

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

January 29, 2008

1:38 p.m.

MEMBERS PRESENT

Senator Johnny Ellis, Chair
Senator Gary Stevens, Vice Chair
Senator Bettye Davis
Senator Lyman Hoffman
Senator Con Bunde

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 183

"An Act repealing the defined contribution retirement plans for teachers and for public employees; making conforming amendments; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 196

"An Act relating to establishing a controlled substance prescription database."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 183

SHORT TITLE: REPEAL DEFINED CONTRIB RETIREMENT PLANS

SPONSOR(s): SENATOR(s) ELTON

05/16/07	(S)	READ THE FIRST TIME - REFERRALS
05/16/07	(S)	L&C, STA, JUD, FIN
01/29/08	(S)	L&C AT 1:30 PM BELTZ 211

BILL: SB 196

SHORT TITLE: PRESCRIPTION DATABASE

SPONSOR(s): SENATOR(s) GREEN

01/16/08	(S)	PREFILE RELEASED 1/4/08
01/16/08	(S)	READ THE FIRST TIME - REFERRALS
01/16/08	(S)	L&C, FIN

01/29/08

(S)

L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

SENATOR KIM ELTON
Alaska State Capitol
Juneau AK

POSITION STATEMENT: Sponsor of SB 183.

VINCE BALTRAMI, President
AFL-CIO
Juneau AK

POSITION STATEMENT: Supported SB 183.

ROB COX, President
Public Safety Employees Association
Juneau AK

POSITION STATEMENT: supported SB 183.

JEFF BRIGGS
International Association of Firefighters
Juneau AK

POSITION STATEMENT: Supported SB 183.

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

POSITION STATEMENT: Supported SB 183.

KEVIN BROOKS, Deputy Commissioner
Department of Administration (DOA)
Juneau AK

POSITION STATEMENT: Answered questions on SB 183.

GARY MILLER,
Retired Public Employees of Alaska
Juneau AK

POSITION STATEMENT: Supported SB 183.

JIM DUNCAN,
Business Manager
Alaska State Employees Association (ASEA)
Juneau AK

POSITION STATEMENT: Supported SB 183.

GINGER BLAISDELL
Staff to Senator Green

Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Sponsor of SB 196.

GINNY STRICKLER, Chief Licensor
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community & Economic Development
Juneau AK

POSITION STATEMENT: Commented on SB 196.

BRIAN HOWES, Senior Investigator
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community & Economic Development
Juneau AK

POSITION STATEMENT: Answered questions on SB 196.

WILLIAM STREUR, Deputy Commissioner,
Medicaid and Health Care Policy
Department of Health and Social Services (DHSS)
Juneau AK

POSITION STATEMENT: Supported SB 196.

DAVE CAMPANA, Pharmacist,
HCS Health Purchasing Group,
Department of Health and Social Services (DHSS)
Juneau AK

POSITION STATEMENT: Supported SB 196.

JEFF JESSE, Chief Executive Officer,
Alaska Mental Health Trust Authority
Juneau AK

POSITION STATEMENT: Supported SB 196.

CAPTAIN KEITH MALLARD, Commander
Alaska Bureau of Alcohol and Drug Enforcement,
Alaska State Troopers,
Department of Public Safety (DPS)
Juneau, AK

POSITION STATEMENT: Supported SB 196.

PATRICIA SENNER, Chair
Legislative Committee
Alaska Nurses Association
Juneau AK

POSITION STATEMENT: Supported SB 196 with certain added provisions.

BARRY CHRISTIANSON, Co-Chair,
Alaska Pharmacists' Association
Juneau AK

POSITION STATEMENT: Supported SB 196 with certain added provisions.

ACTION NARRATIVE

CHAIR JOHNNY ELLIS called the Senate Labor and Commerce Standing Committee meeting to order at [1:38:34 PM](#). All the committee members were present at the call to order.

SB 183-REPEAL DEFINED CONTRIB RETIREMENT PLANS

CHAIR JOHNNY ELLIS announced SB 183 to be up for consideration.

SENATOR KIM ELTON, sponsor of SB 183, explained that the bill before them provides statutory authority to hire new state employees into existing retirement tiers - Tier III for PERS folks and Tier II for the TRS folks. The rationale is three-fold. He stated that Tier III and Tier II give employees much more benefits for essentially the same cost as the new defined contribution (DC) tier.

