

HOUSE FINANCE COMMITTEE
February 29, 2012
2:08 p.m.

2:08:27 5PM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 2:08 p.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Co-Chair
Representative Anna Fairclough, Vice-Chair
Representative Mia Costello
Representative Mike Doogan
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Reggie Joule
Representative Tammie Wilson

MEMBERS ABSENT

Representative Mark Neuman

ALSO PRESENT

Joe Michel, Staff, Representative Bill Stoltze; Joshua Walton, Staff, Representative Mia Costello; Barry Creighton, President, Ionia, Inc., Kenai; Cathy Creighton, Ionia, Inc., Kenai; Darren Snyder, Board Member, Alaska Food Policy Council; Leslie Houston, Director, Division of Administrative Services, Department of Corrections; Joe Balash, Deputy Commissioner, Department of Natural Resources; Ray Riutta, Executive Director, Alaska Seafood Marketing Institute, Department of Commerce, Community and Economic Development.

PRESENT VIA TELECONFERENCE

Adam Krynicki, Intellectual Property Specialist, Office of Intellectual Property and Commercialization, University of Alaska Fairbanks, Fairbanks; Tyler Arnold, Co-Founder,

Simply Social, Anchorage; Allan Johnston, Chief Encouragement Officer, The Entrepreneurs and Mentors Network Inc., Anchorage; Johanna Bales, Deputy Director, Tax Division, Department of Revenue, Anchorage; Bryce Wrigley, Alaska Farm Bureau, Delta Junction; Danny Consenstein, State Executive Director, Farm Service Agency, United States Department of Agriculture, Anchorage.

SUMMARY

HCR 24 STATE FOOD RESOURCE DEVELOPMENT GROUP

HCR 24 was HEARD and HELD in Committee for further consideration.

HB 252 INCOME TAX EXEMPTION

HB 252 was HEARD and HELD in Committee for further consideration.

#hb252

HOUSE BILL NO. 252

"An Act exempting certain small businesses from the corporate income tax; and providing for an effective date."

[2:09:14 PM](#)

REPRESENTATIVE MIA COSTELLO, SPONSOR, introduced HB 252 and explained that the intent of the legislation was to take advantage of federal law and incentivize investment in fast growing companies. Currently, federal law allowed an investor to be exempt from capital gains tax on money that was invested in this type of company if the funds were invested for five years. She related that the intent behind the federal law was to encourage investment in certain types of fast growing, qualifying companies. She pointed out that qualifying companies could be based anywhere and were not targeted to a particular geographic region of the world; the intent of the bill was to bring investment dollars to Alaska by creating a tax incentive for companies under a certain size. She stated that Alaska did not currently have many fast growing, smaller companies, but that bringing them to the state would grow and diversify its economy.

[2:12:00 PM](#)

AT EASE

[2:13:01 PM](#)

RECONVENED

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Vice-Chair Fairclough MOVED to ADOPT the proposed committee substitute for HB 252, Work Draft 27-LS1085\D (Nauman, 2/29/12).

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Co-Chair Stoltze OBJECTED for the purpose discussion.

JOE MICHEL, STAFF, REPRESENTATIVE BILL STOLTZE, discussed two changes in the committee substitute, version D. The first change, found on page 2, lines 11 and 12, removed the words "qualified small businesses." The second change was found where line 12 would have been and designated that the words "qualified small businesses" had a meaning given in Section 1202 of the Internal Revenue Code, which was found in Title 26 of the United States Code, as that section read on January 1, 2012, as not including a construction, transportation, utility, or fisheries business.

Co-Chair Stoltze queried if the changes in the committee substitute had a substantive effect in fiscal costs. Mr. Michel replied in the affirmative and related that eliminating a number of small businesses that did not qualify for the change would reduce the amount of audits that the Department of Revenue (DOR) would need to conduct regarding the proposed legislation.

Co-Chair Stoltze requested an explanation of the substantive changes to the bill structure. Mr. Michel explained that originally, DOR would have needed to assign three auditors in order to administer the proposed change, but that due to the elimination of some types of qualifying businesses, the department had indicated that it would need only one auditor.

Vice-Chair Fairclough inquired if the revised fiscal note had been given to the committee.

Co-Chair Stoltze requested that the updated fiscal be distributed to committee members.

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AT EASE

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RECONVENED

Mr. Michel discussed the updated fiscal note for HB 252 and related that it reflected the changes in the new committee substitute. The note added a new position and showed that there would be no change in revenue to the state.

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Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Work Draft 27-LS1085\D was ADOPTED.

Representative Edgmon observed that the fiscal note did not point to any generated revenue, but offered that this was because the department was unwilling to project the impact of the bill that far forward.

Representative Costello requested a clarification of Representative Edgmon's comments. Representative Edgmon reiterated his comments and pointed out that new revenue would be generated by bill because it would have a positive effect. Representative Costello responded in the affirmative and voiced agreement.

ADAM KRYNICKI, INTELLECTUAL PROPERTY SPECIALIST, OFFICE OF INTELLECTUAL PROPERTY AND COMMERCIALIZATION, UNIVERSITY OF ALASKA FAIRBANKS, FAIRBANKS (via teleconference), spoke in support of the legislation. He related that the University of Alaska Fairbanks performed approximately \$120 million a year in research, which resulted in amazing discoveries. He discussed the university's research efforts regarding Alzheimer's disease, sudden infant death syndrome, and unmanned aerial vehicle components. He shared that the Alaska Center for Energy and Power had produced discoveries in energy solutions and road construction. The Office of Intellectual Property and Commercialization was part of a new effort to create economic opportunities from new discoveries. He related that patenting, building, testing, and commercializing viable technologies took significant investment, without which most ventures could not get started. He concluded that HB 252 encouraged the private sector to invest in Alaskan technologies and that it highly

incentivized investment in Alaskan qualified small businesses that used those technologies.

Co-Chair Stoltze asked whether the testifier was speaking on behalf of the University. Mr. Krynicki responded in the affirmative.

