

HOUSE FINANCE COMMITTEE  
April 15, 2005  
1:46 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:46:45 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

Mike Pawlowski, Staff, Representative Meyer; Sally Saddler, Legislative Liaison, Office of the Commissioner, Department of Commerce, Community and Economic Development; Linda Hall, Division of Insurance, Department of Commerce, Community and Economic Development; Suzanne Cunningham, Staff, Co-Chair Meyer; Jerry Burnett, Legislative Liaison, Department of Revenue; Steve Porter, Deputy Commissioner, Department of Revenue; Wayne Stevens, President, Alaska State Chamber of Commerce; Kristin Ryan, Director, Division of Environmental Health, Department of Environmental Conservation; Joel Gilbertson, Commissioner, Department of Health & Social Services; Tom Brice, Council of Laborers 942 & 341, Local 71

PRESENT VIA TELECONFERENCE

Dan Dickinson, Director, Tax Division, Department of Revenue, Anchorage; Chris Kennedy, Assistant Attorney General, Department of Law; Connie Marshall, Small Business Advocate, Office of Advocacy, US Small Business Administration

SUMMARY

HB 71 "An Act relating to a credit for certain exploration expenses against oil and gas

properties production taxes on oil and gas produced from a lease or property in the state; relating to the deadline for certain exploration expenditures used as credits against production tax on oil and gas produced from a lease or property in the Alaska Peninsula competitive oil and gas area wide lease sale area after July 1, 2004; and providing for an effective date."

CSHB 71 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a zero fiscal impact note by the Department of Revenue and with a new indeterminate fiscal impact note by the Department of Natural Resources.

HB 33 "An Act relating to the effect of regulations on small businesses; and providing for an effective date."

CSHB 33 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with the following new fiscal impact notes: an indeterminate note by the Department of Law, a zero note prepared by the House Finance Committee for the Department of Environmental Conservation, a fiscal note by the Department of Commerce, Community and Economic Development, a zero note prepared by the House Finance Committee for the Department of Health and Social Services, and zero note by the Department of Labor and Workforce Development.

HB 147 "An Act relating to the regulation of insurance, insurance licensing, surplus lines, insurer deposits, motor vehicle service contracts, guaranteed automobile protection products, health discount plans, third-party administrators, self-funded multiple employer welfare arrangements, and self-funded governmental plans; and providing for an effective date."

CSHB 147 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with a zero fiscal impact note by the Department of Commerce, Community and Economic Development.

[1:47:29 PM](#)

HOUSE BILL NO. 71

"An Act relating to a credit for certain exploration expenses against oil and gas properties production taxes on oil and gas produced from a lease or property in the state; relating to the deadline for certain

exploration expenditures used as credits against production tax on oil and gas produced from a lease or property in the Alaska Peninsula competitive oil and gas area wide lease sale area after July 1, 2004; and providing for an effective date."

SUZANNE CUNNINGHAM, STAFF, CO-CHAIR MEYER, explained that the new CS, version P addresses concerns about the ability to potentially collect 80 percent of incentives. The new CS clarifies incentives in Section 1, page 1, where it discusses 20 percent of the total exploration expenditures that qualify only under (c) of this section. Subparagraph (2) deals with 20 percent of the total exploration expenditures that qualify only under (d) of this section. Subparagraph (3) addressed 40 percent of the total exploration expenditures that qualify under both (c) and (d) of this section.

Co-Chair Chenault MOVED to adopt the work draft to HB 71, version 24-GH1040\P, Chenoweth, 4/15/05. There being NO OBJECTION, it was so ordered.

[1:49:31 PM](#)

Ms. Cunningham continued to explain that subparagraph (4) deals with 40 percent of the total exploration expenditures that qualify only under (e) of this section and pertain to seismic exploration. This prohibits layering and reaching 80 percent. The new CS also incorporates the Cook Inlet area for work performed on or after July 1, 2005, and before July 1, 2010. The House Resources version of the bill added Nenana Basin, and there was discussion about adding the Healy and Red Dog areas. Areas south of 68 degrees, 15 minutes are eligible for incentives for exploration and production, which takes the North Slope and ANWR off the table.

Co-Chair Meyer clarified that it includes the Red Dog area.

[1:51:37 PM](#)

STEVE PORTER, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, addressed principles of the tax credit. Tax credits look at reservoirs that need assistance. For those that are not getting good exploration in a particular area, but there are decent prospects, an incentive may be appropriate. That decision should happen in the Department of Natural Resources. Once that discussion occurs, then the Department of Revenue determines the level of incentive to provide. It is designed to benefit the taxpayer. There is currently a discussion as to whether or not to incentivize new areas in the North Slope. He suggested working with the Department of Revenue to decide, and he encouraged exploration there. He also suggested that the committee get an exploration

manager to tell them what kind of benefit those incentives are to exploration programs.

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Co-Chair Meyer expressed confusion because HB 71 was the governor's bill and it dealt with the Bristol Bay area. Now other areas have been added. From a policy standpoint the committee wants to encourage exploration and production. He related that he does not know what areas to add to the bill and has to rely on the department and the governor's office for advice.

