

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 1, 2010

3:26 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 (via teleconference)

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

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.

- MOVED HCR 19 OUT OF COMMITTEE

HOUSE BILL NO. 253

"An Act relating to the time periods affecting certain liens related to providing labor, material, service, or equipment to real property, including buildings and other improvements."

- MOVED HB 253 OUT OF COMMITTEE

HOUSE BILL NO. 287

"An Act relating to the adoption of the Uniform Disclaimer of Property Interests Act, and to the disclaimer of property rights under the Uniform Probate Code."

- MOVED HB 287 OUT OF COMMITTEE

HOUSE BILL NO. 282

"An Act relating to naturopaths and to the practice of naturopathy; establishing an Alaska Naturopathic Medical Board; authorizing medical assistance program coverage of naturopathic services; amending the definition of 'practice of medicine'; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

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
02/24/10	(H)	Heard & Held
02/24/10	(H)	MINUTE(L&C)
03/01/10	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 253

SHORT TITLE: MECHANIC/MATERIALMEN LIENS

SPONSOR(s): REPRESENTATIVE(s) RAMRAS

01/08/10	(H)	PREFILE RELEASED 1/8/10
01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	L&C, JUD
03/01/10	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 287

SHORT TITLE: UNIFORM ACT: PROPERTY INTEREST DISCLAIMER

SPONSOR(s): REPRESENTATIVE(s) RAMRAS, GRUENBERG

01/15/10	(H)	PREFILE RELEASED 1/15/10
01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	L&C, JUD
03/01/10	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 282

SHORT TITLE: NATUROPATHS

SPONSOR(s): REPRESENTATIVE(s) MUNOZ

01/15/10	(H)	PREFILE RELEASED 1/15/10
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01/19/10 (H) READ THE FIRST TIME - REFERRALS
01/19/10 (H) L&C, HSS, JUD, FIN
01/25/10 (H) JUD REFERRAL REMOVED
03/01/10 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE JAY RAMRAS
Alaska State Legislature
Juneau, Alaska

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

JEFF COOK, Director
External Affairs
Flint Hills Resources Refinery (Flint Hills)
North Pole, Alaska

POSITION STATEMENT: Testified during the discussion of HCR 19.

KIRK PAYNE, Vice President of Supply and Logistics
Delta Western, Inc. (Delta Western)
Anchorage, Alaska

POSITION STATEMENT: Urged passage of HCR 19 since it is just a study.

JIM HEMSATH, Deputy Director- Development
Alaska Industrial Development & Export Authority (AIDEA)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HCR 19.

TED LEONARD, Executive Director
Alaska Industrial Development & Export Authority (AIDEA)
Anchorage, Alaska.

POSITION STATEMENT: Answered questions during the discussion of HCR 19

REPRESENTATIVE JAY RAMRAS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 253 as the prime sponsor of the bill.

SANDRA HEMBREE, Owner
Alaska Best Plumbing and Heating
North Pole, Alaska

POSITION STATEMENT: Testified during the discussion of HB 253.

ROCKY PAVEY, Owner
Rocky's Heating Service
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 243.

WAYNE LONG, Owner
Wayne's Air Supply
Fairbanks, Alaska

POSITION STATEMENT: Urged support for HB 253.

REPRESENTATIVE MAX GRUENBERG
Alaska State Legislature
Juneau Alaska

POSITION STATEMENT: Presented HB 287 as prime sponsor and answered questions during the discussion of HB 287.

TERRY THURBON, Delegate
National Conference of Commissioners on Uniform State Laws
(NCCUSL)
Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of HB 287.

MICHAEL KERR, Legislative Director
Uniform Law Commission
National Conference of Commissioners on Uniform State Laws
(NCCUSL)
Chicago, Illinois

POSITION STATEMENT: Testified during the discussion of HB 287.

DAVID SHAFTEL, Attorney
Shaftel Law Offices, PC
Anchorage, Alaska

POSITION STATEMENT: Presented the section-by-section analysis and answered questions during the discussion of HB 287.

KENDRA KLOSTER, Staff
Representative Cathy Munoz
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 282 on behalf of the prime sponsor, Representative Cathy Munoz.

ACTION NARRATIVE

[3:26:32 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:26 p.m. Representatives Buch, Chenault, Holmes, Neuman, T. Wilson, and Olson were present at the call to order. Representative Lynn arrived as the meeting was in progress.

HCR 19-AIDEA REPORT ON IN-STATE FUEL STORAGE

[3:26:53 PM](#)

Chair Olson announced that the first 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.

[3:26:57 PM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, speaking as the prime sponsor, related that Mr. Leonard advises that the Alaska Industrial Development and Export Authority (AIDEA) is viewed as a project component, but is acting in an advisory capacity and as a consultant for the proposed resolution he sponsored. If the business case that is developed supports the project moving forward, the AIDEA would transition to a de facto proponent as a potential owner of the asset, seeking an entity to operate the proposed "tank farm." In the event that the free market works, that the storage is developed, and refineries drop prices, the third party could cover their costs and reimburse AIDEA. Mr. Hemsath and Ted Leonard are available to answer questions on behalf of AIDEA.

