

**ALASKA STATE LEGISLATURE
HOUSE RULES STANDING COMMITTEE**

May 6, 2004

4:16 p.m.

MEMBERS PRESENT

Representative Norman Rokeberg, Chair
Representative Pete Kott
Representative John Coghill
Representative Lesil McGuire
Representative Carl Morgan
Representative Ethan Berkowitz
Representative Beth Kerttula

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Ralph Samuels

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 385(JUD) am
"An Act relating to homeland security, to civil defense, to emergencies and to disasters, including disasters in the event of attacks, outbreaks of disease, or threats of attack or outbreak of disease; establishing the Alaska division of homeland security and emergency management in the Department of Military and Veterans' Affairs and relating to the functions of that division and that department; and providing for an effective date."

- MOVED HCS CSSB 385(RLS) OUT OF COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 39
Establishing the Alaska Royalty and Revenue Task Force.

- MOVED CSHCR 39(RLS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 385

SHORT TITLE: SECURITY;DIV. HOMELAND SECURITY/EMER. MGT

SPONSOR(S): HEALTH, EDUCATION & SOCIAL SERVICES

04/05/04 (S) READ THE FIRST TIME - REFERRALS
 04/05/04 (S) HES, FIN
 04/05/04 (S) HES AT 1:30 PM BUTROVICH 205
 04/05/04 (S) Heard & Held
 04/05/04 (S) MINUTE(HES)
 04/07/04 (S) HES AT 1:30 PM BUTROVICH 205
 04/07/04 (S) -- Rescheduled to 5:30 pm 04/07/04 --
 04/07/04 (S) HES AT 5:30 PM BUTROVICH 205
 04/07/04 (S) -- Rescheduled from 1:30 04/07/04 --
 04/08/04 (S) HES RPT CS 2DP 2NR SAME TITLE
 04/08/04 (S) DP: DYSON, WILKEN; NR: GUESS, DAVIS
 04/16/04 (S) FIN REFERRAL WAIVED REFERRED TO RULES
 04/20/04 (S) JUD REFERRAL ADDED AFTER HES
 04/20/04 (S) JUD WAIVED PUBLIC HEARING NOTICE, RULE23
 04/21/04 (S) JUD AT 8:00 AM BUTROVICH 205
 04/21/04 (S) Moved CSSB 385(JUD) Out of Committee
 04/21/04 (S) MINUTE(JUD)
 04/22/04 (S) JUD RPT CS 1DP 2NR SAME TITLE
 04/22/04 (S) DP: SEEKINS; NR: FRENCH, OGAN
 04/22/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/22/04 (S) Waived from Committee
 04/29/04 (S) TRANSMITTED TO (H)
 04/29/04 (S) VERSION: CSSB 385(JUD) AM
 04/30/04 (H) READ THE FIRST TIME - REFERRALS
 04/30/04 (H) STA
 05/04/04 (H) STA AT 8:00 AM CAPITOL 102
 05/04/04 (H) Heard & Held
 05/04/04 (H) MINUTE(STA)
 05/05/04 (H) STA RPT 3DP 2NR 2AM
 05/05/04 (H) DP: SEATON, HOLM, WEYHRAUCH;
 05/05/04 (H) NR: COGHILL, BERKOWITZ; AM: GRUENBERG,
 05/05/04 (H) LYNN
 05/05/04 (H) STA AT 8:00 AM CAPITOL 102
 05/05/04 (H) Moved Out of Committee
 05/05/04 (H) MINUTE(STA)
 05/06/04 (H) RLS AT 1:30 PM CAPITOL 124

BILL: HCR 39

SHORT TITLE: ALASKA ROYALTY AND REVENUE TASK FORCE
 SPONSOR(S): RULES BY REQUEST OF ECON DEV, INT TRADE & TOURISM

05/06/04 (H) READ THE FIRST TIME - REFERRALS
 05/06/04 (H) RLS
 05/06/04 (H) RLS AT 1:30 PM CAPITOL 124

WITNESS REGISTER

WES KELLER, Staff
to Senator Fred Dyson
Senate Health, Education and Social Services Standing Committee
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 385 on behalf of the sponsor,
Senate Health, Education and Social Services Standing Committee,
which Senator Dyson chairs.

DAVID LIEBERSBACH, Director
Division of Homeland Security/Emergency Services
Department of Military & Veterans' Affairs
Fort Richardson, Alaska

POSITION STATEMENT: During discussion of SB 385, answered
questions.

