

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

April 24, 2007

3:04 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Bob Roses, Vice Chair
Representative Anna Fairclough
Representative Mark Neuman
Representative Paul Seaton
Representative Sharon Cissna
Representative Berta Gardner

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Mike Doogan
Senator Bill Wielechowski
Representative Bob Lynn

COMMITTEE CALENDAR

HOUSE BILL NO. 192

"An Act relating to notification to teachers of layoff or nonretention."

- MOVED CSHB 192(HES) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 3

Relating to the effect of Medicare rates on senior citizens' access to healthcare; and urging the United States Congress to increase Medicare rates for Alaska.

- MOVED SJR 3 OUT OF COMMITTEE

HOUSE BILL NO. 4

"An Act amending the certificate of need requirements to apply only to health care facilities that are nursing homes or residential psychiatric treatment centers or that are located in a borough with a population of not more than 25,000, in the unorganized borough, or in a community with a critical access hospital."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 192

SHORT TITLE: LAYOFF/NONRETENTION OF TEACHERS

SPONSOR(S): REPRESENTATIVE(S) DOOGAN

03/12/07 (H) READ THE FIRST TIME - REFERRALS
03/12/07 (H) HES, FIN
04/24/07 (H) HES AT 3:00 PM CAPITOL 106

BILL: SJR 3

SHORT TITLE: MEDICARE RATES IN ALASKA

SPONSOR(S): SENATOR(S) WIELECHOWSKI

03/07/07 (S) READ THE FIRST TIME - REFERRALS
03/07/07 (S) HES
03/26/07 (S) HES AT 1:30 PM BUTROVICH 205
03/26/07 (S) Moved SJR 3 Out of Committee
03/26/07 (S) MINUTE(HES)
03/28/07 (S) HES RPT 4DP 1AM
03/28/07 (S) DP: DAVIS, ELTON, THOMAS, COWDERY
03/28/07 (S) AM: DYSON
04/11/07 (S) TRANSMITTED TO (H)
04/11/07 (S) VERSION: SJR 3
04/13/07 (H) READ THE FIRST TIME - REFERRALS
04/13/07 (H) HES
04/24/07 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 4

SHORT TITLE: MEDICAL FACILITY CERTIFICATE OF NEED

SPONSOR(S): REPRESENTATIVE(S) LYNN

01/16/07 (H) PREFILE RELEASED 1/5/07
01/16/07 (H) READ THE FIRST TIME - REFERRALS
01/16/07 (H) HES, L&C, FIN
04/24/07 (H) HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE MIKE DOOGAN

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 192, as the sponsor.

KATHLEEN TODD, Member
Valdez School Board
Valdez, Alaska

POSITION STATEMENT: Testified during the hearing on HB 192.

LYDIA GARCIA, Executive Director
National Education Association-Alaska (NEA-Alaska)
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 192.

CARL ROSE, Executive Director
Association of Alaska School Boards (AASB)
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 192.

SENATOR BILL WIELECHOWSKI
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SJR 3 as the prime sponsor.

REPRESENTATIVE BOB LYNN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 4, as the sponsor.

MIKE SICA, Staff
to Representative Bob Lynn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 4.

ROBERT JAMES CIMASI, President
Health Capital Consultants
St. Louis, Missouri

POSITION STATEMENT: Testified during the hearing on HB4.

LARRY STINSON, Physician
Advanced Medical Centers of Alaska,
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 4.

GREGORY POLSTON, Physician
Advanced Medical Centers of Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 4.

JEREMY HAYS, Representative

Alaska Medical Development;
Advanced Medical Centers of Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 4.

NORMAN STEPHENS, Chief Executive Officer
Mat-Su Regional Medical Center
Palmer, Alaska

POSITION STATEMENT: Testified in opposition to HB 4.

JEFF KINION, Chief Executive Officer
Alaska Open Imaging Center
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 4.

JIM JORDAN, Executive Director
Alaska State Medical Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 4.

KIM BLACK, Employee
Alaska Open Imaging Center
Anchorage, Alaska

POSITION STATEMENT: Testified as an individual in support of HB 4.

ROB GOULD, Chief Financial Officer and Head of Operations
Fairbanks Memorial Hospital
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 4.

BOB CARLSON
Fairbanks, Alaska

POSITION STATEMENT: Speaking as a private citizen, testified in support of HB 4.

CAM CARLSON
Fairbanks, Alaska

POSITION STATEMENT: Speaking as a private citizen, testified in support of HB4.

RYAN SMITH, Chief Executive Officer
Central Peninsula General Hospital (CPGH)
Soldotna, Alaska

POSITION STATEMENT: Testified in opposition to HB 4.