Mr. Porter responded that from Department of Revenue's point of view, the expansion is a policy call based on conversations with the Department of Natural Resources. He agreed if incentives are needed, then it is fine to go ahead with the expansion.

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JERRY BURNETT, LEGISLATIVE LIAISON, DEPARTMENT OF REVENUE, clarified that Section 8 in the new CS says that provisions of this section do not apply to taxes applicable under this chapter, attributable to production from oil and gas produced from an oil and gas lease, or gas produced from a gas only lease, located north of 68 degrees, 15 minutes, North latitude, or on the ANWR. He asked if the intent for this section is to take away credit immediately, or if the credit is meant to be for exploration or production. This a major change in how the tax incentive works.

Co-Chair Chenault replied that it is not the intent to take away from any tax credit currently available. The intent is to provide for credit in a specific area.

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Ms. Cunningham said that is correct. The intent is not to adversely impact areas that would have incentives expire in 2007. It is to extend the areas south of 68 degrees, 15 minutes, to 2010. She suggested that a conceptual amendment would be in order.

[2:00:05 PM](#)

DAN DICKINSON, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, ANCHORAGE, (via teleconference) said the point raised is correct. It will not apply to north of 68 degrees. He agreed that a conceptual amendment is in order. He asked if the discussion is about exploration or production in this area.

[2:01:19 PM](#)

Representative Croft requested clarification from Mr. Dickinson regarding Section 8. He inquired if anything North of 68 degrees, 15 minutes expires in 2007. Mr. Dickinson replied yes and suggested that there needn't be any limitation on exploration. The only way the credit can be modified is by selling to someone who does not pay production tax. He stressed focusing on exploration.

Co-Chair Meyer asked how it impacts the production side. Mr. Dickinson replied that it does not need to impact the production side. He explained that the credit could be taken by someone who has production tax and is producing, or by someone who is not producing or lacks sufficient production tax. There is no intent to restrict the market for selling the credit.

[2:04:26 PM](#)

Co-Chair Meyer noted that the committee would return to Section 8 to make the necessary amendments.

Co-Chair Chenault informed the committee about provisions in the new CS for Cook Inlet oil and gas credit. The dates for the Cook Inlet Basin incentive credits would be extended from 2003 until 2010. It provides language that allows exploration wells in the Cook Inlet to be within the 3-mile limit, subject to review and approval by the commissioner. That would provide a 20 percent credit. It provides language that decreases the 25-mile boundary limit to 10 miles, which also provides a 20 percent credit.

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Mr. Dickinson added that there is a \$20 million limit for the amount of credits granted in the Cook Inlet under these rules.

Co-Chair Meyer set HB 71 aside.

Representative Kelly asked how requirements in Cook Inlet were lessened. Co-Chair Chenault responded that the 3-mile limit is one area that the commissioner would look at, and the 10-mile limit would be statutory.

[2:08:38 PM](#)

HOUSE BILL NO. 33

"An Act relating to the effect of regulations on small businesses; and providing for an effective date."

Co-Chair Meyer gave a brief history of the bill. In 1980 Congress passed the Regulatory Flexibility Act (RFA), which

mandated that agencies consider the impact of their regulations on small businesses. Based on the success of that federal program, the Office of Advocacy has drafted legislation for states to follow. Over 37 states have found success with this program. This bill would require state regulatory agencies to consider the impact of regulation on small businesses and have the freedom to examine alternative methods. More expense would not be added to the agencies.

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MIKE PAWLOWSKI, STAFF, CO-CHAIR MEYER, referred to a flow chart "Steps in the Regulation Adoption Process Under HB 33" (copy on file.) He proceeded to inform the committee about the various steps that would be taken under this bill to change the regulatory process. He related the history of regulation, including checks and balances.

Co-Chair Meyer noted that most of the other 37 states did not need a fiscal impact note attached to their legislation. Mr. Pawlowski concurred. He described the office of the small business advocate.

[2:16:30 PM](#)

Co-Chair Meyer asked if Amendment 1 would zero out all fiscal notes. Mr. Pawlowski replied that it would.

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CONNIE MARSHALL, SMALL BUSINESS ADVOCACY, U.S. SMALL BUSINESS ADMINISTRATION, (via teleconference) read portions from her written testimony:

As the Regional Advocate for Region X, my job is to be the direct link between state and local governments, small business groups and small business owners and employees and the Office of Advocacy, based in Washington, DC. My chief concern is to help identify regulatory concerns of small business by monitoring the impact of federal and state policies at the grassroots level. It is my goal to see that programs and policies that encourage fair regulatory treatment of small business are developed and implemented to ensure future growth and prosperity. This is why I am testifying in support of proposed legislation, which will strengthen small business regulatory flexibility in Alaska.

The Office of Advocacy enforces the Regulatory Flexibility Act (RFA) on the federal level in order to lessen the regulatory burden on small business. More than 93 percent of businesses in every state are small businesses. As you may know, small businesses with less than 20 employees spend \$6,975 each year per

employee to comply with federal regulations—that is 60 percent more per employee than large firms with more than 500 employees spend. And that is just the cost of federal regulations. Small business owners also have to shoulder the cost of state regulations.