SUE STANCLIFF
House Majority Office
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of SB 385, answered
questions.

REPRESENTATIVE MAX GRUENBERG
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the maker of Amendments 3, 4, and 5 to
SB 385, explained Amendments 3, 4, and 5.

REPRESENTATIVE CHERYLL HEINZE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the chair of the House Special Committee
on Economic Development, International Trade and Tourism,
presented HCR 39.

ACTION NARRATIVE

TAPE 04-6, SIDE A

Number 0001

CHAIR NORMAN ROKEBERG called the House Rules Standing Committee
meeting to order at 4:16 p.m. Representatives Rokeberg, Kott,
Coghill, McGuire, Morgan, Berkowitz, and Kerttula were present
at the call to order. Also in attendance was Representative
Samuels.

SB 385-SECURITY;DIV. HOMELAND SECURITY/EMER. MGT

CHAIR ROKEBERG announced that the first order of business would be CS FOR SENATE BILL NO. 385(JUD) am, "An Act relating to homeland security, to civil defense, to emergencies and to disasters, including disasters in the event of attacks, outbreaks of disease, or threats of attack or outbreak of disease; establishing the Alaska division of homeland security and emergency management in the Department of Military and Veterans' Affairs and relating to the functions of that division and that department; and providing for an effective date."

Number 018

WES KELLER, Staff to Senator Fred Dyson, Senate Health, Education and Social Services Standing Committee, Alaska State Legislature, explained that SB 385 updates the existing civil defense laws to address homeland security issues. The legislation combines the Division of Homeland Security and the Division of Emergency Services into one division called the Division of Homeland Security and Emergency Management. Furthermore, the legislation establishes a legislative subcommittee of that new division.

REPRESENTATIVE BERKOWITZ asked if the [division and the subcommittee] are modeled after similar entities in other states.

Number 038

DAVID LIEBERSBACH, Director, Division of Homeland Security/Emergency Services, Department of Military & Veterans' Affairs (DMVA), specified that when putting this together other places around the nation weren't reviewed. The original civil defense statute that was enacted in 1951 was fairly uniform across the nation. Therefore, that statute was used [and changed] to address today's threats, which are a bit different than those of 1951.

REPRESENTATIVE BERKOWITZ expressed the need to ensure that the state division is able to communicate appropriately with the federal department. He asked if there has been any discussion with the federal Department of Homeland Security regarding this legislation.

MR. LIEBERSBACH replied yes. He explained that the division is modeled after the federal Department of Homeland Security as closely as possible, while recognizing that many of the missions of the federal department aren't state missions. He specified that Alaska's division mainly works on planning and preparedness as well as recovery, which is the equivalent of the Federal Emergency Management Agency (FEMA) that was rolled into the Department of Homeland Security. The process of putting together this legislation began a little over a year ago, he noted.

CHAIR ROKEBERG, upon determining there were no further questions and no one else wished to testify, closed public testimony.

Number 105

REPRESENTATIVE KOTT moved that the committee adopt Amendment 1, labeled 23-LS1907\SA.11, Crawford, 5/6/04, which read:

Page 1, line 12:

Delete "sec. 20"

Insert "sec. 22"

Page 21, following line 3:

Insert new bill sections to read:

"* **Sec. 18.** AS 26.23.170 is amended to read:

Sec. 26.23.170. Communications. The Department of Military and Veterans' Affairs [ALASKA DIVISION OF EMERGENCY SERVICES] shall ascertain what means exist for rapid and efficient communications in times of disaster emergency. The department [DIVISION] shall consider the desirability of supplementing these communications resources, or of integrating them into a comprehensive state or state-federal telecommunications network or other communication system or network. In studying the character and feasibility of any system or its several parts, the department [DIVISION] shall evaluate the possibility of multi-purpose use of it or its parts for general state and local governmental purposes. The department [DIVISION] shall make recommendations to the governor as appropriate.

* **Sec. 19.** Sec. 26.23.170 is amended by adding a new subsection to read:

(b) A statewide 911 coordinator is established within the Department of Military and Veterans' Affairs to coordinate and facilitate the

implementation of 911 systems throughout the state.
The 911 coordinator shall

(1) participate in efforts to set uniform statewide standards for automatic number identification and automatic location identification data transmission for telecommunications systems;

(2) made recommendations as necessary for implementation of basic and enhanced 911 service."

