

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 6, 2002

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. 56

"An Act relating to minimum wages."

- MOVED CSHB 56(L&C) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 34

Requesting the members of the Alaska delegation in the United States Senate to urge the Majority Leader of the United States Senate to allow President George W. Bush's economic security package to receive a vote.

- BILL HEARING POSTPONED

PREVIOUS ACTION

BILL: HB 56

SHORT TITLE: MINIMUM WAGE

SPONSOR(S): REPRESENTATIVE(S) KOTT

Jrn-Date	Jrn-Page		Action
01/12/01	0071	(H)	READ THE FIRST TIME - REFERRALS
01/12/01	0071	(H)	L&C, FIN
01/16/01	0104	(H)	COSPONSOR(S): HARRIS
01/19/01	0134	(H)	COSPONSOR(S): MULDER
01/29/01		(H)	L&C AT 3:15 PM CAPITOL 17

01/29/01	(H)	Heard & Held
01/29/01	(H)	MINUTE(L&C)
02/14/01	(H)	L&C AT 3:15 PM CAPITOL 17
02/14/01	(H)	Heard & Held
02/14/01	(H)	MINUTE(L&C)
02/06/02	(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

LINDA SYLVESTER, Staff
to Representative Pete Kott
Alaska State Legislature
Capitol Building, Room 204
Juneau, Alaska 99801-1182
POSITION STATEMENT: Presented HB 56, Version F, on behalf of
Representative Kott, sponsor.

ED FLANAGAN, Commissioner
Department of Labor & Workforce Development
PO Box 21149
Juneau, Alaska 99802-1149
POSITION STATEMENT: Testified on HB 56, encouraging the
committee to come up with a bill congruent with the governor's
proposal and the initiative.

JACK AMON, President
Alaska Restaurant and Beverage Association
700 Dogwood
Anchorage, Alaska 99501
POSITION STATEMENT: Testified on HB 56, supporting an escalator
of 50 percent of the Consumer Price Index, rather than 100
percent.

BARBARA CRAVER, Attorney
Legislative Legal and Research Services
Legislative Affairs Agency
State Capitol
Juneau, Alaska 99811-1182
POSITION STATEMENT: As bill drafter, answered questions on HB
56, primarily regarding whether the legislation is substantially
similar to the initiative.

DON ETHERIDGE, Lobbyist
for the AFL-CIO
710 West 9th Street
Juneau, Alaska 99801
POSITION STATEMENT: Testified on HB 56.

ACTION NARRATIVE

TAPE 02-12, SIDE A
Number 0001

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

CHAIR MURKOWSKI informed the committee that a group of seventh-grade students from the Pacific Northern Academy in Anchorage was in attendance. She welcomed the students.

HB 56-MINIMUM WAGE

Number 0031

CHAIR MURKOWSKI announced that the committee would hear HOUSE BILL NO. 56, "An Act relating to minimum wages."

CHAIR MURKOWSKI explained that HB 56 was scheduled for invited testimony only. She reminded listeners that there was substantial public testimony last session on the two different occasions that HB 56 was before the committee.

Number 0157

REPRESENTATIVE KOTT moved to adopt the proposed committee substitute (CS), version 22-LS0342\F, Craver, 1/18/02, as the work draft. There being no objection, Version F was before the committee.

REPRESENTATIVE KOTT, speaking as the sponsor of HB 56, explained that last year there were several hearings on minimum wage. [Version F] imitates the initiative put forward over the summer, with one exception: [Version F] says the rate of inflation will be 50 percent of the Consumer Price Index (CPI), instead of the original 100 percent.

Number 0259

REPRESENTATIVE MEYER asked how [Version F] differs from the original bill.

REPRESENTATIVE KOTT said originally HB 56 had a smaller increase in the minimum wage and an incremental, two-step increase. The CPI index was not in the original version of HB 56.

Number 0310

LINDA SYLVESTER, Staff to Representative Pete Kott, Alaska State Legislature, explained HB 56 and offered some background. Dating back to 1938, when the United States established the Fair Labor Standards Act, she said, Americans have believed it is entirely appropriate for the government to establish a minimum wage floor for workers. Immediately after statehood, Alaska statutes were drafted to echo that conviction. Dating back to 1959, this continues to be the preamble in Alaska's Wage and Hour Act. It reads as follows:

It is the public policy of the state to establish minimum wage and overtime compensation standards for workers at levels consistent with their health, efficiency, and general well-being; and it is the public policy of the state to safeguard existing minimum wage and overtime compensation standards that are adequate to maintain the health, efficiency, and general well-being of workers against unfair competition of wage and hour standards that do not provide adequate standards of living.

MS. SYLVESTER said the sponsor believes that HB 56 will provide for a fair minimum wage to Alaska's lowest-paid workers, by helping to ensure a minimum standard of living for the health, safety, and well-being of every Alaskan. The bill notes that currently Washington State, Oregon, and California have surpassed Alaska in providing for a minimum standard of living for their workers. For a minimum wage to be fair, Ms. Sylvester said, it must be indexed through the cost-of-living to help low-income workers keep pace with inflation.

Number 0430

MS. SYLVESTER noted that HB 56 amends [AS 23.10.065(a)], so that effective January 1, 2003, an employer will pay a wage of not less than \$7.15 an hour. She said that each year, no later than September 30, the Department of Labor [& Workforce Development (DLWD)] shall adjust the minimum wage for inflation, effective the following year. The minimum wage shall be adjusted for inflation calculated at 50 percent of the CPI for Anchorage, or \$1 more than the federal minimum wage, whichever is greater.

Number 0478

MS. SYLVESTER said the rationale for a minimum wage of \$7.15 an hour ties into pending federal legislation. She said Alaska seeks to be \$1 ahead of the federal minimum wage, and if federal legislation passes, the national minimum wage will be \$6.15. She noted areas not addressed by HB 56: an employer may not apply tips or gratuities given to an employer as credit toward the minimum hourly wage, and workers employed as public school bus drivers are specifically excluded from [subsection] (a), since they are covered in [subsection] (b).

Number 0540

MS. SYLVESTER said the sponsor feels that HB 56 is "similar enough to the initiative."

CHAIR MURKOWSKI responded that the committee will want to hear how Version F is substantially similar to the initiative. She asked if HB 56 will affect the school bus drivers who, by statute, are now required to receive two and a half times the minimum wage.

MS. SYLVESTER replied that current statute requires that the school bus drivers receive two times the minimum wage. If the minimum wage is raised to \$7.15, then a school bus driver's wage will be two times the new minimum wage - but it won't apply until after that driver's current contract [expires].

CHAIR MURKOWSKI asked if this is why there is no fiscal note showing that increase. She asked whether "that is what the current contracts say."

Number 0623

MS. SYLVESTER reported that she'd checked to find out what the impacts would be; of the four communities she called, all their contracts will expire in 2006. She said she hadn't called the Department of Education and Early Development to find out if "there was a system there."

CHAIRMAN MURKOWSKI inquired whether or not there is "something within the contract that says this is the price, unless the minimum wage should be increased."

Number 0660

REPRESENTATIVE KOTT said he hasn't had the opportunity to research the [public school bus driver] contracts. He said he expects that they are "tightly written." He suggested the DLWD might have some insight on this issue.

REPRESENTATIVE HALCRO referred to AS 23.10.065. He said when the change was passed in 1990 which mandated that school bus drivers receive two times the minimum wage, subsection (c) was put into statute, which essentially says, "If you have existing contracts, you don't have to give them a raise until you renew." He said this still doesn't address the question relating to 2005, when all of the contracts come due, because by 2005 the minimum wage could be around \$7.50. He asked, "Applying what we are paying today, if [HB 56] were to be enacted tomorrow, do you have any idea of the immediate fiscal impact?"

Number 0750

MS. SYLVESTER said one could make a guess as to the immediate impact. She explained:

One bus company seems to feel they're tied to the statute, and they can't go farther than that, twice the minimum wage. The local [bus company] here in Juneau is quite a lot higher. So they have their own businesses and are free to make their contracts with the school districts.

