

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

March 22, 2017

3:19 p.m.

MEMBERS PRESENT

Representative Sam Kito, Chair
Representative Adam Wool, Vice Chair
Representative Andy Josephson
Representative Louise Stutes
Representative Chris Birch
Representative Gary Knopp
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative Mike Chenault (alternate)
Representative Bryce Edgmon (alternate)

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 14

Urging the Federal Communications Commission to increase the Rural Health Care Program budget sufficiently to adjust for inflation, advances in technology and the services available with increased broadband, and the increase in demand for broadband-based services and provide for any unused funds to be carried forward to future funding years, ensuring that rural communities in the state continue to have access to affordable broadband telehealth services.

- MOVED HJR 14 OUT OF COMMITTEE

HOUSE BILL NO. 157

"An Act relating to the Alaska Life and Health Insurance Guaranty Association; and providing for an effective date."

- MOVED HB 157 OUT OF COMMITTEE

HOUSE BILL NO. 119

"An Act relating to the dividends from the Alaska Industrial Development and Export Authority; relating to the meaning of 'mark-to-market fair value,' 'net income,' 'project or development,' and 'unrestricted net income' for purposes of the Alaska Industrial Development and Export Authority; and providing for an effective date."

- MOVED HB 119 OUT OF COMMITTEE

HOUSE BILL NO. 144

"An Act extending the termination date of the Board of Veterinary Examiners; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 86

"An Act relating to nonrenewal of occupational licenses for default on a student loan."

- HEARD & HELD

HOUSE BILL NO. 79

"An Act relating to workers' compensation; repealing the second injury fund upon satisfaction of claims; relating to service fees and civil penalties for the workers' safety programs and the workers' compensation program; relating to the liability of specified officers and members of specified business entities for payment of workers' compensation benefits and civil penalties; relating to civil penalties for underinsuring or failing to insure or provide security for workers' compensation liability; relating to preauthorization and timely payment for medical treatment and services provided to injured employees; relating to incorporation of reference materials in workers' compensation regulations; relating to proceedings before the Workers' Compensation Board; providing for methods of payment for workers' compensation benefits; relating to the workers' compensation benefits guaranty fund authority to claim a lien; excluding independent contractors from workers' compensation coverage; establishing the circumstances under which certain nonemployee executive corporate officers and members of limited liability companies may obtain workers' compensation coverage; relating to the duties of injured employees to report income or work; relating to misclassification of employees and deceptive leasing; defining 'employee'; relating to the Workers' Compensation Board's approval of attorney fees in a settlement agreement; and providing for an effective date."

- MOVED CSHB 79(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 132

"An Act relating to transportation network companies and transportation network company drivers."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 14

SHORT TITLE: FCC: INCREASE RURAL HEALTH CARE BUDGET

SPONSOR(S): REPRESENTATIVE(S) EDGMON

03/06/17	(H)	READ THE FIRST TIME - REFERRALS
03/06/17	(H)	L&C
03/15/17	(H)	L&C AT 3:15 PM BARNES 124
03/15/17	(H)	-- MEETING CANCELED --
03/17/17	(H)	L&C AT 3:15 PM CAPITOL 106
03/17/17	(H)	Heard & Held
03/17/17	(H)	MINUTE(L&C)
03/20/17	(H)	L&C AT 3:15 PM BARNES 124
03/20/17	(H)	Moved HJR 14 Out of Committee
03/20/17	(H)	MINUTE(L&C)
03/22/17	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 157

SHORT TITLE: LIFE & HEALTH INSURANCE GUARANTY ASSN.

SPONSOR(S): LABOR & COMMERCE BY REQUEST

03/06/17	(H)	READ THE FIRST TIME - REFERRALS
03/06/17	(H)	L&C
03/13/17	(H)	L&C AT 3:15 PM BARNES 124
03/13/17	(H)	-- MEETING CANCELED --
03/15/17	(H)	L&C AT 3:15 PM BARNES 124
03/15/17	(H)	-- MEETING CANCELED --
03/20/17	(H)	L&C AT 3:15 PM BARNES 124
03/20/17	(H)	Heard & Held
03/20/17	(H)	MINUTE(L&C)
03/22/17	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 119

SHORT TITLE: AIDEA: DIVIDEND TO STATE;INCOME;VALUATION

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/13/17	(H)	READ THE FIRST TIME - REFERRALS
02/13/17	(H)	L&C, FIN
03/13/17	(H)	L&C AT 3:15 PM BARNES 124
03/13/17	(H)	-- MEETING CANCELED --
03/20/17	(H)	L&C AT 3:15 PM BARNES 124
03/20/17	(H)	Heard & Held
03/20/17	(H)	MINUTE(L&C)
03/22/17	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 144

SHORT TITLE: EXTEND BOARD OF VETERINARY EXAMINERS

SPONSOR(s): KITO

02/24/17 (H) READ THE FIRST TIME - REFERRALS
02/24/17 (H) L&C, FIN
03/22/17 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 86

SHORT TITLE: STUDENT LOAN DEFAULT/OCC. LICENSE RENEWAL

SPONSOR(s): CLAMAN

01/27/17 (H) READ THE FIRST TIME - REFERRALS
01/27/17 (H) EDC, L&C
03/01/17 (H) EDC RPT 7DP
03/01/17 (H) DP: TALERICO, PARISH, KOPP, SPOHNHOLZ,
JOHNSTON, FANSLER, DRUMMOND
03/01/17 (H) EDC AT 8:00 AM CAPITOL 106
03/01/17 (H) Moved HB 86 Out of Committee
03/01/17 (H) MINUTE(EDC)
03/22/17 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 79

SHORT TITLE: OMNIBUS WORKERS' COMPENSATION

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/25/17 (H) READ THE FIRST TIME - REFERRALS
01/25/17 (H) L&C, JUD, FIN
02/20/17 (H) L&C AT 3:15 PM BARNES 124
02/20/17 (H) Heard & Held
02/20/17 (H) MINUTE(L&C)
03/01/17 (H) L&C AT 3:15 PM BARNES 124
03/01/17 (H) <Bill Hearing Canceled>
03/06/17 (H) L&C AT 3:15 PM BARNES 124
03/06/17 (H) Heard & Held
03/06/17 (H) MINUTE(L&C)
03/08/17 (H) L&C AT 3:15 PM BARNES 124
03/08/17 (H) <Bill Hearing Canceled>
03/15/17 (H) L&C AT 3:15 PM BARNES 124
03/15/17 (H) -- MEETING CANCELED --
03/17/17 (H) L&C AT 3:15 PM CAPITOL 106
03/17/17 (H) <Bill Hearing Canceled>
03/20/17 (H) L&C AT 3:15 PM BARNES 124
03/20/17 (H) Heard & Held
03/20/17 (H) MINUTE(L&C)
03/22/17 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 132