JOSHUA WALTON, STAFF, REPRESENTATIVE MIA COSTELLO, relayed that Mr. Tyler Arnold had submitted video testimony.

Co-Chair Stoltze noted that Representative Gara had joined the committee.

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TYLER ARNOLD, CO-FOUNDER, SIMPLY SOCIAL, ANCHORAGE (via teleconference), testified in support of the legislation via video and shared that the bill would make it easier for startup businesses to be based in Alaska. He related that his company was a global 1202 C corporation that was based in Alaska. He stated that Alaska had one of the highest state corporate income tax rates in the country and that the legislation would not only remove the burden of high tax rates, but would increase the state's global competitiveness. He related a story about his business history in Alaska and his new startup business, Simply Social.

ALLAN JOHNSTON, CHIEF ENCOURAGEMENT OFFICER, THE ENTREPRENEURS AND MENTORS NETWORK INC., ANCHORAGE (via teleconference), vocalized support for the legislation. He pointed out that Alaska was missing many tools that did not fit the state's business model; Alaska did not have a small business investment company (SBIC), a venture capital company, or an organized angel network. He observed that Alaska was the only state in the country without an organized angel network and offered that the legislation was a tool that would help the state make up for other missing tools. He related that the bill would make Alaska the most competitive state in the nation, tax-wise, for these types of high-growth businesses. He observed that many emergency room physicians were attracted to Alaska because of its outdoor lifestyle and opined that the state had a great opportunity to target high-end individuals.

Vice-Chair Fairclough inquired what an angel network was. Mr. Johnston replied that an "angel investor" was a U.S.

Securities and Exchange Commission term for a person who was well-off financially and had either \$200,000 in income for the last two years or \$1 million in net worth. Angel investors could afford to make investments in companies and could afford to lose their money. He stated that entrepreneurs generally wanted angel investors in order to help reduce business risk. He pointed out that the fastest growing demographic in Alaska were individuals that were over 50 years of age and that many people qualified to become angel investors but did not know how it worked. He concluded that the bill would help organize people to learn how to become angel investors.

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Vice-Chair Fairclough inquired if angel investors were wealthy people who were willing to invest in smaller companies and provide less risk to businesses, while taking risk themselves. Mr. Johnston responded that angel investors were people who invested on a regular basis in someone else's business and related that in Alaska, investors had a tendency to invest in their own businesses. He shared that the idea behind angel investing was that the investor generally did not want to control or own the whole company, but instead preferred diversity. He stated that there were 300 individuals who contributed \$1,000 per year to the University of Alaska Anchorage and opined that most of these donors would be qualified as an angel investor. He related a hypothetical scenario of how university donors could become angel investors and encourage business growth. He shared that angel investing took advantage of the experience of individuals who had retired and were part of the long-term infrastructure of Alaska by getting those individuals engaged in the community. He stated that engaging and organizing the experience of leaders with Alaska's youth and the leaders of tomorrow was critical. He concluded that every other state had an organized angel network for sharing experience and references and that the legislation would help enable the establishment of such a network in Alaska.

Representative Wilson inquired if DOR knew how many businesses would qualify under the legislation and how much loss in revenue it would represent to the state.

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JOHANNA BALES, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, ANCHORAGE (via teleconference), explained that there were three requirements in order to qualify under the legislation. The first requirement was being engaged in a qualified small business, which was a narrow category. The second requirement was that a business must have \$50 million or less in aggregate assets. The third requirement was that 80 percent of the total assets must be used actively in the business. She stated that the department could examine corporate income tax returns and could determine the first two requirements, but that it was very difficult to determine the third requirements, which was how companies used assets. She stated that the numbers were indeterminate at the current time, but that the department expected it to be, as far as existing corporations were concerned, fairly narrow.

Representative Wilson requested a ballpark figure, if businesses qualified for the first two requirements. Ms. Bales responded that there would probably be 300 to 400 very small companies involved and that the department would have to examine how those companies were using assets. She added reiterated that the companies were very small and that the department did not have information regarding their revenues.

Representative Wilson indicated that she supported the bill, but expressed caution. She queried if the department knew how much the 300 or 400 companies currently paid in corporate taxes. Ms. Bales replied that the department had a general idea of the revenues of the companies, but had only examined one year of information and the amounts varied greatly. She observed that due to losses and other factors, some of the qualifying companies did not pay any taxes and that it was difficult to determine the exact taxes paid if the companies had carried forward losses.

Co-Chair Stoltze CLOSED public testimony.

Representative Doogan inquired whether a larger corporation could form a subsidiary, which met the qualifications, in order to take advantage of the program. Mr. Walton pointed to a provision in Section 1202 of the Internal Revenue Code, which dealt with subsidiaries. He stated that the legislation treated parent and subsidiary corporations as one entity. When combined, the parent and subsidiary companies had to be below the \$50 million aggregate gross

assets cap in order to qualify under the legislation; furthermore, both the parent and subsidiary would also have to be involved in one of the qualifying trades or businesses, as well as meet the 80 percent working asset requirement.

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Representative Doogan wondered why DOR was unable to make an estimate on the potential revenue loss if the bill was enacted. He inquired if the bill sponsor had a better idea of what the potential losses might be. Mr. Walton replied that it was difficult to determine the potential losses in revenue that would result from the bill's passage, as DOR had previously stated. He indicated that through discussions with DOR, numbers that were based on different criteria had been "drilled into", but that the 80 percent working asset requirement made calculations very difficult because DOR did not track that information in as much detail as it does with the first two requirements. He shared that based on the other criteria, there were a number of sectors that may be able to apply for the exemption, but that eligibility for the exemption would be determined by a DOR auditor; this was the reason there was position for an auditor in the fiscal note.

Representative Doogan was not comfortable with unknown costs as a matter of policy. He opined that if 400 companies fit the requirements and received \$10 million, the bill would represent a lot of money. He was surprised that the department could not provide a better estimate on the potential losses in revenue. He offered that it did not instill confidence in him that DOR was unable to determine the fiscal impact.

