

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

February 10, 2014

3:21 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Lora Reinbold, Vice Chair  
Representative Mike Chenault  
Representative Charisse Millett  
Representative Andy Josephson

**MEMBERS ABSENT**

Representative Bob Herron  
Representative Dan Saddler

**COMMITTEE CALENDAR**

HOUSE BILL NO. 213

"An Act relating to golf course alcoholic beverage licenses."

- MOVED CSHB 213(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 276

"An Act making the Alaska Wage and Hour Act inapplicable to certain employees of motor vehicle dealers; and providing for an effective date."

- MOVED HB 276 OUT OF COMMITTEE

HOUSE BILL NO. 211

"An Act relating to the education and employment of individuals with disabilities."

- MOVED CSHB 211(L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 213

SHORT TITLE: GOLF COURSE ALCOHOLIC BEVERAGE LICENSES

SPONSOR(S): REPRESENTATIVE(S) THOMPSON

01/21/14	(H)	PREFILE RELEASED 1/10/14
01/21/14	(H)	READ THE FIRST TIME - REFERRALS
01/21/14	(H)	L&C

02/10/14 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 276

SHORT TITLE: MOTOR VEHICLE DEALER EMPLOYEES

SPONSOR(s): REPRESENTATIVE(s) THOMPSON

01/24/14 (H) READ THE FIRST TIME - REFERRALS

01/24/14 (H) L&C

02/10/14 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 211

SHORT TITLE: EMPLOYMENT OF PERSONS WITH DISABILITIES

SPONSOR(s): REPRESENTATIVE(s) MILLETT, GATTIS, HOLMES, HUGHES,  
LEDOUX, JOSEPHSON

01/21/14 (H) PREFILE RELEASED 1/10/14

01/21/14 (H) READ THE FIRST TIME - REFERRALS

01/21/14 (H) L&C, FIN

02/10/14 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

BRODIE ANDERSON, Staff  
Representative Steve Thompson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 213 on behalf of the prime sponsor, Representative Thompson.

HOWARD THEISS, Owner  
Fairbanks Golf Course  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 213.

JOMO STEWART, Project Manager  
Fairbanks Economic Development Corporation [FEDCO]  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 213.

RICH SAYERS, General Manager  
Anchorage Golf Course  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 213.

DALE FOX, President/Chief Executive Officer  
Cabaret, Hotel, Restaurant & Retailer's Association (CHARR)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 213.

SHIRLEY COTE, Executive Director  
Alcoholic Beverage Control Board ("ABC Board")  
Department of Commerce, Community & Economic Development  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 213.

REPRESENTATIVE STEVE THOMPSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as prime sponsor of HB 276.

JANE PIERSON, Staff  
Representative Steve Thompson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on behalf of the sponsor, Representative Thompson, on HB 276.

GREY MITCHELL, Acting Assistant Commissioner  
Department of Labor & Workforce Development (DLWD)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 213.

MARTEN MARTENSEN, President  
Alaska Auto Dealers Association (AADA)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 276.

VASILIOS GIALOPSOS, Staff  
Representative Charisse Millett  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of the sponsor HB 211.

RON PAUL, Disabilities Employment Specialist  
Frontier Community Services (FCS)  
Soldotna, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 211.

CATHY BABUSCIO  
Director of Human Resources  
Mat-Su Regional Medical Center (MSRMC)  
Palmer, Alaska

**POSITION STATEMENT:** Testified on HB 276.

RIC NELSON, Member  
Governor's Council on Disabilities & Special Education  
Department of Health and Social Services  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 211.

ERIC YANUSZ  
Palmer, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 211.

LUANN YANUSZ  
Palmer, Alaska

**POSITION STATEMENT:** Testified in support of HB 211.

MILLIE RYAN, Executive Director  
REACH, Inc.  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 211.

#### **ACTION NARRATIVE**

[3:21:43 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:21 p.m. Representatives Reinbold, Millett, Josephson, Chenault, and Olson were present at the call to order.

#### **HB 213-GOLF COURSE ALCOHOLIC BEVERAGE LICENSES**

[3:21:53 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 213, "An Act relating to golf course alcoholic beverage licenses."

