

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

April 4, 2006

3:05 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Paul Seaton, Vice Chair
Representative Carl Gatto
Representative Vic Kohring
Representative Sharon Cissna
Representative Berta Gardner

MEMBERS ABSENT

Representative Tom Anderson

COMMITTEE CALENDAR

HOUSE BILL NO. 346

"An Act relating to child abuse investigations and training."

- MOVED CSHB 346(HES) OUT OF COMMITTEE

HOUSE BILL NO. 468

"An Act relating to disclosure of employment information on a medical assistance application and a hospital intake report; and requiring the Department of Health and Social Services to prepare and publicize a report pertaining to employers who do not provide health insurance."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 30

Relating to public health and a prevention compact.

- BILL HEARING POSTPONED TO 4/6/06

HOUSE BILL NO. 426

"An Act relating to medical assistance eligibility and coverage for persons under 21 years of age."

- BILL HEARING POSTPONED TO 4/11/06

HOUSE BILL NO. 467

"An Act relating to the administration of prescribed remedies and dietary supplements by a nurse."

- BILL HEARING POSTPONED TO 4/6/06

HOUSE BILL NO. 482

"An Act relating to harassment, intimidation, and bullying in schools."

- BILL HEARING POSTPONED TO 4/6/06

CS FOR SENATE BILL NO. 177(HES)

"An Act eliminating the prohibition on the use by certain licensed professionals of titles or descriptions of services that incorporate the terms 'psychoanalysis,' 'psychoanalyst,' 'psychotherapy,' 'psychotherapeutic,' or 'psychotherapist.'"

- BILL HEARING POSTPONED TO 4/6/06

PREVIOUS COMMITTEE ACTION

BILL: HB 346

SHORT TITLE: CHILD ABUSE INVESTIGATIONS

SPONSOR(S): REPRESENTATIVE(S) NEUMAN, LYNN

01/09/06	(H)	PREFILE RELEASED 1/6/06
01/09/06	(H)	READ THE FIRST TIME - REFERRALS
01/09/06	(H)	HES, JUD
03/30/06	(H)	HES AT 3:00 PM CAPITOL 106
03/30/06	(H)	-- Meeting Canceled --
04/04/06	(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 468

SHORT TITLE: HEALTH CARE DISCLOSURE

SPONSOR(S): REPRESENTATIVE(S) GRUENBERG

02/13/06	(H)	READ THE FIRST TIME - REFERRALS
02/13/06	(H)	HES, FIN
03/28/06	(H)	HES AT 3:00 PM CAPITOL 106
03/28/06	(H)	<Bill Hearing Postponed to 03/30/06>
03/30/06	(H)	HES AT 3:00 PM CAPITOL 106
03/30/06	(H)	-- Meeting Canceled --
04/04/06	(H)	HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE MARK NEUMAN

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 346, as prime sponsor.

TAMMY SANDOVAL, Deputy Commissioner
Office of Children's Services(OCS)
Department of Health and Social Services (DHSS)
POSITION STATEMENT: Testified on HB 346.

MICHAEL LESMANN, Community Relations Officer
Office of Children's Services
Department of Health and Social Services (DHSS)
POSITION STATEMENT: Testified on HB 346.

JAN RUTHERDALE, Assistant Attorney General
Child Protection Section,
Civil Division (Juneau)
Department of Law (DOL)
POSITION STATEMENT: Answered questions on HB 346.

MICHAEL BUCY, Staff
to Representative Max Gruenberg
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented HB 468 on behalf of the sponsor,
Representative Gruenberg.

REPRESENTATIVE MAX GRUENBERG
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Spoke as the sponsor of HB 468.

WALTER STUART, President
United Food & Commercial Workers Union Local 1496
Anchorage, Alaska
POSITION STATEMENT: Testified on HB 468.

AMY PAIGE
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 468.

ELLIE FITZJARRALD, Chief
Policy & Program Development
Division of Public Assistance
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 468, answered questions.

DWAYNE PEEPLES, Director
Division of Health Care Services
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 468, answered questions.

ACTION NARRATIVE

CHAIR PEGGY WILSON called the House Health, Education and Social Services Standing Committee meeting to order at [3:05:52 PM](#). Representatives Wilson, Seaton, Gatto, Gardner, and Cissna were present at the call to order. Representative Kohring arrived as the meeting was in progress.

HB 346-CHILD ABUSE INVESTIGATIONS

[3:06:03 PM](#)

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 346, "An Act relating to child abuse investigations and training."

REPRESENTATIVE SEATON moved to adopt CSHB 346, Version 24-LS1335\G, Mischel, 3/27/06. There being no objection, Version G was before the committee.

[3:07:38 PM](#)

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, speaking as the prime sponsor of HB 346, paraphrased from the written sponsor statement as follows [original punctuation provided]:

On June 25, 2003, the "Child Abuse Prevention Treatment Act" (CAPTA) was signed into law in our nation's capital. This act requires states to implement two provisions for protecting families during the child investigative process. Provisions of this act require states to ensure they have:

(**xvii**) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect

investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

(xviii) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment;

This Bill ensures that as a state we are in compliance with CAPTA. It is important that the training of child protective services personnel ensures that they are knowledgeable in best practices for promoting collaboration with families and that they are fully aware of the extent and limits of their legal authority and the legal rights of parents while carrying out such investigations.

