

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

May 9, 2003

3:40 p.m.

**MEMBERS PRESENT**

Representative Tom Anderson, Chair  
Representative Bob Lynn, Vice Chair  
Representative Nancy Dahlstrom  
Representative Carl Gatto  
Representative Norman Rokeberg  
Representative Harry Crawford  
Representative David Guttenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CONFIRMATION HEARINGS

Real Estate Commission

Z. Kent Sullivan, Esq. - Fairbanks

- CONFIRMATION ADVANCED

HOUSE BILL NO. 288

"An Act changing the name of the Department of Community and Economic Development."

- MOVED CSHB 288(STA) OUT OF COMMITTEE

HOUSE BILL NO. 272

"An Act relating to motor vehicle dealers."

- MOVED CSHB 272(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 305

"An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date."

- MOVED HB 305 OUT OF COMMITTEE

HOUSE BILL NO. 277

"An Act relating to the powers of the Regulatory Commission of Alaska in regard to intrastate pipeline transportation services and pipeline facilities, to the rate of interest for funds to be paid by pipeline shippers or carriers at the end of a suspension of tariff filing, and to the prospective application of increased standards on regulated pipeline utilities; allowing the commission to accept rates set in conformity with a settlement agreement between the state and one or more pipeline carriers and to enforce the terms of a settlement agreement in regard to intrastate rates; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 285

"An Act adopting the Uniform Electronic Transactions Act; repealing certain statutes relating to electronic records and electronic signatures; amending Rule 402, Alaska Rules of Evidence; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS ACTION**

BILL: HB 288

SHORT TITLE: CHANGING NAME OF DEPT OF COMM & ECON DEV.

SPONSOR(S): REPRESENTATIVE(S) KOHRING

Jrn-Date	Jrn-Page		Action
04/28/03	1156	(H)	READ THE FIRST TIME - REFERRALS
04/28/03	1156	(H)	STA, L&C
05/06/03		(H)	STA AT 8:00 AM CAPITOL 102
05/06/03		(H)	Moved CSHB 288(STA) Out of Committee MINUTE(STA)
05/08/03	1475	(H)	STA RPT CS(STA) NT 3DP 1DNP 3NR
05/08/03	1475	(H)	DP: DAHLSTROM, LYNN, HOLM;
05/08/03	1475	(H)	DNP: BERKOWITZ; NR: SEATON, GRUENBERG,
05/08/03	1475	(H)	WEYHRAUCH
05/08/03	1475	(H)	FN1: ZERO(CED)
05/08/03	1478	(H)	CRA REFERRAL ADDED AFTER L&C
05/09/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 272

SHORT TITLE:MOTOR VEHICLE DEALERS  
SPONSOR(S): REPRESENTATIVE(S)WEYHRAUCH

Jrn-Date	Jrn-Page		Action
04/16/03	1009	(H)	READ THE FIRST TIME - REFERRALS
04/16/03	1009	(H)	L&C, STA
04/28/03		(H)	L&C AT 3:15 PM CAPITOL 17
04/28/03		(H)	Scheduled But Not Heard
04/30/03		(H)	L&C AT 3:15 PM CAPITOL 17
04/30/03		(H)	Scheduled But Not Heard
05/01/03		(H)	STA AT 8:00 AM CAPITOL 102
05/01/03		(H)	Scheduled But Not Heard
05/05/03		(H)	L&C AT 3:15 PM CAPITOL 17
05/05/03		(H)	Heard & Held
05/05/03		(H)	MINUTE(L&C)
05/07/03		(H)	L&C AT 3:15 PM CAPITOL 17
05/07/03		(H)	<Bill Hearing Postponed to 5/9>
05/09/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 305

SHORT TITLE:UNEMPLOYMENT COMPENSATION BENEFITS  
SPONSOR(S): LABOR & COMMERCE

Jrn-Date	Jrn-Page		Action
05/07/03	1416	(H)	READ THE FIRST TIME - REFERRALS
05/07/03	1416	(H)	L&C, FIN
05/09/03		(H)	L&C AT 3:15 PM CAPITOL 17

**WITNESS REGISTER**

Z. Kent Sullivan, Esq., Appointee  
to the Real Estate Commission  
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Real Estate  
Commission.

REPRESENTATIVE VIC KOHRING  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 288.

EDGAR BLATCHFORD, Commissioner  
Department of Community & Economic Development (DCED)  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 288 and responded to questions.

LINDA SYLVESTER, Staff  
to Representative Bruce Weyhrauch  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 272, spoke on behalf of the sponsor, Representative Weyhrauch.

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General  
Fair Business Practices Section  
Civil Division (Anchorage)  
Department of Law (DOL)  
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 272, provided comments and responded to questions.

STEVE ALLWINE, Secretary  
Alaska Auto Dealers Association (AADA)  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 272, as amended, and responded to questions.

CHRIS HESTER, Lyberger's Car and Truck Sales, LLC  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to Section 1 of HB 272.

CARROL LYBERGER, Lyberger's Car and Truck Sales, LLC  
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 272, remarked that use of the word "current" is problematic, provided comments, and responded to questions.

TERI PETRAM, Lyberger's Car and Truck Sales, LLC  
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 272, provided comments and responded to a question.

BRUCE MUSICK, Affordable Used Cars  
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 272.

DIANA PFEIFFER, President  
Alaska Automobile Dealers Association (AADA);

President, Alaska Sales and Service  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 272.

DARRELL FRIESS, Budget Car & Truck  
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 272, testified in opposition to Section 1, provided comments, and suggested an amendment.

MARTEN MARTENSEN, Continental Honda  
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 272.

GREG O'CLARAY, Commissioner  
Department of Labor & Workforce Development (DLWD)  
Juneau, Alaska

POSITION STATEMENT: Assisted with the presentation of HB 305 and responded to questions.

PATRICK SHIER, Employment Security Tax  
Division of Employment Security  
Department of Labor & Workforce Development (DLWD)  
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 305.

JOHN DAVID RAGAN  
Ester, Alaska

POSITION STATEMENT: Testified in support of an increase in unemployment benefits during discussion of HB 305.

RON PECK, President  
Alaska Travel Industry Association (ATIA)  
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 305, said that the ATIA is not opposed to the bill, and asked that a complete analysis be done to determine how the bill will impact the tourist industry.

PAMELA LaBOLLE, President  
Alaska State Chamber of Commerce (ASCC)  
Juneau, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 305.

**ACTION NARRATIVE**

**TAPE 03-49, SIDE A**

Number 0001

**CHAIR TOM ANDERSON** called the House Labor and Commerce Standing Committee meeting to order at 3:40 p.m. Representatives Anderson, Lynn, Rokeberg, Crawford, and Guttenberg were present at the call to order. Representatives Dahlstrom and Gatto arrived as the meeting was in progress.

