

MINUTES
SENATE FINANCE COMMITTEE
May 5, 2006
9:07 a.m.

CALL TO ORDER

Co-Chair Lyda Green convened the meeting at approximately [9:07:24 AM](#).

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman

Also Attending: REPRESENTATIVE JOHN COGHILL; REPRESENTATIVE CARL GATTO; REPRESENTATIVE JAY RAMRAS; JANET CLARKE, Assistant Commissioner, Department of Health and Social Services; STACIE KRALY, Chief Assistant Attorney General, Statewide Section Supervisor, Human Services Section, Civil Division, Department of Law; BRYAN BUTCHER, Director, Governmental Affairs and Public Relations, Alaska Housing Finance Corporation, Department of Revenue; JOE DUBLER, Director, Finance, Alaska Housing Finance Corporation, Department of Revenue; FRANK HOMAN, Commercial Fisheries Entry Commission; SUE WRIGHT, Staff to Representative Mike Chenault; MIKE POWLOWSKI, Staff to Representative Kevin Meyer; REVENIA MOSS, Staff to Representative John Coghill; KEVIN HENDERSON, Division of Public Assistance, Department of Health and Social Services; DONNA MCCREADY, Alaska Action Trust; CODY RICE, Staff to Representative Carl Gatto; EDDY JEANS, Director, School Finance Division, Department of Education and Early Development; CARL ROSE, Executive Director, Association of Alaska School Boards; STEPHANIE ALLISON, Alaska Kids Count Network; JIM POUND, Staff to Representative Ramras;

Attending via Teleconference: From an offnet location: DAN FAUSKE, Chief Executive Officer/Executive Director, Alaska Housing Finance Corporation, Department of Revenue; DAN MCDOWELL;

SUMMARY INFORMATION

HB 105-MEDICAID FOR ADULT DENTAL SERVICES

The Committee heard from the Department of Health and Social Services and the Department of Law. An amendment and a letter of intent were adopted and the bill was reported from Committee.

HB 16-SCHOOL FUNDS RELATED TO BOARDING SCHOOLS

The Committee heard from the sponsor and the bill was reported from Committee.

HB 381-TOBACCO REV. FOR CAPITAL PROJECTS

The Committee heard from the Alaska Housing Finance Corporation. The bill was held in Committee.

HB 484-FISHERY ASSOCIATION REIMBURSEMENT

The Committee heard from the sponsor and the Commercial Fisheries Entry Commission. An amendment was offered but failed to be adopted. The bill was reported from Committee.

HB 399-ELDER FRAUD AND ASSISTANCE/OPA

The Committee heard from the sponsor and a member of the public. The bill was reported from Committee.

HB 377-EXEMPTION: RES. BLDG. DRAWINGS & SPECS

The Committee heard from the sponsor and the bill was reported from Committee.

HB 426-MEDICAL ASSISTANCE/INS COOPERATION

The Committee heard from the sponsor, the Department of Law, the Department of Health and Social Services and the Alaskan Action Trust. Five amendments were adopted and the bill was reported from Committee.

HB 13-SCHOOL FUNDING & SCHOOL BOND REIMBURSEMNT

The Committee heard from the sponsor, the Department of Education and Early Development, and advocate organizations. An

amendment was offered but failed to be adopted. The bill was reported from Committee.

HB 334-MUNICIPAL PROPERTY TAX DEFERRAL/EXEMPTION

The Committee heard from the sponsor. A committee substitute was adopted and amended. The bill was reported from Committee.

HCR 30-AK CLIMATE IMPACT ASSESSMENT COMMISSION

The resolution was reported from Committee.

#hb105

[9:08:36 AM](#)

CS FOR HOUSE BILL NO. 105(FIN)

"An Act relating to coverage for adult dental services under Medicaid; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Green noted Co-Chair Wilken had raised questions at the previous hearing and has drafted language with assistance of the bill sponsor.

[9:09:11 AM](#)

Amendment #1: This amendment inserts "Subject to appropriation, the" to subsection (a) of Sec. 47.07.067. Payment for adult dental services., added through Section 2 on page 2, line 5.

This amendment also inserts a new subsection to Sec. 47.07.067 on page 2, following line 13 to read as follows.

(b) On or before June 30 of each fiscal year, the department shall review appropriations available for the purposes of this section for the following fiscal year, and estimate the scope of services to be used and number of eligible recipients anticipated to be served during the following fiscal year. Notwithstanding the maximum amount of benefits specified in (a)(1) of this section, the department shall reduce, by regulation, that specified

maximum amount of benefits for the following fiscal year if the department's estimates under this subsection would exceed appropriations available for that fiscal year. Notwithstanding any contrary provision of AS 44.62.250 and 44.62.260, the department may adopt emergency regulations to implement this subsection.

Co-Chair Wilken moved for adopted and objected to provide an explanation.

Co-Chair Wilken expressed concern about the cost of this program and his intent that it not "grow uncontrolled", as has occurred with other programs. He informed the Department of Health and Social Services that he would not support a supplemental appropriation, if requested, the following legislative session.

9:10:37 AM

JANET CLARKE, Assistant Commissioner, Department of Health and Social Services, testified that in meeting with Co-Chair Wilken she learned his intent to consider language that would place a tighter restraint on spending. He also wanted a letter from the commissioner outlining a plan to operate the proposed program within the allocated funding amount. Co-Chair Wilken also intended to allocate these funds in a separate appropriation to allow the legislature to track the funds independently.

Ms. Clarke stated that a new fiscal note was prepared to reflect the intentions of Co-Chair Wilken. She explained that funding allocated through a separate appropriation could not be transferred to another Budget Request Unit (BRU) component.

STACIE KRALY, Chief Assistant Attorney General, Statewide Section Supervisor, Human Services Section, Civil Division, Department of Law, testified that the amendment before the Committee would provide for a yearly adjustment of the program. At the conclusion of each fiscal year, the Department of Health and Social Services make a determination of the number of participants of the program the previous fiscal year, the services provided and the amount expended. If costs exceeded allocation, the maximum benefit amount for each patient would be reduced on a pro rata basis. All patients would be allowed to participate; however, fewer funds would be available for preventive maintenance procedures.

[9:14:26 AM](#)

Co-Chair Green asked if the provisions of the amendment were consistent with the letter of intent accompanying this legislation that was adopted by the House of Representatives.

Ms. Clarke affirmed.

[9:14:45 AM](#)

Co-Chair Wilken removed his objection to the adoption of the amendment.

Without further objection the amendment was ADOPTED.

[9:14:54 AM](#)

Co-Chair Wilken commented that many people would be eligible to receive services through this program; however, it was brought to his attention that an insufficient number of dentists operating in the state accept Medicaid. Some dentists list their reasons as Medicaid reimbursement for services is inadequate to cover the cost of delivery, too many Medicaid covered patients fail to keep appointments, and liability. He intended to collaborate with the Department to entice dentists to provide this care. Such enticement would not be possible under current statute and he did not intend to include any relevant changes in this legislation. However, he would address the issue in the future. He supported the proposed program.

[9:17:03 AM](#)

Co-Chair Wilken moved for adoption of a letter of intent signed by the Committee's co-chairs.

Co-Chair Wilken offered a motion to report CS HB 105(FIN), as amended, from Committee with individual recommendations, letter of intent, and a new fiscal note.

There was no objection and SCS CS HB 105 (FIN) was MOVED from Committee with a letter of intent and a new fiscal note dated 5/4/06 in the amount of \$2,633,000 from the Department of Health and Social Services.

#hb16

9:18:04 AM

CS FOR HOUSE BILL NO. 16(RLS)

"An Act relating to funding for school districts operating secondary school boarding programs, to funding for school districts from which boarding students come, and to the effectiveness of district secondary school boarding programs; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

REPRESENTATIVE JOHN COGHILL, sponsor of the bill, testified to the success of students attending boarding schools in Alaska.

