

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

April 6, 2001

3:20 p.m.

MEMBERS PRESENT

Representative Lisa Murkowski, Chair
Representative Andrew Halcro, Vice Chair
Representative Kevin Meyer
Representative Pete Kott
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 186

"An Act relating to a municipal enhanced 911 surcharge on wireless telephones."

- MOVED CSHB 186(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 175

"An Act making an appropriation to the Alaska Industrial Development and Export Authority for power projects; and providing for an effective date."

- MOVED CSHB 175(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 58

"An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date."

- MOVED CSHB 58(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 152

"An Act relating to brewpub licenses."

- MOVED CSHB 152(L&C) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 186

SHORT TITLE:911 SURCHARGE ON WIRELESS TELEPHONES

SPONSOR(S): REPRESENTATIVE(S)MEYER

Jrn-Date	Jrn-Page		Action
03/15/01	0609	(H)	READ THE FIRST TIME - REFERRALS
03/15/01	0609	(H)	CRA, L&C
03/22/01		(H)	CRA AT 8:00 AM CAPITOL 124
03/22/01		(H)	Moved Out of Committee
03/22/01		(H)	MINUTE(CRA)
03/22/01	0684	(H)	CRA RPT 4DP
03/22/01	0684	(H)	DP: SCALZI, MURKOWSKI, KERTTULA, MEYER
03/22/01	0684	(H)	FN1: ZERO(H.CRA)
04/02/01		(H)	L&C AT 3:15 PM CAPITOL 17
04/02/01		(H)	Heard & Held MINUTE(L&C)
04/06/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 175

SHORT TITLE:APPROP: POWER PROJECTS

SPONSOR(S): REPRESENTATIVE(S)LANCASTER

Jrn-Date	Jrn-Page		Action
03/12/01	0543	(H)	READ THE FIRST TIME - REFERRALS
03/12/01	0543	(H)	L&C, FIN
03/30/01		(H)	L&C AT 3:15 PM CAPITOL 17
03/30/01		(H)	Heard & Held MINUTE(L&C)
04/06/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 58

SHORT TITLE:UNEMPLOYMENT COMPENSATION BENEFITS

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
01/16/01	0089	(H)	READ THE FIRST TIME - REFERRALS
01/16/01	0089	(H)	L&C, FIN
01/16/01	0089	(H)	FN 1: ZERO(LWF)
01/16/01	0089	(H)	FN 2: (ADM/VARIOUS DEPTS)
01/16/01	0089	(H)	GOVERNOR'S TRANSMITTAL LETTER
02/28/01		(H)	L&C AT 3:15 PM CAPITOL 17
02/28/01		(H)	Bill Postponed To 3/9/01

03/09/01	(H)	L&C AT 3:15 PM CAPITOL 17
03/09/01	(H)	Heard & Held
03/09/01	(H)	MINUTE(L&C)
03/23/01	(H)	L&C AT 3:15 PM CAPITOL 17
03/23/01	(H)	Heard & Held
		MINUTE(L&C)
04/06/01	(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 152

SHORT TITLE: BREWPUB LICENSES

SPONSOR(S): REPRESENTATIVE(S) HALCRO

Jrn-Date	Jrn-Page		Action
02/28/01	0461	(H)	READ THE FIRST TIME - REFERRALS
02/28/01	0461	(H)	L&C
04/02/01		(H)	L&C AT 3:15 PM CAPITOL 17
04/02/01		(H)	Bill Postponed To 4/6/01
04/06/01		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

DANIEL YOUMANS

AT&T Wireless Services, Inc.

617 Eastlake Avenue East

Seattle, Washington 98109

POSITION STATEMENT: Testified in support of HB 186, Version J.

STEVE O'CONNOR

231 South Binkley Street

Soldotna, Alaska 99669

POSITION STATEMENT: Testified in support of HB 186, Version J.

RAY MILLER

Fairbanks Police Department

656 Seventh Street

Anchorage, Alaska 99701

POSITION STATEMENT: Testified on HB 186.

"SCOOTER" WELCH, Chief

Fairbanks Police Department

656 Seventh Street

Anchorage, Alaska 99701

POSITION STATEMENT: Testified on HB 186.

GLEN MARUNDE

P.O. Box 192

Tok, Alaska 99780

POSITION STATEMENT: Testified on HB 175.

KEN GATES

Cordova Electric Company

P.O. Box 20

Cordova, Alaska

POSITION STATEMENT: Testified in support of the CS for HB 175.

JOE HICKS

(No address provided)

Chistochina, Alaska

POSITION STATEMENT: Testified in support of HB 175.

SUSAN HECKS, Mayor

City of Seldovia

Drawer B

Seldovia, Alaska 99663

POSITION STATEMENT: Testified on HB 175.

ERIC YOULD

Alaska Rural Electric Cooperative Association

703 Tudor Road

Anchorage, Alaska 99503

POSITION STATEMENT: Testified on HB 175.

REPRESENTATIVE KEN LANCASTER

Alaska State Legislature

Capitol Building, Room 421

Juneau, Alaska 99801

POSITION STATEMENT: Testified as sponsor of HB 175.

AMY ERICKSON, Staff

to Representative Lisa Murkowski

Alaska State Legislature

Capitol Building, Room 418

Juneau, Alaska 99801

POSITION STATEMENT: Introduced the changes in HB 58, Version C, on behalf of the sponsor.

REBECCA NANCE GAMEZ, Deputy Commissioner

Department of Labor and Workforce Development

P.O. Box 21149

Juneau, Alaska 99802-1149

POSITION STATEMENT: Testified on behalf of the department for HB 58.

KEVIN HAND, Staff
to Representative Andrew Halcro
Alaska State Legislature
Capitol Building, Room 414
Juneau, Alaska 99801

POSITION STATEMENT: Introduced HB 152 on behalf of the sponsor.

LINDA THOMAS, Chief Operations Officer
Alaska Brewing Company
5429 Shaune Drive
Juneau, Alaska 99801

POSITION STATEMENT: Testified on HB 152 on behalf of Marcy and Jeff Larson.

SEAN BECK, President
Specialty Imports
(No addresses provided)

POSITION STATEMENT: Testified in support of HB 152.

GLENN BRADY, President
Silver Gulch Brewing Company
P.O. Box 82125
Fairbanks, Alaska 99701

POSITION STATEMENT: Testified in opposition to HB 152, Version J.

KAREN BERGER, Owner
Homer Brewing Company
(No address provided)

POSITION STATEMENT: Testified in opposition to HB 152, Version J.

LASSE HOLMES
P.O. Box 214
Homer, Alaska

POSITION STATEMENT: Testified on HB 152.

LARRY HACKENMILLER, Owner
Club Manchu
518 Farmers Loop
Fairbanks, Alaska 99712

POSITION STATEMENT: Testified on HB 152.

S.J. KLINE, President
Borealis Brewery Company
349 East Ship Creek Avenue
Anchorage, Alaska 99501

POSITION STATEMENT: Testified on HB 152.

MATT JONES, Co-Owner

Moose's Tooth

1513 Kinnikinnick Street

Anchorage, Alaska 99508

POSITION STATEMENT: Testified on behalf of the Brewers Guild of Alaska in support of HB 152, Version J.

CHRIS ANDERSON

737 West 5th Street

Anchorage, Alaska 99501

POSITION STATEMENT: Testified on HB 152.

ACTION NARRATIVE

TAPE 01-49, SIDE A

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Those present at the call to order included Representatives Murkowski, Halcro, Meyer, Kott, and Crawford. Representatives Rokeberg and Hayes joined the meeting as it was in progress.

HB 186-911 SURCHARGE ON WIRELESS TELEPHONES

Number 0097

CHAIR MURKOWSKI announced that the committee would hear HOUSE BILL NO. 186, "An Act relating to a municipal enhanced 911 surcharge on wireless telephones."

REPRESENTATIVE HALCRO made a motion to adopt the proposed committee substitute (CS), version 22-LS0381\J, Cook, 4/5/01, as the working document. There being no objection, Version J was before the committee.

Number 0216

REPRESENTATIVE MEYER, speaking as the sponsor of HB 186, told members that a lot of concerns expressed during the previous hearing had to do with the Federal Communications Commission (FCC) docket. The ruling is contained in the handout from BellSouth, found on the Internet; he said AT&T agrees that it explains the ruling fairly well.

REPRESENTATIVE MEYER pointed out that the ruling says carriers are entitled to recover costs of providing 911 service. The change in [Version J] is that the legislative findings are put in Section 4, page 3, of the bill. The FCC ruling makes it clear that a cost recovery needs to be in place before a carrier is obligated to provide 911 services. Both Anchorage and Fairbanks have expressed a desire to begin this service as early as this fall, which is why he would like the bill to pass this session, if possible.

