

ALASKA STATE LEGISLATURE  
SENATE LABOR AND COMMERCE STANDING COMMITTEE  
April 27, 2004  
1:32 p.m.

**TAPE(S) 04-35, 36**

MEMBERS PRESENT

Senator Con Bunde, Chair  
Senator Ralph Seekins, Vice Chair  
Senator Gary Stevens  
Senator Hollis French

MEMBERS ABSENT

Senator Bettye Davis

COMMITTEE CALENDAR

SENATE BILL NO. 377

"An Act relating to the state's mechanical code, to mechanical contractors and mechanical administrators, to mechanical standards and inspections involved in certain housing loans, and to the adoption of the state's mechanical code; and providing for an effective date."

MOVED SB 377 OUT OF COMMITTEE

SENATE BILL NO. 369

"An Act exempting a person who allows a student of the University of Alaska to gain practical work experience with the person while participating in a practicum from vicarious liability as an employer, and exempting the student participating in a practicum from the Alaska Wage and Hour Act; and providing for an effective date."

MOVED CSSB 369(L&C) OUT OF COMMITTEE

SENATE BILL NO. 254

"An Act relating to the levy and collection of an assessment on certain tourism-related and recreation-related goods and services, and repealing the levy of excise taxes of certain passenger and recreation vehicles; and providing for an effective date."

MOVED CSSB 254(L&C) OUT OF COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 29(JUD) am  
"An Act relating to real estate licensees and real estate transactions; and providing for an effective date."

MOVED SCS CSSSHB 29(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 305

"An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date."

MOVED SCS HB 305(L&C) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 339(JUD)

"An Act relating to opt-out marketing plans for sales, to free trial periods for goods or services, and to acts that are unlawful as unfair trade practices."

MOVED CSHB 339(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 549(JUD) am

"An Act relating to unsolicited communications following an aircraft accident."

MOVED SCS CSHB 549(L&C) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 419(RES)

"An Act relating to regional seafood development associations and to regional seafood development taxes."

MOVED CSHB 419(RES) OUT OF COMMITTEE

HOUSE BILL NO. 464

"An Act extending the termination date of the Board of Certified Real Estate Appraisers."

MOVED HB 464 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 351(JUD)

"An Act relating to the devices, including carbon monoxide detection devices, required in dwellings; and providing for an effective date."

MOVED CSHB 351(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 540(L&C)

"An Act relating to workers' compensation insurance rates; and providing for an effective date."

PENDING REFERRAL

PREVIOUS COMMITTEE ACTION

BILL: SB 377

SHORT TITLE: STATE MECHANICAL CODE

SPONSOR(s): LABOR & COMMERCE

03/26/04	(S)	READ THE FIRST TIME - REFERRALS
03/26/04	(S)	L&C, FIN
04/01/04	(S)	L&C AT 1:30 PM BELTZ 211
04/01/04	(S)	Heard & Held
04/01/04	(S)	MINUTE(L&C)
04/15/04	(S)	L&C AT 1:30 PM BELTZ 211
04/15/04	(S)	Heard & Held
04/15/04	(S)	MINUTE(L&C)
04/27/04	(S)	L&C AT 1:30 PM BELTZ 211

BILL: SB 369

SHORT TITLE: UNIV. STUDENT PRACTICUM LIABILITY/WAGES

SPONSOR(s): JUDICIARY

03/19/04	(S)	READ THE FIRST TIME - REFERRALS
03/19/04	(S)	L&C, JUD
04/20/04	(S)	L&C AT 2:00 PM BELTZ 211
04/20/04	(S)	Scheduled But Not Heard
04/22/04	(S)	L&C AT 1:30 PM BELTZ 211
04/27/04	(S)	L&C AT 1:30 PM BELTZ 211

BILL: SB 254

SHORT TITLE: TOURISM MARKETING CONTRACTS

SPONSOR(s): SENATOR(s) THERRIAULT

01/12/04	(S)	PREFILE RELEASED 1/9/04
01/12/04	(S)	READ THE FIRST TIME - REFERRALS
01/12/04	(S)	L&C, FIN
02/12/04	(S)	L&C AT 1:30 PM BELTZ 211
02/12/04	(S)	Heard & Held
02/12/04	(S)	MINUTE(L&C)
03/16/04	(S)	L&C AT 1:30 PM BELTZ 211
03/16/04	(S)	-- Rescheduled to 03/18/04 --
03/18/04	(S)	L&C AT 1:30 PM BELTZ 211
03/18/04	(S)	-- Rescheduled from 03/16/04 --
04/27/04	(S)	L&C AT 1:30 PM BELTZ 211

BILL: HB 29

SHORT TITLE: REAL PROPERTY TRANSACTIONS/LICENSEES  
SPONSOR(s): REPRESENTATIVE(s) ROKEBERG

01/21/03 (H) PREFILE RELEASED (1/10/03)  
01/21/03 (H) READ THE FIRST TIME - REFERRALS  
01/21/03 (H) L&C, JUD  
01/20/04 (H) SPONSOR SUBSTITUTE INTRODUCED  
01/20/04 (H) READ THE FIRST TIME - REFERRALS  
01/20/04 (H) L&C, JUD  
02/04/04 (H) L&C AT 3:15 PM CAPITOL 17  
02/04/04 (H) Moved CSSSHB 29(L&C) Out of Committee  
02/04/04 (H) MINUTE(L&C)  
02/05/04 (H) L&C RPT CS(L&C) 6DP 1NR  
02/05/04 (H) DP: CRAWFORD, LYNN, GATTO, ROKEBERG,  
02/05/04 (H) DAHLSTROM, ANDERSON; NR: GUTTENBERG  
02/18/04 (H) JUD AT 1:00 PM CAPITOL 120  
02/18/04 (H) Heard & Held  
02/18/04 (H) MINUTE(JUD)  
02/20/04 (H) JUD AT 1:00 PM CAPITOL 120  
02/20/04 (H) Moved CSSSHB 29(JUD) Out of Committee  
02/20/04 (H) MINUTE(JUD)  
02/26/04 (H) JUD RPT CS(JUD) 4DP 2NR  
02/26/04 (H) DP: SAMUELS, ANDERSON, OGG, MCGUIRE;  
02/26/04 (H) NR: GARA, GRUENBERG  
03/04/04 (H) TRANSMITTED TO (S)  
03/04/04 (H) VERSION: CSSSHB 29(JUD) AM  
03/05/04 (S) READ THE FIRST TIME - REFERRALS  
03/05/04 (S) L&C, JUD  
04/15/04 (S) L&C AT 1:30 PM BELTZ 211  
04/15/04 (S) Heard & Held  
04/15/04 (S) MINUTE(L&C)  
04/22/04 (S) L&C AT 1:30 PM BELTZ 211  
04/22/04 (S) UNIV. STUDENT PRACTICUM LIABILITY/WAGES  
04/23/04 (S) JUD AT 8:00 AM BUTROVICH 205  
04/23/04 (S) <Pending Referral>  
04/27/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 305

