

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

April 12, 2002

3:25 p.m.

MEMBERS PRESENT

Representative Andrew Halcro, Vice Chair
Representative Kevin Meyer
Representative Pete Kott
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

Representative Lisa Murkowski, Chair
Representative Norman Rokeberg

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 270(L&C)

"An Act extending the termination date of the Board of Dispensing Opticians; relating to the regulation of dispensing opticians; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 471

"An Act relating to the definitions of 'net income' and 'unrestricted net income' for purposes of determining the amount of the Alaska Industrial Development and Export Authority's dividend to the state; relating to communities within which rural development loans may be made by the authority; and providing for an effective date."

- MOVED CSHB 471(L&C) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 282

"An Act relating to prescription drug benefits under a group health care insurance plan."

- FAILED TO MOVE CSSSHB 282(L&C) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: SB 270

SHORT TITLE:DISPENSING OPTICIANS:EXTEND BD/REGULATION

SPONSOR(S): RLS BY REQUEST OF LEG BUDGET & AUDIT

| Jrn-Date | Jrn-Page | | Action |
|----------|----------|-----|---|
| 02/01/02 | 2089 | (S) | READ THE FIRST TIME - REFERRALS |
| 02/01/02 | 2089 | (S) | L&C, FIN |
| 02/14/02 | | (S) | L&C AT 1:30 PM BELTZ 211 |
| 02/14/02 | | (S) | Moved CS(L&C) Out of Committee |
| 02/14/02 | | (S) | MINUTE(L&C) |
| 02/19/02 | 2222 | (S) | L&C RPT CS 3DP 1NR SAME TITLE |
| 02/19/02 | 2222 | (S) | DP: STEVENS, DAVIS, TORGERSON; |
| 02/19/02 | 2222 | (S) | NR: AUSTERMAN |
| 02/19/02 | 2222 | (S) | FN1: (CED) |
| 03/25/02 | | (S) | FIN AT 9:00 AM SENATE FINANCE 532 |
| 03/25/02 | | (S) | Moved Out of Committee MINUTE(FIN) |
| 03/25/02 | 2517 | (S) | FIN RPT CS(L&C) 5DP 3NR |
| 03/25/02 | 2518 | (S) | DP: KELLY, AUSTERMAN, OLSON, WILKEN, |
| 03/25/02 | 2518 | (S) | LEMAN; NR: DONLEY, GREEN, WARD |
| 03/25/02 | 2518 | (S) | FN1: (CED) |
| 03/28/02 | | (S) | RLS AT 8:30 AM FAHRENKAMP 203 |
| 03/28/02 | | (S) | -- Time Change -- |
| 03/28/02 | | (S) | MINUTE(RLS) |
| 04/02/02 | 2589 | (S) | ADVANCED TO THIRD READING UNAN CONSENT |
| 04/02/02 | 2589 | (S) | READ THE THIRD TIME CSSB 270(L&C) |
| 04/02/02 | 2589 | (S) | PASSED Y18 N- E2 |
| 04/02/02 | 2589 | (S) | EFFECTIVE DATE(S) SAME AS PASSAGE |
| 04/02/02 | 2593 | (S) | TRANSMITTED TO (H) |
| 04/02/02 | 2593 | (S) | VERSION: CSSB 270(L&C) |
| 04/02/02 | 2586 | (S) | RULES TO CALENDAR 4/2/02 |
| 04/02/02 | 2588 | (S) | READ THE SECOND TIME |
| 04/02/02 | 2588 | (S) | L&C CS ADOPTED UNAN CONSENT |
| 04/03/02 | 2770 | (H) | READ THE FIRST TIME - REFERRALS |
| 04/03/02 | 2770 | (H) | L&C, FIN |
| 04/12/02 | | (H) | L&C AT 3:15 PM CAPITOL 17 |

BILL: HB 471

SHORT TITLE:AIDEA LOANS AND DIVIDEND/AEA LOANS

SPONSOR(S): REPRESENTATIVE(S)GREEN

| Jrn-Date | Jrn-Page | | Action |
|----------|----------|-----|---|
| 02/19/02 | 2314 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/19/02 | 2314 | (H) | CRA, L&C |
| 03/26/02 | | (H) | CRA AT 8:00 AM CAPITOL 124 |
| 03/26/02 | | (H) | Moved CSHB 471(CRA) Out of Committee |
| 03/26/02 | | (H) | MINUTE(CRA) |
| 03/27/02 | 2701 | (H) | CRA RPT CS(CRA) NT 6DP |
| 03/27/02 | 2701 | (H) | DP: KERTTULA, HALCRO, SCALZI, |
| 03/27/02 | 2701 | (H) | MURKOWSKI, MEYER, MORGAN |
| 03/27/02 | 2701 | (H) | FN1: ZERO(CED) |
| 04/12/02 | | (H) | L&C AT 3:15 PM CAPITOL 17 |

BILL: HB 282

SHORT TITLE:PRESCRIPTION DRUG INSURANCE BENEFITS

SPONSOR(S): REPRESENTATIVE(S)COGHILL, FATE

| Jrn-Date | Jrn-Page | | Action |
|----------|----------|-----|------------------------------------|
| 01/14/02 | 1948 | (H) | PREFILE RELEASED 1/4/02 |
| 01/14/02 | 1948 | (H) | READ THE FIRST TIME - REFERRALS |
| 01/14/02 | 1948 | (H) | L&C, HES |
| 01/18/02 | 2003 | (H) | SPONSOR SUBSTITUTE INTRODUCED |
| 01/18/02 | 2003 | (H) | READ THE FIRST TIME - REFERRALS |
| 01/18/02 | 2003 | (H) | L&C, HES |
| 01/18/02 | 2003 | (H) | REFERRED TO LABOR & COMMERCE |
| 04/12/02 | | (H) | L&C AT 3:15 PM CAPITOL 17 |

WITNESS REGISTER

HEATHER BRAKES, Staff
to Senator Gene Therriault
Joint Committee on Legislative Budget & Audit
Alaska State Legislature
Capitol Building, Room
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of SB
270, the Joint Committee on Legislative Budget and Audit.

JAMES ROTHMEYER, Chair
Board of Dispensing Opticians
PO Box 84290
Fairbanks, Alaska 99708

POSITION STATEMENT: Testified on SB 270.

CATHERINE REARDON, Director
Division of Occupational Licensing
Department of Community & Economic Development
PO Box 110806
Juneau, Alaska 99811-0806

POSITION STATEMENT: Testified on SB 270 in support of the extension of the Board of Dispensing Opticians.

PAT DAVIDSON, Legislative Auditor
Legislative Audit Division
Alaska State Legislature
PO Box 113300
Juneau, Alaska 99811-3300

POSITION STATEMENT: Answered questions regarding SB 270.

ROBERTA RAWCLIFFE, Public Member
Board of Dispensing Opticians
c/o Alaska USA Mortgage
851 USA Circle
Wasilla, Alaska 99654-7188

POSITION STATEMENT: Requested amendments to SB 270.

LAURA ACHEE, Staff
to Representative Joe Green
Alaska State Legislature
Capitol Building, Room 403
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of HB 471, Representative Green.

BOB POE, Executive Director
Alaska Industrial Development and Export Authority (AIDEA);
Alaska Energy Authority (AEA)
813 West Northern Lights Boulevard
Anchorage, Alaska 99503

POSITION STATEMENT: Testified on HB 471.

REPRESENTATIVE JOHN COGHILL
Alaska State Legislature
Capitol Building, Room 102
Juneau, Alaska 99801

POSITION STATEMENT: Testified as one of the sponsors of HB 282.

GERALD BROWN, Pharmacist
PO Box 70196

Fairbanks, Alaska 99707

POSITION STATEMENT: Testified that he has problems with [CSSSHB 282, Version J].

NICOLE SALINAS

National Accounts

Account Executive

Aetna US Healthcare

600 University Street, Suite 1400

Seattle, Washington 98101

POSITION STATEMENT: Testified in opposition to SSHB 282.

ROGER MORTEMORE, Pharmacist

(No address provided)

Fairbanks, Alaska

POSITION STATEMENT: Expressed the need to rewrite SSHB 282.

JACK McRAE

Premera

Blue Cross Blue Shield of Alaska

(No address provided)

POSITION STATEMENT: Responded to earlier questions regarding SSHB 282.

ANGIE LeBOEUF, Pharmacist

(No address provided)

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SSHB 282.

DAN HEINCY, RPL

Associate Director

Government Affairs

Merck & Co, Inc.

6930 Boardwalk Drive

Granite Bay, California 95746

POSITION STATEMENT: Testified on SSHB 282 on behalf of Merck-Medco Managed-Care L.L.C.

ROBIN PHILLIPS, Staff

to Representative Lisa Murkowski

Alaska State Legislature

Capitol Building, Room 408

Juneau, Alaska 99801

POSITION STATEMENT: Answered questions regarding SSHB 282.

ACTION NARRATIVE

TAPE 02-55, SIDE A
Number 0001

VICE CHAIR ANDREW HALCRO called the House Labor and Commerce Standing Committee meeting to order at 3:25 p.m. Representatives Halcro, Meyer, Kott, and Crawford were present at the call to order. Representative Hayes arrived as the meeting was in progress.

SB 270-DISPENSING OPTICIANS:EXTEND BD/REGULATION

[This is a verbatim transcript.]

VICE CHAIR HALCRO: Senate Bill 270, Board of Dispensing Opticians. We'll welcome to the committee Heather Brakes from Senator Therriault's office. Heather, welcome to the committee.

Number 0070

HEATHER BRAKES: Thank you, Mr. Chairman and members of the committee. My name is Heather Brakes, staff to Senator Therriault and the Legislative Budget and Audit Committee, which is the sponsor of Senate Bill 270. Senate Bill 270 was drafted based on an audit ... conducted by the Legislative Audit Division and released by the Budget and Audit Committee on January 24th, 2002. The audit had several concerns about the board. One of those concerns was addressed in Recommendation Number 1 on page 7 of the audit report that's in your packet. The auditor stated in part, the disparity between the number of people who become licensed and the number of people registering to be apprentices suggests the 6,000-hour requirement for apprenticeship "may unduly prohibit people from getting licensed." The auditor suggested the board reconsider the necessity of the 6,000-hour requirement.

MS. BRAKES: On page 13 of the audit, a table shows the number of both licensed dispensing opticians and those that have registered as apprentices. On page 15 of the report, the board response does agree with the auditor's recommendation, although in doing so, the board then wanted to add an \$800 correspondence course to that requirement. We have not included that in our legislation and feel it would be a hardship to the employee and ... may even be shifted onto the employer.

MS. BRAKES: Recommendation Number 2 of the audit addresses the board's state exam. The prior audit ... finding made in the

1995 sunset review recommended that the board improve the objectivity and consistency of the state's exam. After finding again that the board's exam process was flawed in several of the cases selected for review by the auditors, the auditors suggest the board give serious consideration to discontinuing the practical exam and require applicants to pass the nationally recognized examinations offered. Those examinations are incorporated in Senate Bill 270.

MS. BRAKES: The auditors continue to be concerned about the apparent subjectivity or error-prone nature of the exam. On page 11, fourth paragraph down, the auditors found in part: "The board has not resolved the prior sunset audit recommendation related to the state practical examination. The objectivity and consistency of the state practical examination did not improve over the current sunset review period, resulting in successful challenges by applicants who originally were determined to have failed the test." The board has offered several solutions to the problem, we feel at this time -- none of which fully resolve the situation.

MS. BRAKES: Under the Auditor Comments section of the report, the auditor makes the assessment that moving to a "register" system and eliminating the board may have merit. Although Senate Bill 270 does not do that, it is something the legislature may wish to consider in the future. Currently, 22 states license through regulatory boards; the remaining either use a register system or do not regulate dispensing opticians at all. With that, Senate Bill 270 extends the board for three years, in contrast to the normal four-year extension. It reduces the number of apprenticeship hours from 6,000 to 3,000 and accepts an associate's degree in opticianry ... in place of any of the apprenticeship hours. It removes the state's practical exam and replaces it with acceptable passage of the national examinations. And with that, I would conclude my testimony. Pat Davidson, the legislative auditor, is here to answer any specific questions to the audit, and Catherine Reardon is here as well.

