

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

March 29, 2017

3:19 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

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

COMMITTEE CALENDAR

CONFIRMATION HEARING(S) :

Board of Pharmacy

James Henderson - Soldotna

- CONFIRMATION(S) HEARD

Board of Certified Direct-Entry Midwives

Katherine Ostrom - Homer, Alaska

-CONFIRMATION(S) SCHEDULED BUT NOT HEARD

Board of Professional Counselors

Harold Henderson - No address provided

-CONFIRMATION(S) SCHEDULED BUY NOT HEARD

HOUSE BILL NO. 126

"An Act relating to workers' compensation benefits for members of the organized militia."

- HEARD & HELD

HOUSE BILL NO. 142

"An Act relating to unemployment insurance benefits; increasing the maximum weekly unemployment insurance benefit rate; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 103

"An Act relating to the practice of optometry."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 126

SHORT TITLE: ORGANIZED MILITIA: WORKERS COMPENSATION

SPONSOR(s): MILITARY & VETERANS' AFFAIRS

02/15/17	(H)	READ THE FIRST TIME - REFERRALS
02/15/17	(H)	MLV, L&C
02/21/17	(H)	MLV AT 1:30 PM GRUENBERG 120
02/21/17	(H)	Heard & Held
02/21/17	(H)	MINUTE (MLV)
02/23/17	(H)	MLV AT 1:00 PM GRUENBERG 120
02/23/17	(H)	Moved CSHB 126 (MLV) Out of Committee
02/23/17	(H)	MINUTE (MLV)
02/24/17	(H)	MLV RPT CS (MLV) 5DP 1NR
02/24/17	(H)	DP: LEDOUX, SADDLER, RAUSCHER, SPOHNHOLZ, TUCK
02/24/17	(H)	NR: REINBOLD
03/29/17	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 142

SHORT TITLE: UNEMPLOYMENT COMPENSATION BENEFITS

SPONSOR(s): TUCK

02/24/17	(H)	READ THE FIRST TIME - REFERRALS
02/24/17	(H)	L&C, FIN
03/29/17	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 103

SHORT TITLE: OPTOMETRY & OPTOMETRISTS

SPONSOR(s): SPOHNHOLZ

02/03/17	(H)	READ THE FIRST TIME - REFERRALS
02/03/17	(H)	HSS, L&C

03/14/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/14/17	(H)	Heard & Held
03/14/17	(H)	MINUTE(HSS)
03/16/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/16/17	(H)	Scheduled but Not Heard
03/18/17	(H)	HSS AT 3:00 PM CAPITOL 106
03/18/17	(H)	Moved CSHB 103(HSS) Out of Committee
03/18/17	(H)	MINUTE(HSS)
03/22/17	(H)	HSS RPT CS(HSS) NT 5DP 1NR
03/22/17	(H)	DP: JOHNSTON, TARR, SULLIVAN-LEONARD, KITO, SPOHNHOLZ
03/22/17	(H)	NR: EASTMAN
03/27/17	(H)	L&C AT 3:15 PM BARNES 124
03/27/17	(H)	Heard & Held
03/27/17	(H)	MINUTE(L&C)
03/29/17	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

JAMES HENDERSON, Appointee
Board of Pharmacy
Soldotna, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Pharmacy.

KENDRA KLOSTER, Staff
Representative Chris Tuck
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 142, on behalf of Representative Tuck, prime sponsor.

ROBERT DOEHL, Deputy Commissioner
Department of Military and Veterans Affairs (DMVA)
Joint Base Elmendorf-Richardson (JBER), Alaska

POSITION STATEMENT: Testified in support of HB 142 and answered questions during the hearing.

COLONEL JOHN JAMES, Commander
Alaska State Defense Force (ASDF)
Department of Military and Veterans' Affairs (DMVA)
Joint Base Elmendorf-Richardson (JBER), Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 142.

MARIE MARX, Director
Division of Workers' Compensation

Department of Labor & Workforce Development (DLWD)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 142.

SCOTT JORDAN, Director
Division of Risk Management
Department of Administration (DOA)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 142.

ED FLANAGAN, Director
Central Office
Division of Employment & Training Services
Department of Labor & Workforce Development (DLWD)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 142.

AARON PLIKAT, President
Building and Construction Trades Council of Southcentral Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 142.

DOUG TANSY
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 142.

BRANDON MCGUIRE
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 142.

RALPH KIBBY, Owner
Chatham Electric Inc
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 142.

WALTER ROBINSON
International Brotherhood of Electrical Workers (IBEW), Local 1547
Nenana, Alaska

POSITION STATEMENT: Testified in support of HB 142.

LAKE WILLIAMS, District Representative
International Union of Operating Engineers (IUOE), Local 302;
President

Fairbanks Building and Construction Trades Council
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 142.

BRONSON FRYE, Recording Secretary
Building and Construction Trades Council of South Central Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 142.

PAUL GROSSI
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 142.

REPRESENTATIVE IVY SPOHNHOLZ
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 103.

BERNICE NESBITT, Staff
Representative Ivy Spohnholz
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Responded to questions on House Bill 103 on behalf of Representative Spohnholz, prime sponsor.

RACHEL REINHARDT, MD
Seattle, Washington

POSITION STATEMENT: Testified in opposition to HB 103 on behalf of The American Academy of Ophthalmology.

DAVID S. ZUMBRO, MD, Ophthalmologist
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 103.

CARL ELI ROSEN, MD, Ophthalmologist
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 103.

ERIC COULTER, MD, Ophthalmologist;
Director
Alaska Eye Surgery and Laser Center
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 103.

DAVID KARPIK, OD
Kenai, Alaska

POSITION STATEMENT: Testified in support of HB 103.

ALFRED DERAMUS, MD, Ophthalmologist
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 103.

ELIZABETH MORGAN, MD, Ophthalmologist
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 103.

JEFF GONNASON, OD, Legislative Chair
Alaska Optometric Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 103.

ACTION NARRATIVE

[3:19:11 PM](#)

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

CONFIRMATION HEARING(S) **Board of Pharmacy**

[3:19:42 PM](#)

CHAIR KITO announced that the first order of business would be confirmation hearings for the governor's appointments to various state boards and commissions.

CHAIR KITO stated that the committee has received 61 names of the governor's appointments and members were asked to submit names of any appointees they wished to speak with directly or question. He stated that the committee requested to speak to nine individuals. The committee has spoken to five of the individuals and has forwarded 57 names.

[3:21:16 PM](#)

REPRESENTATIVE JOSEPHSON thanked James Henderson for volunteering to serve on the Board of Pharmacy. He asked for clarification about any potential conflicts of interest and he asked Mr. Henderson to explain any financial benefit that might arise.

[3:21:50 PM](#)

JAMES HENDERSON, Appointee, Board of Pharmacy, stated that his lack of explanation in his application was mostly due to there being too many possibilities to list. He explained that as a business owner and a potential board member, many things could occur.

REPRESENTATIVE JOSEPHSON asked whether Mr. Henderson would be prepared to explain and declare a conflict if one occurred.

MR. HENDERSON affirmed that he would recuse himself and let the other board members take care of the issue.

[3:22:34 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked Mr. Henderson why he wants to be on the board, what challenges he sees in the Pharmacy world, and how he would address those challenges.

MR. HENDERSON stated there are several reasons why he wants to serve on the board. He offered his opinion that it is a civic duty, and at this point he has some time to fulfill that duty. He noted his desire to shape the way the pharmacy profession runs in the state and to use his experience to shape regulations. He said he wants to be involved with new trends. He informed the board is currently considering Governor Bill Walker's recent mandates on opioids. The board is also looking at updating rules in U.S. Pharmacopoeia (USP) 797 and USP 800, which regulate compounding and sterility.

[3:24:10 PM](#)

REPRESENTATIVE BIRCH thanked Mr. Henderson for his interest in the board. He stated that four of the five pharmacists studying in the first class of Pharmacy at the University of Alaska were on the House floor this morning. He expressed that it's nice to see an Alaskan crop of pharmacists.

[3:24:57 PM](#)

CHAIR KITO thanked Mr. Henderson.

[Confirmation was held over.]

HB 126-ORGANIZED MILITIA: WORKERS COMPENSATION

[3:25:14 PM](#)

CHAIR KITO announced that the next order of business would be CS FOR HOUSE BILL NO. 126(MLV) "An Act relating to workers' compensation benefits for members of the organized militia."