MIKE MADDOX, Manager

Alaska Open Imaging
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 4.

ACTION NARRATIVE

CHAIR PEGGY WILSON called the House Health, Education and Social Services Standing Committee meeting to order at [3:04:34 PM](#). Representatives Seaton, Roses, Neuman and Wilson were present at the call to order. Representatives Cissna, Fairclough, and Gardner arrived as the meeting was in progress. Representatives Doogan and Lynn and Senator Wielechowski were also in attendance.

HB 192-LAYOFF/NONRETENTION OF TEACHERS

[3:04:56 PM](#)

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 192, "An Act relating to notification to teachers of layoff or nonretention."

[3:06:01 PM](#)

REPRESENTATIVE MIKE DOOGAN, Alaska State Legislature, sponsor, presented HB 192 paraphrasing from the sponsor statement, which read as follows [original punctuation provided]:

Alaska Statute currently requires school districts to inform tenured teachers they will be laid off or not retained for the following school year by March 16, while teachers who have not acquired tenure must be notified by the final day of the school term.

HB 192 changes the notification date for layoff or nonretention of tenured teachers from March 16 to the final day of the school term, the same notification deadline mandated for non-tenured teachers. The reason for this change is school districts do not know what their budget for the following school year will be by the middle of March.

While school districts can project or make reasonable guesses, they do not know with certainty what the state's contribution to education is going to be until the end of the legislative session. In the face of inadequate information, it is unreasonable to require

school districts to send pink slips to tenured teachers in the middle of March simply because they are uncertain if they will have adequate funds to retain the teachers by the time the legislature has passed an education funding budget.

REPRESENTATIVE DOOGAN further explained that the law handles teachers in two groups: tenured and nontenured. Tenure is attained by three years of teaching in the same district with good evaluations. Alaska law requires that a tenured teacher be informed of nonretention by the sixteenth of March and a nontenured teacher must be notified at the end of the school year. Thus this early in the year, when funding can not be guaranteed, districts will send layoff notices. Although layoff priorities determine that nontenured teachers are laid off first, some districts must layoff tenured teachers in March. Although there has been discussion about forward funding education, Representative Doogan pointed out that in a typical year, such as 2007, education funding is not settled and school districts do not know what the coming budget will provide for; teachers are left in limbo not knowing what the coming year will hold for them. This legislation will change the nonretention date for tenured teachers from the fifteenth of March to the end of the school year. This will prevent a school district from losing teachers whom it intends to rehire when the budget is final. He concluded that this problem is due to an antiquated statute that no longer meets the budget calendar.

[3:11:12 PM](#)

REPRESENTATIVE NEUMAN referred to a constituent, who has taught in rural and urban Alaska for 20 years, who requested that the law should not be changed. The constituent stated that the existing law is best for all parties.

REPRESENTATIVE DOOGAN responded that, if the state forward funded education, a school district would know before the fifteenth of March whether it has funds to retain its tenured teachers; the situation now is a guessing game.

REPRESENTATIVE NEUMAN relayed that a principal from his district stated that, although teachers may not like the bill, administrators would due to the increased time allowed for negotiation. He opined that the bill puts teachers and administrators on opposite sides.

[3:13:39 PM](#)

REPRESENTATIVE ROSES opined that the existing law is not working. This bill intends to improve the situation of highly qualified and competent teachers who wish to continue in their positions. He provided a scenario of why this does not work for teachers who have received a pink slip and are wondering where they will be working in the fall. He fully described the process for layoff and reinstatement as a difficult and cumbersome process. Good teachers can be lost to other districts and states during the three months of upheaval. Representative Roses said that he has an amendment to offer.

REPRESENTATIVE DOOGAN stated that the intent of this bill is not to estrange teachers and administrators. It is simply recognizing that school districts and some tenured teachers are put in a difficult position by the March deadline.

[3:17:12 PM](#)

REPRESENTATIVE SEATON asked whether tenured teachers have been spoken to about this bill. He pointed out that job fairs for teachers are scheduled in April and one of the reasons for the pink slips to go out in March is to allow the teachers to avail themselves of the April job fairs.

REPRESENTATIVE DOOGAN responded that he has heard the concerns that laid off teachers may miss attending the job fairs. However, the more common problem is that school districts have been forced to layoff tenured teachers, whom they wish to retain, because of the budget uncertainty.

[3:19:03 PM](#)

REPRESENTATIVE GARDNER referred to Representative Roses' statement that more often than not, most teachers who get laid off get hired back. She asked whether it was known how often teachers are not hired back.

