

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON ENERGY

February 23, 2010
3:09 p.m.

MEMBERS PRESENT

Representative Bryce Edgmon, Co-Chair
Representative Charisse Millett, Co-Chair
Representative Nancy Dahlstrom
Representative Kyle Johansen
Representative Jay Ramras
Representative Pete Petersen
Representative Chris Tuck

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 45

Urging the United States Congress not to enact Cap and Trade legislation.

- MOVED CSHJR 45(ENE) OUT OF COMMITTEE

HOUSE BILL NO. 296

"An Act authorizing and relating to the issuance of bonds by the Alaska Housing Finance Corporation; establishing the Alaska energy efficiency revolving loan fund and relating to the fund; authorizing municipalities and the State of Alaska to borrow money from the Alaska Housing Finance Corporation for the purposes of the Alaska energy efficiency revolving loan fund; and providing for an effective date."

- MOVED CSHB 296(ENE) OUT OF COMMITTEE

HOUSE BILL NO. 303

"An Act establishing the Alaska energy efficient small business grant fund and program."

- HEARD & HELD

HOUSE BILL NO. 31

"An Act relating to net energy metering for retail electricity suppliers and customers; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 45

SHORT TITLE: OPPOSE FEDERAL CAP AND TRADE LEGISLATION

SPONSOR(s): REPRESENTATIVE(s) STOLTZE

02/17/10 (H) READ THE FIRST TIME - REFERRALS
02/17/10 (H) ENE, FIN
02/23/10 (H) ENE AT 3:00 PM BARNES 124

BILL: HB 296

SHORT TITLE: ENERGY EFFICIENCY BONDS; LOANS; FUND

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/19/10 (H) READ THE FIRST TIME - REFERRALS
01/19/10 (H) ENE, FIN
02/09/10 (H) ENE AT 3:00 PM BARNES 124
02/09/10 (H) Heard & Held
02/09/10 (H) MINUTE(ENE)
02/23/10 (H) ENE AT 3:00 PM BARNES 124

BILL: HB 303

SHORT TITLE: SMALL BUSINESS ENERGY EFFICIENCY GRANTS

SPONSOR(s): OLSON

01/19/10 (H) READ THE FIRST TIME - REFERRALS
01/19/10 (H) ENE, L&C, FIN
02/16/10 (H) ENE AT 3:00 PM BARNES 124
02/16/10 (H) -- MEETING CANCELED --
02/23/10 (H) ENE AT 3:00 PM BARNES 124

BILL: HB 31

SHORT TITLE: NET ENERGY METERING

SPONSOR(s): OLSON

01/20/09 (H) PREFILE RELEASED 1/9/09
01/20/09 (H) READ THE FIRST TIME - REFERRALS
01/20/09 (H) ENE, L&C
03/24/09 (H) ENE AT 3:00 PM BARNES 124
03/24/09 (H) Heard & Held
03/24/09 (H) MINUTE(ENE)
02/16/10 (H) ENE AT 3:00 PM BARNES 124
02/16/10 (H) -- MEETING CANCELED --
02/23/10 (H) ENE AT 3:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE BILL STOLTZ
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HJR 45 as the prime sponsor.

MIKE MILLER, Vice Chairman
Northern Region
National Federation of Independent Business (NFIB)
North Pole, Alaska

POSITION STATEMENT: Testified in support of HJR 45.

MEERA KOHLER, President and CEO
Alaska Village Electric Cooperative (AVEC)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HJR 45.

BRYAN BUTCHER, Director
Governmental Affairs & Public Relations
Alaska Housing Finance Corporation (AHFC)
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Presented a review of HB 296 and answered questions during the hearing on HB 296; answered questions during the hearing on HB 303.

JOHN ANDERSON, Weatherization Program Manager
Alaska Housing Finance Corporation (AHFC)
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 296.

JACK KREINHEDER, Chief Policy Analyst
Office of Management & Budget
Office of the Governor
Juneau, Alaska

POSITION STATEMENT: Answered a question during the hearing on HB 296.

REPRESENTATIVE KURT OLSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as the prime sponsor of HB 303; testified as the sponsor of HB 31.

JENNIFER SENETTE, Staff
Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 303 on behalf of Representative Olson, prime sponsor; reviewed HB 31 and presented the sectional analysis on Amendment 1 to HB 31, on behalf of Representative Olson, prime sponsor.

SARA FISHERGOAD, Deputy Director
Operations
Alaska Industrial Development & Export Authority (AIDEA) and
Alaska Energy Authority (AEA)
Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska

POSITION STATEMENT: Answered a question during the hearing on HB 303.

RICH GAZAWAY, Advisory Section Manager
Alaska Regulatory Commission (RCA)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 31.

JIM STIMPFLE
Nome, Alaska

POSITION STATEMENT: Testified during the hearing on HB 31.

MIKE O'MEARA, Homer Spokesman
Homer Electric Association Member's Forum
Kachemak Bay, Alaska

POSITION STATEMENT: Testified during the hearing on HB 31.

PETER MCKAY
Kenai, Alaska

POSITION STATEMENT: Testified during the hearing on HB 31.

MARILYN LELAND, Executive Director
Alaska Power Association (APA)
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 31.

DEAN THOMPSON, Attorney
Alaska Power Association (APA)
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 31.

