

SENATE FINANCE COMMITTEE
March 26, 2020
9:18 a.m.

9:18:01 AM

CALL TO ORDER

Co-Chair von Imhof called the Senate Finance Committee meeting to order at 9:18 a.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Lyman Hoffman
Senator Donny Olson
Senator Bill Wielechowski
Senator David Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Juli Lucky, Staff, Senator Natasha von Imhof; Caroline Schultz, Staff, Senator Natasha von Imhof.

PRESENT VIA TELECONFERENCE

Stuart Goering, Department of Law, Anchorage; Shawnda O'Brien, Director, Division of Public Assistance, Department of Health and Social Services; Dan Wayne, Legislative Counsel, Legislative Legal Services; Bill Milks, Attorney, Civil Division, Labor and State Affairs Section, Department of Law.

SUMMARY

SB 242 COVID-19: RCA; UNEMPLOY; PUB ASSIST; LOAN

SB 242 was HEARD and HELD in committee for further consideration.

#sb242

SENATE BILL NO. 242

"An Act relating to tolling deadlines for actions by state agencies; relating to income determinations for purposes of determining eligibility for certain public assistance programs; relating to forbearance from action against borrowers who owe money on state loans; relating to a temporary moratorium on certain mortgage foreclosures, certain evictions from rental properties, and disconnection of residential utilities; and providing for an effective date."

9:18:26 AM

Co-Chair von Imhof explained that SB 242 was a COVID-19 virus economic mitigation bill. She informed that her staff would present the bill and would discuss intent language and other aspects of the bill.

9:19:13 AM

JULI LUCKY, STAFF, SENATOR NATASHA VON IMHOF, started off with some notes. She relayed that based on research, timelines, and the changing landscape of the federal government efforts, it had been difficult to get a bill that had all the elements that people wanted. The bill was the first attempt to get the items people wanted into a bill for consideration. She acknowledged that some of the bill language was not quite right, but the sponsor wanted to get a document in front of stakeholders so people could begin to look at it critically. She noted that as she discussed the Sectional Analysis, she would make note of sections that were being re-written. She requested that committee members let staff know if any language did not match the bill intent.

Ms. Lucky specified that there had been ten health mandates from the governor to reduce and prevent the spread of the COVID-19 virus, including such things as closing businesses and limiting travel, which would have a profound effect on the state's economy. She explained that while the measures were necessary to protect public health, the Senate was concerned about the impact on Alaskans. Previous bills on the same subject had focused on the effects of the pandemic, while the bill being presented was meant to mitigate the economic effect created by the mandates.

Ms. Lucky emphasized that the bill was narrow in focus and was meant to mitigate the economic impact of the mandates. She understood that there were many ideas about economic stimulus that could be taken up after the crisis was over. The bill did not have economic recovery provisions, but rather focused on economic mitigation.

Co-Chair von Imhof pondered how long the economic downturn would last. She thought federal relief funds were imminent but did not know when the funds would arrive. She explained that the Senate was trying to provide efforts through funding, intent language, and possibly temporary statute change to provide economic relief in a myriad of areas.

Ms. Lucky commented that the bill did not intend to jeopardize or duplicate any federal funding. There were not many funding elements in the bill because the sponsors had been unsure of what concepts were put in federal law. The concepts would be forthcoming. She hoped to receive guidance from the committee about what items should be put into the bill.

[9:23:52 AM](#)

Ms. Lucky discussed a Sectional Analysis for the bill (copy on file):

Senate Bill 242
Sectional Analysis
Version 31-LS1748\U

The intent is that all protections and programs in the bill start on March 11, 2020 and remain in place until 30 days after the state emergency has ended.

Sec. 1: States the findings and intents of the legislature.

Sec. 2: Allows statutory deadlines for actions or decisions by a state agency to be delayed. States that if an agency fails to act on a filing or issue a decision, it is not considered approval or denial.

