

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 9, 2012

3:23 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Craig Johnson, Vice Chair
Representative Dan Saddler
Representative Steve Thompson
Representative Lindsey Holmes
Representative Bob Miller

MEMBERS ABSENT

Representative Mike Chenault

COMMITTEE CALENDAR

HOUSE BILL NO. 326

"An Act requiring health care insurers to offer a child-only policy; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 202

"An Act relating to the sale of food products by the producer to the consumer."

- HEARD & HELD

HOUSE BILL NO. 259

"An Act establishing procedures and guidelines for auditing pharmacy records; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 122(L&C)

"An Act relating to research on and examination of titles; relating to residency requirements for title insurance limited producers; relating to real estate transfer fees; and providing for an effective date."

- MOVED HCS CSSB 122(L&C) OUT OF COMMITTEE

CS FOR SS FOR SENATE BILL NO. 51(L&C)

"An Act relating to the operation of vending facilities on public property."

- TABLED

HOUSE BILL NO. 266

"An Act relating to the practice of naturopathy; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 326

SHORT TITLE: CHILD-ONLY HEALTH CARE COVERAGE

SPONSOR(S): REPRESENTATIVE(S) GUTTENBERG

02/17/12	(H)	READ THE FIRST TIME - REFERRALS
02/17/12	(H)	L&C, FIN
04/04/12	(H)	L&C AT 3:15 PM BARNES 124
04/04/12	(H)	Heard & Held
04/04/12	(H)	MINUTE(L&C)
04/06/12	(H)	L&C AT 3:15 PM BARNES 124
04/06/12	(H)	Heard & Held
04/06/12	(H)	MINUTE(L&C)
04/09/12	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 202

SHORT TITLE: SALES OF FOOD BY PRODUCERS TO CONSUMERS

SPONSOR(S): REPRESENTATIVE(S) T.WILSON

03/23/11	(H)	READ THE FIRST TIME - REFERRALS
03/23/11	(H)	L&C, RES
03/21/12	(H)	BILL REPRINTED 3/21/12
03/21/12	(H)	L&C AT 3:15 PM BARNES 124
03/21/12	(H)	Heard & Held
03/21/12	(H)	MINUTE(L&C)
04/06/12	(H)	L&C AT 3:15 PM BARNES 124
04/06/12	(H)	Scheduled But Not Heard
04/09/12	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 259

SHORT TITLE: PHARMACY AUDITS

SPONSOR(S): REPRESENTATIVE(S) MUNOZ, P.WILSON

01/17/12	(H)	PREFILE RELEASED 1/13/12
01/17/12	(H)	READ THE FIRST TIME - REFERRALS

01/17/12 (H) L&C, FIN
 02/27/12 (H) L&C AT 3:15 PM BARNES 124
 02/27/12 (H) Heard & Held
 02/27/12 (H) MINUTE(L&C)
 03/16/12 (H) L&C AT 3:15 PM BARNES 124
 03/16/12 (H) Heard & Held
 03/16/12 (H) MINUTE(L&C)
 03/26/12 (H) L&C AT 3:15 PM BARNES 124
 03/26/12 (H) Heard & Held
 03/26/12 (H) MINUTE(L&C)
 04/02/12 (H) L&C AT 3:15 PM BARNES 124
 04/02/12 (H) Heard & Held
 04/02/12 (H) MINUTE(L&C)
 04/06/12 (H) L&C AT 3:15 PM BARNES 124
 04/06/12 (H) Scheduled But Not Heard
 04/09/12 (H) L&C AT 3:15 PM BARNES 124

BILL: SB 122

SHORT TITLE: REAL ESTATE TRANSFER FEES/TITLE INSURANCE

SPONSOR(s): LABOR & COMMERCE

04/08/11 (S) READ THE FIRST TIME - REFERRALS
 04/08/11 (S) CRA, L&C
 01/24/12 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
 01/24/12 (S) Heard & Held
 01/24/12 (S) MINUTE(CRA)
 01/31/12 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
 01/31/12 (S) Moved CSSB 122(CRA) Out of Committee
 01/31/12 (S) MINUTE(CRA)
 02/01/12 (S) CRA RPT CS 4DP NEW TITLE
 02/01/12 (S) DP: OLSON, KOOKESH, MENARD, WAGONER
 02/02/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 02/02/12 (S) Heard & Held
 02/02/12 (S) MINUTE(L&C)
 02/21/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 02/21/12 (S) -- MEETING CANCELED --
 02/23/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 02/23/12 (S) Moved CSSB 122(L&C) Out of Committee
 02/23/12 (S) MINUTE(L&C)
 02/24/12 (S) L&C RPT CS 5DP NEW TITLE
 02/24/12 (S) DP: EGAN, GIESSEL, DAVIS, PASKVAN,
 MENARD
 03/14/12 (S) TRANSMITTED TO (H)
 03/14/12 (S) VERSION: CSSB 122(L&C)
 03/15/12 (H) READ THE FIRST TIME - REFERRALS
 03/15/12 (H) L&C, JUD
 04/04/12 (H) L&C AT 3:15 PM BARNES 124

04/04/12 (H) Heard & Held
 04/04/12 (H) MINUTE(L&C)
 04/06/12 (H) L&C AT 3:15 PM BARNES 124
 04/06/12 (H) Scheduled But Not Heard
 04/09/12 (H) L&C AT 3:15 PM BARNES 124

BILL: SB 51

SHORT TITLE: STATE VENDING LICENSES

SPONSOR(s): DAVIS

01/19/11 (S) READ THE FIRST TIME - REFERRALS
 01/19/11 (S) L&C, FIN
 02/16/11 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
 02/16/11 (S) READ THE FIRST TIME - REFERRALS
 02/16/11 (S) L&C, FIN
 03/08/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)
 03/08/11 (S) Heard & Held
 03/08/11 (S) MINUTE(L&C)
 03/31/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)
 03/31/11 (S) Moved CSSSSB 51(L&C) Out of Committee
 03/31/11 (S) MINUTE(L&C)
 04/01/11 (S) L&C RPT CS 3DP 1NR SAME TITLE
 04/01/11 (S) DP: EGAN, DAVIS, MENARD
 04/01/11 (S) NR: GIESSEL
 01/20/12 (S) FIN AT 9:00 AM SENATE FINANCE 532
 01/20/12 (S) Heard & Held
 01/20/12 (S) MINUTE(FIN)
 01/27/12 (S) FIN RPT CS (L&C) 4DP 2NR
 01/27/12 (S) DP: HOFFMAN, THOMAS, EGAN, ELLIS
 01/27/12 (S) NR: STEDMAN, OLSON
 01/27/12 (S) FIN AT 9:00 AM SENATE FINANCE 532
 01/27/12 (S) Moved CSSSSB 51(L&C) Out of Committee
 01/27/12 (S) MINUTE(FIN)
 02/08/12 (S) TRANSMITTED TO (H)
 02/08/12 (S) VERSION: CSSSSB 51(L&C)
 02/10/12 (H) READ THE FIRST TIME - REFERRALS
 02/10/12 (H) L&C
 04/09/12 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE TAMMIE WILSON
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Testified as sponsor during the discussion of HB 202.