Under the RFA, Advocacy has shown time and again that regulations can be reduced and the economy improved without sacrificing such important goals as environmental quality, travel safety, and workplace safety. By working with federal agencies to implement the RFA, in 2004 the Office of Advocacy saved small businesses nationwide over \$17 billion in foregone regulatory costs that can now be used to create jobs, buy equipment and expand access to health care for millions of Americans, or simply maintain competitiveness in the marketplace.

While some states have state regulatory flexibility legislation that mandates state agencies to perform economic impact analysis before they regulate, many do not. For that reason, in December of 2002 the Office of Advocacy drafted model legislation patterned after the federal Regulatory Flexibility Act and presented it in a report titled, *Small Business Friendly Regulation: Model Legislation*, which can be found on our website at [www.sba.gov.advo](http://www.sba.gov.advo).

There are five critical elements contained in the Regulatory Flexibility Act model bill. Successful state-level regulatory flexibility laws should have: (1) a small business definition that includes most small businesses, (2) a requirement that state agencies perform an economic impact analysis before they regulate, (3) a requirement that state agencies consider less burdensome alternatives that still meet regulatory goals, (4) judicial review so that the law has teeth, and (5) a provision for state government to periodically review all its regulations. To be effective, there should be few, if any exemptions from the law. Even the best regulatory flexibility initiative has little value if the majority of state agencies are exempted from it. In order for regulatory flexibility to work, there is a need for the Governor's leadership, trained and educated state agencies that understand their responsibilities, and the continued involvement of the small business community.

During this time of tight state budgets, you may be wondering how much it costs a state to implement regulatory flexibility for small business. The answer is that implementing a regulatory flexibility system can be done at little to no additional cost to the state. Let me share information from three states that

have recently implemented regulatory flexibility provisions.

In North Dakota, agencies were granted no additional funds to carry out their duties under the new RFA legislation. The state legislative review committee is responsible for reviewing the regulations that their state agencies, using economic impact analysis, have determined might be overly burdensome to small business. So other than additional regulations for the committee to review, North Dakota has simply absorbed the new duties into their already existing system.

Similarly, in Colorado, agencies were granted no additional funds to carry out their duties under the new RFA legislation. The Office of Policy Research and Regulatory Review in Colorado's Department of Regulatory Agencies was given responsibility for implementing the new law. To meet the new obligations, they shifted personnel in their office and dedicated part of an IT person to implement their e-rulemaking notification system. Like North Dakota, Colorado simply absorbed the new responsibilities into their current structure.

In Oklahoma, the fiscal note estimated that it would cost \$ 75,000 per year to support the Small Business Regulatory Review Committee in the Department of Commerce and to implement the regulatory flexibility law. Since implementation began in 2002, the Department of Commerce has not exceeded the \$ 75,000 budget. Expenditures have been for printing marketing materials, travel compensation for the review committee members and compensation for the committee coordinator's time.

The benefits of implementing a regulatory flexibility system truly outweigh the costs. Let me give you an example of how regulatory flexibility works from a state that has had an active regulatory flexibility program for nearly ten years. In October 2004, New York State adopted an emergency regulation to prevent prescription fraud by requiring the use of an official State prescription form for all prescribing done in New York. The official prescription forms utilize security features that will curtail alterations and forgeries that divert drugs to black market sale to unsuspecting patients and cost New York's Medicaid program and private insurers tens of millions of dollars annually in fraudulent claims.

Under New York's State Administrative Procedure Act and an Executive Order signed by Governor Pataki, the Department of Health was required to perform a

regulatory flexibility analysis for small business (RFASB). It was found that the proposed regulation would affect small businesses such as practitioners, pharmacists, retail pharmacies, hospitals and nursing homes.

Therefore, in drafting the regulation, the Department of Health met with and considered comments from the affected small businesses. By consulting with small business throughout the rule writing process, the New York Department of Health was able to craft a regulation that met its goals without unduly burdening small entities. For example, the regulation includes the following flexibilities for small business:

- Establishes a grant administered by the Department of Health to defray costs for software adjustments faced by pharmacies;
- Eliminates the official prescription fee for practitioners and institutions; and
- Allows practitioners, pharmacists, retail pharmacies, hospitals and nursing homes 18 months to transition to the new prescription form system.

As a result of the Serialized Official New York State Prescription Form regulation, private insurers and the Medicaid program are expected to save millions of dollars by reducing fraudulent prescription claims while at the same time benefiting the state, its citizens, and private insurers.

