

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 6, 2006

3:44 p.m.

**MEMBERS PRESENT**

Representative Pete Kott  
Representative Gabrielle LeDoux  
Representative Bob Lynn  
Representative Norman Rokeberg  
Representative Harry Crawford  
Representative David Guttenberg

**MEMBERS ABSENT**

Representative Tom Anderson, Chair

**COMMITTEE CALENDAR**

HOUSE BILL NO. 445

"An Act relating to the alternative energy grant fund and to alternative energy grants."

- MOVED CSHB 445(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 392

"An Act authorizing the establishment of regional solid waste management authorities."

- MOVED CSHB 392(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 51

"An Act relating to permitting employers in the same trade to form joint insurance arrangements for self-insured workers' compensation coverage."

- HEARD AND HELD

HOUSE BILL NO. 424

"An Act relating to mortgage lenders and persons who engage in activities relating to mortgage lending; and providing for an effective date."

- MOVED CSHB 424(L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 445

SHORT TITLE: ALTERNATIVE ENERGY GRANT FUND

SPONSOR(s): REPRESENTATIVE(s) THOMAS

02/13/06 (H) READ THE FIRST TIME - REFERRALS  
02/13/06 (H) L&C, FIN  
03/06/06 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 392

SHORT TITLE: SOLID WASTE MANAGEMENT AUTHORITIES

SPONSOR(s): REPRESENTATIVE(s) WILSON

01/25/06 (H) READ THE FIRST TIME - REFERRALS  
01/25/06 (H) CRA, L&C  
02/09/06 (H) CRA AT 8:00 AM CAPITOL 124  
02/09/06 (H) Heard & Held  
02/09/06 (H) MINUTE(CRA)  
02/14/06 (H) CRA AT 8:00 AM CAPITOL 124  
02/14/06 (H) Moved CSHB 392(CRA) Out of Committee  
02/14/06 (H) MINUTE(CRA)  
02/17/06 (H) CRA RPT CS(CRA) NT 4DP 2NR  
02/17/06 (H) DP: CISSNA, KOTT, THOMAS, OLSON;  
02/17/06 (H) NR: SALMON, NEUMAN  
03/06/06 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 51

SHORT TITLE: EMPLOYER ASSN FOR WORKERS' COMP INS

SPONSOR(s): REPRESENTATIVE(s) MEYER

01/10/05 (H) PREFILE RELEASED 1/7/05  
01/10/05 (H) READ THE FIRST TIME - REFERRALS  
01/10/05 (H) L&C, FIN  
01/18/06 (H) SPONSOR SUBSTITUTE INTRODUCED  
01/18/06 (H) READ THE FIRST TIME - REFERRALS  
01/18/06 (H) L&C, FIN  
02/10/06 (H) L&C AT 3:15 PM CAPITOL 17  
02/10/06 (H) Heard & Held  
02/10/06 (H) MINUTE(L&C)  
03/06/06 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 424

SHORT TITLE: MORTGAGE LENDING

SPONSOR(s): LABOR & COMMERCE

02/03/06 (H) READ THE FIRST TIME - REFERRALS  
02/03/06 (H) L&C, JUD

03/01/06 (H) L&C AT 3:15 PM CAPITOL 17  
03/01/06 (H) Heard & Held  
03/01/06 (H) MINUTE(L&C)  
03/06/06 (H) L&C AT 3:15 PM CAPITOL 17

**WITNESS REGISTER**

REPRESENTATIVE BILL THOMAS  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 445.

KACI SCHROEDER-HOTCH, Staff  
to Representative Thomas, Sponsor  
Juneau, Alaska

POSITION STATEMENT: Answered questions during hearing on HB 445.

CHRIS ROSE, Executive Director  
Renewable Energy Alaska Project  
Anchorage, Alaska

POSITION STATEMENT: Characterized HB 445 as a good start and suggested some changes.

CONNIE FREDENBERG, Natural Resources Coordinator  
Aleutian Pribilof Islands Association  
Anchorage, Alaska

POSITION STATEMENT: Characterized HB 445 as a good start and suggested some changes.

GREG KINGSLEY, Planning Commission  
Lake and Peninsula Borough  
Pilot Point, Alaska

POSITION STATEMENT: During hearing of HB 445, discussed the Lake and Peninsula Borough's situation.

RON MILLER, Executive Director  
Alaska Industrial Export & Development Authority and  
Alaska Energy Authority  
Department of Commerce, Community, & Economic Development  
Anchorage, Alaska

POSITION STATEMENT: Explained the grant program established under HB 445.

SARAH FISHER-GOADE, Alaska Energy Authority  
Department of Commerce, Community, & Economic Development

POSITION STATEMENT: During hearing of HB 445, answered questions.

PETER CRIMP, Program Manager  
Alternative Energy and Energy Efficiency  
Alaska Energy Authority (AEA)  
Department of Commerce, Community, & Economic Development  
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 445, answered questions.

REPRESENTATIVE PEGGY WILSON  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 392.

BECKY ROONEY, Staff  
to Representative Wilson  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified during hearing on HB 392.

ROLLO POOL, Executive Director  
Southeast Conference  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 392.

CINDY ROBERTS, Denali Commission  
Division of Community Advocacy  
Department of Commerce, Community, & Economic Development  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 392.

JOHN BOLLING, City Administrator  
City of Craig;  
Member, Southeast Conference  
Craig, Alaska

POSITION STATEMENT: Testified in support of HB 392.

DAN EASTON, Deputy Commissioner  
Office of the Commissioner  
Department of Environmental Conservation  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 392.

RUTH HAMILTON HEESE, Assistant Attorney General  
Environmental Section

Civil Division - Juneau  
Department of Law  
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 392, answered questions.

MICHAEL PAWLOWSKI, Staff  
to Representative Kevin Meyer  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor of HB 51, Representative Meyer.

ROBERT VOGEL  
Pro Group Management  
Carson City, Nevada

POSITION STATEMENT: Testified in support of HB 51.

RAY HICKEL, President  
Anchorage Home Builders Association (AHBA)  
Anchorage, Alaska

POSITION STATEMENT: Related that the AHBA, the Alaska State Home Builders Association (ASHBA), and the Associated General Contractors - Board of Realtors support HB 51.

LARRY PARTUSCH  
Anchorage Home Builders Association  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 51.

KENNETH GAIN, Secretary/Treasurer  
Independent Lenders of Alaska  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 424 [Version F].

JOHN MARTIN, Executive Manager  
Alaska Mortgage Solutions  
Anchorage, Alaska

POSITION STATEMENT: Expressed concerns with HB 424.

JOHN CARMAN, President  
Home State Mortgage;  
Legislative Committee Chair, Alaska Mortgage Bankers Association  
Anchorage, Alaska

POSITION STATEMENT: Characterized [CSHB 424, Version F] as good legislation.

JOE BRAMMER, Manager  
1st Metropolitan Mortgage;  
Legislative Board  
Alaska Association of Mortgage Brokers  
Anchorage, Alaska  
POSITION STATEMENT: Testified in opposition to HB 424.

CRIS SKINNER, President/Broker  
Kelstar Financial of Alaska Mortgage Company;  
Legislative Committee, Alaska Association of Mortgage Brokers  
Wasilla, Alaska  
POSITION STATEMENT: Expressed concerns with HB 424.

TIM KELLY, Lobbyist  
Independent Lenders of Alaska  
Anchorage, Alaska  
POSITION STATEMENT: Related the Independent Lenders of Alaska's support for [Version F].

#### **ACTION NARRATIVE**

**REPRESENTATIVE NORMAN ROKEBERG, ACTING CHAIR,** called the House Labor and Commerce Standing Committee meeting to order at [3:44:47 PM](#). Representatives Lynn, LeDoux, Guttenberg, Crawford, and Rokeberg were present at the call to order. Representative Kott arrived as the meeting was in progress.

