

HOUSE FINANCE COMMITTEE
February 25, 2014
8:01 a.m.

[8:01:57 AM](#)

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 8:01 a.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Mark Neuman, Vice-Chair
Representative Mia Costello
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Lindsey Holmes
Representative Cathy Munoz
Representative Steve Thompson
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Senator John Coghill, Sponsor; Representative Gabrielle Ledoux, Sponsor; Chad Hutchinson, Staff, Senator John Coghill; Susan Schrader, Self, Juneau; Laura Powers, Self, Juneau; Izebella Powers, Self, Juneau; Korbyn Powers, Self, Juneau; George Brown, Pediatrician, Juneau; Michael Pauley, Alaska Family Council, Juneau; Melissa Engel, Self, Juneau; Joyanne Bloom, Self, Juneau; Ann Robertson, Self, Juneau; Allison Currey, Self, Juneau.

PRESENT VIA TELECONFERENCE

Mike Coons, Self, Palmer; Joshua Decker, Executive Director, American Civil Liberties Union of Alaska; Kine McClintock, Self, Anchorage; Lynn Escola, Self, Petersburg; Jessica Cler, Public Affairs Manager, Planned Parenthood

Votes Northwest, Anchorage; Theda Pittman, Self, Anchorage; Robin Summers, Policy Director, National Family Planning and Reproduction Association, Washington D.C.; Jan Carolyn Hardy, Self, Anchorage; Amy Bollenbach, Self, Homer; Jean Bramer, Obstetrician, Fairbanks.

SUMMARY

HB 173 RESTRICT MEDICAID PAYMENT FOR ABORTIONS

HB 173 was HEARD and HELD in committee for further consideration.

SSSB 49(FIN)

MEDICAID PAYMENT FOR ABORTIONS; TERMS

SSSB 49(FIN) was HEARD and HELD in committee for further consideration.

#sb49

#hb173

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 49 am

"An Act relating to women's health services and defining 'medically necessary abortion' for purposes of making payments under the state Medicaid program."

HOUSE BILL NO. 173

"An Act defining 'medically necessary abortion' for purposes of making payments under the state Medicaid program."

[8:02:11 AM](#)

Co-Chair Stoltze discussed the agenda for the day.

[8:03:11 AM](#)

SENATOR JOHN COGHILL, SPONSOR, introduced himself and discussed his intent related to the bill presentation.

Senator Coghill stated that SB 49 would bring clarity to Medicaid payments for abortions. He detailed that the Alaska Supreme Court ruled that the state pay for medically necessary abortions, but a definition of medically necessary had not been provided. The bill was an attempt to

define medically necessary, which would categorize abortions outside of the definition as elective. The bill addressed when a medically necessary abortion was required and looked to the physical health of the woman. He communicated that a presentation would provide further detail.

REPRESENTATIVE GABRIELLE LEDOUX, SPONSOR, introduced herself. She relayed that HB 173 was the companion bill to SB 49. She believed the term medically necessary abortion needed to be defined. She did not see the bill as pro-life or pro-choice, but only as fiscal legislation. She stated that the bill would bring clarity to a previously unknown term.

[8:06:25 AM](#)

CHAD HUTCHINSON, STAFF, SENATOR JOHN COGHILL, stated that SB 49 was about bringing clarity to the previously unknown term "medically necessary abortion." The goal was to define the term for the purpose of making payments under Medicaid. He referred to a bound document titled "SB 49 Committee Binder" (copy on file). Tabs 1 and 2 included a copy of SSSB 49 am and the sponsor statement. He clarified that the bill did not attempt to argue a prior Planned Parenthood case from 2001 (Tab 7). The sponsor acknowledged that Alaska was required to provide medically necessary services including medically necessary abortions to low-income individuals. The challenge was that no definition had been established to determine what constituted medically necessary.

Mr. Hutchinson pointed to Tab 1 and read the bill title. Section 1 of the bill had been amended on the Senate Floor. Section 2 included the definition for the term medically necessary abortion. He read from Section 2(a):

The department may not pay for abortion services under this chapter unless the abortion services are for a medically necessary abortion or the pregnancy was the result of rape or incest. Payment may not be made for an elective abortion.

Mr. Hutchinson read from the top of page 2 pertaining to the definition of abortion:

(2) "elective abortion" means an abortion that is not a medically necessary abortion;

(3) "medically necessary abortion" means that, in a physician's objective and reasonable professional judgment after considering medically relevant factors, an abortion must be performed to avoid a treat of serious risk to the life or physical health of a woman from continuation of the woman's pregnancy;

Mr. Hutchinson relayed that the language had been taken out of the 2001 Planned Parenthood decision and was used in various forms in the Hyde Amendment.

[8:10:07 AM](#)

Mr. Hutchinson continued with Section 2(4):

"serious risk to the life or physical health" includes, but is not limited to, a serious risk to the pregnant woman of

(A) death; or

(B) impairment of a major bodily function because of...

Mr. Hutchinson relayed that the various medical afflictions listed under the section had been verified by medical experts including eight Alaskan doctors and three national doctors. He noted that the physical conditions were included in the 2001 Planned Parenthood decision. He read a catchall provision in Section 2(4)(B)(xxii):

another physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy that places the woman in danger of death or major bodily impairment if an abortion is not performed.

Mr. Hutchinson stated that death was the foundation the term "major bodily impairment" had been included as a mandatory extra protection as stipulated in the 2001 Planned Parenthood decision. He addressed Section 3 and relayed that the analysis had not been as substantive as that of the definition. He discussed the definition of medically necessary as stated in the bill. The definition incorporated the federal foundation required by the Hyde

Amendment. He spoke to the importance of the Hyde Amendment and noted that it had been incorporated into Executive Order 13535 by President Obama for inclusion in the federal Affordable Care Act (Tab 3). He read from Section 1 of the executive order:

it is necessary to establish an adequate enforcement mechanism to ensure that Federal funds are not used for abortion services (except in cases of rape or incest, or when the life of the woman would be endangered), consistent with a longstanding Federal statutory restriction that is commonly known as the Hyde Amendment.

