

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

March 25, 2014

3:03 p.m.

**MEMBERS PRESENT**

Representative Pete Higgins, Chair  
Representative Wes Keller, Vice Chair  
Representative Benjamin Nageak  
Representative Lance Pruitt  
Representative Lora Reinbold  
Representative Paul Seaton  
Representative Geran Tarr (via teleconference)

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 376

"An Act extending the termination date of the Alaska Health Care Commission; and providing for an effective date."

- MOVED HB 376 OUT OF COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 21

Proclaiming April 2014 as Child Abuse Prevention Month.

- MOVED HCR 21 OUT OF COMMITTEE

HOUSE BILL NO. 360

"An Act prohibiting smoking in certain locations; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 169(FIN)

"An Act establishing in the Department of Health and Social Services a statewide immunization program and the State Vaccine Assessment Council; creating a vaccine assessment account; requiring a vaccine assessment from assessable entities and other program participants for statewide immunization purchases; repealing the temporary child and adult immunization program; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 374

"An Act establishing in the Department of Health and Social Services a statewide immunization program and the State Vaccine Assessment Council; creating a vaccine assessment account; requiring a vaccine assessment from assessable entities and other program participants for statewide immunization purchases; repealing the temporary child and adult immunization program; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 376

SHORT TITLE: EXTEND ALASKA HEALTH CARE COMMISSION

SPONSOR(S): HEALTH & SOCIAL SERVICES

03/14/14 (H) READ THE FIRST TIME - REFERRALS  
03/14/14 (H) HSS, FIN  
03/25/14 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HCR 21

SHORT TITLE: CHILD ABUSE PREVENTION MONTH

SPONSOR(S): TARR

02/26/14 (H) READ THE FIRST TIME - REFERRALS  
02/26/14 (H) HSS  
03/25/14 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 360

SHORT TITLE: REGULATION OF SMOKING

SPONSOR(S): HOLMES

02/26/14 (H) READ THE FIRST TIME - REFERRALS  
02/26/14 (H) HSS, JUD  
03/25/14 (H) HSS AT 3:00 PM CAPITOL 106

BILL: SB 169

SHORT TITLE: IMMUNIZATION PROGRAM; VACCINE ASSESSMENTS

SPONSOR(S): GIESSEL

02/10/14 (S) READ THE FIRST TIME - REFERRALS  
02/10/14 (S) HSS  
02/21/14 (S) HSS AT 1:30 PM BUTROVICH 205  
02/21/14 (S) Heard & Held

02/21/14 (S) MINUTE(HSS)  
 02/24/14 (S) HSS RPT CS 4DP NEW TITLE  
 02/24/14 (S) DP: STEDMAN, MICCICHE, MEYER, ELLIS  
 02/24/14 (S) FIN REFERRAL ADDED AFTER HSS  
 02/24/14 (S) HSS AT 1:30 PM BUTROVICH 205  
 02/24/14 (S) Moved CSSB 169(HSS) Out of Committee  
 02/24/14 (S) MINUTE(HSS)  
 03/03/14 (S) FIN AT 5:00 PM SENATE FINANCE 532  
 03/03/14 (S) Scheduled But Not Heard  
 03/05/14 (S) FIN AT 5:00 PM SENATE FINANCE 532  
 03/05/14 (S) Moved CSSB 169(FIN) Out of Committee  
 03/05/14 (S) MINUTE(FIN)  
 03/07/14 (S) FIN RPT CS 5DP NEW TITLE  
 03/07/14 (S) DP: MEYER, KELLY, BISHOP, DUNLEAVY,  
 OLSON  
 03/21/14 (S) TRANSMITTED TO (H)  
 03/21/14 (S) VERSION: CSSB 169(FIN)  
 03/24/14 (H) READ THE FIRST TIME - REFERRALS  
 03/24/14 (H) HSS, FIN  
 03/25/14 (H) HSS AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

THOMAS STUDLER, Staff  
 Representative Pete Higgins  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Presented HB 376 for the sponsor of the bill, Representative Pete Higgins.

WARD HURLBURT, M.D., Chief Medical Officer/Director  
 Division of Public Health  
 Central Office  
 Department of Health and Social Services  
 Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HB 376.

DEBORAH ERICKSON, Executive Director  
 Alaska Health Care Commission  
 Office of the Commissioner  
 Department of Health and Social Services  
 Anchorage, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 376.

KRISTIN CURTIS  
 Legislative Auditor

Division of Legislative Audit  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 376.

REPRESENTATIVE LINDSEY HOLMES  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 360 as the sponsor of the bill.

ROBERT ERVINE, Staff  
Representative Lindsey Holmes  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Discussed HB 360 on behalf of the sponsor of the bill, Representative Holmes.

JANET KINCAID, Business Owner  
Palmer, Alaska

**POSITION STATEMENT:** Stated her support for HB 360.

CARMEN LUNDE  
Kodiak Cabaret, Hotel, Restaurant, & Retailers Association  
Kodiak, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 360.

LARRY HACKENMILLER, Member  
Alaska Cabaret, Hotel, Restaurant, & Retailers Association  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 360.

MARK MILITELLO, Owner  
Sumo Vapor  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 360.

DANIEL LYNCH  
Soldotna, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 360.

ANGELA CARROLL, Owner  
Glacier Vapors  
Palmer, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 360.

