

HOUSE FINANCE COMMITTEE
April 15, 2002
1:57 PM

TAPE HFC 02 - 83, Side A
TAPE HFC 02 - 83, Side B
TAPE HFC 02 - 84, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:57 PM.

MEMBERS PRESENT

Representative Eldon Mulder, Co-Chair
Representative Bill Williams, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative Richard Foster
Representative John Harris
Representative Bill Hudson
Representative Ken Lancaster
Representative Jim Whitaker

MEMBERS ABSENT

Representative Carl Moses

ALSO PRESENT

Representative John Coghill; Rynniva Moss, Staff,
Representative Coghill; Terri Lauterbach, Attorney, Alaska
Legislative Affairs Agency, Juneau; Amy Erickson, Staff,
Representative Murkowski; Roxanne Stewart, Legislative
Liaison, Department of Administration; Denny Dewitt, Staff,
Representative Eldon Mulder; Jerry Madden, United Southeast
Alaska Gillnetters, Juneau; David Bedford, Executive
Director, Southeast Alaska Seiners, Juneau; Amy Erickson,
Representative Murkowski; Jerry McCune, United Fishermen of
Alaska, Juneau; Theresa Tanoury, Family Services
Administrator, Division of Family and Youth Services,
Department of Health and Social Services; Mike Tibbles,
Staff, Representative Williams.

PRESENT VIA TELECONFERENCE

Sue Aspelund, Executive Director, Cordova District Fishermen
United, Cordova; Paul A. Shadura II, Kenai Peninsula
Fishermen's Association, Kenai; Shari Paul, Alaska
Children's Trust; Terri Lauterbach,

SUMMARY

HB 252 "An Act relating to the construction of certain statutes relating to children; relating to the scope of duty and standard of care for persons who provide services to certain children and families; and providing for an effective date."

CSHB 252 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with previously published fiscal note: HSS (#1).

HB 504 "An Act relating to the wages of people working in the fisheries business."

CSHB 504 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new zero fiscal note by the House Finance Committee for the Department of Labor and Workforce Development.

HB 509 "An Act relating to Alaska children's trust registration plates; and providing for an effective date."

CSHB 509 (STA) was REPORTED out of Committee with a new fiscal impact note by the Department of Administration.

HB 515 "An Act relating to missions and measures to be applied to certain expenditures by the executive branch of state government and the University of Alaska and by the judicial branch of state government from the state operating budget for the fiscal year ending June 30, 2003; and providing for an effective date."

CSHB 515 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new zero fiscal note by the House Finance Committee for all departments.

CSSCR 28(RES)
Establishing the Joint Legislative Salmon Industry Task Force.

HCS CSSCR 28 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new fiscal impact note by the Legislative Affairs Agency.

#hb252
HOUSE BILL NO. 252

"An Act relating to the construction of certain statutes relating to children; relating to the scope of duty and standard of care for persons who provide

services to certain children and families; and providing for an effective date."

RYNNIEVA MOSS, STAFF, REPRESENTATIVE COGHILL testified in support of the legislation. She provided members with proposed committee substitute, work draft LS0454\R, 4/12/02 (copy on file). She reviewed the committee substitute. A new section was added on page 5, line 3 to state:

The state and the state's and agents may not be held civilly liable for money damages for failure to perform a duty imposed under this chapter solely on the basis that the duty was not performed within a time period specified under this chapter.

Ms. Moss maintained that children and their parents should be able to sue the state when it wrongful abuses its power. She observed that the Division of Family and Youth Services has more power over more vulnerable Alaskans than any agency in government. The sponsor, Representative Coghill, believes that means they should be held most accountable.

Ms. Moss observed that remedies for children and parents should include equitable relief, which the proposed committee substitute does. This means that they have a way to make government do what is right. They should also have the ability to recover civil damages for losses due to government's failure to fulfill duties assigned by the legislature.