Mr. Hutchinson disputed the claim that there could be no restrictions on funding for abortions. He stated that the executive order limited abortion funding to cases involving rape, incest, and the life of the woman. He relayed that the definition in SB 49 provided more protection than the federal definition. He read from Hyde Amendment language under Tab 4:

Section 508 (a) The limitations established in the preceding section shall not apply to an abortion

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

Mr. Hutchinson emphasized the word physical and relayed that the focus was incorporated into the bill's definition.

[8:14:36 AM](#)

Mr. Hutchinson pointed out that death was the standard used in the Hyde Amendment. He stated that the bill provided additional protection as required under the Alaska Constitution. He reiterated that definitions provided in the bill had been taken from the Planned Parenthood decision and had been agreed to by medical experts. He stated that the bill made a clear distinction between

elective and medically necessary procedures. He clarified that Medicaid did not fund elective procedures and stressed that it should not fund elective abortions. He added that Medicaid was required to perform medically necessary procedures. He directed attention to statistics included under Tab 6. He communicated that at a minimum the definition was required to include the federal exceptions of rape, incest, and life endangerment. The statistics showed performance in other states. Tab 7 included the 2001 Planned Parenthood decision court order. He read from page 10:

DHSS [Department of Health and Social Services] is constitutionally bound to apply neutral criteria in allocating health care benefits, even if considerations of expense, medical feasibility, or the necessity of particular services otherwise limit the health care it provides to poor Alaskans.

Mr. Hutchinson moved to page 16 of tab 7 and read from the court order conclusion:

The State, having undertaken to provide health care for poor Alaskans, must adhere to neutral criteria in distributing that care. It may not deny medically necessary services to eligible individuals based on criteria unrelated to the purposes of the public health care program.

Senator Coghill noted that the goal was not to discriminate health care services and to define when something was medically necessary versus elective. He acknowledged that the bill would probably draw litigation given its base in litigation.

Representative Costello MOVED to ADOPT the proposed committee substitute for SSSB 49(FIN), Work Draft 28-LS0410\Y (Mischel, 4/13/13).

Representative Gara OBJECTED. He asked for clarity on the bill version before the committee. He referred to the bill that had passed the Senate, which had included family planning language.

Co-Chair Stoltze answered that the version was different from the bill passed by the Senate; the bill before the committee reflected the original bill language.

Representative Gara spoke to his objection. The bill that passed the Senate included a provision that allowed the state to participate in the women's health Medicaid family planning program. He relayed that evidence suggested that participation in the program would reduce the number of unintended pregnancies, the cost of care for pregnant women, and the number of abortions in Alaska. He did not want remove a portion from the bill that would reduce the number of abortions or the number of unintended pregnancies.

[8:20:15 AM](#)

Senator Coghill spoke in opposition to the family planning language. He elaborated that the language had been a mandate to go beyond what was already done by the state. The department had provided a list of existing programs that included 7,500 individuals who had received family planning services to date. Services were currently provided for contraception, sexually transmitted diseases, and general reproductive health. He reiterated that the family planning language had been a mandate to go beyond the current services for items like sterilization and preconception care that he thought was already done under pelvic exams. He concluded that the language had been broader than he wanted.

Representative Ledoux offered that the family planning component could be considered in the operating budget. She did not believe the language was appropriate for the bill.

Representative Gara asked for verification that the Medicaid women's health program language that had passed the Senate was 90 percent covered by federal funds. Senator Coghill replied that part of the program was 90 percent covered and part was covered at 50 percent.

A roll call vote was taken on the motion to adopt the CS.

IN FAVOR: Munoz, Wilson, Edgmon, Neuman, Thompson,
Costello, Stoltze, Austerman
OPPOSED: Holmes, Gara, Guttenburg

The MOTION PASSED (3/8).

[8:24:44 AM](#)

Representative Gara discussed that the Alaska Supreme Court opinion from 2001 had included the condition of bipolar disorder under the definition of medically necessary. He believed the bill should include the disorder given that medication for bipolar disorder was very dangerous to a pregnancy. He asked for verification that the disorder had been in the 2001 court opinion language and why it had not been included in the bill.

Senator Coghill answered that thorough medical testimony had convinced the sponsor that the particular condition and most psychological conditions were not a threat to the health of a pregnant woman. Additionally, he referred to the Hyde Amendment where physical health was given as the reason for the need of an abortion.

Representative Munoz asked how many medically necessary abortions had occurred in Alaska in 2013. Senator Coghill answered that the figure was over 1,700. He stated that currently all abortions paid under Medicaid were deemed medically necessary due to the broad definition; the bill clarified the definition. He corrected that 1,450 medically necessary abortions had occurred in 2013 and 1,700 had occurred the year the legislation had been introduced.

[8:27:02 AM](#)

Senator Coghill corrected that the total number of abortions in 2013 was 1,450; Medicaid had paid for 547 of the total.

Representative Guttenberg pointed to the qualification list of medically necessary conditions and observed that one of the items was "any other physical disorder." He asked if the language sufficiently covered the other conditions listed under the bill section.

Senator Coghill replied that the items listed out were based on Alaska Supreme Court testimony.

Representative Guttenberg asked if the list was restrictive.

Co-Chair Stoltze commented that he had never known Senator Coghill to promote or increase the number of abortions.

