

HOUSE FINANCE COMMITTEE
April 21, 2004
8:43 A.M.

TAPE HFC 04 - 91, Side A
TAPE HFC 04 - 91, Side B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 8:43 A.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 Bruce Weyhrauch; Representative Tom Anderson; Greg O'Claray, Commissioner, Department of Labor & Workforce Development; Patrick Luby, Legislative Director, Alaska Association of Retired Persons (AARP), Juneau; Josh Applebee, Staff, Representative Tom Anderson; Mario Lim, Juneau; Sal Lumba, Immigration Group, Juneau; Guy Bell, Director, Division of Administrative Services, Department of Labor & Workforce Development; Deborah Fink, Cash Alaska, Anchorage

PRESENT VIA TELECONFERENCE

Ed Sniffen, Assistant Attorney General, Department of Law, Anchorage; Mark Davis, Director, Division of Banking, Securities and Corporations, Department of Community & Economic Development, Anchorage; Angela Liston, Alaska Catholic Conference, Eagle River; Steve Clary, Executive Director, Alaska Public Interest Research Group (AkPIRG), Anchorage; Jim Davis, Alaska Legal Services, Attorney, Anchorage; Bud Wilson, Cash Alaska, Anchorage

SUMMARY

HB 379 An Act establishing an office of citizenship assistance in the Department of Labor and Workforce Development.

HB 379 was reported out of Committee with a "do pass" recommendation and with a new fiscal note by the Department of Labor & Workforce Development.

HB 389 An Act relating to certain monetary advances in which the deposit or other negotiation of certain instruments to pay the advances is delayed until a later date; and providing for an effective date.

HB 389 was HEARD and HELD in Committee for further consideration.

#HCR28

HCR 28 Relating to the socioeconomic impacts of salmon harvesting cooperatives.

HCR 28 was SCHEDULED but not heard.

#HB379

HOUSE BILL NO. 379

An Act establishing an office of citizenship assistance in the Department of Labor and Workforce Development.

REPRESENTATIVE BRUCE WEYHRAUCH, SPONSOR, stated that HB 379 would create an office to assist naturalized citizens and citizen candidates in Alaska. HB 379 would establish the Office of Citizenship Assistance in the Department of Labor and Workforce Development. Naturalized citizens and people who are actively pursuing United States citizenship could receive help navigating through State employment and federal immigration agencies.

The Office of Citizenship Assistance would also act as a liaison between individuals, the Office of the Commissioner and State and federal agencies as well as the private sector. Under the legislation, the Office would assist in immigration services, employment services, affordable legal service, medical services, and educational opportunities. Information would be available regarding job discrimination, sexual harassment and unsafe working conditions.

Representative Weyhrauch noted that Alaska has a rich history of immigration. Through the legislation, the Office would be sensitive to the diverse cultural backgrounds of those it would serve and the Office would bridge the transition of adjustment for incoming new citizens to Alaska.

Representative Fate asked at this time how many citizens could use the service. He noted the fiscal impact and was concerned that the State would be assuming the "job" of the federal government. Representative Weyhrauch responded that the work of the bill would not be in doing the job of the U.S. government. He emphasized that the federal government has not been helpful with these types of issues. The federal government is the problem by continually placing impediments before these people who are attempting to get immigration status. He pointed out that they are very unresponsive, mentioning that his office has written numerous letters for six-month periods and received no response. They do not address the work in a timely manner.

The proposed State agency would not be providing free legal services, immigration or naturalization. The legislation proposes an Office to facilitate discussion and communications between individuals who want to work in a free society and the situations that impede them. He stressed that the Office is intended to assist and facilitate communication in employment opportunities. That is not the work of the federal government.

Representative Fate inquired if the intent was primarily to help with citizenship and/or jobs. He was concerned that it might create competition for local residents attempting to get jobs. Representative Weyhrauch acknowledged that was a possibility, however, the intent is citizenship assistance. A State employee would not be allowed to discriminate over race or color, noting that some of these people have difficulty even speaking English.

Vice Chair Meyer inquired if such an office has ever existed. Representative Weyhrauch explained that Senator Kelly from Fairbanks previously introduced a bill, which went nowhere. Vice Chair Meyer understood that there had been a similar position within Legislative Affairs. Representative Weyhrauch clarified that in 2000, Senator Halford, then the Senate President, created a job service through legislative funding to help with that type of concern and at that time, the Legislature saw it as valuable.

Vice Chair Meyer asked if it should be relocated in Legislative Affairs Agency and then it could be helped through Legislative influence. Representative Weyhrauch commented that placing it there would not necessarily remove the struggles of bureaucracy. The intent of the bill is to guarantee that the position is created.

