

ALASKA STATE LEGISLATURE
SENATE HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE

April 27, 2001
1:37 pm

MEMBERS PRESENT

Senator Lyda Green, Chair
Senator Loren Leman, Vice Chair
Senator Gary Wilken
Senator Jerry Ward
Senator Bettye Davis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 28

Urging dissemination of information about the costs of long-term care services and the availability of long-term care insurance for individuals.

MOVED CSSJR 28(HES) OUT OF COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 76(FIN)

"An Act providing for and relating to the issuance of certificates of participation to finance construction of a new facility to be known as the Alaska Psychiatric Institute; giving notice of and approving the entry into and the issuance of certificates of participation in a lease-purchase agreement for construction of a new facility to be known as the Alaska Psychiatric Institute; giving notice of the intent and approval to retain investment income from pertinent appropriations to be applied to the cost of construction of a new facility to be known as the Alaska Psychiatric Institute; relating to the construction of a facility to be known as the Alaska Psychiatric Institute; and providing for an effective date."

MOVED CSSSHB 76(FIN) OUT OF COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 101(HES)

"An Act relating to charter schools; and providing for an effective date."

MOVED SCS CSHB 101(HES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 203(FIN)

"An Act making an appropriation to the Legislative Council for a study of school district cost factors; and providing for an effective date."

MOVED SCS CSHB 203(FIN) OUT OF COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 13

Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, concerning House Bill No. 203, making an appropriation for a study of school district cost factors.

MOVED SCR 13 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 115(HES)

"An Act relating to the definition of 'mental health professional' for certain mental health proceedings and treatments; relating to the services of certain medical professionals in civil proceedings for the commitment of certain intoxicated persons; allowing a physician assistant or advanced nurse practitioner to certify the need for emergency treatment as a result of intoxication; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 11

"An Act relating to the legal age for attending school; and providing for an effective date."

MOVED SB 11 OUT OF COMMITTEE

SENATE BILL NO. 40

"An Act relating to the education of children with disabilities and of gifted children; relating to the Governor's Council on Disabilities and Special Education; making conforming amendments; and providing for an effective date."

MOVED CSSB 40(HES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

SJR 28 - No previous action to consider.

HB 76 - No previous action to consider.

HB 101 - No previous action to consider.

HB 203 - See HESS minutes dated 4/20/01.

SCR 13 - No previous action to record.

HB 115 - No previous action to consider.

SB 11 - See HESS minutes dated 2/5/01 and 4/20/01.

SB 40 - See HESS minutes dated 2/7/01.

WITNESS REGISTER

Mr. John Sherwood
Division of Medical Assistance
Department of Health and Social Services
P.O. Box 110660
Juneau AK 99811

POSITION STATEMENT: Commented on SJR 28.

Ms. Janet Clark, Director
Division of Administrative Services
Department of Health and Social Services
P.O. Box 110650
Juneau AK 99811

POSITION STATEMENT: Commented on status report letter to the Finance Committees on Medicaid Program.

Mr. Bob Labbe, Director
Division of Medical Assistance
Department of Health and Social Services
P.O. Box 110660
Juneau AK 99811

POSITION STATEMENT: Commented on status report letter to the Finance Committees on Medicaid Program.

Ms. Janet Seitz
Staff to Representative Rokeberg
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on HB 76.

Mr. Randall Burns, CEO
Alaska Psychiatric Institute
Department of Health and Social Services
2900 Providence Ave.
Anchorage AK 99508

POSITION STATEMENT: Commented on HB 76.

Mr. Kurt Parkan, Deputy Commissioner
Department of Transportation &
Public Facilities

3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Commented on HB 76.

Mr. Jeff Jessee, Executive Director
Alaska Mental Health Trust Authority
Department of Revenue
550 W 7th Ave., Ste. 1820
Anchorage AK 99501

POSITION STATEMENT: Commented on HB 76.

Ms. Suzanne Price, Executive Director
Fairbanks Community Mental Health Center
Fairbanks AK

POSITION STATEMENT: Supported HB 76.

Representative Fred Dyson
Alaska State Capitol
Juneau AK 99811

POSITION STATEMENT: Sponsor of HB 101.

Representative Peggy Wilson
Alaska State Capitol
Juneau AK 99811

POSITION STATEMENT: Sponsor of HB 203.

Mr. Eddy Jeans, Manager
School Finance and Facilities Section
Department of Education & Early Development
801 W 10th St., Ste 200
Juneau AK 99801

POSITION STATEMENT: Commented on HB 203.

Mr. Darroll Hargraves, Executive Director
Alaska Council of School Administrators
326 4th St., Ste 404
Juneau AK 99801

POSITION STATEMENT: Supported on HB 203.

Ms. Pam Watts, Director
Governor's Advisory Board on Alcoholism and Drug Abuse
Department of Health and Social Services
P.O. Box 110608
Juneau AK 99801

POSITION STATEMENT: Supported HB 115.

Ms. Anne Henry, Project Coordinator
Division of Mental Health and Developmental Disabilities
Department of Health and Social Services
PO Box 110601

Juneau, AK 99801-0601

POSITION STATEMENT: Supported 115.

Ms. Kathleen Wedemeyer

307 Minnie St.

Fairbanks AK 99701

POSITION STATEMENT: Opposed HB 115.

Ms. Barbara Craver

Juneau AK 99801

POSITION STATEMENT: Supported HB 115.