Renumber the following bill sections accordingly.

Page 23, line 5:

Delete "this Act"

Insert "this section"

Page 23, following line 22:

Insert a new bill section to read:

"* **Sec. 27.** Section 19 of this Act takes effect March 1, 2005."

Renumber the following bill section accordingly.

Page 23, line 23:

Delete "This Act"

Insert "Except as provided in sec. 27 of this Act, this Act"

SUE STANCLIFF, House Majority Office, Alaska State Legislature, explained that Amendment 1 establishes a statewide 911 coordinator in DMVA. Amendment 1 changes [AS 26.23.170] to refer to DMVA rather than the Alaska Division of Emergency Services and the references in that section to "division" are changed to reference "the department". Currently, the Division of Emergency Services falls under DMVA. The remainder of [Amendment 1] is conforming language. Ms. Stancliff highlighted that the effective date for the coordinator is March 1, 2005.

REPRESENTATIVE BERKOWITZ pointed out that in Section 19(b)(2) of Amendment 1 the word "made" should be "make".

CHAIR ROKEBERG identified the aforementioned change as a conforming amendment to Amendment 1 [and was treated as incorporated in Amendment 1].

REPRESENTATIVE BERKOWITZ asked if this statewide 911 coordinator who would coordinate and facilitate the implementation of the

911 systems throughout the state is duplicative of other efforts. He also asked if this is something that could be contracted out for a certain period of time.

MS. STANCLIFF said that she didn't believe this new position is duplicative. She explained that there are state strategies for accelerating enhanced 911 as well as strategies to achieve the enhanced 911 service delivery. She emphasized that this new position is a statewide position.

REPRESENTATIVE BERKOWITZ asked if there is an individual who coordinates communication throughout the state in the event of an emergency. If there is no such position, then it would seem that those duties would be included in the description of the duties of this new position. He then inquired as to whether there would be a fiscal note for this new position.

MS. STANCLIFF answered that she didn't believe there is an individual who coordinates communication statewide because the state hasn't reached the level of being able to facilitate a statewide [coordinator]. With regard to the fiscal impact, the money the department has along with anticipated federal funds for homeland security would "take care of this position."

Number 164

REPRESENTATIVE BERKOWITZ said, then, he would propose a conceptual amendment that the responsibilities of this new position would include helping coordinate communication. He recalled that one of the problems in New York was that the [emergency responders] could not communicate [across groups] because of differing radio frequencies and communication obstacles within groups.

CHAIR ROKEBERG asked if the discussion is referring to a 911 coordinator or a homeland security communications coordinator.

REPRESENTATIVE KOTT clarified that [the new position is for] a 911 coordinator. He informed the committee that currently an individual in the Department of Administration has assumed the aforementioned responsibility. He reminded the committee that most of the communications related to emergency services have been transferred to the DMVA. Under Adjutant General Campbell, a communications section has been established to deal with what Representative Berkowitz is discussing. Once that section is finalized, it's the intent to turn that section into a division that will incorporate the enhanced 911 coordinator.

Representative Kott emphasized the importance of an enhanced 911 coordinator position as a [permanent position] because there is about \$500 million in potential grant monies that will be made available in the next two to three months. One of the prerequisites for receiving the money is having a 911 coordinator in place.

REPRESENTATIVE BERKOWITZ withdrew his conceptual amendment.

REPRESENTATIVE KOTT informed the committee that Adjutant General Campbell believes that the framework would be in place in March. This has been coordinated with DMVA.

REPRESENTATIVE BERKOWITZ noted his appreciation knowing that there are additional federal funds available because law enforcement has complained that there have been a lot of unfunded mandates with regard to these type of emergencies.

CHAIR ROKEBERG, upon determining there was no further discussion or any objection to Amendment 1, announced that Amendment 1 was adopted.

Number 207

REPRESENTATIVE KOTT moved that the committee adopt Amendment 2, labeled 23-LS1907\SA.9, Finley/Crawford, 5/5/04, which read:

Page 2, line 4, through page 7, line 24:

Delete all material and insert:

"* **Sec. 2.** AS 24.20 is amended by adding a new section to article 5 to read:

Sec. 24.20.680. Legislative review. (a) The president of the senate and the speaker of the house of representatives shall appoint members or committees of the senate and the house, respectively, to review confidential activities, plans, reports, recommendations, and other materials of the Alaska division of homeland security and emergency management established in AS 24.20.025, or of other agencies or persons, relating to matters concerning homeland security and civil defense, emergencies, or disasters in the state or to the state's preparedness for or ability to mount a prompt response to matters concerning homeland security and civil defense, emergencies, or disasters. In making appointments under this subsection, each presiding officer shall ensure that the political party membership of the

members appointed by that presiding officer is proportional to the political party membership of the house of the legislature over which the officer presides.

