

ALASKA STATE LMS. GRAVESISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

April 7, 2016

3:03 p.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Liz Vazquez, Vice Chair
Representative Louise Stutes
Representative David Talerico
Representative Geran Tarr
Representative Adam Wool

MEMBERS ABSENT

Representative Neal Foster

OTHER LEGISLATORS PRESENT

Senator Mike Dunleavy

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 72(L&C)

"An Act relating to the discharge of patients from hospitals and to caregivers of patients after discharge from a hospital; and providing for an effective date."

- HEARD & HELD

CS FOR SENATE BILL NO. 89(RLS) AM(EFD ADD)

"An Act relating to a parent's right to direct the education of a child; prohibiting a school district from contracting with an abortion services provider; prohibiting a school district from allowing an abortion services provider to furnish course materials or provide instruction concerning sexuality or sexually transmitted diseases; relating to physical examinations for teachers; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 72

SHORT TITLE: DESIGNATED CAREGIVERS FOR PATIENTS

SPONSOR(s): SENATOR(s) GIESSEL

03/11/15 (S) READ THE FIRST TIME - REFERRALS
 03/11/15 (S) HSS, L&C
 04/10/15 (S) HSS AT 1:30 PM BUTROVICH 205
 04/10/15 (S) Heard & Held
 04/10/15 (S) MINUTE (HSS)
 02/01/16 (S) HSS AT 1:30 PM BUTROVICH 205
 02/01/16 (S) Moved CSSB 72(HSS) Out of Committee
 02/01/16 (S) MINUTE (HSS)
 02/03/16 (S) HSS RPT CS 2DP 2NR NEW TITLE
 02/03/16 (S) DP: GIESSEL, STOLTZE
 02/03/16 (S) NR: STEDMAN, ELLIS
 02/23/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 02/23/16 (S) Heard & Held
 02/23/16 (S) MINUTE (L&C)
 02/25/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 02/25/16 (S) Moved CSSB 72(L&C) Out of Committee
 02/25/16 (S) MINUTE (L&C)
 02/29/16 (S) L&C RPT CS 4DP NEW TITLE
 02/29/16 (S) DP: COSTELLO, GIESSEL, MEYER, STEVENS
 02/29/16 (S) TRANSMITTED TO (H)
 02/29/16 (S) VERSION: CSSB 72(L&C)
 03/04/16 (H) READ THE FIRST TIME - REFERRALS
 03/04/16 (H) HSS
 04/07/16 (H) HSS AT 3:00 PM CAPITOL 106

BILL: SB 89

SHORT TITLE: SCHOOLS: PARENT RTS;ABORT. PROVDRS LIMITS
 SPONSOR(s): SENATOR(s) DUNLEAVY

03/25/15 (S) READ THE FIRST TIME - REFERRALS
 03/25/15 (S) EDC, STA
 03/31/15 (S) EDC AT 3:30 PM BUTROVICH 205
 03/31/15 (S) Scheduled but Not Heard
 04/02/15 (S) EDC AT 3:30 PM BUTROVICH 205
 04/02/15 (S) Heard & Held
 04/02/15 (S) MINUTE (EDC)
 04/07/15 (S) EDC AT 3:30 PM BUTROVICH 205
 04/07/15 (S) Heard & Held
 04/07/15 (S) MINUTE (EDC)
 04/09/15 (S) STA AT 9:00 AM BUTROVICH 205
 04/09/15 (S) <Pending Referral>
 04/09/15 (S) EDC AT 3:30 PM BUTROVICH 205
 04/09/15 (S) Moved CSSB 89(EDC) Out of Committee
 04/09/15 (S) MINUTE (EDC)
 04/10/15 (S) EDC RPT CS 3DP 1DNP NEW TITLE
 04/10/15 (S) DP: DUNLEAVY, GIESSEL, HUGGINS

04/10/15 (S) DNP: GARDNER
 04/14/15 (S) STA AT 8:00 AM BUTROVICH 205
 04/14/15 (S) Heard & Held
 04/14/15 (S) MINUTE (STA)
 04/15/15 (S) STA RPT CS 3DP 1AM NEW TITLE
 04/15/15 (S) DP: STOLTZE, COGHILL, HUGGINS
 04/15/15 (S) AM: WIELECHOWSKI
 04/15/15 (S) STA AT 8:00 AM BUTROVICH 205
 04/15/15 (S) Moved CSSB 89(STA) Out of Committee
 04/15/15 (S) MINUTE (STA)
 02/24/16 (S) RLS RPT CS 4DP 1DNP NEW TITLE
 02/24/16 (S) DP: HUGGINS, COGHILL, KELLY, MEYER
 02/24/16 (S) DNP: GARDNER
 02/24/16 (S) BILL REPRINTED 2/24/16
 02/24/16 (S) RLS AT 8:00 AM BUTROVICH 205
 02/24/16 (S) Moved CSSB 89(RLS) Out of Committee
 02/24/16 (S) MINUTE (RLS)
 02/29/16 (S) TRANSMITTED TO (H)
 02/29/16 (S) VERSION: CSSB 89(RLS) AM (EFDADD)
 03/04/16 (H) READ THE FIRST TIME - REFERRALS
 03/04/16 (H) EDC, JUD
 03/14/16 (H) EDC AT 8:00 AM CAPITOL 106
 03/14/16 (H) Heard & Held
 03/14/16 (H) MINUTE (EDC)
 03/16/16 (H) JUD REFERRAL REMOVED
 03/16/16 (H) HSS REFERRAL ADDED AFTER EDC
 03/21/16 (H) EDC AT 8:00 AM CAPITOL 106
 03/21/16 (H) Heard & Held
 03/21/16 (H) MINUTE (EDC)
 03/23/16 (H) EDC AT 8:00 AM CAPITOL 106
 03/23/16 (H) Moved HCS CSSB 89(EDC) Out of Committee
 03/23/16 (H) MINUTE (EDC)
 03/24/16 (H) EDC RPT HCS (EDC) 4DP 2DNP 1NR
 03/24/16 (H) DP: VAZQUEZ, TALERICO, COLVER, KELLER
 03/24/16 (H) DNP: DRUMMOND, SPOHNHOLZ
 03/24/16 (H) NR: SEATON
 04/07/16 (H) HSS AT 3:00 PM CAPITOL 106

WITNESS RMS. GRAVESISTER

JANE CONWAY, Staff
 Senator Cathy Giessel
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 72, explained the legislation by section, and answered questions on behalf of Senator Giessel, prime sponsor.

