

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

May 3, 2004

4:30 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative David Guttenberg

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Alcoholic Beverage Control Board

Duane S. Udland - Anchorage
- CONFIRMATION(S) ADVANCED

State Assessment Review Board

Allen S. Black - Palmer
Patrick S. Carlson - Kodiak
- CONFIRMATION(S) ADVANCED

Board of Marine Pilots

Robert J. Arts - Anchorage
- CONFIRMATION(S) ADVANCED

Alaska Workers' Compensation Board

Valarie L. Allmon - Anchorage
Chris N. Johansen - Fairbanks

David Kester - Anchorage

James (Jay) N. Rhodes - Ketchikan

Patricia A. Vollendorf - Anchorage

- CONFIRMATION(S) ADVANCED

State Board of Registration for Architects, Engineers, and Land Surveyors

Craig Fredeen - Eagle River

- CONFIRMATION(S) ADVANCED

Board of Barbers and Hairdressers

Debra Long - Fairbanks

Joylene Marrs - Anchorage

Angela J. Rosas - Houston

Larry Allen Ungerecht - Anchorage

- CONFIRMATION(S) ADVANCED

CS FOR SENATE BILL NO. 357(FIN)

"An Act relating to the regulation of insurance, insurance licenses, qualifications of insurance producers, surplus lines, fraud investigations, electronic transactions, and compliance with federal law and national standards; and providing for an effective date."

- MOVED HCS CSSB 357(L&C) OUT OF COMMITTEE

SENATE BILL NO. 389

"An Act relating to the conversion of certain corporations to limited liability companies; and providing for an effective date."

- MOVED SB 389 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 365(FIN)

"An Act relating to the regulation of speech-language pathologist assistants; and providing for an effective date."

- MOVED CSSB 365(FIN) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 357

SHORT TITLE: INSURANCE

SPONSOR(S): LABOR & COMMERCE

03/01/04 (S) READ THE FIRST TIME - REFERRALS
03/01/04 (S) L&C, FIN
03/09/04 (S) L&C AT 1:30 PM BELTZ 211
03/09/04 (S) Heard & Held
03/09/04 (S) MINUTE(L&C)
03/23/04 (S) L&C AT 1:30 PM BELTZ 211
03/23/04 (S) Moved CSSB 357(L&C) Out of Committee
03/23/04 (S) MINUTE(L&C)
03/24/04 (S) L&C RPT CS 2DP 3NR SAME TITLE
03/24/04 (S) NR: BUNDE, FRENCH, STEVENS G;
03/24/04 (S) DP: SEEKINS, DAVIS
03/31/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/31/04 (S) Heard & Held
03/31/04 (S) MINUTE(FIN)
04/01/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
04/01/04 (S) Heard & Held
04/01/04 (S) MINUTE(FIN)
04/02/04 (S) FIN RPT CS 3DP 3NR SAME TITLE
04/02/04 (S) DP: WILKEN, GREEN, STEVENS B;
04/02/04 (S) NR: DYSON, OLSON, BUNDE
04/02/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
04/02/04 (S) Moved CSSB 357(FIN) Out of Committee
04/02/04 (S) MINUTE(FIN)
04/16/04 (S) TRANSMITTED TO (H)
04/16/04 (S) VERSION: CSSB 357(FIN)
04/19/04 (H) READ THE FIRST TIME - REFERRALS
04/19/04 (H) L&C
04/21/04 (H) FIN REFERRAL ADDED AFTER L&C
04/30/04 (H) L&C AT 3:15 PM CAPITOL 17
04/30/04 (H) -- Meeting Canceled --
05/01/04 (H) L&C AT 3:00 PM CAPITOL 17
05/01/04 (H) -- Meeting Canceled --
05/03/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
05/03/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: SB 389

SHORT TITLE: CORP. CONVERSION TO LIMITED LIABILITY CO.