SHORT TITLE: TRANSPORTATION NETWORK COMPANIES

SPONSOR(S): WOOL

02/15/17	(H)	READ THE FIRST TIME - REFERRALS
02/15/17	(H)	TRA, L&C
02/23/17	(H)	TRA AT 1:30 PM BARNES 124
02/23/17	(H)	<Bill Hearing Canceled>
02/28/17	(H)	TRA AT 1:30 PM BARNES 124
02/28/17	(H)	Heard & Held
02/28/17	(H)	MINUTE(TRA)
03/02/17	(H)	TRA AT 1:30 PM BARNES 124
03/02/17	(H)	Heard & Held
03/02/17	(H)	MINUTE(TRA)
03/06/17	(H)	L&C AT 3:15 PM BARNES 124
03/06/17	(H)	Scheduled but Not Heard
03/07/17	(H)	TRA AT 1:30 PM BARNES 124
03/07/17	(H)	Moved CSHB 132(TRA) Out of Committee
03/07/17	(H)	MINUTE(TRA)
03/08/17	(H)	TRA RPT CS(TRA) 1DP 4NR 2AM
03/08/17	(H)	DP: WOOL
03/08/17	(H)	NR: SULLIVAN-LEONARD, NEUMAN, DRUMMOND, STUTES
03/08/17	(H)	AM: CLAMAN, KOPP
03/10/17	(H)	L&C AT 3:15 PM BARNES 124
03/10/17	(H)	Heard & Held
03/10/17	(H)	MINUTE(L&C)
03/17/17	(H)	L&C AT 3:15 PM CAPITOL 106
03/17/17	(H)	Heard & Held
03/17/17	(H)	MINUTE(L&C)
03/18/17	(H)	L&C AT 12:30 AM CAPITOL 106
03/18/17	(H)	-- Continued from 3/17/17 --
03/22/17	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

CHRYSTAL KOENENMAN, Staff
Representative Sam Kito, III
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 144, presented the legislation on behalf of Representative Kito, prime sponsor.

KRIS CURTIS, Legislative Auditor
Legislative Audit & Budget
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 144, discussed the sunset audit.

DOCTOR RACHAEL BERNGARTT, Veterinarian

Alaska Board of Veterinary Examiners

Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 144, answered questions.

LEA MCKENZIE

Sutton, Alaska

POSITION STATEMENT: During the hearing of HB 144, spoke to the improvements necessary as to veterinary care in rural Alaska.

DOCTOR JIM HAGEE, Member

Board of Veterinary Examiners

Chugiak, Alaska

POSITION STATEMENT: During the hearing of HB 144, explained the activities of the Board of Veterinary Examiners.

REPRESENTATIVE MATT CLAMAN

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 86, presented the legislation as prime sponsor.

OWEN PHILLIPS, Staff

Representative Matt Claman

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 86, discussed the legislation.

MARIE MARX, Director

Division of Workers' Compensation

Department of Labor & Workforce Development

Juneau, Alaska

POSITION STATEMENT: During the hearing of CSHB 79, answered questions.

AVES THOMPSON, Executive Director

Alaska Trucking Association (ATA)

Anchorage, Alaska

POSITION STATEMENT: During the hearing of CSHB 79, offered testimony.

LAURA STIDOLPH, Staff
Representative Adam Wool
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of CSHB 132, discussed the changes in Version R.

JOHN BINDER, Deputy Commissioner of Aviation
Commissioner's Office
Department of Transportation & Public Facilities
Anchorage, Alaska

POSITION STATEMENT: During the hearing of CSHB 132, answered questions.

MITCHELL MATTHEWS, Representative
Uber Technologies
Seattle, Washington

POSITION STATEMENT: During the hearing of HB 132, answered a question.

ACTION NARRATIVE

[3:19:32 PM](#)

CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Kito, Josephson, Wool, Birch, Knopp, Sullivan-Leonard, and Stutes were present at the call to order.

HJR 14-FCC: INCREASE RURAL HEALTH CARE BUDGET

[3:21:46 PM](#)

CHAIR KITO announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 14, Urging the Federal Communications Commission to increase the Rural Health Care Program budget sufficiently to adjust for inflation, advances in technology and the services available with increased broadband, and the increase in demand for broadband-based services and provide for any unused funds to be carried forward to future funding years, ensuring that rural communities in the state continue to have access to affordable broadband telehealth services.

CHAIR KITO advised that the House Labor and Commerce Standing Committee is the only committee of referral for HJR 14, and that legislation requires a fiscal note.

[3:22:13 PM](#)

REPRESENTATIVE WOOL moved to rescind the committee's action on March 20, 2017, in moving HJR 14 out of the House Labor and Commerce Standing Committee. There being no objection, HJR 14 was back before the House Labor and Commerce Standing Committee.

CHAIR KITO advised he will attach the zero-fiscal note to HJR 14.

CHAIR KITO, in response to Representative Birch, explained that according to statute, every piece of legislation that moves through a body is required to have a fiscal note whether it is a zero-fiscal note, or not. The fiscal note was not prepared at the time of moving HJR 14 from committee, and he will now attach the zero-fiscal note to the resolution, thereby, meeting the statutory requirement. No other change is being made, he said.

[3:23:24 PM](#)

REPRESENTATIVE WOOL moved to report HJR 14, Version 30-LS0422\J out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HJR 14 moved from the House Labor and Commerce Standing Committee.

[3:23:42 PM](#)

The committee took an at-ease from 3:23 p.m. to 3:26 p.m.

HB 157-LIFE & HEALTH INSURANCE GUARANTY ASSN.

[3:26:37 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 157, "An Act relating to the Alaska Life and Health Insurance Guaranty Association; and providing for an effective date."

CHAIR KITO, after ascertaining no one wished to testify on HB 157, closed public testimony.

[3:27:39 PM](#)

REPRESENTATIVE WOOL moved to report HB 157, Version 30-LS0410\J out of committee with individual recommendations and the

accompanying fiscal notes. There being no objection, HB 157 moved from the House Labor and Commerce Standing Committee.

[3:28:03 PM](#)

The committee took an at-ease from 3:28 p.m. to 3:31 p.m.

HB 119-AIDEA:DIVIDEND TO STATE;INCOME;VALUATION

[3:31:53 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 119, "An Act relating to the dividends from the Alaska Industrial Development and Export Authority; relating to the meaning of 'mark-to-market fair value,' 'net income,' 'project or development,' and 'unrestricted net income' for purposes of the Alaska Industrial Development and Export Authority; and providing for an effective date."

CHAIR KITO, after ascertaining no one wished to testify, closed public testimony on HB 119.

[3:32:38 PM](#)

REPRESENTATIVE WOOL moved to report HB 119, Version 30-GH1677\A out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 119 moved from the House Labor and Commerce Standing Committee.

[3:33:02 PM](#)

The committee took an at-ease from 3:33 p.m. to 3:35 p.m.

HB 144-EXTEND BOARD OF VETERINARY EXAMINERS

[3:35:43 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 144, "An Act extending the termination date of the Board of Veterinary Examiners; and providing for an effective date."

CHAIR KITO explained that HB 144 is one of three sunset bills this year, and opined there will be 11 sunset bills next year.