KRISTIN RYAN, Director
Division of Environmental Health
Department of Environmental Conservation (DEC)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 202.

KONRAD JACKSON, Staff
Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the changes to HB 259 on behalf of the House Labor and Commerce Standing Committee, of which Representative Kurt Olson is the chair.

DANA OWEN, Staff
Senate Labor & Commerce Committee
Alaska State Legislature
Juneau, Alaska.

POSITION STATEMENT: Testified on behalf of the sponsor, the Senate Labor & Commerce Committee, Senator Egan, Chair, during the discussion of SB 122.

ROGER FLOERCHINGER, President and Owner
Yukon Title Company, Inc.
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 122.

KIM GLISSON, Vice President and General Manager
Alaska Escrow & Title Agency, Inc.
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 122.

CHRIS NEWBILL, Manager
Ketchikan Title Agency, Inc.
Ketchikan, Alaska

POSITION STATEMENT: Testified during the discussion SB 122.

CRYSTAL PELTOLA, Vice President and General Manager
Alaska USA Title Agency
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 122.

TERRY BRYAN, Vice President and Manager
First American Title Company
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 122.

HOWARD HANCOCK, Chief Title Officer
Fidelity National Title Insurance Company
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 122.

MICHAEL PRICE, President
Alaska Land Title Association;
Owner, Fidelity National Title Insurance Company
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 122

LINDA HALL, Director
Division of Insurance, Anchorage Office
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of SB 122.

TOM OBERMEYER, Staff
Senator Bettye Davis
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained the changes in the CS for sponsor substitute for SB 51(L&C), which passed the Senate.

LOREN KEMPTON
Project Manager
Inspirational Action, Inc. (IAI)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 51.

SHERRYLYN MORELL, Assistant Manager
Inspirational Action, Inc. (IAI)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 51.

GARY JAMES, Employee
Inspirational Action, Inc. (IAI)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 51.

CHERYL WALSH, Director
Division of Vocational Rehabilitation (DVR)
Department of Labor & Workforce Development (DLWD)
Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of SB 51.

RICK RENAUD, Chief Executive Officer
Pentagon North, Inc. (PNI);
Chief Executive Officer,
Inspirational Action Inc. (IAI)
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 51.

CAROL RENAUD
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 51.

LYNNE KORAL
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 51.

RICHARD GARDENHIRE, President
Alaska Independent Blind
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 51.

JIM SWARTZ
Alaska Independent Blind
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 51.

ACTION NARRATIVE

[3:23:27 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:23 p.m. Representatives Thompson, Saddler, Miller, Holmes, and Olson were present at the call to order. Representative Johnson arrived as the meeting was in progress.

HB 326-CHILD-ONLY HEALTH CARE COVERAGE

[3:23:42 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 326, "An Act requiring health care insurers to offer a child-only policy; and providing for an effective date."

CHAIR OLSON related that this bill will be held over awaiting additional information.

[HB 326 was held over.]

HB 202-SALES OF FOOD BY PRODUCERS TO CONSUMERS

3:24:24 PM

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 202, "An Act relating to the sale of food products by the producer to the consumer."

3:24:46 PM

REPRESENTATIVE TAMMIE WILSON, Alaska State Legislature, explained that HB 202 has been substantially changed and disallows any food product that has an animal origins - raw or heat-treated products - which will eliminate meats, seafood, and dairy products. She pointed out that she went one step further to disallow food products that require time or temperature controls to keep foods safe for human consumption from being sold by a producer [in a proposed committee substitute not taken up]. She highlighted that the focus was narrowed to address samples and food products and listing food products that could be sold. She recapped that she would like the proposed DEC regulations out prior to the farmers' markets begin this season. She referred to research in members' packets that indicates some markets start in April. She hoped the department would respond with dates for the adoption of the proposed regulations.

3:25:53 PM

KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation (DEC) reported that the amendments to the Alaska food code under 18 AAC 31 are currently at Department of Law (DOL) for a final review with the regulations attorney, Steve Weaver. She has held some conversations with the DOL so she is aware the department is current working to review the proposed regulations.

CHAIR OLSON asked for an estimate of when the regulations will be completed.

MS. RYAN explained the schedule, such that the DOL will complete its review this week, the regulations will be returned briefly to the DEC's Commissioner, before being submitted to the Lieutenant Governor's office, and the regulations will be finalized 30 days after filing.. She pointed out that during that time the DEC will have time to work with the U.S.

Cooperative Extension Service (CES) offices to develop brochures to prepare people for changes that will affect sellers.

[3:28:15 PM](#)

REPRESENTATIVE T. WILSON related that she would like to hold the bill to allow her time to contact farmers' market sellers during the legislative interim. She explained that she hopes people will have time to utilize the new DEC regulations. She inquired as to whether people will be subject to fines as these new, but more friendly regulations go into effect. She asked for the process the DEC will use to educate people.

[3:28:43 PM](#)

MS. RYAN reiterated that the department is already working with the CES and the University of Alaska Fairbanks to develop pamphlets and brochures to explain rules for the cottage food industry, including what can be sold, the location of test kitchens, and any items that need permitting. She characterized the CES as an outreach arm of food preparedness. She advised that as soon as the regulations are signed by the Lieutenant Governor the DEC will be able to publicize them.

[3:29:46 PM](#)

CHAIR OLSON remarked that the sponsor is smiling.

[HB 202 was held over.]

HB 259-PHARMACY AUDITS

[3:30:14 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 259, "An Act establishing procedures and guidelines for auditing pharmacy records; and providing for an effective date."

[3:31:04 PM](#)

REPRESENTATIVE JOHNSON made a motion to adopt the proposed committee substitute (CS), for HB 259, labeled 27LS0675\E, Martin, 4/9/12, as the working document.

CHAIR OLSON objected for purpose of discussion.

[3:31:25 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, explained the changes in the proposed committee substitute (CS), Version E of HB 259. He stated that Version E contains some minor changes from Version D. He referred to page 2, lines 6-8, which deleted the language from Version D, related to the 75 prescription cap and the error rate of 10 percent. He explained that concern was raised that 75 prescriptions was an insufficient number when auditing larger pharmacies. He further explained that a new cap was not established and the committee could consider the appropriate number of prescriptions for audits.

[3:32:43 PM](#)

MR. JACKSON referred to the next change in the proposed CS, Version E, which relates to language removed on page 2, lines 10-12 of Version D. He explained language was deleted after "submitted" which read, "...unless a longer time period is specified in a contract between the pharmacist and the insurer, managed care company, hospital or medical service corporation, third-party payor, or pharmacy benefits manager." This change would mean that unless a longer time period was specified in a contract the audit of a claim would need to occur within two years - which essentially restores this paragraph to the language in the original bill. He related that concern was expressed that some possibility exists that unilateral changes could go from two years to a lengthier timeframe which would totally defeat the purpose of paragraph (4).

