

**ALASKA STATE LEGISLATURE  
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 17, 2016

8:08 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Wes Keller, Vice Chair  
Representative Louise Stutes  
Representative David Talerico  
Representative Liz Vazquez  
Representative Jonathan Kreiss-Tomkins  
Representative Ivy Spohnholz

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 259

"An Act relating to relocation assistance for federally assisted projects and programs; and providing for an effective date."

- MOVED HB 259 OUT OF COMMITTEE

HOUSE BILL NO. 229

"An Act relating to regulation notice and review by the legislature; and relating to the Administrative Regulation Review Committee."

- HEARD & HELD

HOUSE BILL NO. 351

"An Act relating to adoption of regulations; and providing for an effective date."

- MOVED CSHB 351(STA) OUT OF COMMITTEE

HOUSE BILL NO. 276

"An Act relating to limitation of a driver's license."

- BILL HEARING CANCELED

HOUSE CONCURRENT RESOLUTION NO. 15

Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to the jurisdiction of standing committees.

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 259

SHORT TITLE: RELOCATION ASSISTANCE FOR FED. PROJ/PROG

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/19/16 (H) READ THE FIRST TIME - REFERRALS  
01/19/16 (H) STA, FIN  
03/17/16 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 229

SHORT TITLE: REPEAL ADMIN. REG. REVIEW COMMITTEE

SPONSOR(s): CHENAULT

01/19/16 (H) PREFILE RELEASED 1/8/16  
01/19/16 (H) READ THE FIRST TIME - REFERRALS  
01/19/16 (H) STA, FIN  
02/04/16 (H) STA AT 8:00 AM CAPITOL 106  
02/04/16 (H) Heard & Held  
02/04/16 (H) MINUTE(STA)  
02/11/16 (H) STA AT 8:00 AM CAPITOL 106  
02/11/16 (H) -- MEETING CANCELED --  
03/15/16 (H) STA AT 8:00 AM CAPITOL 106  
03/15/16 (H) Heard & Held  
03/15/16 (H) MINUTE(STA)  
03/17/16 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 351

SHORT TITLE: ADOPTION OF REGS; LIMITATIONS; VOID REGS

SPONSOR(s): PRUITT

02/24/16 (H) READ THE FIRST TIME - REFERRALS  
02/24/16 (H) STA  
03/17/16 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

JOHN BINDER, Deputy Commissioner  
Department of Transportation & Public Facilities (DOT&PF)  
Anchorage, Alaska

**POSITION STATEMENT:** Presented HB 259 on behalf of the House Rules Standing Committee, sponsor, by request of the governor.

ROGER HEALY, Director/Chief Engineer  
Division of Statewide Design & Engineering Services (DSDES)  
Department of Transportation & Public Facilities (DOT&PF)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on HB 259.

REPRESENTATIVE MIKE CHENAULT  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 229, as prime sponsor.

JIM POUND, Staff  
Representative Wes Keller  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Spoke to Amendment 1 to Amendment 2 for HB 229, on behalf of Representative Keller.

REPRESENTATIVE LANCE PRUITT  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 351, as prime sponsor.

JENNA CROUSE, Staff  
Representative Lance Pruitt  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 351 on behalf of Representative Pruitt, prime sponsor.

AL TAMAGNI, Leadership Council Chairman  
National Federation of Independent Business  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 351.

SCOTT OGAN  
Palmer, Alaska

**POSITION STATEMENT:** Testified in support of HB 351.

#### **ACTION NARRATIVE**

[8:07:10 AM](#)

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Keller, Vazquez,

Spohnholz, Kreiss-Tomkins, Talerico, Stutes, and Lynn were present at the call to order.

**HB 259-RELOCATION ASSISTANCE FOR FED. PROJ/PROG**

8:08:00 AM

CHAIR LYNN announced that the first order of business would be HOUSE BILL NO. 259 "An Act relating to relocation assistance for federally assisted projects and programs; and providing for an effective date."

JOHN BINDER, Deputy Commissioner, Department of Transportation & Public Facilities (DOT&PF), presented HB 259 on behalf of the House Rules Standing Committee, sponsor, by request of the governor. He stated that HB 259 would bring Alaska statutes into compliance with federal law. He went on to say that when right of ways are required for public transportation purposes, federal law requires [DOT&PF] to compensate the property owners for the value of the property and also to provide relocation benefits for displaced families, businesses, and farms. Under the federal initiative known as Moving Ahead for Progress in the 21st Century Act ("MAP-21"), signed into law in 2012, the federal government has made it easier to qualify for the program and also has increased to the maximum the relocation assistance that is available to affected parties. Benefits paid to Alaskan families and businesses under this program would be eligible for federal participation.

REPRESENTATIVE KELLER asked for confirmation that the proposed legislation would be specifically for the purpose of complying with federal requirements as they pertain to relocation and assistance to the relocated parties.

MR. BINDER confirmed Representative Keller's assessment and added that since the values were last updated in the 1980s, HB 259 would remove the payment limits in order to be in compliance with federal law and to avoid having to make future changes to the statutes.