In response to Vice Chair Meyer's query, Representative Weyhrauch commented that it is important to have the Office as a matter of policy within State government. There is an

understanding in the Executive Branch that it is important for such an agency to act in a cohesive, consistent and ongoing manner. Vice Chair Meyer agreed that the position should exist, however, thought that it should remain under legislative jurisdiction.

Representative Hawker pointed out that presently, there is the State Ombudsmen's Office. He thought that the service proposed in HB 379 could be performed within that Office with the existing budget. Representative Weyhrauch responded that was possible, however, that Office does not approach the same issues addressed by the legislation. The State Ombudsmen's Office is generally staffed by an American U.S. citizen and most often deals with issues of the Executive Branch. The proposed Office would help those that need assistance with either employment or interpretive services to assist in dealing with employment problems. He acknowledged that it does have an "ombudsmen's flavor" and noted that had been considered as a potential option but it became obvious that it was different and did not fit for those specific specialized services.

Representative Hawker referenced the fiscal note, which would fund one range 17 employee and office supplies. The largest line item is interpreter fees. He asked if directing the Ombudsmen's Office to undertake the mission, then instead of a \$112 thousand dollar fiscal note, allocate them \$24 thousand dollars for the interpreter fees and the use of their office supplies. Representative Weyhrauch noted that he did question the assumptions of the fiscal note. He recommended that the fiscal costs be directed to the Department of Labor & Workforce Development.

Co-Chair Harris asked if the position had ever been seated within the Department of Labor & Workforce Development before. Representative Weyhrauch stated that the Department has worked hard to accommodate these types of issues and requested that Commissioner O'Claray address that. Representative Weyhrauch interjected that it is not just one particular nationality or group of people involved, noting that he was astonished at how many foreigners come to Alaska. Most often these people work extremely hard, sometimes having three jobs.

GREG O'CLARAY, COMMISSIONER, DEPARTMENT OF LABOR, commented on the bill and requested that Mr. Bell address the fiscal concerns identified by the Committee members.

GUY BELL, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT, commented that the fiscal note had been modeled after the bill sponsored by Senator Kelly from three years ago. That note was substantially larger than the proposed note. It had two or three positions associated with it and included

substantially higher travel and operating costs because it would have established offices in both Juneau and Anchorage. That note was used as the starting point. Mr. Bell reminded members that there is very restrictive use of monies that the Department receives from the federal government. The request had to become a general fund cost, as it is a special service beyond what is authorized in the federal program. It was determined that one position would be needed and located in Juneau with a limited travel budget for a few trips to Anchorage and other parts of the State, a contractual budget for basic office costs, and the interpreter service costs. He called that service a "soft" item as it is not known what services will be required. He noted the possibility that the Office might be able to find volunteers for that service. Mr. Bell thought that they could lower the interpreter service portion of the note from \$24 thousand dollars to \$4 thousand dollars.

Mr. Bell concluded that the position would be located in the Commissioners Office on the basis that it should report directly to the Commissioner rather than a division director, given the broad range of responsibilities.

Co-Chair Williams asked if the note would be reduced. Mr. Bell responded that the Department would reduce it by \$20 thousand dollars.

Co-Chair Harris inquired if an interpreter would be making \$120 dollars an hour. Mr. Bell replied that the dollar number of the proposed note had been taken from the previous bill and the assumption was not questioned. He reiterated that it was a soft cost.

Co-Chair Harris thought the bill was a good idea, noting that he would support the bill with the reduction to the fiscal note. Representative Weyhrauch inquired if the supply and furnishing dollar amount had come from the Legislative Affairs note. Mr. Bell replied that had been the Department's own internal determination for a personal computer, a printer and basic phones. The Department felt it would be appropriate to have some basic information material printed and produced and a description of services the office would offer. He added that those are the cost components that are standard when creating any type of Office. Representative Weyhrauch pointed out that there currently are desks and cubical spaces in the office buildings. He thought that since they already exist, why could they not be moved.

Representative Chenault proposed that HB 379 might be special legislation. He referenced the total operating costs for FY06, which are different from what is requested in the funding source. Mr. Bell embarrassingly noted that the Department had made an addition mistake and that the

cost should have been \$106.1 thousand dollars. Representative Chenault indicated his support of the bill acknowledging the difficulty that these people experience.

Representative Hawker referenced language indicating what the Office intends to accomplish. He asked if there already were operations in the State system that could address these concerns. Commissioner O'Claray acknowledged that each job center does offer a wide array of resources on a limited basis. The Office proposed in the legislation would be focused on particular problems.