Ms. Lucky explicated that the idea in Section 2 had been discussed in the other body. She noted that there was not "good cause" language in the section, which the committee might want to consider. The sponsor wanted to ensure there

was not approval or denial if there was a problem with health mandates or getting necessary quorums.

Ms. Lucky continued to address the Sectional Analysis:

Sec. 3: States that payments including a Permanent Fund Dividend or aid provided by the state or federal government for the outbreak of COVID-19 shall not be considered when determining eligibility for Medicaid or public assistance.

Ms. Lucky noted that Section 3 pertained to what often was called a "hold harmless" provision. She wanted to point out that often a hold harmless provision was often used to talk about backfill money. The section did not deal with nay backfill of payments, rather it was language to ensure that additional money would not take a person off public assistance or eligibility for Medicaid. She continued to address the Sectional Analysis:

Sec. 4: Prohibits the state from finding a person in default or take loan collateral.

Ms. Lucky explained that Section 4 related to forbearance on state loans during the Covid-19 outbreak. She detailed that there were some drafting issues that were being addressed, and the Department of Revenue had indicated that some of its programs could be considered state loans. The intent of the section was that collateral would not be taken if a person had a loan such as a student loan or loan on a fishing boat.

Senator Olson asked about loans for businesses or municipalities.

Ms. Lucky stated that Section 4 was broadly written, and she believed it would include businesses. She reiterated that there were some technical problems, and she hoped the committee would discuss parameters that would help to refine the language.

Co-Chair von Imhof thought the committee could discuss the conundrum of to what degree would the legislature (versus the governor's executive act) exercise its jurisdiction to direct businesses or banks to behave in a certain way. She wanted the committee to discuss the limits of the

legislature in terms of providing loan relief or requiring institutions to provide loan relief for a period of time.

[9:28:37 AM](#)

Senator Wielechowski wanted to understand the ramifications of Section 2 of the bill. He. He was curious if the section would apply to things like school funding. He wondered if it would be possible for the Department of Education and Early Development to not pay school funding for the duration of the emergency, or if it would be possible for the Department of Health and Social Services (DHSS) to stop paying public assistance program payments. He wanted to more fully understand the authority being proposed.

Ms. Lucky stated that the intent of the section was to state that a quasi-judicial agency could delay a "yea or nay" decision until it had a quorum. She reiterated that the section could use guidance from members to tighten up the language.

Co-Chair von Imhof stated that there was staff from the Department of Law and the Legislative Legal Department available to answer questions.

Senator Wielechowski wanted to ensure that committee understood the intent.

Senator Wielechowski asked if Co-Chair von Imhof had heard anything from the judicial branch. He had heard the Judiciary was not having grand jury trials or jury trials. He wondered if the Judiciary was looking for some kind of relief. He mentioned the right to a speedy trial and wondered if the legislature needed to provide language or guidance.

Ms. Lucky stated that she had reached out to the Judiciary and asked if it needed any statutory authority. She had heard an initial response that statutory authority was likely not needed.

[9:32:32 AM](#)

Ms. Lucky pointed out that there was a distinction between Section 4, which dealt with state agencies; and Section 5 through Section 7, which dealt with regulating things that were not state agencies. She noted that there was a bill in

the other body, and staff had been working diligently with the power association and Regulatory Commission of Alaska to perfect the language in Section 5. She continued to address the Sectional Analysis:

Sec. 5: Prohibits a public utility company from disconnecting service for nonpayment and requires reasonable efforts to reconnect utility service that was disconnected.

Ms. Lucky acknowledged that the language in Section 5 was flawed, and conveyed that she was waiting to get additional language. The intent was to put a moratorium on disconnection of residential utility service during the state disaster.

Senator Hoffman thought the intent of Section 5 was an excellent plan. He thought it was problematic that smaller utilities in rural Alaska could not absorb the lack of payments. He thought there should be a plan to help utilities if they did not have enough revenue to operate.

