

HOUSE FINANCE COMMITTEE
April 27, 2005
1:53 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:53:49 PM](#).

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Bill Stoltze, Vice-Chair

ALSO PRESENT

Senator Ralph Seekins; Lexi Hill, Institute of Social and Economic Research (ISER); Rynniva Moss, Staff, Representative John Coghill; Ian Fisk, Staff, Representative Bill Thomas; Kevin Brooks, Deputy Commissioner, Department of Administration; Scott Hawkins, General Manager Material Services, Alaska Supply Chain Integrators (ASCI); Cody Rice, Staff, Representative Carl Gatto; Representative Carl Gatto; Representative Peggy Green; Eddy Jeans, Director, Education Support Services, Department of Education and Early Development; Kate Giard, Chair, Regulatory Commission of Alaska; Russell Cockrum; Grayson Carlyle, Student, DZ Middle School; William Clifton, British Petroleum; Lynn Johnson, President, Dowland-Bach Corporation, Anchorage; Larry Howe, General Manager, Alliance; John MacKinnon, Deputy Director, Department of Transportation and Public Facilities

PRESENT VIA TELECONFERENCE

Margaret Lowe, Anchorage; Jason Wells, Valdez Fisheries Development Association; Peter Esquiro, NSRAA, Sitka; Cora Crome, Petersburg Vessel Owners Association, Petersburg

SUMMARY

MENTAL HEALTH TRUST BOARD CONFIRMATION
MARGARET LOWE, ANCHORAGE

CSSB 67(JUD)(efd fld)

"An Act relating to claims for personal injury or wrongful death against health care providers."

HCSSB 67 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with the accompanying zero fiscal notes by the Department of Law and by the Department of Commerce, Community and Economic Development.

HB 13 "An Act relating to reimbursement of municipal bonds for school construction; and providing for an effective date."

CSHB 13 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new fiscal impact by the Department of Education and Early Development, and with indeterminate fiscal note #1 by the Department of Education and Early Development, and with a new indeterminate fiscal note by the Department of Health and Social Services.

SSHB 53 "An Act relating to child-in-need-of-aid proceedings; amending the construction of statutes pertaining to children in need of aid; relating to a duty and standard of care for services to children and families, to the confidentiality of investigations, court hearings, and public agency records and information in child-in-need-of-aid matters and certain child protection matters, to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters, to the retention of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding, to eligibility for permanent fund dividends for certain children in the custody of the state, and to juvenile delinquency proceedings and placements; establishing a right to a trial by jury in termination of parental rights proceedings; reestablishing and relating to state citizens' review panels for certain child protection and custody matters; amending the duty to disclose information pertaining to a child in need of aid; authorizing additional family members to consent to disclosure of confidential or privileged information about children and families involved with children's services within the Department of Health and Social Services to officials for review or use in official capacities; relating to reports of harm and to adoptions and foster care; mandating reporting of

the medication of children in state custody; prescribing the rights of grandparents related to child-in-need-of-aid cases and establishing a grandparent priority for adoption in certain child-in-need-of-aid cases; modifying adoption and placement procedures in certain child-in-need-of-aid cases; amending treatment service requirements for parents involved in child-in-need-of-aid proceedings; amending Rules 9 and 13, Alaska Adoption Rules; amending Rules 3, 18, and 22, Alaska Child in Need of Aid Rules of Procedure; and providing for an effective date."

CSSSHB 53 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with five new fiscal impact notes: one from the Alaska Court System, one from the Department of Law, two from the Department of Health and Social Services, and two from the Department of Administration.

HB 257 "An Act relating to a procurement and electronic commerce tools program for state departments and instrumentalities of the state; and providing for an effective date."

CSHB 257 (JUD) was REPORTED out of Committee with a "no recommendation" recommendation and with zero fiscal impact note #1 by the Alaska Court System, and with indeterminate note #2 by the Department of Administration.

HB 243 "An Act relating to the maximum annual regulatory cost charge collected from certain regulated public utilities and pipeline carriers; and providing for an effective date."

HB 243 was heard and HELD in Committee for further consideration.

SB 103 "An Act relating to regulation of underground injection under the federal Safe Drinking Water Act; and providing for an effective date."

SB 103 was scheduled but not heard.

HB 218 "An Act relating to cost recovery fisheries for private nonprofit hatchery facilities."

HB 218 was heard and HELD in Committee for further consideration.

HB 279 "An Act relating to encroachments in the right-of-way of a highway."

CSHB 279 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with zero fiscal impact note #1 by the Department of Transportation and Public Facilities.

[1:56:14 PM](#)

CS FOR SENATE BILL NO. 67(JUD)(efd fld)

"An Act relating to claims for personal injury or wrongful death against health care providers."

SENATOR RALPH SEEKINS, sponsor, thanked the committee for their hard work.

[1:57:52 PM](#)

Representative Kelly MOVED to ADOPT Amendment 1:

Page 2, line 7
After "injury"
Delete "or death"

Co-Chair Meyer OBJECTED for discussion purposes.

Senator Seekins voiced support for the technical amendment. The amendment would add "or death" to paragraph (d)(e) after "injury."

Co-Chair Meyer WITHDREW his objection.

There being NO OBJECTION, Amendment 1 was adopted.

