

**ALASKA STATE LEGISLATURE
JOINT COMMITTEE ON
ADMINISTRATIVE REGULATION REVIEW**
August 14, 2001
10:05 a.m.

MEMBERS PRESENT

Representative Lesil McGuire, Chair
Senator Robin Taylor (via teleconference)
Representative Jeannette James (via teleconference)
Representative Joe Hayes
Senator Georgiana Lincoln (via teleconference)

MEMBERS ABSENT

Senator Lyda Green

COMMITTEE CALENDAR

PUBLIC SAFETY INTERNATIONAL BUILDING CODE REGULATIONS

PREVIOUS ACTION

No previous action to record

WITNESS REGISTER

GARY POWELL, Director State Fire Marshal
Division of Fire Prevention
Department of Public Safety
5700 East Tudor Road
Anchorage, Alaska 99507-1225

POSITION STATEMENT: Provided information on pending changes to regulations.

CHESTER (CHET) WEGER, Former Assistant State Fire Marshal
Division of Fire Prevention
Department of Public Safety
5700 East Tudor Road
Anchorage, Alaska 99507-1225

POSITION STATEMENT: Provided historic perspective on pending changes.

MICHAEL J. STARK, Assistant Attorney General
Legal Services Section-Juneau
Criminal Division

Department of Law

P.O. Box 110300

Juneau, Alaska 99811-0300

POSITION STATEMENT: Provided legal opinion on authority to adopt regulations.

CATHERINE REARDON, Director

Division of Occupational Licensing

Department of Community and Economic Development

P.O. Box 110806

Juneau, Alaska 99811-0806

POSITION STATEMENT: Described licensing process and schedule.

ROSS FOSBERG, State Fire Marshal

Division of Fire Prevention

Department of Public Safety

5700 East Tudor Road

Anchorage, Alaska 99507-1225

POSITION STATEMENT: Testified on behalf of State Fire Marshal's office regarding codes and changes.

JIM FERGUSON

P.O. Box 11217

Anchorage, Alaska

POSITION STATEMENT: Testified on behalf of Associated General Contractors of Alaska.

EUGENE R. RUTLAND, Executive Director

Mechanical Contractors of Alaska

1066 Badger Road

Anchorage, Alaska

POSITION STATEMENT: Spoke in opposition to code change.

GLENN CLARY, Minister

[no address provided]

Anchorage, Alaska

POSITION STATEMENT: Described International [Mechanical] Code cost savings for church construction project.

RON THOMPSON

Building Safety Administration

Municipality of Anchorage

4700 South Bragaw

Anchorage, Alaska

POSITION STATEMENT: Testified for the Building Safety Administration.

BRIAN BORJESSON, Consulting Engineer

P.O. Box 74715

Fairbanks, Alaska

POSITION STATEMENT: Recommended delaying the adoption of new code, by teleconference.

PAMELA RONNING, President

Anchorage Chapter

International Conference of Building Officials

4700 South Bragaw

Anchorage, Alaska

POSITION STATEMENT: Asked questions related to continuing education and licensing of those affected by code change.

JOE GELDHOF, Attorney

229 Fourth Street

Juneau, Alaska 99801

POSITION STATEMENT: Testified as legal counsel to the Mechanical Contractors of Alaska.

JAMES GRAY, Plan Review Engineer

Building Safety Administration

Municipality of Anchorage

4700 South Bragaw

Anchorage, Alaska

POSITION STATEMENT: Described efforts to notify and involve those affected by code change.

BUD KNOX, Owner

Knox Plumbing and Heating

P.O. Box 201516

Anchorage, Alaska, 99520

POSITION STATEMENT: Testified that he favors the code change but wants it to go through the legislative process.

BILL SAGER, Executive Director

Mechanical Contractors of Fairbanks

1870 Second Avenue

Fairbanks, Alaska

POSITION STATEMENT: Recommended that Alaska delay adoption of new code.

WILLIAM McNEAL, Consulting Engineer

Coffman Engineers

800 F Street

Anchorage, Alaska

POSITION STATEMENT: Spoke in favor of adopting the International Mechanical Code.

JOHN McCOOL, Architect
901 West 27th Ave.
Anchorage, Alaska 99512

POSITION STATEMENT: Spoke in favor of the state adopting a single model code group.

MICHAEL MASON, Chief of Building Inspections
Municipality of Anchorage
P.O. Box 196650

Anchorage, Alaska 99519-6650

POSITION STATEMENT: Voiced support for the new code and, especially, for bringing the International Mechanical Code into play.

BILL BRUU
165 E. Parks Highway
Wasilla, Alaska 99654

POSITION STATEMENT: Called the code change controversy a "tempest in a teapot" and recommended centralizing all code applications under a single state agency.

KIM ROSS, Staff
to Senator Randy Phillips
Alaska State Legislature
Capitol Building, Room 103
Juneau, Alaska 99801

POSITION STATEMENT: Presented summary of testimony given in two meetings with Senator Phillips' Eagle River and Anchorage constituents.

ACTION NARRATIVE

TAPE 01-17, SIDE A
Number 0001

CHAIR LESIL McGuire called the Joint Committee on Administrative Regulation Review meeting to order at 10:05 a.m. Representatives McGuire, Taylor (via teleconference), and James (via teleconference) were present at the call to order. Representatives Hayes and Lincoln joined the meeting via teleconference as it was in progress.

PUBLIC SAFETY INTERNATIONAL BUILDING CODE REGULATIONS

CHAIR MCGUIRE noted that the only item on the agenda was the new Public Safety International Building Code Regulations scheduled to be put in place September 15, 2001.

Number 0032

GARY POWELL, Director State Fire Marshal, Division of Fire Prevention, Department of Public Safety, came forward to testify. He noted that he had given committee members a full packet of information related to the regulations.

MR. POWELL directed attention to a time line in the packet showing when the Division of Fire Prevention made certain parties aware of its intention [to adopt regulations consistent with the International Building Code]. He pointed out that the Office of Management and Budget [in the Office of the Governor] was first apprised in a meeting October 13, 1999, and that the regulation changes were reflected in the governor's office budget of December 15, 1999; the House Finance Subcommittee was briefed February 22, 1999, and the Senate Finance Committee on March 20, 1999.

Number 0051

CHESTER (CHET) WEGER, former Assistant State Fire Marshal, Division of Fire Prevention, Department of Public Safety, came forward to testify. He said that work on development of the International Code had started in the State Fire Marshal's office in about 1991 when Jack McGarry was fire marshal. Mr. McGarry attended the ICBO [International Conference of Building Officials] meetings on codes until about 1993, and then Mr. Weger began attending the meetings on the fire code while Mr. McGarry continued attending meetings on the building code. The three major code organizations (ICBO, Southern, and BOCA) in the United States had been asked to work together to develop a single code for the United States -- one building code, one fire code, one mechanical code, one plumbing code -- so that if a company were building in more than one part of the country, the same code would apply in all locations. The codes put into the mixture by the ICBO were the Uniform Mechanical Code, Uniform Fire Code, and Uniform Building Code. He emphasized that the International Code "didn't just happen," but was based on work beginning in the early 1990s in meetings held all over the country. There is nothing in the resulting code that was not in one of the three basic codes that came out of those three organizations, he explained. Those three codes were consolidated into the one International Code. The only premise

used by the fire marshal's office regarding adoption of the International Code was to do what was best for the State of Alaska as per Alaska statute AK 18.70, he emphasized.

Number 0088

CHAIR MCGUIRE asked for specific examples of something being best for the state.

Number 0090

MR. WEGER said they thought that a family of codes -- a building code, fire code, and mechanical code that worked together, were coordinated -- would be the easiest for designers across the state to use. There are some organizations that are trying to fight the movement toward the International Code, he asserted, "but the truth of the matter is, ... eventually, the International Building Code, International Fire [Code] and International Mechanical Code will be the code that's used across the United States."

