

SENATE FINANCE COMMITTEE

April 4, 2017

9:05 a.m.

[9:05:51 AM](#)

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:05 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Mike Dunleavy
Senator Peter Micciche
Senator Donny Olson
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Representative Steve Thompson, Sponsor; Lynette Bergh, Staff, Representative Steve Thompson; Larry Johanson, Self, Juneau; Senator Shelley Hughes, Sponsor; Buddy Whitt, Staff, Senator Shelley Hughes.

PRESENT VIA TELECONFERENCE

Juanita Webb, Wallbusters, Fairbanks; Art Delaune, Wallbusters, Fairbanks; Rob Carter, Division of Agriculture, Palmer; Courtney Moran, Earth Law LLC, Portland; Steve St. Clair, Self, Mat-Su; Ember Haynes, Self, Talkeetna; Steve Albers, Kenai Soil & Water Conservation District, Kenai; Abigail St. Clair, Self, Mat-Su.

SUMMARY

SB 6 INDUSTRIAL HEMP PRODUCTION

SB 6 was HEARD and HELD in committee for further consideration.

SB 97 PENSION OBLIGATION BONDS

SB 97 was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from the Department of Revenue.

HB 16 DRIV. LICENSE REQ; DISABILITY: ID & TRAINING

HB 16 was HEARD and HELD in committee for further consideration.

Co-Chair MacKinnon discussed the agenda.

#sb97

SENATE BILL NO. 97

"An Act relating to pension obligation bonds."

[9:06:35 AM](#)

Co-Chair MacKinnon noted that the bill had been heard previously. She CLOSED public testimony.

Senator von Imhof MOVED to ADOPT Amendment 1, 30-LS0486\D.1 (Wallace, 3/30/17) (copy on file):

Page 2, line 3, following "Committee":

Insert "or obtaining legislative approval by law"

Page 2, lines 15 - 18:

Delete "shall again review the proposal and, if the subsidiary corporation decides to issue the bonds, the subsidiary corporation shall provide the Legislative Budget and Audit Committee with a statement of the subsidiary corporation's reasons for doing so before issuance under this section"

Insert "may not issue bonds without first obtaining legislative approval by law"

Page 2, line 25, following "Committee":

Insert "or obtaining legislative approval by law" 13

Page 3, lines 8 - 11:

Delete "shall again review the proposal and, if the committee decides to issue and sell the bonds, the

committee shall provide the Legislative Budget and Audit Committee with a statement of the committee's reasons for doing so before issuance under this section"

Insert "may not issue bonds without first obtaining legislative approval by law"

Page 3, line 24, following "Committee":

Insert "or obtaining legislative approval by law"

Page 4, lines 6 - 9:

Delete "shall again review the proposal and, if the corporation decides to issue and sell the bonds, the corporation shall provide the Legislative Budget and Audit Committee with a statement of the corporation's reasons for doing so before issuance under this section"

Insert "may not issue bonds without first obtaining legislative approval by law"

Page 5, line 7, following "Committee":

Insert "or obtaining legislative approval by law"

Page 5, line 23, following "Committee":

Insert "or obtaining legislative approval by law"

Page 6, lines 9 - 13:

Delete "shall again review the proposal and, if the subsidiary corporation decides to issue the bonds, the subsidiary corporation shall provide the Legislative Budget and Audit Committee with a statement of the subsidiary corporation's reasons for doing so before issuance under this section"

Insert "may not issue bonds without first obtaining legislative approval by law"

Page 6, line 23, following "Committee":

Insert "or obtaining legislative approval by law" 21

Page 7, line 21, following "Committee":

Insert "or obtaining legislative approval by law" 24

Page 7, line 31, through page 8, line 3:

Delete "shall again review the proposal and, if the bond bank authority decides to issue the bonds, the bond bank authority shall provide the Legislative Budget and Audit Committee with a statement of the

bond bank authority's reasons for doing so before issuance under this section"

Insert "may not issue bonds without first obtaining legislative approval by law"

Co-Chair MacKinnon OBJECTED for discussion.

[9:07:20 AM](#)

AT EASE

[9:07:49 AM](#)

RECONVENED

Senator von Imhof explained that the purpose of the amendment was to provide oversight by the legislature prior to the issuance of the bonds. The amendment provided a last course of action - a stop gap measure. Generally, when the administration brought forward a pension obligation bond issuance, it was presented to the Legislative Budget and Audit Committee (LB&A). If the committee did not approve, it could request additional information and could write a letter, which was public record. She detailed that typically, the public document triggered a market reaction causing rates to rise to cover the risk associated, making the arbitrage ineffective. Under normal circumstances it meant the administration would not move forward with the deal and would not issue the bonds because the interest rate spread would close.

Senator von Imhof elaborated that if the administration decided to continue forward against the recommendation of LB&A or if the market did not respond, the legislature would have a fallback option to meet as an entire body and vote on the proposal. She continued that if the issue occurred during the interim it would trigger a special session, which was costly and problematic.

Senator Micciche wanted the committee to understand that existing law did not require the governor to go to LB&A to move forward with a GO [general obligation] bond. The bill would change that process. He explained that the bill would reduce the \$5 billion authority in half to \$2.5 billion. He stated that he would normally support the amendment, but he was concerned there was a good chance it would prevent the legislation from moving forward.

[9:10:27 AM](#)

Senator Dunleavy was supportive of the amendment. He stated that his concerns were on the record in past discussions. He continued that GO bonds had to go to a vote of the people. He remarked that it was a large sum of money and he appreciated efforts to whittle it down and box it in a bit. He thought legislators should all be concerned about the state's debt load. He reasoned that the amendment provided another check and left the door open if legislators all agreed they needed to move forward on something. He believed the amendment would require the administration to have a conversation with the legislature to determine where the representatives of the public were on a future bond.

Senator Olson asked if the amendment allowed another avenue to get approval for a bond to go through. He surmised that if LB&A was not there, the legislature could have its own hearings and approve the bonds.

