

HOUSE FINANCE COMMITTEE  
March 23, 2004  
1:45 P.M.

TAPE HFC 04 - 64, Side A  
TAPE HFC 04 - 64, Side B  
TAPE HFC 04 - 65, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:45 P.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair  
Representative Bill Williams, Co-Chair  
Representative Kevin Meyer, Vice-Chair  
Representative Mike Chenault  
Representative Eric Croft  
Representative Hugh Fate  
Representative Richard Foster  
Representative Mike Hawker  
Representative Reggie Joule  
Representative Carl Moses  
Representative Bill Stoltze

MEMBERS ABSENT

None

ALSO PRESENT

Representative Dan Ogg; Senator Gene Therriault; Speaker Pete Kott; John Main, Staff, Representative Speaker Pete Kott; Pete Ecklund, Staff, Representative Bill Williams; Landa Baily, Special Assistant, Department of Revenue; Anne Carpeneti, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law; Chuck Harlamert, Revenue Audit Supervisor, Tax Division, Department of Revenue; Glenn Haight, Fisheries Development Specialists, Department of Community & Economic Development; Barbara Cotting, Staff, Representative Jim Holm; Joe Balash, Staff, Senator Gene Therriault; Paul Fuhs, Back Bone 2; Jerry McCune, United Fisherman of Alaska, Juneau; Bob Thorstenson, President, United Fishermen of Alaska (UFA); Deborah Behr, Assistant Attorney General, Regulations, Department of Law; Dave Stancliff, Regulation Review Committee, Staff, Representative Pete Kott; Speaker Representative Pete Kott; Pam LaBolle, Alaska State Chamber of Commerce, Juneau.

PRESENT VIA TELECONFERENCE

John Mallonee, Acting Director, Child Support Enforcement Division, Department of Revenue, Anchorage; Lt. Allen Storey, Alaska State Troopers, Department of Public Safety, Anchorage; Harold C. Heinze, Chief Executive Officer, Alaska Natural Gas Pipeline Authority (ANGDA), Anchorage; Bob Favretto, Alaska Natural Gas Development Authority Board, Anchorage; Steve Porter, Deputy Commissioner, Department of Revenue, Anchorage; Jerry McCutcheon, Anchorage;

SUMMARY

HB 419 An Act relating to regional seafood development associations and to regional seafood development taxes.

CS HB 419 (RES) was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Community & Economic Development and indeterminate note #2 by the Department of Revenue.

HB 424 An Act relating to review of regulations under the Administrative Procedure Act by the Legislative Affairs Agency; and providing for an effective date.

HB 424 was HEARD and HELD in Committee for further consideration.

HB 514 An Act relating to child support modification and enforcement, to the establishment of paternity by the child support enforcement agency, and to the crimes of criminal nonsupport and aiding the nonpayment of child support; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date.

CS HB 514 (FIN) was reported out of Committee with "individual recommendations" and with a new fiscal note by the Department of Revenue, a zero note by the Department of Public Safety, two zero notes by the Department of Administration, indeterminate note #2 by the Alaska Court System and indeterminate note #3 by the Department of Law.

CS SB 241(FIN)

An Act making an appropriation to the Department of Revenue for work related to bringing North Slope natural gas to market; and providing for an effective date.

CS SB 241 (FIN) was reported out of Committee with a "do pass" recommendation.

#SB241

CS FOR SENATE BILL NO. 241(FIN)

An Act making an appropriation to the Department of Revenue for work related to bringing North Slope natural gas to market; and providing for an effective date.

SENATOR GENE THERRIAULT explained the intent of SB 241. The appropriation is proposed to provide funding for the administrative agencies and Alaska Natural Gas Pipeline Development Authority (ANGDA) in order to move forward in the effort to bring natural gas to market. The funding would be provided through the Department of Revenue, which would provide the accounting mechanism.

Senator Therriault pointed out that the original bill provided \$2 million dollars. In a Senate Finance Committee meeting, there was discussion regarding funding for 2005, and it was agreed that should be contained in next years budget. Thus, the funding was decreased to \$1 million dollars addressing the items critical at the present time. He stressed that it is important to provide funding at this time for contracts associated with the Stranded Gas Act.

STEVE PORTER, (TESTIFIED VIA TELECONFERENCE), DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, ANCHORAGE, noted that the Department of Revenue had requested \$1 million dollars for the purpose of supporting stranded gas development and the work of ANGDA. He pointed out that the total amount, which could be spent, obviously would exceed \$1 million dollars, made available through the legislation. The amount would be spent in FY04 to deal primarily with tariff issues, fiscal terms, petro-chemical analysis, social impacts and understanding route assessment.