Number 0099

REPRESENTATIVE JAMES said she wished to focus on what she has been hearing from the people who are the cause of holding the committee meeting. She said she thinks nobody objects to going to the International Code eventually, but this [change] is a "big bite" to be taken by the regulatory process rather than by the statutory process, "and if we are going to do this, we should tie all of our statutes together and we should have had legislative process because we get more input from a legislative process than from a regulatory review process." She asked why the state fire marshal's office saw fit to do this entirely by regulation.

Number 0136

MR. POWELL explained that AS 18.70.080 (b) says that the state fire marshal's office "will adopt the standards for building and fire in the State of Alaska by regulation." The statute giving the state fire marshal that responsibility dates back to at least the 1970s, he said.

REPRESENTATIVE JAMES agreed that the statute gives the fire marshal that [regulatory] responsibility, but explained that she also thinks it needs to have statutory underpinning. She

expressed concern that there is conflict in the statutes that can't be overridden by regulations.

MR. POWELL said he did not understand the point. "When [AS] 18.70 says that the state fire marshal will set the standards for building and fire safety in buildings in the State of Alaska, those standards ... [are] what we're adopting with these codes."

REPRESENTATIVE JAMES clarified her concern, saying the issue isn't whether or not to go to the International Building Code; the issue is when and how.

Number 0136

MR. POWELL said the attorney with whom the state fire marshal's office has been working throughout the entire process is available via teleconference and could address the issue.

REPRESENTATIVE JAMES said her point in calling this meeting was that although, technically, the fire marshal's office may have the authority to do this by September 15, she wondered if that is a good idea and whether more time is needed to implement the change. She said the timing is the whole issue.

Number 0149

MICHAEL J. STARK, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law, testified via teleconference. He said he could address some but not all of Representative James' concerns. He said questions about timing and safety might better be addressed by the fire marshal's office and those in the Division of Occupational Licensing, Department of Community and Economic Development, who have to test and certify those who are going to be enforcing the code.

MR. STARK affirmed his belief that the statutes, as now drafted, support the adoption of the International codes. He thinks Representative James is correct that there are some inconsistencies in the ... [statutes], such as references to "Uniform" codes as opposed to "International [codes]," and it would be helpful to clarify that in the coming legislative session and to reconcile any conflicts, but he thinks the authority is there to adopt the International Code, as these regulations do. "We think if the court were to address the issue and look at all of the relevant statutes as a whole, they

would find that the regulations being adopted are consistent with the authorizing statute," he said. That is the very narrow legal response, he explained. "The bottom line is not a question of whether this is a good idea, because in our review over the past several months, we've become strongly convinced by the state fire marshal's office that this is the right policy decision, that it is in the best interest of the people of the state, it's safe," he stated, expressing hope that the state fire marshal's office would have the opportunity to address that today. "As for the timing and the testing question, certification and so on, I think those questions would be more appropriately addressed to Ms. [Catherine] Reardon [Director] or to other folks from [the Division of] Occupational ... Licensing."

CHAIR MCGUIRE thanked Mr. Stark for providing the legal backdrop that, narrowly interpreted, there is the authority to change the regulations. She said she thinks Representative James' question pertains more to the practicality, "the costs that are associated with it that will be incurred by local builders and how they are going to meet those in this very narrow time frame."

Number 0188

SENATOR LINCOLN [who had joined the meeting by teleconference] sought clarification of the identities of those who had testified.

Number 0198

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community and Economic Development testified by teleconference. She explained that her division is part of the discussion because it licenses mechanical contractors and mechanical administrators. "In our mechanical administrator statutes, there are references to the code," she said. "From the department and the division's perspective, we have no knowledge or role in ... the debate over which code is better, ... [whether] the code should be changed," she said. "We are simply the folks who will making some adjustments in response to the revision or the change in the code."

CHAIR MCGUIRE asked Ms. Reardon to speak to the question Mr. Powell had referred to her

MR. POWELL asked Ms. Reardon to address the issue of whether licenses will continue, whether license holders can they get the training to renew their licenses when they are due, and whether the change in regulations is going to create an undue hardship on the licensed individuals.

MS. REARDON explained that mechanical administrators are people who have experience and an examination to determine that they have knowledge of the building and mechanical codes. They are employed by or are the same person as the mechanical contractors. "In other words, in order to do mechanical contractor work, you have to be or employ a mechanical administrator," she said. She thinks the purpose of this law is to ensure that there is someone within mechanical contractor businesses who can assure that the work they do is up to code.

MS. REARDON explained that mechanical administrator licenses expire every two years. "They will expire August 31, 2001, so mechanical administrators are in the process of renewing their licenses right now and when they renew, they indicate that they have done continuing education during the previous two years to keep up their competency in their subject area," she said. So mechanical administrators will be able to renew their licenses now without being impacted by the change in the code. However, they will need to familiarize themselves with the International Code in order to continue doing their work. In the coming two years, they can go and get continuing education, which they will be needing to get anyway for the [2003-2004] licensing period. They could decide to get that training earlier if they felt that they needed it in order to do their job, but we [the division] will not be re-testing those people or taking away their licenses because of the code change, Ms. Reardon said.

Number 0245

CHAIR MCGUIRE asked when the Division of Occupational Licensing planned to have the tests rewritten and require folks to have qualified under the International Code.

MS. REARDON explained that the division obtains its tests from the private sector, currently from a company called Excelsior. The division has told the company that Alaska wants to revise its examination so that it is based on the International Code instead of the Uniform Code, and has asked how long that will take and how much the revision will cost. The company has not yet given a final response, but Ms. Reardon anticipated that the revision could be complete by November. There are seven

different versions of the exam reflecting the type of administrative work a person does. She said the existing version of the exam, based on the Uniform Code, will be given the day before the code change takes effect, on September 14. The test is given quarterly, and the next one, scheduled for December 14, would probably be the new version based on the International Code.

CHAIR MCGUIRE asked Ms. Reardon if she knew the approximate cost that would be incurred by the state.

MS. REARDON said she did not have a final figure from the contractor, but had contacted the testing service during the public comment period and had gotten an informal indication that it will cost about \$2,000 for each of the seven exams that need to be revised, so the division is "thinking in the \$14,000 range."

Number 0283

REPRESENTATIVE JAMES asked what opportunity there will be for those folks who are taking the test in December to prepare for it.

MS. REARDON replied that when the code changes September 15, potential licensees will know that. As soon as the state has a firm contract with the exam company, the Division of Licensing can tell applicants when the test based on the International Code will be given, "so that should give them some notice that that's what they need to study up on."

REPRESENTATIVE JAMES asked Ms. Reardon if she thought that was enough time for such a big change.

MS. REARDON said she did not know how much there is for applicants to learn, but that there are three months between the times the code changes and the time she will begin testing based on the change, and that seemed reasonable. She suggested the question about the extent of the change be directed to Mr. Powell.

Number 0307

MR. POWELL replied, "We don't think it's fair to characterize this as such a big change." He reiterated that there is nothing that is really new, but that the content has just been rearranged a bit. The tests are open-book tests, and the

changes are nothing that is new to the industry, he said. He thinks the new code allows more flexibility than the previous one, he said. He suggested calling upon Ross Fosberg, the code adoption coordinator who studied the codes and was directly involved with the various work groups.

CHAIR MCGUIRE asked Mr. Fosberg if he believes there are major differences. She noted that she has looked at the two codes and said she thinks it is fair to say there are a lot of similarities. She continued:

But certainly you've got a contracting community that's been working with a certain set of regulations and a certain code for many, many years, and there is certainly a concern ... on the part of this committee ... as to whether or not three months is going to be a sufficient period of time for people to get up to speed on the new International Code and to be able to be proficient enough to go ahead and get licensed in that area, and I think that's really the concern that we have. I think that there is no question that there will be some day that we do move to this international code. It's a question of timing and grace periods and the impact on the building community.