Senator von Imhof provided a scenario where LB&A wrote a public letter [that disagreed with a bond issuance proposal by the administration] and it impacted the markets. The amendment would enable the legislature to meet as a whole and draft a bill to stop the issuance of the bond.

Senator Olson asked if the legislature could approve moving forward with the bond.

Senator von Imhof replied in the affirmative. However, she assumed that if LB&A approved the bond there would be no need for the entire legislature to meet on the issue, unless the majority disagreed with LB&A.

Senator Olson noted it had happened in the past. He supported the amendment.

[9:12:38 AM](#)

Co-Chair MacKinnon MAINTAINED her OBJECTION. She explained that all of the options provided by the amendment were currently open to the legislature. The amendment was a compromise between a \$5 billion potential liability that had already been provided to the governor. The issue was about power distribution - she believed supporters of the amendment would like the legislature to regain that power. She believed there was a greater risk and that the legislature already had that power. She reasoned that

committee members understood that the legislature could call itself into special session any time to take up legislation to approve or disapprove of anything that happened within state government. The bill would reduce the administration's ability to go out for a \$5 billion bond issuance to \$2.5 billion. The amendment took away authority that the governor would have to agree to. She believed half of the authority was reasonable. She recalled the governor's proposal the previous fall had been \$2.1 billion to \$2.3 billion. She stated that the legislation was a balance. There were members in both bodies that believed the option should be eliminated.

Co-Chair MacKinnon continued that if the bill eliminated the funding entirely the legislature could send it to the governor's desk. She communicated that she was not opposed to the discussion. She pointed to the risk associated with arbitrage. She had heard opposition to the proposal from constituents during the administration's last cycle. She reiterated that the bill represented a balance, which she believed was a step in the right direction. She requested a withdrawal of the amendment.

[9:14:58 AM](#)

Senator Micciche reiterated his earlier comments that he would strongly support the amendment if he believed the bill would pass with it included. He thought giving the governor the authority to move forward with \$5 billion in pension obligation bonds had been a mistake. He recounted that the previous summer the governor had a team dispersed around the world, actively setting up for a bond sale. In response, the Senate Finance Committee had written a letter to the governor and he appreciated that the administration had pulled back and had not gone through with the bond sale.

Senator Micciche explained that the bill would cut the governor's authority in half [to \$2.5 billion], which would protect the state by \$2.5 billion in potential exposure for a pension obligation bond that may or may not be under water in the future. The bill would also require a bond proposal to go to LB&A, which had not been the case in the past. He believed the bill was a balance and had a high probability of passing, whereas eliminating the [administration's] authority had a higher probability of being vetoed [by the governor]. He supported the concept of

the amendment but believed it would reduce the chance the bill would pass. He clarified that without formal intervention the committee had been able to turn back the bond issuance the past summer.

[9:17:01 AM](#)

Co-Chair MacKinnon acknowledged that there were many members of the legislature that had been uncomfortable with the administration moving forward [with a bond issuance]. She had a conversation with the governor and the Department of Revenue (DOR). She believed if pension obligation bonds had been passed in 2007, according to some people, the state could potentially have had billions more dollars in the system to help buy down the pension obligation liability. It had been noted in the current session that if the administration would have advanced forward with bonds under current market conditions, for the short period of time, there would have been additional money to help with the cash flow of the unfunded liability. However, pension obligation bonds were a debt against the state for longer periods of time than experienced thus far. She noted they had seen a positive for ten years and one year.

Co-Chair MacKinnon detailed that Deven Mitchell [Executive Director, Alaska Municipal Bond Bank Authority, Department of Revenue] had communicated that the administration had brought forward a much more conservative pension obligation bond than other cities that had experienced negative arbitrage over a bond period. She explained that under the administration's proposal the state would not realize the benefits during current financial struggles, but later on in the life of the loan. She continued that it had been a much more conservative approach, but Alaskans had still been very uncomfortable. Therefore, the committee had entered into a conversation with the governor and asking them not to proceed. She had been asked to reduce the authority to zero. The bill was a compromise. She had communicated to the governor there were legislators in opposition to pension obligation bonds and the associated risk. The amendment proposed to strike a balance for Alaskans who opposed pension obligation bonds. She relayed the amendment could be offered as a standalone bill. She had proposed a bill she believed would make it through the current legislative process.

[9:20:11 AM](#)

Senator von Imhof thanked the committee for considering her amendment. She stated that pension obligation bonds were a risky venture and hindsight was always 20/20. She detailed that it was possible to look back and identify market trends that may work; however, over the long-term it was proven to be nonperforming. She believed those who tried to time the market ended up getting burned. She thought that Co-Chair MacKinnon had made a good point that amendment was somewhat redundant because the legislature already had the ability to convene a special session at any time for any purpose. She agreed with Senator Micciche on the desire to see the legislation pass the other body. She supported the bill's stopgap measure requiring proposals to go to LB&A for review.

Senator von Imhof WITHDREW Amendment 1. There being NO OBJECTION, it was so ordered.

Vice-Chair Bishop was amenable to the \$2.5 billion compromise. He remarked that when there was cash in the bank, he supported taking the cash and getting 100 percent value on buying down the debt instead of taking the 50/50 option. He supported the bill.

Vice-Chair Bishop MOVED to report SB 97 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SB 97 was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from the Department of Revenue.

[9:22:38 AM](#)

AT EASE

[9:24:48 AM](#)

RECONVENED

#hb16

HOUSE BILL NO. 16

"An Act relating to training regarding disabilities for police officers, probation officers, parole officers, correctional officers, and village public safety officers; relating to guidelines for drivers when encountering or being stopped by a peace officer;

relating to driver's license examinations; and relating to a voluntary disability designation on a state identification card and a driver's license."

[9:24:53 AM](#)

REPRESENTATIVE STEVE THOMPSON, SPONSOR, thanked the committee for hearing the bill. He introduced his staff. He detailed that the bill had come to him about five years earlier when the disability community had shared that individuals with nonapparent disabilities had encountered adverse outcomes with law enforcement. He detailed there had been circumstances where people with nonapparent disabilities had been misunderstood by officers. The bill would mandate training for officers on what to do if they encounter someone with a nonapparent disability. His office had worked with police departments and state troopers across the state. The training was now included in the state trooper training academy in Sitka and police departments and the Department of Corrections (DOC) had agreed they could do the training online.

