

HOUSE FINANCE COMMITTEE  
April 13, 2005  
1:42 p.m.

CALL TO ORDER

Co-Chair Chenault called the House Finance Committee meeting to order at [1:42:34 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair  
Representative Kevin Meyer, Co-Chair  
Representative Bill Stoltze, Vice-Chair  
Representative Eric Croft  
Representative Richard Foster  
Representative Mike Hawker  
Representative Jim Holm  
Representative Mike Kelly  
Representative Carl Moses  
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Reggie Joule

ALSO PRESENT

Representative Vic Kohring; Representative Ralph Samuels; Dean Guaneli, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; Representative Norm Rokeberg; Heather Nobrega, Staff, Representative Norm Rokeberg; Peggy Ann McConnochie, Alaska Association of Realtors; Mike Tibbles, Deputy Commissioner, Office of the Commissioner, Department of Administration; Chris Christensen, Deputy Administrator, Office of the Administrative Director, Alaska Court System; Al Adams, Chairman of the Board, Arctic Power; Barbara Huff Tuckness, Lobbyist, Teamsters Local 959; Grey Mitchell, Director, Division of Labor Standards & Safety, Department of Labor & Workforce Development; Mila Cosgrove, Director, Division of Personnel, Department of Administration; Pam Varni, Executive Director, Legislative Affairs Agency; Art Chance, Director, Labor Relations, Department of Administration

PRESENT VIA TELECONFERENCE

Tamara de Lucia, Office of Victims Rights, Anchorage; Linda Wilson, Deputy Director, Public Defender Agency, John Sedor, Anchorage; Karin Rogina, Alaska Hospitality Alliance, Anchorage; Jack Amon, Alaska Hospitality Alliance, Anchorage; Barbara Ramsey, Chair, Alaska Real Estate Commission, Anchorage

SUMMARY

- HB 32 "An Act making a special appropriation for a grant to Arctic Power to promote the opening of the Arctic National Wildlife Refuge for oil and gas exploration and development; and providing for an effective date."
- CSHB 83 (FIN) was REPORTED out of Committee with a "do pass" recommendation.
- HB 54 "An Act relating to bail review."
- CSHB 54 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with three zero fiscal impact notes: #1 COR, #2 CRT, #3 LAW.
- HB 182 "An Act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; providing definitions for persons employed in administrative, executive, and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis."
- CSHB 182 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with a zero fiscal impact note by the Department of Labor and Workforce Development.
- HB 169 "An Act relating to the educational requirements for certain real estate brokers, associate brokers, and salespersons with new or suspended licenses; and allowing real estate brokers to hire certain experts to review real estate transactions; and providing for an effective date."
- CSHB 169 (L&C) was heard and HELD in Committee for further consideration.
- HB 98 "An Act relating to the compensation of certain public officials, officers, and employees not covered by collective bargaining agreements; and providing for an effective date."
- CSHB 98 (STA) was REPORTED out of Committee with a "do pass" recommendation and with three fiscal impact notes: #1 GOV, #2 LEG, and new CRT.
- HB 27 "An Act relating to an optional exemption from municipal property taxes on certain residences of law enforcement officers."

HB 27 was scheduled but not heard.

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HOUSE BILL NO. 32

"An Act making a special appropriation for a grant to Arctic Power to promote the opening of the Arctic National Wildlife Refuge for oil and gas exploration and development; and providing for an effective date."

Representative Foster MOVED to ADOPT the work draft to HB 32 labeled 24-LS0230LS\F, Utermohle, 4/12/05. There being NO OBJECTION, it was so ordered.

[1:43:49 PM](#)

Co-Chair Chenault explained two changes in the new CS. The dollar amount was changed to \$50,000 for the participation of the Native Village of Kaktovik and to \$50,000 for the participation of the City of Kaktovik in support of the education efforts undertaken by Arctic Power.

Representative Weyhrauch stated support for the bill with the addition of the new amendment. He requested information about Jerry Hood's role in this grant.

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AL ADAMS, CHAIRMAN OF THE BOARD, ARCTIC POWER, replied that Mr. Hood is heading up the Washington D.C. office. Representative Weyhrauch asked if most of Arctic Power's efforts are aimed at getting support from the House side of Congress. Mr. Adams responded that is correct. Efforts are being targeted toward the 435 House members as well as toward several states. Mr. Adams noted that Representative Joule and Representative Berkowitz are currently in Washington D.C. pushing this effort on the House side.