Number 0329

ROSS FOSBERG, State Fire Marshall, Division of Fire Prevention, Department of Public Safety, asked Ms. Reardon if those who currently have administrator's licenses have to renew those licenses by the end of September 2001.

MS. REARDON replied that they have until the end of August to do so.

MR. FOSBERG asked if anyone applying and taking the test in December would therefore be a new applicant for the administrator's license.

MS. REARDON confirmed that was correct.

MR. FOSBERG summarized, "So we're not talking about those who are currently in the field with licenses having to within three months come up to speed totally on this brand new code." He asked if the testing is based on the code "as published," without the local state amendments or revisions to it.

MS. REARDON said she was not certain, that she thought the test is on the codes that are in effect in Alaska,

MR. FOSBERG explained that he asked that question because all of the codes (mechanical, building, fire, electrical, plumbing, etc.) go through a three-year cycle as changes are adopted. So every three years, everyone faces a revised code that is going into effect. Each time an adoption cycle comes up, those who hold licenses take the continuing education courses and show their qualifications under the new version.

MR. FOSBERG directed attention to the first letter in the packet under "Correspondence History," a letter from Gregory Johnson, chairman of the Anchorage Mechanical Board, in which he reviews the issue of adoption, explaining it "clearly and succinctly and in an unbiased manner."

MR. FOSBERG said although the codes differ, the principles and standards are the same. The person needs to know two things, the mechanical (or other specialty) code and the state fire regulations. No one knows it all perfectly, and all of them have to look things up. The test indicates a general level of expertise that is expected, but the test is only about one-fifth of what is required for licensing.

CHAIR MCGUIRE noted that there is a statement made on the page to which Mr. Fosberg was referring that says the International Mechanical Code will allow for innovations that lead toward construction cost savings. She asked why that statement had been made.

MR. FOSBERG explained that the current Uniform Mechanical Code is very prescriptive, while the International code generally allows more than one way to comply.

Number 0433

REPRESENTATIVE JAMES asked if the fire marshal's inspection is going to agree with the mechanical engineer if the requirements are not specific. She said she understood the desire to go forward and tended to agree with that. She explained her concern involves the "short period of time for these people to get on board." She said she thinks the majority of the protest is coming from people with a dogmatic point of view who are resistant to change and have not made an in-depth comparison of the two documents, but added that she does not think there is any way one can make a side-by-side comparison of the two

documents. She asked if there was not some reason to believe "that these are the people who really want to not have any problem?"

MR. POWELL said he was not sure he understood the last part of her question.

REPRESENTATIVE JAMES said she does not like to accuse opponents of coming from a dogmatic point of view and being resistant to change, "because I don't think that's true and I don't like that statement and that's why I'm asking you if you believe that statement as well."

MR. POWELL said he would like to address her first question, which had to do with the approval of an installation by the fire marshal's office. He explained that the fire marshal's office reviews the plans before construction begins and works with the architects and engineers, and if the proposed installation is legal according to the code, then the fire marshal's office stamps the plans as approved. The contractor is expected to install according to the approved plan. If the fire marshal goes on site some years later and finds that was not done, then the installation would not be compliant, he said; but the issue is resolved 99 percent of the time in the plan review process, which catches those things before construction begins.

Number 0450

SENATOR TAYLOR observed that some committee members have been through "code wars" before, He recalled a "huge fight" over plastic versus copper pipe and lawsuits filed during the Sheffield administration by people seeking electrical licenses. "So," he explained, "when we start talking about ... adopting a new International Code, expecting the mechanical and electrical and plumbing and all the rest of the folks out there ... to comply with a ... 'new test' on a new code and do it in about three months, I guess I'm one of those people that's a bit dogmatic and resistant to change because I've seen change in the past be misused by administrations in their interpretation" He went on to say he believes that everyone is acting in good faith, but expressed concern "that this thing is happening as quickly as it is and ... that the small contractor, in particular, may have a very difficult time becoming current enough so as to pass the exam." He specifically expressed concern about the exam, who will be conducting it, and who will be selecting the people who conduct it. He asked to hear from some of the people who share those concerns.

Number 0554

MR. FOSBERG clarified that those who currently have licenses will not have to take the test for two years; only new applicants for licensing would have to take the new test in the interim. He went on to affirm that one of the strong points of this adoption process is that all of the major communities affected have coordinated their efforts "so that there are not the conflicts between the codes and the lack of coordination that existed in times past." He recalled a time in the 1970s when the state was two code editions behind the Municipality of Anchorage. "The strength of this whole process over the last year has been this coordination with the design community, the construction community, the enforcement community, and, in fact, the contracting community..." Twenty-nine of the 50 states have already adopted the new code, so Alaska is not out of step on this, he added.

TAPE 01-17, SIDE B

CHAIR MCGUIRE asked the state personnel to stand by while others expressed their concerns.

JIM FERGUSON, of Anchorage, came forward to testify on behalf of the Associated General Contractors (AGC) of Alaska. He said it is critical to understand that this code does not exist in a vacuum, but that an entire industry has related codes that need to interact. He said AGC of Alaska represents more than 600 contractors. "AGC of Alaska represents the industry," he said. "We are very much concerned with this adoption and a very short notice." Although Fire Marshal Powell had testified that the industry had been involved, Mr. Ferguson said he did not know how or when.

MR. FERGUSON stated that the industry does not need two codes. He expressed concern about materials and about contractors having to meet the standards of two organizations. He asked if for a while, all those involved in the industry were going to have two different codes with which to comply. The codes' "being almost the same won't work," and having two competing codes is not good for the industry, he said. He stated that the present code works and is being revised on a three-year cycle, and that the AGC does not want it changed. He expressed concern about creating "a very confusing mess for the industry."

Number 0050

CHAIR MCGUIRE asked Mr. Fergusson to estimate the cost that would be incurred by the industry.

MR. FERGUSSON said he wished he could give an answer, but that he just did not know.

Number 0064

CHAIR MCGUIRE directed attention to a letter from Gregory Johnson, P.E., a senior associate mechanical engineer, in which it says, "The general prescriptive approach of the IMC will allow for innovations that lead toward construction cost savings." She asked Mr. Fergusson if he believed that to be an accurate statement.

MR. FERGUSSON noted that he, too, is a professional engineer as well as a licensed general contractor. He said the Uniform Building Code, as it currently exists, provides for alternate means and methods, and that he could not answer the question more specifically than that.

CHAIR MCGUIRE asked if he thought in the long run there would be cost savings associated with changing to the International Code.

MR. FERGUSSON replied, "Obviously, there should be." He added that both codes are evolving and he thinks that is the important thing.

Number 0081

REPRESENTATIVE JAMES said her concern is that those currently licensed as mechanical engineers will be tested and re-licensed by the end of August 2001, but starting in December, "we have a whole new crew that are going to be tested on a different level." She thought it would be better "to give sufficient time for people to be taking these tests so that we have everybody singing from the same sheet of music and having passed that test, which would make it be on August 31, 2003." She asked Mr. Fergusson if he sees a problem in implementing the code change according to the schedule. She expressed concern about people not being aware that regulatory change was pending, and asked, "Would some additional time to get prepared for this new code be advantageous to you and your people."

MR. FERGUSSON answered, "Absolutely. I can tell you it is not general knowledge in the industry that this has been out there."

CHAIR MCGUIRE referred to the earlier statement made by the state fire marshal's office that the industry had been involved and brought to the table, and noted that Mr. Fergusson was countering that. "To your knowledge, ... were there people called into the public testimony ...?"

