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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
- 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.