[3:22:19 PM](#)

BRODIE ANDERSON, Staff, Representative Steve Thompson, Alaska State Legislature, stated that currently privately-owned golf courses can only serve beer and wine. Unfortunately, due to this limitation, the privately-owned golf courses are not provided the same opportunities currently allowed for golf courses on federal property such as military installations. He said that military golf courses are exempt from golf course liquor licenses and can serve all alcoholic beverages. Since

private golf courses are limited to serving beer and wine, they are at a disadvantage to secure large events, including tournaments. Additionally, unaccompanied minors can only enter dining facilities at a privately-owned golf course that serves beer and wine and minors cannot play golf without being accompanied by an adult. This bill would allow golf courses the same privileges as those located on federal property. Under HB 213 privately-owned golf courses could serve all alcoholic beverages. The bill would also clarify restrictions for minors on the golf course.

MR. ANDERSON referred to a letter in members' packets from [Rich Sayers, General Manager] Anchorage Golf Course and O'Malley on the Green. The letter suggests the committee consider an amendment. He referred to page 2 line 11, which read, "... by a person over the age of 21 years, and the parent or guardian of the ...." He explained that having the word "and" means that the minor must be accompanied by someone over 21 and also has consent of a parent or guardian. He stated that the letter suggests [removal of the language that requires minors under the age of 16 to be accompanied by a person over the age of 21], by changing "and" to "or." He said this would allow minors under the age of 16 to play golf so long as they have parental consent. He indicated the prime sponsor of HB 213 believes that is a good change.

[3:25:27 PM](#)

CHAIR OLSON asked whether an amendment has been submitted to accomplish the change.

MR. ANDERSON answered no; that the sponsor hopes the committee would entertain amending the bill.

CHAIR OLSON asked for clarification on whether the bill is time sensitive.

[3:26:47 PM](#)

The committee took an at-ease from 3:26 p.m. to 3:28 p.m.

[3:28:22 PM](#)

MR. ANDERSON stated that the bill has a zero fiscal note and it will only impact privately-owned golf courses.

CHAIR OLSON remarked that other golf courses have weighed in on the bill, as well.

[3:28:49 PM](#)

REPRESENTATIVE REINBOLD asked how many golf courses operate recreational site license.

MR. ANDERSON answered that eight golf courses currently operate with a liquor license.

REPRESENTATIVE CHENAULT remarked that he does not own a golf course.

[3:30:07 PM](#)

REPRESENTATIVE CHENAULT made a motion to adopt a Conceptual Amendment 1, on page 2, line 11, to strike "and" insert "or."

REPRESENTATIVE REINBOLD objected for the purpose of discussion. She said she preferred the original language; however, she deferred to the will of the committee.

REPRESENTATIVE REINBOLD removed her objection.

[3:30:58 PM](#)

REPRESENTATIVE CHENAULT explained the reason for Conceptual Amendment 1 is that he and the prime sponsor do not want to restrict youth from being on golf courses. He offered his belief that this language will not hamper [the liquor laws] in any way nor will it allow youth under the ages of 21 to have better access to liquor. He said that "or" fits the scenario better than "and" does.

[3:31:44 PM](#)

REPRESENTATIVE MILLETT reminded members that any golf course serving alcohol must follow the liquor rules of the Alcoholic Beverage Control Board (ABC). This means all servers must have TAM cards [training for alcohol professionals]. It wouldn't be any different under the bill since servers aren't going to serve children or allow anyone under 21 an opportunity to drink. She didn't see any problem having youth on the golf course since all of the provisions related to alcohol would apply.

[3:33:10 PM](#)

REPRESENTATIVE REINBOLD lifted her objection [previously lifted].

There being no further objection, Conceptual Amendment 1 was adopted.

[3:33:39 PM](#)

HOWARD THEISS, Owner, Fairbanks Golf Course, stated that he supports the idea of a full liquor license on the golf course. He also appreciated [Conceptual Amendment 1] since it allows minors to practice and improve their golf. He said that it's been tough to compete [with other golf courses] due to the liquor law restrictions. He stated that he is one of six owners, and president of the organization. He said the Fairbanks Golf Course is in support of HB 213.

