

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 9, 2004

3:19 p.m.

**MEMBERS PRESENT**

Representative Tom Anderson, Chair  
Representative Carl Gatto, Vice Chair  
Representative Nancy Dahlstrom  
Representative Bob Lynn

**MEMBERS ABSENT**

Representative Norman Rokeberg  
Representative Harry Crawford  
Representative David Guttenberg

**COMMITTEE CALENDAR**

HOUSE BILL NO. 403

"An Act relating to the Alaska Insurance Guaranty Association; relating to joint insurance arrangements and assessments to the association; relating to the powers of the Alaska Industrial Development and Export Authority concerning the association; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 356

"An Act relating to operation of alcoholic beverage delivery sites; and providing for an effective date."

- MOVED HB 356 OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 32

Relating to the labeling of salmon and salmon food products.

- MOVED CSHJR 32(FSH) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 403

SHORT TITLE: ALASKA INSURANCE GUARANTY ASSOCIATION

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/28/04           (H)           READ THE FIRST TIME - REFERRALS

01/28/04 (H) L&C, JUD, FIN  
02/09/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 356

SHORT TITLE: EXTEND ALCOHOL DELIVERY SITE SUNSET  
SPONSOR(S): REPRESENTATIVE(S) JOULE

01/12/04 (H) PREFILE RELEASED 1/2/04  
01/12/04 (H) READ THE FIRST TIME - REFERRALS  
01/12/04 (H) L&C  
02/09/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HJR 32

SHORT TITLE: LABELING OF SALMON FOOD PRODUCTS  
SPONSOR(S): REPRESENTATIVE(S) KERTTULA

01/20/04 (H) READ THE FIRST TIME - REFERRALS  
01/20/04 (H) FSH, L&C  
02/02/04 (H) FSH AT 9:00 AM CAPITOL 124  
02/02/04 (H) Moved CSHJR 32(FSH) Out of Committee  
02/02/04 (H) MINUTE(FSH)  
02/04/04 (H) FSH RPT CS(FSH) NT 6DP  
02/04/04 (H) DP: GARA, OGG, SAMUELS, WILSON,  
02/04/04 (H) GUTTENBERG, SEATON  
02/09/04 (H) L&C AT 3:15 PM CAPITOL 17

**WITNESS REGISTER**

LINDA HALL, Director  
Division of Insurance  
Department of Community & Economic Development  
Anchorage, Alaska

POSITION STATEMENT: Presented HB 403 on behalf of the  
administration and answered questions.

JEFF BUSH, Deputy Director  
Alaska Public Entity Insurance (APEI)  
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to specific  
sections in HB 403.

PAUL LISANKIE, Director  
Division of Workers' Compensation  
Department of Labor and Workforce Development  
Juneau, Alaska

POSITION STATEMENT: Testified that his division is in support  
of HB 403.

CARL ROSE, Executive Director  
Association of Alaska School Boards  
Juneau, Alaska

POSITION STATEMENT: Concurred with comments of Mr. Bush and asked to be exempted from HB 403 as a matter of fairness.

JOHN GEORGE, Lobbyist  
for Property Casualty Insurers Association of America  
Juneau, Alaska

POSITION STATEMENT: Testified on HB 403, proposing areas for improvement, saying the door should be kept open for other solutions, and suggesting it is inextricably linked to HB 450.

KEVIN SMITH  
Alaska Municipal League Joint Insurance Association  
Juneau, Alaska

POSITION STATEMENT: Testified that his comments were closely tied to those of Mr. Bush and Mr. Rose.

MIKE KLAWITTER, Director of Risk Management  
Anchorage School District  
Municipality of Anchorage  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the portion of HB 403 that included self-insureds and joint insurance arrangements.

ROBERT LOHR  
Office of Management and Budget  
Municipality of Anchorage  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the portion of HB 403 that included self-insureds and joint insurance arrangements, but stated support if the foregoing is deleted.

CHARLES MILLER, Lobbyist  
for Alaska National Insurance Company (ANIC) and  
American International Group, Inc. (AIG)  
Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 403, testified in support of finding a solution.

REPRESENTATIVE REGGIE JOULE  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 356.

REPRESENTATIVE BETH KERTTULA

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HJR 32.

AURORA HAUKE, Staff

to Representative Beth Kerttula

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HJR 32 on behalf of Representative Kerttula, sponsor.

MARK VINSEL, Executive Director

United Fishermen of Alaska (UFA)

Juneau, Alaska

POSITION STATEMENT: Testified in support of HJR 32.

#### **ACTION NARRATIVE**

#### **TAPE 04-10, SIDE A**

Number 0001

**CHAIR TOM ANDERSON** called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Anderson, Gatto, Dahlstrom, and Lynn were present at the call to order.