[3:36:33 PM](#)

CHRYSTAL KOENENMAN, Staff, Representative Sam Kito, III, Alaska State Legislature, advised that HB 144 extends the Board of Veterinary Examiners until June 30, 2025. The Division of Legislative Audit concurred and recommends a full eight-year sunset and believes the board is operating in the best public interest of the state, and the health, safety, and well-being of all of the animals and livestock in the State of Alaska. Concern was expressed regarding the board and its actions for rural Alaska and the animals in rural Alaska. In 2010, private citizens brought these concerns to the board, and in 2012 and 2013, the board took appropriate regulatory action. She explained that it increased the scope of the "courtesy license" allowing courtesy licensees to apply to spay and neuter clinics in rural Alaska. The regulations allow veterinary technicians to travel to rural Alaska and work remotely with veterinarians stationed on the road-system in an effort to help ease the burden in rural Alaska, and follow the desires of pet owners and prevent pets from procreating.

[3:38:32 PM](#)

REPRESENTATIVE BIRCH asked whether other states or jurisdictions operate without some sort of oversight of veterinarians.

MS. KOENEMAN answered, "No."

[3:39:22 PM](#)

KRIS CURTIS, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, advised that Legislative Audit did conduct a sunset review of the Board of Veterinary Examiners, dated March of 2016. She explained that the purpose of a sunset audit is to determine whether a board is serving the public's interest and whether it should be extended. The Division of Legislative Audit did find that this board is serving the public's interest by appropriately licensing and regulating veterinarians and veterinary technicians, she remarked. The division recommends an eight-year extension which is the maximum allowed in statutory, with the one recommendation found on page 7 of the audit. The division noted that the board's annual reports submitted during the audit period included the status of prior sunset audit findings of the dental examiners sunset findings, she offered. Therefore, she pointed out that the division recommended the board chair review the annual report before submission, and described this as a minimal housekeeping type of recommendation and it did not impact the sunset. She pointed to page 5 of the audit report and advised it is a

listing of the licenses and the license counts, and as of February 2016, there were 670 total licenses representing a 57 percent increase since the last sunset audit of 2008. She turned to page 6 of the audit and said it is a schedule of revenues and expenditure, at the end of FY13 the board had a surplus of approximately \$108,000 and the fees were decreased. At the end of February 2016, it was operating in a deficit and at that point, the management of the Division of Corporations, Business, and Professional Licensing did say it would reassess fees at the end of FY16.

[3:41:32 PM](#)

CHAIR KITO noted that of the boards in committee, there are two running for a full eight-years, with 10-11 boards coming up next year. He asked Ms. Curtis how the Division of Legislative Audit will try to make sure the audits do not all hit in a single year, or whether there was a plan to be sure they would be spread out more equitably from year-to-year.

MS. CURTIS responded that the Division of Legislative Audit will conduct the audits as it usually does, and it will look at the findings. In the event the division is waffling between five, six, or seven years, it will look at its workload to determine how it all falls out. She described that the Division of Legislative Audit's recommendation is simply a recommendation. She stated that sometimes the department may recommend a six-year extension, and someone will propose a three-years extension, or a controversial issue will pop up and the organization will only have a two-year extension. She explained that even though the Division of Legislative Audit may plan for a smooth workload over the years, sometimes that just does not happen.

[3:42:56 PM](#)

DOCTOR RACHAEL BERNGARTT, Veterinarian, Alaska Board of Veterinary Examiners, advised she has been in Alaska since 2002, and served on the board over one-year.

REPRESENTATIVE KNOPP noted an email petition from a number of unhappy constituents who were not happy with the Board of Veterinary Examiners. He acknowledged that he could barely read the email and only saw "a bunch of signatures," and asked whether she was aware of the issue.

[3:44:05 PM](#)

MS. KOENEMAN responded that the pushback she referred to in her opening statement was with regard to those 318 signatures of the petition. The concern was about veterinarian care in rural Alaska and the spay and neuter clinics, and she advised that the board did take appropriate steps in 2012 and 2013 addressing those issues.

CHAIR KITO opened public testimony on HB 144.

[3:45:15 PM](#)

LEA MCKENZIE said she was testifying on her own behalf, and advised that the people signing the 2010 petition believe there has not been any improvement in veterinary care in rural Alaska, and asked the committee to not extend the board for eight more years due to the pet care crisis in rural Alaska. Prior to 2010, a veterinarian offered relief to the people and animals in the area and, she advised, veterinarians are still willing to come to Alaska but not under the conditions that currently exist. She stated that "Alaska has a reputation for being unfriendly to, and even hostile, toward those vets that would like come and do their non-profit work in rural Alaska." This service would not impact the state's budget as it is footed by non-profits existing outside of Alaska. Until Alaska becomes a friendlier environment for these vets to help rural Alaska, the crisis affecting animals and people in these remote areas will continue.

[3:48:26 PM](#)

DOCTOR JIM HAGEE, Member, Board of Veterinary Examiners, advised that he is a practicing veterinarian in Chugach, has been a resident of Alaska since 1998, has practiced veterinary medicine over 45-years, and has been a member of the Board of Veterinary Examiners for the last 5-years. He explained that the board does deal with rural Alaska, and for 6-years he traveled to the City of Dillingham practicing veterinary care every other month. Rural Alaska does need veterinary care, he acknowledged, yet on the other hand it must be remembered that veterinary medicine as an organized discipline is a for-profit entity. Non-profit groups have been instrumental in bringing low-cost spay and neuters to the villages; however, the continuity of care is not there. In order for veterinarians, who operate a for-profit business, to go to villages to provide continual care, a great economic burden is placed on the veterinarian. He described that going into the village has to be almost like a donation as

a way of giving back. So far, he advised, there is no organization that will provide continued veterinary care, only sporadic spay and neuter care.

[3:50:39 PM](#)

REPRESENTATIVE BIRCH thanked Dr. Hagee for his service, years of volunteering in the Dillingham area, and he appreciates Dr. Hagee's service on the board.

REPRESENTATIVE STUTES commented that living in rural Alaska where there is one veterinarian clinic most of the time, she said she fails to see how this board's unfriendliness plays into this subject, and that she was confused by the testimony.

CHAIR KITO advised that the committee may be able to independently look at what is going on with veterinary care in rural Alaska, and determine whether there are other things legislators may be able to help facilitate from "our role here."

REPRESENTATIVE STUTES related that as the owner of three animals, that would be a beautiful thing.

CHAIR KITO advised public testimony would remain open on HB 144.

[HB 144 was held over.]

HB 86-STUDENT LOAN DEFAULT/OCC. LICENSE RENEWAL

[3:52:01 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 86, "An Act relating to nonrenewal of occupational licenses for default on a student loan."

[3:52:31 PM](#)

REPRESENTATIVE MATT CLAMAN, Alaska State Legislature, reminded the committee that Thomas Jefferson said, "Government is best which governs least," and the goal in bringing HB 86 forward is to revoke the Alaska Commission on Post-Secondary Education's authority to use non-renewal of occupational licenses as an incentive to ensure repayment of student loans in the instance of a default. He described that the consequences of defaulting are already severe, and as the commission has not exercised its authority since 2010, it makes sense to repeal these statutes.