VICE CHAIR HALCRO: Thank you very much, Heather. Any questions for Ms. Brakes? Seeing none, Catherine I'm going to hold you till last. Let's go [to] teleconference, to the Fairbanks LIO [Legislative Information Office], James Rothmeyer. Mr. Rothmeyer, are you online?

JAMES ROTHMEYER: Hello.

VICE CHAIR HALCRO: Yes. If you could state your name and affiliation for the record, please, and please keep your testimony to under three minutes.

MR. ROTHMEYER: Certainly. My name is Jim Rothmeyer. I'm the Chair of the State Board of Dispensing Opticians.

VICE CHAIR HALCRO: Did you have any testimonies, Mr. Rothmeyer, or were you just ...?

MR. ROTHMEYER: Yes, I had a couple of comments and testimony.

VICE CHAIR HALCRO: Please proceed.

Number 0442

MR. ROTHMEYER: In regards to the ... 6,000-hour requirement, just reducing the hours from 6,000 to ... 3,000 hours makes not much sense to me without adding an education-and-training program such as the Career [Progressions] Program by the National Academy of Opticianry. And just reducing the apprenticeship hours, these applicants would undoubtedly [be] even worse-prepared and trained than they are now. As far as the state examination goes, it's a key element in having applicants demonstrate their ability, or lack of, in performing routine tasks needed to ensure their proper accuracy, and in some cases, the safety standards of spectacles/materials dispensed. I think we need to ... be able to have professional oversight, peer review, to maintain quality and standards that the public expects and deserves. Thank you.

VICE CHAIR HALCRO: Thank you very much, Mr. Rothmeyer. Is there any questions? Seeing none, next we'll go to the Mat-Su LIO. Roberta Rawcliffe, are you online? Roberta Rawcliffe. We will come back to the Mat-Su LIO. Catherine Reardon. Heather, if you'll just stay at the table, that'd be great.

Number 0538

CATHERINE REARDON: Thank you. For the record, this is Catherine Reardon, Director of the Division of Occupational Licensing in Department of Community and Economic Development. And my division staffs the Board of Dispensing Opticians. I will try to be brief and yet mention a few issues I think may be relevant to this legislation. The division does support the extension of the Board of Dispensing Opticians. And there are two remaining issues that Mr. Rothmeyer referred to. And with

your indulgence, I'd ask you to ... consider amendments that relate to them that -- I realize it's not my role to offer amendments, but to consider this possibility, and there is some text that you have on the table.

[The two amendments provided by Ms. Reardon read as follows, with original punctuation:

Amendment No. 1

Page 3, line 13:

Insert a new paragraph to read:

(4) has successfully completed a career progression program required by the board in regulation;

Re-number the remaining paragraph

Page 3, line 14

Amend to read:

(b) Graduation from an associate degree program in a recognized school or college of opticianry may be substituted for [4,000 OF THE 6,000 HOURS OF EXPERIENCE REQUIRED BY (a)(2)] the requirement of (a)(2) and (a)(4) of this section.

Page 3, line 31

Add a new section to read:

AS 08.71.165. Assistants.

A person who is not a licensed dispensing optician may assist a licensed physician, optometrist or dispensing optician. The person may perform dispensing optician tasks that have been specifically delegated by, and are performed under the direct supervision of, the licensed physician, optometrist or dispensing optician. The person may not use a title including the word "optician or "opticianry."

Amendment No. 2

Page 2, line 19

After "shall" add "pass a practical examination given by the board and"

Page 2, line 24

After "shall" add "pass a practical examination given by the board and"

Delete Sections 2 and 6

(end of Ms. Reardon's proposed amendments)]

Number 0563

MS. REARDON: These two issues are the ... practical exam. The board feels the practical exam is important to ... determine if people are qualified to work as dispensing opticians, because the written national examinations, although good, are written tests, and they'd like to know that the applicants have the ability to use the machinery that's involved and do the practical skills. There have been difficulties at times in administering the practical exam in an exactly equivalent manner - not through any bad intent, but through sometimes the difficulty of creating the exact same situation with equipment for applicants. But the board feels that they've been working to improve the exam, that they should be able to continue offering it or to contract out to the private sector to offer it.

MS. REARDON: If ... the committee feels that the practical exam should be permitted to continue for the next three years, I do have draft language that would - ... if you have my text, it's called Amendment 2 - ... do that. Another alternative, either with that or instead of it, is perhaps a letter of intent that would say that the board should study the options for practical exams for the next couple years - two years - and report back to the legislature so that those recommendations could be considered in the next audit process. The point of doing that would be that it would kind of keep the idea of a practical exam alive, give the board a task to try to find a fair, easy-to-administer practical exam. The idea ... would come back again at the next sunset audit and wouldn't be lost to history, and would give the board the ability to feel like it was still able to engage in the debate over the exam, even if you eliminate it for the next couple of years. And that's what the one-paragraph letter of intent says.

Number 0704

MS. REARDON: The other important issue was referred to by Mr. Rothmeyer, ... the board's desire that applicants for licensure get some education in addition to their apprenticeship hours. The bill reduces apprenticeship hours by half. A thousand hours is about six months. So the apprenticeship is going from three years to a year and a half. And the board would be okay with that if ... there were some education that was going to be required. There is a program called the Career Progression Program - there's a pamphlet there on it, on the table - which is a correspondence course that the board feels would really improve the knowledge of applicants for dispensing optician licenses, and would prepare them to better pass the ... national exam. It is \$800, as referred to by Ms. Brakes. The initial proposal by the board had been to require this of all apprentices, but the new proposal is that it be required to get a license.

MS. REARDON: But here is the significant difference: that today, if you're going to work as an assistant to an optometrist, of a ophthalmologist or an optician, if you are going to do "dispensing optician" in a supervised capacity, as an assistant - you must register as an apprentice. The proposal here is to do away with that requirement that you're going to be an apprentice. If you don't wish to be an apprentice and you don't wish to work towards licensure, you ... don't have to. That's a big concession on the part of the board, because this has been an age-old battle between the optometrists and the opticians: that optometrists' employees have to register as opticians.

Number 0812

MS. REARDON: This - what I have here is Amendment 1 - would say that you can be an assistant without being an apprentice, but if you choose to go on and work towards licensure, sign yourself up as an apprentice and take the Career Progression Program. And the reason this is a significant kind of perhaps solution to situations that have been going on with opticianry is because at the current time it seems like -- the law reads that you have to have a dispensing-optician license to do dispensing opticianry unless you are a student - kind of like a student hairdresser can cut hair - unless you are an apprentice. But that apprentice system seems to have evolved from being students who want to be licensed to being techs, paraprofessionals - like your pharmacy tech or a vet tech, people who don't necessarily want to go on. But because the system was set up anticipating that apprentices were people who wanted to go on, there hasn't

been a way for people who want to stay techs and just have this job of being a tech. To do it legally, we were forcing them to get apprentice licenses, causing tension with the optometrists and the physicians who also employ these techs.

MS. REARDON: And so this offering would say, "Recognize that ... a lot of people who are apprentices now are really techs, don't want to get a license, let them not pay us money; let them just be techs under supervision. But the ones who really are apprentices and who really do want to train up, have them take the Career Progression Program, get the education as well as this reduced number of hours so they will be better qualified to pass the test." And I ... want to set that before you, because it ... seems like a - in certain ways to me - a major concession of something that has been a long battle. And it is my understanding, kind of through a third source, that this [is] something that the board can ... accept. So ...

VICE CHAIR HALCRO: Thank you. Any questions for Ms. Reardon? Representative Crawford.

Number 0928

REPRESENTATIVE CRAWFORD: Thank you, Mr. Chairman. It seems to me that we're on uncharted ground here, and that there could be some unintended consequences if we ... go this way. I mean, it's definitely going to be a change. How do we compare with other states? And do they have techs? Do they have apprentices? Is 6,000 hours ... the norm or 3,000 hours the norm? ... How do we compare with other ... states?

MS. REARDON: Through the chair, Representative. I believe that quite a few other states do have an apprenticeship requirement to get licensed. I think the leg [legislative] auditor may be more knowledgeable, but I've heard her testify in the past about the length of time for apprenticeship. But they do ... vary from state to state, that at our current 6,000 hours prior to this bill, which reduces it 3,000, ... we're probably towards the upper end, but we're in the range that ... states that have licensing boards tend to require ... more towards the upper end. States with registration maybe tend to go towards the lower end. And so, ... by coming under 3,000 hours, we're definitely at the upper end anymore of apprenticeship requirements. But most do require apprenticeship.

MS. REARDON: I think that the Career Progression Program is becoming increasingly kind of popular in the states. Mr.

Rothmeyer may be able to speak to that because he's the chair of the board. But ... it's a correspondence course that's been developed by ... the profession. And I think that there wasn't really a good way of getting people trained up. There wasn't a real good correspondence course before that, so I think it's going to be more and more appealing. And I think, in terms of the techs -- I use the word tech or assistance; it's really an unlicensed person who is doing delegated supervised work, and use the term tech because I thought it might help everyone understand it. I don't know in how many states you're allowed to do any dispensing opticianry without having the dispensing-optician license, but I do know that there are several states who don't require any dispensing-optician license. So, if that gives you any comfort? It's ... not a profession that is required to have a license in every state, like doctors or, you know, or dentists or something like that. I know you want to keep moving, so....

VICE CHAIR HALCRO: Any other questions for Ms. Reardon? Ms. Brakes, did you have a comment?

Number 1072

MS. BRAKES: Yes, thank you, Mr. Chairman. Representative Crawford: on page 7 of the audit, under "Findings and Recommendations", the auditor says currently 22 states regulate opticians through the use of a licensing board. The remaining states either utilize a registration system or [do not] regulate them...." And then it goes on to talk about apprenticeship programs; some have requirements as low as 2,000 or 3,000 hours.

MS. REARDON: With your final indulgence. You know, if you were so inclined, you might ... hold it over and look at these, see if you want to do a CS or something. I know it's a lot to have to decide in three minutes, being thrown at you by me, but....

VICE CHAIR HALCRO: Let me ask, Ms. Brakes, as the sponsor's representative: have you had a chance to look at these amendments in any prior committees?

MS. BRAKES: No, these were just handed to me right before the meeting started.

VICE CHAIR HALCRO: Any comments on them, or their impact on the legislation?

MS. BRAKES: Actually, I would like to have Pat Davidson maybe answer.

VICE CHAIR HALCRO: Pat, would you come to the table, please? Thanks.

Number 1137

PAT DAVIDSON: For the record, Mr. Chairman, my name is Pat Davidson, Legislative Auditor. I, too, just took a look at these. And while I ... probably have more questions than answers with regard to this, one of them has to do with assistance. And as Ms. Reardon said, there has been conflict between ophthalmologists, optometrists, and dispensing opticians with regard to supervision requirements of the ... dispensing optician apprentices. It's ... unclear to me right now, the suggested wording regarding assistance. It talks about having these individuals under the direct supervision. Since these are people who are not licensees, aren't apprentices of a dispensing optician, who would be setting the criteria for what direct supervision means? Right now, because they're the apprentices, it's the dispensing-opticians statutes and regulations that define how these people are to be supervised. When you move them out of being apprentices of the Dispensing Optician Board, does that mean the direct supervision needs to be defined in the statutes for the ophthalmologists, the optometrists, as well as dispensing opticians? Those are just questions that I have looking at this. So -- and I apologize for raising questions instead of providing answers.

VICE CHAIR HALCRO: And that's certainly okay, judging the lateness of the receipt of these amendments. Let me ask you: Ms. Reardon indicated that another option might be to provide a letter of intent - in addition, obviously, as we pass the extending the sunset date - a letter of intent saying the board should take a look for the next two years at the practical exam and the benefits thereof. Does that sound like maybe a better alternative than ... taking the amendment direction?

MS. DAVIDSON: Mr. Chairman, it probably doesn't ... stick out very well in the report, but when we say that this is a prior audit finding, this means this is an issue that has been before the board for not only this last four-year period, but the four-year period before. So, this isn't anything that has been dropped. It isn't anything new to the board. This is something they knew we had concerns with years ago. We look at it; it's not improved. The legislation takes the action and says, "Okay,

you've had eight years. We're moving away from a practical exam to a national exam." And yes, we are moving from a practical to more of a written exam.