HAROLD C. HEINZE, (TESTIFIED VIA TELECONFERENCE), CHIEF EXECUTIVE OFFICER, ALASKA NATURAL GAS PIPELINE AUTHORITY (ANGDA), ANCHORAGE, stated that he had faxed a handout, identifying how ANGDA is doing concerning the taxes, funding and then identifying current contracts that are underway. (Copy on File). He added that the handout indicate work skills performed under the contracts.

The work currently done by ANGDA continues to be positive and encouraging to the Authority's role as a mechanism to help the financing improve the marketability of the North Slope gas as well as providing benefits to Alaskans by delivering gas to the Cook Inlet region. The Board has considered SB 241 and has taken a positive view toward that legislation. Additionally, the operating budget proposed by

the Administration has been amended to provide a total of \$256 thousand dollars in FY05. Mr. Heinze offered to provide contract details, pointing out several needing immediate attention through the approval of the proposed legislation. Mr. Heinze urged that the project move forward.

Representative Chenault questioned the projected scenario of delivering gas to the Cook Inlet area at \$1 to \$1.25 dollars and asked if that would be the total cost including the tariffs to Cook Inlet. Mr. Heinze explained that those amounts are estimates determined for various approaches of getting gas to Cook Inlet. They are the numbers projected for getting the North Slope conditioning, pipelining and delivery into the Cook Inlet natural gas system.

BOB FAVRETTO, (TESTIFIED VIA TELECONFERENCE), ALASKA NATURAL GAS DEVELOPMENT AUTHORITY BOARD, ANCHORAGE, offered to address the amendments as they are brought forward.

JERRY MCCUTCHEON, (TESTIFIED VIA TELECONFERENCE), ANCHORAGE, noted his concern that the Legislature understand "What they are dealing with on the North Slope", particularly regarding Prudhoe Bay. He commented on a suit that occurred in that area in which "records had been sealed". He claimed that the current Administration is "blinded". The oil is two-thirds recoverable if the gas is kept in the reservoir. He projected that oil prices will increase the first few years and then they will crash. Mr. McCutcheon recommended that there be a commitment on record to find out how much really exists.

Representative Croft MOVED to ADOPT Amendment #1, #23-LS1279\I.1, Utermohle, 3/22/04. (Copy on File). Co-Chair Williams OBJECTED.

Representative Croft noted that the amendment attempts to change the amount back to \$3 million dollars, creating an equal distribution between ANGDA and the Department of Revenue. He acknowledged that the Department would need some funding under the Stranded Gas Act but that money should be separate from the purpose of funding ANGDA. ANGDA is an independent body with an independent Board, which needs and deserves full funding.

Senator Therriault advised the proposed funding passed through the Department of Revenue and was endorsed by the ANGDA Board through a resolution passed at the February 16<sup>th</sup> meeting. ANGDA has indicated that they are "comfortable" with the current plan. He pointed out that in the Senate Finance Committee meeting, both the Majority and the Minority members agreed that it was more appropriate for ANGDA to come back to the FY05 budget process for further

allocations. Senator Therriault stated that his preference would be to stick with the original amount.

Co-Chair Harris asked if Mr. Heinze was aware of the amendment and the on-going negotiations between both bodies regarding the amount being made available to ANGDA. Mr. Heinze replied that he was aware of the proposed amendment and that he had responded to Representative Croft. The response included that while the original bill funded both FY04 and FY05, it was clear during the discussions in the Senate Finance Committee that the preference was to decide only about FY04 funding. That Committee proposed that it would be a better process to address only the FY04 budget needs at this time. He added that the \$1 million dollar allocation for the two remaining months could be sufficient and that ANGDA would look forward to additional funding in the FY05 budget for the stranded gas effort.

Co-Chair Harris asked if ANGDA was satisfied with the \$1 million dollar appropriation at this time, knowing that there would be fair opportunity in the FY05 Capital Budget for more funding. Mr. Heinze reiterated that they would, submitting that ANGDA prefers the adoption of the Senate version of the bill, hoping that it would move to the floor as quickly as possible.

Mr. Favretto spoke to Amendment #1. He voiced concern with the funding mechanisms to support ANGDA. He understood and appreciated Representative Croft's concern with the funding level for ANGDA but noted his concern with getting the bill back through the Senate in time for adjournment. He emphasized that ANGDA could live with the \$1 million dollar allocation to finish the tasks at hand.