ACTION NARRATIVE

[3:09:05 PM](#)

CO-CHAIR CHARISSE MILLETT called the House Special Committee on Energy meeting to order at 3:09 p.m. Present at the call to order were Representatives Millett, Petersen, Tuck, Edgmon, and Dahlstrom. Representatives Johansen and Ramras arrived after the meeting was in progress.

HJR 45-OPPOSE FEDERAL CAP AND TRADE LEGISLATION

[3:10:27 PM](#)

CO-CHAIR MILLETT announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 45, Urging the United States Congress not to enact Cap and Trade legislation.

[3:10:36 PM](#)

REPRESENTATIVE BILL STOLTZ, Alaska State Legislature, informed the committee that a legislative resolution is a formal letter to Congress expressing concerns about issues outside of the legislature's political boundaries. He opined Congressional leaders and the White House are supporting a policy of cap and trade legislation which, if enacted, would have deleterious impacts on all levels of the national economy. Representative Stoltze, and the co-sponsors of HJR 45, respectively disagree with the supporters of cap and trade legislation and the resolution points out their concerns. He noted that Congressman Don Young and Senator Lisa Murkowski helped formulate the resolution. In the interest of efficiency, he said he would support the amendment to be offered by Representative Tuck. Representative Stoltze stressed that cap and trade legislation adds to the living expenses of the average American family and of individuals, and prevents opportunities in an inexhaustible list of industries. He urged the committee to bring forward the resolution.

[3:15:34 PM](#)

REPRESENTATIVE JOHANSEN observed producer and user states differ on this issue. He offered his support.

[3:15:57 PM](#)

REPRESENTATIVE STOLTZ advised that user states are unaware of how affected they are.

[3:16:16 PM](#)

CO-CHAIR MILLETT opened public testimony.

[3:16:29 PM](#)

MIKE MILLER, Vice Chairman, Northern Region, National Federation of Independent Business (NFIB), said his organization is in strong support of the resolution. As a business owner with businesses in North Pole and Ketchikan, he stated that 3,600 jobs in Alaska may be lost if cap and trade legislation is enacted. This would happen because when small businesses cut budgets, they cannot cut items like taxes, but must cut wages. As a result, jobs have been lost in the visitor and gift industries during the past two years. Furthermore, according to the Heritage Foundation, federal cap and trade legislation will increase the price of gasoline by \$1.20 per gallon. Especially in the visitor industry, the more a visitor's cost of transportation to Alaska is raised, the less he or she has to spend. In addition, all of Alaska's residents are affected by the cost of transportation for goods. In fact, there was a 20 percent fuel surcharge added on to a recent shipment to one of his businesses. Mr. Miller concluded that for every dollar taken out of the economy by the loss of jobs, the economy is negatively affected. He re-stated his support for HJR 45.

[3:21:07 PM](#)

MEERA KOHLER, President and CEO, Alaska Village Electric Cooperative (AVEC), informed the committee AVEC serves 53 small villages throughout the state. Ms. Kohler recalled that the issue of cap and trade and carbon taxes is not new. She agreed with the resolution's sponsor that potential carbon taxes would affect those who can least afford it. For example, in rural areas residents do not have opportunities to use renewable sources of energy that do not come from fossil fuels and they will "be hit very, very hard." She noted that a ton of carbon on the market for \$50 equates to a cost of \$0.04 per kWh in the villages, and to a 40 percent increase in rates for Anchorage Municipal Light and Power (ML&P). Ms. Kohler urged that Alaska send a message as quickly as possible that this is an unfair tax.

[3:22:59 PM](#)

CO-CHAIR MILLETT closed public testimony.

[3:23:09 PM](#)

REPRESENTATIVE TUCK moved to adopt Conceptual Amendment 1.

REPRESENTATIVE JOHANSEN objected.

[3:23:34 PM](#)

REPRESENTATIVE TUCK advised that on page 1, line 8, of the resolution, the conceptual amendment deletes "that has been backed by a partisan", and inserts "and is before Congress".

[3:24:38 PM](#)

REPRESENTATIVE STOLTZ said this is a constructive amendment.

REPRESENTATIVE EDGMON supported Conceptual Amendment 1.

[3:25:11 PM](#)

REPRESENTATIVE JOHANSEN withdrew his objection.

CO-CHAIR MILLETT announced Conceptual Amendment 1 was adopted.

[3:25:29 PM](#)

REPRESENTATIVE EDGMON moved to report HJR 45, [as amended] out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 45(ENE) was reported from the House Special Committee on Energy.

[3:25:43 PM](#)

The committee took an at-ease from 3:25 p.m. to 3:27 p.m.

HB 296-ENERGY EFFICIENCY BONDS; LOANS; FUND

[3:27:58 PM](#)

CO-CHAIR MILLETT announced the next order of business would be HOUSE BILL NO. 296, "An Act authorizing and relating to the issuance of bonds by the Alaska Housing Finance Corporation; establishing the Alaska energy efficiency revolving loan fund

and relating to the fund; authorizing municipalities and the State of Alaska to borrow money from the Alaska Housing Finance Corporation for the purposes of the Alaska energy efficiency revolving loan fund; and providing for an effective date."

