

HOUSE FINANCE COMMITTEE
April 20, 2006
8:48 a.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [8:48:17 AM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Richard Foster
Representative Jim Holm
Representative Reggie Joule
Representative Mike Kelly
Representative Beth Kerttula
Representative Carl Moses

MEMBERS ABSENT

Representative Mike Hawker
Representative Bruce Weyhrauch

ALSO PRESENT

Senator Bunde; Representative Coghill; Greg Winegar, Director, Division of Investments, Department of Commerce; Rynnieva Moss, Staff, Representative Coghill; Wayne Stevens, Alaska State Chamber of Commerce; Tom Nelson, Director, Division of Employment Securities, Department of Labor; Josh Tempel, Staff, Senator Charlie Huggins; Randy Ruaro, Legislative Liaison, Department of Law.

PRESENT VIA TELECONFERENCE

Commissioner Merkes, Human Rights Commission; Steve Koteff, Human Rights Commission.

SUMMARY

HB 304 "An Act relating to the commercial fishing loan program; and providing for an effective date."

CSHB304 (FIN) was REPORTED OUT of Committee with a new zero fiscal note (CCED) and individual recommendations.

SB 306 "An Act requiring an employing unit with a change in ownership, management, or control or similar change to notify the Department of Labor and

Workforce Development of the change; relating to the unemployment contribution rate of an employing unit; defining 'business' for purposes of statutes setting unemployment contribution rates; establishing the crime of obtaining an unemployment rate by deception; and providing for an effective date."

SB306 was Reported Out of Committee with one previously published zero fiscal note (LWF) and Individual Recommendations.

SB 216 "An Act relating to bail."

HCS CS SB216 (FIN) was Reported Out of Committee with two fiscal notes: #1, zero, (COR); #2, indeterminate, (ADM) and individual recommendations.

SB 132(efd fld)

"An Act relating to complaints filed with, investigations, hearings, and orders of, and the interest rate on awards of the State Commission for Human Rights; and making conforming amendments."

CSSB132 (FIN) was REPORTED OUT of Committee with two previously published zero fiscal notes (#3, OOG; #4, LAW) and No Recommendation.

#HB304

HOUSE BILL NO. 304

"An Act relating to the commercial fishing loan program; and providing for an effective date."

REPRESENTATIVE JOHN COGHILL, SPONSOR introduced the bill. He explained the history of the bill, regarding the State loaning to the fisheries. He discussed his initial desire years ago to disassemble the loan program, and how it eventually educated him on how the program helped the fishers of Alaska. He noted that fishers could be competing in the same waters, while their loans were being provided at different levels of service. He also noted that permitting in Alaska was designed to keep fishing in Alaska. He concluded that the fishing loan program has served a good purpose.

Representative Coghill went on to propose, however, that the purpose of the program should be as a safety net, used only as a "last resort". Although he commended the current operation, he commented that the purpose of the bill was to set guidelines, for example requiring that applicants also

apply at other lending institutions, including the commercial fishing agricultural loan bank.

[8:52:24 AM](#)

Representative Coghill directed the Committee to the requirements outlined on page 2 of the bill, since SEFAB is not federally chartered, but is the only other lending institution statutorily able to make loans on permits. The bill is intended to encourage fishers, if viable at other lending institutions, to make their loan privately. He also referred to Section 2, which changes the limit of a loan as a percentage of collateral from 90% to 80%.

[8:53:51 AM](#)

Section 3 limits loans: up to \$35,000 of federal tax obligations, an allowance based on the upward cpi; community quota shares may not exceed \$2 million for each community eligible under federal statute; the amount of an aggregate loan is limited to \$400,000. The Sponsor noted he began with a limit of \$300,000, but adjusted to match portfolio limits.

[8:54:29 AM](#)

Representative Coghill referred to a change in the lending rate, on Page 5, line 1. He explained that prime plus two percent was the calculation used. He expressed support of an amendment that clarifies this calculation. He concluded that the bill made the loan program more streamlined, but still effective in helping Alaskan fishers. He suggested that it also introduced "reality" for fishers in servicing their debt. He finally noted services available that are not given by other institutions: 1) (lower) application fee 2) refinancing fees waived 3) deferred interest rate subsidy. These are benefits and flexibilities unique to this program. The Sponsor stated that fishers in Alaska need the system, but proposed it should serve as a safety net.