REPRESENTATIVE MEYER explained that carriers will recovery a 50- or 75-cent surcharge. In the Lower 48 some carriers have not been passing on cost recovery, and AT&T anticipates the cost to be around 10 cents. The rest [of the surcharge] would go to the municipalities to provide revenue to pay for equipment and staff for the service. He noted that Mr. Rogers, during the previous hearing on the bill, said the current surcharge for land phones covers about 40 percent of the total cost of the 911 service for the Municipality of Anchorage (MOA).

Number 0434

REPRESENTATIVE MEYER said it is going to be up to the municipalities and the carriers to work out who gets what of that 50-cent surcharge, and [the committee] may hear from AT&T that it has an agreement with the municipality to split the surcharge.

CHAIR MURKOWSKI referred to Section 4 of the bill. She indicated that unlike current statute, [the ruling] spells out an entitlement to recover the cost of operation for phase 1. She asked for verification that [Version J] is not making a distinction between cost recovery for the different phases.

REPRESENTATIVE MEYER affirmed that. He said he has spoken with AT&T, the MOA, and indirectly with ACS, and the intent is not to visit this again. Unfortunately, the cost for phase 2 is not known yet, but the belief is that as [Alaska] gets closer to phase 2, the technology costs will diminish and the current surcharge would be adequate to cover both phases.

Number 0593

DANIEL YOUMANS, AT&T Wireless Services, Inc., came forth and said AT&T supports the proposed CS [Version J] and finds the cost-recovery language an improvement over the previous bill. When asked for verification that this is specified as cost

recovery for phase 1, he replied affirmatively. It is too early to address the issue of phase 2 until both the 911 operators and the carriers have a better idea of what those costs will be, he added. The legislation should just address phase 1, since there are solid numbers on those costs.

REPRESENTATIVE MEYER mentioned that he and Mr. Youmans had spoken, and he asked for clarification that AT&T works out agreements with the municipalities.

MR. YOUMANS replied affirmatively. This process is a partnership between the wireless carriers and the 911 operators, he said; essentially, the networks have to interconnect to provide this service. Typically, a service agreement will be signed with the municipalities that lays out every thing [AT&T] will provide and what cost recovery will be requested. Nationwide, AT&T's cost-recovery amount with the municipalities is about 11.8 cents per customer a month, he said.

Number 0705

REPRESENTATIVE HALCRO referred to the first bill hearing, in which a letter was submitted by Mr. Youmans expressing concern that something should be more unified. He asked Mr. Youmans whether Anchorage and Fairbanks are objecting to changing this from 75 to 50 cents, or whether they want to maintain the 75 cents. He also asked whether there has been discussion about leveling that out and making it an across-the-board 50 cents.

MR. YOUMANS replied that initially he got the feeling that the municipalities wanted to make the surcharge at parity with wire line [phones], which is why they chose the 50- and 75-cent levels. [AT&T] had expressed that wireless [phones] are different from wire-line phones because of the ability to use 911 anywhere in the state; therefore, there should be an equitable surcharge. He said [AT&T] understands the other side of the argument, but continues to hold that it should be equitable.

Number 0800

STEVE O'CONNOR testified via teleconference and encouraged the committee to keep the fee set at 50 cents and 75 cents, because the local government needs to have a say. He said [local governments] know best what the costs are to operate their enhanced 911 systems, which may vary from [place to place].

Kenai Peninsula Borough supports keeping [the surcharge] at 50 and 75 cents, he added.

MR. O'CONNOR said he thought [Mr. Youmans] was probably correct when he said [AT&T] sits down with the municipalities and boroughs and negotiates a cost-recovery [amount] for the phase 1 costs. He asked whether the bill would be revisited if the phase 2 costs are more than expected, because he thought he'd heard earlier that there was no intent to revisit this bill.

REPRESENTATIVE MEYER surmised that if phase 2 costs are a lot more than anticipated, legislators could revisit it; however, he [personally] didn't intend to do so. He expressed hope that the phase 2 [costs] would be less than anticipated because as technology progresses, it becomes less expensive.

MR. O'CONNOR said he would support the proposed CS [Version J], leave the wire-line fees based on population, and let the municipal government set the surcharges.

Number 0949

REPRESENTATIVE HALCRO asked Mr. O'Connor for the rationale behind the cost differential between the 50 cents and the 75 cents. For example, why would Anchorage be limited to [charging] 50 cents, when a smaller community such as Kenai or Fairbanks can charge up to 75 cents? He asked whether there would be less demand on systems in smaller communities.

MR. O'CONNOR replied that the demand may be less; however, the per-capita cost to smaller communities to install enhanced 911 systems is greater when compared to the larger municipalities, which may be the reason [for the language in the] original legislation.

RAY MILLER, Fairbanks Police Department, testified via teleconference that he would support municipalities' having split rates; a lot of the smaller municipalities have a higher amount than the local governments and can adjust that for their communities. He expressed concern about allowing the wireless telephone company to use that money to recover costs, however, because over time the 75 cents a month is going to be eroded by the telephone companies' cost, and it won't be available on the other end of the 911 system to operate and pay for the equipment and staff for which it was originally set up.

Number 1107

"SCOOTER" WELCH, Chief, Fairbanks Police Department testified via teleconference in favor of the legislation and the modification, saying he continues to support the difference in the fee structure allowing municipalities to collect 50 or 75 cents, depending on size. He, too, is concerned that if phone companies are set up to recover costs, those dollars may be eroded in future years as business costs increase. He recognized that [phone companies] need to be able to recover some costs for operations also.

REPRESENTATIVE HALCRO commented that he supports the bill, but has reservations about the 25-cent price differential. Smaller communities mean smaller systems, fewer cell-phone users, and a diminished impact on the system. He said he isn't sure why smaller communities are able to charge a higher rate.

REPRESENTATIVE MEYER explained that this came up as a proposed amendment, which failed unanimously, in the House Community and Regional Affairs Standing Committee. He surmised that it failed because the rural areas don't have as many people paying into the system, although the system costs are the same. It is a matter of economies of scale, he said, and it also makes it easier to understand because it is being kept the same as the [surcharge for the] landline [phones].

Number 1280

REPRESENTATIVE HALCRO made a motion to move the CS for HB 186, version 22-LS0381\J, Cook, 4/5/01, from committee with individual recommendations and the attached fiscal note. There being no objection, CSHB 186(L&C) moved from the House Labor and Commerce Standing Committee.

HB 175-APPROP: POWER PROJECTS

Number 1401

CHAIR MURKOWSKI announced that the committee would take up HOUSE BILL NO. 175, "An Act making an appropriation to the Alaska Industrial Development and Export Authority for power projects; and providing for an effective date." [In packets was a new proposed committee substitute (CS), version 22-LS075\P, Cramer, 4/5/01.]

GLEN MARUNDE testified via teleconference. A 40-year resident from the Tok area, he said there is a strong possibility that

the natural gas pipeline will come through Tok; the fuel may be advantageous to "feed" the Tok-to-Chistochina tie-in line, which would be ideal.

KEN GATES, Cordova Electric Company, testified via teleconference, encouraging committee to endorse the proposed CS [Version P]. He thanked the committee, and thanked Representatives Lancaster [sponsor] and Harris [cosponsor] for sponsoring the bill.

Number 1484

JOE HICKS testified via teleconference and expressed that Chistochina is in full support of the transmission line, which is needed for emergency purposes and which will help the community a lot. The community is growing quickly, and the village is in the process of relocation. Safety issues need to be addressed. The present system is not adequate, and there are [power] surges. He said 80 percent of the community has electricity, and there is concern for the cost of [doing the rest]. If the transmission line goes through, it would meet all the community's needs. He noted that an airfield and fire station [are being built]; seven road projects [are planned] in the near future; and there are tourism and National Park Service projects coming up. He pointed out that the transmission line also would assist the communities of Slana and Mentasta Lake.

Number 1600

SUSAN HECKS, Mayor, City of Seldovia, testified via teleconference that the City of Seldovia urges the committee to support HB 175, in particular, the portion for the Homer Electric Association regarding the Seldovia-Port Graham/Nanwalek power project. The project is vital to the public safety and economic viability of the 900 residents and the 25,000-plus visitors to the south side of Kachemak Bay. The current underwater cable is past its designed life, she emphasized, and could fail at any time.

MS. HECKS asked members to consider that if this money is not a grant and has to be repaid, it will be passed on to residents, which would be difficult for the consumers, [in light] of the economic status on that side of the bay. She mentioned that with the spruce-bark-beetle infestation, power outages will only increase.

MS. HECKS noted that the portion of the legislation that addresses the generation plant is another vital aspect for [the community]; currently, the generation plant in Seldovia has aging generators. She said the plant is capable of sending power all the way back to Homer Spit as well as tying to Nanwalek and Port Graham when power outages occur. She urged the committee's support.

Number 1706

ERIC YOULD, Alaska Rural Electric Cooperative Association (ARECA), testified via teleconference. He informed members that he had spoken with Jean Bjornstaff (ph), General Manager, Chugiak Electric Association, who wanted to convey strong support for at least the Anchorage-Fairbanks upgrade. He also had spoke with Mike Scott, General Manager, Anchorage Municipal Light and Power, who conveyed his support for the project.

