

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

April 29, 2019

1:30 p.m.

**MEMBERS PRESENT**

Senator Shelley Hughes, Chair  
Senator Lora Reinbold, Vice Chair  
Senator Jesse Kiehl

**MEMBERS ABSENT**

Senator Mike Shower  
Senator Peter Micciche

**COMMITTEE CALENDAR**

SENATE BILL NO. 71

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 71

SHORT TITLE: 2019 REVISOR'S BILL

SPONSOR(S): RULES BY REQUEST OF LEGISLATIVE COUNCIL

03/01/19	(S)	READ THE FIRST TIME - REFERRALS
03/01/19	(S)	STA, JUD
04/12/19	(S)	STA REFERRAL WAIVED
04/29/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

RYNNIEVA MOSS, Staff  
Senator John Coghill  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 71 on behalf of the Senate Rules Standing Committee.

JEAN MISCHEL, Revisor of Statutes

Legislative Legal Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Presented the changes in the revisor's bill, SB 71.

**ACTION NARRATIVE**

[1:30:06 PM](#)

**CHAIR SHELLEY HUGHES** called the Senate Judiciary Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Reinbold, Kiehl, and Chair Hughes.

**SB 71-2019 REVISOR'S BILL**

[1:30:30 PM](#)

CHAIR HUGHES announced that the only order of business would be SENATE BILL NO. 71, "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes."

[1:31:14 PM](#)

RYNNIEVA MOSS, Staff, Senator John Coghill, Alaska State Legislature, Juneau, said that SB 71 was introduced by the Senate Rules Standing Committee at the request of the Legislative Council. She explained that the Legislative Legal Services reviews approximately 10-12 titles in statutes each year, as well as the Constitution of the State of Alaska. She explained that the revisor of statutes makes changes to conform to the legislative drafting manual, to correct grammatical errors, and to eliminate obsolete statutes.

[1:31:53 PM](#)

JEAN MISCHEL, Revisor of Statutes, Legislative Legal Services, Legislative Affairs Agency, Juneau, explained that the agency conducts a scheduled review of all of the statutes over the course of five or six years, rotating through all of the titles, including the Constitution of the State of Alaska. This bill was the result of about one and one-half years of work conducted by the agency's editors, drafting attorneys, and the publisher. This year the agency reviewed Title 6 and several other titles. Some titles required very few changes, either because they were previously interpreted by the courts or because the relevant departments have interpreted the provisions, even if they were drafted inconsistent with the legislative drafting manual. She offered to review the changes in SB 71 by grouping them into types of changes.

[1:33:25 PM](#)

SENATOR REINBOLD asked what she said about the Constitution of the State of Alaska.

MS. MISCHEL answered that the agency periodically reviews the Constitution of the State of Alaska for any technical errors, which are not normally found or changed. For example, a change may pertain to a capitalization or it may happen that a case interpreted a provision. If so, the revisor might make a reference to it in the notes following the constitution, she said.

SENATOR REINBOLD said she was not aware that the revisor reviewed the Constitution of the State of Alaska.

[1:34:15 PM](#)

MS. MISCHEL detailed the changes she made as revisor. She said that grammatical changes were made in Sections 1-6. She explained that the bill drafters strive to draft legislation using the active voice and to avoid using shorted terms such as exam for examination. The language "early chartered" should not have been hyphenated in AS 06.01.010(e), she said.

CHAIR HUGHES referred to the memorandum dated February 28, 2019 from Legislative Legal Services that provided a sectional summary of the 2019 revisor's bill. She said that the memo indicates certain sections delete repealer updates, some sections correct errors or oversights, and some sections improve the form or substance of the law. She asked her to explain "substance" because it seems to imply content.

MS. MISCHEL answered that there are two meanings for substance. The revisor and bill drafters do not intend to change any substantive legal effect in legislation, but occasionally words are relocated or deleted. For example, the bill drafters will remove definitions that are no longer used in the statutes. The agency considers those changes of substance, even if it does not have any legal effect, she said.

CHAIR HUGHES said that since the document was posted online, she thought it would be helpful to clarify that this bill is not addressing substantive changes to law.

[1:35:45 PM](#)

MS. MISCHEL clarified that if anyone were to suggest that a change had a substantive legal effect, the agency would remove that provision. She said that she was not aware of any

substantive changes and she had carefully reviewed the bill. She agreed that the sectional summary generally consists of three different categories of changes. These changes all use the statutory basis for making changes to the current statutes under AS.01.05.036.

MS. MISCHEL reviewed the sectional summary. She said that Sections 1-6 were changed to improve form and not substance.

[1:36:35 PM](#)

MS. MISCHEL read Sections 7 and 8.

Bill section 7 amends AS 06.50.400(c) to update a cross-reference to the federal Fair Debt Collection Practices Act.

Bill section 8 amends AS 06.55.406(a) to remove a cross-reference to a federal regulation that is covered by a cross-reference to the federal statute.

She explained that the agency is biased against referring to federal regulations since they change frequently.

