

**ALASKA STATE LEGISLATURE  
HOUSE RULES STANDING COMMITTEE**

May 13, 2002  
9:10 a.m.

**MEMBERS PRESENT**

Representative Pete Kott, Chair  
Representative Brian Porter  
Representative Vic Kohring  
Representative Carl Morgan  
Representative Lesil McGuire  
Representative Ethan Berkowitz  
Representative Reggie Joule

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 519

"An Act authorizing priority treatment under the Right-of-Way Leasing Act for an Alaska North Slope natural gas project; expanding the scope for the kinds of gas development projects that may become qualified projects under the Alaska Stranded Gas Development Act; extending the deadline for submitting applications under the Alaska Stranded Gas Development Act; exempting an Alaska North Slope natural gas project from state property tax and all municipal taxes during construction; and providing for an effective date."

- HEARD AND HELD

CS FOR SENATE BILL NO. 371(RES) am

"An Act exempting the use of munitions in certain areas from a waste disposal permit requirement of the Department of Environmental Conservation; relating to general or nationwide permits under the Alaska coastal management program and to authorizations and permits issued by the Alaska Oil and Gas Conservation Commission; and providing for an effective date."

- MOVED CSSB 371(RES) am OUT OF COMMITTEE

CS FOR SENATE BILL NO. 363(STA) am

"An Act relating to communications and elections, to reporting of contributions and expenditures, and to campaign misconduct in

the second degree; relating to disclosure by individuals of contributions to candidates; and providing for an effective date."

- MOVED HCS CSSB 363(RLS) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 324(L&C)

"An Act providing that a utility or electric operating entity owned and operated by a political subdivision of the state competing directly with a telecommunications utility is not subject to the Alaska Public Utilities Regulatory Act."

- MOVED CSSB 324(L&C) OUT OF COMMITTEE

### PREVIOUS ACTION

BILL: HB 519

SHORT TITLE:NATURAL GAS PIPELINE: SPECIAL PROVISIONS

SPONSOR(S): RLS

Jrn-Date	Jrn-Page		Action
04/16/02	2952	(H)	READ THE FIRST TIME - REFERRALS
04/16/02	2952	(H)	O&G, RES, FIN
04/19/02		(H)	O&G AT 8:00 AM CAPITOL 124
04/19/02		(H)	Moved CSHB 519(O&G) Out of Committee
04/19/02		(H)	MINUTE(O&G)
04/22/02		(H)	RES AT 1:45 PM CAPITOL 124
04/22/02		(H)	Moved CSHB 519(RES) Out of Committee -- Time Change --
04/22/02		(H)	MINUTE(RES)
04/22/02	3064	(H)	O&G RPT CS(O&G) NT 4DP
04/22/02	3064	(H)	DP: CHENAULT, DYSON, KOHRING, FATE
04/22/02	3065	(H)	FN1: (DNR)
04/22/02	3065	(H)	FN2: (REV)
04/24/02		(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/24/02		(H)	Heard & Held
04/24/02		(H)	MINUTE(FIN)
04/24/02	3108	(H)	RES RPT CS(RES) NT 5DP 1DNP 3AM
04/24/02	3108	(H)	DP: STEVENS, MCGUIRE, FATE, CHENAULT,
04/24/02	3108	(H)	MASEK; DNP: KERTTULA; AM: GREEN,

04/24/02	3108	(H)	KAPSNER, SCALZI
04/24/02	3109	(H)	FN1: (DNR)
04/24/02	3109	(H)	FN2: (REV)
04/25/02		(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/25/02		(H)	Heard & Held -- Recessed to Friday 4/26 @ 9:00 AM -- MINUTE(FIN)
04/26/02		(H)	FIN AT 9:00 AM HOUSE FINANCE 519
04/26/02		(H)	Heard & Held MINUTE(FIN)
04/29/02		(H)	RLS AT 9:00 AM BUTROVICH 205
04/29/02		(H)	Scheduled But Not Heard -- Recessed --
04/29/02		(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/29/02		(H)	Moved CSHB 519(FIN) Out of Committee
04/29/02		(H)	MINUTE(FIN)
04/30/02	3234	(H)	FIN RPT CS(FIN) NT 4DP 2AM
04/30/02	3234	(H)	DP: BUNDE, FOSTER, MULDER, WILLIAMS;
04/30/02	3234	(H)	AM: WHITAKER, HARRIS
04/30/02	3235	(H)	FN(S): FORTHCOMING
04/30/02	3235	(H)	FN3: (REV)
04/30/02		(H)	RLS AT 5:00 PM BUTROVICH 205
04/30/02		(H)	Scheduled But Not Heard -- Meeting Postponed to 5/1/02 -
05/01/02	3265	(H)	FN4: (CED) RECEIVED FROM FIN
05/01/02	3265	(H)	FN5: (DNR) RECEIVED FROM FIN
05/01/02		(H)	RLS AT 5:00 PM BUTROVICH 205
05/01/02		(H)	-- Meeting Canceled --
05/02/02		(H)	RLS AT 9:00 AM BUTROVICH 205
05/02/02		(H)	Scheduled But Not Heard -- Recessed to a call of the Chair --
05/03/02		(H)	RLS AT 2:00 PM BUTROVICH 205
05/03/02		(H)	-- Meeting Canceled --
05/04/02		(H)	RLS AT 2:00 PM BUTROVICH 205
05/04/02		(H)	Moved CSHB 519(RLS) Out of Committee
05/04/02		(H)	MINUTE(RLS)
05/06/02	3399	(H)	RETURNED TO RLS COMMITTEE
05/06/02	3388	(H)	RLS RPT CS(RLS) NT 3DP 1NR
05/06/02	3388	(H)	DP: KOHRING, PORTER, KOTT; NR: MCGUIRE