REPRESENTATIVE ROKEBERG announced that he would temporarily chair the meeting.

#### HB 445-ALTERNATIVE ENERGY GRANT FUND

ACTING CHAIR ROKEBERG announced that the first order of business would be HOUSE BILL NO. 445, "An Act relating to the alternative energy grant fund and to alternative energy grants."

REPRESENTATIVE GUTTENBERG made a motion to adopt CSHB 445, Version 24-LS1311\L, Cook, 2/24/06, as the working document. There being no objection, Version L was before the committee.

REPRESENTATIVE BILL THOMAS, Alaska State Legislature, Sponsor of HB 445, informed the committee that HB 445 would take [\$0.10] per barrel of oil and place it into an alternative energy fund, which is estimated to generate around \$30 million per year. He said that the funds would be taken out only when oil prices are at \$35 per barrel or higher. He explained that the Alaska Energy Authority (AEA) would manage the fund and administer

grants of up to \$20 million to power utilities who have shown a need. In addition, he said, the [utilities] would be required to secure matching funds equal to 25 percent of the grant. He stated that the priority would be given to those areas which experience higher costs of fossil fuels. He said that "alternative energy" means a system which produces energy and is not dependant on fossil fuel; however, natural gas is acceptable, as some rural communities have small gas fields they may be able to "tap into" in order to generate electricity. He explained that an "electric utility" is an entity which provides power for public consumption.

REPRESENTATIVE THOMAS went on to explain that Yakutat uses around 1 million gallons of diesel per year. He pointed out that ConocoPhillips Alaska, Inc. has gas wells nine miles from Yakutat. Therefore, if the funding were available, [the community of Yakutat] would be able to run a gas line into town to run the generators. He said that in addition to Yakutat, there are many other areas needing assistance. He stated that if an area has additional projects, it would be able to submit additional grant applications. He added that this would help to create jobs throughout Alaska. He mentioned that he represents many fishing communities in the state. He then opined that the high cost of electricity negatively affects the amount of money that comes back to the state. In regard to the alternative energy grant fund, he said that this would free up [power cost equalization] funds which can then be used for areas that are still reliant on fossil fuel. In conclusion, Representative Thomas said that the alternative energy grant fund would help stimulate the economy in rural communities, in addition to ending the dependence on fossil fuels.

[3:50:43 PM](#)

REPRESENTATIVE GUTTENBERG noted that in Version L, page 2, the definition of "alternative energy project" removes the reference to "nuclear fuel". He asked if this is the only change.

REPRESENTATIVE THOMAS replied yes, and noted that "nuclear fuel for the supply of energy" was replaced with "other than natural gas for the supply of energy."

REPRESENTATIVE LEDOUX asked if the legislature is required to appropriate money for the alternative energy grant fund.

REPRESENTATIVE THOMAS said that although the legislature may appropriate the amount calculated by the Department of Revenue, the bill does not create a dedicated fund.

REPRESENTATIVE LEDOUX asked why there is a fiscal note if there is not a dedicated fund.

[3:52:04 PM](#)

KACI SCHROEDER-HOTCH, Staff to Representative Thomas, Sponsor, explained that the fiscal note estimates the amount of funds that would be available for grants, if the legislature decided to appropriate the funds.

ACTING CHAIR ROKEBERG asked if there is a fiscal note from the Department of Natural Resources or the Department of Revenue regarding the \$0.10.

REPRESENTATIVE THOMAS replied no, and added that the AEA has stated that, at this time, it would not cost AEA any additional funds to run the grant system.

ACTING CHAIR ROKEBERG remarked that this bill would lower [the states] revenue by \$30 million a year, yet does not have a fiscal note.

REPRESENTATIVE THOMAS agreed that there is a cost to the program.

[3:54:09 PM](#)

CHRIS ROSE, Executive Director, Renewable Energy Alaska Project (REAP), explained that the REAP is a statewide coalition of large and small utility companies, conservation groups, and Native organizations which share the same goal of increasing the production of renewable energy in the state. He said that the REAP believes that HB 445 is a "great start" toward more energy production in the state, adding that Alaska is one of 15 states in the country that does not have a renewable energy policy. He opined that [establishing an alternative energy grant fund] would be policy statement that the state can make in order to begin providing incentives to increase the production of renewable energy. He said that Alaska has some of the best sources of renewable energy resources in the country.

MR. ROSE said that by providing an incentive for renewable energy production, the state will be attracting technology and

knowledge-based workers to the state. In addition, he said, there are over 200 villages in the state that are reliant on diesel, and as the price of oil continues to rise, these villages will continue to have a problem meeting the basic needs. He stated that there are many projects throughout the state which would be helped by this legislation.

MR. ROSE went on to say that Alaska has the opportunity to become a world leader in renewable energy. He stated that several villages are experimenting with wind-diesel technology, adding that it is "working very well." He opined that this technology could be exported to the world. In regard to including natural gas, he said that the REAP is focused on wind, geothermal, biomass, ocean power, and hydro-electric. He opined that the language regarding project eligibility could be strengthened. He said that the REAP would also like to suggest amending the bill to include loans and production credits, which it believes would be a good vehicle to get these projects up and running.

[Representative Rokeberg passed the gavel to Representative Kott.]

[3:58:21 PM](#)

CONNIE FREDENBERG, Natural Resources Coordinator, Aleutian Pribilof Islands Association, informed the committee that she would be speaking on her own behalf. She said that she would like to echo the previous testimony. She stated that while this legislation is a good start, she would like to see more included in the bill, such as a renewable portfolio standard, which currently exist in 22 other states. In regard to PCE, she surmised that there may be a way to "tweak" it so that it provides more incentive to develop renewable energy. Ms. Fredenberg went on to say that she believes that AEA should have more guidance during the selection process, adding that it may be helpful to include members from rural Alaska on the selection committee.

[4:00:28 PM](#)

GREG KINGSLEY, Planning Commission, Lake and Peninsula Borough, explained that the borough has been working on setting up generators in two villages, along with anemometer studies. Furthermore, the borough has been working for the last three years to receive state and federal funding, which has been difficult to acquire. He expressed agreement with the previous

testimony. He stated that addressing the high cost of energy is the borough's top priority. He said that the borough is paying \$4.10 per gallon for heating oil. He stated that the borough is at risk of losing valuable infrastructure. He explained that [Pilot Point] school enrollment is down to 10 [students]. Moreover, there are four or five villages in the borough that are "about ready to go under" due to the high price of fossil fuel. He added that when schools shut down, the entire village shuts down, which affects the entire region.

4:02:25 PM

REPRESENTATIVE THOMAS, in response to an earlier question, stated that he would look into the renewable portfolio standard provided by other states, and added that he has been working with AEA and REAP. He stated that in the past, the Denali Commission has funded these projects with federal monies, and opined that the Congressional Delegation is hopeful that the state will "step up to the plate." He reiterated that this bill would use AEA, which is already in place, and would not cost additional funds.

REPRESENTATIVE GUTTENBERG asked why the grants are limited to electric utilities. He surmised that there may be situations when [the city] may have a viable project in which the utility is not interested.

REPRESENTATIVE THOMAS replied that the bill is intended to assist those municipalities which are in need of assistance with the price of fuel.

REPRESENTATIVE GUTTENBERG expressed concern with the definition of "electric utility," as follows:

(2) "electric utility" means a corporation, whether public, cooperative, or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls a plant or system for furnishing, by generation, transmission, or distribution, electrical services to the public for compensation.

REPRESENTATIVE LEDOUX asked if the bill would require an appropriation in the operating budget.