[1:37:03 PM](#)

MS. MISCHEL said that in Section 9 a comma was removed and the language "but not limited to," was removed.

MS. MISCHEL stated that in Section 10 and several other sections she removed an obsolete reference to "telegraphs" since these are no longer available in the state or the country. The agency took the opportunity to remove all references to "telegraphs" and "telegrams", including a crime involving "telegraphs." She said at the end of the sectional a lot of the repealers pertained to "telegraphs" and "telegrams". She noted that she placed the text of repealed provisions in the sectional for members' review.

[1:38:10 PM](#)

MS. MISCHEL said she was unsure of the level of detail the committee wanted to hear since many corrections involved comma placement. She said that the editor, Lexus Publishing, seeks to correct commas in the statutes. However, if the drafting attorneys, editors, and she as the revisor, determine that it has a substantive effect, the agency would not insert or remove a comma. She explained that the commas in [the bill] are simply for clarification and grammar purposes and not intended to change any provision or its effect.

CHAIR HUGHES asked whether any Oxford comma debates arise, such as "I really like my parents, humpty-dumpty, and Lady Gaga."

MS. MISCHEL answered that some Oxford commas were added in the bill to clarify that it was a serial list rather than grouping the last two clauses.

She said the revisor and drafters changed "Alaska" to "state" per the [Manual of Legislative Drafting]. The drafters also removed some arcane phrasing, such as "it being understood" and changed it to an active voice in Section 14, she said.

[1:39:47 PM](#)

MS. MISCHEL said that Sections 15-18 all reference the Alaska State Bar. These were fairly bold statutes that had some improper references and use of pronouns, she said. For example, the title for the Council of Legal Education of the American Bar changed, so the agency updated the reference.

[1:40:20 PM](#)

MS. MISCHEL referred to changes in Section 19, which were all grammatical changes. For example, the language "provided that" was replaced with ["if"] for consistency with the Manual of Legislative Drafting.

She said that a reference to "Alaska" in Section 20 was changed to "the state" consistent with the Manual of Legislative Drafting.

[1:40:47 PM](#)

MS. MISCHEL said that changes in Sections 20-22 removed the term "telegraph."

She reviewed the changes in Section 23. She noted that "the department" was already defined for purposes of AS 08.48 regarding architects and landscape architects, so the drafters removed the whole phrasing "the Department of Commerce, Community and Economic Development (DCCED)" and replaced it with "the department." She said that the language "whether or not" is redundant so "or not" was removed. She said that change was also made in Sections 23-26. She said that the definition of department was added to Section 27.

[1:41:53 PM](#)

MS. MISCHEL explained that Section 28 fixed an omission by adding a definition for "opioid" in the statutes relating to

optometrist licensing. That definition should have been added when the restrictions on opioid prescriptions were added to AS 08.72 when it was changed for all the other health care professionals. She explained that a definition was added, which was identical to the one in Section 28.

[1:42:32 PM](#)

CHAIR HUGHES referred to page 11. She noted that the language "but not limited to" was removed. She asked whether it was standard that when "including" was used that it would be necessary to add "only." She said she wanted to be certain that whatever followed was not limited, even if the words were removed.

MS. MISCHEL answered that Title 1 describes the word "including" as meaning "but not limited to" so every time that phrase was inserted into the statutes, it was redundant. She said if it were to be limited to one item or a list of items, the drafters would not use the word "including."

[1:43:22 PM](#)

MS. MISCHEL reviewed Section 29.

Bill section 29 fixes a word usage error by substituting the phrase "provides outpatient dispensing" for "dispenses", consistent with the defined terms for the chapter

She explained that "dispenses" was not defined but since the term "outpatient dispensing" was defined, legal services converted "dispenses" to "outpatient dispensing." "Outpatient dispensing" has a definition for pharmacies, she said.

CHAIR HUGHES related her understanding that hospitals provide inpatient and outpatient services. Dispensing medicine to an outpatient would mean the person would leave the hospital with the prescription. She asked whether nursing homes would be considered as "inpatient services."

MS. MISCHEL said it was possible but the revisor would not remove it from the list because it could have a substantive effect. For example, it might be possible for a nursing home to prescribe for outpatient services if the person was being transferred to another facility.

[1:44:51 PM](#)

SENATOR KIEHL related his understanding that "dispenses" would cover both "inpatient" and "outpatient." He asked if this change would limit the requirement for a pharmacist to be in charge of "outpatient dispensing." He asked whether provisions elsewhere in statutes would require a licensed pharmacist to be in charge when dispensing to a patient in a facility.

MS. MISCHEL answered that this provision was limited to outpatient treatment. She said other provisions would address inpatient pharmacies.

[1:45:29 PM](#)

MS. MISCHEL reviewed Sections 30-31.

Bill section 30 makes changes as described above for bill sec. 9.

Bill section 31 substitutes "may not" for "shall not", consistent with the Manual of Legislative Drafting.