05/06/02	3389	(H)	FN3: (REV)
05/06/02	3389	(H)	FN4: (CED)
05/06/02	3389	(H)	FN5: (DNR)
05/06/02	3389	(H)	FN6: (LWF)
05/06/02	3399	(H)	RULES TO CALENDAR 5/6/02
05/07/02		(H)	RLS AT 9:00 AM BUTROVICH 205
05/07/02		(H)	-- Meeting Canceled --
05/07/02	3423	(H)	RULES TO CALENDAR 5/7/02
05/07/02	3423	(H)	RETURNED TO RLS COMMITTEE
05/10/02	3489	(H)	RULES TO CALENDAR 5/10/02
05/10/02	3489	(H)	MOVED TO BOTTOM OF CALENDAR
05/10/02	3498	(H)	IN RULES COMMITTEE
05/11/02	3521	(H)	RULES TO CALENDAR 5/11/02
05/11/02	3521	(H)	MOVED TO BOTTOM OF CALENDAR
05/11/02	3554	(H)	IN RULES
05/13/02		(H)	RLS AT 9:00 AM BUTROVICH 205

BILL: SB 371

SHORT TITLE: WASTE PERMIT & COASTAL ZONE EXEMPTIONS

SPONSOR(S): STATE AFFAIRS

Jrn-Date	Jrn-Page		Action
04/29/02	3024	(S)	READ THE FIRST TIME - REFERRALS
04/29/02	3024	(S)	RES
05/03/02		(H)	RES AT 1:00 PM CAPITOL 124
05/03/02		(H)	<Pending Referral>
05/03/02		(S)	RES AT 3:30 PM BUTROVICH 205
05/03/02		(S)	Moved CSSB 371(RES) Out of Committee
05/03/02		(S)	MINUTE(RES)
05/03/02		(S)	MINUTE(RES)
05/06/02	3175	(S)	RES RPT CS 4DP 2DNP SAME TITLE
05/06/02	3175	(S)	DP: TORGERSON, STEVENS, WILKEN, TAYLOR;
05/06/02	3175	(S)	DNP: ELTON, LINCOLN
05/06/02	3175	(S)	FN1: ZERO(DEC)
05/08/02		(S)	RLS AT 9:30 AM FAHRENKAMP 203
05/08/02		(S)	MINUTE(RLS)
05/08/02		(S)	MINUTE(RLS)
05/09/02	3260	(S)	RULES TO CALENDAR 2OR 5/9/02
05/09/02	3269	(S)	READ THE SECOND TIME
05/09/02	3269	(S)	RES CS ADOPTED UNAN CONSENT
05/09/02	3269	(S)	ADVANCED TO 3RD READING FLD Y13 N6 A1
05/09/02	3270	(S)	ADVANCED TO THIRD READING

			5/10 CALENDAR
05/10/02	3315	(S)	PASSED Y15 N3 A2
05/10/02	3315	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/10/02	3315	(S)	ELLIS NOTICE OF RECONSIDERATION
05/10/02	3313	(S)	READ THE THIRD TIME CSSB 371(RES)
05/10/02	3313	(S)	RETURN TO SECOND FOR AM 1 UNAN CONSENT
05/10/02	3314	(S)	AM NO 1 ADOPTED Y16 N2 A2
05/10/02	3314	(S)	...CHANGES TITLE OF LEGISLATION
05/10/02	3314	(S)	AUTOMATICALLY IN THIRD READING
05/11/02	3532	(H)	HELD ON CLERK'S DESK
05/11/02	3531	(H)	READ THE FIRST TIME
05/11/02		(H)	RLS AT 9:30 AM BUTROVICH 205
05/11/02		(H)	<Pending Referral> -- Recessed to a call of the Chair --
05/11/02	3349	(S)	RECON TAKEN UP - IN THIRD READING
05/11/02	3350	(S)	PASSED ON RECONSIDERATION Y16 N4
05/11/02	3350	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/11/02	3387	(S)	TRANSMITTED TO (H)
05/11/02	3387	(S)	VERSION: CSSB 371(RES) AM
05/12/02	3566	(H)	REREAD THE FIRST TIME - REFERRALS
05/12/02	3566	(H)	RLS
05/12/02	3583	(H)	RULES TO CALENDAR 5/12/02
05/12/02	3583	(H)	IN RULES COMMITTEE
05/12/02		(H)	RLS AT 4:00 PM BUTROVICH 205
05/12/02		(H)	Heard & Held -- Recessed to 9:00 am Mon. 5/13 -- MINUTE(RLS)
05/13/02		(H)	RLS AT 9:00 AM BUTROVICH 205

