

**ALASKA STATE LEGISLATURE**  
**HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

April 14, 2009

3:05 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 71

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

- MOVED CSHB71 (HSS) OUT OF COMMITTEE

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."

- MOVED CSHB190 (HSS) OUT OF COMMITTEE

HOUSE BILL NO. 188

"An Act relating to the taxation of moist snuff tobacco, and amending the definition of 'tobacco product' in provisions levying an excise tax on those products."

- HEARD AND HELD

HOUSE BILL NO. 50

"An Act relating to limitations on mandatory overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date."

- MOVED CSHB50 (HSS) OUT OF COMMITTEE

HOUSE BILL NO. 126

"An Act relating to continuing the secondary public education of a homeless student; relating to the purpose of certain laws as they relate to children; relating to tuition waivers, loans, and medical assistance for a child placed in out-of-home care by the state; relating to foster care; relating to children in need of aid; relating to foster care transition to independent living; and relating to juvenile programs and institutions."

- HEARD AND HELD

CS FOR SENATE BILL NO. 32(FIN)

"An Act relating to medical assistance payments for home and community-based services and provision of personal care services in a recipient's home; and providing for an effective date."

- BILL HEARING CANCELED

#### **PREVIOUS COMMITTEE ACTION**

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
03/31/09	(H)	Heard & Held
03/31/09	(H)	MINUTE(HSS)
04/14/09	(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
03/31/09	(H)	Heard & Held

03/31/09 (H) MINUTE(HSS)  
04/14/09 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 188

SHORT TITLE: TAX ON MOIST SNUFF

SPONSOR(s): REPRESENTATIVE(s) HERRON

03/12/09 (H) READ THE FIRST TIME - REFERRALS  
03/12/09 (H) HSS, L&C, FIN  
03/24/09 (H) HSS AT 3:00 PM CAPITOL 106  
03/24/09 (H) <Bill Hearing Rescheduled to 03/26/09>  
03/26/09 (H) HSS AT 3:00 PM CAPITOL 106  
03/26/09 (H) Heard & Held  
03/26/09 (H) MINUTE(HSS)  
04/09/09 (H) HSS AT 3:00 PM CAPITOL 106  
04/09/09 (H) Heard & Held  
04/09/09 (H) MINUTE(HSS)  
04/14/09 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 50

SHORT TITLE: LIMIT OVERTIME FOR REGISTERED NURSES

SPONSOR(s): REPRESENTATIVE(s) WILSON, GARA, TUCK, PETERSEN,  
LYNN, SEATON, GATTO, CISSNA, MUNOZ, GARDNER

01/20/09 (H) PREFILE RELEASED 1/9/09  
01/20/09 (H) READ THE FIRST TIME - REFERRALS  
01/20/09 (H) HSS, FIN  
03/12/09 (H) HSS AT 3:00 PM CAPITOL 106  
03/12/09 (H) Heard & Held  
03/12/09 (H) MINUTE(HSS)  
04/11/09 (H) HSS AT 3:00 PM CAPITOL 106  
04/11/09 (H) Heard & Held  
04/11/09 (H) MINUTE(HSS)  
04/14/09 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/14/09 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 126

SHORT TITLE: FOSTER CARE/CINA/EDUCATION OF HOMELESS

SPONSOR(s): REPRESENTATIVE(s) GARA

02/11/09 (H) READ THE FIRST TIME - REFERRALS  
02/11/09 (H) EDC, HSS, FIN  
02/25/09 (H) EDC AT 8:00 AM CAPITOL 106  
02/25/09 (H) Heard & Held  
02/25/09 (H) MINUTE(EDC)  
03/02/09 (H) EDC AT 8:00 AM CAPITOL 106  
03/02/09 (H) Heard & Held

03/02/09	(H)	MINUTE(EDC)
03/09/09	(H)	EDC AT 8:00 AM CAPITOL 106
03/09/09	(H)	Heard & Held
03/09/09	(H)	MINUTE(EDC)
03/11/09	(H)	EDC AT 8:00 AM CAPITOL 106
03/11/09	(H)	Moved CSHB 126(EDC) Out of Committee
03/11/09	(H)	MINUTE(EDC)
03/12/09	(H)	EDC RPT CS(EDC) NT 2DP 2NR
03/12/09	(H)	DP: GARDNER, BUCH
03/12/09	(H)	NR: KELLER, SEATON
04/14/09	(H)	HSS AT 3:00 PM CAPITOL 106

#### **WITNESS REGISTER**

BEVERLY WOOLEY, Director  
 Central Office  
 Division of Public Health  
 Department of Health and Social Services (DHSS)  
 Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 71.

MARIE DARLIN, Coordinator  
 AARP Capital City Task Force  
 Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 71.

REPRESENTATIVE ANNA FAIRCLOUGH  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Answered questions on HB 190, as the prime sponsor of the bill.

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

**POSITION STATEMENT:** Testified in support of HB 190, Version C.

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

**POSITION STATEMENT:** Spoke in support of HB 190.

REPRESENTATIVE PEGGY WILSON  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** As the prime sponsor of HB 50, answered questions on the bill.

BECKY ROONEY, Staff  
Representative Peggy Wilson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Explained Version M to HB 50 on behalf of Representative Wilson, prime sponsor.

REPRESENTATIVE LES GARA  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 126, as the prime sponsor of the bill.

AMANDA METIVIER, Statewide Coordinator  
Facing Foster Care  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 126.

CAROL COMEAU, Superintendent  
Anchorage School District  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke in support of HB 126.

BARB DEXTER, McKinney-Vento Liaison  
Anchorage School District  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions about HB 126.

LAURA HEYWOOD, Volunteer  
Court Appointed Special Advocate (CASA)  
Juneau, Alaska

**POSITION STATEMENT:** Spoke in support of HB 126.

MICHELLE DEWITT, Executive Director  
Tundra Women's Coalition  
Bethel, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 126.

CAROLYN ROESBERY  
Cordova, Alaska

**POSITION STATEMENT:** Spoke in support of HB 126.

MIKE LESMANN, Program Coordinator  
Office of Children's Services (OCS)

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

**POSITION STATEMENT:** Answered questions about HB 126.

**ACTION NARRATIVE**

[3:05:49 PM](#)

**CO-CHAIR WES KELLER** called the House Health and Social Services Standing Committee meeting to order at 3:05 p.m. Representatives Keller, Herron, Holmes, Cissna, Seaton, and Lynn were present at the call to order. Representative Coghill arrived as the meeting was in progress.

