

MINUTES
SENATE FINANCE COMMITTEE
May 6, 2006
9:04 a.m.

CALL TO ORDER

Co-Chair Lyda Green convened the meeting at approximately [9:04:57 AM](#).

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: REPRESENTATIVE JOHN COGHILL; REPRESENTATIVE BOB LYNN; BRYAN BUTCHER, Director, Governmental Affairs & Public Relations, Alaska Housing Finance Corporation, Department of Revenue; CRAIG JOHNSON, Staff to Representative Lesil McGuire; JENNIFER BAXTER, Staff to Representative Jim Elkins; AVES THOMPSON, Director, Division of Measurement Standards & Commercial Vehicle Enforcement, Department of Transportation and Public Facilities; IAN FISK, Staff to Representative Bill Thomas; GREG WINEGAR, Director, Division of Investments, Department of Commerce, Community and Economic Development; PEGGY ANN MCCONNOCHIE, Licensed Real Estate Broker and Representative, Alaska Association of Realtors; PAUL LISANKIE, Director, Division of Workers' Compensation, Department of Labor and Workforce Development; HEATH HILYARD, Staff to Representative Tom Anderson

Attending via Teleconference: From Anchorage: MATT JONES, representing Moose's Tooth Pub and Pizzeria; ROBERT MCCORMICK, representing Glacier BrewHouse; CLYDE PEARCE, Chief, Radiological Health, Department of Health and Social Services; from offnet locations: MICHAEL BELL, Director, Alaska Trucking Association; DONNA RUFSHOLM, Chair, Legislative Committee, Alaska Society of Radiological Technologist

SUMMARY INFORMATION

HB 381-TOBACCO REV. FOR CAPITAL PROJECTS

This bill was addressed twice during this hearing. First, a committee substitute was adopted and reported from Committee. That action was later rescinded, and the committee substitute was amended and reported from Committee.

HB 240-BREWERY & BREWPUB LICENSEE/SALES BY WINERY

The Committee heard from the bill's sponsor and the industry. A committee substitute was adopted. An amendment to the committee substitute failed adoption, and the bill reported from Committee.

HB 266-VEHICLE WEIGHTS AND INSURANCE

The Committee heard from the bill's sponsor, the Department of Transportation and Public Facilities, and the industry. The bill reported from Committee.

HB 403-NEIGHBORHOOD ELECTRIC VEHICLES

The Committee heard from the bill's sponsor and reported the bill from Committee.

HB 304-COMMERCIAL FISHING LOAN PROGRAM

The Committee heard from the bill's sponsor and the Department of Commerce, Community and Economic Development. The bill was reported from Committee.

HB 409-NO WORKERS' COMP. FOR REAL EST. LICENSEE

The Committee heard from the bill's sponsor, the industry, and the Department of Labor and Workforce Development. The bill was reported from Committee.

HB 150-LICENSING RADIOLOGIC TECHNICIANS

The Committee heard from the bill's sponsor, the Department of Health and Social Services, and the medical profession. The bill was held in committee.

[NOTE: Due to technical difficulties, Committee action occurring between 9:04:57 AM and 9:18:11 AM was not recorded. The minutes for that portion of the hearing are based on Committee Secretary notes.]

#hb381

CS FOR HOUSE BILL NO. 381(FIN)

"An Act relating to the financing of construction, major maintenance, and renovation of certain capital projects; authorizing the commissioner of revenue to sell the right to receive a portion of the anticipated revenue from a tobacco litigation settlement to the Northern Tobacco Securitization Corporation, and relating to that sale and the use of the revenue; authorizing the Northern Tobacco Securitization Corporation to issue bonds and use the proceeds to acquire the right to receive a portion of anticipated revenue from a tobacco litigation settlement and for other purposes, and relating to those bonds; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken moved to adopt Senate Finance committee substitute Version 24-GH2071\L as the working document.

There being no objection, the Version "L" committee substitute was ADOPTED.

Co-Chair Green stated Version "L" would clarify that the proceeds from the bonds secured by the Tobacco Master Settlement Agreement revenue would be utilized to finance construction, major maintenance and renovation projects at the University of Alaska; to construct a new correctional facility; and to fund other capital projects such as facility replacement and sewage projects.

[9:06:29 AM](#)

Senator Bunde understood that 20 percent of the revenue generated from the Tobacco Master Settlement Agreement would continue to support preventive health care and smoking cessation.

[9:07:05 AM](#)

BRYAN BUTCHER, Director, Governmental Affairs & Public Relations, Alaska Housing Finance Corporation, Department of Revenue affirmed Senator Bunde's remark.

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, SCS CS HB 381(FIN) was REPORTED from Committee with previous zero fiscal note #1 dated December 23, 2005 from the Department of Administration.

[NOTE: This bill was readdressed later in the meeting. See Time Stamp [9:35:11 AM](#).]

#hb240

CS FOR HOUSE BILL NO. 240(RLS) am
"An Act relating to brewery and brewpub licensing and relating to sales of wine by a winery licensee."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Green moved to adopt committee substitute Version 24-LS0734\W as the working document. She objected for explanation.

AT EASE [9:08:48 AM](#) / [9:18:11 AM](#)

[NOTE: The FTR Recording issues were resolved and the meeting from this point forward was recorded.]

CRAIG JOHNSON, Staff to Representative Lesil McGuire, the bill's sponsor, informed the Committee this bill was developed in conjunction with the Brewers Guild which represents six breweries and five brewpubs in the State. Brewpubs are currently restricted to selling their product for consumption on their premise and must contract with a distributor for off-premise sales. Breweries are currently limited to selling their product off-premise and can only provide free samples to brewery visitors.

Mr. Johnson stressed that the bill, which is the result of compromises between the breweries and the brewpubs, would "level the playing field between" them in that brewpubs would be allowed to increase the amount of product they produce and would be allowed to self-distribute a limited amount of product. The increased production would assist in growing the industry as the small quantity currently produced by brewpubs was unattractive to distributors. In addition, the bill would allow breweries to charge for their on-premise samples, thereby allowing them to recoup some of their costs.