Dr. Bruce Johnson, Deputy Commissioner

Department of Education &

Early Development

801 W 10th St.

Juneau, AK 99801-1894

POSITION STATEMENT: Supported SB 40.

ACTION NARRATIVE

TAPE 01-39, SIDE A

Number 001

#SJR28

SJR 28-INFO ABOUT LONG-TERM CARE INSURANCE

CHAIRWOMAN LYDA GREEN called the Senate Health, Education and Social Services Committee meeting to order at 1:37 p.m. and announced SJR 28 to be up for consideration.

SENATOR WILKEN, sponsor of SJR 28, said the resolution has to do with the dissemination of long-term care insurance information and encourages Alaskans and Americans to consider it. This resolution was proposed by the Alzheimer's Association and the American Legislative Conference, but this is an effort that is going on nationwide. He read the sponsor statement as follows:

SJR 28 directs appropriate state and federal agencies to inform the public about the high cost of long-term care services and the need for families to plan in advance for their long-term care needs. The fastest growing population in Alaska is people who are 65 years or older. The senior community is growing about 5 percent annually while the rest of the population is growing at a slight 2 percent. This growth rate can almost triple to 12 percent by 2018. In less than 20 years, seniors will comprise a significant portion of Alaska's total population. These rapid growth rates are coupled with the high cost of providing long-term care in Alaska. At an average of over

\$210 per day, Alaska's nursing home costs rank number one nationwide, twice the national average.

This incredible expense can have a disastrous effect on families wiping out a lifetime of savings before the elder becomes eligible for Medicaid. Widespread use of private long-term care insurance has the potential to protect families from the catastrophic costs of long-term care services while at the same time reducing the burden on Medicaid as Alaska ages. Most Americans, 76 percent in fact, cannot believe they will ever need long-term and, therefore, do not explore the option of obtaining private long-term care insurance.

SJR 28 directs the beginning of an educational campaign to inform Alaskans about the realities of aging and how individuals can protect themselves for the future.

SENATOR WILKEN referred to the Long-Term Care Task Force report, published in January 1999, and said item 29 addresses this particular issue. He said the Long-Term Care and Retirement Security Act of 2001, HR 831 and SB 627, are currently under consideration in our U.S. Congress.

CHAIRWOMAN GREEN said she appreciated the work the committee did on this.

SENATOR WILKEN moved to adopt amendment 1, which adds two names to the distribution list, Honorable Tommy Thompson, the Secretary of Health and Human Services and Jane P. Demmert, Director, Alaska Commission on Aging, and asked for unanimous consent. There were no objections and it was so ordered.

SENATOR WILKEN moved amendment 2 on page 2, line 21, to delete "still" and asked for unanimous consent. He explained that they are trying to determine to what extent tax rules may discriminate against the buyers of long-term care insurance policies. There were no objections and it was so ordered.

Number 616

MR. JOHN SHERWOOD, Division of Medical Assistance, Department of Health and Social Services (DHSS) said he works with the Medicaid Program in the area of long-term care and that currently in Alaska, the Medicaid Program pays for long term care for about 2,000 people, in either nursing facilities or other home or community-based settings.

He said that very often people contact his division and they aren't prepared for the eventuality. He said it has a profound impact on

their financial and emotional situation. He supported any efforts to make the public aware of the need to plan and take appropriate action.

SENATOR WILKEN moved to pass SJR 28 from committee with individual recommendations. There were no objections and it was so ordered.

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CHAIRWOMAN GREEN asked Ms. Janet Clarke of DHSS to explain a letter dated April 5, 2001.

MS. JANET CLARKE, Director, Division of Administrative Services, DHSS, explained that the letter was intended to be a status report to the Finance Committees on the Medicaid Program. The Division could run out of spending authority in early May but it is very close to meeting its projections. The letter asks if it's at all possible to have a supplemental appropriation passed on Monday, May 7, rather than waiting one day, the last day of the session, because there is a check-write done on Tuesdays, which would be May 8.

CHAIRWOMAN GREEN asked if this fell into the proshare investment by a certain date.

MS. CLARKE replied that last year they worked very hard with Senators Parnell, Therriault and Kelly on the proshare program. Their 2001 budget is a very economical one and they did the work to gain the proshare money, \$11.4 million, in the state general fund. "...It's all in the bank, but we need your authority to spend those funds before we can spend them. That is part of the supplemental request."

She explained that the supplemental request is \$9 million of general funds and \$77.6 million total funds. "So the general funds are a small part of the supplemental request. We tried to make that as small as possible."

CHAIRWOMAN GREEN asked if the other \$77 million was federal.

MS. CLARKE answered that it was federal and other statutory designated receipts from proshare.

MR. BOB LABBE, Director, Division of Medical Assistance, clarified that they made the proshare payment, because it had to be made by March 13 or they would lose the opportunity to gain the additional funding.

CHAIRWOMAN GREEN asked if the information on the prescription drugs and the increase in the waivers and increased activity on the claims is new information or just a reiteration.

MS. CLARKE answered that it was reiteration.

CHAIRWOMAN GREEN said that was what confused them.

MR. LABBE said they feel they are in pretty good shape with their projections. "If all the supplementals come through, we feel pretty good about getting through the year without any interruption, but we do have this little blip concern for the next couple of weeks."

