

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 9, 2003

1:24 p.m.

MEMBERS PRESENT

Representative Hugh Fate, Chair
Representative Beverly Masek, Vice Chair
Representative Carl Gatto
Representative Cheryll Heinze
Representative Bob Lynn
Representative Carl Morgan
Representative Kelly Wolf
Representative David Guttenberg
Representative Beth Kerttula

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 98

"An Act relating to sport fishing seasons and areas for persons under 16 years of age."

- MOVED HB 98 OUT OF COMMITTEE

HOUSE BILL NO. 204

"An Act relating to the regulation of natural gas pipelines under the Pipeline Act."

- MOVED CSHB 204(O&G) OUT OF COMMITTEE

HOUSE BILL NO. 226

"An Act relating to the sale, offer for sale, representation, and labeling of food or other agricultural products as organic, and to the state organic certification program; and providing for an effective date."

- MOVED HB 226 OUT OF COMMITTEE

HOUSE BILL NO. 163

"An Act relating to an annual wildlife conservation pass and the fee for that pass; relating to nonresident and nonresident alien big game tag fees; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 98

SHORT TITLE:SPORT FISHING SEASONS FOR YOUTH

SPONSOR(S): REPRESENTATIVE(S)SAMUELS

Jrn-Date	Jrn-Page		Action
02/14/03	0214	(H)	READ THE FIRST TIME - REFERRALS
02/14/03	0214	(H)	FSH, RES
03/28/03		(H)	FSH AT 8:30 AM CAPITOL 124
03/28/03		(H)	Moved Out of Committee
03/28/03		(H)	MINUTE(FSH)
03/28/03	0669	(H)	FSH RPT 6DP
03/28/03	0669	(H)	DP: OGG, HEINZE, WILSON, SAMUELS,
03/28/03	0669	(H)	GUTTENBERG, SEATON
03/28/03	0670	(H)	FN1: ZERO(DFG)
03/28/03	0670	(H)	FN2: ZERO(DPS)
04/09/03	0901	(H)	COSPONSOR(S): WOLF
04/09/03		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 204

SHORT TITLE:REGULATION OF NATURAL GAS PIPELINES

SPONSOR(S): REPRESENTATIVE(S)CHENAULT

Jrn-Date	Jrn-Page		Action
03/19/03	0586	(H)	READ THE FIRST TIME - REFERRALS
03/19/03	0586	(H)	O&G, RES
03/27/03		(H)	O&G AT 3:15 PM CAPITOL 124
03/27/03		(H)	Moved CSHB 204(O&G) Out of Committee
			MINUTE(O&G)
03/31/03	0711	(H)	O&G RPT CS(O&G) NT 2DP 4NR
03/31/03	0711	(H)	DP: ROKEBERG, KOHRING; NR: HOLM, FATE,
03/31/03	0711	(H)	MCGUIRE, CRAWFORD
03/31/03	0712	(H)	FN1: INDETERMINATE(DNR)
04/09/03		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 226

SHORT TITLE:ORGANIC FOOD

SPONSOR(S): REPRESENTATIVE(S)STOLTZE

Jrn-Date	Jrn-Page		Action
03/28/03	0677	(H)	READ THE FIRST TIME - REFERRALS
03/28/03	0677	(H)	RES, FIN
04/09/03	0901	(H)	COSPONSOR(S): CHENAULT
04/09/03	0901	(H)	COSPONSOR REMOVED: WILSON
04/09/03		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 163

SHORT TITLE:NONRES.GAME TAG FEES/WILDLIFE TOUR PASS
SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0433	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0433	(H)	RES, FIN
03/05/03	0433	(H)	FN1: (DFG)
03/05/03	0433	(H)	FN2: (DFG)
03/05/03	0434	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/05/03	0434	(H)	REFERRED TO RESOURCES
03/14/03		(H)	RES AT 1:00 PM CAPITOL 124
03/14/03		(H)	Heard & Held
03/14/03		(H)	MINUTE(RES)
03/17/03		(H)	RES AT 1:00 PM CAPITOL 124
03/17/03		(H)	Heard & Held MINUTE(RES)
04/04/03		(H)	RES AT 1:00 PM CAPITOL 124
04/04/03		(H)	Heard & Held MINUTE(RES)
04/09/03		(H)	RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE RALPH SAMUELS
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented HB 98 as sponsor.

GORDY WILLIAMS, Legislative Liaison
Office of the Commissioner
Alaska Department of Fish and Game (ADF&G)
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 98.

A. BEN SCHOFFMANN, Project Manager
Alaska Business Unit

Domestic Production
Marathon Oil Company;
Vice-President, Kenai Kachemak Pipeline, LLC
Anchorage, Alaska
POSITION STATEMENT: Offered presentation in support of HB 204;
answered questions.

MARK MYERS, Director
Division of Oil & Gas
Department of Natural Resources
Anchorage, Alaska
POSITION STATEMENT: Testified on HB 204.

JIM STRANDBERG, Commissioner
Regulatory Commission of Alaska
Anchorage, Alaska
POSITION STATEMENT: During hearing on HB 204, answered
questions with regard to RCA's role in consumer protection, the
existing Pipeline Act, and other issues.

REPRESENTATIVE BILL STOLTZE
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as sponsor of HB 226.

BARBARA BITNEY, Staff
to Representative Bill Stoltze
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented information in the committee
packet for HB 226; answered questions.

LARRY DeVILBISS, Proprietor/Manager
Wolverine Farm
Palmer, Alaska
POSITION STATEMENT: During hearing on HB 226, provided
background and explained reasons such legislation is needed;
asked that beef not be excluded from the bill if possible.

RIVER BEAN, President
Alaska Organic Association
Palmer, Alaska
POSITION STATEMENT: Urged passage of HB 226; answered
questions.

DEAN BROWN, Acting Director
Division of Agriculture

Department of Natural Resources
Palmer, Alaska

POSITION STATEMENT: Answered a question during hearing on
HB 226.

JIM POUND, Staff
to Representative Hugh Fate
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the committee aide, answered questions
on proposed Amendment 1 to HB 163, Version D, and suggested
alternative language.