EMMY VAN WHY, Intern
Senator Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Described SB 72, on behalf of Senator Giessel, prime sponsor.

KATHLEEN TODD, M.D.
Valdez, Alaska

POSITION STATEMENT: During the hearing of SB 72, requested clarification.

JEANNIE MONK, Senior Program Officer
Alaska State Hospital and Nursing Home Association (ASHNHA)
Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 72, testified and answered questions.

MARIE DARLIN
AARP
Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 72, testified in support of the legislation.

JAYNE ANDREEN
AARP
Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 72, testified in support of the legislation.

KEN HELANDER, Advocacy Director
AARP
Anchorage, Alaska

POSITION STATEMENT: During the hearing of SB 72, offered testimony and background.

SENATOR MIKE DUNLEAVY
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 89 presented his bill.

KRISTIN McDONALD, Staff

Senator Mike Dunleavy
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 89, answered questions.

ELISSA GRAVES, Attorney
Alliance Defending Freedom
Sachse, Texas

POSITION STATEMENT: During the hearing of SB 89, testified regarding the constitutionality of the legislation and addressed concerns.

MARIO BIRD, Attorney
Alaska Right to Life
Anchorage, Alaska

POSITION STATEMENT: During the hearing of SB 89, discussed bill of attainder concerns.

NANCY BIENVENUE, R.N.
Alaska Family Council, Board Member
Fairbanks, Alaska

POSITION STATEMENT: During the hearing of SB 89, discussed abortions.

ALISON CURRY, Staff
Great Northwest and Hawaiian Islands Area
Planned Parenthood
Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 89, testified with regard to Planned Parenthood.

LACY MORAN, Alaska Education Manager
Great Northwest and Hawaiian Islands Area
Planned Parenthood, Anchorage, Alaska

POSITION STATEMENT: During the hearing of SB 89, testified with regard to Planned Parenthood.

JANE McMILLAN GINTER
Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 89, testified in opposition to the legislation.

SARAH GINTER
Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 89, testified in opposition to the legislation.

CHRISTINA NIEMI
League of Women Voters, Alaska
Juneau, Alaska

POSITION STATEMENT: During the hearing of SB 89, testified in opposition to the legislation.

MELISSA ENGEL, Pastor
Douglas Community United Methodist Church
Douglas, Alaska

POSITION STATEMENT: During the hearing of SB 89, testified in opposition to the legislation.

ACTION NARRATIVE

[3:03:19 PM](#)

CHAIR PAUL SEATON called the House Health and Social Services Standing Committee meeting to order at 3:03 p.m. Representatives Seaton, Tarr, Wool, Talerico, and Stutes were present at the call to order. Representative Vazquez arrived as the meeting was in progress.

SB 72-DESIGNATED CAREGIVERS FOR PATIENTS

[3:04:21 PM](#)

CHAIR SEATON announced that the first order of business would be CS FOR SENATE BILL NO. 72(L&C), "An Act relating to the discharge of patients from hospitals and to caregivers of patients after discharge from a hospital; and providing for an effective date."

[3:04:52 PM](#)

JANE CONWAY, Staff, Senator Cathy Giessel, Alaska State Legislature was available to offer the sectional and answer questions.

EMMY VAN WHY, Intern, Senator Cathy Giessel, Alaska State Legislature, paraphrased the sponsor statement, as follows:

Senate Bill 72, the caregiver advise, record, and enable act, or the Care Act is not about hospitals, it's not really even about patients, it's about caregivers. And it's important to reduce health care

costs and improve the health of Alaska citizens. This bill seeks to improve post-discharge health outcomes for patients by improving coordination with designated caregivers, providing training to caregivers on discharge tasks, enabling older or disabled Alaskans to stay safely in their homes longer, and decreasing the likelihood of hospital readmissions.

At any given time, around 128,000 Alaskans are providing some type of caregiving services and support to a loved one, friend, or neighbor. This assistance is crucial and helps patients remain healthy in their homes as long as possible. This is also a better alternative than costly long-term care facilities like nursing homes. And it is estimated to save approximately \$1 billion that would otherwise be spent by the state. Alaska caregivers are increasingly being asked to perform complex nursing and medical tasks, such as dispensing countless medications, administering injections and providing wound care often with little or no training. Many family caregivers report that they received little or no training to perform these tasks and ended up stressed and with a lack of confidence. Lack of adequate preparation to perform post-discharge tasks jeopardizes the patient's recovery, as well as often puts the caregiver at risk for their own injury and burnout.

Most of all, SB 72 will help Alaskans to live independently at home and will support the family caregivers who make this possible. Many states, 20 so far, have passed the Care Act or similar legislation and several other states are in the process. And, SB 72 contains these important provisions: it allows the patient to name a lay caregiver with his or her consent to provide after-care following discharge from the hospital; the designated caregiver is notified of the patient's discharge or transfer to another facility; the hospital consults with the designated caregiver and offers training to the caregiver for aftercare medical or nursing tasks, either in person or through video instruction; and the hospital will adopt and maintain written policies.

And, we'd be happy to walk through the sectional, Mr. Chairman, if you'd like.

CHAIR SEATON asked Ms. Conway to go through the sectional.

[3:07:59 PM](#)

MS. CONWAY paraphrased from the Sectional Overview [included in members' packets], which read, [original punctuation provided]:

Section 1. AS 18.20 adds new sections:

Sec. 18.20.500: Requires hospital, before discharge, assess the patient, provide patient opportunity to designate a caregiver, who consents/agrees to provide patient with aftercare

Sec. 18.20.510: Requires a hospital to provide opportunity for a designated caregiver to participate in the discharge planning of the patient; and that the hospital provide training and/or instruction to the designated caregiver on how to perform medical and nursing aftercare prior to patient's discharge

Sec. 18.20.520: Requires a hospital to notify the designated caregiver of the patient's discharge or transfer

Sec. 18.20.530: Directs the hospital to adopt and maintain written discharge policies. The policies must comply with this chapter. The written policy must specify requirements for naming of the designated caregiver and those policies may incorporate best practices for hospital discharge planning, such as those outlined in Center for Medicaid and Medicare Services (CMS) ...and that the discharge plan is appropriate for the patient's condition. The discharge plan may not delay a discharge or transfer of a patient or oblige hospital to divulge patient's health information to the designated caregiver without patient's consent

Sec. 18.20.540: The hospital and its contractors are protected from lawsuit in regard to the discharge planning of a patient

Sec. 18.20.550: This chapter may (sic) not interfere with or supersede the powers/duties of an agent or legal guardian acting upon a health care directive

Sec. 18.20.590: Provides definitions

Section 2: effective date of January 1, 2017.