REPRESENTATIVE DOOGAN said he did not have a definitive answer. He added that the Anchorage School District makes every attempt to hire teachers back and he estimated that it lost between 10 percent and 20 percent of those who were laid off.

[3:21:26 PM](#)

REPRESENTATIVE ROSES recalled his experience as president of the Anchorage Education Association (AEA). When other states were having budget problems the AEA would successfully recruit teachers with expertise in areas of extreme critical needs from those areas. The out-of-state districts were then left with a critical shortage when their budgets were finalized.

[3:22:46 PM](#)

CHAIR WILSON commented that a school with a falling enrollment is placed in a critical situation. Additionally, there is an inequity between tenured and nontenured teachers.

[3:23:45 PM](#)

REPRESENTATIVE CISSNA reported that one of her constituents felt that the bill will make layoffs at the end of the school year easier for the administration. She said she was unclear as to that procedure and expressed her hope that questions will be cleared up. Further, Representative Cissna wondered whether teachers who are going to be laid off have received prior warning, and if the Department of Education and Early Development tracked the layoff procedure.

[3:25:02 PM](#)

REPRESENTATIVE SEATON expressed his understanding that most of the pink slips are to nontenured teachers; this is a general practice and perhaps a political ploy to increase funding. He stated that all this bill will do is to put tenured and nontenured teachers in the same position.

REPRESENTATIVE DOOGAN observed that it is a general rule to layoff all of the nontenured teachers prior to the tenured teachers. The intent of this bill is to help school districts that are the most negatively impacted by the existing law because they are smaller and have a higher portion of tenured teachers.

[3:27:58 PM](#)

REPRESENTATIVE FAIRCLOUGH observed that this is a political process and that pink slips are sometimes issued inappropriately. She stated her support for having the teachers wait to the end of the school year, as well as her support for forward funding of the education budget so that teachers will know they will be returning to their classrooms.

Representative Fairclough said she had received notices from four or five citizens against this bill. However, the bill will set up standard and equitable means to issue layoff notices, if necessary, and to offset the current political process that has been used more frequently in the last five years.

[3:30:16 PM](#)

REPRESENTATIVE NEUMAN requested information on the labor union agreements that support teachers through the layoff process.

REPRESENTATIVE DOOGAN expressed his understanding that the teacher's unions attempt to equalize negotiations in school districts across the board. However, negotiations depend on the size of the district, its growth, its financial situation, and its stability.

REPRESENTATIVE NEUMAN asked whether there is a one-size-fits-all fix. He also asked whether school districts have considered adjusting the timeline for starting the budget process.

[3:32:28 PM](#)

REPRESENTATIVE ROSES opined that school districts may play politics to degree; however, the reality is that layoff notification must be given to teachers if the budget process is not final. If a tenured teacher is not laid off, he or she must be employed to avoid possible arbitration. In addition, he pointed out that the only layoffs affected by this bill will be those that take place due to the lack of a final funding bill for education.

[3:34:27 PM](#)

REPRESENTATIVE ROSES then offered Amendment 1. He explained that the intent of the amendment is to directly tie the deadline of the layoff notices to whether the legislature has approved school funding on or prior to the first of March of a given year.

[3:35:14 PM](#)

REPRESENTATIVE FAIRCLOUGH objected for discussion purposes.

REPRESENTATIVE NEUMAN asked whether the existing law would not change if the legislature passes the educational funding bill prior to the first of March.

REPRESENTATIVE ROSES remarked:

That's true except, that if you're laying someone off based on the fact that there is no funding, and if it is on March second, they're not going to be able to go around that quickly and get it processed they're going to have to justify as to why they are laying that person off if the budget [has] been passed. So the only way it would affect it would be if, by the time you got later on to the end of the school year and there was no budget, at that point, then it would be issued.

[3:36:41 PM](#)

REPRESENTATIVE NEUMAN warned that that is the issue. This bill could be used as a tool administratively to give teachers what they do not want.

CHAIR WILSON advised that a tenured teacher can not be laid off without due process.

[3:37:19 PM](#)

REPRESENTATIVE SEATON clarified that House Bill 20 in the 24th Alaska State Legislature made an effort to forward fund the school budget. He provided background on this prior legislation. He observed that the intent of HB 192 bill can be supported, but there is disagreement from school districts and teachers about moving the pink slip to the last day of school. He expressed his concern that the education funding bill will never pass both houses by the first of March, thus the bill effectively states that tenured teachers will be receiving layoff notification at the end of the school year.

CHAIR WILSON opined that forward funding is possible.

