

ALASKA STATE LEGISLATURE
JOINT MEETING
HOUSE STATE AFFAIRS STANDING COMMITTEE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE
Anchorage, Alaska
July 8, 2020
9:00 a.m.

MEMBERS PRESENT

HOUSE STATE AFFAIRS STANDING COMMITTEE

Representative Zack Fields, Co-Chair
Representative Jonathan Kreiss-Tomkins, Co-Chair (via
teleconference)
Representative Andi Story (via teleconference)
Representative Steve Thompson (via teleconference)
Representative Sarah Vance (via teleconference)

HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

Representative Tiffany Zulkosky, Chair (via teleconference)
Representative Ivy Spohnholz, Vice Chair
Representative Harriet Drummond (via teleconference)
Representative Geran Tarr (via teleconference)
Representative Sharon Jackson (via teleconference)
Representative Lance Pruitt (via teleconference)

MEMBERS ABSENT

HOUSE STATE AFFAIRS STANDING COMMITTEE

Representative Grier Hopkins
Representative Laddie Shaw

HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

Representative Matt Claman

OTHER LEGISLATORS PRESENT

Representative Kelly Merrick (via teleconference)
Representative Mike Prax (via teleconference)
Representative Chris Tuck (via teleconference)

COMMITTEE CALENDAR

PRESENTATION(S) : WORKER SAFETY DURING THE COVID-19 PANDEMIC

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

DEBORAH KELLY, Statewide Director
IBEW NECA Apprenticeship Program
Anchorage, Alaska

POSITION STATEMENT: Testified during the presentation on worker safety during the COVID-19 pandemic.

RASHAAN PERRY
Unite Here Local 878
Anchorage, Alaska

POSITION STATEMENT: Testified during the presentation on worker safety during the COVID-19 pandemic.

JOE KNOWLES, Director
Labor Standards and Safety Division
Department of Labor and Workforce Development
Anchorage, Alaska

POSITION STATEMENT:

ELAINE BANDA, Chief of Consultation and Training
Alaska Occupational Safety and Health
Labor Standards and Safety Division
Department of Labor and Workforce Development
Anchorage, Alaska

POSITION STATEMENT: Testified during the presentation on worker safety during the COVID-19 pandemic.

BRANDON FIELD, Senior Enforcement Officer
Alaska Occupational Safety and Health
Labor Standards and Safety Division
Department of Labor and Workforce Development
Anchorage, Alaska

POSITION STATEMENT: Testified during the presentation on worker safety during the COVID-19 pandemic.

REBECCA HIMSCHOOT, Elementary Science Specialist
Sitka, Alaska

POSITION STATEMENT: Testified during the presentation on worker safety during the COVID-19 pandemic.

MARK CATLIN, Industrial Hygienist
MDC Consulting and Training
Columbia, Maryland

POSITION STATEMENT: Testified during the presentation on worker safety during the COVID-19 pandemic.

KELLY TSHIBAKA, Commissioner
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Testified during the presentation on worker safety during the COVID-19 pandemic.

KATE SHEEHAN, Director
Division of Personnel and Labor Relations
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Testified during the presentation on worker safety during the COVID-19 pandemic.

TERRI GERSTEIN, Director
State and Local Enforcement Project
Labor and Worklife Program
Harvard University
Brooklyn, New York

POSITION STATEMENT: Testified during the presentation on worker safety during the COVID-19 pandemic.

JOELLE HALL, Director of Operations
American Federation of Labor and Congress of Industrial Organizations
Anchorage, Alaska

POSITION STATEMENT: Testified during the presentation on worker safety during the COVID-19 pandemic.

ACTION NARRATIVE

[9:00:48 AM](#)

CO-CHAIR ZACH FIELDS called the joint meeting of the House State Affairs Standing Committee and the House Health and Social Services Standing Committee to order at 9:00 a.m. Representatives Thompson (via teleconference), Vance (via teleconference), Kreiss-Tomkins (via teleconference), Drummond (via teleconference), Tarr (via teleconference), Zulkosky (via

teleconference), and Fields were present at the call to order. Representatives Jackson (via teleconference), Pruitt (via teleconference), Story (via teleconference), and Spohnholz arrived as the meeting was in progress.

