

ALASKA STATE LEGISLATURE
SENATE LABOR & COMMERCE COMMITTEE

April 25, 2002
2:35 pm

MEMBERS PRESENT

Senator Ben Stevens, Chair
Senator Alan Austerman
Senator Loren Leman
Senator John Torgerson
Senator Bettye Davis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 212(L&C)

"An Act requiring a subcontractor to obtain workers' compensation insurance covering the subcontractor and the subcontractor's employees and establishing responsibility of a contractor for obtaining workers' compensation coverage for the subcontractor and the subcontractor's employees if the subcontractor fails to obtain workers' compensation coverage; and providing for an effective date."

MOVED SCSHB 212(L&C) OUT OF COMMITTEE

SENATE BILL NO. 252

"An Act renaming the Alaska Human Resource Investment Council as the Alaska Workforce Investment Board and relating to its membership; repealing the termination date of the state training and employment program; relating to employment and training activities; and providing for an effective date."

MOVED CSSB 252(L&C) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 504(L&C)

"An Act relating to the wages of people working in the fisheries business; and providing for an effective date."

MOVED CSHB 504(L&C) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 38(L&C)

Relating to urging the United States Congress to pass terrorism risk protection legislation.

MOVED CSHJR 38(L&C) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 443(L&C)

"An Act retroactively extending the application and licensing deadlines and amending the effective date of certain provisions relating to regulation of persons who practice tattooing and permanent cosmetic coloring or body piercing; and providing for an effective date."

MOVED CSHB 443(L&C) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 182(FIN) am

"An Act relating to certain vehicles, including motorcycles and trailers; relating to the registration, bonding, and other regulation of motor vehicle dealers; relating to the registration and other regulation of certain motor vehicle buyers' agents; relating to acts and transactions involving vehicles, including trailers, and to the acts and practices of certain persons and entities involved in vehicle transactions, including trailer transactions; relating to consumer protection for used vehicle buyers; amending Rule 3, Alaska Rules of Civil Procedure; and providing for an effective date."

MOVED SCSHB 182(L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

HB 212 - No previous action to consider.

SB 252 - See Labor & Commerce minutes dated 2/14/02 & 4/18/02.

HB 504 - No previous action to consider.

HJR 38 - No previous action to consider.

HB 443 - No previous action to consider.

HB 182 - No previous action to consider.

WITNESS REGISTER

Ms. Rebecca Gamez, Deputy Commissioner
Department of Labor & Workforce
Development
PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Commented on SB 252.

Mr. Mike Shiffer, Program Coordinator
Workforce Investment Office, State Training and Employment
Program (STEP)
Department of Labor Workforce Development
3301 Eagle St. Ste. 106
Anchorage AK 99503-8569

POSITION STATEMENT: Commented on SB 252.

Mr. James Wakefield
Balance of State Workforce Investment Board
17325 Pt. Lena Loop Rd.
Juneau AK 99801

POSITION STATEMENT: Supported SB 252.

Ms. Linda Sylvester
Representative Pete Kott
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on HB 504.

Ms. Stephanie Madsen, Vice President
Pacific Seafood Processor's Association
213 3rd Street #104
Juneau AK 99801

POSITION STATEMENT: Supported HB 504.

Mr. John Brown, President
Central Labor Council
AFL-CIO
Juneau AK 99801

POSITION STATEMENT: Opposed HB 504.

Mr. Darryl Tseu
Inland Boatman's Union of the Pacific
Vintage Business Park Ste. 201
Juneau AK 99801

POSITION STATEMENT: Opposed HB 504.

Commissioner Ed Flanagan
Department of Labor & Workforce
Development
PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Opposed HB 504.

Ms. Barbara Huff Tuckness
Teamsters Local 959, State of Alaska
Anchorage AK 99503

POSITION STATEMENT: Opposed HB 504.

Representative Joe Hayes
State Capital Bldg.
Juneau AK 99811

POSITION STATEMENT: Sponsor HJR 38.

Ms. Sharon O'Dell, Chief of Staff
Representative Vic Kohring
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Sponsor of HB 443.

Ms. Gail McCann
Owner, Electrolysis Clinic
532 Lee Drive
Fairbanks AK 99709

POSITION STATEMENT: Supported HB 443.

Mr. Joe Schoolcraft
Two Moons Body Piercing and Tattooing
POB 1136
Soldotna AK 99669

POSITION STATEMENT: Opposed HB 443.

Mr. Todd Gipson
Two Moons Body Piercing and Tattooing
44720 Sterling Hwy.
Soldotna AK 99669

POSITION STATEMENT: Opposed HB 443.

Mr. Jeff Martin
Muttleys Tattoo Clinic
224 N. Yenlo Ste. 3B
Wasilla AK 99654

POSITION STATEMENT: Supported HB 443.

Mr. Andy Kopczenski
American Tattoo
HC 89, Box 259
Willow AK 99688

POSITION STATEMENT: Opposed HB 443.

Mr. Don Whattley
Alliance of Automobile Manufacturers
No address provided

POSITION STATEMENT: Supported HB 182.

Mr. Mark Mueller
General Motors

Detroit MI

POSITION STATEMENT: Supported HB 182.

Mr. Stan Hurst
Chrysler Corporation

POSITION STATEMENT: Supported HB 182.

Ms. Kerry Hennings, Driver Licensing
Division of Motor Vehicles
Department of Administration
3300 Fairbanks St.
Anchorage AK 99503

POSITION STATEMENT: Supported HB 182.

ACTION NARRATIVE

TAPE 02-24, SIDE A

Number 001

#HB212

HB 212-WORKERS' COMP:CONTRACTORS & SUBCONTRACTOR

CHAIRMAN BEN STEVENS called the Senate Labor & Commerce Committee meeting to order at 2:35 pm and announced HB 212 to be up for consideration.

SENATOR LEMAN said he didn't see any reason to have a retroactive effective date and moved to change it to January 1, 2003. There were no objections and it was so ordered.

SENATOR DAVIS moved to pass SCS HB 212(L&C) from committee with individual recommendations.

SENATOR AUSTERMAN objected. SENATORS DAVIS, TORGERSON, and STEVENS voted yea; SENATORS LEMAN AND AUSTERMAN voted nay and SCS HB 212(L&C) moved from committee.

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#SB252

SB 252-EMPLOYMENT AND TRAINING PROGRAM/BOARD

CHAIRMAN STEVENS announced SB 252 to be up for consideration.

SENATOR TORGERSON moved to adopt amendment #1.

22-GS2052\F.5
Craver
2/10/03

A M E N D M E N T

OFFERED IN THE SENATE BY SENATOR TORGERSON
TO: CSSB 252(), Draft Version "F"

Page 15, lines 13 - 23:
Delete all material.