He said the numbers provided by consultants show a very tiny increase in PERS costs and a decrease in TRS by going to the Tier III and Tier II plans. They already know that 401K type plans earn on an average of 1 percent less than managed pension plans and this change will make it easier to hire and keep good public servants. He explained that the better benefit for the same cost accrues largely because the previous PERS and TRS tiers incorporate forfeiture. However, under the new defined contribution plan over a short period of time, if an employee leaves, they take not only their contribution to the retirement system, but a portion and up to 100 percent of the employer contributions as well. So, the employer dollars disappear from the system and don't keep working for the benefit of those employees who stay with the state and retire from it.

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SENATOR ELTON said another not much discussed advantage to Tier III for PERS and Tier II TRS is that both have a cost of living adjustment (COLA) for retirees who stay in the state. He pointed out that the retirement economy in the State of Alaska is about \$1.5 billion annually. A lot of the retirees remain in the state because of the COLA. The defined contribution tier doesn't have a COLA, he suspected a lot of those retirement dollars would

start going out of the state as retirees leave because there is no financial hit to their retirement checks if they do leave.

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SENATOR ELTON said they have heard repeated testimony that the health retirement account in the defined contribution plan is going to expire before many of the retirees expire. He also explained that new state employees don't have the safety net of social security that defined contribution folks have in other private jurisdictions. So there is nothing between them and the ground.

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SENATOR ELTON stated that a good safe pension is important for recruitment and retention of good state employees and the state is having that challenge right now. If the state keeps public servants for only three or four years, they get good on the job and then realize they can go to another jurisdiction and get a safe retirement package - and in many cases they can get better pay too. On top of that they might also have the unintended incentive of getting a lump sum payment that is pretty generous when they leave, because they are not only getting the money they put into the retirement system back, they are getting the money the employer put in as well. So a teacher, for example, might decide after five years that he or she could make more money teaching some place else where their retirement benefit would be better and he could leave the state of Alaska with enough money to make a down payment on a nice home. "That really, really does make retention difficult. And it is a problem that we're seeing even now even though we're only a short way into the defined contribution plan."

He said this bill does not change some important good changes that were made recently to the retirement system; it doesn't change the new mandate for a second actuary that checks the work of the first actuary. It does not change the requirement for mandatory experience studies. It does not change the recent move that takes some elected officials who make less than \$24,000 out of the retirement systems. It doesn't change the new ARM board structure or the 2010 deadline to buy back a defined benefit time.

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SENATOR STEVENS commented under the current defined contribution plan, if the employee leaves the state's employment and goes to another state they can take their employer contribution along

with their contribution, but asked if they can still do that under his proposal.

SENATOR ELTON replied no; the defined contribution plan introduced a new concept to the state's retirement system that stair-stepped to allow an employee to keep 100 percent of the state's contribution if he stays for five years; for less than five years it's a percentage of that. This bill takes them back to an already existing Tier III for PERS and Tier II for TRS. One of the reasons the cost is a wash is because under those tiers unvested employees are not entitled to any of the money the employer has put into their retirement system. Therefore, those dollars sit in the accounts and continue to accrue benefits, but those benefits are distributed to those who stay.

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SENATOR BUNDE asked how much the current deficit is for Tier III PERS and Tier II TRS.

SENATOR ELTON answered north of \$8 billion; he added that the defined contribution bill that was adopted is doing nothing to reduce that debt. And frankly, he said, going back to Tier II and Tier III probably won't either. He explained the system has charge-backs to try and reduce the unfunded liability, but moving from defined contribution back to the defined benefit has no effect on how quickly it may disappear.

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VINCE BALTRAMI, President, AFL-CIO, supported SB 183. He said the AFL-CIO represents about 60,000 members statewide and is growing in number. US Department of Labor (DOL) statistics confirmed a net gain in membership in 2007 of 6,000 new union members in the state. He said that roughly half of the AFL-CIO's membership is public employees in the PERS/TRS system. He said he was not here to rehash whether it was right or wrong to have passed SB 141, but to determine the best course of action moving forward for the both in terms of cost to the state and benefits to its employees.