[3:09:25 PM](#)

REPRESENTATIVE NEUMAN explained that the committee substitute (CS) provides for the addition of three subsections to the existing statute [AS 47.17.033] which are labeled (j), (k), and (l), whereas the original bill included only two. He described the sections respectively: The revised subsection (j) provides parameters for the training of department representatives for conducting search and seizure; The existing subsection (k) becomes the new subsection (l); The new subsection (k) provides directives regarding a joint investigation conducted by the department and a law enforcement agency, which ensures that a family's Fourth Amendment rights will be protected. Under the new subsection (l) the language from the original subsection (k) is revised to provide a caveat which allows law enforcement officials to limit or prohibit notification of an individual regarding a specific complaint or allegation.

[3:11:47 PM](#)

REPRESENTATIVE GARDNER asked how this will change what is currently in practice.

REPRESENTATIVE NEUMAN responded that this language will bring Alaska statute in-line with CAPTA, which requires that states implement these standards. In further response, he noted that what is not currently in practice is the training requirement component. Although training does occur, he stressed that without specific language in statute, it is not necessarily emphasized, which may result in complaints of procedures not being followed.

[3:13:51 PM](#)

REPRESENTATIVE GATTO pointed out that page 2, line 2, stipulates that the "complainant may not be revealed". However, he questioned if that is strong enough language, and he related a personal experience that illustrated the ease afforded a perpetrator in identifying a complainant, thus allowing for confrontation or retribution. He underscored the importance of protecting the complainant's identity.

[3:15:47 PM](#)

REPRESENTATIVE SEATON recalled the recent efforts of rewriting the child in need of aid (CINA) law. He asked whether the rights of the families, as stipulated in HB 346, were not included in the revisions of CINA, and whether this bill represents a formality for federal purposes to indicate that particular issues have been placed into state statute.

REPRESENTATIVE NEUMAN acknowledged the CINA revisions, but could not ascertain whether the issues addressed in HB 346 represent an overlap. He assured the committee that this bill will bring Alaska in-line with the required procedures established as federal standards under CAPTA.

[3:17:20 PM](#)

REPRESENTATIVE NEUMAN, in response to Chair Wilson, confirmed that HB 346 has been included in HB 408, which has been approved by the Senate Health, Education and Social Services Standing Committee.

[3:18:13 PM](#)

REPRESENTATIVE GATTO restated his personal experience with Office of Children's Services (OCS), and asked for an explanation of what measures are taken to ensure that a complainant's identity is protected. In the situation which he

described earlier, he pointed out that the complainant's name was not issued by OCS, but the complainant's professional position in the community was and that made for easy identification by the perpetrator. He reiterated his question as to whether there is a need for stricter language in the bill.

TAMMY SANDOVAL, Deputy Commissioner, Office of Children's Services (OCS), Department of Health and Social Services (DHSS), expressed distress regarding the experience that Representative Gatto described. She explained that the standard operating procedures followed by OCS should never allow for identification of the complainant or make any identifying information available that could allow for such a situation to arise. She agreed that the language would be strengthened by amendment. She pointed out that the law does provide a legal caveat for when a case is presented in court, which allows for the complainant to be identified. However, it should not occur prematurely or outside of court as in Representative Gatto's situation.

[3:21:45 PM](#)

REPRESENTATIVE GATTO opined whether changing the single word would suffice or if language could be included that would impose a misdemeanor against any person who reveals the identity of a complainant.

MICHAEL LESMANN, Community Relations Officer, Office of Children's Services, Department of Health and Social Services (DHSS), cited AS 47.17.040(b) and paraphrased from the following [original punctuation provided]:

(b) Investigation reports and reports of harm filed under this chapter are considered confidential and are not subject to public inspection and copying under AS 40.25.110 and 40.25.120. However, in accordance with department regulations, investigation reports may be used by appropriate governmental agencies with child-protection functions, inside and outside the state, in connection with investigations or judicial proceedings involving child abuse, neglect, or custody. A person, not acting in accordance with department regulations, who with criminal negligence makes public information contained in confidential reports is guilty of a class B misdemeanor.

CHAIR WILSON stated:

We're really covered Unfortunately, once in a while there is a slip-up, but no one ever does that intentionally. ... the intent is to not reveal the person who ... instigated an investigation.

[3:23:45 PM](#)

REPRESENTATIVE SEATON asked whether there would be any legal concerns in amending the language as suggested.

MS. SANDOVAL responded that the word "shall" could be inserted to replace the word "may", without difficulty.

[3:24:16 PM](#)

REPRESENTATIVE GATTO moved Amendment 1, stated as follows:

Page 2, line 2;

Delete "may"
Insert "shall"

Hearing no objection, Amendment 1 was adopted.

[3:24:40 PM](#)

REPRESENTATIVE SEATON restated his inquiry regarding the omission of the HB 346 issues in the CINA bill revision.

MS. SANDOVAL stated that the department supports this bill, and explained that required training is provided to new OCS employees via the University of Alaska Anchorage (UAA) academy, and the DHSS standard operating procedure [SOP] also addresses the HB 346 issues. However, she said: "Is [the training and is the SOP] as specific and [do they] give [these issues] as much emphasis and weight within our own system, no. Do I think that we have addressed [these issues], yes. I think we could do better." She conceded that the changes required by HB 53 [CINA revisions] were extensive and the department is "still trying to make the tweaks in [routine] practice, ... regulations, ... policies, and procedures and this is [an area] that we haven't given specific attention to ... but it hasn't been entirely missed."

