

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 24, 2010

3:32 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Mike Chenault
Representative Bob Lynn
Representative Tammie Wilson
Representative Robert L. "Bob" Buch
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 342

"An Act extending the termination date of the Board of Certified Real Estate Appraisers; and providing for an effective date."

- MOVED HB 342 OUT OF COMMITTEE

HOUSE BILL NO. 346

"An Act establishing the Workers' Compensation Advisory Board; and providing for an effective date."

- MOVED CSHB 346(L&C) OUT OF COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 19

Urging the Alaska Industrial Development and Export Authority to present a business case to the Alaska State Legislature that includes a method for financing, a plan to solicit proposals for a public and private venture, and an analysis of the economic feasibility of a state-built and privately operated fuel storage facility that would serve the public interest by providing Alaskans with a reliable source of jet fuel, diesel, and gasoline at competitive prices.

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 342

SHORT TITLE: EXTEND BOARD OF REAL ESTATE APPRAISERS

SPONSOR(s): REPRESENTATIVE(s) T.WILSON

02/12/10 (H) READ THE FIRST TIME - REFERRALS
02/12/10 (H) L&C, FIN
02/24/10 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 346

SHORT TITLE: WORKERS' COMPENSATION ADVISORY BOARD

SPONSOR(s): REPRESENTATIVE(s) OLSON

02/15/10 (H) READ THE FIRST TIME - REFERRALS
02/15/10 (H) L&C, FIN
02/22/10 (H) L&C AT 3:15 PM BARNES 124
02/22/10 (H) -- Meeting Postponed to 02/24/10 --
02/24/10 (H) L&C AT 3:15 PM BARNES 124

BILL: HCR 19

SHORT TITLE: AIDEA REPORT ON IN-STATE FUEL STORAGE

SPONSOR(s): REPRESENTATIVE(s) RAMRAS

01/27/10 (H) READ THE FIRST TIME - REFERRALS
01/27/10 (H) L&C, FIN
02/22/10 (H) L&C AT 3:15 PM BARNES 124
02/22/10 (H) -- Meeting Postponed to 02/24/10 --
02/24/10 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

MICHELLE SIKMA, Staff
Representative T. Wilson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 342 on behalf of the sponsor,
Representative T. Wilson.

CHRIS CURTIS, Division of Legislative Audit
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during the
discussion of HB 346.

JENNIFER STRICKLER, Chief, Professional Licensing
Division of Corporations, Business, and Professional Licensing
Juneau Office

Department of Commerce, Community, & Economic Development
(DCCED)

Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of questions on HB 342.

BUTCH OLMSTEAD, Vice-Chair

Board of Certified Real Estate Appraisers (BCREA)

Department of Commerce, Community, & Economic Development
(DCCED)

Ketchikan, Alaska

POSITION STATEMENT: Testified during the discussion of HB 342.

STEPHEN TURNER, Past President

Board of Certified Real Estate Appraisers (BCREA)

Department of Commerce, Community, & Economic Development
(DCCED)

Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 342.

KONRAD JACKSON, Staff

Representative Kurt Olson

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 346 on behalf of the prime sponsor, Representative Kurt Olson

LINDA HALL, Director

Division of Insurance

Anchorage Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 346.

TRENA HEIKES, Director

Division of Workers Compensation

Department of Labor & Workforce Development (DLWD)

Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of HB 346.

KENTON BRINE, Northwest Regional Manager;

Assistant Vice-President

Property Casualty Insurance Association of America (PCI)

Olympia, Washington

POSITION STATEMENT: Testified in support of HB 346.

VINCE BELTRAMI, President

American Federation of Labor and Congress of Industrial Organizations (AFL/CIO)

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 346.

PATRICIA WILSON

Workers Compensation Committee of Alaska

Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 346.

JAMES HEMSATH, Deputy Director

Business Development

AIDEA

Anchorage, Alaska

POSITION STATEMENT: Presented a PowerPoint overview and answered questions during the discussion of HCR 19.

REPRESENTATIVE JAY RAMRAS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HCR 19 as the prime sponsor of the resolution.

ACTION NARRATIVE

[3:32:07 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:32 p.m. Representatives Buch, Lynn, Holmes, T. Wilson, and Olson were present at the call to order. Representatives Chenault and Neuman arrived as the meeting was in progress.

HB 342-EXTEND BOARD OF REAL ESTATE APPRAISERS

[3:32:33 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 342, "An Act extending the termination date of the Board of Certified Real Estate Appraisers; and providing for an effective date."

[3:32:36 PM](#)

MICHELLE SIKMA, Staff, Representative T. Wilson, Alaska State Legislature, presented HB 342 on behalf of the prime sponsor,

Representative T. Wilson, paraphrased from the sponsor's statement, inserted, as follows [original punctuation provided]:

HB 342 extend the termination date of the Board of Certified Real Estate Appraisers (BCREA). Per AS 08.03.010(c)(20), the board will sunset on June 30, 2010. HB 342 extends this date by four years, to June 30, 2014.

The BCREA is comprised of a five member board to establish: (1) examination specifications for certification as a real estate appraiser; (2) rules of professional conduct to establish and maintain a high standard of integrity in the real estate appraisal profession; and (3) regulations necessary to carry out the purposes of the statutes.

The conclusion of the Legislative Audit is a recommendation to extend the BCREA's termination date by four years. (Report Digest #08-20064-10).

[3:34:35 PM](#)

REPRESENTATIVE BUCH inquired about the fiscal note.