Mr. Johnson stressed that both breweries and brewpubs support the bill. He pointed out that the provisions of the bill would be limited to the Anchorage and Fairbanks areas, as the determination was that breweries and brewpubs in less populated areas of the State would be better served by limited competition.

[9:20:16 AM](#)

Senator Dyson asked the amount of product that could be sold for consumption on a premise.

Mr. Johnson stated Version "W" would increase the amount of product a brewery could sell to a consumer "for consumption on premises" from 24 to 36 ounces.

Senator Dyson asked whether the product would be sold by the bottle or by draft.

Mr. Johnson stated that the distribution method would be at the discretion of the brewer. Typically, the product is sold in draft form as a matter of economics.

Senator Dyson understood numerous discussions had occurred regarding the consumption limit during the bill's committee hearing process.

Mr. Johnson affirmed.

Senator Dyson asked for further information about the consumption limit discussions.

Mr. Johnson reiterated the bill "represents a compromise". Brewpubs, being licensed premises, are obligated not to serve an

intoxicated person. Thus, there is no limitation on the amount of product they could sell for on-site consumption. Breweries are currently prohibited from selling onsite samples. The bill is "a compromise between what a brewpub can do and what a brewery cannot do now. So this limitation of being able to sell basically three beers, allows the breweries to recoup some of their money". The bill is "a give and take" compromise between the two competing entities.

[9:22:38 AM](#)

Senator Dyson ascertained therefore that the 36-ounce limit on on-site consumption was based on "commercial aspects" rather than public safety issues.

Mr. Johnson concurred.

[9:23:15 AM](#)

Senator Dyson asked whether Version "W" included the provisions pertaining to wineries that had been included in CS HB 240(RLS)am, Version 24-LS30734\B.A.

Mr. Johnson explained that prior to HB 240 being transmitted to the Senate, the House of Representatives adopted an amendment which incorporated a separate bill pertaining to wineries. Those provisions would have allowed "an in-State winery to ship and distribute wine inside the State of Alaska". Those provisions were not included in the Version "W" committee substitute.

Senator Dyson understood that the bill's sponsor was amiable to incorporating the winery language into the bill.

Mr. Johnson communicated that the bill's sponsor was respectful of the committee process. Thus, the will of a committee or action taken during a floor session would be respected. The bill's sponsor has "particular respect" for this Committee in that regard.

[9:25:27 AM](#)

Co-Chair Green affirmed that the winery language included in Version "B.A" had been incorporated from a separate bill.

[9:26:20 AM](#)

MATT JONES, Representative, Moose's Tooth Pub and Pizzeria, testified via teleconference from Anchorage in support of the bill.

9:26:50 AM

ROBERT MCCORMICK, Glacier BrewHouse, testified via teleconference from Anchorage in support of the bill.

Co-Chair Wilken asked whether Glenn Brady, a representative of the Alaska Cabaret, Hotel, Restaurant & Retailers Association (CHARR) would be testifying, as he had recently spoken with him about this legislation.

Co-Chair Green noted that only Mr. Jones and Mr. McCormick had signed up to testify.

Co-Chair Wilken asked whether Mr. Brady had presented a position on the bill.

Mr. Johnson understood Mr. Brady was in support of the bill.

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

Senator Dyson objected. He supported Version "B.A" rather than Version "W".

Co-Chair Green pointed out that Version "W" had been ADOPTED as the working document.

Co-Chair Wilken moved and asked unanimous consent his motion to report the committee substitute from Committee be withdrawn.

There being no objection, the motion to report the bill from Committee was WITHDRAWN.

Conceptual Amendment #1: This amendment inserts the following language into Sec. 6(b)(1) page 4 following line 13 of the committee substitute.

(A) to an individual who is present on the licensed premises; or

(B) by shipping to an individual if the shipment is not to an area that has prohibited the importation or possession of alcoholic beverages under this chapter or to an area that has limited the importation or possession of alcoholic beverages unless the sales complies with the limitation;

Senator Dyson moved the amendment.

Senator Bunde and Co-Chair Green objected.

Senator Olson asked the purpose of the language being proposed.

Senator Dyson stated that this amendment would restore the language adopted on the House floor that would allow Alaskan wineries to ship to markets within the State. Currently, Alaska wineries are limited to exporting their products.

Co-Chair Green shared she had a "different understanding of sponsor's desire" in this regard in that the sponsor was "delighted" that Version "W" did not include the language being proposed in the amendment.

[9:31:20 AM](#)

A roll call was taken on the motion.

IN FAVOR: Senator Dyson, Co-Chair Wilken and Senator Olson

OPPOSED: Senator Stedman, Senator Bunde and Co-Chair Green

ABSENT: Senator Hoffman

The motion FAILED (3-3-1)

Amendment #1 FAILED to be adopted.

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, SCS CS HB 240(FIN) was REPORTED from Committee with previous zero fiscal note #1 dated March 21, 2006 from the Department of Public Safety.

AT EASE [9:32:16 AM](#) / [9:35:11 AM](#)

#hb381

CS FOR HOUSE BILL NO. 381(FIN)

"An Act relating to the financing of construction, major maintenance, and renovation of certain capital projects; authorizing the commissioner of revenue to sell the right to receive a portion of the anticipated revenue from a tobacco litigation settlement to the Northern Tobacco Securitization Corporation, and relating to that sale and the use of the revenue; authorizing the Northern Tobacco Securitization Corporation to issue bonds and use the proceeds to acquire the right to receive a portion of anticipated revenue from a tobacco litigation settlement and for other purposes, and relating to those bonds; and providing for an effective date."

The bill was brought back before the Committee for further consideration.

Co-Chair Wilken moved to rescind the Committee's earlier action of reporting the bill from Committee.

There being no objection, the action was RESCINDED.