CHAIRWOMAN GREEN asked them to go over the forecast scenario.

MS. CLARKE responded:

As we have testified in the Finance Committee and the subcommittees on the budget, the budget that the Governor submitted is a low case scenario for the Medicaid Program. The Office of Management and Budget asked us to develop a mid-case scenario. So we did go back and look at our projections and made changes in population and have provided some information to you that a mid-case scenario would be higher than what we submitted as a low case primarily due to increased number of disabled individuals coming onto the program. I think, as you can see, we are actually estimating a reduced cost from children. Adults and the elderly costs they project are holding their own, but we underestimated based on our current numbers, a number of disabled individuals on the Medicaid Program. Based on a mid-case scenario, we would increase that. We also wanted to make sure the legislature knew that this wonderful proshare program that we've gotten into, the federal government has cut that back starting October 1, 2001 and that would have had a slight change in our general fund request. So this is just a request of OMB [the Office of Management and Budget] to give the legislature some additional information.

Number 1144

MR. LABBE added that they worked diligently to manage the budgeted scenario.

CHAIRWOMAN GREEN asked if there was any other information they should know.

MS. CLARKE responded that the only other items were the unknowns from the federal process. There are changes in federal funding that come through the Medicaid Program that they can't predict. They know a little bit about the Medicaid percentage. Their current budget for FY02 is based on a 59.8%.

CHAIRWOMAN GREEN asked what the range for that was.

MR. LABBE answered that the full range can be 50 to 83 percent under statute. "We're at 60.13 percent in the current, but it drops next year unless we work on getting this fixed with the delegation, which we have been working on. It's scheduled to drop to 57.16 percent. We believe that we're on track to not see that level of reduction, but there may be some reduction. The 59.8 percent is not a bad place to be at in our budgeting."

CHAIRWOMAN GREEN asked if that was a floating number.

MR. LABBE answered that it's recalculated every year effective in October and is based on the comparison of the state's per capita income to the national average per capita income. When the federal government does the calculation, they look back to '95, '96, and '97 to calculate 2000. This year they changed how they calculate per capita income and he has been spending time trying to explain the impact of the statistical change to folks in Alaska.

CHAIRWOMAN GREEN indicated there were no further questions and thanked everyone for their testimony.

#HB76

HB 76-NEW FACILITIES FOR API

CHAIRWOMAN GREEN announced HB 76 to be up for consideration.

MS. JANET SEITZ, staff to Representative Rokeberg, said:

HB 76 provides replacement for Alaska Psychiatric Institution (API) to go forward with a mixture of funds including already appropriated money, proceeds from certificates of participation to be issued by the state bond committees, money from the Alaska Mental Health Trust Authority and estimated interest income. In addition, the Alaska Mental Health Trust Authority has granted land for the project and it's anticipated that funds for the demolition of the old API may come through some federal road funds.

She said that documents in their packets set forth the memorandum of understanding, signed April 2001, by the Alaska Mental Health Trust Authority, DHSS, the University of Alaska (UA) and Providence Alaska Medical Center. It sets forth the framework for the land exchanges and other commitments that will facilitate the replacement of API. She said that basically the bill sets out the funding structure.

SENATOR DAVIS said she was glad to see this bill.

SENATOR WILKEN said they had this before them a few months ago and the discussion revolved around the design itself, which wasn't really "Alaskan," and that the facility cost \$40 million and would be over capacity as soon as it opened the doors. The question was should they step back from the design that is six or seven years old and look at something that was a better use of the money and build a facility that has some room to grow. He remembered 50 standard beds and 16 or 18 others. He asked if that had been discussed in the memorandum of agreement.

MS. SEITZ pointed out that a document called "A Shared Vision" shows that there is a design change on the last page. She said that the contract was a design/build contract.

MR. RANDALL BURNS, CEO, Alaska Psychiatric Institute, said the facility project is now going to be design/build and has a much smaller footprint. "It will be constructed for 72 beds, which I believe will be sufficient. Generally, the highest we ever are is somewhere around 74 beds. By the time this building is constructed, Providence Hospital has entered into an agreement to provide the single point of entry services that will eliminate some of the bed capacity that we currently use. As a result, that will take some of the census pressure off of us and make the 72 beds very practical."

CHAIRWOMAN GREEN asked if a single point of entry is the same as designated evaluation and treatment (DET).

MR. BURNS explained that the single point of entry is part of the community implementation project the department has been developing with Providence Alaska Medical Center. It will be a place where law enforcement, family members or any other individual can bring a person experiencing a mental health crisis. It's attached to the emergency room at Providence as a triage center for decisions regarding the appropriate referral for that person. It will be a 24-hour facility.

CHAIRWOMAN GREEN asked if API would be doing initial intake.

MR. BURNS replied no, that Providence would do that. API would be the facility of referral. He said that 12 beds will be supplanted by Providence.

CHAIRWOMAN GREEN asked if this would also be augmented by the DET.

MR. BURNS said that is correct. Fairbanks Memorial Hospital has a number of DET beds, which helps reduce the pressure on API.

SENATOR WILKEN said it went from ranch style to dormitory style.

MR. BURNS said that is correct.

SENATOR WILKEN asked if they had done a growth analysis to where they think 72 beds will be adequate for the next 20 years.

MR. BURNS responded that a number of studies were done in the late '90s taking population into account and estimated if all the community services that are being developed right now were completed that API could work with 54 - 72 beds. "That has not changed and that is still the plan we are functioning under."