9:19:20 AM

Co-Chair Wilken recognized the efforts undertaken in adopting regulations to implement this legislation. However, if the completed regulations were "significantly altered" from what was agreed upon during deliberations on this bill, the new statutes would be reconsidered the next legislative session. He did not support the State Board of Education changing the regulations without involvement of the legislature. He has discussed this with Representative Coghill and did not anticipate any difficulty.

9:20:08 AM

Senator Olson shared that boarding school enabled him to continue his education and realize professional success. Extended separation from his family was not easy but was worth the results.

9:21:04 AM

Co-Chair Wilken asked if a new fiscal note would be forthcoming to exclude Lower Kuskokwim.

Co-Chair Green indicated the revised fiscal note would be prepared that would reflect an amount reduction to \$1.79 million from \$1.255 million.

[9:22:09 AM](#)

Co-Chair Wilken offered a motion to report SCS CS HB 16, 24-LS0125\C, from Committee with individual recommendations and new fiscal note.

Without objection SCS CS HB 16 (FIN) was MOVED from Committee with a new fiscal note dated 5/2/06 in the amount of \$1,079,000 from the Department of Education and Early Development. [NOTE: A corrected fiscal note dated 5/6/06 in the amount of \$1,254,900 was received from the Department of Education and Early Development and was submitted to the Senate Secretary to be reflected as accompanying this bill as reported from Committee.]

AT EASE [9:22:24 AM](#)

#hb381

[9:23:24 AM](#)

CS FOR HOUSE BILL NO. 381(FIN)

"An Act relating to the financing of construction, major maintenance, and renovation of certain capital projects; authorizing the commissioner of revenue to sell the right to receive a portion of the anticipated revenue from a tobacco litigation settlement to the Northern Tobacco Securitization Corporation, and relating to that sale and the use of the revenue; authorizing the Northern Tobacco Securitization Corporation to issue bonds and use the proceeds to acquire the right to receive a portion of anticipated revenue from a tobacco litigation settlement and for other purposes, and relating to those bonds; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

[9:23:58 AM](#)

BRYAN BUTCHER, Director, Governmental Affairs and Public Relations, Alaska Housing Finance Corporation, Department of Revenue, introduced Mr. Fauske and Mr. Dubler.

[9:24:19 AM](#)

DAN FAUSKE, Chief Executive Officer/Executive Director, Alaska Housing Finance Corporation, Department of Revenue, testified via teleconference from an offnet location that he would be available for questions following presentation of the bill.

[9:24:58 AM](#)

Mr. Butcher pointed out that the Senate companion legislation had been heard in this Committee. He would therefore focus his testimony to changes made to the original bill by the House of Representatives. The amount of \$140 million was established in conjunction with the House Finance Committee and deemed "attainable and conservative". In subsequent discussion with the Corporation's financial advisor the amount would be increased to \$145 million to reflect a "slight up tick in the tobacco market." This market is very volatile and therefore difficult to determine an exact amount. A final amount should be available the following day.

Mr. Butcher spoke to previous testimony in which larger amounts were announced. However, repayment of \$14 million over the term of the bonds could actually cost \$200 to \$300 million. This represents "diminishing returns" in which each dollar was not maximized.

[9:26:03 AM](#)

Mr. Fauske reiterated Mr. Butcher's testimony, noting that \$14 million on "the unrated side" plus "a section of below investment grade" estimated amount of between \$21 and \$22 million.

[9:26:29 AM](#)

Co-Chair Green requested an explanation of the process of implementing the provisions of this legislation.

[9:26:34 AM](#)

JOE DUBLER, Director, Finance, Alaska Housing Finance Corporation, Department of Revenue, testified that this bill would allow the Northern Tobacco Securitization Corporation to restructure the existing two transactions; one sold in the year 2000 and the second in 2001. The tobacco market at that time was

"young" and Alaska was the first state to undertake this type of transaction. The process has matured and more structures have been implemented to allow for additional proceeds from the same amount of revenues.

Mr. Dubler explained this bill would allow the payoff of the existing bonds and utilize the new structures to realize more from the same revenue stream. Additionally the maturity date of the bonds would be extended.

Mr. Dubler reminded that the first transactions were specifically shorter terms with the goal being receipt of a specific dollar amount. The first issuance garnered \$93 net proceeds. He understood that Governor Murkowski and the legislature had decided to maximize the amount of proceeds from the transactions through the proposed restructuring. Therefore, the Corporation has proposed a more aggressive bond structure, which this bill would allow.

Mr. Dubler stated this proposal would "free up" the surpluses available after the bonds currently outstanding were "defeased". Those surpluses would be expended on the capital projects listed in this legislation.

[9:28:23 AM](#)

Co-Chair Green ordered the bill HELD in Committee.

#hb484

[9:28:29 AM](#)

CS FOR HOUSE BILL NO. 484(FSH)

"An Act allowing for revenue received from issuance of additional entry permits to be appropriated for reimbursement to salmon fishery associations."

This was the second hearing for this bill in the Senate Finance Committee.

[9:28:59 AM](#)

REPRESENTATIVE PEGGY WILSON, Sponsor of the bill, testified that she agreed to the changes requested by the Committee.

[9:29:22 AM](#)

Co-Chair Wilken moved for adoption of SCS CS HB 484, 24-LS1693\Y, as a working document and objected for discussion purposes.

Representative Wilson explained the addition of a subsection to the bill that would provide that an appropriation made under the subsection must be made within 30 years after the date the money was expended or the debt was incurred.

[9:30:06 AM](#)

Co-Chair Green emphasized the difficulty of the issue and the need for assurances to prohibit litigation. This matter is not easy to understand and she appreciated the sponsor's and other's efforts.

[9:30:34 AM](#)

Senator Stedman expressed "discomfort" with 30-year time limit.

Co-Chair Wilken removed his objection to the adoption of the committee substitute.

Without further objection SCS CS HB 484, Version "Y" was ADOPTED as a working document.

[9:31:17 AM](#)

Amendment #1: This amendment reduces the number of years, from 30 to 15, in which the legislature may appropriate to a participating salmon fishery association for reimbursement of expenses it incurred in the implementation of a fleet reduction program, any revenue resulting from the sale of permits for the same fishery.

Senator Stedman moved for adoption.

Senator Stedman pointed out that the earlier provision did not stipulate a timeframe, which provided the legislature with latitude to determine appropriate reimbursement. Many changes have occurred in the commercial fishing industry over 30 years.

A 15-year time limit would be more applicable to allow the legislature to gauge economic gains in the industry.

[9:33:08 AM](#)

Co-Chair Green shared these concerns. However, the time limit of 30 years was chosen because it is the length of the loan. The association, in collecting funds to buy permits, does not have any control over when it could be directed to issue additional permits.

[9:33:48 AM](#)

Senator Stedman understood the argument, but pointed out that the association could follow a different timeframe and not utilize the debt. The 30-year proposal represents an "unwieldy amount of time." In conversations he had with representatives of the United Fisherman of Alaska, he did not fault their preference of the 30-year limit.

[9:34:31 AM](#)

Senator Olson, as commercial fisherman, understood the fluctuation of prices. A 30-year time limit is appropriation and would alleviate pressure on fishers to resolve the issue.

[9:35:20 AM](#)

Representative Wilson expressed concern that because fisherman do not have the money and are considering taking out a loan, they would be taking a risk since the long term prices are unknown. A provision on this legislation to last at least the length of the loan would provide some assurance. This would also assist them in obtaining the loan given the guarantee provided.

[9:36:13 AM](#)

FRANK HOMAN, Commercial Fisheries Entry Commission, testified in Juneau in agreement with Representative Wilson. Commercial fishers, to form an organization to buy back the permits, would be required to obtain a 30-year loan. The provision of the committee substitute would protect these borrowers during the term of the loan against a situation in which the State issued additional permits.

