

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

March 30, 2011

1:34 p.m.

**MEMBERS PRESENT**

Senator Bettye Davis, Chair  
Senator Dennis Egan  
Senator Johnny Ellis  
Senator Kevin Meyer  
Senator Fred Dyson

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Pete Petersen

**COMMITTEE CALENDAR**

SENATE CONCURRENT RESOLUTION NO. 7  
Proclaiming September 9, 2011, as Fetal Alcohol Spectrum  
Disorders Awareness Day.

- MOVED SCR 7 OUT OF COMMITTEE

SENATE BILL NO. 22

"An Act relating to prevention and evaluation of and liability  
for traumatic brain injuries in student athletes."

- MOVED CSSB 22(HSS) OUT OF COMMITTEE

SENATE BILL NO. 74

"An Act requiring insurance coverage for autism spectrum  
disorders, describing the method for establishing a covered  
treatment plan for those disorders, and defining the covered  
treatment for those disorders; and providing for an effective  
date."

- MOVED SB 74 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SCR 7

SHORT TITLE: FETAL ALCOHOL SPECTRUM DISORDERS DAY  
SPONSOR(s): SENATOR(s) MEYER

03/22/11 (S) READ THE FIRST TIME - REFERRALS  
03/22/11 (S) HSS  
03/30/11 (S) HSS AT 1:30 PM BUTROVICH 205

BILL: SB 22

SHORT TITLE: STUDENT ATHLETE TRAUMATIC BRAIN INJURIES  
SPONSOR(s): SENATOR(s) MCGUIRE

01/19/11 (S) PREFILE RELEASED 1/7/11  
01/19/11 (S) READ THE FIRST TIME - REFERRALS  
01/19/11 (S) HSS, FIN  
03/30/11 (S) HSS AT 1:30 PM BUTROVICH 205

BILL: SB 74

SHORT TITLE: INS. COVERAGE: AUTISM SPECTRUM DISORDER  
SPONSOR(s): SENATOR(s) ELLIS

01/28/11 (S) READ THE FIRST TIME - REFERRALS  
01/28/11 (S) HSS, L&C  
03/30/11 (S) HSS AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

SENATOR KEVIN MEYER  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Sponsor of HCR 7.

DEB EVENSEN, representing herself  
Anchorage, AK

**POSITION STATEMENT:** Testified in support of SCR 7.

K.J. METCALFE, representing himself  
Juneau, AK

**POSITION STATEMENT:** Testified in support of SCR 7.

ESTHER TEMPEL, Staff to Senator Lesil McGuire  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Presented SB 22 for sponsor, Senator McGuire.

GARY MATTHEWS, Executive Director  
Alaska School Activities Association

Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 22.

JILL HODGES, Executive Director

Alaska Brain Injury Network

Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 22.

PETER HOEFFNER, School Board Member

Cordova School District

Cordova, AK

**POSITION STATEMENT:** Testified in support of SB 22.

CHRISTOPHER DEAN

Alaska Athletic Trainers Association

Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 22.

BRENDA SHELTON, President

Alaska Athletic Trainers Association

Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 22.

BRUCE JOHNSON, Executive Director

Alaska Council of School Administrators

**POSITION STATEMENT:** Testified in support of SB 22.

SENATOR JOHNNY ELLIS

Alaska State Legislature

Juneau, AK

**POSITION STATEMENT:** Sponsor of SB 74.

AMORY LELAKE, Staff to Senator Ellis

Alaska State Legislature

Juneau AK

**POSITION STATEMENT:** Presented SB 74 for Senator Ellis, the sponsor.

LAURIE EUNAM, Senior Litigation Council

Autism Speaks

**POSITION STATEMENT:** Testified in support of SB 74.

MARK LAMBRIGHT, Independent actuary

Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 74.

MARGARET COSSLER, representing herself

Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 74.

JANICE GERTON, representing herself

Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 74.

LAURIE KING, representing herself

Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 74.