CONFIRMATION HEARINGS

Real Estate Commission

Number 0106

CHAIR ANDERSON announced that the committee would first consider the nomination of Z. Kent Sullivan, Esq., to the Real Estate Commission.

REPRESENTATIVE ROKEBERG thanked Mr. Sullivan for volunteering to serve on the Real Estate Commission, and asked him whether his legal experience has included much in the way of real estate activities.

Number 0211

Z. Kent Sullivan, Esq., Appointee to the Real Estate Commission, replied:

It has, extensively. I'm formerly from Montana, and practiced law in ... Montana for five years with a firm ... that focused primarily on real estate and property law. Our firm represented, among other clients, the Montana Association of Realtors [Inc.]; was responsible for representing not only the state association but also numerous of the regional associations of realtors ...; [and] did a lot of drafting of legislation ... concerning the regulation of real estate licensees within the state.

Our firm also handled a real estate hotline for the Montana Association of Realtors [Inc.], and that was something that all the real estate licensees in the state could [use to] call our firm and pose questions ... and receive a written response on ... legal issues

that they were facing every day in the real estate industry. And that's what I did with the firm down there. Up here, things aren't near as specialized as they are down south, and while I still practice significantly in the area of real estate and property law, I do ... a much more general practice up here, primarily in civil litigation - all aspects of civil litigation.

MR. SULLIVAN, in response to a question, relayed his belief that his current legal practice would not present a conflict of interest with serving on the Real Estate Commission. He noted that his law firm here in Juneau does not represent any local or state realtor organization, and that he has never represented any real estate licensee regarding license issues. He said he does not view his expertise in the field of real estate and property law as putting him in a position of dominance over other members of the Real Estate Commission. One of the reasons he sought to be appointed, he remarked, was so that he could offer his expertise to the Real Estate Commission's endeavors.

REPRESENTATIVE ROKEBERG asked Mr. Sullivan to comment on the issue of dual agency.

Number 0540

MR. SULLIVAN responded:

I can offer that dual agency is viewed in different ways depending upon whose position you're viewing it from. From a real estate licensee's perspective, for the most part, I think, licensees generally are in favor of dual agency because dual agency allows for a licensee to receive a dual commission, in essence, and not have a commission cut in half. And when a licensee is out there working as hard and as diligently as they do, that's something that they view as a benefit, and if they can serve as a dual agent, they're more than happy to do that. So from a licensee's perspective, I think they're probably generally in favor of it.

From a consumer standpoint, ... I think it's viewed much more frequently with confusion; they may not understand what the role is of a dual agent, they may not understand what their rights are [and] what's owing to them by the licensee versus the parties

themselves. From a legal perspective and from the standpoint of an attorney, dual agency is very problematic; it's problematic because you're representing conflicting interests. And in the past, across the country, the consensus has been to allow dual agency and to deal with those problems in different ways.

I do understand it's becoming an issue in Alaska and [that] there are some concerns about that, and I think it probably needs to be dealt with. I don't have a specific opinion as to whether dual agency ought to be abolished [or] whether it ought to be maintained; that's an issue that I think would take a lot of time to resolve and explain, and it's something that I think the [Real Estate] Commission is probably exploring currently.

REPRESENTATIVE LYNN mentioned that he is a licensed associate broker in Alaska. He observed that licensees encounter some practical problems when complying with the full disclosure requirements of dual agency, and offered some examples. He opined that the current laws regarding this contentious issue need to be fixed and simplified.

Number 0984

MR. SULLIVAN mentioned that he has read through the current "agency" statutes, and opined that they are confusing and full of holes. He relayed that according to his experience in Montana, agency never really was an issue, certainly not like it appears to be in Alaska. He suggested that instead of promulgating more statutes and regulations, a solution to the current problem might be to revamp, clarify, and simplify the statutes already in existence. He surmised that although some licensees might have a good understanding of the current agency statutes, most licensees don't and neither does the general public.

REPRESENTATIVE LYNN suggested to Mr. Sullivan that he take an opportunity to review all the different forms that real estate firms in Alaska have developed in an effort to comply with the current laws regarding full disclosure of dual agency.

REPRESENTATIVE ROKEBERG noted that the real estate industry has established a task force that is currently attempting to develop some comprehensive language to address the issue of dual agency

disclosure. After observing that this issue is of particular importance to those living in rural Alaska, where there may only be one or two brokers for an entire area, he described some of the provisions of his proposed legislation pertaining to this issue. Representative Rokeberg asked Mr. Sullivan if he thinks it would be possible to craft legislation that would make a distinction between the general public and what he termed "the sophisticated buyer."

MR. SULLIVAN replied:

I think it's feasible and would certainly be worth looking at. I think one downside to it is that, again, if what you're attempting to do is streamline things and make them completely black and white, the more distinctions you draw, you run the risk of complicating that or confusing that a little bit. So, I don't think it's impossible; I think it's entirely possible. Whether you step over that line of maybe going too far as far as drawing too many distinctions, if that's the only one, then perhaps it's a lot easier question to answer, but if you start adding distinction upon distinction throughout the process, you might get right back to where we are now. But a person would just have to look at [it] and see how its drafted.

REPRESENTATIVE ROKEBERG suggested that the interpretation regarding the common law principles of agency has complicated the issue.

MR. SULLIVAN concurred.

Number 1263

REPRESENTATIVE ROKEBERG made a motion to advance from committee the nomination of Z. Kent Sullivan, Esq., as appointee to the Real Estate Commission. There being no objection, the confirmation was advanced from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 3:45 p.m. to 3:48 p.m.

HB 288 - CHANGING NAME OF DEPT OF COMM & ECON DEV.

Number 1321

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 288, "An Act changing the name of the Department of Community and Economic Development." [Before the committee was CSHB 288(STA).]

Number 1327

REPRESENTATIVE VIC KOHRING, Alaska State Legislature, sponsor, said that HB 288 changes the name of the Department of Community & Economic Development to "Department of Commerce & Economic Development." He opined that the name "Department of Commerce & Economic Development" more accurately reflects the goals and strategies of that department, adding that its mission is to promote commerce and the development of Alaska's economy. He pointed out that Governor Murkowski, in his "State of the State" speech in January, announced that his administration would be referring to the department as the "Department of Commerce." Representative Kohring said that the goal of HB 288 is to formalize that concept in statute.

REPRESENTATIVE KOHRING opined that using the name "Department of Community & Economic Development" somewhat complicates the state's efforts to attract investment. He listed the department's goals and strategies as being the following: promote local economic development and crucial infrastructure, market Alaska's goods and services throughout the world, organize and conduct business and trade missions to expand product sales in current markets and develop new markets, and facilitate the exchange of information between Alaska's exporters and potential customers. He mentioned that many other states have a comparable department with the word "commerce" in its name.