Number 0787

REPRESENTATIVE HALCRO said it isn't that simple. [The bus companies] make the contracts with the school districts, and the state is charged with appropriating the money to pay for those contracts. He said this has been a concern over the last couple of years. The contracts are negotiated on the local level, and the state is responsible for paying these contracts without a say. He asked, "If [HB 56] was applicable starting tomorrow, what type of fiscal impact would we be looking at?"

MS. SYLVESTER said she doesn't have that information, but one could guess by comparing bus drivers' wages today to what they would be years from now.

REPRESENTATIVE HALCRO asked if Ms. Sylvester could make a guess.

MS. SYLVESTER said she doesn't have that information.

Number 0850

REPRESENTATIVE KOTT suggested that "if we used the last five years' CPI index growth at 50 percent, and not the 100 percent as in the initiative, in five years the minimum wage would be around \$7.75." He said that to project the bus driver's wages, one would double \$7.75. He said in five years, at 100 percent, the minimum wage would be around \$8.56.

REPRESENTATIVE MEYER, for the sake of the visiting students, asked why the bus drivers - but not the janitors or teachers - were guaranteed twice the minimum wage.

REPRESENTATIVE KOTT answered that an important factor was the public safety issue involved in transporting children to and from school.

Number 0930

REPRESENTATIVE HAYES asked why the CPI is at 50 percent instead of 100 percent in [Version F].

REPRESENTATIVE KOTT answered that the initial version didn't have the CPI index in it, and the initiative has 100 percent; in the spirit of compromise, 50 percent was chosen for the proposed CS. He said some legal opinions suggest it will probably meet the constitutionality [test], although perhaps it might not. He said he believes [Version F] is substantially similar to [the initiative], and that if it were tested in court to determine whether it is substantially similar, it would be upheld.

Number 0982

CHAIR MURKOWSKI asked Representative Kott if he has requested a opinion from the attorney general's office with regard to whether HB 56 is substantially similar [to the initiative].

REPRESENTATIVE KOTT mentioned the attorney general and the Department of Law.

MS. SYLVESTER said, "They were asked, and they declined to provide their guidance for this issue." She offered her belief that based on the constitution, statutes, and Warren v. Boucher, the guidance is that the language of HB 56 is substantially similar. The intent of the initiative - although it is rather vague and doesn't state 100 percent of the increase of the CPI -

seems to disconnect the minimum wage from both the state and federal legislative processes; instead, it connects to the cost-of-living indicator.

MS. SYLVESTER said the problem is that the minimum wage is being devoured by inflation. She added, "Once you connect it to an elevator, take it away from the legislature, that seems to be the intent of the actual initiative, rather than putting it at 100 percent or 50 percent."

CHAIR MURKOWSKI asked Ms. Sylvester if she knew how many other states tie their minimum wage to an "indexer."

Number 1069

MS. SYLVESTER replied that it seems to be the trend, and that she knows California and Washington State have done this already.

CHAIR MURKOWSKI said she believed the House Labor and Commerce Standing Committee had that information introduced last year.

REPRESENTATIVE KOTT offered his belief that the number of states was in the upper 30s.

Number 1094

REPRESENTATIVE CRAWFORD respectfully disagreed [with earlier discussion]. He explained that he feels the minimum wage will continue to be devoured by inflation if it is "locked in at 50 percent of the price increase." He reported that today he'd dropped off a new amendment that would change the CPI increase back to 100 percent. He said he and the other petitioners had spent a lot of time gathering signatures for the increase to be 100 percent of the CPI, and they feel it should be at 100 percent.

REPRESENTATIVE HALCRO said the lack of a fiscal note, even for "the out years," is troublesome, because fiscal notes extend out to FY [fiscal year] 08. He said if there are a lot of contracts expiring at the same time in 2005, that obviously means that starting in 2006 there is going to be an additional fiscal impact on the state.

Number 1205

REPRESENTATIVE HALCRO said he was curious why some number has not been plugged in yet to anticipate the fiscal impact starting in 2006. He asked whether, because of the connection with what school bus drivers must make, there is a legal argument that somehow by this petition the voters are actually voting on making the legislature appropriate money, which is known to be unconstitutional. He asked if this could somehow be an appropriation of funds.

Number 1243

REPRESENTATIVE KOTT said he did not write the fiscal note and does not know why a zero was entered, but guessed that this might have been too difficult to project.

REPRESENTATIVE KOTT addressed Representative Halcro's question relating to appropriation of funds. He said, "This is clearly a question for the legal people to determine whether or not, by passage of that initiative, it is somehow usurping our power to appropriate, or causing us to appropriate."

CHAIR MURKOWSKI said Barbara Craver with Legislative Legal and Research Services was in attendance and might be able to address this issue later.

REPRESENTATIVE MEYER recalled that the committee had heard testimony from some fast-food restaurants and hotels last year; their concern was if the minimum wage was increased, then they wouldn't be able to hire some of the younger kids or some of the kids with special needs.

REPRESENTATIVE MEYER asked whether, if the minimum wage increased, it would affect the fast-food and hotel businesses, or if there is "something already in statute that allows for training purposes that (indisc.) have to pay minimum wage."

Number 1342

MS. SYLVESTER said this is an interesting issue because the exemptions were put in statute at the beginning, and do allow for training wages and apprenticeships. She read from AS 23.10.070, which states:

To the extent necessary to prevent curtailment of opportunities of employment the commissioner may by regulations or orders provide for the employment at

wages lower than the minimum wage prescribed in AS 23.10.050 - 23.10.150 of

(1) an individual whose earning capacity is impaired by physical or mental deficiency, age, or injury, at the wages and subject to the restrictions and for the period of time that are fixed by the commissioner; and

(2) an apprentice at the wages that are approved by the commissioner; or

(3) a learner at the wages and subject to the restrictions and for the periods of time that are fixed by the commissioner.

MS. SYLVESTER reported that last year the commissioner of the DLWD had indicated he has never processed any of these types of certifications. She said it seems to be a policy difference that the DLWD has with this portion of the statute. She offered that it could be a relief that some people seem to be needing. She cited an example of a small business that is considering hiring a young individual who lacks any work history. The first question is whether this person will be able to come to work. At \$7.10, does the business want to take this chance? She said maybe now is the time for something to be enacted at the regulation level whereby an employer could temporarily try a new employee out for a period of time.

Number 1446

REPRESENTATIVE ROKEBERG said although there is a training-wage provision in the statute, the commissioner of the DLWD never approved the program. No one has ever come forward because they know it will never be approved. He added, "What we need to really make this workable is a change in statute to allow for the program to be workable, without the individual, discrete consent every time the commissioner [of the DLWD] has to give his blessing to do something like this." He said this would be consistent with the federal law, which does provide for this provision. He commented that this is a matter of policy, and he thinks that it is the "wrong policy."

Number 1514

ED FLANAGAN, Commissioner, Department of Labor & Workforce Development, testified before the committee. He suggested the market dictates that the training provision is (indisc.) because the minimum wage has been so low relative to average wages and what the market has commanded in the state for years. He

recalled that when he was deputy [commissioner] during Governor Knowles' first term, someone requested [an exemption] and was sent a form, but the person never sent it back. He suggested that if there is a higher minimum wage, then there may be more interest in applying for [an exemption].

Number 1560

COMMISSIONER FLANAGAN said the current law does not apply to a person under the age of 18 who works 30 hours or less a week. He reported that a restaurant representative had told him this is just too difficult to keep track of. Commissioner Flanagan said he didn't find the representative's comment to be very credible, however. A provision of statute allows an employer - if the employee is under 18 years of age and is working 30 hours or less a week - to "fall under the training wage in the federal law." He added, "We do have those unused student-learner exemptions."

COMMISSIONER FLANAGAN said he has learned a lot regarding workers with special needs since the Division of Vocational Rehabilitation has moved under the DLWD. He stated that "within the advocacy community for folks with disabilities, I think there's a real push to not have those so-called sheltered workshops and lowered wages to try and bring folks up to speed where they can command the actual minimum wage." He explained that any future commissioner would have the discretion to not make any person go out and apply for any type of exemption.