[3:10:46 PM](#)

CHAIR SEATON asked whether this was for all patients after discharge, and noted there were no age requirements or condition requirements. He opined that this allows them to designate but does not require that it be done.

MS. CONWAY said correct.

[3:11:21 PM](#)

REPRESENTATIVE TARR offered that she understands why the fiscal note from the state would be zero, and asked for the response from health care providers and possible increase in costs for hospitals.

MS. CONWAY replied that the sponsor's office has worked closely with the Alaska State Hospital and Nursing Home Association (ASHNHA), the American Association of Retired Persons (AARP), and the Alaska Nurses Association. She explained that SB 72 maps out policies that they strive to do, and that most hospitals actually do have fairly good discharge planning policies, but not all. This legislation would bring all hospitals in alignment with each other, which has been an active cooperation between those three entities and the sponsor's office, she said.

CHAIR SEATON opened public testimony.

[3:12:54 PM](#)

KATHLEEN TODD, M.D., asked whether this only applies to inpatient admissions, overnight outpatient observation, or is it to every emergency room visit which actually would be a costly and difficult thing to do. Also, she opined that according to the Nursing Practice Act from a few years ago, nurses are not allowed by their rules to teach anyone who is not a nurse and is not a family member to do things that usually are only done by nurses. They are not to teach aides or persons hired to get the patient in and out of bed and into their wheelchair, those people cannot do things that are deemed to be nursing acts. This bill would probably be a step in the right direction if it

is, in fact, counter mandating that and saying that the paid caregiver can be taught, who is not a family member, how to take care of a burn as opposed to having to either assign an RN or find a family member. She is hopeful this is a step in the right direction and that it doesn't apply to every single emergency room visit, she related.

MS. CONWAY answered that the bill is for hospital admissions only, not emergency rooms. She deferred to Jeannie Monk for the answer to Dr. Todd's second question.

CHAIR SEATON clarified that the second question related to the ability to train or teach care to non-family members.

[3:15:44 PM](#)

JEANNIE MONK, Senior Program Officer, Alaska State Hospital and Nursing Home Association (ASHNHA), in response to the second question opined that the bill is focused on unpaid family caregivers. These unpaid family caregivers provide a wide range of care at home, although, some of it could be nursing level if the patient was in a facility. She explained that family members are asked to give medication, wound care, and a variety of care that would require a nurse if they were in a nursing home, and when the patient is in their own home it is up to the family members. She said she is unaware of anything that precludes hospital staff training family caregivers in how to care for their loved ones once they go home. She pointed out that this is something that happens every day already, and no change is being proposed in what is already happening.

CHAIR SEATON related that the bill will be up for another hearing on Tuesday, and suggested that possibly she could address that issue and get back to the committee.

MS. MONK said she would leave it to the sponsor to contact the Nurses Association or someone with the answer.

[3:17:08 PM](#)

REPRESENTATIVE TARR asked whether this was a billable service, how much time would be spent on this particular component, and how is it reimbursed to the hospital.

MS. MONK responded that ASHNHA has been working with the sponsor's office and AARP for more than one year. The original version was prescriptive with specific timelines with concerns

of adding extra work with modifications of electronic health records, they feel fine about Version Y. She related that it will add some additional work but for the most part hospitals already have discharge policies and this legislation forces them to strengthen their discharge policies in a helpful manner. A large problem hospitals face is when there is not a family caregiver. The best possible scenario is when a person is willing to be designated as the patient's caregiver and willing to be trained. Hospitals want to be sure those caregivers have the skills they need to take care of their family member at home and this will require hospitals to modify their discharge policies. There is a national CMS rule very similar to this, she pointed out.

[3:18:44 PM](#)

REPRESENTATIVE TARR asked whether this was a billable service.

MS. MONK replied that she would not say yes or no because hospital billing is complicated. Discharge planning is part of the billable services that hospitals do, and she said she was unsure whether it was a standalone billable code.

[3:21:16 PM](#)

REPRESENTATIVE VAZQUEZ said that this bill is needed and she appreciates its intent; however, the chapter dealing with the definition of hospital is broad. She referred to AS 18.20.210(5), which read as follows:

(5) "hospital" includes a public health center and general, tuberculosis, mental, chronic disease, and other type of hospital, and related facilities, including laboratory, outpatient department, nurses' homes, and training facilities, and central services facilities operated in connection with a hospital, but does not include a hospital furnishing primarily domiciliary care;

REPRESENTATIVE VAZQUEZ reiterated that it is a broad definition.

CHAIR SEATON asked whether she was reading the definition in AS 18.21.130.

REPRESENTATIVE VAZQUEZ responded no, there is another definition presently in the statutes, and she did not see where this was totally replacing that definition.

MS. MONK offered that this legislation does not change any of the definitions, it is referencing the definition of hospital and no changes are proposed to change any definitions.

[3:23:26 PM](#)

REPRESENTATIVE VAZQUEZ pointed out that she was reading the definition AS 18.20.210, in the chapter dealing with "hospitals." She referred to Article 02. Alaska Hospital and Medical Facilities Survey and Construction Act, AS 18.20.140 - 18.20.220, and she said she was wondering whether something needed to be reconciled.

CHAIR SEATON suggested asking the sponsor to address the definition of hospitals.

REPRESENTATIVE VAZQUEZ noted that it is not impossible to fix and that she was bringing up the possible unintended consequences.

MS. MONK said it was important to the drafters that this not apply to hospitals treating mental disorders, that it be limited to hospitals providing "traditional hospital services."

[3:25:21 PM](#)

MARIE DARLIN, AARP, agreed that there has been a lot of work on this legislation to make it acceptable to all stakeholders. She pointed out that a lot of the information the committee has been provided in support of this legislation speaks to the fact there are approximately 8,500 people providing unpaid care. This legislation does not address paid caregivers, this is for the unpaid family caregiver who takes care of the patient after they leave the hospital. A concern of AARP is that there are thousands and thousands of people doing this job that need this kind of information to help them when taking the patient home.