SENATOR WILKEN asked for the graphs they had before when this gets to Finance. He expressed concern about spending \$50 million to build a building that could be full the first day it opens. He asked if \$9 million for demolition of the old building was passed to the state and is shed from this proposal's budget.

MR. BURNS replied that the demolition funds were removed entirely from the bill. The intent, which is mentioned in both the legislation and the agreement, is to approach the Congressional delegation for federal funds for the demolition, which has already been done. He explained that a road is planned on the site of the old building and they would seek demolition funds that way. The building is the state's responsibility until it is torn down.

CHAIRWOMAN GREEN asked if there is going to be a public hearing on the proposal for that road.

MR. BURNS replied that they are only plans. The entire area would have to go through municipal planning and zoning, platting and all of those processes.

MR. KURT PARKAN, Deputy Commissioner, Department of Transportation and Public Facilities (DOTPF), said regarding the road, the whole AMHTA process would have to be followed before it's approved. That includes conformance with the long-range transportation plan, AMHTA policy, and borough and municipal concurrence.

CHAIRWOMAN GREEN commented that this could happen in 2010 or 2020. She asked if the level of participation by the AMHTA had undergone any changes that she hasn't noticed.

MR. JEFF JESSE, Executive Director, Alaska Mental Health Trust Authority, replied that beginning July 1 income from \$2 million of the Trust fund will be allocated to the project; and in July of 2002, another \$1 million. The income from those funds will now be dedicated to projects increasing their participation.

MS. SUZANNE PRICE, Executive Director, Fairbanks Community Mental Health Center, supported HB 76. She said that if community services are funded appropriately, a larger structure won't be needed. Many in Fairbanks don't want a large hospital in Anchorage; they want

people treated in the community. But everyone knows API's expertise and services are needed.

SENATOR LEMAN moved to pass CSSH 76(FIN) and fiscal notes from committee with individual recommendations. There were no objections and it was so ordered.

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#HB101

HB 101-CHARTER SCHOOLS

CHAIRWOMAN GREEN announced HB 101 to be up for consideration.

REPRESENTATIVE DYSON, sponsor of HB 101, said he has worked on the charter school issue for four and half years. This bill extends the contract period for charter schools from five to ten years, it removes the geographical limitations; it does away with the sunset date; it allows the charter schools to use public buildings that may not meet school safety codes, but have been agreed to by the local building inspector and the superintendent (such as churches, public halls, and other public spaces). It makes it very clear that charter school students are subject the graduate competency test.

HB 101 does three things financially. It adds staff to the Department of Education and Early Development to do a better job of overseeing the charter schools and helping them; it gives them start-up money, and it reduces the threshold from 200 to 150 that the school needs in order to not be counted with the largest school in the district. It also increases the allowable number in the state from 30 to 60. These schools are all under the local school district and can only be started after a contractual agreement is reached with the school district and under strict supervision from the local school district.

SENATOR WILKEN asked if we are lowering the safety standards for these schools, even though they are acceptable.

REPRESENTATIVE DYSON answered yes. He said that quite a few charter schools have moved into a business or a mall. Malls don't have the same safety standards as schools, but they certainly meet public safety standards. He cited an example of one charter school at an airport where the students are learning aircraft technology and graduating with a pilot's license as AMPs.

SENATOR DAVIS said she was glad to see this bill and appreciates all the work that has been done on it.

REPRESENTATIVE DYSON responded that due to Senator Green's efforts, the Mat-Su school district supplies about \$1,000 more per charter school student than most other districts.

TAPE 01-39, SIDE B

CHAIRWOMAN GREEN explained a proposed amendment on page 3, line 23, to the charter school grant program language saying, "If the amount appropriated in a fiscal year is insufficient to meet the amounts authorized under (a) of this section, the department shall reduce pro rata each pupil's grant by the necessary percentages determined by the partner." The amendment would say, "If a charter school grant is reduced under this subsection, the charter school may apply to the department in a subsequent fiscal year for the balance of the grant."

SENATOR DAVIS moved amendment 1.

SENATOR LEMAN explained he did not have a problem with charter schools applying as long as it's understood that it's not mandatory that they will receive that grant, which would still be subject to legislative appropriation.

CHAIRWOMAN GREEN announced that there were no objections to amendment #1 and it was adopted.

SENATOR DAVIS moved to pass SCS CSHB 101(HES) with the attached fiscal note with individual recommendations. There were no objections and it was so ordered.

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#HB203

HB 203-SPECIAL APPROP: SCHOOL DIST. COST FACTORS

CHAIRWOMAN GREEN announced HB 203 to be up for consideration.

SENATOR WILKEN moved to adopt the SCS CSHB 203(HES) version O/Cramer/4/26/01. There were no objections and it was so ordered.

SENATOR WILKEN said that he and Representative Wilson had gone over this bill and agreed on all items but one.

REPRESENTATIVE PEGGY WILSON, sponsor of HB 203, explained that the study is on school district cost factors. She said she didn't have a problem with Legislative Budget and Audit overseeing the study. She said that section 1 was the same, although the wording has been changed.

She said she called Mr. David Cottrell, a school auditor, and asked him if the study could be done in the stated amount of time. He thought it could. A McDowell Group spokesman said the study could be done and Senator Therriault, Chairman of the Budget and Audit Committee, said he knew everyone wanted this study and it would be something the auditors could get to right away.