Representative Thompson provided a scenario where a person [driving] was stopped by a police officer and had red lights flashing in their rear window. He explained that the situation could exacerbate a person's disability. He considered how to solve the problem. He reported that the Division of Motor Vehicles (DMV) agreed there should be a section in its driver's manual outlining what a driver should do when stopped by a police officer. He elaborated that many states (e.g. Pennsylvania, Montana, and California) included the information in their manuals. He shared that the bill had passed the House unanimously the previous year but had been held up in session-end politics.

[9:28:40 AM](#)

Representative Thompson shared that the bill was nearly identical to its past form but included a couple of changes. He reported that some letters had come in from neuropaths where they were the only ones treating someone with a traumatic brain injury - subsequently, a provision had been added to the bill in the Senate. He continued that the original bill specified that the driver's test would include questions on what to do when pulled over by an officer. The current version of the bill removed that provision. Otherwise, the bill was essentially the same [as

a bill offered the previous session]. The goal was to protect individuals with imperceptible disabilities. Officers would also be protected given their increased understanding of how to handle a situation. He emphasized that the designation on people's driver's license or identification was voluntary and needed to be requested and verified by a medical professional. He noted that many people did not want to be identified as having a disability and did not want the designation. He reiterated that the designation was voluntary.

9:30:06 AM

Co-Chair MacKinnon noted that the sponsor had listed multiple medical or licensed professionals in the state who could identify a disability. She elaborated that the legislation specified the medical professionals would be responsible for approving a designation for a card. She wondered if there was any liability for the individuals who designated the disability.

LYNETTE BERGH, STAFF, REPRESENTATIVE THOMPSON, asked Co-Chair MacKinnon to repeat the question.

Co-Chair MacKinnon wondered if there was any liability for the individuals who designated the disability. Additionally, she asked what happened with the documentation at DMV to support the designation on a license or identification card.

Ms. Bergh thought it was probably the same process that occurred when a person applied for a handicap placard or license plate. She detailed that a doctor had to verify the person had a disability. The voluntary designation would happen the same way. A person's disability would be verified by a doctor - the specific disability would not be named. There was not a liability to the state. She reasoned that if there was a liability to the state, the issue would have arisen with people getting handicap placards and plates. The disability designator would serve as notification to a police officer that a person had a disability; unless a person wanted to share information about their disability with a police officer, they would not have to divulge any information. The designation would operate as a red flag to indicate to the officer that perhaps something else was going on in the event that an interaction became unique.

Co-Chair MacKinnon handed the gavel to Vice-Chair Bishop.

9:33:18 AM

AT EASE

9:33:43 AM

RECONVENED

Ms. Bergh continued to answer the question by Co-Chair MacKinnon related to liability. She relayed that by statute, there were only several cases where a person could bring a suit against the state. The information was included in a legal memo from the Division of Legal and Research Services dated March 28, 2017 (copy on file). She detailed that if an issue came before a court, the court would have to determine whether the police officer was following training; it could be a liability to the state if it was determined the officer was not following training. The designator itself would not cause any liability.

Senator Micciche highlighted a case in his district where an individual with an anxiety disorder experienced a negative outcome with law enforcement. He detailed that the person had a taillight out and had a panicked reaction to being pulled over. He supported the bill because of that. He asked why digestive issues had been included. He believed it was a catchall for hidden disabilities. He continued that about half of hidden disabilities were unlikely to have a negative outcome with an officer. He asked why the bill did not differentiate between the types of disabilities.

Representative Thompson stated that his office had been provided with a lengthy list of disabilities that could be considered nonapparent. He agreed there were many on the list that should probably not be considered. He assumed that the DMV may reduce the list because the current list included disabilities that were not qualified or pertinent to the situation.

9:36:25 AM

Vice-Chair Bishop asked whether DMV would have the ability to pick and choose from the list of hidden disabilities titled "Appendix A" in members' packets (copy on file).

Alternatively, he wondered whether there would be firm rules on which disabilities would be included.

Representative Thompson deferred to Ms. Bergh.

Ms. Bergh replied that "hidden disabilities" was a new term set by the World Health Organization (WHO) in 2001. The organization had determined there were numerous disabilities, some were visible, and others were not. She elaborated that WHO had created a list of invisible disabilities that could cause individuals to have a medical issue. The list in Appendix A was derived from the WHO list, which continued to grow as the term hidden disability evolved. She explained that a medical physician would specify whether a person was eligible for a voluntary designator on their identification. She detailed that a physician be able to determine whether something did not qualify for the designation. She believed most physicians would be realistic about what disabilities would be eligible for a designator.

[9:38:43 AM](#)

Senator von Imhof believed it was beneficial that the bill would provide sensitivity training for police officers, but she hoped it would not be used against a police officer who had to use force when they deemed it to be necessary. She spoke to a circumstance where an individual acted aggressively and force by the police officer was required. She hoped an officer would not be reprimanded unfairly for using the normal course of response.

Representative Thompson thought the bill was something that would help officers communicate with people. He emphasized that the designation did not provide any privileges or extended rights. The purpose of the designation was to alert an officer that an individual had a disability. The officer could then ask the individual a question about their disability to work towards a good outcome. He stated that if a person acted physically or badly, they should not be treated any differently than another person. The purpose was to encourage communication and to avoid overreactions to situations.

[9:40:37 AM](#)

Senator Olson wondered if other states had similar designations on driver's licenses.

Ms. Bergh responded that other states had trainings on hidden disabilities and information was available for individuals to know what happens when a person is stopped by an officer. To her knowledge no other state had a designator.

Senator Olson asked if the training used a list of disabilities.

Ms. Bergh replied that they had not researched whether other states were using certain lists.