Ms. Lucky relayed that the other body had been looking at the issue. There had been a suggested solution that would allow a utility company to treat the unpaid bills as assets, which would allow the company to put the cost over time. She understood Senator Hoffman was asserting that the utility companies would need operating cash to keep functioning, and she promised to continue looking into the matter.

Senator Hoffman thought the mechanism described by Ms. Lucky was complicated for many small utilities. He thought the committee needed to look at streamlining the process and maybe provide cash and accept the receivables.

Senator Wielechowski noted that Section 6 and Section 7 had provisions that indicated that a person seeking protection to not make payments would have to file a certification. He noticed there was not a similar provision in Section 5. He wondered if the members had considered the issue.

Ms. Lucky read Section 6 and Section 7:

Sec. 6: Prohibits eviction for nonpayment of rent if a person is experiencing financial hardship.

Sec. 7: Prohibits foreclosure on the property of a person experiencing financial hardship.

Ms. Lucky noted that the language was still being perfected and was not written clearly enough. There was concern about evictions due to illegal acts. There were some public assistance programs that required eviction if tenants did certain illegal things. The sections were being reworked to accommodate the issues. She stated she would find an answer to Senator Wielechowski's question.

Senator Wilson referenced Senator Wielechowski's question and asked if the bill would define "financial hardship" so that it was clearly understood.

Ms. Lucky suggested that the topic be discussed by Legislative Legal Services, and she was unsure if the definition already existed in statute. The intent was to provide for financial hardship due to the state disaster. She deferred to the legislative legal drafters and stated that some definition would be provided for understanding.

[9:37:30 AM](#)

Senator Hoffman asked about individual loans and noted that his argument about Section 5 also applied to Section 6. He mentioned credit ratings and thought non-payment of rent could result in landlords not being able to pay mortgages. He thought the process needed to be worked out.

Co-Chair von Imhof thought Senator Hoffman brought up a good point regarding Equifax and other credit agencies. She wondered if there could be intent language added to hold credit scores harmless. She pondered whether the state could impact the matter.

Senator Wielechowski referenced Section 6 and asked about an individual that had a lease expire. He wondered if a landlord could evict a person at the end of a lease.

Co-Chair von Imhof thought Senator Wielechowski brought up a good point and thought there were various reasons why a landlord might want to evict a tenant at the end of a lease. She thought having a more concise definition of financial hardship.

Ms. Lucky thought it was a tough policy decision to consider being under a hunker-down order when a person was at the end of a lease. She pondered whether it was good to have people changing residence during the state emergency. She emphasized the need for the legislature to make policy decisions and pondered the difficulty of the chain of events involved in non-payment.

Co-Chair von Imhof wanted to consider financial hardship and discussed individuals that received unemployment benefits or continued to receive wages from employers that received loans from the federal government. She pondered whether it was possible to control to direct how individuals spent their money. She was not sure it was possible to direct how wage replacement was spent.

9:42:08 AM

Ms. Lucky addressed the final sections of the Sectional Analysis:

Sec. 8-13: Sections that explain the effective dates. These will have to be amended for consistency.

Ms. Lucky explained that the bill intended to define state emergency in Section 8, and the definition would be used throughout the bill. The definition did not have to be tied to the emergency declaration. She explained that the intent was to have the provisions in place for 30 days after the lifting of the disaster declaration, and as the bill moved forward the sponsor would work to have the dates conform.

Ms. Lucky continued to speak to the bill. She addressed items members might have expected to see in the bill but were not, such as wage replacements. She stated that initially wage replacement was considered to put into the bill. She understood there would be a certain amount of federal wage replacement, and after talking to the departments it was found that the state efforts could be duplicative or harmful as the federal law would take precedent. She understood that the federal provision would provide an addition \$600 per week for those collecting unemployment insurance. There was a conforming payment for people that were in the "gig economy." The department was working through how to program the payments, which could take a few weeks. There was an outstanding question of if the \$600 payment would be retroactive, and she would

provide the committee with further information when it became available.