Committee substitute, Version 24-GH2071\L, was again before the Committee.

Amendment #1: This amendment deletes "\$2,000,000" in Section 1, page 4 line 18 and replaces it with "\$4,000,000".

In addition, line 19 on page 4 of Section 1 is deleted in its entirety.

Co-Chair Wilken moved to adopt Amendment #1.

Co-Chair Green communicated the amendment was offered at the request of the [unspecified] Legislator who originally requested the affected projects.

Amendment #1 was ADOPTED without objection.

Co-Chair Wilken moved to report the bill, as amended, from Committee with individual recommendations and accompanying fiscal notes.

Without objection, SCS CS HB 381(FIN) was REPORTED from Committee with previous zero fiscal note #1 dated December 23, 2005 from the Department of Administration.

[9:36:49 AM](#)

#hb266

CS FOR HOUSE BILL NO. 266(FIN)

"An Act relating to penalties for violation of vehicle weight limitations; prohibiting the use of a violation of a vehicle weight limitation for certain personal automobile insurance actions; amending Rule 43.6, Alaska Rules of Administration; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

JENNIFER BAXTER, Staff to Representative Jim Elkins, Chair, House Transportation Committee, which sponsors this bill, explained the bill would modify existing laws pertaining to the penalty structure for overweight vehicle violations. These penalties have not increased since their establishment in the 1970s.

Ms. Baxter professed current penalties do not deter commercial shipping companies and others from violating vehicle weight limitations. In addition, the bill would protect drivers cited for overweight vehicle violations from insurance companies, which might otherwise penalize those drivers' private automobile insurance coverage. Oftentimes, drivers of commercial vehicles have little control of the weight loaded on the commercial vehicles they are assigned to drive. Thus, the bill would protect drivers who are unknowingly in violation of weight limits on the State's road system.

[9:37:54 AM](#)

Senator Dyson asked whether both the owner of an overweight truck and its non-owner driver could be cited for an offense.

Ms. Baxter affirmed.

Senator Dyson understood therefore that the aforementioned insurance coverage provision would serve to protect the driver by prohibiting his or her private vehicle coverage insurer from taking punitive action. In other words, the driver of an overweight vehicle would not be excused from operating a safe and legal vehicle.

Ms. Baxter stated that was correct.

[9:39:06 AM](#)

Co-Chair Wilken recognized Aves Thompson, Director, Division of Measurement Standards & Commercial Vehicle Enforcement, Department of Transportation and Public Facilities as being in attendance. Mr. Thompson consistently acted in a fair and responsible manner during the numerous occasions Co-Chair Wilken met with him about private business matters.

Co-Chair Wilken stated that under Mr. Thompson's tenure, the Division has used federal transportation funds to upgrade its weights and measures equipment. Commercial trucks are no longer required to pull into weigh stations as scales imbedded in roadways could now transmit weight information to a scale as trucks travel along at 55 miles per hour. The readings are accurate and are furthering the effort to prevent overweight vehicles from damaging State roads.

[9:40:56 AM](#)

AVES THOMPSON, Director, Division of Measurement Standards & Commercial Vehicle Enforcement, Department of Transportation and Public Facilities, affirmed Ms. Baxter's testimony on the bill. The Division worked with the bill's sponsor, the Alaska Trucking Association, the Alaska Teamsters, and numerous other entities to develop a bill with "reasonable ground" that would recognize the Division's role in trying to protect the State road infrastructure and deter the operation of overweight vehicles. This would be the first increase in associated penalties since the early 1970s. At that time, the penalties were amongst the highest in the nation; now they are some of the nation's lowest. The proposed penalties "are a reasonable increase" and would position the State at the mid-range level. The bill would

protect drivers from unfair insurance increases, would generate a "fair increase" in penalty revenue, and would deter overweight vehicles' operation.

9:42:46 AM

Senator Stedman communicated the ease at which a truck could experience an overweight axel, particularly a front axel in the case of a dump truck. Thus, he asked how such a situation would be accommodated, specifically with the onset of imbedded scales. In addition, he asked whether weight offenses in the range of 5,000 or 10,000 pounds were common.

Mr. Thompson stated that the Division would attempt to address these concerns in a couple of ways. First would be the graduated penalty structure proposed in this bill. A truck marginally overweight would not receive a hefty fine; however a severely overweight truck would be fined "pretty heavy". Overweight vehicles with a "low-end" violation of between zero and 2,000 pounds overweight could avoid a citation were they able to shift the load weight to the legal limits before leaving the weight station. The Division provides some leeway as it does recognize that loading trucks is not "an exact science" and "sometimes honest mistakes are made".

Mr. Thompson stated that the imbedded scales were a work in progress. They would assist in speeding up the flow of traffic, and they would allow the focus to be on unsafe and illegal trucks rather than those that are safe and legal.

9:45:06 AM

Senator Dyson appreciated the Division's "enlightened position", as from personal experience he found that not to have been their position in the past.

Senator Dyson ascertained that the majority of the bill addressed penalty levels. The insurance coverage provisions must have been included to address the insurance methodology that counts the number of citations a driver accumulates against their insurance record; the fact that these citations were not traffic or safety related is not recognized. To that point, he asked whether this issue has been a "widespread problem" in Alaska.

Mr. Thompson responded that the Division has received reports of this occurring. The Alaska Trucking Association could better respond to the question.

Co-Chair Green understood that the insurance industry does not object to the inclusion of the provision in the bill.

Mr. Thompson appreciated the Committee's efforts in regards to the bill, as it is important to the Division.

Co-Chair Green acknowledged.

[9:47:04 AM](#)

MICHAEL BELL, Director, Alaska Trucking Association, testified via teleconference from an offnet location in support of the bill. The provision in the bill that would prohibit overweight citations from affecting a driver's personal automobile insurance is important as drivers are seldom "responsible for loading their vehicles and have very little opportunity to adjust a load if they are overweight on an axel or gross" weight. Roadways would also benefit from the bill, as it would discourage continual overweight violations. It would encourage the proper loading of a truck before it arrived at a scale.