REPRESENTATIVE RAMRAS related that a question arose as to whether the proposed expansion of the Port of Anchorage, or the "tank farm" would compete with the North Pole refinery. He stated that the proposed tank storage is not a refinery. A simple answer is that the only thing that competes with a refinery is a refinery. AIDEA is being asked to build a business case for a free market alternative to price gouging legislation that would benefit consumers and offer a return to AIDEA if they participate in building a business case. This

resolution does not lead to a funding request or financing, but just to construct a business case.

[3:29:59 PM](#)

REPRESENTATIVE BUCH asked for the inception of the proposed project resolution.

REPRESENTATIVE RAMRAS responded that the timeframe for the project is unknown since AIDEA's role is to determine the viability of the project. Several years ago the answer would have been that the project is not viable since the storage was not available. He elaborated that if the business case is strong, and the Port of Anchorage is ready, that the tentative timetable would include bonding in 2011, construction in 2012, and operational in 2013. He stated the timeframe is currently undefined.

[3:31:46 PM](#)

REPRESENTATIVE NEUMAN assumed that the intent of this resolution is to take advantage of the free enterprise to create storage facilities.

REPRESENTATIVE RAMRAS answered yes. Two refineries, the Tesoro Nikiski Refinery that produces 85 percent of the gasoline consumed in the state, and Flint Hills Resources Refinery (Flint Hills) that produces 15 percent of the gasoline. Most of the jet aviation fuel has been produced at Flint Hills Refinery, but due to the recession and a slowdown in demand at the Ted Stevens International Airport, Flint Hills closed one of its towers and at certain times an inadequate supply of jet fuel has been available. Some air flights have bypassed the airport or have had to pay a premium price on the spot market for jet fuel. The same thing is true for low-sulphur diesel, which is being produced at the Petro Star Refinery in Valdez, but not being produced at its North Pole Refinery. Flint Hills may or may not be in business in the next few years due to concerns previously expressed. Consumers do not want to spend \$.90 per gallon higher than the "rack fuel" price. That is the reason for competition, and if the case can be made to offer liquid storage it would be preferable to him over the price gouging legislation, which is not moving.

CHAIR OLSON agreed that the price gouging legislation is not moving.

3:34:40 PM

REPRESENTATIVE NEUMAN recalled that the United Parcel Service (UPS) also brought in a barge load of fuel.

REPRESENTATIVE RAMRAS stated he was unsure.

3:35:08 PM

REPRESENTATIVE NEUMAN confirmed that UPS brought up fuel to assist with the aviation fuel shortage.

REPRESENTATIVE RAMRAS agreed.

REPRESENTATIVE NEUMAN stated that UPS was trying to address the concern of inadequate supplies of fuel. He thought it would be good in the future to ask AIDEA to also consider Gas to Liquids (GTL), which could happen in the future.

3:35:51 PM

REPRESENTATIVE RAMRAS remarked that he shares that conviction.

3:36:03 PM

REPRESENTATIVE T. WILSON wondered if the legislature should wait for the private sector to address the issue of gas shortage.

REPRESENTATIVE RAMRAS answered that the purpose is to attract a private sector to be the lessee, with AIDEA as the potential lessor. He inquired as to whether she was asking whether an entity would be willing to make \$100 million investment in a "tank farm." He stated that the answer would likely be borne out during the AIDEA process, with AIDEA possibly participating as a lender. The idea is to bring relief to the Alaskan consumers and honor the mission statement of AIDEA.

REPRESENTATIVE T. WILSON related that AIDEA's mission specifies that is not to compete with the private sector.

REPRESENTATIVE RAMRAS suggested if the AIDEA was building a business case to build a competing refinery, he would agree with her. However, this resolution is for tank storage and the refineries can participate as tenants of the tank storage. AIDEA finances hotels, too. He disclosed that he holds a relationship with AIDEA in that regard. He recalled that AIDEA

testified that it is to abide by own mission statement. He acknowledged that he views this differently.

[3:38:26 PM](#)

REPRESENTATIVE T. WILSON posed a scenario in which the proposed project is built. If so, outside firms would provide gasoline or jet fuel, but would not pay the costs Flint Hills must pay since it does not have natural gas to use as an operating fuel. She suggested that the outcome would result in cheaper fuel until facilities such as Flint Hills are put out of business. She asked what would happen to prices.

REPRESENTATIVE RAMRAS responded that he is not dealing with hypothetical situations, but wants to address a statewide perspective. He stated that he is not "a big fan of the price-gouging legislation" that has moved through the legislature for the past 18 months. He stated that allowing the free market to work can create an alternative to refineries that brings a lower cost fuel into Alaska. The free market can punish in-state businesses, but we will not know that until the business case is made. He stated that he is not talking about the traditional spread of fuel in Alaska which ranged from \$.10 to \$.20 per gallon, but a \$.90 per gallon price disparity in gasoline prices. He emphasized the importance of this legislature to demonstrate elasticity to consider a business case. He restated that this is not a funding request, just a request to consider whether the "tank farm" storage is worthwhile.

[3:40:36 PM](#)

REPRESENTATIVE CHENAULT commented that Tesoro spent \$100 million on low-sulphur fuel so most of the low-sulphur fuel is produced at the Tesoro Refinery.

REPRESENTATIVE RAMRAS stated that he stands corrected.

REPRESENTATIVE CHENAULT asked whether AIDEA is given a date to respond.

REPRESENTATIVE RAMRAS deferred to Ted Leonard, AIDEA, to answer questions.