PRESENTATION(S): Worker Safety During the COVID-19 Pandemic

[9:00:56 AM](#)

CO-CHAIR FIELDS announced that the only order of business would be a presentation on worker safety during the COVID-19 pandemic.

[9:02:12 AM](#)

DEBORAH KELLY, Statewide Director, IBEW NECA Apprenticeship Program, informed the committee that the federal Occupational Safety and Health Administration (OSHA) allows states to develop statewide occupational safety and health plans, which involves enforcement, as well as developing additional safety and health standards as needed. She noted that 22 states have full plans, including Alaska. Alaska Occupational Safety and Health (AKOSH) runs the state's workplace safety and health enforcement and can develop unique standards, via regulation, according to Alaska's specific needs. OSHA provides oversight to ensure that AKOSH continues to be as effective as its federal counterpart. For AKOSH, developing a new occupational health or safety standard requires progressing through Alaska's regulatory process. When a new standard is established, she said, AKOSH adopts it through the state's regulatory process and must submit changes to OSHA within 60 days. AKOSH is also required to provide a comparison to any existing federal standards, so OSHA can determine the new standard's effectiveness. She noted that during that review, the new standard is active and enforceable in Alaska; however, if OSHA identifies deficiencies, it works with AKOSH to find a solution. She said the process might be long, but it doesn't delay AKOSH from implementing new standards.

MS. KELLY continued to explain that Alaska's safety and health standards are contained in the Alaska administrative code, indicating that AKOSH follows Alaska's Administrative Procedure Act. She noted that for emergency situations, the state can use the emergency regulation process, which allows new regulations to be implemented quickly. In that case, the public process occurs after adoption if the state wants to make the regulation permanent. If a proposed standard would affect multiple industries, she recommended that AKOSH consult with industry experts to ensure the standard's effectiveness. She further

noted that model standards and examples from other states can help in creating workable standards.

[9:06:50 AM](#)

RASHAAN PERRY, Unite Here Local 878, said with tourism and local gatherings at a minimum, the local hospitality industry is in a tough situation. He reported that the hotel he works at is attempting to keep staff and patrons safe with masks and decontamination stations located within the property. Additionally, the hotel restaurant initially attempted to implement social distancing. He emphasized the importance of prevention in reducing the spread. He explained that the hotel is home to many people in quarantine; however, some are leaving the property and not following the rules, which are set by their employers, not the hotel itself. He advocated for strict prevention criteria and clear, consistent quarantine protocol. He questioned what action to take when prevention fails, or a positive case is identified during the quarantine period. He opined that management is not handling those situations adequately. Instead, the response is chaotic and possible exposures are not investigated properly. He said patrons' positive tests are not reported to workers who might have been exposed, allowing them to unknowingly return home and risk infecting their families. He recommended sending those workers home to self-quarantine until they get tested. He urged the legislature to create a clear standard for handling positive tests in the workplace and noted that it is often the lowest paid workers who are exposed. He maintained that when a COVID-19 case is identified, frontline workers need guidance and clear, consistent workplace standards. He stated that prevention is important, but its not enough.

[9:13:03 AM](#)

CO-CHAIR FIELDS pointed out that AKOSH has the authority to promulgate standards for COVID-19 workplace safety. He asked if the Department of Labor and Workforce Development (DLWD) has promulgated any standards and if not, what the threshold would be, in terms of the number of infections or deaths, before the department would issue those standards.

[9:13:38 AM](#)

JOE KNOWLES, Director, Labor Standards and Safety Division, Department of Labor and Workforce Development, said DLWD

welcomes the opportunity to speak to AKOSH's activities thus far. He deferred to Elaine Banda for further explanation.

CO-CHAIR FIELDS surmised that the department is not contemplating COVID-19 safety regulations at this time; however, consultation and training is available to assist employers. He asked if that's correct.

MR. KNOWLES confirmed that.

[9:15:59 AM](#)

ELAINE BANDA, Chief of Consultation and Training, Alaska Occupational Safety and Health, Labor Standards and Safety Division, DLWD, explained that AKOSH provides three services to public and private employers. She noted that AKOSH cannot enter an establishment without prior invitation by an employer. Upon receiving a request for consultation, she said, AKOSH asks the employer for specific areas of concern. She indicated that lately, 90 percent of employers are interested in what can be done to protect their employees. Subsequently, AKOSH visits the establishment to assess the situation and look for hazards and potential areas of improvement, followed by a written report of their findings and recommendations. She noted that it's the employer's responsibility to implement the recommendations. She reported that currently, AKOSH has seven safety consultants and two industrial hygienists in the field. She said they have traveled across the state to assist employers with workplace safety.