Renumber the following bill sections accordingly.

Page 30, line 14:
Delete "sec. 57"
Insert "sec. 56"

Page 30, line 16:
Delete "secs. 1 - 47"
Insert "secs. 1 - 46"

Page 31, line 7:
Delete "48" in two places
Insert "47" in two places

Page 31, line 8:
Delete "sec. 48"
Insert "sec. 47"

Page 31, line 9:
Delete "Section 48"
Insert "Section 47"

Page 31, line 10:
Delete "Section 52(a)"
Insert "Section 51(a)"

Page 31, line 11:
Delete "secs. 55 and 56"
Insert "secs. 54 and 55"

He explained that it deletes the language that has lapsed since the Alaska Technical and Vocational Education Fund. A legal opinion says it's problematic if they keep it. He explained that basically the money is available for them to take whenever they want and they can't dedicate it to another source.

CHAIRMAN STEVENS asked if the lapsed funds automatically go back into the general fund.

SENATOR TORGERSON answered, "It doesn't do anything. It leaves them right there."

There were no objections and amendment #1 was adopted.

SENATOR TORGERSON asked his staff, Mary Jackson, to explain amendment #2.

MS. MARY JACKSON, Staff to Senator Torgerson, said this references subsection 6 in the study.

The department says that they are going to be able to respond to the questions that were posed by this committee previously. If in fact, that is the case, then you would be able to go forward and delete item 6 from your study. The same applies for the next amendment. That next amendment references the study, section 8.

She referred to page 29 of the CS, line 14.

The department believes essentially that the reports that they are providing on an annual basis encompasses this and already gives you that information. What the audit suggested was that a review of this program in the context of the new federal legislation should be undertaken. And that, frankly, was the intent of #6 and it may just be that some tweaking of the language is necessary so the department has a comfort level with what is necessary. There is a new federal program; it needs to be reviewed in the context of what the STEP currently provides and that was the intent of #6 - is that they provide facts that support the need for the State Training and Employment Program.

SENATOR TORGERSON moved amendment #2.

22-GS2052\F.1
Craver
2/10/03

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: CSSB 252()

Page 29, line 14:

Delete all material.

Renumber the following paragraphs accordingly.

There were no objections and it was adopted.

SENATOR TORGERSON moved amendment #3.

22-GS2052\F.2
Craver
2/10/03

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 252()

BY SENATOR TORGERSON

Page 29, line 14, following "program;":
Insert "and"

Page 29, line 17:
Delete "; and "
Insert "."

Page 29, lines 18 - 19:
Delete all material.

SENATOR LEMAN asked why this language was being deleted.

MS. JACKSON said the Department would give them information today that would answer his question on #8.

MS. REBECCA GAMEZ, Deputy Commissioner, Department of Labor, said she Mr. Mike Shiffer, Program Coordinator for the Workforce Investment Office that administers the State Training and Employment Program (STEP), would explain the amendments that would delete 6 and 8.

MR. SHIFFER explained:

Regarding the decision to request that we delete #6, we feel that the annual report that is produced in coordination between the Department of Labor and the Alaska Human Resource Investment Council, that details the performance of the STEP program on an annual basis, speaks to the issues about the on-going need for supporting the State Training Employment Program. It is the state's most successful job training program. It's the only program that the state actually contributes dollars towards the job-training program. So, all other job training dollars are federal funds. Between the two, as well as the fact that the program has funded over the last 10 years over 10,000 people in receiving

training services, we feel that there is clear and ample evidence that there is a need for the STEP program. We have the most recent draft of the FY2001, which continues to demonstrate that the STEP program continues to meet the performance measures that have been laid out for it. We would, therefore, move that item 6 is not necessary given all this other work that is going on.

MS. GAMEZ said they have draft copies of the most recent STEP report that had not officially been adopted by the Human Resource Investment Council.

MR. SHIFFER continued to explain item 8.

The question relates to the issue about the difference between public institution funding and the apparent increase in union training. We have recently completed our report to you, Senator, in which you asked us last week about that. We believe that report satisfactorily explains how the funds have been distributed between FY'97 and FY'00. It demonstrates that while there was an increase in FY 2000, that reflected an anomaly and when we compare across all of the years, you don't see a typical shift to the union programs. It just happened significantly in one year.

MS. GAMEZ said that is covered under question #1 in the April 24 letter that was delivered to the committee.

CHAIRMAN STEVENS asked if there were any objections to amendment #3. There were none and it was adopted.

SENATOR TORGERSON moved amendment #4.

22-GS2052\F.4
Craver
2/10/03

A M E N D M E N T

OFFERED IN THE SENATE BY SENATOR TORGERSON
TO: CSSB 252(), Draft Version "F"

Page 28, line 31:
Delete "2003"
Insert "2004"

He was reluctant to offer it, however, because he wasn't sure that he agreed with the Department that this is the best program we have in the state.

It needs to be looked at. We do this every year - go into this program and we find problems with it. It's not the only general fund money that we spend in the state on training. It's far from it. As a matter of fact, it's not even general fund money that we're spending on the training program. Their total allocation is \$3 million or \$3.4 or something. So, there's a lot more money besides this. But at any rate, the audit clearly brought out some problems within the program that need to be looked at and they need to be looked at in the shortest time frame possible...

CHAIRMAN STEVENS asked if there were any further objections to amendment #4. There were no further objections and amendment 4 was adopted.

CHAIRMAN STEVENS said another technical amendment was needed to delete the word "Investment" throughout the bill wherever it says "Alaska Workforce Investment Board".

SENATOR TORGERSON asked why.

CHAIRMAN STEVENS said that it was requested by the Department.

MS. GAMEZ explained:

As I spoke with you last week, under the Workforce Investment Act, the protocol of names has changed. So, instead of having service delivery areas, they now have local workforce investment boards and the Human Resource Investment Council (HRIC) voted in one of their meetings that it be changed to the Alaska Workforce Board. They thought the acronym could have been a little too interesting..

SENATOR AUSTERMAN asked if the federal act has now dropped the word "Investment".

MS. GAMEZ replied:

No, the federal act is still the Workforce Investment Act, but the local areas, so there's the Anchorage/MatSu Local Workforce Investment Board and then there is the balance of State Goal Workforce Investment Board and the HRIC Council thought the

Alaska Workforce Board would be a better acronym than the Alaska Workforce Investment Board because of some of the plays on the acronym.

SENATOR AUSTERMAN objected. SENATORS TORGERSON, AUSTERMAN, and STEVENS voted nay; SENATORS DAVIS and LEMAN voted yea; and the amendment failed.

