

ALASKA STATE LEGISLATURE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES
STANDING COMMITTEE

February 12, 2002
3:05 p.m.

MEMBERS PRESENT

Representative Fred Dyson, Chair
Representative Peggy Wilson, Vice Chair
Representative John Coghill
Representative Gary Stevens
Representative Vic Kohring
Representative Sharon Cissna
Representative Reggie Joule

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 252

"An Act relating to the construction of certain statutes relating to children; relating to the scope of duty and standard of care for persons who provide services to certain children and families; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 367

"An Act relating to coverage of children and pregnant women under the medical assistance program; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 309

"An Act relating to the Interstate Compact on Placement of Children."

- BILL HEARING POSTPONED

PREVIOUS ACTION

BILL: HB 252

SHORT TITLE:STANDARD OF CARE FOR CINA SERVICES

SPONSOR(S): REPRESENTATIVE(S) COGHILL

Jrn-Date	Jrn-Page		Action
04/23/01	1136	(H)	READ THE FIRST TIME - REFERRALS
04/23/01	1136	(H)	HES
01/17/02		(H)	MINUTE(HES)
01/17/02		(H)	HES AT 3:00 PM CAPITOL 106
01/17/02		(H)	Heard & Held MINUTE(HES)
02/07/02		(H)	HES AT 3:00 PM CAPITOL 106
02/07/02		(H)	<Bill Canceled>
02/12/02		(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 367

SHORT TITLE: MEDICAL ASSISTANCE PROGRAM COVERAGE

SPONSOR(S): REPRESENTATIVE(S) COGHILL

Jrn-Date	Jrn-Page		Action
01/30/02	2098	(H)	READ THE FIRST TIME - REFERRALS
01/30/02	2098	(H)	HES, FIN
01/30/02	2098	(H)	REFERRED TO HES
02/04/02	2153	(H)	COSPONSOR(S): OGAN, DYSON
02/12/02		(H)	HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

RYNNIEVA MOSS, Staff
to Representative John Coghill
Alaska State Legislature
Capitol Building, Room 102
Juneau, Alaska 99801

POSITION STATEMENT: Answered questions on HB 252, Version J; during hearing on HB 367, explained calculations used to arrive at poverty-level figures.

THERESA TANOURY, Director
Division of Family and Youth Service
Department of Health and Social Services
P.O. Box 110630
Juneau, Alaska 99811-0630

POSITION STATEMENT: Testified on HB 252, saying Version J is more acceptable than the original bill, but some concerns remain about the construction section.

JAN RUTHERDALE, Assistant Attorney General

Human Services Section
Civil Division (Juneau)
Department of Law
P.O. Box 110300

Juneau, Alaska 99811-0300

POSITION STATEMENT: During hearing on HB 252, explained the purpose of the construction section and noted that language in Version J creates a gridlock for the court.

SUSAN COX, Chief Assistant Attorney General
Civil Division (Juneau)
Department of Law
P.O. Box 110300

Juneau, Alaska 99811-0300

POSITION STATEMENT: During hearing on HB 252, provided background on AS 47.10.960; explained the reason for its inclusion in statute and noted that it does not immunize workers or the state from liability.

NATE MOHATT, Staff
to Representative Sharon Cissna
Alaska State Legislature
Capitol Building, Room 420
Juneau, Alaska 99801

POSITION STATEMENT: During hearing on HB 252, provided clarification on Amendment 1 and amendments to it.

TONY LOMBARDO
Alaska Association of Homes for Children;
Covenant House
609 F Street
Anchorage, Alaska 99501

POSITION STATEMENT: Testified on HB 252; offered support for the original version, but said changes in Version J are in line with the position of the Alaska Association of Homes for Children; discussed various provisions, specifying support for proposed changes [in Amendment 1] that incorporate HB 23.

LAUREE HUGONIN, Director
Alaska Network on Domestic Violence and Sexual Assault
130 Seward Street, Room 209
Juneau, Alaska 99801

POSITION STATEMENT: During hearing on HB 252, suggested changes to language in the bill; advocated for early intervention with the use of family preservation services.

JAY LIVEY, Commissioner

Department of Health and Social Services
P.O. Box 110601
Juneau, Alaska 99811-0601

POSITION STATEMENT: Spoke in opposition to HB 367; explained that while it would save the state \$5 million, \$12 million in federal funds to the state would be forfeited.

BOB LABBE, Director
Division of Medical Assistance
Department of Health and Social Services
P.O. Box 110660
Juneau, Alaska 99811-0660

POSITION STATEMENT: During hearing on HB 367, reported on the division's Denali KidCare application procedures.

KATHLEEN FITZGERALD
Key Coalition of Alaska
4521 Southpark Bluff
Anchorage, Alaska 99516

POSITION STATEMENT: Testified in opposition to HB 367; said Denali KidCare is an important piece of health care for Alaskan families.

THOMAS CONLEY, Pediatrician;
Member, Sitka Borough School District School Board
105 Cascade Street
Sitka, Alaska 99835

POSITION STATEMENT: During hearing on HB 367, advocated for Denali KidCare to remain unchanged; noted that people who are self-employed, business owners, or entrepreneurs are those most often unable to obtain reasonable health care coverage.

MEG MITCHELL
P.O. Box 1842
Homer, Alaska 99603

POSITION STATEMENT: During hearing on HB 367, supported the existing income eligibility guidelines for Denali KidCare.

DANA LEE HALL, R.Ph.
Village Operations Administrator
Yukon-Kuskokwim Health Corporation
P.O. Box 528
Bethel, Alaska 99559

POSITION STATEMENT: During hearing on HB 367, reported on Denali KidCare's contributions to health in the Y-K Delta and advocated for eligibility requirements to remain unchanged.

JIM KOHLER

Tanana Chiefs Conference (TCC)
1408 Nineteenth Avenue
Fairbanks, Alaska 99701

POSITION STATEMENT: Testified in opposition to proposed changes to Denali KidCare; explained that 20 to 30 percent of TCC beneficiaries would be cut from the program.

DIANE CLARK

Group Home Daycare
P.O. Box 351
Seward, Alaska 99664

POSITION STATEMENT: Testified in opposition to HB 367; reported that health care costs are rising and predicted that unpaid bills would be borne by the state.

TRUDY ANDERSON, Consumer Awareness Manager
Alaska Native Health Board
No address provided

POSITION STATEMENT: Testified in opposition to HB 367; emphasized that Children's Health Insurance Plan funds are 100 percent reimbursed by the federal government.

GAY WELLMAN

Copper River Native Association
HC 60, Box 227A
Copper Center, AK 99573

POSITION STATEMENT: During hearing on HB 367, reported on Fetal Alcohol Syndrome services being supported by Denali KidCare funds and urged members to keep the program unchanged.

NANCY WELLER, Unit Manager
State, Federal, and Tribal Relations
Division of Medical Assistance
Department of Health and Social Services
P.O. Box 110660

Juneau, Alaska 99811-0660
POSITION STATEMENT: During hearing on HB 367, clarified that cuts to Denali KidCare would affect both Native and non-Native children.

ACTION NARRATIVE

TAPE 02-8, SIDE A
Number 0001

CHAIR FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:05 p.m. Representatives Dyson, Wilson, Coghill, Kohring, Cissna, and Joule were present at the call to order. Representative Stevens arrived as the meeting was in progress.

HB 252-STANDARD OF CARE FOR CINA SERVICES

[Contains discussion of HB 23, which was used as a basis for Amendment 1 (F.1)]

Number 0167

CHAIR DYSON announced that the first order of business would be HOUSE BILL NO. 252, "An Act relating to the construction of certain statutes relating to children; relating to the scope of duty and standard of care for persons who provide services to certain children and families; and providing for an effective date."

Number 0180

REPRESENTATIVE COGHILL moved to adopt the proposed committee substitute (CS) for HB 252, Version J, 22-LS0454\J, Lauterbach, 2/11/02, as the work draft. There being no objection, Version J was before the committee.

