

HOUSE FINANCE COMMITTEE  
April 11, 2018  
2:18 p.m.

2:18:24 PM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 2:18 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Les Gara, Vice-Chair  
Representative Jason Grenn  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Dan Ortiz  
Representative Lance Pruitt  
Representative Steve Thompson  
Representative Cathy Tilton  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Seth Whitten, Staff, Representative David Guttenberg; Senator Shelley Hughes, Sponsor; Jane Pierson, Staff, Representative Neal Foster; Sylvan Robb, Deputy Commissioner, Department of Administration; Rachel Hanke, Staff, Senator Peter Micciche; Senator Peter Micciche, Sponsor; Jeremy Price, State Director, Americans for Prosperity; Sara Chambers, Deputy Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development.

PRESENT VIA TELECONFERENCE

Richard Gazaway, Administrative Law Judge, Regulatory Commission of Alaska; Rylan Hanks, Director of Regulatory Policy, AMGEN, Los Angeles, CA; Richard Holt, Director, Board of Pharmacists, Anchorage; Marc Boas, Self,

Anchorage; Shaina Smith, U.S. Pain Foundation, Wasilla; Ashlyn Antonelli, Self, Anchorage; Terry McClelland, Self, Anchorage; Darae Crews, Darae's Salon and Spa, Anchorage; Gloria Bamberg-Merritt, Self, Anchorage; Kevin McKinley, Chair, Board of Hairdressers, Fairbanks.

SUMMARY

HB 306 PERS/TERS DISTRIBUTIONS

CSHB 306(FIN) was REPORTED out of committee with a "do pass" recommendation and with one zero fiscal note from the Department of Administration.

HB 339 INCREASE BASE STUDENT ALLOCATION

HB was SCHEDULED but not HEARD.

HB 384 REGULATORY COMM OF AK; BROADBAND INTERNET

HB 384 was REPORTED out of committee with four "do pass" recommendations, three "do not pass" recommendations, three "no recommendation" recommendations, and one "amend" recommendation; and with one previously published zero fiscal note: FN1 (CED).

CSSSSB 4 (FIN)

BARBERS/HAIRDRESSERS;CHEMICALS;BRAIDING

HCS CSSSSB 4(L&C) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN3 (DEC); and one previously published fiscal impact note: FN5 (CED).

SB 32 PRESCRIPTIONS FOR BIOLOGICAL PRODUCTS

HCS SB 32(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from the Department of Commerce, Community and Economic Development.

Co-Chair Foster reviewed the meeting agenda.

#hb384

HOUSE BILL NO. 384

"An Act relating to the Regulatory Commission of Alaska and broadband Internet regulations."

2:19:35 PM

REPRESENTATIVE DAVID GUTTENBERG, SPONSOR, introduced the legislation that would add four words to the Regulatory Commission of Alaska's (RCA) responsibilities: "including broadband internet access." He read a definition of telecommunications from AS.42.05.990(13) as follows:

(13) "telecommunications" means the transmission and reception of messages, impressions, pictures, and signals by means of electricity, electromagnetic waves, and any other kind of energy, force variations, or impulses whether conveyed by cable, wire, radiated through space, or transmitted through other media within a specified area or between designated points.

Representative Guttenberg shared that he had been on a quest to bring broadband to more Alaskan communities. He explained that the RCA was the proper authority to investigate the issue, but they believed the statute that granted its authority lacked clarity. He held that the statute clearly defined telecommunications as a public utility and gave the Regulatory Commission of Alaska the responsibility to regulate providers of telecommunications services. The legislation further clarified the RCA's responsibilities by specifically including 'broadband internet access' under the definition of telecommunications. He added that on page 2, lines 14 through 15 the definition of broadband was amended to read:

(14) "broadband Internet access" means high-speed Internet access that is always on and that is faster than traditional dial-up access.

2:23:06 PM

Co-Chair Foster noted that Representative Kawasaki had joined the meeting.

Representative Grenn spoke about a letter of opposition from the Alaska Communications (AC) (copy on file). He read from the letter:

Consequently, there can be no doubt that internet access is interstate in nature, and therefore subject to federal jurisdiction, not state jurisdiction.

Representative Grenn inquired how the bill aligned with the statement.

Representative Guttenberg answered that it "went right to the point." He voiced that he did not disagree with the statement. He delineated that in December 2017, the Federal Communications Commission (FCC) issued an order titled "Restoring Internet Freedom." The order rescinded "Net Neutrality" and appropriated the states' authority to regulate internet granting the authority solely to the federal government leaving the state very limited capacity to regulate broadband. However, there were actions that the state could engage in to help expand broadband service. He suggested that other states performed mapping and created an environment to invite more competition. The actions were not regulatory. The FCC had stated internet service was not a utility, so regulation was not possible. However, the Regulatory Commission of Alaska could still engage in activities that were in the state's best interest like. He indicated that 21 states were suing the FCC over the order. If they prevail and the order was reversed or modified the state would still not be able to ask the RCA to regulate broadband if the definition was not included in statute.