Since December of 2002, my fellow Regional Advocates and I have been working with state legislators across the country to make regulatory flexibility for small business a legislative priority. In 2003, twelve states introduced regulatory flexibility legislation. Governors in North Dakota and Colorado signed regulatory flexibility legislation into law, while Massachusetts Governor Mitt Romney and West Virginia Governor Bob Wise signed Executive Orders to implement regulatory flexibility. In 2004, 17 states (California, Connecticut, Georgia, Idaho, Illinois, Kansas, Kentucky, Missouri, Nebraska, New Jersey, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Washington, and Wisconsin) introduced regulatory flexibility legislation and seven states have signed it into law (Connecticut, Kentucky, Missouri, Rhode Island, South Carolina, South Dakota, and Wisconsin).

To date in 2005, eighteen states have introduced regulatory flexibility legislation (Alaska, Alabama,

Hawaii, Indiana, Iowa, Mississippi, Missouri, Montana, New Jersey, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Utah, Virginia, and Washington). Virginia Governor Mark Warner and New Mexico Governor Bill Richardson recently signed regulatory flexibility legislation into law. Also this year, Arkansas Governor Mike Huckabee signed an Executive Order to implement regulatory flexibility.

One of the many reasons, I believe, this legislation has been so successful over the last two years is because policy makers across the country are realizing that regulatory flexibility is as an economic development tool. There are over 23.7 million small businesses in the United States and they are the job creators: small firms create between 60 and 80 percent of the net new jobs in our economy.

There is no question that small business is the backbone of the economy here in Alaska just as it is throughout the country. According to the federal definition of small business (500 employees or less), 96.9 percent (15,485) of Alaska's employers are considered small and employ over 59.6 percent (127,757) of Alaska's non-farm sector employees.

Sometimes, because of their size, the aggregate importance of small businesses to the economy is overlooked. Because of this, it is very easy to fail to notice the negative impact of regulatory activities on them. The intent of HB 33 is to require regulatory agencies to consider small businesses when regulations are developed and particularly to consider whether there are alternative regulatory solutions that do not unduly burden small business but still accomplish the agency goal. Giving small employers a voice early in the process is a key to reducing the negative impact of regulations on small businesses, increasing the level of regulatory compliance and passing on cost savings to state economies.

This legislation is good for small business in Alaska and the Office of Advocacy commends you for bringing House Bill 33 forward.

[2:23:39 PM](#)

WAYNE STEVENS, PRESIDENT, ALASKA STATE CHAMBER OF COMMERCE, testified in support of HB 33. He asked the legislature to create and maintain an efficient, expedient regulatory environment, which is supportive of business investment and development, and encourages businesses to locate and grow in Alaska. He spoke in favor of having an effective oversight

mechanism, simplified regulations, and a reduction in administrative costs.

[2:24:59 PM](#)

KRISTIN RYAN, DIRECTOR, DIVISION OF ENVIRONMENTAL HEALTH, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, suggested that the fiscal note for the department be zeroed out.

Representative Kelly requested that exceptions to the law be addressed.

[2:27:18 PM](#)

Mr. Pawlowski replied that the bill has gone through a long process. He shared some of the reasons for going to a limited application. Some troubling issues were raised. Questions about the Natural Resources sector and allocation decisions by the Boards of Fish and Game were taken off the table.

Representative Kelly asked, of the 37 states, how many did the same thing. Mr. Pawlowski replied that several did, especially those with heavy resource development. He referred to a map showing the states that have adopted regulatory flexibility (copy on file.) It varies among states, but most have exceptions. He offered to provide more details.

[2:30:08 PM](#)

Representative Kelly asked if this bill captures "90 percent". Co-Chair Meyer replied yes.

[2:30:31 PM](#)

Co-Chair Meyer MOVED to ADOPT Amendment 1:

Page 1, line 14:

Delete "(c)"

Insert "(d)"

Page 2, line 2:

Delete "(e)"

Insert "(f)"

Page 2, line 4:

Delete "The economic effect"

Page 2, line 5:

Delete "statement must provide"

Insert "(c) The economic effect statement required by (a) of this section must provide, if available from information gathered under (b) of this section,"

Page 2, line 18:  
Delete "(c)"  
Insert "(d)"

Page 2, line 25:  
Delete "(d)"  
Insert "(e)"  
Delete "(c)"  
Insert "(d)"

Page 3, line 6:  
Delete "(e)"  
Insert "(f)"

Page 3, line 8:  
Delete "(f)"  
Insert "(g)"

Page 3, line 15:  
Delete "or"

Page 3, line 18:  
Delete "."  
Insert ";"

Page 3, following line 18:  
Insert the following new material:  
    "(6) that address standards, requirements, or conditions for reimbursement by the designated state agency for services to be rendered on behalf of the designated state agency, that address amounts or rates of that reimbursement, or that adjust those amounts or rates to contain costs within the amount of appropriations from the legislature for a state fiscal year; or  
    (7) that establish standards, requirements, or conditions for the eligibility of an individual for assistance under AS 18 or AS 47, or that establish standards for determining the amount of assistance that an eligible person is entitled to receive."

Page 3, line 19:  
Delete "(g)"  
Insert "(h)"

Page 3, line 24:  
Delete "(h)"  
Insert "(i)"

Co-Chair Chenault OBJECTED.