Senator Stedman disclosed having a commercial driver's license (CDL).

Co-Chair Green acknowledged there being a need for such a bill.

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, CS HB 266(FIN) was REPORTED from Committee with three previous fiscal notes: zero fiscal note #4 dated January 23, 2006 from the Department of Commerce, Community and Economic Development; zero fiscal note #5 dated January 20, 2006 from the Department of Transportation and Public Facilities; and zero fiscal note #6 dated January 25, 2006 from the Department of Law.

[9:49:07 AM](#)

#hb403

SENATE CS FOR CS FOR HOUSE BILL NO. 403(TRA)

"An Act relating to registration and operation of low-speed vehicles."

This was the first hearing for this bill in the Senate Finance Committee.

[9:49:13 AM](#)

IAN FISK, Staff to Representative Bill Thomas, the bill's sponsor, explained the bill would pertain to vehicles classified by federal statutes as "low speed vehicles". Rather than being such things as golf carts, the vehicles in question are "a class of vehicles" that are required to have "headlights, taillights, brake lights, seat belts, bumpers, automotive quality windshields, and emergency brakes" and other features required on a traditional car. These vehicles are also required to meet federal test standards, and the maximum speed these vehicles could obtain is 25 miles per hour (MPH). In order not to impede traffic, their use is limited to roadways with a maximum speed of 35 MPH. Low speed vehicles are currently legal in 36 states. Their advantages would include zero emissions and low fuel expense. They are particularly popular in gated communities and retirement communities.

Mr. Fisk informed the Committee this bill would provide the Division of Motor Vehicles (DMV), Department of Administration, the authority to register and license such vehicles.

Co-Chair Green noted that a picture of the vehicle [copy on file] was included in members' bill packets.

Co-Chair Green understood that the bill would allow owners of these vehicles to register them.

Senator Olson countered that, rather than "allowing" them to be registered, the legislation would "require" them to be licensed.

Mr. Fisk responded that DMV would be required to register such a vehicle were someone to visit a DMV office with one.

Co-Chair Green stated that currently DMV could "refuse to register" such a vehicle.

Mr. Fisk clarified that DMV does not currently have the statutory authority to register them. This legislation mirrors the approach other states have taken regarding this new class of vehicles.

Senator Olson asked for examples of violations such a vehicle might incur.

Mr. Fisk noted that language in Sec. 4 page 2 line 30 through page 3 line 9 would clarify the operational guidelines for these vehicles. For example, they must adhere to traffic laws and carry liability insurance.

Co-Chair Green reiterated that these vehicles could not operate on roadways with a posted speed limit above 35 MPH.

[9:53:36 AM](#)

Co-Chair Green noted that members' packets contain a letter [copy on file] addressed to the Committee from Duane Bannock, Director, Alaska Division of Motor Vehicles, Department of Administration. The letter explains that DMV could not currently license or register this class of vehicle. This legislation would allow DMV to do so for any customers seeking such action. The letter also substantiates that these vehicles could not traverse roadways with speed limits exceeding 35 MPH.

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, SCS CS HB 403(TRA) was REPORTED from Committee with previous zero fiscal note #1 dated February 22, 2006 from the Department of Public Safety and \$10,500 fiscal note #2 dated February 21, 2006 from the Department of Administration.

[9:54:24 AM](#)

#hb304

CS FOR HOUSE BILL NO. 304(FIN) am
"An Act relating to the commercial fishing loan program;
and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

REPRESENTATIVE JOHN COGHILL, the bill's sponsor, stated this bill would revise the Commercial Fishing Revolving Loan Fund (CFRLF) program administered by the Division of Investments in the Department of Commerce, Community and Economic Development. His "philosophical" belief that government should not compete with private enterprise has influenced his actions in the Legislature and thus, prompted his interest in the CFRLF program.

[9:55:03 AM](#)

Representative Coghill shared that he began his "journey of understanding" the Division's loan-lending activity with the commercial fishing industry, as allowed by Alaska Statute (AS) 16.10.300-370 enacted in 1972, several years ago. Overtime, he became convinced the program was beneficial; particularly as some of the State's commercial fishing permits are designed in a manner which has served to reduce the entities lending on permits to only the Commercial Fishing and Agricultural Bank (CFAB) and the CFRLF program. Thus, "it is probably not wise to take it off the books".

Representative Coghill specified that his goal was to make the CFRLF program "the lender of last resort as much as possible so that those who are fishing in the fishing fleet who are servicing their loan through commercial lenders don't have to compete with people who are getting probably a much better deal from the State". To that point, this legislation "would tighten up some of the provisions" and would codify law so that, in order to qualify for the program, a person must have first attempted "to apply for a loan with another federally chartered institution or CFAB". He reiterated that the Division and CFAB are "the only two" entities providing loans for fishing permits in the State. Provisions pertaining to other loan programs, such as the Community Quota Shares program, are also addressed in the bill.

[9:57:08 AM](#)

Representative Coghill informed the Committee that commercial fishermen also utilize CFRLF to refinance their commercial bank

loans. The Sponsor Statement addressed this and other proposed provisions as follows.

HB 304 reduces the amount of loans for refinancing a debt to \$200,000 per person, down from \$300,000. It increases the loan limit for past due federal tax obligations from \$30,000 to \$35,000. And it limits all loans, including purchase of entry permits and gear, vessel purchases, repair of existing vessels, and federal tax debt for one person to \$400,000. That limit now totals \$930,000. The bill reduces security of a loan from 90% to 80% of the appraised value of the collateral. HB 304 changes the interest rate to prime rate plus two percentage points and keeps the cap at 10 1/2%.

Representative Coghill pointed out that this legislation would also repeal a State Statute, which required the Division "to set aside ten percent of the funds" to support loans of less than \$35,000. This directive was deemed unnecessary; this has not been an issue since the Division has sufficient cash available.