CO-CHAIR FIELDS asked how many workplaces AKOSH has visited to perform COVID-19 related consultations.

MS. BANDA estimated 70-80 in the third quarter alone. She said there is a conversation about COVID-19 in every workplace. She noted that OSHA provided training on performing virtual consultations.

CO-CHAIR FIELDS asked how many employers currently exist in Alaska.

MS. BANDA said she does not know. She reiterated that AKOSH is prohibited from visiting a site without an invitation and request for service.

[9:21:52 AM](#)

CO-CHAIR FIELDS asked if AKOSH has the authority to require employers to inform their employees of workplace exposure to coronavirus despite the absence of promulgated regulations related to COVID-19.

[9:22:39 AM](#)

MR. KNOWLES said the collaboration of enforcement and consultation have worked to alleviate concerns from employees who contact the division about activities in their workplace. He deferred to Brandon Field for further explanation.

[9:23:17 AM](#)

BRANDON FIELD, Senior Enforcement Officer, Alaska Occupational Safety and Health (AKOSH), Labor Standards and Safety Division, DLWD, stated that AKOSH has a system for conducting coronavirus-related inquiries and educating employers on their responsibilities in hopes of producing voluntary compliance rather than initiating an on-site inspection. He said many existing regulations directly affect conditions related to COVID-19, such as respiratory protection, or hazard communication for the utilization of chemicals for sanitizing the workplace. He referred to the general duty clause, which stipulates that employers are responsible for providing a safe and healthy work environment for their employees. He said that clause has been used for situations where there's not a specific standard. He noted that standards are often generic to allow for effectiveness in numerous scenarios. He pointed out that OSHA has issued a number of specific guidelines for industries identified as high-hazard or significantly impacted by the pandemic, including establishments like poultry processors and health care facilities. He explained that when assessing a workplace, AKOSH contacts the employer to learn the workplace procedures and provide pertinent information and guidelines. He reported that many employers feel overwhelmed or confused by the amount of available information. He added that employers are often unaware of certain requirements or are following outdated recommendations. He said after communicating their responsibilities, employers often exhibit a quick change in behavior.

CO-CHAIR FIELDS sought to clarify whether the general duty clause would protect a worker who was retaliated against for protesting an employer's refusal to share results of a positive COVID-19 test, or for refusing to show up to work in a manifestly unsafe work environment. He asked Ms. Kelly to speak

to why DLWD would want to promulgate specific standards pertaining to COVID-19.

[9:28:29 AM](#)

MS. KELLY reiterated that the general duty clause offers protection when there is no standard. She added that the burden on the department to establish a general duty clause violation is challenging by design. She explained that specific standards make enforcement and compliance easier because it establishes an expectation and provides a standard that employees and employers are held to. She added that written guidelines are better for agencies and the effected industries so they can take steps to follow the standards.

[9:29:35 AM](#)

REPRESENTATIVE TARR sought clarification on the interface between agencies regarding the provision and use of personal protective equipment (PPE).

[9:32:03 AM](#)

MR. FIELD stated that current AKOSH regulations obligate employers to provide the PPE that they require their employees to wear in the workplace. He noted that the availability of that PPE has been the subject of national discussions, adding that reuse of PPE has been a result of the shortage. He further clarified that AKOSH can perform investigations through its whistleblower program if an employee is retaliated against for raising concerns about workplace health or safety. He said the whistleblower program falls under a separate statute within the safety and health standards that prevent employers from retaliating against employees for attempting to exercise their health and safety rights.

[9:34:00 AM](#)

REPRESENTATIVE TARR asked what the recourse is for an employee who is not being provided with the required PPE.

MR. FIELD explained that the employee can contact AKOSH and file a complaint.

REPRESENTATIVE TARR anecdotally reported that some health care workers are not being provided with proper PPE. She said it's

unfortunate that some workers are not as protected as they should be.