MS. MISCHEL said that the language "shall not" was not used in the statutes. She said that "may not" means "shall not."

CHAIR HUGHES said she struggles with this because the phrase "may not deprive a person of the following" implies that a person could be deprived. She questioned the change opining that the term "shall" seems clear as opposed to the term "may" which is more questionable.

MS. MISCHEL replied that editor's manuals and drafting treatises also inform the legal services drafters and "may not" has been interpreted as a straight prohibition. She explained that "shall not" is arcane way of saying "may not." Even though may is a permissive term, adding "not" changes it to a strict prohibition. She explained that the legislative drafters strive for consistency, so if any "shall not" phrases are in statute a court may wonder if it means something other than "may not" which is a strict prohibition. Further, "not" means "not." She said the Legislative Legal Services seeks to make the statutes with strict prohibition read "may not." She offered her belief that this was the only remaining "shall not" in the 44 titles. She said this change is consistent with the Manual of Legislative Drafting.

CHAIR HUGHES said she understands the consistency issue, but she questions whether boards and others will always interpret "may" as hard and fast as "shall." She opined that the term "may"

opens a window and pointed out that a lot of policy changes are based on "may" versus "shall" in the positive. "Do we use "shall" in the positive in statute?"

MS. MISCHEL replied it is used as a command. "It's a disallowance of something somebody could do physically and we're saying you may not do it under the law."

CHAIR HUGHES responded, "If "shall" in the positive isn't considered archaic, why is "shall not" considered archaic - and we're changing it. If we want to be consistent, why do we not use "shall" in the positive and "shall not" in the negative." There is no confusion and no wiggle room, she said.

MS. MISCHEL answered that there is no wiggle room with the phrase "may not." She said she understands the pause because "may" is a permissive term but adding "not" to the permissive makes it a prohibition. She said this matter is described in the Manual of Legislative Drafting so the courts would not interpret it any other way. "May not" would be interpreted as a prohibition, she said.

CHAIR HUGHES asked whether "may not" and "shall not" were interpreted this way universally or something that was established in Alaska. She said she was more comfortable with "shall not" and she finds it odd to use "shall" in the positive but prohibit its use in the negative. She offered her belief that someone not familiar with the drafting standards would think otherwise. She said, "If I say they 'may not' operate to deprive a person, I'm thinking well maybe they could operate to deprive a person."

[1:49:55 PM](#)

MS. MISCHEL explained that the only way the person could operate would be if the term "unless" was inserted after "may not." She said it is an interesting debate, but the drafting attorneys must follow drafting conventions. The drafters also use Dickerson [ALWD Citation Manual, under editor Darby Dickerson] as a reference. She explained that this manual is nationally applied in legislative drafting. She said a handful of states may still use "shall not" but it is not common.

[1:50:36 PM](#)

SENATOR REINBOLD asked who chose to use Dickerson and what she means by drafting convention.

MS. MISCHEL answered that Manual of Legislative Drafting was adopted by the Legislative Council. The legislature as well and the drafting attorneys are required to follow those standards, which is what she means by convention. Those decisions were heavily debated, she said. The legislature makes changes to the manual every year or two, which is approved by the Legislative Council. By statute, legislators are required to follow the manual. Further, the legislature always has an opportunity to amend the manual. She remarked that the Constitution of the State of Alaska uses "shall not" since it was written as a document that has a particular history and context. In this instance, "shall not" is a remaining reference for real estate appraisers that is not consistent with the rest of that or any title, she said.

[1:52:01 PM](#)

SENATOR REINBOLD remarked that she found the debate interesting and she could relate to both arguments.

[1:52:28 PM](#)

CHAIR HUGHES asked who would make the decision to amend the Manual of Legislative Drafting.

MS. MISCHEL answered that the agency conducts an annual review process. This year some changes were proposed by the Chief Clerk and the Senate Secretary related to bill engrossment. Those changes were added to the end of the manual, she said. Occasionally the editor internally suggests changes, and the revisor and assistant revisor examines every page of the manual annually looking for errors or inconsistencies.

CHAIR HUGHES summarized that the decision to make changes comes from within the Legislative Affairs Agency.

MS. MISCHEL answered yes, but the Legislative Council makes the final determination, she said.

CHAIR HUGHES suggested that the committee might wish to hold a conversation with members of the Legislative Council. She reiterated that she prefers "shall not" to make it "crystal clear."

[1:53:39 PM](#)

MS. MISCHEL reviewed Sections 32-33.

Bills sections 32 and 33 make changes as described above for bill secs. 10 and 13.

MS. MISCHEL related that Section 32 had another reference to "telegraph" and Section 33 changed the term "Alaska" to "state."

MS. MISCHEL reviewed Section 34.

Bill section 34 fixes an oversight by adding a definition of "opioid" for statutes relating to veterinarian licensing, consistent with changes made in secs. 6, 8, 23, and 35, ch. 2, SSSLA 2017, for other professional licensees.

She said the agency discovered this oversight when a bill passed in 2017 that restricted opioid prescriptions.