[3:53:21 PM](#)

OWEN PHILLIPS, Staff, Representative Matt Claman, Alaska State Legislature, reiterated that HB 86 repeals current statutes allowing the Alaska Commission on Postsecondary Education (ACPE) to threaten non-renewal of occupational licenses for individuals who have defaulted on their student loans. Repealing this authority will allow licensed individuals to continue their work and earn an income and pay back their defaulted loans without fear of losing their license. He noted that there are difficulties one faces if defaulting on their student loans such as, late fees, court costs, liens on property, and adverse reports to consumer reporting agencies. Under current statute, the Alaska Commission on Postsecondary Education (ACPE) has authority to provide notice to the licensing authority for non-renewal of a license. Many of the laws giving authority to the ACPE were passed in the 1990s and 2000s when student aid was often provided by states, currently, most loans are provided federally. Last year, he advised, the State of Montana became the first state to repeal similar statutes and 21 states still have similar statutes. This bill allows Alaska to follow the example of the State of Montana and reduce that number to 20 in order to protect the state's nurses, pharmacists, social workers, teachers, correctional officers, and many others.

[3:54:47 PM](#)

MR. PHILLIPS offered an analysis of the bill as follows:

Section 1 deletes language that is no longer necessary after the repeals mentioned in Sec. 2.

Sec. 2 repeals AS 14.43.145(a)(4), which gives ... authority to the commission to provide notice of default to a licensing entity for non-renewal of a license. Repeals AS 14.43.148, which indicates that a licensing entity may not renew a license if they have received notice from the commission that the licensee has defaulted on a loan issued by the commission. AS 21.27.390(d), which references temporary licenses.

[3:56:21 PM](#)

REPRESENTATIVE BIRCH remarked that "This is kind of our version of -- of they're trying to collect on debt," and noted that the debt collection appeared reasonable. He asked the magnitude of

the debt, and the number of recipients impacted by this legislation.

MR. PHILLIPS opined that since 2010, the commission has not acted upon the section forcing the default.

REPRESENTATIVE BIRCH remarked that in the event someone misses their car payments, the "repo man" tows away the car. The State of Alaska presumably has a fairly significant liability out there, vis-a-vis many educated folks. Granted the authority has not been exercised, he remarked, but it is a means of enforcing collection at some level. He asked the size of the liability, how rapidly that liability is paid off, the timeframe, and how many people it impacts.

REPRESENTATIVE CLAMAN responded that the Alaska Student Loan Corporation has multiple means to encourage payment and this method has rarely been used because there are fewer Alaska student loans due to more federal student loans. He related that taking away someone's nursing license, for example, causes that person to work at a lower wage and makes the person more likely to default.

[4:00:22 PM](#)

REPRESENTATIVE BIRCH related that he was not disputing whether HB 86 might be a good idea, his question was whether the necessary research had been performed in order to understand the general magnitude of the liability, how many people would be impacted, and the timeframe in which the loans would be repaid.

MR. PHILLIPS opined that prior to 2010, this non-renewal of licensing authority was used 155 times, and of those 155 individuals, 49 did not pay any amount, left the state, and assumed to have found a license elsewhere. He said he would reach out to Stephanie Butler, Executive Director, Alaska Commission on Postsecondary Education (ACPE) in response to Representative Birch's questions.

REPRESENTATIVE BIRCH advised he was looking for numbers roughly to the nearest \$500,000.

[4:02:40 PM](#)

REPRESENTATIVE KNOPP asked Representative Claman, "Do you just read the books until you find a statute that doesn't fit any

longer?" He asked what brought this issue forward because it had been unused for eight years.

REPRESENTATIVE CLAMAN credited one idea to a prior staff member currently attending law school, and answered that someone had approached the staffer with this issue. The staff member performed research and realized the non-renewal authorization was rarely used and brought it to Representative Claman's attention.

CHAIR KITO opened public testimony. After ascertaining no one wished to testify, closed public testimony on HB 86.

[HB 86 was held over.]

HB 79-OMNIBUS WORKERS' COMPENSATION

[4:04:46 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 79, "An Act relating to workers' compensation; repealing the second injury fund upon satisfaction of claims; relating to service fees and civil penalties for the workers' safety programs and the workers' compensation program; relating to the liability of specified officers and members of specified business entities for payment of workers' compensation benefits and civil penalties; relating to civil penalties for underinsuring or failing to insure or provide security for workers' compensation liability; relating to preauthorization and timely payment for medical treatment and services provided to injured employees; relating to incorporation of reference materials in workers' compensation regulations; relating to proceedings before the Workers' Compensation Board; providing for methods of payment for workers' compensation benefits; relating to the workers' compensation benefits guaranty fund authority to claim a lien; excluding independent contractors from workers' compensation coverage; establishing the circumstances under which certain nonemployee executive corporate officers and members of limited liability companies may obtain workers' compensation coverage; relating to the duties of injured employees to report income or work; relating to misclassification of employees and deceptive leasing; defining 'employee'; relating to the Workers' Compensation Board's approval of attorney fees in a settlement agreement; and providing for an effective date." [Before the committee was CSHB 79, Version 30-GH1789\0.]

[4:05:19 PM](#)

The committee took an at-ease from 4:05 p.m. to 4:06 p.m.

[4:06:07 PM](#)

MARIE MARX, Director, Division of Workers Compensation, Department of Labor & Workforce Development, said she was available for questions.

[4:06:19 PM](#)

REPRESENTATIVE BIRCH asked, "whether we've achieved some recognition that it's gonna be necessary to modify that without -- so we don't entangle a bunch of folks that we would not have otherwise intended to entangle in this bill?"

MS. MARX answered that the division has continuously met with stakeholder groups over the past two months to define the definition in a manner allowing true independent contractors to operate, while at the same time ensuring those individuals who are employees are covered under the Alaska Workers' Compensation Act, and the department and stakeholders are comfortable with the current language. Recently, she said, a request was put forth to the department "that to be frank" were issues not previously raised with the department. The department advised the stakeholder groups that the department will always continue discussions as part of the process, and noted that the majority of the great work had been completed. This bill is a good bill for employers, injured workers, increased efficiencies, and offers more than the independent contractor definition, she described. To the extent new issues were recently raised by stakeholder groups, the department advised it is, of course, open to discussions, she explained.

REPRESENTATIVE BIRCH advised that he wanted to be certain those stakeholder groups were comfortable with that provision before he supported moving the bill out of this committee.

MS. MARX reiterated her understanding that stakeholder groups were comfortable [with the language], at least one week prior [to this hearing].

[4:09:12 PM](#)

REPRESENTATIVE KNOPP related there may be "a whole new group of stakeholders out there this week." He advised he does not

particularly care for Secs. 8 and 9, and asked why "we want to take them away from the board and leave them with the division," and why this is a better process.