Representative Croft elaborated that his interests in ANGDA rests with the independence of the Board and hope it will bring the issues to the State. The Administration and the Legislature have shown over 1.5 years of neglect, compromising that independence. The Board does not have any choice left, as they never have had the funding needed to do the appropriate studies. Their requests have continually been reduced. Representative Croft doubted that the \$1 million appropriation would be sufficient with the funds passing through the Department of Revenue. He emphasized that the Amendment would provide enough funding and is "the right thing to do", by providing ANGDA some financial security. He noted that he was disappointed that ANGDA was willing to settle for only the \$1 million dollars allocation.

A roll call vote was taken on the MOTION.

IN FAVOR: Moses, Chenault, Croft

OPPOSED: Hawker, Joule, Meyer, Stoltze, Fate, Foster,  
Harris, Williams

The MOTION FAILED (3-8).

Representative Croft MOVED to ADOPT Amendment #2, #23-LS1279\I.2, Utermohle, 3/22/04. (Copy on File). Co-Chair Williams OBJECTED.

Representative Croft explained that if the amount allocated to the request is \$1 million dollars, then it should be guaranteed that at least half of that amount goes to ANGDA. The amendment would provide an allocation within the \$1 million dollar appropriation.

Senator Therriault advised that on the Senate side, he had directed that the money pass through the Department of Revenue, which is the manner in which the Legislative Budget and Audit (LBA) Committee had routed it. Members of the ANGDA Board have indicated that their relationship with the Department has improved. They are comfortable with routing the money through the Department of Revenue. Acceptance of the routing was included in their February 16<sup>th</sup> resolution passed by the entire ANGDA Board. If the Legislature sees that the Department and the Board are not working well together, then the FY05 budget could be handled differently. He did not foresee problems.

In response to Co-Chair Harris, Mr. Heinze explained that in addition to the authority provided by the voters in the November 2002 election, the State has entered into the stranded gas process with a number of applicants. There are a myriad of issues facing the State related to natural gas. The basic idea of ANGDA working with the Department of Revenue contributes to the total effort. There have been "honest hearings regarding the efforts proposed". He elaborated that he was comfortable at this time working in a team effort with the Department of Revenue.

Representative Croft commented that he was not sure that the treasurer handling the "purse strings" for ANGDA would agree with Mr. Heinze. He thought that at this point, ANGDA was putting forward a "desperate plea" for anything. Board members are still not confirmed and ANGDA is not going to exist in the manner that the voters intended. He suggested that ANGDA has become a "weird" subdivision of the Department of Revenue and that it is not independent.

A roll call vote was taken on the motion.

IN FAVOR: Joule, Moses, Stoltze, Croft  
OPPOSED: Meyer, Chenalut, Fate, Foster, Hawker,  
Williams, Harris

The MOTION FAILED (4-7).

PAUL FUHS, BACK BONE 2, JUNEAU, testified in support for the proposed legislation. He noted that Back Bone 2 is a citizen's organization to advocate for the fulfillment of Proposition #3, which was overwhelmingly adopted by the citizens of Alaska. He believed that information that would come forward from studies through the Department of Revenue and would be thoroughly utilized. He referenced his handouts. (Copy on File).

Mr. Fuhs stressed that Alaska is in a "race" for the development market. There are a number of companies that are interested in Alaskan gas. The three major producers have noticed the continual delays on the pipeline projects in Alaska. Mr. Fuhs indicated his concern with the funding being provided, wanting to accept and believe the word from the Department of Revenue by Mr. Steve Porter. The contracts are ready to go and the people of the State will know immediately if the Department has not followed through on them. He encouraged member's to check out the Back Bone 2 website for more in-depth information regarding these concerns.

Vice Chair Meyer inquired if an application had been received from Mid America. (Mr. Porter was no long on line to respond). Co-Chair Williams said that he did not know about that application.

Representative Foster MOVED to report CS SB 241 (FIN) out of Committee with individual recommendations. There being NO OBJECTION, it was ordered.

CS SB 241 (FIN) was reported out of Committee with a "do pass" recommendation.

#HB419

HOUSE BILL NO. 419

An Act relating to regional seafood development associations and to regional seafood development taxes.

REPRESENTATIVE DAN OGG testified in support of HB 419. The bill was recommended by the Joint Legislative Salmon Industry Task Force and would allow fishermen to form regional seafood development associations to tax themselves, providing a stable funding source for their marketing efforts.

Representative Ogg noted that farmed salmon production has increased dramatically over the past decade, exceeding the wild salmon catch and causing prices to plummet. In order to compete in that market, Alaska's salmon fishermen have

sought creative ways to differentiate wild fish from their penned counterparts. One method that has proven effective in distinguishing the two is regional marketing. Copper River fishermen took the lead in establishing a brand for their catch, proving the enormous potential for niche markets. Now several other regional brands have been established in communities such as Kenai, the Aleutian Islands, and Kodiak.