COMMISSIONER FLANAGAN said in regard to [Version F], "We're getting there." He said 13 months ago the governor asked the legislature to raise the minimum wage to \$7.15 and to index it to inflation with a full CPI. He agreed with finding (4) in [Version F], which states:

A fair minimum wage indexed to the cost-of-living will help low-income workers keep pace with inflation.

COMMISSIONER FLANAGAN said the above finding does not state "a fair index to half the cost-of-living."

Number 1642

COMMISSIONER FLANAGAN said the process for determining the CPI on the federal level has been adjusted within the past few years so that it is more conservative than it was prior to 1998. He stated that he thought over the last three years the CPI has

only averaged "about .9 or maybe 1.2." He said this figure has been less than the increase in the average weekly wage. He noted that the cost-of-living has been rising slower than wages in the state in the past three years. He said there is a lot of statewide support for raising the minimum wage to \$7.15, with the index being tied to the CPI. He encouraged the committee to "go that extra last step" and come up with a bill that is truly congruent with the governor's proposal and the initiative.

Number 1686

COMMISSIONER FLANAGAN said that in 1990 [in the 15th legislature], then-Representative Donley helped [HB 305] pass, which established the minimum wage for school bus drivers at two times the minimum wage. He remarked, "There was a situation where every five years, a new bidder would come in and basically undercut the wages that during the five-year contract had maybe been built up." He said this has been a state law for 12 years without much discussion or controversy.

REPRESENTATIVE ROKEBERG asked Commissioner Flanagan if he'd said the Anchorage CPI has been less than 1 percent for the past couple of years.

Number 1770

COMMISSIONER FLANAGAN said he thought [the Anchorage CPI] was "1.2 last year and .9 the year before."

REPRESENTATIVE ROKEBERG recalled an Anchorage web site that showed, in the first half of 2000, a CPI of 2.9 percent.

COMMISSIONER FLANAGAN said he didn't have that information with him, but believed the [CPI] to be lower than the increase in the average weekly wage. [Reading from a paper handed to him], he said, "1.7, 1.0, and 1.5 is showing for 2000, 1999, and 1998." He said the CPI is done twice a year, and he doesn't know how one-half of the year would be much higher than the other half.

REPRESENTATIVE ROKEBERG offered his experience that the Anchorage CPI has actually been lower than the national all-urban or the clerical workers indexes. He asked Commissioner Flanagan if he knows why the Anchorage CPI was selected to represent Alaska.

Number 1796

COMMISSIONER FLANAGAN answered that the only published CPI for the state of Alaska is the Anchorage CPI. Most contracts in Alaska that utilize a CPI refer to the Anchorage CPI.

REPRESENTATIVE ROKEBERG asked whether some adjustments were made a couple of years ago that made the CPI more conservative. He said there is ongoing controversy about the efficacy and the accuracy of the Consumer Price Index.

COMMISSIONER FLANAGAN said he thinks there will always be controversy over the CPI, but that it has diminished since the revision.

Number 1831

REPRESENTATIVE ROKEBERG said, in regard to the training wage situation, that he thought a program had to be approved by the DLWD at large, and not with an individual application.

COMMISSIONER FLANAGAN concurred. He added that he didn't know how elaborate a program had to be.

Number 1867

REPRESENTATIVE ROKEBERG interjected to ask why \$7.15 was selected as the proposed new minimum wage. He said it looked like a 25.9 percent increase.

Number 1906

COMMISSIONER FLANAGAN said he believes the \$7.15 figure was initiated in [DLWD] internal administration discussions. He recalled that the governor's bill had a two-step process whereby the minimum wage would have been \$6.40 last October [2001], and then \$7.15 this coming October [2002].

COMMISSIONER FLANAGAN mentioned that there has been a lot of discussion over the past few years about raising the federal minimum wage, but it has never happened. He pointed out that \$7.15 is a dollar over the federal minimum wage. For a family of four with one wage earner working 40 hours and the other wage earner working 20 hours - or if one of them worked 60 hours - at \$7.15 an hour the family would just barely be over the poverty line. He said this is one reason \$7.15 was chosen as the proposed new minimum wage. If Alaska moves the minimum wage to \$7.15 on January 1, it will probably be the highest minimum wage in the United States. He predicted that Washington State would

probably be over \$7.00 an hour by 2002 because its minimum wage is tied to the CPI.

Number 1978

COMMISSIONER FLANAGAN referred to the 26-percent increase, and pointed out that when the "50 cent Alaska over the federal" was put in, the federal was a dollar, so the differential was 50 percent. At 50 cents over \$5.15, now it's under 10 percent, however. He said he doesn't think \$7.15 is an inappropriate jump.

Number 2000

CHAIR MURKOWSKI indicated nothing in statute says it has to relate to a program. Rather, it refers to individuals whose earning capacity is impaired, an apprentice, or a learner. She asked if the exemptions are in regulation.

COMMISSIONER FLANAGAN said he doesn't believe so, but he hasn't looked at the regulations because there haven't been any requests during his four years as deputy [commissioner] or three years as commissioner. He said he believes when those were first [introduced], especially the apprentices and student learners, the minimum wage was a much larger percentage of what would have been a journeyman wage for the craft. He said, "A 50-percent or 60-percent apprentice might actually have had to be below the minimum wage. We're talking the '60s."

Number 2048

REPRESENTATIVE ROKEBERG asked Commissioner Flanagan, if the legislature were to craft a training regulation, whether the [DLWD] would be willing to work with the legislature on it.

COMMISSIONER FLANAGAN answered that he'd certainly look at it. He commented that if Alaska has a \$7.00 minimum wage, there will be a change, and it's to be seen whether there actually is any dislocation. He added, "You're convinced there will be; I'm not. Who knows who's right?" He added that he does have a concern if the legislature wants to do something like the federal training wage, whereby someone under 20 - which he thinks is too old - during the first 90 days on a job gets paid a sub-minimum wage. He said he wouldn't support something like that.

Number 2120

REPRESENTATIVE ROKEBERG disagreed with Commissioner Flanagan about the impact on the economy. He said many people with small businesses have entry-level positions and are concerned about their labor costs when having to train youngsters who tend to be "somewhat transient." He agreed it is an administrative problem and that "keeping track of the 90 days" could be a problem also. He commented that he doesn't think it's entirely unfair to be able to hire people at less than a given wage if they are in a training position. The expectations and scope of duties during the 90 days may be restricted for this limited period of time.

Number 2173

REPRESENTATIVE ROKEBERG asked, "Isn't collective bargaining the cornerstone of organized labor?"

COMMISSIONER FLANAGAN replied yes, but suggested that Representative Rokeberg may want to direct that question to an AFL-CIO representative. He said many people aren't covered by collective bargaining, and he thinks organized labor has historically supported the wage floor.

REPRESENTATIVE ROKEBERG remarked that he is disturbed, discussing minimum wage, when politicians "are representing businesspeople and the laborers of the state and unilaterally, without any bargaining, dictate an amount of basic wage." He said this is pushing the wage floor of Alaska up by almost 26 percent.

Number 2234

COMMISSIONER FLANAGAN offered that people "far and beyond" organized labor support the societal good of a minimum wage.

REPRESENTATIVE ROKEBERG said there is economic theory that says implementing a minimum wage - and, in particular, a high minimum wage - is going to cost jobs and job opportunities for entry-level workers.

Number 2253

COMMISSIONER FLANAGAN indicated [the DLWD] has recent experience and that there have been a lot more detailed studies of the last two federal increases nationally. The job-reducing effect has been found to be much less than in previous models. He

acknowledged that there still will be people studying and coming from the other direction also.

REPRESENTATIVE ROKEBERG said he agrees with Commissioner Flanagan when those studies are done in a growth economy.

COMMISSIONER FLANAGAN mentioned continued employment growth in [Alaska], "hopefully for the foreseeable future."

REPRESENTATIVE ROKEBERG said the employment growth under the current administration has been outstanding.