[3:28:15 PM](#)

BRYAN BUTCHER, Director, Governmental Affairs & Public Relations, Alaska Housing Finance Corporation (AHFC), Department of Revenue (DOR), reminded the committee that HB 296 would take \$18 million AHFC received from the energy program stimulus funds to leverage up to \$250 million in bonds which would be used for energy improvements to public and municipal facilities, such as schools. The proposal would work as a revolving loan fund by the hire of a energy performance contractor who estimates the savings from, and cost of, energy efficiency improvements. Subsequently, a loan would be issued by AHFC and, after the work was done, the savings realized from the work would be used to pay back the loan. Mr. Butcher assured the committee that the contractor must compensate for any savings that are less than his or her estimate, thus in all cases, the corporation is repaid and the program continues to revolve.

[3:29:48 PM](#)

CO-CHAIR EDGMON inquired as to whether any problems are foreseen regarding issuing \$250 million in bonds.

MR. BUTCHER advised that the bonds are backed by AHFC, and would not be issued all at once. In fact, there are only four energy performance contractors in the state at this time.

[3:31:01 PM](#)

REPRESENTATIVE TUCK referred to page 2, line 7, and asked whether loans may be made to the University of Alaska (UA) system.

[3:31:29 PM](#)

MR. BUTCHER said he was unsure.

[3:32:01 PM](#)

JOHN ANDERSON, Weatherization Program Manager, Alaska Housing Finance Corporation (AHFC), Department of Revenue (DOR), opined the intention was to include [the UA system].

MR. BUTCHER advised that this question and another would be addressed as the bill progresses.

[3:33:14 PM](#)

CO-CHAIR MILLETT closed public testimony after ascertaining that no one else wished to testify.

[3:33:57 PM](#)

REPRESENTATIVE PETERSEN moved to adopt Amendment 1, labeled 26-GH2903\A.1, Cook, 2/5/10, which read:

Page 1, line 3:

Delete "**municipalities**"

Insert "**regional educational attendance areas, municipalities,**"

Page 2, line 7, following "to":

Insert "regional educational attendance areas,"

Page 2, line 9:

Delete "the state or by municipalities in"

Insert "the regional educational attendance areas, municipalities or their subdivisions, or"

Page 2, line 15, following "Before":

Insert "a regional educational attendance area, a"

Page 2, line 16, following "section, the":

Insert "regional educational attendance area"

Page 2, line 24, following "All":

Insert "regional educational attendance areas and"

Page 2, line 25, following "section.":

Insert "The corporation shall set out the terms of a loan to a regional educational attendance area in a loan agreement or similar document."

Page 3, line 5, following "to":

Insert "a regional educational attendance area or to"

Page 3, line 7, following "that the":

Insert "regional educational attendance area or"

Page 3, line 9, following "and":

Insert "a regional educational attendance area
or"

Page 3, line 10, following "from that":

Insert "regional educational attendance area or"

Page 3, line 19, following "state.":

Insert "The superintendent of a regional
educational attendance area, at the direction of the
regional educational attendance school board, may
borrow from the corporation under this section for
buildings owned by the regional educational area."

Page 3, line 23, following "A":

Insert "regional educational attendance area or"

Page 4, lines 15 - 16:

Delete "for energy efficiency improvements to
state and municipal buildings in the state"

Page 4, line 16, following "finance the":

Delete "other"

[3:34:46 PM](#)

CO-CHAIR MILLETT objected for the purpose of discussion.

REPRESENTATIVE PETERSEN explained that the purpose of the amendment was to include more buildings that might qualify for the loan program by adding "regional educational attendance area" where applicable.

MR. BUTCHER, in response to Co-Chair Millett, confirmed that the intent of the bill was to include regional educational attendance areas (REAs).

[3:35:22 PM](#)

CO-CHAIR MILLETT removed her objection. There being no further objection, Amendment 1 was adopted.

[3:35:30 PM](#)

REPRESENTATIVE PETERSEN moved to adopt Amendment 2, labeled 26-GH2903\A.2, Cook, 2/8/10, which read:

Page 1, line 3:

Delete "**municipalities**"

Insert "**Native organizations, municipalities,**"

Page 2, line 7, following "to":

Insert "Native organizations,"

Page 2, line 9:

Delete "state or by municipalities in"

Insert "Native organizations, municipalities or their subdivisions, or"

Page 2, line 15, following "Before":

Insert "a Native organization,"

Page 2, line 16, following the second occurrence of "the":

Insert "Native organization or"

Page 2, line 24, following "All":

Insert "Native organizations and"

Page 2, line 25, following "section.":

Insert "The corporation shall set out the terms of a loan to a Native organization in a loan agreement or similar document."

Page 3, line 5, following "to":

Insert "a Native organization or to"

Page 3, line 7, following the first occurrence of "the":

Insert "Native organization or"

Page 3, line 9, following "and":

Insert "a Native organization or"

Page 3, line 10, following the second occurrence of "that":

Insert "Native organization or"

Page 3, line 19, following "state.":

Insert "The board of directors or council of a Native organization may borrow from the corporation under this section for buildings owned by the Native organization."

Page 3, line 23, following "A":

Insert "Native organization or"

Page 3, line 27, following "section,":

Insert "(1)"

Page 3, line 28:

Delete "(1)"

Insert "(A)"

Page 3, line 30:

Delete "(2)"

Insert "(B)"

Page 4, line 1:

Delete "(3)"

Insert "(C)"

Page 4, line 2:

Delete "(4)"

Insert "(D)"

Page 4, line 5:

Delete "(5)"

Insert "(E)"

Page 4, lines 4 - 5:

Delete "(1) - (4) of this subsection."