MS. DAVIDSON: But there are alternatives, if you're concerned about the quality of work that they're doing. There would be ways to put requirements on the type of work that they need to do, whether or not the individual supervising them has to sign off that, in their belief, they do meet the requirements and can fulfill these things. There's different ways to get around having a practical exam. And, as I said, it has [been] before the board, and it's nothing new.

Number 1326

VICE CHAIR HALCRO: Ms. Brakes, since these amendments have been dropped on you today, would ... it be better, maybe, if we gave you a couple of days to work with the department in taking a look at these amendments and how they fit into, obviously, the piece of legislation you've been working through ... for a while now? Would that be a better alternative? It seems to me that we're kind of caught off guard by these amendments, and it's kind of a change in direction. Would that work a little bit better for you? And then possibly we could bring the bill up next week. ... Would that be okay?

MS. BRAKES: Yes, Mr. Chairman.

VICE CHAIR HALCRO: Okay, because I certainly don't want ... to rush the discussion, and I want to give the sponsor time to take a look at ... the amendments. Do we have any other questions for either Ms. Brakes or Ms. Davidson? Thank you very much. We're going to go back online now to Mat-Su. Roberta Rawcliffe. Roberta, welcome to the committee. If you could state your name and affiliation for the record, please.

Number 1370

ROBERTA RAWCLIFFE: Certainly, Mr. Chairman and the members of the House Labor and Commerce Committee. I'm Roberta Rawcliffe and the publicly appointed member of the Board of Dispensing Opticians.

VICE CHAIR HALCRO: And did you have any comments, or were you just online to answer questions, ma'am?

MS. RAWCLIFFE: No, I do have a few comments, if I could have a few moments of your time.

VICE CHAIR HALCRO: Absolutely. Please proceed.

Number 1395

MS. RAWCLIFFE: Appreciate it. I was appointed by Governor Knowles to the board on March 8, 1999, to represent the public interest as it relates to opticianry. I'm a mortgage banker by trade, but I take my appointment and my obligation to the public in this matter very seriously. And that's why I'm here. And I would ask the committee to amend SB 270 in the following ways for the following reasons. Number one, Section 1, AS 08.03.401(c)(9): I would ask that the committee consider making the sunset date for the State Board of Opticianry coincide with the June 30th, 2006, date of the State Board of Optometry, since they are like industries and have like ... obligations to the public - that those dates would be concurrent.

MS. RAWCLIFFE: Additionally, I would like to put in my two cents on the examination. I believe that the practical examination should be retained for the public good. Now, I've been on the board since '99, and the board has been working very, very hard at trying to iron out the problems that ... were inherent in the way the exam had been designed. There's been a total redesign of the exam for this year, taking into consideration the legislative auditor's recommendations and findings that there was ... a fair amount of subjectiveness in the examination. The way it had been written before, it was prone to interpretation and it was prone to mathematic errors on the part of the board members as they were grading it. And as a result, there were ... three ... disputes over what these scores were and whether or not those people who had sat for the examination shouldn't be "delighted." The examination, the way it's being administered next week on Thursday, is ... totally redesigned so that the subjectiveness of the answers is taken out, and the questions are now multiple-choice. And the ... lenses and whatnot which will be set before the examinees are all lab-tested so there's no going to be in question as to whether or not these are or aren't the readings that someone might otherwise make.

MS. RAWCLIFFE: From the public's standpoint, I think that the practical examination is necessary because it's very easy for someone ... to be "book smart" and not ... necessarily have the practical skills to carry out their duties. And in the case of

issuing glasses or lenses or any other eyewear including contact lenses, it seems reasonable to me, as a nonindustry person, that someone could pass the written examination and be signed by a supervisor who does or doesn't necessarily watch everything that goes in and out of the shop, especially if it's a shop that doesn't do a lot of its own work but sends things out to the laboratory to be done. In that case, if someone comes in with some eyewear that needs to be created for them, if that person doesn't have a practical, hands-on experience to do it, how do we know that what they're doing is correct? And in the case of small children, if those lenses are done poorly, they can do irreparable harm. So I disagree with the ... notion that book learning is sufficient.

Number 1559

MS. RAWCLIFFE: Secondly, on the apprenticeship issue: as a board, we have discussed waiving, possibly, the mandatory registration for those who don't want to be licensed. The issue comes down to what you call them and what are their duties, as Ms. Reardon raised that issue. If all they want to do is clerical work or help customers choose frames, or hand over lenses which have already been checked out by the optician or the licensed apprentice to prove that they are indeed the prescription which was ordered by the optometrist or the ophthalmologist, I have, personally, no problem with that. And I think it makes good sense; there's no point in taking someone who doesn't have the desire to move forward in the field and making them quit their job if they haven't sat for an examination after 6,000 hours of work.

MS. RAWCLIFFE: On the other hand, if you have someone who has been an apprentice for 6,000 hours and they still can't pass the examination, there's something radically wrong. And as a public person, I think it's good that they are weeded out, right then and there, you know, rather than just being people who are basically being used as sales people. So, ... my personal belief is that if there were two levels of people in the shop: ... the licensed people, whether it's the opticians or the licensed apprentices; and ... those people who fill in as a clerical or a sales function, ... and they have no impact on the actual lenses that are -- or the reading of the prescription and the manufacturing of those lenses. I have absolutely no problem with that. I can't speak for other members of the board, directly. But the consensus in our last meeting was fairly positive, and I think that might be something that the auditor

would find of interest, since it was one of the major concerns in the last legislative audit.

Number 1653

MS. RAWCLIFFE: Finally, I'd like to say that the Career Progression Program, which is ... basically a distance-learning program for those who would like to become licensed in Alaska, is, I feel, a very necessary and very worthwhile course. I've seen one course which is ... currently available on the market and is excellent. Because we live so far away, there is no school of opticianry in Alaska. Many states have schools of opticianry, and some of the states that don't require ... apprenticeships are fortunate enough to have schools of opticianry ... in their state, so that those people who want to make this a career can get the schooling. We don't have that opportunity to afford the people here, so this is the next best thing we could do. We looked at the number of hours for an apprentice to be able to sit for an examination, and felt that it is excessive if all they're doing is working for 6,000 hours or three years. Why not also have them put in the time into the Career Progression Program so that they could sit for the examination sooner, and hopefully increase the number of licensed opticians in the state, which further benefits the public good. And that is about all I have to say, and I certainly appreciate your giving me the opportunity, sir, to do it.

VICE CHAIR HALCRO: Well, thank you for your testimony. We appreciate you being with us today. Is there any questions? Seeing none, Representative Kott, you had a question for, I believe, ... either Ms. Davidson or Ms. Brakes.

Number 1722

REPRESENTATIVE KOTT: I had a question for Ms. Reardon. Catherine, on the Amendment 2, at the bottom, it says, "Delete Sections 2 and 6". Is that the intent, to delete the section dealing with the ... duties and powers of the board, or have I missed something?

MS. REARDON: Through the chair, Representative. No, that would mean that ... the current powers-and-duties statute would not be changed. There'd be no need to amend it, because the purpose for Section 2 was to take the word "examine and" out. And so, if we were going to keep the examination, you wouldn't need to be eliminating that. And the same thing with Section 6: the

purpose of Section 6 being in the bill was to eliminate the term "examination fee". If we weren't going to have the exam, you wouldn't need that section.

REPRESENTATIVE KOTT: Thank you for that clarification.

VICE CHAIR HALCRO: Any other questions for Ms. Reardon? Seeing none, what we will do is we will set this bill aside until such time as the sponsor and the department have had time to sit down and reconcile the amendments and wait for further word. So, I really appreciate everybody being here, and we'll just put this aside for now. [SB 270 was held over.]

HB 471-AIDEA LOANS AND DIVIDEND

[Contains discussion of HB 492; this is a verbatim transcript.]

VICE CHAIR HALCRO: We are going to change the order of the agenda. I understand we have a testifier who has to catch an airplane, who is on teleconference on an offnet site. So next we will go to House Bill 471, which is an act regarding AIDEA programs. And I believe we need to adopt the CS [committee substitute]. The chair would entertain a motion to adopt the CS.

REPRESENTATIVE MEYER: Mr. Chair.

VICE CHAIR HALCRO: Representative Meyer.

Number 1801

REPRESENTATIVE MEYER: I move that we adopt CS for House Bill Number 471(CRA), F version.

VICE CHAIR HALCRO: Is there any objections? Seeing none, we're operating under Version F. Ms. Achee, welcome to the committee.

Number 1814

LAURA ACHEE: Thank you very much. For the record, my name is Laura Achee. I am staff for Representative Joe Green. This bill came out of a conversation; the Alaska Industrial Development and Export Authority asked us to sponsor a bill to make some necessary changes to help keep their operation flowing smoothly. I believe that Bob Poe is online to answer the more technical questions, but I'd actually -- if you'd like, I can go

through the bill and explain it in English before he explains it in "accountingese."

VICE CHAIR HALCRO: Please, go right ahead.

MS. ACHEE: Okay. There are two additions to the bill that are in the form of a CS or an amendment before you, and I'll let Bob touch on those. I'll just stick to what's in the bill as it passed out of the House Community and Regional Affairs Committee. Section 1 changes the maximum loan amount for the bulk fuel revolving loan fund. There's a number of communities in rural Alaska that in order to afford to keep their houses and go about their daily business, must purchase their fuel when its available to them and they have to purchase it in bulk. As was explained to me - and this makes a lot of sense - if you had to pay for your next year's Enstar gas bill, you probably couldn't do it right out-of-pocket, and it's the same for these folks. So this fund provides them with upfront loans that they can then pay back over time. The limit of \$100,000, with the rise in fuel costs and transportation costs, simply wasn't enough to meet the needs of the users, and so they've upped that. Also, there is a \$5 million federal grant that's going into this fund, and so they will be able to fund, as I understand it, all of their requests for loans next year that are expected.

Number 1882

MS. ACHEE: Section 2 and Section 3 make a necessary change to statute. The way that AIDEA does its financial statements is governed by the Governmental Accounting Standards Board (GASB) of the federal government. And they have made some changes in the terms that these groups can use on their statements. Our statute calculates the dividend that AIDEA pays to the State of Alaska general fund based on values that are on their year-end statement. And now that the GASB board has said that they can no longer use those terms, it leaves us with an empty definition in statute [for] net income and unrestricted net income.

MS. ACHEE: So, this would change statute, that instead of directing whomever's reading it to go to the audited financial statement and look for that term, it actually puts real definitions in for net income and unrestricted net income. The change in the assets is now how it's read. Also, due to a change in the accounting practices - and I'm going to let Bob correct me if I'm wrong - but as I understand it, at the end of the year, AIDEA looks at their net profits, and the dividend that they pay to the state is paid out of that. And under the

change, they would then have to record that payment on the next year's financial statement as an expense, thereby actually declaring it twice and, as a result, lowering their payment for the next year to the State of Alaska, and so forth and so on. So, what the second change in Section 2 and 3 does is it excludes the amounts that are paid to the State of Alaska; they'll still be in the ledger, but they'll only be recorded once and they won't affect future dividend payouts.

Number 1959

MS. ACHEE: Section 4 makes necessary changes to the rural development initiative fund. This is a fund that provides commercial loans to those people who are out in rural Alaska, places where lending agencies who base their standards on Lower 48 standards might not believe that the risk is advisable. And so, it provides an opportunity for people to have businesses in rural Alaska that wouldn't necessarily have another way to do so. The problem is that under the current guidelines, a lot of folks are qualifying for "rural" who are really just kind of falling right outside some of our major population centers. And so while technically they're rural, they aren't really the people that this loan was designed for, and they probably have other loan options. And so this change in statute would tighten up the restrictions and get those loans to the people that they were intended for. And with that, I'd be happy to answer any questions.

VICE CHAIR HALCRO: Any questions for Ms. Achee? Seeing none, thank you. Let's go online to offnet, Bob Poe.