BILL: SB 363  
SHORT TITLE: CAMPAIGN FINANCE PROVISIONS  
SPONSOR(S): RLS

Jrn-Date	Jrn-Page		Action
04/18/02	2840	(S)	READ THE FIRST TIME - REFERRALS

04/18/02	2840	(S)	STA
04/23/02		(S)	STA AT 3:30 PM BELTZ 211
04/23/02		(S)	Heard & Held
04/23/02		(S)	MINUTE(STA)
05/04/02		(S)	STA AT 1:30 PM BELTZ 211
05/04/02		(S)	Moved CS(STA) Out of Committee -- Time Change --
05/04/02		(S)	MINUTE(STA)
05/06/02	3175	(S)	STA RPT CS 4DP NEW TITLE
05/06/02	3175	(S)	DP: THERRIAULT, PHILLIPS, STEVENS,
05/06/02	3175	(S)	DAVIS
05/06/02	3175	(S)	FN1: (ADM)
05/06/02	3175	(S)	FN2: ZERO(GOV)
05/06/02	3175	(S)	FIN REFERRAL ADDED AFTER STA
05/07/02		(S)	FIN AT 9:30 AM SENATE FINANCE 532
05/07/02		(S)	Moved Out of Committee -- Time Change --
05/07/02		(S)	MINUTE(FIN)
05/07/02		(S)	RLS AT 11:45 AM FAHRENKAMP 203
05/07/02		(S)	MINUTE(RLS)
05/07/02	3198	(S)	FIN RPT CS(STA) 5DP 1NR
05/07/02	3198	(S)	DP: DONLEY, KELLY, GREEN, WILKEN,
05/07/02	3198	(S)	LEMAN; NR: AUSTERMAN
05/07/02	3199	(S)	FN2: ZERO(GOV)
05/07/02	3198	(S)	FN3: (ADM)
05/07/02	3203	(S)	STA CS ADOPTED UNAN CONSENT
05/07/02	3203	(S)	ADVANCED TO 3RD READING FLD Y14 N5 E1
05/07/02	3203	(S)	ADVANCED TO THIRD READING 5/8 CALENDAR
05/07/02	3202	(S)	RULES TO CALENDAR 5/7/02
05/07/02	3202	(S)	READ THE SECOND TIME
05/08/02	3237	(S)	READ THE THIRD TIME CSSB 363(STA)
05/08/02	3237	(S)	RETURN TO SECOND FOR AM 1 UNAN CONSENT
05/08/02	3238	(S)	AM NO 1 ADOPTED UNAN CONSENT
05/08/02	3238	(S)	AUTOMATICALLY IN THIRD READING
05/08/02	3238	(S)	PASSED Y19 N- E1
05/08/02	3238	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/08/02	3244	(S)	TRANSMITTED TO (H)

05/08/02	3244	(S)	VERSION: CSSB 363(STA) AM
05/09/02	3460	(H)	READ THE FIRST TIME - REFERRALS
05/09/02	3460	(H)	JUD
05/10/02		(H)	JUD AT 1:00 PM CAPITOL 120
05/10/02		(H)	Moved HCS CSSB 363(JUD) Out of Committee --Teleconference on above invite only-- MINUTE(JUD)
05/11/02	3516	(H)	JUD RPT HCS(JUD) 2DP 4NR
05/11/02	3516	(H)	DP: MEYER, JAMES; NR: BERKOWITZ,
05/11/02	3516	(H)	COGHILL, KOOKESH, ROKEBERG
05/11/02	3517	(H)	FN2: ZERO(GOV)
05/11/02	3517	(H)	FN4: ZERO(H.JUD/ADM)
05/13/02		(H)	RLS AT 9:00 AM BUTROVICH 205

BILL: SB 324

SHORT TITLE:MUNICIPAL PUB.UTIL.COMPETING W/TELECOM

SPONSOR(S): SENATOR(S) TAYLOR

Jrn-Date	Jrn-Page		Action
02/19/02	2237	(S)	READ THE FIRST TIME - REFERRALS
02/19/02	2237	(S)	L&C, JUD
03/05/02		(S)	L&C AT 1:30 PM BELTZ 211
03/05/02		(S)	Moved CS(L&C) Out of Committee
03/05/02		(S)	MINUTE(L&C)
03/06/02	2385	(S)	L&C RPT CS 4NR SAME TITLE
03/06/02	2385	(S)	NR: STEVENS, TORGERSON, LEMAN, DAVIS
03/06/02	2385	(S)	FN1: ZERO(CED)
03/15/02		(S)	JUD AT 1:30 PM BELTZ 211
03/15/02		(S)	-- Meeting Canceled --
03/20/02		(S)	JUD AT 1:30 PM BELTZ 211
03/20/02		(S)	Heard & Held
03/20/02		(S)	MINUTE(JUD)
03/25/02		(S)	JUD AT 1:30 PM BELTZ 211
03/25/02		(S)	Moved Out of Committee
03/25/02		(S)	MINUTE(JUD)
03/27/02	2535	(S)	JUD RPT 2DP 2NR
03/27/02	2535	(S)	DP: TAYLOR, COWDERY;
03/27/02	2535	(S)	NR: DONLEY, THERRIAULT
03/27/02	2535	(S)	FN1: ZERO(CED)
04/10/02		(S)	RLS AT 10:30 AM FAHRENKAMP 203