REPRESENTATIVE THOMAS replied that it would require an appropriation each year, although it may not be the same amount each year.

REPRESENTATIVE LEDOUX asked if the appropriation is required.

REPRESENTATIVE THOMAS replied no.

REPRESENTATIVE LEDOUX asked if the bill would require a fiscal note once the money is appropriated.

REPRESENTATIVE THOMAS said yes.

[4:07:01 PM](#)

RON MILLER, Executive Director, Alaska Industrial Export & Development Authority (AIDEA) and Alaska Energy Authority (AEA), Department of Commerce, Community, & Economic Development, said that the bill takes a "straight-forward" approach in establishing a grant program within the AEA. He said that as funds are appropriated, the AEA would incorporate the alternative energy program and funds into the alternative energy and energy efficiency assistance plan, as required under the current regulations. He stated that, if HB 445 were to pass, the AEA would solicit a request for proposals based on the criteria established in the bill. He stated that this criteria is similar to the AEA's Energy Cost Reduction Program, which is funded by the Denali Commission. He stated that this program selects projects based on life cycle savings.

[4:09:02 PM](#)

SARAH FISHER-GOADE, Alaska Energy Authority (AEA), Department of Commerce, Community, & Economic Development, in response to a question, explained that the fiscal note reflects the amount that would be available for appropriation through the mechanism provided in HB 445. She opined that there would be an annual appropriation requested to provide the fund transfer to the alternative energy grant fund.

[4:09:41 PM](#)

ACTING CHAIR KOTT closed public testimony.

[4:09:58 PM](#)

REPRESENTATIVE CRAWFORD expressed that he has an active interest in finding jobs and "new hope" for Alaskans. He opined that there is much potential in renewable energy, especially in rural Alaska. He stated that this bill is making an effort to work for the future of the state, more jobs for Alaskans, and additional opportunity. He said, "I support this wholeheartedly."

REPRESENTATIVE GUTTENBERG said that while he is supportive of the bill, he remains concerned regarding local utilities putting effort into coming up with a grant proposal only to have the legislature not appropriate the money. He said "I hope that if we do pass this ... we follow through with it [by] funding projects that come before us."

ACTING CHAIR KOTT referring to page 2, line 3, asked for more information regarding the determination of whether a project is "economically viable."

PETER CRIMP, Program Manager, Alternative Energy and Energy Efficiency, Alaska Energy Authority (AEA), Department of Commerce, Community, & Economic Development, said:

We perform a life-cycle analysis of the status quo, which is ... generally ... diesel usage. Then [we] compare the cost of [diesel usage] to the cost of the proposed projects, including the initial capital costs, the [operation, maintenance, and fuel] costs. We ... bring that back to a net present value of savings. In the Energy Cost Reduction program that [Mr. Miller] mentioned, we rank the projects based on their benefit to cost ratio and select the projects that way.

ACTING CHAIR KOTT, referring to page 2, lines 6-8, asked if Anchorage would be used as the base for comparison of fossil fuel costs.

MR. CRIMP opined that if this portion of the bill is removed, this would still favor the selection of projects in rural areas, as the cost of diesel is higher. He said that the AEA has found the savings to be greater in rural areas due to the cost of diesel. He stated that if the use of diesel can be avoided by using hydroelectric, this is "way ahead," and added that this could be detailed in regulations.

ACTING CHAIR KOTT asked if the sponsor would be amenable to removing the aforementioned language.

[4:14:54 PM](#)

REPRESENTATIVE THOMAS replied that this would be fine.

ACTING CHAIR KOTT opined that the AEA would use Anchorage area costs, as no other area has lower fossil fuel costs.

REPRESENTATIVE GUTTENBERG opined that if, in a given year, there were no other grant requests other than in Anchorage, the money could be used in Anchorage.

REPRESENTATIVE THOMAS stated that rural projects are typically \$6-\$8 million versus the higher costs for larger projects. He stated that the intent was not to use Anchorage as the base for costs.

ACTING CHAIR KOTT said that he understands the intent and noted that the bill would not be amended.

[4:16:36 PM](#)

REPRESENTATIVE CRAWFORD moved to report CSHB 445, Version 24-LS1311\L, Cook, 2/24/06, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 445(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 392-SOLID WASTE MANAGEMENT AUTHORITIES

ACTING CHAIR KOTT announced that the next order of business would be HOUSE BILL NO. 392, "An Act authorizing the establishment of regional solid waste management authorities."

[4:17:36 PM](#)

REPRESENTATIVE PEGGY WILSON, Alaska State Legislature, sponsor, informed the members that a new committee substitute (CS) had been drafted for the members' consideration.

REPRESENTATIVE LYNN moved to adopt CSHB 392, Version 24-LS1227\X, Bullock, 3/2/06, as the working document. There being no objection, Version X was before the committee.

ACTING CHAIR KOTT asked Representative Wilson to explain the changes made in the CS.

REPRESENTATIVE WILSON explained that during the House Community and Regional Affairs Standing Committee (CRA) hearing on the bill, a CS was drafted to change the authority language to allow a municipality to opt out of an authority without causing that authority to dissolve. She said that in addition to changing the Solid Waste Management Authority statutes, the CS inadvertently modified the Port Authority statutes. She stated that the new CS removes all language that would modify the Port Authority statutes, as this was not the intent of the bill.

ACTING CHAIR KOTT remarked that he would have offered an amendment to make this change if the CS had not been drafted.

REPRESENTATIVE WILSON, in response to questions from Representative LeDoux, said that the new CS removes Sections 2 and 3, which dealt with the Port Authority.

REPRESENTATIVE WILSON said that she would like to have a member of her staff explain the details of the legislation.

[4:21:02 PM](#)

BECKY ROONEY, Staff to Representative Wilson, Alaska State Legislature, said that the Southeast Conference has spent [two] years researching the legislation and has received grants to identify the problems, suggest solutions, and generate language for the bill. She stated that the bill provides a mechanism that can be useful all over the state; however, the sponsor is mainly interested in the affect the bill will have on Southeast Alaska. She said that each Alaskan produces 6 1/2-7 pounds of solid waste per day, which is a total of 2,125 tons per day. In Southeast Alaska, 250 tons of solid waste a day is generated, which is over 90,000 tons per year. She stated that over the past 10 years, Southeast Alaska has seen many landfills, waste-to-energy plants, and incinerators close, which has caused several communities to ship solid waste to super landfills in the Lower 48. She explained that due to the high cost of developing regional solid waste management facilities, individual communities have been unable to take on this task.

MS. ROONEY went on to say that recycling and solid waste disposal is expensive, and Southeast Alaska communities are paying anywhere from \$77-\$220 per ton to ship recyclables to markets, and to ship solid waste to landfills, while in

Anchorage, it only costs \$40 per ton to deal with solid waste. She said that the communities that ship solid waste to the Lower 48 ship a combined average of 23,000 tons of municipal waste each year. This does not include the 32,000 tons processed in Juneau. She stated that some Southeast Alaska communities have landfills nearing the [maximum] capacity, while others have improper or un-permitted dumping sights. She said that the bill would allow several communities to form an authority, which would allow them to produce a regional solution to deal with municipal solid waste. She stated that the authority would keep the money spent on municipal waste disposal in Alaska, thus helping the regional economy. She explained that the bill would not affect how a municipality handles garbage pickup or any ordinances that govern mandatory participation in a program.

MS. ROONEY said that HB 392 is modeled after the Port Authority and requires that voters in each municipality approve the authority. She said that the authority would have an independent legal existence and would be able to issue bonds, borrow funds or enter into contracts. She stated that a board would be responsible for creating the by-laws and regulations which would govern the authority, adding that the board would have representation from each municipality that is a member of the authority. She explained that a municipality would be able to withdraw without dissolving the authority; however, the municipality would still be responsible for any existing obligations to the authority. Ms. Rooney stated that once formed, the authority would decide where a regional facility would be located, along with the technologies that would be used to deal with solid waste management. This could include facilities for recycling, state of the art landfills, thermal-reduction or waste-to-energy plants, composting, and areas to treat oily soils.