[8:56:56 AM](#)

Representative Holm referred to line 4 of Page 5, and the change to 80 percent of value of collateral. He asked why this change was made. Representative Coghill stated that this brought the percentages in line with other lending institutions.

Representative Coghill conceded that while this was an unfamiliar topic for the interior, it came from a desire to keep the government from competing with the open market in providing loan service to Alaskan fishers.

Representative Chenault asked for the Department to address the fiscal note.

[8:59:35 AM](#)

GREG WINEGAR, DIRECTOR, DIVISION OF INVESTMENTS, DEPARTMENT OF COMMERCE, testified regarding the bill. He noted that his division had worked with the Sponsor for quite some time to make program changes that would not harm the fund itself. He noted that thousands of Alaskans benefited from this fund, and expressed appreciation for the Sponsor's willingness to work with Department concerns. He noted that the issue had been worked on since the 1970's, in an effort to ensure that Alaskans could participate in fisheries. They have helped over 6,000 harvesters. He stated that the program has been successful, ultimately bringing monies into the General Fund. He urged caution in making changes to the program. He expressed that they believe that the bill was able to accomplish changes effectively.

[9:01:24 AM](#)

Mr. Winegar referred to the fiscal note, and pointed out that by reducing the amount of refinancing from \$300 to \$200 thousand, it would result in one fewer loan per year. Also by reducing the limits on loans from \$600 thousand to \$400 thousand, it would potentially reduce the number of loans by one loan per year. The fiscal note reflects the reduced interest income over a six-year period.

[9:02:11 AM](#)

Representative Chenault asked about the delinquency rate of 9.6 percent, and whether this was normal for the market. Mr. Winegar commented that the rate indicated was actually higher than the current rate of 4.9 percent. The rate varies over the years, depending on how fisheries succeed, and 9.6 percent is an average over years.

[9:02:54 AM](#)

Representative Chenault referred to the current \$400 thousand limit on outstanding loan balances. Mr. Winegar noted that this referred to the combination of various loans, as fisheries can apply for different kinds of loans on different sections of statute. Responding to a follow-up, Mr. Winegar confirmed that this number was previously \$630 thousand, and currently was at \$930 thousand due to recent legislation referring to product quality for tenders. He noted that they had never had anyone borrow up to that limit; while one borrower currently owed \$400 thousand, the majority of the portfolio is well under the limits.

[9:04:23 AM](#)

Co-Chair Meyer noted that in the fiscal note, the amount would be lowered from \$630 to \$335 thousand, as opposed to \$400 thousand in the bill. Mr. Winegar confirmed that this figure needed to be updated. It was discovered that a new fiscal note reflects the correct amount.

[9:04:58 AM](#)

Representative Holm asked if it was expected that the number of delinquencies or write offs would change commensurate with legislative changes. Mr. Winegar noted that he did not expect changes; the statute would reduce to 80 from 90 percent the loan to value ratio, something that by policy was already occurring, which was more typical for other lending institutions.

Responding to a follow up by Representative Holm, Mr. Winegar noted that the default rate was at one percent, with a delinquency rate of 4.9 percent.

[9:06:23 AM](#)

Representative Kelly MOVED to ADOPT Amendment #1, 24-LS0523\S. He pointed out a typographical error in the amendment, from "point" to "points" on line 3. Co-Chair Meyer OBJECTED.

Co-Chair Meyer closed public testimony on the bill.

RYNNIEVA MOSS, STAFF, REPRESENTATIVE COGHILL explained the Amendment. She noted that the current loan program used prime rate plus, and that the provision was amended to 10.5 percent in House Resources Committee. These percentage rates reflect a difference in philosophy in terms of percentage rate restrictions. She pointed out the concern that, when the 10.5 percent cap was placed into statute, the loaning agency did not have the ability to refinance. There is also concern over the lack of a cap on the interest rates used to make bonds, which could hypothetically exceed the interest rate on the loan. This provision gives the ability to adjust the interest rates if necessary.