[3:41:23 PM](#)

REPRESENTATIVE NEUMAN shared his concern about gas supplies in Alaska. Certainly no one wants Flint Hills to shut down,

leaving only one refinery to provide for Alaska's needs and to protect our military bases and missile defense system. He characterized that as a critical issue. He surmised that would be a huge catastrophe. Alaska needs storage facilities to provide for Alaska's needs if something were to happen to Alaska's refineries.

REPRESENTATIVE RAMRAS shared his concern. He related that Flint Hill's management indicated to the legislature on numerous occasions that its refinery business is in a precarious position. He surmised that it could close its plant with 30 days notice. The Ted Stevens International Airport and the military network is critical the state's economy. It would be helpful for the state to develop a contingency plan. He stated that he was raised in Fairbanks and has been involved in discussions with Flint Hills. He offered his belief that Alaska will be lucky if Flint Hills is in business in 1,000 days. He emphasized the importance of the state in preparing a contingency plan. He acknowledged that Flint Hills is efficient, but did not think it has made long term decisions and commitments to the state. He related that he is an advocate of Flint Hills, and has toured the plant as well as well as others including the Tesoro Nikiski plant. He highlighted the precarious infrastructure of the industry.

[3:45:20 PM](#)

CHAIR OLSON remarked that AIDEA envisioned that anyone could use the facility.

REPRESENTATIVE RAMRAS agreed. He elaborated that large retailers, including Fred Meyer, and Costco and others with unbranded gasoline could benefit. He surmised that the rural areas of the state would potentially benefit. The international airport system must be competitive so it does not lose jet service. He said, "Again, I just come back to the notion that it probably is in our best interest to at least visit and develop a contingency plan, and build a business case. It is not a funding request for AIDEA. That's a battle to be fought later, but it is an opportunity to develop a business case."

[3:46:43 PM](#)

REPRESENTATIVE T. WILSON asked whether Flint Hills may or may not have the ability to make more fuel.

JEFF COOK, Director, External Affairs, Flint Hills Resources Refinery (Flint Hills), stated that currently the "crude three unit" is down. He asked to clarify some of the comments. He said, "We have met all the contractual obligations we have for jet fuel at the Ted Stevens Anchorage International Airport and actually have gone beyond that." He related that Flint Hills brought up a barge load of fuel at Thanksgiving to help. The issue resulted as the airlines must nominate the jet fuel, and the estimates were off, and they did not nominate enough jet fuel. The Flint Hills refinery did not want to tie up its working capital by storing fuel without the demand for it. He stated that 23,000 barrels of jet fuel was made today, and Flint Hills could make 40,000 barrels per day if necessary. He related that as the economy picks up, that Flint Hills can provide more. He offered that crude prices have helped, that Flint Hills hired six people in the past month, and it plans on a \$12 million turnaround beginning April 27, 2010. He emphasized the Flint Hills does want a long term presence, but obviously having a cheaper fuel such as natural gas would be a benefit. He said:

No matter what happens, we've got 720,000 barrels of storage at the Port of Anchorage. That's not going to go away. That's going to be available whether it is a Delta Western, a Crowley, or some other private enterprise that if the advantage and the necessity is there, they can go out and have the ability to do the business case.

[3:49:35 PM](#)

REPRESENTATIVE T. WILSON asked what impact that HCR 19 would have on his business.

MR. COOK answered that he was unsure of the impact. He stated that if it is not fully amortized and not fully operated on a business basis, it could have an advantage. However, it is hard to tell. He stressed that if a business case is to be made, there are numerous companies that have the ability to make it.

CHAIR OLSON asked whether Flint Hills would use the Port of Anchorage facility if it was built.

MR. COOK related that Flint Hills already has 720,000 barrels of storage in Anchorage, a similar amount in Fairbanks, as well as some rolling cars with the Alaska Railroad Corporation so he did not see the need in near future to use the facility.

3:50:39 PM

KIRK PAYNE, Vice President of Supply and Logistics, Delta Western, Inc. (Delta Western), explained that Delta Western has been serving Alaska for over 25 years, delivering fuel to places between Kivalina and Ketchikan, which places them in many communities throughout Alaska. He stated that although some fingers have been pointed at them, they have had the opportunity to work with the legislature to improve the process. Recently AIDEA and the administration asked Delta Western to develop a white paper on the process. The framework was based on the Attorney General's 2008 Alaska Gasoline Pricing Investigation. The structural characteristics of Alaska's petroleum products market contributed to unusually high prices. Thus, Delta Western considered ways to fix the problem. He offered that in reviewing historical prices, the supply and demand for petroleum productions was basically balanced.

MR. PAYNE stated that in 2006, the Environmental Protection Agency (EPA) mandated a shift to lower-sulfur fuels, which resulted in an imbalance in supply and demand. It resulted in a reduction in state petroleum production, clean fuels essentially. The question is how to fill the gap. Currently, the infrastructure is lacking to bring in fuel, or to store fuel, or for refiners to sell at off-season demand, in which Delta Western would buy when refineries are not running at peak demand. Thus, the idea was to build storage, find someone to lease it, obtain some market participants to store product in the storage facilities. Delta Western believes that this approach, sponsored by AIDEA, will help solve some of these issues. The project provides the ability to buy product from refineries at off-peak seasons. He urged members to pass the resolution since it is just a study. If it makes sense, the legislature can discuss whether to fund the facilities. He said, "I believe that this is a viable solution for a lot of Alaskans, a lot of Alaskan businesses, as well as communities. We're finding it harder and harder to buy in state production and that doesn't bode well for local businesses and local communities."

