

HOUSE FINANCE COMMITTEE  
April 17, 2009  
12:30 p.m.

12:30:27 PM AT EASE

12:33:59 PM RECONVENED

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 12:30 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair  
Representative Bill Stoltze, Co-Chair  
Representative Bill Thomas, Jr., Vice-Chair  
Representative Allan Austerman  
Representative Harry Crawford  
Representative Anna Fairclough  
Representative Richard Foster  
Representative Les Gara  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Woodie Salmon

MEMBERS ABSENT

None

ALSO PRESENT

Senator Joe Paskvan; Larry Persily, Staff, Co-Chair Hawker; William Streur, Deputy Commissioner, Medicaid & Health Care Policy, Department of Health and Social Services; Jay Livey, Staff, Senator Hoffman; Erin Harrington, Staff, Representative Austerman; Representative Nancy Dahlstrom

PRESENT VIA TELECONFERENCE

Paul Sherry, Alaska Native Tribal Health Consortium, Fairbanks

SUMMARY

CSSB 133(FIN)

"An Act creating a statewide electronic health information exchange system; and providing for an effective date."

HCS CSSB 133 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with fiscal

note #2 by the Department of Health and Social Services.

SB 88 "An Act repealing certain provisions relating to modifying the factors that apply to calculate the amount of power cost equalization; providing for an effective date by repealing the effective date of sec. 3, ch. 2, 4SSLA 2008; and providing for an effective date."

SB 88 was REPORTED out of Committee with a "do pass" recommendation and with a new fiscal note by the Department of Commerce, Community and Economic Development.

CSSB 177(FIN)

"An Act relating to an exception for professional fishing guide services in the Kenai River Special Management Area; relating to the licensing and regulation of sport fishing operators and sport fishing guides and licensing and registration of sport fishing vessels; and providing for an effective date."

CSSB 177 (FIN) was scheduled but not heard.

#sb133

CS FOR SENATE BILL NO. 133(FIN)

"An Act creating a statewide electronic health information exchange system; and providing for an effective date."

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SENATOR JOE PASKVAN, SPONSOR, reported that the state has a flawed medical system in that hospitals, doctors, pharmacies, and clinics, cannot communicate with each other. The bill seeks to correct that flaw to save lives, provide better medical care, and to save money. The legislation is designed to develop a health information exchange system to connect labs, clinics, individual practitioners, pharmacists, and existing hospitals so that they can communicate in order to provide the best quality of care to each Alaskan. The network will allow individual Alaskans to have their own personal health record and to authorize their health care providers to exchange electronic medical records in a timely manner. Most importantly, it will help to reduce the risk of drug interactions and misdiagnosis, and reduce administrative costs.

Senator Paskvan emphasized that the risk of delay matters. There is a risk of fracturing the components of the medical system. The money invested will be a prudent part of a

system that will be able to communicate internally. There are FCC monies available, as well as private grants. Any delay is a potential risk of loss of life and loss of money.

Senator Paskvan pointed out that a project like this demands caution regarding privacy. The bill protects Alaskans' privacy rights beyond those provided in HIPPA. It includes a system by which patients can see who has viewed their records. There are restrictions on how the information can be used and on patient consent requirements, and an ability to opt out of the network. There are notification requirements with respect to confidentiality violations.

Senator Paskvan informed the Committee that studies show that health care expenditures may be reduced by 5 percent a year or \$250 million annually in Alaska with \$10 million saved annually in Medicaid costs.

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Senator Paskvan highlighted the flaws in the national system as discovered by the September 11<sup>th</sup> tragedy. He stated that those flaws are being corrected. The purpose of SB 133 is to modernize the communication system within the Alaska health care system and save lives. The signing of the American Recovery and Reinvestment Act (ARRA) has presented Alaska an amazing opportunity to modernize its healthcare infrastructure. Millions of dollars are available to states that take early action to improve the quality and efficiency of care, which will save lives through the use of an electronic health information system.