Some think it is too early to say if switching to the defined contribution system is working, but it's true that those DC employees "must spend a lot of time to become expert investors and make all the right decisions for any chances at having enough money to live on in their retirement." Self-directed investment choices have historically not worked out as well as long-term sophisticated investment strategies of professional actuaries and consultants who work every day to manage risk and

limit exposure. States that have chosen a defined contribution system are having trouble with them and have switched back.

The State of West Virginia, for instance, found that after 15 years of having a defined contribution system that it cost significantly more than a defined benefit would have and has since returned to the defined benefit system. In this model 22 percent of the employees had under \$73,000 in their account at retirement; 76 percent had about \$21,000 and on average those accounts had under \$34,000 - and this is for them to live off of for the rest of their lives. He said if you take the higher amount of \$73,000 and figure 10 years that is \$7,300 a year or about \$10,000 less than the federal poverty level.

MR. BALTRAMI said coupled with the obstacles associated with qualifying for health care in the new system, there is no question these issues must be redressed and he urged them to pass SB 183.

SENATOR BUNDE asked if his new members were all state employees.

MR. BALTRAMI answered no; he didn't know what the break out was.

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ROB COX, President, Public Safety Employees Association, supported SB 183. He said people are not interested in serving as police officers these days. They have voluminous procedure manuals, possible criminal charges, job security threats on unfounded accusations and a court system that doesn't take their word without audio and video backup.

It takes a great toll when society doesn't support them and the Department of Public Safety (DPS) struggles to hire enough troopers. Restoring benefits will make these jobs more competitive and the public will be safer when public safety is at full strength. He agreed that the defined contribution plans might actually encourage officers to shorten their service.

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MR. COX said that portability also takes away the officers who were trained here - taking additional dollars out of the state. This means that Alaska will have to invest more in training dollars than necessary to offset the loss.

[2:01:02 PM](#)

JEFF BRIGGS, International Association of Firefighters, supported SB 183. He said he is a senior captain with the

Anchorage Fire Department with 15 years of experience. His family came here in the 30s and he has two children. He is proud of what he does for a living and his 13-year old son is proud of him, too; but he has to steer him to a different profession, one that has a more secure retirement.

Every time he responds to an emergency, he has to weigh the risks versus the benefits and determine if he is willing to risk his life or that of the young firefighter behind him. He said he can't imagine raising a family and retiring on 40 percent of his wage and he knows for a fact the Anchorage fire department has trouble recruiting, training and retaining paramedic firefighters and it's expected to get worse. It is projected that people will begin job hunting in their fourth year and take their small nest egg with them after they get their five-year vesting. The department will become a training ground for other departments across the nation.

Currently Alaska is the only state in the nation that mandates its firefighters be on a defined contribution system. The Anchorage Fire Academy currently has 32 new recruits; they are not happy with the current system.

MR. BRIGGS said he believes the DC system is great for employees who are not making a career out of their current jobs; but he did not think it was an appropriate plan for career employees. It has been proved over and over how employees are not able to save enough to survive if saving is left to them; most aren't even able to afford health insurance more than a couple of years after they retire.

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LYDIA GARCIA, Executive Director, National Education Association Alaska (NEA), supported SB 183. She said, "We believe the damage of a defined contribution plan on Alaska's public employees will be staggering the longer the DC plan remains in effect." She said that NEA represents employees in both the PERS and the TRS system.

She explained that the Teacher Retirement System (TRS) was created in 1955. It was a needed tool then to recruit and retain teachers in Alaska. Over 50 years later the need to recruit a quality teacher to every classroom in Alaska has not diminished.

MS. GARCIA said the Alaska university system produces about 200 teachers per year, but it must hire about 900 teachers per year. They constantly recruit from Lower 48. With passage of SB 141,

Alaska is viewed as having the worst retirement plan in the nation; it used to be third. "While the salary slide is damaging, the effects of becoming the only state in the nation with no social security for teachers and a defined contribution plan is unimaginable." There is absolutely no safety net for teachers who spend a career in Alaska's classroom. This is further exacerbated by the federal pension offset windfall elimination provision, another issue.

She added that retirees spent \$1.5 billion in Alaska last year and about two-thirds of public retirees remain in Alaska and contribute those dollars to the Alaska economy. One need only look to West Virginia to see the ill effects of a defined contribution plan from 1991 - 2005. When they finally made it back to a defined benefit plan they found out two frightening truths. The DC plan did not save money and retirees had an average of only \$33,000 in their accounts after as much as 14 years.