REPRESENTATIVE CRAWFORD noted that a few years ago, Representative Kohring sponsored the legislation that combined the Department of Community and Regional Affairs (DCRA) with the Department of Commerce & Economic Development, thereby creating what is now known as the Department of Community & Economic Development. He asked what has happened to the mission of the DCRA: is it no longer a part of the current department's mission? He added that according to his recollection, having a portion of each of the old department names combined into the new department name was a compromise which intended to reflect that the new department would carry on with the missions of both departments. House Bill 288 appears to do away with all vestiges of the DCRA.

Number 1544

REPRESENTATIVE KOHRING offered that the former DCRA has not gone away; instead, it has become a division within the DCED called the Division of Community and Business Development. He indicated that because it is important to develop Alaska's rural economy, it is not his intention to hurt or do away with the former DCRA's programs. Merging the two departments has saved money by eliminating duplication and trimming upper management costs, he opined, and has thus ensured the continuance of the programs important to rural Alaska. He assured the committee that even with a name change, the department will maintain its Division of Community and Business Development.

REPRESENTATIVE GUTTENBERG said he is concerned that changing the department's name will leave people in rural communities wondering whether their needs will be overlooked by the administration.

REPRESENTATIVE KOHRING, in an effort to allay Representative Guttenberg's concern, opined that the department's track record over the last four years demonstrates that the DCED has not compromised the aforementioned programs and has instead made them better by becoming more efficient.

Number 1683

EDGAR BLATCHFORD, Commissioner, Department of Community & Economic Development (DCED), said that the administration supports HB 288. He added that the term "commerce" is broader and more clearly reflects the role of the department, and that the administration believes that "commerce" includes dealings with governments and all of their subdivisions - the boroughs, the unorganized boroughs, and other entities within the unorganized boroughs. After mentioning that he'd at one time served as commissioner for the DCRA, he relayed that with the merger, the DCED's mission is twofold: one, continue to be an advocate for rural Alaska and the municipalities in both organized and unorganized boroughs; and, two, be "somewhat of a regulator" regarding occupational licensing, insurance, and investments.

COMMISSIONER BLATCHFORD went on to say:

We feel that this will send a very clear message to the people who are eager to do business, or [are] thinking about doing business, in the state, that

Alaska is open for business and that we welcome the opportunity to discuss business activities, both in rural Alaska and in the urban centers. ... I was at a conference the other day, and it was where you had financing agencies from across the country meeting in Anchorage, and when I was introduced as "the commissioner of the soon to be called Department of Commerce and Economic Development," one of the representatives from another state leaned over and said that is what their state did two years ago - they changed the name of the department to more clearly reflect what the mission of that department was, and that was to encourage commercial activities, business activities, economic activities.

COMMISSIONER BLATCHFORD, in response to a question, said that when he was commissioner of DCRA, his mission was to serve as the commissioner of a department that was dedicated, heart and soul, to rural Alaska, to assist those communities in accessing government, in generating economic activities, and in establishing local government entities.

REPRESENTATIVE CRAWFORD asked whether changing the department's name will result in those goals no longer being a focus.

COMMISSIONER BLATCHFORD said that the development of the Division of Community and Business Development within the DCED was intended to ensure that those goals did remain a focus of the department. He said that the DCED takes its role in that regard very seriously, and that the Division of Community and Business Development is the largest section in the department. He went on to say: "The way the department is organized now, you have the regulators, so to speak, on one side, and then you have the advocates, so to speak, on the other side, and we bring the two together to look at how we can best ... foster economic activities throughout the state." In response to another question, he said that he did not see changing the department's name as creating a problem. He opined that in order for Alaska's communities to become self sufficient, there must be economic activity. The DCED will continue to work closely with communities to help them develop a strong private sector, and changing the name of the department, he surmised, will send a strong message that the private sector is the entity that can offer hope, economic opportunities, jobs, and responsibility.

Number 1957

REPRESENTATIVE DAHLSTROM moved to report CSHB 288(STA) out of committee with individual recommendations and the accompanying zero fiscal note.

REPRESENTATIVE ROKEBERG asked whether the sponsor and the commissioner had given consideration to other possible names.

COMMISSIONER BLATCHFORD indicated that they had simply settled on "the Department of Commerce & Economic Development."

REPRESENTATIVE ROKEBERG asked how the name change is going to be perceived by those living in rural Alaska.

COMMISSIONER BLATCHFORD replied:

I think ... Alaska has changed. ... When the Department of Community and Regional Affairs was created 30-some years ago, ... more of Alaska was in the unorganized borough, and a large portion of Alaska's population was in the unorganized borough. That has changed to some degree and you now have more boroughs, certainly more communities, organized communities, [and] second class cities recognized by the state. So ... I think ... changing ... the name is a recognition that Alaska has also changed and that we're moving with the times ... in this day and age of budget cuts, ... that we're seizing the opportunities to present a good public image that we want commercial activities, business activities, throughout the state.

[Chair Anderson turned the gavel over to Vice Chair Lynn.]

REPRESENTATIVE ROKEBERG mentioned that he'd considered offering an amendment to change the department's name in a different fashion, but had since changed his mind.

Number 2120

REPRESENTATIVE DAHLSTROM again moved to report CSHB 288(STA) out of committee with individual recommendations and the accompanying zero fiscal note.

Number 2130

REPRESENTATIVE GUTTENBERG objected. He indicated that removing "Community" from the department's name is a significant, albeit symbolic, change because it shifts the focus from rural Alaska.

REPRESENTATIVE CRAWFORD opined that the proposed name change focuses the department's mission away from communities - leaving out regional affairs - and that "community advocacy" or "regional affairs" should be included as part of the department's name.

VICE CHAIR LYNN opined that commerce, in both urban and rural areas, needs to be developed.

Number 2253

REPRESENTATIVE GUTTENBERG removed his objection.

Number 2257

VICE CHAIR LYNN announced that without objection, [CSHB 288(STA) was reported from the House Labor and Commerce Standing Committee].

HB 272 - MOTOR VEHICLE DEALERS

Number 2266

VICE CHAIR LYNN announced that the next order of business would be HOUSE BILL NO. 272, "An Act relating to motor vehicle dealers."

Number 2274

LINDA SYLVESTER, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, on behalf of Representative Weyhrauch, sponsor, noted that Section 1 is the most controversial section, and that Section 2 amends statute created by the 22nd legislature's HB 182. She offered that Section 1 seeks to correct portions of current statute that are unenforceable. She added: "Currently it's not permitted to sell a ... current year/model vehicle, and that section needs to be changed."

MS. SYLVESTER turned attention to Amendment 1, which read [original punctuation provided]:

Page 2, Line 7

INSERT: (3) Purchased directly from consumer for purposes for resale; or

(4) Vehicle has been in service with a bona fide rental fleet for 6 months.