[3:35:01 PM](#)

CHRIS CURTIS, Division of Legislative Audit, Legislative Affairs Agency, explained that the Division of Legislative Audit conducted a sunset audit review and issued a report in January 2010. The objective of the audit was to determine whether the termination date should be extended. She reviewed the background information, including that the BCREA's authority originated from an Act that passed the Congress in 1989, the Financial Institutions Reform, Recover, and Enforcement Act (FIRREA). This federal law was intended to ensure that federally regulated real estate transactions appraisals were performed by real estate appraisers who met the minimum qualifications and were conducted in compliance with uniform standards. Under the federal law each state could establish its own agencies to license and certify real estate appraisers. In 1990, the legislature created the Board of Certified Real Estate Appraisers (BCREA).

MS. CURTIS stated that the audit recommended that the BCREA be granted an extension until June 30, 2014, which is half of the eight years authorized in statute. The Division of Legislative

Audit recommended only a four-year extension of the BCREA, instead of an eight-year extension. This recommendation is based on the Department of Commerce, Community, & Economic Development (DCCED) and the BCREA's failure to address recommendations by the federal Appraisal Subcommittee (ASC). Additionally, the Division of Legislative Audit recommended that the DCCED should improve the administrative support to the BCREA. She remarked that the lack of administrative support is a systematic problem, and is one that the committee may see surface in other audits. Further, the legislative auditors recommended that the Office of the Governor improve its appointments to the BCREA in a more timely fashion.

[3:37:05 PM](#)

REPRESENTATIVE LYNN asked for clarification of the items the DCCED and the BCREA failed to address.

MS. CURTIS responded that the federal ASC review found that the DCCED and the BCREA failed to ensure that two of the 42 certified applicants met the Appraiser Qualifications Board's minimum time period requirements during which experience must be earned. Thus, two of the certified real estate appraiser licensees were not appropriately licensed. The federal ASC recommended that the DCCED request additional documentation, but only one applicant responded. Additionally, the federal ASC asked the department to downgrade the licenses, but no action was taken to do so. She understood the ASC conducted a subsequent review, issued additional findings, and the DCCED and the BCREA are currently working to address any remaining issues.

REPRESENTATIVE LYNN acknowledged that the audit reduced the extension period. He asked whether the punishment is commensurate with the findings.

MS. CURTIS related that rather than wait eight years to conduct an additional review, an audit could be held in four years to determine whether the DCCED and BCREA are meeting the requirements. One result of the BCREA not meeting the federal licensing criteria is that it could lead to federal lending institutions not accepting appraisals, which is fairly substantial, she stated.

REPRESENTATIVE LYNN asked whether any inspections or spot checks would occur.

[3:39:31 PM](#)

MS. CURTIS related that she does not believe any oversight is currently in place except for the federal review.

REPRESENTATIVE LYNN recalled his own military service and offered his belief that surprise inspections are worthwhile, so periodic inspections should happen.

[3:40:34 PM](#)

REPRESENTATIVE T. WILSON inquired as to whether the BCREA should be extended for only two years instead of four years as recommended by the auditors.

MS. CURTIS answered the decision is subjective, that the division thought that it may take some time to address the issues and wanted to allow the DCCED and BCREA time to remedy the problems. She said she thought four years seemed prudent.

REPRESENTATIVE T. WILSON wondered whether it would take two years to comply with the audit recommendations.

MR. CURTIS responded that it could. She also noted she was unsure it would warrant the resources necessary to conduct a full audit.

[3:41:45 PM](#)

REPRESENTATIVE BUCH referred to the fiscal note that indicates the licensing program is required to cover its operating costs with licensing fees. The revenue generated by BCREA licensing fees is anticipated to cover the program's full operating costs. Although this fiscal note indicates new funds are not required to implement this bill, the fiscal note impact is approximately \$100,000.

MS. CURTIS stated that she cannot address the fiscal note, but agreed that the BCREA must assess fees to cover the BCREA's administrative costs.

[3:42:43 PM](#)

REPRESENTATIVE BUCH asked how often the BCREA meets.

MS. CURTIS related that the BCREA has met 11 times in the past 4 years.

[3:43:00 PM](#)

JENNIFER STRICKLER, Chief, Professional Licensing, Division of Corporations, Business, and Professional Licensing, Juneau Office, Department of Commerce, Community, & Economic Development (DCCED), explained that the fiscal note reflects the direct expenses, but does not include indirect expenses, which includes the overhead of the agency. She explained that the BCREA is not asking for a new appropriation, but is just sharing the cost of operating the board.

[3:44:33 PM](#)

REPRESENTATIVE BUCH asked for the reason that the fiscal note reflects \$100,000 per year. He offered his belief that the language is confusing.

REPRESENTATIVE CHENAULT explained the fiscal note. He referred to the funding source as Receipt Support Services (RSS). He explained that RSS represents funds collected from licensees and does not represent general fund expenditures.

[3:45:49 PM](#)

REPRESENTATIVE CHENAULT asked for the number of certified real estate appraisers.

MS. STRICKLER answered that there are approximately 243 licensees. In further response to Representative Chenault, she related that the number of licensees has stayed about the same.

[3:46:22 PM](#)

BUTCH OLMSTEAD, Vice-Chair, Board of Certified Real Estate Appraisers (BCREA), stated at last BCREA meeting held on February 19th, 2010, the BCREA adopted several changes to its regulations to respond to the audit. The BCREA gave direction to its staff to send certified letters to applicants who had not complied with the continuing education requirements. Additionally, the BCREA accepted a surrendered license from one of three applicants. He related that the BCREA reviewed the Division of Legislative Audit findings and offered his belief that the board has accomplished the audit recommendations.