DALE FOX, President & CEO

Alaska Cabaret, Hotel, Restaurant, & Retailers Association  
(CHARR)

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 360.

BETTY MACTAVISH

Kodiak, Alaska

**POSITION STATEMENT:** Testified in support of HB 360.

MATT WAGNER

Bad Boy Vapors Alaska, LLC

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 360.

SEAN DASILVA

Bad Boy Vapors Alaska, LLC

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 360.

SENATOR CATHY GIESSEL

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Presented SB 169 as the sponsor of the bill.

ROSALYN SINGLETON, MD

Alaska Native Tribal Health Consortium (ANTHC) Immunization Program

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 169 and presented a PowerPoint titled "Alaska - What have vaccines done for you?"

JILL LEWIS, Deputy Director - Juneau

Central Office

Division of Public Health

Department of Health and Social Services

Juneau, Alaska

**POSITION STATEMENT:** Testified and answered questions during discussion of SB 169.

## **ACTION NARRATIVE**

[3:03:58 PM](#)

**CHAIR PETE HIGGINS** called the House Health and Social Services Standing Committee meeting to order at 3:03 p.m. Representatives Higgins, Keller, Seaton, and Reinbold were present at the call to order. Representatives Nageak, Pruitt, and Tarr (via teleconference) arrived as the meeting was in progress.

**HB 376-EXTEND ALASKA HEALTH CARE COMMISSION**

[3:04:53 PM](#)

CHAIR HIGGINS announced that the first order of business would be HOUSE BILL NO. 376, "An Act extending the termination date of the Alaska Health Care Commission; and providing for an effective date."

[3:05:22 PM](#)

THOMAS STUDLER, Staff, Representative Pete Higgins, Alaska State Legislature, paraphrased from the sponsor statement, which read:

HB 376 extends the sunset of the Alaska Health Care Commission until June 30, 2017. The Legislative Auditor has concluded that the Alaska Health Care Commission is serving the public's interest and should continue its statutory obligation.

The legislature established the Commission under AS 18.09.010 in 2010 to recommend policies to improve quality, affordability and access to health care, and to identify strategies for improving the health of all Alaskans. Seats representative of various health care stakeholders are designated in statute, and voting members are appointed by the Governor. Sen. Coghill and Rep. Keller currently represent the legislature as ex-officio members of the Commission.

The Commission's approach has been to study current conditions of Alaska's health care market, and design market-based strategies and policy recommendations that enhance the consumer's role in health and health care. The Commission submits an annual report including policy recommendations to the Governor and the legislature on January 15 each year. A summary of the core strategies and policies recommended by the Commission to-date is attached.

In its short tenure the Commission has developed a strategic framework including a time-specific vision with measurable objectives; conducted numerous studies to increase knowledge and understanding of current problems in the health care system, designed a comprehensive body of specific, relevant and measurable market-based policy recommendations for improving health care cost and quality; and created a template for and is facilitating development of an executive branch action plan for implementing Commission policy recommendations. The Commission has also coordinated with and provided consultation to private sector employer groups on health care system concerns.

Excessive health care costs and medical inflation in Alaska threaten the sustainability of the health care system and create a burden on families and public and private employers. Continuation of the Commission would promote accountability and evaluation of public program implementation through finalization of a state agency plan to implement recommended policies, increase transparency in the health care system, and provide continuing consultation and coordination with private sector employers in support of their health care value improvement strategies.

The Commission has consistently proven to be efficient and effective in its progress to develop a strategic framework for improving statewide health care and I ask for your support in the passage of this bill.

3:07:02 PM

WARD HURLBURT, MD, Chief Medical Officer/Director, Division of Public Health, Central Office, Department of Health and Social Services, said that the Alaska Health Care Commission had been initially established by then Governor Sarah Palin by executive order, and later established in law by the Alaska State Legislature. The Commission was "charged with looking at health care delivery in Alaska related to accessibility, affordability, quality, prevention, and so on." He stated that the committee had reviewed the various aspects of the health care delivery system; however, the dominant focus was for the cost of health care, and what opportunities there were to mitigate the high cost. He reported that about 18 percent of gross domestic product was spent for health care in the United States, almost

\$3 trillion annually, whereas the rest of the industrialized world spends about half to two-thirds of this amount in terms of both gross domestic product and dollar equivalents. He pointed out that Norway and Switzerland were the next most expensive countries, spending about two thirds the amount of the U.S., even with longer life expectancies and lower infant mortality. In the past twenty years, comparable health care spending by the U.S. to Norway and Switzerland in percentage of gross domestic product would have saved the U.S. about \$15 trillion, an amount equivalent to the current national debt. He reported that Alaska spends about 20 - 21 percent of its gross domestic product for health care. He relayed that the average salary of teachers in the Anchorage School District had increased about 1 percent annually, over inflation, in the last 30 years, whereas the cost of health care insurance had increased about 15 percent each year above inflation. This was a challenge for the Alaska State Legislature. He noted that the Milliman Company had compared the charges for medical services by various payers in Alaska with those charges in Washington, Oregon, Idaho, North Dakota, Wyoming, and Hawaii, and that Alaska was much higher than the other states. He said that an all payer claims data base had been studied by another contractor, which would provide information for health service charges and quality data for outcomes. He noted that 12 states had this process, with 18 others considering it. He pointed out that the Health Care Commission was working with other health care entities, both public and private sectors. He offered as an example that the Human Resources directors from the large for-profit companies had included the cost of health care during discussion of expansion plans. He noted that the Legislative Audit process had focused on DHSS developing a health plan, and the department had taken those policy recommendations to the Legislature and the governor for guidelines to the formation of a health plan to benefit Alaskans. He offered his belief that all the members of the Health Commission believed that its work benefited the state and its citizens. He requested a determination of value from the Alaska State Legislature.