REPRESENTATIVE COGHILL, sponsor of HB 252, explained that compelling testimony was heard in a House Finance subcommittee hearing that highlighted the need for [higher standards for caseworkers]. He offered that the duty and standard of care created puts a greater pressure on [caseworkers]. He indicated the need for balance in approaching this issue, to raise the standard [of care] and also meet [children's] needs. He said his concerns are met by repealing the language in statute that says there is no standard. He expressed his belief that parents should be included in the bill's language. He characterized [Version J] as having fewer "teeth" while still providing "positive movement." He stated that his aide was present to answer questions during the amendment process.

Number 0340

RYNNIEVA MOSS, Staff to Representative John Coghill, Alaska State Legislature, explained the changes from the original bill. Version J changes the requirement for the Division of [Family and Youth] Services (DFYS) to adopt regulations setting a duty

and standard of care. Currently, DFYS has policies and procedures similar to the standards addressed in the bill. She said Version J takes the pressure off of DFYS to do something with regulations right away. It does repeal the language in statute that says there is no duty or standard of care.

Number 0442

THERESA TANOURY, Director, Division of Family and Youth Service, Department of Health and Social Services, noted that DFYS appreciates the change provided in [Version J]. She offered that [DFYS] believes in and has standards; workers are held to a standard by a code of ethics. "I think this is an easier draft to swallow," she said. Some concern still exists regarding the construction, she pointed out; the fiscal note will be readjusted and brought before the committee.

CHAIR DYSON asked if she had any objection to [page 1] line 8, which addresses parental rights.

MS. TANOURY replied that she believes the Department of Law has some opinion on this matter. However, she said this construction puts parents' interests slightly above those of the child in question; DFYS objects to this. She indicated that [current statute] places the child's needs above the parents' needs. She referenced discussion with Representative Coghill wherein [DFYS] had suggested a more balanced statement that would equally promote children's and parents' best interests.

Number 0553

JAN RUTHERDALE, Assistant Attorney General, Human Services Section, Civil Division (Juneau), Department of Law, offered that she was testifying only on Section 1, whereas Susan Cox of the Department of Law could speak to Section 2. Ms. Rutherford said AS 47.10.005 is a statutory construction provision; it only comes up when a statute is ambiguous when applied to a particular case. The [existing statutory] construction calls for a court to interpret the statute in a way that promotes the child's welfare. [Version J], however, calls for this interpretation to be based on parents' rights to educate and bring up their children. She offered that this creates a gridlock for the court: Should the court promote the child's welfare or recognize parents' inherent rights?

Number 0663

MS. RUTHERDALE told members this language doesn't help the court in these situations. However, she provided suggestions. She referred to AS 47.050.65, enacted in 1998 when the child-in-need-of-aid (CINA) laws were revised; they are the legislative findings, she said. She suggested the wording in [Version J] is found in the legislative findings. For example, parents have the following rights and responsibilities: to provide food, clothing, shelter, education, and medical care; and to train, discipline, protect, nurture, and determine where the child shall live.

MS. RUTHERDALE indicated the legislative findings are saying that parents possess those types of rights and responsibilities in raising their children. She suggested that either the legislative findings say what [Version J] is attempting to say or that they warrant revision if the legislature's intent is unclear. Placing those provisions in the construction statute creates a gridlock that hinders the court. She added that if problems exist, such as statutes that are ambiguous or difficult to understand, then perhaps amendments to those provisions are needed.

Number 0783

CHAIR DYSON summarized his understanding of Ms. Rutherford's testimony by saying the Department of Law does not object to the content of the language; rather, it objects to its placement [in the construction section].

MS. RUTHERDALE responded that the particular wording "parents possess inherent, individual rights to direct and control the education" concerns her. The constitution creates certain rights; Alaska's constitution has an actual right of privacy, for example. She explained that creating a statutory pronouncement of inherent rights to direct and control education, for example, might cause later complications in education bills. A parent might say, "I have a right to direct how ... public funds are spent to educate my child." She said she'd be happy to draft other language to target [the intended] meaning. She again offered that the language might already exist in the findings.

CHAIR DYSON asked about the difference in the importance of the language, whether it is in the findings or in the construction section.

MS. RUTHERDALE replied that she was uncertain about the answer. She pointed out that when she is presenting [a case] to the court, however, she often points to the legislative findings, "Your Honor ... this is what the legislature found, ... so you should find this way because this is really important to the legislature." The construction provides a similar argument. Ms. Rutherfordale explained that giving clear guidance to the court to err on a particular side when it is in doubt is an important directive. The court may consider other things such as the legislative findings. She concluded that more than one [directive] in the construction will confuse the court in determining which way to lean. She stated that this issue would not come up often; most statutes are clear to judges.

CHAIR DYSON asked what "construction" means as a legal term.

MS. RUTHERDALE answered that it means how a law is construed or interpreted.

REPRESENTATIVE COGHILL asked for the location of the aforementioned statutory citation.

MS. RUTHERDALE responded that it is in AS 47.05.[065]. She noted that it was unusual for it to be placed in the administration of welfare, social services, and institutions section, rather than in Chapter 10, which addresses CINA. She said it is clear, however, that these legislative findings apply to Chapter 10; they were all part of the same legislative package.

Number 1020

SUSAN COX, Chief Assistant Attorney General, Civil Division (Juneau), Department of Law, explained that the language to be repealed by Section 2 of Version J was part of the "Smart Start" package enacted by the legislature in 1998. The rationale for that sentence's insertion was to avoid new liabilities being created by the Smart Start legislation.

MS. COX told members the "duty and standard of care" section was included in the package to make clear that the legislature was not intending to create new civil liabilities or claims for damages against the state or its employees in the event that selective Smart Start provisions were not met in their entirety. The section, she offered, does not immunize the state in any way; DFYS and its employees can be sued for negligence if children are not properly protected. The standard in any case

is negligence in the failure to take reasonable care to protect children. She noted that the rationale for AS 47.10.960 was to ensure that all the goals in the Smart Start legislation were not used selectively to create a new claim for damages against the department or its employees. The statute reads as follows:

Sec. 47.10.960. Duty and standard of care not created.

Nothing in this title creates a duty or standard of care for services to children and their families being served under AS 47.10.

MS. COX offered that she and [Chair Dyson], among other people, had discussed this at the time; it was part and parcel of the package when it was enacted.

Number 1153

MS. COX explained the concern of the Department of Law. Defense attorneys, whose job is to respond to liability claims against the state, foresee that the implication of repealing this sentence is that the legislature intends to mean something. The question is, what is the meaning? Does the legislature intend, by repealing this language, for the state to be held accountable in civil claims for damages for any violation of the many provisions of AS 47.10, for example? If an effort were made to take action in a child protection case, for example, and the social workers and the attorneys had presented the best case to terminate parental rights - and yet the court determined not enough had been done to establish the case for termination - does the legislature want to impose potential liability that the parents could bring against the state? Furthermore, the protection case may continue and parental rights could ultimately be terminated, but a claim could still be made.

Number 1222

MS. COX stated that the Smart Start legislation had many goals and a large fiscal note to hire more caseworkers to reduce caseloads. She noted that she'd thought it was understood from the outset that not all of the deadlines and timeframes could possibly be met initially with the available resources.

MS. COX noted her concern regarding new liabilities being created by removing this language. She said if the objection to this language is based on concern that Title 47 doesn't create a standard of care for serving children and that some wish the

statement to be made that the department must follow it, it is already clear to the department that it must follow [Title 47]. The department has policies and procedures to implement the law, and lawyers to help them accomplish that. She said:

If that language is objectionable and needs to be removed, we would certainly request that if it is not the legislature's intention to create new liabilities, that we come up with some substitute language that makes that point clear.

CHAIR DYSON asked Ms. Cox if removing the language increases the possibility that state employees would be sued, and whether removing it creates [greater liability] than if the language had never been in statute.

MS. COX said it certainly raises the possibility. The language had been in statute, and it is assumed that the legislature means everything it says. Taking it out raises the questions of what the legislature intends to mean and whether it intends to authorize new claims. She said the argument will certainly be made; whether a plaintiff would prevail remains to be seen.

Number 1346

MS. COX, in response to a question from Representative Cissna, explained that the plaintiff determines which party to sue: the state, the Department of Health and Social Services, the commissioner, or the social worker personally. The Office of the Attorney General represents whomever the defendant might be, in virtually all suits pertaining to carrying out official duties as a state employee. Most cases in a liability situation are settled with a payment of state money. She added that it is the rare situation in which a social worker acts completely outside the scope of his/her employment, which possibly can lead to personal liability.