[3:48:24 PM](#)

STEPHEN TURNER, Past President, Board of Certified Real Estate Appraisers (BCREA), explained that the federal Appraisal Subcommittee visits the board each year to review procedures. However, the 2007 audit was a more thorough audit than normally conducted. He related that the number of certified real estate appraisers is up considerably from the 2003 - 2004 period, by about 50 additional members. With respect to the fiscal note, since the licenses are biennial, they are renewed every other year. Thus, the cash flow looks uneven with some years reflecting a surplus and alternate years depicting negative figures, but that it nets out at the end of the two-year cycle.

[3:49:58 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 342.

[3:51:13 PM](#)

REPRESENTATIVE LYNN disclosed that he currently holds an Alaska Associate Broker's license.

[3:51:22 PM](#)

REPRESENTATIVE NEUMAN moved to report HB 342 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 342 was reported from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 3:51 to 3:55 p.m.

[3:55:39 PM](#)

HB 346-WORKERS' COMPENSATION ADVISORY BOARD

[3:55:50 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 346, "An Act establishing the Workers' Compensation Advisory Board; and providing for an effective date."

[3:56:19 PM](#)

REPRESENTATIVE NEUMAN made a motion to adopt Amendment 1, labeled 26-LS1447\R.1, Bailey, 2/15/10, as follows:

Page 1, line 1:
Delete "**Board**"
Insert "**Council, and abolishing the Medical Services Review Committee**"

Page 1, line 5:
Delete "**Board**"
Insert "**Council**"

Page 1, line 6:
Delete "Board"
Insert "Council"
Delete "board"
Insert "council"

Page 2, line 10:
Delete "board"
Insert "council"

Page 2, line 13:
Delete "board"
Insert "council"

Page 2, line 16:
Delete "board" both places
Insert "council" both places

Page 2, line 17:
Delete "board"
Insert "council"

Page 2, line 19:
Delete "board"
Insert "council"

Page 2, line 20:
Delete "board"
Insert "council"

Page 2, following line 23:
Insert new bill sections to read:
* **Sec. 2.** AS 23.30.095(j) is repealed.
* **Sec. 3.** AS 23.30.275, enacted by sec. 1 of this Act, is repealed June 30, 2015.
* **Sec. 4.** Section 82, ch. 10, FSSLA 2005, is repealed."

Renumber the following bill sections accordingly.

Page 3, line 8:

Delete all material.

Renumber the following bill section accordingly.

[3:56:55 PM](#)

REPRESENTATIVE HOLMES objected for purpose of discussion.

[3:57:05 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, paraphrased from the sponsor's statement, inserted, as follows [original punctuation provided]:

Since the mid-1980's an informal workers' compensation advisory committee has operated in Alaska. This "Ad-Hoc" committee was comprised of representatives from organized labor and from the Workers' Compensation Committee of Alaska - an industry group organized to lobby for changes to Alaska's Workers' Compensation Act. The Ad-Hoc Committee was instrumental in effecting the huge changes made to the Act in 1988. However, since then, the committee has been unable to achieve any success in large part due to their lack of any statutory legitimacy. In 2005, the legislature amended AS 23.30.095 to create a Medical Services Review Committee to advise the commissioner of the Department of Labor and Workforce Development in the area of medical costs and related services in workers' compensation. In November 2009, the Committee issued its final report and recommendations. One of the recommendations was the establishment by statute of a Workers' Compensation Advisory Council to advise the commissioner and legislature in the area of workers' compensation.

Similar councils have been created and operate quite effectively in other states. These councils are charged with recommending statutory changes to the legislature as well as regulations to departments in the area of workers' compensation. The purpose of the council is to improve workers' compensation systems by drawing together representatives from all workers' compensation stakeholders who gather and analyze data

and information, discuss and debate options and make recommendations regarding problems facing the effectiveness of workers' compensation systems.

This bill creates a council similar to that found in many other western and mid-western states. The Council is comprised of 11 voting and 5 non-voting members: four voting members drawn from organized labor, four voting members drawn from various employer groups, and three voting members from the various medical societies. Non-voting members provide expertise and are drawn from the insurance industry (2 members) and the legislature (one from each legislative body).

MR. JACKSON remarked that in the haste to have the bill drafted the council was inadvertently named a board. Amendment 1 would correct that discrepancy. He referred to page 2, lines 18 - 20, of Amendment 1, and noted one additional change in Sections 2 - 4, repeal the Medical Services Review Committee, since it is replaced by this new council.

[3:58:49 PM](#)

REPRESENTATIVE NEUMAN asked for the purpose of the Medical Services Review Committee.

MR. JACKSON explained that in 2005, the legislature amended AS 23.30.095 to create a Medical Services Review Committee (MSRC), whose purpose was to advise the commissioner of the Department of Labor and Workforce Development (DLWD) in the area of medical costs and related services in workers' compensation.

REPRESENTATIVE NEUMAN restated that the committee reviewed medical services. Thus, if a person was injured on the job, the MSRC would determine whether treatment is necessary.

MR. JACKSON related that the MSRC does not review cases on a case-by-case basis, but the committee would review items such as the entire medical fee schedule.

[4:01:21 PM](#)

REPRESENTATIVE T. WILSON asked whether the composition of the board is well rounded or if it should be changed.

MR. JACKSON explained that during the course of the MSRC meetings, the Alaska State Medical Association and others

provided input as interested parties. He offered his view that the recommendations seem fairly balanced, and although the final composition may not be perfect, the larger a council or a board becomes the more cumbersome it also becomes. The proposed Workers' Compensation Advisory Council (WCAC) would be comprised of 11 voting members, which seemed to be a reasonable size. A number of ex-officio members can also provide input. The WCAC's meetings are public so people will have an opportunity to make comments at the regular WCAC meetings.

