

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 6, 2024

1:32 p.m.

MEMBERS PRESENT

Senator Jesse Bjorkman, Chair
Senator Click Bishop, Vice Chair
Senator Elvi Gray-Jackson
Senator Kelly Merrick
Senator Forrest Dunbar

OTHER LEGISLATORS PRESENT

Representative Justin Ruffridge

COMMITTEE CALENDAR

DELIVERING ALASKA'S TECHNICAL VOCATIONAL EDUCATIONAL PROGRAM

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 121

"An Act relating to the Board of Pharmacy; relating to insurance; relating to pharmacies; relating to pharmacists; relating to pharmacy benefits managers; relating to patient choice of pharmacy; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 121

SHORT TITLE: PHARMACIES/PHARMACISTS/BENEFITS MANAGERS

SPONSOR(S): SENATOR(S) GIESSEL BY REQUEST

03/31/23	(S)	READ THE FIRST TIME - REFERRALS
03/31/23	(S)	L&C, FIN
02/08/24	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
02/08/24	(S)	L&C, FIN
02/28/24	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/28/24	(S)	Heard & Held
02/28/24	(S)	MINUTE(L&C)
03/06/24	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SARA PERMAN, State Governments Relations Manager
University of Alaska
Anchorage, Alaska

POSITION STATEMENT: Co-presented "Delivering Alaska's Technical Vocational Education Program."

DR. PAUL LAYER, Vice President
Academics, Students, and Research
University of Alaska
Anchorage, Alaska

POSITION STATEMENT: Co-presented "Delivering Alaska's Technical Vocational Education Program."

DON ETHRIDGE, Lobbyist
Alaska Chapter
American Federation of Labor
& Congress of Industrial Organization (AFL-CIO)
Juneau, Alaska

POSITION STATEMENT: Testified by invitation on the Technical Vocational Education Program (TVEP).

SENATOR CATHY GIESSEL, District E
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 121 by request.

JANE CONWAY, Staff
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 121.

STEVE RAMOS, Acting Chief Health Administrator
Division of Retirement and Benefits (DRB)
Department of Administration (DOA)
Juneau, Alaska

POSITION STATEMENT: Explained the fiscal note and impacts for SB 121.

LORI WING-HEIER, Director
Division of Insurance
Department of Commerce, Community
and Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Answered questions on SB 121.

ACTION NARRATIVE

[1:32:46 PM](#)

CHAIR JESSE BJORKMAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Gray-Jackson, Merrick, and Chair Bjorkman. Senators Bishop and Senator Dunbar arrived thereafter.

DELIVERING ALASKA'S TECHNICAL VOCATIONAL EDUCATIONAL PROGRAM

[1:33:41 PM](#)

CHAIR BJORKMAN announced the presentation from the University of Alaska Anchorage (UAA) titled, "Delivering Alaska's Technical Vocational Education Program."

[1:34:06 PM](#)

SARA PERMAN, State Governments Relations Manager, University of Alaska, Anchorage, Alaska, co-presented "Delivering Alaska's Technical Vocational Education Program." She expressed her intention to discuss three topics: the current state of the Alaska workforce; an overview of the Technical Vocational Education Program (TVEP); and the University of Alaska's contributions to Alaska's workforce needs.

[1:34:40 PM](#)

MS. PERMAN advanced to slide 2:

[Original punctuation provided.]

UA System

- Three Universities, One System
 - University of Alaska Fairbanks (UAF)
 - University of Alaska Southeast (UAS)
 - University of Alaska Anchorage (UAA)
- 16+ Colleges, campuses, and extension sites providing access statewide
- 400+ Breadth of programs from workforce credentialing to doctoral degrees
- 21K+ Students served across all six economic regions
- Unique Missions Offering Diverse Value

MS. PERMAN stated that UA has seen a 16 percent increase in first-time university enrollees and noted that this is during a time when national numbers for first-time enrollees have shown a downward trend.

[1:35:42 PM](#)

MS. PERMAN spoke to points on slide 3:

[Original punctuation provided.]

2024 Jobs Forecast

- Capitalizing on Federal Investment to Strengthen Alaska's Future
- \$1.2 trillion infrastructure bill - workforce needed for roads, bridges, ports, broadband, ferry system, water, and wastewater projects
 - CDL Drivers
 - Construction Managers
 - Heat/Air/Ref Mechanics
 - General Ops Managers
 - Telecommunication Install/Rep
 - Engineers & Engineering Techs
 - Architects
 - Welders
 - Surveyors
 - Facilities Repair & Management
 - Business Services
- Job growth also anticipated in health care, transportation, resource extraction, and energy development
- **UA is key to meeting Alaska's workforce needs**

MS. PERMAN said that the numbers contained on this slide were pulled from the January edition of Alaska Economic Trends. She stated that 2024 projections show a gain of 400 jobs across the state, which is a 1.7 percent increase. This will primarily be seen in construction, with the support of federal infrastructure dollars. She listed several industries that will also see growth. She explained that Alaska is experiencing a workforce shortage, pointing out that for every one unemployed person in the state, there are two vacant job positions. She noted that some of this workforce loss is due to retirement while some is due to out-migration. She suggested that this is an important issue to consider.