CHAIR HIGGINS asked if there had been implementation and savings for the state from the recommendations of the Alaska Health Care Commission.

DR. HURLBURT offered his belief that there were results; however, if the Alaska State Legislature did not see those results, he would question his own assessment. He declared that this was a critical decision for the legislature, particularly in light of the necessity for fiscal conservation. He opined

that, in terms of value, the response from larger employers was that the information had helped to contain health care costs. He said that anecdotal reports indicated that this information was helpful in negotiating rates to ensure a level playing field between payers and providers for fair levels of compensation to support a health care industry which was sensitive to the adverse effects of high costs. He compared these high costs to a tax.

CHAIR HIGGINS questioned whether the work of the commission was saving the state money and providing the necessary services.

[3:18:24 PM](#)

DEBORAH ERICKSON, Executive Director, Alaska Health Care Commission, Office of the Commissioner, Department of Health and Social Services, addressed the \$500,000 fiscal note, [Included in members' packets] which had been proposed in the governor's budget, as it reflected the ongoing costs for the next few years. She explained that \$335,000 was paid from the general fund and the remaining \$165,000 from federal funds to the department. She reported that this budget supported two staff, travel for the 14 commission members, and the occasional facility cost to host a meeting with the private sector. She noted that some of the budget was for professional service contracts for special studies on which the commission did not have expertise or capacity. She offered an example of the actuarial study comparing pricing and reimbursement levels between payers in Alaska, to better understand cost shifting between private insurance and Medicaid, as well as a cost comparison between Alaska and other states in our region. She reported that currently there was a contract with the Institute for Social and Economic Research (ISER) and Department of Labor & Workforce Development to survey private sector health insurance, concerns, and employee wellness programs. She pointed out that there had been studies related to the impact of the Affordable Care and Patient Protection Act, including an employer survey to capture information regarding the actions of Alaska employers both before and after implementation of the individual mandate, for use as a baseline with future assessments.

REPRESENTATIVE SEATON referred to the report on "Core Strategies for Health Care Transformation" [Included in members' packets] and asked how the commission reached its first goal of ensuring that the best available evidence was used for making decisions.

MS. ERICKSON replied that a series of more specific policy recommendations related to that strategy was an appendix to the commission's 2013 report. She relayed that ensuring the best available evidence was used for making decisions was the most important, although it was more difficult to implement and had longer term implications. She offered an example of the learning sessions with the private medical community in order to critically appraise medical literature for identification of biases during reporting of studies. She said there were additional techniques for incorporating evidence into insurance designs, which were being discussed for employee and retiree health plans. She noted that the commission had also presented a specific recommendation to the Workers' Compensation Board.

REPRESENTATIVE SEATON asked that the upcoming report show the strategy and what was being done to accomplish the strategy.

MS. ERICKSON directed attention to the recommendations by Division of Legislative Audit, which stated that the commission was meeting its intent, although it was necessary for an actual plan for implementation of the strategies. She stated that there had been meetings with the directors from state agencies that had a lead role in health care services. She referred to an appendix in the 2013 report that detailed the plan for each agency to implement the recommendations by the commission.

[3:26:44 PM](#)

KRISTIN CURTIS, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, explained that her division had conducted a sunset audit of the commission to decide whether the commission served the public interest and whether its termination date should be extended. She referred to the audit report [Included in members' packets]. She offered some background on the commission and the expectations from the legislature. The commission had been started by executive order in 2008, with the legislature intending for the commission to achieve health reforms through development of the statewide health plan; however, the original commission did not consider itself responsible for the development of a plan, and the new commission, established in statute in 2010, had agreed to continue the approach by the prior commission. The new commission collected information from various cost studies and developed high level policy recommendations, while establishing general priorities which evolved into a strategic framework. She directed attention to Appendix A of the audit report [Included in members' packets]. She declared that the audit had

concluded that the commission was serving the interest of the public, but improvements in the development of a state health plan were necessary to justify its continued existence. She stated that the legislature had intended the commission to work in conjunction with Department of Health and Social Services (DHSS) to create a comprehensive health plan; however, as the commission had not collaborated with DHSS, Division of Legislative Audit recommended only a three year extension in order to develop a plan. The audit concluded that the commission was active, although there was concern by the division that the framework lacked any actionable components for effective implementation and did not identify specific actions to be taken, a timeframe for completion, the person responsible for taking action, a definition for a successful outcome, or a means to specifically monitor and measure progress. Without a statewide health plan, the actions of the commission may not effectively impact health care in Alaska. She recommended coordination with the DHSS commissioner to identify the role and responsibility of each agency and then pursue development of the health plan. The audit also recommended improvement for the public noticing of meetings and assurance that annual reports include all statutorily required elements.