CHAIRMAN STEVENS said they would take testimony from the public now.

MR. JAMES WAKEFIELD, Juneau realtor, said he supported the STEP program.

I am taking this time away from my business to testify because I believe that job training is an integral part of economic development and a healthy economy. I also serve as the Chair of the Balance of State Workforce Investment Board for the same reason. I am here representing the Board today. In fact, we're somewhat frustrated that we're even here discussing this issue. STEP has trained 13,000 Alaskans since 1989 and we believe it should have become a permanent program some time ago. If there are occasional issues to be addressed, it can always be tweaked without having to go through a complete reauthorization every couple of years. If you do not make it a permanent program, at least reauthorize it for four years as recommended in your audit. We work under limited administrative dollars and when staff has to spend expensive time continually defending the program, that is time taken away from providing those services. Providers and businesses are always wondering if that program will be around for another year and if this is the vehicle to commit their energies towards if it is going to be gone next year.

Alaska is facing a problem, as is the rest of the nation, of a graying of the workforce, especially in our construction and resource industries. STEP has a good track record of training in these industries. We are also facing the rapid changes in technology that requires that businesses today need to continually retrain incumbent workers to remain competitive. STEP does not require expenditure from the general fund, as you are aware. It comes from employee contributions to the U.I. trust fund. Using U.I. funds to get people back to work where they contribute rather than draw down on unemployment insurance resources always makes

good business sense. Employers must have skilled applicants to choose from in filling their jobs. Incumbent worker training is a big issue in the private sector and if businesses can retain employees rather than laying them off, it not only benefits the businesses, it benefits the local economy and the trust fund.

STEP has been a vehicle for increased outreach by apprentice programs in rural areas giving the local residents opportunities for higher paying construction jobs that used to go to outsiders. You have already heard a couple of the success stories, like Hyder, where over half of the eligible workforce in town has been trained and is working in their new bottling plant and Nome where locals are being trained and employed to assemble fuel storage plants for rural Alaska. There are numerous stories like this involving not only major corporations, but small mom and pop businesses.

As we talk to other entities across the nation on what they're doing in employment training, we tell them about the program that we're doing here and some of the stories and we've been encouraged to apply for national recognition on some of these - because they are so well received.

Our Board did a customer survey this year - the Balance of State Workforce Investment Board survey, with a mailing of over 900 surveys to STEP participants all over our area, which encompasses the entire state within exclusion of Anchorage and the MatSu. These Alaskans confirmed an extremely high level of satisfaction with STEP services. Over 87% of them indicated that they were satisfied on a level of 7 or better on a 10 point scale and 70% marked in 9 or 10 on the satisfaction of the services. Over 94% of these Alaskans said they would recommend STEP to family and friends. STEP works and the people who have participated in the program are satisfied with the services.

The only concern our Board has at this time, and we are working with staff to address this issue, and that is the process - we in the private sector become easily frustrated with paperwork. The Board has asked the staff to try and streamline the process to minimize the paperwork and still have the oversight that is

necessary for publicly funded funds. I thank you for your time and ask you to strongly consider these issues I have addressed today.

CHAIRMAN TORGERSON said they took out the lapsed funding language and it's still in the title so that needs to be taken out. He moved on page 1, line 3, to delete "providing that lapsing employment assistance and training program account funds may be appropriated to the Alaska Technical and Vocational Education Program." There were no objections and it was so adopted.

CHAIRMAN TORGERSON moved to pass CSSB 252(L&C) from committee with individual recommendations and accompanying fiscal note. There were no objections and it was so ordered.

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#HB504

HB 504-WAGES FOR WORKERS IN FISHERIES

CHAIRMAN STEVENS announced HB 504 to be up for consideration.

MS. LINDA SYLVESTER, Staff to Representative Pete Kott, explained that HB 504 addresses wages for fisheries. It is not connected to the minimum wage increase, but it came about in discussion on the telephone with different businesses when the minimum wage was beginning proposed to go up to \$7.15 per hour. They complained that they had valid reasons for exemptions. Statutes has nothing for most situations, but there is a section of the Wage and Hour Act that clearly addresses the fisheries business. She read from AS 23.10.085 (c):

It provides that the regulations may permit deductions by an employer from the minimum wage to employees for the reasonable cost as determined on an occupation basis of furnishing board or lodging if board or lodging is customarily furnished by the employer and used by the employee.

She said that clearly fits the fisheries business, which customarily provides board and lodging for its employees. Typically most of those businesses are remote and the locations don't have alternative public board and lodging. The enabling regulation of the statute she just read requires that based on a written agreement an employer can take deductions if: 1. Alternative public board and lodging facilities are accessible to the work sight and the employee has declined to use such facilities; 2. The board and lodging facilities of the employer are customarily furnished by the employer and used by the employees; and 3. The cost to the employee for the use of the board and lodging facilities is reasonable and without profit to

the employer.

They decided that the regulation was either improperly drafted or was being misinterpreted.

She explained that they are taking the fisheries business out of the statute and putting them in their own statute where they can make deductions for room and board.

Further, the Fair Labor Standards Act includes a test saying the cost of the room and board has to be reasonable and it can't profit the employer. They have deleted that language and inserted up to \$15 per day for every eight-hour day that the employee works. It is all spelled out in a contract the employee signs at the beginning of the work season. They feel that there is ample security that the employee has a choice from the get-go whether or not they wanted to work in a fish camp. "The choice is there at the time of hire."

MS. SYLVESTER said there was a court case in Juneau decided by Judge Weeks in 1999 that stipulates the exact same thing that they are arguing in regulation 88AC151609d). It should be read as allowing board and lodging deductions in the following circumstances:

1. If alternative public facilities are available, then (d)(1), which requires alternative board and lodging, is applicable and, therefore, (d)(1), (d)(2) and (d)(3) must be satisfied; and

2. If there are no public alternative facilities available, then (d)(1) does not apply and (d)(2) and (d)(3) must both be satisfied.

She said this case is being appealed and is in the Supreme Court. At least one court has determined that it's very clear that the legislature intended for the Department of Labor to look at all of the occupations, whether remote or in an urban area, if they provide room and board, that it's fair for them to come up with some kind of mechanism to receive payment from its employees for that. "It's a situation where the fishing industry isn't in a position any longer to absorb all of the costs."

MS. SYLVESTER said this is not a "bail out" for the industry, but a clarifying of the intent of the statutes from the very beginning of the state of Alaska.

MS. STEFANIE MADSEN, Vice President, Pacific Seafood Processors Association, said they had been in existence since 1914 and supported HB 504. It is a tool that allows them to adapt to the ever-changing economics in the seafood processing industry.