Number 1772

CHAIR MURKOWSKI closed public testimony on HB 175.

REPRESENTATIVE KOTT made a motion to adopt the proposed CS, Version P [22-LS0705\P, Cramer, 4/5/01], as the work draft.

Number 1786

REPRESENTATIVE HALCRO objected.

REPRESENTATIVE KOTT explained that "we" met with the sponsor and came up with this particular form to fund these projects; it is a more viable approach, based on some of the comments that he has heard. Representative Kott urged members to support it and move the bill onward, and suggested that projects could be "stripped out" and included in a capital budget. He pointed out that for the person in Homer or Seldovia, it is important to at least [draw] attention; without this legislation, [those communities] won't have that opportunity.

REPRESENTATIVE HALCRO commented that if [Version P] is adopted, the bill packet might as well be used as a doorstep, because the bill wouldn't go anywhere and the projects wouldn't be discussed once [the bill leaves] this committee.

Number 1934

REPRESENTATIVE CRAWFORD concurred with Representative Halcro, explaining that he has a problem with the funding source. He supports the original bill, and believes the suggestion that maybe the Railbelt Energy Fund could be used to do zero-percent or low-interest loans is a good one. He remarked that if the constitutional budget reserve (CBR) is used, this won't pass.

REPRESENTATIVE MEYER asked the sponsor to comment, since he sits on the House Finance Committee.

Number 1912

REPRESENTATIVE KEN LANCASTER, Alaska State Legislature, sponsor of HB 175, stated that he isn't "enamored" with the funding source, but if the consensus were to move these projects forward, he would be amenable. The one change he'd heard over the past couple of days, he noted, would be to change the repayment period to 25 versus 15 [years]; it would soften the rate charges for the people in Seldovia if they go up. He expressed willingness to try to make this work any way possible.

REPRESENTATIVE HALCRO asked why the money taken out of the CBR would be repaid to the Railbelt Energy Fund.

REPRESENTATIVE LANCASTER offered that this helps build the fund for other things such as a gas line or other energy projects down the road. This could be a source of funding to enlarge the Railbelt Energy Fund for future projects.

Number 1973

REPRESENTATIVE HAYES asked why there is discussion about changing the funding source.

REPRESENTATIVE LANCASTER mentioned nine years of history with the Railbelt energy funds and where the funds were envisioned to go, adding that he may be attempting to spread them outside of the Railbelt.

A roll call vote was taken. Representatives Meyer, Kott, Rokeberg, and Murkowski voted in favor of adopting Version P as the work draft. Representatives Halcro, Crawford, and Hayes voted against it. Therefore, Version P was adopted as the work draft by a vote of 4-3.

Number 2031

REPRESENTATIVE KOTT made a motion to adopt conceptual Amendment 1, changing page 2, line 21, from 15 to 25 years.

REPRESENTATIVE ROKEBERG objected. He asked whether interest would be applied or if it would be a straight repayment.

REPRESENTATIVE KOTT replied that it would just be a straight repayment.

REPRESENTATIVE LANCASTER commented that \$25 million goes to the Alaska Industrial Development and Export Authority (AIDEA) through the Alaska Energy Authority (AEA) to build their own project. Only a small portion would be of concern for repayment anyway, he added.

REPRESENTATIVE KOTT said when the Glennallen-Susitna project was [built] it was a 35-year, no-interest loan; this comports more closely with procedures in the past.

Number 2111

REPRESENTATIVE ROKEBERG withdrew his objection.

CHAIR MURKOWSKI announced that with no further objection, conceptual Amendment 1 was adopted.

REPRESENTATIVE HALCRO made a motion to adopt conceptual Amendment 2, on page 2, line 23, to replace "Railbelt Energy Fund" with "constitutional budget reserve fund."

CHAIR MURKOWSKI objected for the purpose of discussion.

REPRESENTATIVE HALCRO expressed that if [the legislature] is going to take money out of the CBR, [the money] ought to go back into the CBR. It is clear that the Railbelt Energy Fund has become political, he emphasized; the original intent was to take money from the Railbelt Energy Fund to do energy-related programs. He doesn't believe [the legislature] should "rob" the CBR to increase the Railbelt Energy Fund, he added, especially with the "precious" dollars that remain in there.

REPRESENTATIVE KOTT said if the committee adopts conceptual Amendment 2, none of the language on lines 22 to 24 would be necessary, because every time money is withdrawn from the CBR, the legislature is obligated to repay it. However, there are some provisions. All of this money will go into the general fund first, and then will be put in the CBR if that is how [the

legislature] approaches it. Based on previous withdrawals, Representative Kott said, he didn't think [the legislature] ever put anything back in the CBR. It goes into the general fund and will probably stay there, rather than into the CBR, unless [the legislature] indicates it is to go into another fund already created within the general fund, which would be the REF (Railbelt Energy Fund).

Number 2216

REPRESENTATIVE MEYER remarked that initially there was some talk about keeping the money in the Railbelt Energy Fund in case [the legislature] wanted to have part ownership of the pipeline, to expedite the process. The money that is paid back goes into the Railbelt Energy Fund to build it up. He asked for clarification that repaying the CBR would not even be possible.

REPRESENTATIVE KOTT commented that that is his understanding. It goes into the general fund and would have to be appropriated out from there.

Number 2264

REPRESENTATIVE HALCRO said [the state] has \$71 million in the Railbelt Energy Fund for energy-related projects. So what is being said is:

No, no, no, we're not going to use "that" money because some people don't like it, so ... we're going to ... take money from the constitutional budget reserve, \$62 million, and ... spend that on energy-projects. ... Then when it's repaid, or, in the case that some of these projects aren't completed and the money lapses, we're going to stick that back into the Railbelt Energy Fund. So, [it's] completely possible that at some point in time, we could have over \$100 million in the Railbelt Energy Fund, and still not be able to access ... [it] for viable, needed energy projects, because of the political history and the opposition.

REPRESENTATIVE HALCRO emphasized that this makes absolutely no sense to him, taking from one pot of money and giving it to another. He asked: Why not just do a \$62 million straight appropriation into the Railbelt Energy Fund if that is [desired]? This is purely based on politics, he added, not

sound reasoning, and is certainly not to the benefit of the people in these areas that need these projects.

REPRESENTATIVE HAYES sought verification that when [the bill] gets to the House floor it needs a three-quarters' vote to tap into the CBR.

[There was an indication of affirmation.]

REPRESENTATIVE KOTT commented that there are projects on this list that everybody can support, and he thought the three-quarters' vote could be obtained unless some people just don't want to increase general fund spending. It is an increase of \$60 million from "our" bottom line. There is a taskforce that will be looking at energy needs around the state, he pointed out, which would be back to report that there are opportunities to spend money from the Railbelt Energy Fund on Railbelt energy projects. Representative Kott also mentioned that the Denali Commission is looking into this, and said there is no shortage of projects to fund there.

CHAIR MURKOWSKI said if [the legislature] has the CBR draw to fund these [projects] and the repayments go into the Railbelt Energy Fund, an overall savings account has been taken from, which would be available for spending anywhere in the state. [Those monies are being] funneled into a fund that is now dedicated for only Railbelt energy projects; however, there hasn't been consistency ensuring that [the funds] go to Railbelt energy projects [only].

Number 2408

REPRESENTATIVE MEYER asked: If the money is being paid back and goes into the general fund, and then an appropriation [is required] to get it back into the CBR - which doesn't sound as though it happens - what good does it do to make this amendment>

REPRESENTATIVE KOTT asked Representative Rokeberg whether he recalls [that the legislature] has appropriated money back into the CBR.

REPRESENTATIVE ROKEBERG responded that [the legislature] tries every year, but the "front part of the budget causes the sweep to go away." There is a "sweep" provision in the CBR that requires all money expended to be paid back that is part of the CBR. He supports the amendment, he added, because if [the money] is taken out, it needs to be put back. He expressed his

understanding that the amendment before the committee is to revert to the CBR, rather than to the Railbelt Energy Fund.

REPRESENTATIVE KOTT said he understood it was going to have to go to the general fund first. He added, "You've either got ... the amount ... left in the general fund or in the Railbelt Energy Fund."

TAPE 01-49, SIDE B
Number 2465

REPRESENTATIVE HALCRO asked: Since it is going to go back into the general fund and be "swept" into the Railbelt Energy Fund, why isn't the \$62 million put into the Railbelt Energy Fund, thus eliminating the need for a three-quarters' vote?

A roll call vote was taken. Representatives Hayes, Halcro, Meyer, Rokeberg, Crawford, and Murkowski voted in favor of conceptual Amendment 2. Representative Kott voted against it. Therefore, conceptual Amendment 2 was adopted by a vote of 6-1.

REPRESENTATIVE HALCRO directed attention to page 2, Section 4, lines 27 to 28. He said it brings up the possibility of conceptual Amendment 3, because it talks about funds that have lapsed back into the Railbelt Energy Fund. He said he wasn't sure if there needs to be a corresponding amendment to ensure that the money doesn't go back into the Railbelt Energy Fund, or whether the section can be eliminated.