MS. DARLIN pointed out that this legislation is not intended to cover a lot of other things, even the definition of hospital. It has been reviewed so that everyone is in agreement, some hospitals are already doing it and doing a good job of it. This also places responsibility so that there is an assigned caregiver because too many people go home from the hospital with no caregiver, or no one actually assigned the responsibility to take care of that patient. By having an assigned caregiver

possibly the patient will not end up back in the hospital again because they didn't receive the proper care at home.

[3:28:13 PM](#)

JAYNE ANDREEN, AARP, said she supports the testimony of Marie Darlin in that this bill does a great job of recognizing the role that caretakers have to provide, how important that is in keeping people out of readmission to the hospital, and keeping health care costs down. She offered that she has provided aftercare for a loved one and it can be confusing, especially when discussing wounds, treatment, bandaging, and various medications. She said that a caregiver has the ability to obtain the information they need.

CHAIR SEATON asked whether her understanding of the bill is also that this allows a patient to designate a caregiver, but it's not assigning a caregiver.

MS. ANDREEN agreed that is her understanding.

[3:29:29 PM](#)

KEN HELANDER, Advocacy Director, AARP, pointed out that the bill is not about hospitals or even patients, it's about caregivers. A study performed by the AARP Public Policy Institute a few years ago found that approximately 46 percent of family caregivers were faced with providing these complex medical tasks when a family member was discharged. This would include anything from medications or special diets to wound care, and/or operating specialized medical equipment. He asked the committee to consider someone going in for a hip replacement and at discharge the caregiver is not prepared and does not understand how to transfer that person, or assist in their mobility, and that the risk of injury for the patient and the caregiver is enormous. This bill was drafted as model legislation, he explained, that has been passed in 22 states, to support family caregivers with the idea that no family member, no lay caregiver, should have to face these kinds of stresses and perform these kinds of tasks at home alone because it increases stress, the risk of injury, and certainly of hospital readmission. He reminded the committee that readmission is costly for hospitals. During these budget times in Alaska, the idea of having a readmission, or a burned out family member caregiver, and having to place the patient in paid care somewhere, ultimately, will have an impact on the state budget. He put forth that there are approximately 88,000 family

caregivers in the State of Alaska at any given time, and over the course of a year it is approximately 128,000. When doing the math, he said, with the cost of a nursing home approximately \$27,000 a month, it's easy to see how supporting family caregivers is the way to go, and this bill is about supporting family, friends, or neighbor caregivers.

[3:32:45 PM](#)

CHAIR SEATON, after ascertaining no one further wished to testify, closed public testimony.

CHAIR SEATON asked the sponsor's staff to address the two previous questions: looking at the ability for nurses to teach non-family members the levels of care necessary, and the definition of hospital.

MS. CONWAY said she would research the answers and appear before the committee next week.

[3:35:00 PM](#)

REPRESENTATIVE VAZQUEZ clarified that the whole section adds additional provisions to Article 04. Overtime limitations for nurses. She related that the definition is confusing because it is plugging that section in here when perhaps it should be inserted under Article 01. Regulation of hospitals, where there is another hospital definition cited. It may be more appropriate to have the entire bill inserted under the regulation of hospitals versus overtime limitations for nurses.

CHAIR SEATON noted that Ms. Conway understands the question and will research it and come back to the committee.

[3:36:02 PM](#)

REPRESENTATIVE VAZQUEZ asked why this legislation exempts mental hospitals.

MS. CONWAY opined that a discharge plan for mentally disabled could be far different and more complicated than a regular hospital discharge, and the drafters stayed with medical.

REPRESENTATIVE VAZQUEZ said she understood why it would simplify the matter, but it has been her personal experience that this requirement would be needed in a mental health setting.

Perhaps, even more critically, and it may be something down the road in dealing with the different stakeholders, she said.

CHAIR SEATON asked Ms. Conway to discuss the issue and advise the committee.

[3:37:37 PM](#)

MS. CONWAY referred to the National Care Act, the Caregiver Advise, Report, and Enable Act, and said it was a national model legislation and basically all of the states implementing this type of legislation deal with the medical side. When the sponsor was approached by AARP about legislation it was about medical discharge planning.

REPRESENTATIVE VAZQUEZ said it is a step in the right direction and Rome wasn't built in a day.

[SB 72 was held over.]

SB 89-SCHOOLS: PARENT RTS;ABORT. PROVDRS LIMITS

[3:38:34 PM](#)

CHAIR SEATON announced that the next order of business would be CS FOR SENATE BILL NO. 89(RLS) am(efd add), "An Act relating to a parent's right to direct the education of a child; prohibiting a school district from contracting with an abortion services provider; prohibiting a school district from allowing an abortion services provider to furnish course materials or provide instruction concerning sexuality or sexually transmitted diseases; relating to physical examinations for teachers; and providing for an effective date."

CHAIR SEATON shared that he heard this bill in the House Education Standing Committee and had requested that the bill come to this committee to address health and social services implications with medical conditions, infections, and public health nurses.

[3:40:05 PM](#)

SENATOR MIKE DUNLEAVY, Alaska State Legislature, paraphrased from the sponsor statement [included within members' packets], which read:

The purpose of SB 89 Parental Rights in Education, is to codify in state statute the inherent rights of parents to direct the upbringing and education of their children. As parents are the ultimate authority regarding their children, this bill requires local school boards to adopt policies which promote the involvement of parents.

These policies must accommodate the following:

Parents will be given the chance to review content of any activity, class, performance standard, program, or standards-based assessment or test required by the department

Parents can object to and withdraw children from any standards-based assessment or test required by the department, and the absence cannot be counted as unlawful

If parents have a concern about any activity, class, performance standard, or program they can object and keep their child out of that particular activity, and the absence cannot be counted as unlawful

Parents will be allowed to withdraw children for religious holidays, and the absence cannot be counted as unlawful

Parents must provide written permission before children may attend each human reproduction or sex education instruction or presentation

In addition, this legislation would:

Would prevent abortion service providers from contracting with school districts and educational service organizations

Would prohibit abortion service providers from supplying materials to school districts on human sexuality and sexually transmitted diseases

Restrict abortion services providers providing instruction on sexually transmitted diseases and sexuality to school districts. As the stewards of their children, parents must be guaranteed the right to make the decisions they feel are best for their children's education. I request your support for Senate Bill 89.

