

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

January 23, 2013

3:20 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Lora Reinbold, Vice Chair  
Representative Bob Herron  
Representative Charisse Millett  
Representative Dan Saddler  
Representative Andrew Josephson

**MEMBERS ABSENT**

Representative Mike Chenault

**COMMITTEE CALENDAR**

OVERVIEW: DEPARTMENT OF COMMERCE~ COMMUNITY~ & ECONOMIC  
DEVELOPMENT (DCCED)

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

SUSAN BELL, Commissioner  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the overview of the  
Department of Commerce, Community & Economic Development  
(DCCED).

DON HABEGER, Director  
Division of Corporations, Business and Professional Licensing  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the DCCED's overview of  
the Division of Corporations, Business, & Professional Licensing  
(CBPL).

BRET KOLB, Director

Division of Insurance  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the DCCED's overview of the Division of Insurance (DOI).

LORIE HOVANEK, Director  
Anchorage Office  
Division of Banking and Securities  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the DCCED's overview of the Division of Banking and Securities (DBS).

#### **ACTION NARRATIVE**

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**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Representatives Herron, Millett, Reinbold, Saddler, Josephson and Olson were present at the call to order.

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CHAIR OLSON named Representative Reinbold as Vice Chair of the Labor & Commerce Standing Committee.

#### **Overview: Department of Commerce, Community, & Economic Development (DCCED)**

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CHAIR OLSON announced that the only order of business would be an overview by the Department of Commerce, Community, & Economic Development (DCCED).

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SUSAN BELL, Commissioner, Department of Commerce, Community & Economic Development (DCCED), introduced herself. She also introduced her directors and Crystal Koeneman, Special Assistant. She began her presentation by outlining the department's mission, which is to ensure that competent, professional and regulated commercial services are available to Alaska consumers.

COMMISSIONER BELL mentioned the DCCED is comprised of five consumer protection agencies: the Division of Corporations, Business & Professional Licensing (CBPL); the Division of Insurance (DOI); Division of Banking & Securities (DBS), [an independent agency], the Regulatory Commission of Alaska (RCA); and the Alcoholic Beverage Control Board (ABC Board) - which transferred to the DCCED in July 2012. She indicated the department has 13 agencies that work to achieve the department's mission and serve Alaskans. These agencies have been working to address the high cost of energy, strategic development of infrastructure, and marketing goods and services. She said it's important to consider the role of the agencies - which provides a strong foundation and helps foster an attractive business climate and environment - that can provide stability, reasonable regulation, low taxes and fees, and consumer protection to ensure the public receives the services they believe they are purchasing or engaging in. She characterized the agencies as often providing an "unsung role." She noted members typically hear from constituents when something goes wrong, but the day-to-day work the DCCED does provides the fabric and foundation for businesses and the public.

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REPRESENTATIVE HERRON asked the commissioner to list a disappointment and a success for the DCCED.

COMMISSIONER BELL answered she considered his question a thought-provoking one. She said she struggled to answer the disappointment, but suggested that the DCCED operates with substantial uncertainty. She remarked it was only weeks ago the country was facing a "fiscal cliff," which will need to be faced at the federal level in the future. Additionally, uncertainty exists internationally with Alaska's partners in Asia and Europe, in terms of seafood exports, minerals exports, and tourism relationships. She said despite the uncertainty, Alaska has so much to offer in terms of resources and financial stability. She said she thinks it's important to focus on what can be controlled that makes a difference and "calms that uncertainty." She expressed excitement about the continuing visibility of the Arctic. She recalled a recent announcement about the communication structure between Europe, Asia and the Arctic. She said the department is providing infrastructure that connects Alaska to Asia and Europe. She reported the department will be working with private sector businesses in the United Kingdom, in Reykjavík, and in other European markets. She related the department is currently working on the

groundwork necessary for air travel between Iceland and Alaska, which will begin in May. She pointed out that the Pacific NorthWest Economic Region (PNWER) has also focused on the Arctic. She characterized Alaska as making the U.S. an "Arctic nation." She concluded by noting a tremendous amount of opportunity exists and work needs to be done, as well.

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DON HABEGER, Director, Division of Corporations, Business and Professional Licensing (CBPL), Department of Commerce, Community & Economic Development (DCCED), began a PowerPoint presentation, noting while the CBPL falls under the regulatory branch and the agency contributes a role in economic development and in creating strong communities. He characterized his comments today as providing a "20,000 foot" broad overview. He said he thinks of his division as analogous to a three-legged stool, providing three functions, including professional licensing, business licensing and tobacco endorsements, and corporate registration. The professional licensing is provided under AS 08. The division oversees approximately 40 professions, including 20 boards. The boards actually provide the licensing for the specific professions and set specific licensing criteria. The division provides administrative functions, including providing examination services to the boards. Some professions, such as naturopaths do not have boards. He held up a pamphlet that describes the professions the agency supports and promised to provide copies to members at a later date. He reported the second leg of the stool in his division is the business licensing and tobacco endorsements section.