MS. SYLVESTER opined that Amendment 1 would allow current year models to be sold by car rental agencies that have had those cars in their fleets for six months, and would allow dealers to sell cars that they've purchased from consumers specifically for the purpose of reselling them.

**TAPE 03-49, SIDE B**

Number 2370

MS. SYLVESTER asked that the committee take further testimony before considering whether to adopt Amendment 1.

VICE CHAIR LYNN asked whether the paragraph (4) proposed by Amendment 1 refers to vehicles that have been in service for at least six months, exactly six months, or less than six months.

The committee took an at-ease from 4:27 p.m. to 4:28 p.m.

Number 2291

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General, Fair Business Practices Section, Civil Division (Anchorage), Department of Law (DOL), suggested that that language in Amendment 1 should read "for at least six months."

MR. SNIFFEN went on to say that the eight sections of the bill focus on two primary areas. He said that Sections 2-8 are clarifications to the existing law that was passed last year. He added that certain provisions of HB 272 remove portions of existing law that he felt were not necessary given what he called "Alaska's auto climate." Turning attention to Section 1 of HB 272, he said:

There has been a primary misconception about what the current state of the law is in Alaska. As Ms. Sylvester pointed out, under current Alaska law, it is illegal for any auto dealer to sell a current model/year used vehicle. And let me repeat that: under current law, if you do not have a manufacturer's statement of origin for a vehicle, you cannot sell that vehicle; whether you're a new car dealer or a used car dealer, it makes no difference. ...

What Section 1 does is carve out an exception to at least allow you to sell some current model used vehicles if you receive them in the ordinary course of business in the trade, and now, through this amendment, perhaps if it's a bona fide rental vehicle or if you purchased it from a consumer or some other means. So it just needs to be remembered that without this amendment, we go back to the existing law; the existing law says, if you're a car dealer [and] you've got a current model used vehicle on your lot, you can't sell it, and I can go out there tomorrow and take all those off your lot. So we do need to address that situation, we don't take a position on whether this language in Section 1 is the best way to address that, but it's an attempt to do that.

Number 2152

MR. SNIFFEN continued:

And I want to comment briefly on testimony received from the North American Automobile Trade Association [NAATA] on Monday, just so the committee is clear on some of the legal ramifications of Section 1. There was some suggestion that this section may violate provisions of the North American Free Trade Agreement [NAFTA]. And we've looked through NAFTA; there are two chapters of NAFTA - chapter 3 and chapter 15 - that address themselves to trade, tariffs, and antitrust issues. Actually, there's an annex to NAFTA called Annex 300-A, that deals with auto transactions specifically. And our review of those NAFTA provisions do not suggest that anything in that would prohibit this kind of legislation. And if it does prohibit this kind of legislation, then we already have a problem because our current law already prohibits the sale of these kinds of vehicles. So that really is not a relevant issue.

Another issue raised by the NAATA folks was a potential antitrust concern. Antitrust laws in Alaska are very complex, but there is something about the law that [is] universally agreed upon, and that is, our laws do not protect competitors; they are intended to protect competition. And it's only [reasonable] competition at that. It is unclear whether Section 1 of HB 272 would have any kind of an impact, or at

least an unreasonable impact, on competition for this very small and narrow segment of automobiles. To find out if it did, it would require that we engage in a very lengthy investigation that would include identification of product markets, geographic markets, relevant market power held by the competitors in those markets, and we'd have to weigh those things against other market forces to determine whether or not unreasonable restraints on competition existed. I don't believe NAATA has done that - we haven't done that; it's just pure conjecture that anything in this bill would raise antitrust concerns.

Number 2101

MR. SNIFFEN went on to say:

There was another reference to some litigation in the Lower 48 that apparently addresses itself to some of these concerns; that is only one lawsuit, that we are aware of, that has been filed against auto manufactures for some antitrust behavior that has nothing to do with the issues in this bill. That lawsuit dealt with a potential conspiracy among auto dealers in the United States and Canada to prohibit the importation of Canadian automobiles. And that lawsuit does not address itself to legislation like this and is really irrelevant to the issues in this bill, although it does point out some of the issues that at least some consumers have a concern about.

There was also some suggestion that the legislature could expose itself to liability for enacting this kind of law. That (indisc. - paper shuffling) ridiculous; the legislature enjoys complete immunity for its actions here. If you do pass [the] law that's contained in Section 1 ..., and it is found out to be either illegal under NAFTA or our antitrust laws, the result would be, the law becomes unenforceable and this legislature does not concern itself with liability.

Now, if we get to the real root of what Section 1 tries to do, I'm going to have to let other auto dealers speak to how it has impacted their business to allow used auto dealers and brokers to import ... low mileage Canadian vehicles that are of a current

model/year, and how they have a difficult time competing with those kinds of purchases. It's not the Department of Law's job to really regulate that kind of competition; we leave that up to the competitors in the market place. It's our job to look out for consumers, and it is unclear whether or not the disallowance of these kinds of transactions would be beneficial or harmful to consumers.

Number 2027

We do understand that somewhere in the process, these low mileage, current model/year Canadian vehicles find their way to the U.S., probably in legal ways, but somewhere in the chain there's an illegitimate transaction. And I use that word instead of an illegal transaction because I don't doubt that perhaps, at every step in the process, something legal has occurred. But we have heard in our office - and we have not investigated this, so I don't have any hard facts - that exporters in Canada are hiring college kids, for example, to go to car dealers and buy vehicles, or they're setting up dummy companies to take vehicles so they can get them into the U.S. [And] somewhere along the chain, it appears that there is some kind of an illegitimate transaction that results in a lot of these vehicles ... coming into Alaska.

MR. SNIFFEN concluded:

Whether that's good for consumers or bad for consumers is a call the legislature will have to make, but I believe that the new auto dealers are trying to do something to address that situation. So the language in Section 1 is not language the Department of Law has proposed; we have consulted with the [Alaska Auto Dealers Association (AADA)] about the language, we don't oppose it, there might be some better language that we could come up with to deal with this issue, but we haven't been able to come up with that language in our department. ... I certainly understand the concern that they're trying to address, [but] we simply don't have a position on whether or not this is the best way to address that or not. And with that, I'd be happy to answer any questions the committee has.

REPRESENTATIVE GATTO said that if he wanted to buy a new vehicle, he would want it to truly be a new vehicle. He asked, is it a new vehicle if it was made in Canada and brought in? Because it might have been made in Canada, in any event, and then sold by "the local distributor that's franchised." Is a distinction being made that one vehicle is new and another is not?