#### **ACTION NARRATIVE**

[1:34:28 PM](#)

**CHAIR BETTYE DAVIS** called the Senate Health and Social Services Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Ellis, Egan, Dyson, Meyer, and Chair Davis.

#### **SCR 7-FETAL ALCOHOL SPECTRUM DISORDERS DAY**

[1:34:35 PM](#)

CHAIR DAVIS announced the first order of business would be SCR 7, Fetal Alcohol Spectrum Disorders Awareness Day.

SENATOR KEVIN MEYER, sponsor of SCR 7, said this bill proclaims September 9, 2011, as Fetal Alcohol Spectrum Disorders (FASD) Awareness Day. The date is a reminder on the ninth day of the ninth month that during the nine months of pregnancy a woman should abstain from alcohol. He has had the opportunity of participating in FASD awareness events over the past few years.

Unfortunately, Alaska has the highest known rate of FASD in the United States. This is caused by prenatal exposure to alcohol; FASD can result in permanent brain damage, learning difficulties, behavior problems, birth defects, and the loss of individual potential. Lifetime costs of services for affected individuals are in the millions of dollars. FASD is totally preventable. This resolution supports an effort to bring attention to the condition that has been devastating our state. If we keep working at it long enough and hard enough, people will get the message and we will see a change in behavior.

[1:37:03 PM](#)

SENATOR DYSON commended the sponsor for introducing the bill. He said FASD is totally preventable, and some progress has been made in the past twelve years with laws requiring warnings to be

posted. Six years ago the state was spending about \$1 million on each child with FASD by age 18.

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DEB EVENSEN, representing herself, said SCR 7 was a really good idea. This is an inexpensive way to deal with a gigantic problem. Helping mothers not drink when they are pregnant will decrease suicide rates, crime rates, school failures, and reduce the prison population. Over the last 25 years she has worked in almost every village and town in the state and almost every school district. In some communities there is a third generation of children being born with FASD. Many people still don't know that a glass of wine during pregnancy destroys 10,000 cells in the developing fetal brain. We can help turn this problem around.

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K.J. METCALFE, speaking for himself, said he had been the chair for the last two FASD regional conferences here in Southeast Alaska. They are having a workshop this coming Tuesday on FASD and sexuality. This bill goes to the heart of the issue. He would like to say that prevention is the key, but support services are also needed.

For example, he knows of two women in town who are chronic alcoholics, probably their mothers were also. Between them they had 20 children who all became wards of the state. Now those children are becoming sexually active, and they are all affected. Twenty children, two adults, probably more being created as we speak; that is a huge amount of money that if we had taken care of those two women they could have raised a healthy baby and we could cut down the FASD rate. Education is the key.

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CHAIR DAVIS thanked Senator Meyer and asked if the day was always September 9.

SENATOR MEYER answered yes, it is always the ninth day of the ninth month.

CHAIR DAVIS noted there is a way where this would not have to be passed each year.

SENATOR EGAN moved to report SCR 7 from committee with individual recommendations and attached fiscal note(s). There

being no objection, SCR 7 moved from the Senate Health and Social Services Standing Committee.

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At-ease.

**SB 22-STUDENT ATHLETE TRAUMATIC BRAIN INJURIES**

[1:45:58 PM](#)

CHAIR DAVIS announced the next order of business would be SB 22, relating to student athlete traumatic brain injuries.

ESTHER TEMPEL, staff to Senator Lesil McGuire, sponsor of SB 22, said the bill seeks to minimize the complications and more permanent conditions that can be caused when student athletes continue to practice or play after receiving a concussion. More than 60,000 high school student athletes sustain concussions each year. The risk can be reduced with a helmet but these injuries cannot always be prevented.