Representative Ogg pointed out that most branding organizations are currently dependent on a mix of State and federal grants to fund marketing efforts. However, the grants are often unreliable and one-time revenue sources. HB 419 would allow regional seafood development associations to assess themselves between one-half and two percent to provide a steady stream for marketing dollars.

HB 419 creates 12 distinct seafood development regions based on commercial fishing management areas established by the Board of Fish. Under the bill, all the fishermen in a region can vote to participate in an association or it may be limited to a specific fishery or fisheries. Once a regional association is formed, other fisheries can vote themselves into or out of the association, but there can only be one association per region.

Representative Ogg pointed out that as the amount of imported and farmed seafood continues to rise, regional marketing associations would provide a valuable tool for Alaska's commercial fishermen. Regional associations are able to focus on the unique areas where the fish are harvested, building on Alaska's reputation for pristine waters that yield superior fish.

Representative Stoltze questioned if there would be more value in allowing areas to opt out of the Alaska Seafood Marketing Institute (ASMI). Representative Ogg responded that through his discussions, there was agreement that people want to keep that separate, and do not want to negatively impact ASMI, but instead work cooperatively.

Representative Stoltze asked if the "pit falls" of ASMI could be avoided. Representative Ogg responded that ASMI does an excellent job marketing all Alaskan seafood's. The proposed associations would have more freedom in marketing particular products and with access to specific development.

Representative Stoltze inquired if the amendment he distributed for a three-year sunset made it into the member's packets. Representative Ogg commented that the associations would be done voluntarily. The bill would establish a vehicle for individual areas of the State to go through with a set up and that they would either make it or

they would fail. To require coming back to the Legislature and going through it again would not be productive. He believed that they would stand on their own. He requested that a sunset not be tied to the proposed legislation.

Co-Chair Williams recommended that a conceptual amendment could be brought forward.

Representative Fate noticed the twelve regions and asked how a situation would be handled when a specific brand was indicated for a specific area. Representative Ogg replied that was why there would be twelve regions established. The bill attempts to acquire flexibility and would not preclude an association from adopting two products. That flexibility is already included in the bill.

Representative Fate commented on the different qualities of each region and that marketing different brands would be important. Representative Ogg acknowledged that will be allowable under the bill. The Salmon Task Force noted that the Yukon River is divided into three regions in recognition that there are different fisheries taking place over a broad distance.

Representative Hawker referenced Page 11, stipulating that a qualified regional seafood association be brought into existence, and may request State financial assistance from the Department. He highlighted the use of "may and shall" and the determinations that could be made using that language. He inquired the intent, understanding that it would be a self-assessment.

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Representative Ogg explained that section allows for programs currently in place. The Office of the Governor is funding some of those regional start-up efforts. There has been recognition of that status and at a future date, there could be some sort of development for that fishery with money flowing from that office. The proposed language leaves that window open for applying. The intent is that the associations are self-standing.

Representative Hawker inquired if the bill could be as effective and accessible without Sections D & E on Page 11. Representative Ogg responded that removing that language would not foreclose them, as most of the entities are non-profits. If non-profits are available to apply for State or federal grants, it would not make a difference.

Representative Joule referenced Page 10, Lines 27 & 28 and asked how that language would affect the inclusion of

Kotzebue with the Yukon-Northern region as opposed to Norton Sound-Port Clarence area. Representative Ogg explained that when the decision was made, representatives of each area indicated that they thought that would be the best choice. He admitted that he did not know exactly how the decision had been determined.

Co-Chair Williams referenced Page 4, Lines 25-31, and the two ballots for each eligible interim-use permit and entry permit holder. Representative Ogg explained that language was crafted from pre-existing situations.

CHUCK HARLAMERT, REVENUE AUDIT SUPERVISOR, TAX DIVISION, DEPARTMENT OF REVENUE, offered to answer questions of the Committee.

JERRY MCCUNE, UNITED FISHERMAN OF ALASKA (UFA), JUNEAU, voiced strong support for the legislation, as it will help fishermen to finance their own promotional programs. He noted that alternate sources of financing are beginning to dry up.

Co-Chair Harris asked if it would be mandatory that fisherman join. Mr. McCune explained that in the current version of the bill, the 1% salmon tax would be dropped. He added that there would be the option of being taxed and with that option, the person would then have a vote. He pointed out the infrastructure of the proposed legislation.

Co-Chair Williams understood that all fishermen would have to pay the tax in their area. Mr. McCune acknowledged that was correct and that if a majority of the permit holders voted, then all permit holders would have to pay that tax. He noted that a mechanism was included to help remove it.