[1:37:00 PM](#)

SENATOR DUNBAR joined the meeting.

[1:37:40 PM](#)

MS. PERMAN spoke to points on slide 4:

[Original punctuation provided.]

The Technical Vocational Education Program (TVEP) was created in 2000 to adequately fund vocational and technical education across the state. The program is administered by the Alaska Workforce Investment Board (AWIB).

- TVEP funds come from a percentage of employee unemployment insurance contributions allocated to specific institutions in accordance with Alaska Statute 23.15.835.
- TVEP funds must be used for technical and vocational training programs that align with regional workforce demands and the Alaska Workforce Investment Board's industry priorities.

MS. PERMAN said that TVEP is one way to incentivize individuals to remain in the Alaska workforce. She explained that TVEP is funded out of unemployment insurance.

[1:38:10 PM](#)

MS. PERMAN continued speaking to points on slide 4 (data from Technical and Vocational Education Program Report, State Fiscal Year 2023):

[Original punctuation provided.]

The Technical Vocational Education Program (TVEP) was created in 2000 to adequately fund vocational and technical education across the state. The program is administered by the Alaska Workforce Investment Board (AWIB).

- TVEP funds come from a percentage of employee unemployment insurance contributions allocated to specific institutions in accordance with Alaska Statute 23.15.835.
- TVEP funds must be used for technical and vocational training programs that align with regional workforce demands and the Alaska Workforce Investment Board's industry priorities.

[1:39:41 PM](#)

MS. PERMAN advanced to slide 5, displaying a chart of FY23 TVEP Outcomes. She explained that ten institutions currently receive

TVEP allocations, including UA. She said that in 2023, \$13.7 million dollars were distributed.

[1:40:17 PM](#)

MS. PERMAN advanced to slide 6 (data from Technical and Vocational Education Program Report, State Fiscal Year 2023):

[Original punctuation provided.]

TVEP Supports Workforce Development
Fiscal Year 2023 UA Outcomes

- UA's 45 percent allocation trained 57 percent of students served by TVEP
 - 4,844 students trained
 - 1,294 high school students received college credit
 - 80 percent employed 1-12 months after exit

MS. PERMAN said that the average cost per participant across the state is \$1600; however, UA brings this cost down to \$1273.

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SENATOR MERRICK commented that according to the slide, the cost per participant for the Amundsen Education Center is significantly higher. She asked why this might be.

[1:41:50 PM](#)

MS. PERMAN replied that she cannot speak for Amundsen Education Center.

[1:42:13 PM](#)

CHAIR BJORKMAN noted that SENATOR DUNBAR joined at 1:37pm.

[1:42:26 PM](#)

MS. PERMAN invited Dr. Paul Layer to join the presentation.

[1:42:57 PM](#)

DR. PAUL LAYER, Vice President of Academics, Students, and Research, University of Alaska, Anchorage, Alaska, co-presented "Delivering Alaska's Technical Vocational Education Program." He advanced to slide 7:

[Original punctuation provided.]

UA's Competitive Grant Investment Strategies

- Aligns with high-demand and/or regional workforce needs
- Increases access and flexibility of training delivery
- Assists with employment, retention, or career advancement
- Develops or enhances partnerships that strengthen career pathways between secondary, postsecondary, and employers

MR. LAYER explained that the three universities complete an internal vetting process to determine which funding proposals have priorities that are consistent with the state's workforce needs. These proposals are then presented to a statewide committee made up of representatives from each of the three universities and the Alaska Workforce Investment Board (AWIB) executive director. This committee considers the requests and prioritizes them according to the criteria listed on Slide 5. He said that roughly 88 percent of requests are funded, and some programs continue from year to year. However, he explained that after 7 years, programs are moved to alternate funding sources. He clarified that year-to-year funding is not guaranteed.

[1:45:20 PM](#)

MR. LAYER advanced to slide 8, depicting the distribution of funding to high-demand industries and economic regions. He said that UA has programs throughout the state. He noted that, in addition to these funding totals, the Fairbanks Pipeline Training Center (FPTC) received \$867,300 in pass-through funding to support construction, oil, and gas. He emphasized the benefit of high school dual-enrollment programs. He stated that program success is evaluated yearly.

[1:46:00 PM](#)

SENATOR JUSTIN RUFFRIDGE joined the meeting.

[1:48:31 PM](#)

MS. PERMAN advanced to slide 9:

[Original punctuation provided.]

UA TVEP Supports Alaska's High-Demand Industries

Education pays – people working jobs in Alaska that require a high school degree earn an average of \$44,679 annually, which jumps to \$63,883 for jobs that require associate degrees, \$86,140 for those that

require bachelor degrees, and \$102,511 for jobs in Alaska that require graduate or professional degrees.

- Dan Robinson, Research Chief, Alaska Department of Labor and Workforce Development

[1:49:13 PM](#)

MS. PERMAN advanced to slide 10, depicting UA graduate outcomes. She drew attention to the heading "Boost Alaska's Hire Rate" and explained that of all workers in Alaska who have graduated from any form of higher education - 94.8 percent remain in Alaska.