[9:41:51 AM](#)

Ms. Bergh reviewed the sectional analysis for HB 16 (copy on file):

Section 1. Amends AS 18.65.220 to include statutory language that expands the duties of the police standards council's training program to include training in recognizing and interacting with a person with disabilities, as well as familiarization with resources that are available to those with hidden disabilities.

Section 2. Adds a new subsection to AS 18.65.310. Providing that a person may voluntarily designate on their state identification card that the person has a disability and the proof required for the designation.

Section 3. Amends AS 18.65.670(c) to include disability training to village public safety officers.

Section 4. Amends AS 28.05.011 by adding a new subsection to include the duties and responsibilities of drivers when encountering or being stopped by a peace officer and that this information be included in the driver's manual.

Section 5. AS 28.15.111 is amended by adding a new subsection (d), providing that a person may voluntarily designate on their Alaska Driver's License a disability designation, proof required for the

designation and fees that may be charged. Adds naturopath to the list of licensed individuals who can provide proof of a disability.

[9:43:42 AM](#)

Senator Micciche asked if a \$50 fee would be paid by the applicant requesting the designation on their license.

Ms. Bergh answered in the affirmative.

Senator Micciche wondered how the Department of Public Safety (DPS) could have a zero fiscal note if the bill would require training. He asked about the hourly training requirement.

Ms. Bergh shared that the training had already taken place; therefore, the fiscal note was zero. The department had learned the benefits of the training while working with the bill sponsor's office over the past few years. Subsequently, the training created by the Alaska Police Standards Council had been implemented.

[9:44:52 AM](#)

Vice-Chair Bishop OPENED public testimony.

JUANITA WEBB, WALLBUSTERS, FAIRBANKS (via teleconference), testified in support of the bill. She relayed that Wallbusters was a local advocacy group in Fairbanks. She thanked the bill sponsors for bringing the bill forward. She referred to written testimony that she had sent to the committee sharing her personal story (copy on file). She detailed that for her, the bill was about safety and standardized education that would give new officers a more complete understanding of disabilities with standardized training about visible and hidden disabilities.

Ms. Webb believed the bill would give officers another tool to help guide their interactions accordingly. A discrete, voluntary icon on a driver's license would give additional information to alert officers to potential communication needs for a better outcome. Throughout the bill process she had learned that people with disabilities and people in general were unsure of their responsibility when approached by an officer. She thought that adding additional information to the DMV manual would help support the need.

She reasoned that the zero fiscal note was an added bonus, especially given the current economic climate. She was proud to be part of a bill that would help educate officers in their approach to Alaskan citizens and help their jobs become safer. She concluded that the bill would make Alaskans lives safer and more informed. She asked the committee to support the legislation.

[9:47:23 AM](#)

ART DELAUNE, WALLBUSTERS, FAIRBANKS (via teleconference), spoke in support of the bill. He relayed that he worked at Access Alaska and was a member of the Governor's Council on Disabilities and Special Education. He shared that he had two sons with hidden disabilities. He stated that the bill was about better communications, accommodations, and inclusion. The bill would reinforce individual choice, rights, and responsibilities. The primary focus of the legislation was on education and training. He stressed that training of law enforcement and correction officers was critical because often recognizing a nonapparent disability was challenging. The bill called for a minimum of an eight-hour training that would make officers more aware that some individuals may present with a behavior that was unintentional or may be viewed as noncompliant. Additionally, the training would teach officers to effectively and appropriately interact with people who experience an apparent or nonapparent disability. He underscored that the most important aspect of the bill was safety. The intent of the bill was for law enforcement officers to discuss information about a disability only when a situation was secure and diffused.

Mr. Delaune relayed that Wallbusters and Representative Thompson had been working on the bill for over four years. He detailed that over the past few years they had met with many community members, organizations, and law enforcement and corrections academies. The goal was to create an effective bill at no cost that would improve the lives of all Alaskans. He believed the icon the driver's license would enhance communication. The bill would also educate the general public. He stressed the importance of Alaskans understanding their responsibilities for appropriately interacting with law enforcement. He thought the bill would reduce potential conflicts between Alaskans with or without disabilities. He relayed that an identical bill (HB 77) had passed the House the previous year unanimously. He

explained that the bill had stalled in the Senate Rules Committee. He urged the committee to pass the bill.

9:50:25 AM

LARRY JOHANSON, SELF, JUNEAU, testified in support of the bill. He relayed that he had Parkinson's disease, which was often misinterpreted by people. He shared that when he walked by the building security it made him wonder if he would be intercepted because of a misinterpretation of his symptoms. He stressed that he lived with the issue every day. He thought the intent of a symbol [on a license or identification card] was extremely positive. He explained that the discussion about confrontation with officers was an escalated version of evaluation he received daily in particular situations. He believed a symbol on a license would provide a third-party indication that a person experienced a disability and it would prevent him from having to prove through articulating that he had a disability. He thought it would be helpful even beyond the original intent of the bill. For example, the symbol could be useful when entering the capitol building.

Mr. Johanson shared a personal experience of being approached by security in a mall in Portland. He detailed prior to his condition he had been the director of operations for a cruise line and part of his responsibility had been administering Department of Transportation and Public Facilities regulations to over 50 buses and drivers. He was very familiar with the regulatory aspect. He stressed the importance of the bill and offered to answer any regulatory questions. He thanked the committee for considering the bill.

Senator von Imhof thanked Mr. Johansen for his testimony.

Vice-Chair Bishop returned the gavel to Co-Chair MacKinnon.

9:54:18 AM

AT EASE

9:54:51 AM

RECONVENED

Co-Chair MacKinnon CLOSED public testimony.

Vice-Chair Bishop highlighted existing zero fiscal notes including one from the Department of Administration, two from the Department of Corrections, and one from the Department of Public Safety. He noted that the training was already being completed, hence the zero fiscal notes.

Co-Chair MacKinnon relayed that amendments on the bill were due by Wednesday at 5:00 p.m.

HB 16 was HEARD and HELD in committee for further consideration.

[9:56:19 AM](#)

AT EASE

[9:57:05 AM](#)

RECONVENED

#sb6

SENATE BILL NO. 6

"An Act relating to industrial hemp; and relating to controlled substances."