Insert "(A) - (D) of this paragraph;

(2) "council" or "Native council" means a council organized under federal law to represent an Alaska Native community or Indian reserve in the state;

(3) "Native organization" means a Native council or nonprofit corporation organized by a Native council."

Page 4, lines 15 - 16:

Delete "for energy efficiency improvements to state and municipal buildings in the state"

REPRESENTATIVE PETERSEN explained that Amendment 2 adds to the loan program Native organizations that in some rural areas serve as the only organization in the community.

[3:36:09 PM](#)

CO-CHAIR MILLETT objected. She asked Mr. Butcher to define "Native organizations" under statute.

[3:36:22 PM](#)

MR. BUTCHER said although AHFC supports getting energy efficiency done in as many areas as possible, its concern is that this "goes in a different direction than the legislation has been drafted for." Because the proposed bill was approved by the U.S. Department of Energy (DOE) specifically for public buildings, he cautioned that the amendment could bring some issues that would require further approval from DOE.

CO-CHAIR EDGMON understood the purpose of the amendment; however, he said he does not know of any Native organizations that own a public building. He agreed with Mr. Butcher and opposed the amendment.

[3:38:20 PM](#)

CO-CHAIR MILLETT maintained her objection to Amendment 2.

[3:38:25 PM](#)

REPRESENTATIVE PETERSEN withdrew Amendment 2.

MR. BUTCHER assured the committee that AHFC is very good at working with small communities and will ensure that every community can participate in the program.

CO-CHAIR EDGMON asked whether this program would create housing authorities.

[3:40:01 PM](#)

MR. ANDERSON stated AHFC's position that stock owned by regional housing authorities would not be able to qualify in this program. However, regional housing authorities have the potential to do the work in many communities.

CO-CHAIR EDGMON asked whether there are sufficient other funding streams for housing authorities.

MR. ANDERSON observed that the weatherization program and federal Housing and Urban Development (HUD) programs provide "a vast amount of money that is going to the regional housing authorities right now." He re-stated that AHFC will do whatever it can to encourage the housing authorities to get trained so they can participate in the work. In fact, much of the building stock in rural Alaska is built on a residential system, and with minimal training most regional housing authorities will be able to participate.

[3:41:55 PM](#)

CO-CHAIR EDGMON noted the definition of public facilities in other bills may need to be re-visited.

[3:42:13 PM](#)

REPRESENTATIVE TUCK asked to confirm that the intent is to include the UA system.

[3:42:32 PM](#)

MR. BUTCHER said yes. He offered to contact the committee after AHFC conducts discussions with the Office of Management and Budget (OMB). He further explained that after AHFC figured out how to leverage this program to \$250 million, it began to include more participation by different areas of government, and there was some confusion about what was included. Now, with the revolving aspect of this program, AHFC will be able to include every building that it wants to do, including the UA. In further response to Representative Tuck, Mr. Butcher said, "A qualified yes."

REPRESENTATIVE TUCK asked for reasons UA would not be included.

MR. BUTCHER offered no reasons.

[3:44:17 PM](#)

CO-CHAIR MILLETT suggested the committee send a letter of intent to the finance committee with the bill.

[3:44:35 PM](#)

REPRESENTATIVE TUCK agreed.

[3:45:21 PM](#)

JACK KREINHEDER, Chief Policy Analyst, Office of Management & Budget, Office of the Governor, informed the committee that the administration supports the inclusion of the UA. However, the UA may have its own program and he suggested contacting the university to assess its interest.

REPRESENTATIVE TUCK asked whether the UA was excluded as the bill is now written.

[3:47:12 PM](#)

MR. KREINHEDER advised that he is not a lawyer, but opined that UA facilities are state facilities and would be included.

[3:47:29 PM](#)

REPRESENTATIVE TUCK stated he was comfortable sending a letter to the finance committee.

MR. KREINHEDER provided written information that was previously requested by the committee.

[3:48:28 PM](#)

CO-CHAIR EDGMON moved to report HB 296, amended, out of committee with individual recommendations, zero fiscal notes, and the accompanying letter of intent. There being no objection, CSHB 296(ENE) was reported from the House Special Committee on Energy.

[3:48:58 PM](#)

The committee took an at-ease from 3:48 p.m. to 3:54 p.m.

HB 303-SMALL BUSINESS ENERGY EFFICIENCY GRANTS

[3:54:17 PM](#)

CO-CHAIR MILLETT announced that the next order of business would be HOUSE BILL NO. 303, "An Act establishing the Alaska energy efficient small business grant fund and program."

[3:54:25 PM](#)

REPRESENTATIVE KURT OLSON, Alaska State Legislature, thanked the committee for its work and introduced his aide.