SHORT TITLE: UNEMPLOYMENT COMPENSATION BENEFITS  
SPONSOR(s): LABOR & COMMERCE

05/07/03 (H) READ THE FIRST TIME - REFERRALS  
05/07/03 (H) L&C, FIN  
05/09/03 (H) L&C AT 3:15 PM CAPITOL 17  
05/09/03 (H) Moved Out of Committee  
05/09/03 (H) MINUTE(L&C)  
05/10/03 (H) L&C RPT 4DP 2NR

05/10/03 (H) DP: CRAWFORD, GUTTENBERG, DAHLSTROM,  
 05/10/03 (H) ANDERSON; NR: LYNN, ROKEBERG  
 05/15/03 (H) FIN RPT 6DP 3NR  
 05/15/03 (H) DP: KERTTULA, BERKOWITZ, FOSTER,  
 05/15/03 (H) MEYER, HARRIS, WILLIAMS; NR: HAWKER,  
 05/15/03 (H) STOLTZE, MOSES  
 05/15/03 (H) FIN AT 8:30 AM HOUSE FINANCE 519  
 05/15/03 (H) Moved Out of Committee  
 05/15/03 (H) MINUTE(FIN)  
 05/16/03 (H) TRANSMITTED TO (S)  
 05/16/03 (H) VERSION: HB 305  
 05/17/03 (S) READ THE FIRST TIME - REFERRALS  
 05/17/03 (S) L&C, FIN  
 05/19/03 (S) L&C AT 8:00 AM BELTZ 211  
 05/19/03 (S) Heard & Held  
 05/19/03 (S) MINUTE(L&C)  
 02/03/04 (S) L&C AT 1:30 PM BELTZ 211  
 02/03/04 (S) Heard & Held  
 02/03/04 (S) MINUTE(L&C)  
 04/01/04 (S) L&C AT 1:30 PM BELTZ 211  
 04/01/04 (S) Heard & Held  
 04/01/04 (S) MINUTE(L&C)  
 04/27/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 339

SHORT TITLE: TRADE PRACTICES: FREE TRIAL/OPT-OUT PLANS  
 SPONSOR(S): REPRESENTATIVE(S) MEYER

01/12/04 (H) PREFILE RELEASED (1/2/04)  
 01/12/04 (H) READ THE FIRST TIME - REFERRALS  
 01/12/04 (H) L&C, JUD  
 02/02/04 (H) L&C AT 3:15 PM CAPITOL 17  
 02/02/04 (H) Moved CSHB 339(L&C) Out of Committee  
 02/02/04 (H) MINUTE(L&C)  
 02/05/04 (H) L&C RPT CS(L&C) NT 4DP 2NR 1AM  
 02/05/04 (H) DP: CRAWFORD, LYNN, DAHLSTROM,  
 02/05/04 (H) ANDERSON; NR: GATTO, ROKEBERG;  
 02/05/04 (H) AM: GUTTENBERG  
 03/05/04 (H) JUD AT 1:00 PM CAPITOL 120  
 03/05/04 (H) -- Meeting Postponed to 3/16/04 --  
 03/16/04 (H) JUD AT 1:00 PM CAPITOL 120  
 03/16/04 (H) Heard & Held  
 03/16/04 (H) MINUTE(JUD)  
 03/29/04 (H) JUD AT 1:00 PM CAPITOL 120  
 03/29/04 (H) Bill Postponed To 3/30/04  
 03/30/04 (H) JUD AT 1:00 PM CAPITOL 120  
 03/30/04 (H) Scheduled But Not Heard

03/31/04 (H) JUD AT 1:00 PM CAPITOL 120  
03/31/04 (H) Moved CSHB 339(JUD) Out of Committee  
03/31/04 (H) MINUTE(JUD)  
04/01/04 (H) JUD RPT CS(JUD) NT 5DP  
04/01/04 (H) DP: HOLM, GARA, GRUENBERG, OGG, MCGUIRE  
04/07/04 (H) TRANSMITTED TO (S)  
04/07/04 (H) VERSION: CSHB 339(JUD)  
04/08/04 (S) READ THE FIRST TIME - REFERRALS  
04/08/04 (S) L&C, JUD  
04/22/04 (S) L&C AT 1:30 PM BELTZ 211  
04/22/04 (S) EXTEND BOARD OF REAL ESTATE APPRAISERS  
04/27/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 549

SHORT TITLE: UNSOLICITED COMMUNICATION:AIRCRAFT CRASH  
SPONSOR(s): JUDICIARY

03/29/04 (H) READ THE FIRST TIME - REFERRALS  
03/29/04 (H) JUD  
04/05/04 (H) JUD AT 1:00 PM CAPITOL 120  
04/05/04 (H) -- Meeting Postponed to Tues. 4/6/04 --  
04/06/04 (H) JUD AT 1:00 PM CAPITOL 120  
04/06/04 (H) Moved CSHB 549(JUD) Out of Committee  
04/06/04 (H) MINUTE(JUD)  
04/07/04 (H) JUD RPT CS(JUD) NT 4DP 1NR 1AM  
04/07/04 (H) DP: SAMUELS, HOLM, ANDERSON, MCGUIRE;  
04/07/04 (H) NR: GARA; AM: OGG  
04/21/04 (H) TRANSMITTED TO (S)  
04/21/04 (H) VERSION: CSHB 549(JUD) AM  
04/22/04 (S) READ THE FIRST TIME - REFERRALS  
04/22/04 (S) L&C, JUD  
04/27/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 419

SHORT TITLE: REGIONAL SEAFOOD DEVELOPMENT ASS'NS./TAX  
SPONSOR(s): REPRESENTATIVE(s) OGG BY REQUEST OF SALMON INDUSTRY  
TASK FORCE

02/02/04 (H) READ THE FIRST TIME - REFERRALS  
02/02/04 (H) EDT, RES, FIN  
02/10/04 (H) EDT AT 10:00 AM CAPITOL 120  
02/10/04 (H) Heard & Held  
02/10/04 (H) MINUTE(EDT)  
02/24/04 (H) EDT AT 5:15 PM CAPITOL 120  
02/24/04 (H) Moved CSHB 419(EDT) Out of Committee  
02/24/04 (H) MINUTE(EDT)  
02/26/04 (H) EDT RPT CS(EDT) 2DP 2NR 1AM