4:02:53 PM

CHAIR OLSON explained that it has taken four and a half years to arrive at this point and a significant amount of work was accomplished in the past six months.

4:03:03 PM

REPRESENTATIVE LYNN referred to page 2, line 4, of HB 346 to the two members of the legislature that would be appointed to the WCAC. He asked whether it would be useful to have a minority and majority viewpoint on the WCAC, and select members that have garnered the most votes and the least number of votes in the election process.

MR. JACKSON answered that the MSRC recommended that the leadership from each body of the legislature make appointments for membership serving on the proposed WCAC.

REPRESENTATIVE LYNN suggested again that perhaps both political parties should be represented.

4:04:37 PM

REPRESENTATIVE NEUMAN recalled that typically the leadership from each body of the legislature makes appointments for membership serving on councils, boards, or task forces.

REPRESENTATIVE LYNN maintained his concern.

MR. JACKSON agreed it is a policy call.

CHAIR OLSON recalled that the Ethics Committee is the only committee he is aware of that makes that distinction.

REPRESENTATIVE LYNN expressed interest in hearing the viewpoint from other committee members.

4:06:02 PM

REPRESENTATIVE BUCH related that if the sponsor was amenable, that he would not oppose the change.

CHAIR OLSON remarked that he would need to consult with the legislative legal drafters as to the appropriateness.

4:07:00 PM

LINDA HALL, Director, Division of Insurance, explained the history of the advisory committees on workers' compensation. She related that the committee members received some letters and the sponsor statement also references an ad hoc committee. The ad hoc committee produced numerous proposals for workers' compensation reform in the late 1980s. The past few years the ad hoc committee has had difficulty in reaching agreement to address workers' compensation issues. When the MSRC met this summer, it tried a different approach to find ways to improve the workers' compensation system, particularly since it had difficulty in reaching a good outcome. She recalled other states have had similar success, such as in Oregon. While Oregon's committee composition is a little different, some of their members have advised the Alaska legislature on their success in working on workers' compensation issues.

4:09:11 PM

MS. HALL said that it seemed to her a body with some statutory authority might bring a different level of credibility to the process. She offered her support for the composition of the proposed WCAC and for establishing this type of an advisory council.

4:09:42 PM

TRENA HEIKES, Director, Division of Workers Compensation, Department of Labor & Workforce Development, stated that she is also speaking as Chair of the Medical Services Review Committee (MSRC). She stated the bill is much needed. She restated background information, relating that HB 346 came out of the recommendations made by the MSRC. In November 2009, the MSRC submitted its final report to the Department of Labor & Workforce Development (DLWD). The MSRC recommendations contained cost containment measures, as well as recommending the creation of the Workers' Compensation Advisory Council (WCAC).

Since the mid-1980's an informal Workers' Compensation Ad Hoc Committee has operated in Alaska in an advisory capacity. This "Ad Hoc" Committee, without any statutory authority, was comprised of representatives from organized labor and from the Workers' Compensation Committee of Alaska - an industry group organized to lobby for changes to Alaska's Workers' Compensation System. Thus, out of "labor" and the WCCA came the ad-hoc committee, which was instrumental in effecting the huge changes made to the Workers' Compensation Act in 1988. Since then the committee has been unable to achieve any success in large part due to inadequate public input. She surmised that likely happened due to the lack of any statutory legitimacy for the Ad Hoc Committee. The meetings were not public, generally were held behind closed doors, and consequently lack public input. During her time as a workers' compensation attorney, she assisted in making proposed changes to the workers' compensation laws. Although little was accomplished, some of what surfaced got passed into law since labor and industry both supported the legislation.

[4:13:33 PM](#)

MS. HEIKES offered her belief that at least one administration ignored the ad hoc committee since it was not formalized in statute. Thus, the need arose to formalize the MSRC. In 2005, the legislature amended AS 23.30.095 to create a Medical Services Review Committee to advise the Department of Labor and Workforce Development's Commissioner in the area of medical costs and related services in workers' compensation.

MS. HEIKES stated that this past summer and fall larger issues loomed and the MSRC began to examine councils in ten other Western states to view how their councils functioned and to review their respective statutes. She reiterated Ms. Hall's comments, that these councils were comprised of labor and management with the rest acting in an advisory capacity. They work very effectively in "drilling down" into workers' compensation issues and making recommendations to the legislature. She thought they were successful because once the issues passed through the council, both labor and industry put their "stamp of approval" on the issues. Generally these councils have been successful, she remarked. The proposed WCAC is most closely based on the Wisconsin model. She referred to a letter in members' packets from Frances Huntley-Cooper of the International Association of Industrial Accident Boards and Commissions (IAIABC), describing how the Wisconsin model operates. The MSRC drew from that model as well as from Oregon,

Washington, and Montana, compiling recommendations that may work well in Alaska. The intent of the MSRC was to gather workers' compensation stakeholders together to analyze data and information, discuss and debate options, and make recommendations to transform Alaska's Workers' Compensation System into a first-class system.

MS. HEIKES stated that the MSRC did not want to include people with a specific agenda since committees comprised of single agenda members do not work well. Instead, it is desirable to have people serve who possess a single goal of working to improving the workers compensation system, healing the injured worker, and returning the worker to a productive life as soon as possible, to minimize the impact on their lives.

MS. HEIKES stated that under HB 346, the proposed WCAC would be comprised of 11 voting and 5 non-voting members: 4 voting members drawn from organized labor, 4 voting members drawn from various employer groups, and three voting members from the various medical societies. Non-voting members would provide expertise and were drawn from the insurance industry. In fact, every council the MSRC reviewed had industry as a non-voting participant. One member from the DLWD and one from each legislative body would also serve on the proposed WCAC. The primary purpose of legislative membership would be to apprise the legislature on matters, such as on issues being reviewed by the WCAC. She related the MSRB expressed concern about voting members and committee members should have received letters to that effect.

