

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 31, 2009

3:04 p.m.

MEMBERS PRESENT

Representative Bob Herron, Co-Chair
Representative Wes Keller, Co-Chair
Representative John Coghill
Representative Bob Lynn
Representative Paul Seaton
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Sharon Cissna

COMMITTEE CALENDAR

HOUSE BILL NO. 192

"An Act relating to nonpayment of child support; relating to certain judicial and administrative orders for medical support of a child; relating to periodic review and adjustment of child support orders; relating to relief from administrative child support orders; relating to child support arrearages; relating to medical support of a child and the Alaska Native family assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date."

- MOVED CSHB 192 (HSS) OUT OF COMMITTEE

HOUSE BILL NO. 71

"An Act relating to a registry for advance health care directives."

- HEARD AND HELD

HOUSE BILL NO. 190

"An Act privatizing the Alaska children's trust as a separate endowment fund; providing for an administrator for the assets of the former trust; establishing conditions for a grant of the balance of the former Alaska children's trust; designating certain receipts as available for grants to the trust's successor; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 192

SHORT TITLE: CHILD SUPPORT/CASH MEDICAL SUPPORT

SPONSOR(s): REPRESENTATIVE(s) COGHILL

03/18/09 (H) READ THE FIRST TIME - REFERRALS
03/18/09 (H) HSS, JUD
03/31/09 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 71

SHORT TITLE: ADVANCE HEALTH CARE DIRECTIVES REGISTRY

SPONSOR(s): REPRESENTATIVE(s) HOLMES, DAHLSTROM, MILLETT,
KAWASAKI

01/20/09 (H) PREFILE RELEASED 1/16/09
01/20/09 (H) READ THE FIRST TIME - REFERRALS
01/20/09 (H) HSS, JUD
03/31/09 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 190

SHORT TITLE: CHILDREN'S TRUST GRANT FOR ENDOWMENT

SPONSOR(s): REPRESENTATIVE(s) FAIRCLOUGH

03/16/09 (H) READ THE FIRST TIME - REFERRALS
03/16/09 (H) HSS, FIN
03/31/09 (H) HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

RYNIEVA MOSS, Staff
to Representative John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 192 on behalf of the prime sponsor, Representative Coghill.

JOHN MALLONEE, Director
Anchorage Central Office
Child Support Services Division
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Presented a sectional analysis and answered questions about HB 192.

STACY STEINBERG, Chief Assistant Attorney General;
Statewide Section Supervisor
Commercial/Fair Business Section
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska
POSITION STATEMENT: Answered questions on HB 192.

PETER PUTZIER, Senior Assistant Attorney General
Opinions, Appeals, & Ethics
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska
POSITION STATEMENT: Answered questions on HB 192.

GINGER BLAISDELL, Director
Administrative Services Division
Department of Revenue (DOR)
Juneau, Alaska
POSITION STATEMENT: Testified about HB 192.

BOB LOESCHER
Judiciary Committee
Sub Committee of State and Tribal Affairs
Central Council Tlingit & Haida Indian Tribes of Alaska
Juneau, Alaska
POSITION STATEMENT: Testified about HB 192.

JESSIE ARCHIBALD, Attorney
Tribal Child Support Program
Central Council Tlingit & Haida Indian Tribes of Alaska
Juneau, Alaska
POSITION STATEMENT: Testified about HB 192.

MIKE FORD, Assistant Attorney General & Legislative Liaison
Legislation & Regulations Section
Civil Division (Juneau)
Department of Law (DOL)
Juneau, Alaska
POSITION STATEMENT: Answered questions about HB 192.

PAT LUBY, Advocacy Director
AARP
Anchorage, Alaska
POSITION STATEMENT: Spoke in support of HB 71.

REPRESENTATIVE ANNA FAIRCLOUGH

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 190 as the prime sponsor.

CRYSTAL KOENEMAN, Staff
to Representative Anna Fairclough
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 190 on behalf of the prime sponsor, Representative Fairclough, and answered questions.

CARLEY LAWRENCE, Chair
Friends of the Alaska Children's Trust (FACT) Board
Anchorage, Alaska

POSITION STATEMENT: Spoke in support of HB 190.

SAMMYE POKRYFKI, Vice Chair
Friends of the Alaska Children's Trust (FACT)
Anchorage, Alaska

POSITION STATEMENT: Spoke in support of HB 190.