Representative Weyhrauch asked about various Arctic Power team members' roles and salaries.

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Representative Hawker said it is a pleasure to be working with Mr. Adams. He stated support for the funding.

Representative Foster moved to report CSHB 32 (FIN) out of Committee with individual recommendations. There being NO OBJECTION, it was so ordered.

CSHB 83 (FIN) was REPORTED out of Committee with a "do pass" recommendation.

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HOUSE BILL NO. 54

"An Act relating to bail review."

REPRESENTATIVE RALPH SAMUELS, sponsor, explained that the bill does several things. Currently a defendant may be granted a bail hearing every 24 hours. This has been taken advantage of for a number of reasons. To help limit some of the abuses, HB 54 proposes that the accused must submit, in writing, that there exists new information for the court's consideration that was not considered at prior hearings. Second, the district attorney is given 48 hours notice in which to notify the victim of the hearing. Finally, there will be a 48-hour period between calendared bail hearings. Without HB 54 the first bail is set high, then in court the bail is reset at a reasonable level for the offense. Every day the defendant could request a bail hearing, which the victim has the right to attend.

Representative Samuels explained that the bill was amended in Judiciary to add that a victim may be introduced to a jury during the opening statement at a trial or during the jury selection process. It also changed a minor defendant law to allow introduction of the victim to the jury. He opined that it is only fair to put a face on the victim of the crime.

Co-Chair Chenault set aside HB 54.

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HOUSE BILL NO. 182

"An Act amending the Alaska Wage and Hour Act as it relates to the employment of a person acting in a supervisory capacity; providing definitions for persons employed in administrative, executive, and professional capacities, for persons working in the capacity of an outside salesman, and for persons working in the capacity of a salesman employed on a straight commission basis."

Representative Foster moved to adopt the new CS for HB 182 labeled 24-LS0507\P, Carver, 4/6/05. There being NO OBJECTION, it was so ordered.

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REPRESENTATIVE NORM ROKEBERG, sponsor, explained that the bill adopts federal rules for the Federal Fair Labor Standards Act by amending the Alaska Wage and Hour Act.

This bill will significantly help small businesses because it clarifies provisions of the Alaska Wage and Hour Act.

Representative Rokeberg explained that the new amendment would provide a "bright line" to the effective date of this law, July 1, 2005.

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JOHN SEDOR, ANCHORAGE SOCIETY FOR RESOURCE MANAGEMENT, (via teleconference) spoke in support of HB 182. He explained that the bill would eliminate confusion about how to determine overtime exemptions.

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Representative Weyhrauch pointed out that in order to understand the various occupations in this bill, Federal Fair Labor Standards Act regulations have to be understood. He questioned the relevance of certain classifications. Mr. Sedor responded that one of the benefits of moving toward the federal system is that some people in the computer industry qualify due to the complexity of their jobs. The state has not moved forward to clarify which jobs are exempt.

Representative Rokeberg asked Mr. Sedor to comment on the proposed amendment. Mr. Sedor related that the bill would delete the 80/20 test and sets forth definitions which are much more understandable. He gave an example. The primary duties test is the only test now in the federal system. The amendment states that claims brought after July 1, 2005, would be subject to statutory provisions of HB 182, and claims brought before that date would be subject to conditions prior to HB 182.

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Representative Croft asked if primary duty is defined in the P version. Mr. Sedor replied it is not defined in any version, only in federal regulation. He gave an example of a position that is exempt due to the importance of the job. Representative Croft rephrased his question to ask if an employer has to conform to both state and federal laws. Mr. Sedor replied that those in the private sector do. He pointed out that the P version only has one system. Representative Croft inquired why the definitions differ and why it is not stated that they shall be the same as in federal law. Mr. Sedor replied that "primary duties" is only one of several tests. He indicated that the statutes would be extremely large if all duties were spelled out.

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Representative Croft asked if primary duty is one of the tests below executive, administrative, professional capacity, and all other definitions are incorporated. Mr. Sedor replied correct. Representative Croft referred to page 4, (C) (1), which allows for state private employers having to follow only one system. Mr. Sedor replied that is exactly right, and 41 other jurisdictions have adopted that as well.