[3:41:47 PM](#)

CHAIR SEATON referred to his mention of local control and, yet, this is the only bill he has seen where the state overrides school districts that have chosen its curricula. Now, he commented, the state is saying it is going to prevent school districts from exercising local control and adopting the curricula that the school districts determine.

SENATOR DUNLEAVY replied that it may be the only bill this year that has that approach, but in fact the legislature has had bills throughout the history of the state, over 227 pages of school law that limit, prohibit, and prescribe what schools can do. Last year House Bill 44, was passed, imposing upon school districts a law that would mandate training for dating violence and sexual abuse. He offered to go through a series of other laws, but as legislators they make law for schools and school districts. It is part of the legislature's constitutional mandate and history, from that perspective it is similar to any law regarding the state's public school system in the 53 school districts, he said.

CHAIR SEATON asked Senator Dunleavy to cite other instances where the legislature restricts the school district from using any curriculum it adopted on a local level.

SENATOR DUNLEAVY answered that his view is that the bill does not restrict the curriculum, it restricts who is coming to the school to deliver their program. School districts are not prohibited on this bill from teaching sex education, adopting curriculum regarding sex education. He reiterated that it is who comes in with their program is what this bill restricts.

[3:44:01 PM](#)

CHAIR SEATON related that the question is then, what is the legislative purpose of restricting that content from being provided by certain people.

SENATOR DUNLEAVY replied that public schools are not open assess, they are limited access and the younger the school age there are more restrictions. This is supported by law and Supreme Court rulings, it is limited access and states' and school districts' have the right to limit who comes in there. For example, PETA, the animal rights advocates, have their own curriculum for schools, they have their own world view of how animals are supposed to be dealt with. Therefore, if PETA is allowed in schools it will have a particular world view on how

animals should relate to human beings. For example, in looking at PETA's curriculum, it does not believe animals should be used for entertainment, for food, for a whole host of reasons. By having a group such as PETA come in where there are varying world views held by parents and children, this can cause what some have called "Cultural Wars" in the school. He related that the schools should be neutral ground. For example, in 1977, he was taught sex education in his health class, it was taught by a certified teacher, by curriculum vetted by the school board, and presented in class in a manner that was basically biology and science. He argued that the state does have the right to limit who will be in the schools, there is law dating back to 1966 that puts limitations on what groups can go into schools and what they can do when they are in the schools.

[3:46:11 PM](#)

CHAIR SEATON agreed that it is not open access for schools and people cannot go into the school without being invited. He then asked the legislative purpose in telling local school boards that if they make the determination, as many have, to have a certain curriculum taught in their school that they cannot do that.

SENATOR DUNLEAVY stated that abortion providers have, as part of their services, the concept of abortion which some people find objectionable, and that particular topic should be taught by parents at home with their children. The reason for the bill is the result of years of individual parents asking him to do something about this because they are leaving the school system and going to private school or leaving the neighborhood schools to home schools. These parents [were opposed] to having these outfits come in to their schools and having discussions with their children, oftentimes unbeknownst to them, about sensitive issues such as abortion, and certain approaches to sexuality, he said.

[3:47:50 PM](#)

CHAIR SEATON surmised that Senator Dunleavy recognized that parents have the full right to opt their children out of any program being taught in the school, currently.

SENATOR DUNLEAVY answered that he recognizes there is an inherent right to do that, but the first part of this bill codifies a right for parents to withdraw their child from anything that is objectionable.

3:48:19 PM

REPRESENTATIVE TARR surmised that Senator Dunleavy is advocating and would be in support of mandatory sexuality education programs in public schools so long as they are not taught by abortion providers.

SENATOR DUNLEAVY said he is not opposed to the State of Alaska having a discussion and adopting standards, as it has for math, science, and English, and having sex education taught in schools by school personnel.

REPRESENTATIVE TARR remarked that she wanted to put on the record that Senator Dunleavy's reference to House Bill 44 was not accurate, the school boards will have the opportunity to pick the curriculum it wants to teach in the school. There is a requirement that personal body safety information be taught to young children so they can defend themselves from a sexual abuser. She expressed pride that the legislature took on that issue and that the state would like to move from being a state with the highest rates of child abuse.

REPRESENTATIVE TARR related that resources are a challenge and asked how to address the public health issues related to the high rates of STDs in Alaska.

SENATOR DUNLEAVY said a larger discussion is needed around that topic and that Alaska does not have set standards regarding sex education in its schools. Given reported statistics, it is a topic that has merit and the state should work on possibly putting together a task force to examine how to address that issue. He said he was unsure of the correlation between that topic and abortion providers being in the state's schools. He stated he has asked to see the group's curriculum, the cost, and how many schools they are in, and his office has not received that information. Although, he did look at some curriculum but he does not really know what is happening in Alaska's schools to the extent it is happening.

3:50:31 PM

REPRESENTATIVE TARR pointed out that she was having difficulty believing his testimony because, currently, any parent can go to a school and ask to see the curriculum their child will receive, and any parent can advise they are not comfortable with something and pull their child out. Many parents are not doing

that and she is unsure why, if that is the existing policy and many parents are not taking advantage of that opportunity, the legislature has to put something in statute. Actually, she said, it sounds like a problem from the parents Senator Dunleavy has spoken to. She then asked how many parents that might be out of the 130,000 plus students in Alaska, the discussion related to one-half of one percent of parents expressing that kind of dissatisfaction.

SENATOR DUNLEAVY asked for clarification.

REPRESENTATIVE TARR asked for an explanation of how many parents out of the 130,000 plus public school students in Alaska offered concern. She said she had not known this to be a significant problem and that, currently, people are asking the legislators to work on the budget. She extended that not one person has related to her that the biggest problem facing Alaska is that a few schools are able to get important sexuality information to students to help address domestic violence, sexual assault, high rates of STDs, given the highest rates of child abuse in the country.

SENATOR DUNLEAVY responded that he has been in contact with dozens of individuals that have expressed an issue and this bill was introduced last year to address that issue. The legislature began its budget issues last year, and together with the introduction of this bill, the legislature introduced HB 44 because it felt that was an issue. There will always be several issues, it is not just going to be the budget and, he advised that the bills he introduces are important because they are coming from constituents and others throughout the state.