02/26/04 (H) DP: CRAWFORD, HEINZE; NR: DAHLSTROM,  
 02/26/04 (H) CISSNA; AM: KOHRING  
 03/05/04 (H) RES AT 1:00 PM CAPITOL 124  
 03/05/04 (H) Moved CSHB 419(RES) Out of Committee  
 03/05/04 (H) MINUTE(RES)  
 03/12/04 (H) RES RPT CS(RES) 5DP 2NR  
 03/12/04 (H) DP: LYNN, GATTO, STEPOVICH, WOLF,  
 03/12/04 (H) HEINZE; NR: GUTTENBERG, MASEK  
 03/23/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 03/23/04 (H) Moved CSHB 419(RES) Out of Committee  
 03/23/04 (H) MINUTE(FIN)  
 03/24/04 (H) FIN RPT CS(RES) 9DP 1AM  
 03/24/04 (H) DP: MEYER, HAWKER, JOULE, CROFT, MOSES,  
 03/24/04 (H) FATE, FOSTER, HARRIS, WILLIAMS;  
 03/24/04 (H) AM: STOLTZE  
 03/31/04 (H) TRANSMITTED TO (S)  
 03/31/04 (H) VERSION: CSHB 419(RES)  
 04/01/04 (S) READ THE FIRST TIME - REFERRALS  
 04/01/04 (S) L&C, FIN  
 04/22/04 (S) L&C AT 1:30 PM BELTZ 211  
 04/22/04 (S) WORKERS' COMPENSATION INSURANCE RATES  
 04/27/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 464

SHORT TITLE: EXTEND BOARD OF REAL ESTATE APPRAISERS  
 SPONSOR(S): RULES BY REQUEST OF LEG BUDGET & AUDIT

02/16/04 (H) READ THE FIRST TIME - REFERRALS  
 02/16/04 (H) L&C  
 03/03/04 (H) L&C AT 3:15 PM CAPITOL 17  
 03/03/04 (H) Heard & Held  
 03/03/04 (H) MINUTE(L&C)  
 03/05/04 (H) L&C AT 3:15 PM CAPITOL 17  
 03/05/04 (H) -- Meeting Canceled --  
 03/15/04 (H) L&C AT 3:15 PM CAPITOL 17  
 03/15/04 (H) Moved Out of Committee  
 03/15/04 (H) MINUTE(L&C)  
 03/16/04 (H) L&C RPT 3DP 2NR  
 03/16/04 (H) DP: GATTO, ROKEBERG, ANDERSON;  
 03/16/04 (H) NR: DAHLSTROM, GUTTENBERG  
 03/16/04 (H) FIN REFERRAL ADDED AFTER L&C  
 03/24/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 03/24/04 (H) Heard & Held  
 03/24/04 (H) MINUTE(FIN)  
 03/31/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 03/31/04 (H) Moved Out of Committee  
 03/31/04 (H) MINUTE(FIN)

04/01/04 (H) FIN RPT 10DP  
 04/01/04 (H) DP: MEYER, HAWKER, STOLTZE, JOULE,  
 04/01/04 (H) CROFT, CHENAULT, FATE, FOSTER, HARRIS,  
 04/01/04 (H) WILLIAMS  
 04/13/04 (H) TRANSMITTED TO (S)  
 04/13/04 (H) VERSION: HB 464  
 04/14/04 (S) READ THE FIRST TIME - REFERRALS  
 04/14/04 (S) L&C, FIN  
 04/22/04 (S) L&C AT 1:30 PM BELTZ 211  
 04/22/04 (S) REGIONAL SEAFOOD DEVELOPMENT  
 ASS'NS./TAX  
 04/27/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 351

SHORT TITLE: CARBON MONOXIDE DETECTION DEVICES  
 SPONSOR(S): REPRESENTATIVE(S) GATTO, GRUENBERG

01/12/04 (H) PREFILE RELEASED (1/2/04)  
 01/12/04 (H) READ THE FIRST TIME - REFERRALS  
 01/12/04 (H) L&C, STA  
 01/21/04 (H) L&C AT 3:15 PM CAPITOL 17  
 01/21/04 (H) Heard & Held  
 01/21/04 (H) MINUTE(L&C)  
 01/23/04 (H) L&C AT 3:15 PM CAPITOL 17  
 01/23/04 (H) Moved CSHB 351(L&C) Out of Committee  
 01/23/04 (H) MINUTE(L&C)  
 01/26/04 (H) L&C RPT CS(L&C) 5DP  
 01/26/04 (H) DP: CRAWFORD, LYNN, GATTO, GUTTENBERG,  
 01/26/04 (H) ANDERSON  
 02/19/04 (H) STA AT 8:00 AM CAPITOL 102  
 02/19/04 (H) Scheduled But Not Heard  
 02/26/04 (H) STA AT 8:00 AM CAPITOL 102  
 02/26/04 (H) Moved CSHB 351(STA) Out of Committee  
 02/26/04 (H) MINUTE(STA)  
 03/01/04 (H) STA RPT CS(STA) 3DP 1DNP 3NR  
 03/01/04 (H) DP: GRUENBERG, SEATON, LYNN;  
 03/01/04 (H) DNP: COGHILL; NR: HOLM, BERKOWITZ,  
 03/01/04 (H) WEYHRAUCH  
 03/01/04 (H) JUD REFERRAL ADDED AFTER STA  
 03/19/04 (H) JUD AT 1:00 PM CAPITOL 120  
 03/19/04 (H) Moved CSHB 351(JUD) Out of Committee  
 03/19/04 (H) MINUTE(JUD)  
 03/22/04 (H) JUD RPT CS(JUD) 4DP  
 03/22/04 (H) DP: GARA, SAMUELS, GRUENBERG, MCGUIRE  
 03/31/04 (H) TRANSMITTED TO (S)  
 03/31/04 (H) VERSION: CSHB 351(JUD)  
 04/01/04 (S) READ THE FIRST TIME - REFERRALS

04/01/04 (S) L&C, STA  
04/22/04 (S) L&C AT 1:30 PM BELTZ 211  
04/22/04 (S) TRADE PRACTICES: FREE TRIAL/OPT-OUT  
PLANS  
04/27/04 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

Mr. Pete Kelly  
University of Alaska  
Fairbanks AK  
POSITION STATEMENT: Supports SB 369.

Representative Norm Rokeberg  
Alaska State Capitol  
Juneau, AK 99801-1182  
POSITION STATEMENT: Sponsor of HB 29.

Ms. Peggy Ann McConnochie  
Alaska Association of Realtors  
Juneau AK  
POSITION STATEMENT: Supports HB 29.

Commissioner Greg O'Claray  
Department of Labor & Workforce  
Development  
PO Box 21149  
Juneau, AK 99802-1149  
POSITION STATEMENT: Supports HB 305.

Mr. Bill Kramer, Chief  
Unemployment Insurance  
Division of Employment Security  
Department of Labor & Workforce  
Development  
PO Box 21149  
Juneau, AK 99802-1149  
POSITION STATEMENT: Supports HB 305.

Representative Kevin Meyer  
Alaska State Capitol  
Juneau, AK 99801-1182  
POSITION STATEMENT: Sponsor of HB 339.

Ms. Cynthia Drinkwater  
Department of Law  
PO Box 110300

Juneau, AK 99811-0300  
POSITION STATEMENT: Supports HB 339.

Ms. Virginia Torness  
Alaska Public Interest Research Group (AKPIRG)  
PO Box 101093  
Anchorage AK 99510  
POSITION STATEMENT: Supports HB 339.