Representative Hawker pointed out that this is a statewide issue. He inquired if spreading the mission to the outline job centers throughout the State could further reduce the fiscal note. He warned that since the problem is statewide, how would the remote sites access the information. Commissioner O'Claray responded that with the installation of a fax machine and email systems, the Office could be specifically focused.

Representative Hawker asked if there were federal or any other source funds available for this activity. Commissioner O'Claray replied that there are not and that the services mostly are intended to deal with Immigration and Naturalization Service (INS).

Representative Fate asked if there were ways to identify people seeking citizenship in other areas of the State and outside of Juneau. Commissioner O'Claray replied that they could absolutely handle those cases. The bill provides additional services beyond what is normally addressed in the job centers and is intended to provide more intensive core services rather than routine employment services.

MARIO LIM, JUNEAU, commented that he had been the first person who manned the Office through Legislative Affairs. He stressed that the need is enormous. There is a comradery within the minorities with a deep dislike of the white people because of how difficult things have been in the past. Mr. Lim pointed out that there is no one in the State supporting the people with these types of concerns. He pointed out that these people are also helping to support the State. He emphasized that there is an enormous need for the people that cannot speak English and as a minority, there is a tremendous amount of discrimination. He urged that the bill be adopted, as it is a statewide issue.

Vice Chair Meyer asked where his work is done. Mr. Lim replied that his work is done statewide. Vice Chair Meyer questioned if the position would be better located in Anchorage where the larger population lives. Mr. Lim responded that in the age of technological assistance, the position could be located anyplace statewide.

SAL LUMBA, IMMIGRATION GROUP, JUNEAU, urged support for the legislation.

Representative Foster MOVED to report HB 379 out of Committee with individual recommendations and with the adjusted new fiscal note. There being NO OBJECTION, it was so ordered.

HB 379 was reported out of Committee with a "do pass" recommendation and with a new fiscal impact note by the Department of Labor & Workforce Development.

#HB389

HOUSE BILL NO. 389

An Act relating to certain monetary advances in which the deposit or other negotiation of certain instruments to pay the advances is delayed until a later date; and providing for an effective date.

Co-Chair Harris MOVED to ADOPT the work draft #23-LS1341\U, Bannister, 4/20/04, as the version of the legislation before the Committee. There being NO OBJECTION, it was adopted.

REPRESENTATIVE TOM ANDERSON, SPONSOR, noted that the bill would create a framework for regulatory oversight of an industry that is currently doing business and serving consumers across the State. HB 389 does not create an industry; it is simply providing oversight to current practices to ensure some level of consumer protection. He commented that if the practice was banned from the State, consumers would then take advantage of the offers online or from banks with out-of-state branches that offer the product and often at higher fees.

Representative Anderson stated that these are not standard loans, they do not fall into the same category either in amount or in length. They would best be described as short-term conveniences.

Representative Anderson commented that his office has worked with the Department of Law and the Division of Banking and Securities to come up with HB 389, which adheres to two important principals:

- Consumer protection - shielding citizens from unconscionable fees and predatory lending tactics; and
- Business protection - allowing businesses that are filling a legitimate need for the Alaskan consumer to operate without

unreasonable regulatory burdens that would force them out of business.

Representative Anderson added that HB 389 provides:

- Minimum standards for licensure;
- Maximum loan amount;
- Maximum number of "roll overs";
- Bonding requirements;
- Penalties; and
- Framework for oversight and examination.

ED SNIFFEN, (TESTIFIED VIA TELECONFERENCE), ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, ANCHORAGE, offered to answer questions of the Committee.

ANGELA LISTON, (TESTIFIED VIA TELECONFERENCE), ALASKA CATHOLIC CONFERENCE, EAGLE RIVER, spoke against the legislation. She commented that the bill would legalize an industry that makes a profit on the working poor. It would charge huge interests rates on that group of people. She noted that it had been compared to a credit card cash advance; however, she pointed out that no credit card charges 490% on its cash advances. She stressed that HB 389 was poor public policy. She requested that if the legislation is passed, that it be amended to allow a minimum term of 30-days on any loan with a maximum of \$50-\$100 fee.

TAPE HFC 04 - 91, Side B

Ms. Liston continued discussing the repercussions of the interest, which could be addressed by amending the bill to a 30-day term rather than the 14-day term.

STEVE CLARY, (TESTIFIED VIA TELECONFERENCE), EXECUTIVE DIRECTOR, ALASKA PUBLIC INTEREST RESEARCH GROUP (AKPIRG), ANCHORAGE, testified that AkPIRG opposes the bill in its current form. To charge vulnerable consumers in need for short-term loans over 400% interest is unconceivable. Other states have been addressing similar legislation placing a limit on the interest rates that can be charged. He proposed a compromise in attempting to figure out how to keep the industry around for those that do need a short-term loan and a way to protect the consumers.