REPRESENTATIVE KELLER clarified that he was a member of the commission, although he did not perceive any conflict of interest and he had no economic connection. He acknowledged that he was biased and very positive in general terms for the commission. He declared that there was a challenge to keep the health care system in Alaska from entering a crisis, and that everyone on the commission had agreed on the necessity to cut the costs. He opined that it would get better, as the commission had identified significant issues, including a focus on preventive care.

[3:31:56 PM](#)

REPRESENTATIVE SEATON referenced the plan mentioned in the audit report, and asked if the commission agreed with the findings by the Division of Legislative Audit to develop a specific actionable plan as a primary goal of the commission.

REPRESENTATIVE KELLER replied that this had been the focus of the previous commission meeting.

CHAIR HIGGINS offered his agreement that the commission had the potential to be really beneficial to Alaska, and he recommended that it be allowed more time.

[3:33:07 PM](#)

REPRESENTATIVE KELLER moved to report HB 376, version 28-LS1604\A, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 376 was moved from the House Health and Social Services Standing Committee.

[3:33:40 PM](#)

The committee took an at-ease from 3:33 p.m. to 3:35 p.m.

**HCR 21-CHILD ABUSE PREVENTION MONTH**

[3:35:40 PM](#)

CHAIR HIGGINS announced that the next order of business would be HOUSE CONCURRENT RESOLUTION NO. 21, Proclaiming April 2014 as Child Abuse Prevention Month.

[3:36:13 PM](#)

REPRESENTATIVE TARR, via teleconference, testified in support of HCR 21, as the sponsor of the resolution. She expressed recognition of April as Child Abuse Awareness Month, and stated that it would help raise the profile of this and similar issues, in order to "break the silence." She directed attention to the numbers for child abuse incidences in the resolution, which had been gathered from the DHSS monthly on-line reports [Included in members' packets]. She stated that this resolution joined others in support across the United States, and she pointed to a chronology for the national effort toward recognition of Child Abuse Awareness going back to 1974 [Included in members' packets]. She expressed her desire to share this resolution with agencies and organizations that worked on these issues, and with legislators to share with their constituents. She offered examples of some planned events.

CHAIR HIGGINS expressed his support for the proposed resolution.

[3:40:25 PM](#)

REPRESENTATIVE KELLER moved to report HCR 21, Version 28-LS1522\U, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection,

HCR 21 was moved from the House Health and Social Services Standing Committee.

[3:41:00 PM](#)

The committee took a brief at-ease.

**HB 360-REGULATION OF SMOKING**

[3:42:22 PM](#)

CHAIR HIGGINS announced that the next order of business would be HOUSE BILL NO. 360, "An Act prohibiting smoking in certain locations; and providing for an effective date."

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS) CSHB 360, labeled 28-LS1336\U, Strasbaugh, 3/21/14, as the working draft. There being no objection, it was so ordered.

[3:42:39 PM](#)

REPRESENTATIVE LINDSEY HOLMES, Alaska State Legislature, declared that the proposed bill was also called "the take it outside bill." She explained that it was designed to protect people in their own workplaces from having to breathe second hand smoke. She stated that there was now more knowledge about the effects from second hand smoke and she offered anecdotes about past experiences with second hand smoke. She reported that second hand smoke killed an estimated 50,000 Americans every year from lung cancer and heart disease, and the Surgeon General had reported that even brief exposure to second hand smoke could have immediate adverse effects on the cardiovascular system. This same report estimated that second hand smoke caused about \$5.6 billion in loss productivity annually. An analysis from the Institute of Medicine in 2009 concluded that smoke free workplace laws helped reduce heart attacks from 6 - 47 percent. She noted that stroke had also been added to the list as caused by exposure to second hand smoke. She said that approximately half of the jobs in Alaska were covered by smoke free workplace laws. She reported that more than 400 businesses in Alaska had signed resolutions supporting a state wide smoke free indoor workplace law [Included in members' packets], noting that the Alaska Supreme Court had recently recognized that the government did have a legitimate interest in protecting citizens from "the well-established dangers of second

hand tobacco smoke." She reported that more than 30 other states already had similar laws.

CHAIR HIGGINS asked if the decision by work places to be smoke free was voluntary.

REPRESENTATIVE HOLMES replied that some were voluntary, although many were in areas of the state that had local, smoke free work place laws. She pointed out that, in many unincorporated areas, local government did not have the power to impose these ordinances.

CHAIR HIGGINS asked how the proposed bill would be enforced.

REPRESENTATIVE HOLMES replied that "it's fairly well self-policing" and there had been very little need for enforcement.

[3:47:37 PM](#)

ROBERT ERVINE, Staff, Representative Lindsey Holmes, Alaska State Legislature, explained that smoking laws in Alaska were under the purview of Department of Environmental Conservation (DEC) although a goal of the proposed bill was to shift this to Department of Health and Social Services (DHSS). This would allow an employee to make a complaint if there was a violation. He referred to the Sectional Summary [Included in members' packets]. He explained that Section 1, paragraph (1), created new smoking laws to prohibit smoking in, among others, enclosed areas within places of employment, public places, schools, and transportation facilities. Describing paragraph (2), he stated that it applied to, among others, outdoor arenas, stadiums, and areas of public schools. Moving on to subsection (b), he listed the three exemptions to include private clubs, private residences except hotels or motels, and vessels engaged in commercial or sport fishing activities. The next section, AS 18.35.331, required employers, owners, and operators to post no smoking signs within places or vehicles where smoking was prohibited.