[1:50:44 PM](#)

MS. PERMAN advanced to slide 11, depicting the impact of TVEP funding on Alaska's Construction Industry. She highlighted that \$570,800 in TVEP funding was invested in these programs.

[1:51:22 PM](#)

MS. PERMAN advanced to slide 12, depicting the impact of TVEP funding on Alaska's Fisheries, Seafood, and Mariculture Industries. She highlighted that \$585,600 in TVEP funding was invested in these programs. The average wage of graduates is \$56 thousand.

[1:51:29 PM](#)

MS. PERMAN advanced to slide 13, depicting the impact of TVEP funding on Alaska's Healthcare industry. She highlighted that \$1.9 million in TVEP funding was invested in this industry and the average wage of graduates is \$56 thousand.

[1:51:48 PM](#)

MS. PERMAN advanced to slide 14, depicting the impact of TVEP funding on Alaska's Information Technology (IT) Industry. She highlighted that \$248,700 in TVEP funding was invested in this industry. The average wage of graduates is \$56 thousand.

[1:52:01 PM](#)

MS. PERMAN advanced to slide 15, depicting the impact of TVEP funding on Alaska's Mining, Oil, and Gas industries. She highlighted that \$593 thousand in TVEP funding was invested into these programs.

MS. PERMAN advanced to slide 16, depicting the impact of TVEP funding on Alaska's Transportation industry. Over \$1 million in TVEP funds were invested in these programs. She highlighted that UA's transportation program is the second largest (healthcare being the largest) and includes maritime services.

[1:52:23 PM](#)

MS. PERMAN advanced to slide 17:

[Original punctuation provided.]

UA Strongly Supports the Reauthorization of TVEP that Assists in:

- Strengthening pathways to Alaska Jobs
- Delivering programs aligned with Alaska's high-demand workforce needs
- Providing professional development for retention or career advancement

[1:52:51 PM](#)

SENATOR GRAY-JACKSON shared her understanding that legislation has been introduced that would reauthorize TVEP and asked if this is correct.

[1:53:06 PM](#)

MS. PERMAN replied yes.

[1:53:29 PM](#)

CHAIR BJORKMAN referred to slide 10 and asked what period of time the number of graduates represents.

[1:53:44 PM](#)

MS. PERMAN replied that these numbers were pulled by the Department of Labor and therefore she does not have this information. She deferred to Mr. Layer.

[1:54:01 PM](#)

DR. LAYER said that they would get back to Chair Bjorkman with this information.

[1:54:21 PM](#)

Senator Cathy Giessel joined the meeting.

[1:54:29 PM](#)

CHAIR BJORKMAN referred to slides 10-16 asked if there are statistics available that show the percentage of graduates from each area of study that are placed in jobs within six months. He surmised that the potential for job placement is important to those considering these training programs.

[1:55:23 PM](#)

MS. PERMAN replied that the Technical and Vocational Education Program Report does have a general outcomes statistic showing the percentage of AVTEC students who are placed in jobs within 12 months of graduation. While the report does not include sector-specific data, she said that she may be able to provide this information.

[1:56:03 PM](#)

DR. LAYER added that there are more in-depth workforce reports available for each sector. These reports include statistics on the percentage of graduates who are employed in Alaska within one year. He said that they can provide these workforce reports to the committee.

[1:56:54 PM](#)

CHAIR BJORKMAN noted that Representative Justin Ruffridge joined at 1:46 p.m.

[1:57:30 PM](#)

DON ETHRIDGE, Lobbyist, American Federation of Labor & Congress of Industrial Organization (AFL-CIO), Alaska Chapter, Juneau, Alaska, testified by invitation on the Technical Vocational Education Program (TVEP). He said he also represents the Alaska Works partnership that offers high school training. He expressed support for TVEP and emphasized the importance of making training available to younger individuals. He expressed hope that this program - which they have supported since its inception - will continue. He said this program ensures that young people are entering into the workforce - which is important as older workers retire. He said that he has heard a lot of comments about building trades and unions receiving TVEP funding and clarified that, while they do receive State Training and Employment Program (STEP) grant money, they do not receive TVEP funding. He stated that while they do not receive the funding, they benefit from the trained graduates who are then able to join the workforce. He reiterated support for TVEP.

[2:00:16 PM](#)

CHAIR BJORKMAN said that he sees the value in directing funding towards workforce development programs that are cost-effective and provide quality training in trades, crafts, and other professions. He stated that these are vital to the workforce and opined that as conversations on training the workforce continue, it is important to focus on what works rather than creating new programs that may not work.

[2:01:28 PM](#)

At ease

SB 121-PHARMACIES/PHARMACISTS/BENEFITS MANAGERS

[2:04:43 PM](#)

CHAIR BJORKMAN reconvened the meeting and announced the consideration of SPONSOR SUBSTITUTE FOR SENATE BILL NO. 121, "An Act relating to the Board of Pharmacy; relating to insurance; relating to pharmacies; relating to pharmacists; relating to pharmacy benefits managers; relating to patient choice of pharmacy; and providing for an effective date."