REPRESENTATIVE HALCRO said last year when [HB 56] was heard in committee, several questions were asked by the committee; he had a summary of some of the answers, although in some cases there was no data available to answer the questions. He said one question that kept coming up was, "How many of these folks making minimum wage are the head of household?" The response was that there was no current data on how many heads of households are earning the minimum wage.

REPRESENTATIVE HALCRO pointed out that the fiscal note from the Department of Health and Social Services says there is a projected savings in the "out years of an average of about \$500,000." He read from the fiscal note, "Approximately 670 adults currently receive ATAP [Adult Temporary Assistance Program] assistance," because they have jobs paying \$5.65 to \$7.15 an hour. He asked whether there are 670 adults who are heads of households who [earn minimum wage].

Number 2333

COMMISSIONER FLANAGAN responded that it would be better for the Department of Health and Social Services to speak on its fiscal note, but said it is a "very discrete population that [Department of Health and Social Services] have very detailed information on." He said he didn't know if one could extrapolate the figure out to the population at large.

Number 2360

REPRESENTATIVE HALCRO asked if there are adults who are the heads of households who are making minimum wage, and in all reality living below the poverty line. He asked, "Wouldn't it be safe to assume that they would be getting some kind of assistance from the state?"

COMMISSIONER FLANAGAN replied that there isn't a figure for the population at large. He pointed out that there may be people in such situations who aren't getting assistance because maybe they are working two jobs, or three jobs between two wage earners. The fiscal note is based on getting transitional assistance, and if an employee has more countable earned income - which will happen when someone gets a raise from \$6.50 to \$7.15 an hour - one can compute a figure. He added, "That's probably a dollar for dollar at some point, or close to it."

Number 2425

JACK AMON, President, Alaska Restaurant and Beverage Association, said the reason Commissioner Flanagan has not had any applications for the training wage exemption is because "all of the fast-food operator that I've talked to have found the regulations somewhat (indisc.)." He offered that owners would take advantage of the training-wage exemption if [the legislature] "would make it more friendly along the printable statute." He asked if the committee would find a way to step the increase instead of going to \$7.15. He said he would support the 50 percent of the CPI, rather than 100 percent.

TAPE 02-12, SIDE B
Number 2491

MR. AMON said, "If we could compromise even on a two-step increase, ... that would certainly help a lot of small employers to absorb the increase."

Number 2466

REPRESENTATIVE HAYES asked Mr. Amon what the average starting salaries are for jobs in his industry.

MR. AMON reported that in the table-service restaurant industry, there are people who earn minimum wage. However, they are tipped workers, and their "average wages across the industry" are \$8.50 to \$15.00 an hour, including tips. He said today the lowest an employer could really pay someone in a dishwashing position is between \$7.50 and \$8.50 an hour.

REPRESENTATIVE HALCRO asked Mr. Amon about some conversations he has had with fast-food employers regarding the training-wage exemption. He referred to the single application for a training-wage exemption Commissioner Flanagan said he'd sent out that was never returned. He said some of the testimony has been

that the training wage is difficult to obtain, and on the other hand, it's not difficult - one just has to ask.

Number 2369

MR. AMON said he isn't an expert on this topic, but it is his understanding that it isn't difficult to apply for the exemption, but that it is difficult to administer. He said, "That 30-hour-a-week thing made it difficult to schedule employees, because sometimes you might have to keep somebody an extra hour or so, and if you went over 30 hours, that was the trigger." He reported that the "administration costs [are] what stopped them."

Number 2336

REPRESENTATIVE ROKEBERG asked Mr. Amon if any employee at the Marx Brothers [Cafe] earns minimum wage.

MR. AMON reported that new servers earn minimum wage, but, including tips, still make \$15 to \$25 an hour.

REPRESENTATIVE ROKEBERG asked if there any restaurant operations in Alaska have as many as 100 employees.

MR. AMON answered, "Definitely."

REPRESENTATIVE ROKEBERG said:

Right now, my calculation - even if you worked a 40-hour week - would be \$226 an hour ... plus tips. And if you have a 25-percent increase, that is \$56. Therefore, if you have 100 people working for you, it would be \$5,600 a week that your overhead would go up, and over \$20,000 a month.

REPRESENTATIVE ROKEBERG asked Mr. Amon what he thought would happen to that restaurateur when that happens.

Number 2275

MR. AMON answered that the restaurant has to raise menu prices. He explained that the average restaurant, including his own, is a good-performing restaurant if the net bottom line is 6 to 8 percent of gross revenue. He commented that there is a slim profit margin, but there are high labor costs. Most restaurants expect 25 to 30 percent of their gross revenue to go to labor.

Number 2229

CHAIR MURKOWSKI asked Ms. Craver if she could speak on the issue of "substantially similar."

BARBARA CRAVER, Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, responded that the most important case relating to this issue in Alaska is Warren v. Boucher. This case discussed how similar legislation has to be in order to take an initiative off a ballot. She said, "The test that they use seems to be somewhat weighted on depending on how complex the issue is that you are talking about." She offered that she thinks the general consensus is that [HB 56] is not very complex and is fairly straightforward. A minimum wage will be set, and perhaps - or perhaps not - will have an increase based on the CPI.

Number 2192

MS. CRAVER commented that the court did say that it would allow more latitude for the legislature to enact a program that the (indisc.) was very complex. She said legislation would have to be pretty similar to the initiative in order to get the lieutenant governor to take the initiative off of the ballot.

CHAIR MURKOWSKI asked: If HB 56 has the exact same language as the initiative, "but we have added something on," does that get beyond the realm of "substantially similar"?

Number 2149

MS. CRAVER said she doesn't know and hasn't been able to find any case law where there were extra items added to an initiative that did not impair the main purpose of the initiative. She offered her "gut instinct" that if it doesn't impair what the initiative is trying to accomplish, she doesn't understand why it would be held back. She reiterated that there is no case law to support this.

Number 2122

CHAIR MURKOWSKI asked Ms. Craver if, in her opinion, Version [F] is substantially similar to the initiative.

MS. CRAVER said she doesn't think she could say Version F is substantially similar, and that "we just have to put the issue

out there." She asked, "Is 50 percent of the CPI close enough to 100 percent to be substantially similar, or not?" Those facts have not been presented to Alaskan courts, or any other court that has been researched. She offered that it is closer, but obviously not exactly the same.

CHAIR MURKOWSKI reported that if HB 56 moved forward and was challenged as not being substantially similar, the initiative would remain on the ballot. She asked when a challenge would be made.

MS. CRAVER explained that the lieutenant governor is asked to confer with the attorney general to determine whether or not the legislation is substantially similar. If they decide that the legislation is substantially similar, then the initiative is taken off of the ballot. Ms. Craver said she thought a decision had to be declared in time for someone opposing that decision to be able to take action. She said there is a period of time so that the issue of whether the initiative goes on the ballot or not is actually debated in court; that's when the decision is made. It is either put back on or is taken off the ballot.

Number 2039

CHAIRMAN MURKOWSKI asked if there was a scenario in which the legislation would be challenged in court while the initiative was still moving forward - basically having it happen on both fronts.

MS. CRAVER offered that she thinks this could happen. If the lieutenant governor decides the legislation isn't substantially similar, the initiative remains on the ballot. If the legislature has adjourned and passed the legislation, it depends on the effective date. The initiative becomes law 90 days after it is certified, so maybe in mid-March, if it passed, the minimum wage would rise. It depends on the legislation that the legislature has passed. If the legislation came into effect prior to mid-March, it might be effective for a while, but an initiative cannot be repealed with [legislation]. She said she doesn't know the answer.

Number 1993

REPRESENTATIVE KOTT reported that he'd received a memorandum from Ms. Craver [dated January 14, 2002, to Representative Brian Porter, which referenced a memorandum dated February 28, 2002, from Terry Kramer to Representative Porter]. Representative

Kott noted that the memo indicates the inflation-adjustment section may not be substantially the same measure as the minimum wage [initiative]. The memorandum states that "a bill which did not contain any provision for future increases in the minimum wage based on the CPI would probably not be considered [substantially the same measure]." He commented that this language is "still in the gray area." Representative Kott noted that Ms. Craver had closed the paragraph by suggesting, "It is a much closer question [if] the bill contains an escalator clause based on the CPI. This might be similar enough that [a] court would find that the bill supplants the initiative."