04/10/02		(S)	MINUTE(RLS)
04/29/02	3025	(S)	READ THE SECOND TIME
04/29/02	3025	(S)	L&C CS ADOPTED UNAN CONSENT
04/29/02	3025	(S)	ADVANCED TO THIRD READING 4/30 CALENDAR
04/29/02	3022	(S)	RULES TO CALENDAR 4/29/02
04/30/02	3050	(S)	READ THE THIRD TIME CSSB 324(L&C)
04/30/02	3050	(S)	RETURNED TO RLS COMMITTEE
05/11/02	3385	(S)	BEFORE THE SENATE IN THIRD READING
05/11/02	3385	(S)	PASSED Y17 N1 A2
05/11/02	3386	(S)	LINCOLN NOTICE OF RECONSIDERATION
05/11/02	3385	(S)	RULES TO 1ST SUP CALENDAR 5/11/02
05/12/02	3394	(S)	RECON TAKEN UP - IN THIRD READING
05/12/02	3394	(S)	PASSED ON RECONSIDERATION Y18 N1 A1
05/12/02	3601	(H)	READ THE FIRST TIME - REFERRALS
05/12/02	3601	(H)	RLS
05/12/02	3412	(S)	TRANSMITTED TO (H)
05/12/02	3412	(S)	VERSION: CSSB 324(L&C)
05/13/02	3620	(H)	RLS RPT 3DP 4NR
05/13/02	3620	(H)	DP: PORTER, KOHRING, KOTT; NR: JOULE,
05/13/02	3620	(H)	MORGAN, MCGUIRE, BERKOWITZ
05/13/02	3620	(H)	FN1: ZERO(CED)
05/13/02	3646	(H)	RULES TO CALENDAR 5/13/02
05/13/02	3646	(H)	READ THE SECOND TIME
05/13/02	3647	(H)	ADVANCED TO THIRD READING 5/14 CALENDAR
05/13/02		(H)	RLS AT 9:00 AM BUTROVICH 205

#### **WITNESS REGISTER**

SENATOR GENE THERRIAULT  
Alaska State Legislature  
Capitol Building, Room 121  
Juneau, Alaska 99801

POSITION STATEMENT: Testified as the sponsor of CSSB 371(RES)  
am and CSSB 363(STA) am.

JIM EASON, Lobbyist  
Forest Oil Corporation

8611 Leeper Circle  
Anchorage, Alaska 99504

POSITION STATEMENT: Urged passage of [CSSB 371(RES) am] without the amendments.

PAT GALVIN, Director  
Division of Governmental Coordination  
Office of the Governor  
PO Box 110030  
Juneau, Alaska 9981-0030

POSITION STATEMENT: Mentioned the possibility of addressing this issue in the regulatory process.

BOB SHAVELSON, Executive Director  
Cook Inlet Keeper  
(No address provided)

POSITION STATEMENT: Expressed hope that [CSSB 371(RES) am] not move forward.

JOE BALASH, Staff  
to Senator Gene Therriault  
Alaska State Legislature  
Capitol Building, Room 121  
Juneau, Alaska 99801

POSITION STATEMENT: Answered questions with regard to the 15:5 form.

BROOKE MILES, Director  
Alaska Public Offices Commission  
Department of Administration  
2221 E Northern Lights, Room 128  
Anchorage, Alaska 99508-4149

POSITION STATEMENT: Provided remarks with regard to the 15:5 form.

RANDY RUARO, Staff  
to Representative Bill Williams  
Alaska State Legislature  
Capitol Building, Room 515  
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of SB 324.

KARL AMYLON, General Manager  
Ketchikan Public Utilities  
(No address provided)

POSITION STATEMENT: Testified that this legislation attempts to preserve a level playing field for the different utility components of Ketchikan Public Utilities.

**ACTION NARRATIVE**

TAPE 02-15, SIDE A  
Number 0001

CHAIR PETE KOTT called the House Rules Standing Committee meeting to order at 9:10 a.m. Representatives Kott, Porter, Kohring, Morgan, Berkowitz, and Joule were present at the call to order. Representative McGuire arrived as the meeting was in progress. Also in attendance were Representatives Green, Kerttula, and James.

HB 519-NATURAL GAS PIPELINE: SPECIAL PROVISIONS

CHAIR KOTT announced that the first order of business would be HOUSE BILL NO. 519, "An Act authorizing priority treatment under the Right-of-Way Leasing Act for an Alaska North Slope natural gas project; expanding the scope for the kinds of gas development projects that may become qualified projects under the Alaska Stranded Gas Development Act; extending the deadline for submitting applications under the Alaska Stranded Gas Development Act; exempting an Alaska North Slope natural gas project from state property tax and all municipal taxes during construction; and providing for an effective date."

Number 0032

REPRESENTATIVE PORTER moved to adopt Version 22-LS1651\K, Chenoweth, 5/10/02, as the working document. There being no objection, Version K was before the committee.

CHAIR KOTT announced that HB 519 would be laid aside.

SB 371-WASTE PERMIT & COASTAL ZONE EXEMPTIONS

CHAIR KOTT announced that the next order of business would be CS FOR SENATE BILL NO. 371(RES) am, "An Act exempting the use of munitions in certain areas from a waste disposal permit requirement of the Department of Environmental Conservation; relating to general or nationwide permits under the Alaska coastal management program and to authorizations and permits issued by the Alaska Oil and Gas Conservation Commission; and providing for an effective date."