A roll call was taken on the motion to adopt the amendment.

IN FAVOR: Senator Stedman

OPPOSED: Senator Olson, Senator Dyson, Senator Hoffman, Co-Chair Wilken and Co-Chair Green

ABSENT: Senator Bunde

The motion FAILED (1-5-1)

The amendment FAILED to be adopted.

[9:38:35 AM](#)

Co-Chair Wilken offered a motion to report SCS CS HB 484, 24-LS1693\Y, from Committee with individual recommendations and accompanying fiscal note.

There was no objection and SCS CS HB 484 (FIN) was MOVED from Committee with zero fiscal note #1 from the Department of Fish and Game.

#hb399

[9:39:07 AM](#)

SENATE CS FOR CS FOR HOUSE BILL NO. 399(STA)

"An Act establishing the office of elder fraud and assistance; and relating to fraud involving older Alaskans."

This was the first hearing for this bill in the Senate Finance Committee.

[9:39:40 AM](#)

SUE WRIGHT, Staff to Representative Mike Chenault, testified that this bill is "event driven". She told of the instance of a distant cousin to the McDowell Family of Sterling taking "egregious" advantage of the elderly couple. As a result of the cousin's actions, the McDowell's home was "gutted" to the "studs". Ultimately the couple lost between \$750,000 and \$2 million in real property and bank accounts. This was

accomplished through quit claim deeds, powers of attorney and other documents, which were signed while the victims were hospitalized and in a medicated state.

Ms. Wright reported the efforts of Representative Chenault's staff to obtain assistance from a State agency for this family, with only the Office of Public Advocacy (OPA) responding. The family has recently obtained stays on eviction notices and has a guardian appointed to fairly represent the couple's interests.

Ms. Wright stated that the legislation before the Committee would allow OPA to investigate cases such as this. She was aware of only one other similar investigation; however, it was pursued by federal officials. She was aware that many complaints have been filed, although none that were investigated.

[9:43:15 AM](#)

Co-Chair Green announced that one of the victims in this case is Sam McDowell, who is renown in Alaska.

[9:43:38 AM](#)

DAN MCDOWELL testified via teleconference from an offnet location that his father and mother are the victims Ms. Wright spoke of. A distant relative had convinced his mother to authorize access to the couple's assets. Mr. McDowell had made many attempts to obtain assistance to stop this abuse. His parents are now "penniless" and residing in separate assisted living facilities. The perpetrator has been utilizing multiple social security numbers and had attempted to evict the family from their homestead riverfront property. Luckily, this was averted.

Mr. McDowell stressed that with an aging population, efforts must be undertaken to prevent such abuse of elderly Alaskans.

[9:47:43 AM](#)

Senator Dyson requested input from OPA, as he had been informed that the appropriation listed in the fiscal note would be insufficient to establish the program.

[9:48:24 AM](#)

Co-Chair Green requested the sponsor to speak to this matter.

[9:48:27 AM](#)

Ms. Wright acknowledged concerns about the establishment of a new program. Because the number of cases could not be accurately predicted, a determination was made to provide adequate funding for OPA to start the program with minimal number of cases. If the costs exceed the appropriation, the issue would be readdressed. Mr. Fink, Director of OPA has made significant progress in streamlining the agency and making operations more efficient.

[9:49:55 AM](#)

Senator Dyson appreciated Mr. Fink's efforts. Senator Dyson was aware of other instances of elder abuse. He posed a scenario of an elderly man falling in love with his nurse, who then takes advantage of the situation.

[9:50:52 AM](#)

Senator Hoffman asked why the fiscal note only reflected funding for the upcoming fiscal year. He asked whether the program would only be in operation for one year.

[9:51:05 AM](#)

Ms. Wright explained that the cost to operate the program in future years was unknown. Therefore, the fiscal note contained a conservative amount for the first year of operation. Once the estimated number of cases was determined, more accurate appropriations could be made. As many as 500 complaints could be filed annually.

[9:51:53 AM](#)

Co-Chair Wilken offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal notes.

Without objection SCS CS HB 399(STA) was MOVED from Committee with zero fiscal notes #1 from the Department of Health and Social Services, #2 from the Department of Law, #3 from the

Department of Public Safety, and fiscal note #4 in the amount of \$189,000 from the Department of Administration.

Ms. Wright thanked the Committee on behalf of the McDowell family.

#hb377

[9:52:35 AM](#)

SENATE CS FOR CS FOR HOUSE BILL NO. 377(L&C)

"An Act relating to an exemption from certain registration and practice requirements for persons preparing drawings or specifications related to the construction of certain buildings and the grounds of the buildings."

This was the first hearing for this bill in the Senate Finance Committee.

MIKE POWLOWSKI, Staff to Representative Kevin Meyer, testified that this bill would eliminate a discrepancy between State law and municipal building codes. Statute requires that an architect or engineer consult on the design of multi-family dwellings for more than four families or is more than four stories. Most municipal codes define multi-family dwellings as relating to three or more families or three or more stories. As land becomes less available, taller houses are being constructed. The building codes provide a "check and balance" on the safety of the design.

Mr. Powloski stated this bill would align State law with municipal building codes and would only apply for properties governed by a building code. This is intended to eliminate additional costs incurred in complying with multiple regulations.

[9:54:28 AM](#)

Senator Bunde clarified that an area in which a municipal building code is in effect, the provisions of this legislation would apply.

[9:54:58 AM](#)

Co-Chair Wilken offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

There was no objection and SCS CS HB 377 (L&C) was MOVED from Committee with zero fiscal note #1 from the Department of Commerce, Community and Economic Development.

RECESS [9:56:01 AM](#) / [4:45:52 PM](#)

#hb426
[4:46:02 PM](#)

SENATE CS FOR CS FOR HOUSE BILL NO. 426(HES)

"An Act relating to cooperation of insurers with the Department of Health and Social Services; relating to subrogation, assignment, and lien rights and notices for medical assistance claims; relating to recovery of medical assistance overpayments; relating to asset transfers and income diversion by medical assistance applicants; relating to assets and Medicare enrollment as they affect medical assistance coverage; relating to home and community-based services; relating to medical assistance applications for persons under 21 years of age; requiring a report by the Department of Health and Social Services; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

[4:46:25 PM](#)

REVENIA MOSS, Staff to Representative John Coghill, introduced the bill as an attempt to ensure that those receiving Medicaid services are truly in need of such assistance. The bill endeavors to remedy "abuses" identified within the system, such as the exclusion of a stepparent's income when calculating eligibility for the Denali KidCare program. Federal Medicaid guidelines permit this type of "abuse", thus necessitating legislative action. The issue of Denali KidCare eligibility would be addressed during future legislative sessions upon receiving input from the Department of Health and Social Services.

[4:47:44 PM](#)

Ms. Moss noted that this bill incorporated some of the "fixes" for Medicaid developed by the Office of the Governor.

[4:48:12 PM](#)

Ms. Moss discussed Sec. 11, page 9 of the bill, which directs the Department to prepare a report for the legislature delineating recommended changes to reduce medical assistance expenditures for mental health treatment facilities, both in-state and out-of-state. Currently, a child placed in a treatment center outside of Alaska will become eligible for Denali KidCare after 30 days. This often occurs when an insurance provider refuses coverage of what is considered an unnecessarily high level of treatment. When coverage is denied, Denali KidCare is activated to provide assistance. The Department is requested to assess the cost and level of treatment within these facilities, and determine if the KidCare program is paying for treatment services above the level needed by its patients.

[4:50:17 PM](#)

Ms. Moss identified another objective of the legislation as increasing parental accountability by encouraging or requiring parental participation in the payment of health care for children. The bill also seeks to maximize third party resources.

