

HB

539



# HOUSE COMMITTEE REPORT

4-19-04

(7)

Date Referred to Committee: March 18, 2004

FURTHER REFERRALS: Judiciary

Date of Committee Action: April 16, 2004

The LABOR AND COMMERCE Committee considered:

HB 539

HOUSE BILL NO. 539

UNIV. STUDENT PRACTICUM LIABILITY/WAGES

"An Act exempting a person who allows a student of the University of Alaska to gain practical work experience with the person while participating in a practicum from vicarious liability as an employer, and exempting the student participating in a practicum from the Alaska Wage and Hour Act and workers' compensation coverage."

Recommends it be replaced with [ ] HCS or [] CS for HB 539 (L<sup>3</sup>C)  
 For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR \_\_\_\_\_ [ ] Same Title [] New Title

- [ ] attach amendments
- [ ] add new referral to \_\_\_\_\_ Committee
- [ ] Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 HSS  
 LEG  
 LAW  
 LWF  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

4 φ FN

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
UA	4			X
LWF	3			X
LWF	2			X
LAW	1			X

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	CRAWFORD				(7) X
	LYNN				X
	GATTO				X
	ROKBERG				X
	DAHLSTROM				X
	FUTTNERBERG				X
Chair:	ANDERSON				X
Chair:					

# Alaska State Legislature

Session:  
State Capitol  
Juneau, AK 99801  
Phone: (907) 465-2995  
Fax: (907) 465-6592



Interim:  
716 W 4<sup>th</sup> Avenue, Suite 430  
Anchorage, AK 99501-2133  
Phone: (907) 269-0250  
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## Representative Lesil McGuire

Chair, Judiciary Committee

### SPONSOR STATEMENT

#### HB 539

*"An Act exempting a person who allows a student of the University of Alaska to gain practical work experience with the person while participating in a practicum from vicarious liability as an employer, and exempting the student participating in a practicum from the Alaska Wage and Hour Act and workers' compensation coverage."*

HB 539 provides the same employment liability for university intern programs that already exist in statute for high schools throughout the state.

University health and construction programs have had difficulty obtaining sites for unpaid practicum placement positions, more commonly known as interns. This has been especially problematic with dental students, but can be expected to also be a problem with other professions, especially medical professions where the risk of serious injury is a potential. The legitimate concern of placement sites is that without statutory clarification students could be considered as employees of the site for:

- 1.) Negligence liability;
- 2.) Fair Labor Standards Act responsibility for minimum wage and overtime compensation; and

Though they are unpaid, intern positions need the exemption from the Fair Labor Standards Act and Workers Compensation to ensure that experimental benefits, which accrue to the intern, cannot be equated to wages for purposes of compensation, liability and Workers comp.

Given the current legal structure, practicum placement sites have suggested that the university agree to indemnify the site for claims based on the acts of the students, or to agree that the students will be the employees of the university for liability purposes. From the university's perspective, neither of these suggestions is realistic. The university does not supervise the students. There is a substantial risk that indemnity could be interpreted to cover damages which are caused by the negligence of the site. The time required to negotiate around these potential liabilities is substantial. All of which is counterproductive to training Alaskans for good in-state jobs.

HB 539 proposes three cumulative statutory fixes designed to protect the sites that offer their services to UA interns on an unpaid basis. The threshold requirement that the students not be paid ensures that sites will not use practicum placement immunity to take advantage of employees who are also students.

From a liability perspective, this proposal is designed to leave each participant—the university, the student, and the site—responsible for its own fault. Thus, this proposal does not alter a party's responsibility for its own negligence, but it does limit vicarious liability of one party for the fault of another.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465 2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 16, 2004

**SUBJECT:** Student Practicum Immunity, CSHB 539( ),  
(Work Order No. 23-LS1837D)

**TO:** Representative Lesil McGuire  
Attn: Heath Halyard

**FROM:** Barbara R. Craver *BRC*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** This section adds a new section to the University of Alaska title, AS 14.40, to define a student practicum and to state that a person who provides the practical experience is not considered to be an employer of the student in a lawsuit based on the vicarious liability of the employer for an employee.

**Section 2.** This section adds a student who is participating in a student practicum to the list of exemptions to the Alaska Wage and Hour Act.

**Section 3.** This sets an effective date for this bill.

BRC:mdr  
04-157.mdr

As enrollments rise across the UA system, more students are entering fields of study which require placements in the work world as a portion of their study. Two such courses of study are construction and health education.

For instance, enrollment in health education programs such as nursing, dental, medical laboratory, and radiology are growing rapidly. As a portion of their study, students must complete clinical practicum with providers in their offices, clinics and hospitals.