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Representative Rokeberg drew attention to Section 5 where definitions in federal law are mentioned. Representative Croft pointed out that in other areas outside of that capacity definition, the bill allows for different definitions by the wording, "if not defined in this title".

Representative Croft asked Mr. Sedor if the amendment states that claims filed previous to the effective date of the bill are cut off. Mr. Sedor responded that claims brought after the date are subject to one statutory requirement, HB 182. A two-year look-back applies to both time situations.

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KARIN ROGINA, ALASKA HOSPITALITY ALLIANCE, ANCHORAGE, (via teleconference) conveyed full support for HB 182 because it provides for clear exempt status language. It defines exempt status, makes it workable, and will prevent litigation. She gave an example of a hotel worker with an exempt salary status issue.

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JACK AMON, ALASKA HOSPITALITY ALLIANCE, ANCHORAGE, (via teleconference) testified in support of HB 182. He related the difficulties of operation under the older system.

Representative Weyhrauch quoted the bill, "an individual employed in an executive, administrative, or professional capacity is compensated on a salary or fee basis at a rate of not less than two times the state minimum wage for the first 40 hours of employment each week, exclusive of board or lodging". He opined that most people work more than 40 hours. He asked about the pay after that period of time. Representative Rokeberg replied that exempt employees would not receive extra compensation; they would be on salary.

HEATHER NOBREGA, STAFF, REPRESENTATIVE ROKEBERG, clarified that their salary would be based on a normal 40-hour work week. Representative Weyhrauch asked if the value of board and lodging is not included. Ms. Nobrega replied that is correct. Representative Rokeberg added that because there

is a unique test in Alaska, it is two times the minimum wage, which is based on the 40-hour week.

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BARBARA HUFF TUCKNESS, LOBBYIST, TEAMSTERS UNION 959, concurred with the sponsor's earlier comments regarding concerns and definitions. She responded to the comment that this bill impacts the highest paid workers. In the supervisory and administrative categories, there are managers at McDonald's that flip hamburgers and are in an hourly, paid-with-overtime compensation or are exempt from overtime and have to be paid at least double time. She recalled a bill from last session regarding minimum wage. She provided a history of definition discussions and maintained that they should be introduced into state law. The statute serves to provide information to employers and employees. She suggested that it should all be incorporated into statute. She voiced concern about the adoption of regulations and made suggestions about how to deal with them. She spoke of increasing from double minimum wage to 2.2 percent and reasonable salary compensation.

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Vice-Chair Stoltze asked if the employee has the option of exempting himself or herself from overtime. Ms. Tuckness said that is determined by law.

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Co-Chair Chenault closed public testimony.

Representative Foster MOVED to ADOPT Amendment 1:

Page 1, line 6, following "**occupations;**":  
Insert "**directing retrospective application of the provisions of this Act to work performed before the effective date of this Act for purposes of claims filed on or after the effective date of this Act, and disallowing retrospective application for purposes of claims for that work that are filed before the effective date of this Act;**"

Page 5, following line 30:  
Insert a new bill section to read:  
"**\* Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:  
APPLICATION AS TO WORK PERFORMED BEFORE THE EFFECTIVE DATE OF THIS ACT. (a) This Act applies retrospectively to work performed before the effective date of this Act for purposes of any claim or proceeding based on AS 23.10.050 - 23.10.150 (Alaska

Wage and Hour Act) that is filed on or after the effective date of this Act.

(b) This Act does not apply to work performed before the effective date of this Act for purposes of any claim or proceeding based on AS 23.10.050 - 23.10.150 that is filed before the effective date of this Act."

Renumber the following bill section accordingly.

Co-Chair Chenault OBJECTED for discussion purposes.

Representative Rokeberg explained that the amendment creates a bright line of flexibility. There would be two sets of rules, before and after the effective date of the bill.

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Vice-Chair Stoltze asked if this legislation was found in HB 255 last year. Representative Rokeberg replied that it was somewhat similar. Vice-Chair Stoltze wondered what the Department of Labor's position is.

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GREY MITCHELL, DIRECTOR, DIVISION OF LABOR STANDARDS & SAFETY, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, related that the department has had input on this bill. The department remains neutral on the bill.

Representative Kelly commended the sponsor for bringing this bill forward. He asked Mr. Mitchell if this bill would cut down on the cost of administering the hourly vs. salaried worker situation. Mr. Mitchell agreed that it would. Representative Kelly opined that it would cut down on fraud.