REPRESENTATIVE KOTT suggested that clearly the legislative Act doesn't need to conform to the initiative in all respects, and that it is intended that the legislature should have some discretion in deciding how far the legislative Act should differ from the provisions of the initiative. He said he doesn't think [the bill] varies to the extent it has gone outside the parameters of the legislative powers.

Number 1906

REPRESENTATIVE HALCRO asked if this could be construed as the public voting to make an appropriation on behalf of the legislature.

MS. CRAVER said she hadn't considered this issue until Representative Halcro mentioned it earlier. She offered that she hasn't done research in that area of law, and cannot even say what guidelines are used to determine whether it is close enough to be an appropriation.

REPRESENTATIVE HALCRO said it appears that if [HB 56] passed, and the CPI portion is enacted, then it isn't a "one-time kick." This is going to be a constant step increase that the government won't have a say over, and that gets to the heart of the question.

Number 1858

MS. CRAVER responded that it seems to her, without doing any research, that increasing the minimum wage will have myriad effects on everybody who purchases things, including the government. She said she doesn't know "how close that connection has to be before the initiative itself is seen as an inappropriate use of the initiative power by making an appropriation."

Number 1837

REPRESENTATIVE ROKEBERG referred to Warren v. Boucher. He said [HB 56] appears to be almost identical [to the initiative], with one modest change. He questioned why Ms. Craver was having trouble venturing an opinion about similarity. He added, "As Representative Kott points out, this does give the legislature some latitude, and quite frankly, I don't think we've taken much latitude at all with [Version F]."

Number 1773

MS. CRAVER offered [Legislative Legal and Research Services'] feeling that the CPI difference might be enough for a court to find it isn't substantially similar. She explained that this is just an opinion, and not based on case law, and could very easily be seen as not being that much different.

CHAIR MURKOWSKI asked Ms. Craver if the phasing or step approach to reach the \$7.15 minimum wage is any better.

MS. CRAVER asked, "How close does it have to be to identical to still be substantially similar?" She suggested that if the legislature takes an approach different from exactly the one used in the initiative, it would be more successful if the legislature could justify why it took a different approach to reach the same goal. She asked, "If the legislative Act achieves the same general purpose, are [the courts] going to hold your feet to the fire to be exactly identical?" She answered that it doesn't appear so.

Number 1677

REPRESENTATIVE ROKEBERG said he appreciates the point that Ms. Craver is making, and that "the supreme court also makes the point that complexity has a good deal to do with the interpretation." He offered that the entire issue is extremely complex, and in particular the impact on the economy of Alaska. He stated, "It's a macroeconomic action on the part of the legislature, and in so far as the permutations of consumer price indexes, ... the impact on the individual employers and workers is going to be variable."

REPRESENTATIVE ROKEBERG offered that the legislative intent of merely trying to be as similar as possible to the initiative should meet the statutory and constitutional requirements. He

said that with the courts giving the legislature the same latitude as they gave in Warren v. Boucher, he didn't have any problem believing that Version F would be "extraordinarily similar."

Number 1601

REPRESENTATIVE CRAWFORD said that if [Version F] got the minimum wage to the same place as the initiative, even if it didn't get there the same way, then he thought it would be substantially similar. He added, "This guarantees that we won't get to the same place, because inflation is going to move at 100 percent and our wage is going to move at 50 percent." He said he believes a 50-percent-of-the-CPI escalator is a built-in inequity. He argued:

The whole reason for having an escalator is so that it takes the political argument out of it every three or four years, so that we don't have to continue to revisit this issue. If we leave the 50-percent CPI escalator in there, then I'm sure this will be litigated, and the initiative - maybe not this fall - will go on the ballot at some point.

Number 1520

REPRESENTATIVE HALCRO said Article XI, Section 7, of the Alaska constitution addresses the issue of appropriation of funds. He explained, "My concern is that ... with the tie in, there, to the 'people transportation' issue, I think there's a legitimate argument there, that this - by nature - is appropriating money."

REPRESENTATIVE HAYES said he would think administrative law has already done that. He referred to a friend who'd tried to put a Peace Corps issue on the ballot; the opinion was that it dealt with appropriation, and subsequently it was thrown off. He stated, "I'm assuming in their deliberation, the Department of Law, the attorney general, and the lieutenant governor's staff does ... decide ... before it ever is certified." He suggested that should be verified.

REPRESENTATIVE ROKEBERG agreed with Representative Hayes that for this ballot [measure] to reach this point, it has been reviewed by the attorney general for constitutionality. He said the legislature could repeal the people [transportation] statute to rectify that point. Representative Rokeberg said he finds it interesting that an attached fiscal note from the Department of

Health and Social Services indicates a \$500,000 figure for transfer of payment from the government over to the private sector by raising the wages. He remarked, "So, there's a transfer of responsibility right in the fiscal note. I don't believe that the constitution ... takes that into account."

Number 1380

DON ETHERIDGE, Lobbyist for the AFL-CIO, testified before the committee. He said, "Our official stance is, until we meet ... with the AFL-CIO here on the 19th, that we're sticking with our initiative language and we're going to follow up with that." He explained that if with [the wage increase] is to split it into two steps, [the AFL-CIO] already tried that option unsuccessfully in the past. That is why the proposed wage increase is "in one jump."

Number 1323

CHAIR MURKOWSKI reported that there had been at least two other opinions requested of Legislative Legal and Research Services during the interim. The first asked whether a minimum-wage bill that didn't allow for a CPI would be considered substantially [similar]. The opinion received from Terry Cramer said no. Another opinion, requested in October, asked, "Is it substantially similar if you do the wages to the same level as the initiative, but instead of using the CPI, you attach it to average weekly wage?" She reported that the opinion received was "probably not." She said the questions have been asked, but she'd been told there wouldn't be any definitive answers. She concluded, "I don't know that we know anything more about what 'substantially similar' really means. It sounds like we just have to go test it."

Number 1214

REPRESENTATIVE KOTT offered that the issue seems to be divided on whether or not it would meet the test of being substantially similar.

Number 1180

REPRESENTATIVE CRAWFORD moved to adopt Amendment 1 [22-LS0342\F.2, Craver, 2/6/02], which read:

Page 2, line 11:
Delete "50"

Insert "100"

REPRESENTATIVE ROKEBERG objected.

REPRESENTATIVE CRAWFORD said he believes that without the escalator [for the wage increase] as it was in the petition, it seems not to be substantially similar. He offered that the people he has talked to would rather not go through the litigation process, but would if they have to. He stated, "We don't want to guarantee in law that the minimum wage is going to increase slower than prices."

Number 1125

REPRESENTATIVE HAYES inquired about the process.

REPRESENTATIVE KOTT answered that if HB 56 were to pass both bodies and be signed into law by the governor, there probably [would have] been some discussion with the lieutenant governor, who would have made her suggestions regarding whether [HB 56] is substantially similar. He said he suspects that if [HB 56] became law, there wouldn't be the impetus - from the people in "labor" or anywhere else - to challenge the legislation's being substantially similar because it doesn't reach that 100 percent of the CPI index.

Number 1024

REPRESENTATIVE KOTT pointed out, "It's only understood that the CPI index is at 100 percent. It's not written in the initiative. ... So we're making it clear that where we're coming from, it's 50 percent of the CPI index." He agreed with Representative Rokeberg's point that this is an incredibly complex issue when talking about the CPI, the impact on economy, and the impact on businesses, especially the small businesses paying minimum wage.

REPRESENTATIVE KOTT expressed that HB 56 wouldn't just affect those making minimum wage. There would also be some impact for those in the "mid-management ... arena," who also would receive an increase in benefits. He explained that if the bill becomes law, then the initiative comes off [the ballot]. However, if the lieutenant governor "determines that this is not substantially similar, then the initiative goes forward, and maybe we'll challenge the lieutenant governor's decision."