[2:26:08 PM](#)

Representative Wilson stated that the letter also raised the concern that the bill would change the definition of public utility. Representative Guttenberg disagreed with the statement. He explained that the bill simply included broadband access into the statute as a "definition of responsibilities." Representative Wilson asked if Representative Guttenberg was saying the AC letter was not justified. Representative Guttenberg agreed with the statement but restated that the FCC assumed the primary role of regulating broadband the prior December and if the bill was heard last session there would not have been a conflict. He reiterated that the state could still engage in actions that the FCC did not take on and other states

performed. He noted that 30 states were taking action that were not regulatory such as mapping, creating opportunities for competition, and creating opportunities for entities to "buildout" broadband. He agreed that the states could not regulate broadband.

[2:28:24 PM](#)

Representative Wilson noted that another argument in the letter was that the internet point for Alaska was Seattle. She asked whether the broadband carriers would be under Washington or Alaska law. Representative Guttenberg replied that point to point inside of Alaska was considered interstate. He commented that he was not talking about regulating interstate or intrastate because the state did not have a role in regulation anymore. He stated that by clearly identifying that broadband was under the RCAs purview the Regulatory Commission of Alaska could put programs in place for the private sector to understand the state's needs or mapping to inform consumers what providers were available. He stated that "there was a whole slew of things that other states had done." Alaska "could do things for its citizens" that were not regulatory in nature to help expand broadband. Representative Wilson remained confused. She commented that the letter insinuated that the bill could place obstacles in the way of his goal of expanding broadband service, which she knew was not the sponsor's intent. She wondered what the Regulatory Commission of Alaska and private entities could do that they could not accomplish without the bill. Representative Guttenberg answered that if the private companies were building out broadband services to urban and rural areas in Alaska he would not be sponsoring the bill. The RCA could perform mapping that charted the carriers service throughout the state. Current FCC mapping was inefficient and inaccurate. The RCA could also create opportunities for grants and subsidies to build out broadband. However, if broadband was expanded the RCA was prohibited from regulating fees - the FCC claimed jurisdiction of that role.

[2:33:01 PM](#)

Representative Wilson understood the regulatory issues. She asked whether the bill allowed the Regulatory Commission of Alaska to promote competition, award grants, and do mapping. Representative Guttenberg replied the RCA was

hesitant about saying what actions they might take if the bill was adopted. He looked at what other states had done outside of a regulatory role. The Regulatory Commission of Alaska would have to go through a regulatory type process with the industry, state, and public to decide what non-regulatory actions to participate in. Representative Wilson wanted to hear the perspective of the RCA.

Representative Grenn asked to hear more about the effects of adding the four words and wondered what the RCA would be regulating. He referenced a memorandum from Legislative Legal Services dated February 18, 2018 (copy on file) and read the following:

The bill draft clarifies that regulatory power of the RCA to include broadband Internet; the Regulatory Commission of Alaska will still not be able to regulate any area that is preempted by federal law.

Representative Guttenberg answered the RCA would not be regulating anything. Representative Grenn asked for more detail on what the additional words would able them to do. Representative Guttenberg responded that Legislative Legal Services had determined that the Regulatory Commission of Alaska currently had adequate statutory authority to regulate broadband if that was still allowable. He expressed frustration that the RCA had previously declined to take on the authority. He listed examples of action the other states could do outside a regulatory purview. He reported that the state of Kansas ensured that underserved areas were built out and required broadband service providers to show where broadband was and was not available. He related that his office received many constituents' calls requesting information regarding providers, coverage areas, service, and fees. He detailed that the FCC performed mapping using census blocks and there may be three blocks for an entire community, but service might only cover one partial block. However, the map depicted that the entire area received highspeed internet. In addition, other states set up grants to assist in building out the infrastructure to promote broadband across the state.

[2:38:33 PM](#)

Representative Thompson remarked on the complexity of the issue and the letters of opposition. He asked to hear more

about the bill. He did not know that he was ready to take any action on the bill at present. Representative Guttenberg believed that the Regulatory Commission of Alaska had the authority to take an active role in broadband service in Alaska. However, the Regulatory Commission of Alaska was hesitant to do so due to their interpretation of statute they perceived lacked clarity. He maintained that no one in the state, including the Department of Administration (DOA) who administered state government broadband, had authority over broadband or taken on a study of the state's need. The bill merely clarified that the responsibility for broadband was in the RCAs purview. He wanted the RCA to act on their authority.

Co-Chair Foster noted that Representative Pruitt had joined the meeting.

Representative Thompson cited the letter and referred to the following statement:

"The RCA regulation of broadband internet may raise federal preemption concerns."

Representative Thompson asked for an explanation. Representative Guttenberg replied that the preemption was referring to the FCC's action in removing the states authority to regulate broadband.

SETH WHITTEN, STAFF, REPRESENTATIVE DAVID GUTTENBERG, relayed that part of the confusion was the shifting landscape. He detailed that if it was prior to the FCC's order, broadband would still be considered by the FCC as a public utility and the discussion would not be taking place. Prior to the FCC's order the bill would have updated the statute to conform to the way broadband was categorized by the FCC; as a public utility. However, the landscape had shifted due to the order, therefore the four words in the bill enabled the RCA to do anything that was not preempted by the federal government. Therefore, currently the RCA could collect network information. The order disallowed imposition of requirements or regulations, setting rates, terms or conditions on the offering of broadband services.