SPONSOR(S): LABOR & COMMERCE

04/15/04 (S) READ THE FIRST TIME - REFERRALS
04/15/04 (S) L&C
04/20/04 (S) L&C AT 2:00 PM BELTZ 211
04/20/04 (S) Moved SB 389 Out of Committee
04/20/04 (S) MINUTE(L&C)
04/21/04 (S) L&C RPT 3DP 2NR
04/21/04 (S) NR: BUNDE, FRENCH;
04/21/04 (S) DP: DAVIS, SEEKINS, STEVENS G
04/27/04 (S) TRANSMITTED TO (H)
04/27/04 (S) VERSION: SB 389
05/01/04 (H) READ THE FIRST TIME - REFERRALS
05/01/04 (H) L&C, FIN
05/03/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: SB 365

SHORT TITLE: SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS
SPONSOR(S): LABOR & COMMERCE

03/17/04 (S) READ THE FIRST TIME - REFERRALS
03/17/04 (S) L&C, FIN
04/01/04 (S) L&C AT 1:30 PM BELTZ 211
04/01/04 (S) Moved SB 365 Out of Committee
04/01/04 (S) MINUTE(L&C)
04/02/04 (S) L&C RPT 3DP 1NR
04/02/04 (S) DP: BUNDE, SEEKINS, DAVIS; NR: FRENCH
04/16/04 (S) FIN RPT CS 3DP 1NR SAME TITLE
04/16/04 (S) DP: BUNDE, HOFFMAN, STEVENS B;
04/16/04 (S) NR: OLSON
04/16/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
04/16/04 (S) Moved CSSB 365(FIN) Out of Committee
04/16/04 (S) MINUTE(FIN)
04/26/04 (S) TRANSMITTED TO (H)
04/26/04 (S) VERSION: CSSB 365(FIN)
05/01/04 (H) READ THE FIRST TIME - REFERRALS
05/01/04 (H) L&C, FIN
05/03/04 (H) L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

MICHAEL LESSMEIER, Lobbyist
for State Farm Insurance
Juneau, Alaska

POSITION STATEMENT: Offered support for SB 357, but stated his disappointment that the bill does not address the problem of availability of insurance.

SENATOR CON BUNDE

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As chair of the Senate Labor and Commerce Committee, sponsor of SB 357, introduced the bill.

LINDA HALL, Director
Division of Insurance
Department of Community & Economic Development
Juneau, Alaska

POSITION STATEMENT: Explained the major points of SB 357 and answered questions.

JANE ALBERTS, Staff
to Senator Con Bunde
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 389 and SB 365 as committee aide to the Senate Labor and Commerce Standing Committee, sponsor of the bills, and answered questions.

MARK HICKEY, Lobbyist
Aleut Enterprise Corporation
Juneau, Alaska

POSITION STATEMENT: Explained SB 389 and answered questions.

CHUCK HARLAMERT
Juneau Section Chief
Tax Division of Administrative Services
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of SB 389.

LAURA YOUNG-CAMPBELL, Speech-Language Pathologist
Matanuska-Susitna School District;
Member,

Alaska Speech-Language Hearing Association
Wasilla, Alaska

POSITION STATEMENT: Testified during the discussion of SB 365 and answered questions.

ACTION NARRATIVE

TAPE 04-50, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 4:30 p.m. Representatives

Anderson, Dahlstrom, Lynn, and Rokeberg were present at the call to order. Representatives Gatto and Crawford arrived as the meeting was in progress.

Number 0056

CHAIR ANDERSON announced that the first order of business would be the confirmation hearings for 14 of the governor's appointments to various boards as listed above in the committee calendar. He noted that each committee member was provided with the names and resumes for each of the 14 appointments and that the committee made no requests of the appointees to answer questions before the committee. He said he took the lack of requests as there being no objections to the group.

CHAIR ANDERSON requested that each member sign the confirmation committee report and noted that each member's signature does not reflect the member's vote during the joint floor session.

[The confirmation of the 14 appointments was advanced from the House Labor and Commerce Standing Committee.]

CHAIR ANDERSON noted that the governor removed the name of James Spaulding from the Alaska Labor Relations Agency appointment.

SB 357-INSURANCE

Number 0170

CHAIR ANDERSON announced that the next order of business would be CS FOR SENATE BILL NO. 357(FIN), "An Act relating to the regulation of insurance, insurance licenses, qualifications of insurance producers, surplus lines, fraud investigations, electronic transactions, and compliance with federal law and national standards; and providing for an effective date."