CO-CHAIR FIELDS agreed, adding that if ER doctors don't have access to PPE, other frontline workers probably don't either. He asked Ms. Kelly if DLWD should consider promulgating standards specific to COVID-19 and what the department's approach should be.

[9:36:11 AM](#)

MS. KELLY said specific standards can create clarity in the workplace. Nonetheless, she pointed out that developing a solid set of standards that affect every industry is a challenging task that requires the right amount of resource investment and expertise to develop standards that create a safer workplace for all the diverse industries that exist in Alaska. She opined that for the standards to be effective, they would need to be basic or involve a vast amount of input from the impacted industries. One basic framework to consider for workplace protection, she said, is through the hierarchy of hazard control, which includes five levels: elimination, substitution, engineering controls, administrative controls, and PPE. She noted that PPE should be the last line of protection because it's fallible.

[9:41:47 AM](#)

REPRESENTATIVE VANCE asked if employees are required to disclose a coronavirus-related medical condition to their employer.

MS. KELLY said she could not provide Health Insurance Portability and Accountability Act (HIPAA) expertise.

MR. KNOWLES echoed Ms. Kelly.

[9:43:33 AM](#)

REPRESENTATIVE VANCE asked how an employer, after testing positive for COVID-19, should communicate that to their employees.

MS. KELLY said that question illustrates the complexity of the issues that employers are currently struggling with, because it requires thorough knowledge of OSHA and HIPAA protections.

[9:45:09 AM](#)

CHAIR ZULKOSKY inquired as to AKOSH's involvement with the administration's Unified Command regarding how to set standards for employee notification when an individual is considered a close contact of a known positive case. Additionally, she asked if AKOSH provided input on workplace exposure and employee notification for the governor's statewide reopening plan.

[9:46:02 AM](#)

MR. KNOWLES said the division has not had direct involvement in either scenario.

CHAIR ZULKOSKY sought to clarify whether the division has had any communication with the administration about future plans or best practices as the state reopens.

MR. KNOWLES said not to the best of his knowledge.

CHAIR ZULKOSKY opined that with surging statewide cases and the intention of reopening the economy, there should be a direct line of communication with the governor's Unified Command. She said an opportunity to coordinate would allow many of the current issues to be addressed.

CO-CHAIR FIELDS directed attention to a letter from the Alaska Correctional Officers Association (ACOA) [included in the committee packet], which discussed testing and employee notification in correctional facilities. He said the letter is worth referring to because it mentions many of the aforementioned issues. He offered his belief that further guidance for employers regarding COVID-19 procedures is necessary. He pointed out that without established standards, DLWD must rely on a general duty clause when an employee's safety is at risk, which requires a higher burden of proof and puts the department in a tough position.

[9:50:13 AM](#)

REBECCA HIMSCHOOT, Elementary Science Specialist, stated that the Department of Education and Early Development (DEED) has offered guidance by providing a webinars series, entitled "Alaska's Smart Start," which shares information on how to prepare school districts for the upcoming school year. She said there's been a lot of controversy surrounding the issue of reopening schools and how to do so safely. The Smart start series stemmed from a document that all districts are required

to submit, which outlines their plans for reopening. The series highlights three levels of risk: high risk for remote learning only; medium and low risk depending on the level of COVID-19 in the community. She explained that with over 500 schools in the state, finding one solution that works for all is challenging. She said this is the first time she's experienced teachers "fearing for their lives" regarding their return to work. She commended DEED for its guidance during this time. She said questions remain about which teachers are at risk and how to accommodate those risks. She noted that the guidance changes on a daily basis. She added that without a statewide mask mandate, there cannot be a statewide mandate to open schools. Furthermore, she opined that it would be unjust to require teachers to be in the classroom unless there are mandated precautions. She offered several suggestions that she characterized as essential, including a nurse in every building, counselors, small class sizes, and touchless sanitizers and toilets.

[9:55:52 AM](#)

MS. HIMSHOOT also questioned how remote education would work for those children who cannot return to school. She emphasized that the long-term consequences of exposure to coronavirus are unknown. She said there's increasing evidence that small children do not contract COVID-19 or if they do, show mild symptoms; however, that does not mean that adults couldn't contract the virus from surfaces they have touched. She indicated that the best part of an in-person education, collaborative group problem solving, won't be possible. She also pointed out that providing PPE to Alaska's most rural communities could be challenging and expensive. To conclude, she emphasized the high level of concern amongst educators. She said teachers want to go back to their students safely, but they do not want to be forced.