#### HB 403-ALASKA INSURANCE GUARANTY ASSOCIATION

[Contains discussion of HB 450]

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 403, "An Act relating to the Alaska Insurance Guaranty Association; relating to joint insurance arrangements and assessments to the association; relating to the powers of the Alaska Industrial Development and Export Authority concerning the association; and providing for an effective date." [HB 403 was sponsored by the House Rules Standing Committee by request of the governor.]

Number 0183

LINDA HALL, Director, Division of Insurance, Department of Labor and Workforce Development, presented HB 403. She noted that most of the House Labor and Commerce Standing Committee had listened to an overview on HB 403 that had been done for a joint

meeting of the House Labor and Commerce Standing Committee and the Senate Labor and Commerce Standing Committee.

MS. HALL explained the need for this bill. The Alaska [Insurance] Guaranty Association is formed under statute; its members are all the insurance companies who write business in Alaska. Its purpose is to minimize financial loss to policyholders and claimants, which it does through a series of assessments to pay for the claims from insolvent insurance companies.

MS. HALL noted that in July 2003, Fremont Indemnity Company ("Fremont") was declared insolvent by the Los Angeles superior court. While it hadn't actively written business for more than two years, its insolvency left a long-term payout estimated at \$60 million in claims and claims reserves. When Fremont quit actively writing business and its certificate was withdrawn, it had approximately 27 percent of the workers' compensation market.

MS. HALL said the magnitude of this insolvency far surpasses any prior insolvency, and exceeds the resources of the guaranty association. Three other workers' compensation companies have claims in the guaranty fund. Ms. Hall noted a multitude of causes for insolvencies including poor reserving practices; poor management; discounting prices; or, in the case of Fremont, apparent excessive growth without funds.

MS. HALL explained that when there are insufficient funds in the guaranty association, Alaska Statute allows for prorating of payments. In August, she received a formal letter from the guaranty association indicating its intent to begin prorating claims payments to injured workers under the workers' compensation system. She remarked that obviously this is an unacceptable alternative for everybody involved; it would mean injured workers receive only a certain percentage of their weekly wages, and only a certain percentage of their medical benefits would be paid.

Number 0358

MS. HALL reported that as of February 2, the most recent date for which she had statistics, there were 598 open claims in the guaranty association for all four companies. The other side of that coin is the workers' compensation obligation, an obligation of the employer that typically is satisfied through the purchase of an insurance policy; when the company writing the insurance

policy becomes insolvent, the responsibility for claims payment passes to the guaranty association. If it cannot, in turn, pay those claims, that responsibility for the benefits of the workers' compensation system reverts to the employer.

MS. HALL, using the same February 2 date, said 380 employers have between 1 and 21 claimants in the guaranty fund. So the benefit payments for workers' compensation would go back to the employers, who in good faith had purchased an insurance policy that is no longer there. Noting the difficulty of this unanticipated financial obligation for small employers, she pointed out that some of the claims are expensive: a couple are in the millions of dollars, and approximately 100 reserve [claims] are for more than \$100,000. She surmised that most small employers around the state aren't prepared to take that kind of financial obligation back.

Number 0446

MS. HALL continued, saying the potential of prorating claims has been averted since August, when one of the mandatory assessments was done and a 2 percent statutory cap [was placed] on that assessment. In addition, a \$5-million loan was received from a liquidator in California, based on anticipated asset distributions down the road; at the end of December, \$2.6 million was received from the State of Pennsylvania, an asset distribution from Alliance Insurance; and in January the guaranty association did its 2004 assessment. "So, we have been able to generate funds sufficient to avert prorating claims," she remarked.

Number 0481

MS. HALL specified that the goal in HB 403 is to find a funding mechanism to avert the disastrous outcome to both injured workers and [employers] without requesting a bailout of the industry by the state. Noting that the basic philosophy of insurance is to spread the risk over a large number of people, she said she'd tried to "spread the pain" to the largest possible population. She remarked, "There's no question that these proposed solutions are not popular. At first consideration, I don't know anybody who's willingly going to stand up and volunteer to pay. The problem is painful; the solutions are going to be equally painful." Calling the guaranty fund a safety net, she said, over time, that legislatures in all states have adopted as public policy the guaranty fund mechanism, with the goal of protecting claimants

and policyholders. "And the way we do that is through assessments," she added.

Number 0575

MS. HALL explained that currently the guaranty fund has three separate accounts that can be assessed for insolvencies in each line: workers' compensation; auto insurance; and "other," for all other lines. She said there are "three series of proposals in this bill" and specified:

The first is a change in the method of assessing and in the amounts of assessing. The bill proposes to increase the current 2 percent to 4 percent, in the account in which the insolvency occurs. In the specific case we're dealing with, that would increase the assessment cap ... to 4 percent from the current 2 percent. If this does not produce sufficient money, then the other two accounts would be assessed at 2 percent.