MR. SNIFFEN replied:

If your vehicle is manufactured in Canada for sale in the United States, and it comes to a dealer here from the manufacturer with the manufacturer's statement of origin, it is a new vehicle. If your vehicle is new [and] it's purchased from a consumer or an exporter in Canada from a Canadian dealer, because it was manufactured for a destination in Canada - it has 10 miles on it and then it's brought across the border and (Indisc. - coughing) used car dealer here in Alaska, and you go to that lot and it's a ... 2003 or 2004 ... Dodge 2500 (indisc. - coughing) 10 miles on it - it is now a used vehicle in the eyes of the law because it has been sold once and titled.

Number 1867

And there are some serious implications to that fact; you might think you're buying the same product, ... but because it's a used vehicle, you do not have Alaska lemon law protection, for example, because our lemon law only applies to new vehicles. So your low mileage Canadian vehicle is now a used vehicle (indisc. - coughing) excluded from making claims under our lemon law. Somewhere in that process, too, the odometer on that vehicle has probably been changed; we have reports that a lot of those changes don't necessarily happen in conformance with federal law. So you don't know if the miles on that are really accurate or not, although I suspect a lot of them are documented fairly well.

And there is another recent consumer issue that has come to the attention of our office, that your manufacturers warranty may not be valid in the United States. Vehicles manufactured for sale in Canada are subject to factory warranties so long as they remain

registered in Canada; as soon as you register that vehicle in the United States, manufacturers aren't required to honor those warranties. In the past they have, [but] I understand that some of the manufacturers are now declining to do that.

MR. SNIFFEN concluded:

And that's information that (indisc. - coughing) consumer that the fix may not be to prevent these transactions, the fix may be just to provide better consumer awareness, so the consumer can evaluate those risks and then determine whether or not this is a transaction he'd like to make.

REPRESENTATIVE GATTO asked whether total disclosure of the aforementioned issues would make those types of transactions acceptable.

MR. SNIFFEN said not under current Alaska law, which says that as soon as that manufacturer's statement of origin (MSO) is lost, that sale is illegal. So, current law would have to be changed in order to make such transactions legal.

VICE CHAIR LYNN asked: "How many cars are we talking about here? ... How big a problem is this?"

MR. SNIFFEN offered an estimate of between 500 and 1,000 cars.

VICE CHAIR LYNN asked whether all "Canadian cars" conform to "American specs".

MR. SNIFFEN indicated that they did.

Number 1678

VICE CHAIR LYNN returned the gavel to Chair Anderson.

REPRESENTATIVE GUTTENBERG asked whether Section 1 of the bill is enforceable.

MR. SNIFFEN offered that the controversy of Section 1 centers around whether or not used car dealers should be prohibited from selling current model Canadian vehicles. Current law prohibits it under all circumstances. Section 1 would modify current law to allow certain types of such transactions to occur. If Section 1 were to be deleted, the status quo would be

maintained. He added that current law is problematic to enforce because he would have to go to every car lot and tell all dealers that they cannot sell any current model used vehicles that don't have an MSO.

REPRESENTATIVE GUTTENBERG turned attention to page 6, line 20, and noted that 10 miles is being changed to 100 miles. He asked whether the 10-mile limit has been problematic and, if so, whether providing for more than a 100-mile limit would be better.

MR. SNIFFEN indicated that the aforementioned change is one of the "cleanup provisions" of the bill. The change to 100 miles will allow dealers in Wasilla, for example, to send vehicles received as trade-ins to Anchorage for repairs or detailing. He opined that the 100-mile limit will be more than sufficient for that purpose and will still protect consumers.

Number 1455

REPRESENTATIVE LYNN referred to Amendment 1 [text provided previously], and indicated that he wished to amend it such that the last line would read, "(4) Vehicle has been in service with a bona fide rental fleet for at least 6 months." [The amendment to Amendment 1 was treated as adopted.]

Number 1428

REPRESENTATIVE LYNN made a motion to adopt Amendment 1 [as amended]. There being no objection, Amendment 1 [as amended] was adopted.

Number 1412

STEVE ALLWINE, Secretary, Alaska Auto Dealers Association (AADA), said that the AADA supports HB 272 as amended. He opined that the goal of the bill is to provide clear and concise corrections to previous legislation while trying to retain that legislation's intent. He went on to say:

I and the dealers that I represent believe that HB 272 accurately provides these corrections. With respect to Section 1, ... it is not our intent, as automobile dealers, to preclude used car dealers from selling current model used cars. I have to echo Mr. Sniffen's comments ... that the statute as it currently exists precludes all dealers from selling a current model

used vehicle. With the changes we've proposed, all dealers - not just new car dealers, but used car dealers as well - will be able to take and market current used [vehicles] when they're traded in, when they're purchased from an individual consumer, or when they come from a bona fide rental fleet - either through an auction or directly - when they've been in service for specified period of time.

Starting at the beginning ..., the acquisition of these vehicles is legal, but essentially it amounts to the manufacturing of a used vehicle. I have given you some attachments, one of those is a good indicator of that - [it] is the advertisement that says the vehicle has 30 miles on it. That is not a bona fide used vehicle. The process ... can involve a college student, it can involve somebody ... handing somebody \$100 so that the vehicle is titled in their name in Canada. These vehicles that come from Canada are built specifically for sale and use in their specific country. In your attachment you have a copy of a manufacturer's invoice to a dealer that says at the bottom, in our case, [that] the vehicle is built for the U.S. market and is supposed to be sold there.

Number 1291

MR. ALLWINE continued:

Problems when the vehicle enters this country: prerequisite is the speedometer must be changed from kilometers to miles. Two issues and concerns are raised when this is done. The first one: an error in the mileage of a vehicle will render it basically worthless on the retail market. The stigma of miles unknown on an odometer statement is significant, it's huge, and it basically will render the car worthless. These mistakes can happen, and frequently, when they do these type of conversions; however, one mistake is going to cost the consumer thousands of dollars. The second: temptation for speedometer fraud is strong - the difference in a popular model pickup truck at 3,000 miles versus 20,000 is in excess of \$600. Oh, by the way, how do we change these speedometers? You can buy the equipment over the Internet - you have a copy of the article - [for] about \$1,800 ....

Title fraud: If you bring a vehicle in from Canada, because of how the title is transitioned, if the vehicle has been totaled, if it's been in a flood, you don't know. And ultimately the consumer has no recourse; there's no recourse with that Canadian importer. Ever try to sue a business in another country? Another problem is manufacturer's warranty: ... a number of the manufacturers have eliminated the manufacturer's warranty from their vehicles. What some of the used car dealers have taken to doing is they have said, "We're putting a service contract on your vehicle." However, they're not indicating it's a service contract; they're stating in this, in the ad that you have - [it's] a classic example - they're saying it's a warranty. There's a difference between a manufacturer's warranty and a service contract. It is misleading, it is not honest, and it does not provide the same coverage.