Representative Hawker questioned if the sections indicating that the seafood development associations "may," request State financial assistance, were critical to UFA's support of the bill. Mr. McCune responded that there are grants available to non-profits through the Department of Community & Economic Development. The language attempts to guarantee if a new non-profit was formed that they be eligible for it. He indicated that if the sponsor was satisfied with removing that language, then UFA would also support that action.

Representative Stoltze MOVED to adopt Amendment #1, #23-LS1418\V.1, Utermohle, 3/9/04. (Copy on File). Co-Chair Williams OBJECTED.

Representative Stoltze advised that the amendment would add a sunset clause, which is a common procedure used for new programs. He pointed out that ASMI currently has a sunset. Representative Ogg advised that the amendment also deletes language on Page 1, Line 8. Representative Stoltze

corrected that was a drafting style for sun setting a bill. Representative Ogg stated he did not support the three-year sunset or the amendment. He thought that Amendment #1 would complicate the issues.

Co-Chair Harris referenced Page 2, Line 4, Section 7, of the amendment. Representative Stoltze advised those were repealers.

Co-Chair Williams informed members that he had worked on the Fish Task Force and that the fishermen have worked very hard to come to an agreement. The proposed legislation has a lot of support from fishermen statewide. He stated that he did not support the amendment and thought that the Alaskan fishermen should be shown support during these difficult times. He emphasized that the fishermen support the tax to themselves.

Representative Stoltze inquired if it currently was a voluntary tax. Representative Ogg responded that if you were in a fishery and the fishery decides to participate, and 51% of those permit holders make that decision, everyone must pay the tax. He stressed that it is as voluntary as possible in Alaska and added that there could be a petition to be removed.

Representative Hawker indicated concern that the sunset will take place December 30<sup>th</sup>, 2007. The industry members would have to make the decision, establish the association and then move forward. Establishing a non-profit association becomes durable and perpetual. He thought the operations of the bill would be inconsistent and would provide only a brief authority for the durability of the association. He concurred that the sunset may not be appropriate in the proposed circumstance.

Co-Chair Harris pointed out that establishing the associations must be a majority rule. He noted that all the dissenters would be forced to pay the tax. He asked if that would create friction among the fishermen. Representative Ogg referenced the history of the entities, pointing out that there have been fisheries that have opted for such a status. The action will provide for a salmon enhancement organization. It has worked in the past and should work in the future.

Co-Chair Harris asked if Representative Ogg would be willing to support a five-year sunset rather than the proposed three-year. He believed that five years would provide the program the opportunity to determine satisfaction. He thought that the next authorization would be a straightforward process. Co-Chair Williams warned that the proposed program should not be compared to ASMI. ASMI is a tax bill, whereas, HB 419 is a self imposed taxation by

vote. Co-Chair Harris pointed out that ASMI too, was put in place at the recommendation of fishermen. Representative Ogg acknowledged that ASMI is different as it is a State imposed tax. He admitted that had been a "tough" vote to pass.

Co-Chair Harris inquired that if the legislation was passed and an association was formed, would those fishermen then also pay the ASMI tax. Representative Ogg replied that if the law remains as is, then they would pay both.

Representative Stoltze MOVED to AMEND Amendment #1, Page 2, Line 6, deleting "2007" and inserting "2009".

Co-Chair Harris requested to change the date to "June 30<sup>th</sup>, 2009". There being NO OBJECTION, the amendment was amended.

Representative Fate asked what the Legislature could do if something went wrong with the proposal with the extension and sunset. Representative Stoltze explained that he did not know the fishery issues and was not comfortable voting for taxes in a new program. He warned that taxation should be approached cautiously especially in a group as diverse as the fisheries. The sunset would provide more comfort to him personally. Representative Fate interjected that HB 419 is a tax bill but not an imposition to levy a tax.

Co-Chair Williams advised that he himself has been working on a fisheries tax bill, pointing out that all the fisheries support HB 419.

BOB THORSTENSON, PRESIDENT, UNITED FISHERMEN OF ALASKA (UFA), appreciated Representative Stoltze's concern with the current number of taxes paid by fishermen. He noted that on an average year, 68% of his revenue was taken through taxation. There are many groups who are taking the opportunity to use the proposed vehicle to implement a package supported statewide. There has been a thorough review of the legislation from the UFA with no objections from any of the 34 member groups. He thought that the sunset amendment would "cripple" the legislation.