3:54:22 PM

JIM HEMSATH, Deputy Director - Development, Alaska Industrial Development & Export Authority (AIDEA), recalled a comment made by Representative T. Wilson, with respect to awaiting the private sector to build this project. He suggested that she has

identified an important question. Private industries, such as Costco or Safeway, have not proceeded with this project because they do not view the value for their companies. The AIDEA study can demonstrate the business case for the private sector. Thus, AIDEA can demonstrate to industry the opportunities for them to be involved. Perhaps someone would become a consolidator of fuel needs, if any exist. The point of the proposed study is to examine the questions, identify the facts, fiction, and the overall fuel system. The process of making the business case would create a total picture for the legislature to formulate its decisions.

[3:56:13 PM](#)

REPRESENTATIVE T. WILSON referred to a page in the AIDEA handout, titled "AIDEA's Role," which states that AIDEA will 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. She asked whether the proposed project would be completed only with public funding, and that more favorable financing would be available with public funding.

MR. HEMSATH said he thought his answer is yes. He elaborated that part of the business case is to explore costs and financing. The AIDEA finances through project ownership, which is the development project model. One key in an AIDEA model is to find the operator of a facility. He stated that if a business offered to invest in this project and asked for financing, AIDEA would do so.

[3:57:41 PM](#)

REPRESENTATIVE T. WILSON recalled that Fairbanks Natural Gas asked AIDEA for help in trucking in the gas, and proposed biomass projects in other areas. She did not think those types of projects would compete with Alaskan businesses. She asked for the reason that AIDEA is placing its efforts on a project that she believes competes with private businesses instead of biomass or other alternate energy projects.

MR. HEMSATH offered that the Fairbanks Natural Gas LNG study is similar in that the business approached AIDEA to explore the viability of owning \$250 million in facilities with part of the analysis including discussions with Flint Hills. At the time, due to the crude oil prices and other factors, no overriding business case existed to make that project viable. At the time the two major natural gas customers in the Fairbanks area both

declined. He related that in the event that a business case was made to use willow, fish oil, or other biomass products, and a business case could be made to build a biomass facility, AIDEA could be a financier and could support the project. Similarly, if natural gas were available from a pipeline with the potential for a GTL storage facility, AIDEA could also consider the project. He related that the business case must be made, including that revenues must be sufficient to pay AIDEA's cost of debt and cost of service. Thus, AIDEA would consider any projects that can do so. AIDEA's primary goals are economic development, job growth, job retention, and diversification in the state.

[4:00:37 PM](#)

REPRESENTATIVE T. WILSON asked who will pay for this study.

MR. HEMSATH responded that the preliminary study will be funded in part by the Department of Law, who is financing Econ One through the market analysis, and AIDEA would finance the cost estimate by the engineering contractor. Thus, the proposed project will be an internally-funded feasibility study to examine the viability of a potential project.

MR. HEMSATH, in response to Chair Olson estimated the timeline, including Econ One at approximately 30 days.

[4:01:51 PM](#)

TED LEONARD, Executive Director, Alaska Industrial Development & Export Authority (AIDEA), introduced himself.

[4:02:35 PM](#)

REPRESENTATIVE NEUMAN asked whether a Gas-to-Liquids (GTL) project would be beneficial and economical.

MR. LEONARD answered that in the event that an in state pipeline is built, that a GTL facility would be one of the major industrial participants. He stated that AIDEA would be available to provide analysis and potential funding for a proposed GTL facility.

REPRESENTATIVE NEUMAN asked whether he could provide a "10,000 foot view".

[4:03:48 PM](#)

MR. HEMSATH responded that he was uncertain. The current study provides that Econ One is analyzing the need and demand for jet fuel. The military has indicated that by 2015, it would like to have a 50 percent synthetic fuel. This proposed tank farm could be part of fuel storage. However, to review the GTL technologies and capital cost is beyond the AIDEA's funding at this time. However, he stated that the analysis needs to be done. In further response to Representative Neuman, he agreed that the analysis needs to be done.

[4:05:07 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HCR 19.

[4:05:16 PM](#)

REPRESENTATIVE T. WILSON offered her belief that this resolution represents direct competition to the private sector. Currently, refineries are producing gas and diesel in the state. She expressed concern that the proposal discusses bringing in fuel from other states. This could jeopardize the Tesoro or Flint Hills refineries and without them, the prices could increase. She viewed this proposal as problematic. Price gouging was examined but could not be proved. This resolution would indicate to the public that price gouging occurs in Alaska. Ultimately, the state should not compete with private business. If the private sector wants to invest the \$100 million, as Tesoro did, that would be fine, but the state should not be involved.

[4:06:15 PM](#)

REPRESENTATIVE RAMRAS emphasized that this resolution supports building a business case. He pointed out that the proposed tank farm would represent about 15 percent of the state's usage and is not a cure all.

REPRESENTATIVE T. WILSON understood that this resolution supports a study, but the state could use the funding for other purposes such as a bullet line or biomass that avoids competition.