Number 1420

CHAIR DYSON asked if different wording could be used that would not preclude a standard and that would say the department will be diligent in following its own policies, procedures, and regulations.

MS. COX offered that she would be happy to work on language, if the bill is held over, that hopefully would not create a new

liability, but would send the message that the legislature wants the department to follow the standard in the bill.

Number 1450

REPRESENTATIVE COGHILL responded that he'd be open to the foregoing, but wants it clear that there is a continuing responsibility that creates the liability; excusing [workers] is unwise. The CINA statute is intended to protect children, he noted. He said:

We give ... some judicial and some police powers to people, and we have excused them [by] this exact language from certain responsibilities; I ... don't think that's wise. And so, I think this is upping the limit. I think that it's going to help us to do things better. I was willing to drop the exact language for how they should do it, but I still think we need to have the upward pressure of saying there is responsibility for the actions that we take.

REPRESENTATIVE COGHILL indicated he thinks it wise to keep the lines of the limited scope of government clearly defined. He agreed the responsibility level is elevated here. He said he isn't sure he's interested in language that will excuse that. He said he is open to language that will more clearly define these responsibilities.

Number 1505

CHAIR DYSON added, "And not necessarily appear to be authorizing lawsuits." He asked Ms. Cox whether this is her concern, should the language be removed.

MS. COX replied that this is precisely her concern. She offered that she is definitely concerned about increasing the likelihood of lawsuits. She clarified that language in the bill does not immunize social workers in any way; workers and the department are still subject to litigation under the current law if they are negligent in the provision of services to children they are supposed to protect.

REPRESENTATIVE COGHILL said, "It is also true that you said that by taking this language out, the liability elevates."

MS. COX explained that this provision just says that no specific line or sentence in the Smart Start legislation can be taken out

and construed to create a claim for damages against the department or a social worker. The legislation passed that established timelines for children's cases doesn't, in itself, create a liability. At the same time, this does not immunize the department, which can be sued - and is sued - for negligence. The language in question simply means that nothing in the bill creates a new cause of action, she said. The possibility of a suit based on failure to act reasonably in providing services does exist. However, taking this language out is an invitation to some to whom it might appear that they can sue [for failure to meet specific provisions in the Smart Start legislation].

Number 1600

REPRESENTATIVE COGHILL offered that cases exist wherein a lack of timeliness has caused harm, and some of those issues need to be addressed. He added that [the state] requires others to follow timelines but allows interpretation for one's own benefit. He stated that he finds this problematic. He said, "I agree that it does do that, but we have given police powers and judicial powers to people who are overseeing ... the child-in-need-of-aid cases. And I think ... the tension there is important."

CHAIR DYSON announced that he would entertain amendments.

Number 1647

REPRESENTATIVE CISSNA moved to adopt Amendment 1, 22-LS0454\F.1, Lauterbach, 2/5/02, which read:

Page 1, line 3, following "**families;**":

Insert "**relating to intensive family preservation services;**"

Page 1, following line 13:

Insert new bill sections to read:

"* **Sec. 2.** AS 47.10.086(a) is amended to read:

(a) Except as provided in (b) and (c) of this section, the department shall make timely, reasonable efforts to provide family support services to the child and to the parents or guardian of the child that are designed to prevent out-of-home placement of the child or to enable the safe return of the child to the family home, when appropriate, if the child is in an out-of-home placement. Within appropriations

available for the purpose, the department shall also offer intensive family preservation services when those services are available and the child's safety in the home can be maintained during the time the services are provided. The department's duty to make reasonable efforts under this subsection to provide family support services includes the duty to

(1) identify family support services that will assist the parent or guardian in remedying the conduct or conditions in the home that made the child a child in need of aid;

(2) actively offer the parent or guardian, and refer the parent or guardian to, the family support services identified under (1) of this subsection; the department shall refer the parent or guardian to community-based family support services whenever community-based services are available and desired by the parent or guardian; and

(3) document the department's actions that are taken under [(1) AND (2) OF] this subsection, including whether intensive family preservation services were appropriate, offered, used, or available.

* **Sec. 3.** AS 47.10.086(b) is amended to read:

(b) If the court makes a finding at a hearing conducted under AS 47.10.080(1) that a parent or guardian has not sufficiently remedied the parent's or guardian's conduct or the conditions in the home despite reasonable efforts made by the department in accordance with this section, the court may conclude that continuation of reasonable efforts of the type described in (a) of this section are not in the best interests of the child. The department shall then make reasonable efforts to place the child in a timely manner in accordance with the permanent plan and to complete whatever steps are necessary to finalize the permanent placement of the child. If the court concludes that continuation of reasonable efforts of the type described in (a) of this section are not in the best interests of the child and intensive family preservation services were not provided in the case, the court shall enumerate in the record the reasons the services were not provided.

* **Sec. 4.** AS 47.10.142(b) is amended to read:

(b) The department shall offer available counseling services and intensive family preservation services to the person having legal custody of a minor

described in AS 47.10.141 and to the members of the minor's household if it determines that counseling services or intensive family preservation services would be appropriate in the situation. If, after assessing the situation, offering available [COUNSELING] services to the legal custodian and the minor's household, and furnishing appropriate social services to the minor, the department considers it necessary, the department may take emergency custody of the minor.

* **Sec. 5.** AS 47.10 is amended by adding new sections to read:

Article 3A. Intensive Family Preservation Services.

Sec. 47.10.500. Statewide program. Subject to AS 47.10.510 and 47.10.520, the department shall, within appropriations available for the purpose, provide intensive family preservation services on a statewide basis. The department may provide the services directly or through contracts with private nonprofit providers.

Sec. 47.10.510. Effectiveness required. (a) The department shall develop measurable standards that must be met by a provider before a contract may be awarded to the provider under AS 47.10.500.

(b) The department may not renew a contract with a provider of services unless the provider can demonstrate that provision of the services prevented or terminated out-of-home placement in at least 70 percent of the cases served by the provider and that out-of-home placement was avoided for a period of at least six months after termination of the services.

(c) The department may not continue direct provision of services unless the department can demonstrate that provision of the services prevented or terminated out-of-home placement in at least 70 percent of the cases served and that out-of-home placement was avoided for a period of at least six months after termination of the services.

Sec. 47.10.520. Eligibility for services. (a) The department may provide intensive family preservation services to a child, the child's family, and other appropriate nonfamily members only if

(1) there are no other available means that will prevent out-of-home placement of the child or make it possible to immediately return the child to the child's home; and

(2) the child has been placed in out-of-

home care or is at actual, imminent risk of out-of-home placement due to

- (A) child abuse or neglect;
- (B) a serious threat of substantial harm to the child's health, safety, or welfare; or
- (C) family conflict.

(b) The department need not provide services to an otherwise eligible family if

- (1) services are not available in the community in which the family resides;
- (2) services cannot be provided because the program is filled to capacity;
- (3) the family refuses the services;
- (4) the child's case plan does not include reunification of the child and family; or
- (5) the safety of a child, a family member, or a person providing the services would be unduly threatened.

Sec. 47.10 530. Solicitation of funding sources. The department shall solicit federal and private resources that may be available to fund intensive family preservation services.

Sec. 47.10.590. Definition. In AS 47.10.500 - 47.10.590, "intensive family preservation services" and "services" mean intensive family preservation services, as defined in AS 47.10.990."

Renumber the following bill sections accordingly.

Page 2, following line 6:

Insert new bill sections to read:

*** Sec. 7.** AS 47.10.990 is amended by adding a new paragraph to read:

(28) "intensive family preservation services" means services provided to a family with a child who is in an out-of-home placement or is at imminent risk of out-of-home placement that

(A) are designed to address problems creating the need for out-of-home placement by assisting the family to improve parental and household management competence and by solving practical problems that contribute to family stress so as to improve parental performance and enhance functioning of the family unit; and

(B) have the following characteristics:

(i) are persistently offered but provided at the family's option;

(ii) are provided in the family's home;
(iii) are available 24 hours a day and seven days a week;
(iv) are provided within 24 hours of initial contact for assistance;
(v) are provided for a maximum of 40 days by a single case worker whose caseload is not more than two families at any one time; and
(vi) may, in appropriate instances and subject to available appropriations, include monetary assistance for special needs of the family, such as to obtain food, shelter, or clothing or to purchase other goods or services that will enhance the effectiveness of other services offered to help preserve the family.