These two provisions to expand current statutory provisions are an attempt, again, to spread the cost of resolving the funding crisis. Neither increasing the assessment amount to pay for others nor assessing the other accounts is very popular. The guaranty fund, again, functions as a safety net, and we're trying to find a way to spread the cost and keep a funding stream in the safety net.

MS. HALL said this approach is not unique; 18 states across the country have a single account in their guaranty fund, which means if there's an insolvency in any type of business, all of the lines of business would be assessed for that insolvency. She continued:

We also have, today, in Alaska, in the other account, ... the same philosophy being treated. We have an assessment of 0.5 percent being done on all other policy lines. That means homeowners, commercial property, commercial liability, boats - anything except auto and [workers' compensation] - is being assessed at 0.5 percent to cover the insolvency of a carrier who wrote medical malpractice. So you can anticipate, at some point, seeing your own homeowner's policy being assessed for a [medical malpractice] failure. That's the premise for assessing the other

two lines. I think we are already doing that, and while it's not popular to contemplate assessing your homeowner's or your auto for the insolvency of a [workers' compensation] company, we do that currently in other lines.

Number 0736

MS. HALL said the second piece of the bill is an assessment of other entities. Thus HB 403 proposes to assess other entities that aren't traditionally assessed: the self-insureds and the joint insurance arrangements. She explained:

Again, this is a highly controversial provision. These entities do not receive the benefits of the guaranty association. We've considered bringing them into the guaranty association or, alternatively, forming a guaranty association for self-insureds. The latter has been tried in other states, very unsuccessfully. There is no real method to force payment.

There's no oversight ability within the Division of Insurance for any of these entities. With a traditional insurer, we have the capability of ... having them stop doing business when they are financially impaired. We have no such corresponding ability with self-insureds or joint insurance arrangements. Therefore, we don't think it's appropriate for them to be part of the guaranty association.

We recognize these entities did not create the current crisis, but the philosophy behind the entire proposal is to spread the cost across the broadest possible span, and to include all entities. The bill does provide for deferral of proposed assessments, should the employer or the JIA's [joint insurance arrangement's] ability to fulfill their contractual obligations be in jeopardy.

Number 0830

MS. HALL said every employer and employee in the state is involved in workers' compensation; this spreads the costs across all of those. Saying she isn't sure, at this point, that fairness enters the equation, she explained:

Is it fair to have an injured worker not have a source to receive their benefits? Is it fair to have a small employer not be able to have their insurance company pay for their claims, to get those obligations back? Is the whole idea of a guaranty fund fair? It's really a public policy that was determined some time ago, and this is an expansion of that public policy. But I know ... it is ... very unpopular.

Number 0873

MS. HALL explained that the final component of the bill is a proposal to allow Alaska Industrial Development and Export Authority (AIDEA) to guarantee loans for the association to meet cash flow requirements. Currently, under statute, the guaranty association is authorized to borrow money; although it has attempted to do that, it isn't a viable commercial loan prospect, since its only asset is this stream of assessments that, by current estimates, will be taken up paying claims through 2010. Thus its ability to get a commercial loan without some kind of guaranty behind it has been negligible. "We have had some insurance companies step up and make some proposals to start looking at the process," Ms. Hall noted. She added:

In developing this particular piece of the proposal, I worked with AIDEA, and I worked with their chair. We have looked at various sources of monies, looking for the most efficient, cost-effective way to generate a stream of funds into the guaranty association. ... This was the best thing we came up with through consultation with financial experts.

Number 0930

MS. HALL closed by saying HB 403 contains painful, expensive, unpopular provisions; however, they aren't as painful as doing nothing and allowing prorating to occur. The guaranty fund will probably run out of money by the end April, at which point claims will substantially be prorated. She told members:

I would urge you to focus on the overall issue at hand. If we allow ourselves to get sidetracked by each group who opposes a particular piece, we are not going to find a solution. Many people, many groups - from the board of the guaranty association, insurance companies, Division of Insurance staff, financial

consultants, [to] regulators from other states - have all looked at these issues, trying to find the best way, the best viable option. We've explored loans, we've explored bonds, we've explored anything we could think of, in nearly the six months since this incident was really brought to our attention.

More often than I would like, I have somebody come and tell me, "We're going to oppose this bill." I don't get any concrete reasons for opposing it. I don't get any viable alternatives. I think we're all willing to look at anything that would resolve this funding crisis. The proposal in HB 403 spreads the cost over the broadest possible base, so that no one entity is overly burdened. I would urge your support for the bill and for the overall public policy concept of having a viable safety net in place for Alaskan consumers and for healthy businesses.