[4:17:32 PM](#)

MS. HEIKES related that of the 10 states examined, only employees and employers were given a vote on the council. Doctors were members but were non-voting members. This bill is different, since the MSRB voted by a slim majority to give doctors a vote. The MSRB took the view that doctors should have a vote since workers' compensation comes down to a "three-legged stool" consisting of employers, employees, and doctors, due to the personal injury aspect. The MSRC expressed concern that if doctors did not have a vote, they would just not show up, and obtaining their perspective is important. She pointed out that the insurance industry was not given a vote, although their expert assistance will also be required, but no other state council gave them a vote. She said that they really "don't have a dog in the fight." She recalled one MSRB member stating that the industry just passes the savings on to the system. She

remarked that the insurance industry also did not specifically request a vote on the proposed WCAC. She concluded that this bill creates a WCAC that has been needed in Alaska for some time, and through the proposed WCAC, the state may be able to garner more public input to a degree never experienced in Alaska. She urged members to vote in support of HB 346.

[4:19:43 PM](#)

MS. HEIKES, in response to Chair Olson, said she leaves it up to the legislature as to whether it wants a bi-partisan council. She stated that these members really serve as messengers to the legislature to inform them of emerging issues.

CHAIR OLSON remarked he is unaware of any party affiliation on other boards.

MS. HEIKES agreed that the remaining seats are not examined by party affiliation.

[4:21:09 PM](#)

KENTON BRINE, Northwest Regional Manager; Assistant Vice-President, Property Casualty Insurance Association of America (PCI), thanked the industry members and the MSRC for their recommendations. He stated that Alaska has the highest workers' compensation rate in the nation, which is driven in large part by medical costs. In Alaska, medical costs represent about 72 percent of workers' compensation losses, in comparison to the national average of 58 percent. He offered PCI's support for HB 346. He suggested the committee may wish to consider the make-up of the proposed council. The Oregon system is a little different, he stated. The Oregon Workers' Compensation System was engaged in a major overhaul in 1990. One critical outcome has been that employers have seen workers' compensation insurance rates decline, in every year except one, since enactment of the laws about 20 years ago. In comparison, Washington State has a state run monopoly and the costs for workers' compensation and the rates paid by employers have increased almost every year. The state auditor predicts that without higher rates or serious benefit cuts, the fund to pay for injured workers will go broke in two to five years. One feature unique to Oregon is that its advisory board, called a Management Labor Advisory Committee (MLAC), is a 10-member committee comprised of 5 representatives of organized labor, and 5 representatives from management or the employers. There is no tie-breaking vote and no other entities are allowed into the

advisory committees. It is simply "the two sides battling it out." He related that the tacit agreement by the legislature and the governor's office is that unless a major piece of legislation relating to Workers' Compensation benefits or procedures has the MLAC seal of approval, the legislature will not pass it and the governor will not sign it.

[4:25:34 PM](#)

MR. BRINE continued. He stated that this is an important tool to be certain that fairness is had in terms of changing public policy related to Workers' Compensation claims and benefits. He suggested that members consider balancing out the current makeup of the voting members of the proposed council. He said he does not want to suggest, necessarily that insurers should have votes on proposed council. However, he understood the rationale for the voting and non-voting members. He reviewed the 11 members, of which 4 are employers, noting the other 7 members may have a different interest, which might be to expand benefit levels to injured workers or the amount of money available for their care. He offered his belief that this may not have the effect of lowering the ever-increasing medical costs. He offered to provide language if the committee is interested in doing so. With those changes to HB 346, his organization could wholeheartedly support the bill. Otherwise, he said, they would have some concerns, but would still like to see HB 346 move forward.

[4:27:56 PM](#)

VINCE BELTRAMI, President, American Federation of Labor and Congress of Industrial Organizations (AFL/CIO), stated that he has served as one of the members of the MSRC for the past six months. He affirmed the MSRC's unanimous support to establish a Workers' Compensation Advisory Council (WCAC), which is relatively consistent with the proposal contained in HB 346. He stated that creation of the proposed WCAC will place into statute a function that the Ad Hoc Committee has had limited success in performing. This proposed WCAC will resolve some conflicts encountered in the Ad Hoc Committee process and will consolidate the function of the Ad Hoc Committee and the MSRC. It should streamline issues to have all the parties at the table in a construct that should properly serve the two principal interests, the injured workers and their employers. This should eliminate some perceived profit motive from the process, he stated. The MSRC reviewed the models from several other states as Ms. Heikes mentioned, and uses one most similar to the

Wisconsin model, which have resulted in greater efficiencies for Workers' Compensation Systems in other states by reducing costs, improving protection for the injured worker, and setting policies to return workers back to their jobs more quickly. He agreed with the basic structure of the composition. He related that the MSRC held considerable debate on who should have voting rights. One member from the medical care providers was adamant about doctors having voting rights. He stated that other states had limited their voting rights, and although he expressed some concern, he offered a willingness to hear the doctors make their case, and acknowledged that doctors provide a key component to the system.

[4:31:21 PM](#)

MR. BELTRAMI expressed concern with the language on page 1, lines 9 - 11, of HB 346 on the make-up of the employer representatives. It is conceivable that the oil industry could occupy all four employer positions since some general contractors perform oil field work. He suggested amending the language to assure a more diverse pool of employers. He also would not object to language that also diversified the organized labor pool, as well, perhaps a certain number of building trades. While he did not object to partisan representation, he thought since the legislative representatives are ex officio, and provide an advisory role to the legislative bodies. He strongly urged adoption of HB 346, with some clarifying amendments that insure Alaska's injured workers will be treated fairly and in the most efficient manner.