The seafood processing industry is diverse. We have salmon processors that operate for 4 - 6 weeks; we have ground-fish plants that operate 10 - 11 months out of the year; we have remote sites; we have non-remote sites; we're very diverse. The regulations as presented already make a differential between remote operators and non-remote operators. The non-remote operators have been allowed to deduct room and board for some time. Some do; some don't. Some charge \$8 and some charge \$10; some rebate at the end of the season; some don't. What we're asking you today is to provide those remote operators the opportunity to deduct room and board to again be flexible in adapting to the ever-changing economics.

I would add a little bit of information about the seafood processing industry. We're very labor intensive. We have a lot of entry-level positions and those are truly the positions that we're talking about today. We have been described as one of the last entry level employers around. You can come to the seafood industry without any work history and without any education and have a job on what has been termed the slime line. If you do your work, you have incremental increases, either by contract or by hours.

MS. MADSEN said it was possible that there was a misunderstanding that every processor would go out there and charge \$15 or more if they can demonstrate costs to every employee that they have, but that won't happen, because the market is going to drive what they are able to pay employees. Most every processor has a differential and pay different wages. They deduct differently and provide different benefits because they are among themselves competitors and also competitors with the Lower 48 to attract employees. Just by passage of this bill doesn't mean that they are going to be able to go out and do what the bill says they are allowed to do. "All we're asking for today is the ability to have some flexibility in how we can control the efficiency and the expenses of our operations.

SENATOR DAVIS asked how many people she represented.

MS. MADSEN replied that she represents 11 of the major seafood processing companies and that there are about 300 including mom and pop operations.

SENATOR DAVIS asked what made the difference between the mom and pops.

MS. MADSEN replied out of their 11 employees, four or five of them are in the top 100 employers in the state.

MR. JOHN BROWN, President, Central Labor Council (AFL-CIO), said he was sympathetic to the industry problems, but felt strongly that they should not be looking to the lowest paid, hardest working people in our state to try and bail it out. Fifty thousand people signed a petition in the state last year to raise the minimum and this bill seeks to reduce the minimum wage for people who are the least able to absorb it. "Please don't pass this bill. It's wrong."

SENATOR AUSTERMAN asked within the definition of the fisheries business that this bill affects how many of those workers does he represent.

MR. BROWN replied that he didn't represent any of those workers. Fairbanks doesn't have any fish processors that he knows of.

I represent working people everywhere. That's what the AFL-CIO does. They don't just represent their members. These are the people who have the least voice of any worker because they don't have representation. That's why they can depend on the state and federal government to pass laws that keep them from being further exploited by the work that they do.

SENATOR AUSTERMAN explained that part of the bill talks about the only way that they can deduct this is if it's in a written agreement with the worker or a union that has an agreement and asked if that wouldn't lay the burden back on the employee to decide.

MR. BROWN replied:

Think to yourself how much choice someone in their position has in negotiating whether or not they are going to pay the company for their room and board or not. I mean, here is a person who is unemployed and the job he is seeking is paying minimum wage. How much power has that individual got to negotiate the fact that the company is going to pay his room and board? They virtually have no power there. They are at the mercy of whoever is offering them a job. She can talk about the market all she wants, but the fact is that unemployment is on the rise; it's been on the rise. It's leveling out now, but there's lots of people out there looking for work and lots of young people looking for work. That doesn't mean that we should stand back and let them be paid less than minimum wage. In my

opinion slaves were better off than people working for minimum wage. They had a roof over their head; they had clothes to wear - a lot of them...

TAPE 02-24, SIDE B

SENATOR AUSTERMAN said he had done a lot of work in the seafood business and didn't consider them slaves. "If I sign a contract that this is what I'm going to do, does that mean I'm a slave?"

MR. BROWN responded that he was saying the type of lifestyle that someone can live making minimum wage is nowhere close to what I think is fair. "A slave at some point in our countries' history was better off than someone who is working at minimum wage right now as far as what they are able to afford."

SENATOR AUSTERMAN rebutted that they sign a contract that says they are accepting the fact that they are going to pay room and board and he fails to follow his logic.

MR. BROWN retorted that they sign a contract because they need a job. "They need some income; they don't have any income at this point."

SENATOR AUSTERMAN replied, "A lot of us need jobs now and then. We walk down the street until we find one that pays what we can afford."

MR. BROWN responded, "If we get the right opportunity, we do, sir, but a lot of us have a lot better opportunity than others..."

CHAIRMAN STEVENS asked if he heard about the court case Ms. Sylvester mentioned.

MR. BROWN said he heard that it is being appealed to the Supreme Court.

CHAIRMAN STEVENS said the decision out of the First Judicial District in Juneau said that the statute currently does not prohibit deductions for board and lodging costs when an employee at remote sites where alternative public facilities are not available.

MR. BROWN said he is not an attorney, but this is not what he thinks is right.

SENATOR AUSTERMAN asked if he would have the same cause for other people who work around the state at minimum wage.

MR. BROWN replied yes.

I would make the same argument for anyone who is working for minimum wage. I spent quite a considerable amount of my own time collecting signatures to get an increase in the minimum wage on the ballot. I believe there needs to be a minimum wage. People at that end of the wage scale need protection from government and that's why I did it.

MR. DARRYL TSEU, Inland Boatman's Union of the Pacific, said although the intentions of this bill are well meaning, it leaves some of his members with some concern.

The real victims right now are fishermen in Alaska and our fishery workers as well. We question whether this bill will actually help our fishermen who supply the fish in the first place. Fish processors are controlled by the market and unfortunately takes the value of a captain's catch. To hope that this bill would assist a crippled fishing industry may not be totally true. It doesn't take time browsing through the current events to find corporate profits getting in the way of doing what's right in the newspaper...

He said their concern is also that deductions could be higher than \$15 per day if the employer demonstrates to the department that the cost to employee is reasonable. He challenges the fact that a company can be trusted to do the right thing especially with today's economy and global competition. "The company store mentality was wrong in the 19th Century in plantations and it's still wrong in 2002."

SENATOR LEMAN said he didn't see any connection this bill has to making fishermen victims. He said:

If you reduce the overhead to the seafood processor, arguably that money is available to pay fishermen. If you increase the overhead, there's less money available to pay the fishermen. This bill, instead, probably protects fishermen rather than makes them a victim.

MR. TSEU replied that his thinking was when a company dictates the price of fish and how much it's able to pay to process it, there's no way to say that's what their true expenses are.

SENATOR AUSTERMAN said he referred to plantations.