REPRESENTATIVE SEATON asked for identification of the referenced page and line.

REPRESENTATIVE KELLER stated that this was on page 3, line 3.

MR. ERVINE directed attention to page 3, line 23, which required the commissioner of DHSS to develop and maintain procedures for processing reports of violations. He observed that it would be

necessary for further clarification that this was not "a gotcha task force as enforcement." He moved on to page 3, line 31 through page 4, line 13, which established the fine amounts for violations. He noted that, although these regulations did not fall under the purview of DHSS, DEC did not have enforcement capabilities for the current smoking law either. This would shift the enforcement to DHSS, and "hopefully give them some measure of teeth to enforce this."

REPRESENTATIVE SEATON directed attention to page 3, line 6, and asked about a task force.

MR. ERVINE stated that a task force was not being established.

REPRESENTATIVE HOLMES said that the goal was for clarification that the intent for the proposed bill was not to be "a sting operation," or a "big enforcement effort." She offered that her intent was for this to be "complaint driven only, and fairly limited in scope," and not for "a big enforcement effort."

CHAIR HIGGINS said that the proposed bill would be held over.

MR. ERVINE directed attention back to AS 18.35.344(c) through (e), page 3, line 31 through page 4, line 13, which allowed peace officers, or an employee designated by the commissioner, to issue citations for violations of the new law. These violations could be reported by a person observing the violation. He stated that it went on to discuss ticketing and bail for violations.

[3:54:47 PM](#)

MR. ERVINE directed attention to AS 18.35.351, page 5, lines 30 - 31, and page 6, lines 1 - 9, which required the Commissioner of DHSS "to administer and enforce the provisions of the new law and adopt regulations as needed." He referred to AS 18.35.356, page 6, lines 10 - 19, which required the [DHSS] commissioner to provide ongoing access to the public about the law, including an electronically published brochure explaining the new requirements for employers, property owners, property operators, and the public. He said this was an important component of the proposed bill, as it focused on public education and not enforcement.

MR. ERVINE moved on to AS 18.35.357, page 6, lines 20 - 27, noting that this was an important protection for employees from retaliation by an employer. He said that AS 18.35.359, page 6,

lines 28 - 31, and page 7, line 1, established that a municipality may adopt and enforce local laws that were more stringent than the proposed bill. He explained that AS 18.35.366, page 7, lines 3 - 31 and page 8, lines 1 - 14, were the definitions provided for business, commissioner, department, e-cigarette, employee, employer, enclosed area, health care facility, private club, place of employment, public place, and smoking.

MR. ERVINE referred to page 8, lines 15 - 16, which repealed the listed existing statutes.

CHAIR HIGGINS asked about the authority to issue citations.

MR. ERVINE replied that the proposed bill would designate that authority.

REPRESENTATIVE KELLER asked for clarification that the person issuing the citation had to see the offense committed.

MR. ERVINE referred to page 4, lines 21 - 23.

REPRESENTATIVE KELLER asked if the criteria for a citation were for the complainant to witness the offense.

MR. ERVINE replied that either a peace officer or the designated department person could issue the citation.

REPRESENTATIVE KELLER asked for more clarification.

REPRESENTATIVE HOLMES offered her understanding that the peace officer must witness the offense, but that the designated department person did not have to witness it.

[3:59:14 PM](#)

REPRESENTATIVE PRUITT, asking for clarification that a person designated by the commissioner could issue a citation without having to see the offense, announced that this "could be opening ourselves up" and declared "that's a slippery slope."

MR. ERVINE explained that the intention was for the commissioner, or the designated person, to follow up on a report with a letter, instead of an actual citation. He offered to provide clarification in the proposed bill.

REPRESENTATIVE PRUITT stated his recognition for an indeterminate fiscal note, as it "could be huge if you're talking about having enough people out there for all the little situations."

REPRESENTATIVE HOLMES said that this was not the intent for the proposed bill, and they would continue to work for clarification.

REPRESENTATIVE SEATON referred to page 4, lines 16 - 17, and stated that a violation of AS 18.35.301 had to be committed in the presence of the officer, although a citation could be issued for a violation of AS 18.35.331 or AS 18.35.357 that did not occur in the presence of the officer.

REPRESENTATIVE SEATON, referring to page 5, line 27, asked for clarification and the intent that a commissioner may bring civil action to enjoin a violation of these statutes.

REPRESENTATIVE HOLMES replied that this would be a result of non-compliance with the law.

REPRESENTATIVE SEATON asked if this could result from a \$100 violation in Superior Court.

REPRESENTATIVE HOLMES explained that enjoining the action was similar to a temporary restraining order after non-compliance to repeated complaints.

MR. ERVINE pointed out that the fines and the injunction sections were modeled from existing law. He discussed Section 3, page 8, lines 17 - 20, which was uncodified law and clarified that the new provisions of the bill applied to violations or failure to comply that occur on or after the effective date. Section 4, page 8, lines 21 - 26, was uncodified law and permitted Department of Health and Social Services to adopt regulations to implement Section 1 of the proposed bill. He noted that any regulations could not take effect before the effective date. He concluded with Sections 5 and 6, page 8, lines 27 and 28, which set the effective date of October 1, 2014 for the bill, although Section 4 would take effect immediately.

