

**ALASKA STATE LEGISLATURE  
HOUSE SPECIAL COMMITTEE ON ECONOMIC  
DEVELOPMENT, INTERNATIONAL TRADE AND TOURISM**

March 16, 2004

5:45 p.m.

**MEMBERS PRESENT**

Representative Cheryll Heinze, Chair  
Representative Lesil McGuire, Vice Chair  
Representative Pete Kott  
Representative Nancy Dahlstrom  
Representative Vic Kohring  
Representative Sharon Cissna  
Representative Harry Crawford

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 485

"An Act relating to the powers of the Alaska Energy Authority to make grants and loans and enter into contracts; relating to the bulk fuel revolving loan fund; relating to the Alaska Energy Authority's liability for the provision of technical assistance to rural utilities; relating to the Alaska Energy Authority's investment of the power development fund; repealing the electrical service extension fund; and providing for an effective date."

- MOVED HB 485 OUT OF COMMITTEE

HOUSE BILL NO. 449

"An Act relating to the contracting and financing authority of the Alaska Industrial Development and Export Authority; authorizing the authority to issue bonds in a principal amount not to exceed \$76,000,000 to finance the acquisition, design, construction, inventory, and operation of natural gas, propane air, or manufactured gas public utility facilities; and providing for an effective date."

- MOVED CSHB 449(EDT) OUT OF COMMITTEE

HOUSE BILL NO. 426

"An Act relating to the levy and collection of an assessment on certain tourism-related and recreation-related goods and services, to tourism marketing contracts, and to vehicle rental taxes; and providing for an effective date."

- MOVED CSHB 426(EDT) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 485

SHORT TITLE: ENERGY PROGRAMS & FUNDS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/16/04	(H)	READ THE FIRST TIME - REFERRALS
02/16/04	(H)	EDT, CRA, FIN
02/26/04	(H)	EDT AT 5:15 PM CAPITOL 120
02/26/04	(H)	-- Meeting Canceled --
03/02/04	(H)	EDT AT 10:00 AM CAPITOL 120
03/02/04	(H)	Scheduled But Not Heard
03/09/04	(H)	EDT AT 10:00 AM CAPITOL 120
03/09/04	(H)	-- Meeting Canceled --
03/16/04	(H)	EDT AT 5:15 PM CAPITOL 120

BILL: HB 449

SHORT TITLE: AIDEA BONDS FOR GAS PUBLIC UTILITIES

SPONSOR(S): REPRESENTATIVE(S) HARRIS BY REQUEST

02/09/04	(H)	READ THE FIRST TIME - REFERRALS
02/09/04	(H)	EDT, L&C, FIN
02/26/04	(H)	EDT AT 5:15 PM CAPITOL 120
02/26/04	(H)	-- Meeting Canceled --
03/02/04	(H)	EDT AT 10:00 AM CAPITOL 120
03/02/04	(H)	<Bill Hearing Canceled>
03/09/04	(H)	EDT AT 10:00 AM CAPITOL 120
03/09/04	(H)	-- Meeting Canceled --
03/16/04	(H)	EDT AT 5:15 PM CAPITOL 120

BILL: HB 426

SHORT TITLE: TOURISM & RECREATION ASSESSMENT/CAR TAX

SPONSOR(S): REPRESENTATIVE(S) KOTT

02/04/04	(H)	READ THE FIRST TIME - REFERRALS
02/04/04	(H)	EDT, L&C, FIN
02/12/04	(H)	EDT AT 10:00 AM CAPITOL 120
02/12/04	(H)	Heard & Held
02/12/04	(H)	MINUTE(EDT)
02/17/04	(H)	EDT AT 10:00 AM CAPITOL 120

02/17/04 (H) -- Meeting Canceled --  
03/16/04 (H) EDT AT 5:15 PM CAPITOL 120

**WITNESS REGISTER**

BECKY GAY, Project Manager  
Alaska Industrial Development & Export Authority (AIDEA) and  
Alaska Energy Authority (AEA)  
Anchorage, Alaska  
POSITION STATEMENT: Presented HB 485.

JIM McMILLAN, Deputy Director, Credit  
Alaska Industrial Development & Export Authority (AIDEA) and  
Alaska Energy Authority (AEA)  
Anchorage, Alaska  
POSITION STATEMENT: During discussion of HB 485, answered  
questions.

PETER FELLMAN, Staff  
to Representative John Harris  
Alaska State Legislature  
Juneau, Alaska  
POSITION STATEMENT: Presented HB 449 on behalf of its sponsor,  
Representative Harris, by request of the Alaska Intrastate Gas  
Company.

PAUL RUSANOWSKI, Vice President  
Alaska Intrastate Gas Company (AIGC)  
Anchorage, Alaska  
POSITION STATEMENT: Spoke as the requestor of HB 449.

BOB VALDETTA  
Seward, Alaska  
POSITION STATEMENT: During discussion of HB 449, testified that  
natural gas should be brought to Seward.

PHILIP SHEALY, City Manager  
City of Seward  
Seward, Alaska  
POSITION STATEMENT: Requested that Seward be certified as the  
eighteenth community in the proposal encompassed in HB 449.

WILLARD DUNHAM, Member  
City Council  
City of Seward  
Seward, Alaska

POSITION STATEMENT: Urged the committee's support of Seward being added to the list of communities included in HB 449.