Number 1044

REPRESENTATIVE LYNN requested confirmation that Alaskan homeowners' insurance premiums could go up to help make up for the collapse of the California insurance company. He also asked the amount that premiums would increase.

MS. HALL affirmed that Representative Lynn understood the policy and gave examples: current auto insurance that costs \$500 would be \$10 [more], and a homeowner's premium of \$800 would be 2 percent of that \$800, or \$16 [more].

REPRESENTATIVE GATTO asked how this bill would affect an employer, for example, and if the workers' compensation rates would be affected.

Number 1155

MS. HALL replied that the rates would not [be affected], but added a caveat: the rates charged for workers' compensation are based on the cost of claims, actuarial studies that determine historical costs of claim, and projected costs of claims going forward; currently, employers are being assessed 2 percent, while HB 403 would change that rate to 4 percent. In further response, she said proration isn't yet occurring, but is the next alternative if the guaranty fund runs out of money. Ms. Hall reported that the current projection would be to pay roughly 30 percent of each claim. "As that money runs out, in

the end of April, then they would go to zero payment," she explained. She remarked:

We will certainly have policyholders who are concerned about paying for this, ... employers whose costs will go up. On the other hand, I have employers who are very anxious to see this bill pass because they could have a very substantial financial obligation returned to them. The self-insureds and the joint insurance arrangements are opposed to paying the 2 percent of their claims' cost because they do not participate in the guaranty fund.

REPRESENTATIVE GATTO asked for clarification on the fiscal notes, specifically, number five.

MS. HALL explained that operating expenditures increase in proportion to the estimated increase in the cost of claims. For self-insureds, the projection is based on 2 percent of their anticipated claims. She pointed out that self-insureds include the State of Alaska.

Number 1343

REPRESENTATIVE LYNN asked what was being done to minimize the factors that caused this problem. He also asked when the State of Alaska became aware that this problem existed.

MS. HALL responded, "We have looked diligently at financial oversight as a primary responsibility of the Division of Insurance. We do deference to the state of domicile of the insurance company." She said there have been insolvencies for at least 20 years, and suggested the magnitude of this problem was partially caused by Fremont's market share. She added, "We only have one other insurance company with that type of market share. They are a local company, domiciled in Alaska, very stable, very financially stable, very well run. I don't anticipate an insolvency of this magnitude, but I would think we will have insolvencies in the future." As to when the state became aware of the problem, she explained:

In the year 2000, it's my understanding that the State of California took oversight responsibilities for Fremont. Their certificate of authority was withdrawn in March of 2001, so they could no longer operate. From March of 2001 through June of 2003 ... they continued under the oversight of their regulator to

pay claims; they could not write new business, but they would pay claims. There were still assets; there are still assets there. But in July they were declared insolvent when it was determined officially that they did not have sufficient assets to cover their outstanding liabilities. So it's a long-term process.

Number 1500

JEFF BUSH, Deputy Director, Alaska Public Entity Insurance (APEI), stated, "We are one of those entities that's opposed to the legislation, or at least to particular parts of the legislation." He explained that APEI is an insurance pool that provides property, casualty, and workers' compensation insurance for school districts in Alaska and some municipalities as well. He said the legislature essentially authorized APEI to come into existence. Formerly known as ASIC [Alaska Schools Insurance Company], it was to offer a market to school districts for insurance because they were coming to the legislature for assistance and it was deemed to be in the best interests of the state, the school districts, and local governments to allow them to create a self-insurance pool.

MR. BUSH reported that for most of the 15 or more years, property insurance has been a big focus. He said this program has been quite successful and has saved the state a great deal of money over the years. For example, APEI paid over \$40 million in claims during the 1990s for schools that had significant property losses; those are the kinds of liabilities that previously would have fallen back on the state. Noting that the pools and self-insureds don't participate in the guaranty association, he told members:

What this bill is doing, at least in terms of those provisions that are falling on to the pools and the self-insureds, is that they are requiring the self-insureds, ... or the local governments in our case, ... to subsidize poor business practices by insurance companies that otherwise ... have now gone insolvent."

Number 1606

MR. BUSH suggested this amounts to a tax, "in our case, a tax on local governments." He explained:

It's going to be a tax that's going to add to the cost of their workers' compensation insurance directly - whatever the amount is paid to the guaranty fund is going to be charged back on the local school districts and municipalities that we insure, and it has to be collected from them. ...

I'm sure you have already heard some of the presentations that have been in the legislature and in press reports about what's happening to workers' compensation insurance right now. ... The estimates right now are that local government workers' [compensation] rates are going to rise between 22 and 32 percent this year already. So, this is ... a potential add-on on top of that.

