

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 16, 2004

3:20 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Carl Gatto, Vice Chair
Representative Nancy Dahlstrom
Representative Bob Lynn
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

Representative Norman Rokeberg

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."

- MOVED CSHB 403(L&C) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 34

Requesting the United States Department of Agriculture and the United States Department of Labor to extend Trade Adjustment Assistance benefits to Alaska fishermen; requesting the United States Congress and the United States Department of Agriculture to extend additional disaster and price support benefits to Alaska salmon fishermen; and requesting the United States Department of Agriculture to establish terminal markets in Alaska for all covered commodities including salmon.

- MOVED CSHJR 34(FSH) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 35

Relating to mad cow disease and country-of-origin labeling for meat products.

- MOVED CSHJR 35(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 450

"An Act providing for a special deposit for workers' compensation insurers; relating to the board of governors of the Alaska Insurance Guaranty Association; relating to covered workers' compensation claims paid by the Alaska Insurance Guaranty Association; stating the intent of the legislature, and setting out limitations, concerning the interpretation, construction, and implementation of workers' compensation laws; relating to restructuring the Alaska workers' compensation system; eliminating the Alaska Workers' Compensation Board; establishing a division of workers' compensation within the Department of Labor and Workforce Development and assigning certain Alaska Workers' Compensation Board functions to the division and the Department of Labor and Workforce Development; establishing a Workers' Compensation Appeals Commission; assigning certain functions of the Alaska Workers' Compensation Board to the Workers' Compensation Appeals Commission; relating to agreements that discharge workers' compensation liability; providing for hearing officers in workers' compensation proceedings; relating to workers' compensation awards; relating to an employer's failure to insure and keep insured or provide security; providing for appeals from compensation orders; relating to workers' compensation proceedings; providing for supreme court jurisdiction of appeals from the Workers' Compensation Appeals Commission; providing for a maximum amount for the cost-of-living adjustment for workers' compensation benefits; providing for administrative penalties for employers uninsured or without adequate security for workers' compensation; relating to assigned risk pools and insurers; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 418

"An Act extending the termination date of the Real Estate Commission; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

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
02/09/04 (H) Heard & Held
02/09/04 (H) MINUTE(L&C)
02/11/04 (H) L&C AT 3:15 PM CAPITOL 17
02/11/04 (H) Heard & Held
02/11/04 (H) MINUTE(L&C)
02/16/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HJR 34

SHORT TITLE: FED TRAINING AND ASSISTANCE FOR FISHERMEN
SPONSOR(S): REPRESENTATIVE(S) OGG

01/28/04 (H) READ THE FIRST TIME - REFERRALS
01/28/04 (H) FSH, L&C
02/09/04 (H) FSH AT 9:00 AM CAPITOL 124
02/09/04 (H) Moved CSHJR 34(FSH) Out of Committee
02/09/04 (H) MINUTE(FSH)
02/12/04 (H) FSH RPT CS(FSH) NT 5DP
02/12/04 (H) DP: OGG, WILSON, SAMUELS, GUTTENBERG,
02/12/04 (H) SEATON
02/16/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HJR 35

SHORT TITLE: MAD COW DISEASE/COUNTRY OF ORIGIN LABELS
SPONSOR(S): REPRESENTATIVE(S) KERTTULA

02/05/04 (H) READ THE FIRST TIME - REFERRALS
02/05/04 (H) L&C, RES
02/16/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 450

SHORT TITLE: INSURANCE & WORKERS' COMPENSATION SYSTEM
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/09/04 (H) READ THE FIRST TIME - REFERRALS
02/09/04 (H) L&C, FIN
02/11/04 (H) L&C AT 3:15 PM CAPITOL 17
02/11/04 (H) Heard & Held
02/11/04 (H) MINUTE(L&C)
02/16/04 (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: Explained the changes in the proposed committee substitute to HB 403 and answered questions; introduced HB 450 and answered questions.

REPRESENTATIVE DAN OGG
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HJR 34.

MELISSA DOVER, Staff
to Representative Dan Ogg
Alaska State Legislature

POSITION STATEMENT: Explained changes to HJR 34 on behalf of Representative Ogg, sponsor.

REPRESENTATIVE BETH KERTTULA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HJR 35 and answered questions.

AURORA HAUKE, Staff
to Representative Beth Kerttula
Alaska State Legislature

POSITION STATEMENT: Presented HJR 35 on behalf of Representative Kerttula, sponsor.

DOUG WOOLIVER, Administrative Attorney
Administrative Staff
Office of the Administrative Director
Alaska Court System (ACS)
Anchorage, Alaska

POSITION STATEMENT: Explained the perceived impacts of HB 450 on the Alaska Court System.

DON ETHERIDGE, Lobbyist
for Alaska State AFL-CIO [American Federation of Labor and Congress of Industrial Organizations]
Anchorage, Alaska

POSITION STATEMENT: Requested that HB 450 be reviewed by an ad hoc committee prior to passage.

PAMELA LaBOLLE, President
Alaska State Chamber of Commerce
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 450.

ACTION NARRATIVE

TAPE 04-13, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Representatives Anderson, Gatto, Dahlstrom, and Guttenberg were present at the call to order. Representatives Lynn and Crawford arrived as the meeting was in progress.

HB 403-ALASKA INSURANCE GUARANTY ASSOCIATION

Number 0042

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."

Number 0097

LINDA HALL, Director, Division of Insurance, Department of Community & Economic Development, noted that she had presented HB 403 originally and would explain changes in the proposed committee substitute (CS) [Version D, labeled 23-GH2105\D, Bullock, 2/11/04, which there was a motion to adopt at the February 11 hearing].

MS. HALL told members the most controversial part of the bill had been removed, the assessments against entities not covered by the Alaska Insurance Guaranty Association (AIGA). It removes all references to assessments on self-insurers and joint insurance arrangements (JIAs) because funds generated by those assessments would be a minimal part of the funds generated by other types of assessments.

Number 0186

CHAIR ANDERSON announced that Representative Lynn had joined the meeting. Returning to the testimony, he asked who had wanted those references removed.

MS. HALL replied that representatives from both the Alaska Municipal League Joint Insurance Association and the Alaska Public Entity Insurance (APEI), as well as at least two school districts, had testified that additional assessments would be injurious to their budgets.

Number 0230

REPRESENTATIVE GUTTENBERG asked for clarification of the whole bill, with the changes.