Ms. Moss referred to language recommended by the Department of Law. She asserted that the department's language continues to protect government from full accountability for wrongful conduct that can have a devastating impact on children and families. It would allow government to escape liability for the failure to comply with the duties in statute. The duties include the duty of the state when it acts as a child custodian to fulfill the duties of a custodian just as parents are expected. These duties include providing for safety, care, nurturance, and education of children. When the state takes a child from its family it should be fully accountable while performing the same duties that parents are legally obliged to provide. Government should be more alert and assertive in performing its duties to children, families and parents. Because the Department of Law has failed to come up with statistics on monetary suits, they are assuming that there are very few cases brought against the Division of Family and Youth Services. She maintained that the legislation places into statute what most Alaskans already believe is the case: that when government takes a child into custody, they are accountable for their actions on as close to as level a playing field as parents are liable. The proposed committee substitute allows flexibility in meeting timelines in dealing with court

requirements, something that parents do not have. While the Division of Family and Youth Services does not have the ability to level monetary damages for failure to care, they have the more extreme ability to take their children away from their parents.

Representative Harris MOVED to ADOPT work draft LS0454\R, 4/12/02. There being NO OBJECTION, it was so ordered.

Representative Hudson stated his intention to change the effective date from July 1, 2002 to July 1, 2003 for sections 3-6 and 8-9. He noted that this would delay the implementation of the "intensive family preservation services" until 2003, while allowing the study to go forward. He noted that he supports the legislation but observed that there have been concerns regarding the date of implementation. He expressed concern that a 2002 implementation date would disrupt current services. There is no new funding for the provisions. He observed that 24-hour services would require additional staffing. The next legislature could change to an earlier implementation date. Sections 7 and 10 would retain the July 1, 2002 effective date.

Representative John Coghill spoke in support of the delayed effective date.

Representative Hudson MOVED to ADOPT Amendment 1: delete "2002" and insert "2003" on page 7, line 5.

Representative Davies referred to language on page 4, beginning on line 17: The department need not provide services to an otherwise eligible family if (1) services are not available in the community in which the family resides; or (2) services cannot be provided because the program is filled to capacity." He concluded that the concerns being raised by the amendment are already addressed in the legislation. The legislation reflects the practicality of whatever funding is available.

Representative Hudson responded that persons under contract to provide the services feel that there is an implied mandate to move into the intensive family preservation services to the harm of the existing services, primarily because only \$50 thousand dollars was added in the fiscal note (to provide for the study).

Representative John Davies argued that there might be opportunities for the department to implement the provisions and questioned why prevent them from doing so when they can. He pointed out that there is already language that clarifies that there is no requirement to do so if the money is not available.

TERRI LAUTERBACH, ATTORNEY, ALASKA LEGISLATIVE AFFAIRS AGENCY, JUNEAU, provided information regarding the legislation. She explained that section 10, which would still go into effect on July 1, 2002, reflects the definition of intensive family services in section 8. Section 8 only includes the definition and should have the same effective date.

Representative Hudson concluded that sections 3 - 6 and 9 would be delayed to July 1, 2003. Sections 8 and 10 would have a July 1, 2002.

Ms. Lauterbach noted that section 7 has not been addressed and would therefore be a 90-day effective date.

Co-Chair Williams repeated the motion to amend:

* Sec. 11. Sections 1 and 2 of this Act take effect under AS 01.10.070(c).

* Sec. 12. Sections 8 and 10 of this Act take effect July 1, 2002.

* Sec. 12. Sections 3-6 and 9 of this Act take effect July 1, 2003.

Ms. Moss observed that the sponsor would prefer section 7 to have an immediate effective date.

Vice-Chair Bunde requested the amendment in writing.

HB 252 was HELD in committee until later in the meeting.

#hb509

HOUSE BILL NO. 509

"An Act relating to Alaska children's trust registration plates; and providing for an effective date."

AMY ERICKSON, STAFF, REPRESENTATIVE MURKOWSKI, testified in support of HB 509. She noted that HB 509 makes one minor change to Alaska statute to allow Alaska Children's Trust license plates to be made available to any commercial or non-commercial passenger vehicle, truck, bus, van, or motor home. Current Alaska statutes only allow owners of noncommercial vehicles to apply for and purchase ACT license plates.