CHAIR MURKOWSKI suggested that the drafters could make the conforming amendments.

Number 2384

REPRESENTATIVE HAYES said the bill will pass out of this committee, will go to the House Finance Committee, then to the floor, and will become a "Christmas present." He asked what will stop every needed project from being added to [this bill].

REPRESENTATIVE LANCASTER replied that Representative Hayes is probably right, but hopefully there will be consensus moving forward. He deferred to Representative Kott.

REPRESENTATIVE KOTT replied that he would control his "side of the aisle" from "hanging" anything on the bill if Representative Hayes would do the same.

REPRESENTATIVE HALCRO commented that with \$2.5 billion in the CBR, there is no ceiling; this is in contrast to taking the money directly from the Railbelt Energy Fund, where there is a finite \$71 million.

REPRESENTATIVE KOTT pointed out that there is \$2.4 billion in the CBR; if it were all used up this year, the fiscal policy taskforce would be much happier and [the legislature] would have to implement a revenue-spending plan much earlier than most would like.

Number 2257

CHAIR MURKOWSKI commented that the answer is really very simple: Take it from the Railbelt Energy Fund and use it for the purpose for which it was designed. It is a concern, she emphasized, that the energy fund has been just sitting there, and hasn't been used for its intended purpose.

REPRESENTATIVE CRAWFORD indicated his belief that the sponsor had a good bill, but it would "die" if the proposed CS was moved from committee.

REPRESENTATIVE ROKEBERG stated that he is not going to support the bill, because it is not a fair and judicious use of the fund. This state has a significant need for better production and distribution of energy, he exclaimed, and [the legislature] needs to look at the money that is left to see how it can be leveraged for all areas of the state, and to look primarily at the requirement of the Railbelt area. He said he wouldn't object to a bill that takes that money and leverages it for a better and more efficient use of energy.

Number 2144

REPRESENTATIVE ROKEBERG said the restructuring committee that existed in the 21st legislature had substantial hearings on different alternative energy forms and what could be done around the state. This bill takes that last bit of "seed money" and gives it to a few small projects that just happen to get to the "Christmas tree" first. There are other projects that need to be considered as well, in a broader picture.

REPRESENTATIVE ROKEBERG said he wouldn't support this bill because it is not properly crafted to help [Alaska's] energy needs. He clarified that there isn't one project in [the bill] that he wouldn't support on its own merits, and he believes [the

projects] need the money. However, this isn't the time or place to do that, and [the legislature] needs to help these areas find monies through other funding sources.

REPRESENTATIVE KOTT said he doesn't believe this bill is "dead," and doesn't believe that it can be determined how another member will vote once it reaches the full House.

Number 2076

REPRESENTATIVE KOTT made a motion to move the CS for HB 175, version 22-LS0705/P, Cramer, 4/5/01, as amended, out of committee with individual recommendations. [It was later determined that there were no fiscal notes.]

REPRESENTATIVE ROKEBERG objected.

A roll call vote was taken. Representatives Crawford, Hayes, Halcro, Meyer, Kott, and Murkowski voted in favor of moving the bill. Representative Rokeberg voted against it. Therefore, CSHB 175(L&C) moved from the House Labor and Commerce Standing Committee by a vote of 6-1.

HB 58-UNEMPLOYMENT COMPENSATION BENEFITS

Number 1977

CHAIR MURKOWSKI announced that the committee would take up HOUSE BILL NO. 58, "An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date."

AMY ERICKSON, Staff to Representative Lisa Murkowski, Alaska State Legislature, speaking as the committee aide for the House Labor and Commerce Standing Committee, came forward to explain the proposed committee substitute (CS), Version C [22-GH1016\C, Cramer, 4/5/01]. She reported Version C it deletes the indexing previously included, and implements the increases to unemployment insurance (UI) in three phases. In 2002, it will go from \$250 to \$272 [a week]; in 2003, from \$272 to \$292; and in 2004, from \$292 to \$320. The Department of Labor and Workforce Development (DLWD) has seen [Version C], she said, and hasn't had a problem with it this far.

Number 1918

REPRESENTATIVE MEYER asked whether this would take out the index and the indicator, and add a three-year [phase-in scheme].

MS. ERICKSON answered in the affirmative.

CHAIR MURKOWSKI explained that there were concerns that making the jumps in [two years] would be a "hit" to the employer, so it was softened with a [three-year phase-in]. She mentioned that committee members should have received an explanation of the delayed impact of the benefit increases on tax rates; it is not an easily understood process.

Number 1845

REBECCA NANCE GAMEZ, Deputy Commissioner, Department of Labor and Workforce Development (DLWD), came forward and said a three-year phase-in is great, although the DLWD would have preferred two [years]. However, she thought there were some good compromises.

MS. GAMEZ explained that every year a calculation is done in UI when a benefit changes; this happens over a sliding three-year window, because it moderates the economic impact on the taxpaying employer. Thus an increase doesn't happen right away, but phases in when it gets to certain trust fund levels. The three-year period is used to calculate the new tax rate. In this case, it will be effective January 1, and the period ending the previous June 30 makes basically zero impact on the first year for employers. The following year, there are six months of increased benefit costs resulting from the increased weekly benefit amount. In the third year, the increased costs for the first year and for half of the second year are included in that average.

MS. GAMEZ, in response to a question about removal of the indexing, said the department would rather have [kept] the indexing to the annual weekly wage, but is flexible.

Number 1706

REPRESENTATIVE ROKEBERG expressed his belief that it is best to have a periodic review of these rates. He doesn't think a lot of Alaskans object to having a reasonable rate, he said, but there are some sound objections to the qualifications of benefits in Alaskan programs. [The legislature] might want to look at it, because employees pay such a small amount of their income into the tax pool and employers pay the vast majority of

it. Too often, he remarked, people look at this benefit as a right, not as an insurance benefit to tie them over until the next job. There is an abuse in this program, he exclaimed, and it deserves some review; he added that [the state] is now raising taxes on businesses and passing it on to people who may be abusing the program.

REPRESENTATIVE HALCRO commented that [the legislature] is anticipating another Senate bill diverting some money from the UI trust fund to the university for programs. Once that money is taken out, it needs to be replaced. It is not a very clean way to fund the university, he expressed, and it could be called a tax on business to support the university, which is nothing more than a hidden tax.

Number 1557

REPRESENTATIVE ROKEBERG remarked that the State Training and Employment Program (STEP) is becoming more suspect in the way it is funded, in his opinion, and he doesn't think most people in the state know it is there. The use of some of those funds is troublesome, he emphasized, and if there is going to be a second dip into the fund for allegedly excess funds, then either [the state] is collecting too much money or there is a low level of unemployment in the state. He said it is a systemic problem that he is concerned about, and he probably wouldn't be supporting that bill for that very reason.

CHAIR MURKOWSKI requested confirmation that the [UI trust] fund is solvent, and that even if [the legislature] were to "raid" it, it wouldn't jeopardize that solvency.

Number 1479

MS. GAMEZ clarified that there are no excesses in the UI trust fund. The diversions that go to the STEP program come out of the worker contribution; however, that "backdoors" the employers, who have to make up those reserves in the trust fund. The first STEP program is pretty pure, she said; she refrained from commenting on the second one. She emphasized that there are no excesses; federal law guides the trust fund reserve rates; and once money is in the trust fund, it can't be taken out. She offered to leave a one-page handout explaining this with the committee aide.

CHAIR MURKOWSKI commented that the sentiment she has heard is that a reasonable [increase] is to be expected, and in looking

at statistics on Alaska, [the legislature] could probably go a bit further. The concern she'd heard was of being tied to the index, which is truly a policy consideration; it didn't seem that people were prepared to go forward with that at this time.

Number 1394

CHAIR MURKOWSKI said she is comfortable with the end product, and is willing to moving it to the next committee.

REPRESENTATIVE CRAWFORD expressed disappointment that tying it to the average weekly wage is now [off the table]. He would have thought it better, for employers and employees alike, to not have to go five years without adjustments and then to have a sudden bump. Even if [the committee] had taken [the maximum weekly benefit amount] to \$300 rather than \$320, it would have been 47 percent of the average weekly wage. [The committee] could have tied it to a 47 percent replacement, which he said would have been a good compromise; however, he recognized that some adjustment is better than none. He added that [the legislature and the department] will be back in a few years to argue it out again.

Number 1243

REPRESENTATIVE HALCRO made a motion to adopt the proposed CS, version 22-GH1016\C, Cramer, 4/5/01, as a work draft. There being no objection, Version C was before the committee.

REPRESENTATIVE ROKEBERG said in looking at Sections 3 and 6, he is contemplating a conceptual amendment to remove Section 3. He suggested that if it is appropriate to put Section 3 back in, in [2004], it would be up to that legislature at that time.