[9:45:27 AM](#)

Senator Hoffman asked about the \$600 payment. He asked if it had been determined if the funds were taxable.

CAROLINE SCHULTZ, STAFF, SENATOR NATASHA VON IMHOF, did not have the information regarding taxability of the extra payments. She offered to get back to the committee with the information. She stated that the federal government had indicated that it would be funding the additional \$600 weekly payment in addition to the base weekly payment for the non-covered population, "gig economy," and those that weren't previously eligible for unemployment benefits.

Senator Hoffman thought it was critical to have the answer as soon as possible. He thought whatever the committee did with the legislation, it should look at least one or two months past when the legislature would reconvene in January.

Co-Chair von Imhof thought it was important to try, to the degree possible, to set a date as far as possible in the future. She thought economic hardships could last for quite some time. She thought the committee could have a discussion regarding dates and relying on the governor's proclamation that the disaster was over or on another date.

[9:47:51 AM](#)

Senator Bishop wanted to have an overview by the Department of Labor and Workforce Development to get questions answered. He noted that he had worked with Ms. Lucky and the department. He stated that the department had sufficient receipt authority for staffing and programming, which it could put on the record.

Ms. Lucky stated that there had been a section that was requested to be drafted relating to getting more money to food banks but there had been problems figuring out how to make it work. There had been intent to get more money into food banks and get more food into underserved areas. She had been working with the department to ensure that providers had the necessary resources to implement the

plan. She let the committee know that it was a priority issue to get language in the bill.

Ms. Lucky detailed that the last component that would go into the bill was to allow Alaska Housing Finance Corporation (AHFC) to do more to prevent homelessness. There was potential language that would allow AHFC to expand its homelessness programs as a result of a disaster, and the proposed provision should be forthcoming.

Senator Wielechowski referenced Section 10 and asked if staff planned to work on repeal language. He thought all the sections stipulated that the provisions would last for the duration of the state emergency and 30 days thereafter, and then repealed the sections on June 30.

Ms. Lucky clarified that once there was an idea of what the committee desired for effective dates, the provisions would conform to the decision. She knew there were inconsistencies and affirmed that the dates would be adjusted when a decision was made by the committee.

[9:51:09 AM](#)

Senator Hoffman referenced some work he had done addressing the food issue.

Co-Chair von Imhof asked Senator Hoffman to elaborate.

Senator Hoffman discussed food security, heating, and travel needs in rural Alaska. He had materials that his staff distributed (copy on file). The question of food security had been raised in his region. He discussed concerns about heating fuel and the eventuality of being in lockdown over the winter and inability to pay heating bills. He relayed that he had worked on a program that addressed the heating fuel component. He noted that the first page of his materials discussed a program that provided heat for households that fell below federal poverty guidelines. He thought more and more people would fall into the category, and the existing program might not have adequate funds to address the growing needs. He pondered expanding the eligibility for the program.

Senator Hoffman noted that travel was essential to get commodities to rural Alaska. He knew that travel in rural Alaska had been drastically reduced, as it had in other

areas. He mentioned a federal program that propped up large carriers experiencing financial hardship. He did not know if there would be supports for small carriers in rural Alaska. He asserted that travel for people in the remotest parts of the state was critical for health, life, and safety. He emphasized that heating, food, and travel for rural Alaska needed to be addressed in the context of the virus' effects in remote villages.

Co-Chair von Imhof thought Senator Hoffman had brought forward three very important topics. She addressed food security, and thought there could be a dollar amount in the other appropriation bill to set aside money for a centralized grant-making department in DHSS that would be directed to work with all statewide food pantries. She thought there might be varying needs in different parts of the state. She thought it was important to be prescriptive but not granular. It was the intent of the bill to provide support for food.

