

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

March 4, 2008

3:04 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Mike Hawker

COMMITTEE CALENDAR

HOUSE BILL NO. 337

"An Act establishing the Alaska Health Care Commission and the Alaska health care information office; relating to health care planning and information; repealing the certificate of need program for certain health care facilities and relating to the repeal; annulling certain regulations required for implementation of the certificate of need program for certain health care facilities; and providing for an effective date."

- MOVED CSHB 337(HES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 337

SHORT TITLE: HEALTH CARE: PLAN/COMMISSION/FACILITIES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/22/08	(H)	READ THE FIRST TIME - REFERRALS
01/22/08	(H)	HES, FIN
01/24/08	(H)	HES AT 3:00 PM CAPITOL 106
01/24/08	(H)	Heard & Held
01/24/08	(H)	MINUTE(HES)

01/31/08	(H)	HES AT 3:00 PM CAPITOL 106	
01/31/08	(H)	Heard & Held -- Assigned to Subcommittee	
01/31/08	(H)	MINUTE(HES)	
02/09/08	(H)	HES AT 9:00 AM CAPITOL 106	
02/09/08	(H)	Heard & Held	
02/09/08	(H)	MINUTE(HES)	
02/19/08	(H)	HES AT 3:00 PM CAPITOL 106	
02/19/08	(H)	Heard & Held	
02/19/08	(H)	MINUTE(HES)	
02/23/08	(H)	HES AT 9:00 AM CAPITOL 106	
02/23/08	(H)	Heard & Held	
02/23/08	(H)	MINUTE(HES)	
02/26/08	(H)	HES AT 3:00 PM CAPITOL 106	
02/26/08	(H)	Scheduled But Not Heard	
03/04/08	(H)	HES AT 3:00 PM CAPITOL 106	

WITNESS REGISTER

REBECCA ROONEY, Staff
to Representative Peggy Wilson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the committee substitute for HB 337, on behalf of Representative Wilson.

REPRESENTATIVE MIKE KELLY
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 337.

KARLEEN JACKSON, Commissioner
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 337.

STACIE KRALY, Chief Assistant Attorney General
Human Services Section
Civil Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 337.

ACTION NARRATIVE

CHAIR PEGGY WILSON called the House Health, Education and Social Services Standing Committee meeting to order at [3:04:01 PM](#). Representatives Cissna, Keller, Seaton, Roses, and Wilson were present at the call to order. Representatives Gardner and Fairclough arrived as the meeting was in progress. Representative Hawker was also present.

HB 337-HEALTH CARE: PLAN/COMMISSION/FACILITIES

[3:04:17 PM](#)

CHAIR WILSON announced that the only order of business would be HOUSE BILL NO. 337, "An Act establishing the Alaska Health Care Commission and the Alaska health care information office; relating to health care planning and information; repealing the certificate of need program for certain health care facilities and relating to the repeal; annulling certain regulations required for implementation of the certificate of need program for certain health care facilities; and providing for an effective date."

[3:05:28 PM](#)

REPRESENTATIVE ROSES moved that the committee adopt proposed committee substitute (CS) for HB 337, Version 25-GH2050\L, Mischel, 3/3/08, as a working document. There being no objection, Version L was before the committee.

[3:05:44 PM](#)

CHAIR WILSON stated that the committee substitute was drafted with the perspective of the consumer in mind. She said that it is the responsibility of the committee to consider what is best for Alaskans as a whole. Version L includes language from Representative Hawker's bill regarding the commission and its responsibilities, and components from the governor's bill and committee substitute. Regarding the Certificate of Need (CON) legislation, several changes have been made including: the exemption of CON in cities and boroughs with a population of over 110,000 residents; the exemption of Pioneer's Homes, veteran's homes, tribal health entities, and physician's offices; the inclusion of definitions as recommended by the governor; and the addition of many components from HB 407 and HB 347. Chair Wilson announced that the committee will hear an introduction of the committee substitute and testimony from Representatives Hawker and Kelly, the Department of Health and Social Services (DHSS), and the Department of Law (DOL).

[3:09:31 PM](#)

REPRESENTATIVE ROSES asked whether it was the chair's intention to move the bill out of committee.

[3:09:47 PM](#)

CHAIR WILSON indicated that was her intention.

[3:09:55 PM](#)

REBECCA ROONEY, Staff to Representative Peggy Wilson, Alaska State Legislature, began her presentation of Version L.

[3:10:07 PM](#)

REPRESENTATIVE SEATON asked whether there was a sectional analysis for Version L.

[3:10:22 PM](#)

MS. ROONEY said no. She indicated that she would highlight the six small changes that were made to Version K.

[3:10:30 PM](#)

REPRESENTATIVE GARDNER noted that the Alaska State Hospital and Nursing Home Association (ASHNHA) has a sectional analysis.

[3:10:43 PM](#)

MS. ROONEY stated that Section 1 adds the legislative intent from Representative Hawker's bill, HB 407. Section 2 provides for no referrals, thereby prohibiting self-referrals by a physician in all cases. She continued to explain that Sec. 3 allows for renumbering to accommodate the changes in previous sections, and Sec. 4 redefines the word "expenditure" to include only medical equipment and not leases or property costs. Section 5 contains most of the changes to the Certificate Of Need program and she pointed out that a CON would be required for boroughs and municipalities with a population less than 110,000 residents, and for private, municipal, state, and federal hospitals, psychiatric hospitals, independent diagnostic testing facilities, tuberculosis hospitals, kidney disease treatment centers, intermediate care health facilities, ambulatory surgical facilities and any city with a critical

access hospital. A CON would not be required for Alaska Pioneer Homes, Alaska Veteran Homes, offices of private physicians with at least 75 percent ownership, federal tribal health entities, and boroughs and municipalities with a population of more than 110,000 residents. In addition, a CON would always be required for nursing homes and residential psychiatric treatment centers. The governor's amendment provided Sec. 6, that adds definitions that were pertaining to CON laws, and Sec. 7 creates the new health care information office. Ms. Rooney indicated that there was no change to Sec. 18.09.100; however, Sec. 18.09.110 redefines the information database using the governor's amendment dated February, 2008. Section 18.09.990 also includes changes to definitions requested by the governor. Section 8 creates the health care commission with the addition of the purpose of the commission from HB 407; however, the commission would be advisory, with four members appointed by the governor, six members appointed by the public, and six members appointed by the legislature. Subsection (c) defines the terms of office. Subsections (d) through (k) outline the support and employees of the commission, the requirements for by-laws, and a description of the commission's deliverables, for example, the commission must present an annual report to the legislature that meets certain requirements and deadlines. Ms. Rooney concluded that Sec.(s) 9, 10, 11, and 12, have no changes.