[3:34:58 PM](#)

JOMO STEWART, Project Manager, Fairbanks Economic Development Corporation [FEDCO), stated that the FEDCO supports the bill. He said that his boss, [Jim Dodson, President and CEO, FEDCO], sent a letter of support [in members' packets]. The FEDCO supports HB 213 in terms of attracting tourism related golfing. Additionally, the FEDCO supports the bill in terms of the competitiveness between the public and private sector. He explained that the Fairbanks Golf Course is at a competitive disadvantage since it cannot provide the kinds of things tourists are accustomed to in other parts of the country. He concluded that the FEDCO is supporting the bill for fairness, competitiveness, and attractiveness.

[3:36:08 PM](#)

RICH SAYERS, General Manager, Anchorage Golf Course, testified in support of HB 213 and in support of allowing youth to participate without being accompanied by an adult, as stated in the letter [in members' packets].

[3:37:08 PM](#)

DALE FOX, President & CEO, Cabaret, Hotel, Restaurant & Retailer's Association (CHARR), said that CHARR supports the concept of golf course beverage licenses, in which the golf course purchases a full beverage dispensary license in order to be able to serve beverages anywhere on the course. He expressed

concern that the bill may provide "full beverage dispensary license" instead of a "golf course license". He stated that CHARR believes there is a need to purchase a full beverage dispensary license to be fair and competitive with other establishments in the community. The second part of the bill attempts to address minors on premise. The bill as written would grant 16-year-olds with parental permission the right to be on the course. He suggested the issue is larger than what the bill addresses since [it only addresses youth 16 years and older] but 10-year-olds participate in "first tee" programs and he has observed a mother dropping off a 12-year-old at the golf course. He said he wants golf courses open to youth of any age so kids can learn to play golf. He said, "And maybe we'll get our next Tiger Woods from Alaska." He suggested that the committee should allow youth of any age to access the golf course. Golf is clearly a healthy activity and youth should be encouraged to participate in golfing.

[3:39:02 PM](#)

REPRESENTATIVE REINBOLD asked whether he supported [Conceptual Amendment 1].

MR. FOX answered that [Conceptual Amendment 1] makes some sense although he was unsure whether it goes far enough. He offered his belief that the age limit is a problem for some of his golf course members.

[3:39:34 PM](#)

REPRESENTATIVE JOSEPHSON said it appears that [subparagraph] (B) appears to cover any use, at least with parental consent.

MR. FOX answered yes.

[3:40:05 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the full dispensary license would be required for spirits so the license would need to be upgraded from beer and wine.

CHAIR OLSON suggested that the Alcoholic Beverage Control Board (ABC Board) could clarify if this pertains to beer and wine.

REPRESENTATIVE JOSEPHSON pointed out that the bill would delete beer and wine and insert alcoholic beverages.

[3:41:04 PM](#)

CHAIR OLSON asked whether this bill would require a full [beverage dispensary license].

SHIRLEY COTE, Executive Director, Alcoholic Beverage Control Board ("ABC Board"), Department of Commerce, Community & Economic Development, responded that the bill would extend beyond just serving beer and wine to include spirits, similar to a beverage dispensary license such that golf course licensees would be allowed to serve, beer, wine, or hard liquor.

[3:42:03 PM](#)

CHAIR OLSON asked whether she had any issues about the minors on premises after the committee [adopted Conceptual Amendment 1].

MS. COTE answered that Representative Millett was correct, that the licensee is responsible for ensuring that alcoholic beverages are not put in the hands of those under the age of 21. Currently, staff has to ensure the underage persons are not served or given access to beer and wine so she assumed this would extend to hard liquor on golf courses.

[3:42:55 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 213.

[3:43:11 PM](#)

REPRESENTATIVE MILLETT moved to report HB 213, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the CSHB 213(L&C) was reported from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 3:44 p.m. to 3:48 p.m.

**HB 276-MOTOR VEHICLE DEALER EMPLOYEES**

[3:48:12 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 276, "An Act making the Alaska Wage and Hour Act inapplicable to certain employees of motor vehicle dealers; and providing for an effective date."