ARLISS STURGULEWSKI

POSITION STATEMENT: Spoke in support of HB 190.

DIANE KAPLAN, Board Member
Alaska Children's Trust (ACT)
Anchorage, Alaska

POSITION STATEMENT: Spoke in support of HB 190.

GINGER BAIM, Executive Director
Safe and Fear Free Environment (SAFE)
Dillingham, Alaska

POSITION STATEMENT: Spoke in support of HB 190.

CAROL SIMONETTI, President & CEO
Alaska Community Foundation
Anchorage, Alaska

POSITION STATEMENT: Spoke in support of HB 190.

PANU LUCIER, Executive Director
Alaska Children's Trust (ACT) and Friends of the Alaska
Children's Trust (FACT)
Anchorage, Alaska

POSITION STATEMENT: Spoke in support of HB 190.

MARGARET VOLZ, Vice Chair
Alaska Children's Trust (ACT) Board

Anchorage, Alaska

POSITION STATEMENT: Spoke in support of HB 190.

JERRY BURNETT, Deputy Commissioner

Department of Revenue (DOR)

Juneau, Alaska

POSITION STATEMENT: Testified and answered questions about HB 190.

ACTION NARRATIVE

[3:04:30 PM](#)

CO-CHAIR BOB HERRON called the House Health and Social Services Standing Committee meeting to order at 3:04 p.m. Representatives Herron, Keller, Seaton, Coghill, and Holmes were present at the call to order. Representative Lynn arrived as the meeting was in progress.

HB 192-CHILD SUPPORT/CASH MEDICAL SUPPORT

[3:04:54 PM](#)

CO-CHAIR HERRON announced that the first order of business would be HOUSE BILL NO. 192, "An Act relating to nonpayment of child support; relating to certain judicial and administrative orders for medical support of a child; relating to periodic review and adjustment of child support orders; relating to relief from administrative child support orders; relating to child support arrearages; relating to medical support of a child and the Alaska Native family assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date."

[3:05:29 PM](#)

REPRESENTATIVE COGHILL moved to adopt CSHB 192, Version 26-LS0483\p, Mischel, 3/30/09, as the working document. There being no objection, CSHB 192, Version P, was adopted as the working document.

[3:06:00 PM](#)

REPRESENTATIVE COGHILL, prime sponsor of HB 192, said that HB 192 was introduced at the request of the administration. He presented a high level review of the bill, and explained that it emanated from a federal requirement. He noted that HB 192

included conforming language, a definition of the Uniform Interstate Family Support Act (UIFSA), and the administration of the order of support for the Child Support Services Division. He referred to Section 3 of the bill, and ascertained that this was a federal mandate in order for Alaska to receive federal money. He directed attention to the definition for "state" contained in Section 3 (19) which was amended to include "an Indian tribe." He pointed out that Alaskan tribal issues were based in enrollment, bloodline, and corporation whereas in the Lower 48, the tribal issues were based on geography. He explained the intent language in Section 1(b) which read:

In Alaska, the scope of tribal authority to enter, modify, or enforce a child support order is an unsettled legal question, due in part to the lack of Indian country in most of the state. In adopting UIFSA conforming amendments, the legislature does not intend to grant or restrict tribal jurisdiction to enter, modify, or enforce child support orders, and the amendments are not intended, either directly or impliedly, to acknowledge, expand, or restrict tribal jurisdiction.

He summarized that this tribal definition declared that Alaska was different than the 48 contiguous states.

[3:09:42 PM](#)

CO-CHAIR HERRON asked if the Tanana chiefs were involved with this definition.

[3:10:04 PM](#)

REPRESENTATIVE COGHILL replied that he had worked on the definition with the Office of the Attorney General. He stressed that this definition was an unsettled question in Alaska, and that acceptance of the federal definition could create serious issues in Alaska. He expressed his desire that it not become a big issue in Alaska.

[3:10:52 PM](#)

RYNIEVA MOSS, Staff to Representative John Coghill, Alaska State Legislature, said that she would divide the sections of the bill into four categories: Sections 2, 4, 5, 9, 10, 11, and 12 add cash medical support for sections of the law that apply to child support and health insurance under existing law; Section 1

redefines the word "state" to include "the United States Virgin Islands" and "an Indian tribe"; Section 4 required child support to review cases on a three year cycle; Sections 7 and 8 allow the child support agency to correct a clerical error in an administrative order without a motion from the obligor. She noted that the first three categories were required to comply with federal law, or lose \$18 million annually in federal funding.