[3:40:04 PM](#)

REPRESENTATIVE FAIRCLOUGH added that forward funding, either through an education endowment or by overcoming the hurdle of supplemental requests, will solve the problem. She withdrew her objection to the amendment.

[3:40:43 PM](#)

Hearing no further objection Amendment 1 was adopted.

3:41:05 PM

KATHLEEN TODD, Member, Valdez School Board, explained how the pink slips are distributed in the Valdez School District. She encouraged the committee to think of all of the teachers whose jobs are on the line. Last year there were seven tenured teachers worried about their jobs until the fifteenth of March. Unfortunately, under this bill, they will have to wait until the end of the year. Under this bill, tenure has its rewards in a large district but not in a small district. Ms. Todd pointed out that that is a reason for teachers to leave rural areas and work in the larger districts. Her school board must re-work its budget three times a year to comply with the law. She encouraged the committee to move the session dates earlier in the year or forward fund education.

3:45:09 PM

LYDIA GARCIA, Executive Director, National Education Association-Alaska (NEA-Alaska), stated NEA-Alaska's opposition to HB 192, which is identical to SB 156 presented two years ago by Senator Ben Stevens. She paraphrased from a prepared statement, which read as follows [original punctuation provided]:

I'm certain it will come as no surprise to this committee that NEA-Alaska opposes House Bill 192. This legislation is identical to the legislation introduced by Senator Ben Stevens (SB 156) two years ago. The idea is to erode tenure rights is just as bad now as it was two years ago when this committee did not hear the legislation.

Currently tenured teachers must be notified by March 15th if they are to be laid off. This is an important benefit earned by teachers when they begin their fourth year of teaching with the same district. When tenured teachers are notified by March 15th, they have appropriate time to attend job fairs (held most often in April) and time to search for new employment.

Furthermore, many schools lock in their staff by having them sign individual contract months prior to the end of school. Significant penalties (thousands of dollars) are attached to those contracts if the

teachers break them anywhere close to the end of the year.

What this bill does is put all the hardship on the teachers by requiring them early on to notify their district of their intent to return, but allowing the districts the option of laying off teachers on the last day of school. By this time major recruiting drives have already been completed.

HB 192 appears to be a solution looking for a problem. Alaska should be doing everything in its power to recruit and retain quality teachers to Alaska. A report published in 2006 by the institute of Social and Economic Research verifies that about 70% of teachers are hired from outside Alaska. Studies also show that 50% of the teaching force leaves the profession after five years. Alaska should not be in the business of making things more difficult for teachers.

Part of what seems to drive this type of legislation is that school districts never know what their funding level will be by March 15th. NEA-Alaska supports efforts to forward fund education and to get as much financial information to districts as soon as possible.

This is a matter of dignity and respect for our Teachers who have earned this last benefit of a Tenured System, which has suffered erosion. Please reconsider the passing of this bill. I oppose HB 192 on behalf of all NEA-Alaska members.

[3:50:03 PM](#)

REPRESENTATIVE GARDNER asked whether NEA-Alaska would still oppose HB 192 if the recruiting fairs and job fairs were scheduled later in the year.

MS. GARCIA offered her experience that the month of April is a standard for job fairs across the nation.

[3:51:13 PM](#)

REPRESENTATIVE ROSES informed the committee that the majority of job fairs are held to coordinate with college graduation; not to accommodate the currently employed.

[3:51:53 PM](#)

CARL ROSE, Executive Director, Association of Alaska School Boards (AASB), stated AASB's opposition to HB 192 and provided historical information and updates on the tenure process. He stressed that the legislature and school districts have a difficult time identifying resources early in the year. The unintended consequence of moving [the fifteenth of March] date is the loss of staff who will not be signing contracts for the next year. He agreed with the previous speaker that that forward funding will solve the problem. He reminded the committee that the tenure law looked at quality, performance, accountability, and fairness, and that tenure is not portable in the state. By moving this date around the issues of fairness to and uncertainty for employees comes into play.

REPRESENTATIVE FAIRCLOUGH asked Mr. Rose to identify the section in the legislation that prevents school districts from offering contracts.

MR. ROSE said that the lack of notification by the fifteenth of March opens up the opportunity for staff to look for other work.

REPRESENTATIVE FAIRCLOUGH further asked how changing the date is different from the current process of the school district estimating its budget and issuing pink slips.

MR. ROSE replied that, once you move past the nontenured teachers, the tenured teachers have protections that may lead to consequences.