HB 71-ADVANCE HEALTH CARE DIRECTIVES REGISTRY

[3:06:07 PM](#)

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

[3:06:35 PM](#)

REPRESENTATIVE SEATON moved to adopt the proposed Committee Substitute (CS) for HB 71, Version 26-LS0289\P, Bannister, 4/8/09, as the working document.

[3:06:48 PM](#)

CO-CHAIR KELLER objected for the purpose of discussion.

[3:07:00 PM](#)

REPRESENTATIVE HOLMES said HB 71 would create a way to access living wills on line. The changes that would be made through Version P are: Two sections of the bill, which would allow access to records by outside agencies, would be removed; the registry would consist only of names and scanned copies of the directives, thus creating less work for the department; only the individual whose living will is in the database would be allowed to ask to have that registry removed; the department would be left to regulate how the registry would be purged of deceased individuals; and the department would be exempted from liability in the operation and maintenance of the registry. She noted that there would be upcoming amendments addressing the issue of purging the registry.

3:08:35 PM

REPRESENTATIVE HOLMES, in response to a question from Co-Chair Keller, stated that the individual who has asked to have his/her living will put into the registry would not be given on line access, but would be able to request a copy at any time from the department. The on line access would be limited to hospitals and other health care facilities. Representative Holmes added that the guardian or surrogate would also have access upon request.

3:09:15 PM

BEVERLY WOOLEY, Director, Central Office, Division of Public Health, Department of Health and Social Services (DHSS), testified in support of the intent of HB 71 to provide health directives in a more efficient manner across the state. Initially, she related, the division anticipated that the data system required would be much more robust; however, the sponsor has amended the bill to the point that the system would be simplified. Ms. Wooley offered examples of how the department would scan the document brought in and provide that information to hospitals and health care providers as needed. That process will be worked out through regulations and care will be taken not to be in violation of HIPPA or any other requirements.

MS. WOOLEY said the fiscal note will be scaled back. One of the changes that will be made within the department would be to house the responsibility for this process within the area of Healthcare Services versus Public Health. The shift would not impact the bill, she noted. Ms. Wooley relayed that the administration's position on the proposed legislation is neutral.

3:11:36 PM

REPRESENTATIVE CISSNA shared that she has been in the position of losing a living will when her husband died, and she said "this" could have helped. She spoke of the process of changing a living will and questioned if there might be an easier way to do so.

3:12:25 PM

MS. WOOLEY answered that the goal will be to have the most accurate information available in the timeliest manner possible.

The department has been inquiring of other states to learn from their mistakes.

[3:13:10 PM](#)

REPRESENTATIVE SEATON asked if other forms would be accepted by the department.

[3:13:39 PM](#)

MS. WOOLEY responded that the department will not be able to take in forms indiscriminately, because it will have to follow the Health Insurance Portability and Accountability Act (HIPAA) requirements. The department will have to ensure that the form that is provided provides the department with the necessary release of that information in a legally sound manner. The forms must be either generated or approved by the department, she said.

[3:14:19 PM](#)

REPRESENTATIVE SEATON asked if the department's form would take precedent over any form filed at a later date.

[3:15:39 PM](#)

MS. WOOLEY replied that she is not sure, but that the final date would be the one that must be adhered to. The department's intent would be to ensure that the person's wishes "at that time" are the wishes that would be carried out. The department would work with its legal department to ensure that situations are clearly outlined.

[3:16:33 PM](#)

CO-CHAIR KELLER expressed his wish that the process through the department would be as timely.

[3:17:39 PM](#)

MS. WOOLEY concurred.

[3:18:15 PM](#)

MARIE DARLIN, Coordinator, AARP Capital City Task Force, testified in support of HB 71. She characterized the proposed

legislation as the next step in improving "what we've already done with the advance directives."

[3:19:41 PM](#)

CO-CHAIR KELLER removed his objection. There being no further objection, Version P was before the committee.

[3:20:05 PM](#)

CO-CHAIR HERRON moved to adopt Amendment A, which read [original punctuation provided]:

Page 2, line 29 & 30

After "registry":

Delete "and return it to the individual who made the directive"

Page 3, line 4

After "file"

Delete ", return,"

The committee took an at-ease from 3:20 p.m. to 3:21 p.m.

[3:21:25 PM](#)

CO-CHAIR KELLER objected for the purpose of discussion.

[3:21:52 PM](#)

REPRESENTATIVE HOLMES explained that Amendment A was requested by DHSS, and that it would remove the burden on DHSS to store and return the physical hard copy of the directives.

[3:22:27 PM](#)

CO-CHAIR KELLER removed his objection.

[3:22:35 PM](#)

REPRESENTATIVE SEATON objected for the purpose of discussion.

[3:22:58 PM](#)

REPRESENTATIVE HOLMES, in response to Representative Seaton, explained that the intent of the bill is that the person who gives the directive to the department would be the only one to

rescind it, but that copies of that directive could be given out to that person or "agent, guardian, or surrogate of the individual who made the directive."

[3:24:07 PM](#)

REPRESENTATIVE SEATON removed his objection. There being no further objection, Amendment A was adopted.

CO-CHAIR HERRON moved to adopt Amendment B, which read [original punctuation provided]:

Page 3, line 14

After "criteria":

Insert "and procedures for the collection, storage, access, distribution, removal and disposal of directives from the registry"

[3:24:25 PM](#)

CO-CHAIR KELLER objected for the purpose of discussion.

REPRESENTATIVE HOLMES explained that Amendment B would add specifications that were requested by the department.

[3:25:11 PM](#)

CO-CHAIR KELLER removed his objection. There being no further objection, Amendment B was adopted.

[3:25:34 PM](#)

CO-CHAIR HERRON moved to report CSHB 71, Version 26-LS0289\P, Bannister, 4/8/09, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 71 (HSS) was reported from the House Health and Social Services Standing Committee.

The committee took an at-ease from 3:25 p.m. to 3:26 p.m.

HB 190-CHILDREN'S TRUST GRANT FOR ENDOWMENT

[3:26:30 PM](#)

CO-CHAIR KELLER announced that the next 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."

[3:26:55 PM](#)

CO-CHAIR HERRON moved to adopt the proposed Committee Substitute (CS) for HB 190, Version 26-LS0502\C, Mischel, 4/10/09, as the working document.

[3:27:03 PM](#)

CO-CHAIR KELLER objected for the purpose of discussion.