Representative Doogan inquired how confident the state was in determining the bill's \$50 million asset requirement, given that it was unable to determine how many companies were affected by the legislation. Mr. Walton replied that the \$50 million in assets was something that corporate tax payers filed with as part of a corporate income tax return to the state of Alaska; as a result, it was a category that DOR had a pretty good handle on. The department was able to determine how many companies were below the \$50 million gross asset cap and also had some ability to examine the industry criteria in Section 1202 of the Internal Revenue Code and eliminate certain industries; however, what was

being done with a company's assets was not reported to DOR. He stated that the intent of the legislation was to promote smaller, startup businesses by tying into the federal tax provisions; the federal tax provisions were used because they had been shown to be successful at encouraging those types of businesses. He mentioned that through extensive searching, the sponsor was unable to find a single example of a Section 1202 C corporation in Alaska. He observed that he was not saying that no companies could qualify for the exemption, but that the definition for a qualified small business under Section 1202 was more geared toward allowing qualifying companies to issue stock, which was exempt to capital gains tax. He shared that the sponsor had adopted the definitions of the qualified small businesses, which must meet particular criteria. He stated that a typical Section 1202 C qualifying small business tended to be in the technology, research and development, biotech, pharmaceutical, telecommunication, or information services and software industries.

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Vice-Chair Fairclough directed the committee's attention to page 88 of the Department of Revenue's Revenue Sources Book and noted that it listed the income to state from general corporate tax, as well as petroleum corporate tax. She offered that the Revenue Sources Book showed that in 2011, the state received \$157 million in general corporate income tax and \$542 million from petroleum related corporate income tax. She noted that the Revenue Sources Book figures gave the committee an outside number.

Co-Chair Stoltze offered that Vice-Chair Fairclough was referencing \$157 million of income to the state if all the companies listed fell under the \$50 million gross aggregate assets cap.

Vice-Chair Fairclough pointed out that petroleum income would not apply to the bill because those companies would be over the \$50 million asset limit.

Mr. Walton provided some of the exclusions that were already in the federal tax code in order to inform the committee what industries would not qualify under the legislation. He related that under Section 1202 of the Internal Revenue Code, which was found in Title 26 of the United States Code, the performance of services in the

following industries were excluded: health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, financial services, brokerage services, or any trade or business where the principle asset of such trade or business is the reputation or skill of one or more of its employees. He offered that the last exception was added to prevent sole proprietors and other service providers from avoiding taxes and added that farming, banking, insurance, financing, leasing, and similar industries were also explicitly excluded in federal tax code. Also excluded in the federal tax code was resource extraction, such as the raising or harvesting of trees, as well as the oil, mining, and gas industries; restaurants, hotels, motels or similar businesses were likewise excluded. He pointed out that real estate was not specifically excluded from the tax code, but that there were requirements for qualification as to the maximum amount of real estate holdings; a real estate business leasing, renting, or selling property did not count towards the active business requirements for those assets and the companies were functionally excluded. Regulated investment firms, real estate investment trusts, real estate mortgage investment companies, cooperatives, and domestic/international sales corporations also did not qualify under the tax code. He added that if a business held more than ten percent of its net assets in stock in another corporation, it did not meet the 80 percent asset in the active conduct of business requirement. With the adoption of the new committee substitute, the legislation also expressively excluded the construction, utilities, transportation, and fisheries industries. He mentioned that there were a broad range of industries that were specifically included and could not qualify under any circumstance. He related that through discussions with DOR, his understanding was that under the legislation, the sectors that may still qualify included manufacturing, retail, wholesale, and other sectors.

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Representative Doogan understood that DOR needed to conduct audits on expenditures in order to make sure the expenses conformed to the tax code and the legislation, but wondered whether the department would be required to publish the information in order to enable the committee to keep track of the issue.

Mr. Walton responded that as the bill was currently written, it did not have an explicit reporting requirement, but pointed out that when a corporation filed for its corporate income tax, it was required to include its federal income tax return. Qualifying corporations needed to indicate eligibility for exemptions on their federal returns; at this time, the information would be available to the state. He mentioned that there were confidentiality requirements and that tax payer, as well as corporate tax payer information could not be shared in a way that exposed the internal financial dealings of individual companies; however, in some cases, such as with C corporations, the companies were publicly listed and may be required to report through the U.S. Securities and Exchange Commission.

Representative Doogan expressed that he would feel more confident if the bill included an audit provision. He noted that the legislation entered "fresh territory," but that the state had only a rough idea of what the result would be.

Vice-Chair Fairclough pointed out that the existing Alaska Statutes explicitly stated that all corporations that were members of the same parent/subsidiary control group shall be treated as one corporation. She directed the committee's attention to line 22, Section 5 of legislation and noted that it stated that Section 3 took effect July 1, 2023; she inquired if this was because the federal code was ending at that date. Mr. Walton responded that line 22, Section 5 of this bill provided a sunset date. Section 3 returned the statutes that were altered by the bill to the original language. He stated that Section 4 specified that Sections 1 and 2 take effect July 1, 2012. Section 5 specified that the language in the statutes would revert back on July 1, 2023 to what it had originally been.

Vice-Chair Fairclough believed it was a complicated sunset provision and clarified that the bill would sunset about ten years after the law took effect. Mr. Walton responded in the affirmative and stated that the sunset date was 11 years from the effective date, but that the exemption could not be claimed until the beginning of January, 2013. He stated that the sponsor wanted the bill to have at least 10 full years before its sunset in order to see the legislation's effect. He concurred with Vice-Chair Fairclough regarding the complexity of the sunset provision.