MR. TSEU said he had discussions in the hallway on this bill and part of his family history came out that his great grandfather and grandfather both worked on sugar cane plantations in Hawaii and they signed a seven-year contract to provide the labor and

they were also supplied the housing, but they had to pay for it. They were forced to buy everything from the company store. After a seven-year stint it was evident that they couldn't make a living wage and couldn't get out of their contract because they couldn't find any place else to move.

SENATOR AUSTERMAN asked if his union agrees with the Central Council that anybody who is working a minimum wage should be provided room and board.

MR. TSEU said he didn't think that was the intent of what Mr. Brown was saying. He felt at this point if he was living on a minimum wage, he would not be able to live. People he knows in town working for a minimum wage need to have two jobs. That concerns him, because then they are not there with their children where they should be at night.

SENATOR AUSTERMAN said it was hard for him to understand why the unions haven't been pushing for room and board for every person who works for minimum wage.

MR. TSEU said at first glance at the bill, he would say that \$15 dollars is not much for the cost of living, but there is no limit to it. There is also language that allows other fish processors in areas where there other alternatives to other housing and he has no problem with that. There is a choice.

SENATOR LEMAN said it might well be that it would cost the employer \$30 or \$40 per day to provide room and board, but they also have to compete for workers and if they raise the fee and the market place doesn't go there, they're going to have a tough time getting enough workers.

MR. TSEU said, "It might not be correct for companies to get together and set a price, but we all know that kind of thing happens."

MS. SYLVESTER said that there is one inaccuracy. There is a limit of \$15 and the Department of Labor is the watchdog agency. They would have to okay anything in excess of \$15.

COMMISSIONER ED FLANIGAN, Department of Labor and Workforce Development, said that about three weeks ago this committee moved the minimum wage increase bill and he thought it was unfortunate that they are here today as a result of it to undercut that increase for a large percentage of the people that it's intended to help.

There has been a lot of historical distortion in terms of what the legislative and statutory history is here. In 1959 it's true, the legislature did give the

department the option to adopt regulations allowing for the room and board. In 43 years since statehood through eight administrations, I think it is, three different political parties, the policy of the department, which was only then in 1985 promulgated in regulation, was that you don't charge for room and board in a situation where there is no alternative and it is exactly for the old company store type situations. In the analogy that Senator Leman mentioned earlier - your father - the whole crux there - he had the option of going home to have a sandwich. If he was in a remote area, and maybe it was remote at that time, I don't know, but right now there are many processors where this does not apply and that is those where there are viable alternatives - and sometimes that viable alternative is a city campground, but there are other options; there's usually other employers.

It has been the policy of the State of Alaska for 43 years that if you're in a remote site, your employer cannot charge you for room and board if there are no alternative facilities available. The court case reference is not exactly on point, because that is a situation, as I understand it, where we are not a party to that lawsuit in the Silver Bay, Globe and Diaz suit. That was a deduction that didn't reduce the wages below minimum wage. So, it's not the same as we're talking about here. I only got some - we could play dueling depositions. I will make available to the committee some that came to me through my office from the plaintiff's attorney from Mr. Wilson's boss and the then Commissioner Jim Robison. I will make that immediately available to the committee. So, again, that case isn't exactly on point...

With regard to other statements that were made, the \$15, the way the legislature reads now - at one point in its progress through the House, it just said they may deduct \$15 and basically by statute said that was a fair amount. In that case, \$15 would just be agreed upon. We wouldn't have any enforcement role. As it reads now, it says \$15 or a reasonable amount and then we are supposed to, as Ms. Sylvester said, enforce the reasonable amount. But we're supposed to do it with a \$0 fiscal note. I think you have in your packets a fiscal note, which we will offer at every opportunity whether it gets approved or not, because this is not without cost. If this was a larger division and we had

more wage and hour personnel as we do in some cases with indeterminate fiscal notes, we would give it a \$0. But this will generate work. There are approximately 40 on a list that we keep for OSHA inspection purposes. We have 80 shore side processors; 40 of them would fall in the remote category - about half. For those any employee could make a complaint and allege if the employer did go over \$15 that it generated a profit or wasn't a fair rate, didn't really actually reflect the costs and it would be a real pain in the butt. It would be a major audit; you'd have to look at their fuel costs and every other thing. So there would be a cost and that's why we have a very moderate fiscal note - since they made the \$15 change in there, but there is a cost nonetheless and we won't have the people to enforce it so it will just generate more problems. I think it is important, not today thankfully, but in other committees we've heard about how it's all college students. Well, as I'm sure Senator Austerman and Senator Leman and probably all of you know, that's about 20 years out of date. There are adults working out there in those processing plants. We only have age data for Alaska residents from the Permanent Fund, but the median age of Alaskan residents that work in the canneries as cannery workers, not managers, is 32 years of age. So, we're not talking kids. Sure they make money in overtime, but if you're working in a plant where it's 80 hours a week and you're getting, let's say after the increase should it go through, you get \$7.15 and hour. Well, for working 80 hours a week, you're getting the princely sum of \$715 a week...

So, if you take \$15 per day, which is not a lot to charge for room and board, admittedly, that's \$105 per week. So that basically in large part negates the minimum wage increase by \$1 an hour on the person's wage.

COMMISSIONER FLANAGAN pointed out that this bill isn't waiting for the minimum wage increase to take effect; it's to take effect immediately in the misguided belief that we've got to deliver this no cost to us relief to the industry by doing it on the backs of the workers.

CHAIRMAN STEVENS interrupted to say with existing law, 40 out of the 80 plants are not allowed to deduct for room and board and then asked what the other 40 plants do.

COMMISSIONER FLANAGAN replied that it varies from plant to plant.

At the Icicle Plant in Petersburg they have a bunkhouse and the worker can elect to stay in the bunkhouse and they are charged \$10 per day. They have a kitchen and meals were available for \$3.50 per meal. It really is voluntary, because people have options. In the remote sites they can say it's voluntary because there is an agreement, but there really aren't options.

CHAIRMAN STEVENS asked if the guys who work in a rural area where there are other facilities are allowed to deduct for the room and board.

COMMISSIONER FLANAGAN replied that they are.

SENATOR LEMAN said in Petersburg it probably cost more than \$300 per day to rent a place to stay, plus it would cost at least \$10 a day for meals if someone were living on their own. In that case they are probably getting a good deal compared to what the alternative might be.

COMMISSIONER FLANAGAN said that is true, but it is customary to pay \$1 more per hour in those places where they are able to charge. "Of course, that brings this whole issue up is that we have to be raising the floor which is a viable function of government."

CHAIRMAN STEVENS asked if there was a regulation that says a campground is an alternative to qualified housing.

COMMISSIONER FLANAGAN replied that wasn't in regulation.