[3:55:20 PM](#)

JENNIFER SENETTE, Staff, Representative Kurt Olson, Alaska State Legislature, introduced HB 303 on behalf of Representative Olson, prime sponsor. Ms. Senette referred to Alaska Housing Finance Corporation's (AHFC) successful home energy rebate program and said that this legislation was intended to open that program to small businesses. HB 303 would allow small business owners wishing to ameliorate the energy efficiency of their buildings to receive a rebate for some of the expenditures. As with the homeowner program, HB 303 would require an energy efficiency rater evaluate the business structure to be retrofitted before and after the improvements. The amount of the rebate would be determined by the amount of energy efficiency gained by making the improvements, and by receipts for the completed work and materials. The bill sets three guidelines for the businesses to meet in order to qualify for the program. Firstly, the assessed value of the structure to be retrofitted cannot exceed \$1 million. Secondly, the structure must be owned by a person or persons licensed by the state and with no outstanding liabilities to the state. Thirdly, the structure must meet criteria adopted by AHFC. Ms. Senette anticipated questions and noted that representatives from AHFC and the Alaska Energy Authority (AEA) were available to testify.

[3:58:09 PM](#)

REPRESENTATIVE DAHLSTROM observed that a small business may be operated out of a home or garage. She surmised that type of small business would not qualify.

MS. SENETTE suggested the bill sponsor would be willing to work on that point.

[3:59:05 PM](#)

REPRESENTATIVE DAHLSTROM stated her belief in the sponsor's intent to include businesses, such as sub-contractors and day care owners, who may work at home.

CO-CHAIR EDGMON asked whether a non-resident small business owner would qualify.

[3:59:50 PM](#)

MS. SENETTE responded that there is no language in the bill that requires residency.

CO-CHAIR EDGMON asked whether the rater concept is the same as the residential users.

[4:00:43 PM](#)

MS. SENETTE said yes. HB 303 is intended to "mirror" the home energy rebate program. She suggested more details could be provided by AHFC.

[4:01:06 PM](#)

CO-CHAIR EDGMON expressed his concern about the bill because of the limited amount of funds available for residential users of the home energy rebate program. Since only 10 percent of the state has participated, a vast number of homes in the state have yet to participate. Co-Chair Edgmon understood the benefits of helping small businesses; however, he cautioned against diverting money and preventing residential users from getting rebates on their homes.

[4:02:28 PM](#)

REPRESENTATIVE OLSON recalled there were problems in drafting the bill during the interim because the amount of surplus funds was unknown, and the success of the new AHFC program was also unknown. He surmised that there is a fair amount of surplus and said, "But again, that's probably something that will be dealt with by the finance committee."

REPRESENTATIVE TUCK referred to page 2, line 7, of the bill, and asked whether a business owner who leased property for the business would qualify.

[4:04:05 PM](#)

MS. SENETTE said the bill is intended for the owner of the business.

[4:04:14 PM](#)

REPRESENTATIVE TUCK gave an example of a business owner who wanted to install new windows in a space he or she leased.

MS. SENETTE said she will have to get back to the committee in this regard.

[4:04:57 PM](#)

REPRESENTATIVE DAHLSTROM asked whether the sponsor objected to the addition of a residency requirement.

REPRESENTATIVE OLSON indicated no.

REPRESENTATIVE DAHLSTROM said a residency requirement is essential.

[4:05:35 PM](#)

REPRESENTATIVE PETERSEN noted that many small business owners who operate from a leased space pay for utilities and may not be able to talk the building owner into making energy improvements. He asked whether the sponsor knows how to help an owner in that situation.

[4:06:57 PM](#)

REPRESENTATIVE OLSON voiced the sponsors' intent to start small, get the program up and running, and let it develop and grow.

[4:07:22 PM](#)

CO-CHAIR MILLETT observed that although she understood the concern for businesses located in malls, the intent was truly for small business.

BRYAN BUTCHER, Director, Governmental Affairs & Public Relations, Alaska Housing Finance Corporation (AHFC), Department of Revenue (DOR), in response to Co-Chair Edgmon, explained that AHFC does not have a definition of a small business. He deferred to the bill sponsor.

[4:08:51 PM](#)

CO-CHAIR EDGMON relayed his support of the concept of HB 303, but perhaps not the mechanism. He suggested a loan program may

be better. He then asked for AHFC's position on the impact HB 303 would have on the residential homeowner energy rebate program.

[4:10:20 PM](#)

MR. BUTCHER acknowledged that home energy rebate program funds are fully encumbered, although funds will become available from those who do not complete the program. Furthermore, the weatherization funds will be spent in FY 2011. It is certain that the passage of HB 303 will require additional funding. He said the possibilities for a loan program may include a revolving loan fund with energy performance contracting. In response to an earlier question as to how the energy audits would work for this, he explained that the AKwarm software that is used for the ratings on the residential program is being expanded for use on commercial buildings.

[4:11:57 PM](#)

CO-CHAIR EDGMON expressed his sense of discomfort with the bill as it currently stands, and gave the example of a \$10,000 rebate approved for a \$1 million building. He suggested that the bill sponsor consider a separate program that the legislature would put more money into. In that case, he would also support more money for the current residential and weatherization programs. Co-Chair Edgmon said further conversations about helping small businesses, residential users, and housing authorities with weatherization money should take place in the House Finance Committee. He said, "I am saying that I do have a level of discomfort with the bill as it's presently structured because I think there are some fundamental issues that need to be addressed somewhere along the line."

[4:14:00 PM](#)

REPRESENTATIVE JOHANSEN referred to page 2, line 4, of the bill, and asked whether AHFC provided loans for small businesses for new structures.

MR. BUTCHER answered that AHFC is strictly residential and does not have relationships with small businesses. He opined this language is probably fashioned on the home energy rebate program in that owners can qualify for a rebate if they build a new, 5 Star Plus home.