[3:13:39 PM](#)

REPRESENTATIVE SEATON referred to cash medical support orders, and asked if this bill was seeking conforming language, or were these support orders currently issued.

MS. MOSS replied that Alaska had medical support orders, but not cash medical support orders. She reported that the bill would include both. She explained that this would extend to both custodial and non-custodial parents.

REPRESENTATIVE COGHILL reported that it was currently assumed the obligor had insurance, but that this proposed bill broadened that both parents would be assumed to have insurance or cash medical support, in lieu of insurance.

[3:15:43 PM](#)

REPRESENTATIVE SEATON asked whether there was a necessity for cash medical support if there was medical insurance.

[3:16:36 PM](#)

REPRESENTATIVE COGHILL, in response to Representative Seaton, said that the cash was for medical coverage.

[3:17:40 PM](#)

JOHN MALLONEE, Director, Anchorage Central Office, Child Support Services Division, Department of Revenue (DOR), said that child support was a federally mandated, but state operated program. He explained the federal requirements and the federal funding for the program. He described the three areas that HB 192 addressed for changes of the state statute in order to meet federal requirements for funding: the first area was within the Uniform Interstate Family Support Act (UIFSA), an act which provided efficient procedures for the collection of child support in interstate cases and eliminated multiple support

orders, and he pointed out that the Alaska definition of "state" would need to conform to that in UIFSA; the second area was in regard to child medical support, and he pointed out that HB 192 added to existing law "the authority to order either or both parents to pay cash medical support if warranted;" the third area addressed support orders, and he noted that under HB 192 clients could now request a review at any time, that child support orders must now be reviewed at least every three years, and that language was removed which limited who could request a correction of (1) a clerical mistake in an administrative order or, (2) a decision based on default income, and not the ability to pay.

[3:23:21 PM](#)

CO-CHAIR KELLER asked if the state had been out of compliance since 1996.

MR. MALLONEE agreed, with regard for the definition of "state."

CO-CHAIR KELLER asked what had occurred to make this now more important than in 1996.

MR. MALLONEE said that this had been brought to the attention of the federal Office of Child Support Enforcement, which sent a pre-notice letter of consequences for non-compliance to (Alaska) Child Support Services Division.

MR. MALLONEE, in response to Co-Chair Herron, offered his belief that it had been previously overlooked.

[3:25:11 PM](#)

REPRESENTATIVE SEATON referred to page 3, line 20 of the bill, which read, "agency shall issue a support order," and he asked to define a cash medical support order.

[3:26:07 PM](#)

MR. MALLONEE explained that the Child Support Services Division first determined whether either party had health insurance, and if not, then a set amount of money was required as cash medical support.

[3:27:33 PM](#)

REPRESENTATIVE SEATON asked if this was limited to co-pay or deductibles in addition to the insurance.

[3:28:15 PM](#)

MR. MALLONEE, in response to Representative Seaton, said that the cash medical support was in lieu of insurance. He noted that non covered medical payments, such as co-pay and deductibles, were already addressed in statute. He pointed out that this applied to people who had no medical insurance available to them, so that some money was available for medical expenses.

[3:29:09 PM](#)

REPRESENTATIVE SEATON asked to clarify the need for "or both" language in the bill with reference to "a medical support order" and "a cash medical support order."

[3:29:44 PM](#)

MR. MALLONEE replied that it was required language, and he theorized on the possibilities for the need of both.

[3:30:58 PM](#)

STACY STEINBERG, Chief Assistant Attorney General; Statewide Section Supervisor, Commercial/Fair Business Section, Civil Division (Anchorage), Department of Law (DOL), said that she was available to answer questions.

[3:31:30 PM](#)

CO-CHAIR KELLER asked what legal effect the proposed intent language for the definition of "state" in HB 192 would have for a legal determination to tribal jurisdiction.

[3:32:32 PM](#)

PETER PUTZIER, Senior Assistant Attorney General, Opinions, Appeals, & Ethics, Civil Division (Anchorage), Department of Law (DOL), replied that the legal question was whether the state was changing any procedures under the UIFSA. He relayed that the tribal argument might be the implication that jurisdiction was intended. He said that the intent language of HB 192 was clear, and that this was not a position, merely a conforming amendment. He said that the unresolved issues were whether the inherent

jurisdiction of the tribes was extended for child support orders, specifically in Alaska. He opined that HB 192 would not be a central argument for resolution.