CHAIRMAN STEVENS said, "You're using the fact that the alternative to live in a campground is validated to say that they can charge in an urban area where there's alternative housing."

COMMISSIONER FLANAGAN said that people have other options besides that.

CHAIRMAN STEVENS said they are all choosing the campground instead of the other option.

COMMISSIONER FLANAGAN responded that they're not all choosing it. He said no one had challenged this regulation until this suit and it will be interesting to see how it plays. "But again, that did not reduce the wage below minimum wage."

He concluded saying that he thought this was bad policy and he works with the fishing industry and is aware of the problems. He has spent most of five summers in the disaster areas, but when times are good, the processors and the fishermen make more money. "These line workers make in the remote sites a nickel or ten cents more than minimum wage. They don't go up when things get

better. They make what they make and that's why we have a wage floor."

He also noted that with the exception of one very small fishermen's organization, there has not been to date any testimony from fishermen in support of this bill.

I don't know that they agree with Senator Leman's idea that any extra dollar the processor gets is going to be automatically distributed to them in the form of a higher price.

SENATOR AUSTERMAN asked what was the unemployment rate for processing and was it easy for them to get people to work.

COMMISSIONER FLANAGAN replied that it has gotten easier this year and last year. Two or three years ago it was real tough. He said that Icicle Seafoods did everything they could to hire people in state, but there just weren't the people. He called his counterpart in Texas to vouch for Icicle and told them that the labor law up here would take care of Texan workers. But this year he said that job orders are up in the seafood area from what they were told to expect prior to last year.

SENATOR AUSTERMAN said it appears to him that there is a competitive element out there and he's not sure this will even be used.

COMMISSIONER FLANAGAN said there would be at least a couple or three major plants that will use it. They do alien labor certifications for roe techs and supervisors and special positions.

Basically, the way the immigration law works, if you make a job undesirable enough, then it's 'Katie, bar the door.' You can bring in people from anywhere including other countries and I think that's what we're going to be looking at if we beat down the conditions for the low-wage workers in the canneries.

SENATOR LEMAN said he didn't suggest earlier that the money available would automatically go to fishermen. "I said it would be available for distribution."

COMMISSIONER FLANAGAN said he stood corrected and apologized.

SENATOR LEMAN said, "If you increase the cost to processors, it's certainly not available to pay the fishermen."

COMMISSIONER FLANAGAN said he wouldn't dispute that.

CHAIRMAN STEVENS commented that if you could get fishermen and processor together to agree on anything, you would have accomplished something that he has yet to see achieved in life.

COMMISSIONER FLANAGAN agreed.

CHAIRMAN STEVENS said AS 23.10.080 - Powers and Duties of the Division - says, "The director shall investigate, ascertain wages and related conditions on standards of employment of any employee in the state, etc." and then lays out how they are to investigate.

AS 23.10.085 - Scope of Administrative Regulations - AS 23.10.085 (c) Regulations may permit deductions by an employer from the minimum wage applicable to employees for the reasonable cost as determined by the director on an occupation basis of furnishing board or lodging if board or lodging is customarily furnished by the employer and used by the employee.

COMMISSIONER FLANAGAN responded:

Yes, sir, and the key word is 'may'. Regulation 'may.' I believe if the legislature at that time wanted to make that law and I don't know what it was - if it was a compromise or something, because in 1959 something else was happening. We were first having the Alaska minimum wage, which was 50 cents over the federal of \$1.00...If the legislature meant to make that law, they would have put it in statute. And again I'm the thirteenth commissioner that has interpreted things that way.

MS. BARBARA HUFF TUCKNESS, Teamsters Local 959, said that there was a letter from Jerry Hood regarding this particular issue and it probably addresses in a nutshell where they are at. She also noted that they represent a little over 7,000 workers with the state and different industries around the state with the exception of at sea processors, but that is not why she is here.

It's not a union issue; it's a worker issue. It's about some, whether my numbers are right or wrong, and I would love to be proven differently, the \$11 billion at sea fishing industry as a whole comes to this state, to this capital, and makes a request of the House and the Senate legislative body to reduce existing minimum wage. We're not talking about an increase in the minimum wage here; we're talking about an existing of

which for some of these folks...some of these start out at \$6 an hour. Granted, some others are paying minimums of \$7.50 an hour already and I would assume would not attempt at this point to reduce even further, and don't believe legally they probably could, unless they unilaterally went in and reduced what they are offering to pay and I don't know that to be the case. But, we come to the table and as I understand this bill will be moving out of committee - and we would request that it not move - that there be some due consideration to the public policy statement that is being set here. And it goes back to the working people of the state.

I've been told that these people - most of them don't even work in the state and in fact most of them don't even work in this country. Why are you guys concerned? Again, these people come to this state, they do work in this state and they leave and we had one - down in Mexico - who did used to work here who makes more money now working in Mexico in one of their hotels working eight hours a day versus the 16 hours a day they used to work here. Now, from my perspective in the labor industry that's kind of a sad state of affairs in and of itself, when these people can make more money in Mexico.

The state of Alaska in some respects was built on the backs of the men and women that work here. Some of you have worked in the industry. Some of you have worked for the at sea processing company, of which Trident, I believe, is one of the companies here. I guess we come to the table more looking at the public policy that's being set here, not only for the corporations. From a short-term perspective, maybe this \$11 billion industry does need some assistance out there, but the analogy that was used by some individuals in comparison, it's almost like taking our state fiscal plan or lack thereof or the alleged crisis and say we're going to cut the legislators per diem to go towards that fiscal gap. It is so out of this world it's not going to make any difference. We've been told that this is going to save this \$11 billion fishing industry \$5 million. Well, when you take the \$5 million, it is a savings. I guess if my employer quit paying me, they would save some money, also. I wish everyone would think about what we're doing here. It's not about the \$15 per day. That's not what it's about - whether it was \$5 per day. It's the fact that these people, these minimum wage

people are going to have this money taken out of their pocket in lieu of room and board. And what are we talking about room and board. Those of you who've been on these ships, I don't believe we're talking about big rooms; in fact, I believe most of the rooms have at least 4 - 10 per camp. They've got little beds that they're sleeping in. They're working 16 hours a day; they get to hopefully sleep in the bed for a couple of hours and then they come back and charge. It's a bigger public policy here.

MS. TUCKNESS said that in the several committees this bill has been heard in not one worker who has testified in favor of this bill. This impacts many people who work here, but don't live here. She said it's like the oil industry on the North Slope where workers are provided very nice rooms and some of the best food in the state. They do not get charged. Granted there are different expectations and different skills required, but she is not asking that they increase wages, but that they look at the fairness and application and the impact it will set from a long-term public policy for this state.