ACTION NARRATIVE

TAPE 03-27, SIDE A

Number 0001

CHAIR HUGH FATE called the House Resources Standing Committee
meeting to order at 1:24 p.m. Representatives Fate, Gatto,
Morgan, and Wolf were present at the call to order.
Representatives Masek, Lynn, Guttenberg, Kerttula, and Heinze
arrived as the meeting was in progress.

HB 98-SPORT FISHING SEASONS FOR YOUTH

CHAIR FATE announced that the first order of business would be
HOUSE BILL NO. 98, "An Act relating to sport fishing seasons and
areas for persons under 16 years of age."

Number 0017

REPRESENTATIVE RALPH SAMUELS, Alaska State Legislature, sponsor,
characterized HB 98 as a bill that would give authority to the
Board of Fisheries (BOF) to open a fishery for people less than
16 years of age only. This is also currently available for
people 60 years of age and older. The bill doesn't mandate that
this must be done, but provides an option that he surmised would
be used mostly in urban areas.

REPRESENTATIVE SAMUELS said Campbell Creek flows through his
neighborhood and there are a number of king [salmon] in the
creek, about 500-600 over the escapement [goal]. However, a
fishery hasn't been opened there because it would be open to too
many people. This [bill] would allow limitation of the number
of fishermen in a particular fishery and would allow for a lot
of family activities, such as a father-and-son fishing day, for

people in urban areas who probably don't get as much of an opportunity to go fishing as people that live in other areas of the state. Representative Samuels said another example is in Homer: when fish are in the lagoon and snagging is legal, a fishery could be opened up for [a variety] of hours for people to take their children fishing. He added that the Alaska Department of Fish and Game (ADF&G) and the BOF support HB 98.

Number 0277

REPRESENTATIVE GATTO asked if there was any separation between residents and nonresidents.

REPRESENTATIVE SAMUELS replied no. He said the reason 16 became the cutoff age is because persons under 16 are not required to have a fishing license. He offered his understanding that the same [principle applies] to persons over 60 [in the form of receiving] a card from the state, a lifetime license to fish.

Number 0407

REPRESENTATIVE WOLF asked whether the bill was discriminatory in any way. He said he thought the bill was a good idea but didn't want to see a bill pass through [committee] that might be challenged.

REPRESENTATIVE SAMUELS reiterated that [the practice] is done for people over the age of 60. He said the [purpose] of the bill is to get kids to go fishing rather than go to the mall, for example. He offered his belief that the bill is not discriminatory, and said he'd looked long and hard for opposition to it.

Number 0544

REPRESENTATIVE WOLF asked if the bill would designate a fishery in areas that would be specifically for children.

REPRESENTATIVE SAMUELS replied yes. He offered Homer as an example of an area, citing limitations that allow snagging of fish during those times of the year. He said a three-hour opening could be held for kids under 16 years of age that allows them to fish without [competing] with adults around the stream bank for a given time period.

REPRESENTATIVE SAMUELS, in response to remarks by Representative Wolf, said the board may adopt regulations

establishing restrictive seasons and areas necessary for persons 60 years of age or older for participating in sport, personal use, or subsistence fishing. He said subparagraph (B) would be added to include persons under the age of 16.

Number 0713

REPRESENTATIVE MASEK asked how HB 98 would impact the Matanuska-Susitna area, specifically, the Big and Little Susitna River drainages.

REPRESENTATIVE SAMUELS replied that HB 98 doesn't mandate that any particular fishery be opened or closed. It would allow the BOF to follow its normally procedures through ADF&G through the advisory boards to open a particular fishery and provide the BOF with the option to do that. Representative Samuels speculated that HB 98 would be used more frequently in urban areas, but said it doesn't stop persons from other communities that wanted to have this for a given reason; one could go through the normal process that the BOF goes through. He noted that he'd been looking at permits from the last hunting season and had run across a couple of hunts for kids only; this would be similar.

REPRESENTATIVE MASEK observed that the fiscal note reflected a zero impact and asked if [HB 98] would result in a larger workload for BOF and ADF&G to implement.

REPRESENTATIVE SAMUELS said both BOF and ADF&G support HB 98 and had provided the fiscal notes. He said he assumed it would not [result in a larger workload].

Number 0846

REPRESENTATIVE GATTO asked if the bill would simply allow persons 16 years of age and under to fish, and whether [the law] currently allowed fishing during special seasons.

REPRESENTATIVE SAMUELS explained that persons under 16 years of age don't need a license to fish; that subparagraph (A) is currently law; and that subparagraph (B) is being added and is the only change being made. Currently, the BOF can have [fisheries specifically] for persons 60 years of age or over, and this would provide the option to have [fisheries specifically for] persons 16 years of age and under.

Number 0922

CHAIR FATE asked where this law would apply. He offered his understanding that most areas don't require a fishing license and season [for persons 16 years of age and under], with the probable exception of some urban areas.

REPRESENTATIVE SAMUELS answered that the bill would allow the [BOF] to [designate fisheries] anywhere [in the state]. He said he didn't imagine the number of fishermen would be limited unless there were a specific reason to do that.

Number 0994

GORDY WILLIAMS, Legislative Liaison, Office of the Commissioner, Alaska Department of Fish and Game, testified that the bill is permissive. It just adds powers that the BOF could use in a public process to consider proposals brought before them if the department or public requested a certain method and means to enhance the quality of a sport fishery for kids wherein the pressure wouldn't be such that they were [subjected to] "combat fishing," or to bring kids into an area for fishing in a more controlled atmosphere and have special kids' fishing days. The bill doesn't do anything other than give that power to the board, he explained.

Number 1092

MR. WILLIAMS, in response to a comment by Representative Gatto, said the BOF is pretty sensitive to how it manages fisheries and accommodates different interests. This would be a proposal brought before and established by the board, and there would be plenty of public testimony on all sides prior to its happening.

Number 1141

REPRESENTATIVE GUTTENBERG asked if there had been any similar proposals or processes for people over the age of 60 and, if so, whether any had been denied.

MR. WILLIAMS indicated he was unsure whether that had occurred. He said the board has been approached to do the youth seasons and has routinely had to tell people that it cannot entertain those proposals because it doesn't have the authority. He noted that the BOF had submitted a letter of support for the bill and said he thought it is a tool the board would like to have available to it and the public. He told Representative Guttenberg he could get back to him with the information on senior citizens.