[3:26:24 PM](#)

REPRESENTATIVE SEATON said that Ms. Sandoval's response answered the family rights aspect, but he requested further clarification regarding the section of HB 346 that deals with the protection of the complainant's identity. He asked if this was an area addressed in HB 53, and, if so, how is it being implemented by the department.

MS. SANDOVAL explained that when an investigation begins, unless law enforcement stipulates otherwise, the department's SOP requires that OCS advise the alleged perpetrator of the allegations. However, she said, "I don't believe that HB 53 specifically addressed what's now being addressed in HB 346."

MR. LESMANN interjected that Representative Seaton may be recalling the aspect of HB 53 that referred to feedback to reporters, if they asked to be notified of a status.

[3:28:09 PM](#)

REPRESENTATIVE GARDNER asked, referring to subsection (k), page 1, line 9, whether this language would require OCS to involve law enforcement prior to OCS having established an incoming report as representing a well-founded suspicion.

MS. SANDOVAL described what routinely happens when a report is received, how the validity of a report is established, and how the decision to coordinate law enforcement occurs. She explained that often, after OCS determines the safety aspect of a situation, law enforcement may initiate a criminal investigation right away.

[3:30:29 PM](#)

CHAIR WILSON questioned whether the "shall" [page 1, line 10] should be amended to "may".

REPRESENTATIVE SEATON pointed out that the "shall" only applies when a joint investigation has already been initiated.

[3:31:13 PM](#)

REPRESENTATIVE GARDNER asked whether the language of subsection (k) comports with current departmental practice.

MS. SANDOVAL assured the committee that this subsection represents current SOP.

[3:31:39 PM](#)

REPRESENTATIVE CISSNA moved to adopt Amendment 2, labeled 24-LS1335\A.1, Mischel, 4/4/06, which read [original punctuation provided]:

Page 1, line 1, following "Act":

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

Page 1, following line 2:

Insert new bill sections to read:

"* **Section 1.** AS 47.10.080(1) is amended to read:

(1) Within 12 months after the date a child enters foster care as calculated under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and permanent plan developed in the hearing are governed by the following provisions:

(1) the persons entitled to be heard under AS 47.10.070 or under (f) of this section are also entitled to be heard at the hearing held under this subsection;

(2) when establishing the permanent plan for the child, the court shall make appropriate written findings, including findings related to whether

(A) and when the child should be returned to the parent or guardian;

(B) the child should be placed for adoption or legal guardianship and whether a petition for termination of parental rights should be filed by the department; and

(C) the child should be placed in another planned, permanent living arrangement and what steps are necessary to achieve the new arrangement;

(3) if the court is unable to make a finding required under (2) of this subsection, the

court shall hold another hearing within a reasonable period of time;

(4) in addition to the findings required by (2) of this subsection, the court shall also make appropriate written findings related to

(A) whether the department has made the reasonable efforts required under AS 47.10.086 to offer appropriate family support services, available intensive family preservation services, or intensive family reunification services to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid under this chapter;

(B) whether the parent or guardian has made substantial progress to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid under this chapter;

(C) if the permanent plan is for the child to remain in out-of-home care [OUT-OF-HOME-CARE], whether the child's out-of-home placement continues to be appropriate and in the best interests of the child; and

(D) whether the department has made reasonable efforts to finalize the permanent plan for the child;

(5) the court shall hold a hearing to review the permanent plan at least annually until successful implementation of the plan; if the plan approved by the court changes after the hearing, the department shall promptly apply to the court for another permanency hearing, and the court shall conduct the hearing within 30 days after application by the department.

* **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 make reasonable efforts to refer a child for intensive family preservation services, or intensive family reunification services, or both, when those services are available and, if the child is in the home, 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 or intensive family reunification services, or both, were appropriate, offered, used, or available."

Page 1, line 3:

Delete "**Section 1**"

Insert "**Sec. 3**"

[3:32:23 PM](#)

CHAIR WILSON objected to allow discussion.

[3:32:31 PM](#)

REPRESENTATIVE CISSNA explained that this amendment matches the spirit of the bill in working to ascertain safety issues and by stipulating the preservation/reunification of the family unit. She said that the intensive family preservation model is a program which has been adopted in 33 states and 8 countries with positive results. She related her understanding that the department has existing services to support this type of family preservation and reunification model, which is successful due to its intensity. She pointed out that the bold type sets out what action should be taken if services are available, however, the amendment does not require the department to establish new services to support the model.

MS. SANDOVAL described how the department's current levels of family preservation/reunification coincide with this intensive family preservation model.

[3:36:46 PM](#)

REPRESENTATIVE GATTO asked if statistics are available which would indicate that family preservation/reunification is a cause worth pursuing.

MS. SANDOVAL stressed that family preservation is certainly worth the effort. Philosophically and generally speaking, children should stay in their home whenever possible, if safety can be assured, and even while support services are being administered to a family. She explained that the situation changes dramatically when a child is removed and the focus shifts to reunification.

[3:38:21 PM](#)

REPRESENTATIVE GATTO inquired why this amendment is necessary if it reflects what is already a standing alternative.

REPRESENTATIVE CISSNA pointed out that the same could be said about the bill without the amendment, but she stressed that the amendment provides legislative intent. She said that this amendment would also serve to open opportunities for the state to pursue contracts with private vendors who would provide services in accordance with this model.