MS. HALL explained that the bill proposes to generate a stream of revenue to cure the deficit in the [AIGA] fund through, first, an increase in the assessment on the line of business where the insolvency occurs; second, assessing the other two accounts in the fund, the auto and the "other"; and, third, allowing AIDEA [Alaska Industrial Development and Export Authority] to guarantee a loan on behalf of [AIGA] if there are insufficient funds to pay claims through the assessment process.

Number 0310

REPRESENTATIVE GUTTENBERG asked if the self-insurers were taken out statewide.

MS. HALL responded that it was all self-insurers.

CHAIR ANDERSON remarked that Ms. Hall in the past had said this process wouldn't be very appealing because it would raise rates. He said it was tough to do, but needed to be done.

MS. HALL agreed. She characterized the bill as painful and unpopular, and said it does increase assessments on other policies and policyholders. Saying the alternative of doing nothing would be more painful, she continued:

It will give the injured workers who are currently receiving benefits at least probably a period of disruption of their benefits. In the long run, the obligation for workers' compensation insurance is that of the employer.

We have 380 employers with claims of their employees in the [fund] today. These claims would revert back to those employers who purchased a workers' compensation policy to satisfy that obligation, and now they would get that financial obligation back with

probably little awareness or financial planning for that burden.

Number 0424

REPRESENTATIVE DAHLSTROM moved to report CSHB 403, Version 23-GH2105\D, Bullock, 2/11/04, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 403(L&C) was reported from the House Labor and Commerce Standing Committee.

HJR 34-FED TRAINING AND ASSISTANCE FOR FISHERMEN

Number 0446

CHAIR ANDERSON announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 34, Requesting the United States Department of Agriculture and the United States Department of Labor to extend Trade Adjustment Assistance benefits to Alaska fishermen; requesting the United States Congress and the United States Department of Agriculture to extend additional disaster and price support benefits to Alaska salmon fishermen; and requesting the United States Department of Agriculture to establish terminal markets in Alaska for all covered commodities including salmon. [Before the committee was CSHJR 34(FSH).]

Number 0462

REPRESENTATIVE DAN OGG, Alaska State Legislature, sponsor, noted that he'd sponsored HJR 34 at the request of the Joint Legislative Salmon Industry Talk Force. He introduced Ms. Dover.

Number 0480

MELISSA DOVER, Staff to Representative Dan Ogg, Alaska State Legislature, presented the resolution as follows:

HJR 34 seeks to ask Congress to make some changes to the current Trade Adjustment Assistance programs to make them a better fit for commercial fishermen. Both the United States Department of Agriculture and the United States Department of Labor have Trade Adjustment Assistance programs that are designed to help workers who have been hurt by imports. Those programs were primarily designed for agricultural workers.

Last year, with the recognition that imported salmon has dramatically hurt wild salmon prices, [U.S.] Senator Lisa Murkowski was able to get Alaska's commercial salmon fishermen qualified for those programs. We've been working with her office, and with fishermen and other stakeholders, to look at some of the issues hitting commercial fishermen.

MS. DOVER concluded that the resolution requests specific changes to the existing programs to make them a better fit for commercial fishermen, and, ultimately, asks that the U.S. Secretary of Commerce create a program specific to commercial fishermen.

Number 0616

REPRESENTATIVE DAHLSTROM moved to report CSHJR 34(FSH) out of committee with individual recommendations and the zero fiscal note. There being no objection, CSHJR 34(FSH) was reported from the House Labor and Commerce Standing Committee.

HJR 35-MAD COW DISEASE/COUNTRY OF ORIGIN LABELS

Number 0664

CHAIR ANDERSON announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 35, Relating to mad cow disease and country-of-origin labeling for meat products.

CHAIR ANDERSON noted that Representative Crawford had joined the meeting.

Number 0672

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, sponsor of HJR 35, introduced her staff, Aurora Hauke.

Number 0686

AURORA HAUKE, Staff to Representative Beth Kerttula, Alaska State Legislature, introduced HJR 35 with the story of a girl from the United Kingdom who moved to Florida and began experiencing memory loss; she'd contracted a form of Creutzfeldt-Jakob disease from eating beef contaminated with bovine spongiform encephalopathy (BSE) or "mad cow disease." Noting the 10-year incubation period in humans and that it

affects mostly young people, Ms. Hauke said the median age at death is 29 years old. It was as recent as December 2003 that the first instance of the disease appeared in the U.S., causing the U.S. Department of Agriculture to try to control it; this resolution supports those efforts.

MS. HAUKE pointed out that country-of-origin labeling implementation has been delayed by Congress until September 2006, and the resolution suggests moving the date back to September 2004. She said 43 countries currently have country-of-origin labeling as a way to address the spread of mad cow disease.

Number 0875

REPRESENTATIVE DAHLSTROM asked if other states have country-of-origin labeling requirements.

REPRESENTATIVE KERTTULA noted that the information could be obtained.

Number 0925

REPRESENTATIVE GATTO began discussion of what later became Amendment 2. He asked if "bovine spongiform encephalopathy" could be used throughout the bill, rather than "mad cow disease", in order to address the issue legally and scientifically. He suggested an amendment [on line 1] that says the resolution addresses "bovine spongiform encephalopathy (mad cow disease)".

MS. HAUKE observed that the resolution uses "bovine spongiform encephalopathy" throughout the remainder.

Number 0990

CHAIR ANDERSON turned to a different issue. Referring to page 2, lines 11-13, he asked whether there was agreement with the wording. He questioned the phrasing, though agreeing that Americans need to know what is in their food.

Number 1005

REPRESENTATIVE DAHLSTROM responded that she, as a consumer and parent, definitely wants to know where her food comes from. She suggested changing the semantics and asked if the sponsor could fix it.

REPRESENTATIVE GATTO said he had the same question, and offered:
"are better served by an awareness of".

REPRESENTATIVE KERTTULA suggested: "WHEREAS it's important for
Americans to know".

REPRESENTATIVE DAHLSTROM offered: "WHEREAS Americans want to
know" or "... Americans need to know".

Number 1103

REPRESENTATIVE CRAWFORD said he didn't want to weaken the
resolution in any way. He emphasized that Americans deserve to
know what is in their food, where it comes from, the fat
content, and country of origin. The wording [as it stands]
states his feelings very well, he added.

CHAIR ANDERSON responded that "deserve" is one issue and "need
to know" another. He pointed out that the FDA [U.S. Food and
Drug Administration] already has requirements in place.

Number 1155

REPRESENTATIVE DAHLSTROM remarked, "There are many people that
do need to know what's in their food for purposes of allergies
or things that would be life-threatening if they were to eat
something."