Number 1207

REPRESENTATIVE WOLF asked why page 2, line 10, paragraph (7), was included if the intention is to allow ADF&G to set up fisheries for kids.

MR. WILLIAMS said the statute relates to the powers of the BOF and what it may consider, and is current law; the only addition is the underlying language on page 1, subparagraph (B).

CHAIR FATE asked whether anyone else wished to testify. He then closed public testimony.

Number 1298

REPRESENTATIVE MASEK moved to report HB 98 out of committee with individual recommendations and the accompanying fiscal notes; she asked for unanimous consent. There being no objection, HB 98 was reported from the House Resources Standing Committee.

HB 204-REGULATION OF NATURAL GAS PIPELINES

Number 1350

CHAIR FATE announced that the next order of business would be HOUSE BILL NO. 204, "An Act relating to the regulation of natural gas pipelines under the Pipeline Act." [The bill was sponsored by Representative Chenault.]

REPRESENTATIVE MASEK moved to adopt CSHB 204(O&G). There being no objection, it was so ordered.

The committee took an at-ease from 1:40 p.m. to 1:41 p.m.

Number 1442

A. BEN SCHOFFMANN, Project Manager, Alaska Business Unit, Domestic Production, Marathon Oil Company; Vice-President, Kenai Kachemak Pipeline, LLC (KKPL), gave a presentation and provided a 12-page handout. Referring to page 2 of the handout, he said HB 204 would permit all natural gas pipelines within the state to file a tariff with the Regulatory Commission of Alaska (RCA) that offers both firm and interruptible service under the Pipeline Act. He related his view that this is very similar to what was done through the legislature in 2000, allowing a North Slope pipeline to do that, and is also consistent with sound

policy in the Lower 48, where the Federal Energy Regulatory Commission (FERC) regulates pipelines under the same premise with both firm and interruptible transportation.

MR. SCHOFFMANN explained that firm service in a transportation pipeline occurs when a shipper commits to paying a monthly reservation charge and therefore is assured a set level of capacity; that payment is due whether or not the service is actually used. The pipeline, in turn, guarantees that the capacity is available as and when needed. By contrast, interruptible service is a pay-as-you-go concept that only requires payment from shippers if they actually use the service. The pipeline makes its best efforts to provide capacity, but in the event that there is a restriction for any reason, those shipments are subject to curtailment or interruption. This is important for pipeline investors to be able to ensure that they're going to have a level of business prior to making their investments.

Number 1654

MR. SCHOFFMANN said that without the ability to offer firm and interruptible service, a pipeline would have to estimate how many customers it might have and wouldn't be assured of a stable revenue stream. He suggested pipeline investors like it because they can ensure that they will get business in advance and ensure that the pipeline they're building is at least going to be of the [appropriate] size for the set level of business; it gives some stability and reduces risk. Shippers also should like firm and interruptible service, he suggested, because it allows them to align their shipping services with their boats, gas supplies, and gas-sales contracts.

MR. SCHOFFMANN explained that gas-sales contracts are typically made between producers and end users or customers; pipelines then come into the middle of that relationship. He said it's important to gas suppliers who sign contracts with customers on pretty much the same basis - firm sales or interruptible sales - to be able to have flexibility to make sure the pipeline can transport the volumes that they've sold either under firm terms or interruptible terms.

Number 1714

MR. SCHOFFMANN suggested a producer who has pretty firm supplies may also wish to have firm transportation. Contrarily, there are producers who have signed contracts that are interruptible.

It would make little sense for producers with interruptible sales contracts to sign up for firm transportation; they'd rather pay as they go. Similarly, he said, if they have yet to fully explore or delineate their gas reserves, it would be a little difficult to imagine why producers might want to sign up too much firm capacity when they still have a lot of unknowns. So this helps the producers to align transportation services with both their set gas-sales contracts and their gas supplies.

MR. SCHOFFMANN said the fiscal note from the Department of Natural Resources (DNR), Division of Oil & Gas, indicates a zero impact. However, a statement on [RCA's] fiscal note expresses a concern about affiliate ownership as it may relate to the open access provisions. He offered his belief that those comments pretty much had to do with a general statement that contract carriage or firm and interruptible transportation is generally a good thing, but said [RCA] might envision some circumstances in which producer-affiliate ownership could be a problem. Mr. Schoffmann relayed his belief that this concern was largely mitigated by the comments in the RCA fiscal note. In addition, a producer-affiliate ownership is the primary model for Alaska, he suggested, primarily because the producer affiliates are the ones with the greatest incentive to make the investments. He said currently those concerns that may have been raised haven't developed.

Number 1855

MR. SCHOFFMANN mentioned conversations he'd had with several smaller producers such as Aurora Gas LLC, Forest Oil Corporation, and Evergreen [Resources]. He talked about a letter of support from Aurora Gas LLC stating that it very much favored the expansion of infrastructure to help them, as a smaller producer, get access to the markets with their gas. He said he was given permission by Forest Oil Corporation to say that it had looked at the bill and had no problems with it. Mr. Schoffmann reporting that his initial conversations with Evergreen Resources seemed favorable but that he had yet to see anything final from them.

MR. SCHOFFMANN offered his belief that this producer-affiliate issue is really not one that comes into play with this bill. Furthermore, he said, FERC has not discriminated against producer-affiliate ownership elsewhere; for that matter, the revisions made to the legislation in 2000 didn't place any such restrictions on North Slope gas pipeline.

Number 1921

CHAIR FATE asked how firm transportation service meshed with open seasons and capacity, and how interruptible transportation service fits into this picture.

MR. SCHOFFMANN relayed his belief that RCA has the authority to ensure that there is no discrimination with respect to the pipeline capacity and how that is allocated. It is a fairly common practice, he suggested, to hold an open season for a contract for interruptible service. He said KKPL did that and attempted to at least apprise RCA and let them have some input into that process.