Mr. Clary discussed that there are two ways to reduce the annual percentage rates by either reducing the amount of money charged or increase the time. AkPIRG supports the idea of extending the amount of the loan time from 14 days to 30 days, which would divide the interest rate charged to

consumers in half. Another change that would protect the consumer would be to limit the amount of rollovers.

Mr. Clary was pleased to see the industry will now have to report to the Division of Banking, however, if that Division does not have more staff to adequately review these documents, will result in another cause of concern for the consumer.

Representative Croft asked the status of the current lawsuit. Mr. Clary advised that Alaska Legal Services Corporation has a case before the bar which challenges that payday loans not be granted an exemption from the Small Loan Act. That General Usury Act usually caps interests rates at 10.25%; the Small Loan Act caps it at 36%. The Alaska Legal Services Corporation is representing the consumer who believes that payday lenders should fall under those caps.

BUD WILSON, (TESTIFIED VIA TELECONFERENCE), CASH ALASKA, ANCHORAGE, offered to answer questions of the Committee.

JIM DAVIS, (TESTIFIED VIA TELECONFERENCE), ALAKSA LEGAL SERVICES, ATTORNEY, ANCHORAGE, addressed issues of concern in the bill. He noted that there is a pending lawsuit before the court against a payday lender chain known as Alaska First Cash. He pointed out that those businesses are already regulated through the Alaska Small Loans Act and that they have been violating that act for some years. The case will be decided by the Superior Court in June.

Mr. Davis claimed that the legislation has been brought forward because the lawsuit points out that these business are violating that Act. HB 389 is a means to create legality for some business that are already illegal in Alaska. He pointed out that the legislation would allow people that have needs to get loans at a 400% interest. The question is not whether people have needs but rather that there should be some sort of regulation on the interest. Loan sharking is illegal and the bill would make it legal. Mr. Davis maintained that the legislation is not in the consumer's interest and that it would not meet the rollover and cap intent.

Mr. Davis pointed out that there is concern whether or not the Division of Banking could monitor the data. If honest data is reported to the Division, the only way that it would be meaningful is if there was enough staff in that Division. The number of lenders would not be reported. There will be societal problems resulting from the small suits with no legal representation. Mr. Davis emphasized that payday lenders are asking for authorization for a lending rate used by crime families. The legislation has been brought forward only to end a lawsuit currently before the courts.

Representative Croft questioned if other lawsuits have held that they were exempted from the usury exception. Mr. Davis replied not to his knowledge. Alaska is unique because of the Small Loan Act.

Representative Croft asked what would be the appropriate regulation of the industry. Mr. Davis responded that consumer groups should be considered when making that determination. He understood that the legislation only addresses what would work for the payday lenders. The consumer groups have had no opportunity for input.

DEBORAH FINK, CASH ALASKA, ANCHORAGE, testified in support of the legislation. She noted that there currently is a lawsuit and that presently, 44 states are regulated in a more liberal manner than proposed in the legislation. She stressed that HB 389 is one of the stronger consumer protection bills dealing with the industry in the United States. The lawsuit was based on the premise that past legislative groups in 1955 before statehood, and in 1981 & 1993 were "too dumb to figure out" when they increased the small loan exemption that meant there would not be any interest requirements or limits on those people. She maintained that the legislatures involved clearly understood that small loans would not be available if the market was not allowed to regulate the amounts, because no one would provide the service. Under the consumer rate proposed, the lenders would be able to charge less than 50 cents per \$100 loan without the proposed provisions. The legislative bodies meant to exempt the loans from any regulated interest rate. The exemption was raised to keep up with inflation. She maintained that consumers love these loans. Those that argue against the loans don't use them. The industry is happy to do the loans at \$15 per \$100 for a couple week period of time.

Ms. Fink maintained that some of the numbers mentioned in previous testimony were incorrect. She referred to the recommendation that there be a compromise and extend the terms to 30 days. Ms. Fink pointed out that would be cutting their income in half. Money does not grow on trees. At the present configuration, there is only a 10% profit margin. It would be impossible to continue lending under that type of term except for the Internet dealers. Internet is operating in all states, legally, with no regulations. That industry will grow if there is no legislation in Alaska that permits the industry to provide service for the public to utilize.