[9:09:01 AM](#)

Responding to a question by Representative Chenault, Ms. Moss noted that prime rate was currently 7.75, and their rate was 9.5. She explained that rates are determined on a quarterly basis.

[9:09:33 AM](#)

Representative Kerttula noted the delinquency and default rates and asked what raising the interest rate might do to the amount of defaults. Mr. Winegar noted that this simply

added a 10.5 percent cap. Representative Kerttula asked what the result was for fishers that exceeded that cap. Mr. Winegar noted that their expense would be higher, and mentioned a program for repayment.

[9:10:51 AM](#)

Representative Kerttula observed that the program was currently successful, bringing in money for the state with low delinquency rates.

[9:11:20 AM](#)

Ms. Moss pointed out that this bill would not affect the current portfolio, and only new loans.

Responding to a question by Representative Foster, Mr. Winegar confirmed that the loan program was only for those who have been Alaska residents for at least two years.

Co-Chair Meyer REMOVED his OBJECTION.

Representative Kerttula OBJECTED to Amendment #1. She expressed her belief that there was no reason for a change in the program.

[9:12:49 AM](#)

Ms. Moss explained that part of the intent of the bill was responding to a fairness issue, since many fishers were able to go to private lending institutions. She pointed out that when the economy changed and interest rates rose, all fishers would be affected. She proposed that since the program contained subsidies, it would provide a bigger advantage with limited interest rates.

Representative Kerttula stressed that the program was to help those who were not able to apply to lending institutions. She stated that since the program was doing well, there was no need to change it.

Ms. Moss expressed on behalf of the Sponsor that caution should be exercised for these borrowers in terms of their overall indebtedness. She noted that currently a fisher could apply for up to \$930 thousand, and that the bill was an attempt to limit the amount that fishers could go into debt.

A ROLL CALL VOTE was taken on the Amendment #1:

In Favor: Kelly; Foster; Holm; Chenault; Meyer
Opposed: Kertulla; Moses

Amendment #1 was ADOPTED on a Vote of 5 to 2.

Representative Foster MOVED to REPORT HB 304 out of Committee as Amended with individual recommendations and one new, zero fiscal notes (CCED). There being NO OBJECTIONS, it was so ordered.

CSHB304 (FIN) was REPORTED OUT of Committee with a new zero fiscal note (CCED) and individual recommendations.

#SB306

SENATE BILL NO. 306

"An Act requiring an employing unit with a change in ownership, management, or control or similar change to notify the Department of Labor and Workforce Development of the change; relating to the unemployment contribution rate of an employing unit; defining 'business' for purposes of statutes setting unemployment contribution rates; establishing the crime of obtaining an unemployment rate by deception; and providing for an effective date."

SENATOR BUNDE, SPONSOR, spoke to the bill. He explained that the bill provided deterrents to unemployment tax avoidance. He stated that some businesses tried to avoid paying unemployment tax by acquiring a business with a lower rating, and using that as a basis for their obligation. He noted that this costs the system and other businesses.

Representative Bunde stated that the bill requires employers to notify the Department of Labor of a business change or acquisition, implements standards addressing transfers and assignment of rates, and establishes the crime of obtaining an unemployment rating by deception and sets penalties for that crime. He proposed that the bill maintains the integrity of the unemployment system, and prevents the increase of rates through under-funding, as well as promoting meaningful penalties for tax avoidance.

[9:18:18 AM](#)

Co-Chair Meyer opened the floor to public testimony.

WAYNE STEVENS, ALASKA STATE CHAMBER OF COMMERCE testified in strong support of the bill. He pointed out that SB306 addresses the issues of State Unemployment Tax dumping. The federal legislation established a nationwide minimum standard for curbing certain unemployment insurance tax avoidance activities by employers. He noted that if states do not adopt similar language as contained in the federal legislation, the state and businesses in those states stand to lose significant exemptions currently available to businesses.

Mr. Stevens went on to state that failure to pass the bill would result in the de-certification of the Alaska Unemployment Insurance (UI) program and employers in the state would lose their federal offset credit of 5.4%, resulting in \$103.9 million in additional taxes to employers. The state would lose \$30.8 million for administrative and operational funding for UI programs. He concluded that the businesses community believes passage of this legislation is imperative.