CHAIR ANDERSON said he didn't intend of offer an amendment and
opined that readers would understand the resolution's intent.

Number 1205

MS. HAUKE offered Amendment 1, which read [original punctuation
provided]:

Page 1 line 16 through page 2 line 2
Delete "identify and destroy cattle that are from the
same herd as the infected cow and other animals that
may have been exposed to that cow"
Insert "control bovine spongiform encephalopathy"

Number 1245

REPRESENTATIVE DAHLSTROM moved to adopt the foregoing as
Amendment 1. There being no objection, it was so ordered.

Number 1259

REPRESENTATIVE GATTO moved to adopt Amendment 2 as follows:

Page 1, line 1
After "Relating to"
Add "bovine spongiform encephalopathy (mad cow disease)"

There being no objection, it was so ordered.

Number 1290

REPRESENTATIVE DAHLSTROM moved to report HJR 35, as amended, out of committee with individual recommendations [and the accompanying fiscal notes]. There being no objection, CSHJR 35(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 450-INSURANCE & WORKERS' COMPENSATION SYSTEM

[Contains discussion of HB 403]

Number 1325

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 450, "An Act providing for a special deposit for workers' compensation insurers; relating to the board of governors of the Alaska Insurance Guaranty Association; relating to covered workers' compensation claims paid by the Alaska Insurance Guaranty Association; stating the intent of the legislature, and setting out limitations, concerning the interpretation, construction, and implementation of workers' compensation laws; relating to restructuring the Alaska workers' compensation system; eliminating the Alaska Workers' Compensation Board; establishing a division of workers' compensation within the Department of Labor and Workforce Development and assigning certain Alaska Workers' Compensation Board functions to the division and the Department of Labor and Workforce Development; establishing a Workers' Compensation Appeals Commission; assigning certain functions of the Alaska Workers' Compensation Board to the Workers' Compensation Appeals Commission; relating to agreements that discharge workers' compensation liability; providing for hearing officers in workers' compensation proceedings; relating to workers' compensation awards; relating to an employer's failure to insure

and keep insured or provide security; providing for appeals from compensation orders; relating to workers' compensation proceedings; providing for supreme court jurisdiction of appeals from the Workers' Compensation Appeals Commission; providing for a maximum amount for the cost-of-living adjustment for workers' compensation benefits; providing for administrative penalties for employers uninsured or without adequate security for workers' compensation; relating to assigned risk pools and insurers; and providing for an effective date."

Number 1348

LINDA HALL, Director, Division of Insurance, Department of Community & Economic Development, presented HB 450, noting that she would provide introductory comments prior to addressing specific provisions in the bill. She reminded members that about three weeks ago she'd done a presentation with two of her colleagues on the workers' compensation environment in Alaska. One piece of that presentation was the deficit in the guaranty fund, which relates to HB 403. She continued:

There is an additional area of concern of a lack of healthy workers' compensation environment in Alaska. To outline and briefly indicate the problems we are encountering in that marketplace: one problem is lack of profitability in the workers' compensation lines of business in Alaska.

From 1997 to 2002, losses in workers' compensation for carriers ranged from 99.9 percent to a high of 154 percent. At that high, insurance companies were spending \$1.54 for every \$1 of [workers' compensation] premium collected. Alaska in that time period averaged 123.7 percent losses per dollar premium, while the national average for that time period was 118.8 percent. What that translates to is that carriers are losing 5 percent more money in Alaska than the national average.

Number 1425

MS. HALL said a second factor in the workers' compensation environment today is the cost of medical benefits, which - along with prescription drug costs - have seen double-digit increases in the past several years. She told members:

We tend to accept a correlation between the rising cost of health insurance and increased cost of medical care, but we generally don't make that same association with the cost of workers' compensation claims. A big portion right now, approximately 55 percent, of workers' compensation premium is due to the increased cost of medical care.

Frequency of claims over the last several years has declined. This is a good thing; it indicates we have safer work environments, fewer injured workers. But that decrease in the number of claims has begun to level out, and it tended to mask the increase in the costs of those individual claims. So, we have seen for several years that we haven't seen the need for a premium increase

The third area that's creating a difficult environment for employers are the premium rate increases. Effective January 1 [2004], the average rate increase is 21.2 percent. As the historical loss cost of claims has increased, actuarial analysis of historical claims data and projection for the future costs of claims indicate a need for substantial rate increase, and that was approved. ...

This rate change ranged from a 15 percent reduction to a 57 percent increase. Thirty classifications received reductions in their rates, while 17 different workers' comp classifications will see rate increases in excess of 50 percent in 2004.

The current cash deficit in the guaranty association has already resulted in a 2 percent assessment being made on each workers' compensation policy. And the legislation that we propose to fund that stream of payments, to fund the guaranty fund, would increase those assessments. Between the rate increases and the assessments, we're seeing dramatic costs in increases in the cost of workers' compensation for employers, both large and small.

Number 1533

MS. HALL continued:

The fourth factor I'd like to discuss is the assigned risk pool. This is another factor in the increasingly unattractive environment in Alaska today. Due to the mandatory nature of workers' compensation, when employers are unable to obtain workers' compensation insurance in the traditional voluntary marketplace, we have an assigned risk pool where all employers can obtain insurance.

Currently, 17 percent of the workers' compensation premium in Alaska is in that pool. When the cost of claims in that pool exceeds the premium dollar collected, the difference is charged to all insurance companies who write business in Alaska.

Currently, Alaska has the highest charge of any state for losses in the assigned risk pool. That charge has ranged from 4 to 6 percent over the past six years. This additional cost to insurance companies comes from their operating cost and makes doing business in Alaska very expensive.

Overall, we have a workers' compensation environment that's becoming very expensive for employers and very unattractive [for] insurers. As these issues became apparent, ... staff from the Division of Insurance, from the Department of Labor [& Workforce Development], the Department of Law, and the administration met and struggled to try to find ways to overcome these challenges.

We cannot continue to merely increase workers' compensation payment for employers. We must look to find ways to stem the increasing cost of providing benefits. We've looked at many options, ranging from the cost of medical benefits and the provider fee payments, to the definition of compensability, the value of the whole man - that's a technical work comp term - ... and the reemployment retraining program.

I would submit to you that House Bill 450 makes no changes to benefit levels other than a small COLA [cost of living allowance] adjustment, which I believe Director Lisankie addressed last week. It proposes a change in the workers' compensation system which we feel will bring about efficiency, consistency, and predictability.