LOUIS BENCARDINO

Seward, Alaska

POSITION STATEMENT: Representing the Mayor of the City of Seward, who supports [inclusion of Seward in HB 449].

SUE STANCLIFF

House Majority Office

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 426 on behalf of the sponsor, Representative Kott.

DAN DICKINSON, Director

Tax Division

Department of Revenue

Anchorage, Alaska

POSITION STATEMENT: Explained Amendment 2 to HB 426 and answered questions.

JOEL HANSON

The Boat Company

Sitka, Alaska

POSITION STATEMENT: Testified in opposition to HB 426 and its Senate companion.

ROB HARDY

Wasilla, Alaska

POSITION STATEMENT: Testified in opposition to the portion of HB 426 on page 2 [Section 4(a)(1) and (2)], which refers to scenic transportation services and recreational vacation camp services.

CHIP THOMA

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 426.

JOSHUA ADAMS

Alaskan Hotel & Bar

Juneau, Alaska

POSITION STATEMENT: Characterized HB 426 as subsidized speech.

JAMES BARRETT, Co-Owner

Bergman Hotel

Juneau, Alaska

POSITION STATEMENT: Expressed concerns with HB 426.

**ACTION NARRATIVE**

**TAPE 04-14, SIDE A**

Number 0001

**CHAIR CHERYLL HEINZE** called the House Special Committee on Economic Development, International Trade and Tourism meeting to order at 5:45 p.m. Representatives Heinze, McGuire, Kott, Kohring, Dahlstrom, and Cissna were present at the call to order. Representative Crawford arrived as the meeting was in progress.

HB 485-ENERGY PROGRAMS & FUNDS

CHAIR HEINZE announced that the first order of business would be HOUSE BILL NO. 485, "An Act relating to the powers of the Alaska Energy Authority to make grants and loans and enter into contracts; relating to the bulk fuel revolving loan fund; relating to the Alaska Energy Authority's liability for the provision of technical assistance to rural utilities; relating to the Alaska Energy Authority's investment of the power development fund; repealing the electrical service extension fund; and providing for an effective date."

Number 0076

BECKY GAY, Project Manager, Alaska Industrial Development & Export Authority (AIDEA) and Alaska Energy Authority (AEA), explained that HB 485 relates to the powers of AEA and amends the AEA program. She pointed out that the legislation impacts the power project fund, which provides loans to local utilities and governments or independent power producers for the development or upgrade of power projects. This legislation would amend AEA by expanding the definition of a power project to include energy efficiency projects because under the existing statutory definition of eligible projects, AEA has had to deny applications for worthwhile projects. Additionally, this legislation will repeal the loan committee that reviews and approves loans from this fund, and therefore AEA will use the same credit approval process that AIDEA has successfully utilized for its credit program.

MS. GAY pointed out that HB 485 also impacts the bulk fuel revolving loan fund program, which provides short-term loans to assist small rural communities in purchasing annual bulk fuel

supplies. This legislation would authorize loans from the program to other entities, such as corporations, cooperatives, and joint ventures. Recently, the Department of Law interpreted the current statutory eligible borrowers to be only communities and natural persons. The change encompassed in HB 485 won't expand the definition of eligible borrowers beyond the long-standing practice, which includes other entities such as corporations.

MS. GAY noted that HB 485 also provides that AEA may invest in its development fund. With concurrence of the Department of Revenue, the power development fund has been invested by AEA since 1993. This legislation proposed to confirm the aforementioned by providing the statutory authority to invest the fund. She noted that AEA would continue to remit all earnings of the fund to the general fund (GF). Ms. Gay highlighted that the legislation proposes amending the general powers of AEA by clarifying that AEA has the authority to manage various projects by issuing grants and contracts. By acting as an agent for rural communities, AEA manages power projects, bulk fuel projects, and alternative energy projects. The legislature has authorized the aforementioned through the appropriation process by providing AEA authority to receive and extend federal funds from entities such as the Denali Commission and the U.S. Department of Energy. Moreover, HB 485 specifies that AEA's statutory mandate to provide technical assistance may not be used as an independent basis for tort liability against AEA, although AEA would continue to be liable for negligence if it failed to use reasonable care in failing to use technical assistance. Lastly, HB 485 would repeal the inactive electrical service extension fund. Ms. Gay thanked the committee for the ability to testify in support of HB 485, and urged the committee's favorable action on it.

Number 456

JIM McMILLAN, Deputy Director, Credit, Alaska Industrial Development & Export Authority (AIDEA) and Alaska Energy Authority (AEA), in response to Representative Dahlstrom, said that he was satisfied [with the legislation]. In response to Chair Heinze, Mr. McMillan explained that AEA is a public corporation "with a separate legal existence" that's governed by a board of directors. The board of directors is the same board that governs AIDEA. Of the five-member board, two are public members, one is the commissioner of the Department of Revenue, one is the commissioner of the Department of Transportation & Public Facilities, and one - currently the commissioner of

Department of Community & Economic Development - can be selected by the governor.