[3:40:03 PM](#)

MS. SANDOVAL explained that when DHSS receives funding to administer the three areas of family support provided under OCS,

a pot of money is created which is then granted to contractors who have submitted a successful request for proposal (RFP). She questioned how this amendment would serve to augment the existing system.

REPRESENTATIVE CISSNA clarified that this would enter the term "intensive family preservation" into statute to provide a focal aspect, which does not currently exist. Also, she opined that entry of this terminology into statute may afford a window of opportunity for people who provide this type of service to receive funding through The National Intensive Family Preservation Association, which locates grant money for allocation. She stressed the success that other states have experienced with this program.

[3:41:51 PM](#)

REPRESENTATIVE SEATON pointed out that "intensive family preservation services" is not capitalized in the amendment, but that it is being discussed in committee as a particular program. He paraphrased from the amendment Section 1, subparagraph (A), which states: "... to offer appropriate family support services ..., available intensive family preservation services, or intensive family reunification services ...", and suggested that by enacting this language the RFP procedure would be precluded and the department would be required to provide funds to whomever operated a program under this model. Further, he offered questions which would need to be clarified if his understanding is correct.

REPRESENTATIVE GARDNER stated that these intensive services are already offered in Alaska, and are currently called "wrap-around services." She explained her understanding as to how the intensive model works, and opined that many organizations hold contracts with the state to provide services of this caliber.

MS. SANDOVAL agreed and further illuminated that the implementation of methods for intensive family preservation and intensive family reunification are tools in the OCS "tool kit". She explained that OCS considers all of these options when attempting to rehabilitate a family.

[3:45:48 PM](#)

CHAIR WILSON noted that by not capitalizing the title it removes the understanding of it being a specific program and identifies it as an intensive service model for assisting families.

MS. SANDOVAL named the Home Builder's model as an example of a specific professional model currently in use which implements some intensive family preservation techniques. She stated that OCS staff has worked with a consultant who provides the state with technical assistance for administering an intensive family preservation program.

CHAIR WILSON reiterated that by not capitalizing this name in statute, it would not be construed as a "specific program" but rather suggest an overall model that OCS could choose to implement.

[3:47:10 PM](#)

REPRESENTATIVE NEUMAN echoed Representative Seaton's concern as to whether this amendment would create a connection to a particular company/organization or does it enact a standard appropriate for state statute. He expressed concern for including the name of an organization in the bill because it may complicate matters.

[3:49:18 PM](#)

JAN RUTHERDALE, Assistant Attorney General, Child Protection Section, Civil Division (Juneau), Department of Law (DOL), clarified that this is not a specific program but rather a generic model which eliminates any conflict.

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REPRESENTATIVE SEATON stated that despite his original concerns, he now understands, through committee discussion, that this language pertains in fact to a model versus a specific program, thus funds would not be channeled to a particular provider. He requested that the sponsor of the amendment provide a statement to that effect for the record.

REPRESENTATIVE CISSNA stated that this amendment is to provide a class of service and to indicate a general service model which can be provided through various ways and means.

[3:51:49 PM](#)

REPRESENTATIVE GATTO established that the "National Family Preservation Network" is a proper name with a website and describes itself as using characteristics of the Home Builder's

model which is a registered trademark. However, he agreed that providing specific terms in lower case would not present a problem.

[3:52:51 PM](#)

CHAIR WILSON withdrew her objection. There being no further objection, Amendment 2 was adopted.

REPRESENTATIVE KOHRING moved to report CSHB 346, Version 24-LS1335\G, Mischel, 3/27/06, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 346(HES) was reported out of the House Health, Education and Social Services Standing Committee.

HB 468-HEALTH CARE DISCLOSURE

[3:54:10 PM](#)

CHAIR WILSON announced that the final order of business would be HOUSE BILL NO. 468, "An Act relating to disclosure of employment information on a medical assistance application and a hospital intake report; and requiring the Department of Health and Social Services to prepare and publicize a report pertaining to employers who do not provide health insurance."

CHAIR WILSON provided that this bill would not be moved today.

[3:55:07 PM](#)

MICHAEL BUCY, Staff to Representative Max Gruenberg, Alaska State Legislature, paraphrased from the following written statement [original punctuation provided]:

House Bill 468 is modeled after bills introduced in other states to help deal with the growing problem of corporate misuse of state welfare systems.

It would require that hospitals report annually to the state the name of the employer of any person, or the dependents of that person, unable to pay or needing public assistance to pay for their health care.

It would also require that those results be reported on an annual basis to inform the legislature and the public.

The Problems That Prompt This Bill Are:

Cost of Health Care, Possible Misuse of State Medicaid, Lack of Information

The Cost of Health Care is a Huge Problem Nationally.

According to the Dept. of HSS, Medicaid costs for the state were \$278,000,000 in 2006 and \$384,009,000 was requested for 2007. Including Federal monies, the total Medicaid amount spent in Alaska was \$1,031,384,000 in 2006. \$1,221,421,000 is requested for 2007.

The Possibility of Misuse of State Medicaid is a Growing Concern.

Some large, healthy employers in the State of Alaska may be using the Medicaid system, to provide health insurance for their workers. This is a growing practice that has been quantitatively measured in other states.

There is Currently a Lack of Information

According to the State Department of Health and Social Services, "the state does not maintain a database of employers who do not provide health insurance benefits for their workers."

A well-publicized case we might consider in this context is Wal-Mart.

Wal-Mart is a large, worldwide retail store chain, which made \$11.2 billion in net profit last year, in the U.S. alone.