CHAIR MURKOWSKI responded that if Section 3 were removed, the weekly benefit amount could go no higher than \$296. It would put [Alaska] far below the \$320 or 50 percent of the average weekly wage, which is where that \$320 number came from initially. [The state] would arrive at the \$296 in 2003, but it would then be capped.

REPRESENTATIVE ROKEBERG said it depends on what the average weekly wage is three years from now.

CHAIR MURKOWSKI noted that [the committee] has taken out the reference to a tie to the average weekly wage.

MS. GAMEZ concurred.

REPRESENTATIVE ROKEBERG asked whether the numbers are based on that.

CHAIR MURKOWSKI said that is how the division came up with \$320.

Number 1048

REPRESENTATIVE ROKEBERG said if he could move that amendment, it would leave the future legislature to reexamine the issue and either raise or lower [the amount]. It might be found at that time that [the amount in] Section 3 is too low. He suggested that what [the committee] is doing here is a de facto sunset in a sense.

CHAIR MURKOWSKI clarified that [the committee] is just adding to the existing schedule, and there will be [three] incremental bumps: one in 2002, up to \$272; one in 2003, up to \$296; and one in 2004, up to \$320. The schedule ends after that, as it ends now at \$248.

REPRESENTATIVE ROKEBERG said the question is whether the department, organized labor, and employers would come back to the legislature and say it needs adjustment. This gives a quicker reaction time; historically, the legislature has taken this up every four to five years. He suggested that much of it depends on the economy and [Alaska's] average weekly wage. If [Alaska] has an energy bill and the gas pipeline, there will be an acceleration of wages, and there would be a [disparity] between some employment classifications and the regular folks who do most of the work of the state. He asked if it wouldn't be better to revisit it earlier.

CHAIR MURKOWSKI said that would be the hit to the employer, which the effort is to avoid.

Number 0912

MS. GAMEZ reported that Thom Wiley, UI Actuary, had talked with the people at British Petroleum (BP); the employment [BP] expects from the gas pipeline and from opening the Alaska National Wildlife Refuge (ANWR) [to drilling] would result in an overall impact on the average weekly wage of \$5.00 or \$6.00, so it would go from \$239.50 to about \$246.50.

REPRESENTATIVE ROKEBERG said that is one person's opinion.

REPRESENTATIVE CRAWFORD recalled that at the end of the pipeline [construction] in 1978, it took 26 weeks to ripple through the economy and was back down to a much lower average weekly wage shortly after the pipeline was complete. That is when being tied to the average wage would benefit employers, he said, because it mirrors the economy. Around the 1980s, things got "slim" for construction workers, and the average weekly wage dropped considerably. He offered his opinion that had [Alaska] been tied to an average weekly wage, the benefits would have gone down and the taxes on the employers would have followed.

REPRESENTATIVE HALCRO commented that if the committee removed Section 3 so there was not an increase on January 1, 2004, the department would have to come back to the legislature sooner; however, a forum would be provided for legislators to say, "Look, you were just back three years ago ... getting an increase." He said the longer [the committee] can stretch it out, the more evenly the increases will be for employers and the more [the state] will benefit. Then in 2005 or 2006 [the legislature] can revisit it.

REPRESENTATIVE ROKEBERG pointed out that the majority of people who are paid UI benefits are not union members or construction workers; the bulk of the people in the state pay taxes when working, and the service industry is a bigger employer in the state. When there are economic cycles, he said, those wages tend to go up, but usually they don't go down as fast. The gross amount of taxation on business is still going to go up, he exclaimed.

Number 0698

REPRESENTATIVE CRAWFORD remarked that after [pipeline construction workers] made the average go way up, they also made the average go way down shortly [after construction was complete, in 1978], which is what he was speaking to.

REPRESENTATIVE ROKEBERG said the economy and the overall wages and disposable income kept going up until 1986.

Number 0652

REPRESENTATIVE HAYES made a motion to move the CS for HB 58, version 22-GH1016\C, Cramer, 4/5/01, out of committee with individual recommendations and the attached fiscal note. There

being no objection, CSHB 58(L&C) moved from the House Labor and Commerce Standing Committee.

HB 152-BREW PUB LICENSES

[Contains discussion of HB 153]

Number 0542

CHAIR MURKOWSKI announced that the committee would hear HOUSE BILL NO. 152, "An Act relating to brewpub licenses."

REPRESENTATIVE HALCRO, speaking as the sponsor of HB 152, made a motion to adopt the proposed committee substitute (CS), Version J [22-LS0354\J, Ford, 4/6/01], as the work draft. There being no objection, Version J was before the committee.

KEVIN HAND, Staff to Representative Andrew Halcro, Alaska State Legislature, explained that this new, highly successful industry in Alaska continues to have substantial growth, and is a new source of employment and benefits to local communities around the state; it provides diversification for the state's otherwise mono-modal economy around the state. Breweries and brewpubs are providing positive economic enhancements in almost every region of Alaska, including many different communities from Southeast to the Interior. Positive effects include tax revenue for local communities, employment, and subsequent positive side effects for such things as employment insurance.

Number 0320

MR. HAND remarked that current brewpub law - a portion of which was supplied for the committee - caps the amount of beer a brewpub is allowed to brew annually at 75,000 gallons. However, businesses are impeded by that limitation. A few years ago when this legislative body considered these laws, he told members, a cap was arbitrarily put in place; according to committee testimony, there was nothing substantive that led to the creation of the cap at that level.

MR. HAND said there are companies which, after bumping up against that cap, are faced with the decision of moving their operations elsewhere - where they would be unlimited in the amount of beer they could brew. It is much cheaper to take all of the aggregate products that are required to brew beer, bottle them elsewhere, and ship them to Alaska as a finished product than to do it here.

MR. HAND told the committee [Alaska] has alcohol laws that oversee the industry for good reason. Regardless of where one stands on the issue of alcohol enforcement, he suggested that everyone would agree that the government should not stifle private industries, especially [industries] that would help diversify the Alaskan economy.

MR. HAND, referring to Version J, explained that it is an agreement considered by many different interests in the alcohol industry, and incorporates provisions to ensure their interests and financial obligations; much dialogue has taken place to bring this proposed legislation to the table.

MR. HAND said [Version J] levels the playing field for all breweries and brewpubs, allowing all participants to operate under the same basic structure and to have the same opportunities. It is the closest that this industry has come to equal access to the market. Any current brewery that wants to utilize these statutes to convert to a brewpub would be doing so under the same laws and conditions as any other competitors, which is the basis for competition in the private sector.

Number 0086

MR. HAND explained Version J. Section 1 [paragraph (1)] removes the production cap of 75,000 gallons annually and authorizes anyone with a brewpub license to manufacture beer in the state. Paragraph (2) removes the collocation clause regarding the location of manufacturing facility versus a retail location; it allows a brewpub to have its brewing facility in a separate location from its retail outlet. It also provides that brewpubs may not hold more than two beverage dispensary licenses, meaning they can only have a maximum of two retail locations from which to supply themselves with their product. A brewpub can continue to open more locations utilizing a regular restaurant-eating place license, but would have to buy its own product via the normal distribution channels and at wholesale.

MR. HAND noted that paragraph (3) authorizes the sale of up to five gallons a day to [an individual who is present on the licensed premises].

TAPE 01-50, SIDE A

MR. HAND, referring to paragraph (4), said free samples could be provided on the manufacturing premises during a brewery tour.

He concluded with Section 1, noting that paragraph (5) authorizes brewpubs to sell beer to a wholesaler. Section 2 repeals subsection (d) of the statute, which is the portion written a few years ago when the legislature went over this issue. In an effort to level the playing field, it repeals the section that was currently employed regarding a specific operation.

MR. HAND remarked that the Brewers Guild of Alaska (BGA), which includes [representation] from most of the breweries and brewpubs in the state, recently passed a resolution in support of HB 152, Version J. A great deal of public testimony has been received by Representative Halcro's office in just a few short weeks, from all portions of the state, and from every district in Anchorage. He emphasized that 99.9 percent of [the input] is greatly in support of revisiting the brewpub limits.

Number 0192

REPRESENTATIVE HALCRO remarked that all of the green card [questionnaires piled on the table] were supportive. Although three cards were received in opposition, one was from a gentleman who will be testifying before the committee today, and who is [now] in support of the bill.

REPRESENTATIVE ROKEBERG asked Mr. Hand why he'd said the volume cap [set by the legislature] wasn't based on anything substantive.

Number 0299

MR. HAND replied that he had derived that from the testimony he got from the Bill Action and Status Inquiry System (BASIS).

REPRESENTATIVE ROKEBERG indicated there was truth in what Mr. Hand had said, but added that he thought a brewpub was envisioned to have a beverage dispensary license and would brew the beer on the premises. He mentioned the uniqueness of the Moose's Tooth situation, which qualified under a provision of law enacted at the same time as the 16,000-gallon [limit] was, when taverns were legalized in the state; Representative Rokeberg said he had sponsored a law to outlaw that, and - with a few exceptions in the state - all of those licenses are gone. Unfortunately, he said, another provision in law was a financial interest section that prohibited a brewer from owning a restaurant license, and subsequently that bill was changed to

make sure they were brewpubs under a beverage dispensary license with which that business conformed.