8:12:06 AM

The committee took an at-ease from 8:12 a.m. to 8:13 a.m.

8:12:35 AM

CHAIR LYNN, after ascertaining no one wished to testify, closed public testimony on HB 259.

[8:12:53 AM](#)

REPRESENTATIVE VAZQUEZ cited the payment limits on pages 2 and 3, which are deleted in HB 259, and asked about the current practice of payment when someone incurs costs exceeding those limits.

[8:13:44 AM](#)

MR. BINDER responded that if families, businesses, or farms are relocated, Alaska must be in compliance with federal law. He continued that the relocation expense is eligible under the federal program for the usual match of 90 percent of federal funds, depending on the project.

[8:15:28 AM](#)

ROGER HEALY, Director/Chief Engineer, Division of Statewide Design & Engineering Services (DSDDES), Department of Transportation & Public Facilities (DOT&PF), responded that the relocation benefits are set by federal law and Alaska cannot exceed them. He added that these payments are just for relocation and not for acquisition of the properties.

[8:16:02 AM](#)

REPRESENTATIVE VAZQUEZ asked when this federal law was enacted.

[8:16:16 AM](#)

MR. HEALY responded that the federal highway law referred to as MAP-21 was passed in July 6, 2012, and included language increasing the amounts of compensation, thus prompting the need to change Alaska statute.

[8:16:44 AM](#)

REPRESENTATIVE VAZQUEZ asked if there are limits pursuant to the federal law.

[8:16:53 AM](#)

MR. HEALY responded in the affirmative.

REPRESENTATIVE VAZQUEZ referred to page 1, line 10, which read: "in accordance with the requirements and limitations of 42 U.S.C. 4601-4655 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970)." She noted that citing federal statute for future limits was good future planning.

[8:17:33 AM](#)

REPRESENTATIVE KELLER moved to report HB 259 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 259 was reported out of the House State Affairs Standing Committee.

[8:17:59 AM](#)

The committee took an at-ease from 8:18 a.m. to 8:23 a.m.

**HB 229-REPEAL ADMIN. REG. REVIEW COMMITTEE**

[8:23:24 AM](#)

CHAIR LYNN announced that the next order of business would be HOUSE BILL NO. 229, "An Act relating to regulation notice and review by the legislature; and relating to the Administrative Regulation Review Committee."

[Left pending from the House State Affairs Standing Committee meeting on 3/15/16 was a motion by Representative Keller to adopt Amendment 2, labeled 29-LS1104\A.4, Gardner, 3/10/16, with an objection by Representative Stutes for the purpose of discussion. The pending objection to the motion to adopt Amendment 2 was treated as withdrawn.]

[Because of their length, some amendments discussed or adopted during the meeting are found at the end of the minutes for HB 229. Shorter amendments are included in the main text.]

[8:24:59 AM](#)

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, as prime sponsor of HB 229, indicated that he had no objection to Amendment 2, by Representative Keller. He said he had a few concerns that could be addressed.

[8:25:39 AM](#)

REPRESENTATIVE KELLER moved to adopt Amendment 1 to Amendment 2, labeled 29-LS1104\A.5, Gardner, 3/16/16. [Amendment 1 to Amendment 2 is provided at the end of the minutes on HB 229. The difference between Amendment 2 and Amendment 1 to Amendment 2 is the addition of Section 4, subsection (h), on page 3, lines 17-21, as numbered on Amendment 1 to Amendment 2.]

REPRESENTATIVE TALERICO objected for purpose of discussion.

[8:26:25 AM](#)

JIM POUND, Staff, Representative Wes Keller, Alaska State Legislature, on behalf of Representative Keller, said that Amendment 1 to Amendment 2 addresses a concern regarding the effect that HB 229 would have on the ability of the Board of Game and the Board of Fisheries to pass regulations. He indicated that the language [in question] was on page 2, beginning on line 27 [as numbered on Amendment 1 to Amendment 2] and was in Section 4, subsection (f) [of Amendment 2]. The proposed amendment addresses that concern [by the addition of subsection (h)]. He offered that the Twenty-Eighth Alaska State Legislature previously addressed this same concern in passing House Bill 140 in which exemptions were made for the following quasi-judicial agencies: the Board of Game, the Board of Fisheries, the Regulatory Commission of Alaska (RCA), and the Alaska Oil and Gas Conservation Committee (AOGCC). He stated that Amendment 1 to Amendment 2 would allow the regulations and the regulatory process within these agencies to remain intact.

[8:27:36 AM](#)

REPRESENTATIVE KREISS-TOMKINS remarked that Amendment 1 to Amendment 2 was lengthy and included many citations. He queried whether the committee might benefit from a more detailed explanation of the entire amendment. He also asked which document was being called Amendment 1 to Amendment 2.

[8:28:06 AM](#)

MR. POUND clarified that the document labeled A.5 was Amendment 1 to Amendment 2.