[1:59:17 PM](#)

Representative Foster MOVED to REPORT CSSB 67 (FIN) out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCSSB 67 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with the accompanying zero fiscal notes by the Department of Law and by the Department of Commerce, Community and Economic Development.

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MENTAL HEALTH TRUST BOARD CONFIRMATION
MARGARET LOWE, ANCHORAGE

Representative Weyhrauch asked if Ms. Lowe has any experience managing trusts. MARGARET LOWE, ANCHORAGE, testified via teleconference. She currently serves on the Endowment Committee and Board of the

Anchorage municipal Senior Center. She made functional ARCA, The Arc of Anchorage Trust for those with disabilities.

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Representative Hawker asked about her involvement with the ARK in Anchorage and the Mental Health Trust. Ms. Lowe related her experiences with the Mental Health Trust as Director and Commissioner of Health and Social Services, and the Executive Director of ARC.

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Co-Chair Chenault MOVED that the Committee accept Ms. Lowe's appointment to the Mental Health Trust Board. There being NO OBJECTION, it was so ordered.

[2:07:47 PM](#)

HOUSE BILL NO. 13

"An Act relating to reimbursement of municipal bonds for school construction; and providing for an effective date."

Representative Croft WITHDREW Amendment 1, which had been moved during .

Representative Croft MOVED to ADOPT Amendment 2:

Page 9, after line 16:
Add new section to read:

" **Sec.** The uncodified law of the State of Alaska is amended by adding a new section to read:
CONTINGENT EFFECT. Section 3 of this Act shall only apply if all school districts receive funding that is at least the equivalent of the funding they would have received under a base student allocation of \$4919 per student, in 2005 inflation-adjusted dollars, under the formula of state aid to public school districts in effect as of April 1, 2004. Inflation shall be calculated under this section as reflected by the United States Department of Labor's Consumer Price Index for Anchorage, Alaska."

Representative Croft noted the amendment would hold harmless the major urban areas: Anchorage and Fairbanks. He asserted that these areas need to be provided for during the transition period. The amendment would ensure that everyone would receive some increase.

Co-Chair Meyer WITHDREW his OBJECTION to adopt Amendment 2. There being further OBJECTION, Amendment 2 was adopted.

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Representative Joule MOVED to ADOPT Amendment 3:

Page 1, line 1, following "to":

Insert "**the school construction grant fund and to**"

Page 1, following line 4:

Insert new bill sections to read:

*** Section 1.** AS 14.11.008(a) is amended to read:

(a) In order to receive a grant under this chapter or an appropriation under AS 37.05.560, a district must

(1) be

(A) a rural educational attendance area;

(B) a municipal school district and, as of June 30 of the previous fiscal year, have a population of less than 1,000; or

(C) a municipal school district that operates schools on a military reservation; and

(2) provide a percentage share of the project cost, as determined under (b) or (c) of this section; a [. A] district shall provide the required participating share within three years after the date that the appropriation bill funding the grant is passed by the legislature.

*** Sec. 2.** AS 14.11.008(a) is repealed and reenacted to read:

(a) In order to receive a grant under this chapter or an appropriation under AS 37.05.560, a district must provide a percentage share of the project cost, as determined under (b) or (c) of this section. A district shall provide the required participating share within three years after the date that the appropriation bill funding the grant is passed by the legislature.

*** Sec. 3.** AS 14.11.008 is amended by adding a new subsection to read:

(g) Grant funds provided to a municipal school district under (a)(1)(C) of this section may only be used for the costs of school construction or major maintenance for a school located on a military reservation.

*** Sec. 4.** AS 14.11.011(a) is amended to read:

(a) A municipality that is a school district or a regional educational attendance area **eligible under AS 14.11.008(a)** may submit a request to the department for a grant under this chapter.

*** Sec. 5.** AS 14.11.011(a) is repealed and reenacted to read:

(a) A municipality that is a school district or a regional educational attendance area may submit a request to the department for a grant under this chapter."

Page 1, line 5:
Delete "**Section 1**"
Insert "**Sec. 6**"

Renumber the following bill sections accordingly.

Page 9, line 17:
Delete all material.
Insert new bill sections to read:

- "* **Sec. 9.** AS 14.11.008(g) is repealed.
- * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to read:
CONTINGENT EFFECT. Sections 1 - 7 and 9 of this Act take effect only if, at the first regular session or at a special session, the Twenty-Fourth Alaska State Legislature passes a bill appropriating an amount equal to or more than \$100,000,000 to the school construction grant fund under AS 14.11.008 - 14.11.011, as amended by secs. 1, 3, and 4 of this Act, and that bill becomes law not later than October 1, 2005.
- * **Sec. 11.** If, under sec. 10 of this Act, secs. 1, 3, 4, 6, and 7 of this Act take effect, they take effect July 1, 2005.
- * **Sec. 12.** If, under sec. 10 of this Act, secs. 2, 5, and 9 of this Act take effect, they take effect July 1, 2006.
- * **Sec. 13.** Section 8 of this Act takes effect July 1, 2005.
- * **Sec. 14.** Section 10 of this Act takes effect immediately under AS 01.10.070(c)."

Co-Chair Meyer OBJECTED.

Amendment 3 would restore contingency language adopted by the House HES Committee, which was removed from the committee Substitute adopted on April 26, 2005.

Representative Hawker asked for more information on the contingent effect.