Representative Stoltze asked if the support was 51% of the actual membership or of those voting. Mr. Thorstenson responded that it was 51% of the permit holders voting. Representative Stoltze interjected that the small fishing people might not be aware of the election. Mr. Thorstenson stated that was out of the purview of the UFA. Those that missed the vote would most likely be the non-resident voters living outside of the State. He noted that there has been concern voiced in creating a level playing field for the commercial fishing business. There has been a massive consolidation in the processing sector that has not been accompanied by a consolidation in the harvesting center.

The processing sector has the opportunity to do a tremendous amount of marketing through new legislation and programs. The proposed legislation dovetails nicely with the U.S. ASMI legislation brought forward by Senator Stevens. The opportunity for fishermen to do their own thing and market by region would be vastly facilitated through the legislation.

Co-Chair Williams asked if there was a vote, who could start it. Mr. Thorstenson replied that would be the Commissioner of Department of Community & Economic Development.

A roll call vote was taken on the motion to adopt the amended Amendment #1.

IN FAVOR: Meyer, Stoltze, Harris  
OPPOSED: Moses, Chenault, Croft, Fate, Foster, Hawker, Joulé, Williams

The MOTION FAILED (3-8).

Representative Foster MOVED to report CS HB 419 (RES) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 419 (RES) was reported out of Committee with a "do pass" recommendation and with a zero note #1 by the Department of Community & Economic Development and in deterrent note #2 by the Department of Revenue.

#HB514  
HOUSE BILL NO. 514

An Act relating to child support modification and enforcement, to the establishment of paternity by the child support enforcement agency, and to the crimes of criminal nonsupport and aiding the nonpayment of child support; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date.

Co-Chair Harris MOVED to ADOPT work draft committee substitute #23-LS1639\W, Mischel, 3/23/04, as the version of the legislation before the Committee. There being NO OBJECTION, it was adopted.

PETE ECKLUND, STAFF, REPRESENTATIVE BILL WILLIAMS, discussed the committee substitute, noting the changes. It will remove the peace officer classification for the Child Support Enforcement Division (CSED) investigators. The committee statute deletes language "and unreasonable", Page 3, Line 20 of the House Judiciary version.

In response to a question by Representative Croft, Mr. Ecklund explained that the changes were made to the House Judiciary version, inclusion of the pilot project located in Section 12. Mr. Ecklund advised that it was different from the previous, unadopted work draft.

Representative Croft MOVED to ADOPT Amendment #1, which would add "and unreasonably" on Page 3, Line 21. (Copy on File). Co-Chair Williams OBJECTED for the purpose of discussion.

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION, CRIMINAL DIVISION, DEPARTMENT OF LAW, provided information on Amendment #1. She noted that the amendment could cause concern, as it would provide an element of defense that would have to be proven. The Department of Law receives information under Paragraph A from employers regarding other statutory relationships, and the language could make it unreasonably modified. She observed that the Department could draft an amendment addressing the statutory duty to report.

Representative Croft felt that it should not be a criminal act for a person to refuse to talk to a CSED officer. He stressed that in no other area, would it be a criminal act to refuse to talk about a subject. He added if the Department of Law does not approve of Amendment #1, then he would MOVE to strike Section #A.

Ms. Carpeneti agreed with Representative Croft that people should have the right to say that they do not want to talk. However, Paragraph B only applies to employers regarding the information about health benefits. It would not be an "across the board duty" of the employers to report to the Department of Labor & Workforce Development when there is a new hire. She recommended that it be adjusted.

Representative Croft WITHDREW Amendment #1.

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Representative Croft MOVED to ADOPT Amendment #2. (Copy on File). Co-Chair Williams OBJECTED for the purpose of discussion.

Representative Croft stated that the amendment would delete all material on Page 4, Lines 16-28 and add a new section to read: "AS 12.55.139 is repealed". He explained that federal law requires the taking of the hunting and fishing license as a sanction. Amendment #2 would remove it as a sanction for the misdemeanor and keeps it as a sanction only for a felony.

JOHN MAIN, STAFF, REPRESENTATIVE SPEAKER PATT KOTT, noted that when the license issue was mandated for the states, Alaska choose the proposed way to address hunting and fishing licenses. There is no vehicle in which they can deny a hunting or fishing license. Federal government was not pleased that it was placed in those two statutes. Mr. Main feared that if it was removed from a misdemeanor area, the federal government might state that Alaska is not in compliance with the plan and the State could face penalties.

In response to a question by Representative Stoltze, Mr. Main stated that he did not know if any states had failed to comply with the federal requirements to take recreational licenses for failure in providing child support.

Representative Stoltze commented on the similarities between this and the federal helmet laws. He stressed that hunting and fishing licenses are more than recreational pleasures in Alaska. He voiced his support for the amendment.