Mr. Pawlowski noted that most of the amendment is conforming language. The primary purpose of the amendment is a

clarification in Section 1 of the proposed legislation. It brings the economic effect statement out of subsection (b) to subsection (c), a clarification which gives the agencies better direction. The second major change is on page 3, following line 18. This addresses Health and Social Services regulation such as reimbursement, cost containment, and eligibility standards. He explained that this section clarifies that cost reimbursement is off the table.

[2:33:24 PM](#)

CHRIS KENNEDY, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, (via teleconference) explained that he does not have more to add to the discussion of Amendment 1. The solution is satisfactory to everyone concerned. He offered to answer questions.

[2:34:30 PM](#)

Representative Croft related that the first part of the amendment makes a lot of sense by not requiring businesses to seek extra, independent analysis. He spoke of a concern on the second page of the amendment regarding reimbursement rates for services provided by small businesses. The effect on small businesses by the Department of Health and Social Services is so pervasive that it would take too much time to consider. It goes from being a burden to defining the business. He opined that it seems to be vital and should not be shied away from.

Co-Chair Meyer noted that this was discussed with the Commissioner.

[2:37:08 PM](#)

Representative Hawker related that the Commissioner was in agreement with the amendment. He referred to Representative Croft's comment and opined that there is a differentiation between a small, private business and outsourcing a necessary state service. He spoke in strong support of the amendment.

[2:39:01 PM](#)

Mr. Pawlowski added that regulations have to be drafted to achieve cost containment. Policy calls need to consider whether this is an effective use of state resources and whether there is a benefit to the private sector. The application to this from a public policy statement is that consideration needs to be done at the finance level during the approval of the budget, and perhaps not in the implementation of the regulations. It happens at the regulatory review committee level and during finance committee meetings.

Representative Croft related that when Department of Health and Social Services establishes a new Medicaid rate, if that rate is lowered, it is viewed as cost containment. If by lowering that rate, more services are provided to more people, it is viewed as a benefit. What is not adequately considered is the effect on the people trying to provide the services. This needs to be looked in terms of impacts on small businesses and alternative means sought.

[2:43:23 PM](#)

Co-Chair Meyer said the argument is that it should be done when the budget is set, rather than by regulation.

Mr. Pawlowski offered a point of clarification about cost containment and reimbursement in eligibility regulation exemptions. He referred to the Department of Health and Social Services proposed regulations to Title VII, which govern the conduct of small business.

Representative Croft commented that it does not make sense to not discuss how daily rates affect small businesses. Co-Chair Meyer argued that the daily rate is set up by the budget process rather than by regulation.

[2:45:49 PM](#)

JOEL GILBERTSON, COMMISSIONER, DEPARTMENT OF HEALTH & SOCIAL SERVICES, related that the department has concerns about regulations causing reductions to programs. He gave an example of a Medicaid program appropriation reduction of services. The concern is if there are delays in implementing regulations because every day of delay costs the state. The department requested Amendment 1 to deal with reimbursement regulations. Other regulations would remain under this legislation.

[2:49:13 PM](#)

Representative Croft inquired about rate reductions and changes in the methods of reimbursements to lessen the effects on providers. Commissioner Gilbertson responded that it is a continuous balancing act regarding that issue. He offered the Medicaid program as an example. Federal law does not allow for different payment policies.

[2:52:13 PM](#)

Mr. Pawlowski added that if benefits and costs are reduced on the "govern the conduct side", the amount required for reimbursement goes down. He implied that there is still a benefit to the business by addressing other regulations that are not exempt.

Co-Chair Chenault WITHDREW his OBJECTION.

There being NO OBJECTION, Amendment 1 was adopted.

[2:53:32 PM](#)

Co-Chair Meyer MOVED to ADOPT Conceptual Amendment 2:

Page 1, lines 1-2 [Delete all material]

Page 1, line 1 - Insert:

"An Act relating to requiring notification to the Department of Commerce, Community and Economic Development, economic effect statements, regulatory flexibility analyses; a private cause of action relating to the required economic effect statements or regulatory flexibility analyses; and providing for an effective date."

Co-Chair Chenault OBJECTED for discussion purposes.

Co-Chair Chenault withdrew his OBJECTION to adopt Conceptual Amendment 2. There being NO OBJECTION, Conceptual Amendment 2 was adopted.

[2:55:20 PM](#)

GUY BELL, ASSISTANT COMMISSIONER, OFFICE OF THE COMMISSIONER, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, reported that he is relieved at the relative lack of burden to the department. He noted that the department would review this legislation and is not bound by a positive fiscal note.

[2:56:12 PM](#)

Co-Chair Meyer noted Department of Health and Social Services is ok with a new zero fiscal note. The Department of Environmental Conservation agrees with a new zero fiscal note. The Department of Law has an indeterminate fiscal note. The Department of Labor and Workforce Development will have a zero fiscal note. Department of Commerce, Community and Economic Development would like assistance in developing a new fiscal note.