Representative Coghill specified one of the major components of the bill as the lowering of "the aggregate loan" limit a commercial fisherman could obtain for their boat, license, and equipment from \$930,000 to \$400,000. The exception to that provision would be the Community Quota Shares program, which is a community loan issue.

[9:58:41 AM](#)

Representative Coghill pointed out that another key component of the bill would establish the interest rate at prime plus two percent with a limit of 10.5 percent. The 10.5 percent is a "compromised" rate, resulting from a "reasonable attempt to tighten up the Division of Investments". He worked with the Division as well as former State Senator Alan Austerman, whose current capacity is Fisheries Policy Advisor, Office of the Governor. Greg Winegar, Director of the Division of Investments, has agreed to the changes proposed in the bill.

Representative Coghill informed the Committee that, even though he had preferred establishing a limit other than the proposed 10.5 percent, he was "content" to see how it would function.

Representative Coghill characterized the legislation as "a work in progress". This was the fifth year he had addressed the issue. It was "a reasonable effort" and would benefit those fishermen who must compete "in the same waters for the same fish and have to go to a variety of different banks". The CFRLF would continue to provide "flexibilities that are still very generous" even with the 10.5 percent limit.

[10:00:39 AM](#)

Co-Chair Green asked for further information about the \$930,000 limit.

Representative Coghill identified \$930,000 as being the current aggregate limit.

Co-Chair Green surmised that, rather than being specifically identified in the bill, \$930,000 was the sum of a variety of different things.

Representative Coghill affirmed.

Senator Dyson understood that the provision that required a fisherman applying for a CFRLF loan to have participated in a commercial fishery had been omitted from the bill. The language deleted is depicted in Section 1(a)(1)(D)(i), page 3 lines 5 through 10.

Representative Coghill pointed out that language in Section 1(a)(1)(A) on page 1 lines 7 through 13 specifies to whom a loan could be made. Among the requirements is that the loan recipient must hold a commercial fishing license and be a resident of the State.

[10:02:29 AM](#)

Senator Dyson ascertained therefore that Section 1(a)(1)(D)(i) was eliminated because it was redundant language.

Senator Bunde concurred.

Co-Chair Green affirmed that the language had simply been moved to a different location in the bill.

[10:02:50 AM](#)

Representative Coghill stated that other qualifiers and disqualifiers are included in Section 1(a)(1)(B) on page 2 lines 2 through 29.

GREG WINEGAR, Director, Division of Investments, Department of Commerce, Community and Economic Development communicated the bill would revise the qualifiers for tax obligation loans, which are a type of loan offered to commercial fishermen by CFRLF. The bill would retain the lack of training or economic dependence on fishing for livelihood qualifiers. In addition, the bill would limit federal tax obligation loans to people meeting Section 1(a)(1)(B) eligibility specifications rather than allowing people meeting either Section (a)(1)(A) or (B) criteria to qualify. Section 1(a)(1)(B) qualifiers would include people who did not qualify for loans elsewhere; those who were economically dependent on fishing; and those residing in rural areas of the State.

[10:04:41 AM](#)

Senator Dyson asked for further information about federal tax obligation loans. He understood that a qualifying fisherman could his utilize such a loan to pay off their federal taxes.

Mr. Winegar affirmed. This program was created several years ago when there was "an awful lot of non-compliance problems, mainly out in rural Alaska". The program has not been utilized much in recent years. Only three such loans have been provided in the last four years. The State worked with the federal Internal Revenue Service (IRS) to develop a program through which people could become compliant without losing their limited entry permits through IRS seizures action.

[10:05:48 AM](#)

Senator Dyson ascertained that the term "compliant" meant they were paying their tax in a timely manner.

Mr. Winegar replied "yes".

[10:06:01 AM](#)

Senator Olson asked the number of individuals who would be affected by the proposed changes.

[10:06:11 AM](#)

Mr. Winegar stated that, as specified in the May 1, 2006 Department of Commerce, Community and Economic Development fiscal note #3, the bill might lower the number of loans by two per year. Currently, only one borrower exceeds the proposed \$400,000 loan limit. That borrower would be grandfathered into the \$930,000 aggregate limit.

Senator Olson shared the concern that out-of-state people were acquiring limited entry fishing permits. They are attractive as the price being offered for fish is making the permits "fairly valuable". Noting that the bill would require borrowers to reside in the State for two years, he asked how residency status would be verified.

Mr. Winegar expressed that the two-year residency requirement is carefully evaluated. Such things as an applicant's tax return filing, the location of their car registration, where their bank account is located or whether they had received a Permanent Fund Dividend are analyzed.

Representative Coghill remarked that, while he had "pressured" the Division of Investments "to not hang onto these licenses", the "direction" sent by the Legislature was that limited entry permits should be kept in the State. His position is that the Division has held onto permits "a little longer" than they should have.

No further testifiers or Committee concerns were presented.

[10:08:05 AM](#)

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, CS HB 304(FIN)am was REPORTED from Committee with previous zero fiscal note #3 dated May 1, 2006 from the Department of Commerce, Community and Economic Development.

[10:08:54 AM](#)

#hb409

CS FOR HOUSE BILL NO. 409(L&C)

"An Act relating to excluding qualified real estate licensees from workers' compensation coverage."

This was the first hearing for this bill in the Senate Finance Committee.

[10:09:12 AM](#)

REPRESENTATIVE BOB LYNN, the bill's sponsor, disclosed being a licensed real estate agent in the State. "Workers Compensation is the means through which injured workers are compensated for injury sustained on the job or as a result of their job." State and federal laws require "most companies to purchase workers compensation insurance for their employees". To that point, he noted that 99 percent of real estate licensees in the State are considered independent contractors rather than employees.