Number 0175

MICHAEL LESSMEIER, Lobbyist for State Farm Insurance, offered support for SB 357, but stated his disappointment that the bill does not address the problem of availability of insurance. Looking at the cover of the director's 65th annual report, he spoke about the challenges of the lack of availability of insurance products in various lines of coverage ranging from workers' compensation to contractors' general liability to home owners' coverage. He reported that Alaska is almost last in the

area of the number of insurer groups or nonaffiliated companies with at least .1 percent of the 2002 direct written premium market share. "For private passenger auto we've got 19 companies in this state, for homeowners we've got 15," he related. He said that this problem would manifest itself in the legislature on a piecemeal basis over and over again until something is done on a broader scale.

MR. LESSMEIER referred to an April 19 Auto Insurance Report that focused on Alaska, and he quoted from page 5, "You would think that a state with no size, little recent profit and personalized, and virtually no competitors, would be anxious to keep insurers happy. You would also be wrong. Alaska has a very strict prior-approval regime which one market player described as a quagmire." If you looked at the market share of who has what insurance in Alaska, it would probably scare you even more, he said. If you looked at home owners' insurance you would see that State Farm has 32.5 percent of the market and Allstate has 30 percent and then it drops to 5 percent. If you look at medical malpractice you can see that only two companies are writing that kind of insurance in this state, he said. He maintained that it is not healthy for the insurance market to have those kinds of numbers.

Number 0458

MR. LESSMEIER proposed that the state get out of the business of regulating insurance like many other states have. He quoted one of the leading experts in this area, Dr. Phillip O'Connor(ph) who said, "Virtually every bit of reputable, academic, and governmental research conducted over the past 30 years either concludes that reliance on competitive pricing in insurance produces an appreciable, tangible, consumer benefits. The essence of the story is that we have a level of consensus rare in the social sciences and studies of government policy."

MR. LESSMEIER noted that he has drafted a proposed amendment, labeled I.4, that was worked on with the [Department of Community & Economic Development], Division of Insurance, but was not completely finished. He said he hopes to work more on it over the summer and make progress in three areas. He proposed to go from prior approval to "use and file" where insurers are allowed to compete, and which has been successfully done in several states, leading to more stable markets and better prices. He said that one of the keys is much greater availability. The second proposal is to go to a "use and file" system for forms, as well. That would open up the market, he

opined. Consumers need protection in market conduct, in claims and in solvency, but not in price, he explained. The third fix is a self-critical analysis privilege, which was introduced by then-Senator Taylor several years ago, he said. He concluded by saying that he hopes to find a solution to this problem by next year.

CHAIR ANDERSON thanked Mr. Lessmeier for his testimony and for deferring his amendment until next session.

Number 0731

REPRESENTATIVE ROKEBERG said that no one had brought this [issue] to his attention prior to the session and he suggested that it is really important for Mr. Lessmeier and other members of the [insurance] industry to work during the interim to educate legislators about proposed remedial legislation such as this. He also brought up a concern about the lack of availability of homeowners' insurance and how it related to the recent mold issue. He asked Mr. Lessmeier to speak to that problem.

MR. LESSMEIER said that there was an Allstate filing for mold exclusion which was not approved, and which resulted in a moratorium on homeowners' policies. He emphasized that there are going to be even more problems if the market situation is not improved in terms of the dominance of two companies.

REPRESENTATIVE ROKEBERG related that the lack of availability of homeowners' policies is a national problem, which has had an impact on the Alaskan market and needs to be addressed.

Number 0980

SENATOR CON BUNDE, Alaska State Legislature, as chair of the Senate Labor and Commerce Committee, sponsor of SB 357, introduced the bill. He said the bill is by request of the administration and has some interesting, esoteric questions about insurance in it.

Number 0989

LINDA HALL, Director, Division of Insurance, Department of Community & Economic Development, explained the major points of SB 357. She began by thanking Mr. Lessmeier for waiting to make his amendment. She said that changes do need to be made in the marketplace and in the regulatory system, and that she is very

much in favor of looking at something else besides the current prior approval system. Alaska is one of the very few states left that does prior approval for rates, she added. She stated her commitment to working over the interim toward a solution agreeable to all parties involved. She agreed that there is a need for more markets.