MR. BUSH addressed specific financial aspects. He offered his understanding that the current 2 percent assessment on workers' compensation amounts to about \$4.2 million, collected annually, to the guaranty fund; that would double under this legislation. Thus there'd be \$8.4 million coming in from workers' compensation carriers. He expressed uncertainty as to how much would be collected under the second provision of the bill, which allows an assessment against homeowners', auto, and other insurance companies to cover these losses; however, he said he understood it would be a large amount that could be brought in, as much as \$15 million annually. "That's about \$19 million new dollars, potentially, under this piece of legislation, even without the self-insureds," he remarked.

MR. BUSH referred to the last part of the bill and related his understanding that about \$1 million comes out of "the self-insureds and its governments, of which two-thirds of that amount is local government money." He added, "The biggest piece, by far, is the state, and we've heard comments about the fiscal note; it's essentially a tax, a subsidy ... by local governments and by the state government, of these private insurance companies."

Number 1729

MR. BUSH told members:

It is our view that ... those provisions of the bill are unnecessary and are bad public policy. They are unnecessary because, as I said, we're probably no more than 5 percent of the total pot, when you're done, of

money, represented by the assessment on public entities and self-insureds. We're the only ... one represented here who's being asked to pay who's not getting any benefits from the program. We are not, out there, as protected by the guaranty fund. ...

I think it's bad public policy to ... tax local governments that are already struggling quite severely. And I know that you all have had a lot of ... media lately about the impacts that are going on at the local level, of school districts and municipalities, right now, across the state.

So, I just simply would ask that you consider dropping us. To do so, it is quite simple. ... Sections 1, 4, 5, and 6 of the bill apply to the self-insureds and the ... pools, the joint insurance arrangements. You can simply delete those four sections of the bill. You will still have 95 percent of the money, and the solution is still there. That still will result in a solution to the problem, ... although you may not be able to collect enough directly into the guaranty fund in one year. ...

I don't honestly believe that the \$1-million difference that the public entities make will make up that difference, one way or another. But if you don't collect enough ... in an annual basis, the bill, as pointed out, has the other provision which allows for borrowing of money in the short run to deal with the big years, which, of course, are the early years ... because we're dealing with the runoff of Fremont.

Number 1853

PAUL LISANKIE, Director, Division of Workers' Compensation, Department of Labor and Workforce Development, informed the committee that his division is in support of HB 403. He said it's the responsibility of the division to ensure a smooth transition, should proration become a reality. He expressed concern about the brief turnaround time between employers' being notified of proration and the division's efforts to coordinate and ensure that payments can be picked up by the employers. Workers' compensation benefits are paid on a two-week schedule, and medical benefits are paid within a 30-day timeframe, he noted. Expressing another concern, Mr. Lisankie said:

I am not entirely sure that every injured worker that Director Hall is talking about having an open claim has an employer that's still in business. If they are still in business, then you presuppose that they have enough funds and resources to pick up whatever liability it is that the famous letter is going to acquaint them with. I guess what I'm trying to underscore is the practicalities, not so much just the liabilities, but the practicalities of what happens the day that these employers find out that, first, their insurance failed, and now the guaranty association had failed.

CHAIR ANDERSON requested Mr. Lisankie to explain how workers' compensation operates and how this bill would affect it.

MR. LISANKIE replied that an employer has a legal obligation to guarantee the payment of workers' compensation benefits to its covered employees. While some employees are exempt from coverage of the Act, it covers virtually every employee in Alaska. If an employer has the wherewithal and chooses to make the decision to self-insure, it must obtain a certificate from the division that indicates it has adequate resources and can handle its own claims.

Number 2034

MR. LISANKIE said he believes there are only 24 such employers currently in the state; all other employers deal with the legal liabilities imposed on them by the state, by getting a policy through an insurance company and paying premiums. He explained that as long as they do that, they have a reasonable expectation of having complied with the law. He remarked, "It's kind of a transparent process for them - they have hired an expert to do that job for them."

MR. LISANKIE expressed strong concern about the consequences to his division if the state notifies employers that they are directly responsible for compensation payments to their employees if the insurance companies have failed and the guaranty fund has run out of funds. If this were to happen, the short timeframe for transition would be especially difficult. He said:

I was gratified to hear that Director Hall has less ... than 600 clients and less than 400 employers. I add them together because I'm anticipating that when a

letter like that goes out, ... I'm going to get 1,000 phone calls, frankly. We are staffed to resolve complaints and disputes and the like by people that really have disputes to be resolved. ... We are not anxious to have a lot of people who don't have any dispute, as far as they know, suddenly having to make recourse to the division to try and work through how this proration is going to be taking place.