[8:28:52 AM](#)

REPRESENTATIVE KELLER, in response to Representative Kreiss-Tomkins, maintained that the committee had already heard a

detailed explanation of Amendment 2. He recommended adoption of Amendment 1 to Amendment 2 for further discussion.

[8:29:23 AM](#)

REPRESENTATIVE TALERICO withdrew his objection. There being no further objection, Amendment 1 to Amendment 2 was adopted.

[8:29:34 AM](#)

REPRESENTATIVE KELLER, in response to Chair Lynn, clarified that the committee members now had Amendment 2, as amended, before them for discussion.

[8:29:50 AM](#)

MR. POUND explained that [Amendment 2, as amended] would change the title of HB 229, in Section 1, by inserting "providing for legislative review, amendment, approval, disapproval, annulment, and delay of proposed agency regulations", following "legislature;", on page 1, line 1. He stated that Section 3 would be renamed Section 2, and that Section 2 would put AS 44.62.320(d) back into the statute - that is, review of regulations by the legislature. He added that Section 2 would authorize without question the jurisdiction of committees to review proposed regulations. Mr. Pound referred to Section 3, subsection (d), and noted the 35-day time period for committees to take action on a regulation, after which time a department could proceed with implementation. He pointed out that 35 days is within the normal public comment period.

MR. POUND continued by describing the process by which the legislature could temporarily disapprove a regulation, outlined in Section 4 of Amendment 2. This process would allow a department to amend a regulation to comply with legislative intent or, if the department refused, would delay the regulation until the next legislative session, at which time the committee could introduce legislation to disapprove the regulation. Mr. Pound stated that Section 3 consists of the review criteria for a regulation - that is, the regulation meets the requirements of the statute, follows legislative intent, and meets certain cost requirements. He stated that Section 3 returns AS 44.62.320(d) to the statute.

MR. POUND referred to Section 10 of Amendment 2, which states that the departments must review any amendments proposed by the legislature and, if no action is taken during the legislative

session, the regulation would be implemented the day after the end of session. He also noted that Section 10 states that regulations would be submitted to the presiding officer of each house, since HB 299 would eliminate the Administrative Regulation Review Committee. Mr. Pound then referred to Section 12, which explains that new language for regulations would be displayed in the same format as new language for legislation for ease of review.

MR. POUND explained that through the changes in Section 13 of Amendment 2, the proposed legislation would require the department to provide fiscal notes on regulations detailing how much a regulation would cost the department, the division, and the public. He went on to cite Sections 16 and 17 which would require the cost information to be submitted to presiding officers who in turn would submit the information to the committee of jurisdiction for review. Mr. Pound said that Section 18 states that the presiding officers would receive a copy of the regulations in a timely manner, and Section 19 details the annulment process, already described.

[8:37:52 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked Mr. Pound to verify that under the proposed Amendment 2 the annulment process would be as follows: if a committee voiced disapproval of a proposed regulation, the regulation would not be implemented until the end of the legislative session giving the committee the opportunity to put forth legislation that would effectively nullify the proposed regulation, and then, if the legislature failed to pass legislation to nullify the regulation, the regulation would go into effect at the adjournment of the session.

MR. POUND agreed but stressed that the committee would not be able to annul a regulation. He stated a committee could put a hold on the implementation of a regulation.

[8:39:04 AM](#)

REPRESENTATIVE VAZQUEZ lamented there had been little time to review the eight-page amendment. She asked how emergency regulations would be handled by the proposed amendment.

MR. POUND responded that the only change made by the adopted Amendment 1 to Amendment 2 [by Amendment 1] is found in Section 4, subsection (h), on page 3, lines 17-21, and names the

organizations that would be exempt [from regulation suspension] - Board of Fisheries, Board of Game, RCA, AOGCC, Office of Victims' Rights (OVR), and the Alaska Office of the Ombudsman - and also mentions the exemption for emergency regulations.

REPRESENTATIVE VAZQUEZ asked whether the proposed amendment includes emergency regulations from the Department of Health and Social Services (DHSS), Division of Public Health (DPH).

MR. POUND confirmed that emergency regulations are included in the proposed amendment.

REPRESENTATIVE VAZQUEZ asked if an agency can decide to name a regulation as an emergency regulation to be included in the exemption.

MR. POUND responded that there is existing language in AS 44.62 regarding emergency regulations, and if a department wished to extend them, it would have to go through the regulatory process.

[8:42:35 AM](#)

The committee took an at-ease from 8:42 a.m. to 8:43 a.m.

[8:43:49 AM](#)

REPRESENTATIVE VAZQUEZ referred to AS 44.62.250, titled "emergency regulations", which states that departments are allowed to issue emergency regulations if, and she quoted from the statute, "necessary for the immediate preservation of the public peace, health, safety, or general welfare."

[8:44:30 AM](#)

REPRESENTATIVE STUTES removed her objection to Amendment 2, as amended. Without further objection, Amendment 2, as amended, was adopted.