MS. MARX offered her belief that Representative Knopp was referring to the division's investigations where an employer does not have insurance. Currently, she advised, the division investigates, and if it finds on a substantial basis the employer should have insurance but does not, it files a petition before the Alaska Workers' Compensation Board. The board then holds a formal due process hearing and issues a decision as to whether or not the employer should have had insurance, and the penalty amount. The division has found that those penalties assessed by the board are astronomically high, and the penalties have not withstood review on appeal. Recently, she explained, the department was ordered to pay a huge attorneys' fees bill when an employer appealed the board's assessment of a penalty, and on appeal, the department was ordered to pay some money because the employer did not have insurance. Except, the amount was dropped down for various reasons, the employer was deemed the prevailing party, and the department was assessed approximately \$50,000 in attorneys' fees. She pointed out that the process is long with intense litigation, and it is not efficient; and CSHB 79 would change it to a process wherein the department's investigators will investigate as they always do, and assess a penalty based upon statute and regulation. In the event an employer disputes the assessment, they can request a hearing before the board, but the penalties will be reduced, in most cases, under the new calculation. The division anticipates that fewer assessments will go to board hearings, thereby reducing attorneys' fee and litigation costs, she noted.

[4:11:59 PM](#)

REPRESENTATIVE KNOPP commented that his dislike for Secs. 8-9 stems from prior conversations regarding OCC licensing, investigative costs, and spreading those costs out. He related his belief that they are better managed by the boards that can determine the depth of an investigation, and he would not second guess Ms. Marx if she believes this is more efficient. He referred to Ms. Marx statement that the department would assess fees within the statute. He asked whether the board does not assess fees currently, whether there are statutes defining the limitations of the fees and exceeding them, and why there are "astronomically high assessments."

MS. MARX responded that currently, the maximum penalty is \$1,000 per employee, per workday, which leads to high penalties because an employer can have many employees and be uninsured for many days. Governor Bill Walker's bill would change the penalty calculation and instead would tie it to the risk of the work, size of the employer, the employer's financial gain from not having workers' compensation insurance, and set a maximum of three times the premium the employer would have paid had they had insurance.

[4:13:53 PM](#)

REPRESENTATIVE KNOPP commented that if the issue is excessive fees, why not just leave it with the board if the new fee schedule is put in place.

MS. MARX likened the fines to a traffic ticket: she said that when an officer issues a citation, there is a simple process wherein the person can agree with the citation and pay it, or go to court. For efficiency purposes, the division's investigators investigate [the case], which is a current process, and the investigators petition the board with the amount. In most cases, she explained, the employer can just pay the assessed penalty if they prefer, or in the event of an appeal, the employer can go to a formal board hearing which involves litigation and attorneys' fees. She reiterated that CSHB 79 would just simplify and make the process more efficient.

[4:15:17 PM](#)

REPRESENTATIVE KNOPP moved to adopt Conceptual Amendment 1, which read as follows [original punctuation provided]:

Eliminate Section 28(11) beginning on page 15 line 29 through page 17 line 13.

(For definition refer to AS 23.20.525 - Employment Defined)

CHAIR KITO objected for purposes of discussion.

[4:15:38 PM](#)

REPRESENTATIVE KNOPP explained that he has heard concern from a number of industries around defining independent contractors and the unintentional consequences of this legislation. He said there are "a whole bunch of definitions" of independent

contractor found in many state statutes and this bill would add another definition.

He referred to Amendment 1 and noted that the amendment would use the definition of independent contractor in AS 23.20.525, the Alaska Employment Security Act and not under AS 23.30.230. He said the conceptual amendment would give the legislature an opportunity to address the independent contractor definition in a separate bill consistent with unemployment insurance and the workers' compensation provision because he does not want to start creating definitions in every statute in the book.

MS. MARX asked whether Representative Knopp had a specific question for her, or was asking for her thoughts.

REPRESENTATIVE KNOPP stated that the issue had not been addressed well enough and he was not willing to move this bill out of the committee, "not that I'd be on the winning side of that argument," until this issue is resolved. More importantly, he said, is addressing it through the workers' compensation, unemployment insurance and fair labor standards, which is everything that defines it now. He reiterated that if necessary, a bill could be brought forward that would discuss independent contractors under the current statute "that it is defined in."

CHAIR KITO suggested that the question to Ms. Marx could be for her to explain the process in developing the independent contractor language and, what if anything, "you are aware of" in relation to the definition for independent contractor in AS 23.20.525.

[4:18:51 PM](#)

MS. MARX commented that there are two important issues to consider with the definition of independent contractor. The first is that it is needed, misclassification is an ongoing nationwide issue especially over the last 1-2 years that states are addressing. This state is not unique, and misclassification needs to be addressed. The second issue is that this discussion began approximately one year ago when the misclassification of independent contractor was raised in a bill sponsored by Representative Gabrielle LeDoux, which did not move forward. The definition of independent contractor has been a long time coming and, she advised, the definition proposed in Representative LeDoux's bill was different than this

legislation. The department took the comments it then began receiving, especially from the Alaska Trucking Association (ATA), about issues that may arise from that definition and incorporated it into HB 79. The language arose from an evaluation of not only the Division of Workers' Compensation, but many stakeholder groups, and different agencies in all 50 states involved in misclassification issues. She remarked that the division has read the laws of all 50 states over and over again, as to specific provisions, weighing the benefit of one language use and the wording versus another, and initially put together a good starting point when the bill was introduced. Since that time, she offered, the division met with numerous stakeholder groups, including ATA, which have expressed support in principle for the ideas here because most employers want to operate on a level playing field with other employers and support an independent contractor definition. She agreed that concerns were expressed, and over the last two months they all have worked hard to get to a version that is good. That said, she acknowledged that some stakeholder groups still have some issues to be addressed and the division is always open to that process.

[4:21:57 PM](#)

REPRESENTATIVE KNOPP offered that the groups just mentioned are in the room because they are still not good with the language, and he does not see the need to draft another definition of independent contractor when the definition under "the other title" is where it needs to be and where it exists. Conceptual Amendment 1 requests more time to work on the definition of independent contractor, and in the event this conceptual amendment fails, Conceptual Amendment 2 is larger and more detailed, he said.

[4:23:54 PM](#)

REPRESENTATIVE BIRCH agreed with Representative Knopp and said he has a stack of letters from the National Federation of Independent Businesses (NFIB) and their concerns have not yet been accommodated; the concerns regard real people trying to do a job and maintain a lifestyle. In the event the bill needs to be moved forward, he suggested applying a carve-out of the definition or utilizing a different definition. He asked whether Ms. Marx had recently spoken with the NFIB.

MS. MARX, in response to Representative Knopp's statements regarding the ATA, answered that roughly one week ago ATA was

comfortable with the bill. She noted she had received an email advising that "with this one change that the department would make," involving changing a mandatory item to an optional item, ATA would support the bill. The issues were addressed, and the statement was made that ATA would be supportive with the issues they worked out. While she understands that people can change their minds as part of the process, she said she wanted to be certain the impression was not that the division was not listening or that there are major issues with this bill.