Ms. Fink advised that the bill puts forth a lot of consumer protections. She stated that only six people have complained. It is a service that only the people that utilize it understand. It is not a traditional bank situation. Annual percentage rates are based on making

payments over twelve months and what happens in the industry are two-week loans. She claimed that these are not desperate people getting the loans. Payday loans cost less than a bouncing a check which can amount to \$43-\$48 per one bad check. She reiterated that these are not dumb people. They are usually young people in the collection phase of their lives. Statistics show that 56% of these borrowers have some sort of college education. Ms. Fink emphasized that the service is important and that it must stay available.

PATRICK LUBY, LEGISLATIVE DIRECTOR, ALASKA ASSOCIATION OF RETIRED PERSONS (AARP), JUNEAU, testified on behalf of the 76,000 AARP members in Alaska, in strong opposition to HB 389 regarding deferred deposit advances, also known as payday loans, sponsored by the House Labor and Commerce Committee. Under the plain language of Alaska's general usury statute and small loans act, the maximum interest rate of 36% under the usury statute should apply to payday lending. HB 389 would eliminate the cap on interest rates for those loans and allow usurious lending.

There are reasons why the federal government, the Consumer Federation of America, Consumer's Union, the National Consumer Law Center and AARP consider payday loan operators as predatory lenders. Payday loans usually affect the most vulnerable segment of the population - those that cannot secure credit or a small loan from traditional financial institutions, often because the loan amount is small or they do not have the necessary collateral. Those who live from paycheck to paycheck must resort to "fringe" banking services such as payday loans if an emergency arises.

Mr. Luby continued, cash-strapped consumers rarely have the ability to repay the entire loan when their payday arrives because that would leave them with little to nothing to live on until the next paycheck. Lenders then encourage consumers to rollover or refinance one payday loan with another. The result is that the consumer pays another round of charges and obtains no additional cash in return. If the consumer cannot repay the loan in two weeks, however, the loan is rolled over into a new payday loan, and the annual percentage rate jumps to a staggering 917%.

Mr. Luby pointed out that the legislation would legalize payday loans, thereby, authorizing interest rates that exceed State usury limits more than ten times. At minimum, HB 389 would allow loans of up to \$500 be made at a 15% interest rate, which translates to an annual percentage rate (APR) of 391%. It would also allow payday lenders to charge an origination fee, with no limit set. Although the origination fee is not considered interest in the bill, in fact, it would have the identical effect, as the consumer must repay the fee to renew the loan.

In addition, the legislation allows what are known as "touch and go" loans, where borrowers can take out a new loan immediately after paying off an old loan, resulting in borrowers entering a never-ending cycle of using two lenders to continually pay off each other, while plunging the borrower into ever-deeper debt.

Mr. Luby stated that as indicated, to renew the loan, consumers would have to repay the origination fee as well as the \$15 per \$100 loan charges. Research in several states, such as Illinois, Indiana, and Wisconsin, show that consumers typically take out 10-12 payday loans a year. The consumer repays the interest over and over again to extend the loan term, as they do not have the money to repay the principal. The limit on renewals in the bill would not end the practice in any way. There is no limit on the number of loans that could be taken out by the consumer, just a limit on the dollar amount from one lender or its affiliates. Consumers often have multiple loans outstanding from multiple lenders, using one loan to pay off another.

AARP, in collaboration with the Consumer Federation of America, Consumer's Union, and the National Consumer Law Center, has been working on predatory lending issues for several years. As part of the effort on predatory lending, the organizations have developed a model bill recognizing that consumers, particularly those who are "unbanked," may have a need for small loans but they should not pay usurious rates to receive them. Further, the repayment terms of the loan must be reasonable so consumers are not trapped in debt. The model bill calls for a repayment period of two weeks for every amount borrowed, which allows consumers to pay back their loans without having to go deeper into debt. AARP also advocates a 36% annual interest rate cap, which is consistent with Alaska's existing Small Loan Act. The model also prohibits lenders from extending loans to consumers who already have \$300 outstanding in payday loans, either from the same lender or any other lender. Payday loans are heavily marketed in low-income areas and near military bases as "fast, easy, credit" with no credit checks, a practice considered predatory. AARP has found payday lenders who market to older persons who have high medical costs or high prescription costs by encouraging retirees to treat their Social Security check like a paycheck.

Mr. Luby pointed out that many of the AARP members are veterans. It is particularly onerous that payday lenders target young military families who, because of deployment overseas, may find themselves cash-strapped. Consumers who are considered high-risk borrowers often have a difficult time getting credit on reasonable terms, but they deserve protection from deceptive and unfair lending practices. Mr. Luby strongly urged that the bill not be moved from

Committee.

HB 389 was HELD in Committee for further consideration.
#

ADJOURNMENT

The meeting was adjourned at 10:05 A.M.