SB 22 is modeled after legislation passed in Washington State. A middle school football player was returned to a game after receiving a concussion. When he returned to play he suffered a second injury from which he will never fully recover. SB 22 seeks to require school districts and Alaska School Activities Association (ASAA) to develop and publish guidelines and information about the nature and risks. It will also require athletes suspected of sustaining a concussion be removed from play and cleared by a licensed health care provider. There is no way to completely prevent concussions but we can strive to prevent serious complications.

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SENATOR EGAN moved to adopt the proposed committee substitute (CS) for SB 22, labeled 27-LS0250\B, as the working document.

CHAIR DAVIS objected for discussion purposes.

MS. TEMPEL said the CS was prepared after consultation with the Alaska Brain Injury Network and the ASAA. It replaces the words "traumatic brain injuries" with "concussions." A concussion is a form of traumatic brain injury. The change occurs on page 1, line 6; page 2, line 13; and page 3, lines 18 and 21.

Section 2 adds a new section, AS 14.30.142(b), which requires that schools provide students and their parents with written information on the nature and risks of concussions. Parents are

also required to sign off that they have received this information.

There is also a language change with reference to who can evaluate a student suspected of sustaining a concussion. This is because in rural Alaska a licensed health care provider may not always be present. A qualified person could be a health care provider or a person acting at the direction and under the supervision of a licensed physician. This would include a village health aide. Subsection 14.30.142(e) adds additional language saying, ". . . and who is not paid for conducting the evaluation."

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GARY MATTHEWS, Executive Director, Alaska School Activities Association (ASAA), said that their responsibility is to provide guidance and regulation and promote interscholastic activities in the high schools in Alaska. This is an entity which will work with member school districts. They have worked closely with the Alaska Association of School Boards (AASB), the Alaska Association of School Administrators (AASA), and the office of Representative Doogan, who sponsored a similar bill in the House.

About 12 states have adopted similar legislation. The intent is to protect students. It is also to educate and train parents, coaches, school nurses, and others in the management of concussions and return to play. They work with a national affiliate to reduce injuries in sports. Their sphere of influence is high school interscholastic activities. The rules should include proper safety equipment, training of coaches, etc.

ASAA is pleased with the CS but they do have one small concern. On page 2, section (d), starting on line 27, the state of Alaska has no registry which lists health care providers who have received training in the management of concussions. The provider is the only one who knows if he or she is a qualified person. The last step should be to place a slight amendment to subsection (d), as follows: "A student who has been removed from participation in a practice or game for suspicion of concussion may not return to play until the student has been evaluated and cleared for participation by a qualified person who has received training and is currently certified in the evaluation and management of concussions." At the end of that sentence they would like to add, ", as verified in writing by the qualified person."

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There is no way for the school to know if a person is qualified. So the person needs to self-certify they are qualified. That way, any liability falls onto the health care provider, not the school district.

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CHAIR DAVIS said that everything was in the new CS, except "as verified in writing by the qualified person." She noted that language could be added today by the committee.

[2:00:53 PM](#)

JILL HODGES, Executive Director, Alaska Brain Injury Network, said she was calling in support of SB 22. The network has testified in support of many bills and resolutions. SB 22 brings attention to concussions among student athletes. She said it was exciting to be testifying in support of a bill that would help to keep student athletes safe and prevent serious, traumatic brain injury.

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There is no fiscal note, so this is an affordable way to increase awareness. SB 22 will help keep brains safe and increase awareness of traumatic brain injuries. It will help schools and coaches better understand how to reduce the number of injuries and the risk of injuries. The Brain Injury Network believes SB 22 will help student athletes to continue to succeed in sports and school.

[2:06:17 PM](#)

PETER HOEFFNER, Board Member, Cordova School District, said he supports SB 22. It focuses on concussions and is good for the health and well being of students.

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CHRISTOPHER DEAN, Alaska Athletic Trainers Association said SB 22 creates a right and a duty for all people involved in youth athletics to protect the child. The Center for Disease Control (CDC) has defined concussions as being at epidemic level. As a trainer he sees this first hand. Post season reporting shows that close to 50 percent of athletes in contact sports receive a concussion during the season, yet only 15 percent of these are reported to the athletic trainer during the season. Concussions are severely underreported. Many schools do not have trained personnel on site, which makes it important to train and educate our coaches, administrators, and parents.