She said the NEA met recently for its 52nd annual delegate assembly in Anchorage and they were unanimous in making the return to a defined benefit pension system a top priority.

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KEVIN BROOKS, Deputy Commissioner, Department of Administration, said the DC plan has been in effect for only 19 months and during that time the state has continued to bring in about 4700 new employees in 2007 and another 3100 in 2008. He said they need to continue watching this issue.

MR. BROOKS mentioned the biggest thing they can't lose sight of is the unfunded liability of \$8.6 billion for the pension system. He reported that the administration is taking significant steps to pay it off in 25 years.

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He explained the good thing about the DC plan is that it was fully funded from day one; and the unfunded liability is totally attributable to the DB side of the equation. When the bill passed establishing the DC tier, the administration surveyed public employers and one of the dominant things they heard was that they needed budget certainty. PERS contribution rates were projected to go to 40 percent for employers and the TRS rates to 60 percent and attempting to pay those rates devastated budgets. Those payments have now been capped at 22 percent with the state picking up the additional amount. Stability was the primary motivator behind the DC plan and it has accomplished that.

He summarized that the retirement system needs to be sustainable and not all DC plans are the same. Attempts were made to make the plan as attractive as it could be. He also pointed out that the state has an SBS plan that offsets the lack of social security.

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SENATOR BUNDE asked if the state had picked up 7800 new employees since defined contribution went into effect.

MR. BROOKS replied those numbers are new employees enrolled in the DC plan; they are still bringing back old DB members as well for a total of 12,200.

SENATOR BUNDE asked how many left and took their money with them.

MR. BROOKS answered that he would get that figure for the committee.

CHAIR ELLIS said the portability was used to convince legislators it was a good thing and that young people would be attracted to it; and it drove him crazy. He wanted to attract quality folks and have them make a career here. The DC plan might serve the individual interest, but it doesn't serve the state to train people and have them move away. He asked if the administration feels the same way about the newly trained people leaving.

MR. BROOKS replied that it has been trying to determine the number. He said that portability is a two-way street. It provides someone coming in from another jurisdiction to put an existing 401K into our system and use the state's investment services.

CHAIR ELLIS asked again if he would provide those numbers.

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SENATOR HOFFMAN asked if he had seen problems with recruitment in some departments as a result of the [DC] plan. The administration has said the primary reason is salaries - especially in the oil and gas industry.

MR. BROOKS replied that the administration has looked at recruitment and retention and it can't say the pension/retirement system is the sole problem. Recruitment

practices need to be looked at as well and they are trying to be strategic in recruiting folks. It probably does have some impact, but not across the board. Engineers and oil industry people are fiercely competitive.

SENATOR HOFFMAN said when the state is recruiting people, those people look at the whole package and if they are compensated enough in salary they can give up some in benefits. So it's hard to evaluate. He asked if the administration was monitoring the 7,000 new employees with interviews so it could get a handle on why others are leaving the state. We don't want to end up like West Virginia, he said.

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MR. BROOKS replied that is exactly what the administration is trying to do. West Virginia had very low employer contributions and very little education was provided to the employees on what they should do with their funds. He also didn't know what the medical provisions of that plan were.

CHAIR ELLIS observed that what Governor Palin says about good retirement and health benefits and retirement with dignity seem to be at significant odds with the position of the department on defined contribution. While he has been gratified by some of the things she has said, it doesn't comport fully with the reality of defined contribution and he worries about that in the future.

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SENATOR STEVENS said they are all shocked by the \$8 billion liability and by going to the DC system they were assured that will not happen in the future. If they go back with this plan, he asked, could there be a liability.

MR. BROOKS replied that the department wanted to investigate that issue with its actuaries and see what would happen if this bill was adopted.

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GARY MILLER, Retired Public Employees of Alaska, said all of his points had been covered.

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JIM DUNCAN, Business Manager, Alaska State Employees Association (ASEA), supported all the previous testimony saying it had hit all his major points of concern. He represents 8500 state employees plus some municipal employees. They have a 20 percent

turnover/year; so he estimated that about 2,000 - 2,500 members are now in the DC plan (since July 1, 2006).