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REPRESENTATIVE CARL GATTO, sponsor, noted that he was not present in the House Education and Social Services (HES) Committee when the amendments were made.

CODY RICE, STAFF, REPRESENTATIVE CARL GATTO, explained that the amendment was offered by Representative Cissna. The amendment would make reauthorization of the bond debt contingent on a direct appropriation of a minimum of \$100 million appropriation for areas without the ability to issue

debt: Regional Education Attendance Area's (REAA) and school districts under 5,000.

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Representative Joule referred to Kasayulie v. State of Alaska, which questioned if rural areas of the state were able to get construction projects done at the same rate as urban schools. He noted that the amendment would be in that spirit.

Representative Hawker related his reluctance to authorize additional funding and stressed the need to hold the line on the budget. He felt that areas with bonding capacity would be held hostage to a commitment on another appropriation bill. He noted that there is a school construction bill. He stated that he would support the amendment if there were an identifiable fund source and questioned if SB 155 would satisfy the \$100 million requirement [for rural support].

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Representative Joule did not know if SB 155 would meet the requirements. He noted that SB 155 goes down the major maintenance list, but does not address new school construction. House Bill 13 would address new school construction.

Representative Hawker felt that SB 155 would satisfy the intent [of the amendment]. Representative Joule pointed out that there is no certainty about SB 155.

Representative Croft referred to Representative Hawker's use of the word "hostage" and the battle between the two concepts rural vs. urban.

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Representative Gatto spoke in opposition to Amendment 3. He felt that HB 13 should stand alone and stressed that the intent is to put new schools in places where there are none. He spoke against tacking on other construction lists. He reiterated that there are areas that need schools. He argued against adoption of the amendment and recommended it be placed in separate legislation.

[2:22:22 PM](#)

Co-Chair Meyer noted that the bill came forth as a continuation of a match.

Representative Hawker defended his use of the term "hostage". He pointed out that there is \$141 million in

projects on the major maintenance list. He noted that the issue should be addressed and spoke against Amendment 3.

[2:24:00 PM](#)

Representative Croft maintained that statewide need would not be met without the amendment. He stressed that the problems of school construction is not that simple. He asserted that rural Alaska only gets schools built if they get together with urban projects and pointed out that Alaskans had voted for similar language. He felt that it would be inappropriate to proceed with urban school construction without provisions for rural construction. He maintained that the legislation, without the amendment, would be a "slap in the face" of the Kasayulie case. He spoke in favor of adopting Amendment 3 because it would provide some new construction in rural Alaska.

[2:27:31 PM](#)

Representative Gatto referred to the 70/30 split. He acknowledged that the only communities that only urban communities have applied, but stressed that any community could apply. He felt that the legislation would satisfy the requirements.

Mr. Rice addressed a legal opinion regarding Kasayulie v. State of Alaska. He pointed out that the case has not been decided and noted that any appropriation to urban districts is contingent on a vote of those districts and legislative appropriation. He added that a direct appropriation is always within the purview of the legislature. In addition, the 2002 provision went before the voters. The current legislation would not go before the voters. He referred to SB 155 and noted that the potential implications have not been addressed.

[2:29:59 PM](#)

Representative Joule spoke in support of the amendment and noted that it would be appropriate to merge the bills. He stressed that there is an opportunity to fund rural school construction.

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Representative Kelly questioned the rural participation.

[2:31:59 PM](#)

EDDY JEANS, DIRECTOR, EDUCATION SUPPORT SERVICES, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, explained that the participating share for a REAA is 2 percent.

Representative Foster observed that Nome does not get 2 percent. Mr. Jeans explained that there are REAA's and municipal school districts. There is a graduated scale for municipal school district grant programs based on property wealth per child.

Representative Croft added that the percentage is on a sliding scale. Mr. Jeans noted that the sliding scale for municipalities is 5 - 35 percent. Regional Education Attendance Area's are at 2 percent.

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Co-Chair Meyer maintained his OBJECTION.

A roll call vote was taken on the motion to adopt Amendment 3.

IN FAVOR: Moses, Weyhrauch, Croft, Foster, Joule
OPPOSED: Hawker, Holm, Kelly, Chenault, Meyer

The MOTION FAILED (5-5).

[2:35:34 PM](#)

Representative Hawker MOVED to ADOPT Amendment 4:

Page 7, line 15 through page 9, line 16
Delete all material
Renumber following sections accordingly

Co-Chair Meyer OBJECTED for discussion purposes.

Representative Hawker explained that the amendment would delete the mechanism for the district cost differential. He felt that the legislation was an inappropriate vehicle and spoke in support of keeping a clean bill.

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Co-Chair Chenault spoke against Amendment 4. He stated that the two studies were not conclusive. He acknowledged that problems remained, but emphasized that delay would only hurt students. All the studies demonstrated need, even if there is no agreement over the level of need. The bill is a compromise, phased in over 4 years, which helps out the school districts and forces everyone to admit that there is a problem in order to find a remedy. He spoke passionately about his school district's efficiency. He opined that short funding has made them efficient, but they can't go any farther. Rural Alaska only recently had to make the same cuts. He said the problem is the cost differential and stressed that he was trying to do what is best for kids around the state.

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Representative Hawker observed that the legislative drafters would conform the amendment. He addressed the fiscal notes, which show a \$20 million increase for each of the next four years. He pointed out that the cost would be \$80 million by FY09. He argued for being judicious.