[2:58:01 PM](#)

Representative Weyhrauch asked if boards and commissions are subject to this bill. Mr. Pawlowski replied that boards and commissions confirmed by the legislature are subject to a public confirmation process, and are made up of representatives from the industry that are already aware of the needs of the industry. When a board or commissions promulgates a regulation, the costs of that process are

borne by fees, which are returned to small businesses. Representative Weyhrauch asked if that applies to Fish and Game. Mr. Pawlowski replied that was a separate issue regarding emergency allocations. Representative Weyhrauch asked what happens if the agency does not comply with this statute. Mr. Pawlowski said that the judicial review was discussed in the House Judiciary Committee. He explained the history of the judicial review.

[3:00:44 PM](#)

Representative Weyhrauch related a problem he has with the bill. Representative Weyhrauch expressed his concerns regarding federal regulations and small businesses having no power to affect regulation. Mr. Pawlowski agreed that was a valid concern. He explained that the agency would consider public commentary and the review committee could discuss the regulation.

[3:02:26 PM](#)

Representative Foster MOVED to report CSHB 33 out of Committee with individual recommendations and the accompanying revised fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 33 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with the following new fiscal impact notes: an indeterminate note by the Department of Law, a zero note prepared by the House Finance Committee for the Department of Environmental Conservation, a fiscal note by the Department of Commerce, Community and Economic Development, a zero note prepared by the House Finance Committee for the Department of Health and Social Services, and zero note by the Department of Labor and Workforce Development.

[3:03:09 PM](#)

HOUSE BILL NO. 147

"An Act relating to the regulation of insurance, insurance licensing, surplus lines, insurer deposits, motor vehicle service contracts, guaranteed automobile protection products, health discount plans, third-party administrators, self-funded multiple employer welfare arrangements, and self-funded governmental plans; and providing for an effective date."

LINDA HALL, DIVISION OF INSURANCE, DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, related that HB 147 proposes statutory changes that would make the regulation of insurance more efficient for the division, more uniform for industry, and provide protection to consumers. The first

area of change is statutory changes in the licensing area of individual agents and brokers. The proposed changes are to streamline the licensing process and to conform to national standards.

Ms. Hall explained that the second area of change deals with surplus lines insurance, insurers who do not file to operate in Alaska. A couple sections deal with insurance company deposits: one removes the ability to use safety deposit boxes, one permits the director to transfer and insure deposit to the guarantee fund if that is assigned through insolvency procedures. Several sections deal with a commodity called Help Discount Plans, which look like insurance but are not. From 2000-2002, nationally, over 200,000 of these plans were sold, which resulted in \$252 million worth of unpaid claims. The bill seeks specific authority to regulate these discount plans.

Ms. Hall related that there are a number of sections that deal with third-party administrators, someone who provides administrative services for health insurance plans. There is language dealing with an owner-contractor insurance program, written for large construction projects. Some of the rules would be codified in statute in this bill.

[3:10:07 PM](#)

Ms. Hall noted that in Section 26, standards for ratemaking in health insurance lines have been added. She spoke to discrimination and financial statements. She offered to answer questions from the committee.

[3:10:52 PM](#)

Representative Hawker suggested that this is an "esoteric" bill.

[3:11:34 PM](#)

Co-Chair Meyer MOVED to ADOPT Amendment 1:

Page 15, line 25, following "whether":  
Delete "an"

Page 15, line 26:  
Delete "insurer"  
Insert ", "

Co-Chair Chenault OBJECTED for discussion purposes.

Ms. Hall stated that the amendment provides technical changes and would require the use of a licensed third-party administrator.

Co-Chair Chenault WITHDREW his OBJECTION adopt Amendment 1.

There being NO OBJECTION, Amendment 1 was adopted.

[3:12:42 PM](#)

Co-Chair Meyer MOVED to ADOPT Amendment 2:

Page 11, lines 28 - 29:

Delete "a self-funded multiple employer welfare arrangement regulated under AS 21.85"

Insert "any person issued or required to obtain a certificate of authority under this title to transact life insurance, annuities, and health insurance or to provide coverage for the cost of medical care"

Page 17, line 2, following "annuities,":

Delete "or"

Page 17, lines 2 - 5:

Delete "offered or provided by an insurer, or in connection with coverage offered or provided by a self-funded multiple employer welfare arrangement regulated under AS 21.85 or the Comprehensive Health Insurance Association created under AS 21.55"

Insert ", or the provision of coverage for the cost of medical care"

Co-Chair Chenault OBJECTED.

Representative Weyhrauch suggested in Amendment 1, on page 15, line 25, to delete "and". Ms. Hall clarified that Representative Weyhrauch was referring to Amendment 3.

Ms. Hall stated that Amendment 2 is a restatement of Section 3 in the current CS, version G, which was put in error in Chapter 12. She said it was a technical amendment because of an incorrect placement of the language. Co-Chair Meyer pointed out that Ms. Hall was referring to Amendment 3.

Co-Chair Meyer clarified that the committee was talking about page 11, lines 28-29. Ms. Hall noted that language was removed on page 11 and new language was inserted.

Co-Chair Chenault WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 2 was adopted.