[10:00:30 AM](#)

MARK CATLIN, Industrial Hygienist, MDC Consulting and Training, informed the committee of his twenty-year background in workplace protection issues pertaining to infectious diseases. He noted that he has been consulting on those issue during the pandemic. He said that in 2009, he participated in the development, passage, and implementation of California's state standard, which is the only existing standard that addresses coronavirus. He noted that California's standard has been a model for the OSHA standard as well as other states. While the

pandemic is unprecedented, he explained, there are experiences to draw on from issues with building ventilation systems and human health. The energy conservation efforts that occurred with buildings in the 1970s and 1980s led to indoor air quality problems that were solved with source controls and ventilation solutions. During that time, Alaska was at the forefront of the research and development of those solutions because of the cold weather and energy issues in the state. He commended Ms. Kelly for mentioning the hierarchy of hazard control, which is a fundamental basis for approaching problems in industrial hygiene. He explained that eliminating the hazard can't be done in the current situation until an effective vaccine exists; however, there are viable options in terms of buildings and ventilation solutions. One, he said, is source control and accordingly, universal masking. He pointed out that masks are not a respiratory protection device, but they do reduce the amount of virus going into the air. Additionally, he remarked that surgical masks and other facial coverings are not 100 percent effective. He reported that the Center for Disease Control and Prevention (CDC) and the State of California recognize the coronavirus as an airborne disease, indicating that employees who work indoors should be separated by more than six feet because if the virus is expelled into the air from people breathing, speaking, coughing, or sneezing, the virus can remain airborne for several hours traveling via air currents. He said engineering controls that address the operation of ventilation systems are another way to confront the source of transmission and to reduce potential exposure to the virus.

[10:05:54 AM](#)

MR. CATLIN emphasized the importance of HVAC system verification for building owners. He noted that there are no legal requirements by AKOSH or other agencies that require HVAC systems to be monitored, maintained, or updated, but it's important for them to function properly. Once the HVAC system is working as designed, he recommended operating the system 24 hours each day, including weekends, to reduce any coronavirus that might be in the air. Additionally, he recommended allowing the system to let as much outside air in as possible to provide more dilution and ventilation. He noted that there is a requirement for higher level filters for air that's being recirculated; however, the introduction of those filters causes disruption of the ventilation system if the HVAC system is not designed for them. He recommended considering temporary and localized air filtration systems that could be placed around a workplace. Furthermore, some have considered the use of UV

light and ion generation technology that might have the ability to affect coronavirus, but he cautioned against installing them without looking at the evidence of their effectiveness and safety.

[10:09:52 AM](#)

MR. CATLIN acknowledged the importance of coordinating proper expertise and experience from different viewpoints. In Alaska, he said, that could mean coordinating state employees, unions, building managers, building operators, AKOSH, and experts from the University of Alaska to develop clear guidance and programs to address the problem. He opined that an enforceable minimal standard from OSHA is important because it provides employers with guidelines and allows for enforcement when they aren't doing the right thing. He added that if the State of Alaska could develop a useful program, it could be a model for private sector employers in the state.

[10:12:01 AM](#)

KELLY TSHIBAKA, Commissioner, Department of Administration, said the [coronavirus] pandemic has had a tremendous impact on all Alaskans. She maintained that Governor Dunleavy is committed to ensuring the health and safety of the approximately 15,000 government employees while ensuring continuity of government operations and protecting the Alaskans that they serve. She stated that since the outbreak of COVID-19 across the U.S., the state of Alaska has taken several steps to achieve those objectives. The state made an unprecedented shift in telework, increasing the number of teleworking employees from 100 to 6,000 in just a few weeks. She commended the Office of Information Technology staff for their support in facilitating that effort. Expedited training was also provided to over 1,500 supervisors on how to manage telecommuting employees. Additionally, a coronavirus leave policy was issued to provide paid leave for employees affected by COVID-19 or quarantine requirements. Within office environments, new practices were adopted, such as the use of Microsoft Teams for video conferencing and DocuSign for electronic signatures on documents. Softphone, an application that enables users to make and receive phone calls over the internet, was also implemented. Barrier guards were installed in office locations, prioritized by those that provide services to the public, and additional janitorial services were added in state buildings to augment normal janitorial contracts. Furthermore, DOA's Division of Personnel held weekly meetings with union leaders and representatives. Facemasks and required