REPRESENTATIVE WILSON recommended that the committee change the date back to next year and say that a preliminary report be done by January 30, with a final report due April 1.

SENATOR LEMAN moved to adopt those dates and an immediate effective date on page 1, line 9.

SENATOR WILKEN objected saying that this study is really important. It affects how schools get funded across the state. He thought they needed to sort some things out first. In 1998, the McDowell Group found that the 53 school districts didn't even have a common chart of accounts. This will be the third year that two auditors have been out trying to get the accounts aligned, so people can compare costs between districts. He felt the chart of accounts should be aligned across the state and working as they should be.

He explained when they get some cost comparisons, they boil it down to a model that projects numbers that are valid for the 53 school districts. Then it has to get tested to see how real data reacts. He didn't think that they wanted the preliminary report next year, an election year, where it will get bogged down in politics. He said that this would definitely shift some money around and no one knew where it would go.

SENATOR WILKEN concluded saying, "First of all we need to make sure the system is in place to measure and, secondly, that the model works and that it's valid and we have confidence in it. When that happens, then in '03 we can go ahead and work this into the foundation formula"

CHAIRWOMAN GREEN asked if he was assuming that the information that comes in will somehow be part of an every other year correction.

SENATOR WILKEN answered in his mind he thought so.

MR. EDDY JEANS, School Finance and Facilities Section, Department of Education and Early Development (DOEED), commented that SB 36 requires DOEED to review and update the cost differentials every other year and to make recommendations to the legislature. This year, DOEED's report used the McDowell methodology (in SB 36) to update the cost differentials, but DOEED found the methodology was flawed. DOEED took revised calculations back to the McDowell Group and asked them to review them. The McDowell Group agreed that the methodology can no longer be used. Subsequently, the Governor's Education Funding Task Force has recommended that a new cost study be done.

SENATOR WILKEN asked which year he was comfortable using for a report date.

MR. JEANS replied January 15, 2003. He thought that studies in the

past had been hurried projects, which has led to questions about the validity of the differentials. He didn't expect the cost study to be based on audited expenditures as previous studies had done. He envisioned the study to be based on other types of indices that demonstrate the variance in cost of delivering education around the state.

CHAIRWOMAN GREEN announced a brief at-ease.

CHAIRWOMAN GREEN called the meeting back to order and asked Representative Wilson if she wanted to comment on the amendment.

REPRESENTATIVE WILSON said she talked to Senator Therriault about the Request for Proposal process and is ready to work at getting the education community on board when session is over.

SENATOR LEMAN said he thought the amendment provided adequate time or he wouldn't have offered it.

CHAIRWOMAN GREEN called for a roll call vote. SENATOR LEMAN voted yes; SENATORS WILKEN, DAVIS, and GREEN voted no; and the amendment failed.

MR. DARROLL HARGRAVES, Executive Director, Council of School Administrators, said SB 203 has support and looks like an issue they can look forward to working with in the next few months. He said the Council supports this bill. "I do know that there are very few states in the Union who have attempted to take a snapshot of what's actually happening in schools to set this kind of a differential. Theoretically, charts of accounts are current expenditures and should have nothing to do with setting cost differentials. It should be based on what is happening in the communities' economy."

He said that in the early '80s, they hired the Stanford Group to do the foundation funding study for us. It collapsed under its own weight as it did in other places. They attempted to describe school districts in terms of money. He cautioned that the language in the bill will set the philosophy for the direction of the study and is extremely critical to the results they are going to get.

CHAIRWOMAN GREEN asked what language he thought was important to get.

MR. HARGRAVES replied, "These terms reflect what you're going to spend to keep your household going... I look at what the cost of those items are to get things into the community..."

CHAIRWOMAN GREEN asked him to look at line 10 to see if that's improved language.

MR. HARGRAVES said he thought it was an improvement.

CHAIRWOMAN GREEN said she didn't understand what he was advocating for.

MR. HARGRAVES summed it up by saying, "Don't look at the audited budgets of school districts to set cost differentials."

CHAIRWOMAN GREEN asked if that was the issue that caused the McDowell study to be called into question.

SENATOR WILKEN answered that it was a matter of opinion. It wasn't perfect, but it was a quantum leap over the report from 1982. He agreed with Mr. Hargraves. "It's not a question of what we spend today, but what should we spend. I think that's addressed in line 10 when it says, 'Should be based on the cost providing an education in each school district.'"

SENATOR WILKEN said he wasn't sure they could do this report. He was concerned that they were imposing what the schools boards should be doing from the top down. He didn't think that meant it shouldn't be started.

MR. HARGRAVES said he thought the language was O.K. as long as it has the right philosophy behind it. He repeated his major point, "The chart of accounts and audited budgets really shouldn't have much play in setting a cost differential."

CHAIRWOMAN GREEN said she didn't know how they could avoid that.

SENATOR WILKEN said he thought it was part of the equation. He agreed with Mr. Hargraves that the study shouldn't be driven by what is being spent, but on what should be spent.

CHAIRWOMAN GREEN said she didn't think the language expressed what he way saying. She asked everyone for suggestion for better language.

Number 1169

MR. JEANS said that he didn't think more wordsmithing was necessary. It provides a little guidance highlighting some areas that need to be looked at when considering the indices for cost differentials. He thought cooperative effort was needed in developing the RFP to ensure that it does what they want it to before it hits the street.