Number 0946

REPRESENTATIVE HALCRO agreed and said by implementing even 50 percent of the CPI, [at least] it's still 50 percent of the CPI. He noted that currently the minimum wage isn't indexed to the CPI, and that, coupled with the two-tiered jump in the wage, is sufficient. He offered, "Certainly, we're all supportive of the minimum wage." He added, however, that there are economies out there with real people who have to make real payroll, and this is going to have an effect on them.

REPRESENTATIVE HALCRO noted that last year there were "several different conversations" with regard to this bill about what [effect this will have on statewide projects like the proposed gas pipeline, for example]. He reiterated that he thinks just adopting the CPI and going through a review process every year is sufficient. He offered that 50 percent of the CPI is fair to start out with, and can always be adjusted in the future. He said, "I just think we need to be very sincere in our efforts to improve the working environment, but also be very careful about not negatively impacting commerce."

Number 0836

REPRESENTATIVE CRAWFORD said he understands there are real people out there making real payroll. There are also real people out there trying to make a "living wage," who will be affected as much as the employers, if not more. He said he believes with only a 50-percent-of-the-CPI escalator, it guarantees that it won't keep pace with inflation. He said he believes HB 56, with the escalator, was designed to keep [the legislature] from having to revisit this issue every few years. He offered that it would be "much more difficult to come back and take another look at it with the smaller escalator in there."

Number 0772

REPRESENTATIVE HALCRO said he doesn't disagree, but thinks the two-tiered bump in the wage, combined with even 50 percent of the CPI, is a significant move toward improving wages. He added, "We also need to remember that people don't give themselves jobs. Employers create jobs. And so we have to maintain a very delicate balance when you're talking about affecting, especially, these entry-level workers."

REPRESENTATIVE ROKEBERG stated his opposition to the CPI concept as attached to the minimum-wage bill. He said, "Once we as a

legislature were to enact that, it's going to get very difficult to back away from it, ... [because] it takes it out of discussion." He offered that he considers this a collective-bargaining process, at arm's length, between employers and employees. Referring to the economic recession of 1986, he said, "The wage levels that were established then, before that, went down to a lower level than they did before." He added that if there is a statutory situation with a high minimum wage attached to an escalator, it isn't going to react to the market conditions.

Number 0624

REPRESENTATIVE HAYES said he had requested some information last year regarding which businesses actually pay minimum wage. He remarked that it is very difficult to hire anybody at minimum wage in Fairbanks.

REPRESENTATIVE KOTT, after handing a list to Representative Hayes, explained that it indicates the types of industries, not specific employers, that pay minimum wage.

Number 0567

CHAIR MURKOWSKI informed the committee that last year the seafood industry testified that it had many employees starting at minimum wage, but that travel and room and board were provided.

REPRESENTATIVE KOTT asked, "Is the extra 50 percent the straw that breaks the camel's back? I don't know." He said there was testimony last year and during the interim that HB 56 was going to have a negative effect on many businesses around the state, especially in the service industries. Despite perhaps some optimism out there, there are going to be jobs lost. He offered that wage earners trying to make ends meet might be unable to, because employers are going to be "tightening their belt." The greatest cost to employers is personnel, and it's the first place an employer is going to make reductions. He said:

The market's only going to bear so much of an increase on a product or a service, and once it reaches that pinnacle, people are going to back off, saying, "I'm not paying anymore. I'm staying at home, cook my own hamburgers, rather than go out and eat." So I think there's going to be some ... negativity associated with [its] going to the CPI in the beginning. But at

least this mitigates part of that problem by keeping it at the 50 percent, rather than going to 100 percent. So for all those reasons, I will oppose the amendment.

Number 0416

REPRESENTATIVE CRAWFORD said maybe the per diem should go up by 50 percent of the CPI, instead of following the Consumer Price Index. He stated, "If it's good for us, I think it's good for all those people that are out there in low-wage jobs."

CHAIR MURKOWSKI responded that it seems that "[ours] has gone down from year to year, too. So I'm not sure that's it's tied to the CPI. It's tied to the federal COLA [cost-of-living allowance]." She added, "As it goes down, we take the drop in our per diem as well."

Number 0364

REPRESENTATIVE KOTT said, "I don't believe we have any control over that, either, with the exception that if you wanted to give back the extra to LAA [Legislative Affairs Agency] or to House Rules, I'll be more than glad to accept."

Number 0272

A roll call vote was taken. Representatives Crawford and Hayes voted to adopt Amendment 1. Representatives Meyer, Kott, Rokeberg, Halcro, and Murkowski voted against it. Therefore, Amendment 1 failed by a vote of 2-5.

Number 0230

REPRESENTATIVE CRAWFORD moved to adopt Amendment 2 [22-LS0342\F.4, Craver, 2/6/02], which read:

Page 2, following line 17:

Insert a new bill section to read:

"* **Sec. 3.** AS 23.10.065 is amended by adding a new subsection to read:

(d) An employer, with the agreement of the employee, may pay up to \$2 less than the hourly wage required under (a) of this section if the amount of the reduction is used by the employer to provide adequate health care as defined by the commissioner."

Renumber the following bill section accordingly.

REPRESENTATIVE ROKEBERG objected.

Number 0215

REPRESENTATIVE CRAWFORD explained that last year there was discussion that some employers would like to raise the minimum wage but then wouldn't be able to afford health care for their employees. Amendment 2 would give employers some latitude and help in providing health care for their employees. The agreement [provision] allows either side to opt out. He noted that many people approaching the five-year limit on welfare are going to be kicked off the welfare rolls and will need insurance. Amendment 2 would give them some latitude to go out and find a low-paying job plus health care for family members. He concluded, "I just believe this gives both employers and employees some latitude to gain health care that they haven't had before."

Number 0076

CHAIR MURKOWSKI asked Representative Crawford whether [Amendment 2] would run into legal problems because it is setting in statute a minimum wage. She inquired whether it would be creating yet another exemption from the minimum wage, similar to the training wage.

TAPE 02-13, SIDE A

Number 0004

REPRESENTATIVE CRAWFORD explained that when "it started out, ... we thought that this would probably have no effect, but as we continued on, ... we're not sure now." He said if [Amendment 2] is going to change [HB 56] too much, he would be glad to introduce it as stand-alone legislation.

Number 0120

MS. CRAVER commented that it appears [Amendment 2] would not necessarily reduce the minimum wage for anyone who didn't want it to be reduced. In that case, it seems to be an option that doesn't necessarily change the impact of the legislation, which is to increase the minimum wage. She said [Legislative Legal and Research Services doesn't] know the answer to the question of whether adding [amendments] to legislation that tries to supplant an initiative makes it not substantially similar. She

noted that she hasn't been able to research it. One could make an argument that it doesn't impair what is intended in the initiative. The people who wanted the initiative still get what they want, if, in fact, it is substantially similar. Adding something else doesn't change that.

Number 0202

CHAIR MURKOWSKI referred to the language in [Amendment 2] and said it is allowing the commissioner to determine whether adequate health care has been provided. She asked, "That's kind of nebulous, isn't it?"

MS. CRAVER responded that "this would have to be fleshed out considerably further" in order to satisfy the federal government.

Number 0290

REPRESENTATIVE KOTT offered an example of an employer with 20 minimum-wage employees who also are being provided health care. He said the suggested changes would force the employer to tell the employees that due to cost-cutting measures, health care would be reduced or discontinued. If the employee and the employer agreed to deduct \$2 an hour from the wages, then the employer could make a contribution [to keep] the employee's health care. He asked, "Wouldn't that have a substantive effect of reducing their minimum wage \$2?"

MS. CRAVER agreed it would be the practical effect.

Number 0400

REPRESENTATIVE KOTT restated his concern: an employer currently paying premiums for health care would have to tell an employee that either he/she agrees to deduct \$2 [from the hourly wage], or else health care will be discontinued altogether.