Co-Chair Chenault REMOVED his OBJECTION to adopt Amendment 1. There being NO OBJECTION, Amendment 1 was adopted.

[2:42:46 PM](#)

Co-Chair Chenault announced that HB 27 would not be taken up today.

Representative Hawker summarized the discussion. He related that there is a valid parallel to state corporate income tax regulations in this bill.

Representative Foster MOVED to report CSHB 182 (FIN) out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 182 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with a zero fiscal impact note by the Department of Labor and Workforce Development.

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HOUSE BILL NO. 169

"An Act relating to the educational requirements for certain real estate brokers, associate brokers, and salespersons with new or suspended licenses; and allowing real estate brokers to hire certain experts to review real estate transactions; and providing for an effective date."

Representative Rokeberg related that HB 169 provides for 20 hours of post-licensing education for realtors. It also provides that lawyers may assist brokers in supervising all transactions.

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PEGGY ANN MCCONNOCHIE, ALASKA ASSOCIATION OF REALTORS, explained that 18 states currently require post-licensing education. This bill would reduce the number of claims to the real estate commission. She explained that realtor associations are in favor of this bill. It will provide additional consumer protection by having well-trained realtors. The effective date is timely.

Ms. McConnochie explained that the supervision aspect of the bill is aimed at the larger brokers in the state who supervise many transactions per month. They need to be away to make sure that documents are properly filed prior to closing. This provision allows a broker to hire a real estate attorney to review transactions and will help to better serve the public. She reported that this aspect is missing from HB 29.

Representative Croft commented that the continuing education portion of the bill is fine. He voiced concerns about Section 14, the review of transactions. Ms. McConnochie replied that this section makes it clear that a large broker can employ an attorney and have no conflict in statute. Representative Croft asked who the attorney represents. Ms. McConnochie replied the broker, who is ultimately responsible for all decisions. Representative Croft worried that there is a sense that the attorney is looking out for the buyer's interests when he or she is only looking out for the broker's interests. Ms. McConnochie replied that there would not be the opportunity to have that false perception because the attorneys would never meet the buyers. Representative Croft maintained that the broker always has an ability to hire an attorney to look at the documents. He

opined that the attorney is only looking after the broker's interests. Ms. McConnochie restated the purpose of the review. There is no implication that the lawyer is partial to the buyer, seller, landlord, or tenant.

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Representative Foster inquired if the post-licensing education would require a realtor in Nome to buy an airplane ticket to the class. Ms. McConnochie replied that that person could take the class by correspondence.

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BRAD FLEUTSCH, ALASKA REAL ESTATE COMMISSION, stated support for the continuing education elements of the bill. He noted that there is a problem with Section 14. There is no requirement in the bill that the attorney be licensed in Alaska or have knowledge of real estate law. The Alaska Real Estate Commission has no ability to supervise such a position. He explained that the completed file has all of the forms and legal requirements, and it is the last responsibility the broker has to the client. He requested to have Section 14 dropped or fixed.

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Representative Hawker recalled that he has often sought a non-Alaskan lawyer with good results. Mr. Fleutsch stressed that it is Alaska real estate law that is being reviewed. Representative Hawker asked if an attorney practicing in Alaska has to be licensed to practice real estate law. Mr. Fleutsch suggested amending Section 14 to say "licensed Alaska attorney". Representative Hawker said that is inherent in statute. Mr. Fleutsch offered that it should not be limited to attorneys, but accountants could also be included. The purpose of this aspect of HB 169 is just to review the file, which the Real Estate Commission feels is very important.

Representative Kelly asked if the attorney does anything that a broker does not do. Mr. Fleutsch replied that he does not know. Representative Kelly suggested language that would include an associate broker or an attorney acting as an associate broker. He shared concerns similar to Representative Croft's.

Representative Croft suggested that the broker could hire an accountant or other professionals. He questioned the need for this part of the bill. He said that Section 14 is either unnecessary or unclear.

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Representative Hawker read from Section 14, "The broker may pay the attorney or associated broker from a fee, commission, or other compensation received by the broker in a real estate transaction payment." He asked if that is prohibited in statute, as covered in Section 15.