[3:33:32 PM](#)

MR. JACKSON referred to paragraph (10), to page 2, line 27, which changes the preliminary audit delivery timeframe from 60 days to 120 days. He explained that to balance this change a new paragraph was added that reads, "The interest may not accrue during that time period." Thus from the time the audit is completed to whenever the preliminary audit report is delivered interest will not be accruing. He stated this change seems to provide balance for the pharmacists' concern that interest was accruing while the PBMs and auditors review and develop the preliminary report.

[3:34:20 PM](#)

MR. JACKSON stated the next change inserts language that was in the original bill with some minor changes to paragraph (11), as follows:

to the extent that an audit finds clerical or record keeping errors in a required document or record, the pharmacy may not be subject to recoupment unless there is proof of intent to commit fraud or the clerical or record keeping error results in actual financial harm to an insurer, managed care company, hospital or medical services corporation, third-party payor, pharmacy benefits manager, or a customer.

MR. JACKSON explained that this goes back to paragraph (6) of the original bill relating to scrivener's errors. He highlighted that it was felt that a typographical error would not rise to level of requiring any compensation.

[3:35:44 PM](#)

MR. JACKSON referred to a new paragraph adding the restriction on confidential information obtained during an audit from being used for marketing. He recalled previous testimony by pharmacists, in which pharmacists stated that after an audit a number of their clients would later receive solicitations from mail order pharmacies. He explained that this did not seem quite fair since confidential patient information exists and access to that information for audit purposes is appropriate, but not for marketing purposes.

[3:36:43 PM](#)

MR. JACKSON stated the next change inserts a new paragraph [3] limiting subsequent audits to not less than 90 days following an audit.

[3:36:50 PM](#)

REPRESENTATIVE SADDLER asked for the reference to the mail order solicitations.

MR. JACKSON referred to page 3, lines [25-26].

[3:37:19 PM](#)

MR. JACKSON restated the change in paragraph (3), which prohibits subsequent audits within 90 days following an audit in

which errors were not found. He stated that "error" does not mean a clerical or record keeping error. He pointed out that fraud auditors would not be limited to the 90-day period if significant errors or an attempt to commit fraud was discovered. He reiterated if significant problems were discovered in an audit that it seems reasonable for the PBM or auditor to conduct another audit.

[3:37:53 PM](#)

MR. JACKSON pointed out the final change would change the effective date to January 1, 2013, instead of the fiscal year listed in Version D.

[3:38:14 PM](#)

CHAIR OLSON offered to allow the committee time to digest the changes.

[3:38:36 PM](#)

MR. JACKSON referred to page 3, lines 27-29 to subsection 19 (b), which specifies an exemption for criminal investigation or investigation or audit by a governmental agency. He suggested that the committee may wish to consider including schools or municipalities. He restated this may be a further consideration the committee may wish to ponder.

[HB 259 was held over.]

SB 122-REAL ESTATE TRANSFER FEES/TITLE INSURANCE

[3:39:36 PM](#)

CHAIR OLSON announced that the next order of business would be the CS FOR SENATE BILL NO. 122(L&C), "An Act relating to research on and examination of titles; relating to residency requirements for title insurance limited producers; relating to real estate transfer fees; and providing for an effective date." [Before the committee was proposed HCS CSSB 122, labeled 27-LS0789\D, Bailey, 3/19/12, adopted at the April 4, 2012 meeting.]

[3:40:01 PM](#)

DANA OWEN, Staff, Senate Labor & Commerce Committee, Alaska State Legislature, on behalf of the Senate Labor & Commerce,

Senator Egan, Chair, stated that the bill provides two important things. First, it provides that titles researched and issued in Alaska will have some anchor to the state, including that the people who perform the research have a physical presence in the state. Second, it would prevent the use of transfer fee covenants, which are fees that the original seller of a property would reap for resale of the real property into perpetuity. This practice would be outlawed under the bill.

[3:42:01 PM](#)

ROGER FLOERCHINGER, President and Owner, Yukon Title Company, Inc., stated that he would like to focus on the residency requirements in SB 122, which are an effort to prevent Alaska jobs from being sent overseas. He said, "It is nothing more and nothing less." He related that similar bills have passed in 13-14 other state legislatures. He predicted that some other companies, such as First American Title Insurance, which is a multi-national title company, will oppose this portion of the bill. He offered his belief that First American Title currently examines a large percentage of their Washington state orders in overseas countries. This company pays their overseas examiners approximately 10 percent of the fees they would pay local examiners. He reported that he receives letters weekly from overseas companies in countries such as Pakistan, India, or the Philippines, who offer to perform title examinations for a fraction of what it costs to do the work locally. He remarked that this offends him. He reported that his examiners receive wages that far exceed the per capita wages in Fairbanks. These examiners pay local property taxes and contribute to the economy of the state. He offered his belief that examiners in the Philippines receive "slave wages" and contribute to no one except the shareholders of the multi-national corporations. He stated that unlike his examiners, the overseas examiners are not licensed by Alaska's Division of Insurance (DOI) and are not within the department's reach for review. He also predicted the committee would hear testimony from others that direct operations, including those owned by regional national and multi-national underwriters. These companies will state that they cannot open offices in Alaska or cannot keep their current offices open because of the requirement for a limited producer's license. Further, these opponents will claim this bill would restrict competition. However, those claims are simply "smoke and mirrors." The direct operations that currently have offices in Alaska also hold limited producer licenses, which will not change under SB 122. He encouraged the committee to ask an existing national underwriter whether this bill would impact

their ability to open offices in Alaska. He stated that the Alaska Association of Realtors supports this bill as written since this organization knows its clients will be better served by local examiners as opposed to someone who resides in India or Pakistan. He emphasized that realtors would fight a bill that would restrict competition in the industry since such a bill would adversely impact their clients; however, SB 122 is an Alaska hire issue. He highlighted that he supports SB 122 since he is in favor of keeping good paying Alaska jobs in Alaska.

[3:45:19 PM](#)

KIM GLISSON, Vice President and General Manager, Alaska Escrow & Title Agency, Inc. stated that she has been in the title and lending industry for 22 years. Alaska Escrow & Title Agency, Inc. provides title insurance and escrow services to all seven recording districts in Southeast Alaska. She asked to speak in favor of SB 122, Sections 1 and 2 in order to keep local jobs. She stated she is a second-generation title industry professional, plus her daughter is working in her office. She said that her company employs 14 fulltime people and two part-time local employees. She highlighted that this is best for Alaska's communities. She stated that she has an employee who worked for a Washington state firm. When she started they had seven examiners, but after two years they were all laid off except for one, due to outsourcing. She referred to Section 3, which she suggested is best for consumers since without this provision developers could add additional funds to each transaction each time property changes hands. She offered her belief that overall this bill would help protect property owners in the state.

[3:47:26 PM](#)

CHRIS NEWBILL, Manager, Ketchikan Title Agency, Inc. stated that he is in agreement with SB 122 and the previous testimony by Mr. Floerchinger and Ms. Glisson. She stated that she has three employees, who are all residents of Ketchikan and the state. She said she would hate to see the jobs go overseas.