REPRESENTATIVE HALCRO responded, "In theory, but ... let's be honest. ... The people out there that need health care are people that are making \$5.65, \$6.00 an hour, and ... can't afford to participate in an employer-sponsored program." He said he thinks Representative Crawford is "onto something ... very good," and offered that there should be some tweaking of the language regarding how it is applied, from a practical standpoint, for a business owner. He suggested the [health care option] is kind of an incentive for the employer. An employer

can go to a health care provider and get some kind of plan to which employees can buy in.

REPRESENTATIVE HALCRO explained that this would do a couple of things. It would build loyalty for the employer, because a lower-wage employee with benefits is more likely to stay on and become a longer-term, more productive employee. And the employee would be better off because of having access to health care [insurance].

Number 0547

REPRESENTATIVE KOTT replied, "It's a great idea, but I think the employers right now can do that." He offered that if an employee with a family of four is making \$350 a week, \$80 out of a paycheck may be the difference between having health care and not having a house to live in.

REPRESENTATIVE CRAWFORD rebutted, "That's the reason why we put it in there with the agreement of the employee." The employee has the option of deducting money from his/her wages to cover health care costs. He said the expense that hits single mothers the hardest is medical coverage for their kids. He surmised, "There are a lot of people ... that would like to have health care and would give up \$2 out of their minimum wage to do that."

Number 0640

REPRESENTATIVE HALCRO referred to an example of somebody working two jobs, where at one job, the employer could deduct \$2 an hour and the employee would know that money was going towards health insurance. He said this program obviously has to be mutually agreeable. He asked, "What's wrong with ... having this opportunity?" He said it seems to be one more option for an employer to manage the business and to provide coverage for those employees who otherwise are not covered, simply because of their skill and wage level.

REPRESENTATIVE MEYER said, "I also think we're onto something here, Representative Crawford, but I don't think now is the time and place to deal with this, especially not with this particular bill before us." He said he would like to see what adequate health care coverage is, as defined by the commissioner.

Number 0764

REPRESENTATIVE ROKEBERG surmised, "It's whatever \$320 a month can buy you."

REPRESENTATIVE CRAWFORD responded that \$320 a month won't buy adequate health care, and the balance would have to be made up by the employer. He explained what [the bill] envisioned as adequate health care is about the same as [the third, lower-cost option] on the state [insurance plan]. He said, "We're not trying to go for really good insurance; we're just trying to get the average case of insurance out there." He stated that this will give the employer a break when he/she is trying to provide benefits to employees, in order for [the employer] to have longer-term, more loyal employees.

REPRESENTATIVE ROKEBERG offered his belief that if HB 56 passes, employers that still pay minimum wages are going to be lucky to be able to afford to provide any benefits. He added, "So I think it'll cost benefits."

REPRESENTATIVE HALCRO said he can't agree with that conclusion because "you're telling them one thing and then you're asking them another." He explained that [the legislature] is going to tell [the employers] that the minimum wage will be raised by roughly \$2 an hour. On the other hand, [the legislature is] saying, "But, we will allow you to deduct up to \$2 an hour to contribute to an employee health care plan or into some kind of a pool, if you so choose." He suggested this is an opportunity for employers, not a mandate.

Number 1000

REPRESENTATIVE HALCRO offered that possibly the insurance industry could "come out with a product." He said:

There's companies coming out with all kinds of products all the time. My company takes a look at it every year when we renew our insurance coverage for our employees. ... [There are] all kinds of different products out there, and if you can get the insurance companies to create a market where they create a product for these folks to buy in at \$320 a ... month, why wouldn't we want to at least set the stage for that kind of an option? I mean, we're not mandating anything. We're simply giving them an opportunity to take that \$2-an-hour hit, either way you look at it, and investing it in something that's

going to pay them returns. I don't see where this isn't a good idea.

REPRESENTATIVE KOTT, referring to the health care program Representative Halcro said he provided his employees, asked what the premium is: "Is it \$320, or is it similar to what the state pays for adequate health care?" He said he doesn't think the state plan is a premium plan, but is probably a plan that would be acceptable [to] the commissioner. He offered that an employee is not only getting hit with the \$2 increase, which can be applied toward health care, but also is adding on whatever additional amount there is to reach that premium. He said, "So it may not be a \$320 premium; it's now going to be a \$500 hit."

Number 1080

REPRESENTATIVE HAYES explained that companies such as his offer some type of health care [plan] that would fit into this, which is supplemental health insurance. He claimed a conflict because this probably would benefit his company greatly.

REPRESENTATIVE HALCRO said, "So, what you're saying is ... if you adopted something like this, where it was totally voluntary - the two sides had to agree - sure, there's products out there that could get somebody covered for this."

REPRESENTATIVE HAYES responded, "Absolutely."

REPRESENTATIVE KOTT said, "You did say that it was supplemental. So it's supplementing something else."

REPRESENTATIVE HAYES explained, "The insurance that we sell is supplemental. And we prefer that it's with something else, but it can stand alone."

Number 1168

REPRESENTATIVE CRAWFORD stated that because of the voluntary nature, he believes "this is an avenue that we need to explore" because many people out there need health care but aren't getting it. He offered that this is a good first step. The cost is \$320 a month if a person is working 40 hours a week, but if that person is working overtime, it's more. He noted that his insurance with the state has family coverage at 70 percent [up to the yearly maximum]; it costs \$500-some a month. He said he believes that with another dollar or two dollars an hour, an

employer could supplement this and come up with a pretty good insurance policy.

Number 1250

CHAIR MURKOWSKI objected to Amendment 2 because there is no certainty that Version F is substantially similar [to the initiative]; adding to it will raise further suspicion that it isn't substantially similar. She said she isn't stating whether she thinks it's a good idea, but isn't willing to support it at this time.

Number 1315

REPRESENTATIVE CRAWFORD countered that [the legislature is] "charging blindly ahead on the other issue," not knowing whether it's substantially similar or not. He said, "We're going to run it up the flagpole and see if it flies, and I'd like to run this one up and see if it flies as well."

REPRESENTATIVE KOTT said, "I just hope you run it up a different flagpole." He offered his belief that HB 56, as it currently stands, is substantially similar and would meet the test; any changes would jeopardize the bill substantially. He referred to a section of law that deals with school bus drivers, where a provision says an employer may not apply fringe benefits as a credit for payment of minimum wage. He said, "So even in that particular area, we've gone so far as to say, 'You can't give any credit.'" With Amendment 2, he said, "the area just became totally complex."

Number 1387

CHAIR MURKOWSKI said she'd spoken with representatives from the seafood industry last year, who were looking to see if there was a way that they could get some offset of the minimum wage for what they contribute in terms of room and board and travel.

REPRESENTATIVE CRAWFORD remarked, "In NCSL [National Conference on State Legislatures], they said that you could give waivers against the federal minimum wage for things like health care, for training wages. So, maybe it conflicts with our state law."

Number 1433

REPRESENTATIVE HALCRO asked: Since health care reform is an emerging area in federal law, who is to say that employers might

not get some kind of a tax credit for participating in a program through which they create an avenue for their employees to obtain affordable health care coverage? Stating support for [Amendment 2], Representative Halcro suggested that employers not only would win by having another option to hire and retain employees, but also they could avail themselves of certain tax credits or breaks by providing something like this.

Number 1500

A roll call vote was taken. Representatives Crawford, Hayes, and Halcro voted for Amendment 2. Representatives Kott, Rokeberg, Meyer, and Murkowski voted against it. Therefore, Amendment 2 failed by a vote of 3-4.

REPRESENTATIVE HAYES asked how HB 56 deals with the fisheries industry and the housing of workers.

Number 1526

REPRESENTATIVE KOTT responded that [HB 56] doesn't assist that particular industry. He offered that the seafood industry is failing right now, and "this could be the nail that seals the coffin." He suggested forming stand-alone legislation.

REPRESENTATIVE KOTT remarked that he is a little disturbed that there hasn't been more testimony from organized labor on this monumental issue. He said last year [organized labor was] at the table and said it supported the bill in its existing form at the time, the last version. He explained that the previous version didn't have the CPI index, "but they supported that." He stated that at the time, [organized labor said] it liked the governor's bill a little better because it did have the CPI. He said, "I just wanted to put that on the record, and I hope during their deliberations on the 18th that they can reach some kind of agreement and support the particular measure before this ... body. Otherwise, we don't know what's coming down the pipe."