Health providers have been hosting UA students for many years, and with great success. To date there have not been any liability claims against providers for actions that students have taken while working with providers. UA has long-standing and successful partnerships with hospitals, doctors, dentists and many other health care professionals. These are formalized in agreements between the University and the provider which state that the providers are not responsible or liable for any malpractice claims, workers compensation claims, or fair labor standards actions of the student.

Why do we need legislation to address liability if we have not had problems and if we have provider agreements? As more students are enrolled in programs and as programs branch out to more communities, UA is finding that potential new providers are reluctant to participate in practicum programs due to liability concerns. UA can no longer rely on historic arrangements that were put in place when liability concerns of providers were not as critical as they are today.

This last year, for instance, UAF needed clinical sites for its dental assisting students. The dental assisting program is growing rapidly in Fairbanks and new dentists needed to be recruited into the practicum program. While dentists were very interested in taking students, many declined. A bare minimum of practicum were obtained so existing students could graduate. Without this legislation, it is unlikely the dental education programs across the state will continue and grow to meet community needs. Lack of clarity about liability is having a negative impact on the private sector's willingness to be involved in vital practicum programs.

Legislation is needed to state clearly what the University believes is existing policy. The legislation clarifies that students are not employees, and therefore not subject to negligence liability, fair labor standards for minimum wage and overtime compensation.

This legislation is intended to give providers and placement sites the clarity in statute to protect them when offering their facilities and services to University students. The threshold requirement that students not be paid ensures that the sites will not use practicum students immunity to take advantage of employees who are also students. From a liability perspective, this proposal is designed to leave each entity - the university, the student, and the site responsible for their own liability.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 539(L&C)  
 (H) Publish Date: 4/19/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act excepting a person who allows a student RDU CIVIL  
of the University of Alaska....from liability as an employer..." Component Torts and Workers' Compensation  
 Sponsor House Judiciary Committee  
 Requester House Labor and Commerce Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill allows an employer to allow a university student to gain practical work experience as part of the student's curriculum without incurring vicarious liability as an employer, and exempting the student from the Alaska Wage and Hour Act and workers' compensation coverage.

Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673  
 Division Administrative Services Date/Time 4/14/04 11:52 AM  
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 4/14/2004  
 Agency Department of Law

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 539(L&C)  
(H) Publish Date: 4/19/04

Revision: Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
Title: Univ. Student Practicum Liability/Wages RDU: Workers' Compensation  
Sponsor: House Judiciary Component: Workers' Compensation  
Requester: House L&C Component Number: 344

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: None  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: Paul Lisankle, Director Phone 465-2790  
Division: Division of Workers' Compensation Date/Time 4/12/04 9:47 AM  
Approved by: Greg O'Clary, Commissioner Date 4/12/2004  
Agency: Department of Labor and Workforce Development

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSHB 539(L&C)  
(H) Publish Date: 4/19/04

Revision Date/Time (Note if correction):  
Title: Univ. Student Practicum Liability/Wages  
Sponsor: House Judiciary  
Requester: House L&C

Department: Labor and Workforce Development  
RDU: Labor Standards & Safety  
Component: Wage & Hour  
Component Number: 345

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: None

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: Grey Mitchell, Director  
Division: Labor Standards & Safety  
Approved by: Greg O'Claray, Commissioner  
Agency: Department of Labor and Workforce Development

Phone 465-4855  
Date/Time 4/12/04 7:55 AM  
Date 4/12/2004

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 4  
Bill Version: CSHB 539(L&C)  
(H) Publish Date: 4/19/04

Revision Date/Time (Note if correction):  
Title UNIV. STUDENT PRACTICUM LIABILITY/WAGES

Dept. Affected: University of Alaska  
RDU \_\_\_\_\_  
Component \_\_\_\_\_

Sponsor Judiciary  
Requester \_\_\_\_\_

Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would have no fiscal impact on the University.

Prepared by: Pat Pitney  
Division: University of Alaska  
Approved by: Pat Pitney  
Agency: University of Alaska

Phone 907-474-7958  
Date/Time 4/12/04 10:47 AM  
Date 4/12/2004

23-LS1837D  
Craver  
4/16/04

**CS FOR HOUSE BILL NO. 539( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**

**Referred:**

**Sponsor(s): HOUSE JUDICIARY COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act exempting a person who allows a student of the University of Alaska to gain**  
2 **practical work experience with the person while participating in a practicum from**  
3 **vicarious liability as an employer, and exempting the student participating in a**  
4 **practicum from the Alaska Wage and Hour Act; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 **\* Section 1. AS 14.40 is amended by adding a new section to read:**

7 **Sec. 14.40.065. Student practicums immunity.** A person is not considered  
8 to be an employer of a student of the University of Alaska in a civil action based on  
9 the vicarious liability of an employer for the acts or omissions of an employee if the  
10 person

11 (1) has agreed to allow the student to gain practical work experience  
12 with the person in a practicum that is part of the student's curriculum; and

13 (2) pays no compensation to the student.