Number 0458

REPRESENTATIVE ROKEBERG continued, saying when that was done, the cap was put on it. When the revision was done, there was a glitch in the "fix" made to AS 04.11.135(d), which is trying to be repealed now. He asked whether the sponsor wants to repeal that section because the Moose's Tooth is operating as a brewpub under the holder of a beverage dispensary license.

MR. HAND replied affirmatively. He thought there might have been some unintended inconsistencies if the statute were prohibited under that subsection (d), he added.

REPRESENTATIVE ROKEBERG said subsection (d) was formed almost as special-interest legislation to allow [the Moose's Tooth] to be able to operate. When the bill was drafted, however, someone forgot to tell [the drafters] that its brewery was separate from the premises. He expressed concern about repealing that unless he is 100 percent certain, and said he would like to know the position of CHARR (Cabaret Hotel Restaurant & Retailer Association) and ARBA (Anchorage Restaurant and Beverage Association), rather than the position of those who serve food along with brewing beer.

MR. HAND replied that he believed subsection (d) to now be moot because the Moose's Tooth, for which the provision was originated, no longer operates under it; it gave up its grandfathered right and now operates under a beverage dispensary license.

REPRESENTATIVE ROKEBERG asked if both [Moose's Tooth] locations hold beverage dispensary licenses.

MR. HAND responded affirmatively and said he believed the proprietors of the business were online to answer questions.

Number 0629

REPRESENTATIVE HALCRO said he believed the [proprietors] had to procure a beverage dispensary license to open and operate the second location. Two years ago, the committee rewrote an Alcohol Beverage Control (ABC) liquor law; one of the provisions in HB 67 required that if these brewpubs wanted to open a second

location, they had to spend \$150,000 to buy a beverage dispensary license.

REPRESENTATIVE ROKEBERG objected to that statement. He said a brewpub by law has to have a beverage dispensary license. [Alaska] has taverns, he pointed out, and there were only a couple in operation.

REPRESENTATIVE HALCRO emphasized that [the legislature] instituted a provision that mandated that if a brewpub wanted to open a second location, it had to purchase a beverage dispensary license, at a cost of \$150,000, that would allow the serving of hard alcohol, even though there was no intention of serving it; this was pushed by competitors who were fearful of the growth and competition that was being presented. He said it was his standpoint two years ago that it was unfair to make a business spend money on an unnecessary license instead of putting that money into capital improvements. House Bill 152 addresses that investment and levels the playing field.

Number 0771

LINDA THOMAS, Chief Operations Officer, Alaska Brewing Company, came forth on behalf of Marcy and Jeff Larson, co-founders of the brewery, who were unable to attend the hearing. She said the [Alaska Brewing Company] doesn't support this bill as currently drafted and requests postponement to analyze changes. The BGA resolution was passed at noon today, and [the Alaska Brewing Company] has not had time to analyze it, either.

CHAIR MURKOWSKI mentioned a portion of the BGA's faxed statement, which read [original punctuation provided]:

The Brewers Guild of Alaska (BGA) supports the raising of the production capacity on Brewpubs from 75,000 gallons to 150,000 gallons with the following restriction in place. Any Brewpub requesting a production capacity increase (above 75,000 gal.) would be prohibited from wholesaling any of their beer offsite.

MS. THOMAS responded affirmatively. In response to a comment by Representative Rokeberg, she said CHARR had endorsed the original bill.

Number 0953

SEAN BECK, President, Specialty Imports, testified via teleconference. He stated that [Specialty Imports] is a wholly owned Alaskan distributor of fine wine and beer, and also is the distributor for the Moose's Tooth. [Specialty Imports] supports HB 152 and believes it is vital for the economic interest of all the brewers in the state.

REPRESENTATIVE ROKEBERG asked Mr. Beck if he believes in the three-tiered system under Alaska Statute that regulates the industry.

MR. BECK said he believes in the taxation issues of the three-tiered system. When asked if the Moose's Tooth is the only brewpub in Alaska with a stand-alone brewery, he said he wasn't certain, but knows of other breweries, like Bear Creek, that went out of business because they didn't get into that end of the business or weren't allowed to. He said he thought others would as well. He added that a number of breweries in the Lower 48 have brewpubs onsite or off-site and are selling their products in Alaska; it could be an economic hardship for brewers here if they aren't allowed to do the same.

Number 1075

GLENN BRADY, President, Silver Gulch Brewing Company, testified via teleconference in opposition to the proposed CS [Version J]. He said this would be a sweeping change to the legislation affecting how [brewers] operate in the state. He agreed with the statement made by the Alaska Brewing Company that the bill hearing needs to be postponed for further consideration, although he said it is a step in the right direction.

KAREN BERGER, Owner, Homer Brewing Company, testified via teleconference in opposition to [Version J]. It is sweeping legislation, she explained, and there has not been time to understand the ramifications. She expressed concern about the \$150,000 for a beverage dispensary license because in Homer there aren't any for sale now. It would most likely be double that price, which is prohibitive for small breweries in small towns.

REPRESENTATIVE HALCRO asked whether Ms. Berger's objection is more about the cost and availability of the beverage dispensary license than the issues of competition and being able to "grow" one's business.

Number 1240

MS. BERGER replied that although the playing field needs to be leveled, she doesn't agree that this is the best [method]. In speaking to the Washington Alcohol Board this morning, she found that [brewers in Washington] enjoy a different set of rules that she agrees with more. Once again, [all brewers] have to sit down and come to an agreement.

LASSE HOLMES testified via teleconference. The former co-owner of the Homer Brewing Company, he expressed concern that [the committee] is not talking about HB 153 at the same time, which is an integral [component] that Representative Halcro is also sponsoring. Without having HB 153 involved and, instead, just talking about the cap, he said he doesn't believe it is a level playing field.

Number 1310

LARRY HACKENMILLER, Owner, Club Manchu, testified via teleconference. He noted that he is also the chairman of the board for the state CHARR, which discussed this at its last meeting; with the original bill, [CHARR] decided to at least listen to increases up to 150,000 gallons if there is some type of a level where (indisc.) of that had to be a wholesale and had to be distributed accordingly. That is quite unclear with Version J.

MR. HACKENMILLER said he appreciates the hard work that went into this with the BGA; however, [brewers] are not full beverage dispensary license [establishments], as he is; he suggested that perhaps there needs to be more familiarity with some of the laws. Mr. Hackenmiller emphasized that he has been before the legislature every year with brewpub legislation. In HB 152, Version J, it says [brewers] want to have no more than two licensed dispensary premises to make it a level playing field. He guaranteed that next session [the brewers] will be back. There will never be a level playing field as long as [the brewers] keep coming back every year, he concluded.

MR. HACKENMILLER said the licensed beverage establishment is not allowed to give away drinks or sell drinks off-premises. Even in Version J, it says [brewers] are going to have a full beverage dispensary license, but with the exception that they are going to be allowed to sell "growlers" or off-premises beer. He asked why that is a possibility, since it is not a separation of the three-tiered system. He added that [licensed beverage establishments] are not allowed to give away drinks due to the

"happy hour laws", yet [brewers] are allowed to do that [in HB 152]. He asked why that wasn't taken into consideration.

MR. HACKENMILLER expressed his preference for leaving it at 75,000 [gallons]. If [a brewer] can go Outside for less money, then that is a marketing tool or a personal business decision that one has to make.

Number 1447

REPRESENTATIVE ROKEBERG asked Mr. Hackenmiller whether CHARR was involved in this compromise.

MR. HACKENMILLER said not with Version J. He noted that [CHARR] has two board members who are also on the BGA. He didn't remember exactly what the situation was, but believed after 150,000 gallons it had to go through a wholesaler for distribution. And if it went above 75,000 gallons, the brewpubs gave up their right to wholesale the beer. The consensus was that it would be acceptable for CHARR; however, other things - for instance, full beverage dispensary license violations - would not be.

Number 1503

REPRESENTATIVE ROKEBERG asked Mr. Hackenmiller whether the BGA board members who are also in CHARR were representing CHARR.

MR. HACKENMILLER responded that they were not in this last [discussion] about Version J. He said he was referring to several weeks ago when legislative issues, including this bill, were discussed in a [CHARR] board meeting. Last year, CHARR was not in support of doubling the gallons; however, a compromise was accepted that anything over 75,000 would have to be [sold] wholesale. Mr. Hackenmiller said he also remembers Chris Anderson of Anchorage last year asking why there [needed to be] any gallon limit at all. He said he was amazed that it came back at 150,000 gallons again this year, and predicted that brewpubs are going to be coming back for more.

REPRESENTATIVE ROKEBERG pointed out that Version J has no cap either. He asked for verification that Mr. Hackenmiller's testimony is that CHARR was not involved today.