[4:05:32 PM](#)

MR. ERVINE paraphrased from the Summary of Changes [Included in members' packets] and stated that there was a slight modification of the bill title. He directed attention to page

1, line 8, and said that the proposed areas for prohibiting smoking had been split to just include enclosed areas, with page 2, line 15, now including enclosed areas and the grounds. On page 2, line 1, "health care facility" was deleted from the list in subsection (a)(1)(D). On page 2, lines 11 - 12, a new subparagraph (H) specified that smoking was only allowed in vehicles driven by an owner/operator, and not in any vehicle used as a place of employment. On page 3, line 1, "or adult" was inserted after "children" to clarify that the exemption was for private residences, and did not include a location where adult care was provided on a fee for service basis. Moving on to page 3, lines 13 - 17, he described that subsections (b) and (c) were combined and rewritten to place responsibility for posting signage that smoking was prohibited on the person in charge of the building. On page 3, lines 21 - 22, subsection (d) was rewritten to require the Department of Health and Social Services to provide the required signs in this section. On page 3, AS 18.35.331, subsection (f) was deleted, and on page 6, line 29, "or a political subdivision of the state" was deleted. Finally, on page 7, lines 9 - 12, the definition of "e-cigarette" was amended to include a broader range of e-cigarette products that produce a vapor for inhalation, even though this vapor may not be nicotine, but could contain other harmful toxins.

[4:08:47 PM](#)

The committee took an at-ease from 4:08 p.m. to 4:10 p.m.

[4:10:23 PM](#)

CHAIR HIGGINS said that the proposed bill would be held over, and he opened public testimony.

[4:11:22 PM](#)

JANET KINCAID, Business Owner, reported that there was a no smoking ordinance in Palmer with almost universal support and that it had been very good for business and health.

CARMEN LUNDE, Kodiak Cabaret, Hotel, Restaurant, & Retailers Association (CHARR), stated that government intervention needed to stop. She declared that the proposed bill was targeted at bars, as there was no longer smoking in the other places described in the proposed bill. She said that Kodiak used common sense for its smoking issues and allowed a free choice for individuals. She opined that no government at any level

should have the right to dictate how a business owner chooses to run their business. She declared that citizens should have the right to make their own choices.

LARRY HACKENMILLER, member, Alaska Cabaret, Hotel, Restaurant, & Retailers Association, stated that the Fairbanks City Council had decided that there was sufficient choice and had decided not to implement any widespread ban. He declared that the statistics for death from second hand smoke had not changed since initial testimonies, and he opined that this would have declined as there were now fewer smokers. He questioned the hazards included with smoking. He said that there was not any science to support harm from e-cigarettes. He compared the toxins, chemicals, and carcinogens emitted from e-cigarettes with those from candles, declaring them to be similar. He pointed out that candles were not included in the proposed bill. He stated that, as 95 percent of restaurants in Fairbanks were non-smoking by choice, the proposed bill was not necessary and only "makes criminals out of people" and "beefs up the government payroll beyond what's necessary and it doesn't address [the] real issue." He referenced the building code requirement for air exchanges, which did not mention second hand smoke, and he said "well, this bull about, well, the employee's safety, it's a matter of preference and an employee may not like the smell of smoke or whatever, but it's still.. again, when they keep telling you that we have a right to smoke free air, well, that's true, but you also have a right to smoke filled air. Those rights exist for everybody." He declared that, as the discussion was for second hand smoke, he had not found any research that "shows a miniscule exposure" was a health issue.

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MARK MILITELLO, owner, Sumo Vapor, said that, although he was a non-smoker, he did not agree with a comparison of cigarettes to e-cigarettes. He said he had not yet been shown that anyone had died from exposure to e-cigarettes. He offered his belief that e-cigarettes should be compared to the nicotine patch or nicotine gum. He stated that he was the owner of an electronic cigarette store, and he opined that e-cigarettes should not be included in the proposed bill.

DANIEL LYNCH said that he had been a smoker for forty years, although he recognized that it was "a bad habit." He stated that "a few do-gooders want to make me a criminal for having a bad legal habit." He pointed out that he voluntarily paid substantial taxes on his cigarette purchases. He stated that

cigarette smoke was healthier than tailpipe exhaust. He relayed that all of his previous employers had the freedom to make and enforce their own policies on work place activities, including smoking, and that these policies worked well.

ANGELA CARROLL, Owner, Glacier Vapors, said that she was an owner of a vapor e-cigarette shop, and that she was opposed to the language including electronic cigarettes in the proposed bill. She offered her belief that a business owner should make the decision to allow vaping or smoking in their establishment. She stated that e-cigarettes should not be included with cigarettes. She reported that she had been a smoker for 37 years, and that e-cigarettes had dramatically lowered her nicotine intake. She offered her belief that the proposed bill would close down most e-cigarette stores. She pointed to studies which indicated that vaping was far less harmful than cigarettes, and she asked for an educated vote on the proposed bill, and an exclusion of e-cigarettes in the language of the proposed bill.