3:48:20 PM

REPRESENTATIVE STEVE THOMPSON, Alaska State Legislature, as sponsor, said this bill would clarify that auto sales staff, auto service writers, and auto finance personnel are exempt from Alaska's minimum wage and hour act. These employees are paid on commission and have never been hourly employees. He explained that HB 276 was drafted in response to confusion caused by the regulation, 8 AAC 15.910 (a) (16), which read, "straight commission" means a fixed percentage of each dollar of sales an employee makes; ...." This regulation became interpreted to mean that the commission must be applied to the gross amount of the sale. While this interpretation might be appropriate for some commission sales, such as real estate, it is not appropriate or customary for auto sales. An auto dealership must pay for the vehicle first from the sale price. Advertising laws prevent an "add on charge" to an advertised sale price to accommodate a commission. Thus, if a net sale is three percent of the gross, the dealer cannot pay a commission of five percent. This bill will clarify the long-standing employment practices of the industry by maintaining a commission based employment system that works well for both employer and employees. The DLWD has been helpful and amended its regulations; however, as a result of litigation it is necessary to seek final clarification in statute.

3:50:59 PM

REPRESENTATIVE JOSEPHSON asked for the distinction between auto sales transactions and other industries. He asked whether this requirement should apply to other retail sales' businesses.

JANE PIERSON, Staff, Representative Steve Thompson, Alaska State Legislature, said she did not think store sales commissions are supplemented by salaries. For example, it would take a lot of shoes to make a living. She related her understanding that auto sales are one of the few industries in which the dealership is selling a product it purchased from the manufacturer.

3:52:26 PM

REPRESENTATIVE JOSEPHSON remarked department stores likely own the goods. He related his understanding that the definition for straight commission applied to gross, but not net cost for the dealership.

MS. PIERSON answered yes.

REPRESENTATIVE JOSEPHSON asked whether this bill would exempt all auto dealership employees from the wage and hour statutes.

MS. PIERSON deferred to Marten Martensen, president of the Alaska Auto Dealers Association to answer.

[3:53:22 PM](#)

REPRESENTATIVE JOSEPHSON asked whether federal wage and hour regulations would offer protections to auto employees.

MS. PIERSON answered no; that this provision falls under AS 23.10.055(a), which pertains to exemptions, compensation of executives, administrators, and professionals.

REPRESENTATIVE JOSEPHSON asked whether it was her understanding that federal law would not apply, in instances in which a salesperson did not earn sufficient commissions.

MS. PIERSON answered no.

[3:54:29 PM](#)

REPRESENTATIVE JOSEPHSON said under HB 276, the car sales person would not have a guaranteed minimum wage or straight commission, but would earn a commission on net sales.

MS. PIERSON answered yes.

REPRESENTATIVE JOSEPHSON asked whether the employee negotiates with the dealer on the definition of net sales.

MS. PIERSON understood that the employee would have an idea of the approximate purchase price and adjust the sale accordingly, such as make the decision to take a three percent commission rather than not sell the car.

[3:55:49 PM](#)

REPRESENTATIVE JOSEPHSON said he was surprised that the service writer who isn't selling anything is also on commission.

MS. PIERSON deferred to Mr. Martensen to answer.

[3:57:36 PM](#)

REPRESENTATIVE REINBOLD asked whether any issues were identified prior to adoption of these regulations. She clarified she was interested in the reason the DLWD adopted the regulations.

GREY MITCHELL, Acting Assistant Commissioner, Department of Labor & Workforce Development (DLWD), said the department wanted to change the regulatory definition of straight commission from a very narrow definition to ensure that the explanation the DLWD provides employers and employees pertaining to straight sales matched the regulatory definition. The department said that its application of the narrow definition of straight commission wasn't being used and the regulation changes addressed this.

[3:58:55 PM](#)

REPRESENTATIVE REINBOLD asked whether the department received any "pushback" during public comment.

MR. MITCHELL recalled that the department did not receive a significant number of comments. He suggested that the department may have received approximately five comments, with three in support, with two opposed.

REPRESENTATIVE REINBOLD asked whether the DLWD realized that these changes represented significant impacts to the industry. She suggested that the dealerships weigh in to brief the committee on how the regulations impact them.

MR. MITCHELL agreed.

[4:00:04 PM](#)

CHAIR OLSON asked whether other industries were impacted by the regulation changes.

MR. MITCHELL offered his belief that the bill has a definition for "motor vehicle dealers" under AS [08.66.350], which involves more than just cars, for example, boats. He deferred to the sponsor to answer.

CHAIR OLSON remarked boats are a form of transportation.

REPRESENTATIVE JOSEPHSON pointed out that the definition in proposed Sec. 2 of the bill refers to a separate definition for motor vehicles. He clarified that this section refers to AS 45.