[3:25:37 PM](#)

REPRESENTATIVE TUCK noted that when the legislature modernized the judicial system for the military during the last legislative session, it recognized the need for other changes to the current military code. He read the sponsor statement, which read as follows [original punctuation provided]:

The Alaska State Legislature and Department of Military and Veterans' Affairs have been working together to modernize the 1955 Alaska Military Code by providing statutory changes that will better serve our Alaska organized militia.

House Bill 126 would expand workers' compensation coverage to the organized militia while they are participating training exercises. Currently, Alaska statutes already provides workers' compensation coverage during active state service, but not during training. By expending [sic] this protection, we could potentially provide a fiscally significant coverage and save the state money in the future.

This issue came to light during an incident when a member of the Alaska State Defense Force suffered an injury during a training exercise that led to his inability to work. Since workers' compensation was not available, this injury ultimately cost the state twice the amount of the entire annual budget of the Alaska State Defense Force. The Risk Management Division of the Alaska Department of Administration estimates there would be little to no additional cost to cover the Alaska State Defense Force members under existing state workers' compensation policies.

As we face tight fiscal times, it is important that we are taking steps to ensure cost savings where we can and pass responsible legislation that will protect Alaskans.

REPRESENTATIVE TUCK stated that this was one of four bills updating the Military Code of Alaska; HB 126 would expand workers compensation for the militia and save the state money.

[3:28:13 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked if there were any statistics on members that were injured during training within the last 10 years.

[3:28:33 PM](#)

KENDRA KLOSTER, Staff, Representative Chris Tuck, Alaska State Legislature, on behalf of Representative Tuck, prime sponsor of HB 126, said that currently the Alaska State Defense Force (ASDF) has 76 members that participate and that the only known incident was a leg injury. She noted that the injured individual intended to bring the matter to court, but the case eventually settled out of court. She said it was this case that brought the bill to life. She made the point that if the state is going to cover members during their active state service, then it will want to cover them for their training as well.

REPRESENTATIVE SULLIVAN-LEONARD requested confirmation that the injury described was the only one in the last 10 years.

MS. KLOUSTER stated that it was the only one of which she was aware. She suggested Department of Military and Veterans' Affairs Deputy Commissioner Bob Doehl could confirm this.

[3:29:59 PM](#)

ROBERT DOEHL, Deputy Commissioner, Department of Military and Veterans' Affairs (DMVA), stated that the department supports HB 126 as it provides predictability and sound risk management for the training activities of ASDF. He remarked that even one injury can be "budget busting," as was evidenced in the previously discussed case. He also stated that the proposed bill would create parity with volunteer search and rescue groups, volunteer firefighters, and the [Alaska] National Guard, all of which are in a paid status with federal training.

[3:31:39 PM](#)

REPRESENTATIVE WOOL asked if anyone could provide him with information on the militia in Alaska; for example, what it does,

how many members exist, and how it differs from the National Guard.

3:32:06 PM

DEPUTY COMMISSIONER DOEHL said that the organized militia in Alaska consists of four components; the best known being the Air and Army National Guards, which make up about 4,000 members combined. The two lesser known components are the Alaska Naval Militia made up of Navy and Marine Corps reservists, and ASDF, which is the group to which this bill pertains. He stated that ASDF is a state-only militia, having no federal affiliation, and it trains to augment the National Guard at times when disaster response needs exceed the capacity of the National Guard. He stated that ASDF has communications detachments running high frequency and satellite radios, water purification units, and generators, and recently ASDF ran the phone bank for the disaster assistance center after the storms in Gambell and Savoonga. Their duties of ASDF include basic first aid and other training. Last year during the fires, ASDF ran shelter management at evacuation points. Deputy Commissioner Doehl said that members are paid only when they are in active duty assisting in a disaster; preparation for a disaster is performed on their own time.

3:33:39 PM

REPRESENTATIVE WOOL asked how ASDF's schedule is different from the National Guard, regarding whether their training periods are specified or as needed.

DEPUTY COMMISSIONER DOEHL responded by saying that ASDF's training consists of one weekend each month to be ready for a disaster. He explained that unlike the National Guard, ASDF members do not deploy or go to federal training but may have periods of annual training greater than the one weekend each month or take courses like officer candidate school. Training is specialized. He said currently ASDF does not have weapons training like the National Guard.

REPRESENTATIVE WOOL asked if ASDF members are paid for training.

DEPUTY COMMISSIONER DOEHL answered that they are not paid at all when in training; they are only paid when performing actual operational duties. All training time is volunteer time, which adds up to thousands of hours among all the volunteers.

[3:35:01 PM](#)

REPRESENTATIVE KNOPP inquired further about the general nature of ASDF training. He stated that he did not want to refer to it as administrative or clerical; however, it did not appear to be the same as the training or fieldwork provided to the National Guard and Reserves.

DEPUTY COMMISSIONER DOEHL offered his understanding that ASDF members are trained in the field rather than at a desk setting when, for example, operating generators or other equipment, performing litter drills, or providing first aid training. He also included the example of [members] setting up a high frequency radio and erecting an antenna in a field expedient site. He said that they don't, for example, work in protective chemical gear, but that there are some physically demanding requirements for working in an emergency environment.

[3:36:14 PM](#)

COLONEL JOHN JAMES, Commander, Alaska State Defense Force (ASDF), Department of Military & Veterans' Affairs (DMVA), confirmed that Deputy Commissioner Doehl's comments were "spot on." He added that ASDF augments the National Guard when the latter has "capability gaps" or personnel shortages. While some of the responsibilities include administrative duties or perhaps operating a radio, there are times when ASDF augments the National Guard in the field with more strenuous types of duties. He said their purpose is to augment and be a force multiplier for the National Guard, and the department feels this is how they can be most effective.

[3:37:08 PM](#)

REPRESENTATIVE WOOL noted the zero-fiscal note and asked how there can be zero cost when the state would be providing workers' compensation benefits.

[3:37:27 PM](#)

REPRESENTATIVE TUCK said he would let the Department of Administration respond to that question.

[3:37:52 PM](#)

MARIE MARX, Director, Division of Workers' Compensation, Department of Labor & Workforce Development (DLWD), said there

were a few fiscal notes Chair Kito attached to this bill. One is from the Division of Workers' Compensation, which administers but does not pay workers' compensation benefits. It is a zero fiscal note because the bill would not require any change in the administration of the Alaska Workers' Compensation Act. She then deferred to the Division of Risk Management, which she described as the employer arm of the state, to speak to its own fiscal note. She said the Division of Risk Management is the entity that would pay benefits if there was a work injury or death.

[3:38:44 PM](#)

SCOTT JORDAN, Director, Division of Risk Management, Department of Administration (DOA), said that the Division of Risk Management covers similar groups, such as Search and Rescue for the Department of Public Safety (DPS) and some Emergency Medical Technicians, and they are not calculated as full-time employees (FTEs). He said that the militia members in question are already covered for active duty, and adding coverage for training is a low risk, which is the reason for a zero fiscal note. He added that Risk Management has no way of calculating the risk for these people, because they are not calculated into the FTEs of their departments.

[3:39:56 PM](#)

REPRESENTATIVE KNOPP stated his understanding is that workers' compensation typically extends to employees and the cost is covered by employer/employee contributions; however, in this case the legislature is being asked to extend that benefit to volunteers that are not employees and are not compensated unless they are on official business. He said this situation brings to mind a discussion held about extending the "life benefits" for non-profit emergency medical service members that respond to accidents on the highway, in the same fashion as public safety officers, yet don't receive the same benefits as the public safety officers. He asked if it would be normal to extend this type of benefit to volunteers or if the legislature would be creating a precedence.

MR. JORDAN said it would be normal for them to do this for volunteers and would not create a precedence by providing workers' compensation for this group. He said the Division of Risk Management is self-insured and its rates are different from what you might see at a private entity. The division insures several volunteer groups, like search and rescue, emergency

medical technicians operating in an unincorporated city, and even high school students involved in work programs within the state.

[3:42:09 PM](#)

CHAIR KITO announced that HB 126 was held over.

HB 142-UNEMPLOYMENT COMPENSATION BENEFITS

[3:42:27 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 142. "An Act relating to unemployment insurance benefits; increasing the maximum weekly unemployment insurance benefit rate; and providing for an effective date."