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DALE FOX, President & CEO, Alaska Cabaret, Hotel, Restaurant, & Retailers Association (CHARR), declared that the "ban on smoking is a ban on bars." He said that almost every place on the list was already excluded from smoking, and that most communities offered a number of choices for bars and businesses to visit. He said that CHARR members were really frightened, as significant losses of revenue were reported after a smoking ban. His observations were that smoking bans had led to a 30 percent decrease in revenue. He stated that there should be a freedom of choice for smoking or non-smoking. He said that many CHARR members were angry, as local votes had allowed the maintenance of both smoking and non-smoking establishments. He stated that, if legislators believed in smaller government and the right of self-determination by local government, there would not be support of the proposed bill.

BETTY MACTAVISH commended the committee for considering the proposed bill. She reported that only half of Alaskan workers were protected by smoke free workplace laws, and that one non-smoker died from second hand smoke for every nine smokers "who died from their addiction." Her extended exposure to second hand smoke had resulted in her diagnosis as "having the lungs of a smoker." She stated that the science was clear that exposure to tobacco smoke kills. She addressed e-cigarettes and second hand aerosol, and stated that this was not harmless water vapor,

as stated by the tobacco industry. She noted that research had just begun for the health effects of e-cigarettes. She reported that second hand e-cigarette aerosol contained nicotine and ultra-fine particles, concentrated at levels higher than in conventional tobacco cigarette smoke, which exacerbated respiratory ailments. She listed some of the compounds and metals known to be in second hand e-cigarette aerosol, including chromium, nickel, tin, benzene, acetone, and glycerol. She shared that three other states had already protected their workers from second hand aerosol exposure from e-cigarettes in the work place by passing strong work place laws.

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CHAIR HIGGINS stated that public testimony would be kept open.

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The committee took a brief at-ease.

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MATT WAGNER, Bad Boy Vapors Alaska, LLC, stated his opposition to the proposed bill. He expressed his agreement for consistent regulation of smoking in Alaska and the detrimental health effects to both users and those in proximity to second hand smoke. He stated, however, that inclusion of e-cigarettes in the proposed bill was a mistake. He declared "smoking is not vaping and vaping is not smoking." He explained that there was not any combustion from use of e-cigarettes, and therefore, there were no dangerous by-products. He directed attention to studies which indicated that the second hand effects of vaping were extremely negligible. He shared his excitement for the success of people who had "quit smoking paper cigarettes with the help of electronic cigarettes." He declared that these e-cigarettes were an effective alternative, and that they did not put anyone at risk for inhaling the toxic by-products of smoking. He declared opposition to the proposed bill, as it would no longer be possible to demonstrate the benefits of vaping.

SEAN DASILVA, Bad Boy Vapors Alaska, LLC, shared that the aforementioned technical research had been from a study conducted almost six years prior, when the industry was still extremely primitive. He acknowledged that the e-cigarettes and the "e-juice" were then coming from China, and that there had not been any regulation. He stated expectations for the FDA to

regulate and certify the "e-juice." He pointed to two studies that reported no meaningful risk from second hand vapor. He asked that the committee gather all the facts to better understand that policy in HB 360 for e-cigarettes was misguided.

[HB 360 was held over]

[4:34:14 PM](#)

The committee took a brief at-ease.

**SB 169-IMMUNIZATION PROGRAM; VACCINE ASSESSMENTS**

[4:35:14 PM](#)

CHAIR HIGGINS announced that the next order of business would be CS FOR SENATE BILL NO. 169(FIN), "An Act establishing in the Department of Health and Social Services a statewide immunization program and the State Vaccine Assessment Council; creating a vaccine assessment account; requiring a vaccine assessment from assessable entities and other program participants for statewide immunization purchases; repealing the temporary child and adult immunization program; and providing for an effective date."

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SENATOR CATHY GIESSEL, Alaska State Legislature, referred to earlier testimony regarding HB 376, for extension of the termination date for the Alaska Health Care Commission. She noted that the commission reviewed the high cost of health care in Alaska, and, as revenue was declining in the state, it was necessary to be very attentive to the budget. She declared that "vaccines reduce the cost of health care," and that it was a recommendation of the Alaska Health Care Commission. She reported that SB 169 created a private/public partnership between the insurance companies and self-insured groups with the State of Alaska to address vaccine costs through a state vaccine assessment council, which would oversee a reinstatement of universal vaccines in Alaska through the Department of Health and Social Services (DHSS). She reflected on the concerns of health care in Alaska by Senator Ted Stevens, and shared an anecdote about the generous funding for vaccines he secured. She reminded the committee about the earlier high rates of polio, as well as Hepatitis A & B, and pointed out that, with vaccines, these had almost been eradicated. She noted that the

last outbreak of measles in Alaska, in 2000, had been introduced by a young unvaccinated child arriving from South Korea, which resulted in the understanding for a need of a second measles, mumps, and rubella vaccine. She reported that there was currently an outbreak of chicken pox in the Kenai/Soldotna area, which was dangerous for adult men, pregnant women, and infants. She declared that vaccines could prevent chicken pox. She pointed out that earlier federal funding of \$4.3 million each year to Alaska for vaccines was now only \$700,000. She reported on a bill that had been introduced in 2012 as a temporary solution, Senate Bill 140, which had passed unanimously in both the House and the Senate to use \$4.3 million of state funding for three years of vaccines. During this time, the DHSS had been directed to find a funding solution other than the state, resulting in proposed SB 169. The proposed bill would create a council, page 2, line 19 through page [4], line 8, which would operate under DHSS and its staff. She explained that the council would determine assessments for the insurance companies, and then use that money to buy low cost vaccines to be distributed around the state. She allowed that this public/private partnership was working in nine other states, resulting in substantial savings. She referred to 24 letters of support [Included in members' packets], including a letter of support from Premera Blue Cross.