[3:36:47 PM](#)

REPRESENTATIVE SEATON referred to "other insurance coverage" on page 3, line 24, and asked if that was Denali Kid Care.

[3:37:33 PM](#)

MS. STEINBERG explained that Denali Kid Care was not private insurance, but a form of public assistance; therefore, it would not cover this. She said that Indian Health Service care would suffice, as would military health care.

[3:38:24 PM](#)

GINGER BLAISDELL, Director, Administrative Services Division, Department of Revenue (DOR), reiterated that the first pre-notice letter for non-compliance was received on March 27, 2009, and it stated that block grant funds for Temporary Assistance to Needy Families (TANF) would be at risk if the state did not enact conforming child support legislation. She stated that HB 192 would enact all the necessary conforming laws. She said that the amount of money at risk for the state was about \$85 million. She emphasized that it was critical to conform to UIFSA.

[3:40:40 PM](#)

CO-CHAIR HERRON asked if Alaska had been aware of not being in conformity, even though the federal government was not.

[3:41:01 PM](#)

MS. BLAISDELL said that Alaska had been aware for a short time. She said that Alaska had requested a waiver on January 29, 2009, which was denied.

[3:41:53 PM](#)

MS. BLAISDELL, in response to Co-Chair Herron, said that she did not know when a warning letter would arrive.

[3:42:18 PM](#)

REPRESENTATIVE COGHILL said that, unless Alaska was willing to do something else for its citizens, it was necessary to pass this bill.

[3:43:45 PM](#)

BOB LOESCHER, Judiciary Committee, Sub Committee of State and Tribal Affairs, Central Council Tlingit & Haida Indian Tribes of Alaska, reported that he had been working on the federal compliance issue for several months, and he stressed the impact this would have on Alaskan families and children. He discussed the Central Council of Tlingit & Haida tribal child support program, which did not use state funds, but was funded directly from the federal government. He shared that the tribe cooperated with the state children services and the DOR. He confirmed that Alaskan tribes were recognized under the United States constitution, by the U.S. Congress, and by the Secretary of the Interior. He pointed out that the Statehood Act recognized Alaskan native peoples, which was based on tribal enrollment. He asked that the legislature recognize that tribes did exist, as there was a mutual benefit for cooperation with the tribes on programs of common interest. He noted that this kept people working, kept children safe, and kept families fed and taken care of. He pointed out that Alaska was the only state which did not include "Indian tribe" in adoption of the federal act. He said that the Central Council supported HB 192, but he opined that Section 1(b) of the intent language did not comply with federal law. He suggested that the jurisdiction should be decided by the courts, and not be written into legislation. He offered his opinion that it was not helpful to the relationships.

[3:52:41 PM](#)

JESSIE ARCHIBALD, Attorney, Tribal Child Support Program, Central Council Tlingit & Haida Indian Tribes of Alaska, explained that the purpose of UIFSA was for conforming procedures among states and tribal jurisdictions for child support orders. She stated that Section 1(b) was contradictory, and did not support the purpose of UIFSA. She shared that tribes in Alaska now had their own federally funded child support programs. She offered her belief that the purpose of the program was to provide child support, not to argue about jurisdiction. She agreed that this was a procedural statute.

[3:55:54 PM](#)

CO-CHAIR HERRON asked to clarify that Mr. Loescher supported the proposed CS for HB 192, except for Section 1(b).

MR. LOESCHER asked to clarify that "uncodified" meant that it was proposed and that "codified" meant that it was already in statute.

[3:57:10 PM](#)

MIKE FORD, Assistant Attorney General & Legislative Liaison, Legislation & Regulations Section, Civil Division (Juneau), Department of Law (DOL), said that the reference to uncodified law meant that there was not an AS section assigned, and that it was in a different section of the statutes, but he clarified that it was still law.