TOM NELSON, DIRECTOR, DIVISION OF EMPLOYMENT SECURITIES, DEPARTMENT OF LABOR testified regarding the bill. He noted that they currently lacked the penalties to prevent those tax avoidance behaviors that are already being tracked. The bill would provide those needed penalties.

[9:22:14 AM](#)

Co-Chair Meyer closed public testimony on the bill.

Representative Foster MOVED to Report SB 306 out of Committee with individual recommendations and one previously published zero fiscal note (LWF). There being NO OBJECTIONS, it was so ordered.

SB306 was Reported Out of Committee with one previously published zero fiscal note (LWF) and Individual Recommendations.

#SB216
SENATE BILL NO. 216

"An Act relating to bail."

Representative Stoltze MOVED to ADOPT Work Draft 24-LS1300\S, Luckhaupt, 4/19/06. There being NO OBJECTIONS, the Committee Substitute was ADOPTED.

[9:24:17 AM](#)

JOSH TEMPEL, STAFF, SENATOR HUGGINS spoke to the bill. He gave serious examples of prisoners who had been placed on temporary release and either did not return or committed other crimes. He discussed the changes in the Committee Substitute: making exceptions for those with misdemeanors, class B or C felonies, family death, birth of a child, medical or dental treatments.

[9:26:59 AM](#)

Co-Chair Meyer expressed his gratitude for Mr. Tempel's active service in the Marines.

Representative Stoltze stated that this does not impact the general premise of a judge setting bail, only limits temporary bail release restrictions. He noted that if a prisoner appeared trustworthy, a judge might use their discretion in setting temporary releases. He proposed that the bill met the mandates for compassion, and pointed out that judges may sometimes be unaware of the specific circumstances for a particular case. He thanked the House Judiciary Committee for adding exceptions. He confirmed that he was sponsoring a House companion bill.

[9:29:13 AM](#)

Co-Chair Meyer closed public testimony.

Representative Foster MOVED to REPORT HCS CS SB216 (FIN) out of Committee with two previously published fiscal notes: #1, zero, COR; #2 indeterminate, ADM. There being NO OBJECTIONS, it was so ordered.

HCS CS SB216 (FIN) was Reported Out of Committee with two fiscal notes: #1, zero, (COR); #2, indeterminate, (ADM) and individual recommendations.

#SB132

SENATE BILL NO. 132

"An Act relating to complaints filed with, investigations, hearings, and orders of, and the interest rate on awards of the State Commission for Human Rights; making conforming amendments; and providing for an effective date."

Representative Foster MOVED to ADOPT Work Draft 24-GS1110\Y, Kane, 4/17/06.

Representative Kertulla OBJECTED to allow time to review upcoming amendments. Following brief discussion, it was determined that amendments could be addressed subsequently, and she REMOVED HER OBJECTION.

There being NO OBJECTIONS, the Committee Substitute was ADOPTED.

RANDY RUARO, LEGISLATIVE LIAISON, DEPARTMENT OF LAW testified regarding the Y Version of the bill. He explained that this version maintained changes made the House Judiciary Committee, with the exception of two amendments which had been made by Representative Gara: 1) to place a statute of limitations for filing claims with the Commission into statute and extend the limit from 180 days to a year and 2) to allow for an award of full attorney's fees in court cases where a plaintiff prevailed on a claim of discrimination. These two amendments were dropped from the bill. One of the more important changes was to give the

Executive Director of the Commission the ability to decide when to go forward with a case. He explained that currently, the Commission was required to proceed on all cases with substantial evidence of discrimination. The bill allows the Director to look at an employer's defenses and decide whether or not to proceed. The passage of the Y version would also zero out the fiscal note, since the two positions necessitated by the amendments were no longer necessary. He pointed out that the Committee would need to adopt Fiscal Note #3, a previously published zero fiscal note.

[9:34:57 AM](#)

Representative Kerttula clarified that the Judiciary Committee version originally contained the statute of limitations extension and allowed for attorney's fees.