[4:15:04 PM](#)

REPRESENTATIVE EDGMON asked whether the AKwarm software has to be updated for use on businesses.

MR. BUTCHER said yes, but that is something AHFC is already doing as part of negotiations with the Department of Energy (DOE) and for requirements in other legislation.

CO-CHAIR EDGMON asked whether another mechanism might incorporate this concept.

MR. BUTCHER acknowledged that this could be discussed.

[4:16:37 PM](#)

CO-CHAIR MILLETT relayed that the sponsor offered the bill as an amendment to the energy omnibus bill, so that option remains available to the committee.

[4:17:13 PM](#)

REPRESENTATIVE TUCK referred to page 2, line 14, of the bill, and asked whether a business owner with several properties would qualify for improvements to only one property.

MR. BUTCHER imagined it would be a situation where only one address could be used one time, although this would be discussed as the program is set up.

[Co-Chair Millett turned the gavel over to Co-Chair Edgmon.]

[4:18:47 PM](#)

REPRESENTATIVE TUCK gave several examples of business ownership.

MR. BUTCHER confirmed that AHFC would talk to the Department of Commerce, Community, & Economic Development (DCCED) and the Alaska Energy Authority (AEA) in this regard.

[4:20:02 PM](#)

REPRESENTATIVE RAMRAS also called attention to page 2, line 14, of the bill. He pointed out the difficulty in establishing the value of a commercial building in rural areas, and unorganized boroughs, where there is no tax assessment by a municipality. Representative Ramras questioned AHFC's ability to establish

parity between commercial buildings in Dillingham, Ekwok, Fairbanks, and Anchorage.

[Co-Chair Edgmon returned the gavel to Co-Chair Millett.]

[4:21:38 PM](#)

MR. BUTCHER deferred the question to AEA as AHFC does not have this expertise.

[4:22:09 PM](#)

REPRESENTATIVE RAMRAS re-stated his question as to the methodology to assess the value of a building, especially in rural areas or an unorganized borough, in order to ascertain the dollar value and observe the guidelines and procedures referred to in the bill.

[4:22:35 PM](#)

SARA FISHERGOAD, Deputy Director, Operations, Alaska Industrial Development & Export Authority (AIDEA) and Alaska Energy Authority (AEA), Department of Commerce, Community, & Economic Development, stated she would talk to other experts for guidance.

[4:23:12 PM](#)

REPRESENTATIVE RAMRAS said this is a significant hurdle. He suggested the solution of making any structure in rural Alaska eligible for the credit. Other suggestions were to use the population density in the community or the number of employees as the method for determining eligibility.

[4:24:41 PM](#)

REPRESENTATIVE PETERSEN pointed out the need for a definition of "small business." He recalled that the federal definition of small business is one with 100 employees or less; however, in most of Alaska, a business with 99 employees is not considered small. This definition may vary in different areas of the country.

[4:25:56 PM](#)

CO-CHAIR MILLETT noted several questions on the bill. She said she and Co-Chair Edgmon intend to hold the bill but continue the discussion.

[4:26:17 PM](#)

REPRESENTATIVE OLSON informed the committee that one of the concepts was to establish value on a square footage basis, which would get around the regional issue.

REPRESENTATIVE TUCK also supported the square footage concept.

[4:27:47 PM](#)

REPRESENTATIVE RAMRAS assured members he is a small businessman, even though he has 250 employees, when compared to the giants that he is competing against. For example, Silver Bay Seafoods in Sitka moves 31 million pounds of seafood, but is small when compared to Ocean Beauty and Trident Seafood. He urged that the numeric values of employees should not be used to determine what is a small business.

[4:29:23 PM](#)

CO-CHAIR EDGMON observed that the intertie between energy and economics is very real. He expressed his support of efforts by the legislature to help small businesses, such as commercial fishermen, through loan programs or in other ways.

[4:30:15 PM](#)

CO-CHAIR MILLETT announced that HB 303 was held pending forthcoming amendments.

HB 31-NET ENERGY METERING

[4:30:29 PM](#)

CO-CHAIR MILLETT announced that the next order of business would be HOUSE BILL NO. 31, "An Act relating to net energy metering for retail electricity suppliers and customers; and providing for an effective date."

[4:30:46 PM](#)

REPRESENTATIVE KURT OLSON, Alaska State Legislature, informed the committee that the proposed amendment to HB 31 would be presented by his aide, Jennifer Senette.

[4:31:11 PM](#)

JENNIFER SENETTE, Staff, Representative Kurt Olson, Alaska State Legislature, began by reviewing HB 31 for the committee. She noted that the Regulatory Commission of Alaska (RCA) has been working on a net metering docket for over one year and closed the docket in October. Representative Olson, sponsor of HB 31, has incorporated the regulations adopted by the RCA into an amendment to the bill because the regulations are a good compromise for all of the interests involved: customers who net meter, customers who do not net meter, and the utilities that serve them.

[4:33:09 PM](#)

The committee took an at-ease from 4:33 p.m. to 4:34 p.m.

[4:34:07 PM](#)

REPRESENTATIVE RAMRAS moved to adopt Amendment 1, A.1, Kane, 1/27/10.

CO-CHAIR MILLETT objected for purposes of discussion.