[4:50:28 PM](#)

Ms. Moss spoke to an application requirement in Sec. 7, page 7 of the bill. This would require that any child under 18 years of age must be enrolled for Denali KidCare by their parent or legal guardian. The intent of this stipulation is to ensure that parents assume responsibility for their child's medical treatment. She exemplified the case of a 15-year old runaway who is enrolled in Denali KidCare by her 20-year old boyfriend, unbeknownst to the girl's parents.

[4:51:47 PM](#)

Ms. Moss addressed Amendment #2, which she informed was a consolidation of Amendment #1. It would conform the committee substitute to a recent Supreme Court decision in the Alborn

case, which made the previous language unconstitutional. The amendment retains as much of the Department of Law's original language as possible while still complying with Federal law.

[4:52:56 PM](#)

[NOTE: Amendment #1 was not distributed.]

Amendment #2: This amendment deletes and inserts language to AS 47.05.070(b) amended in Section 2 on page 2, line 26 to read as follows.

(b) When [IF] the department provides or pays for medical assistance for injury or illness under this title, the department is subrogated to not more than the part of an insurance payment or other recovery by the recipient that is for medical expenses provided by the department. [THE RIGHTS OF THE RECIPIENT OF THAT MEDICAL ASSISTANCE FOR ANY CLAIM ARISING FROM THE INJURY OR ILLNESS AND TO THE PROCEEDS OF AN INSURANCE POLICY COVERING THE INJURY OR ILLNESS TO THE EXTENT OF THE VALUE OF THE MIDICAL ASSISTANCE PROVIDED. A RECIPIENT OF MEDICAL ASSISTANCE OR THE RECIPIENT'S ATTORNEY MUST NOTIFY THE DEPARTMENT IN WRITING OF ANY ACTION OR CLAIM AGAINST A THIRD-PARTY PAYOR IF MEDICAL ASSISTANCE WAS PROVIDED BY THE DEPARTMENT TO TREAT AN INJURY OR ILLNESS FOR WHICH THE THIRD PARTY MAY BE LIABLE.] Notwithstanding the assertion of any action or claim by the recipient of medical assistance, the department may bring an action in the superior court against an alleged third-party payor to recover an amount subrogated to the department for medical assistance provided on behalf of a recipient.

This amendment also deletes subsections (b) and (c) from Sec. 47.05.071. Duty of a medical assistance recipient., added by Section 3, on page 3, lines 13 through 23. The deleted language reads as follows.

(b) A medical assistance recipient may not compromise or resolve an action or claim seeking payment for or related to an injury or illness for which care or services were provided or received under the medical assistance program against an insurer, entity, or other person without first providing notice to the attorney general's office of the facts and circumstances giving rise to the action or

claim and the asserted basis for supporting the action or claim.

(c) A medical assistance recipient may not receive payment from any source on account of or related to care or services for which medical assistance was received unless the recipient has received written consent of the attorney general's office and has paid the department reimbursement of the amount of medical assistance provided or paid.

This amendment also inserts language following "party" to subsection (b)(1) of Sec. 47.05.071 on page 3, line 27. The amended language reads as follows.

(1) assign to the department the applicant's rights of payment for care and services from any third party to the extent the department has paid medical assistance for care and services.

This amendment also deletes subsection (b)(3) of Sec. 47.05.071 on page 3, line 31 through page 4, line 5. The deleted language reads as follows.

(3) assign to the department the applicant's right to the applicant's permanent fund dividend and agree to sign a new assignment each year; the department shall use the assignment obtained under this paragraph to obtain reimbursement or enforce repayment when a recipient does not pay to the state reimbursement received from a third party for care or services provided or paid by the medical assistance program or fails to satisfy a lien perfected under AS 47.05.075

This amendment also replaces "may be" with "is" in the language of subsection (c) of Sec. 47.05.072. Duty of attorney for medical assistance recipient., added by Section 3 on page 4, line 28. The amended language reads as follows.

(c) An attorney who represents a medical assistance recipient shall give the attorney general's office 30 days' notice before any judgment, award, or settlement is satisfied in an action or claim by the medical assistance recipient to recover damages for an injury or illness that has resulted in the department's providing or paying for medical assistance.

This amendment also deletes subsection (d) of Sec. 47.05.072 on page 4, line 31 through page 5, line 10. The deleted language reads as follows.

(d) Except for payments under AS 23.30, an attorney representing a medical assistance recipient who has received care or services for the injury or illness provided or paid for by the medical assistance program shall maintain any lump sum settlement or judgment paid in connection with the action or claim in a trust account or deposit the proceeds into the registry of the court until any lien perfected by the department under AS 47.05.075 is satisfied or, if a lien has not been filed under AS 47.05.075, 60 days from the attorney's receipt of the proceeds.

This amendment also deletes subsections (a) and (b) from Sec. 47.05.073. Judgment, award, or settlement of a medical assistance lien., added by Section 3 on page 5, lines 15 through 21. The deleted language reads as follows.

(a) An action or claim brought by a medical assistance recipient or an attorney who represents the medical assistance recipient against a third party or insurer may not be compromised or discharged without the express written consent of the attorney general.

(b) A judgment, award, or settlement that requires or results in the compromise of a lien under AS 47.05.075 may not be entered into or granted by a court without the express written consent of the attorney general.

This amendment also inserts "for medical costs" and deletes "full" preceding "repayment" to subsection (c) of Sec. 47.05.073 on page 5, line 22. The amended language reads as follows.

(c) A medical assistance recipient may not maintain any rights to payment for medical costs as a result of a judgment, award, or settlement of an action or claim for which another person may be legally obligated to pay without first making repayment to the department for costs of past medical assistance services provided to or paid for by the medical assistance recipient that relate to that action or claim.

This amendment also deletes "full" preceding "repayment" from subsection (d)(1) of Sec. 47.05.073 on page 5, line 31. The amended language reads as follows.

(1) making repayment to the department for costs of past medical assistance services provided to the medical assistance recipient related to that action or claim

This amendment also deletes subsection (e) from Sec. 47.05.073 on page 6, lines 4 through 10. The deleted language reads as follows.

(e) The department's recovery under a subrogation right, assignment, or enforcement of a lien shall be applied to the entire payment made in satisfaction of judgment, award, or settlement.

This amendment also deletes "or give written consent related to" following "discharge" and deletes "or consent" following "discharge" from subsection (g) of Sec. 47.05.073 on page 6, line 11. The amended language reads as follows.

(g) the attorney general may only discharge a medical assistance lien under AS 47.05.075 if the discharge complies with federal law.

Co-Chair Green offered a motion to adopt the amendment and objected to receive an explanation.

AT EASE TO [4:55:49 PM](#)

[4:56:21 PM](#)

STACIE KRALY, Chief Assistant Attorney General, Statewide Section Supervisor, Human Services Section, Civil Division, Department of Law, explained the amendment as it related to the Supreme Court ruling and subrogation claims in the Department.

AT EASE [4:57:19 PM](#) / [4:57:40 PM](#)

Ms. Kraly outlined the changes proposed in the amendment.

[5:01:33 PM](#)

Co-Chair Green withdrew her objection and the amendment was ADOPTED without further objection.

[5:01:40 PM](#)

Amendment #3: This amendment deletes subsection (d)(2) of Sec. 47.05.073. Judgment, award, or settlement of a medical assistance lien., added by Section 3 on page 5, line 22. The deleted language would have allowed a medical assistance recipient to hold in trust funds received in a judgment, award or settlement for the purpose of maintaining public assistance or medical assistance eligibility only with the express written consent of the attorney general and after repayment of past benefits was made to the Department of Health and Social Services. The deleted language reads as follows.

(2) obtaining the express written consent of the attorney general.

Co-Chair Green moved for adoption.

Ms. Kraly explained that the amendment was needed to make the bill consistent with the aforementioned Supreme Court decision.

There was no objection and the amendment was ADOPTED.