Number 1193

MR. ALLWINE concluded:

... I sent you a letter; ... in my closing paragraph ... I said ...that ultimately, if the consumer has difficulty with a current model used car, there's only one place they go - they come to a new car dealer because a new car dealer has the investment in the equipment and in the tools and in the training and in the facilities. If you've got a car that's one or two years old, and you have a problem, your used car dealer ... is going to say, "Well, that's okay; it's got a warranty, it's got a service contract, take it to a new car dealer." It is not appropriate for a used car dealer to have the ability to sell a new vehicle without having any responsibility or obligation after the sale. This is a manufactured used car; it is not the same as what we're trying to correct here for bona fide used car commerce.

MR. ALLWINE, in response to a question, said that used car dealers have some obligation by virtue of a service contract, if they have a facility, to fix the vehicles they sell. However, 99 out of 100 used car dealers do not have the special tools or the special training to fix current model vehicles.

REPRESENTATIVE GATTO asked whether a new car dealer in Anchorage has the obligation to honor the factory warranty of a vehicle that was purchased new in Indiana, for example.

MR. ALLWINE said yes.

REPRESENTATIVE GATTO asked whether the same would be true for a vehicle purchased new in Canada.

MR. ALLWINE said it would be true if the owner of the vehicle is a Canadian citizen.

REPRESENTATIVE GATTO asked whether a U.S. citizen who went to Canada to purchase a new vehicle could expect a new car dealer in Anchorage to honor the manufacturer's warranty.

Number 1088

MR. ALLWINE replied:

The answer is that it would be difficult for you, as a consumer from this country, to go to Canada and make that purchase, and would be highly unlikely. In the event you did, because that vehicle was built and manufactured for sale and use in Canada, that vehicle, in many cases, would not have a manufacturer's warranty.

REPRESENTATIVE ROKEBERG asked whether the aforementioned service contracts are insurance products or "underwritten separately."

MR. ALLWINE replied:

Service contracts, in a number of cases, are underwritten by some other company. But service contracts are not like warranties in as much as they're not all inclusive. They will cover specific things, but it is incumbent on the consumer to find somebody who is willing to make that repair and accept payment from that service contract company. In our instance, we do sell a service contract, and our service contract is backed by the manufacturer - Daimler Chrysler. Ford Motor Company offers the same thing as do most of the manufacturers. But there are offshore and there are independent companies that also offer service contracts.

REPRESENTATIVE GUTTENBERG asked whether HB 272 prevents a used car dealer from selling a new car.

MR. ALLWINE replied:

The law prevents a used car dealer from selling a new car. A new car is an untitled vehicle that is purchased from the manufacturer and is sold by one of the manufacturer's agents. ... This bill, with the recommended amendment, does not preclude that used car dealer from selling a bona fide current model used vehicle.

REPRESENTATIVE LYNN asked whether extended warranties are actually warranties or just service contracts.

MR. ALLWINE said that those are just service contracts, and indicated that the practice of calling them "warranties" is misrepresentation. In response to another question, he said:

At this point in time, you will see rental car companies starting to let loose of some of their rental fleets, which would be current model. And so those vehicles will start to show up. The current statute, as it exists, precludes anybody from selling a current model used vehicle. What we're proposing allows everybody to do it, but it doesn't permit the wholesale manufacture of a used vehicle from Canada.

MR. ALLWINE reiterated that a used vehicle is one that has been titled.

Number 0690

CHRIS HESTER, Lyberger's Car and Truck Sales, LLC ("Lyberger's"), said that he strongly believes that Section 1 of HB 272 needs to be deleted. He offered an example of how HB 272 would affect the consumer:

About a year ago, a husband and a wife purchased a current model vehicle from Lyberger's, a Canadian vehicle that we got from an auction. The couple knew that it was Canadian because we do have disclosure forms that they signed. Two months later, the woman came in almost in tears and explained that her husband was the man who ran over an elderly lady walking home with her husband. This was a story that was in the

newspapers, it was on the news. And she came in and she asked John if he would buy the car back because her husband was going to jail and she wouldn't be able to afford this car payment. Not only did John buy the car back, he refunded 100 percent of her money.

Now, if Section 1 of HB 272 was in effect, she would only be able to purchase that vehicle at the franchise dealership and, with her unforeseen circumstances, would have no other alternative but to take it back to the franchise dealership to sell it back; the franchise dealer, knowing that it was the only place she could get rid of the vehicle and knowing how bad she needed to get rid of it, would have a monopoly advantage ... and would probably give her the lowest, rock-bottom price. This would not have helped this lady in her circumstances. Not only is this how Lyberger's treats their customers, but it shows you that we are there for the consumer. And this bill is definitely not there helping them in any way, shape, or form. Thank you.

Number 0574

CARROL LYBERGER, Lyberger's Car and Truck Sales, LLC, remarked that the problematic word in HB 272 is the word "current". She went on to say:

There is a difference between a new and used vehicle. [With] a new vehicle that is sold ... to a franchised dealer, from the manufacturer, the manufacturer got paid for that vehicle [and] it was sent to the franchised dealer. The franchised dealer, whether it's U.S. or Canadian, was paid for that vehicle the price they were asking. I know what a used vehicle is: as soon as it is sold, it is used - the value of that vehicle will never be the same.

To Steve [Allwine], I am a member of the Alaska Auto Dealers Association [but] was never informed of this Section 1 in [HB 272]; I learned of it last week. As far as the warranty and service contract goes, a warranty is free. A service contract is what the consumer buys - the consumer pays for ... the service contract. That is the difference between a warranty and a service contract. ...

As far as the independent [which some claim] that nobody can possibly find - a mechanic that would be able to work on the newer models - there are several independent mechanics that do have very expensive equipment in their shops, and they do warranty work. Even a lot of the new cars stores will sublet out to some of your independents on stuff. I believe it was about two years ago that the independent mechanics sued the manufacturers for the codes because they had the equipment but the codes could not go to the independents until about six months to a year after that vehicle came out. So now they're able to get the codes whenever the manufacturers give it to the franchised dealers and mechanics. ...

MS. LYBERGER concluded:

This bill, when they say current, there is definitely a difference between current, new, and used. The word "current" is ... a bad word; there is a new car and there is a used car. And I thank you for listening to me, and ... anybody that wishes to ask any questions, I'll be glad to answer.

MS. LYBERGER, in response to questions, said that Lyberger's does offer an "after market" service contract. She added that when a customer buys a Canadian vehicle that has no manufacturer's warranty, Lyberger's gives the customer a "replacement" warranty for free. She noted that there are several shops in town that "do" the warranty work, and went on to list five such shops, adding that there are some franchised dealers that will also honor the after market warranty though one of those does not do so for 2003 models.

Number 0283

TERI PETRAM, Lyberger's Car and Truck Sales, LLC, said that when Lyberger's sells a vehicle that's been imported from Canada, all of the documents are disclosed to the customer. Also, whenever Lyberger's sells any vehicle, the customer is also given a "Carfax" report, which provides details about the vehicle's history. She opined that it is ridiculous to think that Lyberger's would sell a vehicle with a "rolled back" odometer or a wrong odometer reading. And if such a vehicle did come to them, she added, Lyberger's wouldn't sell it; instead, Lyberger's would absorb the expense.