[9:56:34 AM](#)

Senator Hoffman wanted to bring attention to an incident that happened the previous day in the Yukon-Kuskokwim Delta. He read from an email that came from the President/CEO of the Yukon-Kuskokwim Health Corporation:

It has begun. Ravn has a policy in effect to deny boarding of anyone that has a respiratory illness. Two babies were denied this morning. My chief doc called the state epidemiologist and they tried to convince them that it is like RSV and not COVID. They refused. When COVID shows up, there are not going to be enough medivac aircraft in Western Alaska to handle our region. Ambulatory patients using commercial aircraft, not medivacs. If the government refuses to tell them to serve respiratory patients, then we need the guard to mobilize in all hubs of Western Alaska to provide the services to get these individuals to medical facilities.

Co-Chair von Imhof wanted to hear from committee members.

Senator Bishop wanted to address food security. He stressed that the state produced 50 percent of its foodstuffs 50 years ago, and currently it only produced one percent. He

thought it was a good example of why the state needed to produce its own food and preserve it for emergencies.

Senator Wilson stated his office had been working on trying to identify food shortages and had looked at food processors in the state. He noted that the state had issued Requests for Proposals to the processors to keep the entities going and try and provide food for the state. He was trying to find a package with salmon processors to be part of the food solution and was looking at intent language to add.

Senator Wilson referenced Section 6 and the non-payment of rent. He wondered if it was possible to add a clause about the ability to terminate leases or rentals for people who were unable to find work due to the emergency.

10:00:15 AM

Senator Wielechowski thought the governor had mentioned banning air travel in the state the previous day. He referenced Senator Hoffman's comments and wanted to have discussion on the topic. He hoped that matter was thought through very carefully. He thought for much of Alaska it could be death sentence if people were trapped in villages and could not access help.

Co-Chair von Imhof wanted to pivot to people on the phone waiting to testify. She listed the names of individuals that were available.

Ms. Lucky stated that the issues discussed by members had also been identified by staff. She wanted to let members know that the committee was in receipt of many amendments. She stated it would be helpful if members let the co-chair's office know of any desired changes to the bill or suggested language. She stated she was not familiar with rural Alaska. The committee would be relying on staff from those areas of the state for expertise and guidance.

Co-Chair von Imhof emphasized that the legislature was under a severe time constraint and cautioned that the bill could not include everything every person wanted. She cautioned, "do not let the great get in the way of good." She had faith that if money or direction were provided, the departments would execute the intent of the bill.

Co-Chair von Imhof pondered the earlier question about what was defined as a financial hardship; and if those receiving wage replacement should be required to pay rent and utilities.

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Co-Chair von Imhof relayed that committee staff would give an overview of the federal stimulus package, and then invited testimony would discuss food security and loan relief.

Ms. Schultz addressed some of the items being worked into federal legislation for the COVID-19 response. She reminded that the federal bill was 800 to 900 pages in length and all the provisions and effects were not known. It was unknown how much money the state would be receiving as a result. Many of the provisions would use existing federal granting programs or federal formula programs, and she thought Alaska would get its relative share. She thought some of the gaps in SB 242 might be filled in by some of the federal elements.

Ms. Schultz noted there was a \$5 billion appropriation to the Community Block Grant Development Program, which was an important source of federal funding for many of the state's community non-profits such as food banks. There would be subsidies for state disaster relief response, which could involve food and transportation. She mentioned that there was an extension for the Real I.D. and the deadline had been moved to September 30, 2021.

Ms. Schultz listed proposed federal funding available for hospitals. The federal legislation had a focus on ensuring that rural hospitals stayed solvent. There was funding for childcare grants to make sure childcare providers would be able to remain in business. There was additional funding for the Low Income Home Energy Assistance Program (LIHEAP), which was a state-federal cooperative program managed by the Division of Public Assistance. There was considerable funding for the National Guard for response and deployment response for transportation. There was urban and rural

transportation block grant funding available, which she imagined would be use for smaller transportation issues such as rural and urban transit systems.