Number 1998

BOB POE: Yes, Mr. Chairman. Thank you, I appreciate you adjusting your schedule a little bit; I was getting a little worried there. I thought Laura did an excellent job in walking through the provisions of this bill. We do have some folks online to answer questions if the committee has any. We have Valerie Walker, who's AIDEA's CFO, and she can go through any accounting questions you might have. We also have Brian Bjorkquist, who's the Assistant Attorney General who assists AIDEA in a variety of matters, and he can speak both to the RDIF - Rural Development Initiative Loan Fund - guidelines as well as the amendments that I believe ... the committee members may have in front of them. I would point out that the increase in the bulk fuel revolving-loan-fund maximum amount also is important because we've been working with the Denali Commission for some

time and have increased the capacity of a number of fuel [tank] farms out in rural Alaska.

MR. POE: Certainly, ordering in bulk is the most economic way to get fuel and the best way to lower costs in rural Alaska. So, we're finding that [\$]100,000 frequently didn't cover the cost, and [\$]200,000 will allow us to do that. And the other important thing is, that I just want to mention, there's a \$5 million grant coming to ... AIDEA from the ... USDA, and that will enable us to be able to make these loans. The dividend definition is an important one, and the changes ... here are designed to have the dividend program work just as [it] has so successfully since 1996. Since that time, AIDEA has provided, either in payment or commitment to pay, \$128 million in dividends - and actually, Mr. Chairman, as of AIDEA's board action yesterday, it's really about \$129 million. What this change does is allows us to continue to pay those dividends the same as we have in the past. And I think Laura did an accurate job of describing the problem of double-counting dividends, as GASB would require under the new rules. Mr. Chairman, would you want me to speak to the proposed amendments?

VICE CHAIR HALCRO: Yes. Hold on just a second; let me make sure all of the committee members see those in those packets. There's ... an amendment in there; it looks like a page ... and a quarter. Just make sure everybody's on the same page. Okay, go ahead, Bob.

Number 2117

MR. POE: Thank you, Mr. Chairman. You adopted the CS [CSHB 471(CRA)] at the beginning of this discussion, and the CS reflects an amendment that happened in the previous committee, which added in this rural bulk fuel revolving-loan-fund change. And that came from an earlier bill. There were two other provisions in that earlier bill, HB 492. Both of these provisions were designed to clean up a couple of problems with the AEA - the Alaska Energy Authority - legislation. The first was to deal with a liability issue. Right now in the law, it says that AEA shall train rural electric operators, not "may" but "shall".

MR. POE: Now, we just received our budget caps in the Senate yesterday, where it received an "UNAPNA" (ph), an unallocated reduction to the circuit rider program we have in AEA. That further reduces our ability to do training at all, let alone can we assure that we train every operator in rural Alaska.

Unfortunately, recently a man in rural Alaska had an accident in a power system and damaged his hands and arms, and was, I believe, successful in suing the State of Alaska - and Brian Bjorkquist can clean this up for me - ... saying that we had a responsibility to train him, and since we didn't, there was an asserted liability. What we want to do is change this provision in the law from "shall" to "may". We still believe it's important to train rural electric operators, and we'll do everything we can to train as many as we can. But this provision of "shall" simply leaves us open for liability that we don't really have any way to effectively protect the state against.

MR. POE: The second change is including the word "construction" in the enabling legislation for the Alaska Energy Authority. As you probably know, we work as a partner with the Denali Commission in building bulk fuel tank farms and rural power-systems upgrades. Now, all of this construction we do through private-sector construction managers. We don't actually get out there and pound nails or drive pilings or anything like that. But we are actively involved in causing that construction to happen, and we wanted to make sure that in our enabling legislation there was no question about our ability to do what we're already doing. So, those ... are those two provisions. And I'd ask Brian Bjorkquist or Valerie Walker if they would correct anything ... I may have said a little inaccurately, Mr. Chairman.

VICE CHAIR HALCRO: Thank you for your testimony, Bob. Any questions? Seeing none, we have Mr. Bjorkquist online. Did the committee members have any questions for Mr. Bjorkquist? Seeing none. Representative Crawford.

Number 2242

REPRESENTATIVE CRAWFORD: Thank you, Mr. Chairman. Just for my own edification here, who is responsible for the training of these employees that work out in rural Alaska?

MR. POE: Through the chair, Representative Crawford, we are. The real question isn't, "Do we have that responsibility because we feel we do"; it's just, "Are we adequately funded to accomplish the full range of that responsibility". And we would argue that we aren't. And ... we understand why reductions are happening this year, but we received an additional reduction, and that makes it even harder to live up to the "shall" language in the law. We don't want to shirk our responsibility, and we

don't want to have this change imply that we don't want to continue to train rural electric operators; it's just that we probably can't live up to the rigid interpretation of "shall" versus "may".

VICE CHAIR HALCRO: Any other questions? Is there anybody else online that wishes to give testimony on House Bill 471? Is there anyone in the committee that would like to give testimony on House Bill 471? Seeing none, I will close public testimony. Would ... committee members please mark the amendment you have in front of you Amendment Number 1. And the chair would entertain a motion and/or any discussion.

[Amendment 1 to CSHB 471(CRA), with original punctuation, read as follows:

Page 1, line 2:

Following **"Authority;"**:

Insert **"precluding legal action concerning certain technical assistance to rural utilities; relating to powers of the authority;"**

Page 2, following line 1:

Insert new bill sections to read:

*** Sec. 2.** AS 42.45.400 is amended by adding a new subsection to read:

(c) This section does not create a duty in tort, and may not be the basis for an action against the state, the authority, or the officers, agents, or contractors of either for damages, injury, or death.

*** Sec. 3.** AS 44.83.080(10) is amended to read:

(10) to enter into contracts with the United States or any person and, subject to the laws of the United States and subject to concurrence of the legislature, with a foreign country or its agencies, for the financing, **construction,** operation, and maintenance of all or any part of a power project **or bulk fuel storage facility,** either inside or outside the state, and for the sale or transmission of power from a **power** project or any right to the capacity of it or for the security of any bonds of the authority issued or to be issued for the project;

* **Sec. 4.** AS 44.83.080 is amended by adding a new paragraph to read:

(16) to make grants or loans to a person and enter into contracts or other transactions regarding the grant or loan:

Renumber the following bill sections accordingly.

Page 2, line 27:

Delete "secs. 2 and 3"

Insert "secs. 5 and 6"

(end of Amendment 1)]

Number 2303

REPRESENTATIVE MEYER: Mr. Chairman, I'll move Amendment Number 1.

VICE CHAIR HALCRO: Representative Meyer. Amendment Number 1 has been moved. Is there any objection? Is there any discussion? Seeing none, Amendment Number 1 is adopted, which brings the bill back before us, amended. What is the will of the committee? Representative Kott.

Number 2316

REPRESENTATIVE KOTT: Mr. Chairman, if nobody else is going to step up to the plate, I guess I'll make the motion. Mr. Chairman, I would move that we move out of committee CS for House Bill Number 471(CRA) as amended, [with] individual recommendations and accompanying zero fiscal note.

VICE CHAIR HALCRO: Any objections? Seeing none, [CSHB] 471[(L&C)] is moved from committee.

MR. POE: Thank you, Mr. Chairman.

VICE CHAIR HALCRO: We're going to take a brief at-ease.

VICE CHAIR HALCRO: For the record, next on the ... [ends midspeech because of tape change].

HB 282-PRESCRIPTION DRUG INSURANCE BENEFITS

[This is a verbatim transcript.]

TAPE 02-55, SIDE B
Number 2382

VICE CHAIR HALCRO: ... House Bill 282, "An Act relating to prescription drug benefits under a group health care insurance plan," sponsored by Representatives Coghill and Fate. Representative Coghill, welcome to the committee, sir.

REPRESENTATIVE COGHILL: Thank you, Mr. Chairman.

VICE CHAIR HALCRO: We do have a [proposed committee substitute for the] sponsor substitute in front of us, Version L, and the chair would accept a motion to adopt it as our working document. Oh, I'm sorry, excuse me, it's ... Version J.

REPRESENTATIVE MEYER: Mr. Chairman.

VICE CHAIR HALCRO: Representative Meyer.

Number 2312

REPRESENTATIVE MEYER: I'd move CS for Sponsor Substitute for House Bill 282, J version [22-LS1066\J, Ford, 2/5/02], before the committee.

VICE CHAIR HALCRO: Any objections? Seeing none, Representative Coghill, welcome to the committee, sir.

REPRESENTATIVE COGHILL: Thank you, and thank you for adopting this version. This has been kind of an exercise in learning for me as well. So, I've gone through three different versions just to ... get where I'm at right now, before I even had a hearing. The way this whole thing started was, my wife takes a continued medication, on thyroid medicine. And throughout the course of the pharmaceutical journeys, we were paying a copay for prescriptions. Doctors had been prescribing 90 days at a time, and just about a year ago it began -- the practice started where we had to pay a copay for every month now, instead of for the 90-day prescription. They said that ... was the change in the insurance plan. I got to thinking about it - and I know that the insurance companies have a little different view than I do - but it's really cost shifting, is what it amounts to. And the contract kind of changed in midstream on our part.

REPRESENTATIVE COGHILL: So, I thought, well, I should at least ask the question why. And it really led to the discussion here, which brings us to AS ... 21.54.155, which would be a new

section saying that [a] health care insurance plan that is providing a group market plan may not impose a supply limit for a prescription if the supply limit is lower than the supply limit prescribed by the prescription. Really, what I'm asking is that if a doctor prescribes for a certain amount, then the doctor should know and it should be appropriate that, for example, if I get a 90-day prescription for a blood-thinning medicine, that I should be able to get that filled. I know that this is going to be open for debate, and I think we'll hear some of the debate. And I'm open to some amendment if it makes it better, quite frankly.

REPRESENTATIVE COGHILL: In the discussion with some of my pharmacy buddies, part number one came into view, and that is that pharmacists would go through the process of filling a prescription ... and even be paid by the insurance company, and they would agree that it was properly paid, only to find out later, upon review of their books, they decided that they didn't want to pay at that level and go back and change it after they'd already paid it. Once again, that is not my battle, but I decided I'd put it. Certainly, you'll hear, probably, pros and cons on ... each one of that.

REPRESENTATIVE COGHILL: To me, it's a matter of fairness, and so I ... folded in the best I could with language. I would certainly submit to your thinking on the matter. Even on ... Section 2, on the supply limit, really my intention is if a doctor prescribes for 90 days, that it should be 90 days. And if the ... wording is not as artful as it can be, I'm open to amendment. I know that there are those who ... will come to some amendments. In fact, I see one right in front of me. So, ... that's my whole intent, very simple. Insurance companies certainly are ... very powerful, and it's a consumer-protection item. And then it's a matter of, can they work with the doctors on the timeliness of prescriptions. So, with that, I think you'll hear some testimony, both pro and con. And if you'll take that testimony, I'll get a chance to peruse this amendment that was just put in front of us, which I've never seen -- this looks like a different bill.

VICE CHAIR HALCRO: Any questions for Representative Coghill? Representative Crawford.

Number 2151

REPRESENTATIVE CRAWFORD: Thank you, Mr. Chairman. ... As an ironworker, we're under the Iron Workers Health Trust and we get

a month of coverage for each hundred hours that we work. If we were to ... get a prescription that says for 90 days or 180 days, but we only have a month of coverage actually coming to us, ... there's the possibility there that ... the insurance company would have to pay for more than they were liable for if this ... wording were to go ... through. And I don't know how to fix that.

REPRESENTATIVE COGHILL: Well, and I understand that. First of all, at the time that you got the prescription, certainly, I would imagine that that would be the time of payment. Certainly, the insurance is picking up a portion of the prescription cost; so are you. And once again, that would be -- just from my estimation, and I would be open to further testimony, ... it would seem to me like you pay for it when you buy it. And if you buy within the month that you're insured, then so be it. I mean, that would be my guess. And I would ... defer to those ... who know that ... technicality better than I.

REPRESENTATIVE CRAWFORD: I have the same condition myself, with the thyroid medicine. And I know that they ... can write it for 180 days, but they will only fill 30 days at a time because that's how the insurance prefers it, each month of eligibility. But if ... it were to be changed in this manner, it seems that the health care trust would be liable for the whole 180 days, if I understand this.

