

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

January 24, 2012

3:35 p.m.

MEMBERS PRESENT

Senator Donald Olson, Chair
Senator Thomas Wagoner
Senator Linda Menard
Senator Johnny Ellis

MEMBERS ABSENT

Senator Albert Kookesh

OTHER LEGISLATORS PRESENT

Senator Joe Thomas

COMMITTEE CALENDAR

SENATE BILL NO. 154

"An Act creating a low-interest loan program for homeowners who convert their homes to natural gas-fired heating; and creating the natural gas home heating conversion loan fund."

- HEARD & HELD

SENATE BILL NO. 122

"An Act relating to real estate transfer fees and increasing the length of time title records must be maintained by a title plant."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 154

SHORT TITLE: NATURAL GAS CONVERSION PROGRAM/FUND

SPONSOR(S): SENATOR(S) THOMAS

01/17/12	(S)	PREFILE RELEASED 1/13/12
01/17/12	(S)	READ THE FIRST TIME - REFERRALS
01/17/12	(S)	CRA, FIN
01/24/12	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

BILL: SB 122

SHORT TITLE: REAL ESTATE TRANSFER FEES/TITLE PLANTS

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)

WITNESS REGISTER

SENATOR JOE THOMAS
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: SB 154 sponsor.

GRIER HOPKINS, Staff to Senator Thomas
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Read a statement and answered questions regarding SB 154.

DAN FAUSKE, CEO
Alaska Housing Finance Corp
Anchorage, Alaska
POSITION STATEMENT: Supports SB 154.

JEFF JACOBSON, Chief of Staff
Fairbanks North Star Borough
Fairbanks, Alaska
POSITION STATEMENT: Supports SB 154.

JOMO STEWART
Energy Project Manager
Fairbanks Economic Development Corp.
Fairbanks, Alaska
POSITION STATEMENT: Supports SB 154.

DANA OWEN, Staff to Senator Egan,
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Read a sponsor statement and answered questions regarding SB 122.

CRYSTAL PELTOLA, Vice President
Alaska USA Title Agency
Anchorage, Alaska
POSITION STATEMENT: Opposes SB 122.

RAYMOND DAVIS, Vice President
Old Republic Title Insurance Company
Seattle, Washington

POSITION STATEMENT: Opposes SB 122.

MICHAEL PRICE, President
Alaska Land Title Association
Wasilla, Alaska

POSITION STATEMENT: Supports SB 122.

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

POSITION STATEMENT: Supports SB 122.

ROGER FLOERCHINGER, President
Yukon Title Company
Fairbanks, Alaska

POSITION STATEMENT: Supports SB 122.

ACTION NARRATIVE

[3:35:39 PM](#)

CHAIR DONALD OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:35 p.m. Present at the call to order were Senators Wagoner, Menard, Ellis and Chair Olson.

SB 154-NATURAL GAS CONVERSION PROGRAM/FUND

[3:36:04 PM](#)

CHAIR OLSON announced the consideration of SB 154.

[3:36:29 PM](#)

SENATOR JOE THOMAS, sponsor of SB 154, said the bill would create a low interest loan program for Alaskan families to replace their oil, coal or wood home-heating appliances with natural gas. He said the Fairbanks Borough was anxiously awaiting the arrival of more natural gas and that current supplies were limited. He said in addition to Prudhoe Bay, Interior Alaska was hopeful the Cook Inlet subsidized rigs strike gas and expand supply via truck or pipeline. He said SB 154 would give families the ability to plan ahead for low cost energy when access to gas was made available.

He said the home heating change-out mechanism would create a more robust gas distribution system in the Kenai Peninsula, Anchorage and Matanuska-Susitna Valley areas where gas is currently distributed. He said the recent propane conversions to natural gas in the Kenai Peninsula had a dramatic cost savings impact.

He said Fairbanks' Golden Valley Electric Association and Flint Hills Resources' North Pole Refinery were considering natural gas supplied from Prudhoe Bay for their own uses and potentially for distribution to homes; a decision would be made by September, 2012. He said Flint Hills Resources' North Pole Refinery would be able to lower production costs and provide the state with lower priced fuels.

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SENATOR THOMAS said the Fairbanks Borough would be able to get a handle on its air quality problem by changing over an estimated 12,000 homes to natural gas. He said it would also spark the economy, create local jobs all across the state and keep more money circulating in Alaska rather than being spent on energy costs. He noted that developers in the Fairbanks area have dealt with outside companies where projects were cancelled due to high fuel costs.