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Co-Chair Meyer WITHDREW his objection. Co-Chair Chenault maintained his objection.

A roll call vote was taken on the motion.

IN FAVOR: Hawker, Meyer

OPPOSED: Weyhrauch, Croft, Foster, Holm, Joule, Kelly, Moses, Chenault

The MOTION FAILED (2-8).

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Co-Chair Chenault spoke in support for the bill.

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GRAYSON CARLYLE, STUDENT, DZ MIDDLE SCHOOL, spoke in support of HB 13. He referred to district cost factors and the Institute of Social and Economic Research (ISER) research. He spoke in support of the new costs factors, which he felt were better than the current ones. He stressed the need to take steps forward to improve school systems.

Representative Foster MOVED to report CSHB 13 (FIN) out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 13 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new fiscal impact by the Department of Education and Early Development, and with indeterminate fiscal note #1 by the Department of Education and Early Development, and with a new indeterminate fiscal note by the Department of Health and Social Services

[2:50:42 PM](#)

HOUSE BILL NO. 257

"An Act relating to a procurement and electronic commerce tools program for state departments and

instrumentalities of the state; and providing for an effective date."

KEVIN BROOKS, DEPUTY COMMISSIONER, DEPARTMENT OF ADMINISTRATION, provided a brief overview of the legislation. House Bill 313, which introduced a procurement pilot program, was authorized by the legislature several years previously. The first year was spent to set up the pilot. A pilot program was set up with the Department of Transportation and Public Facilities, Southeast Region and a private contractor (Alaska Supply Chain Integrators). House Bill 257 would extend the sunset date for the procurement pilot program to June 30, 2007. Bidder preferences would also be brought into statute. He pointed out that the process is in the early stages. There has not been sufficient time to demonstrate if privatization of procurement process would result in a savings.

Representative Weyhrauch observed that the contractor, Alaska Supply Chain Integrators, does not have to follow state procurement codes and questioned why have procurement codes if the contractor does not have to follow it. Mr. Brooks stressed that the intent of the procurement code is to give entities in competition for state dollars a fair chance at winning awards. The Administration feels that the procurement code is a valid and useful tool [for state government]. He could not address why the procurement code was not included in the legislation.

Representative Weyhrauch referred to A.S. 36.30.180: The legislature finds that there exists in the state continuing high unemployment, underutilization of resident construction and supply firms, and high costs unfavorable to the welfare of Alaskans and to the economic health of the state. The purpose of bidder preference for resident firms when the state acts as a market participant is to encourage local industry, strengthen and stabilize the economy, decrease unemployment, and strengthen the tax and revenue base of the state. Mr. Brooks noted that the intent of the pilot project is to analyze the process.

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Representative Weyhrauch questioned if the information should be present before the program is expanded. Mr. Brooks clarified that the legislation would not expand the program; the program would only be extended by one year. The bill does not expand the program beyond original concept.

[2:57:31 PM](#)

Representative Joule spoke of a legal review contract by the employee's review union. He thought the program was found to be discriminatory. Mr. Brooks did not know. He referred to

Line 10, Page 1, and noted that the statutory cite should be changed from "A.S. 36.30.100 - 36.30.190" to "A.S. 36.30.100 - 36.30.265." This would include both sealed proposals and bids.

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SCOTT HAWKINS, GENERAL MANAGER MATERIAL SERVICES, ALASKA SUPPLY CHAIN INTEGRATORS (ASCI), ANCHORAGE, provided a brief history of the company and its perspective as a program operator and specialist firm. He emphasized that ASCI has the tools and specialties to make advantages and achieve meaningful reductions. He noted that they are operating with six people, where the state used 10. He addressed cost savings and pointed out the advantage of consolidating purchasing for state agencies, which would allow the state to go to market and achieve better arrangements. The legislation can accomplish its goals, driven in part by computer automation, made possible by using computer automation and contracting out non-core business. The program shifts funds from overhead functions to direct program outcomes. The state recently issued its first Internet order and has begun to order from catalogs. He acknowledged that change is not easy.

Representative Croft asked if there have been cost savings. Mr. Hawkins responded that there are start up costs that are shared. The contract is a fixed price contract and provides a \$160 thousand improvement in the cost of personnel.

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Mr. Hawkins noted that the vast majority is for smaller purchases. Representative Croft questioned where the cost savings are coming from. Mr. Hawkins responded that initial cost savings occur through personnel and the use of web tools. Automation of the order delivery process accounts for much of the initial savings. He stressed that as orders are placed through the catalog, better prices can be obtained.

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Representative Croft asked if the program had the effect of shifting purchases to outside suppliers. Mr. Hawkins responded that the program would not shift to outside vendors. The program does not change the vendors; it makes the ordering process quicker and more efficient. The agenda is to encourage the Alaskan process.

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Representative Croft noted that the initial savings are from the paper system. He noted that the use of market power would pressure vendors to lower their prices and questioned

if local suppliers will have to lower their prices to respond to that pressure. Mr. Hawkins did not think that there was anything inherent in volume accumulation, which would disadvantage Alaskan vendors.

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Representative Holm disagreed. He pointed out that larger quantities allow vendors to reduce their freight rates. He expressed concern that it would be difficult for local businesses to compete against catalog companies. He referred to vendor kickbacks. He wanted more assurances and sideboards.