MS. MARX, in response to Representative Birch's NFIB question, responded that she met with Dennis DeWitt, NFIB, and opined that his comments were "the current bill as written -- he -- they could meet that. They actually could meet this definition." She expressed that there seems to be the feeling that perhaps NFIB should not have to meet the definition and whether or not to have an independent contractor definition at all is a policy call. She remarked that a comment made to her was that the NFIB could go out and advertise but did not feel the need, or NFIB could have a bank account in the business name but did not want to. That is a different argument and different position than saying the test in CSHB 79 does not work, and she remarked that this test works for NFIB. Whether NFIB wants to meet the qualifications is a different issue, and she said she was unsure whether that could be addressed in this legislation.

[4:27:06 PM](#)

REPRESENTATIVE STUTES noted that within [Sec. 28], Representative Knopp would like to eliminate the definition of independent contractor, and yet the definition Representative Knopp referred to is a definition of employment. She commented there may be a difference there, and she did not see the definition in the statute for independent contractor.

REPRESENTATIVE KNOPP [audio difficulties] it should be right there under AS 23.25. [audio difficulties] ...

[4:27:57 PM](#)

The committee took an at-ease from 4:27 p.m. to 4:30 p.m.

[4:30:35 PM](#)

MS. MARX advised that Amendment 1 refers to AS 23.20.525, which is not a statute in the Alaska Workers' Compensation Act, the Alaska Workers' Compensation Act is AS 23.30, and so forth. To

be clear, she explained, the Alaska Workers' Compensation Act applies its statutes, it does not use statutory definitions or regulations of other agencies, such as wage and hour or unemployment insurance. The statutes and interpretational statutes are developed under the Workers' Compensation case law.

REPRESENTATIVE KNOPP acknowledged that he did not realize the distinction because he thought definitions in statute would be applicable across the board, yet the Division of Workers' Compensation operates under its statutes.

MS. MARX responded that Representative Knopp was correct.

[4:31:53 PM](#)

REPRESENTATIVE KNOPP withdrew Conceptual Amendment 1.

[4:32:00 PM](#)

REPRESENTATIVE KNOPP moved to adopt Conceptual Amendment 2, as follows [original punctuation provided]:

Section 28

Page 16, line 4, following "results", delete, "completion schedule, or range of work hours ..."

Page 16, line 6, following "or", add, "to comply with"

Page 16, line 7, following "incurs" add, "or is ultimately responsible for"

Page 16, line 17, insert before "follows" "is responsible pursuant to contract to"

Page 16, line 17, change "follows" to "follow"

Page 17, line 1, delete, "maintains a business location separate from the location of the individual for whom the entity for the services are performed"

Page 17, line 1, insert before, "the person", "except for an agreement with other individual or entity relating to the completion schedule or range of work hours," insert, after "the person", "has control over the time the work is performed"

Page 17, line 4, delete, "engages in business advertising, solicitation, or other marketing efforts reasonably calculated to obtain new contract to provide similar service;" insert following, "the person", "is not required to work exclusively for on principal unless:

(a) a law, regulation, regulation, or ordinance prohibits the person from providing service to more than on principal; or

(b) The person has entered into a written contract to provide services to only one principal for a limited period;

CHAIR KITO objected for discussion purposes.

[4:32:10 PM](#)

REPRESENTATIVE KNOPP explained that Conceptual Amendment 2 addresses recommendations from the Alaska Trucking Association (ATA) by deleting the completion schedule and arrangement of work hours, which means complying with federal "stuff, but you can't mandate they go over the federal hours." For example, he said, should a customer advise an item must arrive by Monday morning, it is the customer's request and is not "our direction" so it alleviates that "type of stuff" in contracting. He said that when the discussion is under the direction of employer/employee type relationship, that is not an employer mandate. He explained that "It was -- it was just some words in there that -- 'add or ultimately responsible for' that type of language that kinda clears up some of the grey areas in the proposed area there. 'That maintains a business location separate from location individual whom the entity for the services are performed' delete that line."

[4:34:23 PM](#)

CHAIR KITO ask Representative Knopp to read the Version number of the amendment for the record.

REPRESENTATIVE KNOPP responded Conceptual Amendment 2, Version 30-GH1789\0.

CHAIR KITO asked whether there were other substantive components of the conceptual amendment he would like to present.

REPRESENTATIVE KNOPP advised that representatives from ATA are available to speak to the conceptual amendment because most of

it is ATA's language. He referred to the changes proposed in Conceptual Amendment 2 on [page 16, CSHB 79, lines 1-6] AS 23.30.205(a)(11)(B) direction and control, and read as follows: "Is free from direction over the means and manner providing services subject only to the right of the individual for who, or entity for which, the services are provided to specify." He explained that deleting the language "completion schedule or arrange of work hours," is simply to clarify that the independent contractor/owner operator is free to direct their own work subject to the desired results, or to comply with the contract plans, or comply with governmental laws.

REPRESENTATIVE KNOPP turned to the changes proposed in Conceptual Amendment 2, on page 16 of SCHB 79, lines 7-9] AS 23.30.205(a)(11)(C), which would add "ultimately responsible for, incurs (indisc.) ultimately responsible for after incurs." The second amendment would apply when someone or an entity may incur the initial expense, such as a bank, truck, dealer, or equipment supplier, in a loan or other financing arrangements, he said.

REPRESENTATIVE KNOPP turned to [CSHB 79, page 16, lines 14-16] AS 23.30.205(a)(11)(F), and said subparagraph (F) was good.

[4:36:04 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD [and Representative Knopp spoke over themselves and the conversation was undecipherable].

REPRESENTATIVE KNOPP referred to the changes proposed in Conceptual Amendment 2, which would clarify that an independent contractor/owner operator is not required by the contract to have a license not required by law.

REPRESENTATIVE KNOPP stated that paragraph (G) on CSHB 79, page 16, lines 17-27 "is responsible pursuant to the contract to follow, and that limits responsibilities of the parties to the contract at hand."

REPRESENTATIVE KNOPP turned to the changes proposed in Conceptual Amendment 2 [page 16, lines 28-31 and page 17, lines 1-13] AS 23.30.205(a)(11)(H) regarding business locations, and he said, "Except for an agreement with other individual or entity relating to the completion schedule or range of work hours, delete the rest of that." He said, "What constitutes a business location is in question. Is a truck sufficient, is a dedicated home office needed? So, it clarifies that language.

Any mobile vendor who provides onsite services, mobile carpet cleaning, van or even a Snap-On tool vendor will have concerns with this section. Particularly if an independent contractor provides regular frequent services to the same customer." An independent contractor may also share space with the person or entity with whom they are contracted while still providing purely independent contractor services.

[4:38:16 PM](#)

MS. MARX responded to Chair Kito that she did have comments regarding proposed Conceptual Amendment 2, and advised that the conceptual amendment contains changes raised in a recent email sent to the committee and the department, and the changes are mainly grammatical issues. Version 0, she explained, is more flexible than Conceptual Amendment 2, meets the same purpose, the existing language should remain, and ultimately, it is the committee's decision. Conceptual Amendment 2 contain grammatical issues, such as "ultimately responsible for" is ambiguous and would open the door to litigation and it does not add value to the language in Version 0, she explained. She advised that "maintain a separate business location, separate from the location of the individual," is a mandatory provision. She said, after noting some concern from stakeholder groups, the provision was moved from an 11 or 12 factor mandatory test to a test with optional factors, recognizing that possibly some true independent contractors could not meet a factor. The language in Version 0 would require a person meet three of the five optional factors, such as advertise, bank account in the business name, some insurance on a truck or office equipment, some sort of an insurance policy. The factor besides business location is, "not work as part in the same trade or occupation as the contractor." She related that that was the answer to the business location prong not being applicable to all independent contractors, which is why it is an optional item.