[5:03:20 PM](#)

Ms. Kraly informed that the provisions under Sections 2 and 3, as amended, would comply with the recent Supreme Court Alborn decision by identifying and characterizing how the State could allocate funds recovered under third-party lien and subrogation scenarios. The system created under these provisions should prove beneficial to the State.

[5:04:13 PM](#)

Ms. Moss assured that the bill's sponsor had been working closely with the Department of Law, the Division of Insurance, insurance companies and trial attorneys to produce an ideal bill.

[5:04:43 PM](#)

KEVIN HENDERSON, Division of Public Assistance, Department of Health and Social Services, addressed Sections 5 through 7, and indicated the Department's desire to ensure that people who were able to pay for some or all of their medical care assumed that responsibility.

Mr. Henderson explained that Section 5 would provide the Department the authority to garnish the Alaska Permanent Fund dividend (PFD) of an individual recipient if they were found to have violated the eligibility rules. The same section contains a provision providing for the reimbursement of service expenses paid in the event that the individual who received those services was ruled ineligible through a hearing process.

[5:06:37 PM](#)

Mr. Henderson continued to Section 6, which addressed annuities. When an individual seeks long-term care services through Medicaid, the Department would investigate that person's financial history prior to their becoming a Medicaid participant to identify possible transfers of assets or "hidden money" that a person could make inaccessible for the purpose of qualifying for Medicaid. Annuities are used in other states to circumvent Medicaid eligibility rules, and this provision would ensure that annuities were treated similarly to other financial holdings.

[5:07:58 PM](#)

Senator Olson asked how an annuity held by more than one person would be affected if only one of the individuals was seeking assistance.

[5:08:15 PM](#)

Mr. Henderson replied that he would verify, but surmised that the provision would apply only to annuities purchased by an individual.

[5:08:32 PM](#)

Mr. Henderson spoke briefly to Section 7 (j) and (k), which addressed rights and procedures of who could apply for Medicaid on behalf of minor, as discussed previously.

Mr. Henderson then discussed subsection (l) of Section 7, which he identified as a new requirement made possible by a "loosening" of federal policy. The change in federal policy allowed the State to mandate that any person eligible for Medicare must first apply and enroll in that program before receiving benefits under Medicaid. While most people over 65 years of age already apply for and receive Medicare benefits, some individuals under the age of 65 with certain disabilities also qualify for this program, which is entirely funded by federal monies. Although not many people under 65 qualify for Medicare, those who do usually have very costly medical conditions and this provision would allow the State to utilize federal funds before expending State dollars.

[5:10:14 PM](#)

Mr. Henderson characterized subsection (m) as a "technical" provision, which acted to "embrace" the federal requirements of the Deficit Reduction Act of 2005. It relates to the transfer of assets for less than fair market value, and would lengthen the "lookback" period for transfers to five years. It would also impact the "penalty period," or the period of Medicaid ineligibility, by allowing the penalty period to begin at the time of application, not at the time of transfer.

Mr. Henderson continued that the bill would allow the Department to consider multiple transfers as one, and imposes some restrictions on the use of "life estates".

[5:11:55 PM](#)

Mr. Henderson identified subsection (n) as a new policy, also part of the Deficit Reduction Act, but made broader by the proposed legislation. The new federal Medicaid eligibility rule that applies to long-term care requires the State put a "cap" on the equity value of a home. While nothing would preclude an applicant from taking a second mortgage on their home or managing their assets in other ways, if the equity value was over \$500,000 the applicant would not be eligible. The federal rule applies to long-term care only, but the provision in this bill would apply to almost all services.

[5:13:02 PM](#)

Senator Stedman asked if the change in the "lookback" period from three to five years would have an impact on pending applicants.

[5:13:15 PM](#)

Mr. Henderson responded that the provisions of this bill would have an effective date of July 1, 2006. Transfers made prior to that date would fall under the current three-year time limit.

[5:13:50 PM](#)

Senator Bunde asked for an explanation of the fiscal notes.

[5:14:20 PM](#)

JANET CLARKE, Assistant Commissioner, Department of Health and Social Services, noted five fiscal notes accompany this legislation. Additionally, she reviewed a spreadsheet titled "SCS CS HB 426 Medical Assistance/Ins Cooperation" dated May 5, 2006 [copy on file] depicting savings to the State's Medicaid program, and relating them to each section of the bill.

Ms. Clarke informed that the fiscal notes assumed that regulations would not be implemented until April 1, 2007; therefore savings for FY 07 were calculated at 25 percent, for a savings of \$1,074,200 in general funds and a total savings of nearly \$2.6 million. For FY 08, the first full year the bill would be in effect, savings were projected to be nearly \$5.1 million in general funds and in excess of \$10.9 million in total savings.

Ms. Clarke shared that the provisions of Section 7, subsection (1) of the bill would generate the largest amount of savings. That section contains the requirement that those eligible for Medicare must first enroll in that program before receiving Medicaid benefits.

[5:17:02 PM](#)

Ms. Clarke commented that the other savings accomplished by this bill, such as subrogation and garnishment of PFDs, are less significant but would contribute to the overall cost reduction.

Ms. Clarke categorized Section 6 as "cost avoidance" rather than savings. She anticipated realized savings for the Medicaid program and urged the Committee's support of the bill.

[5:18:46 PM](#)

DONNA MCCREADY, Alaska Action Trust, appreciated efforts made by legislators and support staff. She suggested that the word "full", located on page 5, line 31 should be deleted as it had been elsewhere in the bill to make the legislation compliant with the Supreme Court ruling.

Ms. McCready also cautioned that Section 6 (f)(1) seemed to require the State to receive all trust or annuity assets remaining at the death of an individual, up to the amount of medical assistance paid. She was concerned that federal Medicaid law would not permit the State to take those assets in certain circumstances, such as in the case of a surviving spouse or a child under the age of 21. That provision of the bill could create a liability for the State if such action is not permissible under federal Medicaid law.

[5:22:11 PM](#)

Ms. McCready was similarly apprehensive of Section 9, which repealed AS 47.05.070(e). This statute allowed the State to waive its subrogation rights in the event of "undue hardship" for the recipient. In accordance with federal Medicaid law, the State is, in some cases, required to consider undue hardship. Rarely does the State waive subrogation rights, but federal law requires such consideration. Repealing the statute could create conflict with the federal law, and she recommended against doing so.

[5:23:38 PM](#)

Ms. McCready raised a "practical consideration" on page 4 line 26, subsection (c), which specified that an attorney representing a medical assistance recipient must give the attorney general's office "30 days' notice before any judgment, award, or settlement may be satisfied" in an action or claim. She opined that this requirement would be "counterproductive" to the State. She offered the example of an attorney who was in trial when the defendant offered a settlement to her client. The attorney would be required to make an immediate decision without

being able to provide the State 30 days' notice. Upon reaching a settlement, funds could be transferred to a trust account within a couple of weeks. The attorney is required by law to separate funds and hold them safe for those parties that may have valid claim or lien, such as the State of Alaska. The 30 day notice requirement could result in an unnecessary delay in the distribution of funds without providing any additional protection.

[5:27:21 PM](#)

Ms. McCready referred members to page 4, subsection (b) (3), which added new language to the existing law to require a recipient of medical assistance submit an application for all available third party resources that may be able to provide services or reimbursement. In the case that the only third party resource available may be a person who has caused harm to the recipient, the provision could require the medical assistance recipient to file a suit against the other person. This would not only increase the amount of litigation in the state, but also pose risks to the recipient, such as filing fees and the possibility of a judgment issued against them. She suggested the provision include a clarification of intent that it would not require a recipient to file a civil or other legal action to fulfill that obligation.

[5:29:21 PM](#)

Co-Chair Green directed parties to continue their efforts on the bill, and indicated her desire to bring the bill back before committee.

The bill was HELD in Committee.

[NOTE: This bill was heard again later in the meeting.]