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GRIER HOPKINS, staff to Senator Thomas, said the impetus for SB 154 was to create a stronger, more economic instate market for a natural gas pipeline or delivery program for the Fairbanks Borough and Southcentral communities. He said having access to natural gas would not be helpful if homeowners were unable to use it. He said any natural gas delivery system would help build a more robust gas market, vitalize local economies and keep more local jobs in the communities. He said rural homeowners unable to access natural gas would indirectly benefit from nearby natural gas supplied regions where businesses pass along savings from lower energy costs. He noted that the Fairbanks Borough was studying its current natural gas distribution system to plan for future infrastructure build out.

He said SB 154 would make available a \$7,500 furnace replacement loan, at 1 percent interest, to be paid back over 10 years through the Alaska Housing Finance Corporation (AHFC). Eligible candidates must own a noncommercial, single occupancy or duplex home, demolition was not eminent, substantially complete construction and has access to natural gas within their

community. He noted that connection costs would be the homeowners' responsibility.

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MR. HOPKINS said the new furnace must become the home's primary source of heat and participation is not subject to any income limitations. He said the state's Energy Efficient Rebate Program was used as a model for the loan program. He said an individual homeowner applicant would contact AHFC, request an Energy Rater to for a change out estimate and submit the report to Alaska USA, AHFC's participating program lender.

He said SB 154 would also address Fairbanks' air quality problem linked to smoke from wood burning, a less expensive alternative to heating with oil. He noted that homeowners can save up to 50 percent by burning wood versus heating oil. The Fairbanks Borough hired Sierra Research to do an air quality study and found that 12,000 homes would have to be converted to natural gas to meet the Environmental Protection Agency's (EPA) air quality mandate.

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MR. HOPKINS said the Fairbanks' current natural gas market is at capacity with 1108 customers. He noted that Senator Wagoner inquired about possible federal programs available for natural gas conversion and that a recent \$1500 federal tax credit expired in 2010.

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CHAIR OLSON asked how many homes would participate the first year and during the life of the loan program.

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SENATOR THOMAS answered that 1000 homes would participate for initial hook-up starting with Fairbanks' high density neighborhoods. He noted that Fairbanks Natural Gas had a distribution system setup in the borough but could not add customers due to a lack of supply.

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CHAIR OLSON said 1000 homes borrowing \$7500 each was a fair amount of money going out as capital.

SENATOR THOMAS agreed.

CHAIR OLSON said a 1 percent interest rate was a low return on investment.

SENATOR THOMAS agreed.

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CHAIR OLSON asked if there were similar state programs to SB 154.

SENATOR THOMAS answered that there may be several current and suggested programs.

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MR. HOPKINS answered that the Alaska Energy Rebate Program was available, it had distributed \$90 million to over 14,600 homeowners who saved up to 33 percent in energy costs.

He said SB 154 was not a grant program and allowed the state to get some return on investment. Other programs include the AHFC's rebate on buying a five star plus energy rated home, weatherization assistance for low-income renters and homeowners, and the Alaska Second Mortgage Program for Energy Conservation.

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CHAIR OLSON commented that the Weatherization Assistance Program was statewide and that SB 154 would only concentrate on Southcentral and Fairbanks.

SENATOR MENARD asked if AHFC had addressed adding staff to run the program in SB 154.

CHAIR OLSON said further testimony would answer Senator Menard's question and asked if homeowners who have already converted to natural gas would benefit.

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MR. HOPKINS answered no. He said a homeowner could receive funds to upgrade their home heating appliance or access the current Energy Efficient Rebate Program.

SENATOR WAGONER asked if SB 154 strictly covers the cost of replacing the heating appliance.

MR. HOPKINS answered yes. He said running a gas line to a home is not covered.

SENATOR MENARD asked what the homeowner's costs would be to run gas line to their home.

MR. HOPKINS answered that NorthStar Gas in the Fairbanks currently charges \$17.64 per foot for the main line to get close to the home and \$930 for the first 100 feet of feeder line from the main line to the home plus an additional charge per foot if required.

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CHAIR OLSON asked if the loan program accommodated home businesses.

MR. HOPKINS answered that the program was strictly for single occupancy homes and duplexes, but up to 25 percent could be used for commercial purposes.

CHAIR OLSON asked if a summer home residence would qualify.

MR. HOPKINS answered only for an owner-occupied home, but he would ask AFHC to verify.

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DAN FAUSKE, CEO, Alaska Housing Finance Corp., said the following details need to be worked out: loan terms, program management, distribution development and the home conversion process. He said there are approximately 30,000 potential home conversions in the Fairbanks area which equates to \$200 million in required capital.