* **Sec. 8.** AS 47.17.030(d) is amended to read:

(d) Before the department or a local government health or social services agency may seek the termination of parental rights under AS 47.10, it shall offer protective social services and pursue all other reasonable means of protecting the child. The department or agency shall also consider the eligibility of the child and family for intensive family preservation services under AS 47.10.500 - 47.10.590."

Renumber the following bill sections accordingly.

Page 2, following line 7:

Insert a new bill section to read:

"* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to read:

STUDY. (a) The Department of Health and Social Services shall conduct a study in at least one region of the state in order to

(1) develop a valid and reliable process for accurately identifying clients who are eligible for intensive family preservation services;

(2) collect data on which to base projections of service needs, budget requests, and long-range planning related to intensive family preservation services;

(3) develop regional and statewide projections of needs for intensive family preservation services;

(4) develop a cost estimate for implementation and expansion of intensive family preservation services on a statewide basis;

(5) develop a long-range plan and time frame for ultimately making intensive family preservation services available to all eligible families; and

(6) collect data regarding the number of children in foster care, group care, institutional care, and other out-of-home care due to medical needs, mental health needs, developmental disabilities, and juvenile offenses and to assess the feasibility of expanding intensive family preservation services eligibility to include all of these children.

(b) By November 30, 2004, the Department of Health and Social Services shall submit a report to the governor describing the study required under this section and including the department's conclusions and recommendations that are based on the study. The department shall notify the legislature that the report is available.

(c) In this section, "intensive family preservation services" has the meaning given in AS 47.10.990."

Renumber the following bill sections accordingly.

Page 2, line 8:
Delete "2"
Insert "6"

Page 2, line 9:
Delete "Section 3"
Insert "Section 9"
Delete "sec. 2"
Insert "sec. 6"

Page 2, following line 10:
Insert a new bill section to read:
"*** Sec. 13.** Except as provided in secs. 11 and 12 of this Act, this Act takes effect July 1, 2002."

[End of Amendment 1; please note that it amends Version F, the original bill, whereas the committee was now working from Version J.]

CHAIR DYSON asked whether there was any objection to putting Amendment 1 before the committee. There being no objection, Amendment 1 was before the committee.

Number 1690

REPRESENTATIVE CISSNA offered an amendment to Amendment 1, to delete lines 1 and 2 [of the amendment], which read:

Page 1, line 3, following "**families;**"

Insert "**relating to intensive family preservation services;**"

CHAIR DYSON asked whether there was any objection. [The foregoing amendment to Amendment 1 was treated as adopted.]

REPRESENTATIVE CISSNA noted that a second amendment to Amendment 1 would change line 4 [page 1 of the amendment] to read, "Page 2, following line 1:". This change is to reflect Version J, she explained. [The original amendment language read, "Page 1, following line 13:".]

CHAIR DYSON asked if there was any objection. There being no objection, [the second amendment to Amendment 1] was adopted.

Number 1751

CHAIR DYSON asked whether the dates had been straightened out.

REPRESENTATIVE CISSNA replied yes.

CHAIR DYSON announced that Amendment 1 has pen-and-ink changes that are part of the official amendment. [The only pen-and-ink change on members' copies was a date change in Section 10, subsection (b): following "By November 30," delete "2003" and insert "2004". Therefore, that change was treated as part of Amendment 1.]

Number 1790

CHAIR DYSON called an at-ease at 3:37 p.m. He called the meeting back to order at 3:40 p.m.

[Attention would return to Amendment 1 after adoption of Amendment 2.]

Number 1811

REPRESENTATIVE CISSNA began discussion of what would become [Amendment 2]. She indicated Section 3 in Version J should have been deleted. She noted that Amendment 1 has a new Section 3.

CHAIR DYSON suggested moving an amendment to Version J that deletes the language in Section 3 on page 2, line 1. [Page 2, line 1, read: "Section 1 of this Act takes effect immediately under AS 01.10.070(c)."]

CHAIR DYSON announced that the foregoing was the proposed amendment [Amendment 2]. He asked whether there was any objection. There being no objection, [Amendment 2] was adopted.

Number 1882

REPRESENTATIVE CISSNA returned attention to Amendment 1. She explained that [Section 2 of the amendment] gives the department an additional resource, in order to meet the new standard of care required in [Version J]. The language had originated in HB 23 [sponsored by Representative Cissna], which proposed a pilot study for intensive family preservation services. These services provide that a standard of care be in place through a program that the courts can use as a new tool.

Number 1939

REPRESENTATIVE CISSNA explained that this tool could be utilized by the department now, but isn't currently being chosen as such. This allows the courts to allow families to choose an intensive family preservation program as an alternative to having their children removed from the home. This puts workers in the home, working with the family while keeping the child safe. She emphasized that the first consideration in this program is the safety of the child. More than 30 states have successfully adopted this model; it originated over 20 years ago and has had very successful outcomes. She offered that her aide would explain the more technical adaptations in [Amendment 1] that he has worked out with Representative Coghill's aide.

Number 2000

CHAIR DYSON asked Representative Cissna if she had intended to imply that intensive family preservation services cannot be provided if the child has been removed from the family.

REPRESENTATIVE CISSNA answered, "Yes, they can and they are, in other states that have adopted them." She said these services

are most effective when provided before the child is removed, but are still a reasonable alternative after removal if the courts decide it is appropriate. It is a court decision, she emphasized.

Number 2027

REPRESENTATIVE WILSON asked if her understanding was correct that the services are most effective right before the child is removed; at this point, the family is in crisis and is more likely to do anything to retain custody.

REPRESENTATIVE CISSNA concurred, adding that after a child has been removed, a crisis dynamic can exist. The [intensive family preservation model] is a crisis model. Another reason to provide services before the child is removed is because many studies have shown damage to children due to absence from their parents, during which bonds can be broken. She offered that the better situation avoids damage to the child.

Number 2074

NATE MOHATT, Staff to Representative Sharon Cissna, Alaska State Legislature, offered to clear up questions regarding the "pen-and-ink changes" made to Amendment 1. [The only change on members' copies was the date-change specified earlier, but Mr. Mohatt's copy of Amendment 1 had changes that brought it into alignment with Version J.]

MR. MOHATT indicated [the third amendment to Amendment 1], therefore, would be to delete lines 12-15 on page 4 of Amendment 1, which read:

Renumber the following bill sections accordingly.

Page 2, following line 6:

Insert new bill sections to read:

CHAIR DYSON restated the foregoing and asked whether there was any objection. There being no objection, the third amendment to Amendment 1 was adopted.

Number 2144

MR. MOHATT stated that [the fourth amendment to Amendment 1] would be to delete lines 18-21 on page 5 of Amendment 1, which read:

Renumber the following bill sections accordingly.

Page 2, following line 7:

Insert a new bill section to read:

CHAIR DYSON restated the foregoing and asked whether there was any objection. There being no objection, the fourth amendment to Amendment 1 was adopted.

Number 2160

MR. MOHATT offered that [the fifth amendment to Amendment 1] would be to delete lines 16-29 on page 6 of Amendment 1, which read:

Renumber the following bill sections accordingly.

Page 2, line 8:

Delete "2"

Insert "6"

Page 2, line 9:

Delete "Section 3"

Insert "Section 9"

Delete "sec. 2"

Insert "sec. 6"

Page 2, following line 10:

Insert a new bill section to read:

CHAIR DYSON restated the foregoing and asked whether there was any objection. There being no objection, the fifth amendment to Amendment 1 was adopted.

CHAIR DYSON requested that a clean copy be provided to the committee before start of business on Thursday [February 14]. He noted that the Department of Law would be encouraged to make suggestions as well, and to talk to [Representative Coghill and Representative Cissna] before coming to the meeting.