MR. SCHOFFMANN relayed his belief that RCA could mandate that as a part of ensuring that all interested parties had a chance to commit to these pipelines, and that they could do that under their existing authority before they offered to grant a certificate of convenience and necessity under AS 42.06. He said it is always in RCA's purview to review how capacity is being allocated, however, to make sure there is not discrimination; furthermore, RCA has the ability to force expansion if it finds that capacity isn't being fairly offered to those who have need or who feel there is some discrimination.

Number 2152

MARK MYERS, Director, Division of Oil & Gas, Department of Natural Resources, testified. He said in the case of RCA's authority, it allows them to force mandatory expansion; however, FERC does not have that same authority to force it, so the RCA has greater authority in this manner than does FERC.

CHAIR FATE, noting that this deals with all pipelines, asked what would be the case if this dealt with a major pipeline that would have authority.

MR. MYERS said in the case of the interstate pipeline, there is no requirement for mandatory expansion of the pipeline under current law.

Number 2193

REPRESENTATIVE KERTTULA offered her understanding that capacity would have to be granted.

MR. MYERS said it's more of an historical situation in which there's a lot of expansion capacity available; with a lot of competing pipelines in the Lower 48, there aren't too many conditions of having only a single pipeline or very limited infrastructure. He said he thinks the FERC standards are different, and noted that from an Alaskan standpoint, the ability to expand is liked. The Natural Gas Act doesn't allow FERC to order expansion, so it is mandated in federal law. He said he was unsure of the historical reasons for it, and that the concept of the RCA's having the authority to mandate expansion was liked. That's appropriate when there are a limited amount of pipelines and a limited capacity on this pipeline, he suggested.

Number 2249

REPRESENTATIVE KERTTULA said she thought that was what was confusing her, because she kept [relating it to] the Trans-Alaska Pipeline System (TAPS), a common carrier. She offered her understanding that [under this bill] the gas pipelines aren't common carriers, but would enter into contracts under an open season for either firm or interruptible service. She asked if the way around that, if [a company] were to get locked out, would be to go to RCA and [request] expansion.

MR. MYERS said that is exactly right: under common carriage, the transported oil or gas is prorated for the amount of gas available, whereas with contract carriage there is a commitment to take or pay on that capacity. So it's a very different type of system.

REPRESENTATIVE KERTTULA said she is most concerned about what would be done for access for the smaller, independent gas companies, and that she wants to feel assured access isn't somehow being closed off to them. She mentioned the debate about what was done with TAPS and the state's not maintaining any ownership. She asked for clarification.

Number 2329

MR. MYERS said the particular case is the KKPL pipeline, which so far has received nomination for only 63 percent of the line's capacity. Up front, it's not a very difficult issue if there is extra capacity in the line and it's built to a larger size; Mr. Myers said it wasn't his intention to [imply] there is a big deal here with this particular pipeline.

MR. MYERS told members the fiscal note reflects that [DNR] doesn't foresee a problem and that it is looking into the future at cases wherein a pipeline may be built to a much smaller capacity than is available in the gas market. Under that scenario, whoever nominated gas first in that initial open season would have that committed capacity; someone else would have to either get the pipeline to expand, which could be done voluntarily, or go to RCA on an interstate line and request that RCA require expansion, and go through the hearing process.

MR. MYERS continued, saying the other way to obtain gas is to get interruptible gas; if someone nominates and takes that firm capacity and doesn't use it, someone [else] still can, through the RCA, get use of that capacity until that other user has a need for it; so there is interruptible capacity that is available.

MR. MYERS said RCA definitely has greater authority on contract carriage gas, and it's not nearly as problematic in the state as the case where there is no mandatory expansion requirements. It does put the burden on additional users, if they get in that situation, to go to RCA and go through the hearing process to get that expanded capacity, which could potentially delay some projects. He offered his belief that, overall, there is a mechanism for people to get their gas in the line over the long term, through the RCA, if they trust in the agency's authority and discretion to use that authority.

Number 2463

JIM STRANDBERG, Commissioner, Regulatory Commission of Alaska, concurred with Mr. Myers. He stressed that the added ability for contract carriage is going to be a benefit. He offered his belief that it is going to help in attracting investment, and that if contract carriage was in fact allowed in a pipeline, were some person or company to come along later and want to convey gas over that pipeline, [RCA] would still be able to evoke common-carrier statutory jurisdiction, and to really facilitate that producer in getting access to the pipeline. He said the two ways available to do it are either to require an increase in the pipeline capacity or to take a look at the way the firm capacity is being used. He said if someone isn't using that capacity, it is believed that room could be made for the new producer. Mr. Strandberg said both of these types of carriage very well could occur.

Number 2554

REPRESENTATIVE KERTTULA pointed out that she hadn't received a the RCA's fiscal note. She asked if it had been submitted.

MR. STRANDBERG said yes, it was a zero fiscal note. In further response, he read the fiscal note analysis, which stated [original punctuation provided]:

While not explicitly stated, the services allowed by this bill are typically regarded as contract carriage. The 2000 Legislature allowed it for transportation of natural gas from the North Slope, partially to bring State statutes into accord with FERC rules for interstate gas transport.

This language expands the statutory recognition of contract carriage to all parts of the State. Because common carrier language is retained in AS 42.06, RCA retains the ability to provide any and all shippers access to transport service on intrastate pipelines through its regulatory processes.

There are no fiscal impacts on RCA from this bill, however it is expected that where producers elect to own and operate a pipeline, which is allowed under state statute, contract carriage with service under these statutory terms will be proposed to RCA in pipeline tariff filings.

RCA will consider this under the statutory public interest standard. RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. No general funds are allocated for support of the agency.

The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates. The RCC is capped at 0.8 % of regulated utilities annual gross revenues.

Number 2554

CHAIR FATE asked Mr. Strandberg to fax RCA's fiscal note to the committee for review.

The committee took an at-ease from 2:05 p.m. to 2:06 p.m.

CHAIR FATE offered his belief that the committee had done a good job in trying to determine the coordination of RCA and the Division of Oil & Gas. He said there seemed to be no objections from the departments and that he hoped everybody understood the testimony relating to open seasons and capacity. He noted his intention to move the bill forward.

CHAIR FATE asked whether anyone else wished to testify. He then closed public testimony.