CHAIR OLSON asked where funding would come from at 1 percent interest. He noted management costs were not included.

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MR. FAUSKE answered that SB 154 would have to be a state-funded program.

[4:01:06 PM](#)

JEFF JACOBSON, Chief of Staff, Fairbanks North Star Borough, said SB 154 would assist households that are burdened by high fuel prices. He said the borough has used state grant funds to conduct a natural gas distribution study to determine the economics of expanding its limited natural gas distribution system. He said in the event natural gas was delivered by truck, bullet-line or pipeline, the borough residents need the means to convert their homes.

He said the EPA designated Fairbanks as a Nonattainment Area for Particulate Matter (PM-2.5) and mandated an air quality improvement plan to be in place by 2014. He said SB 154 helps

the borough meet EPA's air quality goals by allowing residents to switch away from heating oil and wood.

MR. JACOBSON said natural gas supplied to the Interior's two refineries would lower their operating costs and ultimately provide Alaskans with lower priced fuel.

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CHAIR OLSON asked about the distribution plan for the 12,000 home conversions needed to meet EPA air quality standards and the hookup accessibility for the 30,000 homes.

MR. JACOBSON answered that if nothing else was done but convert 12,000 homes to natural gas, the borough would meet the EPA mandated air quality attainment standards. He said Fairbank's distribution plan combines direct pipelines to high density neighborhoods and independent distribution to remote areas. He said along with natural gas conversion, the borough would continue to educate the population, assist homeowners to burn drier wood and offer the Wood Stove Exchange Program to replace wood stoves and boilers with qualified heating devices.

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CHAIR OLSON asked what the anticipated infrastructure costs were.

MR. JACOBSON answered that data from the Fairbanks Distribution Study would provide preliminary information.

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SENATOR WAGONER said NorthStar Gas did a study on a pipeline installation project in Homer; the cost was \$3.5 million. He said Fairbanks was 10 times the size of Homer and asked if the borough had a good start on distribution line installation.

SENATOR THOMAS answered yes.

MR. JACOBSON answered yes.

[4:08:14 PM](#)

JOMO STEWART, Energy Project Manager, Fairbanks Economic Development Corp., said he was in charge of the Fairbanks Gas Distribution System Report and concurred with prior testimony. He said SB 154 would be a useful and welcomed component to allow the borough to tap into the benefits of natural gas when it becomes available.

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SENATOR THOMAS commented on cost concerns and said the intent was to keep the project cost as low as possible. He said the proposed loan interest rate might not be high enough to cover administrative costs and conceded that 1 percent was a starting point. He said the appliance cost of converting fuel oil to natural gas is relatively close to projections, but wood burning system conversion and gas-line installation was a different situation.

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CHAIR OLSON said he would hold SB 154 in committee.

SB 122-REAL ESTATE TRANSFER FEES/TITLE PLANTS

[4:11:15 PM](#)

CHAIR OLSON announced the consideration of SB 122.

[4:11:25 PM](#)

DANA OWEN, staff to SB 122 sponsor, said the bill's second section bans the use of transfer fee covenants that are contractual obligations imposed upon any subsequent sale of the land. He noted that more than half of the states currently ban transfer fee covenants; the earliest was New York in 1852 when the courts noted the practice as a "vestige of feudalism." He said the second section of SB 122 has no opposition from the title insurance industry.

MR. OWEN said the first section of SB 122 extends the length of time spanned by a "title plant," which comprises of a record for all transactions or conditions that affect titles to land located in a specific area. He said the length of time would be extended from 25 years to 50 years. He said the proposed change is controversial within the title insurance industry and work was being done to find new language to satisfy all parties via a committee substitute.

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CHAIR OLSON asked when the committee substitute would be presented.

MR. OWEN replied by the next meeting.

CHAIR OLSON asked how substantially different the committee substitute would be.

MR. OWEN answered that minor changes would be made. He said the focus was on protecting customers from title insurance companies located outside of Alaska without limiting competition.

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CHAIR OLSON asked why there was opposition to allow more people into the title insurance market. He noted that buying real estate was one of the biggest expenditures an individual would have and allowing competition should bring down prices.

MR. OWEN answered that the idea was not to limit people from getting into the title insurance market; the intent was to keep out companies that are not able to give the kind of service that Alaskan-based title insurance companies could provide.

CHAIR OLSON commented that upcoming testimony would be from companies with a financial interest rather than a public interest. He said it is important to keep what is in the best interest of Alaskan residents first.