[2:42:03 PM](#)

Co-Chair Seaton pointed to the note at the bottom of the memorandum (page 1) from Legislative Legal Services and

thought it answered many of the questions. He read from the page:

AS.42.05.990(13) "telecommunications" means the transmission and reception of messages, impressions, pictures, and signals by means of electricity, electromagnetic waves, and any other kind of energy, force variations, or impulses whether conveyed by cable, wire, radiated through space, or transmitted through other media within a specified area or between designated points." It is my understanding that this definition includes broadband Internet services.

Co-Chair Seaton noted that the attorney believed that the definition included broadband internet services. He continued that the RCA could not regulate the net neutrality portion any longer, but broadband access could be pursued. He referred to page 1, line 11 and read:

(B) furnishing telecommunications service, ...

Co-Chair Seaton maintained that for some reason the Regulatory Commission of Alaska had a different interpretation of the statute than legal services. Therefore, by merely clarifying the definition that the statute did included broadband internet access did not mean the bill violated any federal regulations. The bill currently included taking any actions that were left in the state's purview. He was puzzled why some members questioned the bill when it merely clarified the definition, so the RCA felt more comfortable assuming responsibility for internet services. He reiterated that the legislative attorney's assured members that the authority already existed in the current definition. He asked Representative Guttenberg if his assessment was correct. Representative Guttenberg replied in the affirmative. He added that by assuming responsibility the Regulatory Commission of Alaska would open a docket (process) to determine what actions were in the best interest of the state. The bill called on the RCA to consider acting.

[2:45:34 PM](#)

Representative Tilton asked if the sponsor foresaw any costs to the RCA, state, and ultimately end users. Representative Guttenberg replied that he was an example of an end user and he would love to pay for improved broadband

services and internet access. He shared that he had lived in the same home for 41 years and he recalled when power had been brought to the neighborhood; he had been happy to pay \$1,000 for the service. He noted that the RCA implemented charges for developing regulations but would not be regulating so he was uncertain how its costs would be covered. He wanted the state to build out broadband for its citizens and considered access a significant service that builds infrastructure into the state that moved it into the 21st Century. He compared internet access to the development of the national electrical grid in the 1930's or the highway system in the 1950's. He emphasized his desire for enhanced broadband services in the state.

[2:48:29 PM](#)

Representative Kawasaki thanked Representative Guttenberg for the legislation. He referenced Representative Guttenberg's opening statement that the RCA already had the authority to regulate broadband and asked for comment. Representative Guttenberg interpreted the statute to mean that it covered all forms of telecommunications, even types that had not been invented yet. He stated that it was not clear enough for the commission. The bill further clarified statute. Representative Kawasaki referenced backup in members' packets related to locations where broadband was regulated [Broadband Statutes National Conference of State Legislatures] (copy on file). He asked what those states were doing to comply with or adjust to the FCC ruling. Representative Guttenberg replied that 30 states were attempting to reorganize broadband as an industry or a utility and 21 states were suing the FCC over the Restoring Internet Freedom order. He noted that he had a document that listed what states were doing since the ruling.

Mr. Whitten interjected that the regulatory function had always been in question. There had been a period where broadband was classified as a public utility under the FCC. He delineated that typically states focused on incentivizing broadband through grant programs rather than on regulation. The one area where states had the ability to gather information was in the network information that was used for mapping. The RCA compiled information on broadband coverage for a legislative report over the prior year and found there were entities that believed they lacked the authority to request coverage data. The bill clearly allowed entities to request information that was not

preempted by the federal government. He discovered the recent "Competitive Emerging Communications Technologies Act" in Georgia that granted the state authority consistent with the FCC ruling and acknowledged that the state did not maintain the authority to regulate rates and set terms and conditions on services. However, the act contained a provision that stated the state would assume the authority if the FCC ruling was reversed. He commented that states had to exist in the constantly shifting landscape about whether broadband was considered a utility. Other states were trying to occupy the middle ground.

[2:53:55 PM](#)

Representative Guttenberg referenced the document from the NCSL in members' packets and pointed to Mississippi and read the description of the state's provisions regarding broadband as an example of actions state could take:

Declares Mississippi's policy is to provide incentives for "telecommunications enterprises" to invest in the infrastructure needed to provide broadband technology throughout the state to keep Mississippi competitive and to promote economic development within the state.

Extends the sales tax exemption on sales of equipment to telecommunications enterprises that is used in the deployment of broadband technologies. Extends the ad valorem tax exemption for equipment used in the deployment of broadband technologies by telecommunications enterprises.

Representative Guttenberg expounded that the document related what other states were doing. The states were creating opportunities for industry to develop broadband. Currently, what measures the RCA would take were unknown. Representative Kawasaki did not see the problem with the legislation impacting the FCC ruling and assumed the RCA would work within the ruling. Representative Guttenberg answered in the affirmative. He pointed to California and read one of the measures the state adopted:

Regulates fiber optic cables and broadband placement on state highways.