Representative Guttenberg wanted to make sure something unintentional was not done. Senator Coghill answered that the list had been verified by doctors and the Alaska Supreme Court. He understood that the list could not include everything, which was the reason it included the language "any other physical disorder."

Representative Guttenberg observed that all conditions in the bill were physical. He discussed that increased information about mental disorders was becoming available. He believed mental disorders were not included under the bill's definition of medically necessary.

Senator Coghill replied that when his office had gone through the court test of neutral criteria, the neutral criteria showed that psychologically terminating or carrying a pregnancy to term could have equal weight. He did not feel from the doctors' testimony that a pregnancy would go beyond the physical well-being of a mother.

8:30:39 AM

Representative Wilson wondered how the bill compared to state insurance. She wondered if there were two classes of people being created by implementing the law related to Medicaid but not for other state employees. She wanted to provide accurate information to her constituents.

Senator Coghill answered that Medicaid was a mandated formula program for individuals meeting qualifications. He explained that the state had a negotiated healthcare plan that fell under a very different set of rules. He deferred to the administration for further detail.

Representative Wilson wanted to hear from the Department of Administration (DOA) about state health insurance.

Co-Chair Stoltze noted that both the DHSS and DOA would testify.

8:33:20 AM

AT EASE

8:34:00 AM

RECONVENED

SUSAN SCHRADER, SELF, JUNEAU, spoke in opposition to HB 173 and SB 49 as amended. She stated that the bills represented another attempt by politicians to intervene in personal medical decisions made by Alaskan women; decisions that should be left up to women to make in consultation with their family, faith, and physicians. She spoke to the complexity a woman faced when deciding whether to have a child, put the child up for adoption, or to have an abortion. She believed the bills were an effort to limit access to abortion under the guise of clarifying the term "medically necessary." She stated that bills defining personhood, requiring invasive ultrasound, or requiring extended waiting periods, were all chipping away at women's rights. She stressed that limiting access to Medicaid funded abortions was not likely to limit the number of abortions; however, it would limit the number of safe, legal abortions. She furthered that it may lead women to seek out illegal procedures. She pointed to practices occurring prior to Roe v. Wade. She asked legislators to adopt the women's health program under state Medicaid for ready-access to family planning and birth control for all Alaskan women (if the goal was to make abortion safe, legal, and rare, and to saving money). She stressed that the program would effectively reduce abortions and costs; however, the CS removed the language from the bill. She emphasized that family planning worked and did so without trampling on women's rights to make their own healthcare decisions. She understood that abortion was a highly emotional issue, but she felt that the most upsetting thing was to see other women limiting women's rights to healthcare.

[8:37:20 AM](#)

LAURA POWERS, SELF, JUNEAU, testified in opposition to the bills. She introduced her daughters. She communicated that a woman's pregnancy decision was complex and personal and should be made in consult with her doctor, not politicians. She stressed that only healthcare providers could know what was medically necessary. She implored the committee to vote no on the legislation and to implement a Medicaid women's health program instead.

IZEBELLA POWERS, SELF, JUNEAU, spoke in opposition to the bill. She stressed that women should be able to make their own decisions.

KORBYN POWERS, SELF, JUNEAU, testified against the bill. She stated that women should have the ability to make their own healthcare decisions.

Ms. Laura Powers encouraged the committee to take all Alaskan women into consideration. She stated that it was a woman's choice to have control of her body. She asked the committee to vote no.

[8:39:29 AM](#)

GEORGE BROWN, PEDIATRICIAN, JUNEAU, testified against the bills. He relayed that he had been a practicing pediatrician in Alaska since 1965. He read from a letter to the committee (copy on file):

These bills have several flaws. While it addresses the most contentious issue of our Republic's political history since the abolition of slavery, it IMPOSES personal values which restrict access to legal medical services, DISRESPECTS personal choice of women, which means sexual discrimination, and of most importance DENIES the reality of mind and body connection in human health. Neuroscience continues to show how our brain influences physical health and illness. Physical illnesses such as cancer and trauma injuries like domestic violence, child maltreatment, concussions, and traumatic brain injuries impose continuing mental stress and make a huge influence on our brains. Social and behavioral disorders also have huge influence on our brains.

Unintended pregnancies can produce intense stress on brains. Not uncommonly, some intended pregnancies that conclude with healthy newborns result in post-partum depression, now well recognized in medical practice. Persons who are trying to cope with such physical and social stresses can cope with them. Successful coping can be enhanced with family, health, and social supports, which opens possibilities to other and future choices and healing.

Laws which deny personal choices about health care add more stress to individuals. Persons who have never been pregnant or who can never become pregnant cannot really understand these particular stresses. Persons who are or who have been pregnant are more experienced

for seeking and finding the most appropriate choices to deal with these stresses.

There is a more positive option for all of us in this complex social dilemma. As we try hard to be tolerant about others values, understand the deep complexities of individual and social behavior, and to listen with the intent to hear all voices, we can come together to accept and increase practices which prevent as many as possible future unintended pregnancies. This is in no way simple, but it has been done for decades and does work when practiced. It also can redirect our energies away from conflict toward cooperation. There is certainly much more we can all do to improve male understanding about violence and pregnancy prevention and to increase their practice of respect and birth control. I hope you will vote against these bills and work toward preventive legislation action.

[8:44:38 AM](#)

Representative Costello acknowledged Dr. Brown for his work making house calls and his good reputation. Dr. Brown replied that enjoyed his work. He noted that children were born with love, empathy, and trust and that listening to children would help solve the problems under discussion.