Number 2189

REPRESENTATIVE CISSNA told members that one significant piece that presumably will affect [DFYS's] financial view of this is the cost. Foster care in Alaska costs \$8,000 to \$17,000 a child each year. Other states incur costs between \$2,000 and \$8,000 a

family each year for intensive family preservation services, she explained - substantially less.

Number 2233

REPRESENTATIVE JOULE said he was interested in having an answer at the following meeting regarding the availability of this service throughout the state.

Number 2267

CHAIR DYSON asked Ms. Tanoury if she'd been aware that [Amendment 1] was going to be offered.

MS. TANOURY replied yes.

CHAIR DYSON recounted that Ms. Tanoury had indicated in discussion with himself a year ago that it is DFYS's goal now to provide whatever services a troubled family needs in order to function. He asked what [Amendment 1] would change for DFYS.

Number 2290

MS. TANOURY offered her assumption that [Amendment 1] is identical to HB 23, which calls for DFYS to use existing funding to provide [intensive family preservation services]. She said this is a specific model in which caseloads are reduced to two cases per worker; it is a six-week service model. She pointed out the importance of having the right families receive this service; it might not be the right service for every family. She indicated DFYS would have to work with existing grantees to determine how to implement this model; she surmised it would be a grant model rather than through state employees.

MS. TANOURY explained that some funding would be required for the study; she estimated an \$80,000 fiscal note, which was the amount for HB 23. She concluded that [Amendment 1] calls for DFYS to use existing funding, which means working with existing grantees that provide family support services, family preservation services, and a time-limited family reunification service model. [Amendment 1] would provide a specific model under that grant program. She remarked, "It would impact those grantees to the extent we don't know how we would work with those grantees on this model."

TAPE 02-8, SIDE B
Number 2342

CHAIR DYSON asked Ms. Tanoury if HB 252, as amended, forces DFYS to do a pilot.

MS. TANOURY said that is her understanding. In response to further questions, she said the amendments will significantly alter the fiscal note, and that a new fiscal note would be prepared before the [February 14] meeting.

[Elmer Lindstrom, Deputy Commissioner, Department of Health and Social Services, declined to testify but suggested the Department of Law might have a fiscal concern.]

Number 2286

TONY LOMBARDO, Alaska Association of Homes for Children; Covenant House Alaska, testified via teleconference. The Alaska Association of Homes for Children represents 450 licensed residential beds for the provision of services to Alaskan children, he noted. He offered support for the original version of the bill. He observed that significant changes had been made today, but he indicated that these changes are still in line with the position of the Alaska Association of Homes for Children.

MR. LOMBARDO turned attention to Section 1, the construction section of the bill itself. He said this section is "read by the court like a headline to each section that follows." He expressed his opinion that any change to the construction section will be perceived as a clear enunciation of best practices in every aspect of CINA proceedings. The social workers in the Alaska Association of Homes for Children believe that such an enunciation of best practices is positive, he told members.

MR. LOMBARDO referenced Department of Law testimony that indicated this section could be confusing to the court; he said guiding legal principles exist such as "in pari materia," which means the court will have the opportunity to read related sections along with the construction section. Mr. Lombardo said, "We continue to support that; we think that's a good section." He offered that this could just as easily be expressed in policies or regulations. He surmised, however, that this might be more work for the department than what was accomplished today.

MR. LOMBARDO turned to Section 2 of the bill. He suggested that repealing AS 47.10.960 may or may not result in changes for the state. Changing the liability can create the perception of an opportunity, and this is always a risk, he said. He said people sue the state all the time if they feel they have been wronged by a state agency. He continued, "The bottom line for us is that we champion accountability for all state agencies working with children." He added that any step in that direction is a good one.

Number 2170

MR. LOMBARDO told members, "The potentiality ... in the first bill for creating kind of an onerous series of regulations through the state was a problem. We didn't want to see them have to do a lot of expensive work that took time away from the kids. So we're glad that you're dropping that." He stated his continued support for [the provisions from HB 23]; the family reunification services championed by Representative Cissna have always been an excellent idea, he added.

Number 2125

LAUREE HUGONIN, Director, Alaska Network on Domestic Violence and Sexual Assault, noted that she was just now seeing Amendment 1 for the first time. She expressed concern about the implementation of family preservation services. It is important to have safeguards in place when working with families in which there are adult victims, she offered. It is also important to think through how "family" is defined when attempting to reunify a family; this applies to both domestic violence situations and sexual-abuse-of-a-minor situations when the offender is a parent. She stated that this requires special skills and thought, and it is not something to be entered into lightly.

MS. HUGONIN turned attention to page 4, line 4, of Amendment 1, which read [beginning on line 3]:

(5) the safety of a child, a family member,
or a person providing the services would be unduly
threatened.

She suggested this indicates there is some level of threat that is acceptable. Therefore, she asked the committee to consider removing the word "unduly".

Number 2040

MS. HUGONIN brought attention to page 3, line 25 [Amendment 1], which read:

(C) family conflict.

She requested that it be changed. She asked, "What is family conflict? What does that concept entail?" She asked whether this means that people just can't work things out, or means domestic violence. She noted that family preservation services in other states have been tried in some of the worst-case scenarios. She said, "I think there may be some examples out there where these services are at the front - they're with neglected families."

MS. HUGONIN indicated it might be a better use of funds to target families with problems earlier; this could prevent later, more serious problems. She noted her impression that these services are focused on families with serious problems, instead of earlier intervention in families in which neglect is the problem. "It's probably pretty late in the process to be thinking about a new model of doing that, but maybe for further dialogue you could look at trying to help those families who are still in the neglect stage," she added.

Number 1994

REPRESENTATIVE CISSNA agreed with Ms. Hugonin. She said this model has been used very successfully with domestic violence situations in which there has been a restraining order. She remarked:

As we know, that's the most crucial time sometimes, [and] some of the most dangerous times [are] right after you have a worker in the home that can be there for long periods of time. And sometimes ... the worker goes and stays with the person who has made the ... restraint order to make sure that the family member is safe.

REPRESENTATIVE CISSNA said the [intensive family preservation] model has worked very well in this type of situation. She agreed the money should be spent on [earlier intervention], noting that this [model] has been proposed because it offers one last chance at the "teachable moment." She concurred with Ms. Hugonin's suggestion to define "family conflict."

Number 1919

CHAIR DYSON announced that HB 252 would be held over until [February 14].

CHAIR DYSON called an at-ease at 4:07 p.m. He called the meeting back to order at 4:10 p.m.

HB 367-MEDICAL ASSISTANCE PROGRAM COVERAGE

CHAIR DYSON announced the next order of business, HOUSE BILL NO. 367, "An Act relating to coverage of children and pregnant women under the medical assistance program; and providing for an effective date."

Number 1880

REPRESENTATIVE COGHILL, sponsor, explained that HB 367 addresses the [income eligibility level] of the Denali KidCare program. Right now, the program's level is 200 percent of the poverty level; HB 367 seeks to bring this down to 150 percent. The bill also contains "housekeeping" measures addressing such issues as removing the hyphen from "child-care". He explained that the drafter had taken this opportunity to clean up some language.

REPRESENTATIVE COGHILL pointed out that the real [intent of HB 367] is on page 4, lines 5 and 9, wherein the [household income threshold] is changed from 200 percent to 150 percent of the federal poverty guideline. He posed questions: What does this translate into for a family of three to five? How does this relate to child health care? He explained that he'd broached this issue two years ago, proposing a change to 100 percent of the [federal poverty guideline]. "I barely got out of here alive," he said. Representative Coghill continued:

It was just asking the question, was that expansion really what we wanted to do? And the resounding answer was yes, that is something that they wanted to do. And it was under the Smart Start program that passed some years ago. But once again, I'm here asking us the question: Is this really the direction we want to go?

There [are] two sides to it - there's the dollar side and there's a policy side. To me, the policy side of an expanding subsidy level for health care is something that ... I'm not willing to go for. There's

a dollar side that right now, under the fiscal condition we're in, can we really afford to go down this road further?