[3:48:10 PM](#)

CRYSTAL PELTOLA, Vice President and General Manager, Alaska USA Title Agency, stated that the company began in 2008 and now has five branches located throughout the state. She has been working in the title insurance business since 1982. She stated that her organization has always supported the transfer fee

portion of SB 122, Section 3. She also thanked the Alaska Realtors' Association for their support of the bill. She emphasized that the company also supports legal competition and remains a pro-consumer company. She pointed out that this bill has gone through several changes since it was introduced last year. Currently, the only remaining item from the original bill is the transfer section. She said that Sections 1 and 2 are being touted as Alaska hire, but nothing in the current language does this. Section 2 of the bill seems to be unconstitutional, according to the Legislative Legal opinion of March 15, 2012, by Dennis Baily. She said that Alaska USA Title Agency cannot support anything that could be deemed unconstitutional. She related that Section 2 also seems to contradict itself, since on the one hand it requires licensing provided for in Sections 21 and 27, which have provisions for resident and nonresident licensing. The language states that one may not obtain a license unless the individual is a resident of the state. She predicted that no one today will testify against local hire, but the language in SB 122 does not seem to provide local hire. She referred to Section 1, which retains the current law to require companies owned by national underwriters, such as Stewart Title and First American Title to obtain their title work from agencies instead of doing the work themselves. Although the ownership of these two companies resides in Texas and California, respectively, their local offices hire Alaskans, which adds to the economy of the state. She said that one company's legal counsel has stated the company will modify their arrangements and become agencies if this bill passes. Thus this bill would not change how businesses operate, even though the bill appears to create another layer of paperwork for those engaged in direct operations. She concluded by stating that she personally does not see the value of creating this additional paperwork, nor does she see how SB 122 addresses Alaska hire. She reiterated her support for Section 3, but emphasized that she cannot support Sections 1 and 2 at this time.

CHAIR OLSON mentioned the bill has a further referral to the House Judiciary Standing Committee.

[3:51:03 PM](#)

TERRY BRYAN, Vice President and Manager, First American Title Company, stated that he has 75 employees throughout the state in ten separate offices. He related that First American Title Company has been very involved with the evolution of SB 122. He asked to withdraw his support for SB 122 since the company cannot support the bill at this time.

[3:52:05 PM](#)

REPRESENTATIVE SADDLER asked whether he was withdrawing his support for all sections of the bill.

MR. BRYAN answered that the primary support was initially for portions of the bill that have subsequently been stripped from the bill, which related to the number of years a title plant would need to be in existence. He highlighted that the company is currently evaluating issues with respect to Section 2 - the Alaska hire segment of the bill. He concluded that the company cannot support the bill in its current form.

REPRESENTATIVE SADDLER understood he opposed all three sections of the current version of SB 122.

[3:53:08 PM](#)

CHAIR OLSON asked whether his company does any outsourcing.

MR. BRYAN answered no; that currently in Alaska, First American Title Company does not do any outsourcing.

[3:53:22 PM](#)

CHAIR OLSON asked whether the company could outsource at some point in future.

MR. BRYAN answered yes, that just as other companies can outsource, First American Title would also have the capability to do so.

[3:53:43 PM](#)

REPRESENTATIVE MILLER asked whether he knew how many title sources for 100 title searches in Alaska how many are being done outside of Alaska

MR. BRYAN anticipated that about 99 of 100 title searches are currently being performed in Alaska.

[3:54:26 PM](#)

HOWARD HANCOCK, Chief Title Officer, Fidelity National Title Insurance Company, stated that Fidelity National Title Insurance Company is in support of SB 122. He stated that he has been in

business for 30 years and is also a board member of the Alaska Land Title Association. He asked to testify in support of SB 122. He related that the practice to grant a license to individual residents currently applies to all employed title examiners in approximately 30 offices around the state. This provision could also allow the division to grant a nonresident license. He pointed out that Fidelity National Title Insurance Company has seen a monthly increase in the number of solicitations from the Philippines or Bangladesh asking if they could perform title searches. He has also observed other title companies in the Lower 48 having title examinations performed by examiners in foreign countries. He related his company tested an overseas company from India by giving them a property and asking them to search the title. The overseas company initially anticipated it would complete the title search in four days, but after a week the company reported it was having difficulty retrieving and interpreting the documents for the chain of title. His company gave the company in India a few more days, but the company still could not furnish the report and eventually the company from India canceled since they could not complete the job. He emphasized his point is that laws relating to titles on real property are unique to the state in which the property is located. He suggested that homebuyers or mortgage lenders, who are probably the largest title insurance consumers, should want their titles examined by local expert trained in Alaska laws and title issues. He pointed out that Alaska has unique laws and issues including the Alaska Native Claims Settlement Act (ANCSA), the Native Allotment Act, the mechanic's lien law, foreclosure laws, and others. He pointed out these are laws that title insurance companies encounter on a daily basis. He concluded that SB 122 provides corrections to give guidance to the division with respect to the division's current practices to keep jobs local and to require local resident title examiners perform title searches.

[3:57:38 PM](#)

MICHAEL PRICE, President, Alaska Land Title Association; Owner, Fidelity National Title Insurance Company, stated that he is also the owner of the Mat-Su Title Agency in Wasilla. He testified in support of SB 122 as it is currently written. He said he supports testimony by previous testifiers who spoke in support of SB 122. He related that his company employs 80-100 Alaskans throughout the state who earn from \$50,000 to \$100,000 annually as title examiners. He offered his belief that if SB 122 does not pass that those jobs are in jeopardy. He related his understanding that his good friend, Terry Bryan's company,

First American Title Company, outsources - not in Alaska - but in other states. He emphasized the importance to pass a local hire law or it will only be a matter of time before the jobs will go overseas. He suggested that the Division of Insurance's director, Linda Hall, could confirm there is nothing in the two sections of SB 122 that preclude a direct underwriter from entering business in the state. He further highlighted that First American Title Company and Stewart Title - as they currently exist in Alaska - exist as local limited producers and as Alaska corporations. He related his understanding that these businesses do not operate as an underwriter from California or Texas, but as corporations in Alaska. Additionally, in terms of the constitutionality, he offered he has been an attorney for over 40 years prior to working in the title insurance business. He said he believes in the constitutionality of SB 122. He pointed out that approximately 13 states have passed legislation that demands the licensed title examiners for title insurance be residents of the state in which the property is insured. He recalled that Oregon was the last state to do so approximately two years ago. He asked members to compare Oregon to the state of Washington, which does not have such a law. He pointed out that it is just too easy to consider outsourcing these types of jobs. He concluded that as president of Alaska Land Title Association and as owner of the two title companies in the state, he fully supports SB 122 and urged members to pass SB 122 to protect Alaskans' jobs.

[4:01:01 PM](#)

REPRESENTATIVE JOHNSON asked whether there is any difference in the cost of title insurance in Washington and Oregon.

MR. PRICE answered no. He explained that each state files its rates with the Division of Insurance. He suggested that every state in the western U.S. have filed rates, such as Alaska. He pointed out that some rates are promulgated by the respective director of insurance. He related his understanding that the title insurance in Washington is less than in Oregon, but comparable to Alaska. Additionally, Alaska has unique laws and risks due to ANCSA and laws relating to public lands; however, generally speaking title insurance in the Western U.S. have filed rates, which means they are filed by national companies. Thus the rates are set by companies such as Fidelity National Title Insurance Company and not local agents. He concluded by advising that filed rates are approved by various directors of insurance and would be available to the legislators and staff through an Internet search.