Number 1622

MS. HALL continued:

We need a healthy workers' compensation marketplace. We need a stable environment that is sustainable, that will encourage current companies to continue to do business in Alaska and to attract new markets. We need worker's compensation insurance that is available and affordable for employers to continue to develop jobs and sustain economic development.

This environment depends on four factors: adequate rates; a self-funding, assigned risk plan; a sound regulatory environment; and a viable workers' compensation system.

House Bill 450 is fairly unique, as it is cross-departmental. It's an effort to find a solution to the issues at hand. I will address for you today the insurance pieces of House Bill 450. I believe Director Lisankie, who is also here for questions, addressed the workers' compensation pieces last Wednesday [February 11] in hearing.

While we all recognize that a 55-page bill is not attractive to anybody - I believe you called it "less than riveting" last week - I would like to briefly go through [it]. There are only ... five sections that deal with insurance.

Section 3 adds a requirement for an increase in the deposit required of insurance companies writing workers' compensation in Alaska. This deposit would be for the protection of Alaskans covered under workers' compensation. Section 4 ties in with that, and makes the deposit subject to the guaranty association, and the first order of priority before the courts in delinquency proceedings.

The second concept in this bill is to change the composition of the board of governors of the guaranty association. Insurance company representatives are important members of the board. Today there are nine seats on that board, seven of which are filled with insurance company representatives. Two are set aside

for public members; there's only currently one public member, who I appointed in November. This bill proposes to change that composition to four insurance company representatives, two representatives from labor, two representatives from employers, and one representative from the agent world.

I think that there are a lot of stakeholders in these issues. [It] particularly became apparent this year when we started to talk about prorating workers' compensation claims and where those obligations would go. I'd like those stakeholders to have a seat at the table during those discussions.

Number 1739

MS. HALL continued:

Section 6 is a net-worth exclusion. This provision excludes from coverage under the guaranty association if the net worth of the insured exceeds \$25 million. Thirty-two other states have this provision today, with exclusion amounts ranging from \$10 million to \$50 million, but \$25 million is kind of an in-between number. It is the one most typically found in other states' legislation.

The purpose here is to ... provide some kind of cap on the cost of claims in the guaranty fund. Other than workers' compensation, claims in the guaranty fund are capped at \$500,000. Only one other state has it capped that high. Many states cap claims at \$300,000. Alaska has seen fit to do a larger cap. Workers' compensation claims are not capped, but this would cap coverage for an employer. ... An employer whose net worth exceeded \$25 million would not receive benefits of the guaranty fund for the claims of an insolvent insurer.

Number 1787

MS. HALL continued:

The last section that deals with insurance is almost at the end, ... Section 105, ... another important piece of this bill concerned with insurance and availability of insurance. This repeals the current

25 percent statutory cap on the surcharges of the assigned risk pool and the exclusion for surcharges on policies under \$3,000.

As I've indicated before, the assigned risk pool needs to be self-funding. Premiums have lagged well behind the costs of claims. Today, nearly 6,000 policies of the 8,800 policies in the assigned risk pool have premiums under \$3,000, and the average premium for these policies is \$864. Small employers are likely to have claims, even if they don't have as many claims as larger employers. But these claims can be as costly as the claims of a large employer. At an average premium of \$864, a single claim can offset the premium of several hundred policies, which is one of the basic reasons the pool has become very unprofitable.

As I described in the introduction, the financial burden on the insurance companies from the Alaska assigned risk pool contributes to the overall unattractiveness of Alaska to insurers. We face a fragile insurance marketplace. We need to find solutions that bring about change in the way we currently operate. We need to have insurance companies here so that employers have a sustainable source of the mandatory coverage of workers' compensation.

Number 1877

REPRESENTATIVE DAHLSTROM asked Ms. Hall if, indeed, Alaska had the highest risk of loss in the U.S. from workers' compensation claims. She also asked if studies had been done on why this is so.

MS. HALL replied:

For the period from 1997 through 2002, the cost of claims averaged 5 percent higher than the national average. Generally, the increases are attributable to higher costs of medical care in Alaska. We have remote sites where you have to Medivac people, so there's a higher cost of medical benefits.

Typically, many of the high-risk employments in Alaska are not covered in the traditional marketplace. Fishing fleets, for example, are covered under a

different system. Some of the larger contractors in the oil field are self-insured, so I don't think the high-risk occupations tends to skew those rates.

REPRESENTATIVE DAHLSTROM asked for more information about the \$864 average premium.

MS. HALL replied:

The \$864 is the average premium for the 6,000 policies that are under \$3,000 in premium in the assigned risk pool. A very large number of the policies in the assigned risk pool are for small employers. And it's not cost-effective, typically, for an \$864 policy, for a traditional insurer to write that, because even the investigation at that point would put them at a loss.

Number 1976

REPRESENTATIVE CRAWFORD asked, "How does an insurance company stay in business year after year when they have ... losses of 123 percent? What is it that I'm not understanding?"

MS. HALL replied:

Typically, an insurance company doing business in Alaska - not all of them, but a large number - will write other lines of business. They may be making a profit in another state; they may write other lines of business; and in some periods in the economy they certainly had investment income, which made up for the underwriting loss. That's certainly not true today. Right now, the workers' compensation line of business is being judged on its own merits from an underwriting standpoint, which means the losses are being evaluated as the premiums [are] taken in.

REPRESENTATIVE CRAWFORD asked again:

Why would any insurance business get into the workers' comp line across the nation if the nation averages 118 percent losses? Wouldn't they just say, "Let somebody else do that, if we know that we're going to lose money on it each and every year?" There must be some profit in it, or people wouldn't get into the business.

MS. HALL responded:

I think, as we look around the country, Alaska's certainly not unique in having this [problem]. I read headlines today: in California, the ... new governor ... has proposed sweeping reforms of their workers' compensation system because they are in a comparable problem. About 50 percent of the California workers' compensation is written in a state plan. Some states have formed plans because the ... voluntary insurers are not willing to write those lines of business.

Utah is a state I've done a lot of discussion with. Sixty-five percent of the Utah workers' compensation premium is in their state fund. What that does is put the state in competition with private enterprise. It certainly takes out free-market competitive forces that tend to do good things for insurance lines of business. And this is not a unique Alaska problem. ... I think there are at least 10 states who have major workers' compensation reform done, in one fashion or another.