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REPRESENTATIVE SEATON asked whether the annual report by the commission would be an "in-person" report to the legislature.

[3:16:41 PM](#)

MS. ROONEY indicated yes.

[3:17:05 PM](#)

CHAIR WILSON invited Representative Hawker to testify. He declined.

[3:17:54 PM](#)

REPRESENTATIVE MIKE KELLY, Alaska State Legislature, informed the committee that he is a volunteer member of the Fairbanks Community Hospital Foundation and was formerly a member of the National Committee on Governance for the American Hospital Association. He shared his previous experience with complicated and difficult issues such as the CON program. Representative

Kelly stated that the bill he sponsored, HB 345, was a compromise that recognized that those in the medical industry, who have billions of dollars invested in facilities and who provide essential services to everyone, need a voice in the debate over CON laws. He opined that HB 345 would have settled 80 percent of the outstanding lawsuits pertaining to this issue. Representative Kelly expressed his support of competition; however, he urged caution in order to protect the system that serves 600,000 Alaskans. He concluded that his preference would be to pass HB 345 out of the committee.

[3:21:03 PM](#)

CHAIR WILSON said that she does not want to negate the work that was done outside of the committee and by the governor's negotiated rule making committee. She noted that the negotiated rule making committee issued its recommendations at a 70 percent level of agreement; however, there was a lot of compromise achieved. Representative Wilson acknowledged that hospitals still need the Medicare and Medicaid reimbursement issues addressed; in fact, this concern influenced the decision to retain the CON program for most of the cities in Alaska. She opined that Anchorage was the only area appropriate for competition in an open marketplace. Chair Wilson indicated that the DHSS will testify and then the committee will hear amendments.

[3:24:50 PM](#)

REPRESENTATIVE ROSES clarified that the intent of the bill is that every area in Alaska is exempt, except for Anchorage.

CHAIR WILSON agreed.

[3:25:57 PM](#)

REPRESENTATIVE SEATON pointed out that there are two different definitions of "health care facility."

[3:26:32 PM](#)

CHAIR WILSON explained that the different definitions are found in different chapters.

[3:26:50 PM](#)

KARLEEN JACKSON, Commissioner, Department of Health and Social Services (DHSS), reminded the committee that, with the introduction of the health care transparency act, the first intent of the governor was to create a health care commission charged with developing a statewide plan that was responsive to changing demographic market conditions and that can guide private and public investments. She suggested that the committee substitute moves the commission away from the planning function desired by the governor. The second purpose of the original bill was to give Alaskans new tools and options for their individual health care through a web based information source. Ms. Jackson opined that there has been a loss of focus on the content of the database by the commission. Thirdly, the governor's bill sought to enhance health competition between the providers of health care through the repeal, not the modification, of CON laws.

[3:29:25 PM](#)

STACIE KRALY, Chief Assistant Attorney General, Human Services Section, Civil Division, Department of Law, offered to point out items she noted in her review of the committee substitute. She began her comments related to Sec. (s) 4, 5, and 6, of the bill.

[3:30:35 PM](#)

REPRESENTATIVE ROSES expressed his concern that Sec. 2 may attempt to supersede federal law enacted by the Stark amendments.

[3:30:56 PM](#)

MS. KRALY stated that she also has concerns about the Stark amendments. The intent of the bill was that it relates to referrals for non Medicare and non Medicaid payments; thus it was not intended to conflict with federal law. She suggested that the language needs to be more precise and may be corrected by drafting. However, there are other issues about the potential restraint of trade. Additional time and information is needed to review this issue and her opinion will be offered at a later time.

[3:32:19 PM](#)

REPRESENTATIVE ROSES then asked about the restriction on self-referring. He gave an example of a small town with a sole provider and asked whether the sole provider would be unable to

provide services without being subject to the restriction on self-referral.

[3:33:56 PM](#)

MS. KRALY agreed that there is a cause for concern about how this restriction was drafted. This question has been raised and is beyond her area of expertise.

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CHAIR WILSON stressed that the language states, "the department may seek." She opined that the DHSS would know the circumstances of the provider in a rural area, thus there would not a problem because the department has discretion.

[3:35:15 PM](#)

MS. KRALY maintained her concern about the administrative issues surrounding the enforcement of the fine in small communities versus larger communities.

[3:35:42 PM](#)

REPRESENTATIVE ROSES concurred.

[3:36:14 PM](#)

MS. KRALY explained that Sec. 4 amends the statutory definition of expenditure under AS 18.07.031, and that the intent was to only address the cost of medical equipment. She raised the point that, although the intent was to increase the monetary threshold, the committee should decide whether the legislative intent was that expenditures need to be limited to health care costs and not include construction costs. Ms. Kraly inferred that this language may create loopholes.

[3:38:16 PM](#)

REPRESENTATIVE SEATON asked whether intent language can counter the present statutory language. He requested new proposed language.

[3:39:00 PM](#)

MS. KRALY turned to Sec. 5, that deals with definitions under the CON program. She pointed out that on page 4, line 4, the

inclusion of "federal" creates an unintended conflict with the exceptions to "health care facility" on line 22 and 23. She stated that by this language a federal facility is both included and then excluded. In addition, clarification is needed to state whether this provision also applies to military facilities. She continued to say that the language in this section also excludes Anchorage from CON policies, except for nursing homes and residential psychiatric treatment facilities, and provides for CON policies everywhere else in the state.

[3:40:48 PM](#)

REPRESENTATIVE ROSES asked Ms. Kraly to repeat her statement on the exclusions from CON policies.

[3:41:05 PM](#)

MS. KRALY re-stated that there is no CON required for the Anchorage area, except for nursing homes, and residential psychiatric treatment facilities. Certificates of Need are required for everywhere else in Alaska, including nursing homes and residential psychiatric treatment centers (RPTC)s.

[3:41:37 PM](#)

REPRESENTATIVE ROSES agreed that everyone in the state needs to use CON except Anchorage, which is exempt.

[3:42:33 PM](#)

MS. KRALY then said that Anchorage is exempt for all, including nursing homes and RPTCs. She remarked:

As I am reading this, Anchorage is exempt for everything, including nursing homes and residential psychiatric treatment centers. And I don't know if that was the intent of the chair.