Number 0590

REPRESENTATIVE KOHRING moved to report HB 485 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

HB 449-AIDEA BONDS FOR GAS PUBLIC UTILITIES

CHAIR HEINZE announced that the next order of business would be HOUSE BILL NO. 449, "An Act relating to the contracting and financing authority of the Alaska Industrial Development and Export Authority; authorizing the authority to issue bonds in a principal amount not to exceed \$76,000,000 to finance the acquisition, design, construction, inventory, and operation of natural gas, propane air, or manufactured gas public utility facilities; and providing for an effective date."

Number 0630

PETER FELLMAN, Staff to Representative John Harris, Alaska State Legislature, presented HB 449 on behalf of its sponsor, Representative Harris, by request of the Alaska Intrastate Gas Company. He announced that Representative Harris is supportive of any efforts to develop the natural resources of the state. Furthermore, Representative Harris recognizes the need to develop infrastructure in order to utilize those developing resources. He explained that regardless of the viability of the project, new project ideas are important to resource development. Mr. Fellman related that Representative Harris is a firm believer in the people's legislature and allowing the committee process to be utilized to bring forth new ideas. He then deferred to Mr. Rusanowski.

Number 0735

PAUL RUSANOWSKI, Vice President, Alaska Intrastate Gas Company (AIGC), informed the committee that AIGC is in the process of developing gas utility service to 17 communities throughout Southeast Alaska and the Gulf of Alaska. Currently, AIGC's efforts are focused on obtaining financing and the placement of a bond issue to begin construction of a utility in the near future. This legislation addresses a concern that the communities have by expanding the financing opportunities to those communities. The AIGC and AIDEA have agreed upon an

initial development program involving conduit bond financing, which is moving forward now. The aforementioned will cover the startup of the project and financing for the first two to three communities. However, the remaining 14 communities still need to be brought on line in the future years. Therefore, this legislation provides a mechanism for communities working with AIGC to consider various options suited for development of the utility within each of these communities. Although the development finance program may or may not be a suitable option in the future, he highlighted that all 17 communities are part of one project. If the entire project is fully built out as planned, it will exceed \$100 million. He explained that legislative approval is required for AIDEA to consider a development finance program for any communities because currently there is a \$10 million cap, which this legislation would remove by granting approval for the 17 communities to proceed with the development finance project, if viable. Furthermore, the legislation includes \$76 million in bond authority and a sunset of July 1, 2009. In conclusion, Mr. Rusanowski urged passage of HB 449.

MR. RUSANOWSKI, in response to Chair Heinze, confirmed that HB 449 would allow AIDEA the opportunity to use the development finance program. He reiterated that AIDEA is already assisting with financing the project through conduit bond financing, which doesn't require legislative approval. In further response, he also confirmed that the total project is \$100 million and the bond limit is \$76 million.

Number 0988

REPRESENTATIVE KOHRING informed the committee that some want a minor tweak to HB 449 because of the belief that this legislation would benefit the City of Seward. Therefore, he noted that he has an amendment to offer on that matter.

Number 1076

BOB VALDETTA said that natural gas should be brought to Seward for industrial and consumer use.

PHILIP SHEALY, City Manager, City of Seward, informed the committee that the City of Seward supports bringing gas to communities such as Seward, which [aren't connected with] conventional gas supply systems. Therefore, he requested that Seward be certified as the eighteenth community in the proposal encompassed in this legislation.

REPRESENTATIVE CISSNA inquired as to the benefits of including the City of Seward.

MR. SHEALY informed the committee that the heating source in Seward is fuel oil, which is approximately double the cost of fuel provided through natural gas. Therefore, there would be a cost savings to the community. Additionally, natural gas is more environmentally friendly than fuel oil. Mr. Shealy related the belief that access to natural gas would [help] with the community's environmental development efforts.

Number 1190

WILLARD DUNHAM, Member, City Council, City of Seward, related his support of Seward being added to the list of communities included in HB 449. For many years, Seward has tried to get natural gas to Seward. However, for one reason or another each attempt hasn't come to fruition. This legislation is the first opportunity Seward has seen to be tied into a barge service. Mr. Dunham said he believes this is critical for Seward to have a better alternative fuel than diesel. It would be a large cost savings to switch the diesel backup generating plants to gas fired generators. Therefore, he urged the committee to look favorably on including Seward in this legislation.

Number 1293

LOUIS BENCARDINO informed the committee that he is representing the Mayor of the City of Seward who supports [inclusion of Seward in HB 449]. The community of Seward needs [the ability to use natural gas]. Furthermore, he opined that it's time that the state utilized some of its own fuel.

Number 1362

REPRESENTATIVE KOHRING moved that the committee adopt Amendment 1, which read:

Pg. 1 Line 13 insert [city of Seward] after Sitka

REPRESENTATIVE KOHRING said that natural gas is important for any community and for more than heating homes. Natural gas is important for industry as well. He highlighted that Seward is an important industrial port that receives a lot of goods and services that benefit areas beyond Seward. Therefore, what will benefit Seward will benefit many others in the state.

[Amendment 1 was treated as adopted.]

Number 1430

REPRESENTATIVE KOTT asked if the adoption of Amendment 1 impacted the bonding amount of \$76 million.

REPRESENTATIVE KOHRING said he didn't know.

MR. SHEALY informed the committee that [the City of Seward] has been advised by Mr. Francis Avezac, Chairman of the Board, AIGC, that he will work with the City of Seward so that it can be included in the financial parameters that have been outlined.