[3:42:36 PM](#)

REPRESENTATIVE TUCK described HB 142 by stating that it relates to the effectiveness of Alaska's Unemployment Insurance (UI) program. He continued as follows:

The national unemployment insurance program was initially created in 1935 by the Social Security Act. Congress chose to create a national system of compensation for unemployed workers based on an insurance model rather than an entitlement program. This insurance model has worked well for over 80 years. As with any other insurance program, the objective is to underwrite and identify potential loss incurred by a small percentage of the insured through accumulation of funds collected from the group as a whole. The loss insured by the program is the loss of wages by unemployed workers. The premiums required to cover this potential loss are in most states paid solely by the employer; although in Alaska the cost is shared by the employer and the worker. We are one of three states in the nation that does this. Alaskan employers carry 73 percent of the direct cost and the workers pay 27 percent of these costs through payroll taxes.

REPRESENTATIVE TUCK stated that as with any program that compensates individuals while they are not working, there may be concerns about providing a disincentive for returning to work. He said, "In striving to provide sufficient temporary income to

enable workers to bridge the gap between jobs while meeting non-deferrable expenses without that disincentive, the U.S. Department of Labor encourages a target of 50 percent wage replacement to try to balance that out." He explained that wage replacement measures the state's average weekly benefit amount as a percent of the average weekly wage. According to the most recent figures published by the U.S. Department of Labor, Alaska ranks last in wage replacement at 28.8 percent, forty-fourth in the nation in terms of the average weekly benefit paid to unemployed workers - \$252 per week, and 39th in the nation in terms of the maximum weekly benefit amount of \$370 per week. Benefit amounts are based on the amount of wages a worker earns during a prescribed base period. Workers with higher earnings whose loss of work has a higher financial impact can receive a higher benefit amount. Representative Tuck related that under Alaska's current statute, the maximum benefit amount that can be paid to workers who have earned \$42,000 or more is \$370 per week, regardless whether the amount of wages lost was \$42,000 or \$100,000 or \$200,000 per year. The current maximum weekly benefit amount represents approximately 36 percent of the average weekly wage of \$1,020 in Alaska. The proposed legislation seeks to raise the maximum weekly benefit amount in Alaska to an amount that is roughly one-half the average weekly rate in the state for 2017, up to \$510 per week effective January 1, 2018.

REPRESENTATIVE TUCK stated that the second intent of the proposed bill is to tie future increases to the maximum weekly benefit amount to a percentage of the average weekly wage, as is the case in 36 other states. This would allow the wage replacement offered by the program to rise based on the relationship to the wages that are being replaced. He said the estimated cost to employers, for each employee earning the full taxable wage base of approximately \$38,000, would increase gradually beginning in 2019 [until it reaches] an additional \$233 per employee in 2023. He indicated this is over the baseline forecast, and the proposed bill would not increase the minimum wage benefit assessment. The estimated additional cost to employees earning the full taxable wage base in 2023 will be \$31 over the baseline forecast. Representative Tuck advised that after December 31, 2019, the maximum weekly benefit amount would be calculated each year based on 50 percent of the average weekly wage in the state. He said tying future increases to increases in the average weekly wage over time would result in a less dramatic change to employer taxes than what the state has experienced in the past when the maximum benefit amount remained

static and became less and less adequate over time, as it has since the last increase in 2009.

[3:47:22 PM](#)

REPRESENTATIVE BIRCH said he had a number of letters of opposition from individuals concerned about the impact that this additional cost increment will have on small businesses during a time of economic challenge and recession. He asked what the actual cost would be to elevate this benefit.

[3:47:57 PM](#)

REPRESENTATIVE TUCK said the estimated cost to employers for each employee earning the full taxable wage base of approximately \$38,000 will increase gradually and be an additional \$233 per employee by the year 2023.

REPRESENTATIVE BIRCH asked if it would be \$233 per employee per year.

REPRESENTATIVE TUCK said yes, that it would be \$233 per employee once it reaches its full maximum in 2023.

REPRESENTATIVE BIRCH pointed out that the bill refers to base period wages and a weekly benefit amount, and he asked for clarification on the duration of a base period.

REPRESENTATIVE TUCK said that he believed it is the qualifying period for someone to receive UI benefits and that it is a period of one year.

REPRESENTATIVE BIRCH, referring to the table in HB 142, asked if someone with a base period of \$2,500 to \$2,700 per year would then be entitled to a \$56 per week benefit.

REPRESENTATIVE TUCK answered yes. He said that for every \$250 increase in annual base period wages, the weekly benefit increases \$2. However, again referring to the table in the bill, he pointed out that HB 142 would not change UI benefits for those at lower incomes. He said the change HB 142 brings to the current statute is that of an increase in the weekly benefit for those at higher income levels, and this could be seen on page 7 of the bill. He said that HB 142 would allow for those who earn more and have contributed more to the insurance program to be able to receive a larger proportion of their annual pay than what they would receive now. It would also bring benefits

closer to the recommended average of the U.S. Department of Labor, as well as making Alaska current with 36 other states in the country. Representative Tuck said Alaska has more seasonal workers than any other state in the country, citing the seasonal industries of fishing, tourism, and construction, as well as the labor that occurs on the North Slope and in mining. He stated, "We want to make sure that families are able to weather out some of those ... tough economic times"

[3:51:05 PM](#)

REPRESENTATIVE BIRCH, referencing page 8 of the bill, asked what the duration of a benefit would be in the case of a fisherman working three months and earning \$50,000 annually, with a corresponding benefit of approximately \$20,000.

REPRESENTATIVE TUCK requested to bring Ed Flanagan of the Department of Labor and Workforce Development to the discussion to explain the number of weeks someone would be qualified to receive a benefit.

[3:51:59 PM](#)

ED FLANAGAN, Director, Central Office, Division of Employment & Training Services, Department of Labor & Workforce Development (DLWD), responding to the question from Representative Birch, said fishermen are not covered under UI. He added that the maximum benefit for a seafood processing worker would be 26 weeks. He also said that in the past, a claim could be extended under a federal extended benefit program, which would add up to an additional 13 weeks of benefits. In the 1980s, the program was changed to address claims from workers with earnings that occurred in only one quarter. Mr. Flanagan offered his understanding that at least 10 percent of earnings occur in a second quarter. In addition, there is "a differential ratio" utilized to determine the length of the benefit period based on how well earnings were distributed over the entire year. He said that earnings occurring in just two quarters would result in a maximum benefit period of 18 weeks rather than 26 weeks.

REPRESENTATIVE BIRCH said the concern voiced to him was that of the cost impact on an employer and "certainly not a reflection on the individuals involved." He also said he wasn't aware of the mechanics of the system, for example, how it would prevent a situation where someone could work for only three months and then "basically kick back for nine months."

MR. FLANAGAN said that such a situation was not possible and that he would not presume to tell an employer at any time, let alone in troubled times, that \$233 per employee five years out is not something they should be concerned about. However, he would encourage employers to think about how UI benefits support many communities, especially those that have strong seasonal workforces. He noted that he feels we lost something when we went away from paper payroll checks, as people would cash those checks after hours at a time when there were limited banking and credit card options. He summarized by saying he thinks there are employers that understand UI benefits not only help the worker but also insure the community.

[3:54:25 PM](#)

REPRESENTATIVE JOSEPHSON asked Representative Tuck to explain his earlier statement, which indicated Alaska is one of only three states that does or does not "do something."

REPRESENTATIVE TUCK responded that Alaska is one of only three states where employees contribute to their unemployment insurance program.

REPRESENTATIVE JOSEPHSON then made the point that in addition to Alaska's [UI benefit] rates not being anything close to a livable wage, the state is one of only three that require employees to contribute to their UI program.

REPRESENTATIVE TUCK added that he did not recall the names of the three other states, but that of the three, Alaska has employee contribution rates that are significantly greater.

REPRESENTATIVE JOSEPHSON asked why the sponsor of the bill did not want to [increase] the lower wage earner's rates.

[3:55:24 PM](#)

REPRESENTATIVE TUCK said that the bill was focused on providing UI benefits to higher income wage earners and, in doing so, balancing the increase in benefits with the associated additional cost to the employee. He emphasized his concern that Alaska retain skilled workers and support industry and employers, while sharing the burden "on both sides."