Vice-Chair Neuman spoke from the perspective of a father. He wondered who spoke for the life of the unborn child and fetus. He believed it had been implied that a man had a lesser opinion than a woman. He was very concerned about the lives of unborn children. He wondered how the unborn child could be protected. He spoke about the option of giving a child up for adoption. He wondered how to speak for unborn children.

Dr. Brown replied that the issue was not simple. He believed there was still government of the people, by the people, and for the people, as long as people continue to speak up and create dialogue between elected officials and themselves. He stated that more males and more fathers were appreciating the pregnancy process, which was a positive thing. He emphasized the importance of prevention. He discussed the importance of doing everything possible to increase youths understanding about unintended pregnancies and providing increased funds to counseling, support, and family planning. He spoke about work to prevent child abuse

through the Alaska Children's Trust; the organization worked with Father's Community Café to discuss pregnancy and associated responsibilities of becoming a father. He stressed that the work was about changing the paradigm. He discussed the importance of working together, listening to each other, and cooperation.

8:49:00 AM

Vice-Chair Neuman believed the opinion of a medical doctor was important. He spoke about changing his own children's diapers. He wondered how to measure the life and voice of an unborn child.

Co-Chair Stoltze relayed his intent to continue hearing public testimony.

Representative Gara referred to a court opinion that included bipolar disorder on a list of items that should qualify for Medicaid coverage for abortions. He discussed that the drug used to treat bipolar disorder had been dangerous to a pregnancy. He wondered about potential dangers and if the information remained current.

Dr. Brown answered that there were a number of potentially dangerous drugs. He noted that one of the real problems was that people with bipolar disorder or those under stress frequently used many other drugs including alcohol. He stated that working to help eliminate drug and alcohol use was far better than trying to tell a woman she should or should not have an abortion. Ultimately out of respect for the belief in individual liberty, he believed it was a woman's right to make her own decision. He believed support around the decision was needed. He stressed the importance of prevention.

Representative Gara had been told that a Medicaid family planning program could reduce the number of abortions by over 500 per year. He wondered if Dr. Brown believed the adoption of the program would reduce the number of abortions in Alaska.

Dr. Brown believed the adoption of the Medicaid family planning program would reduce the number of abortions. He strongly urged the committee to implement the program that provided services to youths who were far more likely to

have unintended pregnancies. The program would not prevent all abortions, but it was a very worthwhile investment.

[8:52:58 AM](#)

Representative Munoz had been advised by the Division of Public Health Nursing that no one was denied service based on ability to pay. She asked whether services would be expanded to cover more individuals if the family planning proposal was added to the bill.

Dr. Brown replied that many people eligible for Medicaid and Medicare did not use the services because they were ashamed of being poor. Likewise, there were many people who could utilize public health services, but did not due to the same reason. He believed Denali KidCare was helpful because it gave lower-income individuals access to services with the broader population without making them feel ostracized. He stated that if access was made friendly and open to everyone, individuals would be more likely to participate. He acknowledged that it would cost money, but the investment would reduce costs associated with jails, courts, and other in the long-term.

Vice-Chair Neuman stated that the financial costs associated with taking a healthy baby to full term were not that high. He wondered how much it would cost to carry a baby to term and to offer it for adoption compared to the cost of abortion.

Dr. Brown could not provide a financial figure. He stated that in the short-term an abortion would cost less; however, he believed it was a tragedy and should be prevented if possible. He stressed the importance of investing in supports to provide assistance and counseling to pregnant women. He stated that investing the supports that would help a mother deal with mental stress was as medically important as anything physical. He noted that the services were costly, but would save money in the long-term. He believed if people kept fighting over the issue the problem would not be solved and the state would continue to pay for services related to drugs and other.

[8:57:05 AM](#)

MICHAEL PAULEY, ALASKA FAMILY COUNCIL, JUNEAU, spoke in strong support of SB 49. He regretted that the bill had

been cast as a question about when a person was able to have an abortion. He believed the bill was really about Medicaid funding. He referred to a 2004 study by the Alan Guttmacher Institute of 1,209 abortion patients at 11 large providers. He stated that the study participants had been asked about the primary reason for an abortion; 4 percent had communicated that a physical health problem was the most important reason for the abortion; 12 percent stated that health was a factor. He spoke about applying the numbers to Alaska; in 2013 the Bureau of Vital Statistics reported that 1,450 abortions had been performed in Alaska, 547 or 37.7 percent of which had been paid for by Medicaid. He stated that the number had held consistent over time. He noted that public funds paid for the abortions. He stated that if the numbers were consistent with the national study related to the number of medically required abortions, Medicaid would pay for 58 to 175 abortions per year. The council believed that doctors performing abortions in Alaska were submitting claims for abortions that were not medically necessary. He believed SB 49 articulated a reliable, medically neutral definition of medically necessary abortion, which made good policy and fiscal sense. He opined that the bill had nothing to do with pro-life versus pro-choice; it was about meeting the state's obligations to pay for medically necessary abortions, but not elective abortions.

[9:01:42 AM](#)

Representative Wilson referred to prior testimony related to the national study's percentage of medically necessary abortions. She asked if the state was paying for abortions that were not medically necessary because doctors were not asking the right questions. She noted that her office had been told that no one was asking the questions. She was trying to determine whether the doctors were not currently asking the questions or whether the definition was specific enough.

Mr. Pauley believed that the current system afforded a significant amount of discretion to the physician. He noted that the physicians were getting compensated with public dollars for performing abortions. He opined that the issue was shrouded in ideology. He noted that Planned Parenthood provided the majority of abortions in the state. He believed Planned Parenthood took the view that an abortion was medically necessary if a patient did not want to be

pregnant. His opinion was based on testimony and Planned Parenthood litigation. He had been disturbed the prior year when a Planned Parenthood representative had testified that she did not have a definition for elective abortions. He stressed that the U.S. Supreme Court decision on abortion funding had repeatedly made the distinction between elective and medically necessary. He believed SB 49 offered the needed precision and clarification of language.