Number 2101

REPRESENTATIVE GATTO asked: Does workers' compensation normally pay about 80 percent of an employee's salary to an injured employee? Is proration at the 80 percent level as well? If the employer goes out of business, who pays the injured employee?

MR. LISANKIE explained that workers' compensation usually pays about 80 percent of an employee's salary. The proration rate would affect the amount of compensation the person is going to get from the guaranty association. He said it is a concern on the part of the division that the business stay in business and have the funds to do so.

Number 2180

CARL ROSE, Executive Director, Association of Alaska School Boards, expressed a desire to associate himself with the comments of Jeff Bush. He presented an overview:

Back in 1986, when many of our school districts were having difficulty getting insurance, the school board association created the Alaska School Insurance Company, which was the predecessor to APEI. At the time we were ... being assessed \$1.25 per \$100 in value, an excessive amount. ...

The state didn't see their way clear to assist the school districts that were having such difficulty, so we got together in a pool, put together enough money to capitalize the company, to ensure the interests and the investment of the state, mainly in property. By the year '92, we had driven the price down to 41 cents per \$100, a tremendous savings to school districts. And then the losses came, because in insurance, it's not a matter of when the losses come - they will come. ... From the years '92 through '96 we experienced over \$36 million in ... losses. In fact, we had

experienced one the first year we opened, in '86, and that was in Shageluk, when it burned down.

Number 2245

MR. ROSE continued, saying this insurance company was created to try to create "dollars in the classroom." Noting that this has saved the state more than \$36 million, he added, "We're asking to be exempted from this bill for many of the reasons you have already heard." He added, "It's important for us to ensure that the dollars that we do get, through the foundation formula and through federal funding, remain in the school districts to do what we are all charged with doing."

MR. ROSE characterized the issue as one of fairness. Self-insured school districts aren't covered by the guaranty association and yet the state wants to assess them. He asked for an exemption, since school districts have been diligent in providing savings for themselves and have contributed to the state by protecting the state's interests with regard to capital.

CHAIR ANDERSON asked if Mr. Rose agreed with removal of Sections 1, 4, 5, and 6.

MR. ROSE indicated agreement by repeating those sections.

Number 2370

REPRESENTATIVE GATTO asked Mr. Rose, "If, indeed, you did get stuck, and had to pay this money, then each school district would have to pay?" He also asked where they would find the money to pay.

MR. ROSE replied that those who were insured would have to pay and, he imagined, would come back to [the legislature] for money.

REPRESENTATIVE GATTO commented that the money might come out of the classroom budgets.

MR. ROSE agreed.

**TAPE 04-10, SIDE B**

Number 2335

JOHN GEORGE, Lobbyist for Property Casualty Insurers Association of America, explained that about 700 insurance companies make up this association and write roughly 50 percent of all of insurance in Alaska. He testified:

We, too, feel that this bill is unfair to us and our policyholders. But as Linda Hall so eloquently expressed, ... this bill is unfair to everyone. All of us would agree that a solution has to come about; we got to fix it. We can't go to prorating the claims, and none of us cheerfully want to put our money in there.

Part of the problem that ... brought this to the forefront is there aren't many insurance companies writing workers' compensation insurance - there aren't many companies writing homeowners, there aren't many companies writing auto, there aren't many companies writing construction equipment, you name it. We're burdened with that for a number of reasons, part of which is we're a small state, relatively small premium volume. It's a difficult place to do business because you have to have infrastructure here, and premium just doesn't support a lot of infrastructure. They use independent adjustors; they don't have quite as much control. Our legal system is different than ... some. Our regulatory climate ... comes and goes. ...

We can bail out the fund, we can throw money at it, but have we fixed the problem? And we see that as getting more companies, getting a good regulatory climate, and coming up with ... some reforms in workers' comp and some other lines of insurance.

Number 2200

MR. GEORGE referred to HB 450, just introduced, and said the two are inextricably linked; he suggested that the legislature not pass one without the other. "I think we really do need some of those reforms," he added. Mr. George pointed out that if the state wanted to spread the responsibility to everyone, it could turn to the permanent fund to let everyone pay for the problem. He listed other solutions: turn to the general fund, put a surcharge on workers' compensation, or spread the obligation among other lines of insurance. He said:

Really, what you are doing is passing a tax. Everyone who has insurance of some sort will be paying additional to do this. So, I know it's really unpopular to say, "We're going to pass an income tax," and you'd have to stand and take heat for that, but it's really easy to say, "Oh, we'll just have the insurance companies chart this, and we don't get blamed for it - the insurance company gets blamed for it."

My clients are very concerned that when they send out the bill and it has that 2 percent surcharge on it, ... the phone is going to start ringing and people are going to say, "Well, wait a minute - I'd better shop my insurance, see if I can get a deal somewhere else." So it [will] cause great disruption and dislocation.