This small change would allow the Alaska Children's Trust to respond positively to requests by industry and private business to purchase children's trust license plates for fleet vehicles and to market sales to an additional 56,500 vehicle owners, a potential boost of \$5,650,000 for the prevention of child abuse and neglect.

The Alaska Children's Trust was established by the legislature in 1988 and is a savings account dedicated to funding community-initiated projects to eliminate child abuse and neglect.

The trust's funds grow through gifts, bequests, corporate and individual contributions, legislative appropriations, federal funds, and sales of heirloom marriage and birth certificates as well as children's trust license plates.

Passage of HB 509 will greatly expand the trust's savings account and vastly improve their ability to advance the projects and mission of eliminating child abuse and neglect in the state.

Vice-Chair Bunde questioned if the legislation should be expanded to vanity plates. Ms. Erickson clarified that commercial passenger vehicles are allowed to purchase vanity plates. The large commercial vehicles are not. She did not know how much interest there would be in extending the legislation.

ROXANNE STEWART, LEGISLATIVE LIAISON, DEPARTMENT OF ADMINISTRATION, provided information relating to the legislation. She noted that the Division did not anticipate a demand among the larger vehicles. The Division would not object to the expansion.

Ms. Erickson observed that the sponsor would not object. Vice-Chair Bunde noted his intention to amend the legislation on the House Floor.

Representative Foster MOVED to report CSHB 509 (STA) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 509 (STA) was REPORTED out of Committee with a new fiscal impact note by the Department of Administration.

#hb515

HOUSE BILL NO. 515

"An Act relating to missions and measures to be applied to certain expenditures by the executive branch of state government and the University of Alaska and by the judicial branch of state government from the state operating budget for the fiscal year ending June 30, 2003; and providing for an effective date."

Co-Chair Mulder provided members with Amendment 1: provide an accessible and impartial forum for the just resolution of all cases that come before it, and to decide the cases in accordance with the law, expeditiously and with integrity.

DENNY DEWITT, STAFF, REPRESENTATIVE ELDON MULDER, explained that the amendment would change the mission for the Alaska Court System. This is the first year that the courts have been brought into the missions and measures bill. He referred to the separation of powers issue and noted that it had been respected. The Alaska Court System is comfortable with the measures but felt that, since they have a constitutional responsibility for their own administration, that the legislation should reflect the mission that they had adopted. It is substantially the same.

Co-Chair Mulder MOVED to ADOPT Amendment 1. There being NO OBJECTION, it was so ordered.

Mr. Dewitt reviewed technical changes. The first amendment is on page 23, line 9: delete "law" and insert "statute". The language was recommended by the Department of Law and agreed on by legislative counsel. "Law" is all encompassing.

Mr. Dewitt observed that there should be a comma between "average" and "median" on page 30, line 23; page 31, line 31, line 17; and page 33, line 2.

Mr. Dewitt noted that the last technical change occurred on page 46, line 5: delete "rapes" and insert "sexual assaults", which is a defined term.

Co-Chair Mulder MOVED to ADOPT technical amendments: page 23, line 9: delete "law" and insert "statute"; place a comma between "average" and "median" on page 30, line 23; page 31, line 31, line 17; and page 33, line 2; and on page 46, line 5: delete "rapes" and insert "sexual assaults". There being NO OBJECTION, it was so ordered.

Representative Croft MOVED to ADOPT Amendment 3:

Page 1, line 2 after "Alaska" insert:
", the legislative branch of state government,"

Page 59, line 6
1) Add a new article to read:

Article **16**. Alaska State legislature

Sec. 154. Alaska State Legislature.

(a) The mission of the Alaska State Legislature is to adopt a balanced budget.

(h) The legislature intends to measure its success by whether the legislature adopts a budget that balances revenue and expenditures without unsustainable withdrawals from the State of Alaska's savings accounts.

Representative Croft explained that the amendment would add a mission and measure for the legislature. He maintained that there is no more fundamental, central task than to adopt a balanced budget.