14 **\* Sec. 2. AS 23.10.055 is amended to read:**

1           **Sec. 23.10.055. Exemptions.** The provisions of AS 23.10.050 - 23.10.150 do  
2 not apply to

3           (1) an individual employed in agriculture, which includes farming in  
4 all its branches and, among other things, includes the cultivation and tillage of the soil,  
5 dairying, the production, cultivation, growing, and harvesting of any agricultural or  
6 horticultural commodities, the raising of livestock, bees, fur-bearing animals, or  
7 poultry, and any practices, including forestry and lumbering operations, performed by  
8 a farmer or on a farm as an incident to or in conjunction with the farming operations,  
9 including preparation for market, delivery to storage or to market or to carriers for  
10 transportation to market;

11           (2) an individual employed in the catching, trapping, cultivating or  
12 farming, netting, or taking of any kind of fish, shellfish, or other aquatic forms of  
13 animal and vegetable life;

14           (3) an individual employed in the hand picking of shrimp;

15           (4) an individual employed in domestic service, including a baby-  
16 sitter, in or about a private home;

17           (5) an individual employed by the United States or by the state or  
18 political subdivision of the state, except as provided in AS 23.10.065(b), including  
19 prisoners not on furlough detained or confined in prison facilities;

20           (6) an individual engaged in the nonprofit activities of a nonprofit  
21 religious, charitable, cemetery, or educational organization or other nonprofit  
22 organization where the employer-employee relationship does not, in fact, exist, and  
23 where services rendered to the organization are on a voluntary basis and are related  
24 only to the organization's nonprofit activities; for purposes of this paragraph,  
25 "nonprofit activities" means activities for which the nonprofit organization does not  
26 incur a liability for unrelated business income tax under 26 U.S.C. 513, as amended;

27           (7) an employee engaged in the delivery of newspapers to the  
28 consumer;

29           (8) an individual employed solely as a watchman or caretaker of a  
30 plant or property that is not in productive use for a period of four months or more;

31           (9) an individual employed in a bona fide executive, administrative, or

1 professional capacity or in the capacity of an outside salesman or a salesman who is  
2 employed on a straight commission basis;

3 (10) an individual employed in the search for placer or hard rock  
4 minerals;

5 (11) an individual under 18 years of age employed on a part-time basis  
6 not more than 30 hours in a week;

7 (12) employment by a nonprofit educational or child care facility to  
8 serve as a parent of children while the children are in residence at the facility if the  
9 employment requires residence at the facility and is compensated on a cash basis  
10 exclusive of room and board at an annual rate of not less than

11 (A) \$10,000 for an unmarried person; or

12 (B) \$15,000 for a married couple;

13 (13) an individual who drives a taxicab, is compensated for taxicab  
14 services exclusively by customers of the service, whose written contractual  
15 arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch  
16 services are based upon flat contractual rates and not based on a percentage share of  
17 the individual's receipts from customers, and whose written contract with owners of  
18 taxicab vehicles, taxicab permits, or radio dispatch services specifically provides that  
19 the contract places no restrictions on hours worked by the individual or on areas in  
20 which the individual may work except to comply with local ordinances;

21 (14) a person who holds a license under AS 08.54 and who is  
22 employed by a registered guide or master guide licensed under AS 08.54, for the first  
23 60 work days in which the person is employed by the registered guide or master guide  
24 during a calendar year;

25 (15) an individual engaged in activities for a nonprofit religious,  
26 charitable, civic, cemetery, recreational, or educational organization where the  
27 employer-employee relationship does not, in fact, exist, and where services are  
28 rendered to the organization under a work activity requirement of AS 47.27 (Alaska  
29 temporary assistance program); [OR]

30 (16) an individual who

31 (A) provides emergency medical services only on a voluntary

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basis;

(B) serves with a full-time fire department only on a voluntary

basis; or

(C) provides ski patrol services on a voluntary basis; or

(17) a student participating in a University of Alaska practicum  
described under AS 14.40.065.

\* Sec. 3. This Act takes effect July 1, 2004.