[3:27:09 PM](#)

REPRESENTATIVE ANNA FAIRCLOUGH, Alaska State Legislature, as prime sponsor of HB 190, explained the changes incorporated in Version C: Section 1 stipulates that the annual appropriation would be equivalent to 5 percent of the market value ["of the unencumbered balance of the trust income and principle"]; Section 2 adds the areas of sexual assault and domestic violence as those in which the public members [appointed to the Alaska Children's Trust Board] could have experience and expertise; Section 3 describes the powers and duties of the ACT Board, including that it monitors grants, raises funds for the trust, and approves written findings to the named recipient, which essentially mirrors the duties already existent in state code; Section 4 amends AS 37.14.240 to allow the average of the 5 percent of market value to be appropriated to the main participant, as well as allowing \$150,000 from the principle of the trust to be used for administrative expenses, which, except for the percent of market value, is consistent with current statute; and Section 5 allows the legislature to appropriate the funds to a recipient that is a nonprofit dedicated to the reduction and prevention of child abuse and neglect, and requires the main recipient to comply with grant requirements imposed through HB 190.

[3:29:56 PM](#)

REPRESENTATIVE SEATON indicated that Version C would address many of the concerns of the committee. He asked what time of year the aforementioned balance would be judged as unencumbered.

[3:30:22 PM](#)

REPRESENTATIVE FAIRCLOUGH noted that there are two amendments for the consideration of the committee. One of the amendments would change the market value to the average and specify a date, while the other would add one nonvoting member [to the board].

[3:31:03 PM](#)

CO-CHAIR KELLER removed his objection. There being no further objection, Version C was before the committee as the working document.

[3:31:15 PM](#)

REPRESENTATIVE FAIRCLOUGH said her office reached out to the administration over the last 30 days, asking for help in how to address the issue of child abuse and neglect in Alaska, and a week ago met with the administration in the Office of the Governor; however, she said there was no response until five minutes before this House Health and Social Services Standing Committee meeting, when the administration stated that it would like to "hold off and wait a little bit more." She said the administration has provided no specific recommendations on how to "do anything differently." She emphasized the importance of moving the bill through the first committee, at least, to continue its discussion. She said she cannot move forward on this issue when being told by the administration that it wants to wait.

REPRESENTATIVE FAIRCLOUGH noted that in 2009, there will be \$186,799 distributed to community members, whereas the distribution in 2008 was \$557,473. The bill would stabilize the funding stream into the prevention of child abuse and neglect. The occurrence of that abuse and neglect rises in homes during a downturn in the economy, she noted.

[3:34:03 PM](#)

PANU LUCIER, Executive Director, Alaska Children's Trust (ACT) and Friends of the Alaska Children's Trust (FACT), testified in support of CSHB 190, Version 26-LS0502\C, Mischel, 4/10/09. Version C would allow FACT, as a nonprofit organization established in 1997, to continue to raise funds and set up an endowment fund outside of the state. The organization then could guarantee that "donor intent is honored." Version C would also allow for a more streamlined process for distributing grant

funds, Ms. Lucier related. She opined that Representative Fairclough's comment regarding the lack of funding this year illustrates the need to set up an endowment to enable the FACT Board to be successful in raising funds to support the mission of addressing child abuse and neglect. Ms. Lucier concluded by stating that both ACT and FACT support amending the bill to include a five-year average percent of market value.

[3:35:59 PM](#)

SAMMYE POKRYFKI, Vice Chair, Friends of the Alaska Children's Trust (FACT), testified in support of CSHB 190, Version 26-LS0502\C, Mischel, 4/10/09.

[3:36:29 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment C.1, labeled 26-LS0502\C.1, Mischel, 4/14/09, which read:

Page 2, line 8:

Delete "."

Insert "; and"

Page 2, following line 8:

Insert new paragraphs to read:

**"(5) one nonvoting member appointed by the speaker of the house of representatives;**

**(6) one nonvoting member appointed by the president of the senate."**

[3:37:00 PM](#)

CO-CHAIR KELLER objected.

[3:37:06 PM](#)

REPRESENTATIVE FAIRCLOUGH explained Amendment C.1.

[Co-Chair Keller's objection was treated as withdrawn.]

[3:37:32 PM](#)

REPRESENTATIVE SEATON objected for the purpose of discussion.

[3:37:45 PM](#)

CO-CHAIR KELLER expressed his support of Amendment C.1. He said he gets uneasy when the legislature appropriates money and does not pay attention to how it is being spent. The proposed two nonvoting members would provide a link to the legislature.

[3:38:35 PM](#)

REPRESENTATIVE SEATON said he appreciates that the members that would be added by Amendment C.1 would be nonvoting members, so that there would be no problems regarding a quorum. He removed his objection. There being no further objection, Amendment C.1 was adopted.

[3:38:56 PM](#)

CO-CHAIR HERRON moved to adopt Amendment C.2, labeled 26-LS0502|C.2, Mischel, 4/14/09, which read:

Page 1, line 5:

Delete "market value of the unencumbered balance"

Insert "average of the market values"

Page 1, line 6, following "principal":

Insert "on June 30 for the first five of the six fiscal years immediately preceding that fiscal year"

[3:39:07 PM](#)

CO-CHAIR KELLER objected.

[3:39:15 PM](#)

REPRESENTATIVE FAIRCLOUGH explained that Amendment C.2 addresses concerns raised by proposing to let the Department of Revenue do what it does best - average the market values - and by setting the date of June 30.

[3:39:43 PM](#)

CO-CHAIR KELLER removed his objection. There being no further objection, Amendment C.2 was adopted.

[3:39:56 PM](#)

REPRESENTATIVE CISSNA related that she has watched ACT over time, and "the community" relies on grants to improve the

conditions of children. She said she wants to move forward with the bill.

[3:41:07 PM](#)

REPRESENTATIVE HOLMES spoke in support of HB 190, noting that she is a co-sponsor of the proposed legislation. She emphasized the hard work of ACT and FACT over the last several years toward this legislation, along with the efforts of the prime sponsor. The proposed bill will help obtain two main goals: to "steady out the stream of money that's available" and to have an entity who can receive private donations to supplement the funds coming from the state. She said the bill is not the ideal solution, but is "an excellent compromise."

[3:42:49 PM](#)

REPRESENTATIVE SEATON noted that language on page 1 of Version C states that the legislature may appropriate to a named recipient, while on page 2, the language specifies that the board shall appropriate to a named recipient. He asked if it would be a variable named recipient, and whether that is the same grant being referenced on pages 1 and 2.

[3:43:38 PM](#)

REPRESENTATIVE FAIRCLOUGH responded that the ACT Board issues grants to the named recipient, and then after that will review what that named recipient does regarding "subgrantees." In response to a request for clarification from Representative Seaton, she stated that the board, under state statute, is the entity that makes the award to the recipient; however, the Alaska State Legislature is the appropriation power. Once the legislature chooses to appropriate the funds, the board goes through the grant writing process to name that recipient.