REPRESENTATIVE COGHILL: And that would be the way I understand it. If you bought it at the time you were covered, then I think that would be a fair assessment.

Number 2058

VICE CHAIR HALCRO: Any other questions? Representative Coghill, let me ask you, ... [paragraph] (1), where it talks about a penalty against pharmacists. Part of the concern ... is that -- as I read your sponsor statement, it gives the incident that occurred in Fairbanks where a local pharmacy was audited. What we've heard from some in the pharmaceutical industry is that when they go in and do these audits, sometimes either the pharmacy has either misunderstood or misrepresented to the health insurance company exactly what the doctor said, and these audits catch these. So, in the case where it's a misunderstanding, that's one thing, and ... it's a genuine mistake. In the instance where there is a ... miscommunication ... and it is the pharmacist's fault, do you have any heartburn -- I mean, I think it's only fair that we should put a condition

in here that says if the audit reveals that the pharmacy, in fact, was responsible for the error, and not the ... health care company or the ... doctor, if it was the pharmacy's problem, then they should be held liable. I mean, to me that only seems fair.

REPRESENTATIVE COGHILL: Sure. And ... I would go along with that, that sense of fairness. And ... I think, as it was portrayed to me, that that was certainly open for discussion. It was my understanding that there was further appeal processes, but if we need to make it emphatic in this, I would be open to that.

Number 1991

VICE CHAIR HALCRO: And the second ... point, where it talks about a supply limit for a prescription if the supply limit is lower: like probably a lot of my colleagues, ..., I have a prescription. And when we come down here in January through May, ... my doctor writes the prescription for a year, but every 30 days I've got to call. Especially in this day and age with technology - where I can pick up the phone at any time of the day or night and call Fred Meyer, Carrs, and fill a prescription over the phone through their automated system, and go in the next morning and pick it up, you know - it seems to me that there are certain cost-containment protections ... built into this, only giving somebody a 30-day supply.

VICE CHAIR HALCRO: In addition, ... I've had the case where ... you've prescribed medicine and it works good for the first three ... [or] four weeks, and ... you start to show some side effects. And ... maybe the doctor comes back in, and you go back to your doctor, and the doctor says, "Well, we need to take you off of this; let's get you on something else." But I've already filled a 90-day prescription at my pharmacy. Then what I do with the remaining 60 days' worth of medication, ... I'm certainly not going to return those to ... the pharmacy; ... they, in good faith, can't resell those. So, it seems that to be -- that although from a consumer standpoint, it is a little bit of a burden to have to call every 30 days and get your prescription renewed, but from a cost containment and even ... as far as an overall health benefit, there does seem to be some justification for that 30-day limit. Comment on that and all.

Number 1934

REPRESENTATIVE COGHILL: And I appreciate that. And I can see that scenario as a realistic scenario. I don't know, though, through experience, that doctors would prescribe, especially if they anticipated that type of .. an adjustment. But even if they did, I would think that they would ... certainly try to time that adjustment. One of the things that I'm concerned about is, certainly those of us who travel, those who have to go and live in different parts, ... where you can't go every month and show up or go in to do your copay -- so, you might want a 90-day supply. And I just can't imagine a doctor would use that indiscriminately. I can understand that there are costs involved. But I also understand that, for me, whereas we were paying \$10 copay for a prescription, now I'm paying an extra \$20 for that prescription, because I'm having to go back every month and pick that up, with ... an extra part of copay that my insurance plan has outlined. So, certainly there is a cost savings to somebody, but it's not to me.

VICE CHAIR HALCRO: Any other questions for Representative Coghill? Seeing none, thank you very much, and stick real close. Let's go online first to Fairbanks, Mr. Gerald Brown. Mr. Brown, are you with us, sir?

Number 1866

GERALD BROWN: Yes, I am, and thank you very much for allowing me to speak to you.

VICE CHAIR HALCRO: Mr. Brown ..., if you could state your name and affiliation for the record, please.

MR. BROWN: My name is Gerald Brown ...; I'm a pharmacist; I work in Fairbanks. I'm also on the ... Alaska Pharmaceutical Association Board. I am not representing the board today. I'm ... representing just the profession, as a pharmacist here today. I would like to speak to this bill. I ... have some problems with the new, amended version. ... As a pharmacist, we've been listed as the number-one trusted profession in the nation ... since the mid-'80s through the mid-'90s. And because of that, the public trusts pharmacists very much. This bill is not about reimbursement, per se. This bill is -- the intent is to help the public.

MR. BROWN: We are concerned about the public being able to get medication on a timely basis in an easy method, and in convenient forms that they can get for travel or remote locations or inaccessibility to pharmacies, especially in the

state of Alaska. What we were having problems with is that the insurance companies want to refuse the delivery to mail orders, and it's ... intending, through economic incentives, to drive the prescription filling not from [an] in-state and local basis but to out-of-state, offsite basis. We feel this is not right; this is not good health care. And to say that it is under the guise of saving health care costs is a misnomer. We feel that ... this bill, as it has been amended here, does not take into consideration those ... factors.

Number 1783

MR. BROWN: We like the first version a little bit better, but there are some problems with that also. What we were trying to do is to match up to being able to fill, if there is a mail-order provision, to be able to fill the same quantities of the mail order and the same copay so that everything is on the same basis. There is an economic disincentive to be able to only get 30 days locally, while you can get 90 days via mail order. And then, for instance, like the North Star Borough here allows a 30-percent copay locally, but 20-percent copay Outside at a mail-order place. And we don't believe that that's fair, and it's usury to the ... public. We believe that ... on the original bill [SSHB 282] there was a provision (3) that said for a supply limit, that does not necessarily need to be there, but we want to have it so that there is an option for regress and allowance for review by the ... patient to the insurance company, to allow for special situations such as remote location and special situations where a supply limit may need to be more than 30 or 90 days.

MR. BROWN: I have a lady who lives 90 miles outside of Tok off on a snowmobile trail, ... and she's only able to come in about every six months, and it's a long travel just to get to the post office in Tok. We would like to be able to let her get her medication once or twice a year, so that she could get that but she would have to apply to the insurance company for special waivers on that. We feel that that's a practical solution. We don't feel that you should be able to get ... necessarily a 90- or 180-day supply because you happen to go South for the winter or you happen to be Outside visiting your relatives, or whatever. That, to me, is not a consideration. But we feel that ... we need to have some convenience for those people who live in Eagle who have a road closed for six to nine months out of the year. We think that it is important that we can have those changes, and they have an option to do that.

Number 1662

MR. BROWN: We want to be able to fill the cost, ease, and supplies of the mail orders ... without ... the economic disincentives that the insurance companies are putting on the clients here. We feel that the ... companies that are touting these mail-order services are actually our government. And what this is saying to me is that the government doesn't want to do business with businesses within the state; they want to shuffle business to the ... Outside mail-order places. We feel that that is extremely unfair, and that we have the University of Alaska, ... the Fairbanks Northstar Borough, and the school district - just for examples here locally - who are saying that we don't want you to have business here in the state, we want you to use the mail-order business. And we feel that that's bad health care policy because there's nobody there to help look for drug interactions, help to look for questions and problems with the prescription, or to answer questions if there is a problem with a particular medication. And I can give you numerous examples of how that has and can occur in filling prescriptions here in Alaska and in Fairbanks.

MR. BROWN: Remember, the National Chamber of Commerce says for every dollar that you spend within the state, it multiplies four to seven times. If we send a dollar out to a mail-order place, that's a dollar lost to the economy. That mail-order business does not pay business taxes here in Alaska, yet the businesses within the state do pay taxes; we do contribute to local nonprofit groups, charity groups. We donate to the University of Alaska. We donate to the school district in ... monetary firms. We sponsor hockey and soccer teams within the community. We are good business partners within the community.

VICE CHAIR HALCRO: Mr. Brown.

MR. BROWN: Yes.

VICE CHAIR HALCRO: Could you please summarize?

MR. BROWN: Okay. We feel ... that we'd like to have this legislation so that we can fill those same quantities, so, at least to the customers, ... we are helping them, and ... to them we're the same as if we were the mail order, also, and we can provide those services the same.

VICE CHAIR HALCRO: Thank you for your testimony, sir. Is there any questions? Seeing none, we will go to our offnet site, Nicole Salinas.

NICOLE SALINAS: Yes, I'm here via teleconference.

VICE CHAIR HALCRO: If you could state your name and affiliation for the record, and please keep your testimony to three minutes or less.

Number 1545

MS. SALINAS: Sure, I'll do my best. Chairman Halcro and members of the House Labor and Commerce Committee, my name is Nicole Salinas. I am part of Aetna's national account team responsible for the state of Alaska. And, again, thank you for letting me testify on this bill via teleconference this afternoon. Aetna does oppose HB 282 because it is designed to take away any incentive for insured Alaskans to use mail order as a means of purchasing maintenance prescription drugs. The use of mail order does benefit consumers by providing prescription drugs at a lower cost than could be obtained at local pharmacies. While our covered ... members do have their choice of purchasing drugs locally or by mail order, prescription plans are often set up with a differentials in copayment and differentials in quantity limits. Without these differentials, there would be very little incentive for individuals to use mail order, except ... the convenience of receiving drugs at their home. The results of the bill would be more business and profits for local pharmacies, but at a substantially higher cost to the insurance plan and, therefore, the smaller employer groups.

MS. SALINAS: Today, drugs represent a component of health care costs which is increasing at the highest rate both nationwide and in Alaska. Aetna and other insurers do their best to mitigate this cost increase by using their national purchasing power to negotiate favorable financial discount arrangements with large pharmaceutical vendors like Express Scripts, Walgreen's, or Wal-Mart to provide maintenance drugs at a lower cost than could be obtained by individual employer groups locally. Pharmacists in Alaska currently fill over 85 percent of drugs covered under insurance plans. We make special arrangements to allow pharmacists in rural communities to receive reasonable compensation from Aetna for the service they do provide our customers locally. To increase the pharmacist's business to 100 percent will result in significant cost

increases to Alaskans for their prescription drug coverage. We urge the committee members to oppose the bill as currently drafted.

VICE CHAIR HALCRO: Thank you very much. Any questions for Ms. Salinas? Seeing none, we'll go to Roger Mortemore.

Number 1426

ROGER MORTEMORE: Yes. My name is Roger Mortemore and I'm a pharmacist in Fairbanks, and I'm also on the Board of Directors of the Alaska Pharmaceutical Association. But as Mr. Brown said, I'm also just addressing the profession. And basically, in the interest of time, I'll say pretty much I agree with everything that Mr. Brown has said. But you were discussing about if you have coverage for just one month at a time and you get [a prescription for] three months. That also applies if you mail it off; even if you have coverage for just one month, you are going to be able to get three months from the mail-order pharmacy, what would be an additional incentive such as in Section 1, part (1), of what Ms. Salinas said for Aetna.

MR. MORTEMORE: Aetna is rather cooperative as insurance companies go; there are several others that are not as cooperative -- and if there could be some wording that could help say that exceptions could be made. And my other comment was in regard to the part (3) of the bill [SSHB 282]. I am in full agreement of changing that one completely, saying, like, a 90-day supply. And my opinion would be to rewrite the bill ... with changing some of the amendments in support of HB 282.

VICE CHAIR HALCRO: Thank you for your testimony, Mr. Mortemore. Is there any questions? Seeing none, we'll go to Jack McRae.

Number 1347

JACK McRAE: Hi, I'm Jack McRae with Premera, and we own Blue Cross Blue Shield of Alaska. And I'm at a major disadvantage because I don't have Version J in front of me, and I haven't had a chance to see it yet. And ... if the chair agrees, maybe I'll respond to some of the questions that were brought up, if that's acceptable.

VICE CHAIR HALCRO: Absolutely. Go ahead, sir.

MR. McRAE: We insure 80,000 lives in Alaska. And in relation to the 30-day and the 90-day issue, we do require [a] 30-day

prescription limit if they go to a pharmacist. (Indisc.) in Alaska, we've been doing business there before statehood. We recognize the differences in Alaska, and ... through all of our group plans, a person can go in and get 90-day supply of a drug either through the pharmacist or through mail order - the 30-day period - but they can get 90 days, but they would pay three copays. For example, if it's on our formulary and you went into a pharmacist in Alaska and purchased the pharmaceutical product, you'd pay \$30 for the three months. To do mail order on that same drug through our Merck-Medco [Managed-Care L.L.C.] system, you'd pay a \$20 copay. So you'd still get a 90-day supply.