Number 1611

CHAIR MURKOWSKI agreed with Representative Kott. She added that she was hopeful that there would be a little more enthusiasm from [organized labor on HB 56].

REPRESENTATIVE ROKEBERG declared that he has a potential conflict of interest as a small businessman with 19 people

currently on his payroll, all earning above \$7.15 an hour. He asked to be excused from voting.

CHAIR MURKOWSKI declined his request.

Number 1649

REPRESENTATIVE ROKEBERG suggested that market wages should be set by the market, rather than by politicians and labor leaders sitting together making policy. He offered that this "is 180 degrees off from collective bargaining." The small businessman and the worker are only represented by their representatives at the meeting, and they're not bargaining. Each individual business has its own unique set of circumstances. Calling this a "unilateral Act," he noted that HB 56 is a response to the initiative, "which, in a way, is ... a 26-percent increase [in] personnel cost for a lot of businesses in this state." He said it's particularly targeted at the hospitality industry because the tip provisions were drafted right into the initiative. He suggested that [the hospitality industry] is the largest employer in Alaska, and has been picked on. He explained:

We're asking them for increased taxation for basic commodity and products that they're selling. We're actually going to tax them on ... about three different levels right now, from sales taxes to income taxes, business taxes, and alcohol taxes. ... Not only are we going to do that, we're going to raise their labor cost by 26 percent. ...

Tourism and seafoods industry are the two industries that are down the worst in this state right now. And what this bill does is just drives a ... nail in [the] coffins of a lot of small businesses. And I pride myself [on] being a small businessman, living off my own wits for 38 years in the state of Alaska, being self-employed. ...

I must say that I think this is a terrible thing. The timing couldn't be worse for the economy, and this is going to destroy small businesses and decrease jobs, particularly in the hospitality and seafood industries. I can't vote for it. Never, never.

Number 1755

REPRESENTATIVE CRAWFORD offered to cosponsor a bill with Representative Rokeberg to make it universal collective bargaining for all of those people who don't get collective bargaining right now. He said, "Then we could do away with the minimum wage. Until everybody gets a chance to do collective bargaining, that's the reason why we have a floor underneath."

REPRESENTATIVE HAYES explained that this is an interesting situation because if HB 56 doesn't move out of committee, there will be an initiative on the ballot anyway. He said, "Then we could leave it up to our constituents to decide if they want this increase or not."

Number 1796

REPRESENTATIVE KOTT said Representative Hayes had made a good point. He argued that the initiative does more harm than [HB 56] does. He said, "I could live with it either way, and I would love to be on the other side of the campaign trying to defeat the initiative." He offered that there would be a lot of money thrown at either supporting the initiative or opposing it, and he suggested that "maybe that's where we should let it go." He pointed out that based on all the surveys and opinions he has seen, the initiative and minimum-wage increase are supported by a vast majority of Alaskans, around 80 percent. He added, "And that's in everybody's district. We all know the recent poll that was done in September, October. And that was after, I believe, [September 11]."

Number 1860

REPRESENTATIVE MEYER argued that he isn't sure much attention should be given to polls because [the legislature is] here to do the right thing, not necessarily what's the popular thing. He recalled that when he was on the assembly there were polls, for example, for an alcohol tax, with as high as 75- to 80-percent support. When a large industry begins advertising against it, the numbers in the poll can slip, and then it ultimately gets to a vote and fails. He asked if the State Chamber of Commerce has voiced an opinion as to whether it would, if the initiative went to a vote, have an advertising campaign to try to kill it.

CHAIR MURKOWSKI said she didn't have any information on that issue. She suggested that Representative Kott might have that information.

REPRESENTATIVE KOTT said he didn't have that information either.

Number 1920

MS. SYLVESTER said she'd spoken with Pamela LaBolle from the State Chamber of Commerce and explained to her the new proposed committee substitute [Version F]. Ms. Sylvester reported that Ms. LaBolle was perplexed last year because one-third of her membership supported [the legislation], one-third didn't like it, and one-third didn't care. She said Ms. LaBolle had been informed that the hearing was today, but wasn't present.

CHAIR MURKOWSKI, referring to polls and surveys, said some folks say they support an increase to a minimum wage, but don't fully understand what it means to go from the standard that Alaska has always had, tying it to the federal minimum wage, to a completely different standard, which is what [HB 56 is doing]. She remarked that her husband, as a self-employed small businessman, "would love to think that he could give an annual increase just for being there." She offered that she isn't entirely certain how accurate the surveys are, because it depends on what the question is. It's one thing to ask, "Do you support an increase to the minimum wage?" It's another to ask, "Do you agree and understand what the terms of the initiative are?"

Number 1994

REPRESENTATIVE HALCRO noted that Representative Murkowski made an excellent point. He said the surveys received last year - both from the Alaska State Chamber of Commerce and the National Federation of Independent Business - showed a strikingly similar extrapolation of data when looking at the questions. He noted that support for the minimum wage, or the lack thereof, was 45 to 50 percent, right in the middle. He explained that the percentage of respondents who do not pay their employees minimum wage was incredibly high: 95 percent on both surveys. He said this leads him to believe that "when the average Alaskan, who is one of these 95 percent who's not making minimum wage, goes to the polls and says, 'Yeah, you know what, I think my ... grocery packer needs a raise,' ... people are going to vote because it doesn't affect them."

REPRESENTATIVE HALCRO offered that [an escalator at] 50 percent of the CPI is reasonable, whereas 100 percent of the CPI is going to hurt a lot more. He asked, "Should we mitigate, adhere, and try and reach for something that's workable, or do we just back off and ... let the people of this state vote on

this issue?" He said it is a policy question and that he thinks the committee should move [HB 56].

Number 2078

REPRESENTATIVE CRAWFORD agreed with Representative Rokeberg that a 26-percent increase is "a shock to the system of all small businessmen and large businessmen or any other businessmen you want to talk to." He argued that if there were a consumer price indexer the last time the minimum wage was raised, "today we wouldn't have to be hitting this with a large increase." He mentioned that even Mr. Amon had said he'd "prefer to see the consumer price index in there ... rather than see us be \$1 over the federal minimum wage." He suggested a consumer price indexer will take away the shock that happens every four or five years.

Number 2140

REPRESENTATIVE KOTT, referring to a poll taken October 9-17, 2001, said the question was asked relating to the initiative that would raise the minimum wage [incrementally] and then adjust the minimum wage annually to match inflation. He said a lot of people aren't really sure what inflation means. He noted that "75 percent of Alaskans, ... plus or minus 4 percent margin of error, ... supports that." Then the specific question was asked in the poll, "Do you favor or oppose thereafter adjusting the minimum wage annually to match inflation?" Representative Kott reported that the margin actually increased to 77 percent of those who support it.

REPRESENTATIVE KOTT suggested this is a clear indication that the general public is supporting [it]. He said he isn't sure if one could overcome "that kind of deficit going in." He said if the legislature doesn't pass HB 56, it will be taking the chance that the minimum-wage initiative will be defeated. He stated, "We want to mitigate as much of the ... negative impact on business that we possibly can. Just put something that [is] not quite as harmful."

Number 2241

REPRESENTATIVE MEYER said he wasn't opposed to moving [HB 56]. He asked whether it could be moved without a fiscal note.

CHAIR MURKOWSKI informed Representative Meyer that there were two fiscal notes. She said there was some discussion of whether

the "people transportation" cost should be factored in after 2005.

Number 2275

REPRESENTATIVE KOTT moved to report CSHB 56, version 22-LS0342\F, Craver, 1/18/02, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE ROKEBERG objected.

CHAIR MURKOWSKI asked if Representative Rokeberg wished to speak to his objection.

REPRESENTATIVE ROKEBERG withdrew his objection.

CHAIR MURKOWSKI asked if there was any further objection. There being no further objection, CSHB 56(L&C) was moved from the House Labor and Commerce Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:40 p.m.