[4:25:27 PM](#)

REPRESENTATIVE GUTTENBERG, referring to a letter in committee packets, asked if the concerns of the Attorney General have been addressed.

MS. ROONEY replied that these concerns have been addressed. She said that she would provide a copy of the letter from Legislative Council, which includes answers to these concerns.

[4:26:10 PM](#)

REPRESENTATIVE CRAWFORD commented that in Europe, each home has a compost pile and both homes and stores are charged for disposal of any garbage produced. He stated that during the time when he was in Europe, the cost was \$2.25 for a sticker to place one bag of garbage in the landfill. He said that this reduced the amount of garbage produced, as all biodegradable materials were placed in a compost pile. He expressed his wish to see the emphasis placed on individuals and businesses to do what they can to reduce the amount of garbage produced. He remarked that the root of the problem needs to be addressed and said "we throw too much stuff away."

[4:28:39 PM](#)

REPRESENTATIVE ROKEBERG asked if the Municipality of Anchorage is in favor of or against the bill. Municipality of Anchorage had not been contacted; however, the waste management group that processes the garbage at the Anchorage landfill was supportive of the legislation.

REPRESENTATIVE ROKEBERG expressed concern with regard to the impact on the Municipality of Anchorage. He recalled that there have been "garbage wars" in the past and expressed concern that this may allow the municipality to create a port authority to operate the landfill as a subterfuge to avoid the municipal tax cap that is currently in place. He asked if Representative Wilson has spoken with the Regulatory Commission of Alaska regarding who would be regulating the proposed Solid Waste Management Authority.

REPRESENTATIVE WILSON replied that the Department of Law has looked over several revisions to ensure that it would not affect other areas. She stated that Rollo Pool would be able to give more detail regarding this issue.

[4:31:31 PM](#)

ROLLO POOL, Executive Director, Southeast Conference, related that Southeast Conference is supportive of HB 392. He informed the committee that over the last 15-20 years, practically every community in Southeast Alaska has created a solid waste plan, a recycling plan, and household hazardous waste. Furthermore, nearly every report and study relates that communities should work together to solve the problems as a group. However, nothing has ever been done to [encourage] communities to work together on the issue. This legislation allows communities to collaborate and cooperate on the collection, sorting, and

disposal of solid waste. This legislation provides an important step for communities to address solid waste in a regional fashion. Regarding the earlier question as to whether this would be regulated by the Regulatory Commission of Alaska (RCA), he opined that Southeast Conference would prefer it not to be regulated by the RCA because the communities will operate the process and will do so in full view of the community. He noted that he has had no correspondence from the RCA that it should regulate the proposed authority.

4:33:54 PM

REPRESENTATIVE ROKEBERG asked if Mr. Pool had talked with the RCA regarding its current regulatory authority. He indicated his understanding that the RCA is trying to leave the garbage business.

MR. POOL said that he didn't speak with the RCA. However, discussions with the Department of Law revealed that the regulation could [be performed by the communities or the RCA] depending upon Southeast Conference's preference. He reiterated that the Southeast Conference doesn't want [the proposed authorities] to be regulated by the RCA because they will be in the public domain. In further response to Representative Rokeberg, Mr. Pool highlighted that every community in Southeast Alaska is different. For example, Juneau has a private hauler and a landfill; Sitka has a private carrier for its garbage; and Haines has a privately owned landfill. The remainder of the region has publicly owned [waste facilities]. He noted that most of the publicly owned landfills do not accept raw garbage and thus construction and demolition debris and items that aren't inert aren't allowed.

REPRESENTATIVE ROKEBERG inquired as to how an authority would deal with the private services.

MR. POOL said that the currently operating landfills could become a player in a regional solution. He informed the committee that a plan reviewed those communities that are currently shipping waste, which amounts to about one-third of the garbage in Southeast Alaska. Mr. Pool opined that it would be cheaper to ship waste [within the region versus out of the state]. He mentioned the possibility of capturing energy from the waste. This is a long-term project, and he said that whatever it considered would have a life expectancy of 25-50 years.

[4:37:23 PM](#)

REPRESENTATIVE ROKEBERG expressed concerned that under HB 392, the authority can be established and collect waste, which could result in a potential conflict between private enterprise and the state authority.

[4:37:49 PM](#)

REPRESENTATIVE WILSON replied that the intent is [for the authority] to deal with the waste once it is delivered to the harbor/port. This legislation, through the authority, allows the communities to save money while not interfering with how the communities handle their waste.

REPRESENTATIVE ROKEBERG pointed out that page 1 specifies that the purpose of the solid waste authority includes storage, collection, transportation, separation, processing, recycling, and disposal.

MS. ROONEY said that HB 392 doesn't hamper any municipality's collection services. The reference to "collection" refers to the time after it has been collected. She clarified that it speaks to waste leaving the [community].

[4:39:50 PM](#)

CINDY ROBERTS, Denali Commission, Division of Community Advocacy, Department of Commerce, Community, & Economic Development (DCCED), informed the committee that she manages the solid waste grant program. She related that in fiscal year (FY) 04 the Denali Commission was pleased to work with the Southeast Conference to create the language in HB 392 for which she related support. Ms. Roberts highlighted that while HB 392 is important for Southeast Alaska specifically, the legislation presents opportunities for communities [in other regions]. For instance, last summer over 1 million pounds of hazardous waste and steel was brought out of the Yukon drainage by a nonprofit organization. If some of the communities along the Yukon River could utilize HB 392 to form an authority and thereby have funds, it could help them do a better job. Ms. Roberts concluded by strongly encouraging the committee to support HB 392.

[4:43:15 PM](#)

JOHN BOLLING, City Administrator, City of Craig; Member, Southeast Conference, echoed earlier testimony regarding the mechanism HB 392 provides for communities to work together to address solid waste issues. He opined that this will allow communities in Southeast Alaska to take advantage of an economy of scale for the disposal of solid waste. Ideally, it should reduce the cost of handling municipal solid waste over time. He informed the committee that the City of Craig pays \$200/ton for solid waste to be shipped to the Lower 48. This proposed authority provides the City of Craig the ability to partner with other communities in the region to develop a long-term cost-effective solution. Furthermore, the funding to dispose of the solid waste in Southeast can stay in the region and create jobs in the region. Mr. Bolling concluded by noting that the City of Craig supports HB 392.

[4:45:21 PM](#)

ACTING CHAIR KOTT inquired as to how the shipping costs for the City of Craig have increased over the last decade.

MR. BOLLING responded that about five years ago, the City of Craig was paying \$.04/ton to dispose of the solid waste that the city collects from its residents. Currently, it costs \$.10/ton to do so, which he characterized as a substantial increase. In further response to Acting Chair Kott, Mr. Bolling clarified that there is a chance of decreasing the aforementioned costs. However, he said that he is really looking for stability. One of the advantages the authority might bring, he opined, are more predictable costs for the City of Craig. In even further response to Acting Chair Kott, Mr. Bolling said that he didn't envision that the city's costs would increase during the initial inception of the legislation.

[4:47:05 PM](#)

DAN EASTON, Deputy Commissioner, Office of the Commissioner, Department of Environmental Conservation (DEC), stated that DEC certainly supports HB 392, which it views as creating opportunity for additional regional solid waste management systems in Alaska. He pointed out that for solid waste management, larger is better in terms of funding and operating. He noted that larger solid waste operations are less apt to create environmental or human health problems. Therefore, he urged the committee's support for HB 392.