CHAIRWOMAN GREEN asked if the language in section 1 gave DOEDD authority to work with the study.

MR. JEANS said he thought it did and that item 1 gives them

additional guidance. He thought they shouldn't get any more prescriptive.

CHAIRWOMAN GREEN asked what language allowed them to work with the different school districts.

MR. JEANS replied that he intended to do that through the Department of Education and that was in the intent language.

SENATOR WILKEN moved amendment #2 on page 1, line 6, to delete "to prepare and contract for the preparation" and to insert "enter into a contract for" and, on page 2, to delete line 4 to conform with a Department of Law concern.

SENATOR LEMAN suggested deleting "and" on page 2, line 4 and to insert "and" on line 1 and change the semicolon into a period. The committee indicated approval of the change in wording.

CHAIRWOMAN GREEN asked if there were any further objections. There were no further objections and amendment #2 was adopted.

SENATOR LEMAN moved amendment #3 on page 1, line 14 to delete "between" and insert "among" and do the same thing on page 2, line 3. He also asked on page 1, line 12, if there was a cost differential for the shipping of school materials and supplies.

REPRESENTATIVE WILSON replied that it depends on several things, but if you run out of something and have to run to the local store to get it, it will cost more in some areas than in others.

SENATOR LEMAN said he wanted to compare costs in more than a lineal way. He wanted to compare more than Anchorage to Wrangell; he wanted to compare Wrangell to Petersberg and Barrow to Ketchikan and Bethel.

CHAIRWOMAN GREEN asked if there was opposition to amendment #3. There were no objections and it was adopted.

CHAIRWOMAN GREEN asked on page 1, line 10, if specifically saying, "the cost of shipping school materials and supplies," implies that that's the only extraordinary cost you would consider? She thought it would make much more sense to say, "the cost of the school lunch program, the cost of school materials and supplies, shipping, transportation costs."

She would have preceded that with a phrase "such as" so they don't get so narrow in meaning.

REPRESENTATIVE WILSON replied that the language at the end of line 12, "other costs that relate directly or indirectly to the operation of the school," covers a multitude of things.

MR. JEANS said he thought the language allowed them a lot of flexibility.

CHAIRWOMAN GREEN said she wanted it on the record that this language was meant to be very, very inclusive.

SENATOR LEMAN moved amendment #4 to delete "shipping" on page 1, line 12. There were no objections and it was so ordered.

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#SCR13

SCR 13-SUSPEND UNIFORM RULES FOR HB 203

SENATOR WILKEN asked if SCR 13 needs to travel with the bill.

CHAIRWOMAN GREEN indicated that is correct.

SENATOR WILKEN moved that SCR 13 pass from committee and asked for unanimous consent. There were no objections.

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#HB203

SENATOR WILKEN moved to pass SCS CSHB 203(HES) from committee with attached fiscal notes and individual recommendations. There were no objections and it was so ordered.

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#HB115

HB 115-EMERGENCY COMMITMENT ORDERS AND TREATMENT

CHAIRWOMAN GREEN announced HB 115 to be up for consideration.

REPRESENTATIVE MARY KAPSNER, sponsor, said she wanted someone to offer an amendment on page 3, line 4 following "physician's" to insert, "physician assistants or advanced nurse practitioner".

SENATOR LEMAN moved amendment #1. There were no objections and it was so ordered.

REPRESENTATIVE KAPSNER explained that HB 115 does two things: it expands the definition of mental health professional to include three people, a licensed clinical social worker, a licensed marital and family therapist and a licensed professional counselor. It adds these people to the pool of clinicians who are able to perform mental health evaluations.

Second, HB 115 allows physician assistants and advanced nurse practitioners to sign medical certificates of necessity for treatment of individuals for alcohol and drug dependency under Title 47.

SENATOR LEMAN said he received a number of messages opposed to this bill because it expands into areas that it shouldn't go. He asked if there was some kind of turf battle.

REPRESENTATIVE KAPSNER said she only received one e-mail in that regard. The reason for this legislation is that right now when one person feels that another person needs to get alcohol or drug treatment, only a doctor can sign the petition that is presented to a judge to make the final decision. In some areas, there are very few or no physicians.

She said that a lot of doctors are wary of prescribing that treatment without seeing the patient.

TAPE 01-40, SIDE A

REPRESENTATIVE KAPSNER said she didn't know where the resistance was coming from.

SENATOR LEMAN said his messages weren't well documented or supported from what he remembers.

REPRESENTATIVE KAPSNER said she thought some people might be confused, because they are afraid that someone could involuntarily commit someone. She said that all the cases have to be presented to a judge and he makes the final decision regardless of who signs the petition for the certificate of necessity for treatment. To her knowledge, no physicians have been opposed to this and no one in the mid-level practitioner field has opposed the bill.

MS. PAM WATTS, Director, Advisory Board on Alcoholism and Drug Abuse, said that any opposition has been primarily due to misinformation and inaccurate views about what this bill would do. She was testifying regarding only the alcohol section.

She said the legislation addresses two different kinds of commitments. One is an emergency commitment for up to 48 hours. The involuntary commitment in sections 4 and 5 is up to 30 days.

MS. WATTS explained that an emergency under current statute is when a physician examines the individual and determines that they are in need of emergency medical care and monitoring. There is a provision for an extension up to five days if it's determined they need to be monitored longer.