10:09:35 AM

Ms. Schultz spoke to larger scale items addressed in the federal legislation. There was funding for an extra \$600 per week in unemployment insurance as well as extension of unemployment insurance to non-covered individuals. There was funding for a \$1200 payment to individuals. There was also a very large chunk of funding made available to states, with the minimum amount set at \$1.25 billion. She assumed that Alaska would receive the minimum amount.

Co-Chair von Imhof asked if the \$1.25 billion would be spread out amongst programs, or if the funding would go to the General Fund.

Ms. Schultz explained that the funding was specifically directed to state and local governments. The local government provision was for entities with a population of 500,000 or more; and since Alaska had no cities or boroughs of the required size, the full amount would go to the state. There was direct funding for the state for education, and for the Office of the Governor to focus on education. She continued that there was a provision for \$8 billion available for tribal governments, nearly half of which resided in Alaska.

Co-Chair von Imhof wondered if the \$1.25 billion would be one large lump sum, or would the funds come in payments. She wondered who would direct how the funds were spent.

Ms. Schultz stated she was working diligently to get the information and would get back to the committee as soon as any details were available.

Ms. Schultz stated that she had given a high-level overview and included topics that had come up in the committee discussion.

Co-Chair von Imhof asked about two questions Ms. Lucky had brought up regarding SB 242.

Ms. Lucky stated that the SB 242 bill drafter was available for questions, as well an attorney from the Department of

Law. She referenced member's questions about how far someone could step between a borrower and a bank. She thought there might be legal questions about how far some of the bill provisions could go. She noted that the Director of the Division of Public Assistance was available to talk about food assistance and getting resources to the places that were most in need. She thought the topic of hold harmless provisions or eligibility for public assistance and Medicaid programs could be addressed.

Co-Chair von Imhof raised the question of state jurisdiction. She invited testimony from the Department of Law to consider how far the state could step in between a borrower and a bank and if the state could require a bank to refrain from vehicle repossession or property foreclosures.

[10:14:03 AM](#)

STUART GOERING, DEPARTMENT OF LAW, ANCHORAGE (via teleconference), relayed that he was available to deal with questions pertaining to the Regulatory Commission of Alaska and issues related to utility disconnection. The jurisdiction question was outside his area of expertise.

Co-Chair von Imhof asked if Mr. Goering would work to find a colleague that had expertise in the area in question.

Mr. Goering stated he had initiated a request to the section chief to find staff available to discuss state jurisdiction as it pertained to Co-Chair von Imhof's question.

Co-Chair von Imhof tabled the question for a later time.

Senator Wilson asked about the state's contractual obligations. He wondered if the state could push back some of its financial obligations to make other more immediate payments available. He wondered about school district employees and contracts. He wondered if the state could put a moratorium on the payments.

Co-Chair von Imhof thought there were endless examples of contractual obligations and payments between entities. She thought commerce had ceased in ways that were unfathomable. She pondered how to have every trade held harmless.

Co-Chair von Imhof thought Senator Wielechowski had referenced Section 2. She thought he had used an example of a state department refusing to pay an obligation.

Senator Wielechowski thought the way the bill language was written had unintended consequences.

Mr. Goering thought the way the language was written applied to statutory and regulatory action or decisions, which were typically things like applications, tariff filings, and dispute resolutions. He thought many of the items had consequences for missing the timelines, which in some cases included automatic denial or approval. He thought the language was clear and understood that the intent of the bill was that the provision would apply to the kinds of decisions he cited rather than executive decisions such as what checks to write or contracts. He thought the provision could perhaps apply to issuing a grant, but thought the language was directed primarily at quasi-judicial decisions rather than all state decisions.

[10:19:15 AM](#)

Co-Chair von Imhof asked for more clarity and direction regarding food security and hold harmless provisions.

SHAWNDA O'BRIEN, DIRECTOR, DIVISION OF PUBLIC ASSISTANCE, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (via teleconference), stated that the division was working on a number of different efforts to allow for relaxing of the division's rules for food stamps and other programs to maintain or gain eligibility. She continued that in terms of the hold harmless provision, there were provisions in place already for the Permanent Fund Dividend. She explained that the division was still waiting for federal guidance regarding rules and how to apply them for any federal funds that were issued. She stated that on a federal level there was an intent to relax rules and increase services. The federal government was working hard to get formal guidance out, and she would provide the information when it became available. She referenced heating assistance had just learned that additional federal funds would be made available for the LIHEAP Program.