[2:05:11 PM](#)

SENATOR CATHY GIESSEL, District E, Alaska State Legislature, Juneau, Alaska, sponsor of SB 121 by request. She said that pharmacy benefit managers (PBM) operate under a very complicated business model. She said that 39 states have introduced 141 pieces of legislation that shine a light on convoluted PBM business practices. She referred to a White House listening session on the harms caused by PBMs that is available for viewing. She stated that in 2017 she co-sponsored PBM reform legislation, which PBMs and their trade associations claimed would cause drug prices to skyrocket; however, this did not happen. She pointed out that since then, 25 percent of Alaska's pharmacies have closed and said that SB 121 is an attempt to help Alaska pharmacies operate free from PBMs. In response to claims that this legislation would increase costs, she asserted that SB 121 would decrease PBM profits. She emphasized that the situation is critical for Alaskan pharmacies - and this legislation is the result of a culmination of many years of work.

[2:07:29 PM](#)

JANE CONWAY, Staff, Senator Cathy Giessel, Alaska State Legislature, Juneau, Alaska, presented the sectional analysis for SB 121:

[Original punctuation provided.]

Sponsor Substitute for Senate Bill 121
Pharmacies / Pharmacists / Benefit Managers
SECTIONAL ANALYSIS

Section 1: Amends AS 08.80.030 Powers and duties of the board

(b)(19) establishes that the Board of Pharmacy has authority to regulate the dispensing of drugs that are

not approved for self-administration (practices commonly known as white bagging and brown bagging).

Section 2: Amends AS 21.27.901 Registration of pharmacy benefit managers; scope of business practice

Requires a PBM to be registered as a PBM, no longer as a third-party administrator with the Division.

Allows Pharmacy Benefits Managers (PBMs) to contract with an insurer to manage pharmacy benefits and other services and audits, and contract with network pharmacies. PBMs must be registered with the Division of Insurance to conduct business in the state.

[2:09:05 PM](#)

CHAIR BJORKMAN asked about the benefit of PBMs registering as PBMs instead of third-party administrators.

[2:09:31 PM](#)

MS. CONWAY answered that this change was discussed with the division of insurance. She explained that many states have separate registration and licensing for PBMs and added that having a PBM license would allow the state to charge a licensing fee that is more commensurate with their money making within the state.

[2:10:15 PM](#)

MS. CONWAY continued her presentation of the sectional analysis for SB 121:

[Original punctuation provided.]

Section 3: Amends/adds new subsections to AS 21.27.901 Registration of pharmacy benefit managers

Adds a new subsection (c) establishing that each day a PBM conducts business in the state without being licensed by the state is a separate violation under AS 21.97.020.

Section 4: Amends AS 21.27.905(a) Renewal of registration

Establishes that PBMs must biennially register with Division of Insurance under its procedures for license renewal.

Section 5: Amends/adds new section to AS 21.27 Fiduciary duty

Adds that a PBM has a fiduciary responsibility to the plan sponsor and its covered persons, meaning it must consider impacts to the plan sponsor as well as the insured employees; notify conflicts of interest with its duties to the state; shall pass on its rebates to the plan; shall respond to requests of drug costs when requested; basically it directs the PBM to act in good faith and transparently with its plan sponsor.

[2:11:46 PM](#)

SENATOR DUNBAR asked about the enforcement mechanism for violating the fiduciary responsibility. He surmised that this would be enforced by the state.

[2:12:14 PM](#)

MS. CONWAY shared her understanding that there are mechanisms for complaints to the Division of Insurance and penalties would be set by the division director. She added that any party could register a complaint.

[2:12:40 PM](#)

MS. CONWAY continued her presentation of the sectional analysis for SB 121:

[Original punctuation provided.]

Section 6: Amends AS 21.27.945 Drug pricing list; procedural requirements

(a) establishes that a PBM must keep its drug pricing list current and electronically searchable (without charge) and must identify each drug by its national drug code, its national average drug acquisition cost (NADAC) or its wholesale acquisition cost, and its reimbursement amount; provides definitions. The PBM must provide a current PBM employee phone number to the pharmacy, update price list at least weekly to reflect current national drug database pricing.

MS. CONWAY drew attention to the phrase "provides definitions" and stated that this should be crossed out.

[2:14:04 PM](#)

MS. CONWAY continued her presentation of the sectional analysis for SB 121:

[Original punctuation provided.]

Section 7: Repeals and reenacts AS 21.27.945(b) Drug pricing list; procedural requirements

Require PBMs to ensure drugs on a pricing list meet certain objective standards, are available, and are not obsolete.

Section 8: Amends AS 21.27.945 adds definitions and adds new subsections

To establish that a PBM must keep its drug pricing list current and electronically searchable and must identify each drug by its national drug code, its national average drug acquisition cost or its wholesale acquisition cost, and its reimbursement amount; provides definitions.

Section 9: Repeals and reenacts AS 21.27.950 Reimbursement

Establishes that PBMs shall not reimburse pharmacies for a drug at less than the national average drug acquisition cost, (NADAC) or, in its absence, at less than the wholesale acquisition cost as defined in federal law, and in addition shall reimburse a pharmacist or pharmacies with a professional dispensing fee set by the Director. Subsection (c) sets out the factors the director will consider when determining the fees.