But what I'm not saying, and I want everybody to hear this real clear ..., is there is not a need out there. The need for child health care is there, just as sure as we're sitting here. So, I understand that there are going to be some people who are going to say, "We can't afford to do that anymore." But I think that has to be part of the legitimate discussion of "what are we going to do to fill the \$800 million hole in Alaska."

Number 1763

REPRESENTATIVE COGHILL said this does affect policy, although he doesn't expect [savings in HB 367] to fill the \$800 million [fiscal gap]. He remarked, "The argument that the investment into children's health care is going to be cheaper at this end than at the other end, I agree with." He offered that this argument is an important part of the discussion. On the other hand, he added his belief that there are families between the 150 percent and 200 percent levels that can afford [health care]. He said, "Before I'm willing to take money out of somebody else's pocket to pay for this, I'm willing to say, 'You've got to be a part of that discussion too.'" He told members that his aide would explain the family income levels associated with the aforementioned percentages. He drew members' attention to a chart in the committee packet showing income levels and the different, adjusted federal poverty levels.

Number 1694

RYNNIEVA MOSS, Staff to Representative John Coghill, Alaska State Legislature, explained that Alaska's [poverty level] is set at 125 percent of the federal poverty level.

CHAIR DYSON asked for clarification.

MS. MOSS replied that the federal poverty level for a family of four is a monthly income of \$1,472. Alaska's poverty level is set 25 percent higher by the federal government; therefore, Alaska's poverty level is set at a monthly income of \$1,840. Exemptions such as the permanent fund dividend, Native corporation dividends up to \$200 per recipient, income of

nonbiological or nonadoptive parents, and income of a step-parent are not considered as income for eligibility purposes for Denali KidCare.

MS. MOSS explained that a family of four, under the 200 percent of the federal poverty level - which is based on the 125 percent initial adjustment - can have an annual income of \$44,160. Adding [last year's amount] of the permanent fund dividend [times four] to this income, the result is \$51,561. This is a monthly income for a family of four of \$3,680, without the dividend. By contrast, the 150 percent level to which HB 367 proposes to lower the 200-percent figure would change the [pre-dividend] monthly income to \$2,760; this translates to an annual income of \$33,120. A family of four would add approximately \$5,400 [of permanent fund dividends] to that figure to arrive at nearly \$40,000, Ms. Moss explained.

Number 1568

REPRESENTATIVE WILSON commented that [the foregoing income levels] would include teachers who are single parents; she noted that many teachers earn less than that, although they have insurance.

MS. MOSS clarified that the Denali KidCare program is not for people who already have insurance through their employer.

Number 1543

REPRESENTATIVE WILSON recounted that an upset mother recently had informed Representative Wilson that the mother's health care provider had told her to drop her health insurance and sign up for Denali KidCare; this switch would result in less paperwork and more ease for the provider, the mother had been told. Representative Wilson explained that this provider was one that receives state funds. Representative Wilson reported that more than one parent had told her this. She noted that she did not know how prevalent this problem actually was, but said this parent was aggravated by the incident.

Number 1475

REPRESENTATIVE COGHILL explained that a discrepancy was discovered in some of the numbers; he noted that he'd asked the [Department of Health and Social Services] to present some of the monthly costs [for clarification purposes]. He added, however, that he was "content to let the people [testify]

because it really is a policy call, no matter what the numbers shake out at."

Number 1448

CHAIR DYSON expressed interest in hearing a brief statement from the department.

REPRESENTATIVE JOULE asked whether Chair Dyson intended to move HB 367 out of committee at this hearing.

CHAIR DYSON replied that he did not believe the committee would hear all the testimony at this hearing. He confirmed for Representative Joule that the bill would not be moved at this hearing.

Number 1425

JAY LIVEY, Commissioner, Department of Health and Social Services, spoke in opposition to HB 367. He noted that should this bill be enacted, approximately 3,800 children and 722 pregnant women would lose coverage. He concurred that this bill reduces [income] eligibility levels from 200 to 150 percent of [the federal] poverty level.

COMMISSIONER LIVEY pointed out that the fiscal note indicates the proposed reduction would save about \$5 million in general funds; however, it means the state would lose approximately \$12 million in federal funds. Denali KidCare funding is such that for every dollar spent, about 71 cents comes from the federal government, he explained. In addition to providing health care for children and pregnant women, Denali KidCare allows the state to leverage federal funds into the state's health care system.

COMMISSIONER LIVEY turned attention to savings associated with [the diminution of coverage]. He pointed out that these savings will be shifted to other payers because these children who lose coverage will go somewhere to receive care - most likely, the emergency room. Unpaid emergency room bills will generally be paid by the state; other payers in the system will pay some of that bill. When that happens, that bill will probably not be paid at the 70/30 federal-share rate; he suggested that the state will pay a larger share [than 30 percent].

Number 1334

COMMISSIONER LIVEY turned to Representative Wilson's concern about people being told to sign up for Denali KidCare. He explained that there is a 12-month waiting period [for coverage]. When a person applies for Denali KidCare coverage, he/she is asked about other insurance coverage. A person who has insurance is not eligible to sign up for the program. Consequently, the aforementioned parent who was told to drop her coverage and sign up for Denali KidCare would be unable to get coverage in that manner. He noted that there would be a waiting period; the children would have to go without coverage for a period of time.

Number 1303

REPRESENTATIVE WILSON asked how this issue of an applicant's insurance coverage is policed.

COMMISSIONER LIVEY replied that quality checks are done on applications.

Number 1276

BOB LABBE, Director, Division of Medical Assistance, Department of Health and Social Services, explained that through the Division of Public Assistance, quality control reviewers have found this is not occurring to the extent one might think because of anecdotes. He reported that some applicants have dropped insurance and applied for coverage; he indicated there was good cause to do so in some cases. "For the most part, it's not occurring to that extent," he added.

MR. LABBE said [the division] has advised grantees not to advise people in that manner; some were not aware of the disqualification and the fact that some people would be left [without coverage]. He added, "I can't say there aren't some instances where things happen or get by, but ... we've done a quality review on that, and it was not ... going on to any extent." He offered to obtain the related report for members.

Number 1216

MR. LABBE, in response to a question from Chair Dyson, explained that a "spot check" is done on people who have applied and been approved, to view the circumstances [present at the time of application]; he noted that this is an intensive review.

CHAIR DYSON asked whether an individual's personal records can be "invaded" to find out whether he/she has insurance elsewhere.

Number 1175

MR. LABBE replied, "I'm not sure that we can, the way you're saying it. We do have, though, if a person has applied, ... access to information that comes through ... them and from the providers that submit claims, as well as from other 'data-match' sources." He indicated most of the information is gathered when asking the applicant questions such as: Where do you work? Does that employer offer health insurance coverage? He said the application process is fairly simple, but the quality-control review process is much more detailed.

CHAIR DYSON said, "My question is, do you have access to peoples' records, whether or not they have entered into a private relationship with an insurance carrier?"

Number 1131

MR. LABBE answered, "Not generally." He stated that [the division] has access to the applicant's employer to determine whether the employer provides coverage. He explained that this is generally where this is addressed.

REPRESENTATIVE COGHILL inquired what it takes to waive the 12-month [waiting period].

Number 1112

MR. LABBE replied that the division has [created] a formula to look at household circumstances. He stated that he did not know the numbers exactly, but offered that the division has approved about half-a-dozen requests for waivers. He indicated the waivers have been granted based on income and family circumstances; this [waiver-request review] is handled in his office in Juneau. He stated that approximately 95 percent of the waiver requests have been denied. He added that the number of waivers was not large.

COMMISSIONER LIVEY, in response to a question from Chair Dyson, clarified that the qualifying threshold is 200 percent of the Alaska income level, which is the federal poverty level adjusted [upward] 25 percent to account for Alaska's cost of living.

CHAIR DYSON surmised that it is close to the 250 percent level, as compared to the Lower 48 [poverty] level.

COMMISSIONER LIVEY replied, "I don't think that's the math, but I'd have to think about it for a minute."

CHAIR DYSON queried about the process the department had used to decide that a multiplier of two was the correct threshold to set for Alaskans.