[9:57:05 AM](#)

SENATOR SHELLEY HUGHES, SPONSOR, thanked the committee for hearing the bill. She recounted that several farmers who wanted to grow hemp had contacted her office the previous spring. She noted that the farmers were particularly interested due to the privatization of the meat plant in Palmer. She highlighted that hemp was a nutritious, easy to grow, and fast growing forage that could be used for livestock. Farmers were working to build up their herds in order to have locally grown beef and pork in Alaska's grocery stores. She cited Kentucky as another state where ranches were growing hemp.

Senator Hughes discussed the history of hemp. Some of the early drafts of the Declaration of Independence had been drafted on hemp paper. Additionally, hemp had been used to make sails for boats traveling to America and for covered wagons. In 1937, related to marijuana, hemp had been made illegal in the U.S. In recent decades and because of federal legislation, hemp was on the rise in the U.S. She believed it was another economic opportunity for farmers and growers in Alaska. In addition to feed for animals,

there were more than 25,000 uses for hemp. She pointed out that because of federal law, the bill was more complicated than one that was previously offered by former Senator Johnny Ellis. She had begun with the draft language from the previous bill, but once she had learned of changes at the federal level the bill had grown somewhat. She stressed the importance of the economic opportunity for Alaska.

10:00:40 AM

Senator Hughes communicated there had been tremendous support across the state for the bill. She noted that one person expressed concern that the bill could result in a money pit and grow the Division of Agriculture. She shared that the division director and other agency staff were available online who could assure the committee the concern would not come to fruition. She reported that some other states that had not been in a fiscal bind had appropriated money to add staff to their departments of agriculture. She explained that it was not the intention of SB 6. She believed the issue would be manageable and highlighted that registration user fees would cover any costs.

10:01:41 AM

BUDDY WHITT, STAFF, SENATOR SHELLEY HUGHES, discussed the Sectional Analysis for SB 6 (copy on file):

Sec. 1 - Page 1, Lines 6-9

Intent language that the legislature will reevaluate the regulation of industrial hemp in seven years.

Sec. 2 - AS 03.05.010 Pages 1, 2 and 3, lines 1 - 10

Section one of the bill amends Title 3 to give additional powers and duties to the Department of Natural Resources, Division of Agriculture, to adopt regulations relating to Industrial Hemp. This section also stipulates that the prescribed regulations must include provisions for approved sources of hemp seed and testing requirements (paid for by the registrant). This section also stipulates that a list of registered hemp growers must be provided to the Marijuana Control Board and the Department of Public Safety.

Co-Chair MacKinnon asked about lines 26 and 27 on page 2 of the bill. She had read the backup document entitled "Statement of Principles on Industrial Hemp" [published in

the Federal Register Volume 81, No. 156, dated Friday, August 12, 2016] (copy on file), which provided guidance from the federal government on the subject of industrial hemp. She referred to the first paragraph of page 2 of the statement:

...the importation of viable cannabis seeds must be carried out by persons registered with the DEA to do so.

Co-Chair MacKinnon read from page 2, lines 26 and 27 of the bill:

(A) specify approved sources or varieties of hemp seed to be grown, sold, or offered for sale...

Co-Chair MacKinnon thought the notice did not provide "offer for sale" allowances anywhere. She noted it provided for research by a higher education university or the state agriculture program. She wondered if the bill would preempt federal law, or whether the state had to comply with federal law. She asked what was happening with the seeds. She remarked that seeds were also discussed on page 2, lines 14 and 15 of the bill pertaining to transportation and movement. She wondered about the conflict between the two documents.

[10:04:47 AM](#)

Mr. Whitt replied that the document referenced by Co-Chair MacKinnon was a statement of principles on industrial hemp. He explained that after the Farm Act of 2014 defined industrial hemp and made it legal to create hemp pilot programs at the state level, the U.S. Department of Agriculture had submitted the statement of principals in August 2016. The issue pertained more to the regulatory arm of federal law. He stated that there was a second act, the Omnibus bill of 2015 passed by Congress that had included additional provisions for the transportation of hemp and hemp seeds across state lines. He offered to provide the materials to the committee. He explained that the federal government would issue an associated statement of principles at some time in the future. He deferred to the department regarding registration with the federal Drug Enforcement Administration (DEA). He had worked with the Division of Agriculture and the previous committee of

referral to include language pertaining to idea of certifying industrial hemp seed.

[10:06:46 AM](#)

ROB CARTER, DIVISION OF AGRICULTURE, PALMER (via teleconference), stated that federal guidelines were guidelines. He thought the bill did a good job at setting the foundation and cornerstone for the growth and sustainability of an industrial hemp program in Alaska. He believed there could be interpretations of all of the forms, none of it was completely clear. Within the agricultural pilot program resulting from the 2014 farm bill was a program to study the growth, cultivation, and marketing. He believed the interpretation of marketing was the to "offer for sale" language. The reason for specifying approved seed sources was to ensure the state maintained the federal guideline to stay within 0.3 percent THC seed sources or lower.

Co-Chair MacKinnon read from the statement of principles:

Section 7606 specifically authorized certain entities to ``grow or cultivate'' industrial hemp but did not eliminate the requirement under the Controlled Substances Import and Export Act that the importation of viable cannabis seeds must be carried out by persons registered with the DEA to do so.

Co-Chair MacKinnon explained that a person had to be registered with the DEA. She asked if Mr. Carter was stating it was a guideline when the statement of principles read that it "did not eliminate."

Mr. Carter affirmed that the guideline and bullet point were there. He stipulated that in any importation/exportation or intra/interstate commerce of viable cannabis seeds would require a permit from the DEA (form 225). He elaborated that a person could not apply for the permit through the DEA unless they were a program registrant.

[10:09:14 AM](#)

Co-Chair MacKinnon asked if other states had interpreted marketing as "the sale of."

Mr. Carter believed Colorado, Oregon, and Kentucky had started using the pilot program and marketing language to make all parts of industrial hemp, including seeds, to be made or offered for sale within their state.