MS. HALL noted that the Allstate mold issue has been finalized and that it does point out some of the types of issues "we get into." She said she is concerned about the homeowners' market because of the mold problems, but also because of water claims issues and other unattractive attributes associated with Alaska. She stated her commitment toward working with industry toward a major change in the system.

Number 1119

MS. HALL reported that Version I of the bill is the [Senate Finance committee substitute (CS)] and it has six major areas of proposed changes, which would ensure that Alaska statutes are consistent with federal law and with some of the model Acts and standards of the National Association of Insurance Commissioners (NAIC). "Some are required for our accreditation process, others have come about as a result of industry task force meetings," she said. One of the major changes is electronic communication and there are three sections in the bill that provide for various communications to be performed electronically, she reported. She said communication with the public, for both insurers and licensees, is being improved.

MS. HALL explained that the second area of the bill deals with late tax payments. There are four sections that revise penalties for late payments and that make the tax statutes more consistent with the Department of Revenue. Currently, there is a \$100-a-day late penalty for late taxes, or 25 percent. "If you're a day late, you pay 25 percent of your tax premium. That seemed excessive," she related. It also adds a \$10,000 penalty for willful late taxes that did not exist before, she said.

MS. HALL reported that the major changes in the reinsurance section of the bill is the most technical piece of the bill. She explained:

Reinsurance is the insurance insurance companies buy to take part of the risk away from their capital and surplus. We have a couple sections here that require insurance - and one of the changes that was done in

the Senate Labor and Commerce [Committee] was to make reinsurance contracts available to the Division of Insurance. We had asked originally to have them approved by us - that was not very acceptable and we understood that - so we are asking, however, that we be able to have a signed copy of the reinsurance contracts.

Number 1236

MS. HALL reported that the fourth major change [in the bill] is in the licensing sections and is done to make Alaska consistent with the NAIC Producer Licensing Model Act. "We have added crop [insurance] licenses, we have eliminated trainee licenses, we've tried to remove some barriers for people to become licensed, and we're requiring that surplus lines brokers be licensed, either as producers or as managing general agents," she said.

MS. HALL explained that the fifth area of change deals with surplus lines. "Last summer we convened a task force of industry representatives and worked through our surplus lines statutes and regulations to determine what really works in our marketplace to make it more efficient, to make it reflect actual practices," she said. One of the changes is an emergency provision that would allow for the placement of health insurance in a surplus lines market in cases where it is found to be in the best interest of the public, she explained. It was a suggestion from Washington, which suffered a health insurance crisis a few years ago. She termed it a "cautionary measure" and said that there are standards that have to be met before it could occur.

MS. HALL continued to say that there are changes to document requirements in Section 33, and responsibilities for surplus lines placements have been added for producing brokers.

Number 1318

MS. HALL pointed out that the sixth area of change is fraudulent activity. "Section 41 of the bill provides that a person involved in the prevention and detection of fraudulent insurance act would not be subject to civil liability when filing a report or when furnishing information to others involved in the prevention and detection of fraudulent insurance act," she explained. It allows the fraud department of insurer A to talk to the fraud department for insurer B, she said. There are frequently multiple insurance companies involved in fraud in

insurance. "We would like them to be able to talk to each other. Currently they can only talk to us," she said. This was the number one request of the chief investigator, she added.

MS. HALL continued to discuss the changes in the bill. In the Senate Finance CS, in Section 2, [paragraph 2] an "and" was changed to an "or" with the intent being that any one of the criteria in this section could make a contract invalid in Alaska.

Number 1412

REPRESENTATIVE LYNN disclosed that one of his daughters is the vice president of the Reinsurance Association of America in Washington, DC.

CHAIR ANDERSON asked that Representative Lynn still vote on this bill.

Number 1437

CHAIR ANDERSON moved to adopt Amendment 1, labeled 23-LS1684\I.5, Bullock, 4/27/04.

REPRESENTATIVE DAHLSTROM objected for discussion purposes.

MS. HALL explained that one of the problems in the market today is that the assigned risk pool has lost money for at least the last six years. Five of those years Alaska had the highest loss of any state in the country, she reported. That loss has contributed to making Alaska an unattractive market for workers' compensation insurers. [Amendment 1] is a proactive statement that would require that the assigned risk pool would be self-funding during any consecutive three-year period, she said. "We feel strongly that the assigned risk pool should support itself and not be subsidized by insurers," she concluded.