4:02:56 PM

REPRESENTATIVE JOHNSON remarked that when jobs are outsourced and it affects companies that is one thing, but if it actually results in less cost to consumer that is a different issue.

MR. PRICE answered that he was not aware of any empirical evidence that an underwriter sending an order to Bangladesh results in reductions to insurance costs. He offered his belief that most of the costs of insurance is based on overhead, administrative, and claims handling. He offered his belief that states in the Lower 48 that outsource cannot provide evidence that the cost of insurance has gone down. He highlighted that the general rate schedule in Alaska has not changed since 1968.

4:04:17 PM

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 122.

4:04:35 PM

LINDA HALL, Director, Division of Insurance, Anchorage Office, Department of Commerce, Community & Economic Development (DCCED), provided a brief summary. She explained the DOI regulates various aspects of the title insurance industry. She pointed out that companies exist in the title insurance industry as well as agencies. Thus two types of licenses exist. She stated that there is not an Alaska domiciled insurance company in Alaska and companies may be located in Texas or other states. These companies are licensed in same way as other insurance companies, such that application processes and deposits are required.

4:06:10 PM

CHAIR OLSON related his understanding these companies would be admitted companies.

MS. HALL answered yes. She explained that the company files rates for the product sold by the agent. She further explained that much of that product is based on overhead. It is much more difficult for the division to examine specific information. The overhead, the majority of the employees conducting title research, the cost of running an office, and conducting electronic research represents the bigger part of the rate,

which is not an expense of the insurance company. She further explained that loss ratios in the title insurance industry are very low. The division has seen historical losses in most lines of insurance the division regulates, including the much smaller piece of overhead and commissions. She explained that the title world is different so the title insurance company receives a small portion of the premium. The title agent, on the other hand, called the limited lines title producer - the agency - keeps a majority of the premium since they perform the majority of the work and have the overhead. Thus if the overhead is less expensive since some of the work is outsourced it will not affect the rate that is filed by the title insurance company. She hoped this helps.

[4:07:56 PM](#)

CHAIR OLSON agreed her explanation helps. He asked about licensing aspects.

MS. HALL stated she referenced the licensure of the insurance company. She explained that the agency is also licensed since the division licenses title plants, noting two or more entities can form together as a joint title plant. She indicated the division inspects them and provides a test, similar to one Mr. Hancock conducted when he tested a title search by someone in India. She described the process, such that the division would give the company a piece of property to determine how well they can research and find anything wrong with the title that would prevent it from being a clear title. Additionally, the division licenses the limited title producers as agents, licensed under a different section of statute than the insurance companies. She highlighted that Title 21 specifically outlines specific requirements for title agents, including that they must have a place of business in the recording district in which they will operate. She noted this does not require residency, but the company must have a place of business in Alaska. She reiterated that limited title producers as agents are licensed differently.

[4:09:28 PM](#)

REPRESENTATIVE SADDLER referred to page 2, to Section 2 of the bill, which makes reference to title insurance limited producers. He asked whether there is any distinction between the term "licensed title insurance limited producer" on page 1, and the "title insurance limited producer to be licensed" on page 2.

MS. HALL responded that in Section 1 the licensed title insurance limited producers are not required to be a resident, but are required to be licensed under AS 21.27. She offered her belief that the division has never issued a nonresident - to a resident of another state - license, but that is not to say they couldn't do so. She noted that some of reciprocity laws do not apply to title insurance specifically, but if a title agent was licensed in another state and applied for a nonresident license that it is possible, but not likely the individual would be licensed. She pointed out the agent would still need to have to have a place of business in Alaska.

[4:10:56 PM](#)

REPRESENTATIVE SADDLER recalled that AS 21.27 does include a provision for alien license. He asked whether the state has ever issued an alien license.

MS. HALL answered that no, not in the title industry. She explained that the division has issued 6 of 39,000 licensees as alien licenses.

[4:11:33 PM](#)

CHAIR OLSON asked whether this is something the division used to do routinely.

MS. HALL answered no.

[4:11:40 PM](#)

REPRESENTATIVE JOHNSON asked if this bill passes whether it will drive up the cost of insurance.

MS. HALL answered that she did not know why it would drive up costs. She stated that the division has issued a zero fiscal note. She further stated that rates enforced should represent the expenses and did not note anything in the bill that would increase expenses.

[4:12:22 PM](#)

REPRESENTATIVE JOHNSON asked if the bill did not pass if rates would be reduced.

MS. HALL answered that she doubted it.

[4:12:30 PM](#)

REPRESENTATIVE JOHNSON remarked that the consumer is the ultimate payer. He did not have any issue with the bill since Ms. Hall indicates the costs to consumers will not likely change.

[4:12:58 PM](#)

CHAIR OLSON asked whether is it safe to assume that one reason that issues on title policies is that there is not a frequency in the number of claims against title policies.

MS. HALL answered yes; that would be accurate.

[4:13:16 PM](#)

CHAIR OLSON recalled only one issue in his community in 30 years, which was due to a surveying error.

[4:13:37 PM](#)

REPRESENTATIVE SADDLER pointed out that Ms. Peltola suggested Section 2 may be self-contradictory. He said an owner producer may not obtain a license unless they are a resident, however, AS 21.27 allows for alien or nonresident licenses. He asked whether an inherent contradiction exists.

MS. HALL suggested that is probably a legal question she did not think she was qualified to answer.

[4:14:18 PM](#)

REPRESENTATIVE JOHNSON moved to report the proposed House Committee Substitute (HCS) for Senate Bill 122, labeled, 27-LS0789\D, Bailey, 3/19/12, out of committee with individual recommendations and the accompanying fiscal notes. There being no further objection, HCS CSSB 122(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:15:09 PM](#)

The committee took an at-ease from 4:15 p.m. to 4:17 p.m.

SB 51-STATE VENDING LICENSES

[4:17:03 PM](#)

CHAIR OLSON announced that the final order of business would be the CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 51(L&C), "An Act relating to the operation of vending facilities on public property."

[4:17:26 PM](#)

TOM OBERMEYER, Staff, Senator Bettye Davis, Alaska State Legislature, explained the changes in the bill that passed the Senate, labeled 27-LS0079\I, from the sponsor substitute. He stated the sponsor originally asked to insert additional properties available to the blind in SB 51 to change the definition of property to include school property and municipal property so that vending facilities would be available to more people; however, it was determined after discussions with schools and municipal entities that would not be feasible. The sponsor created a sponsor substitute to remove the language. He explained that the bill would pertain to six federal properties under the Randolph-Sheppard Act and to six state properties under the Chance Act of 1976.