Number 0082

SENATOR GENE THERRIAULT, Alaska State Legislature, testified as the sponsor of CSSB 371(RES) am. He informed the committee that there were discussions between [the interested parties], however, no agreement was reached on the amendments.

Number 0124

REPRESENTATIVE BERKOWITZ withdrew Amendment 1 [which was moved at the May 12, 2002, hearing]. He urged the parties to get together. "It's an unfortunate practice when litigants wind up in front of the legislature. We're not the proper forum to resolve these disputes. Never, in my experience, has it led to any kind of finality," he related. He expressed hope that there would be a conclusion that would accommodate the interests of everyone.

SENATOR THERRIAULT noted that he has another bill that addresses the permitting process and attempts to review it in a global sense. That legislation was introduced late in the session and thus he wasn't able to work with all the different parties. Therefore, he said that he has contemplated using the Joint Committee on Legislative Budget & Audit as a possible funding source to bring an arbiter to work on permits in a global fashion with the interested parties.

REPRESENTATIVE BERKOWITZ related his belief that the aforementioned idea is a good approach. He thanked Senator Therriault for allowing his staff to work on this.

Number 0298

JIM EASON, Lobbyist, Forest Oil Corporation, noted that he meet with Representative Kerttula on the pending amendments to CSSB 371(RES) am, and later with the counsel for the plaintiff in the case precipitating the Alaska Supreme Court decision as well as the Cook Inlet Keepers representative. After an in-depth discussion of the amendments and the intent of the parties, it was determined that two of the amendments would remove provisions of the bill dealing with the range exemption that has support in both bodies. In Mr. Eason's view, the other three amendments would increase the litigation risk rather than diminish it. Therefore, [he felt that the discussion] confirms that it is important for this legislation to pass in order to confirm that the process used by agencies throughout every

administration that has administered the coastal zone program is the proper one.

Number 0434

PAT GALVIN, Director, Division of Governmental Coordination, Office of the Governor, noted that he took part in the discussions yesterday. He recalled that using the regulatory process to address this issue as well as including the Supreme Court's decision seemed to satisfy most interests. Mr. Galvin said, "We believe that we have the support of both parties in this situation, with regard to the legislation, to address that in the regulations and we intend to do that."

Number 0529

BOB SHAVELSON, Executive Director, Cook Inlet Keeper, related that yesterday's meeting was helpful because it was the first time for the parties to come together. Clearly, there are some philosophical riffs between the parties. Mr. Shavelson specified, "The issue that we have is that we're trying to take a broad brush, a sweeping look at the implications of site-specific impacts." This legislation not only addresses the general permits [related] to discharges in Cook Inlet but every general permit that has been issued since 1995. This legislation addresses a variety of industries that can have significant localized effects. Therefore, Mr. Shavelson said that [Cook Inlet Keeper] doesn't believe that a generalized review is sufficient if the desire is to protect those who rely on the resource. Mr. Shavelson related his sense that [Cook Inlet Keeper] didn't hold many cards and that industry was merely going through the process to report back that it had met. He noted the considerable amount of influence the lobbyists have over the legislature, which is of concern with regard to the public's lack of ability to impact legislation. However, Mr. Shavelson acknowledged that Forest Oil Corporation has done some good things. For instance, reinjection of their production wastes is important and will be held up as the standard for future production activities in Cook Inlet. He turned to the exploratory side of the issue and noted that [Cook Inlet Keeper] wanted to see zero discharges for everything in Cook Inlet. He related his belief that the technology to do so is available as was illustrated when zero discharges were implemented on the fifth well. Again, that should be the standard for oil and gas development in Cook Inlet.

MR. SHAVELSON returned to this legislation and its sweeping implications. He reiterated that this legislation has been rushed through. With regard to the exemption for the Eagle River Flats bombing range, he viewed it as a fishing issue in which toxics are being discharged into a rich estuarine system. Furthermore, he saw the state as divesting itself from the obligation and duty it has to oversee the public resources that are owned by everyone in the state. Mr. Shavelson said, "Again, the linkage of these two things, I think, is an unholy alliance. I think it's bad public policy, ... bad process. I would hope that it would not move, but I'm afraid that that is not the case."

MR. SHAVELSON turned to Mr. Eason's comment that this is the way things have always been done. Continuing the status quo would be fine if this were a static system. However, things have changed and the situation now is one in which more and more general permits are coming out. The court simply interpreted the law as it was written. In conclusion, Mr. Shavelson echoed Mr. Galvin's remarks with regard to the regulatory process being used to resolve this issue without this legislation. He pointed out that there is a consistency review draft regulation that has been moving through the process with a considerable amount of public debate from industry and citizen groups. The aforementioned is the proper forum in which to address this complex issue, he said.

REPRESENTATIVE KERTTULA related her thanks to the committee for the latitude it has allowed on this matter.

Number 0925

REPRESENTATIVE PORTER pointed out that a substantial part of the justification for taking this action was furnished by Mr. Shavelson's testimony. That is, if this were a sweeping change in the regulatory scheme, he said he would suggest moving with much contemplation and in-depth analysis. However, this [legislation] allows an accepted procedure to be restated so that it can continue. If this practice should be revisited, then it should be done with the necessary contemplation to access the ramifications of any changes to all the resource development projects in the state.