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Vice-Chair Fairclough agreed with the comments of Representative Doogan regarding the benefit of the state receiving a report on the legislation in a few years in order to see who was accessing it. She pointed out that the state was forgoing revenue and was not decreasing it. She opined that it would take some time for regulations to be written in order to enable the department to ascertain if 80 percent of the assets were being used for a particular corporation. She believed that there may be some pushback from companies that were trying prove the 80 percent use of their assets. She offered that the legislation was worthwhile and that it might help younger minds, which may be more IT savvy, to "put packages together" internationally. She mentioned the video presentation by an Alaskan who was doing business in Romania and concluded that the legislation seemed like an opportunity to try and move forward; however, she requested that a report on program be presented in the future. She offered that three years may be the wrong point at which to conduct a report because it would take a year to write the regulations and inquired what timeline the department expected regarding the regulations. Ms. Bales responded that it would take approximately six to eight months for the department to draft the regulations; however, because the legislation piggy-backed the federal code, the department would also count on the federal regulations to assist in administering the bill.

Vice-Chair Fairclough asked for a repeat of the time frame regarding the regulations. Ms. Bales replied that it would be approximately six to eight months.

Representative Edgmon pointed out that the department estimated that the bill would bring 300 to 400 businesses to Alaska and inquired if the new businesses would be primarily smaller information technology companies, which came to the state because of the tax credit. He further inquired if the companies would be big enough to pay taxes at some point and have audits conducted. Mr. Walton responded that his understanding of what Ms. Bales had previously expressed was that the 300 to 400 businesses were companies that were already in Alaska and may be eligible to receive the exemption immediately. The intention behind the bill was to encourage companies in

sectors where there were a low number of businesses. He reiterated that the sponsor had looked for existing 1202 C corporation in Alaska, but had been unable to locate any and mentioned that Mr. Arnold, who had had given the video testimony, intended to structure his business in Alaska as a 1202 C corporation. He concluded that the bill's intention was to exempt revenue that the state was not currently receiving in order to attract businesses that would grow to become corporate tax payers.

Representative Edgmon queried if the bill was intended to not only attract businesses to the state, but also to attract angel investors and an angel network to Alaska. Mr. Walton responded in the affirmative and that the current federal tax provisions encouraged investment. He pointed out that there were venture capitalists and angel investors in Alaska, but that it was difficult to find investment vehicles in the state. He opined that Alaska, in some ways, was good place to start a small business, but that it was not a friendly place to start a small business that was a C corporation. He stated that C corporations could issue multiple shares of stock and could have an unlimited number of investors; these types of companies could attract a lot of capital for financing and had a good ability, once started, to grow large. He offered that small businesses in Alaska were usually started as S corporations, sole proprietorships, or limited liability companies (LLC); these structures were referred to as "pass-through entities" and under them, the corporate tax liability was passed to the owners as personal income tax liability. He offered that in a state without a personal income tax, pass-through entities could be very attractive. If an investor wanted to start a business that could be traded on the stock exchange, it needed to be started as a C corporation. Once a C corporation reached \$90,000 per year in income, it was already in the 9.4 percent tax bracket, which was the fifth highest bracket in the country. He discussed anecdotal evidence of Alaskan entrepreneurs who were investing in starting companies in Montana because of that state's lower tax rate. He offered that Alaskan investors would probably prefer to start businesses in Alaska, but pointed out that the state's tax rates had such a negative impact on the business plans of startup companies. He stated that statistically, for every ten small businesses that were started, there would be one left standing after five years. He concluded that the sponsor's intent with HB 252 was to make it easier for qualified

businesses to start and grow, as well as to provide an investment vehicle for Alaska's venture capital sector.

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Representative Edgmon surmised that the purpose of the legislation was multifold and that it grew Alaskan fledgling industries, while also bringing in venture capital. He inquired if an Alaskan corporation must consist of a small group of individuals, rather than a sole proprietor in order to qualify under the legislation. Mr. Walton replied that it was possible for a sole proprietor to begin a business and structure it as an LLC, sole proprietorship, S corporation, or a C corporation; not all of these structures would fit very well in the case of a sole proprietorship. He observed that it was much more complicated to start a C corporation and that starting one would only be done if the desire was to get more sophisticated stock offerings and have a lot of owners. He stated that an S corporation was limited to 100 shareholders and that they had to be individuals and could not be companies. He shared that most venture capitalists did not invest their personal money, but instead created a firm to serve as a holding company for their assets and let the firm do the investments; in the case of those firms, the corporation must be a C corporation or it could not be invested in.

Representative Edgmon supported the bill, but indicated that he still had questions in regarding Section 3. He stated that Section 3 discussed the tax not applying to individuals or fiduciaries.

Vice-Chair Fairclough interjected that the section Representative Edgmon was referring to was the sunset provision, which she had previously inquired about.

Representative Edgmon further inquired if Section 3 excluded a corporation that was individually owned. Mr. Walton responded to the question and stated, "that's the way that the law exists now, which would be changed by the bill and revert back to that language." [The wording "That language" was made in reference to Section 3 of the bill, which discussed the tax not applying to individuals or fiduciaries.]

Co-Chair Stoltze observed that there was some complexity in the bill and that it was his intention to give the committee a chance to think about it overnight.

Representative Gara supported the concept of the bill. He related that he liked startup businesses, but that there were few incentives in Alaska to encourage those types of businesses. He pointed out that he was a co-sponsor of the legislation, but related that he had several questions. He noted that in Alaska, only C corporations currently paid a corporate tax and that if an investor was trying to avoid taxes and could set up as an LLC or an S corporation, they did so. He related that he was an owner of a restaurant and was a LLC member. He explained that being an LLC member meant that there was a main person who ran the business and made the decisions over the other investors; investors like himself could invest money in the business, but did not run it. He inquired why the LLC structure would not be perfect for angel investors. He explained that under the LLC structure, there were one or several people that were actually running the company, there were many investors, and there was no corporate tax. He inquired why the LLC structure did not allow and attract startup businesses, as there was not a tax on LLCs in Alaska. Mr. Walton responded that the answer depended on what was planned to be done with the business afterwards. For instance, a restaurant structured under a C corporation could expand to multiple branches and not start "bumping up against some of the limits of the LLC business structure." However, if a restaurant wanted to issue and trade stock, the structure of the business would need to be changed from a LLC to a C corporation because the LLC structure limited the amount of capital that could be brought into a company. In the case of an S Corporation, corporate income tax was shifted to personal income tax. He observed that the problem with an S corporation was that it was limited to 100 shareholders, who must to be individuals.