[3:43:36 PM](#)

CHAIR WILSON said it was not.

[3:43:46 PM](#)

MS. KRALY called the committee's attention to page 4, lines 22 and 23, and suggested that military health facilities should also be included in the exception for "tribal health entities

funded or operated by the federal government." In answer to a question, she opined that there needs to be a specific reference to "military facilities." Next, she expressed her understanding of the compromise that resulted in the use of 75 percent ownership for the definition of physician's office; however, she stated her concern that the definition creates an exemption, rather than providing an actual definition. Ms. Kraly suggested that the definition should be moved to the definition section under AS 18.07.111, rather than located in the definition of "health care facility." Again, in Sec. 6, she suggested that "physician's office" should be a definition, as opposed to an inclusion within what is constituted as a health care facility. Further, she advised that on page 6, line 10, "health care providers licensed in the state" should read "health care providers licensed and authorized in the state."

[3:46:28 PM](#)

REPRESENTATIVE GARDNER asked whether the language should read "licensed or authorized."

[3:46:59 PM](#)

MS. KRALY said, "Either or." Her next comment was that there are two definitions of health care facility in the bill, one for CON purposes and one for the health care information office. She pointed out that the definition on page 8, line 29, references a facility licensed under AS 47.32; however, not all facilities licensed under that statute are health care facilities. Ms. Kraly urged the committee to further review the language. Finally, Ms. Kraly opined that the transition language for the administrative appeals should stay, but would not resolve many of the lawsuits.

[3:49:39 PM](#)

CHAIR WILSON related that Jean Mischel, Legislative Legal and Research Services attorney and drafter of Version L, advised that nursing homes and RPTCs must have CONs statewide, including Anchorage.

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REPRESENTATIVE GARDNER asked for Ms. Kraly to repeat her opinion on the effect of this bill on pending lawsuits.

[3:51:01 PM](#)

MS. KRALY clarified that the original transition language from the governor's bill, that repealed CON policies, would have resolved all of the litigation. In fact, this committee substitute will resolve only the litigation related to cases in the Anchorage area and will not affect cases related to the Fairbanks or Mat-Su areas.

[3:51:51 PM](#)

CHAIR WILSON said, "We were told that if we tightened up the definitions, ... that would take care of [the lawsuits]."

[3:52:13 PM](#)

MS. KRALY acknowledged that there could be some resolution of outlying issues; but the difficulty with the definition of the physician's office remains. If HB 337 is enacted, with the CON program continuing in some fashion, the language is compromised and does not go as far as needed.

[3:53:04 PM](#)

CHAIR WILSON observed the difficulty of making decisions, when changes are made.

MS. KRALY re-stated that the transition language in the bill has remained the same, but the amendment has changed the repeal of CON policies, thus the change in the effect of the bill on pending litigation.

[3:54:01 PM](#)

COMMISSIONER JACKSON thanked the committee for its work and encouraged a quick resolution of the bill.

[3:54:51 PM](#)

The committee took an at-ease from 3:54 p.m. to 3:56 p.m.

[3:56:24 PM](#)

REPRESENTATIVE GARDNER offered Amendment 1, identified as GH2050\L.1, which read:

Page 1, lines 2 - 3:

Delete "relating to the certificate of need program for certain health care facilities"

Insert "authorizing a study of the certificate of need program"

Page 4, line 1, through page 5, line 14:

Delete all material.

Renumber the following bill sections accordingly.

Page 11, line 31, through page 12, line 7:

Delete all material and insert:

"* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CERTIFICATE OF NEED STUDY. The Department of Health and Social Services may contract with an independent entity to conduct a study of the effectiveness of the certificate of need program in the state in fulfilling the purpose of the program. The department shall present a report to the legislature on the study when it is completed."

Page 12, lines 14 - 15:

Delete all material and insert:

"* **Sec. 9.** Sections 7 and 8 of this Act take effect immediately under AS 01.10.070(c).

* **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect July 1, 2008."

CHAIR WILSON objected.

REPRESENTATIVE GARDNER recalled that she has received plenty of conflicting data regarding the effects of CON policy on other states. She opined that it is premature to make major modifications, or to repeal the law, when there has not been a study specific to Alaska. Amendment 1 would eliminate the repeal of CON policy in Anchorage and would authorize a study of the CON program, and its effects in Alaska, by an independent third party.

[3:58:42 PM](#)

CHAIR WILSON observed that the amendment changes the title of the bill and asked what was being deleted on page 4.

[3:59:09 PM](#)

REPRESENTATIVE GARDNER responded that the deletion eliminates the reference to population that eliminates Anchorage from the CON program.

[3:59:53 PM](#)

CHAIR WILSON suggested authorizing the study to take place prior to the sunset date of the bill.

[4:00:13 PM](#)

REPRESENTATIVE GARDNER expressed her belief that a further change, after five years, would result in another huge battle. She stated the advantages of having a source of information before decisions are made.

[4:00:47 PM](#)

REPRESENTATIVE CISSNA opined that Anchorage is the only place in the state where the CON could be repealed without endangering the economy; however, the strong economy in Anchorage may be because of the health care industry. She pointed out that Anchorage hospitals can be full at times. Furthermore, the different hospitals operate on different economic systems. Representative Cissna supported the authorization of a study to provide facts to the health care commission.

[4:03:00 PM](#)

REPRESENTATIVE GARDNER cautioned the committee against enacting legislation that inhibits businesses to operate independently, especially without sufficient reason.

[4:03:45 PM](#)

REPRESENTATIVE KELLER stated his opposition to the amendment. He recalled that legislative members spent the summer looking for ways to avoid future problems due to high medical costs. He observed that the market system has always worked and expressed his support for a partial elimination of the CON. One of the goals is for the consumer to become invested in his or her health care.

[4:05:59 PM](#)

REPRESENTATIVE ROSES stated that his concern with the amendment is that the public's perception may be that the legislature is

unwilling to take a position and vote. The study can be done and the information given to the commission, but he spoke in opposition to the amendment at this time.

[4:07:14 PM](#)

REPRESENTATIVE GARDNER stressed that she wants to make an informed vote, which is not possible at this time. She added that health costs are increasing in states with and without CON policies, primarily due to pharmaceuticals, and a study will reveal the effects of CON policies, if they exist.

CHAIR WILSON offered a conceptual amendment to the amendment such that an additional purpose of the commission is to have a study by the University of Alaska (UA) to see if CON policies are beneficial to the state.