[3:46:03 PM](#)

CO-CHAIR HERRON moved to report CSHB 190, Version 26-LS0502\C, Mischel, 4/10/09, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 190 (HSS) was reported from the House Health and Social Services Standing Committee.

The committee took an at-ease from 3:46 p.m. to 3:51 p.m.

HB 188-TAX ON MOIST SNUFF

[3:51:36 PM](#)

CO-CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 188, "An Act relating to the taxation of moist snuff tobacco, and amending the definition of 'tobacco product' in provisions levying an excise tax on those products."

[Left pending from the April 9, 2009, House Health and Social Services Standing Committee meeting, was an objection by Co-Chair Keller to a motion to adopt the committee substitute (CS) for HB 188, Version 26-LS0714\N, Bullock, 4/9/09, as a working document.]

CO-CHAIR KELLER removed his objection. There being no further objection, Version N was adopted as the working document.

[HB 188 was held over.]

[Co-Chair Keller passed the gavel to Co-Chair Herron.]

HB 50-LIMIT OVERTIME FOR REGISTERED NURSES

[3:52:05 PM](#)

CO-CHAIR HERRON announced that the next order of business would be HOUSE BILL NO. 50, "An Act relating to limitations on mandatory overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date."

CO-CHAIR KELLER moved to adopt the proposed Committee Substitute (CS) for HB 50, Version 26-LS0274\M, Wayne, 4/14/09, as the working document.

[3:52:54 PM](#)

CO-CHAIR HERRON objected for the purpose of discussion.

[3:53:30 PM](#)

REPRESENTATIVE PEGGY WILSON, Alaska State Legislature, as joint prime sponsor of HB 50, explained Version M reflects a five-year effort to protect patients by ensuring that nurses do not work an excessive amount of hours without adequate rest. The proposed legislation strikes a balance between maintaining flexibility in health care facilities and improving patient

safety and healthful work environments. Under Version M, she relayed, nurses could not work more than 14 consecutive hours without at least ten hours of rest, unless needed for emergencies. Nor would they be forced to work overtime if, in their opinion, doing so would jeopardize patient safety.

REPRESENTATIVE WILSON emphasized that the bill would not preclude the use of voluntary overtime and on-call work. She said she has heard the concerns of larger hospitals, rural communities, and Native facilities that flexibility [is needed] to provide for situations such as working on-call, dealing with weather, completing an ongoing surgery, or accommodating "reoccurring difficulties in smaller communities." She thanked the other sponsors of the bill and deferred to her staff to point out the specific changes made in Version M.

3:55:10 PM

BECKY ROONEY, Staff, Representative Peggy Wilson, Alaska State Legislature, highlighted the changes made in Version M. She noted that witnesses in opposition have testified that although hospitals generally do not use mandatory overtime, in certain circumstances in remote, rural facilities, mandatory overtime is necessary. Version M reflects three changes addressing that concern. On page 4, line 19, a new exemption has been added called, "**Temporary nurse staffing emergency.**" Under this provision, she explained, facilities would be allowed to declare a temporary nurse staffing emergency of up to 30 days, after making all reasonable efforts to "avoid this circumstance." The facilities would be required to file a report signed by the facility administrator, and send it to the Department of Labor & Workforce Development. The report must describe the facilities efforts to avoid the staffing emergencies. The reports must also be filed with the legislature if there are more than two such emergencies declared within six months, or three emergencies within one year.

MS. ROONEY noted that the second mitigation provided in Version M is found on page 8, lines 19-21, and is a definition of a rural village or city as one with a population of less than 10,000 people, unless the village or city is in an organized borough with a population of more than 25,000. The third mitigation provided in Version M is an exemption for unforeseen weather conditions. That definition is on page 3, lines 11-18. The fourth issue addressed occurs on page 3, lines 2-3, and is an exemption for a nurse participating in an ongoing surgery of medical procedure.

MS. ROONEY noted that the committee had heard testimony describing a situation in which a "modified Baylor program" was used by North Star Behavioral Health. She stated, "This staffing situation is used only at psychiatric hospitals and residential treatment centers that treat adolescents and children - and only on the weekends." Language on page 3, line 31, through page 4, line 15, describes a specific practice exemption "for just this situation." Another concern expressed during testimony both by those in support of and in opposition to the bill was in regard to mandatory on-call being used more frequently as a staffing tool than mandatory overtime. The practice often requires nurses to work beyond the number of hours that are safe for both the patient and the nurse, Ms. Rooney said. Language has been added on page 3, lines 23-25, of Version M, which would allow nurses the ability to refuse mandatory on-call if they believe they are too tired to perform their duties safely.

MS. ROONEY noted another concern expressed during testimony was that an 80-hour limitation in a 14-day period would not be flexible enough for some facilities. That requirement was deleted and replaced by a provision that would allow nurses to work as many shifts as they feel safe working, as long as those shifts do not exceed the 14 consecutive hours with the aforementioned 10-hour rest limit.

MS. ROONEY pointed out that a Tanana Chief's letter, dated 4/10/09 and the Alaska Native Tribal Health Consortium position paper, dated 3/9/09, both allude to possible legal problems pertaining to jurisdiction. In order to satisfy those concerns, all federal and Native facilities would be exempted from the statute, as shown on page 7, lines 13-17.

MS. ROONEY relayed that during the April 11, 2009, House Health, Education and Social Services Standing Committee meeting, it was brought up that the reporting requirements for a facility that does not use mandatory overtime or mandatory on-call practices were much too arduous. She said a provision on page 7, lines 6-10, of Version M, would allow a facility to submit a statement that there are no hours to report. Furthermore, the requirement for the data to be reported was changed to overtime and on-call hours only, with no distinction between mandatory and voluntary.

MS. ROONEY highlighted two other changes. First, facilities would be required to post signs that describe the statutes created by the proposed legislation. The signs would be

distributed by the Department of Labor (DOL) and would have to be displayed in a conspicuous work area in all facilities. Second, the language on page 4, line 16, was changed from a one-hour exemption to a two-hour exemption while a health care facility is obtaining another nurse to work in place of the nurse in overtime status. She explained that the extension to two hours was made because "we feel that people have to get their lives together to get back to the facility if they are called in." Ms. Rooney concluded by noting that there were also a couple of typographical errors that were corrected.