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BRENDA SHELTON, President, Alaska Athletic Trainers Association (AATA), said the organization is committed to the support and implementation of this legislation. An athletic trainer is a health care professional who specializes in the prevention, diagnosis, treatment, and rehabilitation of sport-related injuries. SB 22 is revenue neutral; free and reputable educational tools are available. An athlete who exhibits the signs, symptoms, or behaviors consistent with a concussion should be removed immediately from practice or competition and should not be returned to play until cleared by a trained health care professional. AATA stands in support of SB 22.

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BRUCE JOHNSON, Executive Director, Alaska Council of School Administrators (ACSA), said they have worked collectively to bring this legislation to the committee. They feel strongly that the time is right to pass this bill. Education is available, particularly for those involved in contact sports. They have worked hard to get the protocols in place for evaluating possible concussions.

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CHAIR DAVIS closed public testimony on SB 22. She noted there was one recommendation for a small change.

SENATOR MEYER asked Ms. Lelake if she thought the sponsor would agree to the suggested change.

MS. LELAKE said she thought he would.

SENATOR DYSON said we can pass the bill out with the change, and the sponsor can undo it if he wants to.

SENATOR EGAN asked where the new words would be inserted.

MS. LELAKE answered on page 2, line 30.

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CHAIR DAVIS said it was just a matter of adding "as verified by."

SENATOR MEYER said it was a good bill and would work in urban areas, but what about in rural areas if no health care provider was available.

MS. LELAKE responded she believes the CS addresses the problem, because village health aids would qualify.

SENATOR MEYER said that should work.

CHAIR DAVIS asked for a motion to move the bill.

SENATOR EGAN moved to report CS for SB 22, version B as amended, and adding on line 30, after concussions, "as verified in writing by the qualified person," from committee with individual recommendations and accompanying fiscal notes. Without objection, CSSB 22(HSS) moved from the Senate Health and Social Services Standing Committee.

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At-ease from 2:19 p.m. to 2:20 p.m.

**SB 74-INS. COVERAGE: AUTISM SPECTRUM DISORDER**

CHAIR DAVIS announced the next order of business would be SB 74, relating to insurance coverage for autism spectrum disorders.

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SENATOR JOHNNY ELLIS, sponsor of SB 74, thanked the committee for hearing the bill. He said autism is a devastating disorder affecting one in 110 American children. Despite being treatable, most children with autism spectrum disorders never receive the treatment they need. SB 24 would require insurance companies to cover treatment for autism spectrum disorders (ASDs), including medically necessary applied behavior analysis (ABA). Most insurance policies specifically exclude coverage for treating autism. A total of 35 states and the District of Columbia have laws related to this issue, and at least 23 specifically require insurance companies to provide coverage for the treatment of autism.

According to the governor's council on disabilities and special education, insurance coverage of treatment of ASDs would save the state \$280,500 per capita in avoided special education costs, with a lifetime savings of \$1.8 million per child.

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The majority of children with autism who receive appropriate intervention and treatment experience remarkable improvement. Early intervention and treatment work. Forty-seven percent of those treated recover typical function; forty percent make significant improvement, while the remaining thirteen percent

make little progress. Treatment can save the state millions and significantly improve the lives of thousands. Families feel like they are drowning without assistance.

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AMORY LELAKE, staff to Senator Ellis, said she would walk the committee through the bill. Section one amends AS 21.42 by creating a new section, AS 21.42.397 relating to insurance coverage for autism spectrum disorders. Subsection (a), page 1 line 1 through page 2, line 12, requires insurance plans to cover medically necessary treatment for autism disorders. Subsection (b), page 2 lines 13-23, further defines the coverage that must be provided.