[4:09:51 PM](#)

REPRESENTATIVE GARDNER objected to the designation of the UA for the study.

CHAIR WILSON withdrew her amendment to the amendment.

[4:11:32 PM](#)

A roll call vote was taken. Representatives Gardner and Cissna voted in favor of Amendment 1. Representatives Keller, Seaton, Roses, and Wilson voted against it. Therefore, Amendment 1 failed by a vote of 2-4.

[4:12:09 PM](#)

CHAIR WILSON offered Conceptual Amendment 2 to page 9, line 15, which read:

(3) recommend an independent study on the pros and cons of CON.

REPRESENTATIVE SEATON objected and asked about the commission's role.

[4:13:09 PM](#)

[There ensued a brief discussion regarding the role of the commission versus the role of DHSS in authorizing a study.]

[4:13:28 PM](#)

REPRESENTATIVE CISSNA suggested that the study should be implemented as soon as possible.

[4:13:57 PM](#)

REPRESENTATIVE ROSES offered a conceptual amendment to Amendment 2 that specifies that the DHSS shall undertake a comprehensive study to evaluate the impact of Certificate of Need on health care for the state.

[4:14:36 PM](#)

REPRESENTATIVE KELLY observed that this will create tension between the commission, which is instructed to produce a statewide plan, and the DHSS.

[4:15:21 PM](#)

CHAIR WILSON advised that the study of CON policies is not necessarily an obligation of the health care commission.

[4:15:49 PM](#)

REPRESENTATIVE GARDNER agreed and added that the results of the study may be of interest to the committee, whether it implements any of the suggestions, or not.

[4:16:07 PM](#)

REPRESENTATIVE ROSES questioned whether the commission has the authority to spend funds or to contract for a study; thus the DHSS may have to do this.

[4:16:57 PM](#)

CHAIR WILSON suggested that the commission can begin its work simultaneously.

[4:17:11 PM](#)

REPRESENTATIVE CISSNA reminded the committee that HB 337 continues to address CON policies. The CON program is one of the few regulatory statutes by which the state protects communities with a safety net of services. She opined that, the state has growing problems in that area, and since the bill

addresses the CON program, it seems to be a good idea to have an independent study to help the commission.

CHAIR WILSON agreed.

[4:18:33 PM](#)

REPRESENTATIVE KELLY withdrew his objection.

[4:18:50 PM](#)

REPRESENTATIVE SEATON objected and asked Representative Roses to repeat the amendment.

[4:18:59 PM](#)

REPRESENTATIVE ROSES re-stated that the amendment will provide direction for the DHSS to contract for an independent and comprehensive study to determine the impacts of Certificates of Need on the state.

REPRESENTATIVE SEATON withdrew his objection.

[4:19:22 PM](#)

There being no further objection, the conceptual amendment to Amendment 2 was adopted.

REPRESENTATIVE GARDNER withdrew her objection to Amendment 2.

[4:19:54 PM](#)

There being no further objection, Amendment 2 [as amended] was adopted.

[4:20:17 PM](#)

REPRESENTATIVE SEATON offered Amendment 3, 25-GH2050\L.3, which read:

Page 1, line 4:

Delete "**physician-owned health care facilities**"

Insert "**health care facilities in which the physician has a financial interest**"

Page 2, lines 11 - 14:

Delete "that is owned by the physician. A physician may, however, provide the name of a facility that is owned by the physician to a patient on a list with other health care facilities operating in the community."

Insert "in which the physician has a direct or indirect financial interest unless the physician discloses the financial interest to the patient and provides written information about known options. In this subsection, "financial interest" means a legal or equitable interest in the ownership or operation of the health care facility."

[4:20:49 PM](#)

CHAIR WILSON objected.

[4:20:53 PM](#)

REPRESENTATIVE SEATON observed that much of the testimony on HB 337 focused on the problems of Fairbanks. He noted that the medical health care statistics used for Fairbanks and environs were skewed by the fact that the medical population included the Indian Health Service (IHS) and military members. He informed the committee that this amendment directs, on page 4, line 10, the deletion of "110,000 or less" and inserts "60,000 or fewer persons, excluding recipients of health care services provided by the United States military or the Indian Health Service."

[4:22:16 PM](#)

CHAIR WILSON expressed her understanding of the intent to exclude military hospitals; however, at this time, many military hospitals are understaffed due to the active posting of staff, and military dependents are being served by non-military hospitals. She asked whether this situation should be taken into account.

[4:23:02 PM](#)

REPRESENTATIVE SEATON agreed that military family members are often treated in health care facilities off-base and clarified that the intent of the amendment was to exclude military personnel, not family members. He offered to make this a conceptual amendment as the written amendment submitted by Legislative Legal and Research excluded military family members. Representative Seaton explained the process that resulted in the

population limit of 60,000 citizens. He called the committee's attention to a population chart on which Alaska city and borough populations were adjusted by subtracting Native and military populations, to determine whether 60,000, minus those populations, was a reasonable "cut-off" number. He pointed out that the Mat-Su Borough, the Fairbanks North Star Borough, and the City of Anchorage are all well above 60,000. The Kenai Peninsula Borough is the closest below with an adjusted population of 46,220. He opined that the 60,000 number would not be reached by changes in population in the near future.

[4:26:10 PM](#)

REPRESENTATIVE CISSNA surmised that Representative Seaton was assuming that the removal of the CON program would not harm the delivery of health care services for the three communities of Fairbanks, Mat-Su, and Anchorage.

[4:26:47 PM](#)

REPRESENTATIVE SEATON recalled testimony from Fairbanks that patients must travel to Anchorage for services because an ambulatory surgery center is not available in Fairbanks due to the CON program. In addition, testimony from the Mat-Su area also supports more diversity in health care. He expressed his belief that those three boroughs have dynamic and large populations that will allow competition in the areas of ambulatory surgery centers and imaging centers.

[4:28:32 PM](#)

REPRESENTATIVE CISSNA stated that Representative Gardner's amendment [for a study] made sense because the emotional testimony presented on this issue did not match Representative Cissna's experience in those communities. She pointed out that the state is headed for uncertain times and was reluctant to make sweeping changes. In fact, she heard that Fairbanks and the Mat-Su were already having problems providing enough health care for those moving in from outlying areas. Representative Cissna urged the committee to move slowly.

[4:30:49 PM](#)

CHAIR WILSON shared that at Fairbanks Memorial Hospital, there are only four doctors that can not use the facilities.