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CHAIR OLSON interjected a question. He referred to the naturopath profession and asked for the number of licensees who operate in Alaska. He recalled the legislature previously has considered creating a board for naturopaths.

MR. HABEGER estimated about 50 naturopaths are licensed in Alaska. He offered to provide the committee with the exact number, but recalled the number is similar to the size of the Board of [Certified Direct-Entry] Midwives.

CHAIR OLSON acknowledged the licensed naturopaths were comparable-sized board [to the Board of Certified Direct-Entry] Midwives]. He suggested perhaps the committee will consider a naturopathic board again this year.

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MR. HABEGER continued. He said businesses that wish to sell tobacco products at the retail level must have an endorsement. He said the third leg of the stool is corporation registration under AS 10, which provides guidance for all the corporations in the state. These corporations have an obligation to the state to register. Additionally, corporations must identify the specific activities the corporation will engage in, along with a requirement to submit biennial reporting requirements to identify any changes, including changes to corporate officers. This information becomes public and anyone can go to the division's website and access and review the corporate documents.

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REPRESENTATIVE SADDLER asked whether the division's corporation section follows the same federal nomenclature for occupations.

MR. HABEGER agreed the initial corporate application requests the specific North American Industry Classification System (NAICS) code. The business licensing section has adopted a less robust list than the federal NAICS, but the CBPL tracks the specific occupation, he said.

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MR. HABEGER read the mission statements related to the "three-legged stool" functions the division provides. He recalled the legislature challenged the division last year to formulate efficiency measures as well as effectiveness measures. He suggested this is a good direction for the division to take. He has challenged his executive staff to consider these measures. He read mission statements [slide 3], as follows:

Professional licensing: Provide effective and efficient licensure of Alaska's professionals.  
Corporations & Business Licensing: Promote commerce by processing business and entity filings, ensure statutory and regulatory compliance, and provide the public access to documents filed for record.  
Investigations: Protect Alaskan consumers by providing investigative and enforcement support.

MR. HABEGER related the majority of the division's efforts fall under professional licensing and in registering corporations. He related the activities comprise approximately 120,000 or more annual actions. He stated the investigations section is much smaller and investigative staff spends the majority of time investigating professional licensees based on complaints.

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MR. HABEGER related the division's business and customer activity [slide 4]. In FY 12, the division licensed over 63,000 professional licenses, he said. He stated that 1.2 percent represented new applicants. In FY 12, over 66,000 business licenses were issued with 23 percent representing new businesses; however, this does not necessarily represent new businesses, but may relate to an existing business that has added a new activity. He pointed out that businesses also have an option to renew annually or biennially. He further reported in FY 12, 50,000 corporations registered, with 1.2 percent representing new registrants. He reported that the division recently instituted a new database that will help the division identify the corporations not in compliance, and allow the division to proactively contact licensees to ensure compliance, or dissolve any corporation if it is obsolete. In FY 12, 1,200 investigations were conducted, with 55 percent of investigations closed during the fiscal year, he said. He clarified that an investigative action could be as simple as someone phoning the agency to complain about substandard service experiences with a professional, but some actions lead to formal licensing actions by the board or the division.

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MR. HABEGER pointed out the organization chart [slide 5]. He explained this slide demonstrates the number of people it takes to manage the activities in the division. He pointed out the color coding used to differentiate staff for licensing, investigations, administrative, corporate, and business licensing.

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CHAIR OLSON noted new members serving on the committee. He pointed out that Representative Saddler has substantial experience with boards and commissions.

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BRET KOLB, Director, Division of Insurance (DOI), Department of Commerce, Community & Economic Development (DCCED), remarked that he joined the division in May 2012 when Linda Hall retired. He related he has 20 years of experience in the insurance industry, primarily in life and health insurance.

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MR. KOLB referred to the Division of Insurance's mission, which is to regulate the insurance industry to protect Alaskan consumers, while promoting a healthy, competitive marketplace [slide 2]. He reiterated the two core components are protecting Alaska's consumer and regulating the insurance marketplace. He referred to the division's mission as providing a "level playing field," which must be kept in balance to allow the industry to work in Alaska's market while protecting Alaskans.