Representative Guttenberg had requested that every time the Department of Transportation and Public Facilities (DOT)

had to repair or build a road they lay empty conduit for any future broadband capacity. He reported that the Ambler Road project was planning on adopting the strategy. He declared that the state had a "broadband deployment problem." He noted that the fiscal note from the RCA was zero. Representative Kawasaki referenced the letters of opposition in members' packets. He cited the legislation and referred to the words "broadband internet access" [page 1, line 11] included in the definition of public utility and thought the opposition was related to the wording in the bill.

[2:59:02 PM](#)

Mr. Whitten replied that under the FCC order currently broadband was not considered a public utility. The question was whether states would change statutes every time the federal government changed its categorization of broadband or created statutes that recognized the issue and provided flexibility and authority to operate within the limitations.

Vice-Chair Gara stated that the line pertaining to what could and could not be regulated would continue to change. He stated that the bill would allow the RCA to regulate broadband within the confines of the FCC rulings. He believed that opposition letters from industry were inconsistent. He interpreted the bill to mean that the state would regulate broadband only as far as the court and federal government allowed. The line would move in the future. In urban and rural Alaska there was a long list of grievances among consumers that needed attention. He thought the bill would enable redress for at least, some of the grievances. He expressed the frustration caused by poor, costly internet service. He emphasized with rural residents who experienced high cost inadequate internet service. He supported the bill.

[3:02:32 PM](#)

Representative Wilson was trying to understand what the bill would enable the RCA to do that it could not currently do. She was concerned about how the commission would promote competition, distribute grant funding, and how mapping would work.

RICHARD GAZAWAY, ADMINISTRATIVE LAW JUDGE, REGULATORY COMMISSION OF ALASKA (via teleconference), believed the question had been answered by Mr. Whitten. He elaborated that when the commission was tasked by the legislature with publishing a broadband report the commission attempted to request network mapping information. Some service entities took the position that the RCA lacked the authority due to jurisdictional limitations to request the information. He assumed that was the reason the sponsor introduced the bill. He believed that the authority was supported and not preempted by federal law. The commission would have authority that was not preempted but was currently "very limited."

Representative Wilson asked whether he thought that the bill would force private companies to release the information. Mr. Gazaway answered in the negative. He elaborated that the issue was a source of controversy between the commission and the industry. The commission did not force the issue and he maintained a neutral position. Representative Wilson restated the question. She inquired if the bill would give the RCA authority to force other companies to provide information for mapping. Mr. Gazaway replied that the clarification in the statutory definition would grant the RCA "strong support for the authority to do so." Representative Wilson wondered about proprietary information that companies did not want to provide and how the commission would respond to the situation. Mr. Gazaway was uncertain how the commissioners would respond.

[3:06:44 PM](#)

Representative Wilson asked if the RCA distributed grants and how it promoted competition. Mr. Gazaway replied with a historical example. He communicated that the commission previously handled a broadband grant. The grant funding was a federal farm bill earmark for rural Alaska to obtain broadband internet access. The commission and Department of Commerce, Community and Economic Development (DCCED) were the grant administrators. The commission was able to impose requirements on service levels, speeds, rates, and other conditions for the life of the grant. He related that other states had received multiple grants or used general fund money for broadband support. He noted the existence of the Alaska Universal Service Fund that was used to support telecommunications carriers in Alaska.

Co-Chair Foster OPENED and CLOSED public testimony.

3:09:30 PM

AT EASE

3:10:02 PM

RECONVENED

Co-Chair Foster did not recall that anyone had signed in to testify during the morning meeting when the bill had been originally scheduled.

Vice-Chair Gara read the zero fiscal note from the Department of Commerce, Community and Economic Development appropriated to the RCA.

Representative Wilson referenced analysis on page 2 of the fiscal note and read:

The Regulatory Commission of Alaska (RCA) would be required to certificate or implement through regulation a registration process for Internet service providers operating in Alaska.

Representative Wilson was concerned about requiring certificates for internet providers and reported that had not been her understanding of the bill. Representative Guttenberg answered that the fiscal note showed that the RCA did not anticipate any fiscal impact.

Mr. Gazaway replied that a public utility was required to comply to a registration or certification process. The registration process was required for carriers that provided service. The certification process was more extensive, and he thought that a certification was not possible to issue related to the net neutrality order and market barriers. He indicated that a registration process was more likely. The commission had statutory authority to allow registration instead of certification. Representative Wilson asked whether the RCA would obtain the information as part of the application for a required certification process. Mr. Gazaway answered that other states obtained a list of providers to provide a service list for consumers. He assumed that was the intent of the bill's sponsor. He added that if there was a desire for mapping information on network availability the inquiry would be issued to the providers listed on the registration information.

3:14:00 PM

Representative Wilson did not care what other states did. She was trying to determine whether it was the commission's intent to require a registration process. Mr. Gazaway answered that there was no intent. The commission determined what would be required under its statutory framework if the bill was adopted, which was to develop some type of registration process and what that involved was decided on by the commissioners. The simplified process was the registration process.

3:15:14 PM

AT EASE

3:16:20 PM

RECONVENED

Representative Wilson wondered whether the language in the fiscal note was binding. She suggested using the word "might" to avoid requiring registration.