[4:31:13 PM](#)

REPRESENTATIVE KELLER heard that there were scheduling issues for some of the doctors and that the level of use, compared to that of the hospital doctors, may be part of the question. He then asked whether there were population guidelines for critical access care hospitals.

[4:32:03 PM](#)

REPRESENTATIVE SEATON responded that there is a population guideline that limits health facilities within 70 miles of a critical access hospital.

[4:32:23 PM](#)

REPRESENTATIVE KELLER pointed out that critical access hospitals have the revenue advantage of billing on a cost basis; furthermore, they are often owned or managed by big health care companies. Therefore, a financial arrangement can be made such that a patient, who lives in an area with a critical care access hospital, but who is a patient at a hospital in Anchorage can be returned to his own community for treatment.

[4:33:32 PM](#)

CHAIR WILSON stated that the critical access designation and rate is "locked-in" for several years.

[4:33:53 PM](#)

REPRESENTATIVE GARDNER recalled the rationale for removing the CON program in Fairbanks and suggested that a more prudent solution would be to find a way to legislatively encourage Fairbanks Memorial Hospital to allow the "pain docs" to use the facilities there.

[4:34:37 PM](#)

REPRESENTATIVE KELLER said that he was supporting the amendment because it was a reasonable compromise.

[4:34:53 PM](#)

REPRESENTATIVE FAIRCLOUGH expressed her appreciation of the testimony from all sides of the issue. She said that she supports the amendment, but not the bill. By lowering the threshold, there will be more communities affected by

competition. She opined that this creates a rural and urban divide in that smaller communities believe that larger communities are better able to regulate competition. Representative Fairclough said that she believes that the governor's proposal was usable, but the legislature has not been able to do as much research into the community and relies on the response of interested parties. She stated her support for competition and would support the elimination of the CON program; however, the consequences should be mitigated.

[4:37:21 PM](#)

REPRESENTATIVE SEATON concluded that the 60,000 population number was originally in Representative Kelly's bill and is supported by the research into the population that does not receive medical service. He opined that this [number] is a good place to be for the short time frame and still exempts nursing homes, residential psychiatric treatment centers, and critical care access hospitals.

[4:38:47 PM](#)

A roll call vote was taken. Representatives Fairclough, Roses, Seaton, and Keller voted in favor of Conceptual Amendment 3. Representatives Gardner, Cissna, and Wilson voted against it. Therefore, Conceptual Amendment 3 was adopted by a vote of 4-3.

[4:39:47 PM](#)

REPRESENTATIVE ROSES offered Conceptual Amendment 4, which read:

Page 7, Line 8

Insert "(D) usual and customary fee structure and method of determination"

[4:39:56 PM](#)

CHAIR WILSON objected.

REPRESENTATIVE ROSES explained that this amendment is an addition to the list of mandated reported information for the information office database.

CHAIR WILSON removed her objection.

REPRESENTATIVE GARDNER objected, and removed her objection.

There being no further objection, Conceptual Amendment 4 was adopted.

REPRESENTATIVE GARDNER withdrew Amendment 5.

[4:41:14 PM](#)

REPRESENTATIVE KELLER offered Conceptual Amendment 6, which would delete Section 2.

[4:41:23 PM](#)

CHAIR WILSON objected.

REPRESENTATIVE KELLER explained that this amendment deletes Section 2 of the bill. He offered this amendment due to the fact that there has not been any testimony on this section and there was confusion about the language.

[4:42:41 PM](#)

REPRESENTATIVE SEATON asked whether the amendment deletes the title portion and Section 2.

[4:43:06 PM](#)

CHAIR WILSON recalled that there was discussion of the Stark amendments that prohibit doctors from self-referral of Medicare and Medicaid patients. She spoke of the value of the same protection for non Medicaid and non Medicare patients.

[4:45:19 PM](#)

REPRESENTATIVE GARDNER asked whether the amendment solves the problem of self-referral when there is only one choice of a medical service in a community.

[4:45:47 PM](#)

REPRESENTATIVE ROSES answered that the amendment would take out all of Section 2; therefore, there would no longer be a restriction on self-referral.

[4:46:11 PM](#)

REPRESENTATIVE SEATON spoke in support of the amendment. He noted that the definitions and regulations in Section 2 are problematic and outside of the area of legislative control.

[4:47:33 PM](#)

A roll call vote was taken. Representatives Cissna, Gardner, Fairclough, Keller, Seaton, and Roses voted in favor of Conceptual Amendment 6. Representative Wilson voted against it. Therefore, Conceptual Amendment 6 was adopted by a vote of 6-1.

[4:48:49 PM](#)

REPRESENTATIVE KELLER withdrew Amendment 7.

[4:49:25 PM](#)

REPRESENTATIVE KELLER offered Conceptual Amendment 8, labeled 25-GH2050\K.3, Mischel, 3/3/08, which read:

Page 9, line 11:
Delete "issues"
Insert "policy options"

Page 9, line 14:
Delete "and foster"

Page 9, line 16, following "state":
Insert ";

(3) to provide an annual report to the legislature that includes a comprehensive list of policy options considered by the commission; and

(4) to advocate for policy options recommended by the commission within advocacy guidelines developed by the commission and reported to the legislature in the annual report"

[4:49:29 PM](#)

REPRESENTATIVE SEATON objected.

[4:49:45 PM](#)

REPRESENTATIVE KELLER explained that replacing "issues" with "policy options" would encourage the commission to look at health care policies and make recommendations. Furthermore, the

amendment directs the commission to include a comprehensive list of policy options in its annual report.

[4:52:27 PM](#)

CHAIR WILSON asked whether legislators would be giving up their responsibility to direct policy.

[4:52:58 PM](#)

REPRESENTATIVE KELLER said that was what he was trying to avoid; the commission would be required to include policy options in its recommendations.

[4:53:06 PM](#)

CHAIR WILSON recalled that the governor's council made recommendations that were not necessarily policy.

[4:53:17 PM](#)

REPRESENTATIVE KELLER asked the committee to keep in mind that the commission needs to know that the legislature expects it to be alert to all of the policy options available and should include in its report everything that has been considered.

[4:54:07 PM](#)

REPRESENTATIVE CISSNA observed that there are various stages of policy development, starting with citizen participation. She acknowledged the value in the commission's annual report; but wanted to avoid any duplication. In addition, having the commission present its report to the legislature adds strength to its recommendations.

[4:55:30 PM](#)

REPRESENTATIVE KELLER assumed that his amendment applies to the commission's annual report to the legislature.