[3:56:25 PM](#)

REPRESENTATIVE ROSES asked Mr. Rose for his opinion of Amendment 1. Representative Roses stated that [Representative Roses] is a strong advocate for tenure and has protected the rights of teachers in the past. He recalled regretful personal experiences in which pink slip notices have been issued. He assured the committee that he would have no part in jeopardizing tenure for teachers and this [bill and amendment] is an attempt to prevent the issuance of pink slip notices solely because school districts are waiting on the legislature for its decision on funding education.

[3:58:02 PM](#)

MR. ROSE opined that there are three options: move the date, fund early, or Amendment 1. Ideally, identifying funds early is the best option, but this amendment moves [the state] closer.

[3:58:19 PM](#)

REPRESENTATIVE NEUMAN observed that there is not an easy fix and forward funding for education is not a reality. He asked Mr. Rose whether this bill will put further stress on school districts due to the shorter legislative session.

MR. ROSE warned that the 90-day session may create a need to extend the first session or to work through the interim to be ready in February of the second year. Interim committee processes may be the reality of the 90-day session; transparency will be a casualty. He also speculated that future resources will come from the earnings reserve of the Alaska Permanent Fund.

REPRESENTATIVE NEUMAN noted that the 90-day session also requires the governor to pass a budget within 15 days of adjournment.

[4:01:19 PM](#)

REPRESENTATIVE ROSES moved HB 192, Version 25-LS0720\A.1 as amended [with individual recommendations and accompanying fiscal notes].

REPRESENTATIVE NEUMAN said that his objection was based on the testimony of the knowledgeable parties.

[4:02:42 PM](#)

REPRESENTATIVE SEATON said that the notification at the end of the school year is very problematic for tenured teachers. He stated his opposition to the bill.

REPRESENTATIVE CISSNA stated her strong belief that the need to take care of the school budget should be a priority and not a political hold-out. There is a conflict in that this bill takes care of one problem but does hold unintended consequences.

[4:05:18 PM](#)

REPRESENTATIVE FAIRCLOUGH recalled that a witness pointed out that the committee has three choices and each choice has consequences. She noted that she has supported an education endowment for the past ten years. Furthermore, forward funding, or an educational endowment, will not occur in the next year due to deadlocks over supplemental requests. She opined that this bill, as amended, stops the premature issuances of pink slips and stated her support for the bill. Representative Fairclough cited the saving of time and money by the larger school districts as the basis for supporting the bill.

[4:07:31 PM](#)

REPRESENTATIVE GARDNER expressed her conflict on the bill. However, the status quo causes the loss of good teachers and she stated her support for the bill.

[4:08:55 PM](#)

A roll call vote was taken. Representatives Roses, Fairclough, Cissna, Gardner, and Wilson voted in favor of HB 192. Representatives Neuman and Seaton voted against it. Therefore, HB 192 was reported out of the House Health, Education and Social Services Standing Committee by a vote of 5-2.

SJR 3-MEDICARE RATES IN ALASKA

[4:09:12 PM](#)

CHAIR WILSON announced that the next order of business would be SENATE JOINT RESOLUTION NO. 3, Relating to the effect of Medicare rates on senior citizens' access to healthcare; and urging the United States Congress to increase Medicare rates for Alaska.

[4:09:36 PM](#)

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, presented SJR 3, as prime sponsor, paraphrasing from the sponsor statement, which read as follows [original punctuation provided]:

Approximately 55,000 Alaskans rely on the federal Medicare Program to meet their health care needs. As you know, Medicare serves senior citizens age 65 and

older, certain Alaskans with disabilities, and those with end-stage kidney disease.

This is the largest health insurance program in the country, and one that is of key importance to all Alaskans. Once any of us turns 65, Medicare provides our primary insurance coverage, regardless of whether we have other health insurance.

Unfortunately this program is increasingly letting down some of Alaska's most vulnerable citizens, and that should be of concern to all of us

Many Alaska physicians say that Medicare pays less than 50% of what it costs them to treat their patients. As a result, an alarming number are refusing to accept new Medicare patients, and many are terminating existing patients.

This is leaving a growing number of senior and disabled Alaskans without access to medical care, including those with life-threatening illnesses. We have all read reports of seniors calling dozens and dozens of doctors before finding one that will see them.

Projections show the problem will only get worse. Baby boomers begin turning 65 in 2011, four years from now. The number of Alaskans on Medicare is expected to double in the next 25 years.

The American Medical Association calls the Medicare reimbursement formula "broken beyond repair." A national survey of doctors conducted by the AMA found that nearly half will be forced to decrease or stop accepting new Medicare patients if reimbursement rates get any lower.

The United State Medicare Payment Advisory Commission concurs that rate cuts will only worsen patient access to medical doctors.

Likewise, the Military Officers Association of America says Medicare reimbursement rates are hurting military beneficiaries' access to care since military health insurance is linked to Medicare reimbursement rates.