Representative Rokeberg replied that is true. He opined that this provision is needed in statute for clarification. Currently under Chapter 8, lawyers can sell real estate. He pointed out that the Real Estate Commission has no power to discipline attorneys, and emphasized that the broker is still responsible for all transactions. There are no restrictions on a large brokerage house or a commercial real estate brokerage house to not use an attorney to supervise the actual documents of a transaction. That needs to be clear. He emphasized that the bill should be passed in its current state.

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BARBARA RAMSEY, CHAIR, ALASKA REAL ESTATE COMMISSION, ANCHORAGE, (via teleconference) testified in support of the legislation, but expressed concern with page 8, lines 19-24. She recommended the deletion of Section 14. She stressed that the Commission does not want to regulate attorneys.

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Representative Kelly asked if Ms. Ramsey is saying that the current statute provides that a broker could hire assistant brokers and retain attorneys to help review these files, and those costs are permitted to be taken by the broker from transaction fees.

Ms. Ramsey clarified that an associate broker is already allowed in regulations - 12AAC.64.125, Section B. She pointed out that the provision regarding attorneys is not currently allowed. She opined that they should be paid as a business expense, as an employee.

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Representative Rokeberg spoke in support of retaining Section 14.

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Representative Croft noted concerns by the Real Estate Commission. He argued that any profession could be hired to look up documents, but its different when they get a portion of the fee because then they have an interest in the transaction. That is why real estate law is so specific about who gets the fee.

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Representative Rokeberg maintained that Amendment 1 would conform the legislation. There is no intent for a "kick back".

Co-Chair Meyer MOVED to ADOPT Amendment 1:

Page 9, line 26, following "date":  
Insert "of secs. 1-11 and 16"

Page 9, line 29, following "date":  
Insert "of secs. 1-11 and 16"

Page 10, line 1, following "date":  
Insert "of secs. 1-11 and 16"

Co-Chair Chenault OBJECTED for the purpose of discussion. Ms. Nobrega explained that the amendment would conform the effective dates to the appropriate sections.

Co-Chair Chenault REMOVED his OBJECTION to adopt Amendment 1. There being NO OBJECTION, Amendment 1 was adopted.

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Representative Croft MOVED to ADOPT Conceptual Amendment 2:

Delete section 14, page 8, lines 14 - 25.

Representative Rokeberg noted that some members of the Commission disagree with the concern over section 14. The issue is whether the Commission can properly supervise the lawyers. He did not agree with these concerns. He maintained that there is no formal position of the Commission.

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Representative Hawker OBJECTED for the purpose of discussion. He referred to Ms. Ramsey's letter and disputed her concerns. He concluded that her objections were irrelevant to the issue at hand.

Representative Kelly questioned if the broker alone is punished for infractions.

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Representative Rokeberg replied that is correct. The broker is ultimately responsible.

Representative Croft responded that there ought to be some power over the person that receives the fee. He concluded

that the Commission should have control over the lawyers or the fee should be removed. He argued that the compensation should not be based on "their saying yes".

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Representative Rokeberg directed the committee to page 8, line 23, "received by the broker". He explained that the broker receives the money and then allocates it to the attorney or associate broker. Direct compensation from commissions is not being given to the lawyer.

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Representative Weyhrauch questioned why Section 14 would be necessary. The real estate broker may contract with and pay an attorney to assist the broker in real estate transactions. He observed applications of malpractice.

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Representative Croft pointed out that the attorney's pay would be dependent on receiving a percentage of the broker's commission. He reiterated his concerns.

Representative Weyhrauch maintained that attorneys would not base their pay on a commission. Ms. Nobrega noted that associate brokers and brokers are also dependent on receipt of the commission.

Representative Weyhrauch stressed the importance of the public's trust of attorneys.

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Ms. Ramsey agreed with remarks by Representative Croft. She noted that the Real Estate Commission approved the pursuit of legislation for post-licensing in March 4, 2004. On February 8, 2005, she received the first draft of HB 169. She observed that the issue was first discussed on March 15<sup>th</sup>. On the 24<sup>th</sup> of March she sent a letter addressing concerns to Representative Rokeberg. On April 4, she spoke with Representative Rokeberg about her concerns. The state association did not discuss the issue with the Commission, the entity that must enforce the provision.

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Representative Rokeberg took exception to the objections.

Representative Kelly suggested that the last sentence be dropped.

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Representative Croft WITHDREW Conceptual Amendment 2.