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Representative Gara provided an example related to a law firm. He shared that a law firm did not have much assets in the form of equipment, but made a lot of money. He opined that a law firm might have less than \$50 million in assets, but that it had high money making potential. He expressed concern that it would be difficult to tax companies under the asset criteria and wondered whether there should be a

limitation, which specified that once a company had earned certain amount of profits, it was required to pay some tax. Mr. Walton responded that he was unable to provide a definitive answer. He related that generally speaking, the types of business that started as C corporations were looking to produce something. He explained that the law firm example worked well because the firm provided services and that the costs associated with a law firm might only consist of a place to house the office that provided the service. He related that C corporations were often producing something and that investment in assets was required to create the product. He concluded that the problem, which brought to light by the law firm example, was not really characteristic of C corporations; however, he would gather more information regarding the possible extent to which it could characterize C corporations.

Representative Gara wondered if there had been any discussion regarding whether a tax should be imposed on a qualifying company after a certain number of years. He pointed out that the wholesale and retail industries were covered by the legislation and inquired whether wholesale liquor stores could take advantage of the legislation. Mr. Walton replied that he did not believe that wholesale liquor stores were exempted under the legislation, but that he would follow up with a definitive answer. He shared that the retail and wholesale businesses were not excluded because the sponsor wanted to attract businesses that were selling a product and did not want to adopt broad restrictions, which might exclude the retail and wholesale sectors.

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Representative Gara stated that the bill should have a cleaner sunset clause. Co-Chair Stoltze interjected that the sunset clause was one of the reasons the legislation would be held for a day or more and noted that it was the committee's desire to create a substantive piece of legislation.

Vice-Chair Fairclough queried whether the \$50 million asset cap was created at the state level or whether it currently existed under Section 1202 of the federal code. Mr. Walton replied that the number came directly from the Internal Revenue Code.

Vice-Chair Fairclough inquired if an "Alaska corporation" under the legislation meant that the business was in Alaska or that it was simply incorporated in the state. Mr. Walton responded that initially, the requirement had been that the company had to be headquartered in Alaska, but that the Department of Law (DOL), via DOR, had expressed concerns that the requirement may violate the Interstate Commerce Clause and equal protection. In response to concerns from DOL, the requirement of headquartering in Alaska was removed from the legislation. He explained that the exemption removed corporate income liability, but that there was no liability for business activities that were conducted out of Alaska. He stated that if a company incorporated in Alaska but did not conduct business here, it did not incur corporate income tax liability in the state. He offered that there were cases in which corporations would incorporate and do business somewhere else because of beneficial legal provisions in another jurisdiction. He concluded that the exemption did not help companies that were incorporating in Alaska and doing business in another state because they would not be generating any liability.

Vice-Chair Fairclough surmised that the bill created a tax shelter for investment up to \$50 million, which required the investors to "keep the assets rolling." She pointed out that the legislation encouraged investors to invest in something in Alaska and that it enabled angel investors to put their assets to work and forego the tax expense. She observed that based on the federal code, the threshold cap for qualification was set at \$50 million in assets instead of using another method. Mr. Walton responded that the extent of the tax shelter for investors was provided in the federal code, which provided all the benefits for investments. He offered that the bill created a tax benefit for startups in Alaska and opined that generally, a tax shelter referred to a measure with the purpose of defraying an income tax or tax liability that already existed; however, the bill did not have that effect. He stated that the legislation simply exempted the corporations in the non-prohibited areas, as well as the types of businesses that the sponsor was trying to promote in Alaska. He furthered that if investors were using Alaska's businesses as a tax shelter, they did so under the auspices of the federal code.

Co-Chair Stoltze referred to the concerns and questions that were raised regarding HB 252 and encouraged committee members to work with the sponsor on possible changes to the legislation. Representative Costello responded that she welcomed comments and would work with members of the committee on the bill.

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HB 252 was HEARD and HELD in Committee for further consideration.

Co-Chair Stoltze handed the gavel over to Vice-Chair Fairclough.

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AT EASE

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RECONVENED

#hcr24

HOUSE CONCURRENT RESOLUTION NO. 24

Relating to the establishment and operation of a state food resource development working group.

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Representative Wilson MOVED to ADOPT the proposed committee substitute for HCR 24, Work Draft 27-LS1383/A (Bannister, 2/16/12).

Representative Doogan OBJECTED for the purpose of discussion.

REPRESENTATIVE BILL STOLTZE, SPONSOR, explained that the resolution was a broad ranged approach that attempted to improve the local purchases of Alaskan wild caught seafood and agricultural products. He offered that although the legislation was only a resolution, it already had support within the administration. the legislation worked to encourage existing agencies to work together to enhance food security in order to improve the amount of wild Alaskan seafood and agricultural products that people were buying without the creation of a lot of new programs. He opined that one of the failures of agriculture in Alaska

had been too much innovation and expansion and offered that this was true of fish plants, dairies, and silos. He stated that Alaska had a lot of good, hard-working fisherman and farmers who knew how to harvest from the seas and land. The resolution was an attempt to encourage the state to do more with its resources. He discussed including nutritious food in classrooms and offered that the state had already "ceded" nutrition when Taco Bell and Pizza Hut were both accepted vendors in schools. He shared his view that Alaskan seafood should be served in schools as often as possible. He stated that Commissioner Bell from the Department of Commerce Community and Economic Development had indicated that the application of the resolution was doable. He suggested that due to the nature of bureaucracy, state agencies often did not communicate well with each other and that the legislation was an effort to develop and purchase more Alaskan products in order to get better food into the state's pantries, school programs, and food-security warehouses. He believed that the opportunities were "boundless" and pointed out that the legislation was not currently requesting any funding.