[4:33:05 PM](#)

REPRESENTATIVE HOLMES related that all of the members except the legislators are appointed by the DLWD commissioner. She asked whether that was acceptable.

MR. BELTRAMI recalled some discussion by the MSRC. The MSRC thought the appointment process might be less politicized than a Governor's appointment. He recalled the MSRC agreed uniformly that the appointment method was adequate.

[4:34:16 PM](#)

PATRICIA WILSON, Workers Compensation Committee of Alaska, stated that the committee submitted written comments. She offered that the WCCA does not disagree with the council approach. She related that she spent time at the MSRC meetings

this past year and was impressed with their report and recommendations. In workers compensation, the "players" are the employees, the injured workers, and their employers. While other parties with financial interests, ranging from vocational rehabilitation counselors, medical providers, and attorneys, However, she offered her belief that the interested parties should not be voting members. Instead, those with the ultimate interest, the employees and employers, should be involved since they are directly affected. She recalled that the MSRC worked on cost containment issues with very difficult concepts that required outside expertise and testimony. This type of format allows for subject matter experts and the medical community serves a valuable role. However, the voting members should be restricted to the employers and the employees. She suggested that the management appointments be recommended by a group that can draw from a pool of people specifically experienced in Workers' Compensation issues, which is a fairly arcane system with many nuances.

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CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 346.

REPRESENTATIVE HOLMES removed her objection.

There being no further objection, Amendment 1 passed.

[4:39:07 PM](#)

The committee took an at-ease from 4:39 p.m. to 4:43 p.m.

[4:43:51 PM](#)

CHAIR OLSON stated the amended bill is now before the committee.

REPRESENTATIVE T. WILSON moved to report HB 346, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the CSHB 346(L&C) was reported from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 4:43 p.m. to 4:47 p.m.

[4:47:10 PM](#)

HCR 19-AIDEA REPORT ON IN-STATE FUEL STORAGE

CHAIR OLSON announced that the final order of business would be HOUSE CONCURRENT RESOLUTION NO. 19, Urging the Alaska Industrial Development and Export Authority to present a business case to the Alaska State Legislature that includes a method for financing, a plan to solicit proposals for a public and private venture, and an analysis of the economic feasibility of a state-built and privately operated fuel storage facility that would serve the public interest by providing Alaskans with a reliable source of jet fuel, diesel, and gasoline at competitive prices.

[4:47:14 PM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, explained that HCR 19 is a resolution that pertains to in state fuel storage. He recalled over a year ago the previous speaker tasked him with working on a gasoline pricing report. He has worked closely with Mr. Sniffen, Department of Law on these issues. An expansion of the Port of Anchorage would provide incentives for other refineries to operate in Alaska to create competition for the production of gasoline in Alaska. At the time, the Port of Anchorage was simply not large enough to accommodate any additional fuel storage. Since that time, former Governor Sheffield has physically enlarged the Port of Anchorage by filling in portions of the port with acres of gravel. The Port of Anchorage is now large enough to accommodate fuel storage. He acknowledged that a great debate has arisen over price gouging and price regulation in Alaska. He offered his belief that his view on this issue is similar to the Chair's view on this issue. This resolution supports the concept of having AIDEA build a business case for the free market to work, which would create competition to allow gasoline, diesel, and jet aviation fuel to potentially come from Cherry Point, the largest refinery in Washington State. This refinery operates primarily using North Slope crude, refines with natural gas, at \$.08 kilowatts, which would make the cost of fuels more affordable to Alaskan consumers. The "rack rate" for the past 16 months has ranged from \$.60 to \$.90 cents per gallon less than the two refineries in Alaska. The Tesoro refinery in Nikiski produces 85 percent of Alaska's fuel and the Flint Hills Resources Alaska Refinery (Flint Hills) in North Pole produces the remaining 15 percent. Southeast Alaska is served by Seattle and often enjoys lower prices than the remaining parts of the state, he stated. He recapped that this resolution would request AIDEA prepare a business case to determine whether it would warrant a third-party operator to

assume the risk and liability of bringing in fuel from another refinery to serve Alaskans.

REPRESENTATIVE T. WILSON asked whether this would affect Flint Hills and if AIDEA would be a competitor.

REPRESENTATIVE RAMRAS answered yes. He expressed that is the whole point, to provide a competitor in the market for the benefit of consumers across the State of Alaska that does not come from price gouging or price regulation legislation, which would have a more adverse affect on Flint Hills than competition.

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REPRESENTATIVE NEUMAN asked whether this resolution is an outcome of the research on price gouging, and is meant to provide additional information.

REPRESENTATIVE RAMRAS related that in January 2009, at the time the report was produced, the Port of Anchorage was not large enough to accommodate the consideration of extra fuel storage. Former Governor Sheffield has indicated that the Port of Anchorage is ready and the terminal would be ready for bulk fuel storage before the construction could begin.

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REPRESENTATIVE RAMRAS related that the risk for anyone entering into a transaction such as this is that if the competition lowers the price for Alaskans by \$.30 and Flint Hills Resources (Flint Hills) and Tesoro Refinery (Tesoro) lowers their prices by \$.32 that the fuel would be stranded in the storage tanks, which is the inherent risk embedded in the free market. He pointed out that discussions with Flint Hills and Tesoro indicated their preference for competition rather than price gouging legislation since that approach to address high fuel costs could "run Flint Hills out of the State of Alaska."