[4:55:44 PM](#)

REPRESENTATIVE GARDNER pointed out that the pertinent language is on page 11, beginning at line 13, of the bill.

[4:56:06 PM](#)

REPRESENTATIVE KELLER continued to explain that his amendment would also delete "and foster" from page 9, line 14, and add language that directs the commission to set criteria for the advocacy of its recommendations.

[4:57:18 PM](#)

REPRESENTATIVE ROSES observed that replacing "issues" with "policy options" creates a redundancy in the language of the bill. He opined that the intent of the purpose as it is written is that the commission is to look at all of the issues related to health care in the state and then formulate and target policy recommendations.

[4:58:40 PM](#)

REPRESENTATIVE KELLER accepted a friendly amendment.

[4:59:02 PM](#)

REPRESENTATIVE ROSES offered Amendment 1 to Conceptual Amendment 8, which would eliminate the change of the term "issues" to "policy options" on page 9, line 11. There being no objection, Amendment 1 to Conceptual Amendment 8 was adopted.

[4:59:29 PM](#)

REPRESENTATIVE GARDNER offered Amendment 2 to Conceptual Amendment 8, which would eliminate the insertion of paragraph (4) of Conceptual Amendment 8, as amended, on page 9, line 16. She said that the methods of advocacy are well understood.

[4:59:56 PM](#)

REPRESENTATIVE KELLER spoke about the possibility of commission members advocating for options that may be of a financial benefit to the members; therefore, there is a need for the commission to establish advocacy guidelines.

[5:01:06 PM](#)

CHAIR WILSON disagreed due to the fact that the commission is an advisory board.

[5:01:33 PM](#)

REPRESENTATIVE GARDNER added that there is the responsibility to interpret the source of one's recommendations.

5:02:06 PM

REPRESENTATIVE KELLER accepted a friendly amendment that would delete lines 12, 13, and 14 of the written amendment.

5:02:20 PM

REPRESENTATIVE CISSNA reminded the committee of the severity of some of the issues in the state and expressed her hope that the commission will work on tough issues that require change. If this commission bases its recommendations on consensus, some ideas may not be heard. She stated her support for retaining lines 12, 13 and 14 of the written amendment.

A roll call vote was taken. Representatives Roses, Gardner, Fairclough, Seaton, and Wilson voted in favor of Amendment 2 to Conceptual Amendment 8, as amended. Representatives Cissna and Keller voted against it. Therefore, Amendment 2 to Conceptual Amendment 8, as amended, was adopted by a vote of 5-2.

5:04:48 PM

REPRESENTATIVE SEATON offered Amendment 3 to Conceptual Amendment 8, as amended, which would eliminate the deletion of "and foster: on page 9, line 14. There being no objection, Amendment 3 to Conceptual Amendment 8, as amended, was adopted.

REPRESENTATIVE GARDNER understood that the amendment is conceptual and may be moved to the section of the bill that describes the report.

REPRESENTATIVE KELLER agreed that the amendment is conceptual, but re-stated that it needs to be included in the purposes of the commission.

REPRESENTATIVE SEATON removed his objection to Conceptual Amendment 8, as amended, which now read:

Page 9, line 16, following "state":

Insert ";

(3) to provide an annual report to the legislature that includes a comprehensive list of policy options considered by the commission; and

There being no further objection, Conceptual Amendment 8, as amended, was adopted.

[5:07:03 PM](#)

REPRESENTATIVE KELLER offered Amendment 9, labeled 25-GH2050\K.4, Mischel, 3/3/08, which read:

Page 10, line 9:

Delete "if there is no minority organizational caucus in a house, the presiding officer of that house shall appoint three members from the majority organizational caucus of that house"

Insert "at least one legislator from each house must be a member of the standing committee that has jurisdiction over the Department of Health and Social Services"

[5:07:12 PM](#)

CHAIR WILSON objected. She questioned why the deletion was necessary.

[5:07:18 PM](#)

REPRESENTATIVE KELLER explained that page 10, line 8 and line 9, was a new and interesting issue that warrants a thorough discussion and should be deleted at this time for efficiency.

[5:09:09 PM](#)

REPRESENTATIVE SEATON expressed his belief that there has been a time in which there was a single caucus in one body; to address this possibility is the purpose of this language and it should remain.

[5:09:38 PM](#)

REPRESENTATIVE KELLER asked whether the amendment can be split.

CHAIR WILSON offered Amendment 1 to Amendment 9 that would delete lines 2, 3, and 4 of the written amendment. Therefore, the deletion of the language "if there is no minority organizational caucus in a house, the presiding officer of that house shall appoint three members from the majority organizational caucus of that house" from page 10, line 9, would not occur.

REPRESENTATIVE FAIRCLOUGH objected.

[5:10:09 PM](#)

REPRESENTATIVE ROSES clarified that the amendment is conceptual.

A roll call vote was taken. Representatives Seaton, Cissna, Gardner, and Wilson voted in favor of Amendment 1 to Amendment 9. Representatives Fairclough, Keller and Roses voted against it. Therefore, Amendment 1 to Amendment 9 was adopted by a vote of 4-3.

[5:11:52 PM](#)

REPRESENTATIVE SEATON removed his objection to Conceptual Amendment 9, as amended. There being no further objection, Conceptual Amendment 9, as amended, was adopted.

[5:12:30 PM](#)

REPRESENTATIVE KELLER moved Amendment 10, labeled 25-GH2050\K.5, Mischel, 3/3/08, which read:

Page 9, line 17, following "members":

Insert "who are residents and qualified voters in the state"

Page 11, line 25, following "(j)":

Insert "A commissioner shall file a financial disclosure statement consistent with AS 39.50."

[5:12:38 PM](#)

REPRESENTATIVE SEATON objected.

[5:12:43 PM](#)

REPRESENTATIVE KELLER explained that the amendment requires that members of the commission would be residents and qualified voters in the state. In addition, it requires that a commissioner shall file a financial disclosure statement.

CHAIR WILSON split the amendment into Amendment 10 and Amendment 11, such that Amendment 10 only addresses the insertion on page 9, line 17.

[5:14:09 PM](#)

Hearing no objection, Amendment 10 was adopted.

[5:14:37 PM](#)

REPRESENTATIVE KELLER moved Amendment 11, which read:

Page 11, line 25, following "(j)":

Insert "A commissioner shall file a financial disclosure statement consistent with AS 39.50."

[5:14:50 PM](#)

REPRESENTATIVE ROSES objected.