Ms. Vanessa Tondini  
Staff to Representative Lesil McGuire  
Alaska State Capitol  
Juneau, AK 99801-1182  
POSITION STATEMENT: Commented on HB 549 for sponsor.

Mr. Bruce McGlasson, President  
Grant Aviation  
Alaska  
POSITION STATEMENT: Supports HB 549.

Mr. Robert Jacobson, President  
Wings of Alaska  
Juneau AK  
POSITION STATEMENT: Supports HB 549.

Representative Dan Ogg  
Alaska State Capitol  
Juneau, AK 99801-1182  
POSITION STATEMENT: Sponsor of HB 419.

Mr. Jerry McKune  
United Fishermen of Alaska  
211 4th Street, Suite 110  
Juneau, Alaska 99801-1172  
POSITION STATEMENT: Supports HB 419.

Mr. Henry Webb  
Staff to Representative Ralph Samuels  
Alaska State Capitol  
Juneau, AK 99801-1182  
POSITION STATEMENT: Commented on HB 464 for sponsor.

ACTION NARRATIVE

TAPE 04-35, SIDE A  
^#SB377

SB 377-STATE MECHANICAL CODE

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present were Senators Gary Stevens, Hollis French, Ralph Seekins and Chair Con Bunde. Senator Bettye Davis was excused. The first order of business to come before the committee was SB 377.

SENATOR RALPH SEEKINS moved to pass SB 377 from committee with individual recommendations and attached fiscal note. Senators Gary Stevens, Hollis French and Ralph Seekins voted yea; Chair Con Bunde voted nay; and SB 377 moved from committee.

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^#SB369

SB 369-UNIV. STUDENT PRACTICUM LIABILITY/WAGES

CHAIR CON BUNDE announced SB 369 to be up for consideration.

SENATOR RALPH SEEKINS, sponsor, explained that SB 369 amends current law by exempting the University of Alaska students participating in practicum programs from state wage and hour provisions. It also provides certain protections relating to vicarious liability. The intent is to revitalize private sector involvement in this key element of the educational process.

The University offers certain fields of study, which require students to achieve experience and proficiency in a real world setting before a degree can be conferred. By and large, these involve medically oriented endeavors such as the dental profession. Over the years it's become increasingly difficult for the University to entice private sector placement sites to become involved in an internship program. A legitimate concern expressed by placements sites is that absent statutory clarification, practicum students could be considered as employees with respects to certain labor laws.

But of particular distress is the exposure to vicarious liability. High costs associated with potential liability have effectively chilled the private sector's willingness to be involved in vital practicum programs. SB 369 proposes a statutory fix designed to protect practicum sites interested in offering their facilities to university interns. The threshold requirement that students not be paid

insures that sites will not use practicum placement immunity to take advantage of employees who are also students. From a liability perspective, this proposal is designed to leave each entity - the university, the student and the site - responsible for its own liability.

MR. PETE KELLY, University of Alaska, supported Senator Seekins' comments. He added that five years ago, the legislature gave the university money over and above its operating needs and with that money it designed some hands-on training programs. Most of those require a certain amount of unpaid work - a practicum or internship. These are becoming the most popular programs within the University. As that is growing, the community is stepping up to provide those hours, but liability is a concern.

SENATOR GARY STEVENS asked how many students he is talking about.

MR. KELLY didn't have an exact number.

SENATOR HOLLIS FRENCH said that a memo in the bill folder said the legislature should exclude practicum placements, but it's not signed or attributed to any person and asked who prepared it.

MR. KELLY replied that was an analysis prepared by the University's general counsel and includes references to workers' compensation, which is not in the bill.

SENATOR SEEKINS moved to pass CSSB 369(L&C) from committee with attached fiscal note and individual recommendations.

SENATOR HOLLIS FRENCH objected saying:

If you're working with the direction and supervision of that professor, it stands to reason that the things you're going to do are going to be things you've been instructed to do. So, if you're instructed to do something dumb or foolish or negligent and someone gets hurt badly, because of that bad instruction or your bad interpretation of that instruction, it seems to me that people shouldn't have to absorb that loss on to themselves.... It's not that citizen's fault; it's the professor's or the practicum student's....

SENATOR GARY STEVENS asked to speak with the general university counsel. From a liability perspective the proposal is designed to leave each student on a site responsible for his own liability. "So, liability isn't being avoided or ignored. The University would still be liable for any incident that could occur. Wouldn't that be true?"

MR. KELLY replied that is correct.

SENATOR GARY STEVENS hypothesized if the dental instructor told a student to pull a certain tooth and the student does, but it's the wrong tooth, the University would be liable.

MR. KELLY replied that the dentist would be liable. If a student is hurt, he can appeal to the Workers' Compensation Board. If it decides against him, the student could sue. "Liability isn't automatically assigned to the practicum provider site as it would be in an employer employee relationship."

CHAIR BUNDE said he would like to see these legal issues addressed in the Judiciary Committee.

SENATOR SEEKINS, Chair of the Senate Judiciary Committee, assured him that would be the case.

CHAIR BUNDE called for the roll. Senators Ralph Seekins, Gary Stevens and Chair Con Bunde vote yea; Senator Hollis French voted nay; and CSSB 369(L&C) moved from committee.

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^#SB254

SB 254-TOURISM MARKETING CONTRACTS

CHAIR CON BUNDE announced SB 254 to be up for consideration.

SENATOR RALPH SEEKINS moved to adopt CSSB 254(L&C), version \X. There were no objections and it was so ordered.

CHAIR BUNDE said that the committee had heard the bill before and it appears to have some constitutional issues and said he would suggest a Judiciary referral to the Senate President.

SENATOR SEEKINS moved to pass CSSB 254(L&C) from committee with individual recommendations.

SENATOR HOLLIS FRENCH objected.

CHAIR BUNDE called for the roll. Senators Ralph Seekins, Gary Stevens and Chair Con Bunde voted yea; Senator Hollis French voted nay; and CSSB 254(L&C) moved from committee.

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^#HB29

CSSSHB 29(L&C) - REAL PROPERTY TRANSACTIONS/LICENSEES

CHAIR CON BUNDE announced SCS SSCSHB 29(L&C) to be up for consideration. He noted that Amendment 1 (that was held over from a discussion on April 15) was up for consideration again.

23-LS0189\BA.4

Bannister

A M E N D M E N T 1

OFFERED IN THE SENATE

TO: CSSSHB 29(JUD) am

Page 5, line 11:

Delete all material.

Insert "to imply a duty to

(1) investigate

(A) a matter that the licensee has not agreed to investigate; or

(B) a matter that is not known by the seller, prospective buyer, lessor, prospective lessee, or licensee; or

(2) disclose, unless otherwise provided by law, events that have occurred on the real estate that might affect whether a person wants to buy or lease the real estate."

REPRESENTATIVE NORM ROKEBERG explained Amendment 1.