MR. GEORGE encouraged the committee to leave the door open for other solutions if this bill is passed. He pointed out that proration of workers' compensation claims or suspension of payments for these claims would hurt auto and other lines of insurance coverage, and would be a mistake. He opined that changes need to be made in the regulatory system.

Number 2116

MR. GEORGE, in response to Chair Anderson, said:

The insurance companies will pass this on to the consumer. This is not something that we're going to take out of profits, if any. But it's something that gets added right on. Your premium is \$600; your surcharge is a separate listing on there. But people are going to first of all go back to the insurance agent, and he's going to be the first guy that gets it, and then they're going to go to the company. It will certainly cause some disruption. The question is, "Is it fair that you pay your auto and your homeowner's and other insurance that you pay, for the workers' comp?" The answer is no. ... It isn't fair to anybody to have to pay this, other than Fremont. ... As a matter of policy, we ... feel that it should not be spread among ... the other funds.

Number 2054

KEVIN SMITH, Alaska Municipal League Joint Insurance Association, said his comments were closely tied to those of Mr. Bush and Mr. Rose, and that in the interest of time he would speak later with the chair.

Number 2034

MIKE KLAWITTER, Director of Risk Management, Anchorage School District, Municipality of Anchorage, echoed the testimony of Mr. Bush and Mr. Rose. He informed members that additional assessments would result in losing 2.5 teacher positions in the Anchorage School District. He agreed that self-insureds receive no benefit from the guaranty fund.

CHAIR ANDERSON requested confirmation that the 2.5 teacher positions is the amount of salary that would be diverted to pay this tax. He also asked whether Mr. Klawitter agreed with Mr. Bush about the sections of HB 403 that should be deleted.

MR. KLAWITTER clarified that yes, in terms of teacher's salaries, that's what they'd be paying extra, each year, as a result of HB 403. The sections of the bill he recommended deleting were 1, 3, and 6, which apply to self-insureds.

Number 1947

ROBERT LOHR, Office of Management and Budget, Municipality of Anchorage, testified that he endorsed what Mr. Bush said, and believed it was essential to delete the sections that deal with self-insureds and joint insurance arrangements. He added that if the bill was adopted as the division presented it, with those deletions, proration would be unnecessary. He said he supported the rest of the bill, since it would ensure that the guaranty fund had adequate money to meet its obligation to provide the safety net for private insurance companies.

MR. LOHR said HB 403 as it currently stands isn't fair and isn't good public policy, but with the sections deleted that involve self-insureds, the municipality does support the bill. Noting that he'd done a quick survey that morning to find out how other states approach this question, he said of the 12 states he was able to contact, none assesses employers who are self-insured. He added, "They all recognize that distinction. While they do hit private insurance companies, they do not assess self-insureds." Mr. Lohr suggested if the division has additional information on all the states available, that would be useful. He also recommended gathering legal opinions regarding assessing

self-insureds and options papers that might provide further solutions.

Number 1738

CHARLES MILLER, Lobbyist for Alaska National Insurance Company (ANIC) and American International Group, Inc. (AIG), noted that he represents two private carriers that underwrite workers' compensation in Alaska. Responding to Representative Lynn's question on how to avoid this problem in the future, he expressed concern with protecting the system from future failures. Mr. Miller said most insurers weren't involved in this failure; most are responsible, and policyholders had conducted themselves appropriately and are protected. Voicing concern that adding 2 percent onto his customers' costs is unfair, Mr. Miller said the rest of the insurance industry shouldn't be singled out, since no conduct on their part deserved this reaction. Agreeing there is a dilemma in the public policy sense, he emphasized that a solution is necessary and should be arrived at soon.

Number 1599

MR. MILLER concluded by commenting on the appropriateness of the surcharge being sent to the policyholders. The insurance companies would not pay the surcharge themselves, but he noted it is their responsibility to come up with the money within the 45-day time limit. He explained that this money is taken out of excess reserves that would not then be available to write new business. This would affect the insurance company's returns. In addition, he explained that there would be administrative costs resulting from this legislation. Finally, he said, the market has caused profit loss for insurance companies for the last five or six years. He said he feels insurance companies pay their share, as do their policyholders.

CHAIR ANDERSON announced that public testimony would be kept open and that HB 403 would be held over.

HB 356-EXTEND ALCOHOL DELIVERY SITE SUNSET

Number 1538

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 356, "An Act relating to operation of alcoholic beverage delivery sites; and providing for an effective date."