Number 2091

REPRESENTATIVE CRAWFORD noted that he was sure she was correct or there wouldn't be an average 118 percent loss across the nation. He continued:

I just don't understand why anybody would choose to get into that business if they ... know that they're going to lose money. I know I'm missing something, somewhere. There has to be a profit motive for private business to get into it, in some form or fashion, I would think."

REPRESENTATIVE CRAWFORD also asked if any states made a profit on workers' compensation.

MS. HALL responded:

That's one of the reasons I'm here: to make sure we have available insurers that would do some things in our environment to start to make it more attractive. I'm very concerned that we will lose the markets that we have currently writing business.

We are in the process of looking at states. There are states that have, certainly, better losses than Alaska has right now. And there are states that have done reform in the past, and we are working with the Division of Workers' Compensation to look at ways workers' compensation has been changed and the effect that that may have had on the premium, to find if there are ways, in addition to what we are proposing here, to make changes in the system.

Number 2152

DOUG WOOLIVER, Administrative Attorney, Administrative Staff, Office of the Administrative Director, Alaska Court System (ACS), testified:

As is our practice, the court does not take a stand on the merits of this law. I'm sure that there are problems with the workers' compensation system, but we'll leave the resolution of those problems up to you. My only purpose for testifying is to explain the impact that we've seen one provision of the bill may have on the court, in Section 65 of the bill, the provision that says that appeals from the agency will bypass the superior court and go directly to the supreme court.

For the last several years, the court system has seen about an average of 36 workers' comp cases a year. Right now, they're filed in the superior court, as are all other agency appeals, and about 75 percent of those 36 are resolved at the superior court level. About nine cases a year go ... under appeal again to the supreme court.

Our concern is that even with passage of the bill, the total number of cases that come into court are not likely to change much. We will probably still see about 36 cases a year. The difference will be, they will all come to the supreme court, rather than having 75 percent of them, anyway, resolved by the superior court.

There are several reasons we don't think we'll see a decrease. The first is that you will always see a certain number of appeals, regardless of what the issue is. It doesn't matter whether it's a superior

court decision or a court of appeals decision. Every year you always see a certain number of cases appealed, simply because reasonable minds can differ on the outcome of a case. ... Another group of cases that we will see every year are [those where] novel legal issues are raised, ... and those will continue to come to the supreme court for final resolution.

Additionally, there's a certain number of people who will never trust an agency decision. They don't like administrative agencies; they don't think they're fair. What they want is "their day in court." You will continue to see a certain number of those every year.

Finally, another group of litigants that we anticipate are the tenacious, some people that simply never give up. And we'll continue to see those. The only difference will be that the number of cases now will all come to the supreme court. ...

Remember, there are ... thousands of workers' comp claims are filed every year, somewhere in the neighborhood of 25,000 to 30,000. We only get 36 at the superior court level. It is ... already whittled down to a fraction of a percentage. We don't think that fraction is likely to fall any further.

Number 2263

MR. WOOLIVER continued:

But there's also the potential, with the number of appeals that we see, ... that there's likely to be an increase, perhaps increase significantly. One of the important features of the current board system is that each of the panels is comprised of a labor representative, a management representative, and a hearing officer. That gives the perception of balance and fairness to the system, to both employers and employees. Neither side has reason to believe that the other side has the advantage in that makeup.

There is no such requirement for balance in the current appeals commission that's contemplated in this bill. If either employers or employees feel that the board of this new commission is stacked in favor of

the other guy, we're likely to see far more appeals, ... not fewer, and not the same as we see now.

However, we have a fiscal note with the bill; usually, I will discuss this with the finance committee. Our fiscal note doesn't assume an increase. We're assuming that we'll see the same number ... of cases that we've always seen in the past. The difference will be that they'll all come to the supreme court.

Now, one of the reasons for bypassing the superior court is that ... you save time. And while that's true for a certain number of cases, for those nine cases each year that typically go to the supreme court, you will save time because you will have cut out an intermediate opinion. You will save all the time that the superior court would have spent on that case.

Remember, those nine cases represent 25 percent of the cases that go to the court. The other 75 percent are resolved at the superior court level and are never further appealed. Those cases are likely to take much more time under this proposal because the supreme court simply doesn't decide cases as quickly as does the superior court.

A superior court judge is a committee of one. The judge ... makes his or her decision on the case, writes the opinion, and that's the end of it. The supreme court, of course, is a committee of five. Opinions are drafted, they are circulated for comment, those comments lead to amendments, it's recirculated. It's a ... slower, more deliberative process. So by bypassing the superior court, you will save time on 25 percent of the cases that come to the court, but you will add time to 75 percent of those cases.

Number 2350

MR. WOOLIVER continued:

Now, ... part of the reason for bypassing is this concern with delay. So what our fiscal note does is to assume to hire a central staff attorney with expertise in this area to help prep all of these cases, and some clerical staff to help move the

paperwork through. ... Hopefully, with that additional staff, ... the provision that bypasses the superior court won't be the clog that slows down the whole process. This won't ... lead to as much delay in the cases. And, of course, every time you increase the supreme court's caseload, you still only have five justices. If you increase the caseload, you will inevitably have an impact on the other cases that are before the court as well.

TAPE 04-13, SIDE B

Number 2366

REPRESENTATIVE GUTTENBERG asked Mr. Wooliver if the supreme court, in general, reviews cases and decides which ones merit a hearing.

MR. WOOLIVER responded:

Not in general, not in ... civil cases. Cases that go to the court of appeals, criminal cases that go to our criminal court of appeals, then they can; it's the discretion of the court to hear those further. Your ... appellate right ends, though, at the court of appeals. But for cases like this, the court must hear all of those.

Number 2325

REPRESENTATIVE GUTTENBERG said in the restructuring of the current board, he believes some of these cases require specific knowledge about certain things such as workers' compensation or OSHA [Occupational Safety and Health Administration], for example. He asked, "Was that what you were referring to, ... more appeals and novel legal cases where the hearing officers weren't competent to hear an issue?"

MR. WOOLIVER replied:

No, as far as I know, there isn't ... a competency question. It's just that, like in all other civil or criminal cases, interesting legal issues arise every year, in these cases and in any other. So those won't stop simply because you have the expertise. Or the legal issues always, inevitably, arise.

Number 2269

REPRESENTATIVE GUTTENBERG asked if a claimant could base an appeal on a perceived imbalance in the board membership.

MR. WOOLIVER responded:

They'll still have to have reasons to appeal. The only reason that the court envisions a greater number of appeals from this is that people - either the employers or the employees, depending on how the board is constituted - will feel they haven't been treated fairly. They'll think there's a bias in the system itself. ... And even if that isn't the case, if that's the perception, I think we'll see more appeals.