Unfortunately we are told by the Congressional Budget Office that in 2008 Alaska will lose \$8 million in federal payments to doctors as a result of cuts in Medicare reimbursement rates.

The CBO projects a loss of \$240 million between 2008 and 2015 as a result of planned rate cuts of nearly 40%.

The problem in Alaska appears to be worse than in other states because of the higher cost of providing medical care in Alaska and a funding formula that does not take this into account.

Alaska is the only state in which Medicare reimbursement rates are even lower than those for Medicaid.

SJR 3 calls on Congress and the U.S. Department of Health and Human Services to address this crisis by rewriting the formulas used to develop Medicare reimbursement rates for Alaska.

It also urges Congress to address inequities in physician reimbursement that are leading to the collapse of the primary care system and limiting seniors' access to those physicians best qualified to coordinate their care.

I urge you to join me in supporting SJR 3 and helping to ensure that senior and disabled Alaskans get the medical care they need and have been promised.

[4:12:04 PM](#)

REPRESENTATIVE GARDNER asked why the problem is worse in Alaska than in other states.

SENATOR WIELECHOWSKI answered that it is worse here due to the higher costs of medical procedures, the shortage of doctors, and the cost of pharmaceuticals. He noted that the Legislative Health Caucus reported that rates for medical procedures in Alaska are 30 percent to 40 percent higher than in Washington or Oregon. Furthermore, the shortage of doctors means that there is no competition to keep costs lower or to encourage doctors to see Medicare patients.

[4:13:36 PM](#)

REPRESENTATIVE SEATON offered to make an amendment that provides for the electronic transmittal of the resolution.

SENATOR WIELECHOWSKI said he had no objection.

[4:15:18 PM](#)

REPRESENTATIVE SEATON offered Amendment 1 to insert on page 2 line 29 after the word "sent", "by electronic transmission and by mail."

[4:15:44 PM](#)

REPRESENTATIVE GARDNER objected and said that as the resolution is written it is not precluded from being transmitted electronically. She advised that amending the resolution will result in a delay as it is returned to the senate for concurrence.

REPRESENTATIVE SEATON explained that documents are sent by mail unless specified for electronic transmission.

[4:16:38 PM](#)

REPRESENTATIVE CISSNA suggested supporting the resolution as it is and offering this amendment on the floor.

[4:17:17 PM](#)

REPRESENTATIVE SEATON offered to withdraw the amendment.

[4:17:37 PM](#)

SENATOR WIELECHOWSKI stated he would have his office send the resolution by electronic mail.

REPRESENTATIVE SEATON withdrew Amendment 1.

[4:17:55 PM](#)

REPRESENTATIVE NEUMAN opined that amendments should be offered in committee.

CHAIR WILSON expressed her understanding of Senator Wielechowski's concern about delaying the passage of the resolution.

REPRESENTATIVE ROSES pointed out that if the Medicare payment level is raised it may help with a portion of Alaska's unfunded liability that is in the medical obligation of the Alaska Public Employees Retirement System and Teachers Retirement System (PERS/TRS).

[4:19:10 PM](#)

REPRESENTATIVE NEUMAN asked whether stronger legislation than a resolution can be written

SENATOR WIELECHOWSKI informed the committee that this problem is with the federal system, which limits the state's influence. He expressed his hope that the Washington, Alaska, Montana, and Idaho Family Practice Residency Program (WAMI) bill will bring more doctors into the state in the long run. Furthermore, the legislature has state universal health care legislation to consider during this session. Nevertheless, SJR 3 asks for a remedy on the federal level.

[4:20:39 PM](#)

REPRESENTATIVE CISSNA advised that a representative of the congressional delegation has stated that it is important to hear from the state about these issues. She opined that this resolution is appropriate.

[4:22:01 PM](#)

REPRESENTATIVE SEATON moved to report SJR 3 out of committee with individual recommendations. There being no objection, SJR 3 was reported from the House Health, Education and Social Services Standing Committee.

HB 4-MEDICAL FACILITY CERTIFICATE OF NEED

[4:22:21 PM](#)

CHAIR WILSON announced that the final order of business would be HOUSE BILL NO. 4, "An Act amending the certificate of need requirements to apply only to health care facilities that are nursing homes or residential psychiatric treatment centers or that are located in a borough with a population of not more than

25,000, in the unorganized borough, or in a community with a critical access hospital."

[Contains discussion of SB 65.]