REPRESENTATIVE ROKEBERG asked if the high-risk pool is currently subsidized by other carriers who participate in workers' compensation.

MS. HALL replied this is correct. They pay the difference between the cost of claims and the premiums collected, she added.

REPRESENTATIVE ROKEBERG asked if the premiums collected are based on rates established by the [Division of Insurance].

MS. HALL said it is ultimately approved by the Division of Insurance.

REPRESENTATIVE ROKEBERG asked if the [new] language will give the [Division of Insurance] the flexibility over time to try to close the gap.

MS. HALL said yes. In the worker's compensation reform bill there is a provision that would eliminate the current 25 percent statutory cap on the differential between voluntary rates and rates in the assigned-risk pool, she explained. This is a proactive way of stating the pool needs to be self-funding. The regulations currently say it should be self-funding, she added.

REPRESENTATIVE ROKEBERG inquired if there will be two different statutes if the other bills don't pass.

MS. HALL said that there would be a 25 percent cap in that case, which would make this impossible to do.

REPRESENTATIVE ROKEBERG said that there would be two statutes at odds with each other.

MS. HALL said she didn't know if they would be at odds with each other, but it would prevent the full intent of this bill from being implemented.

REPRESENTATIVE ROKEBERG asked how much more has to be paid for a person to be in the assigned-risk pool.

Number 1586

MS. HALL responded that currently there is an abnormal number of small policies. The average premium in the assigned-risk pool in the under \$10,000 premium is \$864, she said. The average claim size in Alaska today is in excess of \$19,000, so when there is an \$800 policy average and a \$19,000 claim, it takes roughly 8,000 policies with a premium of less than \$10,000. That \$3,000 exemption from the 25 percent surcharge is part of what has created this gap, she said.

REPRESENTATIVE ROKEBERG noted that the smaller premiums end up being more subsidized.

Number 1638

REPRESENTATIVE DAHLSTROM removed her objection to Amendment 1.

[Amendment 1 was treated as adopted.]

Number 1646

CHAIR ANDERSON moved to adopt Amendment 2, labeled 23-LS1684\I.7, Bullock, 5/3/04.

REPRESENTATIVE DAHLSTROM objected for discussion purposes.

MS. HALL explained that Amendment 2 will alleviate a problem due to insolvencies. Currently, the difference between claims collected and claims paid out is assessed back to insurance companies, she said. That is not assessed to policyholders, so it becomes a direct insurer obligation. "When an insurance company becomes insolvent, their share of that loss is reallocated among those left standing, so to speak," she said. Amendment 2 would require insurance companies who have to brook lost reserves for the assigned risk pool, to collateralize those with a deposit, so when that insolvent insurer cannot pay their portion of the assigned-risk losses, that money would be available for the guaranteed fund, she related.

REPRESENTATIVE ROKEBERG asked how this would have applied in the Fremont situation.

MS. HALL said that if [Amendment 2] had been in place the money would have been available to be drawn into the guaranteed fund.

REPRESENTATIVE ROKEBERG asked how much money that would be.

MS. HALL replied, "We're asking that the full amount of their loss reserves be collateralized."

REPRESENTATIVE ROKEBERG asked if that would be a disincentive for new entries into the market.

MS. HALL said, "This has been a vision that industry has supported and put forward, so I don't see it as a detriment. And we've had wide support. In the work comp reform bill we have done an increased deposit already. On the regular voluntary market this is the comparable piece of that for the assigned-risk pool, and I've not had any insurer object to this."

REPRESENTATIVE ROKEBERG asked if other states have this type of provision.

MS. HALL said no, but NCCI Holdings, Inc. who administers assigned-risk pools is looking very carefully at this. "They currently have a provision where if an insurance company Amvest rating drops below an A-, they start asking for percentages to be collateralized. That has not been very effective because by the time their Amvest rating has dropped, they don't have any money and it's difficult to collect it." She reported that NCCI is looking at this idea on a national level.

REPRESENTATIVE ROKEBERG asked if NAIC has a position on this.

MS. HALL said she has not seen anything from NAIC.

Number 1780

REPRESENTATIVE CRAWFORD asked how the deposits are still able to be used.