Number 1004

REPRESENTATIVE PORTER moved to report CSSB 371(RES) am out of committee with individual recommendations and the accompanying

zero fiscal note. There being no objection, CSSB 371(RES) am was reported from the House Rules Standing Committee.

SB 363-CAMPAIGN FINANCE PROVISIONS

CHAIR KOTT announced that the next order of business would be CS FOR SENATE BILL NO. 363(STA) am, "An Act relating to communications and elections, to reporting of contributions and expenditures, and to campaign misconduct in the second degree; relating to disclosure by individuals of contributions to candidates; and providing for an effective date."

Number 1073

REPRESENTATIVE PORTER moved to adopt 22-LS1713\B, Kurtz, 5/12/02, as the working document. There being no objection, Version B was before the committee.

SENATOR GENE THERRIAULT, Alaska State Legislature, testified as the sponsor of SB 363. He pointed out the changes encompassed in Version B as follows. On page 4, line 29, "automatic telemarketer" was deleted because of concern that parties using automatic dialers to call people to urge them to vote could be construed as part of party activity. On page 5, lines 7-8, the window for electioneering communications was reduced to "30 days preceding a general or municipal election". On page 5, lines 9-10, the definition of "express communication" was tightened in order to reflect the traditional interpretation of Buckley v. Valeo. The Buckley [case] requires that communication be clearly advocated for the election or defeat of the candidates with the specific words "vote for" or "vote against" being used.

SENATOR THERRIAULT pointed out that the majority of the bill deals with eliminating the "15:5 form." As the campaign financing laws have been modified over the last couple of years such that the individual maximum contribution is \$500, then the 15:5 form doesn't have to be filed until the \$500 maximum is reached. After talking with the Alaska Public Offices Commission (APOC), he understood that the 15:5 form had been regulated such that it was meaningless paperwork. He pointed out that language was included such that the 15:5 form would be required on ballot propositions otherwise the first indication as to where the money for a ballot proposition originated would be 30 days before the election. The APOC is happy to do away with the 15:5 form.

Number 1312

REPRESENTATIVE BERKOWITZ related his understanding that under the old reporting rules, reports go out for contributions and expenditures to candidates or groups. However, the new reporting rules don't seem to be as stringent. He asked if the new reporting rules require disclosure of contributions to anything other than a group organized with the principle purpose of influencing the outcome of a proposition.

Number 1366

JOE BALASH, Staff to Senator Gene Therriault, Alaska State Legislature, explained that the [remaining portions of] AS 15.13.040 maintains the reporting requirements for parties, groups, and candidates. In the 30-, 10-, and 7-day reports before elections, all parties, groups, and candidates will be required to disclose the origin of the money received. In further response to Representative Berkowitz, Mr. Balash confirmed that [a candidate's] expenditures and groups organized with the principle purpose of influencing the outcome of a proposition are covered by the aforementioned [reporting] requirements.

Number 1429

BROOKE MILES, Director, Alaska Public Offices Commission, Department of Administration, informed the committee that the 15:5 form required for contributors has been a component of the campaign disclosure law since its inception in 1974. Originally, those giving more than \$250 to a candidate or group were required to file form 15:5. Changes connected with campaign finance reform required that contributors would only file [the 15:5 form] upon giving \$500 and the time period was expanded to allow the filing to occur [within] 30 days [of the contribution]. Then legislation enacted early this year required that [the 15:5 form] would also be filed by the candidate. Ms. Miles said that the 15:5 form is no longer a useful audit tool. Furthermore, it is more paperwork for the candidate who is already files 30-day and 7-day reports for each contributor that gives more than \$100. When the change was made that allowed the candidate to file on behalf of the contributor, APOC discussed that since 1997 there has been a moratorium on accessing civil penalties for a 15:5 form that was admitted after the due date. The commission informed staff that after the effective date of the legislation, April 16th, APOC would access civil penalties. That change was of concern for candidates.

Number 1570

REPRESENTATIVE BERKOWITZ referred to Section 1 of Version B, which addresses AS 15.13.040(d). He related his understanding that reporting contributions to candidates are included in the current statute, but aren't included in the bill. Furthermore, Section 3 seems to say that expenditures for billboard signs or printed materials aren't required to be reported.

MS. MILES explained that Section 3 is the result of the McIntyre (ph) case in the U.S. Supreme Court. This requires that those spending less than \$250 to print something wouldn't be subject to the law when related to a ballot proposition.

REPRESENTATIVE BERKOWITZ noted that the McIntyre (ph) case isn't part of the backup in the committee packet. Representative Berkowitz related his understanding that the U.S. Supreme Court says that one can have unlimited expenditures for billboards, signs, or printed materials concerning a ballot proposition without reporting it.

MS. MILES said, "Without being subject to the campaign disclosure law, that's correct." The only change from current law is the change in the citation from (d)(2) to (d).

MR. BALASH clarified that the billboards, signs, and printed materials are part two of the test while part one of the test is the restriction of not exceeding a cumulative total of more than \$250 during the calendar year.

REPRESENTATIVE BERKOWITZ returned to [Section 1] subsection (d).

MR. BALASH specified that the contributor is no longer required to file a report, but contributions to candidates will still be reported by the candidates.