MS. PETRAM noted that used car dealers have to purchase most of their inventory from auctions because there is no way they could keep enough cars on the lot, solely with trade-ins and purchases through individuals, to stay in business. To illustrate this point, she added that Lyberger's sells 100-some vehicles a month. Thus, Lyberger's must supplement its inventory by buying vehicles from auctions, most of which acquire the majority of their vehicles from Canada. She remarked: "We want to be competitive and offer something that the consumer wants, so we're going to find the lowest mileage vehicles that are available. We personally don't import these vehicles; we have nothing to do with the import process, we just buy them from the people that [import them]."

MS. PETRAM relayed that according to the "General Motors Acceptance Corporation," a warranty is free and an extended service contract is something the consumer pays for. So on the back of the warranty that Lyberger's gives to the customer to replace the manufacturer's warranty, it specifically lists what is not covered on that warranty. In conclusion, she suggested that the way current statute and HB 272 have evolved, they appear to have the goal of eliminating any competition to franchised dealers.

REPRESENTATIVE LYNN asked what percentage of Lyberger's vehicles are Canadian.

MS. PETRAM offered that approximately 50-60 percent of the vehicles that Lyberger's sells are Canadian.

**TAPE 03-50, SIDE A**

Number 0001

CHAIR ANDERSON determined that Lorri Urban from the North American Automobile Trade Association had provided testimony during the May 5 hearing on HB 272, and indicated that the committee would take testimony from those that did not testify at that prior meeting.

Number 0045

BRUCE MUSICK, Affordable Used Cars, said that under HB 272, when a new car is released, there will be a period ranging between 17 and 24 months during which that car can not be sold as a used vehicle. He pointed out that the bill's restrictions will also apply to cars that aren't Canadian, but won't apply to used car

dealers in the Lower 48. He mentioned that many used car dealers in Alaska acquire inventory in the lower 48.

Number 0161

DIANA PFEIFFER, President, Alaska Automobile Dealers Association (AADA); President, Alaska Sales and Service, expressed her support of HB 272. On the issue of odometer readings, she added that franchised automobile dealers have a computer system connected to the manufacturer that allows dealers to verify mileage. She said she did not believe that independent used car dealers have access to that information. She listed the issues that others have already spoken to, and relayed that a lot of people who come into her dealerships don't know how to operate their vehicles. She said that as a franchised automobile dealer, her firm invests millions of dollars in facilities, training, special tools and equipment, and the proper delivery of automobiles to consumers. She noted that since franchise dealers have direct communication with manufacturers, if there are safety issues with [certain] vehicles, a "stop delivery" order or a recall can be issued. She offered an example of one such situation, and said that used car dealers in her area at that time were attempting to sell such cars as "newly used." She offered her belief that Canadian titles do not show liens. In conclusion, she requested the committee's support of HB 272.

Number 0366

RICHARD HIATT, General Service Manager, Alaska Sales and Service, on the issue of how many vehicles are exported from Canada, suggested that in 1996 it was approximately 16,000 vehicles, 200,000 vehicles in 2002, and that the practice is still quite prevalent. He relayed that many people who buy "like new" cars from used car dealers in the area come to Alaska Sales and Service in an effort to get a better understanding of how to operate those vehicles. He opined that those who bring Canadian cars into Alaska for the purpose of reselling them are committing fraud.

Number 0494

DARRELL FRIESS, Budget Car & Truck, said he questions Mr. Hiatt's assertion that 200,000 Canadian vehicles are exported yearly. He relayed that he opposes Section 1 of HB 272, and opined that there is a difference between a new and a used vehicle. He offered his belief that current law already stipulates that a used vehicle is one that has been titled. He

also opined that there should not be any resale restrictions on any vehicle purchased at what he called a recognized auction, and suggested that HB 272 be amended to reflect that point.

Number 0567

MARTEN MARTENSEN, Continental Honda, relayed that Honda took a very firm stance on imported Canadian vehicles, and that many other manufacturers have followed suit. He explained that although people who've bought used Canadian vehicles at local dealers have come to his firm for warranty work, Honda's stance is that it will not provide any kind of assistance for those Canadian vehicles. He opined that even if a person can get an independent shop to honor a warranty on those vehicles, he/she is not getting the same quality of work that can be provided by a franchised dealer.

CHAIR ANDERSON closed public testimony on HB 272.

Number 0686

REPRESENTATIVE ROKEBERG moved to report HB 272, as amended, out of committee with individual recommendations and the accompanying zero fiscal note.

Number 0705

REPRESENTATIVE GUTTENBERG objected. He relayed that when the original legislation passed, there was strong opposition to any consumer protection being built into it, and opined that HB 272 simply continues in that vein. Lacking consideration of the consumer in HB 272, he said he does not support any continuing restructuring of the relationship between auto dealers.

Number 0760

A roll call vote was taken. Representatives Lynn, Dahlstrom, Gatto, Rokeberg, Crawford, and Anderson voted in favor of reporting HB 272, as amended, from committee. Representative Guttenberg voted against it. Therefore, CSHB 272(L&C) was reported from the House Labor and Commerce Standing Committee by a vote of 6-1.

HB 305 - UNEMPLOYMENT COMPENSATION BENEFITS

Number 0770

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 305, "An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date."

CHAIR ANDERSON noted that the House Labor and Commerce Standing Committee is the sponsor of HB 305, and made reference the sponsor statement.

Number 0844

GREG O'CLARAY, Commissioner, Department of Labor & Workforce Development (DLWD), said:

This bill has been long in the coming; ... both bodies of the legislature dealt with a similar bill over the last two years. For reasons unbeknown to most of us, it was not acceptable to folks in the construction industry, on the employers side, and it was hung up in the other body, first in [the Senate Finance Committee] and then in [the Senate Rules Standing Committee]. This is a product, that we bring before you, that's ... a compromise - a total of five meetings with the construction industry representatives, and other employers were also invited to the meetings. ... We didn't have full participation by all of the employers, but those that are impacted the most - the construction industry - [were] involved with organized labor, and this is the compromise piece of legislation.

The only difference in the bill that you passed before and this bill is that the effective dates have been moved forward and the last increment, they split the difference between the original bill that didn't pass and this one. So instead of the top line being as high as [it] was, this will be at ... \$308. ... The net effect of this bill is that it helps the economy of Alaska by putting more money on the street during the off season when [employees] are unemployed, and it keeps skilled workers in Alaska instead of having to go south to look for other employment or to go to places where their costs of living are much lower - ... in many cases, our skilled workers are not coming back to Alaska. And this moves us from number 47 in the nation in terms of the top weekly benefit, to around 28th or 29th. ... The first actual impact on

employers occurs in the year 2006, when their tax rates will be impacted. ...