The involuntary commitment is for up to 30 days with an extension provision for up to 180 days, if they go back to court for another examination. The only thing this bill asks is when the medical examination is done, it need not be done by a physician. Physician assistants or advanced nurse practitioners who currently do

physical examinations around the state, would legally be able to examine a patient. She didn't think there was any difference between a physician assistant, a nurse practitioner, or a medical doctor's ability to make that determination, although it might require some training. The physician's certificate is a small part of what is required for a 30 day involuntary commitment.

Number 513

CHAIRWOMAN GREEN said that some people from one area of the state came in with concerns. In one case, a woman was in the process of adopting and she went to local medical provider because she had a lot of headaches because of stress from taking care of the children she already had. That health care provider went to the adoption agency and told them that she was way too stressed and to stop the adoption. The woman was devastated. This was in an area where there weren't enough health care providers and an abuse of confidentiality. She asked if there are any assurances of confidentiality.

MS. ANNE HENRY, Division of Mental Health and Developmental Disabilities, said one thing they think will be helpful about this bill is that people who are licensed are required to follow a code of ethics. If they violate someone's confidentiality, they can be sanctioned.

CHAIRWOMAN GREEN said she appreciated that and the woman she was talking about didn't have anyone in her community to talk to about her situation.

REPRESENTATIVE KAPSNER said that they couldn't prevent people from talking, but this bill would provide more people who can sign for the petition to go to the judge.

SENATOR WARD asked if a physician's assistant can practice currently without a contract with a physician.

MS. HENRY answered yes.

SENATOR WARD asked if a person could practice as a nurse practitioner without being contracted with a physician.

MS. HENRY answered yes.

SENATOR DAVIS said she thought 30 days was much too long for a nurse practitioner to be able to have someone not receive medical attention. She thought 48 hours to five days was fine.

MS. HENRY said there is confusion about the alcohol commitment and the mental health commitment.

CHAIRWOMAN GREEN announced a recess to move to another room.

CHAIRWOMAN GREEN called the meeting back to order at 3:35 pm.

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#SB11

SB 11-COMPULSORY SCHOOL AGE

SENATOR WARD moved to pass SB 11 out of committee with individual recommendations.

TAPE 01-41, SIDE A

There were no objections and it was so ordered.

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#HB115

CHAIRWOMAN GREEN announced HB 115 to be back before the committee.

MS. KATHLEEN WEDEMEYER, Fairbanks resident, said she didn't think an individual needed to work in a particular field in order to have a balanced opinion and make an informed decision about these situations. She thought provisions in this bill would ultimately cause more harm than good. She felt it would take away a person's individual freedom, which is a weighty decision, whether that person has alcohol problems or not. She thought taking the decision out of highly trained professional hands increased the potential for abuses of individual rights and lawsuits.

SENATOR WARD said he understands that it's a small segment of the population and that taking away someone's rights and locking them up for no good reason is a concern, but some people have lost the ability to take care of themselves. He asked if we didn't have a responsibility to take care of them and there simply aren't enough physicians to get these people into some type of program.

MS. WEDEMEYER said that some doctors are concerned that there could be an underlying physical reason for a person's action and she thought there needed to be every account taken to make sure it's not one of those cases. She also thought the bill was too general.

CHAIRWOMAN GREEN thanked her for her testimony.

MS. BARBARA CRAVER, Alaska Bar Association, said she used to work for the City and Borough of Juneau for 10 years. She represented the Juneau Recovery Hospital in involuntary commitments and emergency procedures for that time. She thought that sections 4 and 5 were the more important sections, because they have to do with when a court can order a 30 day involuntary commitment. Those same standards would apply if a person were to petition for a recommitment of up to 180 days. These are significant periods of

time. She thought it would be helpful to think about it from a lawyer's point of view. She pointed out that these are the standards that allow a court to accept certain kinds of testimony to prove incapacity.

Section 4 deals with the type of evidence that the Superior Court can use for ordering an involuntary commitment. She said that it's easy to misunderstand that the person who makes the decision about whether there's sufficient evidence to commit a person is a judge. The standards of the statute currently restrict evidence that's provided for a medical evaluation to that of a physician.

Language in HB 115 would expand that to a physician assistant's or an advanced nurse practitioner's evidence being allowed by the judge. None of the proposed sections touch the fact that the court must clearly find that the grounds for an involuntary commitment have been established. Communities have found it very difficult to get the medical evidence because of the lack of physicians. She emphasized that other kinds of evidence have nothing to do with this, like what kind of drinking habits that person has, what kind of care they can give themselves. This kind of evidence can be given by a whole lot of other people, because it's not medical.

MS. CRAVER emphasized:

I want to try and reassure you that the protections of the court, the protections of a jury trial, the protections of a court appointed lawyer continue to be there for the person who is considered the respondent in these actions. The only thing these two sections would change would be that the court could even consider and accept as evidence the examination of a person who is a physician assistant or an advanced nurse practitioner. Right now the court would not be able to consider those. Nothing says that there can't be more medical professionals there to give an opinion. For example, a defense attorney for the respondent might say, "I just don't think that this person who gave the initial petition certificate had enough information. I'm going to have the respondent examined by my own physician at the court's expense." You can do that. You can have as much evidence as you need if you think there's a genuine dispute.