REPRESENTATIVE KELLER called attention to the copy of an e-mail in the committee packet, addressed to Mr. Pound, staff to Representative Keller, and Nancy Manly, staff to Representative Lynn, from Natasha McClanahan, Assistant Legislative Director, and Office of the Governor, which describes the fiscal impact of Amendment 2. Representative Keller noted the zero fiscal note attached to the amendment and asked the committee to adopt the zero fiscal note. He asked Mr. Pound to respond to the items in the e-mail for the committee members.

8:46:53 AM

The committee took a brief at-ease at 8:47 a.m.

8:47:05 AM

MR. POUND stated that the e-mail described concerns from the departments and agencies concerning the delay of regulations. Mr. Pound expressed his observation that since legislation often takes two years to pass, there is already a delay. He added that when a department introduces a regulation, within 90 days it becomes the "law of the land" and no review is required. He cited one agency's claim on page 2 of the e-mail that \$164,000 would be needed to hire a regulation specialist to analyze legislation. Mr. Pound contended that it already was the responsibility of the departments and agencies to analyze bills so that the regulations they created met legislative intent, and that the purpose of the proposed amendment was to make sure they fulfilled that responsibility. He voiced his agreement with the sponsor that Amendment 2, as amended, should have a zero fiscal note.

8:49:10 AM

REPRESENTATIVE KELLER moved to adopt the zero fiscal note, the fiscal note from the Department of Law (DOL), and the negative fiscal note. Without objection, it was so ordered.

8:49:42 AM

REPRESENTATIVE VAZQUEZ expressed that she hasn't had opportunity to review the lengthy document from the Office of the Governor to legislative staff. She referred to the adopted Amendment 1 to Amendment 2, page 4, line 30, and indicated that she couldn't locate the cited statute, AS 44.62.325.

REPRESENTATIVE KELLER mentioned that HB 229 would be referred to the House Finance Committee if it moves out of the House State Affairs Standing Committee.

REPRESENTATIVE VAZQUEZ claimed that although she likes the intent of HB 229, the House State Affairs Standing Committee shouldn't relegate their duties to another committee.

MR. POUND responded to Representative Vazquez's question by saying that AS 44.62.325 is new language and is located on page 7 of Amendment 2 [Section 19, beginning on line 18].

[8:52:51 AM](#)

CHAIR LYNN stated that since there is a concern on the committee regarding HB 229, he will hold the bill.

#### AMENDMENTS

The following amendments to HB 229 were either discussed or adopted during the hearing. [Shorter amendments are provided in the main text only.]

Amendment 1 to Amendment 2 [29-LS1104\A.5, Gardner, 3/16/16]  
(adopted):

Page 1, line 1, following "legislature;":

Insert "providing for legislative review, amendment, approval, disapproval, annulment, and delay of proposed agency regulations;"

Page 1, lines 4 - 6:

Delete all material.

Page 1, line 7:

Delete "Sec. 2"

Insert "Section 1"

Renumber the following bill sections accordingly.

Page 2, lines 1 - 8:

Delete all material and insert:

"\* **Sec. 2.** AS 24.05.182(a) is amended to read:

(a) A standing committee of the legislature furnished notice of a proposed action under AS 44.62.190 or 44.62.320(d) shall, consistent with the committee's jurisdiction as provided in the uniform rules of the legislature, review the proposed regulation, amendment of a regulation, or repeal of a regulation before the date the regulation is scheduled by the department or agency to be adopted, amended, or repealed.

\* **Sec. 3.** AS 24.05.182(d) is amended to read:

(d) A standing committee that receives a copy of a proposed regulation, amendment, or order of repeal

under AS 44.62.320(d) shall, within 35 days after receipt of the proposed regulation, amendment, or order of repeal, approve or disapprove the proposed regulation, amendment, or order of repeal. If the standing committee does not take action within 35 days after receipt of the proposed regulation, amendment, or order of repeal, the proposed regulation, amendment, or order of repeal shall be considered approved. If a standing committee determines that a regulation, amendment to a regulation, or repeal of a regulation does not properly implement legislative intent and disapproves or returns the proposed regulation, amendment, or order of repeal to the department or agency, the standing committee's findings shall, within 35 days after receipt of the proposed regulation, amendment, or order of repeal, be transmitted to the

(1) department or agency;

(2) regulations attorney at the Department of Law; and

(3) senate secretary and the chief clerk of the house of representatives [ADMINISTRATIVE REGULATION REVIEW COMMITTEE].

\* **Sec. 4.** AS 24.05.182 is amended by adding new subsections to read:

(e) Except as provided in (h) of this section, a proposed regulation, amendment, or order of repeal that is disapproved under this section or that is returned to the department or agency with a proposed amendment shall be suspended until the adjournment of the next regular legislative session following the date of the committee's disapproval. The notice of disapproval under this section expires upon adjournment of the regular legislative session during which the disapproval or amendment was made or, if the legislature is not in regular session, the next regular legislative session following the date of disapproval, unless the legislature enacts a law that annuls the proposed regulation or order of repeal.