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MR. KOLB turned to the industry overview [slide 3]. He pointed out Alaska's industry is different than most states in that Alaska has a large geographic area with smaller population, as well as complex pricing and service delivery challenges. He said despite these challenges, Alaska's market is active and functioning. He reported \$3.1 billion of total premium was written in calendar year 2011; 1,085 insurance companies were admitted to do business in Alaska, and 42,753 licensees currently operate in Alaska. He indicated this is almost a ten percent increase over FY 2011. He clarified that some licensees reside in the Lower 48, but serve Alaska through surplus lines.

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REPRESENTATIVE HERRON asked him to describe the market given the three bullets he just described on slide 3.

MR. KOLB responded that the insurance industry is broad and includes property, casual, life, and health components. He offered his belief the industry in Alaska faces many challenges due to the geographic diversity. He recognized that serving urban needs might be different than serving the needs of rural residents. In terms of a soft or hard market, Mr. Kolb responded that the \$3.1 billion previously mentioned demonstrates an active industry in Alaska. He said companies continue to express ongoing interest in providing services in Alaska and he hoped the division could help move that activity

forward. In further response, he agreed the market could be summarized as a soft market still moving in that direction. In response to a question by Chair Olson, he agreed this would not apply to major medical insurance. He related insurance is a topic that is very broad.

CHAIR OLSON predicted the division will face some difficulties enforcing some requirements related to major medical insurance since insurance will be driven by the [federal] Obama administration's changes. He said the division will not have much leeway with respect to the current rate structure.

MR. KOLB said one of the keys to maintain and grow the marketplace is through effective statutes and regulations. He offered his belief that the division can help the industry through its regulatory function.

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MR. KOLB reviewed the Division of Insurance's organization [slide 4]. He said the division is split into six sections with specific roles. The licensing section oversees and administers the licensure of agents, brokers, and insurance entities. In response to Representative Saddler, Mr. Kolb answered he was unsure which parts of the industry contributed to the ten percent growth in the licensing activity.

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MR. KOLB continued with the Division of Insurance's organization [slide 4]. He said the division functions include licensing, consumer services, investigations, filings and market conduct, financial examination, and administrative functions. Besides interactions on licensing and consumer services, the division works to educate consumers on insurance. He related that insurance complex for some people and the agency continues to strive to broaden its consumer assistance. The division's investigation section provides the first line of defense against fraud committed against consumers and the industry. The division has touch points with insurance industry in filings and market conduct. The industry files rates and forms, which the division reviews to ensure compliance with Alaska statutes. In terms of financial examination, it is critical for the division to review the solvency of an insurance company to ensure companies can carry out future promises. The administrative section oversees and manages many state activities, including human resources, finance, and budget development areas. He

reported the division has two locations, with 21 staff in Anchorage and 30 located in Juneau. He said he resides in Anchorage, but the division's deputy director, Martin Hester, resides in Juneau and brings a property and casualty background to the division, which helps broaden the knowledge to regulate the industry as a whole. He advised members that the division is fully funded by annual receipts and is able to provide the state with approximately \$58 million after receipts, fees, and premium taxes. The division provides consumer protection and creates an environment in which business can operate effectively.

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MR. KOLB turned to the benefits and challenges the Division of Insurance faces [slide 5]. He indicated despite the division's best efforts, white collar crime has been on the increase and the complexity of how crimes occur is also expanding. The division is working to control and limit crime. The complexity of insurance filings also continues to increase, which creates challenges for consumers, as well as for regulators. He related one division section reviews filings for compliance. In recent months considerable discussion has surrounded the cost of health care in Alaska, and while the insurance division doesn't regulate the cost of health care, these costs do affect premium rates. The state faces many unknowns related to federal health care reform and as January 2014 approaches the division will view how the federal will be regulated in Alaska and further identify division's role in protecting consumers.

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REPRESENTATIVE HERRON noted 19 new insurance companies have been admitted to do business in Alaska. He asked if these were general insurance companies or represented a suite of insurance companies.

MR. KOLB was unsure, but offered to provide the details to the committee.

REPRESENTATIVE HERRON referred to limited workers' compensation insurance. He asked whether the two pools, the Alaska Municipal League Joint Insurance Association (AMLJIA) and Alaska Public Entity Insurance (APEI) have asked to collectively work with the division to solve issues.

MR. KOLB answered no, not specifically, although he has held brief discussions which he characterized as being introductory.

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REPRESENTATIVE JOSEPHSON asked if questions about the Patient Protection and Affordable Care Act (PPACA) are best directed to him or the Department of Health and Social Services (DHSS). He referred to the uncertainties previously mentioned and as related to the exchange.