MR. FERGUSSON concurred with Representative James that it is hard to know all and see all. He said he had been working with the Municipality of Anchorage on building code issues monthly for the past three years, and "I would think either in that arena or through the AGC or the AGC legislative office we would have heard of this."

Number 0121

MR. FOSBERG said the state fire marshal's records indicate that those involved from the general contractors' area were Reuben Shirrell [ph.], Consolidated Enterprises, who was on one of the advisory groups, and that a letter had been sent to the AGC asking that group to participate. "In fact," he testified, "I talked personally with the administrative assistant, and they said they would pass that along and we invited them to participate, and this is the individual that represented that he had ... [inaud.] by that organization."

Number 0158

CHAIR MCGUIRE noted that there is perception and there is reality, and although the reality may be that they brought somebody to the table, there is a perception that many folks in the contracting community did not know about the change and feel they are getting late notice. She observed that it may not be good public policy to rush something through when there is some confusion about public notice, and asked Mr. Fosberg if he would consider extending the timeline in any way.

MR. FOSBERG deferred to the fire marshal's office the questions concerning public policy. However, he said he knew that one of the key things the fire marshal's office did with the code adoption process in Anchorage, Fairbanks, Juneau, and Soldotna was to provide them, as part of the discussion process, all of the codes the fire marshal's office was adopting and the local amendments or revisions that would need to be made. He said he was personally involved with the building and fire committees in Anchorage, and that the other communities are working from Anchorage's update via Internet. "So," he said, "our process

... has been very similar." In each of the communities, it is a three to four-month process of going through the analysis of the code with committees of 15-20 people at the municipal level. The names of those involved in each of the communities are listed in the packet, he noted.

CHAIR MCGUIRE said her question is, "What's the rush?" She wondered if there is some deadline the fire marshal's office is trying to meet for funding or some other reason. "Is there any particular reason why September 15 has to be the date?" she asked. "The reality is you've got a room full of 35 folks here, many of who feel that they weren't involved in the process, that they didn't have notice, and that they are going to be rushed"

MR. FOSBERG explained that there were two public notice processes, the first one starting in December and ending 45 days later. The second process began when a notification error was discovered in certain areas, he said. Because of that, all of the mechanical contractors (more than 700) were notified again, and of that number, 50 responded. Mr. Fosberg mentioned that he has worked with Mr. Fergusson on another building code (not part of the state regulations) that the Municipality of Anchorage is developing and in which Mr. Fergusson has a particular interest. Mr. Fosberg went on to explain that years ago, most code changes were made "in house," with little notice. Now there is a set process and a certain amount of time allowed, and "I believe we do the best we can to get the organizations involved," he said.

Number 0158

CHAIR MCGUIRE repeated her question, "What would be the harm, if any, in extending [adoption of the International Code] beyond September 15?"

Number 0214

MR. POWELL explained that the primary concern is to have uniformity among the codes throughout the state. "Our goal from the beginning was to get all the parties together and on a similar time schedule so that we don't create ... chaos for the construction community or the design community," he emphasized.

CHAIR MCGUIRE observed, "But isn't it ironic that you're hearing that that's the very complaint?"

MR. POWELL replied, "I think we need to put it in perspective; in all honesty, we're hearing from one small [inaud.] out of 40 or 50 that were involved in the process. Everyone else seems to be perfectly happy with it, and I wonder if there aren't other motives than have been expressed today."

Number 0216

REPRESENTATIVE JAMES said:

I resent that last comment that he made; I think it was improper. But ... the problem that I see is that it wouldn't hurt to set aside those ... codes that relate to the mechanical contractors ... because ... the same people who are going to be licensed for the next two years are going to be licensed under the Uniform Mechanical Code, and then all of those new people are going to be licensed under the IMC. Now you're telling me there's no difference between the two. If there's no difference between the two, why do we have to have new regs to implement them? ... I think you'll find some people out there right now, and I don't have their names, that had previously said yes, this is a good idea, who are now beginning to see that this is a complicated issue and is going to cause us some problems. So I don't want to have it that this is just a small group of people who ... are having some sort of a "don't want any change" attitude, because that is not necessarily the conversation I've had with many of these folks and I want that to be on the record.

Number 0234

SENATOR LINCOLN expressed confusion. She thought she had heard testimony that Fairbanks has already adopted the Uniform Code, and she wanted to know which other communities had adopted it and whether they also go through an adoption process that includes testimony from local unions and contractors.

MR. FOSBERG explained that Fairbanks has adopted the International Building Code and the International Fire Code, while the International Mechanical Code is still undergoing review. A code goes through the Assembly and a committee process in each of the jurisdictions. He said that Anchorage has a Building Board with about 18 committees considering the various codes, and up to 20 people on each of those committees

providing input. Those committees involve contractors as well as design professionals and building managers. The committees bring their recommendations back to the Building Board. The Building Board takes public testimony and goes forward with those codes after that public testimony and any changes that may come out of it. Usually, the code is reviewed by the Law Department and then goes before the Assembly. That is the case in Anchorage and Fairbanks, and he presumes it is the same in Soldotna and Juneau and other areas; that is the general practice at a municipal level.

MR. FOSBERG said the state approach is a little different because it is regulatory rather than being adopted as a municipal statute.

SENATOR LINCOLN summarized, "So basically what you are saying is that all but the mechanical code has been adopted by the community."

MR. FOSBERG said that was the case in Fairbanks.

SENATOR LINCOLN asked why the mechanical code has not been adopted there.

MR. FOSBERG did not know, and asked if someone from Fairbanks was present and could answer her question. No one from Fairbanks responded, but a review committee member from Anchorage told him that the committee and Building Board there [in Fairbanks] had approved the mechanical code, and that the recommendation to adopt it is being forwarded to the Assembly.

EUGENE R. RUTLAND, Executive Director, Mechanical Contractors of Alaska, came forward to testify. He said the organization was made up of mechanical contractors from Fairbanks and Anchorage. All of them are licensed both as administrators and as mechanical contractors. He said he does not belong to the International Association of Plumbing and Mechanical Officials or to any labor union.

MR. RUTLAND wished to read into the record a letter he had written to every [Alaska state] senator and representative on July 30, 2001:

There is a controversy in our state surrounding the adoption of the mechanical code, and a good chance that this controversy will be a topic of legislation in the 2002 session. The purpose of this letter is to

provide some background and information from the perspective of the mechanical contractors and the mechanical administrators who are licensed under state statutes 08.40.210, 08.40.270(3), 08.40.320 (a) (2), 08.40.490 (3)(A) (B), and 08.18.171 (7).

As enacted by the legislature, these statutes require mechanical contractors to install or modify their work in accordance with a family of uniform codes; specifically, Uniform Plumbing Code; Uniform Swimming Pool, Spa, and Hot Tub Code; Uniform Solar Energy Code; and the Uniform Mechanical Code. The State Fire Marshal, without coordinating with other agencies, has proposed repeal of the Uniform Mechanical Code and, instead, seeks to adopt the International Mechanical Code. This was done despite strenuous objections from those mechanical professionals licensed under the Uniform Mechanical Code per statute. The basic problem, as we see it, is one agency seeks to adopt a new substantive code while another agency can only license mechanical contractors under a different code. We think the proposed code will ill serve the public and our members. We're opposed to this method of repealing the Uniform Mechanical Code and will continue to fight this repeal until such a time as the legislature clears up the chaos created by the Fire Marshal and the Department of Public Safety.

In the Department of Public Safety [DPS] budget request, Change Record Detail With Description dated 12-17-1999, the DPS asked for \$98,100 for extensive code regulation project. At the date of this budget request, the codes DPS proposed to accept had not yet been published. According to the flyleaf in the front of these codes, they are published as follows. The 2000 International Residential Code was published in January of 2000, 2000 International Fire Code was published December 1999, 2000 International Building [Code] published March 2000, 2000 International Mechanical Code published December 1999. For some reason, the DPS did not proceed to adopt the International Residential Code. We're puzzled how DPS could consider adopting codes before they are published.