In response to a query by Representative Chenault, Mr. Main pointed out that only 2-5 people have been convicted in the past two years and that he did not know how many had their recreational licenses removed.

JOHN MALLONEE, (TESTIFIED VIA TELECONFERENCE), ACTING DIRECTOR, CHILD SUPPORT ENFORCEMENT DIVISION, DEPARTMENT OF REVENUE, ANCHORAGE, provided information on the legislation. He did not recall any cases being revoked in the past two years, noting that only twenty cases had been prosecuted in the past four years. Mr. Main pointed out that the language uses "may", which is more permissive.

Representative Croft testified in support of Amendment #2. He stressed that the connection with subsistence hunting and fishing, maintaining that licenses should only be revoked for serious felony cases. He did not feel that the federal government would withhold funds, but argued that the decision should be made to flow through the correct course, regardless.

Co-Chair Harris noted that the amendment would repeal AS 12.55.139. Representative Croft explained that the deletion of the statute would only remove the ability to take recreational licenses in a misdemeanor case. Co-Chair Williams interjected that nonpayment of child support is close to being a felony.

Representative Stoltze reminded members that there are "cashless economies" in rural Alaska. He did not want the federal government to deter the adoption of a rational State policy.

Representative Hawker stated that any refusal to pay child support is an egregious act. He noted that recreational licenses are of value as a non-monetary item and valuable to the perpetrator; whereas, great monetary fines would further restrict their ability to pay.

In response to Vice Chair Meyer, Mr. Main observed that discussions had occurred in the House Judiciary Committee, and that the felony level had been increased.

A roll call vote was taken on the motion.

IN FAVOR: Stoltze, Croft, Fate, Foster, Joule  
OPPOSED: Chenault, Hawker, Meyer, Williams, Harris

Representative Moses was not present for the vote.

The MOTION FAILED (5-5).

SPEAKER PETE KOTT distributed a handout in response to the testimony provided by Landa Baily, Special Assistant, Department of Revenue, March 8<sup>th</sup>, 2004 letter. (Copy on File). [It was not discussed].

Co-Chair Harris MOVED to report CS HB 514 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 514 (FIN) was reported out of Committee with "individual recommendations" and with a new fiscal note by the Department of Revenue, a zero note by the Department of Public Safety, two zero notes by the Department of Administration, indeterminate note #2 by the Alaska Court System and indeterminate note #3 by the Department of Law.

#HB424

HOUSE BILL NO. 424

An Act relating to review of regulations under the Administrative Procedure Act by the Legislative Affairs Agency; and providing for an effective date.

BARBARA COTTING, STAFF, REPRESENTATIVE JIM HOLM, testified that HB 424 requires legislative legal review of regulations before they are finalized. Under current statute, only the Attorney General formally reviews proposed regulations and the review comes late in the process, when public comment has already been closed. After the Attorney General approves proposed regulations, they are transmitted to the Lt. Governor's office, where they are seldom changed and the public then becomes justifiably frustrated when they see regulations adopted that are different from the ones in which they commented.

Ms. Cotting stated that under HB 424, legislative attorneys who actually draft the bills would review regulations being promulgated from those bills. By working cooperatively with the Attorney General's office, differences of opinion could be worked out before the regulations were finalized. In the event that differences could not be worked out, the Legislature would have the opportunity for input. She added that the overall impact to the State's economy would be positive. Adding legislative review to the regulation process would:

- Help eliminate conflicts,
- Create a more stable business environment, and
- Increase the public's trust in government.

Co-Chair Harris questioned the comment made by Ms. Cotting that the Legislature does not have the constitutional legal authority to abolish regulations. Ms. Cotting responded that they do not by statute. Co-Chair Harris stated that the Legislature has the authority to place regulations in statute. He understood that the legislation would have another group write regulations for the bills passed. Ms. Cotting corrected, indicating that the bill would provide for an attorney in Legislative Legal and Research Service Division, who would review regulations by the agencies. She pointed out that Tam Cook, the director from Legislative Legal, had submitted a fiscal note for the scope of that work in the amount of \$98 thousand dollars, covering the cost for one attorney position.

Ms. Cotting acknowledged that the action would be a policy call. The legislative intent causes much to litigate. Co-Chair Harris asked the legal ramifications of the Legislature writing its own regulations without the input of the Administration. He asked what would happen if the Legislature took over that entire function.

DEBORAH BEHR, ASSISTANT ATTORNEY GENERAL, REGULATIONS ATTORNEY, DEPARTMENT OF LAW, commented the problem with having the Legislature providing the "nuts and bolts" of the regulations is that the Legislature is not around for so many months of the year. She understood why the Legislature did not want to delegate the work to the Executive Branch, which attempts to fill in the blanks in statute. If the Legislature wants to write their own regulations, it is legal and constitutional but it would mean that the Legislature would have to do much more substantial and detailed work for the individual statutes.