[3:56:15 PM](#)

REPRESENTATIVE WOOL asked if the annual salary is calculated based on a weekly salary extrapolated over 52 weeks.

[3:56:25 PM](#)

MR. FLANNAGAN answered no; it is based on actual earnings during the base period. He gave the example that if someone filed a new claim this week, then all the wages for the period October 1, 2015, to September 30, 2016, would be considered. If a claim was filed next week, when it would be a new quarter, the earnings period would be the calendar year 2016. He said there is no averaging or smoothing; and that it is the actual earnings that are utilized.

REPRESENTATIVE WOOL said that the reason he asked was because he knows that some people work seasonally and [become unemployed] following a season of high earnings, and he wanted to confirm that someone who, for example, earned \$1,000 per week for 3 months (for a total of \$12,000) would fall under the \$12,000 category and not the \$48,000 or \$52,000 category.

MR. FLANNAGAN stated that's correct.

REPRESENTATIVE WOOL asked for confirmation that under his prior example, the UI benefit would be \$132 per week, even though earnings were \$1,000 per week for one quarter.

MR. FLANAGAN stated that this is correct. He added that if the beneficiary had dependents, then he/she would be eligible for an additional \$24 per week for up to three children.

[3:58:15 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD pointed out that the existing statute describes the eligible individual, and then asked how a benefit is calculated for a family.

MR. FLANAGAN stated unemployment insurance is based strictly on the individual, with the possibility of a dependent child allowance of \$24 per child to maximum of three. He said that this has been in statute for some time. He added that there is no measure in any system nationwide regarding family income.

REPRESENTATIVE SULLIVAN-LEONARD asked what the fiscal note might be, noting that it was shown as zero.

MR. FLANAGAN said that the fiscal note reflects the agency cost, and in this case, it is de minimis, if calculable. He indicated that a change in benefit amount does not change the cost to the agency. He said if Representative Sullivan-Leonard was asking for the cost to individuals or businesses, it was his understanding that this was never reflected in the fiscal note.

[3:59:58 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked if there was a way to quantify what the financial impact is going to be, not only to the department but also what the benefits would show for the individual as well as for one, two, or three children. She asked if there was a way to calculate what it would be annually.

MR. FLANAGAN said he could provide the agency's annual projections on what it expects to pay. He said the benefits paid out have never been considered relevant to the fiscal note.

REPRESENTATIVE SULLIVAN-LEONARD said that she was looking for those dollar amounts, especially since there is a request to increase the unemployment insurance for both the employee and the employer.

MR. FLANAGAN said it was those dollar amounts that were used to come up with the estimates for 2022 for additional cost versus "doing nothing." He said that they have run those numbers to figure out a "phasing up" over five years to an additional \$233 per employee for the employer. He noted that this was for employees making the \$38,000 or \$39,000 taxable wage base. The employer's and the employee's contributions stop there. For the employee it is an additional \$31 per year. These are determined from the estimate of the change in the benefits that will be paid. He said the agency can provide this information.

[4:02:08 PM](#)

REPRESENTATIVE BIRCH pointed out that HB 142 would create a second, and therefore additional, increase under the UI program, as there was an earlier bill that established training as a benefit. He then asked if there are any other existing parts or if we would see any other new additions to the UI program.

[4:03:08 PM](#)

MR. FLANAGAN said that he was not aware of any others or proposals for any others. He said that the two training

programs Representative Birch was referring to are the State Training and Employment Program (STEP) and the Technical and Vocational Education Program (TVEP). He stated that in the past, he had misunderstood these programs by thinking incorrectly that because there is a diversion from the employee share, it is an additional cost to the employee. He explained that the cost of the program is determined on a 73 percent employer/27 percent employee split, and it is after that split that the diversion is made. He said that employees don't pay more except over time in the long run, because some money is not coming out of the trust fund that otherwise would. He said he could provide even more detailed information if requested, as he had a staff member from research and analysis on hand.

CHAIR KITO said additional information would not be necessary as the issue was not related to the bill.

[4:04:10 PM](#)

REPRESENTATIVE KNOPP directed attention to Section 2, on page 9 of HB 142, and asked what the maximum benefit would be for an individual that makes \$100,000 per year.

[4:04:39 PM](#)

REPRESENTATIVE TUCK offered his understanding that the maximum benefit would be \$510, because the benefits "max out" at a base income of \$59,500. However, he pointed out that Section 2 is "kind of a self-evaluating factor" that he mentioned earlier, which would allow the unemployment benefit to update itself based on 50 percent of the average income.

[4:05:17 PM](#)

MR. FLANAGAN clarified that the current weekly benefit is \$370, and under the proposed bill it would increase to \$510. He added that "at the lower end it's much closer to 50 percent than it is, because it starts at that \$2,500, with a benefit amount." He explained that currently an unemployed worker who made \$42,000 in his/her base year receives the same benefit as a laid off worker making \$84,000. Both workers would have contributed the same amount, "because \$39,000 is where it cuts off for contributions." He said that the benefits are "out of whack," because the person with the higher income is going to have higher expenditures.

REPRESENTATIVE KNOPP said that his interpretation of Section 2 was that the maximum benefit of \$510 would increase at a rate of \$2 for every \$250 increase in earnings greater than \$59,500. He provided a hypothetical example of an individual earning \$100,000 and asked if his maximum benefit calculation of \$834 for the individual (based on the language in Section 2) was correct.

[4:06:50 PM](#)

MR. FLANAGAN said that he understood how Section 2 might be interpreted in that way; however, the annual income of \$59,500 is a cap, and income greater than \$59,500 is not considered. He explained that Section 2 would provide an adjustment to the benefit schedule by; extending it out beyond \$59,500 if the average annual wage for the state increases. He added that he does not expect any adjustments in the schedule to reach \$100,000 in his lifetime. He again acknowledged that this was a confusing element of the bill.

REPRESENTATIVE KNOPP reiterated his interpretation that Section 2 states that weekly benefits would increase based on an "individual's base period wages," not based on changes in "state wages on an average."

MR. FLANAGAN reemphasized that no one would receive a benefit greater than that listed for an income of \$59,500; in subsequent years, if the average annual wage went up, say \$4,000, then "they would use that column on the left to calculate a benefit which would go up another \$2,000 total in the year."

[4:08:35 PM](#)

REPRESENTATIVE WOOL brought attention to the language [in Section 2], to which Mr. Flanagan and Representative Knopp had referred, was on Page 9, Line 25, and read: "the department shall determine the average annual wage paid to employees". He then asked for confirmation that this referred to the "overall state average" and not individual wage.

MR. FLANAGAN answered that's correct. He said the department [reviews the average annual wage], which currently is \$53,000. The taxable wage base is three-fourths of the average annual wage.

[4:09:19 PM](#)

REPRESENTATIVE TUCK brought the committee's attention to language in [Section 2], subsections (j) and (h), and he noted that the language in subsection (h), [on page 9], lines 15-17, refers to the ["average annual wage"] mentioned in subsection (j).

[4:09:49 PM](#)

REPRESENTATIVE WOOL asked for confirmation of his understanding of the issue by providing an example where the average wage is \$52,000 or \$1,000 per week. He then asked if, in this situation, benefits under this section may not exceed 50 percent of \$1,000 per week or a \$500 weekly benefit.

MR. FLANAGAN answered that is correct.

[4:10:23 PM](#)

CHAIR KITO asked if Mr. Flanagan had any further comment.

MR FLANAGAN stated that he would be available for questions. He added, "It hasn't been done since 2009 ..., and it is past due."

[4:11:11 PM](#)

CHAIR KITO opened public testimony on HB 142.

[4:11:29 PM](#)

AARON PLIKAT, President, Building and Construction Trades Council of Southcentral Alaska, introduced himself as the business agent for Plumbers and Steamfitters, Local 367 and the president of the Building and Construction Trades Council of Southcentral Alaska. He stated that as the son of a journeyman pipefitter and someone who has been in the trade for 22 years, he is knowledgeable about being out of work. He said he can tell firsthand about the pride a worker feels when completing a project, as well as the fear of the impending layoff that follows project completion. He said construction has always been a path of peaks and valleys; when it's good, it's fantastic, and when it's bad, the span between projects can be months or even longer. As a business agent, he spoke about the highly skilled craftsmen that are more than willing to perform their crafts anywhere under any circumstances. These workers and all workers should take some comfort in the fact that there is a benefit for their short-term security should their employment end suddenly or otherwise.