REPRESENTATIVE RAMRAS explained that residents and consumers think \$.90 per gallon over the "rack rate" in Seattle is too much. He said, "I've never been afraid to have a discussion or

look at competitive opportunity. Competition makes us all stronger and we can't be afraid to look at options. That's what we're here for is to look out for 700,000 Alaskans."

REPRESENTATIVE T. WILSON agreed. However, she did not think this proposal is responsible if the ultimate consequence will be for local businesses to close and Alaskans ending up completely dependent on the Lower 48 for necessities. She said, "Although everything is started with just a study, I've always found it is better to stop it on this level than try to do it later on."

[4:08:30 PM](#)

CHAIR OLSON offered that he has spent considerable time with the DOL on two issues. One question investigated excessive pricing and discovered that while prices were excessive, nothing illegal transpired. What led to the DOL's office involvement with this as an alternative, even though it only represents 10 to 15 percent of the market, is that the proposed project could have an impact on gasoline prices but fuel supplies going to rural Alaska. This could have a stabilizing effect. While he expressed mixed feelings on this resolution, he offered that it offers the potential for a positive outcome for the overall good of the state.

REPRESENTATIVE T. WILSON remarked that if everyone could stay in business that would be true. She maintained her concern about out of state businesses adversely impacting local businesses to the extent that fuel prices for all Alaskans could cost the same as in rural Alaska.

CHAIR OLSON related that Econ One is within a month of completing its work. He recalled that the committee has worked extensively with Econ One in the past.

[4:10:18 PM](#)

REPRESENTATIVE NEUMAN offered his belief that HCR 19 is exactly the approach to address the concerns that Representative T. Wilson has with the refineries, such as Flint Hills and Tesoro. Storage facilities for fuel can help reduce the dependence on Lower 48 fuel in Western Alaska. Fuel storage would enhance the ability of Alaska refineries to provide fuel for Alaskans. When oil prices are low, the refineries could produce more fuel for storage to supply Alaska's needs for fuel. He characterized this as a "win win situation." He said, "I wholeheartedly support this."

[4:12:05 PM](#)

REPRESENTATIVE NEUMAN moved to report HCR 19 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE T. WILSON objected.

A roll call vote was taken. Representatives Chenault, Lynn, Buch, Neuman, and Olson voted in favor of moving HCR 19 out of committee. Representative T. Wilson voted against it. Therefore, HCR 19 was reported out of the House Labor and Commerce Standing Committee by a vote of 5-1.

[4:13:20 PM](#)

The committee took an at-ease from 4:13 to 4:15 p.m.

HB 253-MECHANIC/MATERIALMEN LIENS

[4:15:59 PM](#)

CHAIR OLSON announced that the next order of business would be, HOUSE BILL NO. 253, "An Act relating to the time periods affecting certain liens related to providing labor, material, service, or equipment to real property, including buildings and other improvements."

[4:16:16 PM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, speaking as the sponsor of HB 253, prefaced his presentation by stating that those living in a diesel-dependent community have more boiler work done than those who have access to natural gas. Often boiler work is done in the middle of the night after the boiler fails during cold weather. He disclosed that his heating contractor is Rocky's Heating, who brought forth the issue. He paraphrased the sponsor's statement for HB 253, which read [original punctuation provided]:

Under current law, contractors, material suppliers, and service people who have not been paid by property owner for labor or goods have 90 days from the date of completion of the work, or from the date the service ceases, to file a lien on the property to secure payment of that debt. See AS 34.35.068 (a).

House Bill 253 merely extends the time within which to file a lien to 120 days. This extra time will give contractors, material suppliers, and service people an additional 30 days to work with property owners to secure payment or to negotiate a reasonable payment plan between a creditor and debtor. The need for this bill was brought to Representative Ramras' attention by small business owners who suggested that it usually takes two billing cycles to discover that a property owner may not pay his or her debt, and another billing cycle to see if a payment plan or other compromise is working as planned.

All contractors and suppliers are entitled to payment for services and goods delivered, yet recording a lien on property is a severe remedy that encumbers a property owner's interest and that can be costly for the contractor or supplier to execute. HB 253 affords more time for the parties to negotiate before this remedy is employed.

REPRESENTATIVE BUCH thanked the sponsor for bringing this forward.

[4:20:03 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 253.

[4:20:06 PM](#)

The committee took an at-ease from 4:20 p.m. to 4:26 p.m.

[4:26:52 PM](#)

CHAIR OLSON reopened public testimony on HB 253, and apologized. He stated that due to technical difficulties with the teleconference network he previously could not hear testifiers at the Legislative Information Offices. He noted this glitch has been resolved and began to take public testimony.

SANDRA HEMBREE, Owner, Alaska Best Plumbing and Heating, stated that Alaska Best Plumbing and Heating is a residential contractor that provides service, often to provide service on "frozen houses" and frequently involving insurance situations. Customers cannot always pay at the time of service and as a

courtesy to their customers her business would like to extend the customer billing options. This is difficult due to the current billing cycles. Sometimes, when a customer does not pay their bill, it is necessary to threaten customers with a lien or to actually file a lien to ensure receipt of payment. This situation is damaging to customers and adversely affects their relationship with customers. This bill would allow businesses to extend credit to customers for 120 days, instead of the current 90 days, which will be helpful.