MR. KOLB pointed out a commitment and connection exists between the Division of Insurance and the DHSS on health care, but he understood the lead agency would be the DHSS. In further response, Mr. Kolb deferred to HSS in terms of questions on revenues the state would surrender by not accepting the maximum MEDICAID funds under the PPACA.

REPRESENTATIVE JOSEPHSON noted his question is probably one best answered by the commissioner. He stated the department registers foreign corporations and he is interested in the types of actions the DCCED is taking to protect consumers since this activity is often litigated.

MR. KOLB agreed [it did not pertain to his division]. He concluded that the division has its work cut out for it in the years ahead.

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REPRESENTATIVE REINBOLD asked whether the Division of Insurance plays a role similar to one of an insurance commissioner in another state.

MR. KOLB related the director is comparable to directors or commissioners in other states.

REPRESENTATIVE REINBOLD asked him to broadly explain his authority.

MR. KOLB said the division has very broad authority in AS 21. The Division of Insurance oversees licensing, rate-making, and form filing for products offered in the state. The director oversees and is responsible for these functions.

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CHAIR OLSON related the National Association of Insurance Commissioner (NAIC) also provides the director with valuable tools. These agents meet quarterly and spend 10 hours a week networking to avoid "reinventing the wheel." They collectively work to solve insurance issues, he said. He noted the group is not always in agreement, such as for "Obamacare." He said he has a list of members and access to the organization's database. He characterized this as a non-political organization. He offered to assist members if they have questions and the director is not available.

[4:05:00 PM](#)

LORIE HOVANEK, Director, Anchorage Office, Division of Banking and Securities, Department of Commerce, Community & Economic Development (DCCED), introduced herself. She began her PowerPoint by reading the Division of Banking and Securities' mission; "to protect consumers of financial services and promote safe and sound financial systems" [slide 2].

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MS. HOVANEK said the department provides financial services and charters, licenses, register, accept filings, and examines state financial institutions, as well as regulating the firms and people who offer and sell securities, home mortgages, and money services [slide 3]. She emphasized that every Alaskan is affected by the programs the division administers involving banks, credit unions, payday lenders, securities registered for sale in Alaska, and the investment advisors, sales agents, and brokers who sell these securities. She noted Alaskans who wire funds, use travelers checks or money orders or exchange currency are affected by banking and securities. She reported the division has 25 staff positions, which are evenly split between three sections: banking, consumer finance, and securities.

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MS. HOVANEK listed the division's programs [slide 3]. She detailed activities for these three sections: banking, consumer finance, and securities. The banking section charters, licenses, and examines 70 state financial institutions, including four state banks, three bank holding companies, one credit union, two trust companies, the Business and Industrial Development Corporation (BIDCO), a small loan company, 24 premium finance company offices, and 34 payday loan offices, she said. She pointed out these financial institutions are examined

at least once each 18 months by statute. She reported that 52 examinations were conducted in FY 12. She advised examination results are confidential; however, the banks and credit unions are profitable and well capitalized in Alaska. She stated the division provides financial outreach education and while outreach is somewhat limited by resources, bank examiners often give presentations at schools. For example, an examiner recently led a number of classes in a Juneau school. The division has also been working to make more financial materials and consumer education materials available on its website, she said.

MS. HOVANEC said the consumer finance section has successfully implemented the examination components for the regulation of mortgage lending and money service businesses. This section licenses over 500 mortgage loan originators, 200 mortgage broker lenders, and 56 money service businesses, which include money transmitters, wire transfers, such as Western Union - the issuers of travelers checks and money orders - and currency exchangers. She said these examiners investigate unlicensed activity and handle consumer complaints. Most consumer complaints deal with money service providers demonstrating poor customer service, mortgage lender advertising that may be deemed deceptive, or mortgage loan originators who fail to disclose fees or other relevant information to the borrower. Finally, the securities section registers about 1,200 broker dealers and 700 investment advisors, of which 20 are located within Alaska, and over 81,000 securities firm agents. Almost 1,800 sales agents are located in Alaska, she noted. She reported the majority of the division's \$13 million in revenue is generated by securities registration and filing fees.

MS. HOVANEC stated that the securities section also receives notice filings for mutual fund and unit investment trusts being sold in Alaska, which totaled 5,900 in FY 12. This section also reviewed and approved 411 securities registrations - the actual securities being offered or sold - and processed 169 exemptions from securities registration in FY 12. The securities examiners conducted six investment advisor examinations and one broker/dealer examination last year. She noted staff investigates investor complaints and reports of securities fraud, including operations allegedly operating in Alaska but having only "shell" corporations in the state. Most complaints involve those businesses selling stocks or property investments "in a warm place" that do not exist. She related other areas of concern to investigators, including gold or mineral extraction scams. Some investigations involve legitimate investment

companies that have simply "made a mistake," such as mishandling a transaction or failing process it in a timely manner.