(b) To be eligible for appointment under (a) of this section, a member shall have a federal security clearance at the secret level at the time of appointment or shall have an interim security clearance at the secret level at the time of appointment and shall apply for and receive a federal security clearance at the secret level. Members holding a federal security clearance at the secret level at the time of appointment or receiving the clearance following appointment shall maintain the federal security clearance at the secret level to remain qualified to serve in appointed status.

(c) The president of the senate and the speaker of the house of representatives may condition the appointment of members under (a) of this section upon the execution of appropriate confidentiality agreements by the members or by persons assisting those members. Information and documents received by appointed members or persons assisting appointed members under a confidentiality agreement as described in this subsection are not public records and are not subject to public disclosure under AS 40.25.100 - 40.25.220.

(d) Appointed members who remain qualified under (b) of this section serve for the duration of the legislature during which the members are appointed. If a member is reelected or a member's term of office extends into the next succeeding legislature and the member remains qualified under (a) and (b) of this section, the member shall continue to serve until reappointed or the appointment of the member's successor.

(e) When a member appointed under (a) of this section files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and the member has not resigned from appointed status, the member's appointed status terminates on the date that the member leaves legislative office."

Page 22, line 16, through page 23, line 5:

Delete all material and insert:

"* **Sec. 21.** AS 24.20.680 is repealed January 1, 2009.

* **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to read:

PREPARATION AND PRESENTATION OF PROPOSED LEGISLATION. If the adjutant general of the Department of Military and Veterans' Affairs determines that additional qualifications for appointment under AS 24.20.680, added by sec. 2 of this Act, would significantly enhance the security of sensitive materials or information to be reviewed under AS 24.20.680, the adjutant general shall prepare a bill proposing amendments to AS 24.20.680, enacted by sec. 2 of this Act, for consideration by each house of the legislature, and shall deliver the bill to the Secretary of the Alaska State Senate and the Chief Clerk of the Alaska State House of Representatives not later than 30 days following the convening of the First Regular Session of the Twenty-Fourth Alaska State Legislature.

* **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INITIAL APPOINTMENT. The President of the Alaska State Senate and the Speaker of the Alaska State House of Representatives shall make the appointments required under AS 24.20.680, enacted by sec. 2 of this Act, within 15 days after the effective date of this Act."

REPRESENTATIVE KOTT then moved the following amendment to Amendment 2, which would amend the proposed Section 2 by inserting "**oversight**" following the word "**Legislative**" and would, in the proposed Section 2, delete the word "review" and insert "oversee".

REPRESENTATIVE KERTTULA pointed out that when the legislature oversees confidential activities, plans, or reports, it's not with the purpose of being responsible for those. Therefore, she surmised that the legislature would serve in the capacity of reviewing rather than controlling.

REPRESENTATIVE KOTT agreed, adding that there is no controlling aspect. He pointed out that is a departure from the original legislation in that the membership has been narrowed from just the members of the Joint Armed Services Committee, which could be a temporary committee. Representative Kott related that he and Adjutant General Campbell believe that the Speaker of the

House and the President of the Senate should appoint a limited number of individuals who would have security clearance allowing them to be briefed on homeland security issues of a confidential nature. There are provisions for those leaving office or who are terminated.

CHAIR ROKEBERG announced that he didn't like the amendment to Amendment 2. He noted his agreement with Representative Kerttula, and questioned whether [the legislature] would oversee confidential activities or plans or review them.

Number 239

MR. KELLER explained that the intent of the original legislation was to create a subcommittee that acted as a liaison and an information-gathering entity that reports to the legislature. Creating the subcommittee under the Joint Armed Services Committee, which he said he believes to be a permanent committee, was intended to save costs. He explained that the travel would be covered under the joint committee, as would the staff.

CHAIR ROKEBERG maintained concern with regard to the amendment to Amendment 2 and the meaning of oversight versus review. He opined that oversight seems to involve a greater amount of control and direction.