Section 10: Amends AS 21.27 and adds 3 new sections

AS 21.27.951 Patient choice of pharmacy. This subsection bars health insurers and PBMs from:

(1) prohibiting or limiting an insured person from receiving pharmacy services from a pharmacy of that person's choice; and (2) restricting access to drugs through only a PBM-owned or affiliated pharmacy except when doing so is required by USFDA standards; and requires PBMs to treat as a network pharmacy any qualified pharmacy that agrees to network terms; provides definitions for "specialty drug" and "specialty pharmacy."

[2:16:38 PM](#)

MS. CONWAY continued her presentation of the sectional analysis for SB 121:

[Original punctuation provided.]

AS 21.27.952 Patient access to clinician-administered drugs. This subsection bars health insurers and PBMs from denying reimbursement to, or imposing higher fees, copayments, or penalties on, pharmacies (other than those selected by the insurer or PBM) who dispense to insured persons clinician-administered drugs (drugs infused, injected, or administered in clinical settings, typically high-cost cancer or autoimmune therapy drugs); bars insurers and PBMs from requiring or encouraging that clinician-administered drugs be dispensed to an insured person in a manner inconsistent with the federal Drug Supply Chain Security Act (practices commonly known as "white bagging" and "brown bagging".) Adds definition of "clinician-administered drug".

MS. CONWAY gave a brief description and history of the federal Drug Supply Chain Security Act. She continued her presentation of the sectional analysis for SB 121:

[Original punctuation provided.]

AS 21.27.953. Penalties. Allows the Director of Division of Insurance to impose penalties resulting from a filed complaint.

[2:19:12 PM](#)

MS. CONWAY continued her presentation of the sectional analysis for SB 121:

[Original punctuation provided.]

Section 11: Amends AS 21.27.955

(4) Modifies language relating to the list of reimbursement prices/amounts that are set by the PBMs.

Section 12: Repeals and reenacts AS 21.27.955

(6) Provides a new, expanded definition of the term "network pharmacy".

Section 13: Amends AS 21.27.955 Definitions

This adds nine new definitions to this section (11) to (19)

CHAIR BJORKMAN asked if SB 121 would eliminate access to network pharmacies.

MS. CONWAY answered no. She explained that a pharmacy that agrees to a contract would then be placed in the network. She suggested that this concern may arise from confusion between "local pharmacies" and retail pharmacies that are owned by PBMs.

[2:21:12 PM](#)

MS. CONWAY continued her presentation of the sectional analysis for SB 121:

[Original punctuation provided.]

Section 14: Amends and adds a new section to AS 21.36.126 Unfair trade practices

(a) establishes that insurers or PBMs may not:

- violate a pharmacy's right to reimbursement under new AS 21.27.950;
- interfere with a person's right to choose a pharmacy under new AS 21.27.951;
- interfere with a person's right of access to clinician-administered drugs under new AS 21.27.952;
- interfere with a pharmacy's right to participate in a PBM's pharmacy network under new AS 21.27.951;
- reimburse a pharmacy less than it reimburses a PBM-owned or affiliated pharmacy for the same services;
- impose any copayment, fee or condition not equally imposed upon all in the same benefit category;
- steer insured persons to use a PBM-owned or affiliated pharmacy;

[2:23:03 PM](#)

MS. CONWAY continued her presentation of the sectional analysis for SB 121:

[Original punctuation provided.]

- impose any monetary advantage or penalty that could affect or influence a person's choice among pharmacies that have agreed to a PBM's network terms;
- reduce pharmacy reimbursement because of a person's choice among pharmacies that have agreed to a PBM's network terms;

- use a person's pharmacy services data for soliciting, marketing, or referral to a PBM-owned or affiliated pharmacy;
- condition a person's coverage or pharmacy's reimbursement on use of a mail-order pharmacy or PBM-owned or affiliated pharmacy;
- prohibit or limit a network pharmacy from mailing, shipping or delivering drugs to its patients;
- condition participation in a PBM pharmacy network on credentialing standards beyond licensing standards set by the Alaska Board of Pharmacy or charging a fee in connection with network enrollment;
- prohibit a pharmacy from informing patients of the difference between the pharmacy's customary cost of a drug versus the drug cost when using the PBM's insurance;
- conduct spread pricing, where a PBM charges an insurer a different price for a drug (typically higher) than it reimburses a pharmacy;
- charge or collect any fee from a pharmacy, including claim-processing fees, performance-based fees, network participation fees, or accreditation fees.

MS. CONWAY said the new subsection establishes that contract terms between a pharmacy and a PBM in violation of this subsection are null and void; that violations of the subsection are unfair trade practices subject to penalty under AS Chapter 21 (Insurance); and provides that nothing in the section shall be construed to interfere with a patient's right to know where there is access to the lowest-cost drugs, nor be construed to interfere with a patient's right to receive notice of changes to pharmacy networks; provides 11 definitions.

[2:25:39 PM](#)

MS. CONWAY continued her presentation of the sectional analysis for SB 121:

[Original punctuation provided.]

**Section 15: Adds new paragraph to AS 29.10.200
Limitations of home rule powers**

Adds new (68) AS 29.20.420 health care insurance plans
See below.