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Mr. Hawkins emphasized that the state of Alaska would benefit from any "kickbacks". He observed that Alaskan suppliers are often better off, in that they have experience in calculating freight costs.

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Representative Holm reiterated that freight is a big concern and is a disadvantage for Alaskan companies. He observed that Home Depot has the ability to spread freight costs over all their stores. He maintained that large box stores could destroy small businesses. He wondered how small businesses would be affected. He asked why state procurement codes were not followed.

Mr. Hawkins explained that the legislation exempted them from the procurement codes. He explained that they follow the contract terms, which are astringent rules and are effectively their procurement code. He recalled that the decision was made to exempt them from the procurement code because it was too difficult to rewrite [the codes into the contract] in a way that would apply to current practices. Representative Holm urged him to not adversely impact small businesses. Mr. Hawkins noted that their contract requires them to be pro-Alaskan.

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Representative Weyhrauch asked what the start-up costs are. Mr. Hawkins listed several of their start up costs: developing a 5,000-item catalog and integrating web tools. Representative Weyhrauch asked the state's share of the cost. Mr. Hawkins noted that the total startup costs were \$180 thousand, of which the state paid \$60,000.

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In response to a question by Representative Kelly, Mr. Hawkins explained that the original bill allowed the Administration to extend the program to other agencies, the current version only extends the program a year. He emphasized that this type of change is difficult because there is natural opposition. He clarified that their contract expires in 14 months. The legislation allows the Administration to negotiate an extension.

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LARRY HOWE, GENERAL MANAGER, ALLIANCE, encouraged support of the bill. He maintained that the pilot program has demonstrated efficiencies and that the cost savings can be achieved in other areas.

Representative Weyhrauch asked if Mr. Howe had reviewed any reports, which demonstrate the economic benefits seen in the cost analysis. Mr. Howe replied that he had seen a power point presentation by ASCI that showed \$163 thousand in savings.

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LYNN JOHNSON, PRESIDENT, DOWLAND-BACH CORPORATION, ANCHORAGE, testified in favor of HB 257. His company competes daily with outside firms. He emphasized the ability of e-commerce to lower the state of Alaska's costs.

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Representative Foster MOVED to REPORT CSHB 257 (JUD) out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 257 (JUD) was REPORTED out of Committee with a "no recommendation" recommendation and with zero fiscal impact note #1 by the Alaska Court System, and with indeterminate note #2 by the Department of Administration.

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At ease.

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SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 53

"An Act relating to child-in-need-of-aid proceedings; amending the construction of statutes pertaining to children in need of aid; relating to a duty and standard of care for services to children and families, to the confidentiality of investigations, court

hearings, and public agency records and information in child-in-need-of-aid matters and certain child protection matters, to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters, to the retention of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding, to eligibility for permanent fund dividends for certain children in the custody of the state, and to juvenile delinquency proceedings and placements; establishing a right to a trial by jury in termination of parental rights proceedings; reestablishing and relating to state citizens' review panels for certain child protection and custody matters; amending the duty to disclose information pertaining to a child in need of aid; authorizing additional family members to consent to disclosure of confidential or privileged information about children and families involved with children's services within the Department of Health and Social Services to officials for review or use in official capacities; relating to reports of harm and to adoptions and foster care; mandating reporting of the medication of children in state custody; prescribing the rights of grandparents related to child-in-need-of-aid cases and establishing a grandparent priority for adoption in certain child-in-need-of-aid cases; modifying adoption and placement procedures in certain child-in-need-of-aid cases; amending treatment service requirements for parents involved in child-in-need-of-aid proceedings; amending Rules 9 and 13, Alaska Adoption Rules; amending Rules 3, 18, and 22, Alaska Child in Need of Aid Rules of Procedure; and providing for an effective date."

House Bill 53 was previously heard and amended on April 26, 2005.

Representative Croft MOVED to ADOPT Amendment 15:

Page 7, line 20, after the word "hearings"
Delete: "in the case"

Co-Chair Chenault OBJECTED.

Representative Croft explained that Amendment 15 arose from discussions during the previous hearing. The amendment would broaden the bill to exclude persons involved in other cases. He noted that it might be appropriate to exclude, for example, a reporter who had disclosed names of children in a previous case.

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RYNNIEVA MOSS, STAFF, REPRESENTATIVE JOHN COGHILL, noted that the sponsor had no objections to adopting Amendment 15.

Co-Chair Chenault WITHDREW his OBJECTION. There being NO OBJECTION, Amendment 15 was adopted.

[3:39:05 PM](#)

Representative Croft MOVED to ADOPT Amendment 16:

Page 22, line 15, after the word "Confidentiality."
Delete lines 15 through 19

Insert:

"A person attending a meeting of the state panel or, a member or staff of the state panel may not make any disclosure related to information obtained during a review by the panel unless authorized by AS 47.10.092 or 47.10.093.

Co-Chair Chenault OBJECTED for the purpose of discussion.

Ms. Moss observed that Amendment 16 should contain a technical amendment:

Delete the comma

Insert "or"

There being NO OBJECTION, the amendment to Amendment 16 was adopted.

Co-Chair Chenault WITHDREW his objection to adopt Amendment 16. There being NO OBJECTION, Amendment 16, was adopted as amended.