REPRESENTATIVE KOTT clarified that he didn't bring the amendment forward. From his discussions with Adjutant General Campbell, [the members of the subcommittee] would be briefed on the confidential activities, plans, and reports.

REPRESENTATIVE BERKOWITZ interjected his belief "that we're just splitting hairs here."

CHAIR ROKEBERG announced that he objected to the amendment to Amendment 2.

REPRESENTATIVE McGUIRE agreed with Chair Rokeberg, adding that oversight implies some measure of control or authority no different than a manager overseeing the work of a clerk or other employee.

Number 283

REPRESENTATIVE KOTT withdrew the amendment to Amendment 2.

REPRESENTATIVE KERTTULA returned to the amendment to Amendment 2 and suggested that if the intent is really for the [subcommittee] to serve as a liaison, then that could be specified.

MR. LIEBERSBACH pointed out that the references to "AS 24.20.025" in the proposed Section 2 of Amendment 2 should refer to "AS 26.20.025".

CHAIR ROKEBERG announced that the aforementioned would be a technical amendment to Amendment 2. He asked if there were any objections. There being none, the amendment [as suggested by Mr. Liebersbach] to Amendment 2 was adopted.

REPRESENTATIVE KOTT said that he wanted to be sure that Amendment 2 also includes a classified briefing when there are no confidential activities to review.

CHAIR ROKEBERG surmised that the scope would fall under whatever is allowed under the military and security provisions. Upon determining there were no objections to Amendment 2 [as amended], Chair Rokeberg announced that Amendment 2 [as amended] was adopted.

Number 318

REPRESENTATIVE KERTTULA moved that the committee adopt Amendment 3, labeled 23-LS1907\SA.10, Crawford, 5/5/04, which read:

Page 19, line 8:

Delete "The"

Insert "To the extent preempted by federal law or, in the absence of federal law preemption, if and to the extent requested by authorized federal authorities, the"

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, speaking as the maker of Amendment 3, explained that the amendment makes it clear that the federal law applies in place of state law if the federal law preempts the state law or if the federal authorities request that federal law take precedence. The latter language was suggested by the department. Although the preemption is implied, this amendment makes it explicit.

REPRESENTATIVE MCGUIRE remarked that the first part is implied, and therefore the additional language isn't necessary. With

regard to the second part, she said that she had never seen [such language] and was concerned with it.

REPRESENTATIVE GRUENBERG reiterated that [the language] was at the request of the department because it felt that sometimes, for reasons of comity or uniformity, there might be a request that the federal procedure take precedence. The aforementioned makes sense, he said.

Number 355

MR. LIEBERSBACH explained that there are facilities and other [entities] in the state that are the responsibility of the federal government. For example, airports and the Coast Guard would fall under the responsibility of the federal government. Amendment 3 specifies that the responsibilities laid out in this legislation don't apply to the federal facilities. Mr. Liebersbach specified that this has nothing to do with the U.S. Patriot Act. He explained that Amendment 3 specifies that the requirements of AS 26.20.195 don't apply unless there is an absence of federal law or the federal law requests it.

REPRESENTATIVE BERKOWITZ said that he shared Representative McGuire's concern. The first phrase of [Amendment 3] merely restates the supremacy clause of the U.S. Constitution, which specifies that the state has to give way to the federal government. However, the second section of Amendment 3 implies that in the absence of federal law, if a federal authority says to do something that conflicts with state authority even if it's beyond the scope of that federal authority's duties, the state might have to defer to it. Representative Berkowitz said that he wasn't willing to concede such sovereignty to the federal government. Therefore, he suggested that the language after "law" be deleted from Amendment 3.

REPRESENTATIVE GRUENBERG related his belief that the department wants to be able to cooperate with federal authorities, when requested.

REPRESENTATIVE BERKOWITZ appreciated that, but emphasized that there are times when he wanted the department to tell the federal authorities what to do.

REPRESENTATIVE GRUENBERG clarified that it wasn't his intent to prevent [the department from telling the federal authorities what to do]. This language allows them to cooperate.

CHAIR ROKEBERG opined that Amendment 3 would create a statute that would mandate the department to accede to any request by the federal government. Therefore, Chair Rokeberg expressed the need to rework the language.

REPRESENTATIVE KERTTULA withdrew Amendment 3.