[1:54:06 PM](#)

MS. MISCHEL reviewed Sections 35-40.

Bill sections 35 - 38 make changes removing "telegraph" as described above and substitutes "on" for "upon" in sec. 35.

Bill sections 39 and 40 move a cross-reference for the term "party in interest" and add a definition section to improve readability.

She explained that whenever the agency discovers that a phrase is used more than once, they seek to move it outside of the body of the text. That was done in AS 13.12.550.

[1:54:48 PM](#)

MS. MISCHEL reviewed Sections 41-54.

Bill sections 41 and 42 move definitions from AS 13.12.603(a) and (c) to subsection (d) to improve readability, consistent with the Manual for Legislative Drafting. Bill section 103 repeals AS 13.12.603(c).

Bill sections 43 - 54 make changes as described above for bill secs. 9 and 10.

She said that Section 43 was another instance of "not limited to" with an added comma. Sections 44-45 removed references to "telegram."

[1:55:46 PM](#)

CHAIR HUGHES said she understands not using "telegram," but this change relates to transmitting the "ballot count." She said the current language does not mention submitting ballots by any other electronic means. She asked why the results could not be forwarded by e-mail but could be sent verbally by telephone or radio.

MS. MISCHEL answered that the legislature had a bill pending to address that issue.

CHAIR HUGHES suggested that if precincts in Alaska had bad connections, they might not be able to send in the results.

SENATOR REINBOLD agreed that was an important finding.

MS. MISCHEL acknowledged that was a legitimate question, but it was not something that the revisor could address.

CHAIR HUGHES said it would be a policy call but she found it interesting that it had not been addressed.

[1:57:39 PM](#)

MS. MISCHEL said that Sections 45-46 removed references to "telegram" and "telegraph."

CHAIR HUGHES commented that Section 46 is interesting since it extends the time from 5 p.m. to midnight. She asked whether that change would be considered substantive.

MS. MISCHEL answered no; that section only relates to the receipt of a telegram by 5 p.m.

CHAIR HUGHES pointed out that it talks about mailing.

MS. MISCHEL suggested that reading the sentence in its entirety clarifies that it is related to the delivery of a telegram.

CHAIR HUGHES asked if the section relates to "telegram" why the language would not be removed.

MS. MISCHEL answered that the language Senator Hughes was referring to was bracketed meaning it will be deleted.

MS. MISCHEL said that in Section 47 the agency removed "telegram" and in Section 48 they removed the term "not limited to." Further, the agency changed "the primary election," to "a

primary election" since the reference is to a specific primary election.

MS. MISCHEL said in Sections 49-52, the agency removed absolute references to "telegrams" and in Section 53 it removed the language "but not limited to." The agency changed the article from "the" to "a" since it was not speaking about a specific official. In Section 54 an errant a comma was removed.

[1:59:51 PM](#)

MS. MISCHEL said the next 10 sections relate to dates that did not have any future relevance and were obsolete.

Bill section 55 removes an obsolete date reference and substitutes "after" for "of" for clarity.

MS. MISCHEL referred to AS 17.37.060, which read, "not later than August 31, 1999 the department shall adopt regulations." The regulations were adopted prior to 1999 so the reference was no longer necessary. She stated that another change made was to the language "within 180 days of submission." The agency does not use "180 days of submission" and instead uses "before" or "after."

[2:00:49 PM](#)

MS. MISCHEL reviewed Sections 56-67.

Bill sections 56 - 67 make changes to the marijuana control law, ch. 53, SLA 2016, consistent with the Manual of Legislative Drafting as described above for bill sec 13.

She explained that these changes relate to the marijuana initiative that the voters passed. The language did not always comply with the drafting rules. The most significant changes are found in the repealers, she said.

CHAIR HUGHES commented that in the marijuana sections, changing the language "shall not be an offense" to "is not an offense," does not substantively change anything. She referred to AS 17.38.190 on page 25, Section 63 that uses the "may not" and "shall not" language. She read, "Regulations under this subsection may [SUCH REGULATIONS SHALL] not prohibit the operation of marijuana establishments...." She opined that someone could interpret this differently. She related her understanding that the board regulating marijuana would know that "may not" means "shall not." She referred to page 25, line 21, which reads

"(2) a schedule of application, registration, and renewal fees; [, PROVIDED,] application fees may [SHALL] not exceed \$5,000, ..." She said that she reads it to mean that application fees could exceed \$5,000.

[2:02:55 PM](#)

SENATOR REINBOLD referred to the term "displaying" on page 22, line 5. She said it appears that this states that displaying marijuana accessories or one ounce or less of marijuana is not illegal. She acknowledged that the bill does not change this provision but it gives her pause since the regulations are fairly strict.

MS. MISCHEL answered that the revisor cannot modify that language in SB 71. She agreed that the marijuana regulations have interpreted this provision fairly strictly, but it is what the voters passed in the initiative.

SENATOR REINBOLD talked about the reasons the regulations were tightened and opined that the bill seems to undoing those protections. She asked whether AS 17.38.020 was being rewritten.