[9:04:58 AM](#)

Representative Guttenberg asked about dialog between a woman and a doctor regarding the decision to have an abortion. He believed Mr. Pauley was insinuating that virtually no conversation occurred between the two people about the decision to have an abortion.

Mr. Pauley deferred the question to doctors performing abortions. He did not believe that most physicians performing abortions in Alaska felt that counseling was within their purview. He stated that the physicians believed that abortion was a constitutional right and as long as the informed consent law was followed the doctor would provide the procedure without question.

Representative Guttenberg referred to a personal medical experience and stressed that he did not know any doctors who did not counsel their patients.

Representative Gara communicated that the term medically necessary abortion had been defined in a prior legal case between the state and other parties. He believed Mr. Pauley thought there were doctors calling elective abortions medically necessary. He disagreed; however, if it were true, he wondered why doctors would follow the law under SB 49 if they were not currently following the law.

Mr. Pauley believed the outcome would be different because of the list of medical conditions included in the bill that fell under the medically necessary definition. Additionally, the bill included a catchall provision for conditions that it did not specifically list. He expected the department to begin to ask tough questions if the bill passed and 547 abortions performed fell under the "other" category in the future.

[9:09:02 AM](#)

MELISSA ENGEL, SELF, JUNEAU, testified in opposition to the bills. She spoke from her perspective as a Christian. She believed that God had created humans with amazing bodies and that humans were connected to their physical and mental bodies in ways that no one else could ever be. She stressed that each person knows what is best for them and when unsure has the ability to consult with trusted medical doctors. She urged the committee to oppose the bills. She stressed that women knew what was best for their own bodies. When a woman was unsure, she consulted her medical doctor, not government officials; each woman was created differently and had various reasons for deciding upon a medical choice. She asked the committee what would happen if the reason did not fit within the bill's defined parameters of medically necessary. She emphasized that women's health was not a political matter to be decided on by legislators. She thanked the committee for its time.

[9:11:44 AM](#)

MIKE COONS, SELF, PALMER (via teleconference), spoke in favor of the legislation. He stated that all physicians had a physician's desk reference and knew if medication was a threat to pregnancy. He referred to prior testimony related to drug and alcohol abuse and stated that substance abuse caused many self-induced abortions. He did not believe the issue was about elective abortions, but about what constituted medically necessary based on medically sound knowledge. He stated that elective abortions were not to be paid for with state money under federal and state law.

[9:13:10 AM](#)

JOSHUA DECKER, EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION OF ALASKA (via teleconference), spoke against the bills. He stated that the bills posed substantial constitutional challenges. He pointed to a separation of powers concern and explained that once the Alaska Supreme Court had stated the contours of a constitutional right such as the right for low-income women to have Medicaid funded abortions, the legislature was not able to alter or narrow the right (which both of the bills attempted to do). He communicated that the bills were substantively unconstitutional. He spoke to earlier testimony related to the omission of bipolar disorder from the bill's definition of medically necessary, which in the Alaska Supreme Court's

opinion was a constitutionally mandated reason to allow for Medicaid funded abortions. Additionally, the bills were of concern because they "cherry pick out" the term medically necessary in the abortion context and defined it in a narrow and restrictive way; whereas the term was not defined elsewhere in Medicaid documents. The organization believed that if the bills were enacted into law and subject to constitutional challenge that the court would "look askance" at the cherry picking definition.

Mr. Decker addressed the cost of the bills. He noted that the bills' fiscal notes were zero, but abortion litigation was not new to Alaska. He shared that the state had repeatedly attempted to unconstitutionally restrict a woman's right to reproductive choice and had spent nearly \$1 million defending the unconstitutional attempts. The organization believed the state would likely have to pay hundreds of thousands of dollars in attorney fees and costs to the potential plaintiffs if the issue was subject to legal challenge. He urged the committee to not pass the bills.

[9:16:27 AM](#)

KINE MCCLINTOCK, SELF, ANCHORAGE (via teleconference), urged the committee to vote against the bills. She was a life-long Alaskan and was currently working on pursuing her master's in public health. She had spent significant time studying the effects of policies that either restricted access to abortion or made contraceptives more accessible. She stated that the latter approach could decrease abortion rates and provided women and families with the necessary tools to lead healthy and fulfilling lives. She detailed that research showed that restrictions such as the ones in SB 49 were ineffective at decreasing the need for abortion. She asked the legislature to make contraceptives more accessible to low-income women if the goal was to reduce the number of abortions. She stated that the definitions in the bill denied low-income women medically necessary care, which effectively created two classes of women. She believed it was unethical to make a safe and legal procedure unavailable to some women. She strongly believed that it was the state's obligation to care for all people and to provide them with equal protection under the law. She was disheartened that the legislature was spending time on SB 49, which she believed was dangerous to women's health. She stressed that deciding what constitutes a

medically necessary abortion was a medical decision and should be left to physicians, not politicians. She asked the committee to oppose the legislation.

Representative Gara thanked Ms. McClintock for her testimony.