In moving to the DC plan, he testified on three major concerns; that it would not provide a fair and secure retirement system; it wouldn't give retirees access to a sufficient retiree medical budget; and it wouldn't help recruitment and retention. He believed all three of those were happening.

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He wanted to address a couple of points the deputy commissioner made; one is that the DC plan is fully funded. He explained that in 1996 when the legislature passed a Tier III retirement system, he didn't necessarily agree with all the changes; but the reason for doing it was to be sure the plan could be fully funded "and Tier III did that." The real unfunded liability came out of the Tier I and II portions of the plan - not Tier III. He agreed with Senator Elton who said figures show that the defined contribution plan may be just slightly less expensive or cost the same as Tier III and that returning to a Tier III plan would provide a fully funded secure plan.

He also wanted to clarify that SBS is not part of a defined benefit plan. He said the public employees in this state who don't have social security if they do not have a defined benefit plan. They are taking all the risk on all of their retirement and that's not right.

He said he had been an employer in the past and the deputy commissioner talked about how one of the goals was to bring stability to the employer, and he could understand that desire. But he believed that Tier III, being a fully funded plan, would provide that over time. "But to bring stability to the employer and shift the entire risk to the employee I don't believe is the correct way to go - and that's exactly what the defined contribution plan has done." He said you only need to look at what happened to the stock market over the last couple of weeks to understand what can happen to folks' retirement. It may take years to recover.

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He concluded that the administration seems to say the jury is out and that they haven't really had a chance to evaluate the DC plan, but it should have started doing exit interviews and interviews with folks who have just been hired immediately, not just now. He had been the commissioner of the Department of Administration for two and half years and knew that it had the

staff to act on priorities. He hope they would urge the DOA to make it a priority to evaluated the DC plan and its impact on recruitment and retention and evaluate it on its lack of a good secure retirement and health plan for retirees.

He said Administrative Order 37 was issued recently to evaluate recruitment and retention issues for state employees; he would have thought a part of that effort would have been to look at this. However, he was concerned that he received an August 2007 newsletter from the Division of Retirement and Benefits that had a list of retirement issues and bills it was evaluating and following. One bill was missing - SB 183, which told him the division had not identified it as an issue at that time.

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SENATOR HOFFMAN said the state had the largest savings on health care under SB 141 [that established the DC plan]. He was inferring that Mr. Duncan's employees aren't happy with their health plan.

MR. DUNCAN replied that the employees he represents, once they have realized and fully understood the kind of plan they will have at retirement, will not be happy. His job is to be sure that those folks when they retire will have a secure retirement and have access to health care. He agreed that the rising cost of health care is the major concern. However, he repeated, Tier III was not causing it; it was the solution.

CHAIR ELLIS said they would hold SB 183 for further consideration.

SB 196-PRESCRIPTION DATABASE

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CHAIR ELLIS announced SB196 to be up for consideration.

GINGER BLAISDELL, staff to Senator Green, sponsor of SB 196, presented an overview on Prescription Drug Monitoring Program (PDMP). She said PDMP is referred to as the prescription database in the bill.

She said that all states have laws and regulations that govern the distribution of controlled substances, but Alaska doesn't have a way to track it. Diversion of controlled substances and other pharmaceuticals is generally recognized as a serious problem throughout the US. The White House is starting a new media campaign to start educating everyone about this problem.

Most states have found the prescription monitoring programs are the most effective tools because they stop some of the abuse at the front end at the prescriber or the pharmacy. The goals of the programs vary from state to state - some are under the Department of Law or a health and social service agency. Most states have found, however, they get the best results by having them located in their Board of Pharmacy because medical professionals are reviewing the data for abnormal patterns of use by doctors or patients.

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Slide 6 showed how prescription drug diversion accounts for 2 percent of private insurance and Medicaid claims. In Alaska that would amount to a \$1.4 million savings to insurance providers as well as Medicaid. Diversion and inappropriate drug use promulgates other criminal activity.

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MS. BLAISDELL said the national and state goals are education and information about misuse of pharmaceuticals. Early intervention is the key for prescribers and dispensers by reducing the availability of prescriptions.