Number 2757

REPRESENTATIVE KERTTULA offered her understanding that there will still be common-carrier rules; that [the bill] is just allowing these contracts; and that, ultimately, RCA will have to make a ruling if there are objections or concerns. She said with that, she does not object.

CHAIR FATE remarked that he hadn't realized [RCA] has the power to force expansion and that it would certainly help exploration.

Number 2788

REPRESENTATIVE MASEK moved to report CSHB 204(O&G) out of committee with individual recommendations and the accompanying fiscal notes; she asked for unanimous consent. There being no objection, CSHB 204(O&G) was reported from the House Resources Standing Committee.

HB 226-ORGANIC FOOD

CHAIR FATE announced that the next order of business would be HOUSE BILL NO. 226, "An Act relating to the sale, offer for sale, representation, and labeling of food or other agricultural products as organic, and to the state organic certification program; and providing for an effective date."

Number 2872

REPRESENTATIVE BILL STOLTZE, Alaska State Legislature, sponsor, explained that HB 226 will help many farmers in his district, particularly those in the "niche" portion of the agricultural industry, by helping them participate in compliance with federal requirements under a state organic program. He noted that this bill has features of legislation sponsored by Representative Harris the previous year; Representative Harris had asked him to

help take the lead on this along with Representative Gatto, a cosponsor, who is from Palmer. He deferred to Ms. Bitney for further explanation.

Number 2958

BARBARA BITNEY, Staff to Representative Bill Stoltze, Alaska State Legislature, addressed information in the committee packet and offered details. Referring to a sectional analysis [dated April 7, 2003, from Legislative Legal and Research Services], she said the bill is to bring Alaska in line with the National Organic Program (NOP) that was passed in [2001] and that allowed 14 months for states to come in line; last year Representative Harris introduced HB 432 to do that, but it didn't pass. Right now, Alaskan producers of organic products must go out of state for certification; the packet contains letters relating to this and the associated cost burden.

TAPE 03-27, SIDE B

Number 2958

MS. BITNEY, to show how many communities are affected, highlighted three farmers' markets in Anchorage and one each in Eagle River, Fairbanks, Homer, Soldotna, and Wasilla; in addition, Delta and Talkeetna plan to start one. Those are the smaller producers, and there are larger agricultural producers as well such as Wolverine [Farm], which produces carrots. They face a big issue regarding costs associated with keeping the "organic" label, she told members. Offering a label for committee members to view, she indicated these labels cannot be used without certification.

Number 2944

REPRESENTATIVE GATTO asked why meat, fish, and poultry aren't included in the bill.

MS. BITNEY replied:

Actually, I have a clarification in there, and ... they are actually applied in two different sections of the statute. And so we're dealing with them separately, and part of the reason for that is because ... we have a distinct need right now to make sure we get the agriculture through. And they've been waiting for over a year and a half to do that.

Number 2905

REPRESENTATIVE GUTTENBERG referred to page 1 [Section 2, lines 12-13], which says in part, "The department may establish a state organic certification program". He asked whether it should be "shall" rather than "may".

MS. BITNEY answered, "We definitely want them to do that, so I would have to check with the Department of Law to clarify that."

Number 2875

REPRESENTATIVE GUTTENBERG referred to Section 1 and noted that it says [on line 5, "AS 03.58.010 is repealed and reenacted to read:"]. He asked what the change was.

MS. BITNEY answered that the [statutory] organic standards in place aren't in line with the current federal organic program.

REPRESENTATIVE GUTTENBERG surmised, then, that basically the state standards had been thrown out and the federal standards adopted.

MS. BITNEY concurred.

Number 2850

REPRESENTATIVE HEINZE observed that [the sponsor statement] says qualified inspectors would complete the inspection and [the final certification process would be performed by a designated state official]. She asked whether the inspectors are Alaskans or would be brought in from the federal government.

MS. BITNEY answered that a lot of the inspectors are federally qualified because there is a significant cost for the training. She added, "People haven't applied for the training yet because we don't even have the certification program here in Alaska yet. So I believe that if we did do this, we would have the certification here and then the inspectors would follow."

REPRESENTATIVE HEINZE asked whether funds are available somewhere to start the certification process.

MS. BITNEY replied:

We have a fiscal note that covers basically the certification process. And the inspection process is

actually what requires the most time. And right now the inspectors come up, do a very thorough inspection. And we would be able to have the certification process, sign off on it - they would look through all the required documentation, make sure everything was correct, and could do an onsite inspection follow-up if they wanted.

Number 2770

REPRESENTATIVE STOLTZE remarked that he is very sensitive to fiscal matters and is working with Representative Harris, a cosponsor, so that the House Finance Committee can scrutinize this to make sure it just meets necessary costs. Representative Stoltze said he'd keep a watchful eye as well.

REPRESENTATIVE HEINZE clarified that she wanted to ensure that the money is there to implement this.

REPRESENTATIVE STOLTZE replied that if these [costs] are all justified, he will fight tooth and nail for this important industry in his district and others. It isn't a large industry at this point, he noted, but certainly has potential. He expressed the desire to nurture it.

Number 2726

REPRESENTATIVE GUTTENBERG referred to Section 4, page 2, line 10, which relates to establishing a fine. He asked whether this is new or is common practice.

MS. BITNEY answered that the U.S. Code sets a \$10,000 limit for a fine. The Department of Natural Resources (DNR) - under [the Division of Agriculture] - would have to determined with the Department of Law what they would set for a fine. She surmised that it would be in line with other states, and noted that the [federal] organic program has draft language that all states have looked at for adoption. "I believe ours was in line with that," she added.

REPRESENTATIVE GUTTENBERG asked whether this is a new policy for Alaska with regard to fines.

REPRESENTATIVE STOLTZE offered to find out.

Number 2633

LARRY DeVILBISS, Proprietor/Manager, Wolverine Farm, began by explaining that Wolverine Farm has existed in the Matanuska Valley since 1956. He told members:

When we came up to begin managing the farm in 1980, we made a number of decisions that sort of changed the direction of where we went. We had traditionally been a potato and dairy farm, and we decided to go into organic production as much as possible, and to focus on carrots and beef. And over that 22 or 23 years, we have phased completely out of the nonorganic production ... of carrots and are just producing organic carrots now - just to tell you that that's an indicator of where the market has gone up here; it has definitely grown enough to accommodate at least this farm ... in one product.