MR. MITCHELL agreed that proposed Sec. 2, referred to AS [45.25.990] and the definition under [AS 08.66.350]. In response to a question, he said he was not certain of the nuances in paragraph (3) of proposed Sec. 2.

[4:02:13 PM](#)

REPRESENTATIVE JOSEPHSON said he wanted to grasp the concept of commissions. He expressed interest that the auto dealership's financing staff is also on commission since that job is more administrative in nature.

MR. MITCHELL answered that the questions pertain more to industry question since the DLWD hasn't done a study on car dealership employees. He assumed employees fell under a variety of salary payment methods, which might be the reason for the attempt to exempt the employees. For example, if the employees were paid on a straight commission, they would be excluded from overtime. Thus, changing the law and excluding this specific group would mean it wouldn't matter if the employees were paid a straight commission or an hourly rate.

[4:04:20 PM](#)

MARTEN MARTENSEN, President, Alaska Auto Dealers Association (AADA), offered to provide in layman's terms the reason the AADA supports HB 276. He said that two years ago, an AADA member came to the board and explained the business was being sued for not paying their commission sales staff overtime. He said that car dealers don't pay sales associates overtime since they are exempt under AS 23.10.055, and earn a straight commission. The plaintiff's attorney argued that the employees are not paid on straight commission since the employees do not receive a commission based on the fixed percentage of each sales dollar as defined in regulations 8 AAC 15.910. At this point, the AADA met with DLWD's Commissioner Bishop and Mr. Mitchell to express concern over 8AAC 15.910. The AADA explained the standard industry practice of dealerships is to pay sales associates based on the net sales value or "profit."

[4:06:40 PM](#)

MR. MARTENSEN related a scenario in which in which the dealer has an on the lot vehicle for sale at \$20,000, after having paid \$18,000. The Continental Motors would pay its sales associates 25 percent of the \$2,000 profit, or \$500. The department

considered this and later agreed to change the regulation, which was accomplished in September 2012.

MR. MARTENSEN said that with the regulation change the dealership thought it was finally paying its sales staff within the law, but the plaintiff's attorney argued that federal law 29 CFR 779.413 [pertaining to straight salary or hourly rates] defines straight commission as Alaska's law. Since the regulations help to clarify the law, the judge agreed with the plaintiff's attorney so the auto dealers still have problems. Therefore, the AADA supports HB 276 to change the statutes. Finally, a federal law, 29 USC 213 (b) (10) (a), exempts car sales associates from overtime, but Alaska statutes does not.

[4:08:37 PM](#)

REPRESENTATIVE JOSEPHSON said he was amazed that this has recently arisen. He asked whether in the past 20 years anyone has raised the issue and asked for clarification of the federal statutes.

MR. MARTENSEN answered no; the issue has never been raised, and it caught the industry off guard. He explained that, by law, dealers must have written pay plans. He said his dealership has been in business for 45 years and has had written pay plans that clearly identify the salary provisions. Employees sign pay plan agreements that specify straight commission. Unfortunately, this seems to represent a loophole and the judge agreed that his dealership is not abiding by law.

[4:10:03 PM](#)

REPRESENTATIVE REINBOLD summarized that the lawsuit ensued, that the state sided with plaintiff and overturned the traditional practices. She asked if she understood the issue correctly.

MR. MARTENSEN answered yes.

[4:10:33 PM](#)

REPRESENTATIVE JOSEPHSON remarked that his sense of this is different; the state tried to support clarification of regulations helpful to the industry, but the court system did not support the practice.

MS. PIERSEN, in response to an earlier question, said that motor vehicles fall under AS 28.10, which is where the definition

exists. The DLWD worked "hand-in-hand" with the auto dealership to change the regulation, which was not recognized by federal law. This bill would place the regulation into statute. She did not think this bill would impact industry pay practices since its payment practices haven't changed; in fact, this is how the system has worked.

REPRESENTATIVE JOSEPHSON remarked that he was glad to hear about the written pay plan.

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 276.

[4:12:45 PM](#)

REPRESENTATIVE REINBOLD moved to report HB [276] out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 276 was reported from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 4:13 p.m. to 4:16 p.m.

**HB 211-EMPLOYMENT OF PERSONS WITH DISABILITIES**

[4:16:18 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 211, "An Act relating to the education and employment of individuals with disabilities."