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MS. HOVANEC related the securities section also receives Alaska Native Claims Settlement Act (ANCSA) corporate and shareholder proxy filings from approximately 42 of the 200 ANCSA regional and village corporations required to file with the division by statute. She said misleading filings are prohibited. Securities examiners received 12 requests and opened 6 ANCSA related investigations. She pointed out that these complaints often pertain to proxy solicitation information that the shareholder does not understand or about election processes allegedly mishandled [slide 5]. She reported staff fielded over 230 substantive inquiries on ANCSA corporations or statutes and regulations related to proxy solicitation filings. Most inquiries were answered on the first day. In 2011, the regulations governing investigations and complaints were revised. The requests must now contain specific information and the division must respond in writing within ten days as to whether the division will open or decline an investigation.

MS. HOVANEC related the division has changed how it currently handles investigations and complaints, which is a vast improvement over how they were previously conducted. In 2012, the section chief helped produce two more investigative televised programs that aired on Alaska's public affairs channel, 360 NORTH, and four investigative articles were published in the Senior Voice." She said, "The division protects consumers by responding to inquiries and complaints and by examining and investigating to ensure compliance with the law." She related that enforcement includes issuance of administrative orders, negotiated settlements, restitution to Alaskans, and collection of investigative costs and civil penalties. She reported the division often works with other states on global settlements, which resulted in FY 11 to about \$1.6 million to the general fund and in FY 12 to over \$300,000. She detailed that Alaska's investors also received restitution in the amount of \$69,000.

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MS. HOVANEC turned to efficiencies and streamlining for licensing, registrations, and filings [slide 5]. She said the state has expanded the use of multi-state and joint examinations of licensees and registrants and also has shared staffing, which

helps ease the burden on businesses. The division accepts registration and license applications through national database filings, thereby allowing "one stop" access to all regulators with fewer entries. She said this process also allows the public to better track licensed individuals and firms. Finally, she reported the division allows electronic filing for ANCSA corporate and shareholder filings, which also reduces the corporate costs.

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MS. HOVANEC identified some of the Division of Banking and Securities' challenges [slide 6]. She pointed out the effects of changing technology, which allows business to be conducted nationally and internationally via the Internet. She said on the one hand the improved access assists Alaskans, but it also makes it more difficult for the agency to conduct investigations on licensees located in the Lower 48 and to detect unlicensed activity. She highlighted that approximately 55 of 56 money service businesses licensed to conduct business in Alaska are located in the Lower 48. These businesses use delegates to conduct business in Alaska; however, their primary business records are located in another state, she said. Mortgage companies present a similar scenario, with 65 companies located in Alaska and 180 companies who maintain primary offices and business records outside Alaska.

MS. HOVANEC said the division must find ways to maximize its resources to conduct investigations, she advised. The division primarily focuses on Alaska businesses located in the state, but partners with other agencies in the Lower 48 to conduct examinations and investigations outside Alaska. She reported that Alaskans have been targeted for scams. She also reported the FBI and the National White Collar Crime Center indicate Alaska has the highest per capita number of complaints involving online criminal activity. She estimated losses at \$1.2 million in 2011, although she suspected losses were higher. She concluded this validates the vulnerability of Alaskans who are using the Internet to invest and obtain goods and financial services. She related that Alaskans are targeted since they have the second highest median household income in the nation and fraudsters "follow the money." She also said that Alaska's distance from the Lower 48 hampers investigations. For example, while the state has a few licensed Internet payday lenders, most of the payday lender complaints point to either non-existent businesses or lenders who do not believe they are subject to Alaska's statutes. She emphasized the importance for state

regulators to increase outreach to Alaskans to educate individuals on scams and fraud, which can help prevent people from being "taken in" and to prevent losses.

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MS. HOVANEC pointed out the elderly are often targeted for fraud. She hoped the division will be able to improve its outreach to all Alaskans to provide tools for consumers, such as financial education to reduce the impact of scams. She reported that the division is working to improve its website to provide links and access to tools for Alaskans. She acknowledged the Internet is beneficial since it allows many Alaskans access to information, particularly in rural Alaska, where face-to-face contact is limited.

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#### **ADJOURNMENT**

There being no further business before the committee, House Labor and Commerce Standing Committee meeting was adjourned at 4:24 p.m.