4:29:09 PM

ROCKY PAVEY, Owner, Rocky's Heating Service, outlined a situation that has arisen during the billing cycle. He stated that in instances in which work is performed for customers at the beginning of the month, the customer would receive their statement at the end of the month. Many customers believe they have an additional 30 days to make the payment, but in reality waiting 30 days places them at a timeframe of 60 days from the date the service was performed. If a customer then experiences unexpected expenses and cannot pay within the month they will be delinquent by 90 days. Liens must be filed within a 90-day period of service. However, filing a lien can damage the customer's credit history and creates an adversarial relationship with the customer. Adding an extra 30 days to the allowable time would extend the lien filing period to 120 days, which could assist customers and businesses that perform plumbing and heating services. He said that 120 days would allow him to "weed out" the good customers, who intend to pay their bill, from those who do not. He offered his belief that the current timeframe of 90 days is simply too short, and the businesses must either file a lien or risk not getting paid. He strongly encouraged members to support HB 253.

4:32:48 PM

WAYNE LONG, Owner, Wayne's Air Supply, stated he has been in business for 19 years. He described an instance in which he did not file a lien, but realizes that he risks not being paid. He urged members to support HB 253.

MS. HEMBREE asked to point out one additional circumstance that happens. One of the instances that her company routinely encounters is "frozen houses." Her company works with insurance companies, insurance adjusters, and mortgage companies to repair the damage to the home. She described the process, which she said is fraught with delays. Her business makes the repairs,

waits for an inspection and for the inspector to send reports to the insurance company, who then issues the check. Often the check is made payable to the lien holder, who must then re-inspect the property. The entire process takes between 60 - 90 days to complete. When the insurance company issues the check to the homeowner, her business must wait for the payment. She explained that 90 days is simply not enough to complete this process. Although infrequent, in instances in which the homeowner does not pay, her business can suffer losses ranging from \$20,000 - \$30,000. She asked members to consider this matter when deliberating on HB 253.

[4:35:31 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 253.

[4:35:44 PM](#)

REPRESENTATIVE LYNN moved to report HB 253 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 253 was reported from the House Labor and Commerce Standing Committee.

[4:36:10 PM](#)

The committee took an at-ease from 4:36 p.m. to 4:37 p.m.

HB 287-UNIFORM ACT: PROPERTY INTEREST DISCLAIMER

[4:37:39 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 287, "An Act relating to the adoption of the Uniform Disclaimer of Property Interests Act, and to the disclaimer of property rights under the Uniform Probate Code."

[4:37:45 PM](#)

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, speaking as one of the joint prime sponsors, stated that this bill will update the Uniform Disclaimer of Property Interests Act. A provision in the Uniform Probate Code is repealed and is replaced with the Act. The purpose of the Act is to set out the rules for a disclaimer, a concept that is used in probate of estates and trusts. He related that if someone inherits money, or money is placed in a trust for the person, the party may

decide not to take money and suffer the tax consequences. In that instance, the money will go to the next person in line, usually a person in the family. He identified that this is called a disclaimer. This bill is fairly technical and updates or modernizes the disclaimer. The bill has been drafted by the Commissioners on Uniform State Laws. The Alaska trust attorneys have made some changes to comport with Alaska law. He suggested one amendment will be offered in the next committee of referral, the House Judiciary Standing Committee. He referred to page 4, lines 16-19, will be replaced by the Uniform Acts provision. He paraphrased from the sponsor statement, which follows [original punctuation provided]:

HB 287 is a comprehensive collection of rules outlining the types of property interests eligible for disclaimer, the process by which property interests may be disclaimed, and the effect of a disclaimer on the interest itself.

The Uniform Disclaimer of Property Interests Act was promulgated in 1999 and has already been adopted in 16 other states. There do not appear to be any reported court cases construing this Act. There have been several law review articles discussing the pros and cons of the Uniform Act.

[4:40:36 PM](#)

TERRY THURBON, Delegate, National Conference of Commissioners on Uniform State Laws (NCCUSL), Juneau Alaska, clarified that she is testifying today on behalf of the Uniform Law Commission, not on behalf of her position with the State of Alaska. She explained that the state sends delegates to the NCCUSL to work on Uniform Acts, and bring back Acts for consideration. The changes made by the sponsors and the Alaska attorneys, who are experts in this area, have been approved by the national organization, with the one exception which will be offered as an amendment in the House Judiciary Standing Committee. She related that if the bill moves forward that it would be considered substantially similar to Uniform Act.

[4:42:29 PM](#)

REPRESENTATIVE GRUENBERG related that the commissioners of the NCCUSL have allowed this to be considered a Uniform Act and will set out the differences between the Alaska version and the Uniform Act.

[4:43:21 PM](#)

MICHAEL KERR, Legislative Director, Uniform Law Commission, National Conference of Commissioners on Uniform State Laws (NCCUSL), thanked the committee for hearing the bill.

[4:44:10 PM](#)

DAVID SHAFTEL, Attorney, Shaftel Law Offices, PC, stated that he is an attorney and a member of an informal group of trust officers. The language in this bill was initially introduced several sessions ago, but the legislature did not have time to consider. The same bill was reintroduced this legislative session, but the Alaska group has recommended a number of minor changes, which were previously addressed, and are all acceptable by the NCCUSL.