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Co-Chair Stoltze related that he had benefited from serving on the Alaskan Seafood Marketing Institute for eight years, as well as from representing an agricultural district that contained large and small farmers. He discussed the high quality of agricultural products from his district and shared a personal story about a trip to Barrow. He observed that there was a possible market in Barrow for Alaskan-grown carrots during the winter. He discussed integrating Alaskan food with the Department of Corrections' dormitories and shared the value of the state buying its own products. He stated the importance of have having an integrated plan that would get the state's commissioners to work together to promote Alaska's local seafood and produce. He observed that the larger amount of economic and year-round value would be in Alaskan seafood, but that the resolution would be a big win for the state's growers as well. He offered that the Alaskan agricultural industry could grow more, but that it needed to develop markets before it expanded. He concluded that Alaska had smart, capable, innovative, and productive fisherman and farmers, and that the state could do a lot more than it had in past. He pointed out that he would like to see Alaskan seafood and agricultural products in the state's correctional

facilities, universities, and school lunch programs and stated that he was willing to set aside money in the capital budget for the creation of a "commodities food bank." He reiterated displeasure that Taco Bell and Pizza Hut were served in Alaskan schools.

[3:29:03 PM](#)

Representative Guttenberg supported the resolution. He discussed that in many ways, the state was at a critical point. He mentioned the loss of federal funding for Alaska's agricultural research and the "crisis" at the experimental farm at the University of Alaska Fairbanks. He inquired how Alaska found itself in the position of a crisis and commented that the state used to have a robust agriculture industry. He stated that mission schools used to have "huge gardens" and discussed greenhouses that used to be at various hot springs. Co-Chair Stoltze responded that he was unsure how the state had de-evolved to such poor food choices. He mused how society had gotten to the point where a raw carrot was often a "foreign substance" for a child. He offered that successful farmers in Alaska were successful not because of government, but in spite of it and opined that the Department of Natural Resources' (DNR) Division of Agriculture could use a lot of improvement. He furthered that the Division of Agriculture had carried some "political baggage" over the years and that it had internal issues. He stated that DNR was responsible for helping the state produce its minerals, oil, gas, as well as other land resources and that given those responsibilities, it had been difficult for the department to stay focused on agriculture; the difficulties within the department regarding the promotion of the state's agriculture was one of the reasons the sponsor had brought up the resolution. He reiterated that he was pleased that the administration had embraced the resolution and mentioned that while it might not be very substantive, it was a good place to start. The resolution attempted to get agencies involved and working together. He concluded that the legislation was not a perfect document, but that it was a best effort to examine who was involved; furthermore, it had been successful as talking point and a working document.

Representative Edgmon indicated that he would be happy to work with Co-Chair Stoltze on the resolution. He stated that he would like regional non-profit associations to be

listed somewhere in the legislation. He mentioned the Bristol Bay Native Association's work with the local food bank and nearby schools and talked of trading local foods within the areas of Alaska. He related that his local school district had initiated a program whereby local fisherman donated fresh salmon to local processers, which was then served every Friday in school. He offered that the resolution would help promote other programs that were similar to the fish program in his constituency's school district. Co-Chair Stoltze agreed that Representative Edgmon's region gave a lot of good ideas in regard to what works locally. He discussed visiting with fish processors from Togiak and spoke of the value of using local facilities and people in Togiak, rather than building a new fish plant in Anchorage. He offered that it was good idea to give regional producers the economic opportunity of producing a product.

[3:35:39 PM](#)

Representative Doogan WITHDREW his OBJECTION. There being NO further OBJECTION, Work Draft 27-LS1383/A was ADOPTED.

Vice-Chair Fairclough commented that the locally-grown carrots from Co-Chair Stoltze's district were some of the sweetest and most nutritious carrots that could be found in America. She noted that the local growers were doing a fabulous job producing carrots. She referenced Alaska's high rates of obesity, particularly in schools, and opined that resolution was a creative idea that would benefit students, farmers, and fishermen.

[3:36:54 PM](#)

BARRY CREIGHTON, PRESIDENT, IONIA, INC., KENAI, spoke in support of the resolution. He explained that Ionia Inc. was a non-profit organization that consisted of a group of 25 families who all had history of behavioral health problems; the families had banded together for peer support and quickly realized that food was the foundation of their world. He related that Iona Inc. used simple food, such as grains, vegetables, or seaweed. He shared that Ionia Inc. had applied for a grant through the Alaska Science and Technology and the Alaska Conservation Foundations to find grain that would grow in Alaska. Through the grant, Ionia had purchased a tractor and had cleared land. Ionia had found 40 different heirloom seeds from around the world,

one of which was a barley seed from the Himalayas. The Himalayan barley had a very short growing season, grew in poor soil, and flourished in turned-over muskeg without any assistance. The term "heirloom" meant that a seed had not been hybridized. He explained that Iona Inc. had produced over 1,000 lbs. of seed from one seed packet, consumed 800 lbs. of whole grain per month, had cleared 30 acres of land, and were in the process of building a 12,000 square foot barn. He furthered that Ionia Inc. had 2,000 feet of raised garden beds, as well as three 50-foot-long greenhouses. He related that the group had about 15-20 children in the Connections Homeschool Program. He pointed out that he had been on the board of the federal health clinic in Soldotna for the last 10 years and that over that period, the rates of diabetes and obesity in Alaska had risen drastically. He offered that food could be used as a frame of reference to countermeasure some of society's problems, particularly in the area of mental health. He shared that many of Ionia Inc. families had used heavy psychotropic drugs prior to joining the group, but after adopting a "food frame of reference", the families had been drug free for 25 years. He stated that using food did not cure anything, but that it brought the "symptoms down the pendulum to idiosyncratic behavior, instead of socio." He stated that from a fiscal perspective, not one member of Ionia Inc. spent time at the Alaska Psychiatric Institute, which had a cost to the state of \$1,200 per day. He offered that Ionia Inc.'s peer support and food had provided its members with a foundational frame of reference to approach their problems and achieve a restorative life.