Number 1501

REPRESENTATIVE REGGIE JOULE, Alaska State Legislature, sponsor, explained that HB 356 just extends the sunset date [for AS 04.11.494] from July 1, 2004, to July 1, 2008. The original legislation provides communities with the option of monitoring the inflow of alcohol into their communities through a locally operated distribution center. To date, Barrow is the only community that has opted to utilize this option, but has found it helpful in controlling alcohol consumption and bootlegging in the area. Representative Joule said he believes it is important to extend the sunset date to give communities more options to deal with problems at the local level. In reply to a question from Chair Anderson, he explained:

When a community exercises the local-option law and goes to a "damp" status, people can bring in alcohol to those communities, but they cannot legally sell alcohol in those communities. There are some communities that have a real battle between whether to go dry or to go wet, or ... somewhere in between. In a damp community and in the community of Barrow, in particular, this distribution center is the happy medium.

This is where both sides of a very contentious issue have come to the middle and have agreed. For alcohol that's being freighted in, for baggage that's marked, everybody ... does check through the distribution center, pays their little fee. There's a limit on how much alcohol that they can bring into the community in a month. ... Currently, in the community of Barrow where it is being exercised, there are 1,713 permits. ... So, it is being utilized. Not all of them are active, mind you, but ... that many people have applied for permits.

CHAIR ANDERSON asked: If someone lives in Barrow and wants to drink alcohol, does that person get a permit and bring in liquor, or are there bars?

REPRESENTATIVE JOULE replied that there are no bars in Barrow and that all liquor comes through the distribution center and then into homes. In response to questions from Representatives Dahlstrom and Gatto, he said it can be transported and given as

a gift. He also said he imagined it could be traded. He said it cannot be legally produced.

Number 1320

REPRESENTATIVE DAHLSTROM moved to report HB 356 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 356 was reported out of the House Labor and Commerce Standing Committee.

HJR 32-LABELING OF SALMON FOOD PRODUCTS

CHAIR ANDERSON announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 32, Relating to the labeling of salmon and salmon food products. [Before the committee was CSHJR 32(FSH).]

Number 1288

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, sponsor of HJR 32, expressed appreciation to the committee and turned testimony over to her aide.

Number 1270

AURORA HAUKE, Staff to Representative Beth Kerttula, introduced HJR 32, saying it supports the timely labeling of fish because people have the right to know what's in fish, where it's from, and how it's raised. She remarked, "We all know that wild salmon and other fish taste better and it's better for you. Lately, more and more Americans have been catching on to this. And because fish is just such an important part of our economy, we need to take advantage of this awareness and support labeling."

REPRESENTATIVE GATTO asked if this resolution would help fishermen demand a higher price.

MS. HAWK replied that she believed so, although not directly.

REPRESENTATIVE GATTO commented:

I've tried to make this argument a hundred times: we have a Timex and we have a Rolex. We are selling our Rolexes at Timex prices because we're trying to compete on price. We've got this amazing product that is only available -- if you want to sell an Alaskan

wild salmon, you can't substitute it. I'm trying to find some sort of a way to say we can charge 10 times more than a farmed fish for this fish.

Number 1164

REPRESENTATIVE DAHLSTROM, cosponsor, commented that it is important to provide accurate information to consumers who are increasingly better educated about diet. She said, "I think this is a great bill and support it 100 percent."

REPRESENTATIVE LYNN, cosponsor, asked why wild salmon taste so much better and are better nutritionally.

REPRESENTATIVE KERTTULA offered her belief that the primary reason is what wild fish eat - wild food.

Number 0995

MARK VINSEL, Executive Director, United Fishermen of Alaska (UFA), testified that UFA supports HJR 32, specifically, country-of-origin and farmed-versus-wild labeling for seafood in all product forms. He advocated for the bill to move quickly, saying the U.S. Department of Agriculture deadline for comments on the proposed rule - which includes labeling of wild and farmed, and country of origin, in all product forms - is February 27. With regard to the different taste of wild fish, he shared his belief that it's partly from diet and not being subjected to chemicals, but also because it's "free-range" and thus the quality of the tissue is better because of increased exercise.

REPRESENTATIVE GATTO asked if there was any definition of "letter size" attached to the labeling requirements in this resolution.

MR. VINSEL replied that he believed it was addressed in the proposed rule.

REPRESENTATIVE GATTO told of a pig he once bought that tasted like fish because it had been fed fish. He likened this to the case of farmed salmon.

[A motion to report the bill from committee was made but then removed at the request of the chair in order to adopt CSHJR 32(FSH).]

REPRESENTATIVE DAHLSTROM moved to adopt CSHJR 32(FSH), labeled 23-LS1508\I. [No objection was stated.]

Number 0788

REPRESENTATIVE DAHLSTROM moved to report CSHJR 32(FSH) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 32(FSH) was reported from the House Labor and Commerce Standing Committee.

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:43 p.m.