Section 16: Amends AS.29.20 and adds new subsection .420 to article 5

Health care insurance plans. Adds that a municipality that offers a group health benefit plan for its employees enjoys the same protections as defined by the Division of Insurance unfair practices guidelines.

Section 17: Amends AS 39.30.090(a) Procurement of group insurance.

New paragraph (13) requires participating governmental units to obtain a policy of group health insurance that meet requirements of 21.27.901-21.27.955, 21.36.126 and requirements relating to managing pharmacy benefits under their policies.

[2:27:37 PM](#)

MS. CONWAY continued her presentation of the sectional analysis for SB 121:

[Original punctuation provided.]

Section 18: Amends AS 39.30.091 Authorization for self-insurance and excess loss insurance

Adds that the state's self-insured group employee medical plan and union trusts are subject to the statutes on PBMs and unfair trade practices.

Section 19: Amends and adds new paragraph AS 45.50.471(b) Unlawful acts and practices

Adds new paragraph (b)(58) establishes that violations of new subsection 21.36.126(a) are violations of the Alaska Unfair Trade Practices and Consumer Protection Act.

Section 20: Definitions Repeals AS 21.27.955(5) and 21.27.955(8)

Repeals two definitions: "multi-source generic drug" and "pharmacy acquisition cost".

Section 21: Applicability:

States that this legislation applies to contracts between PBMs and pharmacies/pharmacists initiated after the effective date of this bill.

Section 22: Gives Dept. of Commerce, Community, & Economic Development (DCCED) and the Dept. of

Administration (DOA) authority to adopt regulations necessary to implement the bill.

Section 23: Adopts immediate effective date for purposes of regulation-making.

Section 24: Establishes that the Act takes effect July 1, 2025.

[2:29:18 PM](#)

SENATOR DUNBAR asked what section contains the \$13 minimum processing fee.

MS. CONWAY replied that the dispensing fee is discussed in section 9. She explained that the division director would determine the fee based on the criteria listed and added that this would occur a minimum of every five years.

SENATOR DUNBAR shared his understanding that the exact fee amount is not in statute and asked if this is correct.

MS. CONWAY replied that this is correct.

SENATOR DUNBAR referred to previous discussions of a \$13 dispensing fee and questioned how proponents of SB 121 arrived at this amount.

[2:31:01 PM](#)

MS. CONWAY answered that the dispensing fee was discussed at length during the interim. She explained that, originally, the dispensing fee in SB 121 was connected to the Alaska Medicaid dispensing fee. However, after receiving push-back, it was decided that the director of the Division of Insurance could decide the dispensing fee amount using a variety of available data to determine the most appropriate fee. She referred to SB 121, page 8, line 12, which addresses the dispensing fee. She explained that the criteria included in this section would be considered when the director determines the dispensing fee. She noted that this would include data from dispensing fees used across the United States as well as Medicaid dispensing fees, among others.

[2:32:50 PM](#)

SENATOR DUNBAR commented that he appreciates that the director would review data from a variety of sources from across the United States when determining the dispensing fee. He indicated that concern has been raised regarding the \$13 dispensing fee

which he suggested might be significantly higher than fees in other states. He emphasized the importance of the director being able to survey the data and come up with a fee amount that protects Alaskan consumers so that the fee does not become a cost driver.

[2:33:33 PM](#)

MS. CONWAY commented that the wording on the fiscal note for SB 121 is awkward and seems to suggest that the dispensing fee would be based on the Medicaid dispensing fee. She questioned which version of SB 121 was used to prepare the fiscal note. She suggested that the vague language of the fiscal note may be one reason for the concern regarding the dispensing fee.

[2:34:50 PM](#)

STEVE RAMOS, Acting Chief Health Administrator, Division of Retirement and Benefits (DRB), Department of Administration (DOA), Juneau, Alaska, explained the fiscal note and impacts for SB 121. He said that DRB is committed to providing AlaskaCare members with the best benefits and customer service possible. He said that DRB works with consultants and stakeholder groups to develop proposals that optimize value for members and administer employee and retirement benefits that reflect the highest standards of good stewardship. He said that the AlaskaCare employee plans are self-insured, funded by state employer contributions and member-paid premiums. He explained that because AlaskaCare benefits are self-insured, they are not considered "true" insurance plans and are therefore not subject to title 21. He stated that bringing AlaskaCare plans under title 21 may create unintended vested benefits that are subject to constitutional protection under Article 12, Section 7 of the Alaska constitution.

MR. RAMOS said that, in its current form, SB 121 creates ambiguities that may adversely affect DRB in future litigation and gave examples of previous litigation attempts that were denied because title 21 did not apply to AlaskaCare. He said that based on recent DRB reports, the AlaskaCare employee plan pharmacy benefit claim administrator processed over 131 thousand prescription claims for the quarter. This is approximately 525 thousand prescription claims for the year. He said that SB 121 does not apply to the AlaskaCare under age 65 retiree pharmacy benefit plans or the AlaskaCare over age 65 employee group waiver plans (EGWP). He noted that these are also known as Medicare Part D plans and prescription drug plans.