MR. PLIKAT said the current benefit is one of the lowest in the country and has not been adjusted since 2008. He said the cost of living is increasing in Alaska. He stated support for an adjustment of the state's unemployment insurance from the current weekly maximum benefit of \$370 to the proposed \$510, because doing so will assist workers by allowing them the time to find long term quality employment again. He strongly encouraged the committee to support HB 142.

[4:13:32 PM](#)

DOUG TANSY introduced himself as a person wearing multiple hats: current president of the Fairbanks Central Labor Council; member of the Alaska Workforce Investment Board; and member of the Fairbanks Building and Construction Trades Council. He opined that wage (indisc.) unemployed or underemployed is critical because of the high rate of seasonal employment here in Alaska. He is a construction electrician who served his apprenticeship in Fairbanks and he has experienced UI benefits first hand. He is now a member of his local apprenticeship committee, which oversees the school and the apprentices while they are in the program.

MR. TANSY said the school has invested close to \$50,000 in each apprentice by the time each completes the program. The benefits of the program are having journeyman-level workers available to safely and efficiently do high-quality jobs for contractors and to train the next batch of apprentices that are coming up behind them. He said that with low UI wage replacement there is a stress on individuals and families, and sometimes the way out of that stress is to look for employment opportunities in Washington, Oregon, and California. He said that when this occurs, a percentage of those who leave the state don't come back home, which results in a loss on our investment, a loss on the investment of contractors, and a diminishment of a ready workforce. This scenario is a typical setting for all construction trades, not only the mechanical trades. Mr. Tansy said the outward migration during leaner times doesn't cause only financial impact to families; he has seen it contribute to divorce or stress for children who must move to different schools and not have in place the things that are conducive to their development. He strongly encouraged movement of the proposed legislation. He noted that the groups he mentioned today have passed resolutions in support of HB 142.

[4:16:48 PM](#)

BRANDON MCGUIRE expressed his support for the bill and provided an example of how it supports the working class, which not only helps drive the local economy but also the economy of the nation. He said that he has a typically employed friend that is a construction worker with the laborers union. The friend and his wife are expecting a child later this year and, as a seasonal construction worker, Mr. McGuire's friend stands a chance of being unemployed in and around the birth of his child. He noted that in a situation like this, "when Murphy's Law rears its head, every little thing helps."

MR. MCGUIRE said he knows that when a person is laid off, after working for 1.5 years on a long project, unemployment checks don't cover the bills. He said Alaska is such a great state, yet it's UI benefits are low compared to those of other states in the country. Given this, he said he doesn't see how a bill like this could see any opposition, and he hopes that it will not. He opined that Alaska should lead the way in support of its working-class citizens.

[4:19:03 PM](#)

RALPH KIBBY, Owner, Chatham Electric Inc, stated that Chatham Electric Inc is a statewide electrical contractor that works primarily in Southeast Alaska. He stated that his business provides the first response for many communities in Southeast Alaska and other areas, for power outages and emergencies. He said his company hires highly skilled workers, and he asked the committee to pass HB 142 to retain that highly skilled work force. He expressed concerned about workers leaving the state because their needs are not being met. He said contractors spend hundreds of thousands of dollars training their employees regardless of the five-year period required to become a journeyman. At this point, he said, whatever can be done to maintain a skilled workforce - "our brain-trust" - is going to help Chatham Electric Inc stay in business.

[4:20:42 PM](#)

WALTER ROBINSON, International Brotherhood of Electrical Workers (IBEW), stated that he feels the past and current UI weekly benefit amount in Alaska is far too low. Alaska's average weekly benefit amount ranks forty-fourth nationally, yet the state has one of the highest costs of living. Having personally drawn UI benefits himself, he can attest to the fact that a \$370 weekly benefit is not enough. With this amount of money, it is hard to maintain a household and put food on the table with two

kids and a wife to support. Alaska is not a cheap state to live in because of the cost of housing, food, electricity, and heat. Under the current price of oil and state of the economy, he said, jobs are decreasing, and unemployment is increasing. Alaskans are going to need help in this recession to get through hard times.

MR. ROBINSON said that he feels the proposed increase comes at the perfect time to ensure Alaskans will remain in the state. People on UI benefits spend money in the state; therefore, increasing the maximum weekly benefit will put more money into the economy and help the business community. He stated that people do not want to be on unemployment insurance as it is stressful not having a job while trying to pay the bills and put food on the table. The proposed legislation bill would relieve some of the hardship placed on Alaskans during the current recession and unemployment. Mr. Robinson stated that he is a proud Alaskan but feels rating forty-fourth in the nation for UI benefits is not something he is proud of. He urged the committee to move HB 142 and help Alaskans that are suffering.

[4:22:50 PM](#)

LAKE WILLIAMS, District Representative, International Union of Operating Engineers (IUOE), Local 302; President, Fairbanks Building and Construction Trades Council, stated that on March 15 the council passed a resolution in support of HB 142, urging the House to pass the bill and for the Senate to take action. He said he would submit that resolution into the record.

MR. WILLIAMS said as an apprentice he relied on UI benefits while he was in school to help pay bills, and when he was a journeyman he relied on them until the next job came along. He pointed out that work has slowed, with smaller capital budgets and a reduction of work on the North Slope. He said that often employers are struggling to maintain their workforce; while a lot of them will find things for workers to do, they are forced to lay people off and then hope that this skilled workforce will not leave the state. He said that this is a constant battle for employers; they are always worried about losing skilled workers. He said that [employers] are seeing more and more people "raise the white flag" and move out of state when they cannot find work or pay their bills. Some of them come back and then are referred to as "out-of-state workers." He said that it's hard to blame these people as they are going places where it is cheaper to live, but they are taking their money with them. Any little bit [the state] can do to help workers and contractors,

maintain a workforce, and assist local families in getting by until the next job comes around is a smart thing to do. He reiterated his support for HB 142 and urged the committee to pass it.

[4:25:02 PM](#)

BRONSON FRYE, Recording Secretary, South Central Alaska Building Trades Council, stated that he is a business representative for the Painters Union and is at the meeting to testify in his role as the Recording Secretary of the Building and Construction Trades Council of Southcentral Alaska. He said he is in favor HB 142 and, while many reasons for supporting it have been already articulated, he thinks it is notable that UI benefits have not been raised since 2009 and that the state's maximum weekly benefit amount ranks thirty-ninth in the country. He pointed out that the U.S. Department of Labor recommends a 50 percent wage replacement and that HB 142 would meet that recommendation, increasing the benefit from the current maximum benefit of \$370 to a maximum of \$510. He said he believes that it is also noteworthy that the State of Washington's current maximum weekly benefit is \$681, almost double our \$370 benefit. A benefit of \$510 would bring Alaska much closer to other states in the Pacific Northwest.

MR. FRYE opined that when workers lose their job, it is a loss to not only the individual but to the entire community; having adequate unemployment insurance benefits lessens that negative impact. He pointed out that Alaska is seeing a downturn in its economy and that if all the skilled workers must move Outside for work and stay there, then the state loses a major investment in time, money, training, and development of assets productive to Alaska. He warned against a situation in which the economy improves and Alaska finds itself with a shortage of workers. He indicated that [helping workers] "stay afloat" and stay in Alaska is a wise investment. In conclusion, he encouraged the passage of HB 142.

[4:27:40 PM](#)

PAUL GROSSI stated that he was representing the Alaska State Pipe Trades. He stated that [the Alaska State Pipe Trades] support HB 142, as it will help unemployed workers. He said that he was hearing a lot of resistance about the proposed bill, based it not being the appropriate time to increase the benefit because there is a downturn in the economy. He provided two reasons why he thinks this is the "exact time" to increase the

benefit: to help unemployed workers and to help businesses that rely on the workers as customers. He said that although the UI benefit would not replace the wages earned during employment, the lower income would provide some help to both the workers and the businesses.

MR. GROSSI said he is probably the only one in the room old enough to remember the last recession. He said that he was living in Anchorage at the time, and the recession was "really terrible"; it affected him personally. He described people having to leave their homes and condos, with their furniture left behind. He also described families leaving the state with only their suitcases, after driving down to the Department of Labor to pick up their checks. He said that the bill was "not a cure for that" but would help to create a softer landing. He finished by urging the committee to pass HB 142.