[4:02:11 PM](#)

CO-CHAIR HERRON expressed concern that even with the changes made in Version M, he is still concerned about the reporting requirements. He said clarification is needed so that pre-scheduled on-call is not counted as part of the aforementioned 14 consecutive hours. In response to Representative Cissna, he said these are concerns that he looks forward to addressing with the sponsor in the next committee of referral; he does not want to hold the bill up in this committee.

[4:03:46 PM](#)

REPRESENTATIVE CISSNA noted that her district is the seat of the health consortium that "looks over the whole state," and she emphasized the importance of hearing from as many voices as possible, including those from rural communities.

[4:05:15 PM](#)

CO-CHAIR HERRON said no one has signed up to testify presently. He noted that he has been working closely with all the stakeholders who have agreed to "the federal facilities carve out" and the tribes, but still has concern about the issue. He indicated that concern is that the exemption could create two classes of nurses.

[4:06:13 PM](#)

REPRESENTATIVE SEATON told Representative Cissna that one of the reasons the 80-hour in 14 days requirement was taken out was regarding scheduling conflict.

[4:07:10 PM](#)

REPRESENTATIVE SEATON asked about the first sentence beginning on page 5, line 21, which read:

(b) A complaint alleging a violation of AS 18.20.400 - 18.20.499 must be filed with the commissioner within 30 days after the date of the alleged violation.

REPRESENTATIVE SEATON said the violations might be an ongoing process. He said he would like the sponsor's intent regarding the 30-day filing date to be stated on the record.

REPRESENTATIVE WILSON said rules would be posted for all employees to see.

[4:09:55 PM](#)

MS. ROONEY said she thinks the intent is that if there is an ongoing practice, "it's 30 days from the last occurrence of that incident." Ms. Rooney, in response to Representative Seaton, indicated that the sponsor would make that intent clear.

[4:10:22 PM](#)

CO-CHAIR HERRON removed his objection to Version M. There being no further objection, Version M was before the committee as the working document.

[4:10:42 PM](#)

REPRESENTATIVE CISSNA said she has visited rural hospitals that are taking on enormous challenges beyond the understanding of urban Alaska. She said it is possible that these discussions may not include all who will be impacted, and she reiterated her desire to hear from a wider range of people. She stated that she would probably object to Version M, not because she does not want it to pass, but because of a gut feeling.

[4:12:36 PM](#)

CO-CHAIR HERRON said he shares Representative Cissna's concerns. He reiterated that he has worked with the federal facilities. Neither the federal entity nor the nurses are really happy with the legislation, but it is a work in progress. He expressed confidence in moving the bill on to the next committee.

[4:13:27 PM](#)

CO-CHAIR KELLER moved to report CSHB 50, Version 26-LS0274\M, Wayne, 4/14/09, out of committee with individual recommendations and the accompanying fiscal notes.

[4:13:49 PM](#)

REPRESENTATIVE CISSNA objected.

A roll call vote was taken. Representatives Keller, Herron, Lynn, Coghill, Holmes, and Seaton voted in favor of reporting Committee Substitute (CS) for HB 50, Version 26-LS0274\M, Wayne, 4/14/09, out of committee with individual recommendations and the accompanying fiscal notes. Representative Cissna voted against it. Therefore, CSHB 50(HSS) was reported out of the House Health and Social Services Standing Committee by a vote of 6-1.

The committee took an at-ease from 4:14 p.m. to 4:16 p.m.

HB 126-FOSTER CARE/CINA/EDUCATION OF HOMELESS

[4:16:53 PM](#)

CO-CHAIR HERRON announced that the final order of business would be HOUSE BILL NO. 126, "An Act relating to continuing the secondary public education of a homeless student; relating to the purpose of certain laws as they relate to children; relating to tuition waivers, loans, and medical assistance for a child placed in out-of-home care by the state; relating to foster care; relating to children in need of aid; relating to foster care transition to independent living; and relating to juvenile programs and institutions." [Before the committee was CSHB 126(EDC).]

[4:17:03 PM](#)

CO-CHAIR KELLER moved to adopt the proposed Committee Substitute (CS) for HB 126, Version 26-LS0309\C, Mischel, 4/09/09, as the working document.

[4:17:25 PM](#)

CO-CHAIR HERRON objected.

[4:17:33 PM](#)

CO-CHAIR KELLER noted that he had worked on this bill more than any other. He said moving too fast with the bill would be troubling, because the proposed policy changes are very big. He acknowledged the helpfulness of Representative Gara.

[4:18:34 PM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, as prime sponsor, presented HB 126. He noted that many summits have been held over the past year to figure out how to fix the major problems in Alaska's foster care system in the most efficient manner possible. The proposed legislation would solve two types of problems in the foster care system. First, it would address problem foster youths face in having to frequently move from home to home and school to school, the result of which is an increase in the chance those foster youths will not make it through the school year, graduate on time, or graduate at all. The McKinney-Vento Homeless Assistance Act, a federal Act, was passed to keep homeless youths and youths awaiting foster placement in the same school. Section 1 of HB 126 would extend the same protection to all foster youths. Youths would stay in the same school, as long as it was feasible to do so, and unless their guardians decided a new school would be more beneficial for them. There would also be help with transportation costs. Under the federal Act there is a liaison, and HB 126 further proposes that that liaison would also help foster youths.

REPRESENTATIVE GARA said HB 126 reflects a federal standard, which is that social workers should visit with foster youths. In 30 percent of cases, visits only occur once every eight months, and HB 126 proposes that visits occur each month. Other states, including Minnesota, have set that standard, and HB 126 uses the language in Minnesota's law. Representative Gara noted that this provision would be "aspirational" because it cannot be mandated. He said he thinks the Office of Children's Services (OCS) is currently doing a good job in trying to meet the monthly visit goal; therefore, he would consider having that language removed if the committee decides that is what it wants.

REPRESENTATIVE GARA noted that a University of Alaska study shows that in Alaska, 40 percent of youths coming out of foster care end up homeless at some point in their lives. The proposed legislation would have the State of Alaska cover the cost of college or state job training for youths coming out of the foster system. Representative Gara said the state does that already, but limits its coverage to 10 youths. The state also provides employment training vouchers (ETVs) through OCS - but

only a limited number of them. The bill proposes to fully fund what the state is already doing. He talked about the incentive of telling a foster youth that when he/she graduates from high school, there will be job training or an education through the University of Alaska available.

REPRESENTATIVE GARA said currently OCS operates the "Independent Living Program" for youths coming out of foster care, which provides rental assistance to those youths who cannot afford to pay rent. However, that assistance ends after the third month. The proposed legislation would extend that to six months. The daily amount would be up to the amount already given as a daily reimbursement rate to foster parents. The bill proposes that after those six months, if needed, a youth could receive another three months assistance, at "up to half the rate." Representative Gara noted that Version C proposes a full year of rental help, but he said feedback from OCS and some of the youth advocates has indicated that they would be comfortable amending to the six months with a possible three-month extension.