Number 1005

COMMISSIONER LIVEY explained that this decision was made when the federal CHIP [Children's Health Insurance Plan] proposal was first made. He noted that Alaska had several choices to make, such as whether to have a Medicaid program or a stand-alone program. He offered that the state chose a Medicaid program for several reasons. For one, a stand-alone program, by federal law, must cover individuals who are also eligible for the Indian Health Service (IHS). In a stand-alone program, Alaska's costs for covering IHS-eligible Alaska Natives would not be reimbursed at 100 percent. On the other hand, if the state covers the cost of IHS-eligible individuals through Medicaid, the state receives 100 percent of the cost of that care, reimbursed from the federal government. He explained that Alaska has the highest percentage of IHS beneficiaries anywhere in the country. For that reason alone, it made sense to [choose a Medicaid system].

COMMISSIONER LIVEY recalled that when the [department] looked at the income threshold, it had a policy discussion similar to what Representative Coghill is suggesting: At what point should the state stop subsidizing health care and a private citizen be [responsible] for his/her own coverage? He said the 200 percent level was chosen because it appeared to be a level of income at which individuals and families had trouble purchasing their own insurance. The insurance market was not sufficiently developed for a parent to purchase a policy for a child, he offered.

COMMISSIONER LIVEY indicated these types of policies were difficult to obtain and expensive. This issue was discussed with executives from some of the state's largest insurance companies; these executives told [the department] that low-income insurance is not necessarily one of the companies' prime focus markets. Commissioner Livey explained that this low-income-insurance market has high administrative costs because people enter and leave this coverage frequently. He concluded, "It seemed to us that 200 percent ... was a reasonable cutoff in

terms of what a family could afford or what was available to them out in the market."

Number 0878

CHAIR DYSON asked if Representative Coghill was "in the ballpark" when saying that a family of four has an income eligibility of about \$44,000 plus whatever is added by the dividend.

COMMISSIONER LIVEY replied, "Correct."

CHAIR DYSON added, "And it would be reduced down to [\$]33,000-and-change, plus the dividend?"

COMMISSIONER LIVEY answered that he had not done the math himself, but presumed that number was correct.

Number 0843

REPRESENTATIVE WILSON stated that when a woman visits the doctor and finds out she is pregnant, right away [she is advised] to sign up for WIC [Special Supplemental Nutrition Program for Women, Infants, and Children] because it is retroactive to before she became pregnant. Representative Wilson asked how much overlap [of benefits] there is between WIC and [Denali KidCare].

COMMISSIONER LIVEY pointed out that these programs provide two different services. Whereas WIC provides services related to nutrition, Medicaid is more medically oriented. The services would not necessarily overlap.

REPRESENTATIVE WILSON asked what other [coverage] pregnant women apply for. She also asked [which entity] pays for doctor bills.

MR. LABBE offered his assumption that it would have to be the Medicaid program. Noting his belief that WIC does not pay for any kind of medical services, he offered to check on this for a certainty. He said there are "linkages," however; when people apply for WIC, they can pick up applications for Denali KidCare at those offices.

REPRESENTATIVE WILSON indicated this is the focus of her question - what program "kicks in" - because she has been to clinics that [offer multiple applications for programs]. She said, "That makes sure that the clinic or the doctor gets paid

for maternity care throughout that pregnancy." She expressed interest in knowing whether the 722 pregnant women alluded to earlier who wouldn't receive Denali KidCare coverage might qualify under some other program.

Number 0726

COMMISSIONER LIVEY offered his belief that there is no overlap of coverage for prenatal care; he said he'd make certain that is the case.

CHAIR DYSON indicated his desire to ensure that witnesses be able to testify who would be unable to testify on February 14.

REPRESENTATIVE STEVENS expressed concern about the salary levels; he indicated this can be misleading. Many teachers do not earn \$44,000; when benefits are added, however, the result far exceeds \$44,000. He asked whether many professional or fully employed people use [Denali KidCare].

Number 0676

COMMISSIONER LIVEY observed that many families with incomes between the 150 percent and 200 percent poverty levels are working families. Generally, these are families who do not have an option to purchase health care through their employer.

REPRESENTATIVE STEVENS noted that he was specifically interested in discovering whether families with insurance were seeking coverage. "Are there a lot of teachers in your program?" he queried.

MR. LABBE stated that he wouldn't necessarily know. He offered his impression that most of the people [using Denali KidCare] are self-employed, such as people in the building trades. Some may qualify on the income level, but they typically have coverage through the district, the state, or some other entity.

Number 0520

KATHLEEN FITZGERALD, Key Coalition of Alaska, testified via teleconference in opposition to HB 367. She stated that Denali KidCare is an important piece of health care for Alaskan families. She stated that the coalition believes Denali KidCare promotes the best outcomes for children; when they are healthy, they can learn. Pregnant women who receive prenatal care are less likely to deliver children with health care problems or

disabilities. She added that the coalition believes that families with children with disabilities [between the 150 percent and] 200 percent range have a difficult time due to increased costs associated with raising a child with disabilities. The coalition supports the 200 percent level for this reason, she indicated.

Number 0412

MS. FITZGERALD added, "We also think that it's just good business to provide that coverage; even though it costs us 5 million in Medicaid dollars, what it saves us in the federal dollars and provides for the medical community and for healthy families is really important to us." She concluded, saying that the Key Coalition is strongly opposed to reducing the income level for Denali KidCare.

Number 0348

MS. FITZGERALD read a letter from someone unable to attend the hearing, as follows:

I am a single parent with four children, three still at home. I work full-time and attend the University of Alaska half-time in order to secure a future for my children and myself. Even with full-time employment, I still struggle financially and need some temporary support until I have completed my education.

Denali KidCare ... has been a wonderful benefit for our family. I no longer have to decide if they can make it until Monday because I can't afford to take them to the doctor, gambling on their health over money. It has made access to medical treatment by reducing the financial burden that is ... often expected at the time of treatment. My children no longer have to ask, "Can we afford glasses or medicine?" Denali KidCare has decreased the stress level in our home by affording access to needed medical care for my children.

CHAIR DYSON announced that witnesses may send written testimony, which would be distributed to members.

Number 0250

THOMAS CONLEY, Pediatrician; Member, Sitka Borough School District School Board, testified via teleconference and thanked members for the opportunity to testify. He offered that he has been in practice in Alaska for 27 years. He characterized patients as falling into three [medical-coverage] classes: patients who are poor and covered by Medicaid; patients who have considerable resources or insurance and can afford self-care; and patients such as fishermen, small business owners, and entrepreneurs who do not have access to insurance and must obtain care on a "self-pay" basis. Dr. Conley stated that this latter group of people is the group "left behind" in terms of medical care. These patients would frequently wait until a [health concern] was severe before seeking treatment; they skimmed on prenatal care and child [health] care. He suggested that the price to this population to secure care was frequently quite high; this was often eventually paid by the state.

Number 0148

DR. CONLEY offered that should these people be dropped from coverage, the state would wind up paying considerably more down the road. He added that he serves on the school board in Sitka; as a member, he observes that problems not addressed early in life frequently become problems for the school system. He concluded by expressing his opinion that the program should continue as it is; it is covering something that needs to be covered.

CHAIR DYSON reminded participants that there has been no talk of discontinuing the program.

TAPE 02-9, SIDE A
Number 0043

MEG MITCHELL testified via teleconference in support of retaining Denali KidCare [eligibility] at the current level. She clarified that she is not a parent; therefore, this is not a program from which she can benefit. She stated that she has worked with families administering a child-care-assistance program in Homer; in this role, she was able to tell parents about this "incredible program" that the state offered. She indicated the best impact of the program is that it helps working families. She mentioned that the Denali KidCare motto is insuring Alaska's children and our future; she urged members to pay attention to the need for providing children with health care insurance.

Number 0127

MS. MITCHELL offered her belief, based on the state's current economy, that there is no reasonable option for obtaining health care coverage for one's children. Alaska does not have many jobs that offer such coverage, she said. There is nothing else for parents to do if they are not fortunate enough to have a job that does so. "This is the program that is benefiting our working families, and I would really like to see the state continue to support ... the working families," she said. She noted that the economy is "not looking good," and that it isn't easy for families to meet all its needs in Alaska. She indicated Alaska's [poverty rate] is set higher than the rest of the nation due to the high cost of living. She urged members to not change the current Denali KidCare program.