Co-Chair von Imhof understood that comprehending the federal provisions was a work in progress. She knew that her office received a call from Sana Efird, the

Administrative Services Director for DHSS. She added that DHSS oversaw grants for food banks, and thought it made sense to provide a grant to DHSS, which would then disseminate the funds to food banks throughout the state.

Senator Bishop thought Ms. Shultz had mentioned something regarding food banks. He thought farmers markets were included.

Co-Chair von Imhof thought there was an issue because there were state funds layered with federal funds. She pondered how to avoid duplication and preserve state funds as long as possible for when the federal funds were expended. She emphasized the importance of leveraging federal funds to the degree that it was possible.

Co-Chair von Imhof wanted to discuss loans and all things pertaining to delayed loan payments.

[10:24:17 AM](#)

DAN WAYNE, LEGISLATIVE COUNSEL, LEGISLATIVE LEGAL SERVICES (via teleconference), asked if the committee had a specific question about loans or loan payments.

Co-Chair von Imhof asked to what degree the legislature could direct a bank or a financial institution to behave a certain way.

BILL MILKS, ATTORNEY, CIVIL DIVISION, LABOR AND STATE AFFAIRS SECTION, DEPARTMENT OF LAW (via teleconference), mentioned that the other body was working on a similar bill. He referenced Section 4 through Section 6 of SB 242 and addressed the proposed moratorium on evictions and foreclosures. He thought that the provisions were arguably a government action taken for public benefit that could have an economic consequence on a private entity (a bank or landlord). He stated that there was a statutory provision under the Alaska Disaster Act in AS 26.23.160 that provided compensation when the state determined it was necessary to commandeer property in response to a disaster.

Mr. Milks continued to address Co-Chair von Imhof's question. He thought the committee might consider more finely tuning Section 6 and Section 7 to address the specific kind of damage that could occur to a landlord or to a mortgage holder from lost rent. He thought the

existing disaster act addressed the subject generally but not precisely. He thought if the bill passed as is, the existing statute would kick in. He considered that when there was government action for public benefit, some kind of compensation for the private party would have to result.

[10:27:49 AM](#)

Co-Chair von Imhof asked if a bank and a landlord or a bank and borrower were working together and the borrower could not make payments, what would the existing statute mean for the bank. She asked about recourse for the bank.

Mr. Milks acknowledged that the bill analysis was happening very quickly. He considered Section 6 and Section 7, which put a moratorium on eviction for non-payment of rent. The consequence of lost rent revenues through a government action could be considered "taking" of property by the government. He explained that existing disaster statute addressed compensation when the government took action that affected private property. When it took the action pursuant to disaster relief powers, statute provided a method for compensation. He thought the bill in the other body was more specifically focused on moratoriums and foreclosures. He thought provisions could be drafted to specify the kind of damages a bank or landlord could receive from the government.

Co-Chair von Imhof thought that it was possible for the banks to be made whole by the economic plan.

Senator Wielechowski thought it was unusual to get legal advice from the Department of Law as opposed to the legislature's own attorneys. He noted that the governor had shut down barbers, tattoo parlors, and other kinds of small businesses. He asked if Mr. Milks was saying that all the small businesses were entitled to compensation from the state.

Mr. Milks replied that he was only addressing Section 6 and Section 7 of the proposed bill.

Senator Wielechowski thought the bill was much more limited than the action of the governor shutting down businesses. He thought the same logic would apply to small businesses losing revenue. He advised Mr. Milks to be careful about what he told the committee.

Mr. Milks responded that the department was trying to aid the committee with its questions and the rough statutory reference he made was concerning commandeering or destroying property per AS 26.23.160.