And about five or six years ago, I was a founding member of the Alaska Organic Association, because up to that point there had been no way to certify organically up here in the state. And after quite a bit of research we came up with a model that basically was modeled after the California organic growers' association and Oregon Tilth.

And through these years, with a board ... [composed] of both growers and retailers and a couple of housewives, we flew in inspectors that were members of the international organic inspectors association and adopted standards and have had a program that we think had a lot of credibility and ... worked pretty well.

But when the national standard kicked in last year, ... it knocked out the possibility of growers' being involved at all in the actual certification. And so we've kind of been floundering since then. Since that time, I've actually stepped out of the carrot side of the production here at Wolverine Farm, and ... there's three other relatives that are picking that up. And this year they've had to go out to Washington [State] to certify because nothing was put in place last year ... to enable us to certify.

Number 2455

MR. DeVILBISS continued:

The way we [envision] this working is that we'll continue flying in independent inspectors to do ... the inspecting, at our expense, until such time as ... there are qualified inspectors up here that could do it. ... But even then, the growers would expect to bear that expense. The only thing we haven't been able to do ... and need from the state is some kind of a certification of that process so that we can use the federal seal. And in order for the state to do that, it was necessary for this law that is coming before you to repeal the old state standard and adopt the national organic standard, and make room for the state to accommodate this process.

I ... was unaware up to this point [that] there was a fiscal note attached to it at all. But we're not looking for a handout. We're just looking for a way to do business here ... that doesn't require us to put another state sticker on our bags. That really doesn't seem appropriate. It's not something we want to do. We've developed quite a bit of loyalty for Alaskan products here.

MR. DEVILBISS mentioned moving the bill ahead and said he believes [organic food] is a niche that is growing. Referring to a recent audit on the Division of Agriculture, he said one recommendation was that the state do what it can to help niches like this in the agricultural industry to get started. This bill certainly would help do that, he concluded.

Number 2356

REPRESENTATIVE GATTO asked Mr. DeVilbiss what gross weight of carrots Wolverine Farm can produce annually.

MR. DEVILBISS answered that they've been producing 500 to 600 tons a year. Annual gross revenues have been about \$350,000 to \$400,000. On the organic side, he noted, most of that goes toward wages because it is very labor-intensive.

REPRESENTATIVE GATTO asked whether other kinds of organic produce are grown in the Matanuska Valley.

MR. DEVILBISS affirmed that. He said the association has producers that grow a large variety of vegetables, more for farmers' market, but one commercial potato producer in Delta produces just potatoes, to his belief.

Number 2240

MR. DeVILBISS returned attention to the bill and said:

We eventually plan to bring our livestock into the program. In fact, we started to last year, but we ran into a problem: we've been unable to come up with organic sources for enough nitrogen to grow grass here. But as soon as possible we want to be able to sell organic beef as well. And so ... I would like to see that exclusion taken out of there, unless there's some reason why it couldn't be.

CHAIR FATE said he'd have to take a look at that. He added:

I do know that in previous efforts in red meat programs there's always been some problem in certification. And we've had a difficult time getting, as you are, ... federal inspectors to come up. And it has to be federally inspected meat. And that's one of the problems in several enterprises that have really tried ... and had actually a pretty good local market. But I know the University of Alaska had a red meat program, and that was one of the problems, ... trying to get certification of that meat after, of course, the meat was processed.

MR. DeVILBISS added that the national standard addresses this fully, so there's no complication as far as the standard on the national level is concerned.

Number 2150

REPRESENTATIVE HEINZE lauded Mr. DeVilbiss as a "shining star" in the agricultural field for dedication and the products he produces. She then asked how fertilizer is applied for organic foods.

MR. DeVILBISS replied:

Well, if you read the national standard, which is probably two or three inches thick, you'd have a better idea. But basically it has to be done without any synthetic compounds, which means you can't use fertilizer that's been chemically produced. There's natural rock for phosphate; we use fish byproduct for

the phosphorus; the nitrogen is harder to come by, but that's where we use composting and cow manure and ... a whole bunch of other stuff. And it's all spelled out and it's all got to be verified ... as the process goes along so it's not ... infringed on.

And I might say that one reason we, as a farm, decided to go organic is 'cause we're convinced that our father died prematurely of cancer because of agricultural chemicals. ... We don't criticize farmers ... that don't do it that way, but we had good motivation as a family to do something different.

CHAIR FATE informed members that Dean Brown and Rob Wells of the Division of Agriculture were available to answer questions.

Number 2030

REPRESENTATIVE GUTTENBERG remarked that he likes the option of having an organic foods section at the store. He asked Mr. DeVilbiss, on a larger scale, whether there is a separate market that is large enough for this.

MR. DEVILBISS answered:

We wouldn't be moving that direction if there weren't. ... The production figures I gave Representative Gatto were for organic production only. ... It's a niche that ... has grown significantly in the past 20 years and ... I expect will continue to grow.

REPRESENTATIVE GUTTENBERG asked whether most of the market is in supermarkets or farmers' markets.

MR. DEVILBISS replied that it's in both places. He added, "Our production has gone almost entirely into the supermarket chains. In fact, through last year, ... we were even in Juneau for a while."

Number 1935

RIVER BEAN, President, Alaska Organic Association, began by thanking Representative Stoltz for bringing the bill forward on behalf of his association. He urged passage so Alaska has something in place to help with the certification process. Noting that a number of farmers must go to Washington State this year in order to be certified at great expense, he contrasted

that with the cost for in-state certification, saying it would simply be returning the cost of the program to the state. He told members:

We're not looking for a handout; we're looking to cover costs. But at this point the Alaska Organic Association can no longer certify. So we need a certifying body in the State of Alaska in order to put "Alaskan certified organic" on our produce or labels or bags, rather than "Washington State for Alaskan grown produce."

MR. BEAN said this also would support sustainable agriculture in the valley. Offering his belief that a number of farmers who aren't certified would become certified if the State of Alaska were accredited to do so, he concluded, "I think the publicity is much greater through a state program and ... would offer that opportunity to a lot more growers, maybe on a [sliding-fee scale] than what we could do with the Alaska Organic Association."