Senator Paskvan spoke of those who support the legislation: the Alaska Veterans Administration Health Care System, the Alaska State Medical Association, the Alaska Primary Care Association, Alaska State Hospital and Nursing Home Association, Alaska Native Tribal Health Consortium, the Bristol Bay Area Health Consortium, Providence Hospital Systems, Alaska Regional, Fairbanks Memorial Hospital, Norton Sound Regional, Mat-Su Regional, Premera Blue Cross, AARP, Commonwealth North, private practices, hospitals, and individuals from around the state.

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Representative Kelly requested that his questions be answered when he returns.

LARRY PERSILY, STAFF, CO-CHAIR HAWKER, shared information as it relates to the economic stimulus funds - HB 199. He related that HB 199 contains money for electronic medical records. A more detailed estimate about the amount of money required and the amount of stimulus funds available has since been obtained, which is reflected in the fiscal note.

If this legislation were to pass, the state is looking at about \$25 million in federal stimulus funds to help set up the health information electronic exchange. There are also funds available to health care providers statewide to convert offices to electronic medical records.

Co-Chair Stoltze noted that the funds are front-loaded and time is of the essence. Mr. Persily agreed that the sooner the state moves, the higher the federal match. Waiting would cost the state money.

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Representative Fairclough requested information about the penalties for violating security measures. Senator Paskvan replied that there were privacy regulations under (ARRA).

Representative Fairclough read from the bill on page 5, lines 14 and 15, "meet the most stringent applicable federal or state privacy law governing the protection of the information contained in the system." She inquired about the specifics in state or federal law that protects people's information. Senator Paskvan spoke of federal protections such as Health Insurance Portability and Accountability Act (HIPAA). This bill provides additional protections such as the patient being able to see who has viewed their records, restrictions on the use of information, and the inclusion of patient consent. There is also an opt-out provision.

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Mr. Persily added that accepting the Stimulus Act funds connects the state with penalties and tight restrictions under the act itself. Representative Fairclough emphasized that it was important to understand the penalties. She requested to know if the penalties were misdemeanors or felonies, and what the consequences were. Mr. Persily offered to provide that information.

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Senator Paskvan reported on HIPAA consequences and penalties:

Clarification of Penalties under the HIPAA Privacy and Security Regulations

Section 13410 of the Stimulus provides for a tiered increase of Civil Monetary Penalties (CMP) up to a maximum of 1.5 million dollars depending on aggravating factors. The Stimulus also provides for the enforcement of HIPAA by State Attorney Generals.

A wrongful disclosure under HIPAA (as modified by the Stimulus) occurs when a person obtains or discloses PHI maintained by a covered entity and the disclosing party has not obtained an authorization for the disclosure (Section 13409).

Standard of Culpability	Penalty	Maximum Penalty
Did not know of the violation and by exercising reasonable diligence would not have known of violation	Corrective action without penalty	No penalty - however, subject to discretion of Secretary.
Unknowing Violations	At least \$100 per violation	Not to exceed \$25,000 in a calendar year

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Violation due to reasonable cause, not willful neglect	At least \$1,000 per violation	Not to exceed \$100,000 in a calendar year
Violation due to willful neglect	At least \$10,000 per violation	Not to exceed \$250,000 in a calendar year
Violation is due to willful neglect and the violation is not corrected within 30 days of the first date the person liable for the penalty knew or should have known that the violation occurred	At least \$50,000 per violation	Not to exceed \$1,500,000

State attorneys general now have the authority to bring suit in federal district court against any person violating the rules on behalf of state residents to enjoin further violation or to obtain damages on behalf of such residents.

Representative Fairclough requested a copy.

Co-Chair Stoltze referred to page 4 of the bill and wondered where the "small players" were on the advisory board. Senator Paskvan responded that the board has to be of sufficient size to manage health care issues. Co-Chair

Stoltze commented that it is sometimes hard to find members without huge financial interests to serve on boards.