[4:45:34 PM](#)

MR. SHAFTEL provided a section-by-section analysis of HB 287, as follows:

Section 13.70.020 is a default statute as other law will supplement this bill. This section basically provides that if matters are not covered in the instrument, including the will, trust, or other instrument, these provisions will apply.

Section 13.70.030 covers the power to disclaim, and provides the general rules about a disclaimer. When a person disclaims something, they basically say that they do not want it. In those instances the person would be treated as though he/she has predeceased the benefactor, and it reverts to the instrument, and the inheritance is distributed according to directions in the instrument, or default rules apply.

Section 13.70.040 covers the basic rules if a disclaimer is made.

Section 13.70.050 establishes rules for disclaiming interests in jointly held property, which was an area of controversy for many years in the tax law. This statute helps significantly in this area.

Section 13.70.060, allows for a disclaimer of a survivorship interest in property held as a tenancy by the entirety. A number of states have this provision, which is limited to married couples.

Section 13.70.065 addresses the disclaimers of interest by trustees and when a trustee may disclaim.

Section 13.70.070 establishes general rules for disclaimers of a powers of appointment, which are often used and really means a person may draft a will or trust, but the person may give their spouse or child the power to make changes. Those powers of appointment can be disclaimed.

Section 13.70.080 similarly addresses disclaimer by the object of a power of appointment.

Section 13.70.090 indicates when a disclaimer takes effect if a fiduciary disclaims a power held in a fiduciary capacity. A trustee or personal representative will have powers that perhaps for tax reasons are harmful, and this allows the trustee to disclaim powers.

[4:49:14 PM](#)

MR. SHAFTEL continued providing a section-by-section analysis, by stating:

Section 13.70.100 deals with how notice of the disclaimer is given and [whom] it should be given to and provides helpful rules for notice. He offered that it may be a complex provision, but it is very helpful.

Section 13.70.110 pertains to when a disclaimer is permitted or not permitted. For example, if a person is given property and accepts the property, the person can no longer disclaim, since that must happen prior to acceptance.

Section 13.70.120 pertains to tax qualified disclaimers. The Internal Revenue Code deals explicitly with disclaimers and are often used to correct situations and establishes a nine month limit, but relaxes some provisions.

Section 13.70.130 relates to recording the disclaimer.

Section 13.70.140 relates to the application of this statute to existing situations.

Section 13.70.190 provides helpful definitions.

[4:51:10 PM](#)

MR. SHAFTEL related that considerable time has been made to consider changes for Alaska. Speaking for his informal group, he asked to recommend this bill for members' serious consideration as it will help all Alaskans.

[4:51:45 PM](#)

REPRESENTATIVE CHENAULT referred to proposed Section 13.70.030, which allows a parent to disclaim for a child. He asked for an example.

MR. SHAFTEL offered that a classic example would be a situation in which a child wants to disclaim so the assets would then go to the surviving parent who needs them.

[4:53:49 PM](#)

REPRESENTATIVE CHENAULT suggested a grandparent leave \$1 million to grandchild; by this provision would that allow the parent to disclaim the interest and receive the \$1 million.

MR. SHAFTEL stated no, only if parent received the interest, then it would go to the grandchild.

REPRESENTATIVE CHENAULT expressed concern that if the money went to the parent the grandchild would not receive the inheritance.

[4:55:17 PM](#)

REPRESENTATIVE CHENAULT, in response to Mr. Shaftel, clarified that he was not referring to the bill but to the November 30, 2009 letter from Shaftel Law Offices, P.C, which was in members' packets.

[4:55:43 PM](#)

MR. SHAFTEL then referred to page 2, lines 15-21 of HB 287, which read:

(2) in the absence of a court appointed guardian a natural guardian may disclaim on behalf of a minor child of the natural guardian, in whole or in part, any interest in or power over property, including the power of appointment, that the minor child is to receive solely as a result of another disclaimer, but only if the interest or power disclaimed by the natural guardian does not pass to or for the benefit of the natural guardian as a result of the disclaimer.

MR. SHAFTEL explained that this means the guardian can disclaim for the minor child, when the minor child receives an interest as a result of another disclaimer. Most often that is the interest of a parent. He described an instance in which this paragraph would apply, such as when a minor child has received an interest since someone else, the primary beneficiary said, "I don't want it." Usually, that person is the parent, but it might be someone else. He described another scenario in which he would leave \$100,000 to his brother, but if his brother disclaims, or has predeceased him, the interest would go to his sister's minor child. However, his sister could disclaim. His brother may have disclaimed because he thought the inheritance should go to Dave's wife since she needs the \$100,000. Normally if the brother disclaimed, the \$100,000 would go to his sister's child, but his sister, who is the natural guardian of the minor child could then disclaim, because she believes it should go back to Dave's surviving spouse.

[4:58:22 PM](#)

REPRESENTATIVE CHENAULT expressed concern if the parent has disclaimer rights over their child that the parent could bypass the child. He asked whether he is talking about two different things.

MR. SHAFTEL agreed that those would be two different things.

[4:59:22 PM](#)

MR. KERR commended the sponsor for bringing this forward. He related that this set of amendments is largely in response to changes since the Act was first promulgated in 1999. The Internal Revenue Code, Section 25.18 clarified the rules for a

qualified disclaimer and these amendments ensure that "people don't get trapped." He urged approval of HB 287.