#hb13

[5:29:41 PM](#)

CS FOR HOUSE BILL NO. 13(RLS) am

"An Act relating to reimbursement of municipal bonds for school construction; increasing the base student allocation used in the formula for state financing of public education; relating to the district cost factors for state

funding of public education; relating to school improvement funding; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

[5:30:31 PM](#)

REPRESENTATIVE CARL GATTO, sponsor of the bill, testified that this bill would authorize reimbursement of construction bonds at a rate of 70 percent for schools that meet Department of Education and Early Development requirements, and at a rate of 60 percent for other schools.

AT EASE [5:31:40 PM](#) / [5:32:20 PM](#)

Co-Chair Green offered a motion to adopt SCS CS HB 13, 24-LS0062\T, as a working document, and objected to receive an explanation.

[NOTE: Although no further action was taken on this motion, it is assumed that the intent of the Committee was to ADOPT the committee substitute Version "T".]

AT EASE [5:32:42 PM](#) / [5:32:49 PM](#)

Representative Gatto informed that the bill contained \$2 million intended to include the North Slope district in the existing reimbursement program. The bill would increase the Base Student Allocation (BSA) by \$461 to a total of \$5,380 per student, for an overall increase of more than \$96 million. It would also fund the Institute for Social and Economic Research (ISER) study recommendations at 25 percent, which includes a "hold harmless" provision at a cost of over \$24 million. The ISER study "hold harmless" provision and associated cost increases are currently funded for a single year only.

[5:34:27 PM](#)

CODY RICE, Staff to Representative Carl Gatto, directed attention to Section 5 of the bill, which contained the 25 percent implementation language. Section 6 included the effective date, and Section 11 provided the repeal date of July 1, 2007.

[5:34:57 PM](#)

Representative Gatto reported that a School Improvement Grant provision similar to old Learning Opportunities Grants (LOGS), would add \$81 per student, which amounts to approximately \$10 million in additional costs.

Representative Gatto calculated the bill's total increases as \$131 million, which did not include the changes proposed in the committee substitute. The Finance Committee substitute contained provisions for the public school performance incentive program, which was not part of the sponsor's original legislation.

[5:35:37 PM](#)

Senator Bunde stressed that although he was aware school districts have cost differential struggles, the proposed bill represented a one-time temporary assistance grant. The one-time increment provided for in the legislation was not calculated into the BSA, and should not be considered a reduction in funding if not repeated the following year.

[5:36:23 PM](#)

Co-Chair Wilken indicated he was involved in negotiations to reach a "middle ground" regarding school funding. He asserted, however, that he did not intend for his agreement to the proposed legislation to be interpreted as an indication of his recognition that the ISER study is valid. Rather, he opined, the study was not "worth the paper it is written on."

Co-Chair Green realized it would be necessary the following legislative session to review the school funding formula. The current legislature had simply run out of time to fully address the issue.

[5:37:42 PM](#)

Senator Stedman reiterated that the proposed legislation was a "temporary solution to an almost permanent problem." He vowed to address the issue of school funding in a more permanent fashion the following year.

[5:38:03 PM](#)

Co-Chair Wilken interjected that the foundation funding formula was not broken, but actually functioning well. The complications arise from one component of the formula that does not recognize diminished class sizes. Some districts have had reduced enrollment, and the current formula does not address spreading the fixed costs of a school over a smaller student body. He recognized that aspect of the formula needs attention. Otherwise, the formula works well. The proposed bill recognizes that while funding per student is increasing, student enrollment is equal to what it was in 1999. Changes to the formula must incorporate an understanding that some districts would see increases in enrollment while others would experience declines.

[5:39:24 PM](#)

Senator Stedman declared that although the funding formula may not be broken in some districts, it is definitely broken in Senate District A.

[5:39:42 PM](#)

Senator Dyson was "startled at the cost" of the proposed legislation. He had received information that suggested the State may have spent the entire "surplus" of FY 06 revenues and could possibly be creating a deficit. Legislation such as this bill could exasperate the situation.

[5:40:21 PM](#)

Co-Chair Green reminded that the State had \$600 million in two different savings accounts and nearly \$600 million in an account designated for pre-funding of K-12 education.

[5:40:41 PM](#)

Senator Dyson agreed, but noted that the Committee had witnessed \$300 million in "surprises" in the previous several days, and maintained his concern.

[5:41:02 PM](#)

Senator Stedman recounted that the legislature had committed a substantial amount of money to an investment account for the proposed natural gas pipeline, and more into a trust for future

health and energy needs. He pointed out that these actions could be considered significant savings.

[5:41:34 PM](#)

Co-Chair Wilken reminded members that the anticipated revenue sharing appropriations to municipalities would provide the assemblies of organized areas that contribute financially to their local schools with a supplement. He urged members representing those areas to mobilize the education populace of their communities to claim that supplement as "education money".

[5:43:04 PM](#)

Representative Gatto spoke of deductions of more than \$24 million in addition to \$10 million distributed through the grant provision, resulting in a base of \$35 million less than what was appropriated in the current fiscal year. As the funding base would be smaller, he suggested the legislature continue the ISER funding.

[5:43:55 PM](#)

Co-Chair Wilken directed attention to AS 14.11.100(p)(2)(H) amended by Section 3 of CSHB 13(RLS) am, the version passed by the House of Representatives. That section would provide for a \$2 million "set-aside" for municipalities with student populations between 1,501 and 1,799 individuals. The "set-aside" was specific to the North Slope Borough, as those residents "felt slighted" or excluded from the bonding and grants that were allocated the previous legislative session. Co-Chair Wilken explained that the North Slope Borough had not been ignored, for no request for capital funding for education was made for that area. For that reason, the language granting the \$2 million set-aside was deleted.

AT EASE [5:46:00 PM](#) / [5:47:13 PM](#)

[5:47:16 PM](#)

Senator Hoffman commented that the Committee had not addressed school construction funding for rural schools. He reminded members of the Kasayulie case, which found disparities in school construction funding between rural and urban districts. By failing to address the school construction issue, the problem

and the lawsuit would be "exasperated". He hoped the school construction issue would be addressed in the capital budget in the House of Representatives. Were construction needs of schools in Rural Alaska not addressed, the problems revealed in the Kasayulie case would continue to escalate.

[5:48:46 PM](#)

Senator Olson opposed the removal of the \$2 million set-aside detailed by Co-Chair Wilken. Bond debt reimbursement is used to fund schools the borough electorate had voted to build, and may not be included in a list of identified projects compiled by the Department of Education and Early Development. He recalled schools receiving bond funding the previous year that did not appear on any "list", and requested the Department testify to the validity of the North Slope Borough's financial needs.

[5:50:09 PM](#)

EDDY JEANS, Director, School Finance Division, Department of Education and Early Development, stated the he had not had an opportunity to review the request lists. He relayed that the North Slope had held a bond election in November of 2005 and approved a \$2 million bond proposition for district-wide maintenance. The House of Representatives felt it appropriate to include reimbursement for the bond in this bill.

[5:51:04 PM](#)

Senator Olson remarked on the existence of school districts throughout Alaska attempting to make local contributions to their schools, as the bond vote in the North Slope Borough illustrated.

[5:51:28 PM](#)

Co-Chair Wilken referred to a February 28, 2006 report prepared by the Department titled School Debt Reimbursement Program [copy on file]. The report detailed the expenses of the bonding program. He overviewed the spreadsheet, which listed bond amounts through 2026, and noted a total bond amount of \$825 million and interest totaling \$485 million. He suggested the interest amount may indicate that "we may want to pay cash for things like that". The report also listed the numerous schools participating in the bond program, and he concluded that

although it is an expensive program, it is also making the Alaska education system a "great system."

[5:53:07 PM](#)

Amendment #1: This amendment adds a new bill section to amend AS 14.11.100(p)(2) by inserting new language to read as follows.