Subsection (c), page 2 lines 24 and 25, establishes that this section does not limit coverage already provided. Subsection (d), page 2 lines 26-28, prohibits an insurance company from denying coverage to someone because they have an autism spectrum disorder. Subsection (e), page 2, line 29 through page 3 line 21 defines "autism service provider," "autism spectrum disorders," "health care insurance plan," "health care insurance," and "medically necessary."

Section 2 page 3 lines 22-26 establishes that the provisions of section 1 only apply to insurance policies issued after January 1, 2012. Section 3, page 3 lines 27 establishes an immediate effective date for this act.

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MS. LELAKE stated there were numerous experts on line who could speak to the legislation.

LAURIE EUNAM, attorney and parent of a 10-year-old son with autism, said she was testifying in support of SB 74. She is also senior litigation council with Autism Speaks, a New York-based non-profit. Her full-time job is to advocate for autism insurance reform in all 50 states. Autism is a medical condition brought on by no fault of the family. In slide #2, the graph shows distinct diagnoses within the disorder; Autistic Disorder, Asperberger's Syndrome, and Pervasive Developmental Disorder. The most severe diagnosis is Autistic Disorder. Pervasive Developmental Disorder Not Otherwise Specified (PDDNOS) is a mild form of autism spectrum disorder. It accounts for one-half of all diagnoses.

There is no known cure for autism but it can be treated so that symptoms are not disabling. The most commonly prescribed

treatment protocol is Applied Behavior Analysis (ABA) which has been used for many years to treat autism, but the insurance industry continues to deny coverage for this treatment. The Surgeon General, the National Research Council and the American Academy of Pediatrics all have endorsed the use of ABA therapy for children with autism.

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Studies show that if ABA is administered intensively by properly trained therapists, about half of the treated children will overcome their autistic characteristics such that they can enter first grade indistinguishable from their peers. The therapy must be administered intensively, often 20, 30, or even 40 hours per week. Her son's autism is severe and his therapy costs out of pocket \$75,000 per year. She and her husband have made sacrifices, such as selling their home and moving to a cheaper one, to afford therapy for their son. But how many families have that kind of money to sacrifice? Most don't, and so children go untreated.

We know there is a treatment that works but children can't get the treatment they need. These are families who are doing the right thing by buying insurance, and still can't get the help their children need. Only the wealthy few get treatment. Autism prevalence is on the rise. Over the past 25 years it has gone from one in 2,500 to one in 110. A huge autism tsunami is coming. Without private insurance, the needed treatment will not happen.

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Twenty-four states have mandated autism insurance coverage. One state has passed a bill in 2011, and West Virginia's bill is about to become law. Actual claims data from Blue Cross Blue Shield (BCBS) of Minnesota, where the law has been in effect since 2001, shows that the financial impact for covering autism is .83 per member per month. In South Carolina the state employee health plan has released this cost data: the statute passed in 2007 and took effect in 2009. It caps coverage for ABA therapy at \$50,000 per year at age 16. In 2010 the increase was .44 per member per month. The law has minimal impact on premiums and its overall impact on the economy has been positive. People have been trained and are working full-time as therapists for children with autism.

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SENATOR DYSON asked is it logical to assume that in a state like Alaska with a very small population, the cost per policy would be higher.

MS. EUNAM answered if that was typically the case, then probably yes.

SENATOR DYSON said it would seem that if South Carolina has a cost of .44 cents per month with around five million people, compared to Alaska with only 700,000 people, the cost per policy holder would be higher.

MS. EUNAM said she would let the actuary speak in more detail about that. Cost projections from state to state have not varied dramatically, and she was not aware of any factors specific to Alaska.

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MARK LAMBRIGHT, Independent Actuary, Oliver Wyman, said he would address the previous question. In doing the actuarial studies, they did consider that medical costs are higher in Alaska. However, due to fewer people being covered, the overall costs would be lower. The costs per member would be roughly the same. Analysis indicates that premiums would increase .3 to .7 percent. The net result is an estimate of cost increase. Other independent actuaries have provided similar analyses.