Representative Lynn communicated that in Alaska, real estate licensees "typically sign an independent contractor agreement" with their real estate broker and "pay for their own services". The broker does not pay them a wage/salary or benefits. Any payment they receive is "tied directly to the sales" or service they provide rather than hours worked. The real estate licensees themselves are required to pay quarterly federal income taxes and the social security tax that an employer would normally pay for an employee. In addition, they are responsible for their business expenses, including their licensing fees, continuing education expenses, advertising, office equipment, websites and long distance phone calls. They could be likened to "a business within a business". The real estate broker has no control over how the real estate licensee under contract with them conducts their business, provided it is within the boundaries of the law. The federal Internal Revenue Service (IRS) also recognizes them as independent contractors. This bill would affirm there to be a written contract between the broker and the real estate licensee which states that the licensee would not be treated as an employee for IRS or workers' compensation purposes. It would also clarify that the real estate licensee would be paid only for what they produced rather than for the number of hours they might work.

Representative Lynn asked the Committee to favorably consider the legislation.

[10:12:05 AM](#)

PEGGY ANN MCCONNOCHIE, Licensed Real Estate Broker and Representative, Alaska Association of Realtors, spoke in support of the bill. She appreciated the work that Representative Lynn had conducted in its regard. The bill would provide "clear direction" to a question that has plagued the industry for quite some time.

[10:13:01 AM](#)

Co-Chair Wilken asked regarding Governor Frank Murkowski Administration's position on the bill.

Ms. McConnochie responded that the bill is supported by both the Division of Insurance in the Department of Commerce, Community and Economic Development and the Division of Workers' Compensation in the Department of Labor and Workforce Development.

[10:13:32 AM](#)

To that point, Co-Chair Green noted members' bill packets contain a copy of a letter [copy on file] dated February 7, 2006 from Department of Labor and Workforce Development Commissioner Greg O'Claray addressed to Representative Tom Anderson, Chair, House Labor and Commerce Committee.

Co-Chair Wilken asked whether the Department of Labor and Workforce Development "was neutral, for, or against the Legislation".

[10:14:01 AM](#)

PAUL LISANKIE, Director, Division of Workers' Compensation, Department of Labor and Workforce Development, communicated that the letter conveyed Commissioner Greg O'Claray's support of the bill.

[10:14:32 AM](#)

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, CS HB 409 (L&C) was REPORTED from Committee with two previous zero fiscal notes: fiscal note #1 dated February 24, 2006 from the Department of Commerce, Community and Economic Development and fiscal note #2 dated February 23, 2006 from the Department of Labor and Workforce Development.

[10:14:54 AM](#)

#hb150

SENATE CS FOR CS FOR HOUSE BILL NO. 150(L&C)
"An Act requiring licensure of occupations relating to radiological technology, radiation therapy, and nuclear medicine technology; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

HEATH HILYARD, Staff to Representative Tom Anderson, the bill's sponsor, remarked this bill would establish licensure regulations for radiographers and radiological technologists in the State. While some Statutes currently address the administering of x-ray technology for medical diagnoses, no express licensure exists. This has been an oversight for several years.

Mr. Hilyard noted that members' packets included a list of states that have adopted licensure or certification laws [copy on file] similar to the provisions proposed in this bill. New York and California adopted their radiological licensure laws as early as the 1960s. More than a proposal to implement an occupational licensure, this bill would address a legitimate public health issue.

Mr. Hilyard read excerpts from a University of California, Berkeley news release dated November 16, 1999 [copy on file] as follows.

"This is a serious public health problem," Gofman [John W. Gofman, professor emeritus of molecular and cell biology at

the University of California Berkeley] said. "We're talking about the two biggest causes of death in this country - cancer and heart disease - which together amount to 45 percent of all deaths. Medical X-rays are a major cause of these deaths."

"There is the assumption that, at these doses, radiation doesn't make a significant contribution," he said. "But X-rays are very potent mutagens, even at low doses. It's a disaster that people still believe the 'safe dose myth,' that low doses are harmless."

Mr. Hilyard communicated that the second excerpt would address the common misperception that low dosage X-rays are harmless.

[10:17:20 AM](#)

Mr. Hilyard concluded that the health and administrative benefits the bill would provide are reason to support it.

Co-Chair Green asked whether the legislation would create a board.

Mr. Hilyard responded in the negative.

Co-Chair Green asked whether a board pertinent to this subject currently existed.

Mr. Hilyard stated no.

Co-Chair Green responded positively to the fact that no board existed or would be created by the legislation.

Co-Chair Wilken asked what specific problem would be addressed by this legislation.

Mr. Hilyard communicated that during the bill's House Finance Committee hearing, a question was asked about the number of complaints filed in this regard. While the Director of the Division of Occupational Licensing, Department of Commerce, Community and Economic Development expressed that none had been filed, the reality is that the Division would not have received any complaints because this is currently an unlicensed occupation. Medical malpractice lawsuits have been filed against radiologists and other medical professionals. However, without a

more thorough review of the cases, a definitive number could not be provided. Nonetheless, "anecdotal evidence" would support there being "a problem with overexposure, radiation burns, and, more difficult to identify, is the problem of misdiagnoses, or missed diagnoses as a result of improper procedures".

Mr. Hilyard reiterated there is a "significant problem but it's very difficult to quantify".

Co-Chair Wilken remarked that the certification requirements for large hospitals dictate they employ certified radiologists. However, smaller facilities such as clinics, particularly those in outlying areas, "would struggle with some of these requirements". Thus, the question is whether the extent of the problem would justify "putting them through the hoops to be certified and the costs of that and the confusion" that would accompany the licensure process.

Mr. Hilyard stated that during the bill's committee hearing process, changes were made to address the "unique practice elements in Rural Alaska". He affirmed larger facilities were required to employ fully credentialed radiographers. The true focus of the bill is "limited imagers, those are people that have no sort of certification that we can look at to say yes, we are confident that you have a firm understanding of the practice" you are conducting. However, addressing that situation must be done without diminishing the care available in Rural Alaska. One example of that consideration is that, in the education component, limited imagers receiving "any training provided in a medical facility by a licensed practitioner or radiographer is acceptable and they are eligible to take an examination."