The budget request goes on to conclude that other model codes are no longer available. This is

incorrect. The Uniform Plumbing Code; Uniform Mechanical Code; Uniform Swimming Pool, Spa, and Hot Tub Code; and the Uniform Solar Energy Code are still being published by the International Association of Plumbing and Mechanical Officials (IATMO) as they have always published these codes. Also, the Uniform Fire Code was developed and published by the Western Fire Chiefs Association (WFCA). A 2000 edition has been published.

In summary, the 2000 edition of the family of Uniform Codes listed above are in use across the United States. They are still available despite what DPS states in their budget request. Based on the information we have to date, the only code body to pull out of the Uniform family was the International Conference of Building Officials (ICBO), the organization of which the fire marshal is a member. What we have in this situation is one splinter group seeking to adopt a new and untested code. Frankly, our members and the public should not be required to participate in this experiment.

The DPS statement that FEMA will not fully fund disasters in our state unless we adopt the International Codes is wrong. The State of California recently re-adopted the Uniform Codes after a review process that lasted more than a year. They would not have taken this action if it would risk losing FEMA disaster funding.

The DPS statement that failure to adopt the International codes will make it more costly for companies to build in Alaska is puzzling. Others at DPS know that the new code will reduce the cost of building in Alaska. Where's the documentation? Common sense suggests that the adoption of any new regulatory code will increase building costs, at least initially.

The DPS statement that major cities in Alaska, all of whose chief building officials are ICBO members, plan to adopt the new rules, the new codes, is true. But these chief building officials point to the state's plan to adopt the new International Codes as their justification to adopt these codes. This kind of bureaucratic self-justification is driving the

adoption of the International Codes. It is clear that DPS manufactured an artificial crisis and rammed through this regulation project to fix the phony problem. This fix has and will cost hundreds of mechanical contractors and the public thousands of hours of time and hundreds of thousands of dollars. We ask, "For what purpose?" To those of us caught in the middle of this bureaucratic turf fight, there's no valid reason to adopt new, untested code.

At the next code cycle, 2003, there will be a new, integrated family of model consensus code (NFP 5000), the "Consensus Code" set. This family of codes will contain the NFPA Building Code; a joint NFPA-WFCA fire code; Uniform Mechanical Code; Uniform Plumbing Code; Uniform Swimming Pool, [Spa] and Hot Tub Code; Uniform Solar Energy Code; and the National Electrical Code. The last four of these codes will still be in effect in our state at that time because the statutes require the Department of Labor to adopt these specific codes. Let us take our time and fairly examine both code sets before we rush to judgment. This is what California and Oregon are doing. It makes no sense to adopt new codes piecemeal, particularly where the statutes governing testing and licensing are at odds with the proposed International Codes. At the federal level, the government agencies are encouraging the development of model consensus codes. Consensus is defined in Office of Management and Budget Bulletin A119 by the attributes of openness, a balance of interests, due process, and an appeals process. The International Codes do meet [these] criteria, in my opinion. Please use your good offices to make sure the regulation adoption process works as the legislature intended, and the interests of all stakeholders are considered, not just the interests of the few building officials more concerned with their own turf than the interests of the public.

Number 0407

MR. RUTLAND added that since this is a regulation review committee, he would like to comment on my experience with the last regulation process. "I have an organization behind me," he said, "and I've found it very difficult to make any impression on the regulators during this regulatory process. They're judge and jury of any comments ... or suggestions that you make. I

would like to see legislation that not only levels the playing field, but tilts it toward the public so the bureaucrat has to run uphill and not the public."

Number 0423

SENATOR TAYLOR said he would like the state fire marshal's office to respond to the "very strong" comments made by the last witness.

Number 0431

MR. POWELL began with the statement that he has a different perspective on most of the letter, but thinks some very good points were made as well. He said the perception that we did this without coordination with other agencies was not accurate in his opinion.

Number 0530

SENATOR TAYLOR interrupted, saying he was not really concerned about coordination with other agencies. "What I'm concerned about is the comments that he's just made about the codes that are currently adopted, those that are going to be adopted in the future, and whether or not there was any input provided from the general contractors and the mechanical contractors and so on." He asked Mr. Powell to go through the letter that Mr. Rutland had read and respond to it.

MR. POWELL resumed his testimony, saying, "We think the issue of licensing was a very valid issue that was raised." He recalled that the issue had been raised early in the process and that the fire marshal's office had worked with Department of Law to make sure that things were doing things appropriately. The legal advice was followed, he said, and that advice was that whatever code they adopted, then the respective changes would be made [in licensing].

MR. POWELL said that as far as the codes that are available, there is no other building code available, and he believes the building code is the cornerstone upon which all the other codes -- such as fire code and mechanical code -- are based. We feel in our office that it is crucial that the three work together, he said, adding that the fire marshal's office considers that to be a life-safety issues.

MR. POWELL disagreed with the assertion that a "splinter group" is sponsoring the new code. He explained that in the past, there had been three primary organizations that published their own codes. Together, they covered the whole U.S. "Those three came together to write this one, single code, and that's what we have before us," he said. "It is not a splinter group; it is a new group that is a partnership of three at this time."

MR. POWELL noted that a point had been raised about his ICBO membership. "That's only because I am the state fire marshal," he said. "It's not because of my personal representation. I'm also a member of NFPA and other professional organizations that have other positions on this issue ...," and he volunteered to discuss that more if anyone wished to do so.

MR. POWELL mentioned that reference had been made to California and Oregon, and noted that there are many other states that have adopted [the International codes]. He said that [contrary to what the letter said], Oregon has adopted the International Mechanical Code. "The International Mechanical [Code] is being adopted across the country; it's not like we're trying some experiment on the people of Alaska. We feel that we've thought this out well and that we are making a decision that's best in the interest [of the state]."

MR. POWELL addressed the issue of cost savings. "We have documented cases of cost savings," he said, and volunteered to provide figures. He said seminars are being given to demonstrate how to save money by taking advantage of some of the provisions of the International Codes. He cited the example of the police station in Fairbanks and a large educational facility in Anchorage that were designed under the International codes, resulting in significant savings. "I think there's irrefutable evidence that there are cost savings available in the new codes and it is a good thing for industry," he concluded.

SENATOR TAYLOR then asked Mr. Rutland to respond to what the fire marshal had said.

Number 0530

MR. RUTLAND said, "The only comment that sticks in my mind, the two examples cited by the fire marshal of cost savings under the ... International Building code, since those are brand new projects and they were bid only under one code, I don't think we can deduce anything from the bid results about whether there was a saving...."

Number 0540

MR. FOSBURG said the Anchorage School District had come in over budget on [cost estimates] for three current school construction projects, which had been designed under the Uniform Building Code. He said he was asked to review those on the private side and to do a code study for them. The code change made it possible to bring two of the projects within the budgeted amount, at tremendous savings to the community, he said. Along with that, "The fire protection systems that the International code requires and the state has required are certainly giving the fire protection, life-safety protection that we've all sought through the codes," he added. He suggested contacting the school district regarding the cost savings.

CHAIR MCGUIRE asked about the specific areas in which the school district is saving money.

MR. FOSBURG explained that the Uniform Building Code requires a high level of construction based on the large areas that used to be typical of school buildings. However, he explained, most schools now are being designed as a group of smaller "houses." Students do not move through the whole facility so much. Labs and shops are located throughout the buildings rather than concentrated in one area. Under the old code, labs and shops had to be very heavily built [to contain a fire] and have many corridors leading a short distance to outside exits. International Code makes allowances for built-in sprinkler systems and smoke alarms, which the state requires. If you have sprinklers, you can reduce some of the other protections. The effect has been to move money back into education rather than into construction.