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JAMES HEMSATH, Deputy Director, Business Development, AIDEA, presented a PowerPoint describing AIDEA's viewpoint of this opportunity for a business project. He offered to review the potential problem and opportunities, and address how AIDEA could participate in a potential plan to address the problem [slide 2].

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MR. HEMSATH discussed the regular grade retail gasoline prices [slide 3]. He explained that the graphs on this slide outline data obtained from the Department of Law (DOL) and use Representative Ramras's report, which is updated through 2009. The top graph shows the absolute prices between Seattle and Anchorage. The bottom graph provides the average price spread between Anchorage and Seattle. Historically the spread has been in the \$.10 per gallon range, but in the last 18 months rose as high as a \$1 per gallon differential. Currently the difference is running at \$.75 per gallon. Qualitatively, it is reasonable to assume a price differential should range between \$.10 to \$.20 per gallon, which accommodates transportation costs and efficiencies of refineries. He concluded that \$.75 to \$1.00 price difference between Seattle and Anchorage may be seen as less than reasonable.

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MR. HEMSATH provided an overview of transportation links between Alaska and Seattle [slide 4]. He related this small graphic provides the transportation paths between Cherry Point in Washington State, Anchorage, the North Pole Refinery, and other parts of Alaska to transport a variety of fuels.

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MR. HEMSATH explained the reasons for HCR 19 [slide 5]. He stated that this past winter a question arose whether sufficient jet fuel was available at the international airports, raising the question of whether planes could operate. He explained that a spike arose in the cargo load, combined with a lowering of the production rate at Flint Hills. He recalled that UPS provided the remedy and fuel for Cathay Pacific to operate. He characterized the issue as a "little bit of a squeeze" and suggested that security issues also need to be addressed. He related that from AIDEA's perspective an infrastructure need exists, that something is missing in the infrastructure itself. Something is needed to alleviate the problems and provide an opportunity for economic development, at least from the perspective of maintaining and saving jobs in Alaska. Further, AIDEA, in its Development Finance Program can own and operate an asset of this nature to serve this need. However, he acknowledged that a business case must exist in order to do so.

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MR. HEMSATH outlined what AIDEA must review to develop the business case [slide 6]. He explained that by law, AIDEA is required to have projects pay for themselves. He related that the proposed project would be open access, AIDEA owned, and contractor operated. The proposed project would need to generate sufficient revenue to pay for itself. Additionally, AIDEA would review the market and market risk, as well as address competition issues. He pointed out that AIDEA does not want to be viewed as being in the middle of competition as a state authority, although what AIDEA "brings to the table" is not necessarily a grant or non-business aspect. However, AIDEA needs to ensure that it is not putting one business out of business in order to sustain another business. Specifically, one of eight jobs in Anchorage relates to the airport, so reliability of fuel is important. Thus, AIDEA would build for a specific reason and a specific project.

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REPRESENTATIVE NEUMAN asked whether AIDEA is currently involved in projects that use a business plan that is similar to the proposed arrangement in HCR 19.

MR. HEMSATH responded that as projects are considered by AIDEA, such as a small iron ore project currently under consideration, that each project has own mode. The overriding factors AIDEA considers are the business case, the revenue aspects, the market for the product, and the risks in that market. It is not specifically defined in a stop-gap format, but that is the approach that AIDEA takes when considering projects, which is similar to the process being used for this project.

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REPRESENTATIVE T. WILSON asked whether AIDEA is currently involved in any plan that would compete against the private sector. She offered her belief that the proposed project would specifically compete with the private sector, such as the Flint Hills Refinery in North Pole.

MR. HEMSATH responded that it depends on how competition is defined. Competition is not necessarily a definitive condition. For example, AIDEA owns the road and the port that makes it possible for the Red Dog Mine Facility to operate. He asked whether that constitutes competition with the private sector.

He answered that while it does compete with mines in other parts of the country, AIDEA's involvement does not necessarily compete with the private sector in Alaska. He offered his belief that AIDEA competes with other areas of the country or the world in order to provide jobs in Alaska. He said that he did not believe that AIDEA has a specific project in Alaska that is potentially as overt a competitor as the proposed Port of Anchorage expansion project, which is the reason the market dynamic needs to be fully addressed and understood, he stated.

[5:02:03 PM](#)

REPRESENTATIVE T. WILSON asked for the closest business plan similar to this proposed project.

MR. HEMSATH answered that the closest business plan would be the ownership at the Ketchikan Shipyard. While other shipyards, such as the ones in Kodiak and Seward provide similar work, some aspects and variations between the shipyards make them not completely competitive with the Ketchikan Shipyard project.

[5:02:40 PM](#)

MR. HEMSATH discussed product storage of jet fuel, gasoline, and distillate [slide 7]. He stated the various grades of gasoline, and noted the importance of recognizing the processing capacity in the state. Additionally, product storage includes distillate, the ultra low-sulfur, and number two fuel oil. It is also important to discuss how storage relates to the Railbelt and what type of storage is required for Western Alaska, he stated. The graphic depicted was taken from a 2007 report of the Energy Information Authority, which provides an indication of the amounts of sales of petroleum products in Alaska. He related that two-thirds of the fuel is jet fuel, and the distillate and motor fuel make up the other third.