REPRESENTATIVE GARA noted that there is another amendment to help nonprofit organizations, including Change Point Church, to recruit foster parents. There is a nationwide movement to extend foster care to those who need it from age 18 to age 21. There are federal matching funds that became available this year, he noted.

REPRESENTATIVE GARA related that he has worked closely with the Casey Family Foundation, which is a nationwide group that supports foster youths. The foundation has aided in the formation of Facing Foster Care - a statewide foster youth advocacy group.

[4:28:08 PM](#)

CO-CHAIR KELLER offered his understanding that the McKinney-Vento Homeless Assistance Act was designed for homeless families; therefore, the liaison in the school is working in the context that there is a presumed parent. He said he thinks the proposed bill would go significantly further than that by including the foster child as "part of the equation in determining what's in the best interest of the child."

[4:30:05 PM](#)

REPRESENTATIVE GARA responded that the McKinney-Vento Homeless Assistance Act essentially leaves the decision with the guardian

as to whether moving to a new school would be beneficial to the student.

4:31:40 PM

CO-CHAIR KELLER noted that McKinney-Vento goes beyond that by asking the school district to be able to provide a written explanation of what is in the best interest of the child.

4:31:45 PM

AMANDA METIVIER, Statewide Coordinator, Facing Foster Care, noted that she is an alumnus of the foster care system in Alaska and is currently a foster care parent to a teenager. Ms. Metivier stated:

As Representative Gara mentioned, our state currently offers 10 tuition waivers a year for youth to age out, and right now there are 28 current and former foster youths statewide who are within the University of Alaska system, utilizing those waivers, and there are ten other youths who are attending college who aren't on the waiver, but do have assistance from the education and training voucher.

MS. METIVIER told the committee that she was one of only five recipients of a waiver about five years ago, and she stated with certainty that she would not have attended college if she had not received that waiver the first time she applied for it. She related that she graduated last December with a bachelor's degree in social work. She continued:

When I came into foster care I was a high school dropout, and for me, higher education was a way to break the cycle of abuse within my family, as it is for most foster youths who age out of custody. For young people who come into foster care, the state becomes their parent, and, as someone mentioned before, biological parents don't cut their children off when they turn 18, both financially and emotionally.

... For most older youths who come into foster care, permanency isn't going to be an option, so ... for the most part they're not going to be placed in a guardianship or get adopted; ... they're not going to get what is referred to as a "forever family." And

so, having assistance from the department and from the state to continue their education is a way for them to not end up homeless and not end up in jail or relying on public assistance for long periods of time. And I think the statistics show that we have young people that aren't doing well, and this is really a reflection of gaps within the system. That ... the ten tuition [waivers] we have isn't ... enough. And so, for those of us who do succeed, I think it shows that ... something's being done right - these waivers are a good thing. And so, why not extend it to all youths who age out?

[4:34:47 PM](#)

CAROL COMEAU, Superintendent, Anchorage School District, testified in support of HB 126. She relayed that the district has been working on this issue for quite a few years, beginning with the school board's adopting policies to conform to the McKinney-Vento Homeless Assistance Act. Ms. Comeau noted that the district has been working with Representative Gara and a number of foster care students and alumni in the district who have aged out of the system.

MS. COMEAU noted that Section 1 would require the district to provide transportation during summer school. She noted that the district does not provide transportation to students for summer school, because the students come from all over. She stated that the district could not support Section 1 as currently written.

[4:36:58 PM](#)

REPRESENTATIVE HOLMES said there would be a forthcoming amendment to address that issue.

[4:37:08 PM](#)

MS. COMEAU emphasized the importance of the language in Section 1, on page 2, lines 2-4, which read as follows:

(b) The requirements in (a) of this section do not apply if the student moves to a school district other than the school district in which the student's school of origin is located.

MS. COMEAU explained that the district does not want to be responsible for and does not support transporting students out of district.

MS. COMEAU then pointed to language in Section 1, subsection (d), paragraph (1), which read:

(d) A school district is required to comply with this section only  
(1) if the legislature appropriates funds for the purpose; and

MS. COMEAU asked for clarification as follows:

In other words, if the law is passed, does that mean there needs to be a separate allocation to pay for the transportation, or would it be assumed that in the base student allocation funding - this funding we get from the state - that we would have to take it out of that?

MS. COMEAU said the district supports the proposed provision that would allow the student to be moved to another school, if the guardian makes the request.

[4:38:40 PM](#)

REPRESENTATIVE GARA, regarding legislative funding, said the intent is that the legislature does not establish an unfunded mandate. He said he does not think the language is unclear, but offered to take a look at it.

[4:39:58 PM](#)

MS. COMEAU next pointed out the language in Section 1, subsection (f), which read:

(f) A school district shall designate a liaison between the school district and the homeless student and the student's legal guardian to coordinate compliance with this section.

MS. COMEAU said her interpretation of that proposed language is based on the district's experience. She explained that it is the role of the district's Child in Transition/Homeless Program, funded out of Title I, to work with these students. She asked, "Are you saying that we need to have a liaison for every child

in foster care, or is one district liaison or maybe another one for this adequate?"

[4:40:44 PM](#)

REPRESENTATIVE GARA indicated that the bill would require the same liaison as is required by the federal Act. Nothing in the language of the bill would require the district to hire any additional personnel.

[4:41:53 PM](#)

REPRESENTATIVE CISSNA commented that her experience has shown that there is currently so much turnover in schools that allowing a student to stay in a school often becomes a "network" to that student. Foster youths are lacking peer networks that can help them into adulthood. She stated, "We need to do more than this bill allows, but probably this bill sets the stage."

[4:43:54 PM](#)

MS. COMEAU concurred, but said the district strongly believes that in some cases the flexibility to allow a child to transfer is needed. She opined that HB 126 sends the message that "these young people deserve some extra support because of the very great chaos in their lives."

[4:44:23 PM](#)

CO-CHAIR KELLER asked Ms. Comeau to confirm whether she supports the entire bill.

[4:44:51 PM](#)

MS. COMEAU responded that she supports the bill conceptually, but said she has not looked in depth at the other sections of the bill that do not apply to the Anchorage School District or to K-12 education.

[4:45:26 PM](#)

REPRESENTATIVE SEATON noted that the original bill version would require a best interest finding. He asked Ms. Comeau if she is comfortable with the requirements in Version C, for example, that the school district would be required to provide a written explanation for an appeal procedure.