HB 169 was HELD for further consideration.

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Representative Ralph Samuels returned to HB 54. He explained that the bill would clarify whether the judge could allow the victim to be introduced to a jury.

TAMARA DE LUCIA, OFFICE OF VICTIMS RIGHTS, ANCHORAGE, (via teleconference) reviewed new bail provisions in the bill, which would include participation by the victim.

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Ms. De Lucia continued to explain the provision regarding the introduction of the victim to the jury. She urged passage of HB 54.

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LINDA WILSON, DEPUTY DIRECTOR, PUBLIC DEFENDER AGENCY, DEPARTMENT OF ADMINISTRATION, (via teleconference) spoke about bail hearings. It takes a week to get a slot for bail hearings for petitions to revoke probation. It is primarily a problem with city cases. She wondered why a fix was being created for such a small number of cases. She suggested requiring a 48-hour notice. The system seems to be working well right now. She suggested that defense lawyers get together to solve the problem.

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Vice-Chair Stoltze MOVED to ADOPT Amendment 1:

Page 1, line 1, following "**review;**":  
Insert "**relating to petitions for review by crime victims where the defendant has received a mitigated sentence;**"

Page 2, following line 13:  
Insert a new bill section to read:  
"**\* Sec. 4.** AS 12.55.120 is amended by adding a new subsection to read:  
(e) The victim of the crime for which a defendant has been convicted and sentenced may file a petition for review in an appellate court of a sentence that has been mitigated under AS 12.55.155(d)."

Renumber the following bill sections accordingly.

Page 2, line 25:  
Delete "Section 4"  
Insert "Section 5"

Co-Chair Meyer OBJECTED for discussion purposes.

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Representative Samuels explained the he wanted to amend Amendment 1 by eliminating the last word on line 9, through line 10, and replacing that with "is below the sentencing range for the crime." He clarified if there are three aggravating sentences and one mitigating sentences, or five aggravators and one mitigator, a review could not be asked for at the appellate court level. If the sentence for a particular crime is below the range, the victim would have a right to petition for a review in an appellate court. If the sentence is above the range, then there must be a jury trial.

Vice-Chair Stoltze MOVED to AMEND Amendment 1. There being NO OBJECTION, it was so ordered.

DEAN GUANELI, CHIEF ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, explained that the actual wording of the amendment speaks about a petition for review in an appellate court. He asked if it is the committee's intent that this is a discretionary petition with the court of appeals, rather than an absolute right to appeal to the court and require it to issue an opinion.

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Mr. Guaneli described a particular case, which was reviewed by the court of appeals. He questioned if this is the direction that the amendment should go.

Representative Croft inquired if it would be different if an appeal was filed. Mr. Guaneli said it would be different and he would be opposed to that idea. He wondered about the intent of the amendment to give victims the absolute right to appeal. Representative Croft asked if anyone has the right to file a petition for review. Mr. Guaneli responded that an original application for relief was an unusual procedure and a full briefing was ordered.

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Vice-Chair Stoltze asked if a precedent has been set.

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Representative Hawker asked if the intention is to change the language to "file and appeal" to give victims a right

that they cannot currently enjoy. Representative Samuels argued the point "that they cannot currently enjoy". He emphasized that he does not want the bill to die because appeals are too broad. He asked for clarification on the wording if a period is used after "sentencing".

Mr. Guaneli agreed that change may satisfy his concern about limiting what already exists under current court rule. He noted that he would like to look at the standards and think about it.

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Representative Croft inquired how much victims should be involved in the criminal justice process. He opined that they ought to be more involved, especially in the sentencing. They have a right to have an appeal heard when it is below the range. Representative Samuels concurred.

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Representative Weyhrauch referred to Mr. Guaneli's example and asked if the victim had file a petition for review in court of appeals. Mr. Guaneli said yes and related details of the case. Representative Weyhrauch debated the requirements of the court. Mr. Guaneli agreed with Representative Weyhrauch' assessment. He acknowledged that Representative Croft is right in that if the state appeals a sentence, the sentence cannot be increased. He further explained the procedure. He noted that victims' interests may be different.

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Vice-Chair Stoltze opined that this is may not be a bad precedent.

Mr. Guaneli related his philosophy on the issue. He opined that this amendment is not beneficial for the administration of justice in Alaska.