Number 413

REPRESENTATIVE KERTTULA moved to adopt Amendment 4, which read [original punctuation provided]:

Page 11, line 28 - delete "threat of attacks" and insert "threat levels"

Page 12, line 16 - delete "threat from attacks" and insert "attack threats"

Page 13, line 4 - delete "preventive" and insert "prevention"

Page 21, lines 7-8 - delete "imminent threat of attack" and insert "a credible threat of imminent enemy or terrorist attack"

Page 21, line 29 - delete "an imminent" and insert "a credible"

Page 21, line 30 - before "enemy" insert "imminent"

Page 22, line 6 - delete "an imminent threat of" and insert "a credible threat of an imminent"

CHAIR ROKEBERG objected for discussion purposes.

REPRESENTATIVE GRUENBERG, speaking as the maker of Amendment 4, explained that Amendment 4 ensures that the terms being used in the legislation are congruent.

[Chair Rokeberg treated his objection as withdrawn.]

CHAIR ROKEBERG, upon determining there was no objection, announced that Amendment 4 was adopted.

Number 432

REPRESENTATIVE KERTTULA moved that the committee adopt Amendment 5, which read [original punctuation provided]:

Page 16, lines 24-25

Delete "avoid the checkpoint by rerouting travel;"

Insert "turn around without passing through the checkpoint;"

CHAIR ROKEBERG objected for discussion purposes.

REPRESENTATIVE GRUENBERG, speaking as the maker of Amendment 5, explained that Amendment 5 is language suggested by DMVA in order to ensure that a driver [has the opportunity] to turn around without passing through the checkpoint. There was no intent to allow terrorist to evade the checkpoints.

REPRESENTATIVE BERKOWITZ informed the committee that there are some severe constitutional restrictions with regard to the state's ability to set up checkpoints. He emphasized that the correct language is necessary to ensure that in Alaska a checkpoint that cannot be avoided can be put in place.

REPRESENTATIVE GRUENBERG said that if the committee adopts Amendment 5, then he would commit to working with Representative Berkowitz and the department to cure any constitutional problems. He mentioned that he would check with the attorney general and legal counsel.

CHAIR ROKEBERG related his understanding that the draft came from the [Department of Law].

REPRESENTATIVE GRUENBERG replied in the affirmative.

[Chair Rokeberg treated his objection as withdrawn.]

CHAIR ROKEBERG, upon determining there was no objection, announced that Amendment 5 was adopted.

Number 465

REPRESENTATIVE BERKOWITZ moved to report CSSB 385(JUD) am, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 385(RLS) was reported from the House Rules Standing Committee.

The committee took a brief at-ease.

HCR 39-ALASKA ROYALTY AND REVENUE TASK FORCE

CHAIR ROKEBERG announced that the final order of business would be HOUSE CONCURRENT RESOLUTION NO. 39, Establishing the Alaska Royalty and Revenue Task Force.

Number 471

REPRESENTATIVE KOTT moved to adopt CSHCR 39, Version 23-LS1971\U, as the working document.

REPRESENTATIVE McGUIRE objected for discussion purposes. She pointed out that HCR 39 originally stated that the entity would consist of seven members of the legislature chosen jointly by the presiding officers of the House and the Senate, of which three would be chosen from a list produced by the Minority members.

CHAIR ROKEBERG interjected that he would prefer to have Version U before the committee because [the original version] "is not even a read across bill."

REPRESENTATIVE McGUIRE removed her objection.

Number 485

REPRESENTATIVE CHERYLL HEINZE, Alaska State Legislature, spoke as the chair of the House Special Committee on Economic Development, International Trade and Tourism, which requested the legislation of the House Rules Standing Committee. She explained that HCR 39 is really about looking at the revenue the state receives through the property tax, corporate income tax, and severance tax. It has been 15 years since these taxes have been revisited. The [goal] of the commission is to make Alaska competitive and inform Alaskans of the state's position globally.

CHAIR ROKEBERG inquired as to why the entity is a commission that includes two experts who aren't members of the legislature.

REPRESENTATIVE HEINZE acknowledged that the entity could have been a task force, however a commission seems to have a bit more importance. With regard to the experts, Representative Heinze said she doesn't believe anyone in the legislature is well versed in the oil and gas tax structure in Alaska.

Number 508

CHAIR ROKEBERG acknowledged that there seems to be some controversy with regard to the makeup of the committee. Therefore, he asked Representative Heinze her preference for the commission's makeup.