Amendment 1 amends the language on page 5, line 11, clarifying the duties of a licensee as to whether they have a duty to investigate. The amendment indicates that there's no implied duty to investigate matters that the licensee has not agreed to investigate or matters not known by the licensee or the buyer, etc.....

The subsection (2) provisions within the amendment indicate that there's no duty to disclose, unless otherwise provided by law, events such as [in the]

disclosure form, which every seller of real estate, whether they are represented by a licensee or not, has to make....

REPRESENTATIVE ROKEBERG said this concerns the psychological impairment section and can include such things as illnesses like AIDS or HIV, which is proscribed by federal law.

CHAIR BUNDE asked if a methamphetamine lab has to be disclosed.

REPRESENTATIVE ROKEBERG answered that it does have to be disclosed.

CHAIR BUNDE said the duty to disclose as otherwise provided by law applies to physical problems or limitations to the property. He asked if Amendment 1 addresses psychological issues.

REPRESENTATIVE ROKEBERG replied yes. In the instance of a haunted house, one would have the duty to disclose that if one knows about it, but one wouldn't have a duty to investigate that issue in order to disclose it.

MS. PEGGY ANN MCCONNOCHIE, Alaska Association of Realtors, commented:

For the question of if there's a ghost in the house - how do you investigate whether or not there is a ghost or not?.... There were suspicions told to me that there was a ghost in the house and I felt it was my duty to disclose. Whether or not you believe in ghosts is not material. If you don't know that, how do you go out and investigate whether there is or is not a ghost?

CHAIR BUNDE asked a more practical question - when there has been a suicide in the house and you're aware of it, you disclose, but you don't have a duty to research whether anyone had taken his life in that home - unless it's common knowledge.

MS. MCCONNOCHIE agreed with that. The issue is how one would go about an investigation like that. Right now Realtors don't know what to do, but want to deal with it in this amendment.

SENATOR HOLLIS FRENCH asked where exactly in the disclosure document a realtor tells a perspective buyer that there was a double homicide in the house.

MS. MCCONNOCHIE said there is no specific question on the form that asks that, because there is no statutory requirement for it. If this bill passes, Realtors would use an amended form.

SENATOR FRENCH said he understands the amendment would foreclose that disclosure.

REPRESENTATIVE ROKEBERG said this bill doesn't affect the nature of the disclosure statement, which applies to all sellers of real estate, whether they are represented by a licensee or not. HB 29 only regulates the activities of licensees. He does not want to create a legal duty to disclose a homicide, for instance. The reason he is addressing the issue is because case law in the State of Alaska hasn't addressed it yet and, "It's a field day for lawyers."

SENATOR FRENCH agreed with Representative Rokeberg and Ms. McConnochie that someone shouldn't have to hunt down the history of a property, but if a double homicide was committed there last week and someone just came to town and didn't know about, "If everyone in town knows about it except for this poor buyer, I think someone should tell the buyer." He was trying to figure out where that is addressed.

REPRESENTATIVE ROKEBERG responded that it isn't written down. Disclosure is an implied duty, but he didn't want to put that in statute.

SENATOR FRENCH asked what happens if a person buys a place and then finds out there was a double homicide in it and doesn't want to live there anymore. "Can they go after the seller and say, 'Hey, you should have told me?' I think this bill says no."

MS. MCCONNOCHIE responded that is a material fact about the house that the seller has to disclose. The question becomes does a double homicide three houses away need to be disclosed, also.

That's what we need direction on. How far away is no longer reasonable.... Keep in mind that it is a material fact in some cultures that they cannot buy a home in which a murder has occurred. That's a material fact of that culture, but not to everyone.

SENATOR FRENCH said he would support "near, but not on the real estate".

MS. MCCONNOCHIE said the Real Estate Commission needs to be able to write the regulations to support the statement. She said Realtors in Anchorage and Juneau view disclosures differently.

SENATOR SEEKINS said, "What is not required should not be implied. I think this is saying you can't imply some duty beyond what we have statutorily or on a regulatory basis required for disclosure...."

MS. MCCONNOCHIE chimed in, "Bingo!"

SENATOR FRENCH said the law has very narrow requirements.

REPRESENTATIVE ROKEBERG agreed with Senator Seekins' statement.

CHAIR BUNDE asked for a roll call vote on Amendment 1. Senators Gary Stevens, Ralph Seekins and Chair Con Bunde voted yea; Senator Hollis French voted nay; and Amendment 1 was adopted.

CHAIR BUNDE noted that people with further issues could discuss the bill in its next committee of referral, Judiciary.

SENATOR SEEKINS moved SCS CSSSHB 29(L&C) from committee with attached fiscal note. Senators Hollis French, Gary Stevens, Ralph Seekins and Chair Con Bunde voted yea; and SCS CSSSHB 29(L&C) moved from committee.

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^#HB305

HB 305-UNEMPLOYMENT COMPENSATION BENEFITS

CHAIR CON BUNDE announced HB 305, version D, to be up for consideration.

COMMISSIONER GREG O'CLARAY, Department of Law (DOL), said he had new information regarding a 26-week waiting period.

MR. BILL KRAMER, Chief, Unemployment Insurance Program, Department of Law (DOL), brought a possible unintended consequence to the committee's attention.

Last year, 13,780 people who filed for benefits under the voluntary quit, misconduct work provisions that have been discussed here recently - if these individuals were denied 26 weeks instead of six, as has been discussed, there's a possibility that the number of claims that are filed throughout the year

could cause us to fall below the level required for the federal extended benefits to trigger on in Alaska. Part of the reason we trigger on to extended benefits each year in Alaska is because we have a high recipient rate....

The state has received it every year since 1971.

CHAIR BUNDE asked if people had to wait 26 weeks, would fewer ask to get benefits or be discouraged from filing at all.

MR. KRAMER replied that would be hard to predict. The number of weeks claimed is part of the calculation the federal government uses to trigger benefits. If the number of claims is reduced because of the extended denied period, it could change the time period for which the state gets extended benefits or the fact that we get it at all. During the last nine years of 1994 - 2002, an average of \$7.3 million per year has been paid.

CHAIR BUNDE asked what the other 47 states do about extended benefits.

MR. KRAMER replied that it depends on the economic conditions within the state. Alaska triggers on every year during the winter through mid-summer. Most states do not trigger on to extended benefits regularly. During the recent recession only a handful of other states triggered on to the regular extended benefits program.

CHAIR BUNDE drew attention to the chart that the department provided the committee on unemployment benefits that indicates denials are fairly steady across the past three years. The number of people who have applied for and received benefits has gone up fairly substantially.

SENATOR SEEKINS asked what the trigger is for Alaskans to receive federal extended benefits.

MR. KRAMER replied that there are three different formulas in place and federal law allows states to trigger on through any one of the three. The most common one - and the one that Alaska triggers - looks at the insured unemployment rate (IUR). It's calculated by dividing the average number of weeks of UI claimed for the past 13-week period. That number is divided by the average covered employment for the past four quarters of the past year. Recent figures indicate that 231,355 individuals were in covered employment in the state and the 13-week average was

17,797 weeks of unemployment, an insured unemployment rate of 6.56. That figure triggers the state for a minimum of 13 weeks extended benefits.