[9:19:16 AM](#)

LYNN ESCOLA, SELF, PETERSBURG (via teleconference), spoke in opposition to SB 49. She stated that the bill established a "Chinese menu" for determining who can receive an abortion under Medicaid. She pointed out that no mental and emotional illnesses regardless of severity were included under the bill's definition. Also missing were cases of malformed fetus. She stressed that the omissions were incredibly inhumane and represented very poor public policy. She stated that legislators were attempting to dole out healthcare according to their own judgment of medical necessity. She believed the bill was not needed and that deciding what constituted medically necessary could be left to physicians. She believed the bill was prompted to withhold medical care from some Alaskan women by withholding payment. She wanted the government to pay for medical care for poor women, including abortions. She referred to an Alaska Supreme Court ruling that the state was required to provide equal protection under the law for all pregnancy decisions. She stated if the state paid for a woman to remain pregnant it should pay for a woman to not remain pregnant. She pointed out that remaining pregnant cost the public much more than an abortion. She stated that SB 49 represented excess government regulation, it hurt individual Alaskans who would be denied healthcare, and it would result in the increased expenditure of public funds. She opined that it was hard to see any legitimate public interest being served by the bill. She added that if the law passed it would likely be found unlawful. She stressed that the bill was wasting the legislature's time and the public's money. She was offended that the bill victimized poor women, especially young and rural poor women with limited options. She stated that the bill would constrain poor women to producing babies for the childless middleclass seeking to adopt. She was repulsed by the idea of the government's hands compelling a pregnancy as a commodity. She stated that the bill would result in death from back alley or self-induced abortions or from suicide.

Co-Chair Stoltze asked for clarification about the term Chinese menu. Ms. Escola replied that it was a metaphor.

[9:23:03 AM](#)

JESSICA CLER, PUBLIC AFFAIRS MANAGER, PLANNED PARENTHOOD VOTES NORTHWEST, ANCHORAGE (via teleconference), spoke against the bills. She shared that the organization operated five health centers in Alaska and in 2012 it served nearly 12,000 people in the state with lifesaving and cost saving reproductive healthcare including contraception, cancer and disease screenings, exams, and abortions. The agency was proud to be a provider of safe and legal abortions, but its efforts were focused on providing the resources people need to plan their pregnancies. The planning reduced unintended pregnancies, abortions, and cost to the state for unintended pregnancy care. She stressed that every woman and every woman's health was different; only a trained health professional should decide what was medically necessary for a woman. She added that the healthcare decision should not be made by politicians.

Ms. Cler stated that the bills were a blatant attempt to put government into low-income Alaskan women's pregnancy decisions, which was not right, not fair, and not good healthcare. She pointed to the unconstitutionality of the legislation; in 2002 the Alaska Supreme Court specified that the Medicaid program could not discriminate against women who have an abortion. She noted that a judge had already enjoined a DHSS rule that was almost identical to the bills. She stressed that there was no reason to waste legislative time, energy, and money while the court was in the process of deciding the issue. She stressed that the bills would cost money. She advised that if reducing abortions and saving money was the legislature's goal, it should get rid of the bills and enact a Medicaid women's health program to get contraceptives to more women whose pregnancies would otherwise be paid for by the state. The savings would be approximately \$9 million annually. She addressed the sponsor's stated reason for the legislation pertaining to state savings. She emphasized that the bills would not save money and would cost money in continuing law suits. She respectfully urged the committee to not move forward with the bills.

[9:26:05 AM](#)

THEDA PITTMAN, SELF, ANCHORAGE (via teleconference), spoke in opposition to the legislation. She believed everyone agreed in the goal of reducing the number of abortions; however, there was disagreement in the way to accomplish the goal and about whether public funds should be used if a pregnant girl or woman was on Medicaid. She stated that public officials were vocalizing serious warnings about the need to be much more careful about spending state funds. She relayed that the bills had already wasted time and money. She continued that in spite of a current court case challenging regulation language, the sponsor of SB 49 had pressed forward because statute held more weight than regulation. She noted that the sponsor had identified the issue as fiscally conservative. She opined that if the goal was to behave in a fiscally conservative way, the bills should be tabled until the court decision was made. She stated that the bills would be unnecessary if the court upheld the regulations; if the regulations were struck down as unconstitutional the decision would need to be analyzed to determine guidance the decision provided as to how broadly the term medically necessary abortion should be construed. She stated that the bills would need to be redrafted all over again. She asked the committee to be fiscally prudent and to wait until additional information was available.

[9:28:37 AM](#)

ROBIN SUMMERS, POLICY DIRECTOR, NATIONAL FAMILY PLANNING AND REPRODUCTION ASSOCIATION, WASHINGTON D.C. (via teleconference), briefly described the organization. She thanked Representative Holmes for the invitation to testify on Medicaid family planning [the amendment had been removed from the bills]. She read from prepared testimony (copy on file):

For two decades states have broadened eligibility for their Medicaid programs to provide family planning services and supplies to individuals who are not otherwise eligible for Medicaid. Today 30 states have chosen to expand eligibility for family planning; 12 of those have done so through what's known as the State Plan Amendment (SPA). Medicaid family planning SPAs provide a broad range of family planning-related services, including the full range of contraceptive methods, pap tests, and other associated examinations

and laboratory tests. A Medicaid family planning SPA does not cover abortion.

Ms. Summers addressed the idea that some of the services were already provided through the Medicaid program. She communicated that a family planning SPA would not be duplicative of the coverage Alaska currently provided through its Medicaid program.

Today, a single mother with one child (working parent, household of 2) is eligible for Medicaid if she earns less than \$2,111 per month. However, eligibility for that same single mother with one child, if she becomes pregnant, goes up to \$4,124 per month during her pregnancy. A childless adult is not eligible at all, unless she has a qualifying condition (e.g. disabled). A Medicaid family planning SPA would provide family planning services to childless adults who are not otherwise eligible for Medicaid, as well as to those single mothers with incomes that fall in the gap between \$2,111 and pregnancy eligibility.