REPRESENTATIVE BOB LYNN, Alaska State Legislature, sponsor, informed the committee that HB 4 has three major purposes: to increase the availability of medical care and the choice of providers; to create lower costs for patients and for worker's compensation; and to employ the principle of free enterprise. Representative Lynn informed the committee that, in America the free market, not the state, should decide whether any business, including a health care business, is needed. He expressed his belief that free enterprise motivates excellence, lowers prices and benefits consumers. The current policy of requiring a Medical Facilities Certificate of Need (CON) creates a system of de facto medical monopoly. Patients deserve more choices and the deliverance of Alaskans from a medical monopoly should help lower medical costs. Spokespersons supporting the CON policy will explain that health care facilities are a special case; however, experts with a different opinion will be testifying today. He concluded by saying that those who believe that competition can lower cost should support this bill. Representative Lynn introduced expert witnesses and his aide.

MIKE SICA, staff to Representative Bob Lynn, Alaska State Legislature, stated that Representative Lynn's office has received two hundred letters of support for the bill and one letter of dissent.

[4:27:43 PM](#)

CHAIR WILSON opened public testimony.

[4:28:14 PM](#)

ROBERT JAMES CIMASI, President, Health Capital Consultants, expressed his concern about the impact of the CON regulation on Alaska, based on the fact that it is failed health policy. He explained that the CON policy was imposed on Alaska by the federal government in the 1970s when health care was paid for on a cost-plus basis. The advent of the "prospective payment system" in the 1980s has eliminated the reason for CON regulation to exist. The Federal Trade Commission (FTC) has denounced the continuance of CON regulation, most recently after a year-long study. He asked the committee to refer to his written testimony for the complete citing of the FTC report and

data. Mr. Cimasi stressed that CON policy diverts desperately needed health care dollars away from the provision of patient care. Most problematic is that it has been known for years that the arguments of the proponents of CON regulation are easily refutable. He opined that the impact of CON regulation on Alaska is especially damaging because Alaska is severely underserved by physicians; CON regulation is anti-physician and by restricting the sharing of ancillary services revenue it will be impossible for Alaska physicians to continue to serve patients. Mr. Cimasi strongly urged the committee to consider the bill.

[4:33:44 PM](#)

LARRY STINSON, Physician, Advanced Medical Centers of Alaska, agreed with the previous witness that CONs are no longer needed and create monopolies. He pointed out that the main hospitals in Alaska also maintain health care facilities in states that do not have CON regulations; thus their arguments that CON regulations are needed seems to be incongruous. Dr. Stinson also noted that there is no data to support the necessity of CON regulations, although the gathering of this data has been mandated by state law for 20 years. He concluded that CON regulation maintains monopolistic practices, interferes with health care, reduces choice, reduces consumer options, and interferes with the recruitment of physicians to the state.

[4:36:35 PM](#)

GREGORY POLSON, Physician, Advanced Medical Centers of Alaska, stated his support for HB 4 and agreed with the previous witnesses. Furthermore, he added his belief that the current system is dysfunctional. He relayed his experience working with physicians in trying to provide additional health care treatment centers. These efforts, in Anchorage and Fairbanks, are mired in legal difficulties between the state and Providence Alaska Medical Center over CON regulations.

[4:37:33 PM](#)

JEREMY HAYS, Representative, Alaska Medical Development and Advanced Medical Centers of Alaska, stated his support for HB 4, and the repeal of Alaska's CON laws. Mr. Hays informed the committee that Alaska has overall health care costs that are 40 percent higher than the national average, and costs continue to rise. He noted that Alaska also has the most restrictive CON laws, thus negating the argument that CON laws keep costs down.

He called for CON proponents to explain this "oxymoron." In fact, when a health care provider can offer a higher quality service at a lower price to the residents of Alaska, it should be free to do so and thereby benefit the consumer. Most importantly, Mr. Hays said that Alaskans deserve to choose where medical services should be performed, by whom, and for what price. He concluded by saying that HB 4, and similar legislation, has died in the House Health, Education and Social Services Standing Committee in past years; this committee bears the responsibility to move this bill.

[4:41:25 PM](#)

NORMAN STEPHENS, Chief Executive Officer, Mat-Su Regional Medical Center, expressed his concern that this is a complicated issue that may be decided with little opportunity for study. He informed the committee that health care economics falls under a state and federally controlled reimbursement system and he recommended that the committee delay action until the governor's task force has completed a balanced study of this subject. Mr. Stephens warned that the repeal of the CON law will double and triple costs depending on how many providers enter the market. He stated that the hospital is not concerned with competition; however, in a state with a small population, expansion should be regulated.