[4:16:23 PM](#)

VASILIOS GIALOPSOS, Staff, Representative Charisse Millett, Alaska State Legislature, stated that HB 211 will make Alaska an employment-first state, which is a national movement for all agencies in the state to work towards gainful, integrated employment for persons with disabilities. This policy would include education policy and how the persons are provided service. This means those who have disabilities but are gainfully employed live healthier lives, have a higher quality of life, and incur lower health care costs.

MR. GIALOPSOS provided a section-by-section analysis of HB 211. He said that proposed Section 1 would require the Department of Education and Early Development (EED) to report to the Mental Health Trust Authority with respect to the data collection on the transition of services. Under Section 2, the bill would

also add an education plan to include a goal for children 15 years of age and older to become gainfully employed. He added that this doesn't preclude post-secondary education.

[4:18:29 PM](#)

MR. GIALOPSOS stated that Sections 3-5 have the same aspirational language imbedded in the requisite titles for the DLWD, the Department of Health and Social Services (HSS) and the Department of Administration. The fiscal notes show that this is existing policy so the fiscal impact is absorbed by the department and these departments have zero fiscal notes.

[4:19:59 PM](#)

REPRESENTATIVE CHENAULT referred to page 2, line 2, and offered Conceptual Amendment 1, which would add after "time", "within one year of leaving high school" and delete [the remainder of subsection (c), after "time" which read, in part:

... for compensation that is  
    (1) at or above the minimum wage; and  
    (2) not less than the compensation paid by  
the employer for the same or similar work performed by  
an individual who is not disabled.

REPRESENTATIVE CHENAULT said that Mr. Gialopsos can explain what this change would accomplish.

MR. GIALOPSOS explained the reason for Conceptual Amendment 1 is to conform to the legislative intent to take the same data collection requirements that the EED is required to perform with respect to special education with no impact to the department.

[4:21:40 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the legislature would no longer set a mandate for minimum wages.

MR. GIALOPSOS answered no; that the definitions would apply to the goals for persons with disabilities in other titles. He explained that Conceptual Amendment 1 pertains to data collection for transitional services. The goals will still be present, but the way the language was imbedded in the bill it required data collection the department does not currently perform, although this data is collected by the DLWD. Thus,

Conceptual Amendment 1 would eliminate the redundancy and focus on the transition services of those 15 years of age and older.

There being no objection, Conceptual Amendment 1 was adopted.

[4:22:49 PM](#)

RON PAUL, Disabilities Employment Specialist, Frontier Community Services (FCS), explained that FCS is a non-profit organization that provides services for people of all ages and has served 190 persons with a disability under its behavioral health support employment program. Currently, 26 of its 38 enrolled clients are gainfully employed for a 68 percent employment rate. He reported that FCS's clients from referrals through Serenity House, the adult probation office, ALELA, the Peninsula Community Health Center, and vocational rehabilitation office have serious disabilities. He offered his belief that without the program, these individuals would likely not be employed.

[4:24:17 PM](#)

MR. PAUL provided specific examples of persons with disabilities that the FCS has assisted, including assisting an incarcerated person who is now working on the North Slope, a homeless woman now working in retail, and an obese man who has been able to sufficiently deal with issues allow him to attend community college and live in his own apartment. He illustrated the value of FCS, given that disabled people who come to the program basically "have nowhere to go" but are assisted by the program and become gainfully employed.

MR. PAUL said he was unsure how those individuals who are seriously disabled and confined to wheelchairs will obtain help. He offered his belief that no matter what disability people have, they deserve the opportunity to secure meaningful and gainful employment and receive the same assistance and respect as those not disabled.

[4:28:20 PM](#)

CATHY BABUSCIO, Director of Human Resources, Mat-Su Regional Medical Center (MSRMC), said MSRMC's project search program is a unique "business led" vocational rehabilitation program for adult students 18-22 years of age who experience disabilities. This program provides students who want to work an opportunity to develop transferable job skills. The ultimate program goal is independent adults securing employment within their

communities. She explained that students experience full immersion at the hospital, and individualized jobs, development, and placement occurs based on student strength and skills. The project search program is a collaborative effort between the Matanuska-Susitna Borough School District, the Governor's Council on Disabilities and Special Education, and the Division of Vocational Rehabilitation. The MSRMC has had three successful program completions with 100 percent employment of their students. She pointed out the average wage is greater than \$13 per hour. Additionally, 20 percent of those completing the program have been awarded positions at the MSRMC. She stated that this program has increased employee satisfaction and has benefitted the hospital with dedicated and skilled workers. She said that the MSRMC supports employment first.