SENATOR AUSTERMAN added that at-sea processing is a little different than shore based and he didn't know if this bill even applies to the at-sea processor.

COMMISSIONER FLANAGAN inserted that it would apply to floaters in state waters, but not the at sea factory processors.

SENATOR AUSTERMAN asked the other two unions if the concept is so important, why haven't they done anything about the McDonalds workers of the Subway workers or the processors that work in Kodiak already that make minimum wage.

MS. TUCKNESS responded that she believed that he is comparing apples and oranges. The McDonalds in her area in Anchorage doesn't pay minimum wage. If they would pay minimum wage, they couldn't get people to work there. From an industry perspective, this particular industry, separate from the McDonalds..

SENATOR AUSTERMAN interrupted saying that there are minimum wage workers in the state of Alaska other than in the seafood industry.

MS. TUCKNESS responded that she believed there were some in the restaurants and some folks have actually compared this to the tip credit bill. On one hand they make minimum and they get tips, then you turn around and take the money out of the tips to help cover any potential increases in that area. The concept there is somewhat similar.

I guess from our perspective from where these fishing locations are at, it boiled down to choice. And my understanding...is when that came out, and actually it came about addressing employees that were being charged by some of these companies for room and board when they quit. And this was back 15 years ago, some of the industry was going back and taking money out of these people's pockets. They ended up with no paychecks. It was at that time...how this particular regulation came about.

TAPE 02-25, SIDE A

MS. HUFFTUCKNESS continued:

The Department of Labor at the time stepped back. We have to do something; there needs to be some sort of balance or a leveling of the playing field. So, in those areas where there was housing or choice, then that choice was given to the employee. It was either one or the other and in those areas where there was not available or alternative housing, then the room and board was picked up. Under this particular bill, what it says now is that anybody out there can charge room and board whether you have available housing elsewhere and the employee is able to make that choice, whether it's in a tent or 10 or 15 of them get together in a house or live in an apartment. Their living conditions I do not believe would be commensurate to any of us sitting in this room. It is a different life style, but simply because they made a choice in that particular life style, is it okay - and I guess you guys will ultimately make that public policy - to take room and board, whatever that amount is out of these minimum wage people's pockets, simply because of where they're at in the industry and what they are doing so that there is some savings? Are there other alternatives? Are there some other things that maybe this industry can do in this short-term crisis? Because I do not believe that it is a long-term crisis here, if indeed it's a crisis. That has not been proven either.

SENATOR DAVIS said she wanted to get the following comment on record:

I think it is very poor timing for this bill to come forward regardless of who supports it and who does not support it in the sense that you have people coming and

wanting to take money that might be an increase in minimum wage and we don't even have it. It's going to be on the ballot in November if we don't pass something that would be acceptable... but there is no guarantee that the minimum wage will increase...

SENATOR DAVIS said she also had a possible amendment to the bill and asked if she could bring it up at this time.

CHAIRMAN STEVENS told her to go ahead.

SENATOR DAVIS said testimony from a representative of the processors was that room and board fee would be around \$8 now and moved to delete where it says the department would be able to review a grant for an increase above \$15, language on lines 10 - 13.

MS. SYLVESTER said that was added because originally it was just \$15 dollars a day, the implication being that that was reasonable.

But in the urban areas if there is alternative public board and lodging, the department makes the determination whether it's \$15 or \$20 per day on a case-by-case basis. If we cap it at \$15, then we're potentially damaging the businesses that are located in urban areas that already have determinations this summer. Icicle Seafoods has \$10 for board and \$3.50 per meal. Their determination is much higher than \$15, so we would be rolling them back.

SENATOR DAVIS said she wanted to the department to comment on that and asked where, as Ms. Sylvester indicated, does it say in the bill that they wouldn't be charged if they worked less than eight hours.

CHAIRMAN STEVENS noted it was lines 5 and 6.

COMMISSIONER FLANAGAN said the proposed amendment would go back to the House Labor and Commerce Committee CS. In putting the \$15 without requiring the department to verify or certify higher expenditures that did moot our fiscal note.

I mean, if you took this amendment, it would moot the fiscal note that you're probably not going to adopt, but you should, because you're just giving an unfounded mandate to the department. So, that would remove one of my arguments against the bill. There will be audits. Right now we very rarely have audits on the places where they are able to charge, because the costs are

kept low. But we're going to open up a whole new venue involving thousands of employees and, again, maybe most of them will go \$15 or less, but the ones that go more, it will generate a lot of complaints and a lot of workload and backlog...We are opening up a new area of complaint that we have to investigate when we have to take thousands of workers that right now are not required to pay their room and board and will be charged.

SENATOR DAVIS asked if those places that have alternatives for room and board already able to charge more than \$15?

COMMISSIONER FLANAGAN replied that is correct.

SENATOR DAVIS said she thought this bill was designed to help areas where there was no alternative housing.

COMMISSIONER FLANAGAN explained initially the bill specifically mentioned remote processors and when they took out the work "remote" and put in "\$15", they caught up the ones that are currently able to charge. A possible amendment would be to delineate remote processors and no more. "That would moot our fiscal note, because we would be in terms of enforcement actions, where we are now..."

CHAIRMAN STEVENS declared a conflict saying that he has passed employment history with the fisheries business and has a company that dose services for companies that qualify under fisheries business.

SENATOR AUSTERMAN objected.

SENATOR LEMAN moved that he be allowed to abstain from voting because he sometimes fishes, but doesn't make much money at it. "It's conceivable that I could loose money, if the seafood processors have to pay more overhead."

SENATOR AUSTERMAN objected.

SENATOR DAVIS moved the amendment so they could vote on it.

SENATORS AUSTERMAN, LEMAN, and STEVENS voted nay; SENATOR DAVIS voted yea; and the amendment failed.

SENATOR AUSTERMAN moved to pass CSHB 504(L&C) and the accompanying fiscal note from committee with individual recommendations. There were no objections and it was so ordered.

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#HJR38

HJR 38-TERRORISM RISK PROTECTION LEGISLATION

CHAIRMAN STEVENS announced HJR 38 to be up for consideration.

REPRESENTATIVE JOE HAYES, Sponsor of HJR 38, said the whole point of the resolution is to address issues concerning 9/11 and liability insurance. There was an \$877,000 increase in different insurance policies as a result of 9/11. The effects of such an enormous loss has taken its toll on the insurance industry and the American economy. Several of the reinsurance carriers are declining to offer insurance that covers terrorism now at all and others are increasing their rates tremendously. He noted that the aviation industry has particularly been hit hard going up in Alaska 20 - 200% and the number of companies willing to offer insurance in Alaska has decreased more than a dozen to approximately six. One company has also issued non-renewal notices regarding workers compensation claims in Alaska and several others are publicly considering following suit.