Co-Chair Harris complained that one of the issues is that the Legislature writes legislation and then the Administration writes regulations that affect their point of

view, which happens too often. He emphasized that was frustrating. Then the Legislature has to pass new legislation to make the original intent clear. Ms. Behr pointed out that one of the goals of the proposed bill, itemized on Page 3, Lines 8-12, was to have the assigned attorney notify various bodies in the Legislature to review and provide additional legislative oversight. The framework in the bill is designed to facilitate the oversight.

Co-Chair Williams asked if she was referencing the Legislative Regulation Review Committee. Ms. Behr responded that the Legislative Review Committee has an active role in the HB 424.

DAVE STANCLIFF, REGULATION REVIEW COMMITTEE, STAFF, REPRESENTATIVE PETE KOTT, informed members that Minnesota co-writes regulation with their Administration. That state has fewer conflicts than experienced by Alaska. Colorado has a Regulation Review Committee and the drafters, track legislation and watch for when the regulations are put forth and then highlight specific problems for the Regulation Review Committee. That check and balance provides a screening process to let the legislators know if there is anything wrong. Because of the threat of the screening process, the regulation writers are more precise in writing regulations. The Courts have found that the legislature has limited ability to change regulations once they are in place. The bill provides an outline on how to build a cooperative partnership and helps to determine if the number of regulation concerns could be reduced.

In response to Co-Chair Harris query, Mr. Stancliff indicated that he has been involved in the Regulatory Review Committee, consisting of a staff of one. Co-Chair Harris asked if it would be prudent to have the Committee consist of an attorney as the staff person. Mr. Stancliff acknowledged that was a possibility. Each legal realm within the process has to develop it's own "flavor" and that would be the choice of the Legislature whether to hire the attorney. He pointed out that Legislative Legal Agency is a non-partisan and credible process. In good government reform, it is important to look at something that serves any philosophy well over time.

Representative Foster referenced the \$98 thousand dollar fiscal note. He requested to add his name as a co-sponsor of the bill.

Ms. Behr pointed out that hiring a professional editor costs a lot more than the services associated with Legal Services.

Representative Stoltze stated that no matter who is in office, there must be a 2/3 majority to repeal a resolution. He did not know what the solution should be to address the

concerns of the proposed legislation. It is difficult to micromanage each issue.

Representative Hawker shared Representative Stoltze's concern with the legislation. He was troubled with the Department of Health & Social Services fiscal note, indicating significant costs to that Department. They are working diligently on regulations to improve their cost efficiencies and unnecessary delays could result in continued expenditures.

Ms. Cotting pointed out that two of the fiscal notes are out dated and address earlier versions of the bill. The only note that is current is the one from the Legislative Affairs Agency. She believed that the narrative would be changed for the other two notes. There would be no mandated delay with passage of the bill.

Mr. Stancliff pointed out that there are two provisions in the bill that explicitly state that nothing that Legislative Legal does will hold up the process in any way. It would be a constitutional separation of powers. The bill and the principal of it are based to tie into two other measures that will come before the House Finance Committee. HB 242 addresses the "front-end" into the regulatory process, HB 203 deals with the center of the adjudication process and HB 424 creates the safety valve at the end of the process.

PAM LABOLLE, ALASKA STATE CHAMBER OF COMMERCE, JUNEAU, voiced strong support for the proposed bill. With 40,000 regulations in Alaska and 93% of all regulations proposed becoming law, it is important for business to watch exactly how regulations are formed, enforced and reviewed to ensure we are able to navigate the system. Senator Therriault has introduced a three-tier package on regulatory reform to render the system more efficient and flexible.

The three bills are:

- SB 203, Fair Hearing Bill
- SB 287, Legislative Legal Review of Proposed Regulations, and
- SB 333, Judicial Extraction from Administrative Review.

Currently, State agencies that write and enforce administrative law also hear complaints against those laws. HB 424 provides a fix for the system by separating the administrative adjudication process from the agencies. The bill creates a central hearing panel that gives hearing officers a more independent and protected station from which to deliver timely due process through fair and objective hearings, thereby, creating an efficient and more

professional administrative hearing process. Initial start-up costs would be recouped and significant savings would accrue through the efficiencies. The reductions in time due to the efficiencies would reduce costs to businesses.

Co-Chair Williams stated that HB 424 would be HELD in Committee for further consideration.

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ADJOURNMENT

The meeting was adjourned at 4:28 P.M.