Wal-Mart is Alaska's third largest employer: 2,725 employees (2004 AK DOL)

Nationally, Wal-Mart's employees are substantially more likely to be on public health care than most other employees of large companies.

In one of its own recent memos, Wal-Mart acknowledged that 46% of its employees' dependent children are uninsured or on Medicaid.

Results of recent studies in 13 states, where the extent employers' workers utilized public health programs to secure health coverage for themselves and their families showed:

In Alabama, 1 in 5 of Medicaid insured children are dependents of Wal-Mart employees.

California, a 2004 study by UC Berkeley found WM(Wal-Mart) employee's reliance on public assistance programs, including public health care programs, costs the state \$86 million annually, with health-related costs accounting for \$32 million.

Texas, children of WM workers are 30% of all children participating in CHIP whose parents work for the top 20 employers on the state's list.

Washington, WM topped the list of employers with workers in the state's Basic Health Plan. In a Seattle Times article this year, it was noted that the state provided \$12 million in government-subsidized health care to WM employees. That's a \$12 million subsidy to one of the most profitable corporations in the country.

What Course of Action, If Any, Should the State Take?

The first step toward a possible course of action is to first consider questions such as:

How much does this sort of behavior cost the state of Alaska every year?

Who are the employers that are easily able, but unwilling, to help pay for their employee's health care ?

Should there be a law addressing this sort of corporate behavior?

Again, according to the State Department of Health and Social Services, "the state does not maintain a database of employers who do not provide health insurance benefits for their workers."

A reporting procedure should be put in place to shed light on this subject and answer these questions that we cannot accurately answer today.

In order to consider legislation that is fair, appropriate and part of a solution for high state Medicaid costs and possible corporate abuses, such information collection as House Bill 468 would mandate would be very useful and a step in the direction of ensuring responsible corporate behavior in Alaska for the future.

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CHAIR WILSON inquired as to how many other states ask for this information.

MR. BUCY answered that currently Illinois, Hawaii, and Massachusetts have similar legislation. In further response to Chair Wilson, Mr. Bucy said that he has spoken with Providence Hospital but has yet to hear the reaction.

CHAIR WILSON mentioned that she is trying to pass legislation to have hospitals report overtime, which has not been well received by the hospitals.

[4:02:10 PM](#)

REPRESENTATIVE CISSNA inquired as to whether any data on the uninsured has been collected by other states. She related her understanding that other states have taken advantage of federal money to perform surveys [to collect data on the uninsured population]. Representative Cissna opined that Alaska is one of the few states without such a survey.

MR. BUCY said that he didn't know where Alaska stands with the survey, but offered to find out.

[4:03:23 PM](#)

REPRESENTATIVE GARDNER highlighted that whenever one incurs medical expenses, the provider always inquires as to who the

employer of the patient is in order to remain fiscally solvent. Therefore, it would seem that the information is already collected and thus it's merely a matter of providing it to the state.

CHAIR WILSON noted her agreement, but reiterated the difficulty there may be in obtaining the information.

[4:04:23 PM](#)

REPRESENTATIVE GATTO turned attention to the data in the committee packet that specifies that the children of Wal-Mart employees are either uninsured or receiving taxpayer-funded public health. However, he noted that many of the Wal-Mart employees he thinks of are 60 years of age and thus he questioned whether the reference to "children" includes adult children of seniors. Therefore, he encouraged the committee to be somewhat suspicious of backup material from the unions.

MR. BUCY explained that the information was provided in a confidential memorandum from a Wal-Mart corporate planning session that was leaked to the unions and the press. The information was taken from the company's review of how to decrease the company's health care liabilities while improving the company's public image. Interestingly, the memorandum did recognize that the company did have a number of elderly employees that probably cost them in the health insurance arena and that perhaps sending elderly employees to collect shopping baskets in inclement weather would be a strategy to reduce the role of the elderly employees. Mr. Bucy offered to share the memorandum with the committee.

[4:06:51 PM](#)

CHAIR WILSON pointed out most of [Wal-Mart's] employees are part-time employees and thus they probably aren't working enough hours to receive insurance.

[4:07:20 PM](#)

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, speaking as the sponsor, explained that HB 468 is based on model legislation by the National Caucus of Labor Legislators. Such legislation has been introduced in other states, although it's quite new and Alaska is on the forefront of this. He noted that the model legislation hasn't passed yet. Representative Gruenberg explained that he introduced this legislation to

obtain data and determine whether a problem exists in Alaska, and if so, what can be done to address it. He mentioned that he has an interest in the matter because a Wal-Mart is scheduled to go into his district and it has sparked much controversy.

[4:08:41 PM](#)

REPRESENTATIVE GATTO asked if employees who are eligible for Medicaid would be listed as uncovered workers in data. He expressed the need to clarify the data.

REPRESENTATIVE GRUENBERG agreed to the need to collect meaningful data and indicated the need to amend the legislation so that the data doesn't refer to employees who have insurance from other sources, such as Medicare.

REPRESENTATIVE GATTO provided that employees who receive health insurance through a spouse could be listed in a survey suggesting that those employees aren't covered by the employer.

[4:10:36 PM](#)

REPRESENTATIVE GARDNER referred to page 1, line 13, which specifies "a patient who is not covered by insurance." Therefore, the information is only being gathered about employers of patients who are not covered by insurance no matter the type.

REPRESENTATIVE GRUENBERG related his desire for the legislation to be meaningful, and therefore he said he was open to suggestions.