MS. MISCHEL answered no. The Revisor bill is replacing "Alaska" with "state" and fixing the reference to "basis."

SENATOR REINBOLD asked whether she could see the ambiguity in the language on line 5, which reads:

(1) possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;

She said the regulations seem to contradict that language.

[2:05:35 PM](#)

CHAIR HUGHES referred to Section 63, page 26, [lines 7-11], which reads:

(b) In order to ensure that individual privacy is protected, the board may [SHALL] not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and a retail marijuana store may [SHALL] not be required to acquire and record personal information about consumers.

She said this is another instance where "shall not" will be replaced with "may not." She maintained that the common reading is "they could possibly be required to acquire and record personal information."

MS. MOSS suggested that Senator Hughes bring the issue to Senator Stevens' attention.

MS. MISCHEL clarified that without the word "not" it would be permissive, but the "not" changes the meaning significantly.

CHAIR HUGHES said she was just reiterating her position to make a point. She said she understands that the drafters and revisor read it differently.

[2:06:53 PM](#)

MS. MISCHEL referred to page 26, Section 64, lines 12-16, which removes a reference to subsection (g).

\* Sec. 64. AS 17.38.210(d) is amended to read: (d) A local government may establish procedures for the issuance, suspension, and revocation of a registration issued by the local government in accordance with (f) of this section. The [OR (g) OF THIS SECTION. THESE] procedures are [SHALL BE] subject to all requirements of AS 44.62 (Administrative Procedure Act).

She explained that subsection (g) is being repealed since it contains a February 2015 date and is no longer relevant. It relates to the state board adopting regulations for the regulation of marijuana, which was done, she said.

SENATOR KIEHL asked if that means that if the state did not adopt regulations timely, that a municipality could put in its own approval procedures. He said he wants to ensure this would not remove any functional ability for a municipality to regulate marijuana within its boundaries.

MS. MISCHEL answered that is correct. This relates to the initial state oversight of the industry. If the state had not adopted regulations to allow the licensing of establishments, the municipalities would have done it regionally.

MS. MISCHEL referred to Sections 65-66 AS 17.38.210(e)-(i). The agency does not use the phrase "provided the" but would normally use "provided that." She explained that it is fairly common with initiatives that grammatical or lack of clarity issues arise. It

also removes the cross reference to subsection (g), which is being repealed. Section 67 corrects an error in the use of the plural "consumptions."

[2:09:32 PM](#)

MS. MISCHEL reviewed Section 68 and Sections 70-75.

Bill sections 68, and 70 - 75 make changes as described above for bill secs. 9 and 10.

She referred to Title 21 related to insurance. In Section 68, the comma was moved inside the quotations, the language "any such" was removed and an Oxford comma was added on page 27, line 30 to reflect the series. She said the drafters changed "that" to "the" and on page 28, line 17, rearranged the placement of "and," and removed the phrase "but limited to." She explained that the agency seeks to use the article "the" not the term "those" in terms of contract. On page 28, line 31, the drafters removed an errant comma. She said that the use of "any" is disfavored in statutes, which was another drafting convention, so "any" was changed to "an." For editorial reasons the drafters often remove the term "upon" and replace it with the term "on."

MS. MISCHEL said that an error in Section 69 related to the federal reference to the HIPAA [Health Insurance Portability and Accountability Act of 1996) was corrected. She said that the phrase "but not limited to" in Sections 70-72 was removed. In Section 73, the drafter removed a reference to "telegram," and in Section 74 added "the Commonwealth of" to a reference to Puerto Rico. She said that in Section 75, the drafter combined compound words, including handpicking and babysitter. The drafter replaced the phrase "for purposes of" with the term "in" relating to a particular paragraph, which is also a drafting convention. The drafter also made grammatical changes on [lines 29-30]. On page 33, the drafter replaced the term "upon" with the term "on."

[2:12:01 PM](#)

MS. MISCHEL reviewed Section 76-83.

Bill section 76 removes references to "telegraph" and makes word usage changes as described above for sec. 10.

Bill sections 77 - 83 make style, grammar, and word usage changes. Sec. 78 adds a comma in AS 25.25.611(a)(2) to clarify that individual parties

must consent to the jurisdiction of a state court to modify a foreign child support order when the child is a state resident. This change was requested by the Department of Law and the Alaska Court System. Sec. 79, changes the term "fair appraised market value" to "appraised fair market value" in the State Lands Act.

She said that the drafter corrected a compound word to "babysitter" and on page 37 the term "and" was inserted.

MS. MISCHEL said the Department of Law requested the change in Section 78 for a statute related to foreign child custody orders. She noted that the comma that was inserted on page 39, line [25] was significant because it would have allowed a modification of a foreign child support order without parental consent.

[2:13:12 PM](#)

MS. MISCHEL said that Section 79 changes "fair appraised market value" to "appraised fair market value," which is consistent with the rest of the statute.