[3:15:45 PM](#)

Co-Chair Meyer MOVED to ADOPT Amendment 3:

Page 2, line 8, through page 3, line 21:

Delete all material.

Renumber the following bill sections accordingly.

Page 14, following line 31:

Insert a new bill section to read:

**\* Sec. 22.** AS 21.36 is amended by adding a new section to read:

**Sec. 21.36.065. Limitation on owner controlled and contractor controlled insurance programs.** (a) An owner controlled insurance program or a contractor controlled insurance program is subject to both AS 21.39 and AS 21.42, must be approved by the director, and shall be allowed only for a major construction project. Owner controlled and contractor controlled insurance programs are limited to property insurance as defined in AS 21.12.060 and casualty insurance as defined in AS 21.12.070.

(b) In this section, an owner controlled or contractor controlled insured program does not include

(1) builder's risk or course of construction insurance;

(2) insurance relating to the transportation of cargo or other property;

(3) insurance covering one or more affiliates, subsidiaries, partners, or joint venture partners of a person; or

(4) insurance policies endorsed to name one or more persons as additional insureds.

(c) In this section,

(1) "contractor" means a person who meets the definition of "contractor" in AS 08.18.171 and who undertakes the performance of a construction project for a project owner, its agent, or its representative;

(2) "contractor controlled insurance program" means an insurance program where one or more insurance policies are procured on behalf of a contractor, its agent, or its representative, by its insurance producer, as defined in AS 21.27.900, for the purpose of insuring the contractor and one or more of the following:

(A) the project owner;

(B) a subcontractor;

(C) an architect;

(D) an engineer; or

(E) a person performing professional services;

(3) "major construction project" means the process of constructing a structure, building, facility, or roadway or major renovation of more than 50 percent of an existing structure, building, facility, or roadway having a contract cost of more

than \$50,000,000 of a definite term at a geographically defined project site;

(4) "owner controlled insurance program" means an insurance program where one or more insurance policies are procured on behalf of a project owner, its agent, or its representative, by its insurance producer, as defined in AS 21.27.900, for the purpose of insuring the project owner and one or more of the following:

- (A) the contractor;
- (B) a subcontractor;
- (C) an architect;
- (D) an engineer; or
- (E) a person performing professional services;

(5) "project owner" means a person who, in the course of the person's business, engages the service of a contractor for the purpose of working on a construction project;

(6) "subcontractor" means a person to whom a contractor sublets all or part of a contractor's initial undertaking."

Renumber the following bill sections accordingly.

Page 15, line 25:  
Delete "AS 21.12.140"  
Insert "AS 21.36.065"

Page 15, line 29:  
Delete "AS 21.12.140"  
Insert "AS 21.36.065"

Page 17, line 26:  
Delete "22"  
Insert "21"

Page 17, line 28:  
Delete "22"  
Insert "21"

Page 17, line 29:  
Delete "22"  
Insert "21"

Co-Chair Chenault OBJECTED for discussion purposes.

[3:16:33 PM](#)

TOM BRICE, COUNCIL OF LABORERS 942 & 341, LOCAL 71, reported that the unions have been tracking the legislation. He stated that there was not an objection to the (L&C) version. He indicated that there could be concerns with Amendment #2.

Representative Weyhrauch asked if Mr. Brice has seen the amendments. Mr. Brice said he had.

Representative Weyhrauch asked if the portion of Amendment 2, lines 5-6, regarding the cost of medical care, affects the medical trust administered by the union. Mr. Brice thought that question would be better directed to Ms. Hall. He wondered if "to provide coverage for the cost of medical care" is incorporated under individuals that are required to receive a certificate of authority to participate, or whether that is a separate section. If it is a separate section, that is redefining the public health trust.

Ms. Hall agreed with Mr. Brice's statement that the pieces that are controversial regarding the health trust should be removed. She added that there is no intent to require a person to obtain a certificate of authority. It was directed to self-funded multiple employer welfare arrangements, which are currently required to have a certificate of authority.

[3:19:58 PM](#)

Ms. Hall addressed Amendment 3, which limits owner controlled insurance programs. She related that these programs would not change within the current bill, but move to AS 21.36. She offered to answer questions from the committee.

Representative Hawker referenced to Section 24, "except as provided in AS 21.12.140, an insurer, whether an authorized or unauthorized insurer may not underwrite an owner controlled insurance program or contractor controlled insurance program." He requested clarification. Ms. Hall responded that these programs are designed for major construction projects. It is not something that does not already occur. Currently, the rules and definitions are in the Worker's Compensation manuals. It is not a change in how these programs are used, but it is a prohibition against expanding them into things other than large construction projects. Typically, these do not happen.

Co-Chair Chenault WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 3 was adopted.

Representative Foster MOVED to report CSHB 147 out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 147 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with a zero fiscal impact note by the Department of Commerce, Community and Economic Development.

[3:24:28 PM](#)

HOUSE BILL NO. 71

"An Act relating to a credit for certain exploration expenses against oil and gas properties production taxes on oil and gas produced from a lease or property in the state; relating to the deadline for certain exploration expenditures used as credits against production tax on oil and gas produced from a lease or property in the Alaska Peninsula competitive oil and gas area wide lease sale area after July 1, 2004; and providing for an effective date."