The goals of PDMPs are to promote pharmaceutical care while deterring diversion through education and law enforcement. They are aimed at upholding statutory mandates in a manner that is most supportive of and least disruptive to medical and pharmacy practice.

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She hoped the Board of Pharmacy would consider looking at some of the national computer databases that have already been designed. It seems to take most pharmacies two minutes at the end of every day to provide data to the feds and they could provide the state with the same data.

Statistics on 2005 data show that 9 - 12.6 percent of Alaskans ages 12 and over use illicit drugs. The reason that prescriptions are listed with illicit drugs show that nonmedical pain relievers are starting to be used. The medications are illicit because of the ways they are used.

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MS. BLAISDELL said the legislation supports practices that are already being done. The Department of Commerce, Community & Economic Development has already started to do some of the

planning and they already have an investigator who is conducting research on drug diversion and use. A database would certainly help him; law enforcement could also use this information. She added that this bill streamlines current paper tracking practices.

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She said that over the summer a number of doctors and pharmacists contacted the sponsor's office on this issue. An interesting quote said, "You don't want to be the low spot when everyone else is draining their swamps." This means that people who abuse prescription drugs are going to those states that do not track and control how they are managed. She said that federal funding is available for setting up these systems.

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On November 26 she said CNN reported that Alaska is one of 15 states without a prescription monitoring program. The 20/20 program had a show about a university study that contacted every person returning from Iraq. It found that rather than the 10 percent of military personnel using prescription drugs, 50 percent were using them. Further she said that while President Bush's five-year goal to reduce illicit drug use by 25 percent was almost there at 24 percent, prescription abuse has increased by about 52 - 53 percent.

She said a survey of teenagers by the Partnership for a Drug-Free America found that 1 in 5 teens has tried Vicodin, a powerful addictive narcotic pain reliever; 1 in 10 has tried Oxycontin, another prescription narcotic; 1 in 10 has used the stimulants Ritalin or Adderall for nonmedical purposes; and 1 in 11 teens has admitted to getting high on cough medicine.

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Slide 17 indicated that controlled substance abuse has increased by 81 percent before 2003 and it has almost doubled that by now. Over 15 million people in the US are abusing prescription drugs and the rate of individuals using controlled substance prescriptions has increased at a rate greater than all other prescription medications; and pain reliever use is increasing in Alaska at four times the national rate.

MS. BLAISDELL stated that over-the-counter medications are becoming the new party drugs. An unfortunate college trend is for kids to grab whatever pills they can find at a relative's house and put them in a bowl for people to take. Prescription

drugs are perceived to be safer than illegal street drugs, but that's rapidly changing.

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Another chart from Substance Abuse and Mental Health Services Administration (SAMHSA) showed that for the first time in 2006 the number of first-time users of drugs is higher than first time marijuana-use. Further, she said, numerous websites tell anyone how to make these drugs more powerful. Forty percent of all Myspace.com websites have a drug abuse link. Most commonly used are pain medications, stimulants, sedatives and tranquilizers and over-the-counter drugs. She found that pharmacists are now prescribing fewer Vicodin and going with Oxycontin because it is less euphoric, but Oxycontin seems to be the illicit drug of choice right now.

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She said that stimulants like Ritalin that are used on ADHD kids can be very addictive and can cause heart attacks when mixed with over-the-counter decongestants. Tranquilizers, like Valium, can be mixed with cold and allergy medications for an extreme effect. Over the counter drugs like Alka-Seltzer and Coldease can cause liver damage and coma. Just recently, health professionals started saying small children should not take cold medicines.

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MS. BLAISDELL explained that the prescription abuser type is very different from the regular street drug abuser type. It could be a child who needs a pain reliever that the parent has left over from dental surgery. She said people who find themselves in a financial crisis are filling their prescription and maybe selling half to pay for their ongoing living costs. Most drugs are being supplied by a friend or relative for free.

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Alaska's prescription drug problem is that more schedule I - V drugs are prescribed here per capita than any other state. While she was unable to find evidence of this, every pharmacist she spoke to said that. Alaska is in the top 10 percent nationally for prescription drug abuse; we have transient populations and use a lot of mail order drugs and telemedicine.

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She explained this bill would establish a drug monitoring database program with the responsibilities being governed by the Board of Pharmacy. All data from every prescription that

dispensed schedule I-V drugs would be provided electronically for drugs under both state and federal law. She said that all data would be confidential and not subject to public disclosure.