PPP, as determined by Department of Health and Social Services (DHSS), was provided for each workplace. Guidance was issued to all buildings leased and owned by the state on cleaning, disinfection, and decontamination protocols. Work schedules were staggered to create greater social distancing at places of work in accordance with CDC and DHSS standards. Statewide policies and communications were also drafted, such as distributing mental health resources, handwashing, elevator distancing fliers and guidance based on the federal coronavirus leave law. Additionally, there is coronavirus-specific workplace safety requirements, including adoption of guidelines approved by DHSS, which is consistent with CDC guidance. She continued to convey that new business methods were implemented to limit public access by leveraging technological solutions, like online transactions, automated appointments, and doing business over the phone. She said the state has continued to provide government services while protecting state employees and Alaska citizens. Going forward, she indicated that DOA would continue to maximize workplace safety by promoting and supporting telework and technology to meet business needs. She further noted that the department is conducting facility use analyses to determine the best way to use workspace to maximize employee safety. Additionally, she said, hand sanitizer is being provided throughout office locations and cleaning supplies are available for employees in common areas. Also, employees are to stay home if they experience COVID-19 symptoms. Lastly, she said the department is providing continuing education, training on COVID-19, and best workplace practices during this time.

[10:19:11 AM](#)

REPRESENTATIVE DRUMMOND pointed out that the state and communities are spending a great deal of money on contact tracing. However, she recalled an instance when contact tracing failed and a public announcement was made by the mayor of Anchorage, listing a number of bars and public facilities where people had been potentially exposed to COVID-19. She asked how contact tracing interfaces with the workplace and other public locations.

[10:20:58 AM](#)

COMMISSIONER TSHIBAKA said there was a bulletin issued in February by the U.S. Department of Health and Human Services' Office for Civil Rights (OCR), entitled "HIPAA Privacy and Novel Coronavirus," which dictates what information can be released

about the diagnosis of a patient. She offered her understanding that DHSS and hospitals adhere to that bulletin's guidelines. She continued to explain that DOA is not regularly informed when an employee tests positive for COVID-19 unless the employee conveys the information, or the epidemiology team determines that reporting the diagnosis is necessary. She shared her belief that the mayor's announcement was a result of the later for the purpose of identifying further contacts.

[10:23:20 AM](#)

REPRESENTATIVE SPOHNHOLZ inquired about DOA's efforts to collaborate with employees to address their workplace safety concerns pertaining to COVID-19.

COMMISSIONER TSHIBAKA deferred to Kate Sheehan.

[10:23:44 AM](#)

KATE SHEEHAN, Director, Division of Personnel and Labor Relations, Department of Administration, said the division has been in constant contact with unions and employees. She noted that when a union is contacted by an employee with questions or concerns, the union contacts the division for further enquiry. She said that the division is working with unions and supervisors on various issues every day.

REPRESENTATIVE SPOHNHOLZ sought further clarification on the issues being identified by employees and their representatives and how the division solves those problems.

MS. SHEEHAN said it varies from issues with telework to complaints about an individual not wearing a mask in the office. She listed various solutions provided by the division, including staggering travel, issuing policies, implementing online booking, closing offices, and executing CDC compliance. She reiterated that the issues and how they are addressed vary by location and type of work.

[10:26:31 AM](#)

CO-CHAIR FIELDS asked for the timeframe in which the department notifies employees of a positive test. He also asked who is notified.

[10:27:12 AM](#)

MS. SHEEHAN explained that when an employee tests positive, contact tracing is initiated and every employee who might have been in contact with that individual is notified; offices are subsequently shutdown and a thorough sanitization is performed. She noted that when an office is closed for cleaning, employees can work from home or administrative leave is paid.

CO-CHAIR FIELDS asked if "coming in contact" includes everyone in a shared ventilation system.

MS. SHEEHAN said she does not know and deferred to DHSS.

[10:28:50 AM](#)

CO-CHAIR FIELDS asked how many state buildings have ventilation systems that share air between offices and therefore, require enhanced filtration and an introduction of outside air to minimize the risk of COVID-19 [transmission].