[4:34:26 PM](#)

REPRESENTATIVE RAMRAS advised that the regulations recommended by the RCA were put in amendment form. He referred to a document that embeds the recommendations made by Mr. Pickett, RCA chairman.

[4:35:04 PM](#)

CO-CHAIR MILLET requested copies of the document for the committee. She then asked Ms. Senette to review the sectional analysis on Amendment 1.

[4:35:46 PM](#)

MS. SENETTE emphasized that Amendment 1 codifies Chairman Pickett's testimony word-for-word. Subsections (a), (b), and (d) address the applicability and the waiver opportunity of the net metering requirement. Generally speaking, the net metering

requirement applies to all utilities subject to economic regulation by the RCA with the two exceptions set out on page 2, lines 8-13: (1) utilities that are 100 percent supplied by renewable sources; (2) independent systems with retail sales of less than five million kilowatt hours during the previous fiscal year. For example, the Alaska Power & Telephone Company (AP&T) serves twenty-one communities, five of which sold over five million kilowatt hours during FY 2007. Thus, the only portion of AP&T that would be required to provide net metering would be in those five communities that have sold over five million kilowatt hours. Ms. Senette called attention to page 2, line 13, and pointed out that if a utility demonstrates that limiting net metering installations is necessary due to operational constraints or liability issues, the utility would not be required to provide net metering.

[4:37:59 PM](#)

REPRESENTATIVE RAMRAS recognized the value of renewable energy sources, but because they are intermittent sources, they can only be a portion of the utility's portfolio. He opined that this provision of the amendment must be perceived as something that protects the ratepayer base of a small utility, because a smaller utility cannot absorb the net metering kilowatts in the way large producers can.

MS. SENETTE agreed. She continued with her sectional analysis and said subsections (e)-(i) set an overall capacity limit on net metering. Subsection (f) allows a utility to opt out if its overall nameplate capacity of all net metering systems interconnected with the utility exceeds 1.5 percent of the utility's average annual retail demand. Furthermore on page 3, line 9, subsection (i), she noted a utility can actually request an increase to that 1.5 percent capacity. Continuing to subsection (g), Ms. Senette explained that this subsection precludes a utility from disconnecting existing net metering customers should the cumulative nameplate capacity of the net metering systems interconnected with the utility exceed the cap as a result of average demand going down.

[4:40:44 PM](#)

MS. SENETTE continued to page 3, subsection (h), that requires a utility to annually publish in its tariff the number of kilowatt hours that are equivalent to that 1.5 percent of average retail demand. Subsection (l) specifies the eligibility criteria for the consumer generation facilities, including a generation

capacity limit of 25 kilowatts. Subsection (m) describes net metering and that the utility must measure the energy consumption and generation of a net metering consumer to determine net consumption, and to determine bill credits. Page 5, [paragraph] (2), indicates that compensation is based on the utility's non-firm purchase power rate-typically on an avoided cost basis-and that credits can be carried forward and do not expire. She emphasized that if a renewable energy generation facility is built and it contributes more power than it consumes, credits are issued instead of a payment, but the credits never expire. Subsection (n) allows the utilities to charge a net metering consumer for non-generation related consumer charges if those charges are authorized in the utility's tariff. Subsection (p) allows the utility to request a change to its rate design to incorporate a net metering customer class; however, the utility must demonstrate an adverse material rate impact on those who do not net meter.

[4:43:16 PM](#)

MS. SENETTE then advised that the remainder of Amendment 1 is definitions. She introduced expert witnesses.

[4:44:01 PM](#)

CO-CHAIR MILLETT asked whether the RCA supports codifying its recommendations in statute, or if it wishes to keep the recommendations under regulations.

MS. SENETTE said she did not know. However, there are advantages to moving the recommendations into statute because statute trumps regulations and is not subject to a change in leadership.

[4:45:06 PM](#)

CO-CHAIR EDGMON understood that the RCA chairman preferred the recommendations not be put into statute, and he expressed his interest in hearing whether the RCA supports the [amendment].

REPRESENTATIVE TUCK agreed. He pointed out that the amendment codifies language, but questioned the purpose of also giving the commission allowances to make changes.

[4:46:45 PM](#)

RICH GAZAWAY, Advisory Section Manager, Alaska Regulatory Commission (RCA), Department of Commerce, Community, & Economic Development (DCCED), advised the committee that he was the administrative law judge who conducted the hearings and process for net metering regulations.

CO-CHAIR MILLETT asked whether there is a benefit to the RCA to not have these regulations in statute.

[4:47:39 PM](#)

MR. GAZAWAY confirmed that having the recommendations in regulations provides the RCA with a greater level of flexibility to amend standards. However, as a staff member, he could not speak to what position the five commissioners would take.

[4:48:26 PM](#)

REPRESENTATIVE TUCK observed that the amendment allows the RCA to make changes in Section 1. Therefore, he asked whether there are limitations to the RCA's flexibility to make changes.

[4:49:01 PM](#)

MR. GAZAWAY explained that the waiver provision allows the commission to exercise its discretion. He concluded that the language would provide some flexibility, and is modeled on RCA regulatory language.

[4:49:38 PM](#)

REPRESENTATIVE RAMRAS defended the language in Amendment 1, saying it codifies the legislature's intent for net metering. Because net metering in Alaska is brand new, he cautioned against the use of rigid language. In fact, the use of the word "may" provides sufficient direction to the RCA from the legislature, and sufficient latitude for the RCA to interpret what works for the utilities across the state.