SENATOR SEEKINS asked how much the state pays out in unemployment insurance per year.

MR. KRAMER replied that it changes year to year. In 2003, \$174 million was paid out; it was a high year and included two federal extension programs. One was a temporary extended unemployment compensation, which was 100 percent federally funded, and that was simply turned on by Congress without a trigger. At the same time, Alaska was triggered on to regular extended benefits, which was federally funded also.

SENATOR SEEKINS asked how much federal money the state got.

MR. KRAMER replied \$10 million in regular extended benefits and \$40 million for the temporary extension program.

CHAIR BUNDE asked what the state's portion of the total was.

MR. KRAMER guessed about \$130 million.

CHAIR BUNDE speculated that the state pays out \$130 million in order to get the \$40 million in federal funds. He asked if something more than six weeks, but less than 26 weeks, wouldn't stop the trigger.

MR. KRAMER replied the challenge is trying to guess what people will do under the rules.

Would some people now stay employed because the penalty is stiffer? Will some people find other ways to maintain their wellbeing when they are unable to get unemployment benefits? It's hard to predict....

He added that people who are denied through the current six-week provision are prevented from receiving any extended benefits for a benefit year.

TAPE 04-35, SIDE B

2:20 p.m.

CHAIR BUNDE mused that this situation begs the question of what denying unemployment benefits to some people would do to the state's welfare rolls.

SENATOR SEEKINS moved to pass SCS HB 305(L&C) from committee with individual recommendations and attached fiscal note. Senators Gary Stevens, Hollis French, Ralph Seekins and Chair Con Bunde voted yea; and SCS HB 305(L&C) moved from committee.

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^#HB339

CS HB 339(JUD)-TRADE PRACTICES: FREE TRIAL/OPT-OUT PLANS

CHAIR CON BUNDE announced CSHB 339(JUD) to be up for consideration in Labor and Commerce for the first time.

REPRESENTATIVE KEVIN MEYER, sponsor, said this is truly a consumer protection bill that addresses two distinct marketing practices. The first is the free trial period and the second is the opt out marketing program. The free trial period pertains to magazines that offer someone to view its magazine for 30 days and then if he likes it, the billing starts. Unfortunately, it's not always clear after that free trial period as to what one's obligations are. This bill requires that the seller clearly disclose all material terms and conditions of the free trial period. This includes any obligations the user has during the free trial period and describes the charges and how they will be made after the product has been used in the free trial period. It will shift the burden onto the business to prove that it fully disclosed all of its requirements and obligations for using the product during the free trial period.

The second issue is the opt-out marketing plan. Last year, telecommunication companies were offering a service on cell phones that unless a person opted out, he or she automatically got charged for it. This isn't fair. Also, sometimes when you try to opt out of something, that 1-800 number can be on eternal hold. "It's very frustrating for the buyer." Businesses rely on people not opting out.

MS. DRINKWATER, Department of Law (DOL), said that Representative Meyer gave a very accurate summary of the purpose of the bill, which the department supports, and she would be happy to answer questions.

MS. VIRGINIA TORNESS, Alaska Public Interest Research Group (AKPIRG), supported HB 339, because it will better protect

consumers in Alaska. Opt out plans have often been used to trap consumers in the purchasing of goods or services, simply because they did not check a box or send back the appropriate form. This is essentially true of most free trial offers.

CHAIR BUNDE noted a letter from AARP in support of HB 339.

SENATOR SEEKINS moved to pass CSHB 339(JUD) from committee with individual recommendations and fiscal note. Senators Gary Stevens, Hollis French, Ralph Seekins and Chair Con Bunde voted yea; and CSHB 339(JUD) moved from committee.

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^#HB549

HB 549-UNSOLICITED COMMUNICATION:AIRCRAFT CRASH

CHAIR CON BUNDE announced HB 549 to be up for consideration.

2:29 - 2:30 - at ease

MS. VANESSA TONDINI, staff to Representative Lesil McGuire, sponsor, said this bill regulates "ambulance chasing lawyers." Normally, those lawyers are governed by the Alaska Rules of Professional Conduct. This particular issue deals with Rule 7.3, which states, "An attorney shall not solicit by in person or live telephone contact professional employment from a perspective client with whom the lawyer has no family or prior professional relationship without a significant motive for the lawyer's doing." The reason is because an overwhelmed client might find it difficult to fully evaluate all the alternatives after an event has just happened. Even though this rule exists, it hasn't controlled the problem that is taking place in Alaska, especially after aviation accidents.

The federal government recognized the vulnerability of aviation accident victims and their families in 1996 when it passed the Aviation Disaster Family Assistance Act. It mandates that air carrier provide specific support for family members of those who were injured or killed in an accident. It also prohibited unsolicited contact by attorneys for 30 days. In 2000, the law was amended to expand the scope of unsolicited contact to include any associate, agent, employee or other representative of the attorney and expanded the time from 30 to 45 days.

The enforcement of this law requires action by the Civil Aeronautics Board and the U.S. Attorney General; the penalty for violation is a \$1,000 fine. However, the law is hardly enforced

and there is legal debate about whether or not the federal law is enforceable against attorneys who violate it in Alaskan aviation accidents that happen entirely within the state. It is especially prevalent in rural Alaska where support services are hard to get. She explained:

We don't want them to be preyed upon by not good lawyers, in other words, until they, themselves decide that it's time to initiate that process.

HB 549 was based on the federal law and we felt this law was necessary because it needs to apply to flights that take place within Alaska. Like the federal law, it doesn't interfere with the performance of the family support function provided for in the Family Assistance Act by the air carriers. Also, in our bill we made it clear that we don't want any attorneys to contact these people, so we added the reference to the air carrier's attorney, as well.

Regarding the sanctions against attorneys, we felt that a civil financial penalty is inadequate because the financial incentive of representing an aircraft accident victim could be so great that they would almost be willing to take the financial fee of \$1,000 if they're getting a multimillion dollar payment out of this. We felt a criminal sanction would be the best deterrent.

SENATOR SEEKINS moved to adopt SCS HB 549(L&C), version I, as the working document. There were no objections and it was so ordered.

MS. TONDINI thanked the committee for bringing the blank CS forward as last minute floor amendments and other changes were needed. She explained that language on page 1, lines 12 - 15, was added on the floor of the House to clarify that during the 45-day period following an aircraft accident, neither an agent nor a representative or the air carrier or its insurer may not initiate contact for the purpose of offering a final settlement. The sponsor did not object to that.

MS. TONDINI explained that air carriers might have obligations, such as providing short-term financial assistance and page 2, subsection (c), clarifies that the prohibitions do not apply to those activities.