MR. McRAE: So, our practice in our group plans in Alaska has been, for quite a while, to prescribe a 90-day supply. And if that's not happening, then it must be a misinformation, because we just checked this today. In relation to the issue of mail order versus pharmacy, our concern up there is to keep cost down. Drugs are the, on a percentage basis, ... fastest growing percentage of health care when you look at hospital fees and physician fees; it's just going up faster than anything else. And we believe ... that if we were not able to use the mail-order system on ... our multistate basis, it would be about a 30-40 percent increase in the cost of drugs because of the contracts we're able to ... have with Merck-Medco, our mail-order ... prescriber.

Number 1238

MR. McRAE: In relation to ... going over a 90-day period, we do have a concern there, that was brought up earlier, that there's a situation where somebody either quits an employer or moves on for some reason, and they get billed more than 90-days. There can be a tendency to do that just before they know they're moving on. So, we do like the limit of 90 days, but in Alaska we do use 90 days. Again, going back to the one issue of mail order: we are very concerned that if mail order is eliminated or, with some of the language that was up there, it would be no advantage for mail order - that it would be a cost driver for our 80,000 subscribers up there. So, with that, if there's any questions, I'd be more than willing to respond.

VICE CHAIR HALCRO: Any questions to Mr. McRae? Mr. McRae, let me ask you, with regards to this supply limit, ... did you say it's currently 90 days?

MR. McRAE: It's currently 90 days both through a pharmacy in Alaska and through mail order in Alaska.

VICE CHAIR HALCRO: Okay. And ... you said you do not have Version J in front of you?

MR. McRAE: I do not have ... Version J, I'm sorry.

VICE CHAIR HALCRO: Subsection (2) says, ... "a supply limit for a prescription if the supply limit is lower than the supply limit described in the prescription." Would it be possible or practical for us to identify or add on that there is a 90-day limit?

MR. McRAE: Yeah, that would be acceptable from our standpoint. As you're aware, Mr. Chair, ... a lot of times a doctor will prescribe less than ... 30 days or 15 days, some much smaller amount to 90. But to limit to 90 would be an advantage just from our standpoint.

VICE CHAIR HALCRO: Okay, great. Thank you. Any questions for Mr. McRae? Seeing none, we'll go to Angie LeBoeuf.

Number 1139

ANGIE LeBOEUF: Hi, I'm Angie LeBoeuf from Anchorage, and I'm a pharmacist, and I'm also the President of the Alaska Pharmaceutical Association, speaking on behalf of myself as a pharmacist. And I want to support HB 282. In the world of retail pharmacy, we're frequently presented with the situation of trying to explain the insurance to the customers. They don't understand why their policy requires that they use mail order outside the state to get a better copay, and it's an inconvenience for the consumer, and they're angry with the situation. Many times, they'll get only a 30-day limit if they use a local pharmacy versus a 90-day if they go Outside. It's not only an inconvenience for them when they try to use the mail order; the medication often arrives late, so they've already run out of medicine. So, they come to the local pharmacy to try to get the medications, to get them through until their other prescription comes in.

MS. LeBOEUF: In cases like this, often they have to pay cash for the small quantity because the insurance may not allow for them to get an early fill. It's an early fill to the insurance because the mail order already filled and mailed it, but it's late. And so, then, this presents the pharmacy with the task of trying to get a hold of the doctor to get a prescription because the prescription was mailed Outside, so that they can ... help

the patient get through. Other times, they may have questions about their medication, and they can't get the information they need in a timely manner. And, again, [in] these situations, the patient will call the local pharmacy, who did not fill the prescription. And there is also a risk of medications not properly maintained at the correct temperature. So you have a stability question through mail order. I think that ... for these reasons, it's in the best interest of the consumer to allow equal access and equivalent copays and quantities from the insurance.

MS. LeBOEUF: And addressing the cost-containment issue that was brought forward regarding a 30-day supply or a 90-day supply, many times in the ways prescriptions are paid there is a dispensing fee. And so if they get a 90-day supply, then there's one dispensing fee, whereas if they have to get [a] 30-day supply at the local pharmacy, and they do that ..., then the insurance is really paying more because they're having to pay three dispensing fees. And so, I think ... it's not a bill about money and ... the insurance can save so much money by using the Outside source, but rather that ... it's just better for the patient if they use the same pharmacy that can check for interactions and give personal care and consultation to the patient. Thank you.

VICE CHAIR HALCRO: Thank you. Is there any questions? Thank you very much for your testimony. Is there anybody here in the room that wishes to give testimony on House Bill 282? Seeing none, is there anybody else online that remains, that would wish to give testimony on House Bill 282?

Number 0945

MR. BROWN: May we add to our comments or to our testimony?

VICE CHAIR HALCRO: Is this Mr. Brown?

MR. BROWN: Yes, it is.

VICE CHAIR HALCRO: Yes, Mr. Brown, very briefly, sir.

MR. BROWN: The comment about whether the ... dispensing fee is more expensive to the insurance company: the fact that the dispensing fee is only between a \$1.75 and \$2.75, you can divide that for one 30-day supply or you divide it over ... 90 days; that dispensing fee doesn't change. And so it actually saves the insurance company money. ... The insurance company

determines what the cost is. So, the cost should be the same or relatively the same basis ... as the mail order is basing their cost off. So, it should be the same cost.

VICE CHAIR HALCRO: Thank you very much. Any questions? We do have one more person in the committee room here that wishes to give testimony. Why don't you come to the table. If you could state your name and affiliation for the record, please. Welcome to the committee, Dan.

Number 0888

DAN HEINCY: Thank you. My name is Dan Heincy. I'm am also a pharmacist, but I happen to work for Merck & Company, which owns Merck-Medco mail-order pharmacy, and we also own PAID Prescriptions, which is the fiscal intermediary who pays the claims for many local pharmacies as well as for the claims for the state of Alaska. Without revealing terms of contracts, ... my colleagues who are out in retail pharmacy are not seeing something that is going on. There is a difference in the cost to insurance companies as to whether or not they use the local pharmacy or whether they use a mail-order pharmacy, whether it's Merck-Medco or it's any other mail-order pharmacy.

MR. HEINCY: And typically what happens here is that when they go to the local pharmacy they've negotiated a rate that includes an average wholesale price, less a discount, plus a dispensing fee. When ... that insurance company negotiates a contract with a mail-order pharmacy, they typically get a better discount rate; they get the average wholesale price, plus an even deeper discount off of the cost of ingredients. So immediately there are savings to the insurance company or the employer or ... whoever has contracted for this service. So they immediately save on the differential in the ingredient cost, and ... frankly, my colleagues in the private sector complain about the dispensing fees that they get.

MR. HEINCY: The pharmacists who work for Merck-Medco - and we are the largest pharmacist employer in the United States; more pharmacists work for us than any other group - bottom line for those guys is they even get a lower fee too. So, it's not only less ingredient cost, but it's also a lower dispensing fee. So, the bottom line is whoever is paying for the drug benefit saves money if it happens to go through mail order. And we feel that we deliver ... very good, quality pharmaceutical services. All of our pharmacists are members of professional societies and are

licensed in multiple states - just as I am licensed in multiple states, too.

VICE CHAIR HALCRO: Any questions for Mr. Heincy? Seeing none, thank you for your testimony. With that, we will close public testimony. ...

Number 0739

VICE CHAIR HALCRO: The chair would like to propose a couple of amendments, which I think the first two to the existing bill, [paragraph] (1), where it talks about "a penalty against a pharmacist if the penalty results for the pharmacist's accurately filling a prescription", et cetera. I believe that there needs to, as we discussed in committee with ... the sponsor -- Representative Coghill, if you'd like to come to the table and join us, that'd be great. If we could put a provision in there, and I have some language I'd just like to read ..., you might actually -- I don't know if everybody has this here, but I can certainly make copies. Basically, what we're going to say is, we're going to say you can't penalize a pharmacist, ... provided the pharmacist did not provide inaccurate information to the health care insurance plan administrator when the claim was filed. So, if it is genuinely not his fault and these claims ... are uncovered -- or these discrepancies are uncovered through the audit procedure - if, in fact, ... it is not the pharmacist's fault - then they shouldn't be held liable. But in the case where inaccurate information was provided, then I think there certainly needs to be ... some accountability there. And I would just propose that to the committee. And we'll make copies of that. And we'll open that up for discussion. Actually, ... once we get that in writing, I will move that as an amendment.

[Later labeled Amendment 1, the written amendment dated 04/02/02 was to SSHB 282, rather than Version J. An upper portion that just quoted the existing language in SSHB 282 is omitted here. The lower portion read as follows, with original punctuation:

Amend as follows:

**Page 1, Section 1. Section 21.54.155,(1),(2),(3),
Lines 4 through 14.**

Section 1. AS 21.54 is amended by adding a new section to read: **Sec. 21.54.155. Prescription drug benefits.** A health care insurance plan sold in the

group market that provides prescription drug benefits may not impose

(1) a higher copayment amount or lower supply limit for a prescription drug purchased from a pharmacy in this state than the copayment amount or supply limit imposed for a prescription drug purchased by mail service pharmacy, as long as the in state pharmacy agrees to the same price, reimbursement, terms, conditions, and services as the mail service pharmacy;

(2) a penalty against a pharmacist if the penalty results from the pharmacist's accurately filling a prescription for which the pharmacist received written or electronic approval from the health care insurance plan administrator provided the pharmacists did not provide inaccurate information to the health care insurance plan administrator when the claim was filed;

or

~~(3) a supply limit for a prescription if the supply limit is lower than the supply limit described in the prescription.~~ [This would allow [a] pharmacist to fill any quantity at all as long as that's what the doctor writes on the prescription. So a patient could get 365 days supply or more in one fill. This does not make sense in light of everyone trying to contain prescription cost. What happens if the patient becomes ineligible two weeks [later]?]

(end of Amendment 1; short note at bottom omitted)]

VICE CHAIR HALCRO: Representative Coghill could you speak to that. Does the sponsor have any objections to that amendment?

Number 0647

REPRESENTATIVE COGHILL: No, I was open to the language that was proposed. I think that what ... I was looking for was some degree of equity. And I think if there is a discussion on if it was properly filled out, properly reported, I think that's appropriate. I understood that; certainly, I would think that an insurance company would have a claim if they found anything that was out of the ordinary or fraudulent, but I think we're expressing it very emphatically.

VICE CHAIR HALCRO: Sure. And I think ... you bring up a very good point in the bill: we certainly don't want pharmacists to be penalized if, in fact, it was not their mistake. But in the

case where something was misrepresented, I think ... it certainly sounds like we need some kind of a fallback.

REPRESENTATIVE COGHILL: One of the things that was brought to my attention over this was the paper trail sometimes is very difficult because sometimes doctors go by way of phone, by way of fax, by way of delivering an actual prescription. And it's the ... auditable ones that can create some problems.

VICE CHAIR HALCRO: And I raised that question earlier today in a meeting, and it seems to me that -- because I do that quite a bit, call my doctor in Anchorage and ask him to call in a prescription locally here. And I asked about that: ... how do you get a paper trail from a phone conversation? And it's my understanding that most pharmacies either fax the doctor back or ask them to fax down a written prescription so they keep it on file. So, there is some kind of a paper trail. So, ... in that kind of a case, it would be covered.

VICE CHAIR HALCRO: You will see the amendment language is actually towards the bottom of the page, the bold language under [paragraph] (2), where it's just very clear. It states: **"provided ... the pharmacist did not provide inaccurate information to the health care insurance plan administrator when the claim was filed"**, and then end.

Number 0511

VICE CHAIR HALCRO: So, with that, I would move Amendment Number 1. Is there any objection? Seeing none, Amendment 1 is adopted.