REPRESENTATIVE HEINZE related her preference for the structure put forth in the original legislation. As mentioned earlier, the original legislation consisted of seven members of the legislature chosen by the presiding officers of each body. The original makeup of the commission included five members from the Majority and two members from the Minority and the chair of the Joint Committee on Legislative Budget and Audit. The thought was that the chair of the Joint Committee on Legislative Budget and Audit would provide some continuity, with which she agreed.

REPRESENTATIVE McGUIRE recalled discussion of not having the consultants actually be members of the committee, but rather have them report neutral, unbiased findings. If the aforementioned was the case, then two other legislative members could be jointly appointed. Representative McGuire opined that it's fairly unorthodox for an unelected official who isn't a member of the legislature to be member of a legislative commission.

REPRESENTATIVE KOTT noted his agreement with Representative McGuire. He related his belief that the commission should consist of three members chosen by the presiding officer of the Senate, three members chosen by the presiding officer of the House, and the chair of Joint Committee on Legislative Budget and Audit. Of the three members from each body, two would be from the Majority and one from the Minority. The work of the two experts chosen jointly by the presiding officers of each body is specified on page 2, lines 20-22. Representative Kott clarified that the two experts aren't members of the commission but rather are consultants. He emphasized that he didn't want this commission to be biased in any way. "The consultants will actually be the ones that participate, coordinate, and evaluate the current fiscal oil and gas regimes and ... tax structure. They will report back to the membership that makeup the commission" Although the legislation specifies that the consultants will provide the report to the chair of the Joint Committee on Legislative Budget and Audit, if that person sits on the commission there is no need for such.

REPRESENTATIVE HEINZE clarified that the original structure was such that the experts weren't on the commission but rather served as unbiased consultants.

REPRESENTATIVE KERTTULA reminded the committee that the makeup of the Special Committee on Mergers was similar to what is being proposed in this resolution, although it may have had a bit more freedom in terms of who was on the committee. She highlighted that the Special Committee on Mergers chose the experts, not the presiding officers. She suggested that the aforementioned should be the case for this commission.

Number 572

REPRESENTATIVE KOTT moved that the committee adopt Conceptual Amendment 1, as follows:

Page 2, line 10;
Delete "nine"
Insert "seven"

There being no objection, Conceptual Amendment 1 was adopted.

REPRESENTATIVE KOTT moved that the committee adopt Conceptual Amendment 2, which would change the language on [page 2, lines 12-15] such that it would read as follows:

"seven members of the legislature, three chosen by the Speaker of the House, three chosen by the President of the Senate, of which one of the three must be a Minority member, and the chair of the Legislative Budget and Audit Committee."

There being no objection, Conceptual Amendment 2 was adopted.

REPRESENTATIVE KOTT moved that the committee adopt Conceptual Amendment 3, as follows:

Page 3;
Delete lines 16-17.

There being no objection, Conceptual Amendment 3 was adopted.

Number 588

CHAIR ROKEBERG said he didn't believe the Uniform Rules covers commissions.

REPRESENTATIVE HEINZE related that Judy Ohmer, Staff to Representative Pete Kott, reviewed the matter of commissions in the legislature with Legislative Legal and Research Services.

TAPE 04-6, SIDE B

REPRESENTATIVE HEINZE informed the committee that the recommendation was that a commission would be better than a task force.

CHAIR ROKEBERG said the entity being created by this resolution is really a joint committee, and therefore it should be called such.

Number 580

CHAIR ROKEBERG moved that the committee adopt Conceptual Amendment 4, which would conform the entire resolution such that it would refer to "committee" or "joint committee" as appropriate. There being no objection, Conceptual Amendment 4 was adopted.

REPRESENTATIVE MCGUIRE pointed out that in the original version there is a "**WHEREAS**" clause on page 1, lines 7-8, that is not included in Version U. She characterized the language on page 1, lines 7-8, of the original version as the crux of the issue.

Number 569

REPRESENTATIVE MCGUIRE moved that the committee adopt Conceptual Amendment 5, which would insert the following language:

"**WHEREAS** the legislature has a constitutional obligation to develop the state's resources for the maximum benefit of the people"

CHAIR ROKEBERG objected for purposes of discussion. He then removed his objection. Therefore, Conceptual Amendment 5 was adopted.

REPRESENTATIVE KERTTULA noted that it may be necessary for the committee to receive confidential information, and asked about inserting language that would allow such.