[3:40:04 PM](#)

Representative Hawker MOVED to ADOPT Amendment 17:

Page 22, line 24

Insert:

(c) to read: "the citizen review panel is subject to the provisions of the Open Meeting Act under AS 44.62.310.

Co-Chair Chenault OBJECTED.

Ms. Moss observed that the review panel would operate under the Open Meetings Act. The amendment would provide them with the ability to declare an executive session and close the meeting. The sponsor supported Amendment 17.

Co-Chair Chenault WITHDREW his OBJECTION. There being NO OBJECTION, Amendment 17 was adopted.

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Representative Croft asked about the fiscal notes. Ms. Moss observed that the total amount is \$1,174,200.

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Representative Hawker asked if the sponsor concurs with the nature of the fiscal notes. He asked that they be viewed as one-time increments.

Co-Chair Chenault agreed with Representative Hawker.

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Representative Croft asked if a standard of care was addressed. Ms. Moss believed that case law provides for a standard of care.

[3:44:29 PM](#)

Representative Foster MOVED to report CSSSHB 53 (FIN) out of Committee with individual recommendations and the attached fiscal notes. There being NO OBJECTION, it was so ordered.

CSSSHB 53 (FIN) was REPORTED out of Committee with a "no recommendation" recommendation and with five new fiscal impact notes: one from the Alaska Court System, one from the Department of Law, two from the Department of Health and Social Services, and two from the Department of Administration.

[3:45:38 PM](#)

HOUSE BILL NO. 218

"An Act relating to cost recovery fisheries for private nonprofit hatchery facilities."

Co-Chair Meyer MOVED to ADOPT the work draft for HB 218, labeled 24-LS0544\X, Utermohle, 4/26/05. There being NO OBJECTION, it was so ordered.

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IAN FISK, STAFF, REPRESENTATIVE BILL THOMAS, spoke in support of HB 218. He maintained that the hatchery system is a great success as an economic development program. He observed that 25 percent of the salmon value is produced by hatcheries. Hatchery operators contract with bid processors through a bid process every spring for product harvest. The commercial fishing industry would like to see that hatcheries maximize the amount of fish that return to the

hatchery in the common property fishery. He maintained that those that are intended to benefit from the hatchery program should have the most fish possible. The legislation is an optional bill. He pointed out that the sponsor is a supporter of hatcheries. The legislation would provide sufficient revenue by increasing the assessment to 40 percent.

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Representative Hawker asked how the bill relates to corporations organized under the state's Aquaculture Act vs. the Salmon Farming Act. Mr. Fisk explained that the state hatchery program has helped the system develop, which is basically ocean ranching as wild fish are protected from predation and returned to the ocean. Representative Hawker noted that it is not salmon farming.

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Representative Hawker observed that the legislation is a complex implementation of a way to pay for the cost of operating hatcheries. He referred to Page 3, line 20. He noted that once the Department of Revenue has the funds the legislature "may" appropriate the funds. He questioned if the legislature has to appropriate the money in order for the hatchery to receive operating funds. Mr. Fisk acknowledged that the legislature would have to make the decision and stated that he confidence [that the appropriation would be made] based on other pass through taxes. He noted that the intent is very clear, though there are some in the hatchery business who are uncomfortable about giving up control. Representative Hawker summarized that the intent is that the hatchery would make the ultimately decision to pursue the venue for funding. He wanted to assurance that the interests of the investors were protected.

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Representative Weyhrauch referred to Page 3, line 28, and questioned if "is" should be changed to "may be". Mr. Fisks stressed that the intent is that people be held accountable. A misdemeanor under the section is a step above a regular class A misdemeanor and could result in the loss of a vessel, fishing gear or fish on board at the time of violation. The intent is to maintain a strong penalty. Representative Weyhrauch asked if there is intent to interfere with the cost recovery program of private non-profit hatcheries. Mr. Fisk noted that the issue would come under subsection (1) on Page 1, which is existing statute. There is no intent to interfere; the intent is to leave it up to hatcheries. Representative Weyhrauch emphasized that

cost recovery and management of the fisheries would remain with the Department of Fish and Game. Mr. Fisk agreed.

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Representative Croft observed that currently hatcheries contract with fishermen for enough to sell for the cost of operations and close the fisheries to anyone other than the hatchery authorized contract fisherman. Mr. Fisk agreed and added that the procedure has been in place for a while and is part of the genesis of the bill.

Representative Croft observed that if enough fish are not harvested the opening would be extended. He acknowledged the difficulty of extending the opening, but asked why someone might switch to a system where a fish assessment would be taken on every opening. Mr. Fisk pointed out that there is variability in every system measuring wild stock and periodic adjustments are needed. The Southeast Alaska fishing fleet has shown the most interest in the option.

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JASON WELLS, EXECUTIVE DIRECTOR, VALDEZ FISHERIES DEVELOPMENT ASSOCIATION (VFDA), testified via teleconference against HB 218. He maintained that the legislation would inhibit the hatcheries ability to make processors compete to purchase salmon. He asserted that the ability of hatcheries to negotiate price has saved fishermen millions of dollars over the years. He suggested that if direct sales must be minimized, as contained in the findings section, that hatcheries would be open to legal action annually by any processor that feels they have sold to many fish or should have sold him the fish. He maintained that if the findings in the bill are passed, that the hatchery would lose its ability to set budgets. He observed that hatcheries are the last vestige of upward pressure on the pink salmon price by competition. If the ability to bid salmon is lost, hatcheries would be at the mercy of the processor to set grounds prices. He expressed concern that the legislation could be made mandatory, which would result in a loss of the revenue stream and an inability to repay state loans. He asked that the findings section be eliminated.