REPRESENTATIVE GUTTENBERG asked if anything in HB 392 eliminates DEC's regulation of this industry.

MR. EASTON replied no, and clarified that DEC's statutes and regulations typically apply to a person who is defined very broadly as a government, authority, person, and group.

[4:48:25 PM](#)

REPRESENTATIVE ROKEBERG asked if DEC regulates landfills throughout the state.

MR. EASTON replied yes. In further response to Representative Rokeberg, Mr. Easton explained that DEC permits landfills throughout the state and regulates their operation in terms of human health and environmental impact. In terms of the financial regulation that the RCA does, he said he didn't know what the RCA's role is for solid waste facilities.

REPRESENTATIVE ROKEBERG asked whether a private corporation or person that applied with DEC and met its requirements as well as local requirements, would be granted the permit to operate a private landfill.

MR. EASTON replied yes.

[4:49:29 PM](#)

REPRESENTATIVE GUTTENBERG directed the committee's attention to page 2, line 22, of Version X, which is the enabling ordinance that allows an authority to be established and leaves it to establish its powers and boundaries. He asked if the language allows the authority to establish its boundaries beyond the lines of the municipality.

[4:50:29 PM](#)

RUTH HAMILTON HEESE, Assistant Attorney General, Environmental Section, Civil Division - Juneau, Department of Law, related her understanding that the intent of HB 392 is to make the legislation operate in similar fashion to the port authority legislation.

REPRESENTATIVE GUTTENBERG, referring again to page 2, subsections (e) and (f), pointed out that if the authority establishes boundaries outside of the municipality, then there are no voters. He then pointed out that subsection (g) on page

2 refers to the authority organizing in a manner "not prohibited by law already."

[Due to technical difficulties, the recording fades from 4:51:48 p.m. to 4:52:18 p.m.]

MS. HAMILTON HEESE indicated that the solid waste facility would be operated within the region of the municipalities that band together.

REPRESENTATIVE GUTTENBERG pointed out that on page 4, paragraph (14) gives the authority the power to exercise eminent domain under AS 29.35.030. He inquired as to what falls under AS 29.35.030.

MS. HAMILTON HEESE said she couldn't answer that today.

[4:52:57 PM](#)

REPRESENTATIVE ROKEBERG, referring to page 12, Section 3, related his understanding that the authority would be regulated by the RCA if there was a competing utility.

MS. HAMILTON HEESE noted her agreement.

REPRESENTATIVE ROKEBERG related his further understanding that nothing in the legislation would prohibit the establishment of this authority when a regulated certificate of convenience was already issued in a jurisdiction.

MS. HAMILTON HEESE said that she didn't know the answer.

REPRESENTATIVE ROKEBERG surmised that there is regulatory authority over a collection service, not a landfill, that operates privately in a municipal jurisdiction. Therefore, he stressed the importance of determining whether this legislation would authorize the establishment of a regional authority notwithstanding an existing certificate of public convenience and necessity.

MS. HAMILTON-HESSE offered her understanding that this legislation would freely allow municipalities to come together and operate, even in the presence of an existing facility.

REPRESENTATIVE ROKEBERG inquired as to what would happen if the municipality had already agreed to exclusivity or a franchise.

MS. HAMILTON HEESE opined that contract law would come into play and perhaps prevent the municipality from becoming wayward of a preexisting obligation. She further opined that it would depend on the facts.

REPRESENTATIVE ROKEBERG expressed concern that if the legislation doesn't recognize that there is a regulated utility operating that could be private. He related his belief that a municipality could use an authority to run a company out of business. He pointed out that the legislation indicates that if there is competition, it would be regulated. However, the legislation doesn't prohibit the authority from entering the territory [of an existing operator], which seems to mean that the authority wouldn't need a certificate to operate.

REPRESENTATIVE WILSON reiterated that the legislation allows municipalities to join together to start an authority to provide for unmet needs. She highlighted that each municipality that enters the agreement would have to conduct a vote of its residents regarding whether they want to enter the authority.

[4:57:58 PM](#)

REPRESENTATIVE ROKEBERG opined that the aforementioned doesn't address his question. He inquired as to whether sideboards need to be included such that other businesses are protected.

REPRESENTATIVE WILSON said that she didn't object to such an amendment.

REPRESENTATIVE ROKEBERG pointed out that Anchorage is a regional authority already, and related his understanding that it would have to go through the process outlined in HB 392.

REPRESENTATIVE WILSON reiterated that this legislation allows several municipalities to come together rather than just one. She said this legislation wouldn't pertain a municipality that was going to deal with its solid waste on its own.

REPRESENTATIVE ROKEBERG discussed the garbage wars in Anchorage and the cherry picking that occurs.

REPRESENTATIVE WILSON specified that this legislation doesn't deal with companies at all.

REPRESENTATIVE ROKEBERG commented that sometimes municipalities don't like companies.

REPRESENTATIVE GUTTENBERG asked if any companies in the [Southeast] area are perceived to be a regional authority and operate under a certificate of convenience.

MR. POOL related that [Southeast Conference] has spoken with both of the private landfill owners in Southeast Alaska, both of which are interested in participating at some point. Furthermore, the operator of the Juneau landfill could be the operator of a regional landfill. Mr. Pool noted that the Southeast Conference believes in commerce as well as obtaining the best price for this service. He said that the Southeast Conference really doesn't care who provides the service. In fact, if a private company had come forward during the last 10 years and built a regional landfill, this legislation wouldn't be before the committee. However, he said he understood the concerns, and suggested that perhaps the legislation could be redrafted to exclude areas of the state that so desired.

[5:01:47 PM](#)

REPRESENTATIVE GUTTENBERG asked if any solid waste company is regulated in the area, including collection services.

REPRESENTATIVE ROKEBERG informed the committee that to be regulated a company must have over \$300,000 in gross receipts.

[5:02:16 PM](#)

REPRESENTATIVE WILSON referred to page 2, line 7, which specifies: "the governing body of a municipality may, by ordinance, create a regional solid waste management authority as a public corporation of the municipality". She noted that she is open to language that would prevent the concerns stated.

ACTING CHAIR KOTT, upon determining there were no further questions or witnesses to testify, closed public testimony. He then inquired as to whether Representative Rokeberg had an amendment to address his concerns.

REPRESENTATIVE ROKEBERG said he wasn't interested in excluding other parts of state. He restated his concern with regard to regulation when there is already an existing regulated utility, but said that he doesn't know that he has the answer. However, he maintained that [the authority] could be utilized as a tool to get rid of a bad operator by a municipality.

REPRESENTATIVE LEDOUX asked if the same statements and arguments apply to any municipal landfills under the current system.

REPRESENTATIVE ROKEBERG pointed out that per today's testimony, landfills aren't regulated, only collection services are. The landfills merely obtain a permit from DEC.

REPRESENTATIVE LEDOUX asked if language could be inserted to specify that this legislation doesn't apply to collection services, if that's the intent of the sponsor.

REPRESENTATIVE WILSON emphasized that she didn't want to put into place too many limits because [it might limit] the authority's ability to organize and develop in a manner that's best for the area, even if it includes an existing collection company.

REPRESENTATIVE ROKEBERG noted his agreement, but maintained his concern with regard to possible difficulties with competing utilities.

ACTING CHAIR KOTT said that Representative Rokeberg could work with the sponsor between now and when the legislation goes to the House floor.

REPRESENTATIVE ROKEBERG asked if there is any common law or defense that an existing regulated utility could put forward to defend against a predatory practice, were it to occur.

MS. HAMILTON HEESE replied that she cannot answer that, but offered to take the question back to the appropriate person in the Department of Law.