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MR. HEMSATH compared typical crude oil yields [slide 8]. He stated that the graphic on the right is a light crude oil, typical of a West Texas intermediate, with about 50 - 60 percent in atmospheric distillates, 20 - 25 percent in vacuum distillates, and 20 percent in vacuum residue or heavy ends. Alaska currently is some place under that, but not quite at the heavy oil level. He said, "This is where we think we are going, with the crude slate, when we start looking at producing some of the heavier or more viscous crudes on the North Slope, where the

atmospheric distillates count for only 20 percent of the barrel, and the bottoms account for as much as 60 percent of the barrel." This is important in terms of how the refinery processes the oil. Flint Hills Resources Alaska (Flint Hills) and the two Petro Star, Inc. (Petro Star) refineries are light end distillation only, so these refineries would produce their products from only 20 percent of the barrel of heavy oil crude. He related that their products consist of light straight-run gasoline, kerosene, jet fuel, and some heating oil [slide 9]. Tesoro has a hydrotreater, but Flint Hills and the Petro Star plants do not so they cannot produce any of the low-sulphur diesel fuels. Tesoro has some vacuum-unit capacity and some ability to make other gasoline products, but they are also limited, in that a full quarter of their production consist of the heavy ends or bottoms that some refineries would destroy as a Coker, or sell as a potential feed stock for other refineries on the West Coast, or as bunker fuel for ships. The ability of the refineries to produce predominately jet fuel changes, which is an aspect for consideration in terms of fuel security and how the system might work.

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MR. HEMSATH described the Anchorage Port Expansion Phasing Plan [slide 10]. He referred to the color slide and related that the fuel storage tanks would be located in the red and yellow area on the far right of the facility. The yellow area has been filled, while the red area is open water and is scheduled to be filled this summer. While there is space at the Port of Anchorage, and staging space exists, some space is not yet completed, he stated. The Port of Anchorage would relocate its existing fuel off-loading facility to that area, he said.

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MR. HEMSATH outlined AIDEA's action plan [slide 11]. He related that the Market Analysis is currently being done by Econ One Research Inc. (Econ One) and is a continuation of last year's efforts on the pricing mechanism, which is supported by the Department of Law. From the market analysis, AIDEA will review the military capacity, long-term air cargo, and fuel supply reliability. The AIDEA is also in the midst of bringing on board an engineering contract to perform a layout and cost estimate. He suggested that it is important to assess the storage constraints. The market analysis may provide a tolerance for one million barrels of storage capacity, but if there is only room for 500,000 barrels, that could change the

business case. He related that the project is not just tanks, but also includes vapor recovery, and space for additives to change the jet fuel for military specifications. Further, the schedule of the proposed port expansion is also important. He said he would like to say that the AIDEA would do a quick market analysis and examine the estimates, but many other aspects will need to be considered to develop the business case. The business case model will examine how the project impacts competition, the ability to produce fuel, the market risks and economic impact, including any new jobs that may be created.

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MR. HEMSATH described the AIDEA's mission and its relevance to HCR 19 [slide 12]. He asked why this resolution is being written for AIDEA. Part of AIDEA's mission in terms of economic development and growth is the ability to own assets, and treat them as a business entity with a different feel. AIDEA has a bylaw that allows it to manage and operate projects as the authority considers necessary and appropriate to serve a public purpose, which puts this type of project "directly in our lap."

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MR. HEMSATH discussed AIDEA's purpose [slide 13]. The AIDEA is also allowed, by statute, to equip, operate, and maintain facilities that will enhance the competitiveness of the International Airport System, specifically the Ted Stevens International Airport [slide 20]. Issues on that fuel supply and fuel reliability are probably the number one risk to our air cargo business in the state. Thus, these types of excerpts from our enabling statute drive AIDEA to be part of this project since it fits one of AIDEA's project modes. He reiterated that AIDEA is looking for projects that it can demonstrate are economically advantageous to the state, are financially responsible, and produce revenue [slide 21 - 22]. He pointed out that AIDEA has a business case it must meet. He related that if the terminal project does not meet these requirements, that AIDEA cannot participate in the project. He related similar types of projects, such as the road and port at the Red Dog mine, the FedEx hangar in Anchorage, the Ketchikan Shipyard, and the Skagway Ore Terminal. He stated that AIDEA envisions the Port of Anchorage fuel terminal as fitting into that mode. The project size would entail 500,000 to 1,000,000 barrels of fuel storage capacity [slide 29]. The project would consist of an open access project, and the product would be transferred by pipeline, barge, and railcar. This project should enhance the

statewide fuel system, which encompasses storage, distribution, as well as manufacturing. He related that AIDEA would contract with an operator, and would use an open season concept for storage commitments. Thus, AIDEA must be able to guarantee that it has the business for a sufficient period of time to pay off the debt.

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MR. HEMSATH related that depending on the size of the terminal, the total cost is estimated from \$75 to \$100 million [slide 29]. He concluded by stating that AIDEA believes this type of project fits its mission and its strategic vision to be an active partner with Alaskans and a dynamic resource in statewide economic development.

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REPRESENTATIVE T. WILSON referred to page 16 of his PowerPoint presentation and read, "AIDEA does not compete with the private sector."

MR. HEMSATH responded that she is correct.

REPRESENTATIVE T. WILSON related her understanding that under this resolution that AIDEA would compete with the private sector.

MR. HEMSATH agreed that it might be considered competing with the private sector. He explained that the aspects to consider are whether the reasons for the distorted fuel costs are due to strictly non-competition reasons or whether a problem exists in the infrastructure itself. He related that fuel prices would be more competitive if someone were able to build storage capacity, but any single individual might not have enough capacity to make the project economic. The consolidator would be looking at projects to bring in other storage. Whether these prices are due strictly to competition is not yet known. However, another reason for AIDEA's involvement is whether this could be an issue of security. He said, "The question is there may be a business case in this in jet fuel only, and has nothing to do with whether we're competing to lower price, but on the business case alone."

[HCR 19 was held over].

[5:14:02 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:14 p.m.