[4:11:27 PM](#)

WALTER STUART, President, United Food & Commercial Workers (UFCW) Union Local 1496, informed the committee that UFCW negotiates for health and welfare for 3,000 members that are in Alaska. The UFCW negotiates with Providence Hospital and other area hospitals and Providence Hospital collects about \$.64 of every dollar it bills. "This is a crisis for Alaska and the United States; this isn't just about whether or not we might step on somebody's toes to get some information," he opined. He further opined that hospitals would like to have more insured patients come to town. With regard to Wal-Mart, it plans to open another 11 super centers in Alaska by 2008. As Wal-Mart is currently the third largest employer, the aforementioned will make Wal-Mart the largest employer. He indicated that Wal-Mart

provides its employees with information as to how to receive subsidized health care. Furthermore, these aren't just part-time jobs, the corporation is choosing to work its employees part-time and not provide benefits. If something isn't done to obtain information, the state will be far behind, and therefore he thanked the sponsor for introducing HB 468.

[4:13:40 PM](#)

MR. STUART, in response to Representative Seaton, clarified that UFCW represents most of the retail grocery, hardware, and furniture stores. He noted that the organization used to be called the Retail Clerks. In further response to Representative Seaton, Mr. Stuart said that UFCW's health plan changed three years ago when Wal-Mart entered Alaska. He related that UFCW's members used to have insurance for the employee and the employee's family after 90 days. However, now it takes 16 months before the dependents become eligible for coverage with the employers and thus for the first 16 months the employee only is covered.

[4:14:58 PM](#)

CHAIR WILSON surmised then that although the UFCW wants Wal-Mart [to spend a percent of its payroll on health care or contribute to a state fund], the employers covered under UFCW don't even do that.

MR. STUART opined that it didn't used to be this way, but now new employers have entered the market. One employer can't pay half the health care coverage another employer is providing and stay in business. The aforementioned diminishes [UFCW employers'] health care plan, which he said is still better than what Wal-Mart offers. In further response to Chair Wilson, the change in the UFCW employers' health care was an attempt to even the playing field. Mr. Stuart opined, "I know I represent a union, but I'm an Alaskan first. And being Alaskan, I think Alaskan employers have some obligation, particularly the employers that can afford levels of health care coverage that Wal-Mart, as an example, is not covering." He opined that the hospital would be more than glad to provide information on those patients for whom the hospital doesn't receive compensation or receive compensation from a subsidized program.

[4:18:01 PM](#)

AMY PAIGE testified in support of HB 468. She paraphrased from the following written document [original punctuation provided]:

I would like to testify in favor of HB 468 relating to disclosure of employment information on those seeking assistance for hospital medical services. This bill would make it possible for the State of Alaska to begin to gather information on the burden the state faces due to employers who do not make affordable health care coverage available to their employees. The bill would require the hospital intake form to ask for this information from the person receiving services, and would require the hospital to report the name and address of these employers. The bill would apply to employers of 25 or more employees or contractors.

This information is basic to a full understanding of the extent to which employers pass along their costs to the taxpayers. Some of the largest businesses in the country are the ones most likely to fail to provide affordable health care coverage for their employees. We have seen this in many of the lower 48 states, and it is likely true here. At present there is no reporting system requirement, so the state does not know the extent of these costs to Alaskans.

Until we have a universal single-payer health care system in Alaska, employers are carrying the costs of health care for their employees and families. It is important that these costs are covered equitably, so that there is a "level playing field" in this regard for all businesses doing business in Alaska. This bill will allow the State to begin to document the employers whose health care benefits are inadequate and result in their employees seeking public assistance for health care and other services.

[4:19:52 PM](#)

MS. PAIGE concluded by relating that knowing the employers of those who don't receive coverage in other ways would be a good idea for all social services provided by the state. She pointed out that many people are making such low wages that even if a plan is offered, the employee can't afford it. This situation draws everyone down; when Wal-Mart enters a community it draws

down the standard of living. She recommended that the committee view the video exposing Wal-Mart's practices.

4:20:59 PM

REPRESENTATIVE GATTO asked if organizations such as Wal-Mart are required to supply health insurance.

MS. PAIGE answered that she didn't know, although the organization WakeUp Wal-Mart reports that part-time employees, any employee who works less than 34 hours a week, must wait two years before he/she can enroll in the health insurance program. However, she related her understanding that Wal-Mart says it will change that to one year as of January 2007. She further related her understanding that part-time employees are ineligible for family health care coverage.

4:21:46 PM

REPRESENTATIVE GATTO opined that in a free market an employer offers wages and benefits and it's left to potential employees to make a decision. Therefore, he asked whether potential employees can control part of the employer's offer by insisting on benefits or can employers simply say it's not the employer's problem.

MS. PAIGE relayed that large employers such as Wal-Mart don't allow unions, so the potential employees have very little power to change the large employers' way of operating. Furthermore, many of those who apply for a position for wages [such as offered at Wal-Mart] don't really have choices and thus are forced into the situation, she opined.

4:22:43 PM

REPRESENTATIVE GATTO inquired as to whether supplying health insurance and workers' compensation is an obligation required by statute.

REPRESENTATIVE GRUENBERG offered that perhaps some of the later witnesses may be able to answer that question. As a practical matter, in many communities these are the only jobs and the individual employee doesn't have much choice.

CHAIR WILSON opined that for some, part-time positions may be exactly what they are seeking and such individuals might even have insurance elsewhere.