MR. HACKENMILLER answered in the affirmative.

Number 1564

REPRESENTATIVE HALCRO clarified that Mr. Brady was involved in both teleconferences, on Wednesday and Thursday. When his own staff completed the teleconference and spoke to [Mr. Brady] on the phone, he was in agreement with the decision that had been reached. Representative Halcro said Mr. Hackenmiller has been in opposition to every brewpub bill he has introduced. He asked: Is it fair for a brewpub to have to spend money to buy a beverage dispensary license that it doesn't want or need, in order to expand its business?

Number 1618

MR. HACKENMILLER responded that it must be, because [brewpubs] wanted the legislation changed for it, and "we" didn't object to it. He emphasized that he has to buy the same license at the same cost, whether he has a brewpub or not. He added that it would definitely be fair.

REPRESENTATIVE HALCRO asked if that is true even though [brewpub owners] have no desire to serve hard alcohol, just the beer they make.

MR. HACKENMILLER said that should have been the case; however, when [brewpubs] had restaurants and eating places, that was not their intent. Rather, they wanted the beer and wine. In having a full bar, they discovered the money and effort put into a licensed premise were not in compliance with restaurant-and eating-place licenses, so it was actually cheaper for them to be a full beverage dispensary. There are all kinds of underlying points here, he said; again, it wasn't CHARR or the industry as a whole that wanted them to have full beverage dispensary licenses. That was another of the [brewer's] tools to expand, just as they are trying to do now.

REPRESENTATIVE HALCRO asked Mr. Hackenmiller if it was not CHARR that insisted the provision be placed in statute that [brewpubs] must have the beverage dispensary license in order to expand. He also asked whether [CHARR] hadn't been worried about competition.

Number 1670

MR. HACKENMILLER responded that some members probably were worried about competition, but as a whole, CHARR was not involved in that. He said [CHARR] was basically following [the brewer's] lead and letting them have full dispensaries. It was

a give-and-take situation: They were taking the full beverage dispensary license's condition and then [CHARR], ... had to give them the gallonage." He said this is not a three-tiered system; these brewpubs are allowed to do everything that a package store and a beverage dispensary [establishment] can't do, which is one reason it isn't competitive. It basically destroys an existing system that applies to everyone else.

REPRESENTATIVE ROKEBERG said he had wanted to make that point. The regulatory scheme is set up as a three-tiered system with retail, package stores, and manufacturing, patterned after the federal law. The brewpub provision allowed in the statute was under the [condition] that [brewpubs] have a beverage dispensary license. In 1995, he noted, a provision in an omnibus bill passed although nobody understood what it said, and suddenly [Alaska] had taverns and had brewing at eating-places. It took a number of years to get the system back into conformity, which is why Alaska has that system.

REPRESENTATIVE ROKEBERG said part of it was that the brewpub had a cap because it was considered to be a beverage dispensary licensee. The integrity of the three-tiered system and how it is regulated is more important, he added.

Number 1786

S.J. KLINE, President, Borealis Brewery Company, testified via teleconference. As a guild, he said [Borealis Brewery Company] works hard to address a lot of the concerns mentioned about Version J. He said Rod Hancock (ph) would be speaking on behalf of the BGA in support of the bill and how it addresses the issues that Mr. Hackenmiller and others have. As a model for making beer in Alaska, this bill strengthens the three-tiered system: it removes discrepancies in Alaska law that allow some people to do everything.

MATT JONES, Co-Owner, Moose's Tooth, testified via teleconference. He said he was appointed by the BGA to speak on behalf of the guild. There are ten members in the BGA, he noted, and one was absent today; seven members voted in favor of HB 152, Version J, and two members voted in opposition.

MR. JONES expressed that there has never been a level playing field in the brewing industry in Alaska. Brewers have always dreamed of opening a brewpub [in Alaska], and at this point they can't. They are trapped in a position and can't adjust to a changing market. House Bill 152 would allow a brewery to own a

beverage dispensary license and open a brewpub, while protecting the value of the beverage dispensary licenses. The only way to become a brewpub now is to purchase a beverage dispensary license; that is how [the brewers] have grown. He said Mr. Hackenmiller is worried about eroding the value of the beverage dispensary license. He mentioned purchasing two in the last few years, however, and single-handedly driving up the price.

MR. JONES explained that CHARR and ARBA are concerned that if brewpubs are allowed to bypass the provisional (indisc.) from the purchase of the beverage dispensary license, to favor the cheaper beer and wine license, the licenses will lose value. [Version J] forces a person who wants to enter the brewpub market to purchase a beverage dispensary license. Breweries that have never had a chance would now have an opportunity to enter the market. Of the people who voted "yes" today, Mr. Jones said there were at least three breweries. It is nice to see brewpubs and breweries agreeing on legislation, for the most part, he added.

Number 1971

MR. JONES said there was great concern that suddenly the brewpubs would be all-powerful entities that could play on every level of the three-tiered system - which he didn't believe was true. Under HB 152 any beer that is produced and not sold, in the first few beverage dispensary licenses, must be sold through a wholesaler. He said he is satisfied with that tier of the three-tiered system.

MR. JONES said [the Moose's Tooth's] distributor, Specialty Imports, is enthused because they will continue to have [the Moose's Tooth's] business. He added that HB 152 also allows brewpubs to keep growing beyond two locations with a beverage dispensary license; it provides the opportunity to keep developing locations throughout the state. At this time, a large brewery in the Lower 48 can open a brewery, for example, in Washington or Oregon, have an unlimited production cap, and come into the Alaska; it can either buy a cheap beer or wine license or buy a beverage dispensary license and open a chain of 50 brewpubs. It could produce its own beer and ship it into the state, and the in-state breweries or brewpubs would not be able to respond to that, because they would be restricted under Alaskan law.

REPRESENTATIVE HALCRO asked Mr. Jones how many employees he has.

MR. JONES replied 170. When asked if employees are provided with healthcare benefits, he replied, "We do, indeed." When asked how much money they spent purchasing and renovating the Denali Theater and opening the second facility, Mr. Jones replied that it will be close to \$2 million; he expressed satisfaction with the way it is working out.

REPRESENTATIVE ROKEBERG said he was pleased to have passed legislation two years ago that allowed [the Moose's Tooth] to do that. He asked whether [the Moose's Tooth] had worked out its problems with the ABC Board and the last legislation.

MR. JONES answered in the negative, and asked whether Representative Rokeberg was referring to the "growler" issue.

REPRESENTATIVE ROKEBERG replied that he was referring to the off-premises situation, the reason for the equivalent to AS 04.11.135(d) in the last bill.

MR. JONES asked whether that is the section referring to the collocation or the non-collocation of the brewing facility.

REPRESENTATIVE ROKEBERG answered affirmatively.

Number 2128

MR. JONES said AS 04.11.135(d) dealt with it. If [Version J] becomes law, however, AS 04.11.135(d) will be moot because there will be no problem with the brewing facility and a "VDL" being collocated.

CHRIS ANDERSON testified via teleconference in support of HB 152. He said "we" have members on the BGA who are also on the CHARR board, and said he is on the ARBA board. During "our" meetings, there was discussion about communicating extensively with CHARR, ARBA, and the distributors that their [knowledge] is critical to "our" success, so that they didn't feel threatened by this action.

Number 2241

MR. ANDERSON said allowing other breweries in the state to participate and purchase a beverage dispensary license and do the same work that [the Moose's Tooth] is doing allows [other breweries] to enter the playing field, yet limits them to only two locations - which was critical. [The industry] didn't want a multitude of these throughout the state, he said, so "we" have

limited "ourselves" by allowing ourselves to continue to grow. The leader, he said, is the Alaskan Brewing Company, with the Moose's Tooth probably number two, and the Glacier Brew House probably number three. All of the other breweries are doing less volume in total gallons, and there is a desire to see them grow.

MR. ANDERSON said this compromise took a lot of time, but is a compromise with the BGA, trying in earnest to satisfy CHARR and its membership, the wholesalers, and retailers. Between the Brew House (ph) and Orso (ph), he employs about 250 people and has invested over \$6 million in Anchorage; however, he is still not affected by this since he is still under the cap.

Number 2305

REPRESENTATIVE ROKEBERG asked Mr. Anderson what his current volume is.

MR. ANDERSON said about 60,000 [gallons], considerably under the cap; it will be another year before he is over that. Orso is not a beer restaurant, so he doesn't sell much there.

REPRESENTATIVE ROKEBERG clarified that Mr. Anderson is averaging about 5,000 [gallons] a month or 60,000 a year.

Number 2345

MR. ANDERSON reiterated that he is number three in Alaska behind the Alaskan Brewing Company and the Moose's Tooth. The definition of a small brewery is 65,000 barrels. The total brewing of Alaskan beer is less than 4 percent of state consumption, however, so [local brewers] are just a small part of the total beer throughout the state. In response to further questions, he said he has two premises: a brewpub and a beverage dispensary restaurant. As to whether he could sell his production directly in Orso, he said he could because he has a duplicate license, but is not doing so, nor does he intend to, because it is an Italian restaurant and he sells more fine Italian wine.