Number 1472

REPRESENTATIVE MCGUIRE moved to report HB 449, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 449(EDT) was reported from the House Special Committee on Economic Development, International Trade and Tourism.

HB 426-TOURISM & RECREATION ASSESSMENT/CAR TAX

CHAIR HEINZE announced that the final order of business would be HOUSE BILL NO. 426, "An Act relating to the levy and collection of an assessment on certain tourism-related and recreation-related goods and services, to tourism marketing contracts, and to vehicle rental taxes; and providing for an effective date."

Number 1520

REPRESENTATIVE KOHRING moved to adopt CSHB 426, Version 23-LS1575\S, Kurtz, 3/9/04, as the working document. There being no objection, Version S was before the committee.

SUE STANCLIFF, House Majority Office, Alaska State Legislature, explained that [the sponsor] worked with the Alaska Travel Industry Association (ATIA) and [the Alaska Tourism and Marketing Board] to consolidate and refine the taxable items. Version S removes references to salmon bakes and goods produced in Alaska. Ms. Stancliff specified, "We removed the ... ability to turn on and off the tax so that if the industry does not like the tax, or at some point it needs to be turned off, they have the ability to turn it off; we refined that." The aforementioned are the significant changes in the legislation.

However, she noted that the committee packet should include some amendments that developed after working with the Department of Revenue.

Number 1618

REPRESENTATIVE KOTT moved that the committee adopt Amendment 1, which read [original punctuation provided]:

Page 4, line 17 - 18:

Delete: [value of sales leases, and rentals described in AS 44.33.126(a) and not exempt under AS 44.33.127]

Insert: tax paid under this chapter for the prior calendar year.

Page 4, lines 28-29

Delete: [value of sales leases, and rentals described in AS 44.33.126(a) and not exempt under AS 44.33.127 during the calendar year]

Insert: tax paid under this chapter for the prior calendar year

Page 5, line 3

Delete: [effective date stated on the ballot]

Insert: the next December 31 occurring at least 5 months after the date of the certification of this election under AS 44.33.129

Page 6, line 2

Insert: if the termination is approved after the word assessment and before the semicolon

Page 6, line 12

Insert: (a) after the title and before the text.

Page 6, line 14

Delete: [the total value of sales leases, and rentals described in AS 44.33.126(a) and not exempt under AS 44.33.127 during the calendar year]

Insert: tax paid under this chapter for the prior calendar year.

Page 6, line 18 - 19:

Delete: [total value of sales leases, and rentals described in AS 44.33.126(a) and not exempt under AS 44.33.127 during the calendar year]

Insert: tax paid under this chapter for the prior calendar year.

Page 6, line 21-23

Delete: [total value of sales leases, and rentals described in AS 44.33.126(a) and not exempt under AS 44.33.127 during the calendar year]

Insert: tax paid under this chapter for the prior calendar year.

Page 6, line 24

Insert:

(b) Dollars paid with returns filed by taxpayers for the calendar year shall be considered probative of the amount of tax paid for the calendar year, except where the Commissioner, at his or her discretion may substitute audit assessments, claims for refund or other pertinent evidence.

(c) Taxpayers appealing the commissioner's determination shall be considered aggrieved under AS 43.05.240, however an appeal under that section will not delay the commissioner's determination.

REPRESENTATIVE KOTT objected in order to hear an explanation of Amendment 1.

MS. STANCLIFF informed the committee that most of Amendment 1 is conforming language.

Number 1651

DAN DICKINSON, Director, Tax Division, Department of Revenue, informed the committee that under this legislation the industry can vote to terminate the assessment. As Version S specifies, "the termination is approved by eligible visitor industry businesses that together account for at least 51 percent of the value of sales, leases, and rentals ...". However, the department suggested reviewing the calendar year prior to the year [the termination is requested] and those who paid 51 percent of the tax [in that prior calendar year] would have to

vote in favor of the termination in order for it to occur. The reason to review the amount of the tax paid rather than the sales is because one should reflect the other. Furthermore, the department felt that it was important to review a specific calendar year. He explained that one of the ways the election can occur [under the current legislation] is if those representing 25 percent of the sales [want it], and therefore [Amendment 1] attempts to conform the language to refer to 25 percent of the tax paid. Mr. Dickinson pointed out that the legislation refers to "assessment" rather than "tax", and therefore the legislation's reference to "taxpayer" may need to be reviewed. For all of the above reasons, Amendment 1 replaces the language "value of sales, leases, and rentals described in AS 44.33.126(a) and not exempt under AS 44.33.127" with the language "tax paid under this chapter for the prior calendar year".

MR. DICKINSON further explained that Amendment 1 also makes a change such that when the industry votes to terminate the tax, it will be terminated on the next December 31st that occurs at least five months after the date of the certification of the election. Therefore, businesses are given enough time to change tax amounts in their computerized systems. The new provisions that Amendment 1 would insert on page 6, line 24 of the legislation continues the notion "that it's going to be the amount of tax paid by the taxpayers." "But, unfortunately, especially if there's a close election, there really could be at the margin these ... issues," he said. Therefore, Amendment 1 inserts a provision specifying the following: "the Commissioner, at his or her discretion may substitute audit assessments, claims for refund or other pertinent evidence." The other provision Amendment 1 inserts on page 6 provides the taxpayer the right to appeal a decision.

Number 1861

REPRESENTATIVE KOTT removed his objection.