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MS. BLAISDELL stated the data could be used by the Board of Pharmacy for license inquiries, for operational and review purposes, and it can be requested through the board by an individual who is the recipient of a controlled substance. It can be used by licensed practitioners when considering prescribing, licensed or registered pharmacists who are considering dispensing a controlled substance to an individual and by law enforcement by request through the board by affidavit, subpoena or court order. Possible data requesters include Medicaid and Medicaid fraud units, Medicare, Workers' Compensation, Department of Corrections, Medical Examiner and others, but it is up to the Board to fulfill those requests.

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She said misuse of the database is a Class A misdemeanor; and intentional access to alter or destroy data without authority is a Class C felony. She concluded that this legislation is trying to stop the problem at the front end.

3:02:10 PM

SENATOR BUNDE asked her how this would coincide with the Health Insurance Portability and Accountability Act (HIPAA) requirements.

MS. BLAISDELL replied she found that all states qualify to use an exception to the HIPAA rule, which says basically if a state implements a drug or prescription monitoring program in statute, it is exempt from HIPAA rules - as long as there are controls - which Alaska has.

3:03:18 PM

GINNY STRICKLER,, Chief Licensor,, Division of Corporations, Business and Professional Licensing, in the Department of Commerce, Community & Economic Development, turned testimony over to her investigator, Brian Howes.

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BRIAN HOWES, Senior Investigator, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community & Economic Development, said he was available to answer questions on SB 196. He supported Ms. Blaisdell's explanation of the programs features.

CHAIR ELLIS asked if this is a significant problem in Alaska and if the bill was a good approach.

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MR. HOWES replied yes and yes. SB 196 is a solution for this problem because it gets a handle on what prescriptions are going out and the problems that might come from multiple prescribers and individuals who don't always know what prescriptions they are on. It provides cost savings in the division's process when a case of overprescribing occurs - in which case he explained the division sends out letters to each of the 400 pharmacies in the state. Their information comes back in a paper format and in one case they had 10,000 scripts come in and it took the division three months to put the data into an excel program so they could make some sense out of it. It would also save lot of time in spelling of drugs. Having a database would make him a more effective investigator.

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SENATOR BUNDE asked who actually provides the enforcement.

MR. HOWES replied that the board would develop an administrative case. Something criminal would be referred out. He said his division is in the same office as 35 different professional boards.

[3:08:07 PM](#)

WILLIAM STREUR, Deputy Commissioner, Medicaid and Health Care Policy, Department of Health and Social Services (DHSS), supported SB 196. He said it will save money and create a better society for us all. He estimated it would save \$160,000 to \$200,000/year or more. He said that last year Medicaid expenditures in Alaska came to \$68 million and he thought additional savings could be found in a monitoring program.

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DAVE CAMPANA, Pharmacist, HCS Health Purchasing Group, Department of Health and Social Services (DHSS), supported SB 196. He said it brings a balance between safe use of drugs and the need to prevent illegal activity associated with drug diversion of controlled substances. He described drug diversion as an activity where a person obtains a prescription for a controlled substance such as Oxycontin for an intended pain problem and illegally sells the contents of the prescription. This unintended use adds to the cost of the Medicaid program

through improper use of drugs and medical visits to obtain them. A program like this, he said, would also assist insurance companies statewide by preventing drug diversion and inappropriate expenditures for diverted drugs. It would also help reduce fragmented care when people obtain care from several health care centers or providers. The program promotes coordination of care where health care providers work together for the good of the patient.

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He explained the way it would work is that after prescriptions are filled their information would be sent electronically to the database through a secure file transfer protocol - on either a daily or a weekly basis. The diversion prevention feature allows prescribers and pharmacists to ask questions of the database to determine who has been prescribing which controlled drugs for their patients. One state's database found a Medicaid patient who received prescriptions for controlled drugs from over 40 doctors over three months. A prescriber will be able to see his name and the drugs associated with it; if he didn't write them he could quickly notify the board or law enforcement.

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MR. CAMPANA said the department recommends two amendments; one adding the Medicaid Agency as an entity that can query the database. The second amendment would allow the pharmacy the ability to add a non-controlled substance to the database when necessary - like cough or cold drugs that can enhance the effects of controlled substances. He also wanted to see prescription data from Indian health and military facilities, because it could be very beneficial to those entities.