[4:43:53 PM](#)

JEFF KINION, Chief Executive Officer, Alaska Open Imaging Center, informed the committee that the CON process and program in Alaska is substantially broken. State regulations are now in a quagmire of confusion leading to multiple lawsuits between hospitals, surgery centers, imaging centers, and other health care providers. He opined that money that should be directed on patient care and new technology is spent on the court system and interpreting the regulations. Furthermore, the state is not following its own rules or provided the data that was mandated years ago. He urged the committee to focus on who will benefit and who will lose in this process. Mr. Kinion expressed his belief that the defense that hospitals have to have a CON to cover costs is absurd business practice.

[4:45:50 PM](#)

JIM JORDAN, Executive Director, Alaska State Medical Association, stated his organization's support for HB 4 and

asked the committee to refer to his previously submitted written testimony.

[4:46:20 PM](#)

KIM BLACK, employee, Alaska Open Imaging Center, said that she has traveled throughout the state and many physicians are frustrated with the current CON process. As a lifelong Alaskan, she expressed her concern that the administration of CON regulations puts Alaskans at a disadvantage and increases the cost of health care. She opined that the people of Fairbanks have limited access to available services at the hospital and to imaging services. For example, Fairbanks Memorial Hospital will not accept imaging orders from chiropractors; patients are required to have an order from a physician which adds additional cost. Ms. Black said that she supports HB 4.

[4:50:04 PM](#)

ROB GOULD, Chief Financial Officer and Head of Operations, Fairbanks Memorial Hospital, stated his opposition to HB 4, and provided an example of the situation that occurred when the magnetic resonance imaging (MRI) centers came to the Fairbanks area. He relayed that the cost at the MRI centers for three of the top procedures is much higher than the cost at the hospital. His organization believes that it has been proven in other states that competition in health care does not decrease health care costs. For-profit and nonprofit providers have to recoup capital costs; the high cost of medical care in Alaska is not because of the lack of competition, but because of the size of the population and the difficulty and cost of transportation. He explained that Medicare regulations do not allow MRIs to be ordered by chiropractors; thus it is not Fairbanks Memorial Hospital that denies MRI's to Medicare patients.

[4:53:36 PM](#)

BOB CARLSON, Fairbanks, Alaska, said that he was testifying as a private citizen and stated that future highly technical medical care will require a high capital investment by robust competition among for-profit, nonprofit and government organizations. He opined that the CON program does not foster competition; in fact, Mr. Carlson said that he assumes Fairbanks Memorial Hospital and the Greater Fairbanks Community Hospital Foundation are affiliated with Banner Health which claims six percent profits on revenue per year and a total asset value of \$3.7 billion. Mr. Carlson observed that Banner Health and its

affiliates do not need the advantages of the CON regulations to continue operations.

[4:55:44 PM](#)

CAM CARLSON stated that she was testifying as a private citizen and as a user of health care and medical services in the Fairbanks area. She opined that Fairbanks Memorial Hospital is a bully in the medical community. She expressed her belief that the CON regulations prevent citizens from choices of medical services and contribute to high costs. She strongly urged the committee to move HB 4 out of committee.

[4:57:36 PM](#)

RYAN SMITH, Chief Executive Officer, Central Peninsula General Hospital (CPGH), informed the committee that CPGH is represented by the Alaska State Hospital and Nursing Home Association (ASHNHA) and supports its policy statement on the bill. CPGH is the sole community provider on the central Kenai Peninsula; it is a 50 bed acute care hospital and also operates a 60 bed skilled nursing facility. Mr. Smith relayed that, in 2003, the citizens in CPGH's service area approved a bond project for capital improvements. The elimination of CON regulations will allow providers to take revenue from the hospital's high margin services and will jeopardize the services the hospital provides in Soldotna. This added risk to the financial stability of the hospital could harm the recent bond project that is for the benefit all the constituents in the Soldotna service area.

[4:59:18 PM](#)

MIKE MADDUX, Manager, Alaska Open Imaging, stated that patients in Fairbanks must wait 10 to 13 days to receive a routine MRI scan. He gave an example of the delays that result from the backlog of procedures and analysis and stated that these delays lead to poor health care for citizens. Mr. Maddox pointed out that Fairbanks Memorial Hospital and Alaska Open Imaging process their bills differently; this accounts for the perceived difference in cost. He then expressed his passionate support for HB 4.

[5:01:40 PM](#)

CHAIR WILSON informed the committee that Senator Davis will hold companion bill [SB 65] in the Senate. She stated that the House Health, Education and Social Services Standing Committee and the

Senate Health, Education and Social Services Standing Committee will be working jointly on these bills during interim.

5:03:13 PM

[HB 4 was held over.]

ADJOURNMENT

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