[5:00:27 PM](#)

REPRESENTATIVE GRUENBERG referred to the language on page 2, lines 15-25, and to Representative Chenault's question. He asked whether this language was provided by the Alaskan attorneys reviewing the suggested updates to the Uniform Act, but is not in the Uniform Act.

MR. KERR agreed that is correct.

MR. KERR, in response to Representative Gruenberg, agreed that the Uniform Law Commission does not have any objection to the change. He referred to the top of page 4 of the bill, and stated this language is only applicable when it is the result of another disclaimer. So this answers the earlier question, which asked whether "this is two different situations." It is not as though the parent can disclaim on behalf of the child and then receive the inheritance or interest. Because of that and since the term "natural guardian" comes from Alaskan practice, the ULC does not envision a problem.

[5:02:19 PM](#)

REPRESENTATIVE GRUENBERG pointed out that a natural guardian has a fiduciary duty to the child and cannot steal from the child. Thus, if the guardian is misusing the trust, the child would be able to maintain a cause of action against the natural guardian, which is the protection for the child.

MR. SHAFTEL answered yes, that was his understanding.

[5:02:56 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 287.

[5:03:07 PM](#)

REPRESENTATIVE CHENAULT asked for a layman's definition of a natural guardian.

REPRESENTATIVE GRUENBERG believed that the rules to determine who is the natural guardian of a child are located on page 2, lines 22-31, and page 3, lines 1-7.

[5:04:22 PM](#)

REPRESENTATIVE CHENAULT asked whether that also would apply to adoption.

REPRESENTATIVE GRUENBERG stated that if a person adopts a child that person, he/she becomes the legal mother and father. He referred to Page 2, lines 24-25 of HB 287, and clarified that the legal mother and father would be the birth mother and father or an adoptive mother and father. In further response to Representative Chenault, he pointed out that the provisions that apply are contained in the adoption code, which states that the effect of the adoption decree is to provide all the rights and responsibilities of a birth parent.

[5:05:57 PM](#)

REPRESENTATIVE T. WILSON moved to report HB 287 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 287 was reported from the House Labor and Commerce Standing Committee.

[5:06:46 PM](#)

The committee took an at-ease from 5:06 p.m. to 5:08 p.m.

HB 282-NATUROPATHS

[5:08:18 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 282, "An Act relating to naturopaths and to the practice of naturopathy; establishing an Alaska Naturopathic Medical Board; authorizing medical assistance program coverage of naturopathic services; amending the definition of 'practice of medicine'; and providing for an effective date."

KENDRA KLOSTER, Staff, Representative Cathy Munoz, Alaska State Legislature, briefly presented HB 282, on behalf of the prime sponsor, Representative Cathy Munoz. She explained that HB 282 would establish an Alaska Naturopathic Medical Board. She paraphrased the sponsor statement, which read [original punctuation provided]:

House Bill 282 creates a Naturopathic Medical Board for the purpose of expanding allowed practices and

procedures of Naturopathic Doctors (NDs) and regulates the practice of naturopathic medicine. The board will consist of three naturopaths, one licensed pharmacist, and one public member. The board will work with the Division of Occupational Licensing to issue licenses, and will have authority to investigate and discipline as required. In addition, the state will authorize prescription endorsement which will be offered for the first time for NDs who have practiced for five years; participated in 60 hours of pharmacology education from an approved program; and met all the requirements relating to administration and prescription of drugs, vaccinations, hormones, and medical devices. The prescription endorsement must be renewed every two years. The bill mandates continuing medical education of 35 hours biannually, 15 of which must be in pharmacy education.

Prescribing authority will give flexibility to NDs to provide necessary medical treatment to patients. Prescription rights, which are already permitted for advanced nurse practitioners, will allow access to a range of commonly prescribed medicines that can be used in correlation with naturopathic treatment to improve patient care.

HB 282 will align the definition of a naturopathic physician with the U.S. Department of Labor which released a new definition of naturopathic physician to include job titles of "Naturopathic Doctor, Physician, and Doctor of Naturopathic Medicine." This is an important step in recognizing NDs as qualified doctors and primary care physicians.

Naturopathic doctors are highly trained medical professionals. NDs attend a four-year postgraduate professional naturopathic medical program and are educated in the same basic sciences as conventional medical students. Studies concentrate on holistic and traditional approaches to therapy with a strong emphasis on disease prevention and optimization of wellness. Naturopathic doctors take similar rigorous professional board exams for licensure and continue educational training each year.

As Alaska continues to face shortages in the healthcare professions, HB 282 provides an avenue to

help fill the gap of primary care physicians. This bill will reasonably expand the services of naturopaths and follow the responsibilities set forth by the board while providing the important services for keeping Alaskans healthy.

MS. KLOSTER commented that Emily Kane, Naturopathic Doctor (ND), just brought to her attention an excerpt from the California Bureau of Naturopathic Medicine, which states that the California Bureau contacted the licensing agencies for each state that allow ND's to prescribe. None of these states reported any patient harm or disciplinary action due to an ND prescribing medications. In addition, these states were not aware of any civil actions against ND's for prescribing medications.

CHAIR OLSON announced that HB 282 would be held over.

[5:11:54 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:11 p.m.