Co-Chair Meyer WITHDREW his OBJECTION to adopt Amendment 1. There being NO OBJECTION, it was so ordered.

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Representative Croft MOVED to ADOPT Amendment 2:

Page 1, line 1, following "**review;**":  
Insert "**relating to the qualifications of certain members of the Violent Crimes Compensation Board;**"

Page 2, following line 13:

Insert a new bill section to read:

"\* **Sec. 4.** AS 18.67.020(a) is amended to read:

(a) There is the Violent Crimes Compensation Board in the Department of Administration composed of three members to be appointed by the governor. One of the members shall be designated as **chair** [CHAIRMAN] by the governor. At least one member must be a medical or osteopathic physician licensed to practice in this state **or holding a retired status license in this state** and one member must be an attorney licensed to practice in this state **or retired from practice in this state.**"

Renumber the following bill sections accordingly.

Page 2, line 25:  
Delete "Section 4"  
Insert "Section 5"

Page 2, line 31:  
Delete "sec. 5"  
Insert "sec. 6"

Page 3, line 4:  
Delete "sec. 4"  
Insert "sec. 5"

Page 3, line 5:  
Delete "sec. 6"  
Insert "sec. 7"

Co-Chair Meyer OBJECTED for discussion purposes.

Representative Croft explained that the amendment allows a retired physician to be a member of the Violent Crimes Compensation Board.

Representative Samuels said it makes sense to add this to the bill.

Co-Chair Meyer WITHDREW his OBJECTION to adopt Amendment 2. There being NO OBJECTION, it was so ordered.

[4:11:19 PM](#)

Representative Croft MOVED to REPORT CSHB 54 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 54 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with three zero fiscal impact notes: #1 COR, #2 CRT, #3 LAW.

[4:12:20 PM](#)

HOUSE BILL NO. 98

"An Act relating to the compensation of certain public officials, officers, and employees not covered by collective bargaining agreements; and providing for an effective date."

MIKE TIBBLES, DEPUTY COMMISSIONER, OFFICE OF THE COMMISSIONER, DEPARTMENT OF ADMINISTRATION, explained that HB 98 matches the statutory schedule for the partially exempt/exempt employees in the legislative executive and judicial branches, to the salary schedules recently negotiated with the supervisory unit. He describe the two-tier approach that is required to update salary schedules for state employees. One is through the collective bargaining process, the second tier for partially exempt/exempt employees. Because there are two different approaches, the salary schedules have drifted apart. Currently they are 5 percent off, and will increase to 9 percent at the end of the recently negotiated contracts.

Mr. Tibbles expressed three concerns. The pay system requires payment based on "like pay for like work", which will not meet statutory obligation. He referred to a chart on page 3 of the packet "Comparison of Statutory, Judicial and Supervisory Salary Schedules" (copy on file.) The other two concerns regard upward career progression and recruitment. He recommended that the legislature adopt the statutory schedule.

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In response to a question from Co-Chair Meyer, Mr. Tibbles replied that it is common practice to submit legislation to track the two salary schedules. They are not always approved in the same year and so there is sometimes catch up, like there is this year.

In response to a question from Representative Holm, Mr. Tibbles explained the difference between steps A through step F.

In response to a question from Representative Kelly, Mr. Tibbles reiterated the current and projected salary schedule gap.

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Representative Croft asked for the total cost for the next five years. Mr. Tibbles describe each of the three fiscal notes. Representative Croft questioned the "free ride" of

organizations that have not negotiated. Mr. Tibbles responded that the salary schedule applies to individuals that are exempt from collective bargaining and it meets statutory obligation. He pointed out problems if parity is not followed.

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Representative Hawker observed that the legislature has imposed upon itself a 23.5 percent reduction in per diem pay. He questioned what happened to cost reduction.

MILA COSGROVE, DIRECTOR, DIVISION OF PERSONNEL, ADMINISTRATION underscored the parity issue of the bill. She addressed Representative Croft's concern about equity and negotiation issues. She spoke of an obligation to insure "like pay for like work", and a duty to treat management level and "rank and file" fairly.

Representative Kelly asked which comes closest to a competitive scale. Ms. Cosgrove reported that the state of Alaska does not have a market driven pay system. Representative Kelly noted that equal pay for equal work is not relevant today. He asked how competitiveness is sensed.