Co-Chair Mulder OBJECTED. He observed that the legislature is already required to adopt a balanced budget through the Constitution. The ability to do so is contained within the ability to withdraw funds from the Constitutional Budget Reserve. He did not agree with the evaluation of the legislature's success or failure based on the ability to adopt a fiscal plan.

Representative Davies argued in support of the amendment.

A roll call vote was taken on the motion.

IN FAVOR: Croft, Davies, Hudson

OPPOSED: Foster, Harris, Lancaster, Whitaker, Bunde, Mulder

Representative Carl Moses was absent from the vote.

The MOTION FAILED (3-6).

Representative Foster MOVED to report CSHB 515 (FIN) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 515 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new zero fiscal note by the House Finance Committee for all departments.

#scr28

CS FOR SENATE CONCURRENT RESOLUTION NO. 28(RES)

Establishing the Joint Legislative Salmon Industry Task Force.

SENATOR ALAN AUSTERMAN, SPONSOR, testified in support of SCR 28. He observed that the legislation reflects what is happening in the salmon industry in terms of a decline in price and an influx of farmed fish. He observed that the issue has been coming down the road for quite some time and noted that it has been waiting for the industry to react and the Administration to take on the issue. He noted that he has attended four different salmon summits sponsored by the Administration, which have not resulted in any action. He hoped that legislators on the Task Force would drive the issue and find answers and make recommendations that the legislature can implement, which would help crisis and indicate actions that the industry can take.

In response to a question by Representative Croft, Senator Austerman stated that he did not object to changing the Task Force to eleven members.

Co-Chair Mulder MOVED to ADOPT proposed committee substitute, work draft 22-LS1572\P, 4/15/02. There being NO OBJECTION, it was so ordered.

Senator Austerman noted that a change occurred on line 19 of page 3 - 28, which reduced the membership from 13 to 9.

Co-Chair Williams observed his intent to change the membership to 11: four legislative and seven public members.

Senator Austerman noted that there was some concern that the amount of work would require more than 13 members. He thought that 11 members would be sufficient.

Vice-Chair Bunde questioned the effect of 11 members on the fiscal note.

SUE ASPELUND, EXECUTIVE DIRECTOR, CORDOVA DISTRICT FISHERMEN UNITED, CORDOVA testified via teleconference in support of CSSCR 28 (RES). She maintained that representatives of the salmon industry: fishermen, tendermen, and processors, must sit on the Task Force. Without the extensive and intimate involvement of the industry at that level, constituent buy-in of the results is unlikely. She noted that it would also be critical to seek the knowledge and expertise of resource managers, seafood marketers, economists, industry regulators, infrastructure representatives and local governments. She noted that they agree with the comment of NorQuest President Terry Gardiner in his paper entitled "Alaska Seafood Industry, Radical Surgery? or Slow Death." She maintained that leaders are needed to represent the various segments of the industry. A forum needs to be established to have serious discussions and a goal established in order to develop a broad-based consensus for change. Without a broad base of consensus, any plans for change would be dead on arrival. She noted that the Cordova District Fishermen United strongly believes that the Austerman Task Force as it passed the Senate is the forum described by Mr. Gardiner, and that consensus in the fishing industry would only be realized when industry folks are significantly involved in identifying the problems and developing the solutions.

Ms. Aspelund maintained that formalizing and supporting this Task Force is an appropriate role for government to play given the importance of the industry to the economies of dozens of coastal communities, to thousands of small independent family fishing operations, to the seafood processors and industry support infrastructures, and to the tax base of the state.

PAUL A. SHADURA II, KENAI PENINSULA FISHERMEN'S ASSOCIATION, KENAI, testified via teleconference in support of CSSCR 28

(RES). He stressed that the task force is an excellent attempt by Senator Austerman and the legislature in facilitating solutions for the Alaska fishing communities.

Mr. Shadura observed that at the salmon summit in Kodiak, discussion moved toward the next step in the revitalization process. Many felt that the discussions should continue and that time was of the essence. Many representatives identified problems they felt determined should be addressed. The debate of whether there should be "regional" task forces or a "statewide" task force seemed to be even

Mr. Shadura maintained that, with financial considerations, the statewide concept should be the catalyst for regional task forces and that the committee must be comprised of diverse representation. He emphasized that all Alaskan fishing communities must have identification within the task force.