REPRESENTATIVE ROKEBERG asked whether there is a large surplus in the account these funds are placed in.

Number 0999

PATRICK SHIER, Employment Security Tax, Division of Employment Security, Department of Labor & Workforce Development (DLWD), replied that the "UI Trust Fund" is "self-balancing" and has a balance of approximately \$220 million. In response to other questions, he said that there are 21 different "rate classes," and that employers are assigned to one of those rate classes according to their "experience in prior years." He added:

The experience rating depends only on the industry the first year you come to the [DLWD] and sign up for a brand new business where there is no prior experience. As soon as you have four complete quarters in the rating period, then it's based entirely on your experience as an individual. Or, if you acquire a business ..., for rating purposes you will inherit the ... management practices that they may have had in the past. And the good news is, that goes away; as your management skills come to bear on the bottom line, the payroll would be expected to level out, and as those declines in payroll become more distant ... - 12 quarters is when they fall off the edge of the world - ... the current quarters that you're going through now exert more influence on your rate, and that would be ameliorated.

REPRESENTATIVE ROKEBERG said he would like information on the range of rates that are charged to businesses. Referring to a handout provided by the DLWD, he asked if the tax rate used on one of the pages is the average tax rate and how a tax rate is calculated.

MR. SHIER pointed out that the information being referred to talks about the "average employer tax rate," adding that the lowest rate is "1.0" and the highest is "5.9" and that they are calculated averages that includes the employee portion. He then provided Representative Rokeberg with a few more details on the highest and lowest rates.

REPRESENTATIVE GUTTENBERG said he thought that 13 of the states listed in the handout have automatic "escalators," and asked whether those escalators have been considered when calculating what Alaska's rank would be in 2006.

COMMISSIONER O'CLARAY offered his belief that those escalators were considered, and indicated that the handout merely provides an estimate of what Alaska's ranking would be with passage of HB 305.

Number 1361

JOHN DAVID RAGAN testified in favor of an increase in unemployment benefits, adding that it is of particular importance to those in the construction industry in Alaska. He expressed dissatisfaction that "labor" bills are heard last in the committee, because this results in the people who've come to testify having to leave before getting a chance to speak.

MR. RAGAN, in response to a question, said that in the construction industry there are times when there is a lot of work and there are times when there isn't any work; thus a lot of people depend on unemployment benefits.

Number 1470

RON PECK, President, Alaska Travel Industry Association (ATIA), relayed some details of the tourism industry, said the ATIA is not opposed to HB 305, and asked that a complete analysis be done on the bill with regard to how it applies to the tourism industry before being moved from committee.

Number 1508

PAMELA LaBOLLE, President, Alaska State Chamber of Commerce (ASCC), said that the ASCC has been very involved with this issue the last three years, and suggested that the statistics provided in the past by the DLWD were misleading because of the way they were presented. She noted that Alaska is one of five states that offers an additional "dependent benefit," and opined that if one were to calculate that additional benefit into the statistics presented, Alaska would reach what she called the "national goal of the UI program." She referred to statistics provided two years ago and offered some calculations based on those statistics.

MS. LaBOLLE pointed out that although there is a zero fiscal note because there is no cost to the state for this legislation, she has not heard the DLWD offer any information regarding how much the proposed increases will cost employers and employees. She predicted that whatever the increase is, employers will pay for 80 percent of it and employees will pay for the remaining 20 percent. She asked the DLWD to provide her with information regarding the cost to employers and the cost per employee based on the average tax rate. She opined that employers other than those in the construction industry ought to be given the opportunity to weigh in on this issue, and suggested that the bill failed in the past because those in favor of the legislation refused to compromise on the increase amount.

CHAIR ANDERSON offered his belief that it is important for this legislation to move forward.

MS. LaBOLLE expressed concern that HB 305 would move forward without the committee knowing what the cost will be to employers.

REPRESENTATIVE CRAWFORD pointed out that any increase in employer costs would not occur until 2006. He remarked that he is disappointed in HB 305, and relayed that although he had considered sponsoring similar legislation, he'd opted to forego that idea because he'd hoped that the task force which developed HB 305 would have come up with "a fair and equitable return." He suggested that he would support HB 305 if it can get adopted this year, but if it gets delayed in the process, he will go ahead and sponsor legislation more to his liking. He said that he would like to see an increase that allows people to reach the national goal without the addition of the dependant benefit. He added:

I know that we're losing good, skilled iron workers because they go down to the Lower 48 and they don't come back because our unemployment is so low here [that] they can't afford to stay through the ... slack times in employment. So we've got to do something about this, and it's gone on too long.

Number 1881

REPRESENTATIVE DAHLSTROM moved to report HB 305 out of committee with individual recommendations and the accompanying zero fiscal note.

Number 1888

REPRESENTATIVE ROKEBERG objected. He opined that the committee did not yet have enough information regarding costs to the employer.

REPRESENTATIVE GUTTENBERG mentioned that although he'd considered sponsoring similar legislation that would have provided for a bigger increase, he too had opted to see what the task force developed. He offered that perhaps the information the ASCC is seeking was presented at the aforementioned task force meetings, but the ASCC chose neither to attend those meetings nor send someone to represent its members. Noting that the ASCC consistently talks about maintaining a competent, qualified workforce, he pointed out that having adequate UI benefits is one small step towards retaining that kind of workforce - it is one small incentive for qualified workers to stay in Alaska during seasons when there is no work.

COMMISSIONER O'CLARAY indicated that the DLWD would provide the information requested - to Ms. LaBolle on Monday, and to Representative Rokeberg before HB 305 is heard on the House floor.

CHAIR ANDERSON noted that committees often move bills out with the understanding that information will be forthcoming during the process.

REPRESENTATIVE ROKEBERG opined that HB 305's next committee of referral will not have time to adequately address the issues that concern him, and suggested that the committee refrain from moving the bill until the requested information is presented to the committee. He relayed that he did not know who attended the aforementioned task force meetings or whether small business was adequately represented.

CHAIR ANDERSON announced that that information would also be forthcoming.

REPRESENTATIVE GATTO surmised that the bill's next committee of referral will be relying on this committee's recommendations, and relayed that he cannot offer a recommendation at this time because of a lack of information. He added that he would be leaving in order to avoid having to vote on a bill that he doesn't want to see moved yet.

Number 2089

A roll call vote was taken. Representatives Guttenberg, Lynn, Dahlstrom, Crawford, and Anderson voted in favor of reporting HB 305 from committee. Representative Rokeberg voted against it. Therefore, HB 305 was reported from the House Labor and Commerce Standing Committee by a vote of 5-1.

**ADJOURNMENT**

Number 2101

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:40 p.m.