4:24:01 PM

REPRESENTATIVE GARDNER recalled an e-mail that she received from Wal-Mart which reported that about 40 percent of its full-time employees have access to health care coverage. However, when she asked how many of the full-time employees "in your building" are employees of Wal-Mart, Wal-Mart never responded. Representative Gardner opined that there are many ways companies can have full-time employees who aren't necessarily the employees of the company. For instance, gift card company employees don't work for Wal-Mart, but Wal-Mart is allowed to claim [such employees] in Wal-Mart's percentage of full-time employees.

4:24:58 PM

REPRESENTATIVE SEATON recalled that Massachusetts or New Hampshire passed a law requiring any employer with a certain amount of employees to pay a minimum of 8 percent of the employees' wages in health care or to the state for compensation for the health care that would be provided to the state. He asked if the sponsor has information on the aforementioned that he could provide to the committee.

REPRESENTATIVE GRUENBERG replied yes. He informed the committee that Representative Seaton is referring to the Fair Share Act, the other model act by the National Labor Caucus. He noted that Representative Croft introduced such legislation, which was referred to the House Labor and Commerce Standing Committee. He informed the committee that Representative Croft's legislation was similar to Maryland legislation that was vetoed by the Maryland governor, although the Maryland legislature recently overrode the veto. He mentioned that Maryland was the first state to pass the Fair Share Act.

4:27:07 PM

ELLIE FITZJARRALD, Chief, Policy & Program Development, Division of Public Assistance, Department of Health and Social Services (DHSS), related that DHSS performed some preliminary fiscal analysis on HB 468, which is contained in the fiscal notes provided to the committee. She offered to answer questions.

4:27:47 PM

REPRESENTATIVE SEATON, referring to the \$25,000 fiscal note from DHSS dated 3/28/06, asked if that fiscal note is for setting up the network for a report.

MS. FITZJARRALD explained that DHSS has an automated eligibility information system (EIS) that is used to determine eligibility for Medicaid and other public assistance benefits. Currently, wage information is collected as part of the financial eligibility, although the employer's name and address isn't collected. Therefore, the \$25,000 is the cost associated with reprogramming the system to add the aforementioned data fields so that the employer's name and address can be included in the data, which would be included in a report that would be compiled at the end of the year.

[4:28:47 PM](#)

MS. FITZJARRALD, in response to Representative Seaton, explained that information is collected on the application for assistance that includes the employer's name, whether health insurance is received by the applicant, and the applicant's wage. However, that information is not placed into the EIS and thus [the fiscal note] refers to funds required to record the information in the EIS in order that it can be extracted electronically. Ms. Fitzjarrald clarified that the information only refers to Medicaid applicants, and therefore doesn't include the hospital reports that would be received at the end of the year from the hospitals. In further response to Representative Seaton, Ms. Fitzjarrald said the information is available on the applications that Medicaid applicants have filled out. However, this fiscal note refers to from this point forward. To retroactively collect this data would require a much larger administrative cost.

[4:31:36 PM](#)

CHAIR WILSON surmised then that once the system can accept the information, it would take \$130,000 per year for staff to input the address.

MS. FITZJARRALD explained that the \$130,000 fiscal note is the equivalent of two full-time staff. She informed the committee that in any given month, there are well over 50,000 Medicaid cases of which there is often more than one individual and dependents. Ms. Fitzjarrald further explained that eligibility is determined monthly. With the seasonality of Alaska's workers, people start and stop work every month and presumably

every eligibility worker working on the eligibility for a family receiving Medicaid would need to enter employer information as changes occur to the financial eligibility every month. The estimate of the time it would take over the course of the year is equivalent to two full-time staff for all the cases statewide.

[4:32:51 PM](#)

REPRESENTATIVE SEATON inquired as to the number of staff the division currently has performing data input for Medicaid.

MS. FITZJARRALD answered that there are over 300 staff who administer all public assistance programs, including Medicaid. She noted that Medicaid is the largest public assistance program. She also noted that many of the Medicaid beneficiaries who are in long-term care and seniors wouldn't have employers, which was taken into consideration with the fiscal note.

[4:33:38 PM](#)

MS. FITZJARRALD, in response to Representative Gardner, clarified that all of the information currently collected is on paper, while part of it is input electronically. Specifically, the gross amount of monthly earnings and the hours of work is input in the system in order to calculate an applicant's financial eligibility. However, the employer of the applicant isn't in the electronic system. Therefore, in order to determine the number of employees by employer with the employer's name and address, it would have to be data recorded in the system.

REPRESENTATIVE GARDNER said that she was stunned that it would take two full-time employees to add two more fields of information to a system in which data is already being entered.

MS. FITZJARRALD pointed out that often these are children who have insurance with parents who aren't in the home. Therefore, while the division may have information regarding the insurance coverage of the child, the division doesn't know the employer name or address of the parent with the coverage. Moreover, many of the applications are done long distance through the mail, which is time consuming.

[4:36:09 PM](#)

REPRESENTATIVE GARDNER surmised that currently for an individual receiving public assistance, the division doesn't ask whether the parent responsible for the child is employed and where.

MS. FITZJARRALD responded, "We do ask information to the extent that we can for the program that they're on about who is living with them." However, if it's a parent outside of the home, the case is referred to the Child Support Services Division in order to enforce medical support with information rather than as part of the eligibility determination in public assistance.

REPRESENTATIVE GARDNER opined then that a child with an absent parent who is a millionaire could receive public assistance under the current system.