# Alaska State Legislature

Session:  
State Capitol  
Juneau, AK 99801  
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Interim:  
716 W 4<sup>th</sup> Avenue, Suite 430  
Anchorage, AK 99501-2133  
Phone: (907) 269-0250  
Fax: (907) 269-0249

## Representative Lesil McGuire

Chair, Judiciary Committee

### SPONSOR STATEMENT

#### HB 539

*"An Act exempting a person who allows a student of the University of Alaska to gain practical work experience with the person while participating in a practicum from vicarious liability as an employer, and exempting the student participating in a practicum from the Alaska Wage and Hour Act and workers' compensation coverage."*

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University health and construction programs have had difficulty obtaining sites for unpaid practicum placement positions, more commonly known as interns. This has been especially problematic with dental students, but can be expected to also be a problem with other professions, especially medical professions where the risk of serious injury is a potential. The legitimate concern of placement sites is that without statutory clarification students could be considered as employees of the site for:

- 1.) Negligence liability;
- 2.) Fair Labor Standards Act responsibility for minimum wage and overtime compensation; and
- 3.) Workers compensation responsibility

Though they are unpaid, intern positions need the exemption from the Fair Labor Standards Act and Workers Compensation to ensure that experimental benefits, which accrue to the intern, cannot be equated to wages for purposes of compensation, liability and Workers comp.

Given the current legal structure, practicum placement sites have suggested that the university agree to indemnify the site for claims based on the acts of the students, or to agree that the students will be the employees of the university for liability purposes. From the university's perspective, neither of these suggestions is realistic. The university does not supervise the students. There is a substantial risk that indemnity could be interpreted to cover damages which are caused by the negligence of the site. The time required to negotiate around these potential liabilities is substantial. All of which is counterproductive to training Alaskans for good in-state jobs.

HB 539 proposes three cumulative statutory fixes designed to protect the sites that offer their services to UA interns on an unpaid basis. The threshold requirement that the students not be paid ensures that sites will not use practicum placement immunity to take advantage of employees who are also students.

From a liability perspective, this proposal is designed to leave each participant—the university, the student, and the site—responsible for its own fault. Thus, this proposal does not alter a party's responsibility for its own negligence, but it does limit vicarious liability of one party for the fault of another.

As enrollments rise across the UA system, more students are entering fields of study which require placements in the work world as a portion of their study. Two such courses of study are construction and health education.

For instance, enrollment in health education programs such as nursing, dental, medical laboratory, and radiology are growing rapidly. As a portion of their study, students must complete clinical practicum with providers in their offices, clinics and hospitals.

Health providers have been hosting UA students for many years, and with great success. To date there have not been any liability claims against providers for actions that students have taken while working with providers. UA has long-standing and successful partnerships with hospitals, doctors, dentists and many other health care professionals. These are formalized in agreements between the University and the provider which state that the providers are not responsible or liable for any malpractice claims, workers compensation claims, or fair labor standards actions of the student.

Why do we need legislation to address liability if we have not had problems and if we have provider agreements? As more students are enrolled in programs and as programs branch out to more communities, UA is finding that potential new providers are reluctant to participate in practicum programs due to liability concerns. UA can no longer rely on historic arrangements that were put in place when liability concerns of providers were not as critical as they are today.

This last year, for instance, UAF needed clinical sites for its dental assisting students. The dental assisting program is growing rapidly in Fairbanks and new dentists needed to be recruited into the practicum program. While dentists were very interested in taking students, many declined. A bare minimum of practicum were obtained so existing students could graduate. Without this legislation, it is unlikely the dental education programs across the state will continue and grow to meet community needs. Lack of clarity about liability is having a negative impact on the private sector's willingness to be involved in vital practicum programs.

Legislation is needed to state clearly what the University believes is existing policy. The legislation clarifies that students are not employees, and therefore not subject to negligence liability, fair labor standards for minimum wage and overtime compensation.

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# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 16, 2004

**SUBJECT:** Student Practicum Immunity, CSHB 539( ),  
(Work Order No. 23-LS1837D)

**TO:** Representative Lesil McGuire  
Attn: Heath Halyard

**FROM:** Barbara R. Craver *BRC*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** This section adds a new section to the University of Alaska title, AS 14.40, to define a student practicum and to state that a person who provides the practical experience is not considered to be an employer of the student in a lawsuit based on the vicarious liability of the employer for an employee.

**Section 2.** This section adds a student who is participating in a student practicum to the list of exemptions to the Alaska Wage and Hour Act.

**Section 3.** This sets an effective date for this bill.

BRC:mdr  
04-157.mdr

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 539  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title UNIV. STUDENT PRACTICUM LIABILITY/WAGES

Dept. Affected: University of Alaska  
 RDU \_\_\_\_\_  
 Component \_\_\_\_\_

Sponsor Judiciary  
 Requester \_\_\_\_\_

Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would have no fiscal impact on the University.

Prepared by: Pat Pitney  
 Division: University of Alaska  
 Approved by: Pat Pitney  
 Agency: University of Alaska

Phone 907-474-7958  
 Date/Time 4/12/04 10:47 AM  
 Date 4/12/2004