[3:53:04 PM](#)

REPRESENTATIVE TARR commented that if it is dozens of people out of 130,000 students and their families have a problem with something, the discussion is then one-tenth of one percent of the 130,000 students. She questioned whether his bill is going in the right direction when it is [speaking to] only one-tenth of one percent of students, and whether the legislature would want to change the statute for that one-tenth of one percent of the 130,000 students.

REPRESENTATIVE TARR noted that her other question related to other longstanding problems Alaska has and how the state would address those without the resources. Clearly, she pointed out, Alaska does not have enough resources and the state now has

opportunities to partner with community organizations that provide medically accurate, scientifically accurate, culturally appropriate, information that is absolutely essential for people to be healthy individuals in order to have healthy communities. She related that she cannot see, in any manner, how this bill helps accomplish those common goals shared within the legislature.

SENATOR DUNLEAVY clarified that he has been in discussions with dozens of parents, he has hundreds of written communication from parents. He said his staff met with Planned Parenthood on more than one occasion and asked how many school districts they were in, what type of materials were being presented, the cost, and Planned Parenthood did not have the answers. In terms of cost, by law, there is supposed to be a certified Type A teacher in a classroom, only Type A teachers can teach. Therefore, a private citizen cannot teach because it would be against the law. He said he assumes the Type A teacher is standing there which is cost, and the teacher in that classroom certainly could be trained in delivering sex education. He then asked his assistant how many staff Planned Parenthood has dedicated to Alaska.

[3:55:34 PM](#)

KRISTIN McDONALD, Staff, Senator Mike Dunleavy, Alaska State Legislature, responded that Planned Parenthood indicated it has three full-time staff and one part-time staff committed to education and providing this information to schools. She offered that the education is not necessarily a classroom, it could be pamphlets of information or contact with the teacher. It is unknown how many schools or how many teachers Planned Parenthood works with, she remarked.

[3:56:08 PM](#)

SENATOR DUNLEAVY said that speaking as an educator for almost 30 years, he found it difficult to believe that over 100,000 students could be taught with two and one-half to three individuals. He opined there are many unknowns as to what Planned Parenthood's activity is and the costs.

CHAIR SEATON asked for clarification as to whether he meant the costs of Planned Parenthood, or the costs to the school.

SENATOR DUNLEAVY noted that he would be interested in having costs to the school and what their costs are, verified. He

reiterated that if a certified teacher is standing there, the schools costs are already accounted for. Certainly, Planned Parenthood should not be coming in on their own with no teacher there, he said.

CHAIR SEATON stated for the record that he asked Planned Parenthood to see the curriculum, and Planned Parenthood volunteered to show the curriculum and give demonstrations to any member of the committee if they so desired. He advised that he looked through the curriculum, and noted that the school district choose the portions of that curriculum it wants taught in particular classes. He further noted that he was advised there is always a classroom teacher in the classroom with the students with no cost to the school. He pointed out that the information he was given can be verified with upcoming testimony.

[3:57:45 PM](#)

SENATOR DUNLEAVY, after listening to Chair Seaton, submitted that there is no cost, there would be no cost to the school district or Planned Parenthood.

CHAIR SEATON agreed, and said those questions will be asked of testifiers.

CHAIR SEATON said he wanted the committee looked at this issue a couple of other ways, such that during a meeting in the House Education Standing Committee, Senator Dunleavy's staff indicated that the public health nurses could take up some of the slack and provide this information. Since public health nurses are part of the health system, he wanted to verify how much activity Senator Dunleavy anticipated would be taken up by public health nurses in addition to their in the school conversations they have, currently.

SENATOR DUNLEAVY answered that if there are two and one-half staff members from one abortion provider for the State of Alaska, there would probably be school nurses delivering curriculum on sex education, and have had them for some time. He said he anticipates that with the changes in this bill that process wouldn't change, and would have what is already occurring.

[3:59:12 PM](#)

CHAIR SEATON reminded him that the statement was public regarding health nurses, and he knows that public health nurses do go in and perform training in the schools, but what about the statement of picking slack up. He opined that the staffers are not the educators, they have trained the other educators that work in the classroom, so the workforce is broader than just the professional organization staff. He asked whether Senator Dunleavy was looking at the number of public health nurses being equivalent to the professional trainers that are going into the schools now and picking up that slack, or whether he is anticipating something else.

SENATOR DUNLEAVY deferred to his assistant.

[4:00:04 PM](#)

MS. McDONALD recalled the context of the discussion and opined that she mentioned public health nurses are already providing information in the schools. This was in context to a review she performed of the standards already in place in several districts, and that Fairbanks and Valdez in particular mentioned public health nurses and someone they are in contract with. She paraphrased from the Public Health Nursing website as follows: "PHNs offer health education classes about a variety of health related topics in communities, many in coordination with schools." She advised that this is not something that Senator Dunleavy's staff anticipated that public health nurses would necessarily be picking up more of, the context of her discussion was that teachers, public health nurses, and school nurses are currently on state standards as resources.

CHAIR SEATON asked whether public health nurses, in their education in the classrooms are using curricula from Planned Parenthood, would they now no longer be able to use the curricula and that would have to be something that would fall on the public health department to purchase.

[4:01:23 PM](#)

SENATOR DUNLEAVY responded that that is what the law would call for.

MS. McDONALD added that within her discussions with Planned Parenthood, she understood that their curriculum can only be presented by a Planned Parenthood educator and that is why it is not publically available, their healthy sexuality series.

CHAIR SEATON said that Planned Parenthood does have materials it has generated that it provides to others, and as testimony is offered the answers will be provided.

[4:01:52 PM](#)

REPRESENTATIVE WOOL referred to Senator Dunleavy's testimony that he had spoken with parents and Planned Parenthood, and asked whether he had spoken with school districts as to how they integrate Planned Parenthood into their sex education programs, whether they are using literature, using trainers, where the literature is from, and how it is vetted.

SENATOR DUNLEAVY related that he has had unofficial conversations with school district board members or superintendents, and in some cases it is hit or miss, or a teacher or principal invites someone into the classroom in some cases.