The other area of the bill that was amended in the House was the removal of the penalty section in subsection (d), page 2, lines 8 - 12. The bill originally read \$10,000 for the first offense and \$100,000 for a second offense, but that language was removed. The problem when a fine is not specifically mentioned is that it would allow a judge to impose a term of imprisonment, which was never the intent of the sponsor. The sponsor felt comfortable with making it a class A misdemeanor with a fine of \$100,000 or the fee the attorney would have received through the violation of this act. Some people felt that contact needed to be defined in section (e).

CHAIR BUNDE asked if the amount of the fine would be accepted by the courts as just, based on the severity of the crime.

MS. TONDINI hoped so and noted that AS 12.55.035 sets out maximum fines for each level of crime. Ordinarily, the maximum fine for a class A misdemeanor is \$10,000, but another provision allows the legislature to establish otherwise.

CHAIR BUNDE said he thought it was a good idea to protect people who are in a state of stress, but asked why this is limited to aircraft accidents.

MS. TONDINI replied that she thought this should be a policy for all situations and added that it applies in situations that the Alaska Rules of Professional Conduct govern.

CHAIR BUNDE asked if the recovery from an aircraft accident is potentially much larger than for an average automobile accident.

MS. TONDINI replied that is correct.

SENATOR SEEKINS asked why she didn't insert "whichever is greater" after the penalty and if the sponsor wanted the court to have that discretion.

MS. TONDINI replied that language on page 2, line 9, attempts to say that it shall be the greater of the two.

SENATOR FRENCH said he had a hard time differentiating between someone who was in the World Trade Center and someone who was on the plane that crashed into it. He didn't know which family was more grievously wounded or incapable of making a decision. He was concerned that the bill focuses on air carriers. He is also concerned about the penalty for lawyers who break the professional rules, because, "A lawyer's ticket to practice law

is immensely valuable. You can't put a value on it. If you lose your ticket to practice, you have to go find another line of work...." He also thought lawyers must have made some serious violations against plane crash victims and he wanted to hear about those.

MS. TONDINI agreed with his first point and said this bill doesn't try to give more weight to one side or the other, but tries to focus on an attorney's bad conduct.

SENATOR SEEKINS moved to delete section (e) from the CS the committee just adopted. There were no objections and it was so ordered.

MR. BRUCE MCGLASSON, President, Grant Aviation, asked for some protection for the air carriers. He said that the professional rules are routinely ignored with impunity in western Alaska. He has found that victims who have truly been injured will immediately contact an attorney, but attorneys are routinely contacting other people who were on planes, but didn't have specific injuries.

The attorneys are racing to them immediately after the accidents to sign them, because if they go home and think it over for a few days, they are unharmed.... I would like just a cooling off period to protect us from that kind of behavior.

MR. MCGLASSON said that airlines are unable to buy insurance coverage that is adequate for someone who has truly suffered horrific damages, like an untimely death or a permanent disability.

Insurance companies are terrified of this onslaught of small suits that can only be described as extorted. They have a client that has no damages that they can point to, but they have signed up immediately after and within a week of the accident, we'll get a letter from the attorney offering to settle this case of \$50,000 or \$100,000, because they know our insurers will look at the cost of defense and probably opt to settle rather than go to trial. The consequences are horrible for us. Our insurance rates have more than doubled in the last five or six years or tripled in some cases. Our available coverage has been dropped in some cases. In some cases, we've been able to insure our seats for \$500,000 a seat. It was \$1 million a few

years ago and now it's not even an option at any price. Many carriers in the state are looking at limitations of \$300,000, because the insurance companies are afraid of the onslaught of suits that [are] presented to them.

CHAIR BUNDE asked if he had actual situations that he could share with the committee.

MR. MCGLASSON replied yes; in one instance an attorney actually went to the hospital in Bethel and waited for the people who were in the airplane to walk out the door. "That type of immediate contact - it's almost guaranteed to generate a client for him."

MR. MCGLASSON related that another incident happened a couple of weeks before Christmas when attorneys sent letters to every person in the village where the accident occurred.

MR. ROBERT JACOBSON, President, Wings of Alaska, said he is also a member of the Alaska Air Carrier's Association Board of Directors and has its approval to speak on its behalf. He supported HB 549 and agreed with Mr. McGlasson's testimony.

Rates have tripled for many carriers throughout the state, limits have come down. Some of us that used to enjoy \$10 million and \$20 million smooth coverage are now being offered a half million dollars a seat. For those of you that have been involved with any aviation incidents over the year, a half a million dollars truly isn't enough to take care of the people who are truly deserving in an accident like that.

To address Senator French's concern whether it was people inside the Towers or on the airplane - in a situation like this, the Aviation Disaster Family Assistance Act addresses them altogether.... Aviation accidents, because of the calamity of it, even if it's one or two people in an air taxi accident like there would be in an automobile accident, the settlements and the awards are usually 10 times what they are in an automobile accident. As a result, our rates have to be commensurate.

Because we depend so much on aviation in Alaska - it's a taxi service, it's a bus service for so many people up here. We air carriers are struggling to provide the

service and provide good service. At the same time, we're getting beat up and we're getting affected - in this case, by some people who aren't acting honorably in their profession....

SENATOR FRENCH asked Mr. McGlasson if he filed a bar complaint against the individual who waited at the hospital to drive the victims home.

MR. MCGLASSON said he hadn't, but it was a recent occurrence and he didn't realize he could do that.

SENATOR FRENCH asked if it happened within the last six months and if he knew of any other incidents.

MR. MCGLASSON replied that it had happened within the last six months and in a small community like Bethel, he couldn't tell which attorneys had relationships with the people or not. In the accidents he had been involved in, the people had been contacted immediately in almost every case. "It is the rule rather than the exception."

SENATOR FRENCH advised him to take the options that are open to him and to use the least force possible.

MR. JACOBSON said that most people involved in an aircraft accident don't understand what is possible.

When they are contacted by a plaintiff attorney who says, 'I can get \$100,000 for you because you now have a fear of flying - and that's happened to us. We had an accident in 1998 where nobody was injured, people got a little wet from their hips down. We took them to the hospital as we do in every case and they were checked out and released. There was no physical or admitted injuries, but one of the four, we took care of her hospital bills and offered her \$2,500 to move on. She said fine. The others retained a plaintiff attorney and they were promised big amounts because they now have a fear of flying.

SENATOR FRENCH asked him if they were contacted by attorneys or the other way around.

MR. JACOBSON admitted he didn't know. His point was that the people ended up with less, because the plaintiff's attorney took 30 percent plus expenses. "In a situation like that, we're going

to defend those as strong as we can and the victims end up with less and that's a shame, but that's what is happening, too."

SENATOR SEEKINS said it seems to him that since this is already covered in a code of ethics, there is no problem with those who follow their code of ethics. If some attorneys are not following their code of ethics, the legislature can put some statutory teeth behind it.

SENATOR SEEKINS moved to pass SCS CSHB 549(L&C) from committee with attached fiscal note and individual recommendations.

SENATOR FRENCH objected saying he wanted to hear from at least one person who had been badgered by a lawyer after a traumatic injury or accident.