[2:45:04 PM](#)

MARGARET COSSLER, Anchorage, said she was speaking on behalf of her five year old son with autism. She and her husband wanted to find the best possible treatment for their child. Not having insurance to cover this is extremely stressful for the family; knowing that there is something you can do to help your child but you cannot provide it is extremely painful and nearly unbearable.

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SENATOR ELLIS noted that Representative Petersen had joined the meeting.

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JANICE GERTON, mother of Chad Gerton, testified on her own behalf. He was diagnosed as Autistic at age 5. At 12 his diagnosis changed from Autism to Asperberger's Syndrome. At 18 months they knew he was not the same as their other children. Each doctor they saw said he did need speech therapy, occupational therapy, sensory integration. When he started

school they gave him an IEP and they did what they could. He never lost language but had many issues with peers. His experiences were hard for the family and hard for him. Her job became 24 hours trying to find services. The family had good insurance but it did not cover what he needed.

Early intervention has been proven the best way. There would have been less impact in his life and life of his family. He needed this in school, home, and community. One out of 110 kids is affected. Four out of five are boys. Intervention should have come early, but it was very slow. Early intervention works. Fewer services are needed over a lifetime. Her son became an Eagle Scout, his senior class treasurer, and has become an accountant. At age 25, he was recently married. He is working full time and taking 12 credits at UAS. Children with autism need a good health plan.

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This should be in place for the next generation so they can receive early intervention and have the best possible quality of life. Her son still has issues because he lacked the right type of services early on. The month of April is Autism Awareness Month; they are trying to get people to understand and accept the differences.

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CHAIR DAVIS thanked the witness for coming forward.

LAURIE KING, mother of a 20 year old daughter with autism, said her family didn't have the insurance they needed to take her to the specialists at an early age. They had insurance but it didn't cover what they needed. Her husband was diagnosed with MS and unable to work, so she had to work instead of taking care of her daughter. She said her daughter would have done much better with earlier intervention. They could not get services for her until age eight; as a result, her potential to be a functioning member of society was severely degraded.

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CHAIR DAVIS said the committee had heard good testimony on the bill today. She also had several letters and emails of support. BCBS of Alaska is in opposition.

[3:00:57 PM](#)

CHAIR DAVIS invited Representative Petersen to testify.

REPRESENTATIVE PETE PETERSEN said when you hear the stories it is hard to believe the lack of coverage still continues. Children are missing their window of opportunity to have a normal life.

CHAIR DAVIS asked for a motion to move the bill.

SENATOR DYSON said he had some remarks but given the time constraints he would not speak.

CHAIR DAVIS asked why not a short version.

[3:03:02 PM](#)

SENATOR DYSON said he applauds the purpose of the bill. What troubles him is the funding source. The insurance companies are not the problem. When we get down to figuring out how we serve a good purpose, he worries that we choose pragmatism at the expense of freedom. He agrees that services for children with autism need to be available. The righteous way would be to pay for it out of the general fund so that everyone has the same chance. There is a fairer way to get services to children, and that is to do it through the tax base. Putting the burden on insurance companies is easier, but he worries about the direction we are going.

[3:06:42 PM](#)

He also questioned having a zero fiscal note. Maybe it doesn't come out of the state's pocket, but it will come out of state employees' pockets. He does applaud the intentions of the bill and his heart goes out to the kids.

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CHAIR DAVIS said this bill has another committee of referral and some of those issues will be heard there.

SENATOR EGAN moved to report SB 74 from committee with individual recommendations and attached fiscal note(s). There being no objection, SB 74 moved from the Senate Health and Social Services Standing Committee.

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There being no further business to come before the committee, Chair Davis adjourned the meeting at 3:08 p.m.