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PETER ESQUIRO, NSSRAA, SITKA, testified via teleconference. He suggested changes to the legislation (version S). The first suggestion was to add "if not a qualified regional aquaculture association" on Page 2, line 16 and on Page 3, line 8". On Page 3, line 9, he suggested elimination of "to the state", which refers to covered debt service to the state of Alaska. He added that Page 3, line 11 should include "operational" and spoke in support of a new line

stating: "a corporation board of directors may create other funds as deemed appropriate to carrying out its fiduciary responsibilities". He also asked that "the amount of existing reserve" be changed "to undesignated reserve" on Page 3, line 14.

Representative Weyhrauch stated that he would work with Mr. Esquerro and discuss his suggestions with the sponsor.

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CORA CROME, PETERSBURG VESSEL OWNERS ASSOCIATION, PETERSBURG, Alaska Salmon Fisheries, testified via teleconference in support of the legislation. She maintained that the bill would allow another option for operational cost recovery. She maintained that the legislation is permissive.

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RUSSELL COCKRUM, KETCHIKAN, Salmon Seiner, spoke in support of HB 218. He maintained that the legislation would increase the value, quality production timing of the harvest. He observed that cost recovery fish receive a higher price. He suggested that the program be mandatory.

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Representative Weyhrauch MOVED to ADOPT Conceptual Amendment 1, to remove Section 1, delete the findings section (section 1).

Co-Chair Meyer OBJECTED for discussion purposes.

Mr. Fisk stated that the amendment would be acceptable to the sponsor.

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At ease.

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HB 218 was HELD in Committee for further consideration.

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HOUSE BILL NO. 279

"An Act relating to encroachments in the right-of-way of a highway."

REPRESENTATIVE HAWKER, SPONSOR, spoke in support of the legislation, which was introduced by the House Transportation Committee, on behalf of Representative Hawker and Representative Stoltze. He maintained that the legislation would clear an inconsistency in the current law regarding the use of highway right-of-ways. Federal law requires all that encroachments from project construction be removed from the right-of-way. He gave examples of how current law has inconvenienced businesses in his district. House Bill 279 inserts an exception into statute that will grandfather current encroachments in the right-of-way. They may remain until such time as [the state of Alaska] needs to have the encroachments removed. He mentioned Amendment #1, which would further clarify the rights of the state. (see below). The bill does not address billboards or other signs.

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Representative Holm mentioned the fiscal note, which contains no increment.

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JOHN MACKINNON, DEPUTY DIRECTOR, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, stated that the Department has not refined the fiscal note. There is an annual economic rent. An application fee would be set through regulation for encroachment based on appraisal or \$100 dollars per year, which ever is greater. He acknowledged that there would be an incremental cost in handling permits.

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Representative Holm expressed concern with the legislation. He observed that the landowner owns the property, yet the state has the right to charge them for an easement. Mr. MacKinnon clarified that the process is in current regulation.

Representative Hawker commented that property is acquired subject to the easement. The landowner is entitled to fee simple and subject to the easement rights.

Mr. MacKinnon noted that there are two classes of right or ways: where the state has an easement and where the state owns the property. It is difficult to collect payments when the state only has an easement.

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Representative Kelly asked if the legislation would resolve any federal requirements: maintenance concerns & standards. He commented on Amendment #1 and questioned if it would cover maintenance needs. Mr. MacKinnon responded that encroachments were not close enough to the road to cause trouble. There is no problem with mailboxes.

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Representative Hawker noted that the legislation only addresses existing encroachments and does not allow any new ones. The amendment specifically addresses qualifications.

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Representative Hawker MOVED to ADOPT Amendment #1 as amended (see applicant below):

Page 1, line 12, following "remain"
Insert ", subject only to removals required by federal highway funding requirements imposed on the state by federal law,"

Page 1, line 15 through page 2, line 13
Delete all material
Insert

"(c) Upon receipt of an application, the department shall issue an encroachment permit to a private person, a government agency acting in a business capacity, or an owner or lessee of land contiguous to the right-of-way for an encroachment that on the effective date of this Act is present within the right-of-way of an interstate, primary, or secondary highway and is not authorized by a written encroachment permit if the department finds that:

(1) the encroachment does not pose a risk to the traveling public and the integrity and safety of the highway is not compromised;

(2) the applicant [application] has demonstrated the encroachment was erected in good faith;

3) the denial of the encroachment permit would pose a hardship on the person, agency, owner, or lessee who applies for the permit;

(4) the issuance of an encroachment permit will not cause a break in access control for the highway;

(5) the land will not be necessary for a highway construction project during the initial term of the permit; and

(6) issuance of a permit is consistent with federal requirements regarding encroachments on federal aid highways.

(d) The department may not remove an encroachment present within the right-of-way of an interstate, primary, or secondary highway that is not authorized by

a written encroachment permit on the effective date of this Act until the department determines that the encroachment does not qualify for an encroachment permit issued under this section. The department may charge an application fee, not to exceed \$100, for a permit issued under this section. An encroachment permit issued under this section may contain reasonable conditions to protect the traveling public, the safety and integrity of a highway's design and the public interest.