[10:29:47 AM](#)

COMMISSIONER TSHIBAKA said she does not know and deferred to Department of Transportation & Public Facilities (DOT&PF).

CO-CHAIR FIELDS noted that AFSCME's written statement [included in the committee packet] includes a recommended minimum filtration value. He asked the department to follow-up on the number of state HVAC systems with adequate filtration to capture coronavirus particles and what the state is doing to update the systems without that capacity.

[10:30:44 AM](#)

CO-CHAIR FIELDS referring to the mention of UV light technology, inquired about DOA's consideration of nontraditional disinfectant beyond manually applied sanitizers.

[10:31:19 AM](#)

MS. SHEEHAN said the guidance thus far has been related to EPA approved surface disinfectants, such as Clorox bleach, Lysol, and hydrogen peroxide. She offered to explore alternative ideas.

CO-CHAIR FIELDS asked if DOA issued telework guidance for consistent telework standards across departments. Additionally, he asked for the department's performance metrics in terms of

reducing the number of total employees that must report to work in person and how DPA plans to achieve that.

COMMISSIONER TSHIBAKA explained that DOA issued a telework policy in 2019 for the entire state government, which applies to the coronavirus pandemic. She said that policy has been put into effect for state departments during this time. She reiterated that the department has helped supervisors adjust to managing a remote workforce.

[10:33:39 AM](#)

CO-CHAIR FIELDS sought clarification on the department's long-term goals for telework regarding the percentage of employees teleworking on a sustained basis.

COMMISSIONER TSHIBAKA stated that DOA doesn't set measures for the other state departments, later adding that she is unaware of a quota or goal percentage. She further explained that DOA is identifying obstacles that require people to come into work and is trying to automate them to maximize the number of employees who can telework long term.

[10:36:15 AM](#)

CO-CHAIR FIELDS questioned whether building managers understand that six feet provides positive, but not adequate, protection given how aerosolized particles move indoors. He also asked if the department is communicating that information.

COMMISSIONER TSHIBAKA deferred to DHSS.

[10:36:43 AM](#)

REPRESENTATIVE PRAX observed that restaurants in the North Pole community are not opening because they cannot afford to comply with existing guidelines. He asked if anyone is considering how to enable businesses to stay open during the pandemic.

[10:38:45 AM](#)

REPRESENTATIVE STORY inquired about the volume of concerned employees contacting the Division of Personnel and Labor Relations. She also asked what the mask policy is for employees.

[10:40:16 AM](#)

MS. SHEEHAN said it's hard to speak to the volume. She added that the division addresses "something" daily. Regarding masks, she said they are strongly encouraged. She reiterated that DOA provides masks and the required PPE in all its offices.

[10:41:48 AM](#)

TERRI GERSTEIN, Director, State and Local Enforcement Project, Labor and Worklife Program, Harvard University, informed the committee of her previous work experience as the deputy commissioner in the New York Department of Labor, as well as the labor bureau chief in the New York Attorney General's Office. She said today, her testimony would focus on how state governments can protect workers during this unprecedented time. She indicated that there are a variety of actions that localities and states have taken, such as issuing executive orders that impose requirements for masks, PPE provision, social distancing, and other protections. She said state agencies and officials could also adopt enforceable coronavirus-specific workplace safety standards for employers. Additionally, they could enact greater protections to prevent employer retaliation against workers who raise concerns about workplace hazards; enact paid sick leave requirements that fill gaps in federal law; and enact measures to enable greater access to unemployment insurance or workers' compensation. Furthermore, state agencies and officials could require employers to devise and post safety plans to protect workers and the public from exposure, as well as require employers to report clusters of COVID-19 to state health departments. She provided numerous examples of states and localities that have taken those actions, including Emergency Executive Order 20-54 issued by Minnesota's governor, Tim Walz, which allows workers to refuse to work under conditions that present imminent danger of death or serious physical harm. She shared another example of an order by the secretary of the Pennsylvania Health Department that requires businesses to establish protocols in the event of exposure to an individual who has tested positive for COVID-19.