We're ... taking a conservative assumption that we won't see any. We think it's a very real possibility. But we try to write these [fiscal] notes conservatively. At the very least, we're going to see about the same number we have always seen. But there is the risk that we will see considerably more. Our note assumes the conservative assumption, which is, we'll stay about the same.

Number 2229

REPRESENTATIVE CRAWFORD said he had lots of questions and didn't understand the reasoning behind this. He continued:

It doesn't seem to me we are talking about a savings here. ... Those 36 [cases] that are appealed to superior court, what would the typical question be there? ... Is it a constitutional question? What is it that they can't work out in those 36 cases each year?

MR. WOOLIVER responded:

The only cases that I've looked at, specifically, are the supreme court cases, because they're the ones that are public. In those cases, there are any number of issues. ... Right now ... the standard of review that the court applies to board decisions - how closely are they going to look at what the board did - this is called the "substantial evidence standard," which means as long as there's substantial evidence in the record, that the board made the right decision on the

issues of fact, then the court will defer to the board.

An example might be - and these are the types of cases we would see - one doctor testified that the injury was permanent and another doctor testified that the injury wasn't permanent. And then the board will have made their decision, one way or the other. Someone will appeal, and there was almost no evidence that it wasn't permanent. All the evidence [indicated] this one doctor testified for five minutes and the other doctor testified for a day. ... The evidence was not sufficient to support the board's file. That would be one type of appeal.

Other types of appeals are over somewhat peripheral issues, [for example], when the statute of limitations began to run - a legal question. How the attorney's fees should have been apportioned would be another question. There ... are questions of law in some cases, and questions of fact in others. A lot of these questions are easily subject to appeal, simply because you've got dueling doctrines in a lot of cases. If you lose, it may be a significant issue to you. So they'll appeal those cases, but 75 percent of those are resolved by the superior court in trial court, probably.

Number 2121

REPRESENTATIVE CRAWFORD asked if Mr. Wooliver could see a reason for moving away from the present system.

MR. WOOLIVER replied:

I don't know whether it works or not, at the agency level. I'm sure that the administration has a lot of reasons for introducing this bill. It's not a problem for us, but we're not operating ... in that area. We ... take appeals that come to us, but in terms of how the boards are constituted, we don't really have a view on that, other than if there's a perceived balance, we're probably less likely to see appeals than if there's a perceived bias.

CHAIR ANDERSON asked:

You talked about the difference between superior and supreme court. And isn't it true, if you take away from the superior court - which is far more compact with cases ... compared to the supreme court - ... won't it free up time in superior court? Is that one benefit? You can argue both sides.

MR. WOOLIVER replied:

In our fiscal note, too, I mentioned the fact that it will free up some time at the superior court level, but we have 30 some superior court judges and we get 36 appeals. Each judge, right now, handles an average caseload of five to six hundred cases a year. Reducing that by one each will free up a little bit of time, but it's out of a caseload of 36 cases statewide - it's not a very significant change.

Number 2045

CHAIR ANDERSON asked Mr. Wooliver if there were not more staff at the supreme court level, and if this bill wouldn't force them to expedite their deliberations.

MR. WOOLIVER answered:

It still does take longer to get any type of case, with the exception of perhaps of ... election cases, which have to be decided in a matter of days. In general, it just takes ... longer for five people to decide than one.

REPRESENTATIVE GUTTENBERG asked if this bill would require a court rule change in procedure, since the jurisdiction would change.

MR. WOOLIVER said he didn't believe so; rather, he believed the bill drafters did a competent job in drafting this bill and that there were no indications a change in court rules would be necessary. He admitted he could be mistaken and that this is a fair question for the drafters to review.

Number 1926

REPRESENTATIVE CRAWFORD asked Ms. Hall:

Speaking to Mr. Wooliver's contention that ... there's a perception of balance now with the workers' compensation appeal board, because we've got three people, one ... supposedly a neutral party, why would we go away from that and go to one political appointee, if ... that's going to probably make more appeals rather than less appeals?

MS. HALL deferred to Director Lisankie, Division of Workers' Compensation.

Number 1857

REPRESENTATIVE CRAWFORD asked whether this bill would make it more profitable for insurance companies to have these changes.

MS. HALL replied:

I think the changes that are going to affect insurance companies, they affect the workers' compensation system as it affects employers and employees. The insurance company ends up paying the cost of claims. It is my understanding that the theory behind this change in the board is to bring about more consistency and predictability.

The current decisions rendered by the ... potential 300 combination of panels that would comprise the workers' compensation board ... do not set precedent. They're not public, so if a decision is rendered in a case in Kodiak, it doesn't necessarily have any impact on the decision - interpretation of law - in Fairbanks.

It's that lack of precedent that's currently missing, that we're looking to find more predictability and more consistency in the system, with the idea that, with predictability and consistency, there's a better ability to project costs.

CHAIR ANDERSON turned the gavel over to Vice Chair Gatto.

Number 1787

DON ETHERIDGE, Lobbyist for Alaska State AFL-CIO [American Federation of Labor and Congress of Industrial Organizations], testified:

We have one request for this, and that's to send this bill before the ad hoc committee. For the last 23 years on all workers' comp issues that have been out there, labor and management have got together and ... formed an ad hoc committee to work on these.

We've always stepped up to the plate, when necessary, to make cuts to the system. The system is ... as important to us as it is to anybody else out there, as far as for injured workers. And we would like to have the opportunity to look at this bill before it's passed.

There's a lot to that bill. We're told that it doesn't change benefits, except for a couple of small areas. Well, we'd like to have an opportunity to look at that through the ad hoc committee, and ... figure that out and ... see if there is anything that we can do to recommend changes.

When the workers' comp rates were skyrocketing back in the '80s, we stepped up to the plate and we made cuts to the system at that time, through the ad hoc committee with labor and management, and put cuts [such] that we still are not up to that rate as we were in 1988. ...

Labor has made appointments to the ... committee, and the WCCA [Workers' Compensation Committee of Alaska] has made their appointments, and they're trying to schedule to get together and start looking at this piece of legislation. We'd like to have the opportunity to comment on it before it's passed.

VICE CHAIR GATTO asked if Mr. Etheridge was saying there's a standing ad hoc committee.

Number 1693

MR. ETHERIDGE explained that for the past 23 years, two groups appointed by the AFL-CIO and the WCCA have looked at proposed legislation and made recommendations.

[Vice Chair Gatto returned the gavel to Chair Anderson.]