CHAIR HEINZE, upon determining there was no other objection, announced that Amendment 1 was adopted.

REPRESENTATIVE KOTT moved that the committee adopt Amendment 2, which read [original punctuation provided]:

Page 2, line26

Delete: [in this paragraph, "air transportation" includes transportation by small]

Insert including following law;

Page 2, line27

Insert: , marine hwy, and railroad after ski lift and before the semicolon.

Page 3, lines 5 - 8

Delete: ALL MATERIAL

REPRESENTATIVE KOTT objected for discussion purposes.

MS. STANCLIFF explained that the first change listed in Amendment 2 attempts to refine the language and clean up any ambiguity. Amendment 2 also inserts references to the marine highway and the railroad. She explained that the language on page 3, lines 5-8, is being deleted because the references to the sale of marine ferry transportation services and railroad transportation services would "touch on" the shipping of fuel, coal, et cetera, which isn't the intent of the legislation.

Number 1972

CHAIR HEINZE recalled that at the last meeting there was concern with regard to the Alaska Marine Highway System (AMHS), and asked if that concern had been addressed.

MS. STANCLIFF said that whether or not to tax AMHS passengers is a policy call for the committee. She recalled that the majority of [AMHS] sales occur during the summer due to visitors.

CHAIR HEINZE then recalled that the suggestion was to have a [seasonal tax] in which the driver would show his or her drivers' license and not be taxed [if an Alaskan resident]. She asked if the aforementioned was addressed [in Version S].

MS. STANCLIFF replied no, but offered that the committee could adopt a conceptual amendment that would exempt Alaska residents with proof of a drivers' license or Alaska residency.

Number 2025

REPRESENTATIVE KOTT withdrew his objection to Amendment 2.

CHAIR HEINZE, upon determining there was no other objection, announced that Amendment 2 was adopted. She then returned the

committee's attention to the possibility of a conceptual amendment regarding AMHS.

REPRESENTATIVE DAHLSTROM specified that the concern was in regard to those Alaskans who use AMHS as their main mode of transportation for medical and educational matters.

Number 2076

CHAIR HEINZE, upon determining there was no objection to the conceptual amendment [that would exempt Alaska residents from the proposed tax with proof of a drivers' license or Alaska residency], announced that [Conceptual Amendment 3] was adopted.

MS. STANCLIFF interjected that AMHS advertises the Inside Passage, and therefore many visitors use AMHS as if it were a cruise. For that reason, it's reasonable, she opined, to associate AMHS with the visitor industry and tax it.

Number 2131

JOEL HANSON, The Boat Company, informed the committee that The Boat Company is a 25-year-old Alaska corporation that offers high-quality educational cruises throughout the waters of Southeast Alaska and in the winter operations occur in Costa Rica and Panama. Mr. Hanson related that he is opposed to HB 426 and its Senate companion. He noted that his comments will speak to the original version of HB 426. He pointed out that the assessment in HB 426 is modeled after the Alaska Seafood Marketing Institute (ASMI) assessment. However, there is a big difference between salmon and tourists. Salmon can't promote salmon fishermen and processors whereas tourists can promote those in the tourism industry that they meet. The ASMI assessment isn't perfect and nor is the assessment model put forth by ATIA. Mr. Hanson said that the Alaska tourism industry needs regulating. He pointed out that ATIA would be responsible for issuing notices with regard to their position on things such as a cruise ship dock in Sitka. Some of the members of ATIA are from Alaska Airlines, Royal Caribbean, Princess Cruise Lines, Holland American Lines, the Anchorage Convention & Visitors Bureau, the Kodiak Convention & Visitors Bureau, the Fairbanks Convention & Visitors Bureau, et cetera. All of the aforementioned have a vested interest in increasing the number of visitors to Alaska. However, not all areas are interested in exponential increases in tourism.

Number 2285

MR. HANSON remarked that he was glad the committee was discussing AMHS passenger issue, and opined that Alaska residents should have an exemption to any increases to AMHS fares. However, he noted that many extended families of Alaskans visit via AMHS. He informed the committee that he had read a report declaring that this summer there is no more room for cars on AMHS from Bellingham, Washington. Therefore, to further promote tourism on AMHS would seem to place those Southeast Alaskans who depend upon AMHS for transportation in a further bind.

MR. HANSON noted that ATIA "makes a big deal" about Alaska being ranked 36 for state funding of tourism. However, Alaska isn't like other states. Mr. Hanson opined that it isn't the time to levy taxes for broad-based marketing such as proposed in HB 426 because there are a number of tax proposals that aren't yet settled. For instance, there is the transportation and accommodation tax.

**TAPE 04-14, SIDE B**

MR. HANSON turned to the "switch off" provisions, which he referred to as great, although complicated.

Number 2343

ROB HARDY informed the committee that he and his wife operate a small, remote, ecotourism business in the Talkeetna mountains. Mr. Hardy announced his adamant opposition to the portion of HB 426 on page 2 [Section 4(a)(1) and (2)], which refers to scenic transportation services and recreational vacation camp services. With the financial burden he faces due to permitting, licensing, liability insurance, advertising, logistical expenses, and basic operating costs, his business is struggling to survive. The marketing strategy of ATIA doesn't target the audience or clientele who seek his remote, adventure services. The marketing of ATIA predominantly benefits larger corporate services, out-of-state operators, the cruise line industry, and overall corporate interests. His business, he opined, sees little from ATIA's direct marketing or representation. "To saddle the smaller, in state, remote, mom and pop type businesses that are struggling to stay economically viable with a tourism assessment that they, by and large, do not benefit from will be detrimental to local and rural economies, the viability of individual business, community, and social development," he remarked.