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Representative Gara asked how many other states have done this. Senator Paskvan replied that between 15 and 25 other states had. Representative Gara observed that it was a "good effort" bill and would be effective if everyone participated.

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Mr. Persily pointed out that the electronic medical records requirement is a federal requirement. President Bush had set a deadline for 2009, which he pushed back to 2014. The money that is available to healthcare providers continues to 2014 under the assumption that it will take that long to convert.

Representative Fairclough asked if there would be a method to track narcotics use. Senator Paskvan thought abuse would be obvious under the tracking system. Mr. Persily thought the drug addict would use the opt-out provision.

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Senator Paskvan stated that a primary reason for this legislation is for use during emergency treatment. Having access to medical records would be important at that time in order to do no harm.

Representative Fairclough expressed concern about security. She wondered if insurers would receive the data and use it against the patient. She asked if there was a provision that would allow an override of the opt-out provision. Senator Paskvan thought that patients would control their own information. Representative Fairclough reiterated concern about the breaching of electronic information.

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Representative Foster referred to page 1, item 2, on the question and answer sheet and said it should say Norton Sound. Senator Paskvan said Norton Sound does strongly support this legislation as a member of the Alaska State Hospital and Nursing Home Association.

Senator Paskvan added, in response to a previous question by Representative Keller, that the patient's record will stay the patient's record.

Mr. Persily reiterated that the privacy issue was addressed by state and federal laws, as well as by provisions in the stimulus bill.

WILLIAM STREUR, DEPUTY COMMISSIONER, MEDICAID & HEALTH CARE POLICY, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, related that the administration's position is concern about overall cost and the long-term affect to the state. He emphasized that currently funds are limited. He pointed out that bringing on an electronic health information exchange is inevitable by 2014. After 2015 a Medicare provider will have to bill electronically. He noted that with \$5 billion available nationwide, there is a lot of support for the system.

Co-Chair Hawker questioned if there would be a \$100 billion deficit next year. Mr. Streur corrected that he said a billion dollar deficit.

Mr. Persily pointed out, in reference to a question by Representative Keller, that patients' rights to their own records would not change. The stimulus act clearly states the patients' rights to their own records would remain.

Representative Kelly inquired about the membership on the board. Senator Paskvan reiterated the need for a workable number of members on the board. The meetings are public and open to public participation. Senator Paskvan wished to promote the legislation as currently drafted.

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Representative Austerman wanted to understand the administration's position. He asked if the administration supports accepting the stimulus money. Mr. Streur stated that the administration supports the concept of health information exchange and technology, but is neutral regarding the bill.

Vice-Chair Thomas thought the legislation was a good vehicle to public health and safety and contradicted the governor's earlier stance. He wondered if the cost was the issue.

Mr. Streur thought it had more to do with what is attainable and available in the budget.

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Vice-Chair Thomas asked for the administration's explanation of the fiscal note. Mr. Streur reported that the fiscal note was prepared by the Department of Health and Social Services for the administration.

Vice-Chair Thomas thought the legislation was important because it would stop doctor shopping and addiction to prescription drugs.

Representative Joule asked about the fiscal note which assumes 90 percent federal funding. Mr. Persily reported that it would bring \$25 million federal dollars to the state in FY 10.

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Representative Fairclough asked about the fiscal note and whether there were figures on user fees or discussion of a commitment of a year or two to offset costs. Mr. Persily had not looked at user fee analysis. He offered to provide that information.

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Representative Austerman questioned the term "self-sustaining" in the fiscal note because of the required \$1 million each year in general funds. Senator Paskvan called that amount the state's user fee. Mr. Streur clarified that it was a user fee for Medicaid recipients.

Co-Chair Hawker understood that there would be money available to develop the system for five years, after which it would be self-sustaining. Mr. Streur agreed.