HJR 38 recommends passage of the Terrorism Risk Protection Act legislation, currently in the United State Senate. The Terrorism Risk Protection legislation has already passed the House; it was H.R. 3210 and this resolution urges Congress to create a viable solution to the uncertainty of insurance risk currently faced in America. If a solution is not found in America, Americans are left with limited coverage, the effects of a natural disaster or terrorist attack could be devastating the American people and to Alaska and its economy as a whole.

SENATOR AUSTERMAN moved to pass CSHJR 38(L&C) from committee with individual recommendations. There were no objections and it was so ordered.

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4:10 - 4:27 pm - at ease

#HB443

HB 443-TATTOOING AND BODY PIERCING

CHAIRMAN STEVENS announced HB 443 to be up for consideration.

MS. SHARON O'DELL, Chief of Staff for Representative Vic Kohring, said in 2000 the legislature passed SB 34 to address safety and health issues with the body piercing and tattoo industry by bringing them under the licensing requirements of the Barbers and Hairdressers Board. The qualifying application deadline was set in statute, but didn't allow the department any kind of grace

period or an appeal process. Because of that there were qualified practitioners who were already in business that will have to go out of business because they missed that qualifying application date. The practitioners they have talked to are in favor of the regulations set forth in SB 34, but even though the department did their best to notify everyone that would be affected by the new regulations, some people just got left out. They are trying to address that problem with those businesses that will have to otherwise close. They would have to go through the process of finding another practitioner who has gotten their license to get them through the training period. It could be difficult to even find someone in their area who is willing to take them on. This is an unintentional result of the law that went into effect in 2000.

HB 443 does two things. It doesn't change any of the regulations or the qualifying date set forth in SB 34. It extends the transitional license application date to July 1, 2002 and extends the license requirement date to December 1, 2000. There is a fiscal note for the renotification because the DEC regulations that have been adopted will go stale in October in this year requiring renotification.

MS. GAIL MCCANN, Owner of the Electrolysis Clinic in Fairbanks, supported HB 443. She is one of the individuals who would be impacted by the bill not being passed. If it didn't pass, it would definitely affect her livelihood and her ability to continue offering her service. She uses a tattooing technique for permanent and corrective cosmetics working with burn survivors, as an example, who have gone as far as they can with reconstructive surgery and want to take their improvement in appearance a step farther. Many times a burn survivor will have lost their facial hair - eyebrows and eyelashes and she can tattoo those features. She said people with surgically corrected cleft palates were another example of clients she served.

MR. JOE SCHOOLCRAFT, Two Moons Body Piercing and Tattooing, said the tattooing community is small and he found it hard to believe that some people didn't know about this. He thought if a person missed the deadline that through the tattooing community they could find someone who could reach out and help them. The test has to do with sanitation and nothing with technique.

MR. TODD GIPSON, Two Moons Body Piercing and Tattooing, opposed HB 443. He thought the interested parties should keep on top of the laws and what's going on.

MR. JEFF MARTIN, Muttleys Tattoo Clinic, supported HB 443. He said he is in transition and somehow missed the application time. He has three employees who are affected as well.

MR. ANDY KOPCZENSKI, American Tattoo, said he had been in this business for 22 years. He said he does the same thing that Ms. McCann does about 10 times a week. He opposed this bill. The fiscal note that goes with it comes out of the general fund, which is his money. He didn't want to be charged for people "not getting their homework done."

MR. KOPCZENSKI said, "This is another way to charge me for the guy next door."

SENATOR LEMAN moved to pass CSHB 443(L&C) from committee with individual recommendations. There were no objections and it was so ordered.

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#HB182

HB 182-MOTOR VEHICLE SALES AND DEALERS

CHAIRMAN STEVENS announced HB 192 to be up for consideration.

MS. MAY ERICKSON, Staff to Representative Murkowski, explained that this bill began last session and has gone through a lot of work and is in a form that is supported by all parties.

It is a comprehensive motor-vehicle act that addresses the relationship between motor-vehicle dealers and manufacturers and perspective auto buyers by providing guidelines to protect dealers and consumers from abuses within the automobile industry. The bill creates a platform for a dispute resolution between manufacturers and motor vehicle dealers with regard to franchise disagreements and brings agreements made between manufacturers and dealers under jurisdiction of Alaska courts. The bill sets forth uniform processes to transfer, terminate, or convey franchise agreements. Protections are also provided against replacement by manufacturers of new competing dealerships within too close a proximity to a current dealer's market area and provides uniform guidelines when designating successors in the case of death or incapacity of franchisees. The bill also provides meaningful protection for auto buyers by imposing safeguards regarding deceptive advertising, price comparisons and availability of advertised items. The bill also states that a dealer must, when obtaining a used motor vehicle from an individual consumer, make reasonable inquiry of the seller and the seller must provide in writing the condition of that vehicle including the vehicle's

accident and repair history. The dealer then provides that statement to a prospective purchaser of the vehicle. Dealers must also disclose if the vehicle was purchased from an auction or wholesaler (Just inserted on the House floor and passed unanimously).

MR. DON WHATTLEY, Alliance of Automobile Manufacturers, supported HB 182.

MR. MARK MUELLER, General Motors, supported HB 182.

MR. STAN HURST, Chrysler Corporation, supported HB 182.

MS. KERRY HENNINGS, Division of Motor Vehicles, said they also support HB 182.

MS. ERICKSON said that she forgot one thing, an amendment by Representative Dyson, that would allow a person to sell 10 used motor vehicles per year and still not have to register as a dealer. After doing research, she found that five is the correct amount and asked if they would consider amending the bill to reflect that. She explained that five vehicle is set out in federal law and is also recommended by DMV and the AG's office as well.

CHAIRMAN STEVENS asked if Representative Dyson raised the number from 5 to 10 on the floor.

MS. ERICKSON replied yes, but he was thinking that many people in the Valley buy used cars quite frequently for family members, fix them up and turn them over, but there is an exemption for that kind of transaction for family members.

CHAIRMAN STEVENS asked if it was okay with Representative Murkowski.

MS. ERICKSON replied that she was fine with it.

4:50 - 5:00 - fire drill

SENATOR AUSTERMAN moved on page 4, line 19 to delete "new or 10 used". There were no objections and it was so ordered.

SENATOR AUSTERMAN moved to pass SCS HB 182(L&C) from committee with individual recommendations. There were no objections and it was so ordered.

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CHAIRMAN STEVENS adjourned the meeting at 5:05 pm.