[10:51:19 AM](#)

MS. GERSTEIN emphasized the importance of strengthening protections against worker retaliation by employers. She explained that fear of retaliation could stop workers from speaking up against workplace hazards, which during the pandemic, endangers the workers themselves, as well as the public due to the risk of community spread. For this reason,

she said, a few jurisdictions have strengthened anti-retaliation laws. She noted that OSHA has an anti-retaliation provision, but it has a short statute of limitations and lacks a private right of action; therefore, the state and local laws make a difference in protecting workers.

MS. GERSTEIN turned attention to paid sick leave. She referenced the federal Families First Coronavirus Response Act, which requires certain employers to provide paid sick leave to workers or expanded family medical leave for reasons related to COVID-19; however, the federal act excludes many workers, including those who work for companies of over 500 employees. She restated that some states and localities have passed paid sick leave laws to fill in those gaps. She noted that Colorado passed a modest paid sick day requirement through regulation using a statute that gives the Colorado Department of Labor and Employment broad authority to promulgate rules "when the welfare of the state of Colorado demands that workers be protected from conditions of labor that have a pernicious effect on their health and morals and it is therefor declared that inadequate wages and unfit sanitary conditions of labor exert such pernicious effect."

[10:53:47 AM](#)

MS. GERSTEIN stated that unemployment insurance has been an important safety net for millions of people who have lost their job during the pandemic. Under most state laws, anyone who refuses suitable work cannot claim unemployment insurance, which currently raises the question of whether unsafe working conditions are considered "suitable work." To ensure that people are not forced into unsafe working conditions, numerous states have issued executive orders or guidelines that articulate broader UI eligibility for coronavirus-related reasons. She added that some states have facilitated access to workers' compensation by amending laws to include a rebuttable presumption that workers got infected at work. Illinois, for example, enacted the rebuttable presumption in relation to COVID-19 infection for all essential workers. Additionally, she pointed out that some states are obligating businesses to plan ahead by requiring employers to fill out a form that details a plan to keep workers safe in the event of an exposure. She opined that providing a templated form gives a systematic roadmap to employers for considering the risks in their workplace.

[10:57:52 AM](#)

Ms. Gerstein provided several miscellaneous measures that localities have taken, including hazard pay for gig economy workers and worker retention and right of recall ordinances. She pointed out that laws are ephemeral unless made real through robust and effective enforcement. She highlighted the importance of publicizing enforcement actions. She referenced a recent study by a Duke professor, Matthew Johnson, which examined the impact of OSHA press releases on employers within the same industry and geographic area. Professor Johnson found that publishing OSHA findings and violations, as well as issuance of penalties, led to significant improvements in worker safety and health. The study concluded that there were significantly fewer worker injuries as a result of press release issuance. She emphasized the necessity of a proactive media and a strategic communications plan regarding enforcement to protect workers. To conclude, she said workers are terrified to return to work. She added that the worker safety and health issue is currently a national crisis. She offered her belief that for economies to reopen, workplaces must be safe, given the nature of community spread. Keeping workers safe is a critical function of state government, she said.

[11:01:19 AM](#)

JOELLE HALL, Director of Operations, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), acknowledged that workers and employers are confused right now. She opined that there's a lack of clarity on how employers and workers should respond to the identification of a positive case. She recommended implementing a clear standard for spaces where employees congregate, such as break rooms. She strongly encouraged the state to promulgate regulations pertaining to enforcement and to increase inspections. She suggested implementing every action discussed by Ms. Gerstein. Additionally, she opined that Alaska needs stronger unified communications going out to workers and employers. She highlighted the importance of clarifying the role of the basic protections of masking, hand washing, and sanitizing. She said right now, standards are not clear. She encouraged establishing a return-to-work policy that includes workers who work in the effected facilities, not just management.

[11:06:48 AM](#)

REPRESENTATIVE JACKSON inquired as to the states with the highest union density.

MS. HALL answered Hawaii and New York. She noted that Alaska has slipped to number four on the list behind Washington.

REPRESENTATIVE JACKSON opined that Alaska has already implemented requirements for safe environments. She added that there is still more to do.

[11:08:48 AM](#)

CO-CHAIR FIELDS reviewed the need for a clear and enforceable standard from AKOSH, aggressive and public enforcement, as well as a clear "right to know" for people exposed in the workplace.

[11:09:06 AM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [11:09] a.m.