[4:41:27 PM](#)

CHAIR KITO maintained his objection.

[4:41:31 PM](#)

A roll call vote was taken. Representatives Birch, Knopp, and Sullivan-Leonard voted in favor of the adoption of Conceptual Amendment 2. Representatives Wool, Stutes, Josephson, and Kito voted against it. Therefore, Conceptual Amendment 2 failed by a vote of 3-4.

[4:42:10 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked Ms. Marx to present a comparison of the statute prior to Version O, Sec. 28, with regard to independent contractor. Secondly, she asked, whether the "second version" assists in the goal of bringing down the premium costs.

MS. MARX explained that currently there is no definition of independent contractor in statute. The Workers' Compensation Board has, in regulation, a balancing test wherein it is up to the board, on a case-by-case basis, to review the facts of a case and decide a test of employee status, except, states have found that balancing tests do not work. Thus, over the past 10 years there has been a movement to define independent contractor, as in this legislation. In the event an employer has an insurance policy covering some workers but not all workers, and an injured worker is found to have been an employee, the insurance company will raise its rates for all policyholders, causing fewer people purchase workers' compensation insurance. The fact that insurance companies are covering unanticipated uninsured losses causes workers' compensation costs to be high, especially in Alaska, and the average medical cost on a time loss claim is \$66,000. Defining independent contractor is part of the overall comprehensive plan to lower Alaska's high workers' compensation premiums, she explained.

[4:44:58 PM](#)

REPRESENTATIVE JOSEPHSON surmised that an insurance company cannot argue it was not advised that Jim Smith should have been classified as an employee. Therefore, it must rely upon arguments as to whether Jim Smith really should have been classified as an employee according to common law and statute. He asked whether that was what Ms. Marx was saying, that an insurance company cannot rely on the employer's opinion.

MS. MARX stated that Representative Josephson was absolutely correct, ultimately employee status is determined by the Alaska Workers' Compensation Board. In the event it is found that the injured worker was an employee under the Act, the insurance company must cover that loss if there was an insurance policy in place, she said.

[4:44:52 PM](#)

REPRESENTATIVE JOSEPHSON commented that if he was an insurance company, that would be his greatest concern because the insurance company has no control and does not even know the facts or who is at the job site, which is an argument for insurance companies to get behind this bill. Suddenly the numbers are 30 percent greater because the insurance company did not know these people existed, he noted.

MS. MARX agreed that that was absolutely what she is saying, and she stressed that there are letters of support, including one letter signed by three insurance companies. She reiterated that there are many letters of support here, and that she wanted to bring this to the committee's attention because the focus has been on the independent contractor's definition and refining it. There is absolute support by employers who want a level playing field, insurance companies for Representative Josephson's exact reason, and injured workers who want their injuries covered, there is broad support for this legislation.

[4:47:13 PM](#)

REPRESENTATIVE KNOPP referred to [AS 23.30.230(a)(11)] page 15, lines 29-30, which read as follows:

(11) a person employed as an independent contractor; a person is an independent contractor for the purposes of this chapter only if the person

REPRESENTATIVE KNOPP then referred to [AS 23.30.230(a)(11)(H)(v)] page 17, lines 10-13, which read as follows:

(v) the person engages in a trade, occupation, profession, or business to provide services that are outside the usual course of business for the individual for whom, or the entity for which, the services are performed.

[4:48:03 PM](#)

REPRESENTATIVE KNOPP opined that in order to be an independent contractor, the person must be performing services. For example, he said, if an employer is Home Depot" and needs an electrician, the employer would hire an electrician and would have an independent contractor.

MS. MARX responded that if the employer is the Home Depot business and wants electrical work performed on his/her business location without electricians on staff, this is where a person meets three of the five optional factors. She reiterated that it is optional because there are some cases where legitimate true independent contractors may work for a contractor in the same line of business.

4:49:54 PM

AVES THOMPSON, Executive Director, Alaska Trucking Association (ATA), reiterated his testimony from the 3/20/17 hearing on CSHB 79, and related that the Alaska Trucking Association (ATA) believes this bill in principal is good, although difficulties lay in the definition of independent contractor. The ATA has been working with the department and he, again, apologized for the miscommunication with the department. He then referred to his previous testimony and listed six items of concern, and advised that four concerns are merely grammatic clarifications. Two concerns deal with advertising and marketing and ATA does not believe it is necessary in an ATA type of business. The ATA owner/operators simply use word of mouth when looking for work and soon have a job. Therefore, advertising or marketing is not a necessary component to be an independent contractor. Secondly, as to the business location, ATA wants to be sure there is a clarification that defines what is a business location; he asked whether a business location is a truck. The department has advised that a truck can qualify as a business location, except it does not say that anywhere. He related that there needs to be clarification on the issue of business location, and ATA will continue to meet with the department to sort out these issues.

4:53:40 PM

CHAIR KITO commented that Mr. Thompson would understand Chair Kito's frustration. He referred to an email sent to his staff on March 9, 2017, suggesting two changes to paragraph (11)(F) and (11)(H), and that "ATA supports CSHB 79 with the changes we have suggested," and yet, between March 9th and Monday, more changes were recommended. He expressed that the department has done an admirable job of putting together and trying to accommodate the situation with the independent contractor. He said that "efforts to try to delay the bill really are not appreciated." Chair Kito encouraged Mr. Thompson to work constructively and productively, and "provide statements that don't misstate the position of the truckers, because on March 9th, it seemed to be everything was okay, now it's not."

[4:55:02 PM](#)

REPRESENTATIVE BIRCH referred to the concerns of the National Federation of Independent Business (NFIB) with the independent contractor "program," and opined that its concerns are not yet satiated.

CHAIR KITO answered that the department has made every effort to try to work with industry, as well as protecting the workers, and its work is admirable.

[4:55:38 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD offered that she has issues with the bill and asked to hold the bill until Friday.

CHAIR KITO explained that there are opportunities for comments and changes in the House Judiciary Standing Committee and the House Finance Committee, the floor of the House of Representatives, as well as getting through the Senate. He reminded the committee that this is the first committee of referral for the bill.

REPRESENTATIVE SULLIVAN-LEONARD interjected that she is not on those other committees and House Labor and Commerce Standing Committee is the committee to hammer out a majority of those particular issues.

CHAIR KITO answered that he is interested in moving the bill today.

[4:56:34 PM](#)

REPRESENTATIVE BIRCH commented that he does not support moving the bill because the independent contractor questions need to be addressed, and requested that the committee make the bill right before moving it from committee.