Co-Chair MacKinnon read additional language from the statement of principles:

For purposes of marketing research by institutions of higher education or State departments of agriculture (including distribution of marketing materials), but not for the purpose of general commercial activity, industrial hemp products may be sold in a State...

Co-Chair MacKinnon thought the language specified that hemp could not be sold. She asked for clarification.

Mr. Carter replied that he did not have the document and wanted to review it. He reported that everyone he had spoken with in other states with hemp programs had communicated that the sales of industrial hemp and marketing had been occurring through their industrial hemp pilot programs. He offered to look into the issue further and follow up with the committee.

Co-Chair MacKinnon read another bullet point:

Only the State Department of Agriculture and persons licensed, registered, or otherwise authorized to conduct research under an agricultural pilot program in accordance with this section.

Co-Chair MacKinnon wanted to understand how research could be taken into an economic activity that would be available for Alaskans as an income generator. She asked Mr. Carter to follow up with clarification.

[10:11:35 AM](#)

Mr. Whitt notified that committee that attorney Courtney Moran had been working with the sponsor's office. She was familiar with the industrial hemp programs in other states and with how federal and state laws had intertwined. He believed she may be able to provide additional information.

COURTNEY MORAN, EARTH LAW LLC, PORTLAND (via teleconference), pointed out that the statement of

principles was a general guidance document. She elaborated it was important to note that subsection 2 of the document read that "This Statement of Principles does not establish any binding legal requirements." She detailed that marketing research was being conducted in the majority of states implementing industrial hemp programs. She expounded that marketing required sales of products. The bullet point specifically stated that the product may not be used for the purpose of general commercial activity; it further stated that the products may not be sold in states where such sale was prohibited.

Ms. Moran explained that if a state did not have an established program or was otherwise prohibiting the particular products, the products should not be sold there. The language was not an outright prohibition on the research that Congress had specifically provided for in Section 7606 of the Agricultural Act, which specifically provided for marketing research. The legislation provided for the development of an agricultural pilot program in the state. Therefore, registrants registered with the Division of Agriculture would be able to engage in market research.

[10:13:51 AM](#)

Co-Chair MacKinnon asked if someone engaging in market research normally sold the product for profit. Ms. Moran answered that some people were doing that.

Co-Chair MacKinnon understood that some people were doing that. She asked if that qualified as research.

Ms. Moran replied in the affirmative. She questioned how a market could be developed or studied if people were not engaging in sales within the market. She confirmed it was the practice in Oregon, Colorado, and Kentucky (and potentially other states).

[10:14:27 AM](#)

Co-Chair MacKinnon referred to Section 2 of the legislation. She pointed to page 2, line 24 through page 3, line 10 outlining regulations for the industry to adopt. She noted that under the guidance [in the statement of principles] there was language related to a GPS location of all crops. She saw the language later in the legislation and wondered why it was not included in Section 2. She

clarified that one of the bullet points in the statement of principles included criteria to include in legislation in order to be consistent with the federal guidelines. She read an excerpt of the bullet point:

...it is recommended that such registration should include the name of the authorized manufacturer, the period of licensure or other time period during which such person is authorized by the State to manufacture industrial hemp, and the location, including Global Positioning System coordinates...

Co-Chair MacKinnon asked if the reference should also be included in Section 2.

Mr. Whitt stated that the bill's provision on GPS location was a direction from the federal government. The additional regulatory requirements were added after the GPS provision had already been included. The sponsor had no issue with requiring it under regulation and the provision included was sufficient to meet federal guidelines. The intent was that a grower would disclose the location of their crop. Where the provision appeared in the bill should not make a huge difference, but the bill sponsor would be amenable to a change if the committee deemed it important enough to include it under regulatory requirements.

[10:17:37 AM](#)

Co-Chair MacKinnon understood that the provision was included in another section of the bill. She did not know whether there was a differentiation for including it under the powers and duties of the commissioner of the Department of Natural Resources.

Mr. Whitt clarified that it made no difference where the provision appeared in the bill; wherever its location, it would still be a requirement.

Co-Chair MacKinnon surmised the issue was important because [hemp] leaves looked exactly like higher producing THC plants. She asked if her statement was accurate.

Mr. Whitt replied in the affirmative.

Co-Chair MacKinnon wanted law enforcement to be able to recognize a crop that would be for other purposes than THC content.

Mr. Whitt agreed.

[10:18:33 AM](#)

Senator von Imhof stated that she had heard the bill in the Senate Resources Committee. She detailed that the committee had been concerned with how to handle the fact that the [hemp and marijuana] leaves looked identical. She recalled testimony that [hemp] plants had to be registered, spacing was tighter (one foot apart as opposed to three to four feet apart as with marijuana plants), GPS was used, and pictures were taken on a daily basis. She had wondered about cloudy days and times when there was snow on the ground. She believed the sponsor and her staff had done a good job answering questions in the Senate Resources Committee as well.

Co-Chair MacKinnon spoke to the importance of the issue addressed by the bill and explained it could provide an economic opportunity, particularly in the district represented by Senator Hughes where farming was common. She added that the community also grew marijuana and carrots. She stated that the district was a good agricultural community that was wanting another product to invest in.

[10:20:31 AM](#)

Mr. Whitt continued to address the Sectional Analysis:

Sec. 3 - AS 03.05.010 Page 3, lines 22-28

This section instructs the department to issue a stop order to any person growing a plant with a THC level over .3 percent and to notify the Marijuana Control Board and the Department of Public Safety when any stop sale order is issued.

Sec. 4 - AS 03.05.076 Page 3, lines 29-31, Page 4 and Page 5, lines 1-27

Title 3, Chapter 5 is amended by adding a new section for Industrial Hemp and guidelines for registered producers and the department. This section establishes that:

(a) Industrial Hemp will be classified as an agricultural crop in the state of Alaska. Those wishing to produce industrial hemp must register with the Division of Agriculture with information that must include but is not limited to; name, address, and global positioning coordinates of the area to be used for production.