Number 0499

VICE CHAIR HALCRO: The second amendment I would offer would be on ... page 1, line 11, after "prescription", you would insert "with a maximum limit of 90 days". And that goes to the testimony that we heard, that currently that is their limit. And I think there is a good ... reasoning for a ... 90-day limit. There's, certainly, as we discussed ... the case where your medication changes. If you filled a 90-day prescription and you need to ... change your medication, what do you do with that, not to mention the fact that if you get a year prescription and they fill it for a year, ... what happens in three months if you change jobs, have a different health care provider; therefore, ... your former health care coverage is not paying, you're no longer ... under that policy, and you would

certainly benefit from the remaining prescription. I think 90 days is equitable, and a very good compromise.

Number 0432

VICE CHAIR HALCRO: And with that, I would move Amendment Number 2. Is there any objection? And Representative Coghill, any...?

REPRESENTATIVE COGHILL: I'm not going to object to it. I'm going to do some checking. It sounds to me like it's an industry standard, sounds like something we would be amenable to, and I will just follow through with those who have testified both pro and con to get a feel for it. But at this point, I'm not going to object to it.

Number 0394

VICE CHAIR HALCRO: All right. Okay. So, Amendment Number 2, without objection, is adopted.

VICE CHAIR HALCRO: Amendment Number 3 is before the committee in a more lengthy form. If we could mark this Amendment Number 3, and I would move Amendment Number 3. Is there objection?

[Amendment 3, 22-LS1066\J.1, Ford, 4/12/02, read as follows:

Page 1, line 1, following "**Act**":

Insert "**requiring that the cost of contraceptives be included in certain health care insurance coverage, and**"

Page 1, following line 3:

Insert a new bill section to read:

"* **Section 1.** AS21.42 is amended by adding a new section to read:

Sec. 21.42.410. Coverage for contraceptives.

(a) Except with respect to limited benefit health care insurance or health care insurance purchased by a religious employer, a health care insurer that offers, issues for delivery, delivers, or renews in this state a health care insurance plan that provides coverage for prescription drugs on an outpatient basis shall provide coverage for any prescribed drug or device approved by the United States Food and Drug Administration for use as a contraceptive. The coverage required under this section is subject to

standard policy provisions applicable to other benefits, including deductible or copayment provisions, within the constraints of (b) of this section.

(b) An insurer may not impose on a person receiving prescription contraceptive benefits a

(1) copayment, coinsurance payment, or fee that is not equally imposed on all individuals in the same benefit category, class, coinsurance level, or copayment level receiving benefits for prescription drugs; or

(2) reduction in allowable reimbursement for prescription drug benefits.

(c) This section may not be construed to

(1) require coverage for prescription coverage benefits in a contract, policy, or plan that does not otherwise provide coverage for prescription drugs;

(2) preclude the use of closed formularies if the formularies include oral, implant, and injectable contraceptive drugs, intrauterine devices, and prescription barrier methods;

(3) require an insurer to provide coverage for abortion.

(d) A health care insurance plan that, under (a) of this section, is exempt from providing coverage for contraceptives must contain a written notice that prescription contraceptives are not included under the policy.

(e) In this section,

(1) "limited benefit health care insurance" means accident and sickness insurance designed, advertised, and marketed to supplement major medical insurance, including accident only, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specific disease, vision, and other accident and sickness insurance other than basic hospital expense, basic medical-surgical expense, or major medical insurance;

(2) "religious employer" means an employer

(A) with a primary purpose of instilling religious principles;

(B) that primarily employs individuals who share the religious principles of the employer;

(C) that primarily serves individuals who

share the employer's religious principles; and
(D) that does not receive public funding."

Page 1, line 4:

Delete "**Section 1.**"

Insert "**Sec. 2.**"

(end of Amendment 3)]

Number 0380

REPRESENTATIVE HAYES: I'll object for discussion.

VICE CHAIR HALCRO: Representative Hayes has objected for purposes of discussion. And I will tell the committee that one of the reasons why I have forwarded this, it actually struck me this morning when I was reading the sponsor statement for House Bill Number 282. And I will read a couple of sentences from the sponsor statement. The first sentence is, "This legislation addresses concerns over certain prescription drug coverage inequities". There is a second sentence in the sponsor statement that talks about the intent of House Bill 282 "is to promote fairness and balance in prescription drug benefits." In the state of Alaska, contraceptives, birth control pills for women, are not required to be covered by health insurance plans, while ... for men, Viagra is.

VICE CHAIR HALCRO: And I think if there is any kind of inequity, that's certainly an inequity. And certainly, those of us will agree that ... the women of this state should certainly have the benefit of their birth control being covered under their health plans. I've talked to a number of insurance health care providers who begrudgingly will tell you that it's not that ... big of an expense. The traditional ... opposition to this is more of "it's another mandate." But I think for all of us who want to do our part in preventing unwanted pregnancies, I think this certainly is a very good step in helping the women of this state have equitable health care coverage with their contraceptives being covered. And with that, once again, the amendment has been moved. Is the objection maintained? Representative Meyer.

REPRESENTATIVE MEYER: Obviously, this amendment is [a] little ... different than your other two - not that I'm opposed to it, but it ... changes the scope of the bill. And I'd like to hear from the sponsor as to whether or not he ...

VICE CHAIR HALCRO: Certainly. Representative Coghill.

Number 0234

REPRESENTATIVE COGHILL: Well, certainly this changes the whole scope of the bill. And it is a policy call, and I object to the policy call. I understand the concern. I have been unashamedly an opponent of abortion. I have been unashamedly proactive in teaching and preaching abstinence. This particular bill would require that abortions be covered by insurance. I object. That's on page 2, line 3 [of Amendment 3]. The whole concept of the contraception, I'm certainly not against that debate. I just ... would ask that you don't amend this bill so that have to deal with that issue; it's way beyond the scope of what I wanted to do in this bill. And I would ask that you please don't amend it into this bill.

REPRESENTATIVE MEYER: Mr. Chairman.

VICE CHAIR HALCRO: Representative Meyer.

REPRESENTATIVE MEYER: As a follow-up. I appreciate the thrust of the bill, bringing in ... line 6 ... on page 2. Obviously, the whole issue of abortions is a very emotional and sensitive issue. And I don't believe it really should be part of this particular bill 0 maybe an issue or bill separate, so that we can discuss it ... on its own merits. But I think to piggyback that big of a issue on a fairly simple bill is ... too much, Mr. Chairman.

Number 0111

VICE CHAIR HALCRO: Just a correction for the committee. If you will look at page 1, line 24, it says, "This section may not be construed to provide the following". So, in fact, there's no coverage for the things that were mentioned by the committee and the sponsor. So, it just is women's oral contraceptives.

REPRESENTATIVE MEYER: Okay, that's much better.

REPRESENTATIVE COGHILL: Thank you for that clarification. Obviously, the amendment was just dropped on me moments ago. So, I appreciate that. This would include what is ... RU486, I would take it.

VICE CHAIR HALCRO: I believe it is for contraceptives. I'm not quite sure about emergency contraceptives, but it would be, traditionally, birth control pills.

REPRESENTATIVE COGHILL: And I would ask, please, don't make me carry that type of language.

REPRESENTATIVE MEYER: Mr. Chairman.

VICE CHAIR HALCRO: Representative Meyer.

Number 0038

REPRESENTATIVE MEYER: Do ... other states cover contraceptives? I mean, I agree with the analogy of the Viagra versus the contraceptives, and certainly there is an inequity there. And maybe we should drop Viagra; I don't know. But I was just wondering ... what other states do.

VICE CHAIR HALCRO: There are two states -- this debate is underway in several state legislatures. ...

TAPE 02-56, SIDE A

VICE CHAIR HALCRO: ... The State of Texas covers contraceptives.... At this time, maybe what I might be able to do is invite Robin Phillips to the table. And she might be able to tell the committee a little bit more about it.

Number 0040

ROBIN PHILLIPS: Thank you, Mr. Chairman. My name is Robin Phillips; I'm the staff person to Representative Lisa Murkowski. We are carrying a similar bill. And just to answer a few of the questions: currently, there are 24 states that offer contraceptive coverage. There are 17 states looking at it - similar to the State of Alaska - that are looking to include contraceptive coverage. The type of coverage ... that we're looking for, according to this amendment, is FDA-approved contraceptives; that, I believe, does include emergency contraceptives, but I would have to look at that further just to double check. I do believe that the emergency contraceptive is FDA-approved.

VICE CHAIR HALCRO: Representative Meyer.

REPRESENTATIVE MEYER: Just a follow-up. Ms. Phillips, you said that this is similar to another bill you're carrying?

MS. PHILLIPS: There's ... currently a House bill and a Senate bill that are both ... being offered that includes the language similar to this amendment.

REPRESENTATIVE MEYER: Thank you, and if I may follow up, Mr. Chairman. I thought there was, that had dealt with contraceptives, because I remember talking to my staff about that. So with that in mind, why do we need to include it in this bill?

Number 0146

VICE CHAIR HALCRO: I will answer that question, Representative Meyer. The fact is that it's been very difficult for us to even get a hearing in any of these committees. And it is the chairman's position that this state legislature needs to start protecting the women in this state. And I feel that this is an opportunity to amend a bill that is completely germane in its title, in its scope. And it is an amendment that is completely in order and conducive to not only Title 21 but, as I said, the sponsor statement, where we talk about promoting fairness and balance in prescription drug benefits; this certainly achieves that for the women of this state. And I think it's time that we do that.

REPRESENTATIVE MEYER: Mr. Chairman, if I may follow up? Certainly, you have the right to make that amendment. But as you said, the two bills on their own, both on the Senate and the House side, ... have been stalled. So what I'm afraid of is, by putting this amendment on ... Representative Coghill's bill, that we'll just simply be stalling his bill too. And I don't think ... that's fair or appropriate to do that to ... the sponsor.

VICE CHAIR HALCRO: And Representative Meyer, I would respond by pointing out that this bill goes back to the HES committee. And, as is ... the legislative process, committees amend bills every day. And, certainly, when this bill goes to the HES committee, ... if the committee so chooses, they can take this out and replace it with language desired by the sponsor. But in this committee, we all sit and look at these bills, and this is an amendment that I feel, once again, is ... not only germane to the title and the scope of what the sponsor has proposed, but it

is certainly just overall good health policy for the State of Alaska.

REPRESENTATIVE MEYER: And if I may follow up, Mr. Chairman. And, again, it's -- certainly you have that right to make that amendment. But I don't agree with making an amendment in one committee just so that another committee can take it out. So, I will ... object also.

VICE CHAIR HALCRO: Representative Crawford.

Number 0293

REPRESENTATIVE CRAWFORD: Thank you, Mr. Chairman. I ... would very much like to see contraception covered as well as Viagra and all. But I ... do have some heartburn with ... what the sponsor of the bill has said in ... making this bill cover emergency contraception as well. I would ... like to go ahead and have this amendment go forward, but I don't want to do that against the will of the sponsor, with the emergency contraception.

VICE CHAIR HALCRO: Would you like to propose an amendment to the amendment, Representative Crawford?

REPRESENTATIVE CRAWFORD: I would.

VICE CHAIR HALCRO: Please proceed.

Number 0350

REPRESENTATIVE CRAWFORD: Conceptual amendment to ... remove ... emergency contraception coverage. (Indisc.) I guess ... in line 5 [of Amendment 3], after "barrier methods".

VICE CHAIR HALCRO: ... We could slip that in ... page 2, line 5 [of Amendment 3], after "barrier methods", eliminate the semicolon, ",or emergency contraceptives". Is there any objections to the amendment to the amendment? Representative Meyer.

Number 0418

REPRESENTATIVE MEYER: I'll object just for discussion and clarification. Emergency contraception, ... is that the "morning after pill"? ...

VICE CHAIR HALCRO: Ms. Phillips.

MS. PHILLIPS: ... To answer that question, through the chair, ... there's a few different varieties, I believe. And I apologize for not having the types in front of me, and I can get you those. But I believe that includes what is considered the "morning after pill," and ... there is also, I believe, another form that is prescribed by a doctor. But ... all contraceptives are prescribed by doctors, but ... I believe it is called the "morning after pill," is the one. And I'll get you those ... titles. I just, unfortunately, don't have them in front of me.

VICE CHAIR HALCRO: Is there any continued objection to the amendment to the amendment?