She said that drafters removed an errant comma in Section 80. An additional comma was added in Sections 81 and 82, based on drafting convention. In Section 83 the drafter changed the term "libraries" to "library" consistent with drafting rules about using singular terms whenever possible.

MS. MISCHEL reviewed Sections 84-89.

Bill sections 84 - 89 make style, grammar, and word usage changes including removal of "but not limited to" as described for bill sec. 9.

She said that in Section 84 "but not limited to" was removed. She said grammatical errors were corrected in Sections 85-88. In Section 84, the drafter added "the special fittings" to eliminate an ambiguity in the original phrasing.

[2:14:14 PM](#)

MS. MISCHEL said that in Section 89 the drafter added "by the commission" since it was not clear who would reject a tariff or provision. This is consistent with the previous sentence, she said.

[2:14:45 PM](#)

MS. MISCHEL reviewed Sections 90 and 91.

Bill sections 90 and 91 remove references to "telegraph" as obsolete and clarify in AS 42.20.390 that definitions are provided for terms "unless the context otherwise requires" a specific definition.

She said that Section 91 clarifies the general definition in AS 42.20.390 since a special meaning was given to an "eavesdropping device" in a separate section in that chapter for purposes of ensuring that the general definitions did not override the specific definition. On page 43, line 3, a reference to "or telegraph" was removed and "a telephone" replaced "such an" to clarify which noun was referenced.

[2:15:38 PM](#)

MS. MISCHEL reviewed Sections 92-93.

Bill section 92 adds an Oxford comma, also called a serial comma, immediately before the conjunction to a series of three or more terms for clarity.

Bill section 93 corrects a reference to the Rural Electrification Act by providing a federal cite to the Act.

She explained that the federal statute cite was added to Section 93.

[2:16:06 PM](#)

MS. MISCHEL reviewed Section 94.

Bill sections 94 - 97 improve the references to specified state entities by using consistent terminology and a definition for each.

She explained that the agency took out the phrase "Regulatory Commission of Alaska" and replaced it with "commission" and defined it in that same chapter. She said that normally the agency would not have made a change but AS 42.45 uses the term "commission" frequently without a definition. A similar issue exists with Sections 96 and 97, such that "Alaska Energy Authority" was replaced with "authority" since the chapter defined it.

[2:16:51 PM](#)

MS. MISCHEL reviewed Section 98.

Bill section 98 corrects a reference to AS 43.20.043, previously repealed, as "former" law.

She said that Section 98 references a provision, AS 43.20.043, which was repealed in 2010. It was changed into "former" since it may have some relevance for tax credits or deductions that may be applied retrospectively. At some point, she said she envisions that it will be deleted as an obsolete reference. However, that may not be the case currently.

[2:17:34 PM](#)

CHAIR HUGHES asked whether that was the same for AS 43.55.025 referenced on page 47, line 5.

MS. MISCHEL clarified that "former" only refers to AS 43.20.043.

[2:18:09 PM](#)

MS. MISCHEL reviewed Sections 99-100.

Bill sections 99 and 100 remove obsolete references to "telegram" and "telegraph."

She said that in Section 100, the term "telefax" is replaced with the term "facsimile."

[2:18:29 PM](#)

MS. MISCHEL reviewed Section 101.

Bill section 101 corrects an oversight in a 2025 sunset to include definitions of terms used in a temporary program in AS 14.07.180(o) by ch. 73, SLA 2018.

She explained that this was an amendment to uncodified law to a sunset provision in 2025, related to a pilot project for curriculum review. She said that when the agency inserted the sunset into the bill, it missed three of the five definitions that were not used elsewhere in statute. These provisions were added to the 2025 sunset, she said. She explained that they were definitions for "rural," "urban," and "school districts ADN" which are not used elsewhere after the sunset.

[2:19:28 PM](#)

MS. MISCHEL reviewed Section 102.

Bill section 102 repeals obsolete provisions and definitions for unused terms or for placement in another section.

She explained that this was a series of repealers, some of which were inserted in the bill in other places. Some refer to obsolete provisions or definitions that are no longer used in the statute, she said.

MS. MISCHEL clarified that if the definition is not used for that purpose, it would be removed. However, it does not mean that the term is not used elsewhere in statute.

2:20:20 PM

CHAIR HUGHES referred to Section 100. She said that facsimiles or faxes are still used by some people. She asked whether telefax means the same thing.

MS. MISCHEL answered that it does, but the statutes refer to them as facsimiles. She agreed that the machines are not obsolete.

2:20:58 PM

SENATOR REINBOLD asked how the revisor actually reads all of the statutes.

MS. MISCHEL answered that she reads every bill and every opinion. She said that all staff read the bills line by line. In this case, it took five drafting attorneys to review the statutes addressed in SB 71. As revisor, she would assign a title to a drafting attorney during the legislative interim. Sometimes the agency staff will pull the old bills to determine if there are errors, she said.

SENATOR REINBOLD asked whether it takes months to accomplish this.