Representative Guttenberg answered that the bill was a blank page; there were no regulations in place and there were no regulations defining a process. The commission would engage in a public process before establishing any regulations. Representative Wilson stated that the fiscal note had been approved by Stephen McAlpine the chair of the RCA and approved by Catherine Reardon, Director, Division of Administrative Services, DCCED. Her concern was the language in the fiscal note reflected the commission's analysis of the bill. She surmised that the commission would be required to implement a registration process. She wanted a definitive answer.

Vice-Chair Gara stated that the fiscal note was simple, and he believed the requirement was "a molehill and not a mountain." He voiced that registration was a simple process and nothing in the bill was controversial. He added that the state did not preempt the federal government

3:20:20 PM

Co-Chair Foster voiced that at some point the members would have to agree to disagree.

Mr. Gazaway answered that a public utility was required to obtain operating authority via statute. The registration process was more informational and informal. The commission would determine what process was more relevant according to statute.

Co-Chair Seaton remarked that the bill was merely a clarification of subsection (b) in statute. He pointed out that if there was already an established registration process for telecommunication services than broadband was a subsection of telecommunication services. He did not believe that anything new was being established and referred to the legal opinion.

Representative Wilson believed no one spoke of a certification process during the mapping discussions.

Representative Pruitt declared that the bill was invalid. He referred to the legal memo and read:

"...under the Supremacy Clause of the federal constitution, state laws that interfere with federal laws are invalid."

Representative Pruitt deduced that it clearly stated that the federal government prohibited regulation beyond the authority allowed and was baffled why the committee engaged in "fruitless conversation" and would move forward with a bill that did nothing.

[3:24:03 PM](#)

Vice-Chair Gara believed that Representative Pruitt's characterization of the bill was unfair. He referred to the NCSL report and ascertained that the bill did what the state of Alabama mandated; regulate the internet to the extent permitted by federal law.

Representative Pruitt read from AC's opposition letter as follows:

As early as 1998 the FCC concluded that applying common carrier or "telecommunications service" regulation to BIAS would "seriously curtail" the regulatory freedom deemed necessary to the development of "enhanced services," as information services formerly were known.

Representative Pruitt contended that creating a heavily regulated environment would achieve the goal of limiting expanded broadband services especially in rural areas of the state. He believed that regulations would curtail broadband expansion and emphasized his opposition.

Representative Guttenberg provided a counter argument. He suggested that Representative Pruitt read the report included in the FCC's Restoring Internet Freedom Order from Commissioner Pai, Chairman of the FCC who stated that \$1.3 billion would be wasted for not building out the internet consistently. He reiterated that more could be done to accomplish expanded broadband. He voiced that the bill was not preempting federal law. Other states had demonstrated that opportunities to create incentives and remove barriers to expand broadband existed. He stressed that the problem in Alaska was severe. He reiterated the problems with internet service in the state. He hoped the RCA would help improve internet access for Alaskans with passage of the bill.

[3:30:23 PM](#)

Co-Chair Seaton MOVED to REPORT HB 384 out of committee with individual recommendations and the accompanying fiscal note.

Representative Wilson OBJECTED. She elaborated on her objection. She stated that the government did not provide internet services, private industry did. She believed building new infrastructure was costly for private industry. She understood the frustration regarding poor internet service but was not willing to tell private companies how or where to do business. She believed the bill would place private business inside a regulatory framework.

Representative Pruitt contended that he did not know of any industry that grew through regulation. He opposed the legislation.

Representative Wilson MAINTAINED her OBJECTION.  
A roll call vote was taken on the motion.

IN FAVOR: Kawasaki, Ortiz, Gara, Guttenberg, Seaton, Foster  
OPPOSED: Pruitt, Thompson, Tilton, Wilson, Grenn

The MOTION PASSED (6/5). There being NO OBJECTION, it was so ordered.

HB 384 was REPORTED out of committee with four "do pass" recommendations, three "do not pass" recommendations, three "no recommendation" recommendations, and one "amend" recommendation; and with one previously published zero fiscal note: FN1 (CED).

[3:34:29 PM](#)

AT EASE

[3:35:19 PM](#)

RECONVENED

#sb32

SENATE BILL NO. 32

"An Act relating to biological products; relating to the practice of pharmacy; relating to the Board of Pharmacy; and providing for an effective date."

Co-Chair Foster relayed that SB 32 was last heard in committee on May 3, 2017.

[3:36:12 PM](#)

SENATOR SHELLEY HUGHES, SPONSOR, provided a review of the legislation. She reported that since the bill was last heard the Alaska Board of Pharmacy decided to support the bill and that 41 states adopted similar legislation; an increase from 33 in 2017. She detailed that a biologic was made from a living cell and had a complex molecular structure. The drugs were the fastest growing type of "therapeutic products." Approximately three dozen biologic medicines were used to treat serious and chronic diseases for thousands of Alaskans. Additionally, a generic drug could be substituted by a pharmacist because it contained "identical chemical recipe." Biological products differ from traditional generics and were not able to replicate exactly due to its complex compounds therefore generic biologic medicines were not identical and were considered "biosimilar." The federal Food and Drug Administration (FDA) developed a "gold standard" or criteria for biosimilar products and labeled them "interchangeables." An interchangeable biosimilar was highly similar to the original biologic and had been found to produce similar

clinical results. The bill would update current laws to allow a pharmacist to substitute interchangeable biosimilars for prescribed brand-name biologics that were approved by the FDA but maintained the prescribers control by authorizing them to specify whether a substitution was allowable. Patient consent was also required before any substitution was made. The chemical results would be the same. The legislation required that within three days after dispensing, the pharmacist must communicate to the physician the specific biologic product dispensed.