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MR. RAMOS stated that DRB is also concerned about changes made to the services and billing structure under the current contract. These changes may require DRB to issue a new request for proposal (RFP) - a lengthy and complex process. He explained why the process takes time and said that it is impossible for a new plan to be implemented prior to January 1, 2026. He said that SB 121 includes an "any willing pharmacy provision" that limits the plans ability to carve out pharmacies that employ predatory practices. He stated that the DRB fiscal note explains the anticipated pharmacy and medical claims cost impact to the AlaskaCare employee health plan. He added that the division anticipates that SB 121 would increase the plans prescription drug and medical claims spend by a minimum of \$2.4 million annually.

MR. RAMOS said that dispensing fees would result in an approximately \$1.36 million increase in the AlaskaCare plan. He stated that DRB reached out to the Division of Insurance to discuss the dispensing fee and was told that the fee scale had not been developed; therefore, dispensing fees contained in the fiscal note are based on the initial proposal to use Medicaid dispensing fees. He said that the current AlaskaCare employee plan dispensing fees are \$0.80. Medicaid dispensing fees, using out-of-state pharmacies - would be \$13.26 - almost 17 times higher than the current fees. He stated that dispensing fees for in-state pharmacies that connect to Anchorage by road would be \$15.86, which is 20 times higher than current fees. He added that the dispensing fees for in-state pharmacies that do not connect to Anchorage by road would be \$23.78 - 30 times higher than the current fees.

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MR. RAMOS turned his attention to administrative fees and said that - regardless of whether a spread-pricing or transparent model is used as methodology for compensating the PBM - DRB believes that, generally, the PBM will charge the plan an equivalent amount for their services. He explained that, in a spread-pricing model, the PBM takes their fees from the spread. In a transparent model, the PBM charges the plan an administrative fee - typically a per-member, per-month charge. He said that shifting to a transparent model for the AlaskaCare employee plan - which covers approximately 15 thousand lives - would result in an estimated additional administrative fee of \$500 thousand annually. With respect to standard price control strategies, he stated that SB 121 seeks to create freedom of choice by legislating prescription drug channels so that network, out-of-network, and affiliate providers receive the

same reimbursement rate regardless of any discount advantages that may be accessed by the member or the plan.

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MR. RAMOS said that SB 121 takes the perspective that member freedom of choice should be provided at plan expense, rather than providing the member with a baseline benefit and allowing members to choose to spend their money on more expensive options. He stated that SB 121 would eliminate the plan's ability to employ many standard prescription drug cost-control strategies, which would have additional cost impacts. He explained that AlaskaCare plans do not require mandatory use of mail-order pharmacies; however, SB 121 would prevent the plan's ability to tell members about PBM mail order program, which saves the member - and the plan - money. This would increase plan cost by \$80 thousand per year. He said that discontinuing the variable co-pay program would increase plan cost by \$300 thousand per year. Additionally, having an open specialty benefit would increase plan costs by \$290 thousand per year. He noted that SB 121 would also remove management strategies for clinician-administered drugs and add \$580 thousand in additional costs. He reiterated that the AlaskaCare plan should not be subject to AS title 21, that dispensing fees in SB 121 are 17-30 times greater than current fees, and the AlaskaCare employee plan currently uses a spread-pricing strategy that has an estimated savings of \$2.4 million per year compared to the changes made by SB 121.

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CHAIR BJORKMAN commented that some have suggested that the DOA fiscal note was heavily influenced by the PBM. He asked if the PBM and Optum Insurance were involved in creating the fiscal note.

[2:43:27 PM](#)

MR. RAMOS answered that DRB has not spoken to Optum regarding SB 121 and Optum did not contribute in any way to the content of this presentation.

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CHAIR BJORKMAN said that he spoke with the chief financial officer (CFO) of the Statewide Health Trust, who shared that PBMs are the number one cost driver of the Trust's plan as a percentage of plans spent, with the most secrecy and games in the industry. He asked if this is a fair characterization of PBMs.

[2:44:06 PM](#)

MR. RAMOS replied that his is not able to parse out this relationship in order to determine whether the issue is the drug manufacturer or the PBM.

[2:44:33 PM](#)

SENATOR GRAY-JACKSON expressed confusion about how SB 121 went from saving money for both the State of Alaska and employees to one that does the opposite.

[2:44:52 PM](#)

SENATOR DUNBAR commented that SB 121 impacts more than just AlaskaCare and asked if DRB has proposed language that would exempt AlaskaCare and/or alleviate DRB concerns.

[2:45:32 PM](#)

MR. RAMOS replied that the solution would be to remove AlaskaCare (AS 39.30.090 and AS 39.30.091) from SB 121.

[2:46:20 PM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, answered questions on SB 121.

[2:46:42 PM](#)

CHAIR BJORKMAN referred to section 2 and asked what the benefit would be of having PBMs register as PBMs rather than as third-party administrators.

[2:47:05 PM](#)

MS. WING-HEIER replied that the Division of Insurance (DOI) believes that current statute requires PBMs to register as a third-party administrator. However, over the last 18 months, DOI found that most PBMs operating in Alaska have not registered because they do not agree with DOI's interpretation of the statute. She explained that changing the statute would give a clear direction that requires PBMs to register in order to do business in Alaska.