SUZANNE CUNNINGHAM, STAFF, REPRESENTATIVE KEVIN MEYER, noted that two amendments have been drafted to HB 71. Amendment 1 is to page 2, Lines 13-17.

Co-Chair Meyer MOVED to ADOPT Amendment 1:

**Page 2, lines 13-17**

**Delete All Material**

**Insert New Material**

(b) To qualify for the production tax credit under (a) of this section, an exploration expenditure must be incurred for work performed on or after July 1, 2003, and before July 1, 2007, except that an exploration expenditure, in whole or in part, south of 68 degrees, 15 minutes, North latitude must be incurred for work performed before July 1, 2010, and except that an exploration expenditure for a Cook Inlet prospect must be incurred for work performed on or after July 1, 2005, and before July 1, 2010, and

**Page 6, line 12**

**Following:** "do not apply to"

**Delete:** "taxes applicable under this chapter attributable to production from oil and gas produced from an oil and gas lease, or to gas produced from a gas only lease, located north of 68 degrees, 15 minutes, North latitude or on"

Representative Hawker OBJECTED.

Ms. Cunningham explained the two parts of Amendment 1.

Co-Chair Meyer inquired about the reference to 68 degrees, 15 minutes. Ms. Cunningham clarified that it is south of the Brooks Range.

[3:27:28 PM](#)

Representative Hawker questioned the wording on page 6, line 12 "the provisions of this section do not apply to". Ms. Cunningham clarified that the language is correct.

Co-Chair Chenault referenced lines 13-17 on page 2, the new language in Amendment 1. He voiced concerned that the added language would allow credits for work from 2003 retroactively. He questioned if that would change the legislation from the 25-mile to the 10-mile, and also possibly within the 3-mile, with the commissioner's approval. He emphasized that it was not the original intent for work already performed to be included.

[3:30:08 PM](#)

Ms. Cunningham replied that there would need to be an exemption for Cook Inlet for July 1, 2005 to 2010.

DAN DICKINSON, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, ANCHORAGE, (via teleconference) spoke to the proposed change. The current language existing on page 2, after the 2010 date, should be there. The new language should only change lines 13-15. Ms. Cunningham responded that on line 15, 2010 should be deleted because the current program goes until 2007.

Mr. Dickinson explained that if the amendment were used to replace all the language, through and including 2010, then the clause that starts with "except" would accomplish the intent.

Representative Croft asked what would happen on page 6 if the provisions do not apply. He suggested eliminating Section 8. Ms. Cunningham replied that the rewrite on page 6, would not apply to ANWR. Representative Croft acknowledged his mistake.

[3:34:16 PM](#)

Co-Chair Chenault restated the potential conceptual amendment. Representative Kelly noted that the termination date would change.

[3:35:00 PM](#)

Co-Chair Chenault MOVED to ADOPT a Conceptual Amendment to Amendment 1 that adds back the language that expiration expenditures for Cook Inlet prospect must be incurred for work performed on or after July 1, 2005, and before July 1, 2010.

Representative Hawker WITHDREW his OBJECTION to adopt Amendment 1, as amended. There being no further OBJECTION, Amendment 1 was adopted.

[3:35:54 PM](#)

Co-Chair Meyer MOVED to ADOPT Amendment 2:

**Page 2, lines 1, 3, and 9**

Following: "under"  
Delete" [(b) AND]  
Insert: (b) and

**Page 2, line 7**

Following: "under"  
Insert: (b),

Representative Hawker OBJECTED for discussion purposes.

Ms. Cunningham explained that the amendment reinserts subsections (b) and (c) and clarifies that in order to get the credit, a company has to meet the qualifications under (b) which sets out the timeframes that exploration work occurs and (c), which is the 3-mile limit.

Representative Croft noted that it is not the 40/80 issue; it is a timing issue. Ms. Cunningham replied that is correct. She elaborated on the timeframe.

[3:38:21 PM](#)

Representative Hawker WITHDREW his OBJECTION to adopt Amendment 2. There being NO OBJECTION, Amendment 2 was adopted.

[3:39:13 PM](#)

Representative Kelly asked for an opinion from Department of Revenue.

[3:39:40 PM](#)

JERRY BURNETT, LEGISLATIVE LIAISON, DEPARTMENT OF REVENUE, stated that the bill preserves the intent of the statute.

Co-Chair Meyer declared a potential conflict of interest. Representatives Kelly and Hawker objected.

[3:41:25 PM](#)

Representative Hawker also declared a conflict of interest. Representative Kelly objected.

[3:42:05 PM](#)

Representative Foster MOVED to report CSHB 71 out of Committee with individual recommendations and the

accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 71 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a zero fiscal impact note by the Department of Revenue and with a new indeterminate fiscal impact note by the Department of Natural Resources.

[3:44:19 PM](#)

ADJOURNMENT

The meeting was adjourned at 3:44 PM.