[9:35:15 AM](#)

Representative Stoltze opened the floor to public testimony.

COMMISSIONER MERKES, HUMAN RIGHTS COMMISSION, testified via teleconference. She commented on the amendments which had been deleted. She stated that the Commission believed the 365 statute of limitations had been too long a period, and that 180 days was sufficient. She also noted that they would like to keep this out of statute and in regulations. Regarding the awarding of attorney's fees, she stated that the Commission did not believe that this bill was the proper vehicle to carry this provision.

[9:37:32 AM](#)

Co-Chair Meyer closed public testimony.

Representative Kerttula MOVED Amendment #1, 24-GS1110\Y.2, Kane, 4/19/06. Co-Chair Meyer OBJECTED.

Representative Kerttula explained that the Amendment would allow one year within which a plaintiff could file a complaint, as opposed to 180 days currently in regulation. This was the amendment originally added in the House Judiciary Committee and then dropped in the current Committee Substitute. She conceded that this might result in new cases for the Human Rights Commission.

Mr. Ruaro pointed out opposition to the amendment. He stated that the Commission has handled the statute of limitations for 43 years, and would like to maintain that control. 32 out of 46 states with a Human Rights Commission utilize the 180-day standard. Also, he stressed that the public had not indicated by testimony that this time was too

short. Most cases are against employers, many of them small businesses, and 70 percent of the cases were dismissed for lack of evidence, after having incurred time and expense for these employers to defend themselves. He noted that more employers would then have to go through this process and expense. He added that the State Chamber opposes the amendment.

Representative Joule asked if by regulation the Commission can currently choose to hear a case that is past the statute of limitations. Mr. Ruaro responded that the Commission has statutory authority to set the time period for filing a claim. The time limit has been set at 180 days, meaning that they could not arbitrarily hear a case that was past this time period. By putting the limitation into statute, as opposed to regulations, the Commission could no longer change the limitation except through the legislative process.

[9:42:50 AM](#)

Representative Joule asked whether the caseload prevents hearing of current cases. Mr. Ruaro noted that there was some backlog, but not inordinate.

Commissioner Merkes stated that the backlog was extensive, at nearly 100 cases, and that these take up to eight months to process.

Representative Joule asked about the reason for the backlog. Commissioner Merkes noted that by the time the backlog was caught up, much of the information was outdated. She noted that in the new budget two additional staff positions were requested. She pointed out that with the 365 days limit, intake cases would be increased by approximately 125 cases.

STEVE KOTEFF, HUMAN RIGHTS COMMISSION, testified via teleconference. Responding to a follow up question by Representative Joule, Mr. Koteff stated that the Commission reviewed cases in the order in which they were filed. He also noted that at times cases might be taken out of order, if violence or an egregious nature warranted it.

[9:45:58 AM](#)

Representative Joule observed that if the amendment was put in place, the waiting list would increase. Mr. Koteff confirmed that this would increase the backlog of cases. He pointed out the fiscal note that included more personnel to handle the backlog were the amendment adopted.

[9:46:45 AM](#)

Representative Kerttula maintained that the bill gave a basis to dismiss cases more expediently, based upon the evidence available. She proposed that this would help to clean up a backlog and offset any waiting list.

Mr. Koteff commented that the discretion of the bill leaned more toward cases with substantial evidence. He indicated that presently the law read that a complainant had an absolute right to a hearing. The Commission would then decide whether it was appropriate to go forward. He observed that it would not change the backlog of cases waiting to be investigated. He noted that it would be arbitrary for the staff to dismiss cases prior to investigation.

[9:48:51 AM](#)

Representative Kerttula asked if there was a regulatory ability to go immediately to the Director if evidence was not available from the onset. Mr. Koteff noted that there was a screening process, but not a regulatory discretion to which she referred. Once a complaint is filed, the Commission has a mediation program to handle cases more quickly. As for evaluation of evidence, statute mandates that every case be investigated thoroughly. The standard of substantial evidence was not so high as to make determination difficult. Some cases are resolved more easily without as much evidence. He explained that sometimes discrimination is not immediately apparent.

