine as an example. He furthered that fishing improved in areas of mining because industry was required to put cleaner water back into watersheds than had been naturally existing.

SB 163 was HEARD and HELD in committee for further consideration.

[11:50:51 AM](#)

Co-Chair MacKinnon discussed housekeeping.

#

ADJOURNMENT

[11:51:35 AM](#)

The meeting was adjourned at 11:51 a.m.