[3:40:38 PM](#)

Representative Kawasaki asked whether patient consent for the substitution was necessary. Senator Hughes responded in the affirmative. Representative Kawasaki asked about the gold standard for interchangeable biosimilars and wondered what the standard was. Senator Hughes replied that the FDA's definition of an approved biosimilar was that the "interchangeable would produce the same clinical result as the referenced product in any given patient." Representative Kawasaki asked how the process worked when the pharmacist communicated to the prescribing practitioner what specific biologic substitute was dispensed. Senator Hughes relayed that it would happen via an electronic system, emails, or phone calls and allowed 3 business days for the communication.

Co-Chair Foster moved to invited testimony.

[3:44:29 PM](#)

Co-Chair Foster OPENED public testimony.

[3:44:58 PM](#)

RICHARD HOLT, CHAIRMAN, BOARD OF PHARMACISTS, ANCHORAGE (via teleconference), indicated that the board supported SB 32. He reported that the field of biologic medicine was rapidly growing, and the board needed to stay focused on the industry. He noted that currently Alaskan pharmacists would not be able to offer interchangeables and was in full support of the bill.

Representative Wilson related that the board would be required to post and maintain a link to the FDA's list of all currently approved interchangeable biological products

on the board's website. She asked whether the board was in support of the requirement. Mr. Holt replied in the affirmative.

[3:47:16 PM](#)

MARC BOAS, SELF, ANCHORAGE (via teleconference), was a current patient with the chronic illness, psoriasis. He spoke in support of SB 32. He indicated that he was an advocate for a chapter of the National Psoriasis Foundation. He delineated that conventional drug treatment results diminished over time. Biosimilars offered significant relief and cost savings. He believed the bill provided the correct pathways to gain access to the appropriate interchangeables while protecting the patient. He urged members not to delay passage of the bill. He thanked members for their support.

[3:49:41 PM](#)

AT EASE

[3:49:56 PM](#)

RECONVENED

Co-Chair Foster would be passing the gavel to Vice-Chair Gara.

SHAINA SMITH, U.S. PAIN FOUNDATION, WASILLA (via teleconference), spoke in favor of the legislation. She read from a foundation member's letter who was a decorated veteran and experienced chronic pain for over 45 years. He relayed his experience with relief from rheumatoid arthritis from a biologic medicine. He supported the opportunity to have an FDA substitution in the case he built resistance to his current biologic. He supported the bill.

[3:52:08 PM](#)

ASHLYN ANTONELLI, SELF, ANCHORAGE (via teleconference), spoke in favor of the bill. She shared that she was a brain tumor survivor and currently struggled with psoriatic arthritis and provided details about her health. She supported the ability to be prescribed a biosimilar substitute and noted that many other states had approved the substitutions. She related that her pain was debilitating, and she had to take a three-hour nap when she

got home from work. She hoped the committee would put itself in the position of a person with chronic illness to understand the need for supporting the legislation.

[3:55:11 PM](#)

TERRY MCCLELLAND, SELF, ANCHORAGE (via teleconference), testified in support of the bill. He related that he was a volunteer for the Colorectal Cancer Alliance. He shared that he had cancer twice and was medically prohibited from receiving any further chemotherapy or radiation. He wanted the bill to pass to ensure all Alaskans had access to other options.

[3:56:50 PM](#)

Vice-Chair Gara noted he was signing on as a co-sponsor for the bill.

Vice-Chair Gara CLOSED public testimony.

[3:57:24 PM](#)

AT EASE

[3:58:14 PM](#)

RECONVENED

Representative Guttenberg asked what the difference between a biologic and biosimilar was.

RYLAN HANKS, DIRECTOR OF REGULATORY POLICY, AMGEN, LOS ANGELES, CALIFORNIA (via teleconference), replied that since biologics were made with living cells exact replications were impossible. He explained that a patient's immune system recognized the biologic by responding in certain ways to the small molecules. Because of the slight differences in the small molecules between a biologic and biosimilar, the biosimilar was not an exact copy. The way a biosimilar reacted in the body was highly similar but not exactly the same.

Senator Hughes appreciated the committee's time. She commended her staff, Aimee Bushnell, for working hard on the bill.

Vice-Chair Gara MOVED a conceptual amendment.

Representative Wilson OBJECTED for discussion.

Vice-Chair Gara explained Conceptual Amendment 1. He cited that on page 4, line 17, the effective date was changed from July 1, 2017 to July 1, 2018 and on page 4, line 18 the year 2018 was changed to 2019.

Representative Wilson WITHDREW her OBJECTION.

There being NO further OBJECTION, Conceptual Amendment 1 was ADOPTED.