REPRESENTATIVE GUTTENBERG commented that Southeast Alaska is an appropriate place for a regional authority, and therefore he supported the [legislation]. He further commented that Southeast Alaska should establish a regional port authority as well.

[5:10:57 PM](#)

REPRESENTATIVE LEDOUX moved to report CSHB 392, Version 24-LS1227\X, Bullock, 3/2/06, out of committee with individual recommendations and the accompanying three zero fiscal notes. There being no objection, CSHB 392(L&C) was reported out the House Labor and Commerce Standing Committee.

5:11:21 PM

The committee took a brief at-ease.

HB 51-EMPLOYER ASSN FOR WORKERS' COMP INS

ACTING CHAIR KOTT announced that the next order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 51, "An Act relating to modifying the qualifications required for workers' compensation self-insurance and permitting employers in the same trade or industry to form an employer association for self-insured workers' compensation coverage; and providing for an effective date."

ACTING CHAIR KOTT informed the committee that it was not his intent to move the bill at this time.

MICHAEL PAWLOWSKI, Staff to Representative Kevin Meyer, Alaska State Legislature, informed the committee that the proposed committee substitute (CS) addresses the issues of regulatory oversight of self-insured groups and whether or not workers' claims would be paid in the event of an insolvency. In regard to the regulatory oversight, he said that the CS shifts the oversight of self-insured groups from the Department of Labor and Workforce Development to the Division of Insurance. In regard to the payment of claims, he explained that several sections were added which deal with the rules the self-insured groups would be required to follow to ensure payment.

MR. PAWLOWSKI explained that Section 21.77.200 of the CS requires the association adopt a plan for payment, which must be approved by the director of the Division of Insurance. The plan would include an advance payment of at least 15 percent of the total, with the remainder to be paid quarterly or monthly. This will ensure, based on actuarial accounting, that the self-insured group has appropriate reserves to cover costs and liabilities. He stated that "appropriate reserves" are defined on page 12, Section 21.77.210. These are: actual claims, claims incurred but not reported, reserves for uncollected debts, and are based on the experience of other associations. He said that at least 65 percent of the money collected must be placed in an account to pay claims, with the remaining 35 percent put towards operating costs.

MR. PAWLOWSKI explained that workers' compensation rates are determined by the standard workers' compensation system, and the CS does not change this. He said that the CS creates a benefit

for the self-insured groups by allowing the groups to plan actuarially what the costs will be. He said that Section 21.77.230 of the CS requires the self-insured group to collect an additional assessment to make up for any short-fall. If this is not done, he said, the director can require an additional assessment. He referred to page 11 and explained that if too much money is collected, the self-insured group must receive approval from the director before the money is returned, which ensures that there is enough money to pay claims. He said that the CS attempts to build in as much oversight as possible. He stated that the director would determine the amount of re-insurance or excess insurance the group is required to purchase. He said:

So, ... not only do we ensure [that the group] collects enough money, but they buy re-insurance and excess insurance to limit the liability of loss on the upside. So, you can't have a claim that will ever cost you more than this, or, you cannot ever incur costs in this aggregate. That's the insurance plan that you require of the backup. Further, that's determined by the director.

MR. PAWLOWSKI said that page 9 of the CS states that in the event of a bankruptcy, the claims are still payable. He stated that the joint and several liability provisions mean people are pledging their companies that the claims will be paid. He explained that this places the impetus on the members and the director to ensure that there are enough reserve funds.

MR. PAWLOWSKI stated that the CS includes the requirement of a surety bond that will go to the state. In the event that all the "checks and balances" fail, there is a bond to pay the claims. In conclusion, he said that the aforementioned additions are to ensure that workers' compensation claims are paid.

MR. PAWLOWSKI, in regard to reciprocal groups, stated that if a reciprocal fails, the [debts] are referred to the guarantee fund. He noted an instance when this occurred, and stated that all the payees in the system were required to "pay in" to make up the balance, which, in turn, caused workers' compensation rates to increase. He stated that if a self-insured group were to fail, the joint and several liability, reserves, and bonds would all be available to pay the claims, and the costs do not fall back to the state. He said:

The point of self-insurance is that these groups are asking for the ability to take ownership of their costs and obligations. To see a direct benefit for the loss and safety programs they put in, and to really control the cost and their destiny. And that's what a self-insured group allows them to do. It won't put the burden on the rest of the state. ... The attempt of the committee substitute is to come back to the committee's questions and see if we can't get as far toward the regulatory oversight and financial oversight as possible.

[5:20:41 PM](#)

REPRESENTATIVE CRAWFORD asked what happens to the self-insured group and the remaining employees if a "dominant employer" retires.

MR. PAWLOWSKI replied that five employers are required, therefore removal of one employer would lead to the dissolution of the self-insured group. However, he said, the bonds and obligations would still exist to pay for the claims incurred under the previous self-insured group. He noted that this is beyond bankruptcy, selling or [any other issue that may arise].

REPRESENTATIVE LEDOUX made a motion to adopt CSSSHB 51, Version 24-LS0233\S, Bailey, 3/3/06, as the working document. There being no objection, Version S was before the committee.

REPRESENTATIVE LEDOUX asked if a self-insured group would receive a refund if it did not receive any workers' compensation claims and dissolves.

MR. PAWLOWSKI replied that any refunded money would need to be approved by the director. He surmised that the money would be refunded in this scenario. He said that the director may hold onto a portion of the money for a time, as not all workers' compensation claims are immediately filed.

[5:23:42 PM](#)

ROBERT VOGEL, Pro Group Management, stated that he is in support of HB 51, which provides the state and employers in the state a broader opportunity to provide workers' compensation insurance. He stated that this would give the employers the control to provide a safe working environment and take care of injured employees. He opined that this is to the benefit of the

employers and employees in the state, and added that this is not a mechanism to save money, but is intended to provide long-term stability and continuity.

REPRESENTATIVE ROKEBERG asked if, in Mr. Vogel's experience, groups have voluntarily dissolved.

MR. VOGEL replied that no groups have dissolved voluntarily or involuntarily.

REPRESENTATIVE ROKEBERG asked if any groups have become insolvent.

MR. VOGEL replied that no groups have become insolvent. He stated that the "key" issue is that the actuarial projections are designed to collect enough money, based on payroll exposure. He explained that losses are projected over the amount of exposure, with the intent of paying all losses, claims and expenses with this amount. He said that in the event of a bankruptcy or dissolution, the money has already been collected to cover the losses and expenses that were created. He stated that the actuarial projections which are required yearly is to collect enough money based on experience. He explained that it can take time for all of the costs and expenses to be known, and added that if the projection is less than was actually needed, small adjustments can be made to collect the money over time.

MR. VOGEL, in response to an earlier question, said that the self-insured group is pooling funds to cover expenses, rather than paying on an individual basis. He stated that the actuarial analysis considers all losses for all of the members during the time that they were active in the group. He said that if, when the group dissolves, the director approves the return of funds, the division will retain a pool of money to pay claims. He stated that the joint and several liability agreement obligates each member for the liability during the time they were in the group. If the amount retained for claims is not enough, the division will approach the member(s) who are no longer a part of the self-insured group to ensure payment.

[5:30:41 PM](#)

REPRESENTATIVE ROKEBERG asked what the premiums are for surety bonds and "stop loss" insurance.

MR. VOGEL replied that typically, the excess insurance market charges 12-15 percent for excess and aggregate reinsurance. He

noted that this is dependent upon the deductible layer the group selects. Generally, he said, the deductible is \$500,000-\$750,000 with an aggregate of 100-110 percent of premiums. He noted that this is not charged to the members in addition to the premiums, but is what the group pays to the excess insurance company.