(e) The land area described in an encroachment permit may not be used to meet minimum requirements for a contiguous land use under applicable municipal land use standards or under applicable regulations adopted by the Department of Environmental Conservation. The use of land contiguous to the land area described in the permit must satisfy the applicable municipal land use standards and applicable regulations adopted by the Department of Environmental Conservation without regard to the land area described in the permit.

(f) The issuance of an encroachment permit under AS 19.25.200 - 19.25.250 does not entitle the owner, occupant, or person in possession of the encroachment, or any other person to a payment of compensation or of relocation benefits under AS 34.60, if the encroachment permit is revoked or not renewed or if the encroachment must be changed, relocated, or removed under AS 19.25.200 - 19.25.250.

Representative Holm referred to provisions for the Department of Environmental Conservation to create applicable regulations for the use of contiguous lands. He questioned if contiguous lands would be kept under the same umbrella of use.

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Representative Hawker clarified that the intent is that the issuance of a permit not create, for any land owner, a thing of value that they do not already exist a thing of value that they already possess. There is no intention to devalue any right that the landowner possesses. The contiguous land concept addresses these concerns.

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Representative Holm expressed concern with Section E and questioned what type of restraints would be put on the property.

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In response to Representative Holm's concerns, Representative Hawker stated that he would entertain a

separate amendment to remove "applicable regulations adopted by the Department of Environmental Conservation".

Representative Holm WITHDREW his OBJECTION to Amendment #1.

Representative Kelly referred to liability. Mr. MacKinnon noted that liability is covered as part of the permit holder's homeowners' insurance. He stated that he was more concern with the public coming through and getting injured.

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There being NO OBJECTION, Amendment #1 was adopted.

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Representative Holm asked for more information on Section E.

Mr. MacKinnon replied that the intent was not to run a foul of on site wastewater requirements.

Representative Hawker stressed that they are attempting to walk among existing rights, standards and regulations, while addressing individual problems.

[4:44:19 PM](#)

Mr. MacKinnon spoke in support of the legislation.

[4:45:00 PM](#)

Representative Foster MOVED to REPORT CS HB 279 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 279 (FIN) was reported out of Committee with a "no recommendation" recommendation and with zero fiscal note #1 by the Department of Transportation and Public Facilities.

[4:46:13 PM](#)

HOUSE BILL NO. 243

"An Act relating to the maximum annual regulatory cost charge collected from certain regulated public utilities and pipeline carriers; and providing for an effective date."

KATE GIARD, CHAIR, REGULATORY COMMISSION OF ALASKA (RCA), testified via teleconference in support of the legislation. She gave a brief history of her chairmanship and noted that she was responding to concerns expressed to her. She emphasized that the RCA needed to address several concerns

before its renewal comes before the legislature in 2007. She acknowledged the frustrations the legislature had with the RCA. As soon as she became chair, she began an outreach effort to the public utilities and pipelines that it regulates in order to find out more about their concerns. She gave examples of her attempts to demonstrate to the utilities that more can be expected of the Regulatory Commission of Alaska. She acknowledged that the RCA lacks systems, management, and normal ongoing processes expected to track, follow, monitor, and manage data in order to get its work done in a timely manner. The legislation would increase [the amount allowed to fund the commission] from .7 to .9 percent for three years. The goal is to bring in sufficient additional revenues to support the acquisition and implementation of these systems after which the RCA would return to its current funding level. Ms. Giard concluded by noting that she would appreciate the Committee's support of HB 243.

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Representative Kelly asked if the utilities support the increase. Ms. Giard noted that through a public process the utilities asked for an advisory group, which occurred in January. There has been unified support from utilities. Mk asked for assurance that the increase would be temporary, which Ms. Giard provided.

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Representative Hawker asked if the receipts are ultimately passed on to the consumers of the utilities. Ms. Giard acknowledged that utilities pass the cost on to the ratepayers, but emphasized that she didn't want the money to sit on the capital side because it's money that ratepayers have paid. Ratepayers pay approximately 72 cents per year, per regulated services. The average customer has three services (\$2.16 per year for there years). The funds would be used as operating expenses to fund the systems and would not be put into capital. She noted that capital funds could be used for other projects. The funding would be designated as operating and would return to the consumers the following year if it is not spent.

Representative Hawker summarized that that the Regulatory Commission of Alaska would receive \$3.9 million in new money. He asked what the public would be buying with the money. Ms. Giard explained that it would enable utilities to electronically file data and to have a holding place, a data warehouse, for that data. Representative Hawker noted that the bill is the A version and has survived Labor and Commerce.

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Co-Chair Chenault referred to the Governor's transmittal letter of Nov. 30, which asks for money to improve information systems. He voiced a concern about "to fund the operation of the commissioner" to reduce regulatory costs. Ms. Giard said she could understand that concern and pointed out that the funding is contractual.

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Representative Kelly spoke in support of the legislation. He felt that the Regulatory Commission of Alaska is moving forward in the right direction.

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WILLIAM CLIFTON, BRITISH PETROLEUM, spoke in favor of HB 243. He described his company's services. He noted that the process in place is extremely expensive for the regulated parties. He stressed that efficiencies create greater financial certainty for all parties.

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HB 243 was HELD in Committee for further consideration.

ADJOURNMENT

The meeting was adjourned at 5:07 PM