[4:30:09 PM](#)

REPRESENTATIVE KNOPP ventured that Mr. Grossi was referring to the recession in '85, '86, and '87.

[4:30:27 PM](#)

REPRESENTATIVE BIRCH remarked there had been a lot of testimony about the job losses that are occurring and discussion on whether Alaska is or is not in a recession. He stated that from a budget standpoint, Alaska has issues to deal with at the state level and "some of us would like to see the state budget track the private budget" if there is "a contraction." He then asked if benefits are taxable as income.

MR. GROSSI replied that he could not remember for certain but thinks they are taxable.

[4:31:24 PM](#)

REPRESENTATIVE WOOL said that he shares the concerns of most of the people testifying and, along with Mr. Grossi, is concerned that laid off workers will go to other parts of the country and that some of them will not come back to Alaska. He said that he is not sure the \$200 increase in weekly benefits that the bill would provide would be sufficient to keep a worker here when they could make "decent money" [elsewhere]. He indicated that it would be helpful if the provision under HB 142 kept people here a little longer. He ventured that the real solution is getting the economy back on line to ensure future jobs.

MR. GROSSI responded, "The only real solution is a job." He said he hopes Alaska would not again experience a recession as bad as the one in the mid-1980s, in Anchorage, which he characterized as "pretty terrible" and "like the Grapes of Wrath." He said that he didn't know if [HB 142] was enough, but he thinks it's worth a try, as it may cause a "softer landing" and help not only individuals but businesses as well. He pointed out that while individuals can leave to find work, businesses will close and, as a result, will be gone. He said that there were a lot of businesses in the 1980s that closed because they did not have the customers to stay open.

[4:33:40 PM](#)

REPRESENTATIVE WOOL added that training through the TVEP program, which is covered under the UI program, was also available.

[4:34:16 PM](#)

CHAIR KITO announced that HB 142 was held over.

HB 103-OPTOMETRY & OPTOMETRISTS

[4:34:22 PM](#)

CHAIR KITO announced that the final order of business would be HOUSE BILL NO. 103 "An Act relating to the practice of optometry."

[4:35:03 PM](#)

REPRESENTATIVE IVY SPOHNHOLZ provided a brief reintroduction of HB 103. She said the bill would give authority to the Board of Optometry to regulate the practice of optometrists. It would ensure that the Board of Optometrists would have the opportunity to update the current and continuing education standards and scope of practice based on best available evidence. The bill would not allow optometrists to perform outside of their scope of practice, for example as in performing surgeries. It would allow the board to utilize the regulatory process to manage itself, just as doctors, chiropractors, nurses, and dentists are regulated.

REPRESENTATIVE SPOHNHOLZ pointed out that current statute, AS 08.72.273, does not allow optometrists to provide invasive

surgeries. She further noted that licensees must submit the necessary credentials, including the proper experience, education, and training, to perform procedures that require approval from the board. Lastly, she pointed out that Assistant Attorney General Harriet Milks had testified that a robust process for adopting new regulations already exists and includes board meetings that are open to the public, a 30-day public comment period, a Department of Law review period, and a review from the governor's office. She said that this final point gets at Representative Josephson's question about "where the buck stops"; it stops with the governor when it relates to the adoption of any new regulations.

REPRESENTATIVE SPOHNHOLZ acknowledged that it was the legislature that developed the statute in question. She stated that it was her hope that this bill will remove the legislature from the business of managing optometrists, so they can focus on other issues they need to resolve, rather than the "eye wars." She said that the intent of HB 103 is to delegate the "eye wars" to the Board of Optometry, which is where it belongs. She pointed out further that the legislature is not a group of medical professionals, and yet they have been discussing medical procedures. Such discussions should be held at the Board of Optometry, just as dental and chiropractic issues are discussed at their respective boards.

[4:39:12 PM](#)

REPRESENTATIVE WOOL asked if there was perhaps an analogy to this issue in the world of dentists and oral surgeons; such that there might be one board for dentists and one for oral surgeons.

[4:41:28 PM](#)

BERNICE NESBITT, Staff, Representative Ivy Spohnholz, Alaska State Legislature, on behalf of Representative Spohnholz, prime sponsor of HB 103, said that she thought Representative Wool was correct: because oral surgeons are medical doctors, they would be regulated by a medical board, whereas dentists, she believed, would be regulated by a board of dentistry.

REPRESENTATIVE WOOL said that if that is the case, then the situation with optometrists and ophthalmologists is very similar. He said that he would assume that a dentist would not have to come and ask the legislature if say he/she wanted to pull a tooth.

4:42:22 PM

REPRESENTATIVE SPOHNHOLZ said that Representative Wool provided a good analogy; if dentists wanted to introduce a regulation that would expand their scope, then the process would occur at a board of dentistry. She also said that in that process, oral surgeons, like any member of the public, would have the opportunity to provide testimony and feedback. Similarly, oral surgeons could attend any board of dentistry meetings to stay apprised of new developments.

4:43:10 PM

CHAIR KITO stated that they would now return to public testimony.

4:43:55 PM

RACHEL REINHARDT, MD, stated that she was testifying on behalf of The American Academy of Ophthalmologists and its world-wide membership of 32,000 eye physicians and surgeons. She said that she was a board-certified ophthalmologist from Washington state. She stated, "We are asking for your opposition to HB 103." She stated that the bill was "without a shred of doubt" a "surgery bill" that would make two very concerning changes to existing law: removing from existing law the surgery restrictions that currently exist; and inserting a new definition of the word optometry in Section 6 that includes the words "treatment" and "procedures". She said the addition of the word "treatment" would leave "absolutely no limitations" on the type of treatment; therefore, any surgeries on the eye would be allowed under this new law if the Board of Optometry deemed them within its scope. She said the new definition would allow the Board of Optometry to redefine itself into a surgical field. She also said that if proponents of the bill continue to insist that it is not a surgery bill, then she thinks the bill either cannot pass or "it needs to be put in writing," because without specific language Alaska would be the first state in the country to adopt such broad unprecedented legislation.

DR. REINHARDT said that a number of years ago a similar bill proposed in Washington state added a definition of surgery that cleared up the issue, specifically prohibiting an optometrist from performing surgery. She stated that there are only three states in the United States that have allowed bills similar [to HB 103] to pass. In Oklahoma, language in a bill did not specifically allow surgery, including laser surgery, but it was

never specifically restricted. As such, the Board of Optometry in Oklahoma interpreted the law to redefine its scope to include surgery. A study now shows that optometrists in Oklahoma are causing people harm and increasing healthcare costs.

DR. REINHARDT stated that [the American Academy of Ophthalmologists] respectfully but strongly disagrees that [the board addressed under HB 103] is similar to other professional boards, such as those for nursing, dentistry, and even engineers. She said that unlike nursing, dentistry, and even pharmacy, optometry education is not medical education, and it's not surgical education, yet this bill would allow the Board of Optometry, which is made up of nonmedical nonsurgical doctors, to regulate a profession that is nonmedical and nonsurgical. She said, "This says everything." The statutes and regulations for the boards of pharmacy, nursing, dentistry, and even engineering comprise 45-65 pages of Alaska Statutes, yet the optometry statutes and regulations comprise 12 pages.

DR. REINHARDT said two days ago, an optometrist was heard stating that insurance companies understand risk. She said that while she agrees with that 100 percent, committee members should bear in mind that the Ophthalmic Mutual Insurance Company (OMIC), the largest insurance company for ophthalmologists in the country, has essentially come out with a policy stating it will refuse to insure any ophthalmologist that hires an optometrist to perform surgery, including laser surgery. She said that this is the third consecutive year this surgery bill has been heard, the first time being under Senate Bill 55, during the Twenty-Ninth Alaska State Legislature. During that time, she noted, the legislature heard the concerns of scores of MDs, who were not all ophthalmologists. She implored the committee to listen to the experts in eye care and "not to leave the safety of your constituents up to a public comment period or the assistant attorney general after the fact." Those are not people that are trained medically. If MDs are having a difficult time voicing their concerns now, she proffered, imagine how futile their efforts will be to protect their patients after HB 103 is passed. She stated there are four states in the country that don't even allow optometrists to prescribe oral medication, yet here we are debating (indisc.) surgery in Alaska. She said HB 103 would be unprecedented, and it would change the scope for the practice of optometry. She said that she respectfully asks the committee to vote no; however, she stated that if the proposed legislation must pass, then at the very least the definition of surgery should be added, as it was in other states like Washington, to ensure

public safety. She said that the committee member's constituents are counting on them.