TAPE 01-18, SIDE A

CHAIR MCGUIRE asked if the code change would have any ramifications for older buildings and if there would be some time during which they would have to be brought up to code.

Number 0005

MR. FOSBURG said that would depend on a building's use. If the use does not change, the building is grandfathered and does not have to meet the new code. If an older building is being remodeled, there is a provision in the International Code that allows a design team to evaluate the building and come to

consensus on how to remodel it safely. Before, the code said that if you remodeled the building to a certain degree, you had to bring it up to code, he explained. That requirement was never totally met because it was not structurally possible to do so, he explained. For residential and multi-family buildings, there are retroactive provisions related to alarm systems and early-warning detection systems. Those provisions will be brought into effect gradually, as most of the major municipalities already are doing, he said.

Number 0015

GLENN CLARY, who identified himself as the minister of a South Anchorage church, testified by teleconference. He said the International Building Code had benefited his church's building project. When the Children's Ministry Center was originally designed under the Uniform Building Code, he testified, the bids came in a little over \$10 million. They went back to the drawing board, went through the IBC code and made the changes necessary, "and now the ... project is being done at \$8.3 million, so it is a cost savings for us in the building that we are doing right now ...," he said. He explained that they are doing it under alternate means and methods approved by the building safety division in Anchorage. He said they saw benefits in that the IBC code does not require some things that were previously required, yet does not lower its guard on life safety issues.

MR. CLARY continued:

And as far as some of the testimony that you are hearing concerning this thing not being noticed and testimony taken, I'm a minister and I knew about it, and I gave them written testimony through the Building Safety Division on the concerns that we had about the code when it was being reviewed, and I don't understand for the life of me why some of these folks who are right dead center into this project didn't know about it and couldn't get their testimony in, so I just don't understand where these folks are coming from. And evidently they don't see where the cost savings are on new additions. But we're certainly experiencing [savings] out here, and I wanted the Regulation Review Committee to know that.

REPRESENTATIVE JAMES asserted that the committee was getting off the subject. "The whole issue here," she emphasized, "is

whether or not the mechanical part of this should be redone by the fifteenth of September."

Number 0047

RON THOMPSON, representing the Anchorage Building Department, said he is a licensed mechanical engineer and supervisor of plan review. He said notice of the proposed code change came through his office and that they put flyers about it on every counter where all the contractors in Anchorage come in and could see.

The notice referred to all code adoptions, both the state process and the one in Anchorage. He said the Anchorage process started eight months ago and is now in the final stage of adoption. He said the Building Board had set up committees, and that there was only one Building Department representative on each of these committees, so the committees were primarily made up of engineers and contractors. In going through the codes votes were taken all the way along. The committees analyzed what was being changed. "I don't see that there's that big a change in any aspect of the codes," he said, except that they are formatted differently. He thought that makes the code much clearer, easier to follow and review. "It makes sense, it's more practical," he said. He went on to say that in the past four or five months, the Building Department has been approving plans under the alternative means and methods provisions of the uniform code to use the International Code if the applicant chose to do so. "Basically, the reason they'd entertain it, most of time, is for cost saving," he said, "and I can tell you, in the past three to four months, our office ... [has] entertained hundreds of these requests" to use the new codes.

MR. THOMPSON went on to say that he deals with many of the people in the room, including those who belong to the Associated General Contractors, on a daily basis, "and they're all asking about how to use the new code." He said he already had been certified in the new code and, "It didn't take that much to get up to speed on the new code because it's all the same information, just put in a different ... format."

MR. THOMPSON also wished to comment on testimony concerning the Uniform Mechanical Code still being in existence. He said that was true in a sense, but, "The Uniform Mechanical code they are talking about is being redone and reproduced but IATMO, a different organization, so it's not the same code that ... [it has] been in the past. It has gone through two, three-years cycles [of revision]." He concluded by saying, "But I really think the technical information in both codes about the same."

Number 0101

PAMELA RONNING, President, Anchorage Chapter, International Conference of Building Officials, said she also works for the Building Department. She had a question for Occupational Licensing. She said that in February 2001, the ICB0 had offered an overview of the International Mechanical Code, and that there were administrators at that time who wanted to be licensed under that. She said she was told by the Occupational Licensing Department that a person could not be certified under a code until it was adopted. "So," she said "we're kind of in a Catch 22 here." People did not want to take the tests and pay for them if they couldn't get certified, she said.

Number 0107

MS. REARDON replied that last February, the code change had not been adopted, and continuing education regulations require that an applicant have continuing education in the code that is in effect, which was the Uniform Code. The department had no way of knowing in February that the state regulation change would go through, so did not want to approve continuing education that might turn out not to have been on the appropriate topic.

MS. RONNING said she had received several calls from people who want to renew their licenses, and asked if she offered a class next week, would it be accepted?

MS. REARDON asked Ms. Ronning to contact her office. "Now that we know that the code is, in fact, changing," she said, she would see how rapidly they could approve the continuing education courses in the International Code.

MS. RONNING emphasized, "The training is out there; the problem is getting your office to accept it."

MS. REARDSON said she would call Ms. Ronning to see what could be done.

Number 0132

REPRESENTATIVE JAMES said her big concern was that, "We have regulations that have been written and are going into effect on the fifteenth of September, and we have statutory conflict. In the statute it says that the UMC will be used for mechanical engineers, and that's exactly the problem that Catherine Reardon

has indicated." She asserted that the new regulations have overridden statutes, which is a legislative prerogative.

CHAIR McGUIRE said that she agreed with Representative James that, "That is the problem we have been trying to get at." She noted that Ms. Reardon is in a situation where they have to alter their regulations to be able to accept new standards, but, "Until you've adopted your regs which shouldn't be going into effect until September 15, not only can she not do it, but there is some question about whether or not she even has the authority to under statute."

Number 0139

MR. POWELL said he could respond to part of that, but would like to defer the rest to the Department of Law. He said there is a conflict that has existed for a number of years that has never been resolved, and that is if you read the entire statute, it says, "Uniform Mechanical Code as published by ICBO and IATMO." The ICBO no longer participates in that publication, so that in itself is a conflict ... He reiterated that the Fire Marshal's office was following the [legal] advice that the problem would be taken care of in a "cleanup" change once it was determined which code would be adopted. At that time, other related references would be changed to match or to harmonize.

Number 0152

MR. STARK said he thought it would be helpful to have the statutes clarified. "It is not clear which codes apply," he said. For example, under the examination of applicants that Ms. Reardon's office supervises, they talk about "the Uniform Mechanical Code currently in effect in the state." He said he thought the courts might well read that broadly enough to include the International Mechanical Code. So it would be helpful for the legislature to clear this up, that and the conflict to which Mr. Powell had referred.

MR. STARK added that he thought it would be helpful for everyone to understand that once a mechanical contractor or mechanical administrator takes the test and passes it, that person never has to take the test again. "So two years from now, people who are licensed at the end of this month will not be taking that new test on the International Mechanical Code," he explained. "They will merely be required to show continuing ... education on the existing code"

CHAIR MCGUIRE indicated that she agreed with his statement that there needs to be some clarification, saying that in the meantime, Ms. Reardon is "in a pickle."

MR. STARK noted that would only be a problem for the next month. He said if Ms. Reardon wished, he would look at her regulations to see if there is a way to approve continuing education [on the International Code] during the next 30 days.

CHAIR MCGUIRE thought there was a practical problem with Ms. Ronning saying people are wanting to begin training in the new standards. She voiced concern that, "We want to have this testing in place by October; that's only 30 days to really come up to speed on an entirely different set of standards.... That's what we're trying to get at here."