MS. HALL replied, "They can't physically use the money. They can count for that for part of their capital surplus requirements. The money is there to be considered as assets in their financial statements. ... We're asking them to take part of their capital and put it in an account set aside, [so] that if they become insolvent, in this case, State of Alaska, Division of Insurance, would have first right to that money as opposed to their estate in an insolvency."

REPRESENTATIVE CRAWFORD said, "As long as they're in business, they never get to use that again."

MS. HALL replied that they don't get to physically have use of that money. She pointed out that they have to keep a certain level of surplus to be able to "write business" and this would be included in that surplus count in a financial accounting as an asset.

REPRESENTATIVE CRAWFORD said, "So, all we're really doing is upping the amount of reserves that they have."

MS. HALL said correct.

Number 1871

REPRESENTATIVE ROKEBERG asked for clarification on the assigned-risk pool reserves.

MS. HALL replied, "Every quarter NCCI, as the pool and plan administrator, sends insurance companies a billing - some of it's cash, and sometimes - always - there is a change in reserves, it can either be up or down, and if the reserves went up, they would need to increase their deposit. So it's based on just the reserves they're required to book through the plan administrator, and their obligation to the assigned-risk pool."

REPRESENTATIVE ROKEBERG asked what that is based on.

MS. HALL replied, "Market share. If you have 50 percent market share, you'd have 50 percent of the loss reserve obligations for the pool," she added.

REPRESENTATIVE ROKEBERG asked if previously the current amount of the deposit was held in [the insurer's] own balance sheet and asset base rather than in an in-state bank.

MS. HALL said, "This would be able to be used where we can't attach - Fremont assets, for example ... there's still money there - but we can't get that. It's spread out among all of the creditors, currently policyholders and claimants, but this would be a special set-aside for the insolvent insurer's obligations to the assigned-risk pool."

REPRESENTATIVE DAHLSTROM removed her objection to Amendment 2.

[Amendment 2 was treated as adopted.]

Number 1942

REPRESENTATIVE ROKEBERG moved to report CSSB 357(FIN), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 357(L&C) was reported from House Labor and Commerce Standing Committee.

SB 389-CORP. CONVERSION TO LIMITED LIABILITY CO.

CHAIR ANDERSON announced that the next order of business would be SENATE BILL NO. 389, "An Act relating to the conversion of certain corporations to limited liability companies; and providing for an effective date."

Number 1978

JANE ALBERTS, Staff to Senator Con Bunde, Alaska State Legislature, presented SB 389 as committee aide to the Senate Labor and Commerce Committee, sponsor of the bill. She explained that the bill was introduced at the request of several Alaska Native Corporations (ANCs).

Number 2005

MARK HICKEY, Lobbyist, Aleut Enterprise Corporation, explained that the bill is a housekeeping measure and that a number of the ANCs support it. He said it makes one change. Current law allows a number of business entities to convert from their status as a business entity to that of a limited liability company. Current law does not include corporations in that list, and the bill would allow a corporation that is a subsidiary to be converted, which ensures no tax loss to the state, he related. He stated that there is a zero fiscal note from the Department of Revenue. The change could be done without this bill, but it would be much more cumbersome, he said. He pointed out that there are letters of support in the members' packets.

REPRESENTATIVE ROKEBERG asked if Title 10 is applicable to all corporations or just to ANCs.

MR. HICKEY said, "All corporations." He noted that it is especially applicable to regional corporations, but the change is applicable to any corporation in the state that is a subsidiary.

REPRESENTATIVE ROKEBERG asked if there is a witness from the Department of Revenue.

Number 2145

CHUCK HARLAMERT, Juneau Section Chief, Tax Division of Administrative Services, Department of Revenue, introduced himself.

REPRESENTATIVE ROKEBERG asked if a C-type corporation is currently able to make a conversion to a limited liability company (LLC).

MR. HARLAMERT replied that a business could certainly reorganize and become an LLC, but state law does not allow it to change its status from a corporation to an LLC.

REPRESENTATIVE ROKEBERG asked if that is what the bill does.

MR. HARLAMERT replied that from his understanding, it does.

REPRESENTATIVE ROKEBERG asked how it happens.

MR. HARLAMERT said he assumes that the company hires an attorney to file [the new status] with the Department of Commerce.