(f) If the standing committee that is reviewing a proposed regulation, amendment, or order of repeal under this section disapproves the regulation, amendment, or order of repeal or proposes an amendment to the regulation, amendment, or order of repeal, the department or agency that proposed the regulation, amendment, or order of repeal may request leave of the

standing committee to withdraw or amend the proposed regulation, amendment, or order of repeal.

(g) In determining whether to approve, disapprove, or amend a proposed regulation, amendment, or order of repeal under this section, the standing committee shall consider

(1) whether the absence of a regulation would significantly harm or endanger public health, safety, or welfare;

(2) whether a less restrictive regulation would address the regulatory concerns while adequately protecting the public;

(3) whether the regulation would directly or indirectly increase the cost of any goods or services;

(4) whether the increased cost of implementing and enforcing the regulation would be more detrimental than the purpose of the regulation;

(5) whether the regulation was designed solely for the purpose of the protection of the public and would have the primary effect of protecting the public; and

(6) any other factors the committee considers to be appropriate.

(h) A proposed regulation, amendment, or order of repeal by the Regulatory Commission of Alaska, the Board of Fisheries, the Board of Game, the Alaska Oil and Gas Conservation Commission, the office of victims' rights, or the office of the ombudsman, or an emergency regulation adopted under AS 44.62.250, are not subject to suspension under (e) of this section."

Renumber the following bill sections accordingly.

Page 3, lines 4 - 7:

Delete all material.

Renumber the following bill sections accordingly.

Page 3, line 24, through page 4, line 19:

Delete all material.

Renumber the following bill sections accordingly.

Page 5, following line 5:

Insert a new bill section to read:

"\* **Sec. 10.** AS 44.62.180 is amended to read:

**Sec. 44.62.180. Effective date.** A regulation or an order of repeal filed by the lieutenant governor becomes effective on the 30th day after the date of filing unless

(1) otherwise specifically provided by the statute under which the regulation or order of repeal is adopted, in which event it becomes effective on the day prescribed by the statute;

(2) it is a regulation prescribing the organization or procedure of an agency, in which event it becomes effective upon filing by the lieutenant governor or upon a later date specified by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal;

(3) it is an emergency regulation or order of repeal adopted under AS 44.62.250, in which case the finding and the statement of the facts constituting the emergency shall be submitted to the lieutenant governor, together with the emergency regulation or order of repeal, which, in that event only, becomes effective upon filing by the lieutenant governor or upon a later date specified by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal;

(4) a later date is prescribed by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal;

(5) a proposed regulation, amendment, or order of repeal has been suspended under AS 24.05.182, in which case, if the proposed regulation, amendment, or order of repeal takes effect, it takes effect on the later of

(A) adoption by the agency of an amendment proposed by a standing committee of the legislature;  
or

(B) one day following adjournment of both houses of the legislature as provided under AS 44.62.325."

Renumber the following bill sections accordingly.

Page 5, line 31, following "legislators":

Insert "and to the presiding officer of each house"

Page 6, line 4, through page 9, line 9:

Delete all material and insert:

"\* **Sec. 12.** AS 44.62.190(b) is amended to read:

(b) If the form or manner of notice is prescribed by statute, in addition to the requirements of filing and furnishing notice under AS 44.62.010 - 44.62.300, or in addition to the requirements of filing and mailing notice under other sections of this chapter, the notice shall be published, posted, mailed, filed, or otherwise publicized as prescribed by the statute. In the notice furnished to the legislature under AS 44.62.190(a)(6), new language added to an existing regulation shall be underlined, and language deleted from an existing regulation shall be bracketed and capitalized.

\* **Sec. 13.** AS 44.62.195 is amended to read:

**Sec. 44.62.195. Fiscal notes on regulations.** If the adoption, amendment, or repeal of a regulation has an economic effect on a department, agency, or person, the proposed regulation or order of repeal must include a fiscal note prepared by the department or agency in accordance with this section [WOULD REQUIRE INCREASED APPROPRIATIONS BY THE STATE, THE DEPARTMENT OR AGENCY AFFECTED SHALL PREPARE AN ESTIMATE OF THE APPROPRIATION INCREASE FOR THE FISCAL YEAR FOLLOWING ADOPTION, AMENDMENT, OR REPEAL OF THE REGULATION AND FOR AT LEAST TWO SUCCEEDING FISCAL YEARS].

\* **Sec. 14.** AS 44.62.195 is amended by adding a new subsection to read:

(b) A fiscal note required under this section must include, where applicable,

(1) a determination of the present need for the regulation and the expected need for the regulation;

(2) a determination of the costs and benefits of the regulation and an explanation by the department or agency of whether the proposed regulation is the most cost-effective, efficient, and feasible means of allocating public and private resources to achieve the stated purpose;

(3) the effect of the regulation on market competition;

(4) the effect of the regulation on the cost of living, employment, and doing business in the geographical regions where the regulation would have the greatest effect;

(5) the source of revenue to implement and enforce the regulation;

(6) a summary of the short-term and long-term economic effects of the regulation, including an analysis of the persons or groups that would bear the costs of the regulation and the persons or groups that would benefit directly or indirectly from the regulation;

(7) the difficulties the department or agency encountered, if any, in estimating the persons or groups that would benefit from the regulation or bear the costs of the regulation;

(8) the effect that adopting or failing to adopt the regulation would have on the environment and public health.