[3:58:53 PM](#)

REPRESENTATIVE COGHILL, in response to Mr. Loescher and Ms. Archibald, said that there were other tests of authority to be worked out. He affirmed that this needed to work for all Alaskans. He explained that Alaska had different tribal issues than the lower 48 states, and he noted that Alaska had enrollment based programs which were not geographically based, as in most other states. He welcomed the Tlingit & Haida involvement with child support programs and the TANF program. He explained that the language in HB 192, Section 1(b) was not intended to grant or restrict tribal jurisdiction. He endorsed support for Alaskan families and children.

[4:03:38 PM](#)

CO-CHAIR KELLER reiterated that the bill language in Section 1(b) stated "does not grant or restrict," which was not a statement on tribal jurisdiction. He considered the rest of the bill to be procedural for conformation to federal regulations.

[4:04:33 PM](#)

MR. LOESCHER asked about the guidance memo from the governor and the commissioner of the DOR. He reflected that the language in that memo was clearer than the language in Section 1(b).

[4:05:19 PM](#)

CO-CHAIR HERRON asked that the guidance memo be placed in the bill file. He noted that Mr. Loescher and Ms. Archibald had

concerns with Section 1(b), and that they suggested for it to be deleted.

[4:06:13 PM](#)

The committee took an at-ease from 4:06 p.m. to 4:07 p.m.

[4:07:06 PM](#)

CO-CHAIR KELLER moved to report CSHB 192, Version 26-LS0483\p, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 192 (HSS) was reported from the House Health and Social Services Standing Committee.

HB 71-ADVANCE HEALTH CARE DIRECTIVES REGISTRY

[4:07:29 PM](#)

CO-CHAIR HERRON announced that the next order of business would be HOUSE BILL NO. 71, "An Act relating to a registry for advance health care directives."

[4:08:06 PM](#)

REPRESENTATIVE HOLMES explained that the current personal advance health care directive documents were not easily accessible should someone become incapacitated. She established that HB 71 allowed for a voluntary online cataloging for a personal advance health care directive. She described that the document would be submitted to the Department of Health and Social Services (DHSS) and put into an electronic format, which would allow health care facilities to access it at a patient's request. She noted that an amendment to the bill was forthcoming, as the original bill had placed unintended financial burdens on DHSS.

[4:11:29 PM](#)

PAT LUBY, Advocacy Director, AARP, said that AARP was in strong support of HB 71. He explained that AARP had long encouraged its members to complete advanced health care directives, and he pointed out the problem of emergency hospitalization without the health care directive accompanying the person. He stated that HB 71 would alleviate that problem. He emphasized that this would establish a means for health care providers to "follow the wishes of their patients."

[4:12:39 PM](#)

[HB 71 was held over.]

HB 190-CHILDREN'S TRUST GRANT FOR ENDOWMENT

[4:13:01 PM](#)

CO-CHAIR HERRON announced that the final order of business would be HOUSE BILL NO. 190, "An Act privatizing the Alaska children's trust as a separate endowment fund; providing for an administrator for the assets of the former trust; establishing conditions for a grant of the balance of the former Alaska children's trust; designating certain receipts as available for grants to the trust's successor; and providing for an effective date."

[4:13:25 PM](#)

REPRESENTATIVE ANNA FAIRCLOUGH, Alaska State Legislature, read that "the mission of the Trust [Alaska Children's Trust (ACT)] was to improve the status of children in Alaska by generating funds and committing resources to eliminate child abuse and neglect." She reported that the Alaska Children's Trust was established in 1988, and in 1996, it was given an appropriation of \$6 million by the state of Alaska. She discussed the current value of the trust, and stated that the Alaska Community Foundation had lost less investment value than the Permanent Fund. She identified FACT as the Friends of the Alaska Children's Trust, a private group which raised additional funds to address child abuse and neglect in Alaska. She explained that donors to FACT could not specifically dedicate funds as all the donations went into the state of Alaska general fund. She described that ACT grants could only fund to a specific percentage each year, which she opined was not good for addressing the long term issues of child abuse and neglect. She presented that the Alaska Community Foundation would be better suited to manage the ACT funds, and would give greater flexibility for generating and distributing dollars. She noted that it was currently implied in state statute that funding could only be used for programs of prevention for child abuse and neglect, and not for research. She summarized that HB 190 would allow: a public-private partnership, a consistent funding stream, a change in fund management, and for continued administrative cost to be provided by marriage licenses, birth

certificates, and special request children's fund license plates.