Mr. Hilyard stated that an amendment adopted by the Senate Labor & Commerce Committee allowed "the definition of direct supervision to be more open and lenient". This language is depicted in Sec. 2, Article 3. General Provisions. Sec. 08.89.990(5) on page 11, lines 11 through 14 as follows.

(5) "direct supervision" means supervision that is on-site or available by telephonic or electronic means; in this paragraph, "supervision" includes demonstrations, record review, evaluation of clinical examinations, or communications;

Mr. Hilyard stressed there were efforts taken "to make this as easy for Rural Alaska and the clinics out there to meet the requirements".

[10:21:57 AM](#)

Co-Chair Green asked whether there had been any opposition to the bill.

Mr. Hilyard noted that, while some groups have expressed concern, none are on record in open opposition to the bill. Ed Hall with the Physicians Assistants' Association has continued to voice "qualified opposition to the bill". The understanding is this resistance is based on implementation concerns, as expressed earlier by Co-Chair Wilken. The bill's sponsor had endeavored to work with any group having reservations about the bill. Some of the concerns were successfully addressed and others were not. Thus, there continues to be some qualified opposition to the bill.

Senator Bunde, who knew both Ed Hall and a nurse practitioner in his district, affirmed that "concerns about the financial impact of the bill" continue to exist. Nonetheless, he would defer to the will of the Committee.

In response to a question from Co-Chair Green, Senator Bunde understood the financial concern was that the bill would require a clinic to hire a certified person rather than being able to hire and train an individual in-house.

[10:24:10 AM](#)

Mr. Hilyard clarified that the bill was amended to redefine what would be recognized as an approved training program. This would assist in addressing the "frequently reported extraordinary training costs". Thus, "a clinic with a physician's assistant who is providing the training" would meet the training requirements.

Co-Chair Green asked whether individuals would be required to take a test.

Mr. Hilyard stated individuals would be required to take an examination.

10:25:00 AM

Co-Chair Wilken asked whether the Division of Occupational Licensing had, during the bill's committee hearing process, shared any concerns it is aware of about this issue.

Mr. Hilyard affirmed that the Division had testified on the bill. Specific policy concerns were addressed; however, more recent objections appear to be "philosophical" in nature. For example, the Division testified that, "I don't believe that we need this licensure because there's not a demonstrated need".

Mr. Hilyard stated that even though quantifying the need is difficult, the communications received from physicians in the State support the understanding that the problem exists and should be addressed.

10:26:05 AM

Senator Dyson stated that in a recent conversation he had with Dr. Richard Mandsager, Director, Division of Public Health, Department of Health and Social Services, Dr. Mandsager conveyed support for the bill even though the radiology field has experienced vast equipment improvements during the past 25 years. Older equipment was known to overexpose people to radiation. "The long term damage to folks has resulted in greatly reduced dosages in modern equipment that certainly limits the area of exposure and makes it far more effective." Dr. Mandsager believed more cancers and leukemia would become apparent in the future as the result of overexposure.

Senator Dyson voiced being "wary of licensing that seems ...to be the establishment protecting their turf against anybody else, and guaranteeing their income stream"; however, he is respectful of Dr. Mandsager's position in support of the legislation.

Co-Chair Green communicated the Department of Health and Social Services' support of the bill. The Division of Occupation Licensing was neutral on the bill.

Co-Chair Green asked whether the licensing requirement would also apply to chiropractic office radiologists.

Mr. Hilyard affirmed it would.

10:28:28 AM

CLYDE PEARCE, Chief, Radiological Health, Department of Health and Social Services, testified via teleconference from Anchorage, and communicated that since he is the only person who conducts radiation safety compliance inspections in the State, he would be the person most likely to receive complaints.

Mr. Pearce had received "complaints from consumers about the conduct of their procedures". The two most recent procedural complaints pertained to two major hospitals: one in Juneau and the other in Anchorage. He did not view this as a rural verses urban issue, as he has witnessed "significant problems" in large facilities in major cities.

Mr. Pearce stated negative biological affects have been found "at much lower levels of exposure than previously believed to be a matter of concern". Several research studies indicate that as much as one percent of all cancers are the result of diagnostic X-rays nationwide. Since the State does not currently require formal operator training, "it could reasonably be expected" that Alaska's percentages would be higher. These affects are not obvious because the negative affects take time to manifest. There are definite concerns, as radiological exposure has increased. There is recognition that the level of radiation overdosing is lower than historically thought. The State "does not really require people to know what they are doing when they apply this carcinogen to patients". The dangers of radiation are not limited to patients; operators are also exposed. "Alaska allows five times as much exposure to the general public than the federal government or other states do. We have some serious issues that need to be resolved there."

Mr. Pearce concurred with the expenses depicted on fiscal note #2 from the Department of Commerce, Community and Economic Development.

In conclusion, Mr. Pearce, on behalf of the Department of Health and Social Services, encouraged the Committee to support the bill.

10:31:05 AM

Co-Chair Wilken surmised that the bill would not address the two aforementioned complaints pertaining to the two major hospitals,

as he understood radiologists working in major hospitals must be trained and certified.

Mr. Pearce clarified that radiologists are medical doctors (MDs) who specialize in this area of medicine. Radiological technicians or operators are a different category of workers. Typically, major hospitals "only hire registered technologists or operators, separate from the MDs," due to the constraint of credentialing regulations of the Joint Commission on Accreditation of Hospitals. However, not all major hospitals are accredited and therefore would not be required to hire certified individuals. One of the two aforementioned major hospitals is not accredited and thus would be subject to the provisions of this bill.

Senator Olson voiced concern that the provisions of this bill would not be uniformly applied to all medical facilities, regardless of size. Continuing, he, a medical doctor, addressed the sponsor's remarks regarding the dangers of heat radiation burns, by noting there are two different types of X-ray applications. To that point, he had never witnessed a heat radiation burn resulting from a chest X-ray.