MR. HARDY, in response to Chair Heinze, specified that he has a seasonal home outside of Wasilla, and for seven to eight months of the year his family [and business] is located in the heart of the Talkeetna Mountains, approximately 85 miles due east of Talkeetna. Therefore, the area of operation is accessible by horse and wheel plane.

Number 2218

REPRESENTATIVE KOHRING thanked Mr. Hardy for his testimony, which he will take to heart. Representative Kohring noted his appreciation of the tourism industry raising marketing dollars, but noted his philosophical disagreement with this legislation.

REPRESENTATIVE CISSNA inquired as to how Mr. Hardy's business has been in the past few years.

MR. HARDY related that through his good reputation and his own aggressive marketing strategy on the Internet, his business has experienced a slight increase in clientele over the last six to seven years.

Number 2070

CHIP THOMA paraphrased from the following written testimony [original punctuation provided]:

- Retain my opposition to the bill on constitutional grounds; The effect of HB 426 is to compel those being assessed the tax to subsidize speech with which they may disagree.
- According to well-documented, federal case law, proposals like HB 426 before you violates the First Amendment, which prevents government from prohibiting individuals from speaking, and it also prevents government from requiring them to speak.
- There is a long, but very recent history, of these promotional entities being struck down by federal courts, beginning with the US Supreme Court and the mushroom industry in 2001, known as United States v. United Foods, following through with BEEF (What's for dinner?) PORK (The other white meat) and potatoes, watermelon, alligator skin, fresh-cut flowers, popcorn and avocados.

- Remember the celebrity moustaches of the Got Milk? campaign. Two weeks ago that federal assessment program was found to violate the free speech of dairy farmers in a unanimous decision by the US Court of Appeals of the Third Circuit. (Cochran v. the Secretary of Agriculture)
- I have provided the committee with the news story and background on this latest decision, and a copy of the Third Circuit ruling for staff.
- A similar Come to Alaska campaign is no different from these promotional/advertising entities found unconstitutional.
- Finally, the briefing by the successful litigants in the Got Milk? case used a very forceful quote from America's third President, Thomas Jefferson:

"To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

I believe this 200 year old quote makes the case well against passage of HB 426, and obviously the federal courts believe so, too.

Number 1963

REPRESENTATIVE MCGUIRE asked if he believes [the state] is doing enough to market tourism.

MR. THOMA replied yes. He highlighted that the cruise ship industry is increasing by 9 percent this year, which, when compared to five years ago, is a 15 percent increase. He informed the committee that 800,000-850,000 visitors are coming to Juneau this year and throughout Southeast, which should increase to 1 million in the next couple of years. Therefore, he opined that the monopoly that owns Princess, Holland America, and Carnival Cruises does an outstanding job in promoting Alaska. He also informed the committee that Juneau receives over 100,000 independent travelers through the airport. The only part of the state that has suffered [in regard to tourism] has been the Fairbanks area, which he attributed to being an "accident of geography" and the price of gas.

REPRESENTATIVE McGUIRE asked if Mr. Thoma believes that tourists impact state services.

MR. THOMA replied no, but noted his belief that tourists impact local/municipal services. He pointed out that Juneau has a \$5 head tax, which brings in about \$4 million a year and pays for all the services related to cruise ship passengers on the docks. In further response to Representative McGuire, Mr. Thoma specified that individual cruise ship tourists don't drive on state roads, but the tour buses do. He said he didn't believe state troopers are utilized [with cruise ship passengers], although he acknowledged that once in awhile an ambulance is used and that cost comes out of the head tax.

REPRESENTATIVE McGUIRE pointed out that HB 426 is a direct response to the governor's proposal, which would require those tourists who come and enjoy the state to put some money into the state's coffers as an Alaskan touring another state would do. Representative McGuire asked if Mr. Thoma believes Governor Murkowski's approach to assess the tax throughout the industry and return it to the state would be a better approach.

MR. THOMA responded that he is a firm believer in the cruise ship head tax, whether statewide or local. He opined that if the state doesn't pass a head tax, Juneau will likely increase its head tax. The head tax is done throughout the world and is a very clean way of taxing.

Number 1736

CHAIR HEINZE highlighted that the federal regulations require that any cruise ship tax collected would have to be used for the infrastructure [of the tourism industry]. She asked if Mr. Thoma wanted to change the federal regulation.

MR. THOMA replied no, and opined that the head tax can be collected and spent on infrastructure.

CHAIR HEINZE asked if Mr. Thoma believes that the lion share of Mr. Binkley's customers in Fairbanks are cruise ship passengers.

MR. THOMA answered yes, adding that he believes that all of Mr. Binkley's customers come up either on the train or the bus, and [proceed] on a cruise ship as a consequence. He said the same is true with the railroad in Skagway and the helicopter tours in Juneau. In further response to Chair Heinze, he confirmed that these are land-based tours from the cruise ships.