Co-Chair von Imhof thought the question could be more nuanced. She pondered what the state could do to help businesses like Senator Wielechowski mentioned, as well as expanding the help to banks and others.

[10:32:37 AM](#)

Senator Wilson understood that everything was speculation and there was no applicable statute. He thought the situation would mean letting the Judicial Branch set policy.

Mr. Milks asked for clarity.

Senator Wilson restated his question. He thought the legislature could take action for helping with utilities, evictions, rent, and loan relief; and whether the state would be held liable to make businesses whole would be a matter for litigation for the court to decide.

Mr. Milks thought Mr. Goering could address a regulated utility environment and the implications of Section 5.

Co-Chair von Imhof stated the committee had about 30 minutes remaining to discuss the bill. She thought the state's ability and role to direct businesses was pretty murky. She acknowledged that the governor and various mayors had shut down businesses and the federal government had responded by having a significant bailout. She asked if it made sense to include intent language to dictate that some of the \$1 billion in federal funds be spent to make banks and air transportation whole. She questioned what could be done to ensure landlords knew employees were receiving unemployment insurance benefits and federal funds of up to \$600 per week, and if those receiving the funds had the ability to pay.

[10:36:36 AM](#)

Co-Chair von Imhof repeated her question. She asked how a landlord could know if an employee received compensation,

either through their employer's federal subsidy or other federal subsidy. She asked how the legislature could direct renters to continue to pay rent if the individuals had the means to do so.

Mr. Wayne thought the information would be private and the employee would have to give an employer permission to divulge the information to a person that asked.

Co-Chair von Imhof asked if it was possible to force someone to pay rent or add intent language that would prioritize the payment of rent.

Mr. Wayne did not think what Co-Chair von Imhof described was possible. He pointed out that there was a constitutional provision that prohibited the state from adopting a law that impaired the obligation of contracts such as a lease. He thought Mr. Milks had referenced Article I, Section 18, which stipulated that private property shall not be taken or damaged for public use without compensation. He thought if the provision was challenged in court the court would probably apply a balancing test, and say the rights of the people involved be free from the consequences of the taking were offset somewhat by the needs of the government to address health, safety, and welfare. He thought the court would consider if the law was narrowly focused to deal with the crisis. He thought if the statute was overly broad, the court might not be able to find justification through the balancing test.

[10:40:05 AM](#)

Senator Wilson considered incentives and did not want to penalize businesses. He pondered tax credits as a way to incentivize potential losses. He acknowledged the limited time available to ponder the possibilities.

Mr. Wayne stated there was a federal pre-emption issue with telling banks what to do. He explained that national banks and federally chartered savings associations were covered by federal law, and in the case of a conflict with state and federal law, the federal law would prevail.

Senator Olson was concerned the committee was getting too granular and slowing down the bill process. He was afraid the committee would fall behind.

Co-Chair von Imhof wanted to set the bill aside. She asked the committee to continue consideration of the bill and work with Ms. Lucky on any proposed intent language or amendments. She thought the committee should meet in the afternoon to work on the bill. She asked that any amendments be worked through Ms. Lucky to get them drafted expeditiously. She emphasized that the bill could not cover every contingency. She acknowledged there would be things that could not be addressed.

Senator Bishop agreed with Co-Chair von Imhof. He thought once the federal law was passed the committee could consider things that were missed in more detail.

Co-Chair von Imhof thought food, fuel, and travel were topics to direct to Co-Chair Stedman as he considered the appropriation. She pondered that there was potentially \$1 billion coming to the state and asked if intent language should be added to direct funds to certain industries such as tourism, fishing, or bank lenders.

SB 242 was HEARD and HELD in committee for further consideration.

[10:44:24 AM](#)
RECESSED

[Co-Chair von Imhof ADJOURNED the meeting at 5:53 p.m.]

ADJOURNMENT
[5:53:35 PM](#)

The meeting was adjourned at 5:53 p.m.