(H) \$2,000,000 to projects in a municipality with a public school enrollment of at least 1,501 but less than 1,800 students in fiscal year 2005, as determined under AS 14.17.500

This language is contained in CS HB 13(RLS)am.

Senator Olson moved for adoption.

Co-Chair Wilken objected.

AT EASE [5:53:52 PM](#) / [5:54:43 PM](#)

Co-Chair Wilken reminded that the Committee had discussed bond reimbursement in detail the previous year and had received no request from the North Slope Borough. He objected to funding requests that did not abide by the legislative committee process.

[5:56:14 PM](#)

Senator Olson conceded Co-Chair Wilken had "valid points", but countered that schools which were not "on any list" the previous year received funding in the current year, as did a project rated 20th on a priority list. He recognized the process but understood that "extenuating circumstances" sometimes warranted exceptions, and appealed to the Committee to reinstate the language.

[5:57:06 PM](#)

Senator Stedman shared that communities in his district were not included on the bond reimbursement list last year, and did not receive funding. He had received no advance notice to add schools to the list for "major maintenance", and asked the process for obtaining reimbursement.

[5:57:56 PM](#)

Mr. Jeans explained that the proposed legislation would fund future bond action. If the bill passed the legislature, the program would be extended an additional two years under the rates of the previous year's provision. The North Slope Borough would be required to hold another bond election and re-approve the project, as the bill was not retroactive and applied only to debt incurred in the current year.

[5:58:25 PM](#)

Senator Stedman discussed the Schoenbar Middle School located in the election district he represents, which is undergoing a refurbishment and, upon completion, would be required to apply for addition to the major maintenance list and for debt reimbursement. He asked how this situation compared to the issues facing the North Slope.

[5:59:00 PM](#)

Mr. Jeans replied that the work underway at Schoenbar Middle School was funded using the borough's own finances. If the proposed legislation is passed, the debt reimbursement program will be re-opened October 1, 2006, at which time the city or borough of Ketchikan could choose to hold an election to approve bonding for the project. Alternatively, the project could be submitted for inclusion in the capital improvements project list, where it would be ranked and prioritized along with all other state grant requests.

[5:59:54 PM](#)

Senator Stedman surmised that the process for Ketchikan to be reimbursed for their work on the Schoenbar Middle School was similar to what would be required of the North Slope Borough.

[6:00:06 PM](#)

Senator Olson asked if any projects in the North Slope district would qualify for reimbursement.

[6:00:16 PM](#)

Mr. Jeans presumed many maintenance projects could qualify for reimbursement, but the Borough had not submitted any to the Department for consideration.

[6:00:43 PM](#)

Co-Chair Wilken clarified that the legislature does not approve the projects, it is only charged with setting the reimbursement limit according to student populations.

[6:01:08 PM](#)

Mr. Jeans affirmed that the bill passed the previous year established limits on specific districts. The proposed bill did not contain any limitations, and would be available for any project that had received voter approval and for which the application process for reimbursement was completed. The Department would determine whether the project qualified for 70 percent or 60 percent reimbursement.

[6:01:42 PM](#)

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman and Senator Olson

OPPOSED: Senator Stedman, Senator Bunde, Senator Dyson, Co-Chair Wilken and Co-Chair Green

The motion FAILED (2-5)

The amendment FAILED to be adopted.

[6:02:18 PM](#)

Mr. Jeans continued his testimony and overviewed the fiscal notes. The first fiscal note was for the debt reimbursement program, and indicated indeterminate amounts as the Department did not know the amounts districts would submit for consideration. The second fiscal note related to the Alaska Military Youth Academy, as its funding is directly tied to the BSA. The next fiscal note represented the increase to the BSA, and totaled \$96 million.

[6:04:09 PM](#)

Senator Stedman requested information on the amount of the increase to the BSA over the previous four years, including the current year's adjustment. He estimated the increase at 40 percent.

[6:04:38 PM](#)

Co-Chair Wilken reminded that the previous year the Committee undertook an "historic" effort to address all deferred maintenance requests. While that endeavor was successful, the deferred maintenance list had once again approached \$200 million in the current year.

[6:05:39 PM](#)

CARL ROSE, Executive Director, Association of Alaska School Boards, testified to thank the legislature for the efforts undertaken. He was aware of schools in other areas of the country that were forced to close due to unfunded retirement liabilities and an absence of state assistance. He thanked members for their support in that regard.

[6:07:32 PM](#)

Representative Gatto excused himself for a previous commitment.

STEPHANIE ALLISON, Alaska Kids Count Network, and parent, thanked the legislature for their efforts to maintain adequate staffing in schools. She had followed the proposed legislation and was supportive of its intent.

[6:09:58 PM](#)

Senator Bunde referenced the chart titled "Student Dollar and Student Enrollment" provided by Co-Chair Wilken [copy on file], and noted that while student enrollment had declined, the student dollar had increased "dramatically". Despite that, an informal poll taken in his district indicated the majority of participants considered school funding "adequate" or "too much".

[6:10:48 PM](#)

Co-Chair Wilken offered a motion to report SCS CS HB 13, 24-LS0062\T, from Committee with individual recommendations and new fiscal notes.

Without objection SCS CS HB 13 (FIN) was MOVED from Committee with five fiscal notes from the Department of Education and Early Development: \$96,020,900, dated 5/4/06, for the Foundation Program component; \$35 million, dated 5/4/06, for the Foundation Program component; \$646,900, dated 5/4/06, for the Special Schools component; \$5.8 million, dated 5/5/06, for the New School Performance Incentive Program component; and an indeterminate amount for the School Debt Reimbursement component.

#hb334

[6:11:37 PM](#)

CS FOR HOUSE BILL NO. 334(FIN)

"An Act relating to an exemption from and deferral of municipal property taxes for certain types of deteriorated property."

AT EASE [6:11:51 PM](#) / [6:12:12 PM](#)

AT EASE [6:13:17 PM](#) / [6:13:38 PM](#)

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Green moved for adoption of SCS CS HB 334, 24-LS1353\Y, as a working document and objected to receive an explanation of the bill and proposed changes.

[6:13:56 PM](#)

Senator Bunde thanked the Committee for including in the proposed legislation a provision that would allow a local government to defer the property tax obligations of a person experiencing "catastrophic hard times" until they were able to make payment or sell the property. He had developed the provision in a different bill, and appreciated its inclusion in this legislation.

[6:15:34 PM](#)

REPRESENTATIVE JAY RAMRAS, sponsor of the bill, testified that the bill would assist developers and local governments in refurbishing deteriorated properties by revising and clarifying existing tax deferral language. It would allow a municipal government to enter in to an agreement with a developer to defer property taxes until a specified time, thus binding future assemblies or councils to the terms of the agreement.

Representative Ramras excused himself for a prior commitment.

[6:18:24 PM](#)

Co-Chair Wilken noted for the record that he'd had concerns about the bill's affect on the "chain of ownership". He had discussed the issue with the bill's sponsor, and his concerns had been alleviated.

[6:18:46 PM](#)

Co-Chair Green remarked that the provisions of the bill are "permissive language", which allow the tax deferral but do not require it.

[6:19:01 PM](#)

Senator Olson asked the sponsor's opinion of the changes made by Senator Bunde's amendment.

[6:19:11 PM](#)

JIM POUND, Staff to Representative Ramras, replied that the amendment had no affect on the existing language of the bill; it simply added additional permissive language. The sponsor favored the amendment.

Co-Chair Green removed her objection to the adoption of the committee substitute.

Without further objection, SCS CS HB 334, Version "Y", was ADOPTED as a working document.

[6:19:57 PM](#)

Amendment #1: This amendment inserts a new bill section to read as follows.

Section 1. AS 27.45.030(b) is amended to read:

(b) In (a) of this section, "property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of an educator in a private religious or parochial school or a bishop, pastor, priest, rabbi, minister, or religious order of a recognized religious organization; for purposes of this paragraph, "minister" means an individual who is

(A) ordained, commissioned, or licensed as a minister

(B) employed by the religious organization to carry out a ministry of that religious organization;

(2) a structure, its furniture, and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

(3) lots required by local ordinance for parking near a structure defined in (2) of this subsection.