[3:40:38 PM](#)

CATHY CREIGHTON, IONIA, INC., KENAI, testified in support of the resolution and related that Ionia had a dedicated website. She stated that Ionia Inc. had been growing healthy food for 25 years in Alaska. She related that the group had been mostly isolated, but that over the past year people from the state had been coming to Ionia Inc. desiring information and cooking classes. She shared that all the local health organizations were interested in healthy food, as well as gardening clubs and related that Iona was no longer alone in its desire for healthy foods. She opined that Alaskan-grown vegetables were strong, sweet, and nutritious and had very special qualities. She discussed Alaska's grass-roots appetite and related that having the partnership of the government would be

encouraging and beneficial to "this movement". She furthered that the legislation would be beneficial to health organizations, the state's economics, as well as children in schools. She added that Diane Peck, who was the chair of the Alaska Food Policy Council and an employee of Department of Health and Social Services, had requested that the Department of Environmental Conservation be added to the resolution's list of state organizations.

Co-Chair Stoltze replied that he would take a look at the resolution.

Mr. Creighton stated that the prior year, the Rasmussen Foundation had started the Health Food Initiative, which would serve as a means to deal with health issues across the state, and related that the foundation was willing to "pour money" into the initiative.

[3:44:23 PM](#)

DARREN SNYDER, BOARD MEMBER, ALASKA FOOD POLICY COUNCIL, voiced strong support for the resolution. He related that the resolution recognized the importance of developing a strong and secure food system that could provide jobs, support healthy communities, and increase food security to feed the hungry and insulate the state from potential disruptions in food supply. Currently, over 130 Alaskan's had joined the Alaska Food Policy Council due to concerns they had over the food challenges facing Alaska. He shared that the council consisted of farmers, fisherman, food banks, subsistence users, school districts, food safety regulators, processors, educators, families, as well as others and that the members had realized that more progress could be made towards healthy Alaska communities by working together. The Alaska Food Policy Council had developed a strategic plan to guide positive actions towards strengthening Alaska's food systems. He shared that HCR 24 and the proposed State Food Resource Work Group were perfectly aligned with the vision, mission, goals, and strategies of the Alaska Food Policy Council. He related that the council was pleased with the inclusion of each of the departments that were in the legislation, but requested that the Department of Environmental Conservation be added because it played a key role within Alaska's food system. He addressed an earlier question from Representative Guttenberg regarding how the state had found itself in the position it was in. He discussed America's lower cost of

food since the 1950s and explained that the Lower 48 had "priced out" Alaska's ability to compete. He related that part of the Alaska Food Policy Council's strategic plan involved strengthening enforcement language in the local agriculture and fisheries product preference statute, A.S. 36.15.050; strengthening this statute would incentivize people to purchase Alaskan products. He related a story about the famous and successful Anway strawberry, which had been developed in Haines. He related that the Anway strawberry had diminished partly because people did not recognize the importance of a tasty, delicious, and fresh product and because purchasers had opted for the convenience of frozen strawberries. He addressed Representative Edgmon's question regarding the inclusion of some Native corporations and health consortiums in the resolution and related that he fully supported that concept. He concluded that the Alaska Food Policy Council had worked hard to make sure it had representation for everyone on its governing board.

[3:49:29 PM](#)

LESLIE HOUSTON, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF CORRECTIONS, discussed that the department had tracked its Alaskan grown purchases at the end of FY 08 and that the number of purchases was "not that great," being anywhere between 30,000 to 60,000. She related that in FY 10, Representative Stoltze had brought DNR, the Department of Corrections (DOC), and some of the Mat-Su Valley farmers into discussions regarding Alaska purchases; the meeting had been an education process for DOC, as well as the farmers regarding the best way to sell products to the state under DOC's procurement code. After the meeting was held, the next year's purchasing in FY 11 increased from 30,000 to 60,000 per year; currently, the number of purchases was at 105,000 per year and the department expected FY 12's purchases to exceed that number. She mentioned that the effort to buy local foods had been successful, the nutritional value of the food was high, and that inmates within DOC had commented on the quality of the food. She pointed out that DOC had worked closely with DNR on local purchasing and that currently, DOC was in the process of working with the Matanuska Creamery to purchase cheese. She stated that she was also initiating a process to start the purchasing of local seafood and concluded that DOC was fully supportive of the resolution.

Co-Chair Stoltze observed that the state's departments had been very cooperative in getting the resolution to this point.

[3:51:47 PM](#)

JOE BALASH, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, voiced the department's strong support for the resolution. He discussed the economical value and food supply that came with a strong agricultural sector and related that the department would assist with the resolution's effort in anyway it could.

RAY RIUTTA, EXECUTIVE DIRECTOR, ALASKA SEAFOOD MARKETING INSTITUTE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, vocalized the institute's support for the resolution. He shared that seafood was a "brain food." He related that there was an increasing trend to buy local and that the timing for the resolution was right. He stated that Alaska had great products and that the Alaska Seafood Marketing Institute (ASMI) was committed to work together with all the parties that were involved with the resolution. He pointed out that ASMI was serving 90 lbs. of Mat-Su Valley carrots at the Boston Seafood Show, where ASMI would serve seafood to 800 to 900 of Alaska's best customers.

Representative Wilson asked whether ASMI had sales through the schools or whether local districts made that complicated. Mr. Riutta responded that the sales were primarily handled on a local level, but that ASMI was currently working on a national level school feeding program, which would serve Pollock.

Representative Wilson wondered whether the national level program included Alaskan schools. Mr. Riutta responded that it should include all schools.

[3:54:43 PM](#)

Representative Gara pointed to the less than desirable school lunches and asked Mr. Riutta to take the issue to the ASMI board. He related that he would like to see ASMI file school nutrition legislation in order to have some real guidelines for food in Alaskan schools. Mr. Riutta replied that he would take the issue to the board.