Representative Kawasaki asked whether the bill applied specifically to interchangeable biological products only. Senator Hughes replied in the affirmative. She detailed that an interchangeable was a sub-category of a biosimilar and only an interchangeable biosimilar could be substituted. Representative Kawasaki pointed to an FDA document and read the following:

An interchangeable biological product may be substituted for the reference product by a pharmacist without intervention by a healthcare provider who prescribed the product...

Representative Kawasaki restated his question regarding the provision that the pharmacists must notify the prescriber of the substitution. Senator Hughes answered that the FDA did not require pharmacist's notification. However, patient groups across the country requested the notification and all 41 states included the notification requirement in response to public outcry.

[4:03:54 PM](#)

Vice-Chair Gara reviewed the new fiscal impact note from the Department of Commerce, Community and Economic Development (DCCED) in the amount of \$4,500 for the regulatory process.

Vice-Chair Gara MOVED to REPORT HCS SB 32(FIN) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HCS SB 32(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note

from the Department of Commerce, Community and Economic Development.

[4:05:55 PM](#)

AT EASE

[4:06:52 PM](#)

RECONVENED

#hb306

HOUSE BILL NO. 306

"An Act relating to disbursement options under the Public Employees' Retirement System of Alaska and the Teachers' Retirement System of Alaska for participants in the defined contribution plan; and providing for an effective date."

[4:07:21 PM](#)

AT EASE

[4:07:53 PM](#)

RECONVENED

Vice-Chair Gara relayed that the bill was previously heard on April 9, 2018.

JANE PIERSON, STAFF, REPRESENTATIVE NEAL FOSTER, reported the changes in the committee substitute (CS). She explained that Legislative Legal Services concurred that a "diminishment of existing benefits" would possibly occur. The CS left the original six disbursement options unchanged in the bill and changed the seventh disbursement to read "payment as authorized by regulation or adopted by the commissioner of the Department of Administration (DOA)."

Representative Ortiz wondered about the impact of the change. Ms. Pierson explained that a constitutional provision stated that benefits already promised via contract could not be diminished. The change ensured that the original distribution methods remained in statute.

Representative Guttenberg asked whether the Alaska Retirement Management Board (ARMB) could "add more by regulation." Ms. Pierson replied that the payment was authorized by the commissioner of DOA.

Representative Wilson MOVED to ADOPT the proposed committee substitute for HB 306, Work Draft 30-GH2815\J (Wayne, 4/11/18). There being NO OBJECTION, it was so ordered.

4:10:50 PM

SYLVAN ROBB, DEPUTY COMMISSIONER, DEPARTMENT OF ADMINISTRATION, answered that the regulations would be adopted by the commissioner of the Department of Administration based on Alaska Retirement Management Board recommendations.

Representative Wilson presumed the change did not impact the zero fiscal note. Ms. Robb replied in the affirmative.

Vice-Chair Gara reviewed the new zero fiscal note from DOA.

Vice-Chair Gara MOVED to REPORT CSHB 306(FIN) out of committee with individual recommendations and the accompanying fiscal note(s). There being NO OBJECTION, it was so ordered.

CSHB 306(FIN) was REPORTED out of committee with a "do pass" recommendation and with one zero fiscal note from the Department of Administration.

4:13:14 PM

AT EASE

4:13:58 PM

RECONVENED

#sb4

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 4(FIN) am

"An Act relating to the Board of Barbers and Hairdressers; relating to a limited license to practice non-chemical barbering; relating to a license to practice hair braiding; relating to the Department of Environmental Conservation; and providing for an effective date."

4:14:08 PM

RACHEL HANKE, STAFF, SENATOR PETER MICCICHE, reviewed the bill. She reported that the bill allowed the board to enforce existing Department of Environmental Conservation

(DEC) regulations and issue licenses for hairdresser and barber shops. The bill also created a new lower level licenses for braiding and non-chemical barbering allowing for less than 1,650 hours of training which was the current requirement.

SENATOR PETER MICCICHE, SPONSOR, thanked the committee for hearing the bill. He explained that the bill accomplished five things. He maintained that the bill was important because the state had overstressed and overregulated people in the barbers and hairdresser industry. He listed the five goals of the legislation. The number of hours required under the current structure was costly and non-chemical barbers and braiders could not afford the license. He delineated that students or practitioners were required by statute to conspicuously display their licenses, however the shop owner was not. The inequity led to employees being fined because the shop owner's license had lapsed. The bill required the shop owner to conspicuously display the shop license. He noted that DEC was no longer providing shop certifications due to budget reductions. The bill authorized a self-certification process regulated through the Board using DEC standards. He repeated that SB4 created two new license types: braiding and non-chemical barbering. He reported that non-chemical barbering only used scissors and clippers and their training hours would be dramatically reduced. The braiding license would require 35 hours of training. Additionally, SB 4 separated tattooing and permanent cosmetic coloring into two separate licenses.

[4:18:49 PM](#)

Vice-Chair Gara OPENED public testimony.