CHAIR ELLIS agreed with him and stated his opinion that the more Medicaid fraud squeezed out of the system, the more respect and political support the program would get.

[3:15:42 PM](#)

JEFF JESSE, Chief Executive Officer, Alaska Mental Health Trust Authority, supported SB 196. He related his personal experience with a separated shoulder and how easily he could have obtained a controlled substance. Also he believed that having an electronic database would improve prescribing practices.

[3:17:09 PM](#)

CAPTAIN KEITH MALLARD, Commander, Alaska Bureau of Alcohol and Drug Enforcement, Alaska State Troopers, Department of Public

Safety (DPS), supported SB 196 and said he would answer questions.

CHAIR ELLIS asked if he sees this as a significant problem.

CAPTAIN MALLARD replied yes; the number of prescriptions that are being diverted for illegal use is increasing and the database would be useful in case investigation.

[3:18:12 PM](#)

PATRICIA SENNER, Chair, Legislative Committee, Alaska Nurses Association, said over the last several years they had been debating the pros and cons of establishing a controlled substance prescription database. On the pro side it has a preventive possibility; on the other side, safeguards have to be in place so the patients' confidentiality is not lost. The concern exists also that someone might access the database and "go fishing" for information about individuals they are not currently treating. She mentioned that licensed health care professionals often delegate the job of collecting data for their patients to unlicensed health care workers and she saw that as a problem. Just using a DEA number is not enough protection as some health care providers have it on their prescription pad.

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Even more alarming is the prospect, she said, that someone working in a health care provider's office could go fishing on the database so they would know which homes to enter to obtain controlled substances.

Another question she had about the criteria was what bar would be used to determine who is abusing prescriptive privileges - the concern being that health care providers will be afraid to adequately treat pain experienced by their patients because of fear of being accused of prescribing too much medication.

She was also concerned that the database would have information about who picks up medications and maybe family members might be reluctant to pick up pain medications for relatives for fear of being labeled as drug seekers. The database should have some place to indicate the relationship of the person picking up the medication to the person it was prescribed for. She concluded if the committee could address these concerns about privacy, the Nurses Association would support the bill.

[3:21:17 PM](#)

BARRY CHRISTIANSON, Co-Chair, Alaska Pharmacists' Association, emphasized that for this program to work it has to be preventative. So any program that is implemented has to be user friendly and must interface with pharmacy databases. He explained that all pharmacies use different databases. For example, his pharmacy could not comply right now with the log of pickup persons.

Secondly, he was concerned that since the Alaska Pharmacists' Association is funded only through license fees, that down the road it wouldn't be able to fund this \$400,000 program. He wanted to see language saying the burden of funding this program would not fall upon the board's license fees.

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CHAIR ELLIS said he and the sponsor would work together to address these issues in a CS - they include adding the Medicare Agency to the list of entities that can make queries, adding non-controlled substances to the database, address privacy issues, the interface concern, and the future costs issue after federal grant funding goes away. He asked Ms. Blaisdell if she had any reaction to these suggestions.

MS. BLAISDELL replied that she had already addressed some of them. She said the concern with the additional information gathering requirements is if you had to collect information on the people actually picking up the prescription, most states felt that was a very strong indicator of someone who might be an abuser and that was very good information to have. However, it doubles the workload for pharmacists who gather that information and some people don't have an i.d. with them. So, some states just keep a paper log for people who pick up a prescription medication for another person.

She explained that one looks for trends in the database. They look very different for someone using a substance for a true medical purpose than someone who is abusing it personally. But the sponsor was willing to take that provision out of the statute and let the Board of Pharmacy add it where it would be more acceptable.

On the continued funding, she said the first year of the program would probably cost \$400,000; but the second year those costs are typically greatly reduced. New Mexico's annual cost is now \$13,000 a year. However, their investigator was already on the payroll before the program started, though he did say that drug

diversion has increased so much that he now spends all his time on drug monitoring issues.

CHAIR ELLIS asked her to work with the state Medicaid folks, the nurses association and the pharmacists, and staff to address those concerns in a CS.

CHAIR ELLIS then adjourned the meeting at [3:29:10 PM](#).