\* **Sec. 15.** AS 44.62.245(c) is amended to read:

(c) The state agency shall also send the notice described in (b)(2) of this section to

(1) a person who has placed the person's name on a distribution list kept by the agency that lists persons who want to receive the notice; the agency may allow a person to request that distribution of the notice be by electronic means and shall honor that request if appropriate means are available;

(2) the regulations attorney in the Department of Law; and

(3) **the presiding officer of each house of the legislature** [THE MEMBERS OF THE ADMINISTRATIVE REGULATION REVIEW COMMITTEE].

\* **Sec. 16.** AS 44.62.320(b) is amended to read:

(b) At the same time a regulation is filed by the lieutenant governor, the lieutenant governor shall submit the regulation to the **presiding officer of each house of the legislature** [CHAIRMAN AND ALL MEMBERS OF THE ADMINISTRATIVE REGULATION REVIEW COMMITTEE FOR REVIEW UNDER AS 24.20.400 - 24.20.460] together with the fiscal information required to be prepared under AS 44.62.195.

\* **Sec. 17.** AS 44.62.320(c) is amended to read:

(c) At the same time as a regulation is submitted to the governor under AS 44.62.040(c), the state agency shall submit the regulation to the **presiding officer of each house of the legislature** [CHAIR AND ALL MEMBERS OF THE ADMINISTRATIVE REGULATION REVIEW COMMITTEE FOR REVIEW UNDER AS 24.20.400 - 24.20.460] together with the fiscal information required to be prepared under AS 44.62.195.

\* **Sec. 18.** AS 44.62.320(d) is amended to read:

(d) Within 10 days after receiving a regulation under (b) or (c) of this section or under AS 44.62.190(a)(6), the presiding officer of each house of the legislature shall provide copies of the regulation to the standing committee with jurisdiction over the subject matter of the regulation as provided in the uniform rules of the legislature for review under AS 24.05.182 [, THE CHAIR OF THE ADMINISTRATIVE REGULATION REVIEW COMMITTEE MAY SUBMIT TO THE GOVERNOR, BY LEGISLATIVE MEMORANDUM OR LETTER, COMMENTS ON THE REGULATION].

\* **Sec. 19.** AS 44.62 is amended by adding a new section to article 7 to read:

**Sec. 44.62.325. Legislative annulment of regulations.** (a) The legislature may, in the regular legislative session during which a disapproval or amendment is made or, if the legislature is not in regular session, the next regular session following the disapproval or amendment of a proposed regulation, amendment, or order of repeal by a standing committee under AS 24.05.182, annul the proposed regulation, amendment of the proposed regulation, or order of repeal by law.

(b) If the legislature, following adjournment of the regular legislative session during which a disapproval or amendment is made or, if the legislature is not in regular session, the next regular session following disapproval or amendment of a proposed regulation, amendment, or order of repeal by a standing committee under AS 24.05.182, has not enacted a law that annuls the proposed regulation, amendment of the proposed regulation, or order of repeal, the proposed regulation, amendment of the proposed regulation, or order of repeal takes effect one day after adjournment of both houses of the legislature."

Renumber the following bill sections accordingly.

Page 9, line 13:

Delete "(AS 44.62.040 - 44.62.319) [AS 44.62.040 - 44.62.320]"

Insert "(AS 44.62.040 - 44.62.320)"

Page 9, line 20:

Delete "AS 24.05.182(b), 24.05.182(c), 24.05.182(d);"

Page 9, line 22:

Delete "AS 40.25.120(a)(11); and AS 44.62.320"

Insert "and AS 40.25.120(a)(11)"

[HB 229 was held over.]

**HB 351-ADOPTION OF REGS; LIMITATIONS; VOID REGS**

[8:53:34 AM](#)

CHAIR LYNN announced that the final order of business would be HOUSE BILL NO. 351 "An Act relating to adoption of regulations; and providing for an effective date."

[8:53:55 AM](#)

REPRESENTATIVE LANCE PRUITT, Alaska State Legislature, as prime sponsor, said he would explain the concept of the bill.

[8:54:02 AM](#)

JENNA CROUSE, Staff, Representative Lance Pruitt, Alaska State Legislature, was available to testify.

[8:546 AM](#)

The committee took an at-ease from 8:54 a.m. to 8:59 a.m.

[8:59:11 AM](#)

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS) for HB 351, Version 29-LS1355\E, Nauman, 3/16/16, as a work draft.

REPRESENTATIVE STUTES objected for purpose of discussion.

[8:59:37 AM](#)

REPRESENTATIVE PRUITT said he would explain the thought process to the proposed CS for HB 351, and discuss concerns from the Department of Law (DOL) in regard to the initial version of HB 351.