REPRESENTATIVE WOOL surmised that this is more of an individual teacher or principal as opposed to a districtwide policy. He said he imagines different school districts have curriculum for sex education or sexual health and asked whether this is individually teacher by teacher, or what is his experience.

SENATOR DUNLEAVY answered that it is his understanding that it varies.

MS. McDONALD opined that it does vary from school district to school district in what their policies are. Normally, she said, Planned Parenthood contacts a teacher and it depends on which district it is whether it is vetted material or if they just bring their own with them.

[4:03:24 PM](#)

REPRESENTATIVE WOOL referred to the material Planned Parenthood brings in and opined that some of it may come from the Center for Disease Control (CDC) or other big national organizations, and Planned Parenthood compiles and distributes the information and makes it available to school districts. If they had information that came from an organization such as the CDC, but went through Planned Parenthood to get into a school, would that be something that would be now off the list and not available if they are just the vehicle for the information.

SENATOR DUNLEAVY said he can show him what "we were shown" as being put into the schools, and what they have is Planned Parenthood material given to them. This discussion has been ongoing for some time between himself and individuals and parents, and only when it reached a certain level did he introduce a bill. He said he wanted to be as fair as possible to Planned Parenthood and have them tell and show him what they are doing. Although, parents have pulled graphic material off the website but he didn't want to go down that route. He offered, at the next meeting, to provide materials sent to him by others that is a little different than what he was presented. He related that the difficulty with this is that he is not 100 percent sure because he is having a difficult time getting the information of how many schools, and exactly what is happening.

CHAIR SEATON advised that the committee would like to see that information.

[4:05:45 PM](#)

REPRESENTATIVE STUTES surmised that some of the information he received is from parents and not from the school, which doesn't carry a lot of weight because she could send him anything off the internet, and she has a hard time with that mode of reasoning. She said she presumes that during the time he has been working on the bill he has had conversations with the schools, school boards, principals, superintendents, and asked their feedback when Senator Dunleavy indicated he was concerned about Planned Parenthood.

[4:06:29 PM](#)

SENATOR DUNLEAVY said he had not directly contacted school boards or superintendents, this bill is a result of his own experience with education and educators. He said he wants to go directly to the source, Planned Parenthood, to find out exactly what it is doing based upon what he was hearing from teachers and parents.

REPRESENTATIVE VAZQUEZ invited everyone to look at the Planned Parenthood website, specifically the section titled "Tools for Educators" as it does raise her eyebrows due to the materials being graphic and going into areas that may not be appropriate for sex education.

CHAIR SEATON asked Representative Vazquez to be sure the conversation goes through the chairman.

REPRESENTATIVE VAZQUEZ reiterated that she is looking at the section titled, "Tools for Educators."

[4:08:53 PM](#)

REPRESENTATIVE TALERICO noted that the requirement that a certified teacher is present in the classroom during the time the students are in the classroom, and pointed out that the state has that expense no matter what the teacher is doing in the classroom.

SENATOR DUNLEAVY agreed, but there are instances such as an area of the state where a certified teacher cannot be found and individuals can come in that have been vetted. That is on a temporary basis, but a type A teacher is supposed to be there teaching, he said.

REPRESENTATIVE TALERICO expressed concern of opening a can of worms that suddenly, if the state restricts itself, it is to some degree wide open spaces, and a lot of other organizations would love to come into Alaska's schools. The question then arises, how much control does the legislature have over what happens in the schools. He noted this is a hypothetical and he is thinking well beyond what is being discussed here, but he has grandchildren in school and there are organizations he does not want in the school.

[4:10:26 PM](#)

CHAIR SEATON expressed his agreement, and noted that when he visits a school, there is a large sign stating that all visitors must check in at the office and be invited into the school, that is the policy on the Kenai Peninsula. The procedure is strict, doors are often locked during the off time, and some doors have buzzers.

CHAIR SEATON asked Senator Dunleavy whether he wanted to comment on STDs or move forward with public testimony and ask questions of the experts.

SENATOR DUNLEAVY agreed, and commented that he would attempt to answer any questions but he does not know the context of the questions.

CHAIR SEATON opened invited and public testimony.

[4:12:41 PM](#)

ELISSA GRAVES, Attorney, Alliance Defending Freedom, read from written testimony, as follows:

My name is Elissa Graves, I'm an attorney for Alliance Defending Freedom, which is a non-profit legal organization. I'm here today testifying about the constitutionality of SB 89, and to address some concerns.

First and foremost, SB 89 doesn't infringe on First Amendment rights of abortion providers or of anyone else. Section 5 does abridge these free speech and associational rights. And this is because, as was already mentioned, that a public school is not a public forum which means that abortion providers or any others don't have right of access for speech. I'm unaware of absolutely no legal authority in the United States that supports this idea that anyone who is not a public school teacher has a right of access for speech purposes into the public schools. So, to the contrary school classrooms are generally non-public and it's up to the state and the individual schools to decide to allow -- who can come in. And, therefore, abortion providers cannot claim a First Amendment right in being able to speak in these schools. Likewise, it is well settled that public schools are given substantial deference in making curricula decisions and it is up to the State of Alaska to be responsible for determining the means of educating their public school students. And, the Supreme Court and the Ninth Circuit have both stated that both the curriculum and the materials given to public school students is of substantial deference to the school itself.

I did want raise a response to something the ACLU raised this morning about the First Amendment rights of students, and participating in Planned Parenthood programs outside of the school time. They talked about something called "Teen Council" where students meet with Planned Parenthood and they discuss sexual issues and then they go present to their peers. Students don't have an entitlement to present whatever they want in a school classrooms and, furthermore, their First Amendment rights are diminished in the

school context. This doesn't restrict the ability of the students to associate with any abortion provider if they desire to and; therefore, does not infringe on their First Amendment rights.

SB 89 further does not violate the right to equal protection, equal protection requires that ultimately situation -- situated persons be treated alike; however, where fundamental rights are not implicated, such as here, the general rule is that the state need only have a rational basis for treating similarly situated persons differently. So, if SB 89 does treat similarly persons differently, the state need only have a rational reason for passing this law, and as the bill sponsors have stated there are rational reasons to have this law on the books and; therefore, it would not violate equal protection.

[4:15:42 PM](#)

CHAIR SEATON asked Ms. Graves to state what the rational reasons are.