CHAIR ANDERSON asked what recommendations Mr. Etheridge would make in the current bill.

MR. ETHERIDGE said he couldn't recommend changes, but the ad hoc committee could. He surmised there will be appeals if there isn't balanced representation. He is not opposing anything in the bill at this time, he said, but again asked for the opportunity for the ad hoc committee to look at the bill, make recommendations, and present another view other than that of the administration.

Number 1583

REPRESENTATIVE GATTO asked if Mr. Etheridge was not aware that the bill was being developed.

MR. ETHERIDGE replied that he had heard of it, but had no idea of the content. He said:

It was being kept guarded, secret. We were told there was a 100-page bill a couple of times, ... were told a lot of different stories, but we haven't had any information of what the bill actually did until after you guys got it. ... Nine days ago, we had a 58-page bill dropped on us that we'd never seen before. I would have expected to have enough time to have the ad hoc committee involved with it, and have them look at this on an objective basis.

Number 1527

CHAIR ANDERSON asked Mr. Etheridge if he could think of a timeline in terms of the ad hoc committee. He stated, "I can't keep holding the bill too long. I know I will get tripped if I keep delaying too long."

MR. ETHERIDGE announced that the ad hoc committee was scheduling a meeting for Friday [February 20, 2004].

CHAIR ANDERSON responded that part of the reason for urgency came from the collapse of Fremont Insurance in California.

MR. ETHERIDGE replied:

That was the reason for the earlier bill that you passed out, in order to cover that. ... Anything in here, I don't see, at this point, cuts the cost of

workers' comp. With the ad hoc committee sitting on it and looking at it - we've done that in the past - we've always been able to cut the cost. ... In '88 we cut the cost down; we're not even back up to that point. We've always been willing to step up to the plate and do what we have got to do to make it work, because this workers' comp system is more important to the working people, in the long run, than it is ... [to] most anybody else.

Number 1410

REPRESENTATIVE GUTTENBERG asked for clarification for the 1988 incident that Mr. Etheridge had referred to.

MR. ETHERIDGE responded:

In '88, ... like we are now, the prices of workers' comp continually rose and rose and rose, to the point where people were about ... to go out of business, or they were going to lose the workers' comp system. So the ad hoc committee got together. They sat down and they went through the workers' comp and cut benefits. ... We haven't even got back to that point from all the cuts that were made at that time.

Number 1341

REPRESENTATIVE GUTTENBERG asked if the ad hoc committee had ever been involved in the drafting of legislation so that there would be representatives from both sides involved.

MR. ETHERIDGE responded:

There was usually a bill drafted, and the ad hoc committee came along and went through it, and ... had a CS [committee substitute] ready to go. The last go-round ... was three or four years ago We had Senators that were trying to add to the employee side of things on the ad hoc committee, and labor came out in opposition to ... approving for the benefit of the worker, because it was the agreement between that this was what it was going to be. So, we had to oppose what was being offered by the Senators here, to improve the system for the workers. It wasn't part of the deal, so we ... backed off of it.

CHAIR ANDERSON noted that a letter in support of HB 450 had been distributed; it was dated February 13, 2004, from Kevin Smith, Executive Director, Alaska Municipal League Joint Insurance Association.

Number 1269

PAMELA LaBOLLE, President, Alaska State Chamber of Commerce, testified:

We represent approximately 700 business members who employ approximately 7,000 Alaskans. And we are here to support House Bill 450. We think that we really are in a time of crisis when it comes to our ... association fund of the workers' comp insurance association fund. And we appreciate the efforts that the Division of Insurance has made to try to alleviate the crisis, and to look toward the future for making sure that we don't get into this situation ... again.

The 21 percent average increase in rates ... that was dropped on employers in January was quite a wakeup call. We had ... Ms. Hall speak to us at the chamber lunch last week, and I asked, before introducing her, who all was aware of it, ... thinking that perhaps it hadn't reached everyone's' radar screen. I do believe it was 100 percent of hands raised in this group of ... 75 or 80 people. It's definitely on the front burner - top importance to the business community.

And so the efforts to make sure that the insolvencies don't impact (indisc.), and we support that part of the bill. Regarding the ... change in the appeals commission, we also think this is a very good idea. This group of professional people, who ... are trained and knowledgeable in workers' compensation law, will have greater expertise than ... [a] labor's panel. They would ... have a better opportunity to build the kind of case law that will help the process as it goes through the appeals court, and through the ... supreme court. There will be quicker resolution of the cases, ... we believe, especially as time goes by and their expertise is ... honed.

And the one thing that we disagree with, previous testimony, we don't think -- and from my point of view, there is no perception of ... fairness right now

because even though there's one labor and one business representation on the board, the hearing officer - they are (indisc.). And so that does not give the feeling that there is equal balance.

I understand that the hearing officers have a union that they are part of, and so they are of the union thinking, ... where business is not.

MS. LaBOLLE commented that the present panels are perceived to be imbalanced and that HB 450 would improve the system, would bring payments to injured workers, and would resolve issues more quickly and with greater feelings of fairness.

Number 1067

REPRESENTATIVE GUTTENBERG said:

You just stated ..., to my amazement, that somebody in a union cannot be fair. I'm trying to scratch my head about that. These are professional hearing officers. Let's leave that lie. I've been trying to find where in this there are qualifications for the new hearing officer. All I've been able to find, and I can't find it again, is that the director shall appoint hearing officers. And I don't see any qualifications for that hearing officer. I don't know who they would be, where they would come from, or what qualifications they would have.

MS. LaBOLLE replied, "It's my understanding that the three members of the field's commission would be members of the Alaska bar, and ... there are qualifications in this legislation. I can't cite it for you. Perhaps back to the director ..."

CHAIR ANDERSON clarified:

There's an analysis by the governor's office, and it states that a single hearing officer would replace the three-member board panel. And I think what [Ms. LaBolle] was saying was, of that three-member board panel, there's a hearing officer, an employer representative, and an employee representative. Employee representative is considered labor; employer representative, ... which she represents - she's chamber [of commerce] - she's just saying, ... "Hey, we want it fair and we need to analyze."

And I agree, she's saying, in actuality, the hearing officer is part of a union, too, so to an extent that person, he or she, is also labor-represented, because they are in a union, whereas chances are, the business representative isn't [in] a union. So, if you just looked at that construct of three people - there's really two labor and one employer - [it] doesn't mean it's impartial or partial, or she's not commenting on that. Is that accurate?