Senator Olson also understood that rather than having "qualified opposition" to the bill, Ed Hall with the Physicians Assistant Association was opposed to the bill.

Senator Olson asked the bill's sponsor to disclose the number of documented complaints of overexposure.

Mr. Hilyard deferred to Mr. Pearce who had provided the "evidence and information" pertaining to the bill.

Senator Olson asked Mr. Pearce to also provide the dates of the overexposure cases.

Mr. Pearce concurred that a radiation burn would be an occurrence more likely associated with "a major facility because of the kind of procedure" that would be involved. This bill would address "lower level kinds of injuries which include cancer ..." Current studies indicate that radiation has "a negative affect on intellectual development". A Swedish study of approximately 3,000 individuals concluded there to be a measurable reduction in intellectual ability as a result of diagnostic level X-ray exposures when the subject was between

one and one and a half years old. Other studies support this concern. The problem with radiation is the "latent period" or delay in the time in which the affects become "evident". Examples of "really severe, gross burns" of the type being referred to in this bill could be viewed at the Federal Drug Administration's website at www.FDA.gov. Rather than the issue being radiation burns, the "real issue" is that, due to the "latent effects" of radiology, "even the practitioner, licensed medical physicians, did not recognize the patient had been injured at the time of the study". The effects could take years to manifest themselves.

Mr. Pearce pointed out that even low levels, particularly in regard to cancer, are a concern. The National Institutes of Health (NIH) had "reaffirmed that radiation is a potent carcinogen". Their studies indicate that one percent of all cancers are the result of diagnostic X-rays. The conclusion of researchers who have studied a variety of people, including survivors of Hiroshima, is the Linear Non-Threshold (LNT) Theory, which is that "the only safe dose is no dose at all". "There is no fully safe dose of exposure to radiation," Mr. Pearce stated. Any effort to keep exposures to a minimum is a good idea. He was not recommending that people avoid getting an examination that's done properly and ordered for clinical reasons by practitioners. However, "we don't need to expose them to 50 or 60 times the amount of radiation needed in order to get that diagnostic information". He had witnessed exposures at those levels occurring in the State.

Senator Olson pointed out that the X-ray spectrum addressed in this bill is different than that of the Hiroshima atomic bomb. Today's equipment has more safeguards than older machines. This legislation is opposed by small rural clinics, as it would further increase the difficulty they historically experience in recruiting employees, particularly X-ray technicians. "X-rays are one of those necessary elements of the practice of medicine to go ahead and make a proper diagnosis." People must be able "to have an X-ray at their disposal" in order to make a diagnosis.

Senator Olson share never having seen a malpractice suit "dealing with any kind of over-radiation exposure" during his eight years on the State medical board.

[10:38:51 AM](#)

DONNA RUFSHOLM, Chair, Legislative Committee, Alaska Society of Radiological Technologists, testified via teleconference from an offnet location and informed the Committee that the Society was involved in the development of this bill. One of the questions addressed during the bill's development was "why do we need this regulation in the State of Alaska?" The answer is "safety to the patients, safety to the" equipment operators, "and the necessity to establish standards" to ensure that Alaskans receive "quality care" when undergoing X-ray examinations.

Ms. Rufsholm, a professional radiology technologist, stated, "there is no safe dose of radiation". Low-level radiation could be as harmful as high levels of radiation. However, patients are unaware of these facts and do not know how to evaluate the safety of the procedure being administered. "They place all their confidence in the health care worker who's performing the procedure..." They assume "that any one that is providing care in a health care setting knows what they're doing and that they received the proper education to perform their job." Unfortunately this is not true in Alaska. Absent a licensure policy, anyone, even those hired for another position, could take an X-ray without training or with minimum training. This scenario is occurring in numerous small facilities in the State.

Ms. Rufsholm stated that the passage of this bill "would establish standards for individuals" conducting X-ray procedures. The State's Radiological Health Program had developed a listing of "documented misuse of radiation". That list [copy not provided] included a small clinic in Anchorage "whose staff exposed a patient to at least 64 times the amount of radiation required to obtain a diagnostic image". The Society "cannot blame those operators for the errors they've made", as they are not required to receive training "to conduct their job correctly nor have they been given the opportunity".

Ms. Rufsholm addressed the concern that this bill would create a financial burden. The expense to a facility to license one individual would "equate to the cost of performing one extra procedure". This is "a small amount to pay to ensure patient safety". Any training program "sponsored by a medical facility supervised and instructed by a licensed practitioner or fully licensed radiographer" would qualify as education. Additional criteria would be established in regulation. This bill would not alter the manner in which small rural clinics operate. The bill

was developed in recognition of the fact that rural areas of the State have different needs than urban areas. The ability to provide radiological services in rural areas is of paramount importance.

Ms. Rufsholm stated major provisions were included in the bill to ensure that individuals who were currently performing these procedures would be able to continue to do so. Clinic services would not be interrupted while staff received training. There would be no loss of service or patient access to services in rural areas. Internet training courses would also be available for a cost of \$229, which was approximately the cost of one chest X-ray procedure.

[10:43:34 AM](#)

Ms. Rufsholm shared that studies conducted in other states indicate the education requirement would not impact salaries and force clinics to close. "We need to be advocates and establish standards for persons performing radiology procedures." We should be spokesmen for the patient. Passage of this bill would ensure quality care and safety for individuals.

Senator Olson asked whether the dentistry profession had weighed in on this legislation.

Mr. Hilyard replied that dentists consider themselves covered under the Dentist Practices Act.

There being no further discussion, Co-Chair Green stated that additional work on this legislation would be necessary.

Co-Chair Green ordered the bill HELD in Committee.

RECESS TO CALL OF CHAIR [10:44:59 AM](#) / 4:34:02 PM

#

ADJOURNMENT

Co-Chair Lyda Green adjourned the meeting at [4:34:02 PM](#).