Number 1662

JOSHUA ADAMS, Alaskan Hotel & Bar, said that he wanted to further the arguments of Mr. Hardy and Mr. Thoma. He urged the committee not to punish the mom and pop businesses. This 2 percent tax is on top of a 12 percent tax that has to be paid for each guest, 75 percent of which are Alaskan residents. Mr. Adams referred to this legislation as subsidized speech that is regressive.

REPRESENTATIVE KOHRING inquired as to whether Section 4(a)(1) and (2) would relate to Mr. Adams' business.

MR. ADAMS replied yes.

REPRESENTATIVE KOTT inquired as to whether the 12 percent tax Mr. Adams spoke of is a local tax.

MR. ADAMS explained that the Alaskan Hotel & Bar pays a 7 percent hotel tax and a 5 percent local sales tax. In further response to Representative Kott, Mr. Adams said that his parents have been fighting the rising taxes since they purchased the hotel in 1977.

REPRESENTATIVE KOTT asked if Mr. Adams would be supportive of a 5 percent state tax levied on hotels.

MR. ADAMS replied no.

Number 1535

REPRESENTATIVE CISSNA recalled Mr. Adams' comment that the majority of his customers are Alaska residents, and asked if his feelings would change if state residents didn't have to pay the tax.

MR. ADAMS said with such a provision [HB 426] would impact the Alaskan Hotel & Bar a lot less, but he expressed the need to know how such a change would impact others.

CHAIR HEINZE recalled Mr. Adams' mother's comments from a prior hearing in which she referred to cruise ships as floating hotels. Chair Heinze asked if the rates at the Alaskan Hotel & Bar are commiserate with those of the cruise ships.

MR. ADAMS clarified that the Alaskan Hotel & Bar is a lot more economical than the cruise ships. In fact, the hotel offers weekly rates, which reflects that it serves the locals.

CHAIR HEINZE inquired as to when was the last time the Alaskan Hotel & Bar raised its rates to absorb some of the 12 percent tax.

MR. ADAMS confirmed that he had reviewed raising the rates, but it's difficult to make it work because the hotel is small, doesn't have an elevator, and most of the rooms are small and share a bathroom down the hall. In response to Representative Kott, Mr. Adams informed the committee that for a small room that shares a bathroom down the hall, the rate is \$67.20 a night. The weekly rate is \$175 a week, without a television, he noted. The rooms increase in price up to a suite that is about \$108 a night.

Number 1361

JAMES BARRETT, Co-Owner, Bergman Hotel, informed the committee that his hotel is very similar to the Alaskan Hotel & Bar and in fact they both cater to the same clientele. He noted that his rates are even lower than those of the Alaskan Hotel & Bar. Mr. Barrett said that this proposed 2 percent tax for marketing isn't going to improve his market share or bring in customers to his establishment. He informed the committee that he does intense advertising for tourists from within the state. He estimated the independent travelers he sees amount to about 10-15 percent during only a few weeks in the summer.

Number 1219

REPRESENTATIVE CISSNA asked if Mr. Barrett's feelings would change if state residents who prove they are residents wouldn't have to pay the tax.

MR. BARRETT, replying as a Co-Owner of the Bergman Hotel, said the company would be more comfortable with [Alaska residents not paying the tax]. However, as a general citizen he said he didn't like to see any more government involvement than absolutely necessary.

Number 1075

REPRESENTATIVE CISSNA asked if it's a possibility to exempt Alaskan residents from the tax proposed in HB 426.

REPRESENTATIVE KOTT replied that anything is a possibility, but exemptions make it much more difficult on the business establishment. He emphasized that this is only a \$.10 per dollar increase, which is a small amount.

CHAIR HEINZE, upon determining that no one else wished to testify, remarked that this legislation could certainly be tweaked in many ways. She said she would entertain a motion.

Number 0965

MS. STANCLIFF noted that the legislature has done things in the past to help small businesses, such as the recreation liability legislation that passed last year. She then turned to the notion of having rates for Alaskans in order to avoid impacting locals too much. In that vein, she highlighted that hotels in the state have seasonal rates because they have visitors during a certain period. Ms. Stancliff recalled living in Hawaii where the locals weren't excluded from the tax, but received a discounted rate. The aforementioned is an option the hotel can decide to do itself.

MS. STANCLIFF noted that she lives on the road system. However, in contrast to Mr. Thoma, she said she didn't believe that all of the tourism dollars come from the cruise ship industry. She also noted that she lives in an unorganized area for which the only law enforcement is the Alaska State Troopers and local volunteer emergency medical technicians. Therefore, she believes it's only reasonable to make visitors pay for those services. She informed the committee that Tok has almost 2,000 visitors a night; these are highway travelers. Furthermore, folks fly into Anchorage, rent a car, drive around the state, and utilize state services.

MS. STANCLIFF informed the committee that she and her husband own a recreation-based business that takes people into the backcountry. She acknowledged that she will have to pay the tax, and emphasized that she is willing to pay for it and doesn't believe that it's asking too much. Ms. Stancliff, speaking as a private citizen, said that she would support it.

Number 0696

REPRESENTATIVE CRAWFORD inquired as to how [the state would handle] a lawsuit such as the one brought forth with the "Got Milk?" campaign.