Mr. Shadura stressed the need to develop a consensus of major improvements that will benefit every fishing community and the people of Alaska. He acknowledged that that the group could recommend hard decisions that would change Alaskan lifestyles.

"It is my hope that this task force will design a framework and thus a long range salmon fisheries plan that regions can develop on and establish economic and regulatory stability for the future of all residents of the state. The last statewide plan was developed for Governor Hammond in approximately 1975. It is a comprehensive review for the fisheries in the entire state. It established goals and objectives for fisheries resources and concurrent users. Though not perfect, the design could be identified as the framework for preliminary discussions.

It is imperative that all ideas, studies, facts and figures will be available to the committee. Equally as important is that the administrative arm should establish full support in supplying all it's information gathering and expertise to facilitate the task force.

JERRY MADDEN, UNITED SOUTHEAST ALASKA GILLNETTERS, JUNEAU, testified in support of the legislation. He noted that there is some concern regarding representatives from the private sector. He suggested that the language be more specific to address the appointment of commercial fishermen.

TAPE HFC 02 - 83, Side B

DAVID BEDFORD, EXECUTIVE DIRECTOR, SOUTHEAST ALASKA SEINERS, JUNEAU, testified in support of the legislation. He noted

that 10 years ago a Bristol Bay permit was worth \$250 thousand dollars; today it would be worth \$25 thousand dollars. In the course of 10 years the expectation on the fishery has dropped to a dime on a dollar. The price of salmon has gone from over a dollar a pound to .40 cents a pound in the past year. There have been parallel collapses in salmon prices elsewhere. Processors have laid-off dozens of purse seine fisherman, some of which have been fishing for scores of years. He emphasized that any solution must be built on the communities that rely on the fisheries.

JERRY MCCUNE, UNITED FISHERMEN OF ALASKA, JUNEAU, testified in support of the legislation. He stressed that problems in the fishing industry run from infrastructure, to harvest and processing. He felt that the forum would help turn the industry around and acknowledged that it would take a lot of hard work.

Co-Chair Mulder MOVED to changed the representation to 11 members with 7 public members. There being NO OBJECTION, it was so ordered.

Senator Austerman noted that the original legislation set out regional representation. Discussion in the Senate expressed concern that the best-qualified persons be appointed to the Task Force. The intent was to allow appointments to be made by the Senate President and House Speaker based on submissions and recommendations from other legislators or institutions. The desire is to have persons with financial and economics expertise relating to the fishing industry. Small and large processors, the commercial industry and other entitles need to be involved.

Co-Chair Williams added that he would like to see someone with working knowledge of the world economy to identify ways to compete in the current climate.

Senator Austerman pointed out that it would be impossible to get everyone with an interest at the table. He stressed that there is a large amount of work to be done and indicated that the Task Force could appoint subcommittees that may include others not on the Task Force.

Co-Chair Mulder agreed that the Task Force number should be kept small, functional and focused on production. He asked if the expertise of the Board of Fish would be utilized.

Senator Austerman agreed that the Board of Fish has appropriate information and should be consulted. He noted that the Legislature with the help of the Task Force is going to have to push for a result.

Representative Lancaster assumed that the Task Force would be broad based. He noted that there are questions regarding over production.

Co-Chair Williams interjected that the Administration would be engaged in the task force work. A subcommittee of fishermen from throughout the state could work along with the Administration.

Representative Harris noted that there are disagreements within the fishing industry and expressed the hope that there would be cooperation. He referred to the fiscal note and questioned the \$110 thousand dollar appropriation for travel. Senator Austerman thought that the number may be low by the time task force members are moved to meetings and travel of experts needed to address issues such as anti-trust is funded. He indicated that one-year might not be enough time to address the long-range vision. The intent is to stabilize the industry so that it is there 15 - 30 years from now.