[4:18:58 PM](#)

MR. OBERMEYER read the sponsor statement, as follows [original punctuation provided]:

SB 51 restores to blind persons first priority for a contract to operate a vending facility on state and other public property. This bill amends the Alaska Chance Act of 1976 to require that the state Division of Vocational Rehabilitation Business Enterprise Program provide the same first priority to the blind on state and other public property as it does on federal property enforced under the Randolph-Sheppard Act of 1936. The Alaska Chance Act for the first time added disabled persons in addition to the blind in preference for vending licenses on public facilities. This loss of first priority and expansion of beneficiaries has thwarted the spirit and letter of the Randolph-Sheppard Act. The resulting decrease in vending opportunities for blind merchants in Alaska exacerbated their already extraordinarily high unemployment rates among all types and severities of the disabled and the population in general.

MR. OBERMEYER stated that this bill shows there are few opportunities in the state for blind or disabled persons.

[4:20:27 PM](#)

CHAIR OLSON stated that Senator Davis has joined the meeting.

[4:20:39 PM](#)

MR. OBERMEYER stated the total number of blind in the state may range upwards to approximately 1,200. He related that 9.3 million visually-impaired people live in the U.S. The recent U.S. Census asked whether disabled or blind persons reside in the family, but the census question did not distinguish between blind and disabled.

[4:21:52 PM](#)

MR. OBERMEYER continued to read the sponsor statement, as follows [original punctuation provided]:

SB 51 recognizes that the blind are dissimilarly situated compared to other disabled persons who do not suffer the same degree of impairment and unemployment as an economic matter. Although the State has combined management and training opportunities for both the blind and other persons with disabilities under one Business Enterprise Program of the Division of Vocational Rehabilitation, this bill requires that it must give first priority to the blind for vending contracts on state, federal or other public property.

SB 51 comports with original legislative intent and gives first priority to the blind imposed under AS 23.15.100 prior to changes in 1974 and 2006 which added persons with disabilities and severe disabilities who currently compete with the blind for licenses on vending facilities on public property. It requires that the Division attempt to find and notify blind persons of vending opportunities as they arise on public property. These public properties may include among others court houses, military bases, state and federal office buildings, and other public properties.

[4:22:57 PM](#)

REPRESENTATIVE SADDLER asked whether there are an estimated 12,000 blind or visually impaired individuals in the state.

MR. OBERMEYER answered he assumed the figures referred to the visually impaired, noting there are different levels of impairment for the blind and visually impaired.

REPRESENTATIVE SADDLER asked for the numbers of the severely disabled people living in Alaska.

MR. OBERMEYER answered that he did not have the figures.

[4:23:36 PM](#)

REPRESENTATIVE SADDLER asked whether the severely disabled would be barred from obtaining contracts.

MR. OBERMEYER related his understanding they would not be barred. He explained that the Business Enterprise program was designed specifically to assist them. He further suggested that some procedures exist for the disabled to temporarily take the place of a blind person in the event a blind person was not available, which may result in long-term positions for the disabled. He pointed out that training is an important part of the process.

[4:24:22 PM](#)

REPRESENTATIVE SADDLER related his understanding the disabled person might be able to take up the jobs.

MR. OBERMEYER related his understanding, but deferred to the department or the bill drafter.

[4:24:44 PM](#)

REPRESENTATIVE SADDLER asked whether this bill would require the severely disabled to give up contracts. He further asked for the impact on the severely disabled.

MR. OBERMEYER related his understanding that everyone with existing contracts would be grandfathered into the long term project process. He characterized the long-term contracts as essentially licenses since the contracts are indefinite in duration. He did not envision any threat to current holders of the vendor licenses. He pointed to Section 3, AS 23.15.133

allows the agency to contract persons who are not blind. He referred to subsection (d), when there is a vacancy occurs the agency will attempt to contact a blind person. He deferred to the bill drafter to indicate if any prohibitions from the blind not only taking disabled or other contracts for remote locations. He provided an example; noting that a facility in Kodiak could not obtain training for the vendor for the facility.

[4:26:19 PM](#)

REPRESENTATIVE SADDLER asked in instances in which there are not visually impaired or disabled people with first priority available to take the contract, whether any provision exists to contract out or if people could be hired on behalf of blind person.

MR. OBERMEYER offered his belief that it is possible and in some cases it is almost imperative, such as an instance in which the facility has a large cafeteria so the vendor must hire others to assist them.

[4:27:01 PM](#)

REPRESENTATIVE SADDLER asked whether this pertains not just to operate the facilities but to contract to operate the facilities.

MR. OBERMEYER deferred to the department to answer. He related his understanding some concern arose over the term contract, but that a contract is issued on a temporary basis to try to place people; however operating agreements/contracts are used even with long-term licenses, but again, he deferred to the department.

[4:27:32 PM](#)

MR. OBERMEYER referred to the bill that passed the Senate, Version I. He reviewed the sectional analysis of the bill. He stated that Section 1 amends a provision dealing with powers and duties of the Division of Vocational Rehabilitation (DVR). It removes references to persons with severe disabilities from the provisions dealing with the operation of vending facilities on public property. He stated that Section 2 directs the agency to issue a license for the operation of vending facilities on public property to blind persons who meet certain criteria, including criteria established by agency regulations. It

requires these regulations to provide blind persons with first priority for a contract to operate a vending facility on public property.

[4:28:21 PM](#)

MR. OBERMEYER detailed that Section 3 adds new subsections to the section on the issuance of licenses for vending facilities on public property. He stated that proposed AS 23.15.133(c) should allow the agency to contract with a person who is not blind to operate a vending facility until the agency can locate a blind person who qualifies to operate the vending facility. He detailed that proposed AS 23.15.133 (d) indicates that when a vacancy in the operation of a vending facility on state property the agency must attempt to contact blind persons directly about operating the vending facility. This proposed section would also direct the agency to work with private organizations to contact blind persons. This requirement is in addition to other procurement requirements of AS 36.30, the state procurement code. He clarified that news advertising is not sufficient. He reported that proposed AS 23.15.133 (e) allows a blind person operating a vending facility to operate another vending facility if the agency cannot find a blind person to operate the other vending facility. He recapped that it would allow for a multiple vending contract for an individual.

[4:29:32 PM](#)

MR. OBERMEYER referred to Section 4, which deletes a reference to persons with severe disabilities from a provision relating to hearings on agency actions that relate to vending facilities. Section 5 would amend the definition of "licensee" to remove the reference to a person with severe disability. Section 6 would repeal a section relating to vending facilities operated by persons with severe disabilities. Section 7 indicates that the act applies to vending facility licenses issued and vending facility contracts entered into, on, or after the effective date of the bill. Section 8 states that the act does not affect a contract entered into before the effective date of the act, which answers the question of whether licensees would be have grandfather rights.

[4:30:16 PM](#)

REPRESENTATIVE JOHNSON asked whether this would add work for the department since they would not use the regular notice process.

MR. OBERMEYER deferred to the department to answer.