[4:30:03 PM](#)

RIC NELSON, Member, Governor's Council on Disabilities & Special Education, testified through an interpreter, as follows:

Good evening, Mr. Chair. I have my Bachelor's [degree] in business administration. I've always been told I'll never be able to work or even able to give back to society. You know, I've worked a couple part-time jobs and every time I've worked, people have enjoyed working with me. I bring a different take on life on how people work with disabilities. And within a year or two after I graduate with my Masters [degree], I want to start my own business. I want to open an agency that serves people with disabilities. I want to give back for what I have gotten through with my life. I want to make sure that people can work in their own community doing whatever they want. I urge to please pass HB 211.

[4:35:13 PM](#)

ERIC YANUSZ provided his testimony, as follows:

I am Eric Yanusz and I'm currently working at REACH, where Cathy works, too. [In] my first rotation the day surgery is sanitized, dusted: take out trash, repair the chemicals, [and] clean the lobby area. Second rotation, food service: fill required buckets, wipe tables, wrap silverware, [and] refill napkins. Indisc. I don't know my third rotation.

4:36:01 PM

LUANN YANUSZ stated that she is the parent of a 21-year-old son, [the previous testifier], with disabilities. She explained that parents of children with disabilities do not know what to expect, how much they will be able to learn or do, or contribute. She said her son hasn't received a high school diploma so he is in a lower range than many in society. In his current program, "Project Search" and other job training programs, he has learned what employers expect of him, such as to be at work every day, develop a good work ethic, show initiative, and follow the rules. She said he is hoping through the transition from Project Search to get at least a half-time job and continue his work routine. She said he will be out of the school district this May and he is very "routine oriented." She hoped the transitional services will provide assistance so his routine from working at school to working in the community can continue instead of him watching television. If he is watching television, he will know the television schedule. Under the program, he is gainfully employed in the community, learns how to take the bus and get to his job, what the employer expects, and would earn appropriate wages. In conclusion, she said, she supports the employment first bill.

4:38:41 PM

MILLIE RYAN, Executive Director, REACH, Inc., stated that REACH serves about 400 individuals, primarily with intellectual and developmental disabilities in northern Southeast Alaska. One service REACH provides is employment, and it is currently implementing employment-first policies across the agency. For example, when people are developing their service plans, the first thing REACH asks about is employment. REACH has collected baseline information on the percent of youth and adults who have employment goals in their service plans. She indicated that REACH's board of directors will be setting targets over the next five years. She stated that providers can do a lot to support people and help them get employment but the state must provide strong policies that promote employment as the preferred outcome for individuals with developmental disabilities. She emphasized that HB 211 will really make that happen. She thanked members for the opportunity to support of HB 211.

4:40:08 PM

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 211.

[4:40:23 PM](#)

REPRESENTATIVE MILLETT remarked that she was appointed last year to serve on the Governor's Council on Disabilities & Special Education (GCDSE). She said it has been an honor to work with the GCDSE, including those present today. She said the GCDSE's priority legislation is HB 211 and HB 212. She said the legislature is working on healthy communities and the legislature's priorities are to make sure that businesses grow and help individuals become independent. She said that a job does wonders for people, in terms of depression, suicide, self-worth, caring for self, developing a social life, and meeting people, and being an active part of the community is something everyone in Alaska deserves. This bill would help us recognize individuals for their special qualities. She said, "The sky is the limit. As they grow and learn skills, the limitations they overcome are phenomenal." She has observed Ric Nelson graduate from college. She is thrilled he is working towards his Master's Degree. She said he is an inspirational person and it is meaningful to speak with him to learn about his life. She said that Teresa Holt has been an excellent executive director for the council. She said she has probably learned more from serving on this council from the human perspective and it was an honor to carry the bill. The bill is truly a work in collaboration with a lot of people who care. She characterized the council as being a dedicated group.

REPRESENTATIVE MILLETT moved to report HB 211, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

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There being no objection, the CSHB 211(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:44:34 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:44 p.m.