MS. MISCHEL answered yes. In this case the project spanned two legislative interims. Further, the agency received a large number of suggested changes from LEXIS Publishing. The agency must decide whether to include them in a revisor's bill or if the change could be made as a manifest error. She said that sometimes the agency discovers errors and as revisor, she would send a memo to the publisher. In response to Senator Reinbold's remark, she agreed it is very interesting. She added that the agency is very conservative when it recommends the repeal of any statutes. For example, the Longevity Bonus Program is still in

statute [even though the program is no longer active]. It could be brought to the legislature as part of the revisor's bill, but some topics and issues are better presented by the legislature, she said.

CHAIR HUGHES asked if they note missing items as they go through the review and bring those to the attention of Legislative Council. For example, she asked whether an issue such as one discussed earlier that related to using electronic means to report ballot counts.

MS. MISCHEL answered that the agency typically leaves it up to the legislature. At the point when a bill drafter discusses a topic with a legislator, the agency would bring up the recommendation. The agency would not ask to submit substantive bills, except for a special revisor's bill, which would be closer to substantive law changes in instances in which ambiguity exists or if an issue exists throughout the statutes that needs to be addressed. In that case, the revisor would go to the Chair of the House or Senate Rules or Judiciary Committee for assistance. However, that would be rare she said.

[2:25:29 PM](#)

CHAIR HUGHES related her understanding that the agency and the Senate Rules Committee carefully reviewed the bill. She recalled that Ms. Moss found an error during that review.

MS. MOSS answered that it related to public utilities and changed "regulatory" to "certified." This change had some repercussions for federal law, so that language was removed before SB 71 was introduced, she said.

[2:26:17 PM](#)

CHAIR HUGHES referred to page 4 of the memo to the "Text of Repealed Provisions, which reads:

**TEXT OF REPEALED PROVISIONS**

**AS 08.62.900(4).**

"knowingly" has the meaning given in AS 11.81.900(a);

**AS 08.80.480(35) [renumbered as (35) in 2018].**

"prospective drug use review" means a review of the patient's drug therapy and prescription drug order, as defined in the regulations of the board, before dispensing the drug as part of a drug regimen review;

**AS 08.86.230(3).**

"private agency" means a clinic or private practice, or custodial, rehabilitative, or health care organization whose mental health services are under the direction of a licensed psychologist or psychiatrist;

**AS 09.55.240(a)(9).**

telegraph lines;

**AS 11.61.145(c)**

In this section, "animal" means a vertebrate living creature not a human being but does not include fish.

**AS 13.12.603(c)**

In (b) of this section,

(1) "primary devise" means the devise that would have taken effect had all the deceased devisees of the alternative devises who left surviving descendants survived the testator;

(2) "primary substitute gift" means the substitute gift created with respect to a primary devise;

(3) "younger-generation devise" means a devise that  
(A) is to a descendant of a devisee of a primary devise;

(B) is an alternative devise with respect to the primary devise;

(C) is a devise for which a substitute gift is created; and

(D) would have taken effect had all the deceased devisees who left surviving descendants survived the testator except the deceased devisee or devisees of the primary devise;

(4) "younger-generation substitute gift" means a substitute gift created with respect to a younger-generation devise.

**AS 17.20.370(2)**

"antiseptic", in the labeling or advertisement of a drug, is a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

**AS 17.38.210(g)**

(g) If the board does not adopt regulations required by AS 17.38.190, an applicant may submit an application directly to a local regulatory authority after one year after February 24, 2015, and the local regulatory authority may issue an annual registration to the applicant.

**AS 17.38.210(k)**

(k) A subsequent or renewed registration may be issued under (g) of this section on an annual basis if the board has not adopted regulations required by AS 17.38.190 at least 90 days prior to the date upon which such subsequent or renewed registration would be effective or if the board has adopted regulations pursuant to AS 17.38.190 but has not, at least 90 days after the adoption of such regulations, issued registrations pursuant to AS 17.38.200.

**AS 42.05.381(k) (2)**

"liquefied natural gas storage facility" has the meaning given in AS 42.05.990.

**AS 42.20.050**

**Altering message; punishment.** (a) A person is guilty of a misdemeanor and is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both if the person willfully alters a message by adding to it or omitting from it a word or figure so as to materially change the sense, purport, or meaning of the message, to the injury of the person sending or desiring to send it, or to whom it was directed.

(b) When numerals or words of number occur in a message the operator or clerk sending or receiving may express them in words or figures, or in both words and figures, and this may not be considered an alteration of the message or to affect its genuineness, force, or validity.

**AS 42.20.060**

**Sending or delivering false or forged message; punishment.** A person is guilty of a misdemeanor and is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both if the person

(1) knowingly and willfully sends by telegraph a false or forged message;

(2) willfully delivers, or has delivered, a false or forged message, falsely purporting to have been received by telegraph; or

(3) furnishes or conspires to furnish, or have furnished, to an agent, operator, or employee in a telegraph office, to be sent by telegraph, or to be delivered, a false or forged message, knowing that it is false or forged, with the intention to deceive, injure, or defraud any person.