[4:31:11 PM](#)

LOREN KEMPTON, Project Manager, Inspirational Action, Inc. (IAI) stated that Inspirational Action, Inc. is a nonprofit to help developmentally disabled people obtain contracts by offering a training program. She expressed the IAI concerns that by taking out language geared to the disabled strips their program. She highlighted that IAI is not asking for priority over the blind, but does not want to lose the job opportunities for the developmentally disabled. She related the progress people have made by the time the training is completed, including that after training they could take contracts and provide a living for themselves instead of having to rely on public assistance, Supplemental Security Income (SSI), or becoming homeless. She estimated that 65 percent of the homeless have mental or physical disabilities that prevent them from working. She said the IAA helps people overcome these hurdles.

[4:33:10 PM](#)

REPRESENTATIVE JOHNSON thanked her for the service she provides. He asked whether this bill would hinder the IAI's ability to secure contracts if the developmentally disabled are given second priority.

MS. KEMPTON answered that the developmentally disabled are already given second priority, which is not the issue since they are able to reach out and assist people. She explained the IAI does not want to lose "what little bit we do have."

[4:33:43 PM](#)

SHERRYLYN MORELL, Assistant Manager, Inspirational Action, Inc. stated that she has had the pleasure to work with the Division of Vocational Rehabilitation (DVR) to train people. She understood the point to give priority vendor contracts to the blind. She agrees with Ms. Kempton's testimony. She has worked with several people and she has learned as much from them as they have from her.

[4:35:02 PM](#)

GARY JAMES, Employee, stated that he is employed by IAI. He got the job through DVR.

REPRESENTATIVE MILLER thanked him for testifying. He asked him how long he has been part of the program.

MR. JAMES answered he has been part of the team since October.

REPRESENTATIVE MILLER related his understanding that currently without the bill the developmentally disabled or disabled persons have more of an equal footing with the visually impaired.

MS. MORELL stated that she understood that the program already gave a priority to the blind with a secondary priority for the disabled persons. She explained that the bill removes any reference to disabled persons.

[4:37:10 PM](#)

REPRESENTATIVE MILLER asked for the types of disabilities of those employed.

MS. MORELL answered that IAI works with all disabled as long as it has been determined it is safe for them to work in food operations. She related that in her experience she has mainly worked with people with mild mental disabilities, but the IAI can work with people who have physical disabilities.

[4:37:35 PM](#)

REPRESENTATIVE HOLMES asked whether Mr. James likes his job.

MR. JAMES answered yes.

REPRESENTATIVE HOLMES asked what his job duties entail.

MR. JAMES answered that he is a back-up cook and operates the register.

REPRESENTATIVE HOLMES asked whether he was trained by IAI to perform his duties

MR. JAMES answered yes.

[4:38:10 PM](#)

CHERYL WALSH, Director, Division of Vocational Rehabilitation (DVR), Department of Labor & Workforce Development (DLWD), asked to address concerns the division has with SB 51. She explained

that 13 business enterprise sites exist within the state, including one in Juneau at the State Office Building. This bill would direct the division to work with a private organization that specializes in the employment of blind people to contact them about business enterprise program (BEP) openings. She said she was unsure which private organization specializes in the employment for the blind. Thus it is difficult for the division to determine associated costs since the organization is not identified in the bill. She emphasized that the DVR is the organization that specializes in the employment of people who are blind.

[4:39:44 PM](#)

MS. WALSH stated it is also unclear whether the passage of SB 51 would allow the division to combine its two programs. The DVR has a separate program for state sites and one for federal sites. These program divisions are necessary since the program includes people with severe disabilities at state sites. Therefore federal dollars cannot be used on state sites. She stated that a person with a severe disability currently works on a state site. That individual holds an indefinite license to the site and would be grandfathered in. She said she was unsure if the division can divide or combine the programs and the funding mechanism for the position or associated benefits.

MS. WALSH explained that licenses are granted for an indefinite period of time. She was also unsure when the person may choose to retire, noting the DVR can only remove a person if they terminate voluntarily or for cause, which is defined in regulation.

[4:41:16 PM](#)

MS. WALSH expressed other concerns. She stated that SB 51 is unclear as to whether it is establishing first priority for blind persons for all BEP contracts or if it is limited to temporary contracts, which could impede the division's ability to manage the program. She related that the division issues temporary contracts to industry or subject matter experts, particularly if a feasibility study needs to be done on a site to determine viability. Additionally, feasibility studies are done if the DVR is considering a site as a training site, in which the division would bring in an industry expert on coffee carts or for other specific training. She expressed concern that a blind person may not have the expertise to meet the business or programmatic needs of the temporary contracts. She

stated that the division believes the first priority should be limited to the permanent assignment or licensing of a vending facility and not to temporary contracts. The bill would allow a blind individual to operate another facility even if he/she already is permanently assigned to a facility if the division cannot locate an individual. She pointed out that blindness is a low incidence disability so it is possible the division may have an opportunity to open a new site or a vacancy could occur at a time without a current trained blind person to immediately assume the contract or facility. She further stated that the bill is unclear as to the length of time the division must keep the contract open. Further once the site is offered to a permanent vendor the site is locked up permanently. She expressed concern this may lead to future lawsuits. She indicated it was also unclear how many sites a currently licensed individual would be allowed to have since people advance in the system based on seniority and experience. This could lead to people taking over multiple sites and diminishing the number of sites available to others entering the program or for transfer or promotional opportunities for others.

[4:44:03 PM](#)

REPRESENTATIVE JOHNSON asked what happened to the coffee cart in the entry way at the State Office Building.

MS. WALSH said she was not sure.

[4:44:32 PM](#)

REPRESENTATIVE JOHNSON asked whether costs would be associated with any outreach.

MS. WALSH answered that she was not certain who the outreach would be directed at and the need for it. She explained that currently all the individuals in the program are certified by the DVR. They apply with the client services program and identify a goal to become a dining facility manager or snack bar manager and the division writes a plan. She related that the division is aware of the certified managers and have a committee of blind vendors the division works with who represent all of the current vendors. She said she was certain that anyone who moved to Alaska who had been certified from another state would contact them about participating in the DVR's program.

[4:45:36 PM](#)

REPRESENTATIVE MILLER asked for the length of the training.

MS. WALSH answered that the initial training is for six months, which involves some testing and job shadowing. She stated that they provide a \$500 training stipend for continuing education (CE). Additionally, the blind vendors hold an annual meeting with training provided by industry experts. She attended one last year that showcased a variety of foods vendors may wish to add to their menus.

[4:46:38 PM](#)

REPRESENTATIVE MILLER asked for an estimate of the number of the blind as compared to all other divisions.

MS. WALSH referred to a chart that indicated the DVR placed 29 individuals who were blind in other occupations outside the BEP sites within the past two years, plus the 13 facilities, 10 of which are operated by blind individuals. She explained that the blind is a lower incidence disability and that the division worked with 2,500 cases of people with disabilities. She estimated less than five percent of the cases would be for blind individuals.