3:55:39 PM

BRYCE WRIGLEY, ALASKA FARM BUREAU, DELTA JUNCTION (via teleconference), expressed the bureau's support of the resolution and related that it offered a collaborative and comprehensive effort to address food security in Alaska. He reported that Alaska imported about 95 percent of the food it consumed and that the state had a three-day to one-week supply of food, if a transportation breakdown occurred. He explained that agriculture and fishing were the only two industries in Alaska that produced food. He related that the resolution encouraged a collaborative effort between the Alaska Food Policy Council, the Division of Agriculture, the Department of Fish and Game, the Department of Commerce, Community and Economic Development, the Department of Health and Social Services, the Department of Military and Veterans Affairs, and the Department of Education and Early Development. The legislation also encouraged participation from 4-H, the Future Farmers of America, and the Alaska Farm Bureau; it also encouraged research by the University of Alaska. He furthered that that the resolution was an effort to secure food, improve health, and strengthen Alaska's economy. He directed the committee's attention to page 1, lines 8 through 10, which showed that Alaska spends \$1.5 billion annually on food; if the amount that Alaska produced increased by 30 percent, it would represent almost \$500 million in additional sales and at least \$2 billion of increased economic activity to the state. He shared that in 2011, the state's oil revenue had been about \$5.3 billion and that \$2 billion would represent almost 40 percent of Alaska unrestricted oil revenue from the prior year. He opined that the state had focused so long on keeping oil flowing in the pipeline and that it had forgotten about the importance of producing its own food.

DANNY CONSENSTEIN, STATE EXECUTIVE DIRECTOR, FARM SERVICE AGENCY, UNITED STATES DEPARTMENT OF AGRICULTURE, ANCHORAGE (via teleconference), voiced the United States Department of Agriculture's (USDA) support for the resolution and mentioned that he was also a member of the governing board of the Alaska Food Policy Council, which also supported the resolution. He offered that the USDA was excited about being a partner in the resolution and that local food production was a priority for the department because it benefited local communities by helping to create jobs,

improving nutrition, and increasing food security. He added that Alaska was vulnerable to disruptions in its food supply and related that he was looking forward to being a partner with the state and its agencies to improve and strengthen Alaska's food systems.

[4:00:20 PM](#)

Co-Chair Stoltze thanked the committee and the public for suggestions regarding the resolution. He noted that he tried to be as inclusive as possible when selecting the legislation's participants and that he appreciated Representative Edgmon's suggestion. He explained that any omissions were not intentional. He stated that he wanted to include the Department of Environmental Conservation in the resolution for areas that it had a constructive role in, while still acknowledging that the department had implemented policies that were not always popular. He mentioned that he would work to add provisions to resolution and would bring it back before the committee at a future date. He related that he was pleased to see more people discussing Alaskan fisheries and agriculture together and offered that there was a constructive spirit of cooperation towards the goals of better food security and increasing local, nutritious purchases. He agreed that Alaskan salmon was a brain food and that Pollock would be a preferable alternative to serve in tacos for school lunches.

Vice-Chair Fairclough CLOSED public testimony.

[4:03:23 PM](#)

Representative Joule shared that he was excited about the resolution. He recalled a personal story about living in the Alaskan communities and related that the community he was living in would take one day a month in its schools "to be Inupiat people"; during this time, one of the things the community brought into the schools was local food. He shared that families had worked together during the harvest times and that it was fun to watch families, the community, and the schools to be able to enjoy the good food. He related that there were nutritional issues in Alaska's schools, jails, residential facilities, state hospitals, and other facilities and that the discussion surrounding the resolution was great. He stated that years prior there had been a funding request for a pilot program that would

replicate blueberries in Alaska, but that that it had been vetoed. He related that he often wondered what possibilities Alaska had lost as a result of the veto. He observed that he managed the Department of Health and Social Services' budget and that obesity cost Alaskans somewhere between \$459 million to \$477 million per year; the state's investment to fight that issue was \$400,000.

Representative Guttenberg mentioned that there was a new strain of blueberries that grew in clumps like grapes. He offered that normally, the problem with harvesting commercial blueberries was that they fruited in a sparse pattern; however, an experimental farm in Fairbanks was working with local farmers on the new blueberries. He related that there was a lot of research being conducted on and off university campuses regarding the benefits of Alaskan blueberries and mentioned that the state's blueberries contained incredibly high levels of antioxidants. He shared that agricultural programs outside of Alaska were requesting samples of the state's blueberries in order to try to grow them elsewhere. He stated that hopefully, the secret to Alaska's blueberries was the state's extended periods of light during the growing season.

[4:07:46 PM](#)

Representative Wilson remarked on the importance of nutrition in the state's schools. She observed that the state spent a considerable amount of money on serving breakfasts and lunches in schools, but that the meals had very little nutritional value. She offered that the value in healthy food was found not only in eating well, but also in learning and teaching others to grow their own food. She mentioned that the school in Tok already had a greenhouse on location and that the middle school in North Pole, which was in her district, was making efforts in that regard. She concluded that time with family and having nutritional food could not be replaced by a can from a store.

Representative Gara believed that one of his failings as a legislator had been that he had never introduced a school nutrition bill. He opined that if the state was serious about fighting obesity and creating a market for local foods, part of the solution had to be standards for school lunches. He pointed out that school lunches contained simple carbohydrates, high amounts of saturated fats, and

sometimes trans fats, all of which caused obesity. He expressed regret that he never carried a bill with better standards for school lunches and hoped that someone would introduce such a bill in the future.

Vice-Chair Fairclough discussed a zero fiscal note from the Legislature. She requested that amendments for the resolution be submitted to Representative Stoltze's office.

Co-Chair Stoltze requested that suggestions for the resolution come in the form of concepts or ideas, rather than amendments. He opined that it would be more efficient to incorporate changes into a committee substitute. He reiterated that he was open for ideas and that the resolution was an inclusive document; however, it would probably not be quite as open to all comers as the Alaska Food Policy Council due to certain restrictions and efforts to keep the document focused. He stated that his office could figure out how integrate the changes with the existing language of the resolution.

Vice-Chair Fairclough noted that the Alaska Food Policy Council's strategic plan was included in member's packets.

[4:11:24 PM](#)

HCR 24 was HEARD and HELD in Committee for further consideration.

Vice-Chair Fairclough discussed the following meeting's agenda.

#

ADJOURNMENT

[4:12:06 PM](#)

The meeting was adjourned at 4:12 p.m.