(b) An individual who is registered with the state of Alaska may

1. Produce industrial hemp
2. Use any propagation method needed to produce industrial hemp.
3. Retain hemp seeds for the purpose of growing hemp in the future.
4. Retain and recondition hemp that tests between .3 percent and 1 percent THC on a dry weight basis, but industrial hemp intended for consumption in any form cannot exceed a .3 percent THC level.

(c) An individual who is registered with the state of Alaska shall

1. Comply with testing standards and procedures as established in regulation
2. Retain record of sale for three years, including the name and address of the person who received the industrial hemp and the amount sold or transferred.
3. Make records available to the department during normal business hours and the department must give three days' notice of inspection.

(d) The Department shall

1. Establish fee levels.
2. Annually review fee levels.
3. Notify the MCB and DPS when they have issued a stop sale order.
4. Require a person producing industrial hemp over 1 percent to destroy their crop.

(e) The Department may

1. Issue a stop sale order or violation for those growing industrial hemp without a registration.
2. Adopt regulations for approved shipping documents for industrial hemp.
3. Conduct random tests and inspections.

(f) The Division of Agriculture, a registered producer, or any institution of higher education may import and/or sell industrial hemp seeds.

(g) Industrial hemp intended for human consumption cannot exceed .3 percent THC, cannot be used for hashish or hashish oil and CBD oil is not considered hashish or hashish oil for the purposes of this section.

(h) Producing Industrial Hemp without a registration is a violation that carries a fine of \$500.

[10:24:12 AM](#)

Mr. Whitt continued reviewing the Sectional Analysis:

AS 03.05.077 Page 5, Lines 28-31 and Page 6, Lines 1-4
In keeping with federal law, this section adds language regarding a pilot program for industrial hemp, that the Division of Agriculture, institute of higher education or a registered grower may participate in the pilot program and the Division of Agriculture may adopt regulations for this section.

AS 03.05.078 Page 6, lines 5-15
Authorized copy of a current hemp registration is required when transporting industrial hemp and a copy of the registration must be presented upon request of a law enforcement officer. Using a mobile electronic device to store proof of registration is acceptable and displaying proof is such a way is not consent for a peace officer to access any other information on a person's personal mobile electronic device.

AS 03.05.079 Page 6, lines 16-20
A registered grower of industrial hemp is guilty of a violation when they produce industrial hemp with a THC content of between .3 percent and 1 percent.

[10:25:45 AM](#)

Co-Chair MacKinnon pointed to language at the top of page 4 of the bill that addressed individuals would be registered for one year. She noted she had asked earlier whether the GPS language in the section should be included elsewhere in the bill. She referenced line 14, item (4) related to retaining and reconditioning [of specific industrial hemp]. She thanked the sponsor's office for coming to her office to review the bill. She did not see a definition of "reconditioning" and asked Mr. Whitt to provide detail for the public.

Mr. Whitt replied that Mr. Carter had provided a written response (copy on file). He detailed that Mr. Carter could speak to the standard practice of reconditioning as it related to agricultural products.

Co-Chair MacKinnon asked Mr. Carter to provide a recognizable definition of reconditioning in regard to agriculture.

Mr. Carter stated that reconditioning was a widely used practice in agricultural crops, commodities, and seeds. Reconditioning was done with most grains and grasses and seeds sold around the world. He elaborated that if something did not meet a grade or set tolerance, there were options to try to improve that lot. The definition of a lot was a field harvested, a collection of one that was contiguous.

Mr. Carter provided an example where an acre of industrial hemp was grown. At the time of testing the hemp came out to be 0.35 percent. He explained that given a short growing season and significant investment by a farmer, it was not desirable to put the farmer in a situation where they could not generate revenue or utilize the crop. He expounded that if a crop came in to be a bit higher (between 0.3 and 1 percent THC value), with the approval of the division, the registrant could blend the lot that was a bit over with a lot that was under the minimum requirement to achieve the appropriate level. He explained that if the lot still did not meet the requirement it would be recommended to be destroyed. He relayed that the practice was very unique to the industrial hemp industry because it depended on the type and parts of plants being used. He furthered that two noncontiguous fields of stocks, leaves, and flowers used for feed or fiber could be blended at the baling time at the processing facility to drop the overall THC value below the 0.3 percent.

[10:29:46 AM](#)

Co-Chair MacKinnon asked whether Alaska statute included a definition of recondition and whether a definition was needed. She explained that in other bill sections specified that a crop with 1 percent or more [THC] needed to be burned. She wondered how a grower would know if they should

burn or try to recondition the crop. She asked if it was a normal process a grower would undertake.

Mr. Carter answered that the threshold to retain and recondition industrial hemp was between 0.3 percent and 1 percent (page 4, line 14 of the bill). He elaborated that if a lot fell between 0.3 and 1 percent, it had the option, under the direction of the division, to be reconditioned. He explained the lot would have to be destroyed if it tested above 1 percent. The state did not have a definition of reconditioning [in statute]. He noted the division also addressed reconditioning in its other seed regulations.

[10:31:10 AM](#)

Co-Chair MacKinnon was interested in the section of the bill that specified crops above 1 percent [THC] would be destroyed. She discussed that within a field there may be a plant producing a higher rate than anticipated. She asked if a grower would continually mix a product down or get rid of certain plants if a larger group of plants produced a higher content. She wondered how a grower would know at what point to burn versus recondition.

Mr. Carter directed attention to page 5, line 5, of the bill, which required an individual registered under the section whose industrial hemp tested over 1 percent THC to destroy the product, so it could not be used for the purpose of reconditioning. The section set the upper threshold - that anything over 1 percent would be destroyed. He agreed that a THC level between 0.3 percent and 1 percent would allow a producer to begin the reconditioning process. He relayed that regulations would establish the testing requirements and testing would likely not occur until around harvest time. He explained that industrial hemp had been outlawed for over 70 years so no one was certain what the values of THC would be through the growing season. He considered whether levels would be affected by environmental conditions (e.g. if one grower watered more than another). Part of the research of the pilot program was to gain the information. He believed the threshold language provided growers the ability to blend lots to meet the threshold.