**AS 42.20.070**

**Punishment and civil liability for use by employee of information derived from message.** An agent, operator, or employee in a telegraph office who uses or appropriates information derived by that person from a private message passing through the person's hands and addressed to another, or information acquired by reason of the person's trust as agent, operator, or employee, or who trades or speculates upon this information, or who turns or attempts to turn it to personal account, profit, or advantage is guilty of a misdemeanor and is punishable by a fine of not more than \$1000, or by imprisonment for not more than one year, or by both, and is liable in treble damages to the party aggrieved for loss or injury sustained.

**AS 42.20.080**

**Delaying or refusing to send or deliver message; punishment.** (a) An agent, operator, or employee in a telegraph office who unreasonably and willfully refuses or neglects to send a message received at the office for transmission, or who unreasonably or willfully postpones the message out of its order, or unreasonably and willfully refuses or neglects to deliver a message received by telegraph is guilty of a misdemeanor and is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both.

(b) This section does not require a person to receive, transmit, or deliver a message unless the charges are paid, or to require the sending, receiving, or delivery of a message counseling, aiding, abetting, or encouraging treason against the government of the United States, or other resistance to the lawful authority, or a message calculated to further a fraudulent plan or purpose, or to instigate or

encourage the perpetration of an unlawful act, or to facilitate the escape of a criminal or person accused of crime.

**AS 42.20.085**

**Priority of official communications; penalty for refusal, delay, or alteration of transmission.** On application of an officer of the state in case of war, insurrection, riot, civil commotion, or resistance of public authority, for the prevention and punishment of crime, or for the arrest of persons suspected or charged with crime, a telegraph company shall give immediate dispatch to the communication of the officer at the price of ordinary communications of the same length. An officer, agent, operator, or employee of the company who refuses or willfully omits to transmit the communication, or designedly alters it or falsifies it is, upon conviction, punishable by a fine of not more than \$1000, or by imprisonment in jail for not more than one year, or by both.

**AS 42.20.090**

**Punishment and civil liability for opening or obtaining message addressed to another.** A person not connected with a telegraph office who, without the authority or consent of the person to whom the message is directed, willfully opens a sealed envelope enclosing a telegraph message, and addressed to another, with the purpose of learning the contents of the message, or who fraudulently represents another person, and thereby procures to receive a telegraph message addressed to another, with the intent to use, destroy, or detain it from the person entitled to receive the message, is guilty of a misdemeanor and is punishable by a fine of not more than \$1000, or by imprisonment for not more than one year, or by both and is liable in damages to the party injured for all loss and damage sustained by reason of the wrongful act.

**AS 42.20.110**

**Bribing operator or employee to disclose private message; punishment.** A person who, by the payment or promise of a bribe, inducement, or reward, procures or attempts to procure a telegraph agent, operator, or employee to disclose a private message, or the contents, purport, substance, or meaning of a private

message, or who offers to an agent, operator, or employee a bribe, compensation, or reward for the disclosure of private information received by reason of the position of trust as agent, operator, or employee, or who uses or attempts to use the information so obtained, is guilty of a misdemeanor and is punishable by a fine of not more than \$1000, or by imprisonment for not more than one year, or by both.

CHAIR HUGHES asked whether this was the only committee of referral.

MS. MOSS answered yes.

CHAIR HUGHES referred to the repealers and asked whether these provisions were addressed in other statutes. For example, the third one in the memo reads:

**AS 08.86.230(3)**.

"private agency" means a clinic or private practice, or custodial, rehabilitative, or health care organization whose mental health services are under the direction of a licensed psychologist or psychiatrist;

MS. MISCHEL answered that this term is not used in the specific chapter. It is the same issue for the two definitions preceding it, she said. The term "animal" in AS 11.61.145(c) is already defined in AS 11.61.900. She said the agency strives to remove redundancies.

CHAIR HUGHES read:

**AS 11.61.145(c)**.

In this section, "animal" means a vertebrate living creature not a human being but does not include fish.

She asked whether that was the definition of animal.

MS. MISCHEL answered yes.

[2:28:05 PM](#)

SENATOR REINBOLD said that when the bill was introduced it also had a referral to the State Affairs Standing Committee. She asked whether that referral was removed.

MS. MISCHEL answered that the Senate State Affairs Committee waived the referral.

SENATOR REINBOLD said she did not recall that action. She asked whether any fiscal note was attached to the bill.

MS. MISCHEL said that she requested the fiscal note belatedly. However, it will be a zero-fiscal note, she said.

[2:28:40 PM](#)

CHAIR HUGHES opened public testimony and after determining no one wished to testify, closed public testimony on SB 71.

[SB 71 was held in committee.]

[2:28:52 PM](#)

At-ease.

[2:29:24 PM](#)

There being no further business to come before the committee, Chair Hughes adjourned the Senate Judiciary Standing Committee meeting at 2:29 p.m.