[4:51:24 PM](#)

REPRESENTATIVE TUCK clarified that he was not suggesting the use of the word "shall." He re-stated his inquiry as to the effect of the amendment and why it was necessary to codify decisions that the RCA is authorized to make.

[4:52:09 PM](#)

CO-CHAIR MILLETT withdrew her objection to Amendment 1. There being no further objection, Amendment 1 was adopted, and HB 31, as amended, was before the committee. She opened public testimony.

[4:52:58 PM](#)

JIM STIMPFLE said he could not tell from the bill or the amendment whether this is a two meter or a one meter system. In a one meter system, one meter reads the power going in and if consumers are using their own renewables, the meter runs backwards.

CO-CHAIR MILLETT opined the legislation does not address how net metering takes place because that is a "utility to consumer" issue.

[4:54:02 PM](#)

MR. STIMPFLE referred to Amendment 1, page 4, line 15, and recommended the addition of a provision to allow a small business owner, in a rural area, an offsite grid connection as a way to "credit back" the power usage at another site. He then asked whether the Alaska Village Electrical Cooperative (AVEC) produces less than five million kilowatts and has a waiver against compliance with net metering.

[4:54:56 PM](#)

CO-CHAIR MILLETT said she believed that to be the case.

[4:55:08 PM](#)

MIKE O'MEARA, Homer Spokesman, Homer Electric Association Member's Forum, informed the committee the Homer Electric Association Member's Forum is a ratepayers' group. He said his organization questions the need to codify the RCA net metering regulations into law; however, HEA Member's Forum participants would be supportive of the bill, as amended, if it goes forward. Consensus among the participants is that the RCA did a pretty good job of balancing the demands from various interests. The organization remains interested in seeing that nothing is done to diminish the regulations, and he urged that changes not be made to affect what the RCA has regulated. Also, his organization discourages any language that would limit the

ability of ratepayer groups' participation in future RCA deliberations on this issue.

[4:58:04 PM](#)

CO-CHAIR MILLETT clarified that the amendment was adopted and is now part of the bill.

[4:58:21 PM](#)

PETER McKAY informed the committee he has participated with the RCA proceedings on net metering since 10/06. He stated he was comfortable with Appendix A to RCA Order 09-1, Order Number 3; however, there are differences between the order and Amendment 1 offered by Representative Ramras in the language and in the structure. Mr. McKay said he could not be comfortable that the issues worked out by the regulatory commission are intact in the amendment, and he stated his desire for a line-by-line comparison, or a cross reference that identifies identical language, different language with the same intent, and differences and omissions when compared to RCA Appendix A, Article 3, Section 900, of the Alaska Administrative Code. He urged that the committee make this comparison prior to the bill moving forward.

[5:00:32 PM](#)

CO-CHAIR MILLETT asked Mr. McKay to send his concerns in writing.

[5:01:13 PM](#)

MARILYN LELAND, Executive Director, Alaska Power Association (APA), informed the committee her organization is the statewide trade association representing electric utilities that supply power to 500,000 Alaskans. Ms. Leland provided a history of net metering regulation in Alaska from 2006. She stated that her organization believes that the RCA process that is now completed was a success. Public participation in the workshops and opportunities for public testimony were well attended; in fact, during the workshops RCA staff, utility representatives, and members of the public came to agreements that "all who participated could live with."

[5:03:40 PM](#)

CO-CHAIR MILLETT asked whether APA supports this legislation.

MS. LELAND responded that the bill and amendment have not gone to the membership; however, APA issued a resolution that supported leaving net metering to the RCA regulatory process.

[5:04:37 PM](#)

DEAN THOMPSON, Attorney, Alaska Power Association (APA), began his testimony by saying that APA actively participated in the RCA process and does not oppose the substance of the regulations; however, APA has administrative concerns about codifying RCA regulations in statute. The main concern is that it may create inconsistencies between statute and regulation. The regulations adopted by the RCA are not legally effective or final, and will not be until reviewed by the Department of Law (DOL) and certified by the lieutenant governor. Furthermore, the review could result in substantive changes that require the RCA to re-notice the regulations. In either case, codifying the most recent RCA regulations in statute may create inconsistencies. Secondly, the risk increases if the DOL suggests changes to the regulations. Mr. Thompson warned that those are the problems that could result in codifying regulations that are not yet final. Regarding the waiver language in Section 1, subsection (b) of Amendment 1, he pointed out that the standard for the waiver is that "no legitimate public interest would be served by enforcing the requirement." He opined the commission is given some flexibility, but not complete flexibility or discretion.

[5:09:26 PM](#)

MR. THOMPSON assured the committee that APA worked hard with the RCA and other stakeholders on the regulatory process and, although members are not completely pleased with the regulations, they determined the regulations were good enough and worked well enough for everyone to move ahead. He commended the parties in this regard.

[5:10:45 PM](#)

CO-CHAIR MILLETT ascertained that no one else wished to testify, but left public testimony open for further comments. HB 31 was held in committee.

[5:11:06 PM](#)

CO-CHAIR EDGMON recognized three students from Dillingham High School who were attending the hearing: Tiana Peterson, Billy Noonkesser, Kelly Evans, and their teacher, Peter Johnson.

5:11:33 PM

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Energy meeting was adjourned at 5:11 p.m.