Number 2208

MR. HICKEY referred to page 1, lines 9-13, [of SB 389] and pointed out that that is existing law, which is the list in Title 10 that allows for a conversion to a LLC. Adding in the change on the top of page 2 would allow corporations that are a subsidiary to have the authority to convert to a LLC, he explained. The Department of Law and The Department of Economic and Community Development helped to draft this change, he said.

REPRESENTATIVE ROKEBERG asked if it is [subsection] (j) or [subsection] (l).

MR. HICKEY said [subsection] (j).

REPRESENTATIVE ROKEBERG said it is only for subsidiaries and is not a "free pass" for C-corporations to make a direct conversion.

CHAIR ANDERSON said that in the [Tax Division] fiscal note it says:

Pursuant to federal income tax law, a limited liability company ("LLC") is an entity that is not automatically classified as a corporation. The default classification of a multimember business entity organized as an LLC is a partnership and the default classification of a single member business entity organized as an LLC is a disregarded entity where the owner is the taxpayer. The LLC may instead, however, elect to be taxed as a corporation in lieu of a default classification.

REPRESENTATIVE ROKEBERG stated that public policy is to not allow for a very quick conversion from a C-corporation to an LLC for tax reasons.

CHAIR ANDERSON said that is why he read the fiscal note into the record. He continued to read, "An LLC taxable as a corporation for federal income tax purposes is subject to the Alaska Corporation Net Income Tax in the same manner as any other corporation." He asked how the fear of changing status for tax reasons might be quelled.

Number 2302

MR. HICKEY said the question also came up on the other side. "The tax consequence at the state level is zero. We pay - in our case we're consolidated with the parent - we pay at the parent ... level which has the obligation for corporate income tax based on earnings," he said. The desire to become an LLC is not a tax issue, but is because it is cheaper to operate and a full board will not be required. "It's also a governance issue - the SBA (Small Business Association) rules required a fair amount of arm's length arrangement with the subsidiary board so we could not, in the past, have members from our parent board sit on the board of subsidiaries," he explained. "This will give us tighter control," he said.

TAPE 04-50, SIDE B

Number 2327

MR. HICKEY continued to say that the bill was designed so that there is no state tax consequence, which would not have been the case if the bill had been broadened to just "corporations".

REPRESENTATIVE ROKEBERG said he assumes one reason Mr. Hickey would like to make this change is if he has joint venture operations then it would be easier to form under an LLC. He asked if that is correct.

MR. HICKEY replied, "Well, we want to protect the ability to do joint venture and that's why it's by one or more parent corps. But the tax consequence with that case will, based on your level of ownership, will accrue with each corporation, so we have 80 percent ownership, we'll have 80 percent."

REPRESENTATIVE ROKEBERG said the point he was getting to is, "You're actually not going to really be doing that as a tax avoidance method for Alaska corporate taxes because ultimately

you'd have to return your net profits back to the parent corporation at which time there'd be a tax" He asked if that is correct.

Number 2288

MR. HARLAMERT replied that the LLC is a non-entity for tax purposes. It's either going to be treated as a partnership or the income goes to the owners as it's earned and it's taxed as it's earned.

REPRESENTATIVE ROKEBERG asked if a class C-corporation could be an owner of an LLC.

MR. HARLAMERT replied absolutely. They could still elect tax treatment of that LLC as a partnership where they pay the tax on the income as it's earned, or to treat it as a corporation. Generally, it would be consolidated, and the same result, he added.

Number 2250

REPRESENTATIVE LYNN moved to report SB 389, Version 23-LS1923\D, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 389 was reported from the House Labor and Commerce Standing Committee.

SB 365-SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS

CHAIR ANDERSON announced that the final order of business would be the CS FOR SENATE BILL NO. 365(FIN), "An Act relating to the regulation of speech-language pathologist assistants; and providing for an effective date."