[4:19:51 PM](#)

CRYSTAL KOENEMAN, Staff to Representative Anna Fairclough, Alaska State Legislature, presented the sectional analysis on HB 190. [Included in the members' packets.] She explained that Sections 1-5 allowed the legislature to appropriate funds generated from birth certificates, heirloom marriage certificates, and children's fund special license plates, account for them separately, and to give these funds to the endowment fund held by the charitable named recipient grantee. She noted that Section 6 discussed management of the endowment fund, which allowed the legislature to transfer the balance of the ACT to a charitable named recipient grantee, and to be held as a permanent endowment fund for child abuse and neglect prevention activities. She discussed Section 7, which created a grant administrator and determined the duties. She affirmed that Section 8 was clean up language to repeal current ACT statutes. She said that Section 9 amended the Uncodified law, and explained that it was contingent on the appropriation of the ACT funds to a named recipient grantee. She summarized that Section 10 explained the effective date of the act.

[4:25:26 PM](#)

CO-CHAIR HERRON asked for clarification of the March 30, 2009 memorandum from Legislative Legal and Research Services, discussing the ACT reference after repeal of the trust. [Included in the members' packets.]

[4:25:50 PM](#)

MS. KOENEMAN asked if he was referring to the memo that accompanied the amendment.

[4:26:41 PM](#)

CO-CHAIR HERRON agreed.

REPRESENTATIVE FAIRCLOUGH said that there were conflicting legal opinions to the ability of the legislature to appropriate an asset and allow another party to manage those funds.

[4:28:07 PM](#)

MS. KOENEMAN confirmed that the Legislative Legal and Research Services memorandum [Included in the members' packets.] stated that making this an endowment fund which referenced a repealed trust that no longer existed in statute, for the purpose of fee collection, created an unenforceable provision in codified law. She reasoned that the public recognized the license plates as Alaska Children's Trust plates, so that maintaining the same name would avoid unnecessary confusion for donations.

[4:29:45 PM](#)

CARLEY LAWRENCE, Chair, Friends of the Alaska Children's Trust (FACT) Board, pointed out that the code of ethics for fund raising stated that contributions should be used in accordance with donors' intentions. She ascertained that FACT could not guarantee that the donors' intent would be met, as the legislature had control of the funds. She explained that this limited the FACT trust from generating additional funds. She offered her support for HB 190.

[4:31:44 PM](#)

SAMMYE POKRYFKI, Vice Chair, Friends of the Alaska Children's Trust (FACT), said that she supported HB 190. She confirmed that the primary purpose of FACT was to raise funds for the ACT. She reiterated the ethical dilemma of honoring the donor's intent when they solicited contributions. She stated that only the dividends and interest generated by the trust were available for grants, and that this was an unpredictable amount each year. She explained that establishing this trust as an endowment would allow donations to be spent as intended, and it would ensure a predictable distribution each year. She said that FACT board members voted unanimously for privatization of the ACT.

[4:33:53 PM](#)

ARLISS STURGULEWSKI said that she was a supporter of ACT. She mentioned that she was a legislator when ACT was introduced and funded. She offered her support for the privatization of the trust, as she believed that meeting the donors' intent was very important.

[4:36:46 PM](#)

DIANE KAPLAN, Board Member, Alaska Children's Trust (ACT), said that she had been involved with the trust for more than 12 years. She said that the restrictions of current funding

structure made it difficult to have an impact on the goal of ACT to eliminate child abuse and neglect.

[4:40:09 PM](#)

CO-CHAIR KELLER asked what the criteria were for funding.

[4:41:18 PM](#)

MS. KAPLAN said that the focus was on new, young first time parents in rural communities. She shared that research had indicated that young people were not prepared to become parents.

[4:43:02 PM](#)

GINGER BAIM, Executive Director, Safe and Fear Free Environment (SAFE), stated that SAFE had been a recipient of ACT grants. She explained some of its prevention work, which included substance abuse and fetal alcohol syndrome. She said that SAFE supported privatization of ACT, as it would assure steady and dependable grant management. She agreed that privatization would increase and enhance donors, as the donor would be guaranteed the funds were used as intended. She expressed her support of HB 190.