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ROSALYN SINGLETON, MD, Alaska Native Tribal Health Consortium (ANTHC) Immunization Program, stated her support for the proposed bill to improve access to vaccines for Alaskans, streamline distribution, and reduce the administrative burden for providers, and she directed attention to a PowerPoint titled "Alaska - What have vaccines done for you." She referred to slide 2, "Vaccination: an ounce of prevention saves a ton of lives," which offered a brief summary of the dramatic improvement in disease control because of universal access to vaccines in Alaska. She moved on to slide 3, "Vaccine - Preventable Disease Success, Alaska," and stated that Hib meningitis, measles, and Hepatitis A outbreaks had virtually disappeared. She pointed out that measles were most often brought in from other countries, and in Alaska, this was only a plane flight away. She declared that it was imperative to maintain a high rate of vaccination in children in order to control the disease. She discussed slide 4, "Polio," and explained that it attacked the nervous system, causing muscle weakness, paralysis, or death. She reported that the last case of polio in the United States had been in 1979, although polio

was still endemic in other parts of the world and could be brought into the country. She moved on to slide 5, "Diphtheria," and shared an anecdote of an epidemic in Nome, which was today highlighted by the Iditarod Race. She relayed that diphtheria was also a disease of the past in the U.S. because of vaccines. Discussing slide 7, Hepatitis A and B in Alaska," she relayed that there had been almost total control of Hepatitis A in Alaska since the vaccine. She pointed to slide 6, "Hib disease," and explained that it had decreased. She concluded with slide 8, "Measles," and stated that Alaska had not had measles since 2000. She emphasized that since 2009, providers had fronted the cost of vaccine for insured patients, while separately stocking private and state purchased vaccines. She relayed that SB 169 would re-establish universal access to vaccines through the self-sustaining, cost effective private-public partnership.

REPRESENTATIVE REINBOLD opined that this was leveraging the state's buying power to reduce the cost and increase access for vaccines. She asked if there were any adverse reactions or concerns for vaccinations and immunizations on a larger scale.

DR. SINGLETON replied that all vaccines could have adverse side-effects. She stated that vaccines were the most tested and regulated health care benefit that we have. She said there was not any evidence for significant side effects from the newer vaccines, as they had been extensively tested with post vaccine testing and evaluation.

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DR. SINGLETON, in response to Representative Reinbold, stated that there was not any link between vaccines and autism. There had been a 1998 paper published in Britain, based on research of 12 children, claiming a link between vaccines and autism, which had ultimately been found to be fraudulent. The paper was disavowed by the British Medical Journal, and the data had not been replicated in subsequent studies. She declared that this report had sparked unwarranted concerns, and she expressed her confidence that there was not any link between vaccines and autism.

REPRESENTATIVE REINBOLD said that the proposed bill could have "a long term, very positive effect on our state budget."

CHAIR HIGGINS expressed his agreement with evidence that vaccines were good. He declared that the proposed bill raised

the question for how to pay for this. He stated his concern with third party payers and Tricare making these payments. He stated that he wanted to make the program work.

CHAIR HIGGINS asked for more information about the third party payer, specifically Tricare, as the focus of the proposed bill was for adult immunizations. He stated that federal money paid for child immunizations. He opined that the "donut hole" was for adult immunizations, as Medicare did not offer coverage. He asked how the proposed program would work for adults. He stated that only one other state included adults in vaccine coverage. He offered his belief that Vermont most closely mirrored the proposed bill.

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JILL LEWIS, Deputy Director - Juneau, Central Office, Division of Public Health, Department of Health and Social Services, expressed agreement that Vermont had included adult vaccines in its universal program since 2009. She declared that, without the proposed bill, when the temporary funding for vaccines was depleted at the end of 2015, the state would not have a state supply for all children. She clarified that the only state supplied vaccine would be for the 50 percent of children covered by a federal program, Vaccines for Children. She reported that this would only include Medicaid, Alaska Native, American Indian, and uninsured children. She stated that anyone with private pay insurance would not receive any state supplied vaccine, as the burden would be on the providers to purchase and pay up front for vaccines, and then seek reimbursement from the payers. She explained that there was no safety net program for adults, and each payer would need to be assessed funding for its patients. She noted that Tricare had not participated and paid the reimbursement in other states. She reported that the proposed bill had reviewed the programs in other states and decided that, should Tricare not participate, then the state would not supply the vaccine and other payers would not have to pay, so the providers would continue to purchase the vaccine on the open market and continue to seek reimbursement from Tricare, as was the current practice. She said that the provider could continue to purchase vaccines privately when there was not an accessible payer.

REPRESENTATIVE NAGEAK asked that the vaccine for shingles be made available for people.

REPRESENTATIVE KELLER reflected that the proposed bill was "a big issue and lots of pitfalls in it." He requested that the questions be answered before the bill was moved from the committee, that any unintended consequences be addressed, and that the costs be closely reviewed.

CHAIR HIGGINS said that [SB 169] would be held over.

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**ADJOURNMENT**

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 5:03 p.m.