REPRESENTATIVE STUTES offered that she appreciates the concerns, although she has only been a legislator for three years and has yet to see the perfect bill.

CHAIR KITO closed public testimony on HB 79.

[4:57:39 PM](#)

REPRESENTATIVE WOOL moved to report CSHB 79, Version 30-GH1789\0, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE BIRCH objected.

[4:57:56 PM](#)

A roll call vote was taken. Representatives Wool, Stutes, Josephson, and Kito voted in favor of moving CSHB 79 out of committee. Representatives Birch, Knopp, and Sullivan-Leonard voted against it. Therefore, CSHB 79(L&C) was reported out of the House Labor and Commerce Standing Committee by a vote of 4-3.

[4:58:20 PM](#)

The committee took an at-ease from 4:58 p.m. to 5:02 p.m.

HB 132-TRANSPORTATION NETWORK COMPANIES

[5:02:05 PM](#)

CHAIR KITO announced that the final order of business would be HOUSE BILL NO. 132, "An Act relating to transportation network companies and transportation network company drivers."

[5:02:29 PM](#)

REPRESENTATIVE WOOL moved to adopt CSHB 132, Version 30-LS0522\R as the working document.

CHAIR KITO objected for purposes of discussion.

[5:03:03 PM](#)

LAURA STIDOLPH, Staff, Representative Adam Wool, Alaska State Legislature, advised that Version R takes into account discussions during the last two committee hearings. This version provides a statewide framework for transportation network companies (TNC) across Alaska to provide the service Alaskans desire rather than a multitude of regulations hindering current "for-hire transportation options," thereby providing Alaskans with the seamless and relatively inexpensive transportation deserved. This bill allows for a free market by providing an extra income to constituents during this unsteady state's fiscal outlook. The Department of Transportation & Public Facilities (DOTPF) presented a change having to do with

the regulation of TNCs at airports. She referred to Sec. 6, page 5, lines 14-18, which added subsection (b), and read as follows:

(b) The Department of Transportation and Public Facilities may, under AS 02.15, adopt a regulation or enter into a contract, lease, or other arrangement with a transportation network company or driver for use of an international airport owned or operated by the state. A regulation or arrangement under AS 02.15 must be consistent with this chapter.

MS. STIDOLPH explained that it allows for the DOTPF to regulate use of a TNC at an international airport owned and operated by the state.

[5:04:55 PM](#)

MS. STIDOLPH noted that after hearing concerns from committee members regarding the ability for local control and local taxation, the sponsor believes it is fair for municipalities to impose a sales tax on the TNC driver in accordance with how similar services are taxed in a municipality, and makes clear that TNCs must follow local traffic ordinances. She referred to Sec. 8, page 12, lines 3-7, which read as follows:

(b) The prohibition on regulation under (a) of this section does not include

(1) imposition of a municipal sales tax on a transportation network company driver that taxes a trip originating in the municipality in the same manner that other services are taxed in the municipality;

(2) a municipal traffic ordinance.

MS. STIDOLPH explained THAT the provision allows municipalities to impose a sales tax and ensures that municipal traffic ordinances must be followed.

[5:06:09 PM](#)

REPRESENTATIVE JOSEPHSON commented that he had heard the TNCs say "that there was no jurisdiction where a sales tax was allowed in the United States."

MS. STIDOLPH answered that this was the first time one of the TNCs has had sales tax mentioned in statewide legislation.

5:06:39 PM

REPRESENTATIVE STUTES asked how sales tax would be collected or tracked to know that it needed to collect sales tax.

MS. STIDOLPH replied that sales tax will be collected and remitted with an operational decision between the driver and the TNC. The tax will come from the rider, the payment, and not from the driver, she said.

5:07:11 PM

REPRESENTATIVE KNOPP asked how that scenario would work out since it deals in credit cards and not cash.

MS. STIDOLPH referred to the third party collecting the money between the TNC and the driver, and said that tax will be included on top of the fare. The operational decision has not yet been made and will be worked out between the policymakers of the companies and the municipalities.

REPRESENTATIVE KNOPP referred to CSHB 132, Sec. 6, beginning page 5, line 5, wherein Ms. Stidolph testified that the DOTPF may adopt regulations in its contract, lease, or other arrangements, and suggested he was unsure "that really provides anything." He asked why the TNCs would be interested in leasing from the state if there is no requirement to do so, with no municipal input. He said this simply authorizes the DOTPF to lease to a TNC, but there is nothing that says they will even have the conversation.

5:09:02 PM

JOHN BINDER, Deputy Commissioner of Aviation, Commissioner's Office, Department of Transportation & Public Facilities, responded that the issue comes down to the ability to regulate primarily where the Uber drivers pick up and drop off related to the airport operations. Airports around the country have had a significant challenge with this issue prior to having regulations in place by causing traffic jams and such, he said. The original language left some ambiguities as to whether airports would be allowed to stipulate where some of that activity may take place, he explained.

5:09:41 PM

MR. BINDER agreed with Representative Knopp that the state does not own all of the airports.

REPRESENTATIVE KNOPP surmised that the state would not have authority over some of the airports. Except when discussing authority, "all this is given, adopt, right to enter into a contract, lease, or other arrangement," but it does not offer enforcement power to mandate that the drivers utilize a certain spot, it has to be in cooperation.

MR. BINDER responded that under current policies, certain regulation related to taxi service, for instance, allows requiring permits and dictating the drop-off and pick-up locations, rates, and those sorts of things. This is intended to at least provide the framework for a similar type of arrangement with TNCs. Obviously, he said, many of those details will be worked out as the TNC comes on board or expresses interest. In the absence of this, the original language appeared to preclude the airport from having any say in how its operations took place on the airport, he explained.

[5:11:11 PM](#)

REPRESENTATIVE KNOPP referred to city-owned airports, such as Juneau or Kenai, and said they were not given any local control and "we wouldn't have any input to what happens at those airports."

MR. BINDER answered in the affirmative.

[5:11:34 PM](#)

REPRESENTATIVE JOSEPHSON referred to the sales tax question and offered a scenario of taking a TNC from this building to the airport at a cost of \$14.00, and asked whether he would be told the cost was \$14.89 due to a sales tax, and how that would work.

MS. STIDOLPH explained that the manner in which TNCs work, the passenger would know the exact cost before accepting the ride, which would include the tax.

[5:12:22 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD referred to the sale tax and asked whether it was applicable that a business license would be purchased in each city in order to have that sales tax transaction.

MS. STIDOLPH answered in the affirmative, and explained that a person purchases a local business license and files quarterly sales tax.

[5:12:58 PM](#)

CHAIR KITO removed his objection to Version R, which put CSHB Version R before the committee.

REPRESENTATIVE BIRCH commented that he does not have an objection, due to the discussion and numerous testimonies from the various TNCs as to the legislation being workable for their companies, he asked whether this legislation was still workable.

[5:13:48 PM](#)

MITCHELL MATTHEWS, Representative, Uber Technologies, responded that Version R is workable from Uber's perspective.

[HB 132 was held over.]

[5:14:05 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:14 p.m.