CHAIR KOTT, determining there was no further public testimony, closed the public testimony.

Number 1727

REPRESENTATIVE BERKOWITZ recalled that the House Judiciary Standing Committee expressly wanted to include telephonic telecommunications, which has been dropped in Version B. Therefore, he moved the following conceptual amendment

[Amendment 1] that would restore the language ["automatic telemarketing"] on page 4, line 29, in Version 22-LS1713\P.

MR. BALASH recalled that in last year's Singleton decision there were some inferences made with regard to what parties can and cannot do in terms of their expenditures. There is the implication that party-building activities are off-limits from regulation. The automatic telemarketing with which he is most familiar is when one party turns to its members and encourages them to vote on election day. The same could apply to a union communicating to its members. Mr. Balash pointed out that "automatic telemarketing" was in the middle of a list of communications, he didn't believe that the severability clause would allow the rest of the language stand.

REPRESENTATIVE BERKOWITZ said that the aforementioned arguments also hold true for all the other forms of communication listed.

MR. BALASH pointed out that automatic telemarketing picks out specific recipients of the message being communicated.

REPRESENTATIVE BERKOWITZ interjected that the same is true of direct mail.

MR. BALASH agreed, and related his belief that the term "direct mail" wasn't used.

REPRESENTATIVE BERKOWITZ said that automatic telemarketing seems to fit in the list of communications.

CHAIR KOTT restated Amendment 1: page 4, line 29, after "Internet," insert "automatic telemarketing". There being no objection, Amendment 1 was adopted.

Number 1956

REPRESENTATIVE BERKOWITZ turned to the following amendment:

Page 1, line 2:

Delete "and"

Following "degree":

Insert ", and to repayment of prohibited contributions"

Page 1, line 5, through page 6, line 11:

Delete all material and insert:

**\*\* Section 1.** AS 15.13.090, as amended by secs. 18

and 19, ch. 1, SLA 2002, is amended to read:

**Sec. 15.13.090. Identification of communication and disclosure of source of funds.** (a) All advertisements, billboards, handbills, paid-for television and radio announcements, **electioneering communications**, and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group, nongroup entity, or individual paying for the **communication** [ADVERTISING]. In addition, candidates and groups must identify the name of their campaign chairperson.

(b) The provisions of (a) of this section do not apply when the **communication** [ADVERTISEMENT]

(1) is paid for by an individual acting independently of any group or nongroup entity and independently of any other individual;

(2) is made to influence the outcome of a ballot proposition as that term is defined by AS 15.13.065(c); and

(3) is made for

(A) a billboard or sign; or

(B) printed material other than an advertisement made in a newspaper or other periodical.

\* **Sec. 2.** AS 15.13.090 is amended by adding a new subsection to read:

(c) A person making a communication subject to (a) of this section shall report to the commission the source of funds used to pay for the communication according to the schedule specified in AS 15.13.110(a). If the communication is made within nine days of an election, the source of funds used to pay for the communication shall be reported to the commission within 24 hours after the communication.

\* **Sec. 3.** AS 15.13 is amended by adding a new section to read:

**Sec. 15.13.382. Repayment of prohibited contributions.** A person receiving a contribution any portion of which was made in violation of the provisions of this chapter shall return the full contribution to the contributor.

\* **Sec. 4.** AS 15.13.390(a) is amended to read:

(a) A person who fails to register when required by AS 15.13.050(a) or who fails to file a properly completed and certified report within the time required by AS 15.13.040(d) - (f), 15.13.060(b) - (d),

[15.13.080(c),] 15.13.110(a)(1), (3), or (4), (e), or (f) is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty of not more than \$500 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who violates a provision of this chapter, except a provision requiring registration or filing of a report within a time required as otherwise specified in this section, is subject to a civil penalty of not more than \$50 a day for each day the violation continues as determined by the commission, subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.380 does not excuse that person from registering or filing reports required by this chapter.

**\* Sec. 5.** AS 15.13.400, as amended by ch. 1, SLA 2002, is amended by adding a new paragraph to read:

(13) "electioneering communication" means a communication that

(A) is made within the 30 days preceding a primary election or the 60 days preceding a general election;

(B) is made by way of direct mail, newspaper, Internet, broadcast, cable, or satellite media, telephone poll, or organized series of calls to an audience that includes voters who will have the opportunity to vote on a candidate clearly identified in the communication or on a candidate of a party clearly identified in the communication; and

(C) when read as a whole and with limited reference to external events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate in the general or primary election.

**\* Sec. 6.** AS 15.56.014(a) is amended to read:

(a) A person commits the crime of campaign misconduct in the second degree if the person

(1) knowingly circulates or has written, printed, or circulated a letter, circular, or publication relating to an election, to a candidate at an election, or to an election proposition or question without the name and address of the author appearing on its face;

(2) except as provided by AS 15.13.090(b), knowingly prints or publishes an advertisement, billboard, placard, poster, handbill, paid-for television or radio announcement, **electioneering communication as that term is defined in AS 15.13.400,** or other communication intended to influence the election of a candidate or outcome of a ballot proposition or question without the words "paid for by" followed by the name and address of the candidate, group, or individual paying for the advertising or communication and, if a candidate or group, with the name of the campaign chair;

(3) knowingly writes or prints and circulates, or has written, printed, and circulated, a letter, circular, bill, placard, poster, or advertisement in a newspaper, on radio, or on television

(A) containing false factual information relating to a candidate for an election;

(B) that the person knows to be false; and

(C) that would provoke a reasonable person under the circumstances to a breach of the peace or that a reasonable person would construe as damaging to the candidate's reputation for honesty or [,] integrity, or to the candidate's qualifications to serve if elected to office."