DR. REINHARDT concluded by mentioning amendment language regarding the practice and procedures of optometry complying with acceptable standards, and she said such language would not resolve the core concern regarding board authority.

[4:49:19 PM](#)

REPRESENTATIVE JOSEPHSON asked Dr. Reinhardt whether she had an opinion on what he described as the apparent conflict between the two following conditions: passage of a bill with language stating an optometrist cannot perform any invasive surgery other than removal of a foreign body; and the elimination of existing language that says [optometrists] can do assorted things but not surgery.

[4:50:32 PM](#)

MS. REINHARDT said the concern is that when there is conflicting language in a bill, it is not abnormal for laws to be interpreted in different ways. The risk is that not defining the term "invasive surgery" creates loopholes for performing surgeries. She said she takes issue with categorizing surgeries as "invasive" versus "noninvasive," because "surgery is surgery." She explained that surgery involves cutting, ablating, or altering tissue somehow. She also said that it's not hard to define surgery, adding that the American Medical Association has had a definition for decades. She concluded by saying that the problem lies in not defining the word surgery [in the proposed bill].

[4:51:37 PM](#)

DAVID S. ZUMBRO, MD, Ophthalmologist, introduced himself as an eye physician, surgeon, and retina specialist in Anchorage, Alaska. He said that he is also a partner with Alaska Retina Consultants and a retired colonel from the U.S. Army, and he has had the opportunity to participate in a training program for ophthalmologists for five years in San Antonio, Texas. He expressed his hope that the committee would consider rejecting or modifying HB 103. He said that while the bill may seem "innocent and safe," the vagueness of the language would allow non-physicians and non-surgeons to determine the medical and surgical procedures they can perform on the eye, which is a real patient safety issue. He proposed the question of why he should

still be worried about procedures when it has been said the bill is not about surgery and optometrists will not perform surgeries they are not trained to perform. In response to his question, he stated that an optometrist in Alaska told him that they are planning to help with eye injections. He said that looking around the country we see multiple states which have similar and current legislation, some of which are worded more directly. All of these are associated with expanding the scope of practice for optometry into surgery.

DR. ZUMBRO said that the reason he is worried about patient safety is because the "optometry curriculum" does not provide the training for optometrists to perform surgery, gives injections, and operate lasers, let alone regulate such activity. He stated that with any procedure there is a difference between knowing what to do and how to do it safely, and the hardest thing for a surgeon to learn is when to step back and not do something. As in any profession, where a person is young and eager to serve, inexperience sometimes interferes with proper judgement. He said that all one must do is look at the ophthalmology curriculum to understand the "gold standard" for training eye physicians and surgeons. He asked for the evidence optometry has produced to show their curriculum is equivalent to the gold standard.

DR. ZUMBRO stated that he has no problem with the Board of Optometry regulating the optometry profession. Notwithstanding that, he stated that while it has been said that the Board of Optometry will hold public testimony for any procedure, that is what is being done now, and he opined that if eye surgery is being discussed, then it would make sense that the current board-certified eye surgeons should participate in the discussion. Dr. Zumbro questioned how it could be logical for non-physicians and non-surgeons to regulate eye surgery. He stated that the antidote to this argument is simple: if the optometrists wish to practice medicine and surgery, then they should be regulated by the medical board, as it is with podiatry. If this is unpalatable, then Alaska needs an eye surgery amendment just like Washington, Arizona, and Florida. He said HB 103 is not a simple housekeeping bill, as it would redefine optometry into a surgical profession, and this makes for legitimate patient safety concerns.

[4:54:34 PM](#)

CARL ELI ROSEN, MD, Ophthalmologist, specified that he is an ocular plastic surgeon and neuro-ophthalmologist. He said that

he interfaces with neurology and neurosurgery with regard to patient diagnosis and treatment. He said that he "takes care of" bumps and cysts on eyelids and has performed over 15,000 surgeries on eyelids for folks with eyelid and cornea abnormalities, cancers, reconstructions, trauma, et cetera. He said he has been in practice for 23 years with Ophthalmic Associates in Anchorage and has taken emergency calls voluntarily. He said he is a past president with the Alaska State Medical Association.

DR. ROSEN indicated that he had been confused by what he heard at the committee's previous hearing on HB 103, on Monday, March 27, 2017. He pointed out that at that meeting, Dr. Dobson had said that the bill was not about surgery and that optometrists have no business performing surgery and do not want to perform surgery. He said the prime sponsor of HB 103 and her aide had stated that the proposed bill is not about surgery, and all surgery language was removed from the bill. He went on to point out that during that meeting, Dr. Matheson had testified that she had been doing surgical procedures for 30 years, removing eyelashes and foreign bodies from the cornea. He reminded the committee that Dr. Christianson said that he drains sties. Further, he had heard that optometry removes fish hooks from eyes. He said that he also heard that as times change, scope of practice must be modernized by the Board of Optometry; should a surgical procedure be deemed within the scope of practice by the board, it won't want to come back to the legislature. He also recollected that the attorney general had stated that public testimony would help decide if surgery was appropriate for an optometrist.

DR. ROSEN asked, "Doesn't that bother any of you? Not only would there be no one with actual surgical experience on this board, but you're going to double down and ask the public for help?" He answered his own question by emphasizing that an expert - someone with actual experience - should be consulted, because "the stakes are far too high." He said that while it seems so innocent for someone to say that they'll remove a foreign body or drain/inject a sty or a cyst, there are serious situations that might arise under those circumstances, including: when a foreign body is full thickness and results in a leaking, open globe; when a drained sty results in lid retraction, and the patient can't close the eye; or when infection and necrosis of the eyelid results, requiring a full-thickness skin graft.

DR. ROSEN stated that (indisc.) boards and nurse practitioner boards police themselves because of the procedures learned in graduate school. He said that optometry students do not perform surgery, operate lasers, or administer injections. He questioned why [someone without sufficient training] would be allowed to put a needle into an eye with macular degeneration, for example. He warned that if something is said enough, it becomes reality; therefore, he is asking folks to wake up and think about what is being said here [in this process].

DR. ROSEN said an article, dated July 2016, in the Journal of American Medical Association (JAMA) states that health policy making should be cautious with approving laser privileges for optometrists. He said that optometrists do not take hospital emergency calls or (indisc. -- overlapping voices). He said that optometrists cannot transfer or admit patients to the hospital as bylaws do not allow this. He remarked that people like to plan for the unknown by buying fire and earthquake insurance, even though it is unlikely they will ever use it. He then asked why anyone would be willing to risk patients' safety based on the words "trust us." He emphasized the need to set boundaries and consequences. He said, "Let's fix this all with a definition of surgery and we can all go home." Dr. Rosen concluded, "At some point in your lives you will need an ophthalmologist. Do you want to continue to alienate and marginalize the Alaskan ophthalmology community? As it stands it is difficult enough to recruit new ophthalmologists to Alaska. This bill only makes it more so."

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ERIC COULTER, MD, Ophthalmologist; Medical Director, Alaska Eye Surgery and Laser Center, stated that the last testimony in favor of HB 103 expressed nebulous reasons why [optometrists] require HB 103, except "to modernize and be more able to manage themselves." He mentioned the testimony of Dr. Rosen and the questions of why ophthalmologists should get into a conflict over a nonsurgical issue. Dr. Coulter stated, "We agree that they are good and great optometrists, but we disagree that that group is ready, now or in the future, to be great surgeons, and despite what they say, this is a surgical bill. ... Unless self-governance is dependent upon expanded scope of practice and surgical privileges, this really doesn't have anything to do with self-governance."

DR. COULTER said there is ample evidence that HB 103 is "a surgical-oriented bill." He noted that the original bill

version would have, under AS 08.72.050, required the Board [of Optometry] to adopt regulations "describing the scope of practice for a licensee to perform ophthalmic surgery and noninvasive procedures"; however, that language was subsequently removed from [CSHB 103(HSS), the version that passed out of the previous committee of referral], as a result the legislature receiving "overwhelming concern about optometrists performing surgery." He said this is a moot point, because the current version would define "optometry" under AS 08.72.300 as "the examination, evaluation, diagnosis, treatment, or performance of preventive procedures related to diseases, disorders, or conditions of the human eyes or adjacent and associated structures, consistent with this chapter and regulations adopted by the board". He said this language removes restrictions related to the use of lasers or performing surgery. He said he does not see how this change in the definition of optometry is going to enhance the ability to self-regulate.