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Ms. Cosgrove replied that the executive branch is hemmed in by statute. She explained that the pay is not competitive with the private sector. She agreed that steps need to be taken to adjust pay scales. There is an impact on recruitment. Representative Kelly suggested that the department should be aware of the market condition in order to get to a competitive measurement. He stressed another reason to stay competitive.

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CHRIS CHRISTENSEN, DEPUTY ADMINISTRATOR, OFFICE OF THE ADMINISTRATIVE DIRECTOR, ALASKA COURT SYSTEM, shared the background of the court system. He related statistics surrounding court employees. He discussed high turnover rates and talked about cost-of-living adjustments resulting in employees joining a union. He related the history of judges' salaries in Alaska, including a comparison of the average annual increases for judges nationally and locally. Judges do not get annual longevity increases. He spoke of rural judge differentials. HB 98 would bring salary adjustments equal to salaries approved by the legislature for APEA members last year. The bill sends a message to employees that the legislature does value them as much as union employees.

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He referred to Representative Croft's question about non-union employees stating that often non-monetary compensation in union contracts is not matched.

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Vice-Chair Stoltze recalled that there has been an effort to match employees' salaries. He noted that judges have an honorary position.

Mr. Christensen responded that going from number 49 to number 47 does not seem to be much of an increase. He contrasted private sector lawyers with public sector lawyers and judicial pay raises.

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PAM VARNI, EXECUTIVE DIRECTOR, LEGISLATIVE AFFAIRS AGENCY, testified in support of HB 98, for equity reasons. She recalled the history of the executive and judicial salary schedules. She described the difference between the partially exempt and CPIU salary increases as 26.68 percent. She shared statistics from various states regarding salary increases. The per diem rate has gone down for legislators, which is set by Department of Defense.

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Vice-Chair Stoltze asked on who's behalf Ms. Varni is testifying. She replied on the behalf of the agency employees. Legislative council would also support this.

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Representative Hawker observed that the bill puts him in a very uncomfortable position. Dealing with costs of retirement plans is a big issue. Alaska's retirement plan is very generous. He suggested "do no harm until we figure out how to solve the problem." He debated the other side of the argument. He stated his opposition to the radical changes proposed to the PERS and TRS plans. He suggested that granting a wage increase is hypocritical on his part. He stated that his concern is not with equity and fairness to employees.

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Co-Chair Meyer suggested proposing a hiring freeze until PERS and TRS is decided. He emphasized that current employees need to be treated fairly. He spoke in favor of passing HB 98.

Vice-Chair Stoltze agreed with Representative Hawker

Representative Holm also agreed with Representative Hawker. He quoted the high pay level of 28 E. He voiced concern about COLA, vacation pay, and other compensations. He requested more information about those costs.

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Co-Chair Meyer pointed out that union employees have already received their wages. This bill will bring non-union employees up to the same level.

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Ms. Cosgrove spoke of collective bargaining.

ART CHANCE, DIRECT, LABOR RELATIONS, DEPARTMENT OF ADMINISTRATION, shared information about the executive branch related to leave, pay, geographical differentials, and merit steps, all established in statute.

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Representative Foster spoke in support of the legislation. He concluded that denial of the legislation would result in greater unionization.

Mr. Chance stated that the only employees that could not collectively bargain are elected and appointed officials. He noted that he is currently seeking to eliminate labor relations staff from the current bargaining unit.

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Co-Chair Chenault referred to Section 6, salaries for University of Alaska, and questioned why they are being treated differently.

Ms. Cosgrove noted that the university pay structure is completely different from the other branches. Mr. Chance added that many of their salaries are established through collective bargaining.

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Representative Kelly spoke in support of the legislation. He observed that public pay has slipped, the legislation would only raise judges from 49<sup>th</sup> to 47<sup>th</sup> [place in regards to pay nationally], and there is a threat of underemployment. He stressed that the PERS and TRS issue is separate. He concluded that employees would be lost or organized if this legislation is not adopted.

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Co-Chair Meyer pointed out that it is not an union or non-union issue, but one of fairness and equality.

Representative Foster MOVED to report CSHB 98 (STA) out of Committee with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 98 (STA) was REPORTED out of Committee with a "do pass" recommendation and with three fiscal impact notes: #1 GOV, #2 LEG, and a new CRT note.

ADJOURNMENT

The meeting was adjourned at 5:01 PM