Representative Fairclough asked if the federal government has set a user fee. Mr. Streur replied that they have not. Representative Fairclough asked if the user fee is an estimation of what the federal government might establish for Medicaid. Mr. Streur reported that the state estimated how much it would need to support the system.

Representative Fairclough suggested that the number of patients who would access the system and frequency was known. Mr. Streur explained that that information is not known at this time. He said, "We backed into it."

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Co-Chair Stoltze opened public testimony.

PAUL SHERRY, ALASKA NATIVE TRIBAL HEALTH CONSORTIUM, FAIRBANKS, testified via teleconference. He spoke of his role as president of the Alaska eHealth Network, which has been working with Senator Paskvan to develop the bill. Alaska eHealth Network hopes to be the entity designated by the state to develop the health information exchange. He referred to a handout provided, "Deploying a Health Information Exchange for Alaskans" (copy on file).

Mr. Sherry spoke of a partnership of the various stakeholders working to move the initiative forward. They looked at other states' networks. Most states have some sort of health information exchange. The partnership believes that in Alaska there should be one statewide exchange system.

Mr. Sherry addressed the work done on privacy standards. He clarified that they are not creating a central depository for records. He spoke of long-term savings to the state of about 20 percent annually, a major reason for bringing this project forward.

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Co-Chair Stoltze closed public testimony.

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Representative Kelly MOVED to adopt Conceptual Amendment 1:

Page 4, line 21

Insert (3) two non-voting liaison members to enhance communication and collaboration between the designee and the;

(A) Alaska Healthcare Policy Commission;

(B) University of Alaska

Co-Chair Stoltze OBJECTED.

Representative Kelly explained the amendment. It requests a communication path be created with the Alaska Healthcare Policy Commission and the University of Alaska.

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Representative Austerman questioned which version of the bill the amendment addressed. Co-Chair Hawker clarified where the amendment would be located.

Senator Paskvan thought the amendment was not harmful, but was not necessary.

Representative Kelly encouraged support of the amendment.

Co-Chair Stoltze WITHDREW his objection. There being NO OBJECTION, it was so ordered.

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Co-Chair Stoltze noted that the fiscal note had been discussed.

Representative Joule MOVED to report CSSB 133 (FIN) out of Committee with individual recommendations and the accompanying fiscal note.

Representative Joule WITHDREW his motion.

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Representative Joule MOVED to report CSSB 133 (FIN) out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HCS CSSB 133 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with fiscal note #2 by the Department of Health and Social Services.

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#sb88

SENATE BILL 88

"An Act repealing certain provisions relating to modifying the factors that apply to calculate the amount of power cost equalization; providing for an effective date by repealing the effective date of sec. 3, ch. 2, 4SSLA 2008; and providing for an effective date."

JAY LIVEY, STAFF, SENATOR HOFFMAN, summarized that Power Cost Equalization (PCE) is a program that provides assistance to residents in rural areas to be able to purchase electricity at more affordable prices. He requested consideration of the bill.

ERIN HARRINGTON, STAFF, REPRESENTATIVE AUSTERMAN, echoed Mr. Livey's comments.

Co-Chair Stoltze closed public testimony.

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Mr. Livey addressed the fiscal note, which would add about \$5.5 million in general fund costs if the PCE formula were to change from 52 cents to \$1.

Vice-Chair Thomas emphasized that this bill was a priority.

Representative Austerman thanked the Committee for its work on the bill.

Representative Austerman MOVED to report SB 88 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SB 88 was REPORTED out of Committee with a "do pass" recommendation and with a new fiscal note by Department of Commerce, Community and Economic Development.

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Co-Chair Hawker pointed out that the fiscal note was a notational note and the amount was already funded in the operating budget. Whichever bill passes will be funded.

Representative Foster commended the Committee for its work on PCE.

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Representative Gara requested that testimony be allowed on SB 75 as it pertains to the governor's gas line budget request.

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#  
ADJOURNMENT

The meeting was adjourned at 4:40 PM.