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CHAIR BJORKMAN asked Ms. Wing-Heier to discuss section 5 and to explain "fiduciary duties" as they pertain to PBMs.

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MS. WING-HEIER explained that "fiduciary duties" indicates an agreement to uphold professional duties. She stated that SB 121 defines the professional duties that PBMs must adhere to. This

includes reporting, transparency, pricing, etc. She explained that if this fiduciary duty to members is not upheld, DOI would perform a market conduct examination and would apply the appropriate fines and penalties.

[2:48:32 PM](#)

CHAIR BJORKMAN asked if section 5 clarifies this duty or if it makes the fiduciary duty more difficult.

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MS. WING-HEIER replied that she is neutral on this issue. She stated that throughout SB 121, DOI is given circumstances to regulate PBMs and added that while the fiduciary duty does not help DOI, it does give a degree of comfort to the pharmacies.

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CHAIR BJORKMAN expressed his understanding.

[2:49:03 PM](#)

SENATOR DUNBAR questioned whether the PBM's fiduciary duty would be directed to the plan, the pharmacy, the consumer - or to all of these.

[2:49:22 PM](#)

MS. WING-HEIER replied that the PBM's fiduciary duty would be to all of these.

[2:49:29 PM](#)

SENATOR DUNBAR expressed his understanding that the enforcement mechanism is through DOI and would primarily be a "complaint driven" process. He asked if there would be a private right of action and, more specifically, if anyone would be precluded from bringing a suit as a result of needing to first exhaust the administrative options.

[2:50:04 PM](#)

MS. WING-HEIER replied that she does not see anything in SB 121 that would preclude a third-party from having an independent cause of action against a PBM.

[2:50:13 PM](#)

SENATOR DUNBAR asked how this is played out in other states and whether successful actions have been brought by Divisions of Insurance in other states.

[2:50:38 PM](#)

MS. WING-HEIER replied that she is aware of two court cases - one in Arkansas and one in Oklahoma. She shared her understanding that in these cases, the feeling is that DOI is "overstepping its bounds" with respect to Employee Retirement Security Act (ERISA) plans. She explained that ERISA plans are essentially union plans and are therefore governed by federal law. She said that there has been some action in the courts around these plans. She explained that DOI is able to regulate the third-party administrator but cannot regulate the ERISA plan design as it would an insurance company. She clarified that the courts have considered this issue and determined that, as long as the PBM legislation only controls costs, it is not regulating the plan. However, there is a dispute because ERISA representatives believe that controlling costs does, in fact, impact the plan.

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SENATOR DUNBAR asked if this is in federal or state court.

[2:51:37 PM](#)

MS. WING-HEIER replied that these cases are in federal court, with one being heard by the United States Supreme Court.

[2:51:46 PM](#)

SENATOR DUNBAR shared his understanding that in both of these cases, there were attempts to regulate and the plans brought suit against these attempts.

[2:51:57 PM](#)

MS. WING-HEIER replied that this is correct.

[2:52:00 PM](#)

SENATOR DUNBAR asked if DOI is aware of any penalties or successful actions taken against PBMs for violating the fiduciary duty.

[2:52:09 PM](#)

MS. WING-HEIER replied no and pointed out that legislation broadly regulating PBMs is still relatively new.

[2:52:22 PM](#)

SENATOR DUNBAR clarified that he is not trying to speak against SB 121; rather, he is attempting to envision what it would look like in action. He commented that DOI is much smaller - and has fewer resources at its disposal - than many of the PBMs and associated companies. He surmised that enforcement of the

provisions would present a challenge; however, he added that this does not mean that the provisions should not exist.

[2:52:52 PM](#)

SENATOR BISHOP asked if there have been cases in which a plan has pushed back against a PBM to negotiate a lower rate.

[2:53:23 PM](#)

MS. WING-HEIER replied that it is the plan's job to negotiate the best rate for their members.

[2:53:37 PM](#)

SENATOR BISHOP asked if DOI currently has the ability to audit PBMs.

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MS. WING-HEIER replied no. She explained that the biggest concern is PBM transparency. She shared her understanding that neither DOI nor the Division of Corporations, Business, and Professional Licensing (DCBPL) have this ability.

[2:54:09 PM](#)

SENATOR BISHOP asked if SB 121 would allow DOI to audit PBMs.

[2:54:12 PM](#)

MS. WING-HEIER replied that SB 121 would allow the director of the division to conduct a market conduct examination once the PBM is licensed.

[2:54:58 PM](#)

SENATOR BISHOP asked if there are business made up of former PBM employees that advise individuals of how to negotiate and do business with PMBs.

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MS. WING-HEIER shared her understanding that pharmacists have an organization that allows them to negotiate with PBMs. She explained that this organization acts as a "middle man" between the pharmacies and the PBMs.

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CHAIR BJORKMAN held SSSB 121 in committee.

[2:57:03 PM](#)

There being no further business to come before the committee, Chair Bjorkman adjourned the Senate Labor and Commerce Standing Committee meeting at 2:57 p.m.