[9:51:42 AM](#)

Representative Kerttula also asked how many cases were turned down after the 180-day limitation, and whether any were pre-screened. Mr. Koteff did not have these figures. He stated that the Commission established a regulation for the time for filing of 180 days. The time for filing has always been in regulation but not always the same time; it was previously 300 days, changed due to resources available. It was believed that the 180 days were adequate. Although he conceded that perhaps some cases had not been filed, he stated that it was difficult to quantify the number of cases that were not investigated past the time limit. He added that Alaskans could be referred to the federal Equal Employment Opportunity Commission (EEOC) whose limit was 300 days to file. This occurred when employers employ 15 people or more.

Responding to a follow up by Representative Kerttula, Mr. Koteff conceded that there were valid cases that had exceeded the 180 time limit, and stated that in those cases they were usually referred to the EEOC. Since those cases were presented just through recitation of facts by a

potential complainant, they could not evaluate evidence without benefit of a full investigation.

[9:55:13 AM](#)

Representative Kerttula observed that the main problem was adequate staffing to handle the number of cases, and not the length of the timeline. She proposed that 180 days was too short a timeline.

[9:55:53 AM](#)

Representative Joule concurred that the resources of personnel seemed to be the main issue of operating the Commission. But he proposed that expanding the time would not solve this issue. He maintained that unless the resources were granted, changing the timeline might be counterproductive.

Representative Kerttula WITHDREW Amendment #1.

[9:57:17 AM](#)

Representative Kerttula MOVED Amendment #2. Representative Kelly OBJECTED.

Representative Kerttula explained the amendment. She proposed that since the Commission might not be able to quickly investigate cases, a complainant could approach a private attorney with the case, and if the case proved successful, they could recoup the attorney's fees. She added that there would also be a denial if the case was proven frivolous, causing the complainant to be liable for attorney's fees. She noted that the Judiciary Committee had worked on this approach, and suggested that the Committee ought to defer to their work.

[9:59:01 AM](#)

Mr. Ruaro stated that the Commission opposed Amendment #2. He pointed out that no one from the public had come forward to request the Amendment. He also proposed that if the amendment were passed, employers would receive demand letters from plaintiff's attorneys, threatening them with the payment of legal fees unless they made amends.

[10:00:16 AM](#)

Representative Kerttula maintained that such threatening behavior was not tolerated by the Bar Association, and noted that it was unethical. She also noted that lawyers often did not take these kinds of cases, since they were difficult and represented small fees. She expressed her belief that not to prosecute these kinds of cases was not good for

society. She proposed that this was one method of ensuring that people with these complaints received justice. She expressed openness to working with the industry and the Department of Law to streamline the amendment and make it more successful on the Floor.

[10:02:26 AM](#)

Representative Stoltze referred to his history as a legislator, and frustrations he experienced in advocating for small businesses in his district when dealing with this kind of process. He suggested that there were protections in our society for individuals, and that businesses also needed protections. He proposed that there were two sides to the issue.

[10:04:56 AM](#)

Representative Joule discussed his experience as being discriminated against for height in trying to become a State Trooper. He stated that at the time, he was unaware of avenues through which he could pursue a claim of discrimination.

[10:05:40 AM](#)

Representative Kerttula acknowledged that small businesses had a difficult time dealing with these issues and committed to advocating for them as well.

Mr. Ruaro noted that the cost of discrimination claims were not typically covered by the insurance of small businesses, and that attorney fees would come from their pocket.

A ROLL CALL VOTE was taken on Amendment #2.

In Favor: Kertulla; Joule

Opposed: Stoltze; Foster; Holm; Kelly; Chenault

Amendment #2 FAILED on a vote of 5 to 2.

Representative Chenault pointed out the two zero fiscal notes, previously prepared prior to the amendments, from the Office of the Governor, Commissions and the Department of Law.

Representative Foster MOVED to REPORT SB 132 out of Committee with two zero fiscal notes (#3, OOG; #4 LAW) and individual recommendations. There being NO OBJECTIONS it was so ordered.

CSSB132 (FIN) was REPORTED OUT of Committee with two previously published zero fiscal notes (#3, OOG; #4, LAW) and No Recommendation.

ADJOURNMENT

The meeting was adjourned at 10:08 AM