[4:46:08 PM](#)

MS. COMEAU answered yes.

[4:46:14 PM](#)

MS. COMEAU, in response to Co-Chair Keller, clarified that the Anchorage School District is currently providing transportation to homeless students, which is only partially paid for through Title I funding. The district has paid for the difference for the last two years, and has \$380,000 of next year's general fund slated to pay for that transportation. The district is very spread out, so the cost of buses and taxicabs is high, she noted. In response to a follow-up question from Co-Chair Keller, she estimated that the portion of that money that comes from Title I is \$150,000.

[4:47:37 PM](#)

BARB DEXTER, McKinney-Vento Liaison, Anchorage School District, testified in support of HB 126, echoing Ms. Comeau's caution regarding the funding for transportation. She said transportation costs not only cover the vendor, but also staffing. Ms. Dexter indicated that she has been involved in this type of work for 16 years. Many homeless youths she has worked with have been in and out of foster care. She relayed that as a youth becomes an adolescent it is sometimes more difficult to maintain placement. She emphasized that maintaining school stability helps maintain placement stability. In response to Co-Chair Keller, she clarified that her work as liaison is with homeless children; although she works with some who qualify for foster care under the federal Act. She said her caseload currently includes 1,100 students. The Anchorage School District has identified more than 3,000 students who have experienced homelessness this year. She added that there are a much higher number of homeless youths than there are children in foster care.

CO-CHAIR KELLER offered his understanding that there are approximately 2,100 youths in foster care statewide. He remarked that a 1,100 caseload seems pretty high.

MS. DEXTER noted that there is a staff of 10 people who provide that support for 3,000 students. She said she and the staff are the lead agency in terms of identifying children who meet the homeless qualifications, but they do not provide all the services; "it's a school [district]-wide program and project."

4:50:51 PM

LAURA HEYWOOD, Volunteer, Court Appointed Special Advocate (CASA), testified in support of HB 126. She said CASA volunteers are appointed by the courts to represent the best interests of children in state custody. Furthermore, Ms. Heywood noted she is the vice president of Friends of Alaska CASA. Ms. Heywood said she likes HB 126, because "it promotes education to a level with some other basic rights." Health and safety are primary focuses, sometimes resulting in education falling through the cracks. The bill includes common sense language, she opined. For example, records should "follow a child" and foster children should be allowed to stay in the same school for the sake of continuity.

MS. HEYWOOD offered her understanding that children out of "home care" would be covered by HB 126, and she said she has a special interest in those children. She reported that in her five years as a CASA volunteer, she has advocated for six children, three of whom spent many years in "residential treatment" - state custody. Children who are raised in abusive households often have mental health issues and/or develop substance abuse issues, go to treatment, turn 18, and come back to their home community with basically no connection with OCS, a foster family, and, in many cases, their own families. Ms. Heywood emphasized the importance of the provision in HB 126 that would help with that transition by paying rent for a longer period of time.

4:54:06 PM

MICHELLE DEWITT, Executive Director, Tundra Women's Coalition (TWC), reported that in the month of January, there were 214 children in state custody in the Yukon-Kuskokwim Delta region. She related that as a professional involved with a shelter organization, she appreciates the proposed legislation. She explained that the organization operates a group for at-risk teenagers who range in age from 12 to 17, many of who are in foster care. Many of the older teenagers have trouble finding stability as they age out of the system, look for housing, and look for work, and a lot of them end up in jail or in TWC's shelter. Ms. DeWitt said she thinks HB 126 would provide alternatives for these teenagers that they would otherwise be unable to secure on their own.

MS. DEWITT noted that for the past four years, she has served as a personal guardian for a girl who is about to turn 20 and has

spent half her life in foster care. She said she can appreciate the importance of the state stepping into that role when others cannot. She opined, "... I believe that that investment will create savings on the other end of the spectrum by preventing some of the homelessness and incarceration issues that we see with these young people when they don't receive help."

[4:56:42 PM](#)

CAROLYN ROESBERY testified in support of HB 126. She opined that the state should be responsible for and connected to its youth. Making OCS visits more frequent is a wise move in demonstrating to foster youths that they are part of a responsible and viable system, so that they can grow up to be strong contributors to their communities and to the world. Ms. Roesbery stated that HB 126 is Alaska's chance to change the face of society - to show youth a positive path to follow. One month of assisted housing is not reasonable, but the proposed change to up to a year is, she opined. The change that would allow the child to stay at his/her current school will provide stability to that child. She questioned how the state could possibly say no to stability.

[4:59:58 PM](#)

MS. DEXTER, in response to Co-Chair Keller, clarified that the aforementioned 1,100 youth are in grades seven through twelve; there are an additional 1,900 homeless youth who are younger than that. Of the 1,100, about 700 are unaccompanied youth, which means they are living without a parent or legal guardian, she said. In response to a follow-up question from Co-Chair Keller, Ms. Dexter said getting these youth to school and back takes significant time and is undertaken by other staff in her office, while her focus is to help with "educational decision making." She offered examples. She related that she is a certified teacher who works with other teachers in the district to ensure that they have the best educational plan possible.

[5:01:57 PM](#)

MS. DEXTER, in response to Co-Chair Keller, said many youth left foster care to become homeless; however, many youth leave homes that are unsafe. She noted that a number of youths with whom she works have parents who are only 13-16 years older than they are. She reemphasized that she does not carry this caseload on her own, but has help from others.

5:03:12 PM

MIKE LESMANN, Program Coordinator, Office of Children's Services (OCS), Department of Health and Social Services (DHSS), stated that the department recognizes the potential great benefits of the bill to youths getting ready to transition out of state custody. He relayed that the department maintains a neutral position regarding HB 126. He mentioned a Child & Family Services review conducted by the federal government on OCS, and he said OCS concurs with its federal partner that the most urgent of issues for OCS currently revolve around safety and family reunification/permanency. Mr. Lesmann said OCS needs to work on timeliness of investigations and keep children in their homes safely or, if not possible, work to reunify them quickly. He emphasized that home visits are an important part of all of that work.

MR. LESMANN said OCS would like to do as much as it can for all the children in the state's custody. He relayed that there is work to do "in the front end of the system" that is not "getting done to the best of ... outcomes." He stated that OCS believes its priority currently must be on that front end of the foster system.

5:05:31 PM

CO-CHAIR HERRON remarked that he thinks there are many in the legislature who wish the department would come to bill hearings with a position on the proposed legislation.