[10:33:20 AM](#)

Vice-Chair Bishop provided a scenario where a crop held a couple of rogue seeds. He wondered how random testing and inspections would be conducted. He expressed concern about the possibility of inadvertent wild seeds that might adversely affect a large acreage of crops.

Mr. Carter concurred. He detailed that like any other agricultural crop, there were set protocols for sampling fields or seed lots, which would be defined in regulation based on size and planting density. He expounded that industrial hemp was planted similarly to wheat or barley at 1 million to 1.2 million seeds per acre. He explained that hemp crops looked like an extremely large and tall crop of cereal grains. The sampling protocols would be defined in regulation. He explained that the agricultural industry allowed the option for roguing or to remove certain diseased, virus, or insect plants. He believed it would be a bit more difficult basing an inspection on THC values because it would not be a visual inspection and would require testing in a laboratory. He furthered that if a crop ended up with one or two "hot" seeds above 0.3 percent or over 1 percent out of a field of 1 million seeds per acre, the representative sample was a process. He acknowledged that the testing did not catch everything, but how lots were tested nationally and internationally was a set standard. The testing would provide the best opportunity for the producer to have a representative sample for testing.

[10:36:32 AM](#)

Vice-Chair Bishop thought it was interesting that the Alaska agricultural experimental stations had been growing hemp in 1916. He wondered if records were available at the University of Alaska to learn about the THC content in 1916.

Co-Chair MacKinnon shared that she had additional questions in the regulation of hemp oil being added to food. She remarked that Alaska regulated food only in the crop form, but not in the content that may be put into food. She relayed her intent to move to public testimony.

Senator Hughes commented that it was helpful to understand that marijuana growers were aiming for THC levels between 20 and 30 percent. She thought the information was useful

as a barometer when considering THC levels of 1 percent or below.

Co-Chair MacKinnon agreed the point was important to note. She added that individuals growing marijuana for medical purposes were looking for a much higher THC level.

Co-Chair MacKinnon OPENED public testimony on version E of SB 6.

[10:38:37 AM](#)

STEVE ST. CLAIR, SELF, MAT-SU (via teleconference), testified in opposition to the bill. He was not opposed to farming of hemp, but he was opposed to increasing the scope of government by creating additional regulations. He had examined Washington, Kentucky, and Colorado hemp programs and had learned they were not fiscally self-sustaining. He stated that the Colorado program was almost self-sustaining after three years - fees had to be increased for the program to pay for itself. He referred to a fiscal note by the Department of Natural Resources specifying the department would adopt regulations and manage associated registrations through existing staff. He thought it sounded like the bill would have to be passed to see what it entailed. He thought the budget had been cut to the bone. He believed the Division of Agriculture would have to spend excess funds that it should not have to begin with. He thought the bill was fiscally irresponsible. He did not support running pilot programs during a fiscal crisis when the state was considering increasing taxes and taking Permanent Fund Dividends.

[10:40:46 AM](#)

EMBER HAYNES, SELF, TALKEETNA (via teleconference), spoke in support of the bill. She supported the Alaska agricultural hemp industry. She encouraged keeping the bill as simple as possible while complying with the federal farm bill. She shared that she and her husband were in the business of creating hempseed oil products by infusing Alaskan wildcrafted herbs into oil to make soaps, balms, and tinctures. She would love to incorporate Alaskan hemp into their products. She believed the bill was the first step towards the possibility.

[10:41:44 AM](#)

STEVE ALBERS, KENAI SOIL & WATER CONSERVATION DISTRICT, KENAI (via teleconference), spoke in support of the bill. He stated that according to the 2015 Congressional research report, annual sales of industrial hemp products in the U.S. were about \$550 million. He detailed that the U.S. was the only developed nation that had not developed industrial hemp on a commercial basis; therefore, the U.S. imported all of the products from China and Canada. He stated that Kenai Peninsula farmers were eager to explore the economic opportunities represented by the hearty, multipurpose crop, which could be used for food, forage, fiber, and thousands of industrial uses. Crop trials conducted decades ago in Alaska and hemp grown in Canada demonstrated the crop would grow successfully in Alaska.

Mr. Albers asserted that industrial hemp presented opportunities to farmers and could help address problems with affordable housing and energy in Alaska. He emphasized that the use of hemp in construction and insulation had the potential to significantly mitigate waste in energy consumption and other. He stated that industrial hemp fiber provided an alternative to polypropylene products and chemical dispersants used in oil spills and other bioremediation efforts. He shared that each year more states were opening the door to additional research and the application of industrial hemp by legalizing its commercial cultivation. He urged the committee to add Alaska to the growing number of states and to allow farmers the ability to pursue hemp as a viable commercial product.

[10:44:28 AM](#)

ABIGAIL ST. CLAIR, SELF, MAT-SU (via teleconference), spoke in opposition to the bill. She had found evidence that industrial hemp in Washington, Colorado, and Kentucky was not self-sustaining. She elaborated that the aforementioned states had spent hundreds of thousands of dollars with no guarantee that the investment would pencil out. She had looked at various sources including information from the University of Kentucky and Ontario's Ministry of Agriculture, Food, and Rural Affairs website. She discussed the costs of farming hemp, and thought it was an expensive process that the state could not afford. She listed costs she had estimated. She emphasized that the governor had taken half of the Permanent Fund Dividend and wanted to introduce other taxes. She stressed that many residents

were leaving the state because the legislature had not reduced spending. She stated that hemp would not support the legislature's spending habits. She thought there had been enough government intervention. She wanted to reduce the government footprint.

Co-Chair MacKinnon CLOSED public testimony.

10:47:14 AM

AT EASE

10:48:13 AM

RECONVENED

SB 6 was HEARD and HELD in committee for further consideration.

Co-Chair MacKinnon shared that SB 6 would be heard again during the afternoon meeting. She relayed that amendments were due by Wednesday at 5:00 p.m. She provided additional information regarding other legislation.

#

ADJOURNMENT

10:49:06 AM

The meeting was adjourned at 10:49 a.m.