Number 564

REPRESENTATIVE KERTTULA moved that the committee adopt Conceptual Amendment 6, which would insert language specifying, "that the committee has the authority to request and receive confidential information". She indicated that the language would be a "[**FURTHER**] RESOLVED" provision. There being no objection, Conceptual Amendment 6 was adopted.

CHAIR ROKEBERG highlighted that by making this entity a committee, which will function under the Uniform Rules; it will be allowed to enter into executive sessions.

REPRESENTATIVE KOTT turned attention to the reference to members of the [committee] who aren't legislators on page 3, lines 6-10. He noted that now all members of the committee are legislators. Therefore, he related his belief that any travel done by the consultants would be covered in the consultants' contract while legislators will be covered under any existing travel arrangements.

Number 535

REPRESENTATIVE KOTT moved that the committee adopt Conceptual Amendment 7, as follows:

Page 3, lines 6-10
Delete all material.

Number 532

REPRESENTATIVE McGUIRE moved to report CSHCR 39, Version 23-LS1971\U, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE KOTT drew attention to page 3, lines 11-13, which specifies that the [committee] is to present its report to the Legislative Budget and Audit Committee, who is to present the report to the legislature. However, the chair of the Joint Committee on Legislative Budget and Audit is a member of the proposed committee, and therefore could present the report to the committee, he suggested.

REPRESENTATIVE BERKOWITZ opined that it seems appropriate that the findings be submitted toward the beginning of session so that if there is the need for the legislature to act, it has the opportunity to do so.

CHAIR ROKEBERG pointed out that the [committee] would be terminated "not later than the adjournment of the First Regular Session of the Twenty-Fourth Alaska State Legislature."

REPRESENTATIVE BERKOWITZ expressed the need for the legislature to be able to move on any incentive program quickly, particularly in relation to exploration and development. Therefore, he suggested that a February 1st deadline would be appropriate.

REPRESENTATIVE KOTT said that he would agree to a time certain date or as soon as practical.

Number 511

REPRESENTATIVE COGHILL noted that he would agree with Representative Berkowitz to some degree, although he suggested that March may be a better timeframe.

REPRESENTATIVE McGUIRE withdrew her motion to report CSHCR 39, as amended, from committee.

CHAIR ROKEBERG commented that this committee should do its work appropriately. Even if the committee has a termination date some time during the next session, the consultants would want the ability to report. Therefore, the contract would continue and "oversight" of the committee would remain. Chair Rokeberg expressed that he would be "happy" with some sort of compromise, but not at the end of the first regular session.

Number 497

REPRESENTATIVE BERKOWITZ [moved that the committee adopt Conceptual Amendment 7], which would [insert language on page 3, lines 11-12] specifying that a report be submitted no later than March 1, 2005.

CHAIR ROKEBERG objected for discussion purposes.

REPRESENTATIVE KERTTULA recalled that the Special Committee on Mergers had a deadline by which it had to report.

CHAIR ROKEBERG interjected that there is some benefit to that.

REPRESENTATIVE KERTTULA submitted that if the Special Committee on Mergers could meet its deadline, then this proposed committee shouldn't have any problem. In response to Chair Rokeberg, she

recalled that the Special Committee on Mergers existed from the end of a [second regular session] through an interim. Representative Kerttula pointed out that the experts have to perform the bulk of the work.

CHAIR ROKEBERG expressed the need for this proposed committee to have public input and hearings.

REPRESENTATIVE COGHILL stated that March would be in the middle of session, and therefore there will be time to act on that information or obtain new information, if necessary. However, if the report is too early, "you might thwart the work."

CHAIR ROKEBERG maintained his objection.

A roll call vote was taken. Representatives McGuire, Morgan, Berkowitz, Kerttula, Kott, and Coghill voted in favor of [Conceptual Amendment 7]. Representative Rokeberg voted against it. Therefore, [Conceptual Amendment 7] was adopted by a vote of 6-1.

Number 468

REPRESENTATIVE MCGUIRE moved to report CSHCR 39, Version 23-LS1971\U, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE KOTT objected for purposes of discussion. He pointed out that the fiscal note addresses a nine-member task force and since the [committee] now consists of seven members it may reduce the fiscal note a bit. Representative Kott removed his objection.

There being no objection, CSHCR 39(RLS) was reported from the House Rules Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Rules Standing Committee meeting was adjourned at 5:18 p.m.