MR. VOGEL, in response to further questions, stated that a surety bond is an amount to cover expected claims and is not equal to the premiums. He said that the director would give the amount and this would be negotiated based on the members' experience level.

REPRESENTATIVE ROKEBERG asked if surety bonds are available in the market.

MR. VOGEL said yes, and added that generally, these are through the excess carriers.

[5:33:10 PM](#)

RAY HICKEL, President, Anchorage Home Builders Association (AHBA), stated that the AHBA, the Alaska State Home Builders Association (ASHBA), and the Associated General Contractors - Board of Realtors support the legislation. He said that the AHBA and the ASHBA would like to have "control over [its] destiny." He said that this will enable the AHBA to keep and reward capable employees.

REPRESENTATIVE ROKEBERG asked if the \$1 million net worth would be affordable.

MR. HICKEL replied that he does not believe the \$5 million will be a problem.

MR. HICKEL, in response to questions, said that the AHBA initiated the bill in an effort to keep the ASHBA from being burdened by the time and cost of working on it. He said that the Fairbanks Home Builders Association is welcome to join the [self-insured] group at any time. He stated that while the AHBA asked for support from the ASHBA, it did not ask for money.

[5:35:36 PM](#)

LARRY PARTUSCH, Anchorage Home Builders Association (AHBA), said that he is in support of the legislation. He said that the AHBA has been working on the bill for two years and has worked with

the [Division of Insurance] to address its concerns. He stated that being industry specific allows the self-insured groups to police themselves better than other groups would be able to. He said that the intention is to get injured employees back to work as soon as possible.

[5:37:37 PM](#)

ACTING CHAIR KOTT, referring to page 1, line 9, of the CS, noted that it reads "the director may issue a self-insurance certificate;" however, on page 5, lines 4-5, it reads "the director shall issue a certificate of self-insurance."

MR. PAWLOWSKI surmised that this is an incongruence that should be fixed and added that if this is not the case, he will look into the reasoning behind the difference.

ACTING CHAIR KOTT stated that any issues with the bill should be discussed before the next committee hearing. Therefore, HB 51 was held over.

[5:39:11 PM](#)

#### HB 424-MORTGAGE LENDING

ACTING CHAIR KOTT announced that the final order of business would be HOUSE BILL NO. 424, "An Act relating to mortgage lenders and persons who engage in activities relating to mortgage lending; and providing for an effective date."

ACTING CHAIR KOTT noted that the committee packet includes a proposed committee substitute (CS). He recalled that one of the main concerns expressed at the previous hearing was that the legislation didn't protect the public in the appropriate manner. He then pointed out that the committee packet should also include a new fiscal note.

REPRESENTATIVE LEDOUX moved to adopt CSHB 424, Version 24-LS1504\F, Bannister, 3/1/06, as the working document. There being no objection, Version F was before the committee.

[5:40:55 PM](#)

KENNETH GAIN, Secretary/Treasurer, Independent Lenders of Alaska, explained that the major change embodied in Version F is to include mortgage brokers since the original legislation only applied to mortgage lenders. The mortgage bankers are most of

the large mortgage lenders in Alaska and they often act as a lender temporarily until a number of mortgages can be pooled to be resold. If the original legislation had passed, the mortgage bankers would've been required to be licensed as the independent lenders, while the competitor, mortgage brokers, wouldn't have been required to be licensed. Therefore, the request was to include mortgage brokers in order to provide for a level playing field. [With the aforementioned change] a number of technical matters had to be addressed, such as the location at which they could operate. Version F makes it clear that the only thing that is regulated is identifying the location of the office in order for state records. Mr. Gain related that his group, which consists of small lenders lending their own money, isn't "particularly crazy" about regulation. However, the group recognizes that Alaska is one of the last states to adopt regulations. Furthermore, the group recognizes that the Division of Banking & Securities receives about 20 complaints per week, which indicates that there are problems to which the division is currently unable to respond. Mr. Gain mentioned that there is pending federal legislation requiring that all states have some form of licensing. As a result, the organization recognized the need for the division to be able to audit records and perform background checks, all of which costs money and results in the need for fees. Therefore, all in all HB 424 is a reasonable bill that provides a lot of consumer protection by giving the division authority without placing undue burden on businesses. "All in all I believe it's a good bill that will help address a very significant problem," he opined. With regard to the lack of a provision for competency testing, Mr. Gain pointed out that HB 424 licenses companies. Mr. Gain concluded by announcing support for HB 424 [Version F].

[5:46:10 PM](#)

MR. GAIN, in response to Representative Rokeberg, replied that not everyone will be happy with this legislation. He pointed out that [the mortgage lending industry] is one of the last professions in Alaska to be licensed.

[5:47:11 PM](#)

JOHN MARTIN, Executive Manager, Alaska Mortgage Solutions, began by informing the committee that [Alaska Mortgage Solutions] is a net branch operation performing mortgage loans throughout the state. He mentioned that he has e-mailed his comments to committee members. He then highlighted that some of the language is vague, specifically he suggested changing the term

"mortgage companies" to "mortgage entities" in order to include corporations, limited liability corporations (LLCs), and sole proprietorships. As written, Version F would exempt approximately two-thirds of all loan originators in the state, which doesn't provide residents any "good at all." Furthermore, the legislation doesn't provide for much consumer protection as there is no provision for originator licensing.

MR. MARTIN pointed out that in Alaska real estate agents are licensed and must work for a broker. He opined that a similar, two-step process should be utilized for [mortgage lenders]. Furthermore, there should be comprehensive legislation such that all parties involved know where they stand. He then noted that portions of language in the legislation is derived from the division, which utilizes language that pertains primarily to depository organizations. However, most lenders in the state don't have a depository relationship with their clients and thus he suggested that such language should be modified or removed. He then turned to licensing, which he opined should be done every two years rather than annually. With regard to the expense of licensing, Mr. Martin opined that it will cause an increase in financing for the consumer.

[5:51:03 PM](#)

REPRESENTATIVE LYNN inquired as to an estimate of the increase in cost to consumers mentioned by Mr. Martin.

MR. MARTIN replied that it's difficult to estimate because the legislation specifies that there will be an audit process, which he opined would be quite expensive. Furthermore, one must take into account the cost of licensing as well as the \$10 fee for each transaction, as specified in the legislation. Mr. Martin said that it's a bit premature to specify how much it will cost individual consumers.

REPRESENTATIVE LYNN opined that paying extra to ensure a consumer purchasing a house is dealing with someone who is properly licensed is a small price to pay.

[5:52:58 PM](#)

JOHN CARMAN, President, Home State Mortgage; Legislative Committee Chair, Alaska Mortgage Bankers Association, recalled when he began making mortgage loans back in 1972 with National Bank of Alaska. At that time, most mortgage loans were made by national banks and state chartered savings and loans, which are

regulated entities. However, today most loans are made by mortgage brokers and mortgage bankers, which aren't currently regulated entities. Similar changes in other states have been addressed with licensing. Mr. Carman related that for the past five years he has been working to get legislation passed, from which he understands that it's impossible to draft legislation that will make everyone happy. With regard to comments that banks and credit unions should play by the same rules as mortgage bankers, banks and credit unions have always been regulated. However, the mortgage bankers and brokers haven't been regulated. "That's not to say that they don't have laws out there that they have to go by, it's just that there's no one to enforce those laws, no one to complain to, and no one to look at it," he pointed out. He recalled that the division received about 600 complaints last year, although the division can't do anything because there is no enforcement mechanism. Mr. Carman related his belief that [Version F] is good legislation. He added that Alaska should have originator licensing, although there are many issues surrounding it that need to be addressed. However, company licensing needs to be in place first. Many provisions within company licensing protects consumers, and furthermore instituting a mechanism for the division will help with enforcement.