MS. FITZJARRALD reiterated that the information about the child's absent parent would be obtained and would be referred to the Child Support Division for enforcement of child support and medical support. Still, the information about the millionaire parent not living in the home with the child isn't considered in the child's application for assistance. She further reiterated that the information regarding the medical insurance coverage would be available, but the details of the employer and the employer's address wouldn't be.

[4:38:29 PM](#)

REPRESENTATIVE CISSNA asked if data on this issue is collected and made available.

[4:38:49 PM](#)

DWAYNE PEEPLES, Director, Division of Health Care Services, Department of Health and Social Services (DHSS), said that he didn't know of any central database on this existing information. He noted that the state's Medicaid management information system (MMIS) does some matching with regard to eligibility. The eligibility information from the Division of Public Assistance is matched with the Medicaid claims. The Division of Health Care Services also does some coordination of benefits through what has been identified through the Division of Public Assistance. A contractor reviews other databases for health insurance in order to match as many databases as possible, but the scope of this legislation isn't readily available in any of the databases of which he is aware.

[4:39:42 PM](#)

MR. PEEPLES, in response to Representative Cissna, said that he didn't know the level to which the hospitals are underwriting uninsured care. Within the Medicaid system and through coordination of benefits and deferring costs to other insurance companies, about \$25 million a year is being collecting. "We can identify certain individuals who have other insurance, but the vast majority of what else is going on out there I could not put a dollar value on it. It is a contributor to health care costs that the state's picking up, but I have no way of quantifying that," he said. In further response to Representative Cissna, Mr. Peeples related his belief that the state will be spending in excess of \$1.2 billion for Medicare services.

[4:41:21 PM](#)

REPRESENTATIVE GARDNER asked if it's correct that of the \$384 million requested for FY 07 that the state doesn't know how much is incurred by employed individuals.

MR. PEEPLES offered to review information from the Division of Public Assistance and the MMIS in order to provide an approximate number. In further response to Representative Gardner, Mr. Peeples suspected that the division wouldn't be able to determine the employer after determining that an individual is employed if the information isn't recorded in the database. Such information would require manual efforts to obtain, he indicated. In regard to a better way than HB 468 to obtain the information, he said that he hasn't scrutinized possible alternatives.

[4:43:06 PM](#)

REPRESENTATIVE SEATON asked if the information collected per this legislation would be useful to the department in any way.

MR. PEEPLES opined that for claims processing for Medicaid most of the information is being collected, although it may help the division identify potential third-party payers with which to coordinate benefits and defer costs. Mr. Peeples related his belief that the major intention of this legislation is to be utilized in policy making and analysis of what is occurring in the health care sector for the uninsured.

[4:43:59 PM](#)

CHAIR WILSON related her belief that legislators are going to be forced to review ways in which to cut the money being spent by the state. Therefore, if the department has any suggestions, this committee would entertain them, she said.

[4:44:35 PM](#)

REPRESENTATIVE CISSNA opined that although the fiscal note seems like a lot, it would be cost effective because the wage of those employees entering the data are at the low end of the pay scale for state employees.

MR. PEEPLES deferred to the Division of Public Assistance.

MS. FITZJARRALD confirmed that those doing the data input would be eligibility technician staff, which would be at an entry level wage.

[4:46:02 PM](#)

REPRESENTATIVE SEATON asked if the language on page 1, line 13, will generate the data sought. Representative Seaton further asked if there is any way in which to constrain the data such that all the information needed would be obtained while eliminating some of the burdensome requirements of data identification.

MS. FITZJARRALD said that this legislation is adequate for gathering the Medicaid information. However, in terms of the hospital reports she deferred to the hospitals. She said that she visualized that the department would request a report from the hospitals' intake forms of the names and addresses of each employer for the uninsured and their dependents. Although it seems to be fairly straightforward information, she said she didn't know how the hospitals would accomplish it.

[4:49:08 PM](#)

REPRESENTATIVE SEATON surmised then that from the hospital the information would be adult information because children would be covered under DenaliKid Care.

MS. FITZJARRALD clarified that DenaliKid Care is one coverage under Medicaid and the division seeks any third-party coverage for any Medicaid applicant. If the desire is to identify the parts of the rising costs of health care, the information of any individual seeking hospital care with a parent/legal guardian

who is employed and doesn't have health insurance coverage [should be covered]. In further response to Representative Seaton, Ms. Fitzjarrald explained that the hospital intake reports would be for any individual who didn't have health insurance coverage, presumably Medicaid wouldn't be considered health insurance coverage. As this legislation is drafted, there wouldn't be a match or any sort of investigation as to the type of health insurance coverage from the hospital report but rather it would be an amount of uninsured individuals who came to the hospital.

[4:52:15 PM](#)

CHAIR WILSON requested that Representative Gruenberg provide results from the other states that have implemented this.

REPRESENTATIVE GRUENBERG offered to provide the committee with charts relating the results of similar legislation in other states.

[4:53:52 PM](#)

CHAIR WILSON expressed the need to hear from the hospitals the next time this legislation comes before the committee.

[4:54:11 PM](#)

REPRESENTATIVE GRUENBERG requested that if the committee members would like to include any additional information in the report specified in the legislation, they should inform him.

[4:54:58 PM](#)

REPRESENTATIVE GARDNER suggested that the committee members think of HB 468 in relation to the certificate of need because it seems to tie in with what the state pays for medical coverage.

[HB 468 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 4:55 p.m.