Representative Hudson agreed with the size of the board. He noted that large boards become overloaded with logistics. He noted that the activity could be significant, especially with a new administration. He emphasized that existing intelligence should be tapped into, such as the Alaska Seafood Marketing Institute. He added that sports, guiding and commercial fishermen should all be included.

Representative John Davies MOVED to ADOPT Amendment 2. Amendment 2 would require that one of the four legislative members be appointed from the minority. There being NO OBJECTION, it was so ordered.

Senator Austerman stressed that the Task Force would indicate that legislators could come up with creative ideas and regulatory changes to make the industry work. He expressed the hope that the result would be a separate task to address all of the sustainable fisheries in the state of Alaska in order to generate jobs. Salmon is only one of the fisheries in crisis.

Representative Foster MOVED to report HCS CSSCR 28 (FIN) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HCS CSSCR 28 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new fiscal impact note by the Legislative Affairs Agency.

#hb252

HOUSE BILL NO. 252

"An Act relating to the construction of certain statutes relating to children; relating to the scope of

duty and standard of care for persons who provide services to certain children and families; and providing for an effective date."

Representative Hudson restated his Motion to ADOPT Amendment 1.

* Sec. 11. Sections 1 and 2 of this Act take effect under AS 01.10.070(c).

* Sec. 12. Sections 8 and 10 of this Act take effect July 1, 2002.

* Sec. 12. Sections 3-6 and 9 of this Act take effect July 1, 2003.

Representative Hudson noted that there would be substantive changes with the legislation. The effective date of July 1, 2002 would be too fast without additional funding. The Department would have to perform intensive family services. The amendment would allow the study to occur and the services to be provided subsequent to the study. He maintained that the amendment would put a proper time sequence into the bill to effectively accomplish the goal. Section 10 would implement the study. Section 8 defines the program.

THERESA TANOURY, FAMILY SERVICES ADMINISTRATOR, DIVISION OF FAMILY AND YOUTH SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES discussed the study. The legislation would require the Division to study who would be eligible for services in each of the regions and who would benefit from these types of services. She stressed that the Division does not have the funding to implement the services under their existing appropriation. Implementation under their existing appropriation would cause undue hardship to many families and children that receive these types of services. She spoke in support of the amendment.

There being NO OBJECTION, Amendment 1 was adopted.

Representative Croft MOVED to ADOPT Amendment 2. Co-Chair Williams OBJECTED. Representative Croft explained that the intent of Amendment 2 would be to clarify the limitation and liability section. Under the current statute the state is not liable for violations of the provisions. The intent is to prevent huge liability costs, by making every conceivable technical violation of the statute actionable, while preserving the ability of children and families to assure that things are done properly. The amendment states that the department has a duty to exercise reasonable care toward children in its custody. The amendment also states that failure to comply with a provision of the title does not constitute a basis for civil liability. Children and their

families would still be able to use file under the CINA proceedings.

Ms. Moss stressed that the language in Amendment 2 continues to protect the government from full accountability for wrongful conduct and could have a devastating affect on children, families and parents when a child is in state custody. She maintained that the amendment allows the government to escape liability for failure to comply with the provisions of the title. She observed that Representative Coghill's legislation addresses timelines but also acknowledged that the state has the responsibility of physical care and control of the child, determination of where and with whom the child shall live, the right and duty to protect, nurture, train and discipline the child; the duty of providing the child with food, shelter, education and medical care; and the right and responsibility to make the decisions of financial significance concerning the child. She concluded that the department would not have to comply with the legislative standards and the department could not be held monetarily accountable if their actions hurt families. She questioned what provisions of the title the legislature not want the department to be accountable for. She acknowledged the department's difficulty in following court dates, but emphasized that they need to be accountable for the duties and standards to children. Parents are held accountable and their punishment is much more severe.

Ms. Lauterbach observed that the second sentence of the amendment needs clarification. She questioned who would be covered by the "factor to comply." There are lots of entities covered under the title: including shelters, programs for run away children, courts and schools. She observed that the Alaska Temporary Assistance Program, civil commitment, interstate compact on the placement of children, delinquency institutions and childcare facility licensure come under the title. The amendment would provide that failure to comply with any of the provisions would not be the basis for civil liability, if the family involved were also served by CINA.