Number 0937

MS. LaBOLLE replied that was accurate and further said:

If I may respond to the one statement of Representative Guttenberg: I did not, at all, mean to imply that labor can't be fair and that they didn't be fair. It is the perception ..., just as labor has just argued, that they felt ... it was fair that it was one of each. And this impartial person, we have concern that if it came down to concerning a ... new organized-labor aspect of an issue versus, say, management aspect of an issue, anyone belonging to a union is more inclined to be in the favor of organized labor, which is what unions are about.

Number 0885

REPRESENTATIVE CRAWFORD remarked:

That really just takes my breath away in that, because of me being in a union, Representative Gatto being in the union, Representative Guttenberg being in the union, that we can't be fair and impartial here. ... I'm absolutely amazed. I think that we have the ability to make a fair and impartial decision, even though I've been a union member for 32 years. But to imply that I can't go with what I feel is right because I have an allegiance to a union is -- I'm shocked.

MS. LaBOLLE responded:

I am sorry to have shocked you. However, I think that what I find shocking is that it isn't understood that labor and management have differing viewpoints ... in

a great many areas. I am not implying at all that you cannot be [impartial] or Representative Gatto cannot be [impartial], or anyone else on this panel cannot be impartial.

What I am saying is that there is a perception that we want total impartiality, and no representation from one side or the other. And regarding this ad hoc group, now, I'm just about to have my eleventh anniversary as the head of the state chamber, and I have to say I have no idea who's on the ad hoc group. I think that they ... may be a very knowledgeable, well-recognized group of individuals. But who are they? And what role do they have of replacing the public process of bringing legislation before the ... legislature, before a committee, everyone having total access to speaking to the legislation?

Number 0748

REPRESENTATIVE CRAWFORD responded:

Some of the management people on the ad hoc group would be Dick Cattanach of the AGC [Associated General Contractors]. There were a number of people there ... that represented the management side on this question. And my next question was going to be: Would you have thought that it was a good idea for the last administration, or the next possible administration, to rewrite the workers' comp laws without ... input from the business side on the ad hoc group, that they just came and presented this without your input?

I assume that what you're saying is that the last administration was ... anti-business and this one is pro-business, so that you get your ... kind of folks on the workers' comp board.

MS. LaBOLLE replied:

I am confused. I don't believe I said anything about the last administration or any future administration Regarding how I would feel about somebody just presenting this without ... having management ... or business input, well, guess what: we didn't. We weren't part of writing this bill. ...

As I've said, you've mentioned one person on the ad hoc committee. I am completely sincere when I tell you I have no idea who comprises the ad hoc committee. Now, it's possible that because not a great deal of workers' compensation insurance issues have come up before the legislature in the last 11 years - although there was something passed probably about my third year in this job, and I had heard there was such a group, I still do not know who it is, what they are about, what their goal is.

REPRESENTATIVE CRAWFORD replied, "Maybe it's about time you started looking into it."

Number 0592

REPRESENTATIVE GATTO said he is a member of two chambers [of commerce] and that he could be considered unreasonable by the unions. In addition, he stated, he was a member of the Firefighters and Paramedics' Union for 20 years, so he could be considered "unreasonable" by the chambers. He continued:

Yet, I don't consider myself biased in any direction. I really am very much interested in the facts, and when I hear of an ad hoc committee, even if the committee was composed of just "some people," I really want to hear their side.

I would hope that you would take the effort also, to scrutinize this bill and say, "The concerns I have are very, very serious and here they are on this page, ... and that page," because that's what we will hear from the other side. By getting both sides in the mix like that, I have to applaud you if you'll do that. And if you won't, then you deserve what you get.

So, I expect you to be involved, as ... I expect Mr. Etheridge is interested in being involved, and kind of objected when he felt that he wasn't involved. And hopefully I would find you objecting in the same way, that, "Gee, I don't feel that I was involved enough, and perhaps is this an opportunity for me to get involved." I think we'll reach a very good consensus if we get people from both sides.

MS. LaBOLLE responded:

I so appreciate Representative Gatto's comments, and the only thing is that I'm only doing what I know to do, and that is to look at a piece of legislation that's been introduced from the viewpoint of my members, the business community. And ... we have not been invited to participate. ... However, I'm just doing what I know, and that's to look ... at a piece of legislation and give our comments on it, as we have always done. And we know that they will be addressed with impartiality from them all, because we are all working for what's best for Alaska, for its workers, and for the business people who keep the economy going.

Number 0413

CHAIR ANDERSON told the committee:

The amendments don't change the type or amount or computation of benefits, as currently written. It does change outside residents - it caps them at a certain rate. And it's noted by the governor's office that there's an active, accountable, and effective division director. ...

It's contended that the enforcement tools will be better. It also ... stated that there's consistency, ... predictability in the process. Whether you agree completely, partly, or not at all with that, it sounds like where we don't have consensus is on the reorganization.

The sponsor says it's a streamlining of the adjudicative and appeals process - basically, how you go through the system. I don't want to get into a labor/business argument. I'm as pro-labor, pro-business -- I hope ... all members are, at least currently present. I just want to remind you that if we can fix this as the makers of public policy, it's important.

I have had constituents write me over the last week; I've had labor say, please allow the ad hoc committee to analyze it. I've had other individuals write me - business people - saying, "Every time I go here, it's about pulling out my wallet and paying, because I've never won in any sense." ... So there's still a

dilemma, and I think we have to meet in the middle. ... [Ms. LaBolle] talked about and Mr. Etheridge talked about if we can have this ad hoc committee meet - I mean, want to work with you.

We certainly don't want a split vote on the committee. I love to see ... uniformity and agreement, and we can't always reach that, but if you could expedite that. ... We've talked about nine days, and you haven't looked at it, but the other side of it is, not to you but to your members, start looking, because we have to hurry in terms of fixing some these aspects.

The things I talked about - not affecting the computation, giving better accountability and effectiveness for the director, looking at streamlining, predictability in the process so there's consistency and there's fairness - those things, I would hope, we all want.

And so with that being said, I'm going to hold the bill. And I hope everyone agrees; it sounds like you do. ... On Friday, we can get communication from Mr. Etheridge to let us know, ... and that would give you Friday and Monday, at least, to look and maybe to involve the chamber so we don't have a debate again. If that's not the case, then just be prepared to have a little more testimony, and I have to afford that, after you bring back what your amendments might be, or if you like the bill, or if you have revisions.

Number 0215

CHAIR ANDERSON announced that public testimony would remain open and that HB 450 would be held over.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:50 p.m.