Ms. Summers detailed that Medicaid family planning programs like the SPA under consideration saved states money; nearly \$6.00 saved for every \$1.00 spent. Expanding access to contraception and increasing the use of more effective contraceptive methods are essential to reducing unintended pregnancy. She read from a prepared statement:

The Brookings Institution estimates that Medicaid family planning expansion programs save taxpayers \$1.32 billion annually. Births resulting from unintended pregnancy cost US tax payers approximately \$12.5 billion annually.

Ms. Summers relayed that in Alaska in 2010 there were 3,000 publicly funded births resulting from unintended pregnancies representing more than one-quarter of all births in the state and more than half of the state's Medicaid funded births. The births from unintended pregnancies cost a total of \$71 million; \$34 million of the total had been paid for by the state. She stated that a Medicaid family planning SPA would improve public health while saving taxpayer dollars. She strongly urged the committee to adopt the family planning program.

[9:31:52 AM](#)

JAN CAROLYN HARDY, SELF, ANCHORAGE (via teleconference), urged the committee to vote against the bills. She stated that medically necessary was not in the purview of government and the legal process. She stressed that the decisions were for women and their doctors. The Alaska Supreme Court ruled that the decision a woman makes concerning her own body and whether to carry or terminate a pregnancy is to be given equal protection under the law. The passage of the bills would result in increased spending on litigation related to the unconstitutionality of the issue. She stated that Alaska was working with unprecedented deficits resulting from corporation mentality. She asked if Alaskans needed to bear another unnecessary financial burden in order to forward partisan positions that did nothing to improve the quality of life for all citizens. She questioned if more money needed to be wasted on court costs when many of the state's citizens lacked basic family planning services.

Ms. Hardy spoke to the byproducts of unintended pregnancy including homelessness, hunger, poverty, and malnutrition. She stated that 50 percent of unintended pregnancies occurred in the population served by Medicaid. She communicated that the only safe and economic strategy to prevent unintended pregnancy was to institute a Medicaid women's health program. The program offered supplements and healthcare for women choosing to carry a baby to full-term; it offered contraceptive services for women choosing not to have children. She urged the committee to vote against the bills and asked it to implement a Medicaid women's health program. She relayed that 90 percent of the program's cost was covered by the federal government, with 10 percent covered by the state. In addition to keeping federal dollars in Alaska, the program would defray a significant burden to the Denali KidCare service, which would save millions of dollars. She thanked the committee for its time.

[9:34:45 AM](#)

JOYANNE BLOOM, SELF, JUNEAU, testified against the bills. She spoke to the financial impacts of the legislation. She believed the zero fiscal notes attached to the bill were misleading. She pointed out that the DHSS commissioner had relayed that the bill would cost close to \$1 million in litigation. She had also heard from the sponsor that he

expected the issue would go to litigation. She believed there were many better ways to spend \$1 million.

[9:36:10 AM](#)

ANN ROBERTSON, SELF, JUNEAU, spoke strongly against the legislation. She stated that the definition of medically necessary abortions should be determined only by doctors; the decision was not the purview of the legislature. She believed the bills constituted broad government overreach, which she understood many committee members were opposed to. She urged the committee to vote against the legislation.

[9:37:05 AM](#)

AMY BOLLENBACH, SELF, HOMER (via teleconference), spoke against SB 49. She pointed out that the bills would cost the state a significant amount of money. She noted that it cost less to pay for an abortion than it did to pay the healthcare of children born to women who were not ready to be parents. She mentioned her work as a university psychology teacher. She pointed to the connection between mental and physical health and discussed that if someone was mentally ill it impacted physical health and vice versa. She stated that it was impossible to list all of the different medical reasons a woman may need an abortion. She asked the committee to vote against SB 49 because it was not helpful to the health of women in Alaska.

[9:39:18 AM](#)

JEAN BRAMER, OBSTETRICIAN, FAIRBANKS (via teleconference), testified in favor of the legislation. She stated that medical necessity was defined every day. She stated that many strict definitions of the term existed and much research and literature could explain it. She continued that there were few instances when pregnancies would be recommended for termination based on health issues. She stated that the number of abortions deemed medically necessary were not close to existing definitions of medical necessity. She stated that approximately 40 percent of abortions were deemed necessary compared to literature showing that approximately 4 percent fell under the medically necessary category. She communicated that research showed that there were very few pregnancies that should be terminated due to the health of a mother. She

stated that most of the abortions were terminated based on the desire to not continue a pregnancy. She furthered that SB 49 did not limit resources for women to choose to exercise their legal right of termination. She did not believe the state's tax dollars needed to fund elective abortions. She did not believe the issue had to do with pro-life or pro-choice. She opined that it was a funding issue and that the terms were well defined in the bill. She supported the legislation in order to continue healthcare provided to Alaskans and to make the best use of tax dollars by allowing appropriate definitions to be made. She did not support a "carte blanche" to anyone choosing to terminate a pregnancy.

Representative Wilson asked whether doctors were following the current law related to medical necessity. Dr. Bramer did not believe doctors could be following the current law. She noted that the number of abortions deemed medically necessary by doctors [in Alaska] was much higher than the research figures. She had one or two instances when the option could have been considered but the patients had chosen to continue with their pregnancies. She did not believe it was realistic that 40 percent of the patients could be having abortions out of medical necessity.

Representative Wilson asked Dr. Bramer if she believed that the bill would be effective. Dr. Bramer replied in the affirmative. She believed a statement of medical necessity could be interpreted in various ways; however, there were very few instances when elective surgeries were paid for by insurance. She believed the bill represented a continuation of medical practices in the "normal medical world." She pointed out that the bill provided a strict guideline for what constituted medically necessary. She stated that the bill did not limit anyone's access to abortions. She believed the bill was excellent.

[9:44:15 AM](#)

Representative Gara pointed to Dr. Bramer's testimony that doctors were currently providing elective abortions under the medically necessary category. He disagreed, but wondered why doctors would start complying with the law in the future if they were not complying with existing law.