Number 0200

DANA LEE HALL, R.Ph., Village Operations Administrator, Yukon-Kuskokwim Health Corporation (YKHC), testified via teleconference, noting that the village operations program includes the health aide program, home care worker program, and an advanced-training program. She explained that [YKHC] began its well-child program in the Yukon-Kuskokwim (Y-K) Delta; health aides were trained to provide services such as EPSDT [Early and Periodic Screening, Diagnosis, and Treatment] well-child exams in villages. The mission at YKHC is to ensure that health care is delivered as close as possible to people's homes, she said; Denali KidCare has allowed them to do so. She noted that another priority of YKHC is to enroll all pregnant women in Medicaid in order for them to receive appropriate care.

Number 0328

MS. HALL offered that many village residents qualify for Medicaid, but many other residents have low-paying jobs without insurance. These low-paid residents are not teachers. They may work for the village corporations or the tribal councils, or they may work as ancillary staff in the school. She pointed out that [YKHC] is witnessing increased Medicaid enrollment under the Denali KidCare program; this includes a 4-to-5 percent increase over the past year.

MS. HALL said the lack of adequate prenatal care is [YKHC's] most serious concern, however. She offered that prenatal care is the single most cost-effective health care expenditure and ensures the best outcomes for babies. Denali KidCare was

created to meet the needs of uninsured children and pregnant women with incomes too great for traditional Medicaid eligibility and too low to obtain insurance or pay directly for health care, she reported. The cost of delivering care in the Bush is "astronomical", she noted. A trip from Kotlik to Bethel to obtain care is \$400 a person. Although she offered her understanding of the state's financial situation, she said providing preventative services for children and pregnant women is money well spent. She urged that Denali KidCare income requirements remain unchanged.

Number 0453

REPRESENTATIVE STEVENS asked for clarification about the 100 percent federal health care coverage for Native children. He also asked whether this proposed reduction would affect only non-Native children.

Number 0486

COMMISSIONER LIVEY replied that IHS beneficiaries who are Medicaid-eligible can sign up for Medicaid. The state pays the Medicaid bill and is fully reimbursed by the federal government.

REPRESENTATIVE STEVENS expressed his understanding that all [Native] children would continue to be fully covered by the federal government; only non-Native children would fall under the provision [in HB 367], should it pass.

COMMISSIONER LIVEY replied that this is true in 98 percent of the cases.

Number 0550

JIM KOHLER, Tanana Chiefs Conference (TCC), testified via teleconference in opposition to the proposed change to the Denali KidCare program. He said, "We believe that the 200 percent of poverty is an accurate level of poverty of patients who can afford insurance." He noted that should this go into effect, 20 to 30 percent of TCC beneficiaries would be cut off of Denali KidCare. In addition, he said, "We would also lose the federal funding for this program, [because] it's our understanding that if [an] Alaska Native is served under Denali KidCare, 100 percent of the money comes from the federal government and not the state. We believe this to be a good investment of the federal funds for Alaska Natives."

CHAIR DYSON queried, "Would you say that you're serving a lot of folks who don't qualify as Natives?"

MR. KOHLER replied, "No. Tanana Chiefs just sees Alaska Natives."

CHAIR DYSON expressed his understanding that all Alaska Natives would be fully qualified [under IHS].

Number 0624

DIANE CLARK, Group Home Daycare, testified via teleconference, noting that she is representing herself, a single parent with two children, as well as Group Home Daycare. She stated that she does not support HB 367, and that she is thankful she has Denali KidCare for her children for preventative care. She offered that the program has been beneficial to her children. As a daycare provider, she is witness to the needs of parents for health care [for their children]. The cost of health care is rising, she explained; it has doubled in her area. She indicated that if HB 367 passes, health care expenses that parents are unable to pay will be borne by the state; if the state is unable to pay, the federal government pays. She characterized this as a vicious cycle.

MS. CLARK added that lower self-esteem and a higher crime rate would result from the bill's passage. Denali KidCare coverage now provides a greater chance for families to receive well-child care and to detect health problems early on. She noted that a higher self-esteem is the result of greater stability [provided by Denali KidCare coverage]. She thanked members for their time and expressed her hope that this bill would not pass.

Number 0760

TRUDY ANDERSON, Consumer Awareness Manager, Alaska Native Health Board, testified via teleconference. She explained that the Alaska Native Health Board is a statewide nonprofit corporation established more than 30 years ago to promote spiritual, physical, mental, social, and cultural well-being and pride of Alaska Native people. The board of directors represents regional and village health providers from across the state. In most cases, she noted, these organizations are the only health care providers for their region, serving both Native and non-Native patients who would otherwise have virtually no access to health care services. She emphasized that the CHIP funds are 100 percent reimbursed by the federal government for Alaska

Natives and IHS beneficiaries who use Denali KidCare and Medicaid. She said, "We are opposing HB 367 and urge the legislature not to pass this bill."

Number 0859

GAY WELLMAN, Copper River Native Association, testified via teleconference and explained that she wished to speak on behalf of the association as well as herself. She stated that the Copper River Native Association provides services to both Native and non-Native residents. One service it provides is for treatment for Fetal Alcohol Syndrome (FAS); Denali KidCare is an integral part of enabling the association to provide that FAS service. Denali KidCare assists in paying the out-of-state doctor for diagnosis and services. She stated that this service would be difficult to provide, were HB 367 to pass.

MS. WELLMAN explained that several years ago, she and her husband were earning more than the \$44,000 [eligibility] limit; her husband was working in the private [sector] and she for the federal government. She reported that they had difficulty finding coverage for their children; she was unable to afford coverage through her job for more than herself. Although they found a policy that was initially affordable, rates were raised within several months' time and continued to rise. Eventually, her family was unable to afford this policy, she said.

Number 0945

MS. WELLMAN summarized by stating that the insurance that is available for families is really not affordable. Often these companies do not pay what they should when a claim is filed, she said. She indicated that her family was reimbursed \$200 for a \$3,000 medical bill for one of their children. She said, "I hope that you will keep it the way it is; it would certainly help us out here greatly."

Number 0978

COMMISSIONER LIVEY asked department personnel to assist him in responding.

NANCY WELLER; Unit Manager; State, Federal, and Tribal Relations; Division of Medical Assistance; Department of Health and Social Services, clarified that if the income level [for program eligibility] is lowered, it would affect all children of all races. She said, "Medicaid would not be getting the hundred

percent pass-through funds for Native children because they would no longer be covered at that income level."

CHAIR DYSON queried whether there wasn't other medical care available for Native Alaskan children.

MS. WELLER replied that Native health coverage is funded directly through Indian Health Service funds at approximately 60 percent of the need. This funding level is documented in many studies, Ms. Weller said. She stated that the U.S. Congress had allowed [IHS] to bill Medicaid for services to assist [IHS] in covering the cost of health care for beneficiaries.

CHAIR DYSON asked for further clarification [in the future]. He expressed his understanding that children who would not qualify under Denali KidCare would still qualify to have 60 percent of their medical bills paid by IHS.

MS. WELLER responded that the IHS system is funded for 60 percent of the need of Alaska Native people.

CHAIR DYSON queried, "Does 60 percent of the need ... not mean paying 60 percent of the bills?"

COMMISSIONER LIVEY noted that it probably means that the health corporations do not have enough money to pay for all of the medical services for their beneficiaries. Therefore, the corporations have to choose what is covered and what is not covered. He explained that 60 percent of the need is covered by the federal government; 40 percent is not covered. Whether or not a corporation would choose to cover prenatal care or children is up to the corporation.

Number 1102

CHAIR DYSON said, "So we're talking about 60 percent of the aggregate need, not of a particular individual." [He received confirmation from both Commissioner Livey and Ms. Weller that this is correct.]

REPRESENTATIVE COGHILL referenced a study indicating \$63 million comes directly to Alaska through IHS. He said, "So there is money going to health care in Alaska." He indicated [HB 367] would not destroy that; it still allows 60 percent to be [covered]. He expressed his opinion that this should be debated in the House Finance Standing Committee.

CHAIR DYSON announced that HB 367 would again be heard by the committee on February 14. [HB 367 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 5:03 p.m.