REPRESENTATIVE MEYER: Well, ... I guess I'd like to speak to the sponsor, if I may.

VICE CHAIR HALCRO: Certainly, go right ahead. Representative Coghill.

REPRESENTATIVE COGHILL: Certainly that makes me feel a little more comfortable, although I can commit to you that I will work vigorously to get this whole amendment out. It's not an issue that I want to carry, quite frankly. And certainly I understand what it's like to have bills heard. I've got one sitting in this committee that will probably never see the light of day. And it's very tempting to amend it into another bill, but protocol being as it may, I was reluctant to do that. So, certainly, this carries a different subject matter, and for the amendment to the amendment, I appreciate that. I will not speak against the amendment to the amendment.

Number 0540

VICE CHAIR HALCRO: Thank you, Representative Coghill. And ... just for the committee's notice, actually, if we could -- we're adopting it conceptually because from what I understand from the Division of Insurance, that is not an appropriate place. A more appropriate place would be in ... Section 1, between lines 10 and 14, somewhere in there. So, we will adopt it conceptually, but the drafter will have to find the appropriate place for it because that, apparently, is not the appropriate place for it.

REPRESENTATIVE MEYER: Mr. Chairman, I'll ... maintain my objection. I think it's -- we're at a point now where I think it's more of a principle. Obviously, the sponsor of this bill

is not comfortable with contraceptives being part of this bill. We sprung this on him last-minute; I don't think that's fair or right. Certainly, that's your prerogative. But I know ... I'd hate to have that done to one of my bills, and since we do have two other bills, both in the Senate and the House side, that has that same subject that you're trying to get incorporated here, I frankly don't think it's necessary. So, I'll maintain my objection.

VICE CHAIR HALCRO: Objection to the amendment to the amendment?

REPRESENTATIVE MEYER: Correct.

VICE CHAIR HALCRO: Any other further comment? Representative Kott.

Number 0630

REPRESENTATIVE KOTT: And Mr. Chairman, I think I'm going to have to side with my partner in crime that sits across from me. I think we're going down a slippery slope here in trying to define a term of art that has no definition; at least I haven't seen any evidence produced that emergency contraceptives means this. Is this a general term of art that is used within the insurance industry? Is it used by physicians? I just haven't heard that term before. So, I think we're trying to come up with a broad term of art that has no definition, unless we define what ... I would believe would be the normal nonemergency contraceptives - define those and then, by exclusion, the rest are emergency. I don't see how you could head down this path.

VICE CHAIR HALCRO: In speaking to that, Representative Kott, I would simply point out that emergency contraceptives clearly would be the "morning after pill" or RU486, whatever you want to call it. There's nothing else out there that I know of that's FDA-approved that is considered an emergency contraceptive. And so, I don't believe we're going down a slippery slope. I believe it's very clearly defined. We can certainly leave it to the drafter to encompass if there is more than one ... emergency contraceptive But the committee -- the amendment is very clear in its nature. Representative Hayes.

Number 0720

REPRESENTATIVE HAYES: Thank you, Mr. ... Chair. You know, it's a shame that we have to look at this ... in an amendment in this committee when you have two bills out there to adjust this. And

... the thing I think about the most is, when I look at this discussion, is the fact that when we had a bill on prostate cancer, it zoomed through this building. And when we had a bill on breast and cervical cancer, it took almost till day 121 to pass out of this building.

REPRESENTATIVE HAYES: I just I think it's a shame, not to folks' motives, but it does seem a little strange to me that you have very few women legislators in here and you have a lot of male legislators. And something that affects men can go through this building really quickly, and something that affects women takes forever or is not heard. I think that is ultimately a shame. It's a shame that we're not hearing the bill in ... whatever committees that it's being held in. But the amendment, as much as I hate to admit it, it actually does fit into what you put out here. I didn't even realize that until the chairman mentioned it. The amendment actually does fit in your bill. I know you would vigorously fight to pull this out, and I understand that, because I understand where you're coming from. But it actually does make with this legislation.

Number 0825

VICE CHAIR HALCRO: Is there any other comments on the amendment on the amendment? Let's take a roll call vote.

COMMITTEE SECRETARY: Representative Meyer.

REPRESENTATIVE MEYER: Nope.

COMMITTEE SECRETARY: Representative Kott.

REPRESENTATIVE KOTT: No.

COMMITTEE SECRETARY: Representative Crawford.

REPRESENTATIVE CRAWFORD: Yes.

COMMITTEE SECRETARY: Representative Hayes.

REPRESENTATIVE HAYES: Yes.

COMMITTEE SECRETARY: Chairman Halcro.

VICE CHAIR HALCRO: Yes. So, the amendment [to Amendment 3] passes 3 to 2. Back on the main amendment; is there further discussion? Could we get a roll call vote, please?

COMMITTEE SECRETARY: Representative Kott.

REPRESENTATIVE KOTT: No.

COMMITTEE SECRETARY: Representative Crawford.

REPRESENTATIVE CRAWFORD: Yes.

COMMITTEE SECRETARY: Representative Hayes.

REPRESENTATIVE HAYES: Yes.

COMMITTEE SECRETARY: Representative Meyer.

REPRESENTATIVE MEYER: Nope.

COMMITTEE SECRETARY: Chairman Halcro.

VICE CHAIR HALCRO: Yes. And so the amendment [Amendment 3 as amended] passes 3 to 2. It is adopted. That brings the bill before us. Is there any other amendments? Seeing none, what is the will of the committee?

Number 0850

REPRESENTATIVE CRAWFORD: I move the bill.

REPRESENTATIVE KOTT: I'll object.

VICE CHAIR HALCRO: There's objection to moving the bill. Discussion.

REPRESENTATIVE MEYER: Mr. Chairman, ... I just think that you've changed the sponsor's bill dramatically with that amendment. And, again, I'm not opposed to adding contraceptives. I agree with Representative Kott: there's different kinds of contraceptives. You know, the ones I'm familiar with, that my wife [uses], are the ones that you take to prevent pregnancy, and ... now there's others that you take the morning after. The discussion for this is not in Labor & Commerce; I think the discussion for contraceptives is more appropriate in HES. And that's where the bills are, and that's where the bills should be discussed. I don't think this amendment or this discussion is appropriate in Labor & Commerce.

VICE CHAIR HALCRO: Any other discussion? Well, ... I'll just say this: it's funny because, you know, it seems in this building when we address legislation, we tailor our arguments to whatever the topic is and whether we support a bill or we oppose a bill. About two weeks ago, I remember we had a Senate bill in here that was opposed not only by everybody that testified, but even the Federal Trade Commission. And when we amended that bill, ... the comment was made, with this amendment, the bill is moot. And the sponsor sat at the end of the table and said that he was going to do everything he could to put that language back in. This committee voted to move the bill forward with no objections. There [were] no concerns. There was no, "Hey, I don't think this is appropriate." We just did it.

VICE CHAIR HALCRO: The ... idea that this is inappropriate is ... baseless. This is appropriate. We are talking about health care coverage for a specific part of health care. That's what we are talking about. This is the Labor & Commerce Committee. We've had bills in this committee in the last three years. We've talked about mental health coverage. We have talked about coverage for diabetes. We've talked about breast and cervical cancer. We talk about health care coverage on various items, every year in this committee, and this is no different. I know this discussion and this topic makes some uncomfortable, but you know what: it is time that this legislature start protecting the women of this state.

VICE CHAIR HALCRO: This amendment derives out of frustration that for the last three years that I've been in this legislature, there has been a prescription-equity bill on file, every single year. And it has gone nowhere. And just because a few committee chairmen refuse to hear it - on the basis of ideology, completely overlooking not only the health benefits but the economic cost savings - is unbelievable. It is pure bad business. This amendment is germane. It is something that is well within the purview of this committee. And I think it's about time we start to recognize these issues and deal with them, rather than just sweep them under the rug and pretend they're not there until we sign out at the end of the session.

Number 1045

REPRESENTATIVE MEYER: Mr. Chairman, if I may follow up. I don't disagree with what you're saying, and I don't disagree with your frustration for trying to get this issue heard. I think the better place would've been to go to those chairmans of the Senate and the House and say, "Hey, look, why aren't you

hearing this bill? I think it's important." Maybe get up and do some special orders on the floor or whatever. But I think to ambush poor Representative Coghill here with this amendment to his small, simple bill, I frankly think was not right. But that's my opinion.

VICE CHAIR HALCRO: I respect and appreciate your comments. But, once again, this is the legislative process, Representative Meyer. And in all my years in the business in this building, I can't tell you how many times I've had a bill go before the committee and it came out dramatically different than the way it came in. That's the process, and that's why we're all individually elected and sit on these committees. Is there any other discussion? Representative Kott.

Number 1093

REPRESENTATIVE KOTT: Thank you, Mr. Chairman. You're ... correct in your assessment. This is the democratic process; this is how a bill becomes law. Oftentimes, we don't want to know how it gets to the end. But when we sit through these laborious hearings, you get a pretty good appreciation for what goes on. My only concern, Mr. Chairman, is I haven't sat on any of these committees in the last two or three years. This is a major policy call. We haven't heard the impact on insurance rates, haven't heard from industry. In general, when we've had these particular matters before us, whether it was cervical, breast cancer, prostate, we had a full-blown hearing on that issue. So we knew the impact, knew what kind of drugs were out there. They're just so many things that ... I don't have the information and access to, I can't make a conscientious, good statement to support it.

VICE CHAIR HALCRO: And ... once again, I would respect your comments too. But I would, once again, point to how many [times] we've sat in individual committees when pieces of legislation have been before us or amendments have been proposed, and those bills have been ushered out of committee with little or no discussion. And so, just because ... we are uncomfortable with this topic doesn't make the proposal of this amendment or the adoption of that amendment any different than any of the other uncomfortable or ... poorly discussed issues we've had before us. And this, on its merits, is a ... health issue. It is a Labor & Commerce issue. And it certainly is one, I believe, that is important to the health of the women in this state. Representative Crawford.

Number 1179

REPRESENTATIVE CRAWFORD: Thank you, Mr. Chairman. We're five men sitting here deciding an issue that affects women. And each and every one of us sitting here, I'm sure, abhors abortion. This is a way to ... head off many unwanted pregnancies and the need for abortions. I think this is ... time that we should have this discussion and move this bill on further so that ... we can continue this discussion. I'm sorry for Representative Coghill being the ... recipient of ... it, but ... it's a policy call I'd like to have us discuss and move on. Thank you, Mr. Chairman.

Number 1240

VICE CHAIR HALCRO: Any other committee discussion? Seeing none, we'll take a roll call vote for moving the bill [CSSSHB 282, version 22-LS1066\J, Ford, 2/5/02, as amended] from committee.

COMMITTEE SECRETARY: Representative Crawford.

REPRESENTATIVE CRAWFORD: Yes.

COMMITTEE SECRETARY: Representative Hayes.

REPRESENTATIVE HAYES: Yes.

COMMITTEE SECRETARY: Representative Meyer.

REPRESENTATIVE MEYER: Nope.

COMMITTEE SECRETARY: Representative Kott.

REPRESENTATIVE KOTT: Nope.

COMMITTEE SECRETARY: Chairman Halcro.

VICE CHAIR HALCRO: Yes. So, the bill [CSSSHB 282(L&C)] moves on a vote of 3 to 2 from committee.

REPRESENTATIVE KOTT: Mr. Chairman.

VICE CHAIR HALCRO: Representative Kott.

REPRESENTATIVE KOTT: As a matter of policy, I believe to move the bill out of this committee you need four votes, the majority

of the total membership. To move an amendment, you need a majority of the quorum, which would be four. So you can move an amendment on a 2-to-1 -- or a ... 3-to-1 vote. To move the bill out, you need four votes.

Number 1259

VICE CHAIR HALCRO: I don't believe that's correct. I think we've had this discussion in the past. I think you need a majority of the quorum to move a bill from committee. With that, there's nothing further. We will meet again Monday, 3:15 [p.m.]; the chairman will be back at that time. And with that, we're adjourned at 5:20 [p.m.]

[It was later decided that CSSSHB 282(L&C) failed to move out of the House Labor and Commerce Standing Committee.]