In my experience, in 10 years of doing involuntary commitment procedures, there has never been a competing physician. Usually the examination by the physician is not in controversy. The bare medical fact about whether or not that person is a chronic alcoholic is usually not

the issue. A lot of times the arguments come down to what kind of treatment is appropriate and where that treatment should be given. Often, the respondent, themselves, are having a very difficult time with accepting the fact that they need to be forced to do this. That's sort of the crux of the problem, too.

If you can look at the larger process of the court making the decision and all the provisions and protections that are already in the statute and the court procedure, it might allow you to consider that this broadening of evidence is all that's involved in sections 4 and 5. Not that this would be an insignificant help. It would allow even more cases to be brought to a judge, but the judge would still have to make the decision as to whether or not the grounds had been clearly established. I think judges are great advocates of civil rights, themselves, and reluctant to see anybody railroaded and subjected to the court's power without legitimate reason.

SENATOR WARD asked what the definition of an advanced nurse practitioner is.

MS. HENRY replied that the Division of Occupational Licensing would have it.

SENATOR WARD asked for the language to be brought to the committee.

MS. HENRY said that advanced nurse practitioners are qualified to administer all kinds of drugs and narcotics.

SENATOR DAVIS asked what kind of training and guidelines these people would have to get.

MS. CRAVER replied that she didn't think they needed training, but guidance. Typically, they will not be the ones initiating the situation. She explained that the certificate is very simple. "Is this person an alcoholic in your opinion as a medical professional and are they incapacitated? Do they lack the judgment to make a rational decision?"

She thought the general definition of an alcoholic that all the professionals use is based on the DSM IV.

CHAIRWOMAN GREEN thanked everyone for their testimony and said she would hold the bill for further work.

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#SB40

SB 40-EDUC.OF DISABLED OR GIFTED CHILDREN

CHAIRWOMAN GREEN announced SB 40 to be up for consideration.

DR. BRUCE JOHNSON, Deputy Commissioner, Department of Education and Early Development, said SB 40 was developed with a broad based constituent group on the special education of children with disabilities and individuals representing the exceptionality of giftedness. They believe it is a good bill.

He said last year DOEED required school districts to provide services for children identified as gifted, but left the service decisions up to the local district. There is no money at the state level; money is passed through as the 20 percent block grants. Constituents wanted the state to provide oversight, however.

CHAIRWOMAN GREEN said that currently the state has no say in qualifications for a gifted program for a certain district.

DR. JOHNSON said that is correct. The scope of the project is up to the school district and DOEED receives a plan of service from each of them.

CHAIRWOMAN GREEN asked if the state has an appeal process.

DR. JOHNSON said the appeals process is an issue and the state rarely gets involved in resolving disputes, but the threat of the state getting involved helped the districts solve the differences.

CHAIRWOMAN GREEN asked if the school districts have a mandate to provide an appeal process for all parents and students for decisions that a school district makes that a parent doesn't like.

DR. JOHNSON replied that he didn't know if it was in statute, but every school district has a complaint resolution process that's well founded in the board's policies and administrative procedures.

CHAIRWOMAN GREEN asked if it was limited to special education students.

DR. JOHNSON answered that it is open to any parent or community member that has an issue with the school district. It usually involves trying to resolve the issue at the lowest possible level and moving it forward to the Board of Education and then to the Superior Court.

CHAIRWOMAN GREEN asked if there could be a mediation process if the local school district had it in their policy.

DR. JOHNSON answered, "Absolutely."

CHAIRWOMAN GREEN said she thought that the districts probably had a

variety of ways of implementing a complaint procedure.

DR. JOHNSON said that was correct.

CHAIRWOMAN GREEN said that there has been continued interest in the state having the appearance of oversight. She explained that the proposed committee substitute handles the problem a little differently and her goal was to get it passed this year. She asked Dr. Johnson to explain the dilemma DOEED is in if it doesn't pass.

DR. JOHNSON responded that for the last several years, the Department has been under corrective action from the federal government and it had to do with the fact that the Department some years ago was spending federal dollars on the G/T (Gifted/Talented) programs around the state, particularly when it came to monitoring. Three years ago, a monitoring review by the federal government said the state could not do that; that the federal money was to be used for children with disabilities, even though the state had a broader definition of exceptional children with an umbrella that covered children with disabilities and G/T.

DR. JOHNSON said they have been respecting that review ever since that time and had regulations prepared a year ago giving clear directions. Now, DOEED is trying to get statutes in line with the federal IDEA '97 statutes and regulations. SB 40 is an attempt to do that. The portion dealing with children with disabilities does that very well. The federal government has no voice in identifying children who are gifted. It's up to the local district.

CHAIRWOMAN GREEN said that Congressman Jeffords was trying to get a federal mandate for gifted children and she thought the timing would be better if Alaska tries to get its statute to conform to the federal one.

CHAIRWOMAN GREEN recessed the meeting to the call of the chair.

CHAIRWOMAN GREEN called the meeting back to order at 4:37 p.m. with all members present. She said that SB 40 was before them.

SENATOR WARD moved to adopt the F version committee substitute of SB 40. There were no objections and it was so ordered.

SENATOR WARD moved to pass CSSB 40(HES) from committee with the accompanying fiscal note with individual recommendations. There were no objections and it was so ordered.

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CHAIRWOMAN GREEN adjourned the meeting at 4:39 p.m.