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MR. OWEN said that the committee was very concerned that public interest be protected. He said the first step was to make sure there was agreement within the title insurance industry without taking sides.

CHAIR OLSON asked if Mr. Owen was suspicious from the infighting within the title insurance industry.

MR. OWEN answered yes.

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CRYSTAL PELTOLA, Vice President/General Manager, Alaska USA Title Agency, said the current title plant law has worked well for decades and there was no value to the industry or consumers by changing something that was not broken. She said the title search process was dictated by underwriters, not by the number of years title plant documents were statutorily required to be on record. She said SB 122 would be anticompetitive by limiting the number of title agencies, doubling startup costs and adding time to acquire additional years of records.

She said increasing the title plant requirement would only benefit a few agencies, most of which were the main proponents of SB 122. She said the length of records retained in title plants had no bearing on claims or loses. She said technological change has provided broader access to electronic records and

allowed more competition to keep down costs for consumers, and that SB 122 would mandate a step back in time by requiring older, outdated title plants to be expanded.

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CHAIR OLSON asked about mortgages that go longer than 25 years.

MS. PELTOLA answered that the length of any claim of lien mechanics, mortgage or judgment, had no bearing on how far back a search was done. She said there was no correlation between length of mortgage and title record search and that title insurance underwriters are the ones who dictate the length of time.

CHAIR OLSON asked how the consumer would be protected if hazardous materials were found from WWII when a 25 year title plant was used.

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MS. PELTOLA answered that underwriting contracts dictated searches, there was no bearing on the search process by the amount of records statutorily required to have in a title plant.

[4:25:19 PM](#)

RAYMOND DAVIS, Vice President, Old Republic Title Insurance Company, said he was Alaska USA Title Agency's underwriter and provided the financial backing behind the title policies that were issued in Alaska.

He said SB 122 would give unfair advantage to two companies in Anchorage that have 50-year title plants; it would affectively give them a monopoly on all future business in Anchorage.

He said in anticipation of SB 122 passing, the two Anchorage title companies have considered charging subscription fees to the other title companies at \$7500 per month, \$90,000 per year.

MR. DAVIS said technology allowed title insurance companies to go directly to government records and search titles without old title plant mandates. He said the goal should not be to limit competition; the goal should be to expand competition without allowing "fly by night" operators. He said the real threat was to companies that had big investments in old title plants.

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CHAIR OLSON asked about Old Republic Title being located in Seattle and the impact on the consumer having to legally deal with an out-of-state company.

MR. DAVIS answered that Old Republic Title only issues policies through Alaska-based companies. He said the majority of title policies in Alaska are underwritten by out-of-state insurance companies.

[4:31:01 PM](#)

MICHAEL PRICE, President, Alaska Land Title Association (ALTA) said he owned several title insurance companies in the Anchorage area and was a real estate lawyer. He said ALTA supports banning transferring covenant fees but he disagreed with prior testimony regarding title plants.

He said the title plant change in SB 122 addressed out-of-state examiners who are not licensed in Alaska. He noted that 13 states within the past four years had adopted similar changes.

He said the title plant section of SB 122 would require an Alaskan resident and licensed title examiner to examine and sign preliminary commitments for policies being issued.

He said the SB 122 controversy comes down to two things, changing plant law from 25 years and allowing two types of title insurance companies to operate in Alaska.

He said changing plant law from 25 to 40 or 50 years was recommended due to Alaska not having curative title provisions. He said adding years to the title plant does not put unnecessary burden on title insurance companies and was not anticompetitive; records can be downloaded directly from the Recorder's Office at a relatively small fee.

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MR. PRICE said the second issue addressed a legislative decision from 2002 that designated two types of title companies; a single company required to have a title plant and a joint-plant of two or more companies that was not required to have a title plant, e.g., Old Republic Title and Alaska USA Title's arrangement.

He said ALTA, not for anticompetitive reasons, believes Alaska should return to a "title plant state." He said as far as he knew, Alaska was the only state which allowed two different types of title companies where one was required to have a title plant. He noted that Old Republic Title was based in a "title

plant state" and the company's president told him that he believed in title plants.

He said he disagreed with prior testimony which indicated consumer costs would increase. He noted that prices were set by the Division of Insurance.

He said Alaska should protect the public and not allow the limited underwriters in the US to dictate search policy. He referenced Countrywide Home Loans as an example of a large mortgage lender which no longer existed and it was the largest in the country five years ago. He noted that it only takes \$1 million to become an underwriter in Alaska and one claim could wipe that out.