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DAVID KARPIK, OD, introduced himself as a residency-trained and board-certified Doctor of Optometry testifying in full support of HB 103. He said that he and his wife are partners in a four-doctor, two-location practice that provides the majority of eye care on the Kenai Peninsula. He said that he is also the medical director for the Vision Source Network in Alaska, representing 18 private optometry practice locations scattered throughout the state, many of which are remote and rural. He said that some of the opposing testimony has indicated that all optometrists' training occurs within the statutorily required continuing education but neglects to mention the thousands of hours of training on the human body for the diagnosis and treatment of eye disease that optometrists receive during their 4 years at optometry school, post graduate residency, and additional maintenance requirements for board certification, which are well beyond the statutory requirements.

DR. KARPIK said that Doctors of Optometry have a long history of providing quality, conservative care and practicing within the limits of what they are highly trained to do. Non-ophthalmologist medical doctors, osteopaths, and nurse practitioners are not statutorily restricted from performing any eye treatment or surgery. The average medical student receives about two weeks in an ophthalmology rotation, yet they safely perform eye treatment within their training and comfort level and refer the balance often to optometrists in their small communities, like himself.

DR. KARPIK said that a U.S. News & World Report study published this month ranked Alaska last in access to health care. Today [the legislature] has an opportunity to change that alarming statistic by creating a statute that will be durable and allow incorporation of new technology as it is developed, provided that training is certified. He said all healthcare providers need to practice to the extent of their training, which he added is provided at great cost to tax payers whose tax dollars support optometry schools at state universities, hospitals, and VA hospitals.

DR. KARPIK said that he supports the proposed bill because it's simple and would replace the rigid and aging current optometry law with one that would match the laws for other prescribing professions like dentistry and advanced practice nursing, which are also regulated by state boards. He said that as regulation, technology, and research continue to change best practices, regulation by an optometry board appointed by the governor and confirmed by the legislature ensures protection of the public with timely updates in practice, and that allows for optimum access to eye care for Alaskans.

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ALFRED DERAMUS, MD, Ophthalmologist, stated, "It is well understood by both sides that the issue of surgery and the definition of surgery is the lynchpin for the continued need for us to go back to the legislature and be very specific about the definition." He said that both sides have tried to talk about performing and not performing surgery, but that this does not ring true to him. He said that the definition of surgery is the incision and the alteration of tissue. He opined that optometrists are doing a very good job in optometry, and the surgeons - the ophthalmologists - are doing a very good job at what they do. He emphasized the need to provide a clear definition of surgery in statute, because "... just like water goes through small cracks, we are very concerned that surgery will be performed by the optometrists if there's a small crack."

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REPRESENTATIVE WOOL recollected that the definition of surgery - possibly with a laser - that he had heard from other ophthalmologists that testified is to cut, ablate, or alter tissue. He asked Dr. Deramus if this is correct.

DR. DERAMUS answered that the definition was "getting close, yes." He added that if laser energy is applied to tissue, then there would be no question that tissue would be altered.

REPRESENTATIVE WOOL asked if that would qualify as surgery.

DR. DERAMUS responded that it would qualify as surgery, because laser trabeculoplasty affects the tissue in a fashion that causes contraction and movement of the microstructures, which increases outflow; therefore, that is surgery.

REPRESENTATIVE WOOL asked if having a tattoo removed with a laser would fall under the same definition.

DR. DERAMUS said, "Yes, I'm sorry, you walked right into that one, it sure does." He offered further details.

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ELIZABETH MORGAN, MD, Ophthalmologist, introduced herself as a board-certified ophthalmologist who also has a fellowship in glaucoma. She said that she has heard repeated testimony regarding how "self-legislation" by optometrists could "easily" result in increased scope of care for optometrists. She said that this precedent has been set in Oklahoma. She cited information from JAMA, dated October 2016, which looks at the difference in outcomes in the use of lasers for glaucoma performed by optometrists versus ophthalmologists. She said it was a very powerful study, as there were 13,084 eyes included in it. She said the study discovered there were more than two times the number of repeat laser surgeries performed by optometrists. She said the potential explanation for this is ominous, because it indicates that either optometrists are not performing laser surgery correctly or they are repeating the laser surgeries as an effort to increase reimbursement, which is an issue with cost containment in healthcare today. Dr. Morgan acknowledged that she was repeating a lot of what had already been said, but as a glaucoma specialist wanted to bring these details to light. She said she would like to work together with optometrists and ophthalmologist but thinks it is very important to "come up with a definition of surgery so that we may continue to do that for the people of Alaska."

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JEFF GONNASON, OD, Legislative Chair, Alaska Optometric Association, stated that he has served under the state optometry

board under two different governors and has been testifying on this issue for over 40 years in Alaska. He said that every one of the ophthalmologists and medical organizations that have testified on this issue for the past 40 years have the same two demeaning arguments: optometrists are a danger to the public, and optometrists' education is not adequate. He stated that both of these statements have been proven patently untrue.

DR. GONNASON, regarding the claim that optometrists are a danger to the public, stated that public safety has never been an issue in over 40 years of expanding scope of practice. He said he is not aware of a single case before the board involving harm from any optometrist's treatment or drug prescription, and this is a wonderful record for Alaska. He pointed out that Dr. Lindstrom commented on the current statute's 4-day supply limit on narcotics, as described in Sections 4 and 5 of HB 103, and he stated that this restriction would be kept in regulation by the board. He said that "optometry" strongly agrees with the new push to limit narcotics by all providers, and optometry in Alaska has a 10-year history of prescribing narcotics without issue; therefore, this part of the bill is not an issue. He said that optometrists began using eyedrop drugs in the U.S. in 1972, but it was 16 more years before Alaska became the fiftieth and last legislature to approve this practice. He added that this was a result of the same arguments of danger and poor training. He said that he would not be able to give eyedrops to a child in Yakutat that had pinkeye, even though the health aide with only a few weeks of training could do this. He said that Alaskans suffer and pay more when educated providers cannot utilize their skills.

DR. GONNASON, regarding inadequate education, said that the education model is identical to dentistry with 8-10 years of university study. He said that optometrists are not like technicians; they are real doctors receiving a bachelor's degree followed by a four-year doctoral program, which first includes two years of sciences, then two years of clinical experience, which is followed by the requirement of having to pass state and national boards. He added that many optometrists take on additional residencies. He said that optometry and dentistry schools are similar to medical schools during the first two years of sciences, stating that optometry and medical students often train together and have the same professors. He said that the second two years of clinical are different: Because medical students must cover the entire range of the body, more clinical time is spent on the priorities of heart disease, cancer, and stroke; in comparison, optometry students cover systemic

diseases, diabetes, hypertension, and brain tumors to make the appropriate referrals.

DR. GONNASON said that his final comment pertains to the scare tactic regarding surgery. He said optometrists do very little of the work of ophthalmologists and that optometrists perform none of the advanced specialty surgeries of the subspecialists, who have testified. He said that optometrists perform only the minor procedures for which they are fully competent. He went on to say that the reason surgery cannot be well defined in statute is because, technically, anything touching human tissue is surgery; including clipping fingernails, tattooing of eyelids, and piercing metal through parts of the body. He said that if the legislature tries to define surgery in statute, it will end up with the problem that exists in other states, where they have long lists of everything that can and cannot be performed. He stated that having to return to the legislature is the main problem. He indicated there is always opposition from "organized medicine." For example, there was opposition to Alaska's advanced practice nurses, whom Dr. Gonnason opined provide a "magnificent" service to Alaskans. He asked the committee to please note the support letters from Southcentral Foundation, other native health organizations, and Dr. Castillo's letter, which "aren't, you know, on either side of this." He said optometrists in Alaska provide the majority of eye care at lower cost; therefore, he would thank the committee for [supporting] better eyecare access for Alaskans.

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CHAIR KITO, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 103.

CHAIR KITO announced that HB 103 was held over.

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ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:16 p.m.