REPRESENTATIVE ROKEBERG asked Mr. Anderson whether he has been before this committee on this issue, and whether the committee took corrective action.

Number 2422

MR. ANDERSON emphasized that this has been an ongoing issue. However, it is the closest to a level playing field, not only allowing those that are successful to grow, but also allowing young breweries another opportunity to become more successful without impacting the three-tiered system or diminishing the beverage dispensary license. He said he hopes CHARR and ARBA would agree when they see this.

REPRESENTATIVE HALCRO remarked that an opportunity will be created for some of the smaller brewers to follow in the footsteps [of those already established] and grow their businesses. There is an understanding that [the state's] biggest competitor is the Outside beer coming in at a lower price, with a greater margin for bar owners.

TAPE 01-50, SIDE B
Number 2452

REPRESENTATIVE ROKEBERG asked Mr. Jones what his gallon production is.

MR. JONES replied that his company [produced] about 68,000 to 70,000 gallons. When asked if he also sells wholesale, he replied that between 20 to 25 percent of production goes through Specialty Import. When asked what type of a cap is realistic, Mr. Jones replied that it is difficult to guess, because [the Moose's Tooth] is opening a new addition, the Bear Tooth theater, and it is tough to guess what that consumption will be.

REPRESENTATIVE ROKEBERG suggested that if [the Moose's Tooth] is under the cap now, and 25 percent is "wholesaled off," there would be 25 or 30 percent for expansion internally.

Number 2384

MR. JONES said he had never heard that proposal from CHARR. The proposal he heard was that [brewpubs] could use the first 75,000 gallons in any manner desired, whether for wholesale or in-house use. If above that 75,000 gallons, the beer couldn't be sold wholesale and could only be sold in-house.

REPRESENTATIVE ROKEBERG commented that he had received communication from people around the state saying [the Moose's Tooth] is going to move out of the state if it can't have a cap, or that it would be forced to move out.

MR. JONES explained that [the Moose's Tooth] had a brewery built before it became a brewpub. It built it as a production facility and probably invested \$1 million, and it can probably brew 1.5 million gallons. [The Moose's Tooth] became a brewpub and has the restriction now. There are five employees at the brewery, and if [the company] can't brew above 75,000 gallons, each year in mid-summer [the company] will bump up against the cap; therefore, his employees are seasonal and have to be unemployed. In facing that, nobody with a mortgage to pay is going to want to work for [the Moose's Tooth]; in that case, [the company] would have to think about moving the brewery to the Lower 48.

Number 2270

MR. JONES said on the other hand, [the Moose's Tooth] could go to an existing brewery in the Lower 48, have it brew the beer, and shut down the Moose's Tooth brewing company. The Moose's Tooth and the Bear Tooth might not move, but the overall health of the entire business might suffer.

REPRESENTATIVE ROKEBERG announced that he can't support the bill as it stands now, and said the testimony in large part wasn't in favor of it.

REPRESENTATIVE HAYES asked Representative Halcro why he would like to move the bill today, since there are groups who are uncomfortable supporting it because they haven't had enough time to read it.

REPRESENTATIVE HALCRO replied that his concerns are twofold: it is getting late [in the session], and the compromise that was "hammered out" in Version J was done over two days. He said he understands that the representatives from the Alaskan Brewing Company are on vacation and couldn't participate in the teleconference, but the bill has been scheduled. The opposition that the committee heard is from the opponents who show up every year, including the fellow from Fairbanks who is not in the business, but is a beverage dispensary holder who has opposed it every year.

REPRESENTATIVE HALCRO emphasized that this is a time-sensitive issue: as expressed by Mr. Jones, come middle-to-end of summer, [the Moose's Tooth] is going to bump up against that cap, which will affect employees. This can be worked out as it goes through the process, Representative said. He added that he doesn't believe that some of the people who testified are going

to be in favor of any changes. Some of the testimony expressing opposition was from very small brewers, like [brewers of] 1,000 gallons, if that. [The committee] has to look for the overall good.

REPRESENTATIVE HALCRO reiterated that between Mr. Jones and Mr. Anderson, they employ almost 400 people and have invested upwards of \$10 million in the economy over the last six to seven years expanding their businesses. He remarked that in reading through the public testimony on the green [questionnaire] cards, [he found that] the average person doesn't understand why government would get involved and preempt economic growth, which is his contention with the bill.

REPRESENTATIVE HALCRO reiterated that the initiative passed the BGA board with a 7-2 vote, and the board passed a resolution supporting this compromise.

Number 2100

REPRESENTATIVE ROKEBERG responded that the testimony today has been mixed; even people in the alleged compromise don't agree with this particular version. He said he vehemently objects to the use of the term "compromise." This bill is a huge change in [Alaska's] public policy, which basically gets rid of the concept of a brewpub and allows one to do whatever one wants. If the Moose's Tooth's problem needs to be addressed, the original bill is closer on the mark, he suggested, and this bill is highly objectionable on the part of most people in the liquor industry. It is not a compromise with the people in the business, but a compromise among a small group of brewers. Additionally, this issue has been before this committee three times in the last five years. One of the things being repealed was just put into statute two years ago by the very people who are back here trying to do something again.

REPRESENTATIVE HALCRO remarked that he and Representative Rokeberg have had this discussion in private, and certain groups are no more than the "good ol' boy network" who oppose any change to protect their standing in the marketplace. He said he doesn't hear anybody from any beverage dispensary license holders making the offer to help others [on business startup and design, as was expressed by the brewers] because everybody wants to protect their "piece of the pie." Every day in this building, [the legislature] addresses legislation that passed with bad consequences, he said, and this is no different; this has stifled economic development, and some of the arbitrary caps

have the possibility of affecting employment in this state, and will certainly affect growth.

REPRESENTATIVE HALCRO pointed to the hundreds of questionnaires received. He said the average public expresses: Why would government limit economic development? [The state] is throwing open the doors and saying, "If you want to invest the money and take the risk - as the free market is based on - do it, but you are still under certain regulations." This is a good piece of legislation, he asserted, opposed by those who don't want any changes; it is not about compromise. He explained that when he says "compromise" he means it is a compromise among those who are willing to sit at the table.

Number 1884

REPRESENTATIVE HALCRO made a motion to move the CS for HB 152, version 22-LS0354\J, Ford, 4/6/01, out of committee with individual recommendations and the attached zero fiscal note.

REPRESENTATIVE ROKEBERG objected.

REPRESENTATIVE MEYER asked Representative Halcro why he prefers [Version J] over the original bill. He asked if his intent is to not have the upper limit of 150,000 [gallons].

Number 1849

REPRESENTATIVE HALCRO responded that the upper limit is fine, but what the group came up with was this: instead of just raising the limit, it is a good opportunity to address the system as a whole and create a level playing field. [The group] expressed that by just raising the limit, it wasn't leveling the playing field as the bill was intended to do.

REPRESENTATIVE MEYER said he was confused because he thought the goal was to raise the upper limit so [brewers] could continue to stay in business here. He asked for verification of his understanding that this levels the playing field with the other beverage [industry components] because they have to buy a full dispensary license like those for other bars.

REPRESENTATIVE HALCRO explained that instead of just going in and raising the limit, it levels the entire playing field.

REPRESENTATIVE ROKEBERG added that right now a provision in the liquor law prohibits a brewer from being a restaurant-eating

place; it has to become a brewpub. He added that a brewery can't become a brewpub; [the product] has to be brewed on the premises. With the exception of the Snow Goose in Anchorage and the Armadillo in Juneau, there are no tavern licenses left. The bill before the committee destroys the symmetry of the regulatory scheme. It takes any requirement for the cap away from a brewpub, and allows a brewery to buy a beverage dispensary license and enter into the business of having a brewpub, which is restricted by the law now.

REPRESENTATIVE MEYER asked for clarification of what the "whole industry" means. He asked if that would include ARBA, CHARR, and the BGA.

REPRESENTATIVE ROKEBERG clarified that anyone who has a license to sell alcohol in the state is part of the competitive picture. He said it would also include the ABC Board, the wholesalers, and the distributors. This is a highly regulated area of business, he added.

REPRESENTATIVE HALCRO said he likes to think of this bill as encouraging economic development, jobs, and further investment in the state by Alaskans.

REPRESENTATIVE MEYER asked how the alcohol tax issue, which the committee will hear on Monday, would affect brewpubs.

CHAIR MURKOWSKI explained that it would be the same as a tax on other malt beverages.

Number 1619

A roll call vote was taken. Representatives Halcro, Meyer, Kott, Hayes, and Murkowski voted in favor of moving the bill [Version J] from committee. Representative Rokeberg voted against it. [Representative Crawford was absent for the vote.] Therefore, CSHB 152(L&C) moved from the House Labor and Commerce Standing Committee by a vote of 5-1.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:30 p.m.