MS. STANCLIFF answered that she didn't know. She said she couldn't think of how Alaska could market such that a lawsuit would be brought forward. She related her belief that the lawsuit regarding the "Got Milk?" campaign was absurd.

REPRESENTATIVE CRAWFORD remarked that it's not the actual advertisement [that's problematic] but rather assessing someone for advertising against his or her will.

REPRESENTATIVE KOTT remarked that there may be some substance to Representative Crawford's remark regarding assessing someone against his or her will. However, when taken to the extreme most wouldn't want to pay property taxes in Anchorage because part of it goes toward marketing.

REPRESENTATIVE CISSNA inquired as to the next committee of referral.

REPRESENTATIVE DAHLSTROM responded that the next committee of referral is the House Labor and Commerce Standing Committee.

CHAIR HEINZE, in response to Representative Cissna, said that the legislation does not have a referral to the House Judiciary Standing Committee.

Number 0541

REPRESENTATIVE MCGUIRE pointed out that whenever there is a potential First Amendment violation one must review the competing interests. In the "Got Milk?" case, the [judge] said "that the government's interest in promoting the dairy industry isn't sufficiently substantial to justify the infringement on the First Amendment, free speech, and association rights". The judge went on to say, "Promotional programs such as the Dairy Act really seem to be more special interest litigation as opposed to a benefit to the state." Therefore, Representative McGuire said she believes one could argue that in the case of the Dairy Act it's a single issue, whereas this legislation proposes a comprehensive method of promoting an industry that brings in money to the state and local municipalities. Furthermore, this legislation is being offered to counter the proposal of a tax for which the funds collected are placed in the general fund and thus there is no guarantee those funds will be used to market Alaska. She highlighted that the funds to market Alaska have decreased to the point of being negligible. However, Alaska is rapidly becoming a major tourist attraction

and one could even argue that tourism is a central part of Alaska's economy and employment. Therefore, Representative McGuire believes it [marketing for Alaska] could be distinct and distinguishable. Moreover, the "Got Milk?" case was in the 3rd Circuit Court of Appeals and Alaska is governed by the 9th Circuit Court of Appeals. Finally, Representative McGuire emphasized that the program proposed in HB 426 is patterned after the ASMI program, which has worked successfully in Alaska for many years.

Number 0336

REPRESENTATIVE KOHRING said he understood the need to raise marketing funds to promote Alaska. He also acknowledged that the tourism industry is a wonderful industry with tremendous potential. However, some of the arguments today underscore the problems with broad-based taxes in general. Representative Kohring said he was more comfortable with encouraging industries to raise money [for marketing] on their own. He inquired as to the penalty if one refused to pay this tax in HB 426.

Number 169

MR. DICKINSON pointed out that HB 426 specifically refers to the tax provision, and therefore the punishment for not paying would be like any other under the tax provisions. In further response to Representative Kohring, Mr. Dickinson said that what the state would do would depend upon the amount of the tax. Just as any other tax, the state would have the ability to create a judgment or a lien.

REPRESENTATIVE KOHRING said he understood Ms. Stancliff's earlier testimony to promote this tax as a way to pay for police, emergency services, and roads. However, he said he thought the only intent was to raise funds for marketing the tourism industry.

MS. STANCLIFF confirmed that the thrust of this legislation is to raise funds for marketing. She also confirmed that it's her personal opinion [that this tax could be a way to] raise revenue [for] emergency services, highways, et cetera at the local level.

Number 0010

REPRESENTATIVE KOHRING turned attention to page 2, lines 25 and 27 of HB 426 [Version I], and inquired as to the possibility of extracting the language "scenic and sightseeing".

**TAPE 04-15, SIDE A**

REPRESENTATIVE KOHRING inquired as to the impact of deleting [line 25] on page 2 and the reference to "recreational" on [line 28] of page 2. He asked how much such a change would impact the tourism industry's ability to raise [marketing] funds.

MS. STANCLIFF opined that such a change would require a new fiscal analysis because the portion of this legislation relating to recreation is sizable.

Number 0107

REPRESENTATIVE McGUIRE [returned to the "Got Milk?" case] and pointed out that the [3rd Circuit Court of Appeals] says that the test is regarding whether the money is used solely for speech purposes and not germane to other purposes. Therefore, she proposed that the legislation could specify that the money raised could be used for marketing or community improvements. The aforementioned would benefit tourist infrastructure.

REPRESENTATIVE CISSNA expressed concern that if the committee starts excluding groups then more exclusions will come.

Number 0257

REPRESENTATIVE KOHRING moved that the committee adopt [Conceptual Amendment 3 to HB 426, Version I], which would "strike number one on line 25 and the portion ... in number 2 on line 27 that makes reference to recreational."

REPRESENTATIVE DAHLSTROM objected.

A roll call vote was taken. Representative Kohring voted in favor of Conceptual Amendment 2. Representatives Cissna, Crawford, McGuire, Kott, Dahlstrom, and Heinze voted against it. Therefore, Conceptual Amendment 3 failed by a vote of 1-6.

Number 0362

REPRESENTATIVE DAHLSTROM moved to report CSHB 426, Version 23-LS1575\S, Kurtz, 3/9/04, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

There being no objection, CSHB 426(EDT) was reported from the House Special Committee on Economic Development, International Trade and Tourism.

**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Economic Development, International Trade and Tourism meeting was adjourned at 7:25 p.m.