[9:00:50 AM](#)

MS. CROUSE explained the changes in Section 1 as follows: subsection (b) was changed to read "A state agency may not

submit, and the lieutenant governor may not accept for filing, a set of regulations that amend an existing regulation unless"; a new paragraph (3) was added to subsection (b), which reads "the regulation is adopted as an emergency regulation"; a new paragraph (4) was added to subsection (b), which reads "the regulation implements a state or federal law enacted, amended, or repealed within 120 days of the adoption of the regulation, unless that time is extended by the lieutenant governor under AS 44.62.040(d)"; and a new paragraph (5) was added to subsection (b), which reads "if applicable, the estimated cost under AS 44.62.190(d)(2) and (3) are less than or equal to zero." She indicated that a new subsection (d) was added to Section 2, which reads "The lieutenant governor may not accept regulations submitted under this section that do not comply with AS 44.62.020(b). The lieutenant governor may, in writing and for a reasonable cause, extend the time for adopting a regulation implementing a new or amended law under AS 44.62.020(b)(4)." Ms. Crouse relayed that Section 3 clarifies that the law would not be retroactive and that Section 4 was unchanged.

[9:02:31 AM](#)

REPRESENTATIVE PRUITT offered that the idea for HB 351 came from U.S. Senator Dan Sullivan, who put forward a federal bill called the RED Tape Act [of 2015]. He explained that the proposed legislation follows the one-in/one out idea as it relates to regulations - for every new regulation that is created, there must be another one removed. He added that also under HB 351, for every new regulation that is created that has a cost to government or business, a regulation must be removed to bring the total cost to government or business to either zero or less than the previous cost. He stated that Canada and the United Kingdom, recognizing the importance of not expanding the footprint of government either on itself or on the private sector, have implemented similar legislation.

[9:04:36 AM](#)

CHAIR LYNN asked if the regulation removed would have to be within the same state agency that added a regulation.

REPRESENTATIVE PRUITT responded in the affirmative. He offered that since the passage of HB 140 during the Twenty-Eighth Alaska State Legislature, any new regulation must state the fiscal impact, so cost information is now readily available.

[9:06:16 AM](#)

REPRESENTATIVE PRUITT alluded to the changes in the proposed CS - the exemption of emergency regulations and allowance for future regulations under new laws. He stated his belief that any new programs should be created by elected officials within the legislature and not state departments, in order to limit the growth of government. He reiterated that the proposed legislation would check the growth of regulation, and the proposed CS would limit the costs related to amended regulations. He further stated that boards or commissions with statutory authority to cover their own costs through fees would be exempt from the requirement in HB 351. He also mentioned that the Alaska Oil and Gas Conservation Commission (AOGCC) and the Alaska Regulatory Commission (ARC) would be exempt as well. He added that the Board of Game and the Board of Fisheries would not be exempt, since many of these regulations are offered by the public, and he opined that the public would be willing to assist with the reduction of regulations.

[9:12:38 AM](#)

CHAIR LYNN stated he supports the concept of HB 351.

[9:12:54 AM](#)

REPRESENTATIVE SPOHNHOLZ expressed her amazement of the amount of new legislation created by the legislature. She said she recognized that regulations are the response to application and implementation of new laws. She asked if the proposed legislation would require offsets for all the regulations created as a result of the many new laws.

[9:13:57 AM](#)

REPRESENTATIVE PRUITT maintained that as a legislator he rarely presents new bills. In response to Representative Spohnholz's question, he read Section 1(b), "A state agency may not adopt, and the lieutenant governor may not accept, a new regulation unless", and he continued with Section 1(b)(4), "the regulation implements a state or federal law enacted, amended, or repealed within 120 days of the adoption of the regulation". He added that the lieutenant governor could be petitioned to extend that time period.

[9:15:32 AM](#)

CHAIR LYNN suggested that the "marijuana law" was an example of a new law needing new regulations.

REPRESENTATIVE PRUITT concurred.

[9:16:01 AM](#)

REPRESENTATIVE KREISS-TOMKINS mentioned that he could think of a few scenarios in which HB 351 could put the Board of Fisheries into a problematic management situation as it reacts to new fisheries or new gear. He asked if the proposed legislation would require repealing existing regulations in order to create new ones required for pioneering a new fishery.

[9:17:24 AM](#)

REPRESENTATIVE PRUITT brought up the possibility that there are outdated Board of Fisheries regulations that could be eliminated.

[9:18:49 AM](#)

REPRESENTATIVE KREISS-TOMKINS agreed there may be old regulations that are obsolete and could be eliminated. He mentioned the yearly revisor's bill that serves as an omnibus review of Board of Fisheries regulations, often resulting in technical confirming changes to statutes and a purge of outdated regulations. He opined that he may need more information to consider the full impact of HB 351.

[9:20:11 AM](#)

[The objection for purpose of discussion, made by Representative Stutes in response to the motion made by Representative Keller to adopt the proposed committee substitute (CS) for HB 351, Version 29-LS1355\E.1, Nauman, 3/16/16, as a work draft was treated as withdrawn. Version E was treated as before the committee.]