[4:47:53 PM](#)

RICK RENAUD, Chief Executive Officer, Pentagon North, Inc. (PNI);, Chief Executive Officer, Inspirational Action Inc. (IAI), stated that IAI is a 501 (c)(3) nonprofit organization. He said he is also a BPE vendor. He explained that both organizations provide food service to state and federal facilities and employment training to people with disabilities. He referred to the sponsor statement for SB 51, which indicates a loss of employment and priority for persons with blindness to hold and operate vending facilities on state and other public properties. He refutes this document on the basis that people like him with severe disabilities are involved in the decrease of vending and employment opportunities on state and public properties including court houses, military bases, and office buildings. He explained that disabled people will make a difference with respect to employment of the blind. He took issue with the first statement of the sponsor's statement which states that that SB 51 restores to blind persons first priority for a contract to operate a vending facility on state and other public property. He said it is impossible to restore what was never taken away in the first place. The Alaska Chance Act of 1976 and its related programs has had clear clauses regarding

first priority for the blind which still holds true according to AS 23.15.210, and Ms. Walsh's testimony.

4:50:53 PM

MR. RENAUD emphasized that the act does not indicate that the blind do not have priority for vending contracts. Furthermore, he argued against the implication that the inclusion of people severe disabilities in the Chance Act has hindered opportunities for the blind to gain vending contracts or employment. He pointed out that the blind vendors' committee removed three federal facilities from their program. Additionally, two other state facilities have remained vacant for over two years because there has been no success in finding qualified blind merchants to occupy the spaces. He emphasized that it is not that there is a lack of opportunities since they have been taken over by vendors with other disabilities, but rather that blind vendors and associated programs have been giving up these opportunities and have not taken advantage of them. He highlighted that the lack of employment among the blind has little to do with the disabled and has more to do with the blind vendors and their associated programs. He indicated that if there is a real difference in employment rates that more needs to be done from within. He acknowledged that there is indeed a problem of extreme high unemployment rates among persons who are blind. According to a report of federal programs for unemployment for persons with disabilities, in 2004, 337 blind workers were hired out of 2,681 licensed BPE vendors and even less workers with disabilities; however, the number of workers hired without any disabilities was 6,607. Therefore in order to create more employment opportunities blind vendors and programs need to hire and train more people who are blind. He concluded by pointing out that the problem is not expanding opportunities of vending locations for the blind by taking away the opportunities made available to the severely disabled, but finding trained, experienced blind vendors who are willing to fill the positions. He concluded that it shouldn't be the fault of people with other types of disabilities with qualifications, but rather on the programs to train and prepare the blind.

4:53:55 PM

CAROL RENAUD stated that she is a person with severe disabilities. She said that if the legislature takes away the program that it will not be available when she may need it. She might be forced to go on welfare or apply for social security

benefits (SSI). She related that she can currently work part time.

4:55:04 PM

LYNNE KORAL, testifying on behalf of herself, stated that she has been blind her whole life. She stated that she was told in middle school that she might not find a job as an adult. She surmised that people with other disabilities do not hear similar statements. She offered her belief that blind people are seen as the most feared and abhorred disability in the U.S., including cancer and aids victims. She said she olds two college masters' degrees and people are not willing to see the capabilities of blind people. She stated that this program was established in 1936 since blind people were not able to find employment. She recalled a blind man holding a masters' degree who committed suicide because he could not find a job. She emphasized that this program was not established to disenfranchise other disabled people, but was set up by the federal government to help those who are blind to attain gainful employment.

4:57:20 PM

MS. KORAL stated that blind and disabled people want an opportunity for a chance at upward mobility. She stated that blind people have a disability that affects more than their mobility, daily living and communication. She reiterated that the public have a hard time understanding blind people can hold jobs and use specific technology and fear blind people. She has been told blind people can't be trained well. She explained that most people in the vending programs are visually impaired and not totally blind. She recalled people telling her she should have a realistic goal. She said she is not a vendor and does not want to be one, but she thinks that some of the issues many blind people have are related to their inability to find jobs and their lower standard of living. She pointed out the blind are treated by stereotypes, including that the blind cannot hold high-paying decent jobs. She offered her belief that if she was not blind she would be paid five times as much as she has been able to earn. She suggested that this bill is not about parity since the Chance Act of 1936 specifically gave blind people a hand up not a hand out. She emphasized that the blind need to continue to have the first priority, which has not been adhered to or implemented by the DVR. She said she has degree in public administration and social work so she understands the legislative process and political implications.

5:00:26 PM

MS. KORAL recalled some 2001 figures for the blind. She indicated that the appropriate organization, the nonprofit that would help with employment would be the Alaska Center for the Blind and Visually Impaired, which would be at least as well equipped to train people as the DVR to help certify and train the blind. She characterized this bill as smoke and mirrors. She asked to get the facts on table and stop treating the blind as people who cannot be trained.

5:01:23 PM

RICHARD GARDENHIRE, President, Alaska Independent Blind, stated the Alaska Independent Blind is a consumer organization of blind and visually-impaired people. He said he does not have a prepared statement. He asked to speak in support of SB 51. He related that like Ms. Koral, he is not a vendor, but is employable. He stated that several years ago he went to the DVR to apply for small business loan. He offered that he had blueprints and projected revenues. He related that the counselor said he/she was sorry and could not help him. He found that response to be discouraging since he was a DVR client who wanted to apply for a small business loan. He indicated that he did not necessarily need financial help as help to figure out how to buy and purchase equipment. He emphasized that time after time the DVR has violated the state statutes by not giving blind people the priority to operate the state vending stands. He concluded that he is speaking in support of the bill since the bill will clarify and better define what first priority means.

5:05:23 PM

JIM SWARTZ, Alaska Independent Blind, stated that he is currently a BEP vendor. He said that he previously worked as the DVR's BEP Director from 1992-1995. He stated that the DVR trains and places hundreds of people in employment opportunities. He highlighted that BEP is unique in that the program was developed specifically for the blind and provides an employment opportunity. He emphasized that since he is an entrepreneur as are all the vendors within the program since they own their own businesses. He said that he owns Jimmy's Espresso stand located in the Alaska Native Medical Center in Anchorage. He employs six people, two of whom are blind, and one is deaf. In 2006, he applied for a vending stand in the

court house and as a blind person should have received first priority. However, he was denied the opportunity and it was given to a non-blind person. He related that the non-blind person today is the CEO of two corporations; however, he still retains the facility denying a blind person of the employment opportunity even though it is very clear that the person should not have been awarded as vendor. He urged members to pass SB 51, since it does not deny anyone an employment opportunity, but just protects the right of the blind and their first priority for vendor jobs. He noted that he operated the coffee stand at the Juneau State Office Building.

[5:08:10 PM](#)

REPRESENTATIVE JOHNSON asked what happened to the stand.

MR. SWARTZ offered his belief that the DVR mismanaged the facility and did not place a qualified vendor in the facility.

[5:09:01 PM](#)

SENATOR DAVIS stated there is a real need for this bill, but she is not ready to move SB 51 forward in its present form. She noted that the bill is not ready. She expressed concern about the direction that the DVR is moving in and she would like to ask for an audit at some point to investigate some of the situations raised by the blind, including that they were not given priority for jobs. She also expressed concern about the training they provide and the need to improve services. She informed the committee she would be withdrawing her bill and would not request another hearing.

CHAIR OLSON commended Senator Davis for bringing the bill forward. He advised the committee that the bill would be tabled.

[SB 51 was tabled.]

[5:10:34 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:11 p.m.