[4:41:49 PM](#)

CHAIR OLSON asked if it was true what Mr. Davis brought up regarding a possible monopoly with only two land plant companies in the state of Alaska.

MR. PRICE said there were over 20 title plant companies in the state and Mr. Davis may have referred to the two companies in the Anchorage Recording District. He said there were actually more than two companies in the Anchorage area.

CHAIR OLSON asked what the normal subscription rates were for title plant information.

MR. PRICE answered that the monthly subscription was \$7000 to \$8000 for a joint-plant company and \$10,000 to \$12,000 for a single owned company.

[4:43:02 PM](#)

CHAIR OLSON asked if Mr. Davis's claim was accurate that his subscription fees were in the \$7,500 per month range.

MR. PRICE answered yes for a joint-plant organization.

[4:43:26 PM](#)

CHAIR OLSON expressed interest in protecting the public. He said real estate market suspicion was justified after the economic problems caused by the 2008 housing crisis.

[4:43:55 PM](#)

MR. PRICE responded that the title industry only insures loans and has nothing to do with making loans. He said anti competition is not the issue when title companies have

relatively low entrance and startup costs. He said the public would be better served by title agencies that have more invested into their industry and access to every document.

[4:45:31 PM](#)

TERRY BRYAN, Vice President, First American Title Company, said he operated as a title and underwriting company in approximately 10 Alaskan communities. He said Alaska is a "file and approve" state; title insurance prices are not set by the state, prices are submitted to the Department of Insurance for approval.

[4:47:15 PM](#)

MR. BRYAN referenced Oregon and Washington as states with mandatory title plant laws between 40 and 50 years. He said he was not aware of title insurance underwriting contract language that required a specific age of title plant. He said most underwriting contracts identified certain reasonable search criteria and standards, but no chronological identification due to unique differences in each state. He said ALTA recommends 40 years as a required title plant based upon Alaska's history.

He noted that the title insurance industry was probably the only part of the real estate industry that came through the mortgage crisis unscathed and was portrayed as the good guy in the media.

[4:49:10 PM](#)

CHAIR OLSON asked if the reason for the positive media coverage was due to having better legal representation.

MR. BRYAN replied that the title insurance industry facilitates the transaction and does not negotiate or barter the transaction. He confirmed that \$7500 was the correct monthly subscription rate for a joint-plant organization.

[4:50:23 PM](#)

CHAIR OLSON asked how many claims against title companies occur.

MR. BRYAN answered that he did not know. He said when compared to other types of insurance, title insurance claims occur at a very low percentage.

[4:51:34 PM](#)

CHAIR OLSON asked him to explain prior testimony regarding \$1 million required for underwriters.

MR. BRYAN answered that the state required a \$1 million bond for licensing. He added that dramatic obligations through civil and

legal courts provided added coverage for consumers who dealt with Alaska based companies.

[4:52:32 PM](#)

ROGER FLOERCHINGER, President/Owner, Yukon Title Company, said his company insured conveyances in the most northern 11 recording districts and dealt directly with buyers of real estate in villages and small communities. He said contrary to Mr. Davis' testimony, his company was not solely a distribution system for title underwriting companies. He disagreed with testimony that consumer prices would increase from a change in title plant law by requiring all companies to have title plants. He said he believed it was in his customer's best interest to operate his company with a title plant. He noted that a proposed committee substitute included a grandfather clause for current companies that operate without a title plant.

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CHAIR OLSON asked what was wrong with companies consolidating subscription on identical services to save money.

MR. FLOERCHINGER answered that consolidating was fine. He said the issue was allowing companies to operate without a title plant.

[4:56:39 PM](#)

CHAIR OLSON asked if SB 122 was a good bill for his rural constituents in Shishmaref or Shaktoolik, for instance.

MR. FLOERCHINGER answered that he does insure titles in Shishmaref and Nome.

CHAIR OLSON commented that there was a big difference between Nome and Shishmaref; Nome has been incorporated for over 100 years while Shishmaref was eroding away. He asked if he was indeed insuring titles in Shishmaref and if he did not know a customer's name, what the difference was between him and Mr. Davis in Seattle.

[4:57:37 PM](#)

MR. FLOERCHINGER answered that he does have insurance title plants in Shishmaref and would have to review his title order book.

[4:58:15 PM](#)

CHAIR OLSON announced he would hold SB 122 for the next Senate Community and Regional Affairs Standing Committee meeting.

4:59:10 PM

There being no further business to come before the committee, Chair Olson adjourned the Senate Community and Regional Affairs Standing Committee at 4:59 p.m.