That's what I thought the heart of this bill was about - not so much fixing insurance rates, but sort of keeping a protective aura around a person who has been through a tragedy. We didn't hear that. So, I guess I'm a little bit on the fence about what the object of the bill is....

The way I read this bill now is if I bump my head in an airplane accident and have to have two stitches, I've been injured, and 44 days later a lawyer sends a letter to me saying maybe you need some representation, that person is guilty of a misdemeanor and shall be sentenced to pay a fine of \$100,000. I share your concerns, Mr. Chairman, that someone is going to challenge that and it's going to get booted out and you're going to be left with no direction whatsoever about what to do. I think this bill needs a little bit more fine-tuning.

CHAIR BUNDE asked for a roll call vote. Senators Ralph Seekins, Gary Stevens and Chair Con Bunde voted yea; Senator Hollis French voted nay; and SCS CSHB 549(L&C) moved from committee.

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^#HB419

CSHB 419(RES)-REGIONAL SEAFOOD DEVELOPMENT ASS'NS./TAX

CHAIR CON BUNDE announced CS HB 419(RES) to be up for consideration.

REPRESENTATIVE DAN OGG, sponsor, said HB 419 came out of the Joint Legislative Salmon Task Force. Fishermen wanted a way to tax themselves so they could develop their seafood products. The idea initially came from the Copper River where fishermen advertise their Copper River Red Salmon, the first salmon fishery of the year and they are highly prized in the west coast markets. Some of the grants to help develop their program are ending and other areas of the state have got the idea of marketing regional fish. Kodiak and Cook Inlet are working on similar programs. Twelve regions were developed in the state in which to administer these programs and each area would have one program. The bill allows 21 percent of a region's permit holders to apply to the Department of Community & Economic Development (DCED) for an election to form an organization. If 51 percent of the permit holders vote in favor, they form an organization. The bill allows them to tax themselves in an election in which they pick a .5, 1, 1.5 or 2 percent taxation rate. If it passes, they have established their assessment. This bill also gives them the power to provide an infrastructure for improvements like fish chillers for members' use.

TAPE 04-36, SIDE A

REPRESENTATIVE OGG explained that folks could untax themselves with the same method. Twenty-five percent of the permit holders could ask for a new election to untax.

MR. JERRY MCKUNE, United Fishermen of Alaska (UFA), said a lot of fishermen in the state are excited about this bill. Grants are drying up as the sponsor said and this would allow a lot of fisheries to raise \$200,000 to \$300,000 at the 1 percent range. This will also allow fishermen to work with processors and others in the communities to put promotional programs together and get more value off the salmon and work on quality problems, such as installing ice machines in remote areas.

CHAIR BUNDE asked if he knew of any opposition to this bill.

MR. MCKUNE replied that probably some fishermen would get worried with talk about taxes.

If you have a use for this money, you have to convince your fleet to take this on and have an election, you're going to have to do some education of that fleet to convince them why you want to use the money.... plus every fisherman gets to sit on the

committee that's in that particular fishery. So, they all get to have their say....

Some areas probably don't have need for it or won't have a need for it for a while until they have a separate fishery. When you break it down to certain fisheries, there are some gillnet fisheries I see in the state that could probably do this right away and try to get this passed once it's on the books and in other fisheries, like seine fisheries, it would be a little bit more complicated and would have to be talked through to whether that's going to be a benefit for them.

SENATOR GARY STEVENS asked Representative Ogg to explain how the voting would take place and how latent permits would be dealt with.

REPRESENTATIVE OGG replied that this issue received a lot of discussion and the recommendation of the task force is to go with 50 percent of the actual permits voting, which is how the aquaculture voting is set up and it works fine.

CHAIR BUNDE asked if the size of a quorum was discussed.

REPRESENTATIVE OGG replied:

The mechanism in which the ballots go out - knowing how fishermen are and being one myself - sometimes you don't get the notice. So you are sent out two ballots, two separate mailings. So, you're most assured to get everybody and it's pretty clear what's going on and it's in your high interest to participate. If there's latent fishermen who aren't fishing, they won't pay a tax, because they don't have any product that they're selling. Once they start to fish again, they will pay a tax.

MR. MCKUNE added that each region has to publish two notices in a newspaper.

SENATOR SEEKINS asked if there is any requirement to make sure a ballot was ever received.

REPRESENTATIVE OGG replied no; nothing more is needed than the two mailings to addressees on the limited entry permit cards.

CHAIR BUNDE asked what level of participation the aquaculture associations have among eligible voters.

REPRESENTATIVE OGG said he didn't know.

MR. MCKUNE replied that the Prince William Sound Aquaculture Association had an 80 percent return when it first started. He thought the same would be the case with this program.

CHAIR BUNDE postulated that an election wouldn't be valid unless 10 or 15 percent of the permit holders participated and wanted that discussed in the Finance Committee. The way it is written now, two out of three people could decide an issue. Although he doubted that would happen, he also sees low voter turnout in general elections.

SENATOR SEEKINS asked if other forms of notification that an election is going to take place are required.

MR. MCKUNE answered that the bill requires two ballots and two notices in the newspaper of the region in which the election will take place and a minimum of two public meetings must take place.

SENATOR GARY STEVENS moved to pass CSHB 419(RES) from committee with attached fiscal note and individual recommendations. Senators Hollis French, Ben Stevens, Ralph Seekins and Chair Con Bunde vote yea; and CSHB 419(RES) moved from committee.

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^#HB464

HB 464-EXTEND BOARD OF REAL ESTATE APPRAISERS

CHAIR CON BUNDE announced HB 464 to be up for consideration and explained that it simply extends the Board of Certified Real Estate Appraisers.

MR. HENRY WEBB, staff to Representative Ralph Samuels, said the Board of Certified Real Estate Examiners is charged with establishing exam standards for certification of real estate appraisers, adopting rules of professional conduct and insuring the observance of state and federal regulations within the industry. Legislative Audit recommended that it be extended to 2008, which is what this bill does.

SENATOR GARY STEVENS moved to pass HB 464 from committee with individual recommendations and attached fiscal note. There were no objections and it was so ordered.

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^#HB351

HB 351-CARBON MONOXIDE DETECTION DEVICES

CHAIR CON BUNDE announced HB 351 to be up for consideration.

An unidentified representative of Representative Max Gruenberg, sponsor, said that it was introduced in response to public outcry over tragedies that have occurred throughout the state over the last several years. Several families have actually died from carbon monoxide poisoning in the short term, but long-term effects occur in children and adults as well.

CHAIR BUNDE asked if state law or local ordinance requires a smoke detector.

The representative replied that current state law requires a smoke detector in every domicile.

SENATOR GARY STEVENS moved to pass HB 351 from committee with attached fiscal note and individual recommendations. Senators Gary Stevens, Hollis French and Chair Con Bunde voted yea; and HB 351 moved from committee. There being no further business to come before the committee, he adjourned the meeting at 3:24 p.m.

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