[5:14:54 PM](#)

REPRESENTATIVE KELLER explained that the language for this amendment was from another state board. He stressed that commission members need to disclose financial interests.

[5:15:14 PM](#)

REPRESENTATIVE ROSES pointed out that the ethics policy enacted last year requires that all members of commissions are required to file financial disclosure statements.

REPRESENTATIVE KELLER withdrew Amendment 11.

[5:16:16 PM](#)

REPRESENTATIVE KELLER offered Conceptual Amendment 12, labeled 25-GH2050\K.6, Mischel, 3/3/08, which read:

Page 10, lines 6 - 11:

Delete all material and insert:

"(5) six legislative members, appointed as follows: two legislators appointed by the president of the senate and two legislators appointed by the speaker of the house of representatives, including at least one member of the standing committee with jurisdiction over the Department of Health and Social Services in each house, and one legislator or legislative staff member appointed by the chair of the standing committee with jurisdiction over the

Department of Health and Social Services in each house."

[5:16:49 PM](#)

REPRESENTATIVE SEATON objected.

[5:16:54 PM](#)

REPRESENTATIVE KELLER explained that this amendment ensures that the commission will have representation from the House Health, Education and Social Services Standing Committee and the Senate Health, Education and Social Services Standing Committee.

[5:18:46 PM](#)

CHAIR WILSON noted that the only addition was "and one legislator or legislative staff member."

[5:19:13 PM](#)

REPRESENTATIVE KELLER stated that the intent was that the appointee can be a staff member assigned by the chair of the respective standing committees.

[5:19:38 PM](#)

REPRESENTATIVE CISSNA understood that the amendment removes minority membership.

[5:19:54 PM](#)

REPRESENTATIVE KELLER acknowledged that was unintentional.

[5:20:08 PM](#)

REPRESENTATIVE FAIRCLOUGH stated that her support was based on the deletion.

[5:20:22 PM](#)

REPRESENTATIVE GARDNER pointed out that legislators do not always serve on the same legislative committees after two years and are not always still in office. The term for commission members is three years and some of the legislative members will change within the three year term.

[5:21:10 PM](#)

REPRESENTATIVE SEATON recalled that the purpose of appointing legislative members to the commission was to ensure support when its recommendations are presented to the legislature. He said that it would be hard for staff members to carry that support and indicated that he would not support the amendment.

[5:21:43 PM](#)

REPRESENTATIVE FAIRCLOUGH asked for the DOL to speak to whether a member of a standing legislative committee has jurisdiction over the department for which it hears legislation.

[5:22:29 PM](#)

MS. KRALY opined that jurisdiction is too broad of a word for this purpose. However, she advised that the language was acceptable for a conceptual amendment.

[5:23:27 PM](#)

REPRESENTATIVE FAIRCLOUGH suggested "include at least one member of the standing committee HSS or HESS."

[5:24:04 PM](#)

REPRESENTATIVE KELLER agreed. He withdrew Amendment 12.

REPRESENTATIVE FAIRCLOUGH asked whether a revised fiscal note has been submitted to the committee.

[5:25:29 PM](#)

CHAIR WILSON indicated no.

[5:25:41 PM](#)

REPRESENTATIVE ROSES offered Conceptual Amendment 13, as follows:

Page 8, line 29, following "AS 47.32";
Insert "that are health care related facilities"

[5:26:26 PM](#)

There being no objection, Conceptual Amendment 13 was adopted.

[5:26:33 PM](#)

REPRESENTATIVE ROSES offered Conceptual Amendment 14, as follows:

Page 6, line 10, following "licensed";
Insert "or authorized"

[5:27:08 PM](#)

There being no objection, Conceptual Amendment 14 was adopted.

[5:27:17 PM](#)

REPRESENTATIVE ROSES offered Amendment 15, as follows:

Page 4, line 20, following "owned";
Insert "and operated"

[5:27:57 PM](#)

REPRESENTATIVE GARDNER objected.

[5:28:03 PM](#)

REPRESENTATIVE ROSES explained that this change would require that physicians not only own a facility, but are actually doing diagnostic work there.

[5:28:43 PM](#)

REPRESENTATIVE GARDNER removed her objection.

[5:28:53 PM](#)

REPRESENTATIVE CISSNA objected.

The committee took an at-ease from 5:29 p.m. to 5:30 p.m.

REPRESENTATIVE CISSNA withdrew her objection.

There being no further objection, Amendment 15 was adopted.

[5:30:30 PM](#)

REPRESENTATIVE SEATON offered Conceptual Amendment 16, as follows:

Page 4, line 19, following "is";
Delete "75"
Insert "50"

[5:30:47 PM](#)

CHAIR WILSON objected.

[5:30:53 PM](#)

REPRESENTATIVE SEATON explained that medical facilities are quite costly and 75 percent ownership is very restrictive. He opined that 50 percent ownership is sufficient to meet the intent of the legislation, especially now with the requirement that the facility must be partly owned and operated by doctors.

[5:31:26 PM](#)

REPRESENTATIVE ROSES expressed his support for the amendment due to the fact that 50 percent ownership was a recommendation from the negotiated rule making committee.

[5:31:56 PM](#)

CHAIR WILSON withdrew her objection.

[5:32:07 PM](#)

REPRESENTATIVE CISSNA objected. She advised that she may need to reconsider at a later time.

[5:32:51 PM](#)

REPRESENTATIVE CISSNA withdrew her objection.

[5:33:07 PM](#)

There being no further objection, Conceptual Amendment 16 was adopted.

[5:33:23 PM](#)

REPRESENTATIVE FAIRCLOUGH asked for advice from Ms. Kraly as to whether the addition of "military" was still needed on page 4, line 22 at item (iii).

[5:34:06 PM](#)

MS. KRALY advised that an amendment should also delete "or federal", on page 4, line 4.

[5:35:05 PM](#)

REPRESENTATIVE FAIRCLOUGH offered Amendment 17, as follows

Page 4, line 4;
Delete ", or federal"
Page 4, line 22, following "(iii)";
Insert "military or"

[5:35:43 PM](#)

REPRESENTATIVE CISSNA objected. She asked whether the amendment would apply to Veteran's Hospitals.

CHAIR WILSON said that Veteran's Hospitals are exempted.

[5:36:36 PM](#)

REPRESENTATIVE CISSNA withdrew her objection.

There being no further objection, Conceptual Amendment 17 was adopted.

[5:36:50 PM](#)

REPRESENTATIVE FAIRCLOUGH asked Ms. Kraly to suggest language for Amendment 18.