[4:20:01 PM](#)

DARAE CREWS, DARAE'S SALON and SPA, ANCHORAGE (via teleconference), spoke in support of the bill. She read the testimony on behalf of two practitioners of who performed permanent coloring or microblading. The practitioners had many hours of education and experience. The practitioners indicated that microblading was not permanent and not a tattoo. They elucidated that the ink was inserted in the basal layer of the skin versus the dermal layer. They explained the instruments and techniques used for sanitation and patient safety that included a patient intake. They shared their personal stories of how they

became interested in the profession and where they received their training. Ms. Crews explained that both testifiers travelled to Texas to attend a school for microblading. They returned to Alaska, opened a shop and practiced microblading. A state investigator forced the shop's closure declaring the practice illegal. She claimed that the practitioners had never found any statute or regulation for microblading and believed they were operating within the law. She asked for help on behalf of the practitioners and supported the legislation.

[4:29:12 PM](#)

Ms. Crews believed people who had been legally trained with many hours of experience should not have any additional educational requirements for licensure.

Representative Wilson asked Ms. Crews to submit the testimony electronically. Ms. Crews agreed.

[4:31:12 PM](#)

JEREMY PRICE, STATE DIRECTOR, AMERICANS FOR PROSPERITY, thanked the committee for hearing the bill and spoke in support. He believed that the bill provided more opportunities for small business owners. He shared that many Alaskans were experiencing economic hardship and the bill went a long way to give Alaskans an opportunity to operate a small business a support themselves financially.

[4:32:29 PM](#)

GLORIA BAMBERG-MERRITT, SELF, ANCHORAGE (via teleconference), testified in support of the bill. She stated that she was a licensed "hair instructor" and aesthetician for 29 years and owned Plethora Designs in Anchorage. She spoke to the provisions regarding the braiding licensure and agreed with the 35 hours of training and stated that the need for licensure was to ensure health and safety. She believed the licensure allowed practitioners to operate legally, strengthened the economy, increased small business opportunities, and allowed low income individuals financial opportunities. The bill would benefit the state by collecting license fees. She planned to send in testimony regarding micro-braiding.

Vice-Chair Gara CLOSED public testimony.

Representative Wilson wondered whether the bill addressed the microblading issue. Senator Micciche replied there was clearly a misunderstanding. He explained that at the request of the board chair, the bill merely defined tattooing and permanent cosmetic coloring and did not relate to licensing requirements at all. He stated that the bill did not address the caller's issues and did not change any current requirements. Senator Micciche deferred to Mr. McKinley for further answers. Senator Micciche reiterated that the bill was about reducing requirements, not increasing them.

Representative Kawasaki referred to Section 29 of the bill regarding tattooing and microblading. He wondered whether the bill's language was a more specific description of the practices.

[4:38:33 PM](#)

KEVIN MCKINLEY, CHAIR, BOARD OF HAIRDRESSERS, FAIRBANKS (via teleconference), answered that the definitions removed ambiguity and was more inclusive, defined, and standardized. He explained that the new definition of tattooing did not specify what layers of skin the needle was inserted into. Representative Kawasaki asked if the new definition was broader than current statute. Mr. McKinley answered in the affirmative. Representative Kawasaki asked Mr. McKinley if he heard the testimony from Ms. Crews and requested that he address the testimony. Mr. McKinley answered in the affirmative. He explained that the claims that micro-braiding only inserted into a certain layer in the skin was debatable and questioned in the industry. He stated that trade associations classified micro-braiding as a form of tattooing.

Vice-Chair Gara asked to hear from the department.

[4:43:08 PM](#)

SARA CHAMBERS, DEPUTY DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, answered that the bill broke the licensing requirements into sectors of the industry who were not performing permanent tattooing, which would include micro-braiding and lowered the training requirements. She expounded that the board believed micro-blading to be a form of tattooing according to national

standards. However, the board believed that a full tattoo license was too high of a bar for practitioners of microblading. The bill allowed people to legally microbraid in their existing shop, perhaps with their existing education under the permanent cosmetic coloring license. She clarified that the board did not want to act punitively on behalf of those legitimately practicing microblading.

4:44:48 PM

AT EASE

4:46:05 PM

RECONVENED

Representative Kawasaki asked how the 35-hour requirement for hair braiding was conceived. Senator Micciche replied that he compared the state rankings around the country and discovered that the middle of the road ranking was approximately 35 hours. He also spoke with professionals and solicited professional opinions regarding the health and safety aspects. He believed the requirement was adequate. Representative Kawasaki wondered whether it was necessary to license hair braiders at all. He acknowledged licensure was a policy call. Senator Micciche answered in the affirmative. He stated that braiders were handling people's hair and health and safety issues were a concern and thought 35 hours was minimal. Representative Kawasaki referenced the elimination of shop inspections by DEC. He asked who would be investigating shop owners.

Ms. Chambers answered that DEC currently oversaw tattooing inspections and had overseen hair salons. She elucidated that DCCED investigators would perform the work in tandem with DEC and leave the door open for DEC to take over the inspections if funding improved.

4:50:45 PM

Vice-Chair Gara reviewed the two previously published fiscal notes.

Vice-Chair Gara MOVED to REPORT HCS CSSSSB 4(L&C) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCS CSSSSB 4(L&C) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN3 (DEC); and one previously published fiscal impact note: FN5 (CED).

#

ADJOURNMENT

[4:52:41 PM](#)

The meeting was adjourned at 4:52 p.m.