New Text Underlined

Co-Chair Green offered a motion to adopt the amendment and objected to provide an explanation.

Co-Chair Green read the language of the changes into the record and stated this would further clarify statute.

Co-Chair Green removed her objection.

[6:20:37 PM](#)

Co-Chair Wilken asked the impact of this provision to the Fairbanks local governments.

[6:20:44 PM](#)

Mr. Pound responded that it would have no effect in Fairbanks; the provision is primarily intended to address issues with the Municipality of Anchorage.

[6:20:59 PM](#)

Co-Chair Wilken commented that the language was particularly broad.

[6:22:52 PM](#)

Co-Chair Green remarked the changes were intended to clarify the definition of "minister".

[6:23:08 PM](#)

Co-Chair Wilken exemplified a teacher who taught in a religious school, but was not a "minister". He asked if that teacher would receive tax exemption.

Co-Chair Green clarified that only the property of the religious organization was eligible.

Co-Chair Wilken then asked if a house owned by the religious organization but occupied by the teacher would qualify.

Co-Chair Green affirmed.

[6:24:15 PM](#)

There was no further objection to the adoption of the amendment and it was ADOPTED.

[6:24:49 PM](#)

Co-Chair Wilken offered a motion to report SCS CS HB 334, 24-LS1353\Y, from Committee with individual recommendations and accompanying fiscal notes.

Without objection, SCS CS HB 334 (FIN) was MOVED from Committee with zero fiscal note #1 from the Office of the Governor, Office of Management and Budget, for all State agencies, and zero fiscal note #2 from the Department of Commerce, Community and Economic Development.

#hcr30

[6:25:08 PM](#)

CS FOR HOUSE CONCURRENT RESOLUTION NO. 30(FIN) am
Creating an Alaska Climate Impact Assessment Commission.

This was the second hearing for this resolution in the Senate Finance Committee.

Senator Olson offered a motion to report HCR 30, as amended, from Committee with individual recommendations and accompanying and new fiscal notes.

[6:26:05 PM](#)

Co-Chair Wilken objected to comment that although he initially had significant concerns about the establishment of the Alaska Climate Impact Assessment Commission, he now understood the more limited "scope" of the commission.

Co-Chair Wilken removed his objection.

There was no further objection and SCS CS HCR 30 (FIN) was MOVED from Committee with fiscal note #1 in an indeterminate amount from the Department of Natural Resources, and a new fiscal note dated 5/3/06 in the amount of \$65,000 from the Legislature.

#hb426

[6:26:43 PM](#)

SENATE CS FOR CS FOR HOUSE BILL NO. 426(HES)

"An Act relating to cooperation of insurers with the Department of Health and Social Services; relating to subrogation, assignment, and lien rights and notices for medical assistance claims; relating to recovery of medical assistance overpayments; relating to asset transfers and income diversion by medical assistance applicants; relating to assets and Medicare enrollment as they affect medical assistance coverage; relating to home and community-based services; relating to medical assistance applications for persons under 21 years of age; requiring a report by the Department of Health and Social Services; and providing for an effective date."

[NOTE: This bill was heard earlier in the meeting.]

6:26:57 PM

Co-Chair Green announced additional amendments had been prepared to address concerns expressed earlier in the meeting.

Amendment #4: This amendment inserts language to subsection (b)(3) of Sec. 47.05.071. Duty of medical assistance recipient., added by Section 3, on page 4, line 9. The inserted language reads as follows.

A medical assistance recipient is under no duty to file a civil or other action in order to reimburse the state for the cost of care or services.

Co-Chair Green offered a motion to adopt the amendment and objected to obtain an explanation.

Ms. Moss noted the amendment would add language to page four, line nine to clarify that the term "application" would not require a medical assistance recipient to file a lawsuit to seek reimbursement from a third-party.

Co-Chair Green read the language, as amended.

Ms. Moss advised that the State would be permitted to file a lawsuit on behalf of the recipient, but the recipient would not be required to do so themselves.

Co-Chair Green removed her objection to the adoption of the amendment.

Without further objection the amendment was ADOPTED.

6:29:28 PM

Amendment #5: This amendment changes the language of subsection (c) of Sec. 47.05.072. Duty of attorney for medical assistance recipient., added by Section 3 on page 4, following line 25, to read as follows.

(c) An attorney who represents a medical assistance recipient shall give the attorney general's office notice within 30 days of any judgment, award, or settlement in an

action or claim by the medical assistance recipient to recover damages for an injury or illness that has resulted in the department's providing or paying for medical assistance.

Co-Chair Green moved for adoption and objected to obtain an explanation.

Ms. Moss explained that the amendment modified language in the bill that required an attorney representing a medical assistance recipient give the attorney general's office 30 days' notice before accepting a settlement or judgment in a case. The amendment addresses concerns raised by attorneys who believed the 30 day notice requirement would result in unnecessary delays in the distribution of funds.

[6:30:06 PM](#)

Co-Chair Green understood the amendment would change the requirement of 30 days' notice before an action was taken to notice within 30 days of the action.

Ms. Moss affirmed.

[6:30:24 PM](#)

Ms. Moss remarked that concerns over Section 9 were discussed at length.

Ms. Kraly reviewed the concerns. She understood that federal Medicaid law did not require an "undue hardship" waiver for a subrogation issue, as it did in other matters. Ms. Kraly qualified her position by reminding that the State is required to abide by federal Medicaid requirements. If such a waiver requirement existed, the State would have to provide for that through the regulatory process.

[6:31:58 PM](#)

Ms. Moss announced that Alaska would be the first state to pass legislation to comply with these new federal regulations.

[6:32:18 PM](#)

Co-Chair Green added that substantial discussion had occurred in regards to improving efficiency and accuracy in developing legislation to implement the new federal Medicaid requirements.

Although no formal action was taken, the amendment was ADOPTED, per the intent of the Committee

[6:32:41 PM](#)

Amendment #6: This amendment deletes the specification of "full" repayment in subsection (d)(1) of Sec. 47.05.073. Judgment, award, or settlement of a medical assistance lien., added by Section 3 on page 5, line 31. The amended language reads as follows.

(1) making repayment to the department for costs of past medical assistance services provided to the medical assistance recipient related to that action or claim

Senator Hoffman noted earlier testimony indicated that the word "full" should be deleted.

[6:32:55 PM](#)

Ms. Moss acknowledged that the omission of the word "full" had been discussed. The amendment to omit it had been overlooked.

Senator Hoffman understood that the word "full" had been omitted in Amend #2, page 3, line 3, and suggested the same deletion on page 5, line 31.

[6:33:45 PM](#)

Ms. Kraly agreed there had been an oversight, and "full" should be deleted as indicated by Senator Hoffman.

Co-Chair Green clarified the amendment .

Co-Chair Green offered a motion to adopt the amendment, as amended.

There was no objection and the amendment was ADOPTED.

[6:35:01 PM](#)

Co-Chair Wilken offered a motion to report SCS CS HB 426(HES), as amended, from Committee with individual recommendations and accompanying fiscal notes.

Without objection SCS CS HB 426(FIN) was MOVED from Committee with fiscal notes from the Department of Health and Social Services: #1 for \$0 from the Department of Health and Social Services, Behavioral Health RDU; #2 of \$51,700 for the Public Assistance RDU; #3 of (\$83,100) for the Senior and Disabilities Services RDU; #4 of (\$2,734,900) for the Health Care Services RDU, Medicaid Services component; and #5 of \$190,300 for the Health Care Services RDU, Medical Assistance Administration component.

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ADJOURNMENT

Co-Chair Lyda Green adjourned the meeting at [6:35:52 PM](#)