REPRESENTATIVE KELLER moved to adopt Amendment 1, [labeled 29-LS1355\E.1, Nauman, 3/16/16], which read as follows:

Page 1, line 3:  
Delete "a new subsection"  
Insert "new subsections"

Page 2, following line 2:

Insert new subsections to read:

"(c) A state agency may not submit, and the lieutenant governor may not accept for filing, a set of regulations that amend an existing regulation unless

(1) at the time the regulation is submitted to the lieutenant governor, the estimated net cost of the set of regulations adopted by the state agency for each of the costs under AS 44.62.190(d)(2) and (3) is less than or equal to zero; or

(2) the Department of Commerce, Community, and Economic Development, or a board or commission, adopts the regulation for the purpose of amending an application fee, examination fee, license fee, registration fee, permit fee, investigation fee, or other fee for an occupation licensed or regulated under AS 08.

(d) The Alaska Oil and Gas Conservation Commission and the Regulatory Commission of Alaska are exempt from the requirements of (c) of this section."

Page 2, line 5:

Delete "AS 44.62.020(b)"

Insert "AS 44.62.020"

REPRESENTATIVE STUTES objected for the purpose of discussion.

[9:20:45 AM](#)

CHAIR LYNN stated his belief that the proposed legislation would save much money.

REPRESENTATIVE PRUITT agreed with Chair Lynn and reiterated that HB 351 would help check the growth of government and give the authority to the legislature to decide if and when any future growth should occur.

CHAIR LYNN declared that every regulation has a cost.

REPRESENTATIVE PRUITT agreed adding that regulations generate a cost either to the government or to the public.

REPRESENTATIVE PRUITT explained that the proposed Amendment 1 would address a potential loophole - increased cost as a result of amending regulations. He indicated that under the proposed amendment the increased cost of an amended regulation must also be offset. Representative Pruitt added that professional

licensing under the Department of Commerce (DOC) would be exempt in order to amend a regulation to increase fees, and the AOGCC and RCA would be exempt, as well.

[9:24:54 AM](#)

AL TAMAGNI, Leadership Council Chair, National Federation of Independent Business (NFIB), stated his belief that the proposed legislation has long been needed and would effect not just businesses but the public.

[9:26:12 AM](#)

SCOTT OGAN relayed that when he was with the Department of Natural Resources (DNR) he successfully litigated regulations of the Bureau of Land Management (BLM) before the Interior Board of Land Repeals, an administrative law panel within the U.S. Department of the Interior. He added that DNR consistently found inconsistencies in the way BLM interpreted regulations, and DNR won seven out of seven cases. Mr. Ogan mentioned that during an effort by DNR to digitize the process of getting permits, it was discovered that the process varied greatly from region to region. He asserted that the reason interpretation varied in three different offices was that the regulations were so vast and ambiguous.

MR. OGAN suggested a change to HB 351, which would add a new paragraph to Section 1, subsection (b). He read Section 1(b), "A state agency may not adopt, and the lieutenant governor may not accept, a new regulation unless" and added his proposed paragraph after paragraph (5), which read, "the regulation is narrowly defined as reasonable and necessary to implement the statute." He claimed that the legislature delegates the authority to make law to unelected people when it gives the authority to make a regulation to state agencies. He stated that he wanted to see sidebars put on that latitude. He added his belief that, so worded, HB 351 would give businesses and citizens a little more leverage in court when opposing a regulation.

[9:31:57 AM](#)

REPRESENTATIVE STUTES removed her objection to the motion to adopt Amendment 1. There being no further objection, Amendment 1 was adopted.

REPRESENTATIVE PRUITT offered support for Mr. Ogan's conceptual amendment but reported that he needed to consult with Legislative Legal and Research Services to determine if the term "narrowly" needs definition or if there is more appropriate wording.

[9:34:56 AM](#)

REPRESENTATIVE KELLER moved to adopt Conceptual Amendment 2, which would add paragraph (6) to page 2, line 3, to read "unless the regulation is narrowly defined as reasonable and necessary." He emphasized that the proposed amendment was conceptual and subject to wordsmithing by Legislative Legal and Research Services. There being no objection, Conceptual Amendment 2 to HB 351 was adopted.

[9:35:43 AM](#)

REPRESENTATIVE TALERICO [moved to adopt Conceptual Amendment 1 to Conceptual Amendment 2 to HB 351] by suggesting the word "unless" be dropped from the proposed amendment because that word is already included in Section 1(b). There being no objection, Conceptual Amendment 1 to Conceptual Amendment 2 on HB 351 was adopted.

[Conceptual Amendment 2, as amended, was treated as adopted.]

[9:37:28 AM](#)

REPRESENTATIVE KELLER moved to report CSHB 351, Version 29-LS1355\E, Nauman, 3/16/16, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 351(STA) was reported from the House State Affairs Standing Committee.

[9:38:14 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:38 a.m.