[4:46:49 PM](#)

CAROL SIMONETTI, President & CEO, Alaska Community Foundation, explained the background of the Alaska Community Foundation, which was proposed as the fiscal sponsor of the endowment fund for the ACT. She shared that it had been in existence since 1996, and that it was one of more than 700 community foundations across the country. She reported that it had \$35 million in assets in more than 210 funds, and that in 2008, it had paid out more than \$10 million in grants. She explained that it was an endowment with a mission to build charitable resources to meet current needs. She explained the reasons it would be the appropriate choice to manage an endowment fund to prevent child abuse and neglect, which included an assurance that funds would be used for the intended purpose, and that the foundation had expertise in the management of endowed funds.

[4:52:03 PM](#)

PANU LUCIER, Executive Director, Alaska Children's Trust (ACT) and Friends of the Alaska Children's Trust (FACT), explained that the groups believed that there was a better way to increase

grant funds and reach underserved communities. She opined that privatizing ACT would enhance the ability to focus grants in the highest need areas. She said it would allow ACT and FACT to merge and take on ethical fundraising to ensure the long term stability of the funds, with a more efficient process. She opined that this would still protect the original legislative intent to create a children's trust in perpetuity.

[4:59:57 PM](#)

MARGARET VOLZ, Vice Chair, Alaska Children's Trust (ACT) Board, agreed that privatization would allow flexibility in the choice of programs for prevention of child abuse and in the pursuit of funding.

[5:03:28 PM](#)

JERRY BURNETT, Deputy Commissioner, Department of Revenue (DOR), said that both the commissioners of Department of Health and Social Services and Department of Education and Early Development voted to privatize ACT. He acknowledged that there were problems with the current management of the ACT. He reported that the trust had about \$7.2 million, which was part of the \$15 billion that DOR managed, and he detailed the asset allocations for the trust. He explained that the trust was divided into two accounts, the income account and the main account. He stated that currently only the income account was spendable. He said that legislation could make the trust an endowment, which could allow access to more of the account. He expressed concern with the concept of taking state money and granting it to a private organization for management toward a specific outcome.

[5:07:48 PM](#)

CO-CHAIR HERRON suggested that DOR had not done "a very good job" with management of the trust.

[5:08:37 PM](#)

MR. BURNETT, in response to Co-Chair Herron, said that the asset allocation for the trust was based on investments with a long time horizon. He patiently explained that the stock market had its third worst performance in the last 218 years. He pointed out that the trust performance was similar to the Constitutional Budget Reserve account and the Permanent Fund account, all of

which had been professionally managed with the appropriate time horizon.

5:09:59 PM

CO-CHAIR HERRON expressed concern with the longer financial history, and he opined that, as the trust was a small part of the much larger investment portfolio, it was not a big concern for DOR.

5:11:08 PM

REPRESENTATIVE SEATON asked if this issue was parallel to the Supreme Court decision which rendered as unconstitutional the University of Alaska land endowment.

5:12:02 PM

MR. BURNETT agreed that this was an issue that the administration was still reviewing. He detailed that the account income was appropriated each year by the legislature and transferred to a private account which dedicated the money for a specific purpose. He asked if this was a way around the constitutional provision against dedicated funds.

5:12:55 PM

REPRESENTATIVE SEATON, in response to Co-Chair Herron, asked if the objection was for the legislature not appropriating sufficient money out of the income fund, or that the fund management had not generated sufficient money.

5:13:26 PM

MR. BURNETT, in response to Representative Seaton, said that the fund could only spend dividends and gains, which were part of the income account. He explained that the income was not consistent from year to year; therefore the grants would not be consistent. He expressed that this would be different with an endowment account, whereby a percentage could be appropriated to provide more consistent available income.

5:14:41 PM

REPRESENTATIVE SEATON asked if it was possible for a statutory change to a percent of market value (POMV) for the ACT.

[5:14:51 PM](#)

MR. BURNETT replied that he was not aware of anything to prevent this.

[5:14:59 PM](#)

MS. KAPLAN said that an endowment fund was managed for consistency. She said that ACT had been requesting a legislative change for many years, but that it had not happened. She noted the hesitancy of donors to write a check to the state of Alaska, when their intent was to donate to ACT.

[5:17:10 PM](#)

REPRESENTATIVE FAIRCLOUGH said that she had met with the attorney general, and was wanting for a ruling. She emphasized that this was a life changing issue that affected children every day. She explained that putting the ACT into an endowment would still allow the governor to appoint the board, and the legislature to maintain the fund in perpetuity.

[HB 190 was held over.]

[5:20:17 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 5:20 p.m.