Number 1802

REPRESENTATIVE HEINZE asked whether the certification would come under the Division of Agriculture, Department of Natural Resources (DNR).

MR. BEAN replied that he believed so.

REPRESENTATIVE HEINZE asked Dean Brown whether this indicates the Division of Agriculture will stay put.

Number 1766

DEAN BROWN, Acting Director, Division of Agriculture, Department of Natural Resources, answered that the administration has been looking at the recommendations from the audit, and that the Board of Agriculture and Conservation had made recommendations for candidates for the director [position]. She offered her understanding that no final decisions have been made yet, but said she'd been the acting director since December 15. Noting that the growing season is approaching and that the Agricultural Revolving Loan Fund is active in supporting farmers, Ms. Brown added that agriculture is alive and well and that producers have viable products they're bringing to market this year.

Number 1686

REPRESENTATIVE GUTTENBERG asked Mr. Bean who the members of [Alaska Organic Association] are across the state.

MR. BEAN answered that members range from Fairbanks to Homer, although not in the outlying Bush areas. "It's possible they don't know about it," he added. "We've done all of our own advertising, and it's been limited to ... just basically the road system." He acknowledged that the [Anchorage Daily News] goes out to the Bush, but said there are no members there currently.

MR. BEAN noted that his personal business, Arctic Organics, was started 18 years ago and always has been organic. However, this is the first year that the produce no longer can be called "organic," and there is a possible federal fine of up to \$10,000 if his business calls it that. He added, "We cannot afford to go to Washington State and have them do our inspection for us. So we are no longer able to call our produce 'organic,' and that's a real shame."

Number 1577

REPRESENTATIVE GUTTENBERG requested the names of the Alaska Organic Association's members from Fairbanks, his own district.

MR. BEAN replied that he didn't have a list with him, but mentioned a certified grower in the Fairbanks area and that a number of people have called wanting Mr. Bean to do a radio program up there, although they hadn't followed through.

Number 1544

REPRESENTATIVE MASEK asked about any cooperatives currently in place. She recalled that when she was living on the Yukon River, the Tanana Chiefs Conference had a program under which potatoes, turnips, carrots, and so forth were grown in the village. She mentioned a soil and water conservation program and said she didn't know whether it was affiliated with [Mr. Bean's organization] in any way.

MR. BEAN said no and explained:

We're basically a stand-alone program and operation. We started the Alaska Organic Association several years ago, and Larry DeVilbiss, as he stated, was one of the founding members, and there were a number of

other people. And we spent probably a year and a half researching our standards, and we did this all on our own; ... there were no other groups or entities involved. And so it is just ... basically the board members of the Alaska Organic Association that came up with the standards that we have yet today, but they're no longer effective.

Number 1442

REPRESENTATIVE GATTO asked whether genetically modified foods that were grown organically would qualify.

MR. BEAN answered that the National Organic Program doesn't allow that. It specifies what the organic standards are, and genetically modified foods aren't part of that.

REPRESENTATIVE GATTO asked whether there is a limit on the annual dollar volume. In other words, could a person who sells \$500 in products a year be able to sell something organic without certification?

MR. BEAN answered yes. He elaborated:

Currently, the way that the National Organic Program reads is that anyone that grosses less than \$5,000 is allowed to sell their produce as organic as long as ... they're following the standards that the NOP, the National Organic Program, has set forth. But ... if they're not making very much money ... they are not required to pay the money to become certified. They do have to promise to grow to those standards ... and then they can use the word "organic," but they do not need to be certified.

Number 1332

CHAIR FATE noted that the bill strikes the current \$1,000 cap [for a civil fine] and also includes attorney fees. He asked whether the intent is that there will still be a \$1,000 limit.

MS. BITNEY replied that there is a limit in the federal law of \$10,000. As the bill reads, it is left up to the department. She suggested that might be something for the committee to explore.

Number 1242

REPRESENTATIVE KERTTULA referred to the addition of attorney fees to the costs that can be recovered [page 2, line 17]. She said she didn't think any administrative code in Alaska had that and asked whether it's something new.

MS. BITNEY said she'd have to get back to Representative Kerttula on that.

REPRESENTATIVE STOLTZE added that he didn't feel strongly about it and indicated he didn't have the legal background Representative Kerttula has.

REPRESENTATIVE KERTTULA clarified that she wasn't sure it wouldn't be a good idea, but just hadn't seen it before.

Number 1180

REPRESENTATIVE MASEK moved to report HB 226 out of committee with individual recommendations and the accompanying fiscal notes; she asked for unanimous consent. There being no objection, HB 226 was reported from the House Resources Standing Committee.

REPRESENTATIVE STOLTZE informed members that he would follow up on the very good questions they'd asked.

HB 163-NONRES. GAME TAG FEES/WILDLIFE TOUR PASS

Number 1118

CHAIR FATE announced that the final order of business would be HOUSE BILL NO. 163, "An Act relating to an annual wildlife conservation pass and the fee for that pass; relating to nonresident and nonresident alien big game tag fees; and providing for an effective date." [The bill was sponsored by the House Rules Standing Committee by request of the governor. Before the committee, adopted as a work draft on 4/4/03, was Version D, labeled 23-GH1098\D, Utermohle, 3/18/03.]

CHAIR FATE indicated the public hearing had been closed previously and reminded members that several amendments had been incorporated into Version D. He asked whether the committee had any questions before addressing further amendments.

REPRESENTATIVE KERTTULA said she had concerns, not questions.

The committee took an at-ease from 2:48 p.m. to 2:50 p.m.

Number 0896

REPRESENTATIVE MASEK moved to adopt Amendment 1, which read [original punctuation provided]:

Page 2, following line 14
Insert:

(9) a wildlife conservation pass will provide new revenue that may be used to support fish and wildlife management, including protection, and to support and promote the tourism industry for which wildlife resources attract visitors to the state;

Number 0890

REPRESENTATIVE KERTTULA objected to ask for an explanation.

CHAIR FATE explained that it sets forth the intent, since there had been questions about what these funds would be used for.

REPRESENTATIVE KERTTULA removed her objection.