REPRESENTATIVE ROKEBERG asked whether Version F would license the businesses for which the loan originators work.

MR. CARMAN replied yes.

[5:58:41 PM](#)

JOE BRAMMER, Manager, 1st Metropolitan Mortgage; Legislative Board, Alaska Association of Mortgage Brokers, related that over last 25 years he has observed the need for regulations and consumer protection legislation in the mortgage industry. He said, "I agree that we need and I'm wholeheartedly a staunch proponent for independent legislation in Alaska for all lenders, all brokers, and all mortgage loan originators." However, he pointed out that mortgage lenders and brokers are two very separate and distinct sets. For instance, lenders accept monthly payments from consumers and collect money from consumers to pay property taxes and homeowner's insurance. Furthermore, lenders are named on the deed of trust as the beneficiary and own the note. Moreover, lenders have the ability to foreclose, set interest rates for the consumer, and to issue locked commitments. Lenders also have the authority to deny a consumer's request for a home loan. Mr. Brammer opined that

lenders and brokers aren't adequately and fairly regulated under Version F. Although the lender and the broker offer the same product to the consumer, each uses different delivery vehicles to get to the market. The aforementioned truly sets the lender and the broker apart from each other. Version F attempts to regulate both, but as proposed it doesn't work. This legislation, he stressed, needs major modifications because in its current form it derails any attempt at consumer protection. Mr. Brammer related that Version F shouldn't be allowed to pass from committee. Under Version F, bankers are exempt from the guidelines and regulations that they penned while the brokers had no input. In closing, Mr. Brammer suggested that a fair representation of Alaska brokers, bankers, and lenders to collectively work to modify this legislation to make it workable and enforceable while protecting consumers. Additionally, Mr. Brammer opined that consumers deserve to have all lenders, brokers, and mortgage loan originators licensed. Currently, Version F includes eight exemptions of which he opined will allow about two-thirds of all originators in Alaska will be exempted. "The people who need to be regulated are not going to be regulated under this bill, and those are the mortgage loan originators," he said. "If we do not mandate loan officer licensing as part of this legislation, which would include competency testing and continuing education requirements, this committee substitute serves no purported purpose of consumer protection," he opined.

[6:03:43 PM](#)

REPRESENTATIVE ROKEBERG asked if legislation has been introduced to solve the concerns expressed by Mr. Brammer.

MR. BRAMMER replied that the Alaska Association of Mortgage Brokers and the Alaska Association of Mortgage Bankers had a joint meeting in December. Both groups agreed on what the mortgage loan originator licensing should be, save the required bonding for each mortgage originator. He recalled that earlier testimony related that it's impossible to include the mortgage originators in this licensing legislation because there are too many issues. However, he opined that there are no more issues involved in licensing mortgage loan originators than mortgage brokers.

REPRESENTATIVE ROKEBERG related that the legislature isn't interested in getting into a "turf war." He then reminded everyone that one of the main goals of this committee is to protect the consumer. He pointed out that he has been in the

real estate industry for 30 years and the legislature for 12 years during which time he said he hasn't seen any proposed legislation from the mortgage brokers, which is of concern.

MR. BRAMMER informed the committee that members of the Alaska Association of Mortgage Brokers have been working with Roger Prince to develop three individual bills. Those three bills would address mortgage originators, lenders, and brokers.

REPRESENTATIVE ROKEBERG questioned, "Where is the other bill?"

MR. BRAMMER replied, "That's our point." He opined that the other legislation needs to be included in HB 424 in order to truly protect the consumer.

REPRESENTATIVE ROKEBERG related that at times portions of legislation have to move along when ready, even if other portions aren't. This legislation is unique in that it falls under the Division of Banking & Securities and regulates businesses whereas Title 8 usually regulates individuals.

[6:07:57 PM](#)

MR. BRAMMER, in response to Representative LeDoux, clarified that his concern is that the proposed legislation includes too many exemptions that will have the effect of exempting many mortgage brokers and bankers from complying with the conditions of the legislation.

[6:08:41 PM](#)

REPRESENTATIVE LEDOUX surmised then that Mr. Brammer was saying that the legislation doesn't go far enough.

MR. BRAMMER answered that this legislation places certain restraints and constraints on businesses, such as collecting a fee from each transaction that the broker closes. However, there are 11 classes that are exempt from the licensing. Moreover, the legislation provides for the audit process of mortgage brokers, although there is nothing to audit. Since many provisions of this legislation don't apply, Mr. Brammer opined that the legislation should be modified so that it does serve the consumer interest rather than exempting two-thirds of the group.

REPRESENTATIVE CRAWFORD inquired as to Mr. Brammer's thoughts with regard to regulating those in the mortgage industry

operating in Alaska who are out-of-state and outside of the country.

MR. BRAMMER highlighted that this legislation doesn't regulate Internet lenders, most of which are a subsidiary or affiliate of a bank and are exempt under this legislation. Mr. Brammer opined that this legislation should be more far-reaching in order to protect unscrupulous lenders who are located outside the state or the country. The aforementioned can best be accomplished by requiring individual licensing of all mortgage originators who are going to do business in the state.

[6:12:27 PM](#)

CRIS SKINNER, President/Broker, Kelstar Financial of Alaska Mortgage Company; Legislative Committee, Alaska Association of Mortgage Brokers, began by characterizing the legislation as "hollow" due to the lack of regulating mortgage loan originators. She opined that it's a known fact that the majority of consumer complaints arise at the mortgage loan originator level. She further opined that the legislation illustrates a misunderstanding of the lending process. She echoed earlier testimony that mortgage loan originator licensing and continuing education must be incorporated in order to provide true consumer protection. Additionally, this legislation allows far too many exemptions, which again isn't in the best interest of the consumer. These exemptions, she said, target small independent brokers and is questionable with regard to fair trade and small business protection. Therefore, Ms. Skinner proposed the creation of a task force composed of lenders, bankers, brokers, and mortgage loan originators to prepare legislation encompassing all aspects of the lending process and cover licensing and education for each level. The aforementioned would ensure true consumer protection and fair trade. Ms. Skinner informed the committee that members of the real estate community in Wasilla have provided written testimony on this legislation. In conclusion, she urged the committee to take their comments as well as her own into consideration prior to passing this legislation.

[6:15:06 PM](#)

TIM KELLY, Lobbyist, Independent Lenders of Alaska, began by relating the Independent Lenders of Alaska's support for [Version F]. He then informed the committee that the Division of Banking & Securities has possession of legislation that would license and regulate mortgage loan officers or originators.

Therefore, it's merely a matter of having that legislation drafted by legislative drafting. The Independent Lenders of Alaska, he related, take the position that the legislation before the committee, which encompasses two of three bills, should be forwarded out of committee.

[6:16:48 PM](#)

REPRESENTATIVE LYNN noted that he is a licensed real estate broker, although he is currently in referral status. With regard to Version F, Representative Lynn opined that it's better to have some protection now rather than none at all.

REPRESENTATIVE ROKEBERG stated his agreement.

ACTING CHAIR KOTT, upon determining no one else wished to testify, closed public testimony.

[6:18:27 PM](#)

REPRESENTATIVE ROKEBERG moved that the committee adopt Amendment 1, as follows:

Page 3, lines 2-4;  
Delete "agent"  
Insert "licensee"

There being no objection, Amendment 1 was adopted.

REPRESENTATIVE ROKEBERG offered to work with those interested on legislation relating to [mortgage loan originators].

[6:20:20 PM](#)

REPRESENTATIVE LYNN moved to report CSHB 424, Version 24-LS1504\F, Bannister, 3/1/06, as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 424(L&C) was reported from the House Labor and Commerce Standing Committee.

[6:20:56 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 6:21 p.m.