Representative John Davies thought that the department would still be accountable through the legal system. He questioned the remedy of civil damages. He did not see the nexus between civil liability and the care of the child. He pointed out that the removal of children from parents is not meant as a punishment, but is intended to protect the child.

Vice-Chair Bunde questioned the threshold for civil action against the state. Ms. Lauterbach clarified that Title 9 addresses the distinction between a discretionary and mandatory duty. If the state under takes to do an act, it must act without negligence. It would have to be a mandatory

act. The decision to put a sign on a dangerous road could not be sued, but the failure to put the sign up properly could be litigated. The choice of services is discretionary, but if they decide to provide a service, than it must be provided without negligence.

Ms. Moss emphasized that the Division of Family and Youth Services is on the same legal ground as any other state entity. This is the only place where specific law would state that there is no duty or standard of care; other entities are not exempted from duty or standard of care. The agency would be dealt with differently than any other. She observed that parents might come to two or three visitations in a row without being able to see their kids.

A roll call vote was taken on the motion.

IN FAVOR: Croft, Davies

OPPOSED: Bunde, Foster, Harris, Hudson, Lancaster,
Whitaker, Williams, Mulder

Representative Carl Moses was absent from the vote.

The MOTION FAILED (2-8).

Vice-Chair Bunde referred to section 4 and questioned if there would be a separation of power issue.

If the court concludes that continuation of reasonable efforts of the type described in (a) of this section are not in the best interests of the child and intensive family preservation services were not provided in the case, the court shall enumerate in the record the reasons the services were not provided.

Ms. Lauterbach observed that the decision is left to the court. The proposed committee substitute would ask that the findings be in the record.

Representative Foster MOVED to report CSHB 252 (FIN) out of Committee with the accompanying fiscal note.

CSHB 252 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with previously published fiscal note: HSS (#1).

#hb504

HOUSE BILL NO. 504

"An Act relating to the wages of people working in the fisheries business."

Representative Hudson MOVED to report CSHB 504 (FIN) out of Committee with the accompanying fiscal note. Representative

John Davies OBJECTED. He thought that the Committee would need to rescind the previous action.

MIKE TIBBLES, STAFF, REPRESENTATIVE WILLIAMS, explained that according to discussions with Tamara Cook, Director, Legislative Legal and Research Services, Legislative Affairs Agency, committees are charged with disbursing bills. Therefore the question comes to whether or not a bill needs to be renewed or action rescinded.

TAPE HFC 02 - 84, Side A

Mr. Tibbles stressed that the Committee has the authority to act on bills. Discussion continued regarding the motion.

Representative Croft spoke to the bill. He maintained that it ignores the substantial difference between remote and non-remote sites and would be a major step backward because it provides a major exception to the minimum wage law.

Representative John Davies spoke against the legislation. He noted that legislators that are more than 50 miles away from their homes receive a different per diem rate. The same distinction needs to be made for workers at the minimum wage.

Representative Harris spoke against the legislation. He thought that the legislation would open exceptions to the minimum wage for other entities. He expressed concern that other employees would be impacted when going to places where housing is not available.

Representative Lancaster expressed concern with the legislation. He questioned what would happen to the person that lives in a tent.

Co-Chair Williams emphasized that the legislation would help commercial fishermen by keeping processors in business.

A roll call vote was taken on the motion.

IN FAVOR: Bunde, Foster, Hudson, Lancaster, Mulder, Williams
OPPOSED: Whitaker, Croft, Davies, Harris

Representative Carl Moses was absent from the vote.

The MOTION PASSED (6-4).

CSHB 504 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with new zero fiscal note by the House Finance Committee for the Department of Labor and Workforce Development.

CSHB 504 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new zero fiscal note by the House Finance Committee for the Department of Labor and Workforce Development.

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ADJOURNMENT

The meeting was adjourned at 3:57 PM