[5:37:17 PM](#)

MS. KRALY recommended that the definition of private physician's office should be moved to Sec. 6 such that page 4, line 17, would read: "(ii) the offices of private physicians or dentists, whether in individual or group practice." In addition, there would be a new paragraph in Sec. 6, "'physician's office facility' means an office or clinic that is 50 percent owned and operated by physicians."

[5:38:32 PM](#)

REPRESENTATIVE FAIRCLOUGH moved Amendment 18, as specified by Ms. Kraly above.

[5:38:37 PM](#)

There being no objection, Amendment 18 was adopted.

REPRESENTATIVE FAIRCLOUGH requested that the DOL submit Amendment 18 in writing to Chair Wilson's staff.

[5:39:23 PM](#)

CHAIR WILSON re-stated the intent of Amendment 18. She then asked whether the meaning of "expenditure" on page 3 needed clarification.

[5:39:53 PM](#)

REPRESENTATIVE SEATON offered to work with the next committee of referral on that problem.

[5:40:09 PM](#)

CHAIR WILSON offered Amendment 19, as follows:

Page 11, line 17, following "present";
Insert "in person"

[5:40:52 PM](#)

REPRESENTATIVE GARDNER objected and asked whether all of the members of the commission would be expected to make the presentation. She suggested "offer a presentation of the annual report."

[5:41:22 PM](#)

CHAIR WILSON stressed that there are legislators who need to hear the report on health care.

[5:41:44 PM](#)

REPRESENTATIVE ROSES offered Amendment 1 to Amendment 19, as follows:

Page 11, line 17, following "(i)";
Insert "A member of"

[5:42:02 PM](#)

REPRESENTATIVE CISSNA objected and pointed out that the restriction of the presentation to "a member" would limit participation by other members of the commission, thus limiting its credibility.

[5:42:55 PM](#)

REPRESENTATIVE ROSES related his experience that most members of commissions participate during testimony.

[5:43:50 PM](#)

REPRESENTATIVE CISSNA withdrew her objection.

[5:43:59 PM](#)

There being no further objection, Amendment 1 to Amendment 19 was adopted.

[5:44:09 PM](#)

CHAIR WILSON offered Conceptual Amendment 20 such that page 11, line 17, would read: "(i) A member of the commission shall present in person ..."

There being no objection, Conceptual Amendment 20 was adopted.

[5:44:51 PM](#)

REPRESENTATIVE ROSES moved to report CSHB 337, Version 25-GH2050\L, Mischel, 3/3/08, as amended, out of committee with individual recommendations and the forthcoming fiscal note.

[5:45:20 PM](#)

REPRESENTATIVE FAIRCLOUGH objected and stated that she will vote to pass the bill out of committee with a "do not pass" recommendation. She observed that the forthcoming fiscal note will be over one million dollars to develop the health care commission and transparency in the deliverance of some types of health care services in the state. Representative Fairclough expressed her support for the governor's plan for the disclosure

of health care costs through the information office; however, most of the discussion on the bill has been related to the issue of CON policies. She said that she believes in competition, and stated her concern about the anti-trust issues brought up by the U. S. Department of Justice. On the other hand, there has been testimony on mitigating the effect of the repeal of CON laws by limiting its scope. She recalled that ninety percent of the testimony on this issue stems from litigation surrounding one hospital in Fairbanks; nevertheless, the problem is affecting health care statewide. The administration and the commissioner of the DHSS agree that the management of negotiations between providers of health care is not the state's role. She spoke of her constituents who want to see a broader base of competition, but, in Anchorage, there is competition that is counterbalanced by non-profit and for profit organizations, some of whom provide services for the underserved in the community. Representative Fairclough said that she supports two parts of the bill and is interested in further dialog on the financial implications of the proposed commission and the future benefits of the bill. She withdrew her objection.

[5:50:14 PM](#)

REPRESENTATIVE ROSES explained that his original support for the bill has wavered. Furthermore, he stated that the committee process allows for the bill to continue evolving during discussion and it is important to move the bill to another level, even if committee members recommend "do not pass," so that others may participate.

[5:52:14 PM](#)

REPRESENTATIVE SEATON agreed that this is a very complicated issue for any area of the state with higher populations.

[5:52:53 PM](#)

REPRESENTATIVE KELLER opined that CON policies have not controlled costs and that he is disappointed with the bill. In fact, CON policy creates a hidden tax for hospitals and is a system with many problems. However, he said that he would not prevent the bill from moving out of committee.

[5:53:50 PM](#)

REPRESENTATIVE CISSNA advised that she would vote to pass the bill out of committee even though there have been many changes.

She recalled that when CON policy was originally written, in the 1970s, there were other elements to ensure its purposes. She expressed her hope that the creation of the health care commission may be what the state needs to improve the situation and urged the passage of the bill.

5:55:01 PM

REPRESENTATIVE GARDNER appreciated the generous discussion of this complex issue. She stressed that this proposal should have been three different health care bills. On the first part, commissions are regularly formed as a way to postpone legislative action; in fact, the legislature does not always take their advice, as in the case of the negotiated rule making committee. Secondly, she opined that it is premature to pass the database because the costs are unknown. Thirdly, CON policy continues to require further discussion. Representative Gardner agreed that the committee should not prevent a major bill from open discussion by the legislature body and that the bill should not be held further.

CHAIR WILSON thanked the DHSS for its assistance to the committee. She recalled that this is her eighth year hearing testimony surrounding the CON issue and it is not an easy issue to understand; however, the new study may provide answers. She cautioned against changing the laws before really knowing the consequences. Chair Wilson supported the creation of the health care commission and opined that the information office will be helpful to the public, but at a high cost.

REPRESENTATIVE KELLER voted yea, and qualified that his vote was "from committee with individual recommendations."

REPRESENTATIVE FAIRCLOUGH remarked:

I'll qualify that too, this is to move it out of committee and my individual recommendation, on the record, would be to extend the, for the next committee to consider, extending the certificate of need implementation date only, so that you could have the study first, but, yes.

6:01:08 PM

A roll call vote was taken. Representatives Keller, Seaton, Cissna, Roses, Fairclough, and Wilson voted in favor of CSHB 337, Version 25-GH2050\L, Mischel, 3/3/08, as amended.

Representative Gardner voted against it. Therefore, CSHB 337(HES) was reported out of the House Health, Education and Social Services Standing Committee by a vote of 6-1.

[6:02:14 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 6:02 p.m.