Dr. Bramer replied that the bills would provide stricter guidelines. She believed a loose guideline provided doctors

with the opportunity to deem elective abortions as medically necessary. She stated that with a strict definition doctors would either be committing fraudulent activity by designating elective abortions as medically necessary or they would have to realize the abortions would not get funded by Medicaid. She believed many physicians were currently providing elective abortions under the medically necessary category.

Representative Munoz wondered if Dr. Bramer believed that a diagnosed mental disability should be listed in the bill as a medically necessary reason for an abortion. Dr. Bramer replied in the negative. She relayed that she had taken care of many women with mental disorders through pregnancies.

[9:46:30 AM](#)

Co-Chair Stoltze wanted to hear from Alaska Mental Health Trust Authority (AMHTA) related to the issues.

Representative Holmes wondered if the health of a fetus was considered in the legislation. She thought it was cruel and unusual if a woman was forced to continue a pregnancy if the fetus would not survive. Dr. Bramer answered that the discovery of an unviable fetus was typically found in the second trimester. She explained that the issue typically went through an ethics committee and an opinion was received from two physicians at different practices. Once agreement had been made that the fetus was nonviable, the patient would have the option to terminate the pregnancy. She stated that the occurrence was fairly infrequent; she recalled that she had three patients in the situation during her 18 years of practice.

Representative Holmes would take the issue up with the sponsor.

Co-Chair Stoltze appreciated the testimony from the physicians.

ALLISON CURREY, SELF, JUNEAU, spoke in opposition to the bills. She agreed with many points made by others opposing the bills. She spoke in support of increased access to family planning services through a Medicaid women's health program. She addressed supporting testimony that the bills were only about clarifying definitions, not restricting

access to abortion. She stressed that legal abortion meant very little to a woman who could not pay for one. She believed the bills were discriminatory because they violated the constitutional equal protection clause that protects the freedom and privacy of low-income women to make their own healthcare decisions. She thanked the committee for its time.

Co-Chair Stoltze CLOSED public testimony.

[9:51:17 AM](#)

Senator Coghill replied that the crux of the issue in the legislation was related to Medicaid payment. He stated that Medicaid was an entitlement provided to poor people in Alaska. He believed that Medicaid should be available when there was a need. He communicated that the bill did not restrict a woman's choice [to have an abortion]. He believed it brought responsibility to the choice. He acknowledged that the area was highly litigated. He noted that Planned Parenthood had no answer when he had asked what constituted an elective abortion. He believed Planned Parenthood viewed any wanted abortion as required. He stated that any other elective procedure would be provided under Medicaid if it was for health reasons. He acknowledged that he had a larger issue with the topic, but he had worked to keep the bill narrowly focused. He stated that a court decision had brought up psychological conditions. As the chairman of the House Judiciary Committee, he had brought eight or nine medical professionals (pro and con) to testify extensively on the legal technical and ethical issues. He had determined that under neutral criteria (was healthcare available under both circumstances) the answer had been that there was no compelling reason to include it [psychological conditions] in the case of abortions. He remarked that the Alaska Supreme Court had not had the testimony that the legislature had heard. He agreed to speak with AMHTA on the subject as well, but believed it had been well vetted.

Senator Coghill stated that Planned Parenthood and the ACLU pushed for abortions in almost any case. He was not surprised that the entities had to both continually be challenged on three legal and practical levels including policy, how to deal with the issue in good standard medical terms, and how to answer technical legal arguments. He shared that he frequently disagreed with the courts on

policy and philosophy. He believed in the rule of law and detailed that the bill attempted to bring clarity to the issue. He agreed that litigation costs existed; however, he found it difficult to believe that promoting abortions over taking care of children would be cheaper. He stated that there was an expense no matter what. He communicated that he had worked hard to help children in need of aid, individuals with Fetal Alcohol Syndrome, and women in need; service for people in need cost approximately \$3.2 billion in state and federal funds. He believed the willingness of Alaskans to help people was difficult to challenge. He stated that the equal protection argument was about whether equitable care was provided; he believed the answer was yes. He acknowledged that the issue was emotional and that the well-being and rights of a mother were to be respected. He discussed that the issue of payment was difficult; the bill aimed to bring clarity.

[9:57:31 AM](#)

Representative Ledoux appreciated the committee's time. She pointed to heartfelt testimony, but noted that most of the opposing testimony related to a woman's right to choose an abortion. She stated that the bill was unrelated to that right. She stressed that the bill only pertained to who paid for abortions.

Senator Coghill added that he had asked DHSS to clarify what was currently covered under family planning services in Alaska. There were currently 39 items covered under family planning. He relayed that under diagnostic general reproductive health there were eight items including cervical cancer, female reproductive cancer, male reproductive, pap smear tests, urinary, and vaginal discharge; there were 11 other items under diagnostic sexually transmitted infections. The contraception category included birth control pills, cervical caps, diaphragms, etc. He stated that there were 16 different variations of family planning currently used in the state. Other cancer screening and prevention covered under Medicaid included mammograms, pap smears, and colonoscopies. He detailed that most of the items were covered at the 90 percent area and many were covered at the 50 percent area. Preconception gynecologic exams were also covered. He believed the requirement under current law was significant. He stated that Denali KidCare provided services in 18 different areas.

Co-Chair Stoltze relayed that DHSS and DOA would address the committee related to the bills. He noted that the issue would be discussed further at the afternoon meeting.

HB 173 was HEARD and HELD in committee for further consideration.

SSSB 49(FIN) was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

[10:00:59 AM](#)

The meeting was adjourned at 10:00 a.m.