MR. STARK expressed confidence that it would be possible to find a way to approve the training before September 15.

MS. REARDON said she thought there was some confusion between testing and the continuing education issue. Those who want to take courses on the International Code to prepare for the December licensing exam, which will be given only to those who are getting their license for the first time, can go ahead and take any courses they wish, and she has no authority over that, she explained. By contrast, continuing education is for people who want to renew their licenses two years from now.

MS. REARDON acknowledged that those people, "at this moment," do not know whether a course on the International Code will be accepted two years from now as continuing education, she said. But they can't begin their continuing education until September 1 anyway, because it has to occur during the license period, so no one is missing an opportunity.

MS. REARDON noted that the continuing education regulations do not appear to present a statutory conflict problem because the continuing education statute simply says that a person can renew his or her license upon proof of "continued competency." The Division of Occupational Licensing has defined "continued competency" to mean that a person has had continuing education on the Uniform Code. Ms. Reardon said the division would simply change the regulation to publicly define continued competency as having had continuing education on whatever code is in effect.

CHAIR MCGUIRE said she thought the heart of the issue about which she, Senator Taylor, and Representative James were

concerned is that, "You have real, live people out there" who have to figure out how to meet the continuing education requirements they need to continue their livelihood. Whether or not there is bureaucratic justification for the change, she thought there also was concern about the timing, and that the committee probably will recommend some delay.

MS. REARDON said she wanted to do what is the most logical and best for the mechanical administrators and contractors. "I'm thinking that the best thing I can do for them is to try to get all of my regulations and rules to be in line, to be requiring the same code as the rest of the state is requiring," she said. She indicated that it was her sense that the best course of action for her to take now would be to bring all the licensing regulations in line with the International code.

MS. REARDON added that she did not think a delay would resolve the problem she perceives. "I think what I'm hearing is [that] people wish there were one code in the state," she said. "But it looks to me like there's no way of achieving that by delaying the implementation of the International Code because some of the municipalities have already gone on to the International Code. So ... at this point in time, there doesn't seem to be any way to get to a situation in which there is only one code and it's the Uniform Code; we can't get back to that ...," she observed.

Number 0251

MS. RONNING said she typically does structural review, and since the 1994 code, the seismic provisions have changed every code cycle, and they have changed dramatically, and engineers and plan reviewers have had to learn it within six months. "So all of this is ... change, and it's difficult," she said. But, she noted, the change is intended to build safer buildings in the seismic zone.

Number 0259

JOE GELDHOF, Legal Counsel to the Mechanical Contractors of Alaska, said he was going to speak to legal points the group wanted him to make to the committee. Before that, however, he wished to note that by giving a test under the Uniform Code this month, the state is basically saying that those are the standards that should be applied by those in the trades. Then, in a month, they will be applying the International Code. He said he thought the change would cause "massive confusion," at least initially, and that was why the Mechanical Contractors are

saying, "What's the rush?" He said it was necessary to line up the testing regime with the code that is going to be adopted, and that all the mechanical contractors wanted from the committee was to say, "Let's let the legislature deal with this as they should and as they must." He charged that there had been "a rush to judgment" by "a fairly small cell of bureaucrats in the inspection agencies." He said, "You've got two factions here, and I represent one of the factions.... and it [the conflict] needs to be resolved by the legislature, not by a few bureaucrats."

MR. GELDHOF said Mr. Rutland had directed him to communicate to the committee what is going to happen if the state goes ahead with the adoption of the regulations without conforming the licensing statutes so that testing is done according to the legislature. There are three basic legal objections that the mechanical contractors intend make. One is that there was not deliberate due process. The second is that there is a statutory conflict. The legislature adopted a statute containing two provisions referring to the Uniform Mechanical Code, and only the legislature can change that, he argued. The third, he asserted, is that a change cannot be made without a fiscal note. "All of this can be avoided and should be avoided by holding off on this and letting the legislature harmonize the statute as they should," he said. He added that all the mechanical contractors want is to make their case [regarding a code change] before the legislature.

Number 9354

JAMES GRAY, Plan Review Engineer, Building Safety Division, Anchorage, came forward to testify. He said he is certified by the State of Alaska as registered professional engineer, and is a certified plans examiner under both the International and the Uniform codes. He said he had been tasked with pulling together all of the groups concerned with code adoption in the Municipality of Anchorage. There were 12 committees and more than 100 different people involved. "I am one of the bureaucrats that the IATMO attorney is referring to, and I have a database of over 1,500 people that I Faxed out many notifications on multiple different occasions about the 2000 code adoption," he said, "so for folks to say the word didn't get out there, it is simply not true." He noted that a web site was created specifically for code adoption, and on it were all of the proposed amendments, all of the parts of the code, and arguments for and against the Uniform Mechanical Code and the

International Mechanical Code. "So we have simply gotten the word out there," he stated.

MR. GRAY went on to say that every three years, the codes are re-adopted, and that there is always change. "And, guys, don't let anybody fool you, this is no different," he emphasized. "This argument is about who sells code books. The changes occur every three years, and this three years is no different. Don't let anybody try to convince you of anything else." The committees that went through all the minutae and the details included plumbers, mechanical contractors, engineers, architects, and designers. One building official -- one bureaucrat -- was on each committee, and "we argued that stuff out ad infinitum in multiple meetings since last October," he said. He volunteered to share the committee meeting notes and the signatures of all those who attended meetings.

SENATOR TAYLOR said he was going to have to sign off because of another appointment.

Number 0390

BUD KNOX, Owner, Knox Plumbing and Heating, testified by teleconference. He said he has been sick and "out of the loop" for about two years, but recently has started taking classes to renew his mechanical administrator's license. He said he had not been notified of anything, and that about 40 other plumbers who were in a class with him last week had not been notified either. He said there is nothing new to learn, and it is the mechanical administrators who really make the laws because they are the ones who tell the bureaucrats the best way to do it. He said it has really upset him because he did not like the idea of two or three people deciding for everyone else who is to do what. "I do like the change, but let's let it go through the legislative process..." he said, noting that legislators are elected and bureaucrats are not.

Number 0422

BRIAN BORJESSON, Consulting Engineer, testified by teleconference. He said he is a licensed engineer and a certified forensic engineer, holds a mechanical administrator's license, is a certified ICB0 inspector and a professional estimator, and has been in construction for more than 45 years in Alaska. He said he did not dispute that the "city folks" had sent out notifications and held meetings as they had testified. However, he said, that doesn't apply to the majority of people

outside of the cities who are under the fire marshal's aegis, and "they are the ones that are having the problem with this whole process." He observed that it hadn't been brought up that the fire marshal's office had only adopted portions of the building code as well as the mechanical and other codes, "and this causes an enormous problem for engineers designing outside of the cities because we essentially do not have a code that we can design to, where we can design the structural and other systems, because that part of the code is not adopted."

MR. BORJESSON explained that codes primarily serve as guides to the people that use them, setting a minimum standard to be followed. He said:

There are two kinds of codes, prescriptive codes and performance codes. Prescriptive codes are the ones that tell you what parts you can use and how you can use them, and a performance code simply says, 'Do the job.' That's what has happened in the mechanical code now, and that's what they're alluding to as cost savings. What I question is what compromise have we had in the quality of the structures as well as the life-safety issues by allowing a performance-based code to come into effect without testing it and without setting certain standards that must be followed?

MR. BORJESSON said sprinkler systems are not new, and the idea that a sprinkler system reduces the cost of a structure is a red herring. That was true also under the IBC; when you installed a sprinkler system, ... "a whole lot of things that would ordinarily be required can be laid to the side, and it frees up the designer to really start doing an economical designing job," he said.