Number 0832

REPRESENTATIVE GUTTENBERG asked whether adding [Amendment 1] to the findings section directs those funds or whether it is just part of the opening statement about the legislation.

CHAIR FATE said that, to him, this is more than just intent language, although it is clarification of what the use will be. Emphasizing that it's in the body of law and uses the word "will", he then noted that it says "will provide new [revenue] that may be used to support" and so forth.

REPRESENTATIVE GUTTENBERG said his concern is whether its being under Section 1, "Findings", makes a difference.

CHAIR FATE clarified that these amendments had come from the administration.

Number 0697

REPRESENTATIVE MASEK said she believes it's appropriate and in line with the other findings, paragraphs (1) through (8).

CHAIR FATE concurred.

REPRESENTATIVE KERTTULA observed that Amendment 1 says the pass [may be used to] support and promote the tourism industry. She didn't recall much testimony on how it would do that. She asked what the plan is to do with the funds for the tourism industry, and whether the funds will go into marketing, for instance.

Number 0622

JIM POUND, Staff to Representative Hugh Fate, Alaska State Legislature, speaking as the committee aide, responded:

This was language that we had discussed with the administration regarding expanding out the possibility of -- and, again, it's primarily a finding, but it's intent language so that when ... future legislators ... are looking at how funds are distributed, ... they have [an] option of ... moving that money into the tourism industry as far as marketing or whatever area they see fit.

Number 0565

REPRESENTATIVE GUTTENBERG asked whether someone from Legislative Legal and Research Services could give him an answer as to how it is different to put this language in the findings section, rather than relating it to a statute with a reference line.

MR. POUND offered his opinion instead, saying a paragraph that he believed was on page 6, line 30, to page 7, line 2, in the previous bill version was in a completely different part of the legislation. He said [Amendment 1] was put together to bring that language back into the bill, "in part, especially the wildlife management portions of it." He also indicated that the omission had been discovered this very day, and that there may be a modification needed to Amendment 1 because it is somewhat duplicative.

CHAIR FATE announced his preference of making recommendations to the House Finance Committee and moving the bill forward.

Number 0310

REPRESENTATIVE MASEK reiterated that she believes Amendment 1 is in the appropriate place and adds language brought up in

committee discussions from the tourism industry. "We're trying to facilitate all users, every one that has a stakeholder in this bill here," she added. "And I think we're compromising quite a bit, and I think this amendment ... should pass." She asked that Representative Guttenberg remove his objection and then have the House Finance Committee take a closer look at Amendment 1.

REPRESENTATIVE GUTTENBERG said he would remove his objection.

Number 0193

REPRESENTATIVE MASEK renewed her motion to adopt Amendment 1.

REPRESENTATIVE GATTO objected.

REPRESENTATIVE HEINZE referred to the wording "promote the tourism industry for which wildlife resources attract visitors to the state". She said it seems to be a very narrow part of tourism. If a boat owner doesn't run a wildlife tour, for example, the funds cannot come back to that person.

CHAIR FATE replied:

Part of what you say is true, but there's very little ... in the ... tourism industry that doesn't deal with the viewing of wildlife, whether it's on a tour ship or whether it's on a rubber-tire crate to ... the Interior of Alaska or whatever. ... So it's not quite as narrow ... as a person might be made to believe here in the wording

Number 0082

REPRESENTATIVE GATTO told members he isn't entirely pleased with the bill, but now that it's before the committee, he has some trouble with the wording of Amendment 1. He questioned whether it will always be true that a wildlife conservation pass will provide new revenue. He suggested it makes more sense to say "funds generated from a wildlife conservation pass may be used to support", for instance.

TAPE 03-28, SIDE A

Number 0001

CHAIR FATE said this isn't talking about the bottom line or a balance sheet, but about revenue derived from one pass. If more

than one pass is sold, there will be a multiple of the cost of the pass as revenue. He suggested it is a matter of semantics.

REPRESENTATIVE GATTO replied that it's tough for him to make a declaration that something will happen unless he can offer supporting evidence. He indicated he wouldn't pursue it unless some other members agreed, but said he'd feel more comfortable with "funds generated from", rather than the existing language.

Number 0108

MR. POUND proposed a possible way to address Representative Gatto's concern and duplicative wording. Referring to [subsection (e)] page 6, line 30 - which he said is relatively unimportant - and on to page 7, line 7, he suggested that [subsection (e) should read in part, "The annual balance in the account may be appropriated by the legislature for the purpose of fish and game management, viewing, and education programs," with the following inserted: "including protection and to support and promote the tourism industry for which wildlife resources attract visitors [to] the state". Deleted would be the wording "for other public purposes" [page 7, line 2].

MR. POUND then suggested that on page 7, line 7 [it should say]: "The annual balance in the account may be appropriated by the legislature for the purpose of fish and game management, viewing, and education programs, including protection and to support and promote the tourism industry for which wildlife resources attract visitors [to] the state." Deleted would be "for other public purposes".

MR. POUND suggested the foregoing would take care of Representative Gatto's concern about wording saying this will generate funds, because it refers it back to fees.

CHAIR FATE said it sounds like a pretty good compromise. He suggested Amendment 1 should be withdrawn and a new Amendment 1 should be moved.

Number 0250

REPRESENTATIVE MASEK withdrew Amendment 1.

REPRESENTATIVE MASEK moved to adopt new [Conceptual] Amendment 1 [as set forth by Mr. Pound previously].

REPRESENTATIVE HEINZE expressed confusion, saying she hadn't been finished with her discussion.

Number 0317

REPRESENTATIVE KERTTULA objected for purposes of discussion. She told members:

Here's where I think we're going awry with this. I think Representative Guttenberg's point about findings versus intent's pretty well taken. This really isn't in "finding". It may be intent. But now what we're doing is actually getting ... into where we think the money should go, and that's probably the statute itself. So I don't really care, because I have problems with the whole bill. But I do think you're starting to really get the record pretty confused about, "This just isn't a finding." ... There hasn't been evidence on it. It's not in the right place in the bill. So, I don't know what you want to do about it, but there's my objection.

Number 0410

REPRESENTATIVE MASEK withdrew new Conceptual Amendment 1. [HB 163 was held over.]

ADJOURNMENT

Number 0528

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:06 p.m.