Number 2229

JANE ALBERTS, Staff to Senator Con Bunde, Alaska State Legislature, presented SB 365 as committee aide to the Senate Labor and Commerce Standing Committee, sponsor of the bill. This bill establishes registration of speech-language pathologist assistants through the department of occupational licensing, she explained. Currently, speech pathology assistants (SLPAs) in Alaska are not licensed or regulated like similar professions of physical and occupational therapy assistants. The bill outlines qualifications and training required to be an SLPA, their scope of practice, supervision,

and continuing education requirements, she reported. She continued:

The bill will mandate that SLPAs be regulated and supervised, which insures that the consumer is receiving appropriate language services. This will increase the frequency of services to clients while maintaining service quality. The use of the SLPAs will be crucial in rural and remote regions in Alaska, and may be some of the only ways that folks needing those services in these areas will be able to get their services, and that's through the use of these assistants.

There's currently a shortage of qualified SLPAs in Alaska. I believe there's about 230 currently in the state. This bill will give credentials and supervised authority to SLPAs to administer specific services to clients once they are reviewed by the speech-language pathologist. It must be made clear, however, that the use of an SLPA is not meant to replace the work of a speech-language pathologist, but to extend their services. Currently SLPAs are licensed through the Department of Economic Development.

There were a couple changes made in Senate Finance to this bill that were technical language changes that clarified that the SLPAs could not conduct feeding and swallowing screenings. Apparently, in this industry, that's very technical screening that can only be done by a licensed speech pathologist. There were four technical changes made in Senate Finance to this bill.

MS. ALBERTS noted that the fiscal note is fee-based with a biennial registration fee of approximately \$133.

Number 2093

LAURA YOUNG-CAMPBELL, Speech-Language Pathologist, Matanuska-Susitna School District; Member, Alaska Speech-Language Hearing Association, testified that her workload has increased significantly due to paperwork and other duties created by Individuals with Disabilities Education Act (IDEA) and No Child Left Behind, and that has caused her to have less time to work with students. An assistant would be able to help take on duties such as scheduling meetings with parents, provide prescribed therapy, and follow a treatment plan for students

with disabilities, she explained. An assistant would allow the students to complete their Individual Education Plan (IEP) goals faster and allow them to return to the classroom and experience academic success. An assistant would also be a cost saving to the school district and to the state when the time frame for the treatment plan is cut down, she opined. An assistant would also enable smaller teaching groups, which, according to the National American Speech-Language-Hearing Association, allows for faster progress by children. The SLPA would be supervised by a speech-language pathologist and would have a specific scope of practice to follow, she concluded.

Number 2023

REPRESENTATIVE GATTO thanked Ms. Campbell for the work she does. He pointed out that his minor was in speech pathology and he said he understands the amount of paperwork that is involved in her job.

REPRESENTATIVE ROKEBERG asked if there is an existing board which would supervise the SLPAs.

MS. YOUNG-CAMPBELL replied that it would be through the [Division] of Occupational Licensing, [Department of Community and Economic Development].

REPRESENTATIVE ROKEBERG asked if there is a board for speech-language pathologists.

MS. YOUNG-CAMPBELL replied no.

Number 1984

REPRESENTATIVE ROKEBERG asked if speech-language pathologists are currently licensed under occupational licensing.

MS. YOUNG-CAMPBELL said that some are [licensed] through the [Division] of Occupational Licensing and some are [licensed] through the Department of Education.

CHAIR ANDERSON asked if this bill would bring all licensing under one statute.

MS. YOUNG-CAMPBELL replied that it is only for assistants. Both the Department of Education and the Division of Occupational Licensing would follow the bill's guidelines when hiring [SLPAs], she explained.

REPRESENTATIVE ROKEBERG asked if this bill is needed to set up a competency level for SLPAs.

MS. YOUNG-CAMPBELL said yes.

REPRESENTATIVE ROKEBERG asked if there is a minimum level of education required.

MS. YOUNG-CAMPBELL replied that Prince William Sound Community College has a two-year SLPA program and 100 hours of supervised clinical practice, which fall under the guidelines of the No Child Left Behind Act.

REPRESENTATIVE ROKEBERG asked if a person would have to go to Valdez to get this degree.

MS. YOUNG-CAMPBELL said that it is a distance-delivery program and it is currently the only program in Alaska.

Number 1863

CHAIR ANDERSON closed public testimony.

Number 1855

REPRESENTATIVE DAHLSTROM moved to report CSSB 365(FIN), Version 23-LS0540\S, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 365(FIN) was reported from the House Labor and Commerce Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:30 p.m.