5:05:45 PM

REPRESENTATIVE CISSNA said she understands that the department has faced federal reviews, problems with its database, and employee turnover, but indicated that her experience has shown that foster children who do not receive help [from the state] may end up in the prison system or dead. She emphasized that it is possible to do something right now that will [positively] affect those youth. She admitted she does not know how "to do it all," but encouraged legislators to view those youth as the state's children. She asked Mr. Lesmann if he, personally, would like to see the bill passed.

5:08:49 PM

MR. LESMANN said he is father to three children, but most days feels like a father to 2,100 children. Addressing the future of

these youth has to be a community effort, he opined. Youth need mentors, lifelines, and support.

[5:09:29 PM](#)

CO-CHAIR HERRON closed public testimony.

CO-CHAIR HERRON removed his objection to adopting the proposed committee substitute (CS) to HB 126, Version 26-LS0309\C, Mischel, 4/9/09, as the working document. There being no further objection, Version C was before the committee.

[5:10:10 PM](#)

REPRESENTATIVE SEATON moved to adopt [Amendment 1], labeled, 26G-1, which read [original punctuation provided]:

Page 11, line 5, following "placement.", through line 7:

Delete "Nothing in this paragraph creates a private right of action against the department's employees or contractors."

[5:10:32 PM](#)

CO-CHAIR HERRON objected for the purpose of discussion.

REPRESENTATIVE GARA explained that he does not want to hold social workers or the department liable "if they miss it by a day." He stated, "There's no ... tort liability for violating that section." He said there is a general provision in OCS statute that says OCS is liable for negligence, but not for technical violations of any particular provision. In response to Representative Seaton, he explained that [OCS] does not want the language proposed to be deleted in [Amendment 1] "said twice in the statutes."

[5:11:22 PM](#)

CO-CHAIR HERRON removed his objection. There being no further objection, [Amendment 1] was adopted.

[5:11:36 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 2, labeled 26-LS0309\C.2, Mischel, 4/11/09, which read as follows [original punctuation provided]:

Page 12, line 26, through page 13, line 1:

Delete all material and insert:

**"Sec. 47.18.335. Monetary living expense stipend.**

(a) The department shall provide a monthly monetary living expense stipend for a period not to exceed nine months in an amount described in (b) of this section to an individual who

(1) has left out-of-home care at age 18 or older;

(2) is participating in services in the program; and

(3) has monthly contact with a social worker involved in the program.

(b) A stipend provided under this section shall be in an amount necessary to meet an eligible individual's living expense as determined by the department. The amount may not exceed

(1) for the first six months of eligibility, the daily rate provided to a licensed foster parent; or

(2) for a period not to exceed three additional months during the period that follows the first six months of eligibility, half of the daily rate provided to a licensed foster parent.

(c) The department shall pay the stipend provided under this section until the later of the date that the individual

(1) reaches 21 years of age; or

(2) has left out-of-home care for six months.

(d) The department may adopt regulations to implement this section."

[CO-CHAIR HERRON objected.]

[5:11:54 PM](#)

REPRESENTATIVE GARA explained that Amendment 2 is aimed at saving money while keeping the usefulness of the bill intact. The bill's proposal that the state provide rental systems for up to a year would result in a "phenomenal" fiscal note. The effect of Amendment 2 would be a drop in the amount of the fiscal note from approximately \$1.9 million to \$600,000.

[5:12:23 PM](#)

CO-CHAIR HERRON removed his objection. There being no further objection, Amendment 2 was adopted.

[5:12:36 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 3, labeled 26-LS0309\C.4, Mischel, 4/13/09, which read as follows [original punctuation provided]:

Page 13, following line 6:

Insert a new bill section to read:

"\* **Sec. 19.** AS 47.32.160 is amended by adding a new subsection to read:

(c) A nonprofit organization that, and a person acting on behalf of the organization who, engages in recruitment activities for foster homes that become licensed under this chapter may not be held liable for the consequences of the recruitment."

[5:12:46 PM](#)

CO-CHAIR HERRON objected for the purpose of discussion.

[5:12:54 PM](#)

REPRESENTATIVE GARA explained that Change Point Church has been working with the state to attract adults to become foster parents, because there is a shortage of them in Alaska. Amendment 3 would protect Change Point Church from being liable for negligence by a foster parent it helped find.

[5:13:18 PM](#)

CO-CHAIR HERRON removed his objection. There being no further objection, Amendment 3 was adopted.

[5:13:31 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 4, labeled 26-LS0309\C.5, Kurtz/Mischel, 4/14/09, which read as follows [original punctuation provided]:

Page 1, line 10, following "shall,":

Insert "to the extent feasible and"

Page 1, line 13, through page 2, line 1:

Delete "or, if the student is attending school for a summer term, for the remainder of the summer term"

Page 3, line 19, following "available":

Insert "subsidized"

Page 3, line 23:

Delete "commission"

Insert "institution"

[5:13:46 PM](#)

CO-CHAIR HERRON objected for the purpose of discussion.

[5:13:53 PM](#)

REPRESENTATIVE GARA explained that "to the extent feasible" is the same language as is used in the federal Act. The language that would be deleted from Page 1, line 13, through page 2, line 1, is in response to the testimony of Ms. Comeau. The loans that would be provided are subsidized, he explained. Last, Amendment 4 would distinguish that scholarships would be provided by an educational "institution" - not by the Alaska Commission on Postsecondary Education (ACPE).

[5:15:06 PM](#)

REPRESENTATIVE GARA, in response to Co-Chair Keller, said that in order to limit the cost and be efficient, the intent is that the youth apply for all available grants. He explained that the state does not want to "cover \$15,000-worth of costs when there's \$10,000 somewhere else, possibly."

[5:15:46 PM](#)

CO-CHAIR KELLER outlined that the purpose of the section is to "make up the balance." The requirement being proposed is that a youth has applied for a loan.

[5:16:08 PM](#)

REPRESENTATIVE GARA responded that there would be no way to know in advance whether or not the youth will qualify for the loan

for which he/she applies, but the intent is that there is a good-faith effort made.

[5:16:18 PM](#)

CO-CHAIR HERRON removed his objection. There being no further objection, Amendment 4 was adopted.

[5:16:35 PM](#)

REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 5, as follows:

Page 2, line 26, following "personnel":  
Insert "or more than one liaison in each school district."

REPRESENTATIVE SEATON said the amendment addresses Ms. Comeau's previously stated concern.

[5:17:33 PM](#)

CO-CHAIR HERRON objected for the purpose of discussion. [His objection was treated as withdrawn.] There being no further objection, Conceptual Amendment 5 was adopted.

[HB 126 was held over.]

[5:18:21 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 5:18 p.m.