Renumber the following bill sections accordingly.

He explained that Section 1 in the amendment requires that all fund sources be disclosed and adds "electioneering communications".

REPRESENTATIVE PORTER inquired as to why "electioneering communications" was added.

REPRESENTATIVE BERKOWITZ pointed out that it works in conjunction with the definition of "electioneering communications" in the amendment, which is found in Section 5 of the amendment.

REPRESENTATIVE PORTER noted, "But the bill changes those 30 and 60 days to 30 days."

REPRESENTATIVE BERKOWITZ agreed, but explained that "it specifies not the intent of the person taking out the advertisement but the consequence of the advertisement." Representative Berkowitz pointed out that the language in Section 5(C) of the amendment has been tested in the courts and found to be acceptable. The language of the amendment doesn't require an intent component in order to find that an electioneering communication has occurred, which Version B seems to do.

REPRESENTATIVE PORTER remarked that this is something that should've been addressed in the House Judiciary Standing Committee. He related his view that the language is restrictive to the point that there will "nine out of ten ways to get around it rather than one way to nail it down." Therefore, Representative Porter objected.

SENATOR THERRIAULT pointed out that the amendment would require a title change. Senator Therriault related that Version B narrows the scope and takes into consideration court cases and attempts to make the bill as defensible as possible. Therefore, he preferred staying with Version B.

REPRESENTATIVE BERKOWITZ commented that he would like to see some of the changes accommodated [because] time is running out.

REPRESENTATIVE PORTER maintained his objection to Amendment 2.

A roll call vote was taken. Representatives Berkowitz and Joule voted for the adoption of Amendment 2. Representatives Porter, Kohring, Morgan, McGuire, and Kott voted against the adoption of Amendment 2. Therefore, Amendment 2 failed by a vote of 2-5.

Number 2195

REPRESENTATIVE PORTER moved to report HCS CSSB 363, Version 22-LS1713\B, Kurtz, 5/12/02, as amended out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 363(RLS) was reported from the House Rules Standing Committee.

SB 324-MUNICIPAL PUB.UTIL.COMPETING W/TELECOM

CHAIR KOTT announced that the final order of business would be CS FOR SENATE BILL NO. 324(L&C), "An Act providing that a utility or electric operating entity owned and operated by a political subdivision of the state competing directly with a telecommunications utility is not subject to the Alaska Public Utilities Regulatory Act."

RANDY RUARO, Staff to Representative Bill Williams, Alaska State Legislature, explained that SB 324 continues to allow municipally operated utilities to continue to be exempt from regulation by the Regulatory Commission of Alaska (RCA) when the utility faces competition from a telecommunications utility. Therefore, regulations for municipally operated utilities would continue to be done at the local level by the citizen utility boards and elected municipal officials. That system of regulation has been in Ketchikan for at least 50 years. Mr. Ruaro noted that the RCA has submitted a letter that does not oppose the bill. He informed the committee that the states of Oregon and Washington maintain exceptions for utilities.

REPRESENTATIVE BERKOWITZ asked if this legislation applies only to the Ketchikan utility.

MR. RUARO clarified that the statute is drafted to apply statewide to any utility. In further response to Representative Berkowitz, Mr. Ruaro said that he has heard that there are two other municipal utilities that are operating up North. Furthermore, it's possible for any municipality to form a utility any time in the future.

REPRESENTATIVE McGUIRE asked what prompted this legislation.

Number 2313

KARL AMYLON, General Manager, Ketchikan Public Utilities, answered that this legislation attempts to preserve a level playing field for the different utility components of the Ketchikan Public Utilities. Without this legislation, if a telecommunications company comes to Ketchikan, "we potentially risk all of our utilities ... becoming regulated." Furthermore, there are different degrees of regulations. He explained that if a lightly regulated telecommunications company enters Ketchikan, Ketchikan Public Utilities would face becoming fully rate regulated and the associated expenses.

REPRESENTATIVE McGUIRE inquired as to why a utility owned by a political subdivision of the state should not be regulated while the others should.

MR. AMYLON clarified that the aforementioned isn't [Ketchikan Public Utilities'] position. He specified that the desire is to treat competing utilities within the Ketchikan political subdivision equally. In response to Representative Berkowitz, Mr. Amylon related his belief that Alaska Power & Telephone did make comments on this legislation, although they aren't directly competing with Ketchikan Public Utilities at the present time.

TAPE 02-15, SIDE B

CHAIR KOTT, determining no one else wished to testify, closed the public testimony.

Number 2385

REPRESENTATIVE PORTER moved to report CSSB 324(L&C) out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSSB 324(L&C) was reported from the House Rules Standing Committee.

The committee took a brief at-ease at 10:05 a.m.

#### **ADJOURNMENT**

The meeting was [recessed to the call of the chair] at 10:05 a.m. [This meeting didn't reconvene.]