MR. BORJESSON voiced his opinion that the fire marshal's office is not qualified to design or inspect mechanical systems. He said another problem has been lack of education for professionals -- such as architects, engineers, mechanical administrators, and ICBO inspectors -- in the use of the new code. "I didn't hear about this until last spring. I had a chance to write a single letter to the City of Fairbanks, not to the fire marshal's office," he said. "I wasn't even aware that they were working on it, I was aware the City of Fairbanks was planning to adopt the code and I was asked to write something regarding that, which I did, and so I did have some input here locally. It was totally ignored, but at least I had the input."

MR. BORJESSON said the problem with any new code, and especially when bringing three codes together, is that there is no way that groups of people can flush out all of the problems in trying to coordinate these codes. "And guess who's going to flush 'em out?" he asked. "We're the ones, the people ... down in the trenches, the guys working on the jobs, the mechanical administrators that are really in charge of the process are the ones who are going to run into these problems and are going to have to resolve them in the field, not in an office somewhere by somebody throwing darts at a calendar."

MR. BORJESSON concluded with a list of recommendations: (1) Delay for one year the current adoption or use of these codes, (2) Set up training sessions so those who are going to use the codes will have a change to be fully trained in them, (3) Give the users (mechanical contractors and others) time to go through the codes and get rid of the problems that are in them, and (4) Have no new changes in any codes for at least six years to be able "to work through these codes and really get them functional" for the state of Alaska.

Number 0542

BILL SAGER, Executive Director, Mechanical Contractors if Fairbanks, testified by teleconference. He said he is a licensed contractor and mechanical administrator, and had just completed continuing education to renew his license for the next two years. He said he did that under the Uniform Mechanical Code, and now the state is proposing to adopt a code that is different from the one on which his continuing education was based. "This doesn't make sense," he said. "Both California and Washington have decided to take a 'wait and see' position until the year 2003, when all the new codes are out, and then decide which way to go. I think that the State of Alaska ought to consider doing the same thing. I don't see any reason for this rush to a new code."

Number 0564

WILLIAM McNEAL, Consulting Engineer, came forward to testify. He said he is employed by Coffman Engineers in Anchorage and has worked with the Uniform Code series for about 28 years in five states, and has been doing work in Alaska since 1982. He served on both the state's code review committee for the International Mechanical Code and the comparable committee for the Municipality of Anchorage. He said he personally is in favor of adopting the International Code series, and thinks that it is a

well-coordinated package overall and that it is very comprehensive. "One particularly positive aspect is the very good cross-referencing between the various different sections of that code," he said. He concluded by saying, "I feel that the vast majority of the proposed International Mechanical Code is very, very similar to the Uniform Mechanical Code and for these reasons I am very much in favor of adopting the International Mechanical Code."

Number 0594

JOHN McCOOL, Architect, said he had been practicing in Alaska for about 30 years and had previously served on several state code amendment review committees. He also had been on the Anchorage Building Board and participated in at least three reviews with the MOA on updating local amendments.

MR. McCOOL said two points were being missed. "There is no longer a Uniform Building Code to refer to; it's extinct, it's gone," he said. He noted that it had been a seven-year process, starting in 1994, during which the Uniform Code group (ICBO) had been meeting with the other two other national code bodies and melding into one coordinated group of codes. "Unless you've got them together, there definitely will be more cost in coordination and conflicts, and definitely more cost to the different state agencies administering this because if they're not coordinated, somebody's got to unscramble this," he said. He encouraged all those concerned to become active in the code groups. "If we get a single family, the International family in this case is the only one that's available to us, and it's gone through a good process in the past seven years to try to make this happen, and it's not perfect, but they have a democratic process that each year they get together and do amendments, as do most of the local ...[jurisdictions].

TAPE 01-18, SIDE B

MR. McCOOL continued his testimony, saying that continuing education is a "must." He urged those concerned to get involved in the process rather than just reacting after the fact. He concluded by saying he thought that the state was awakening to the fact that we need a single model code group. "We cannot use a piece of an IBC and a piece of a UBC...", he said.

Number 0010

MICHAEL MASON, Chief of Building Inspections, Municipality of Anchorage, stated that he currently was the acting building official and was testifying in that capacity as well. He noted that the process to develop the International Code had been a long and involved one involving a great number of people. As Mr. Gray had testified, many people, including contractors, were invited to participate.

MR. MASON went on to say that as a past president of the Alaska Central Chapter of the International Conference of Building Officials (ICBO), he knew that organization had put on numerous courses and classes for training a wide gamut of people, including contractors and administrators. When new codes come into play, the group "actually provides comparative analysis between the various codes, so there is a process for the new codes to be integrated into the system and the training to be integrated into the individuals' education," he said.

MR. MASON concurred with Mr. McCool, from the perspective of being an engineer licensed in several states, that this International Code process is really very necessary. He said the ICBO and the Municipality [of Anchorage] are very interested in providing education to the mechanical contractors and other groups so that they are abreast of the new code aspects. He concluded by voicing his support for the new code and, especially, for bringing the International Mechanical Code into play.

REPRESENTATIVE JAMES asked Mr. Mason to send her a copy of the side-by-side code comparison.

MR. MASON said he would arrange to get that information to the legislators.

CHAIR MCGUIRE said two more people were going to be allowed to testify, and she apologized to those who signed the lists later and were not going to get an opportunity to testify. She invited those people to meet with her, to Representative James, or to other committee members, or to submit written testimony. She explained that another meeting was scheduled in the room, so the meeting could not be continued.

SENATOR LINCOLN added that all of the committee members have offices that are open, and she invited people to call.

CHAIR MCGUIRE offered a list of committee members and their contacts.

REPRESENTATIVE HAYES said he was going to have to leave.

Number 0080

BILL BRUU of Wasilla testified by teleconference. He recalled that Senator Taylor had alluded early in the testimony to a problem that had occurred with the National Electrical Code and certification of electricians in Alaska. "I would suggest to the committee that the Department of Labor has not moved very far from that particular position," he said. "The IATMO, the International Associated Plumbing and Mechanical Officials, are strongly supported by the plumbing unions and also by the copper industry. There have been many, many technological advances in the plumbing field and in the mechanical field that have just been stymied by IATMO and been refused to be put into the code books as usable materials."

MR. BRUU questioned the motives of those who were opposing the code change. "Every three years, the codes change," he said, "and Catherine Reardon and the people in Occupational Licensing periodically review that and change the tests as required to stay current with the codes. This is a "tempest in a teapot" situation here that we're talking about."

MR. BRUU added that he thought the legislature should consider putting all of the code applications under one agency.

KIM ROSS, Staff to Senator Randy Phillips, Alaska State Legislature, testified by teleconference. She said she wished to offer testimony on behalf of some of Senator Phillips' Eagle River and Anchorage constituents. About ten days before the second 30-day public comment period ended in June, Senator Phillips' office had received a call from a mechanical contractor in Eagle River saying, "These codes are changing and we didn't know about it, and can you help?" she said. Senator Phillips coordinated two local meetings, which were attended by 10-12 mechanical contractors and mechanical administrators. All 12 of those contractors said they had not received notification of the proposed changes, she said.

MS. ROSS said major points they had made were that the proposed code is not prescriptive, but performance-based; it makes references to multiple other codes, and the contractors will have to retrain their employees and work through a huge learning curve where quality of work and public safety could be compromised. "This performance-based program may necessitate

design and engineering drawings for common residential work" she said, "and that's ... a point that I haven't heard spoken here yet."

CHAIR McGUIRE said it was her intent to draft a letter for committee members' review that will go on to the Department of Public Safety with recommendations based on this committee meeting.

SENATOR LINCOLN expressed hope that the committee would not "jump the gun," but carefully analyze this [proposed code change].

ADJOURNMENT

There being no further business before the committee, the Joint Committee on Administrative Regulation Review meeting was adjourned at an unspecified time.