MS. GRAVES replied that under "AS 14.315" it states a public policy that the purpose of education is to help ensure that all students will succeed in their education and work, shape worthwhile and satisfying lives for themselves, exemplify the best values of society, and be effective in improving the character and quality of the world about them. Therefore, SB 89 serves these legitimate interests by educating public school students to become productive members of society by promoting self-discipline and personal responsibility.

CHAIR SEATON asked how the legislation promotes personal responsibility.

MS. GRAVES responded that SB 89 seeks to have certain providers, for reasons she was sure the sponsor could answer, that parents were concerned, perhaps school districts were concerned, and the bill addresses these concerns. She stated that that qualifies as a legitimate interest and the rational basis standard is a very low standard in that it just has to be any classifications drawn will be sustained if the classification is rationally related to a legitimate interest.

[4:17:11 PM](#)

CHAIR SEATON put forth that he is still trying to get the legitimate interest, such that the committee is interested in lowering the rates of STDs, lowering the rates of unplanned pregnancies, and the discussion is about free curriculum offered at the invitation of a school where funding is not designated for providing that alternatively. He said he would like to understand how restricting access to that information furthers the purpose Ms. Graves was discussing.

MS. GRAVES answered that possibly Senator Dunleavy could address that further in that her expertise is on constitutionality. She reiterated that a legitimate interest is a very low bar in constitutional law and if a law has some legitimate reason for passing, even if there are objections to it, but there are concerns of parents as well about the education of their children, and this addresses those concerns, she said.

[4:18:24 PM](#)

CHAIR SEATON asked Ms. Graves to continue.

MS. GRAVES continued reading as follows:

And finally I just wanted to note that SB 89 does not constitute a bill of attainder, the constitutional prohibition on bills of attainder forbids the legislature from imposing punishment on individuals or organizations without a judicial trial. The likely focus of any judicial inquiry here is gonna be on whether or not SB 89 imposes punishment. But as I noted that the State of Alaska has valid purposes for this law and so it's not meant to impose punishment for any wrongdoing by the legislature so it cannot be a bill of attainder where it is not punitive. And, SB 89 is a common sense bill, appropriately, it restricts access of abortion providers and is consistent with the constitution. And that's all I have.

[4:19:15 PM](#)

REPRESENTATIVE TARR noticed that her organization is based out of the State of Texas, and asked whether this is her first participation in a hearing related to a law in Alaska.

MS. GRAVES answered that the organization is based in Arizona and she is in Texas, and that she had offered testimony in the House Education Standing Committee on SB 89.

REPRESENTATIVE TARR noted that the Alliance Defending Freedom's mission advocates for the right to freely live out your faith. She surmised that from the Alliance Defending Freedom's perspective it is perfectly fine to impose its religious beliefs on others. That is the position Ms. Graves is advocating and she asked who funds her organization.

MS. GRAVES advised that organization is funded by private donors and it is not in favor of imposing anyone's religious beliefs on anyone else, but it is up to each individual state how to guide its curriculum of its students. This would be a policy decision on behalf of Alaska, she said.

[4:20:17 PM](#)

REPRESENTATIVE TARR argued that it is imposing its religious beliefs on Alaska.

[4:20:31 PM](#)

MARIO BIRD, Attorney, Alaska Right to Life, said he is a he is a product of Alaska's public schools and graduated in 2000, he is a private attorney at the firm of Ross, Miner & Bird, he is on the Board of Directors of the Alaska Right to Life, and is offering testimony in his private capacity as an attorney. He referenced the bill of attainder concerns raised by Legislative Legal and Research Services and the American Civil Liberties Union (ACLU) and said that he found, conspicuously, absent was the fact that the Alaska Supreme Court has defined attainder for Alaska's jurisdiction under in re Ray Blodgett, 147 P.3d at 710 (2006). The Alaska Supreme Court opined that attainder existed at common law, "it was the act of extinguishing a person's civil rights when that person is sentenced to death or declared an outlaw for committing a felony or treason incident to attainder and as punishment for the crime the felon forfeited all of his lands and chattels to the state." He explained that in re Blodgett there was a young man who killed his father, pleaded manslaughter, and then sought to obtain the father's inheritance. He was prohibited from doing so by the Slayer [Rule], but the Alaska Supreme Court upheld the Slayer [Rule] even though Blodgett sued and claimed it was a bill of attainder. He reiterated that he found the definition of a bill of attainder conspicuously absent in the ACLU and the Legislative Legal and Research Services opinions given to this committee and to the previous committee he testified before on SB 191.

[4:22:36 PM](#)

MR. BIRD said he found it very surprising because the Alaska Supreme Court is quoting Black's Law Dictionary in defining what an attainder is. Although, he noted, slightly different than attainder is a bill of attainder which the court has not defined in an opinion. Black's Law Dictionary and law dictionaries elsewhere have defined it as a legislative act which inflicts punishment on named individuals or members of an easily ascertainable group without a judicial trial. He described this as definitional, that is the definition of attainder in re Bodgett and the jurisdiction of the State of Alaska, and it has been utterly neglected thus far. He said he would leave it to the committee to determine why, thus far, it has been neglected in the legal testimony that has been given regarding bills of attainder. It is a matter of relative ease for any attorney to look at the annotated statutes under the Alaska State Constitution and this case is listed, he noted.

[4:23:46 PM](#)

MR. BIRD continued that he agrees with Kate Glover, Legislative Legal and Research Services memorandum, dated 4/6/16, who pointed out that there are three elements that United States courts have traditionally looked to in order to distinguish bills of attainder, as follow: non-judicial punishment which was touched on briefly by Ms. Graves; lack of judicial trial; and specificity and identification of individuals affected by the bill. However, another issue that has been neglected is the burden of proof on each of those three elements to show that legislation would be a bill of attainder. Currently, his research disclosed the standing law of the land under Communist Party of the United States v. Subversive Activities Control Board (1961), "only the clearest proof could suffice to establish the unconstitutionality of a statute on the grounds that it is a bill of attainder." Suffice it to say, as United States Supreme Court Justice Felix Frankfurter put forward over 50 years ago, "it takes clear proof on every single element to establish unconstitutionality," and he remarked that he does not see that in any of the sections of SB 89. He pointed out that the following State of Missouri and the State of Louisiana have passed similar legislation. He advised that the State of Missouri in 2007, stating that "no school district or charter school or its personnel or agent shall provide abortion services or permit a person or entity to offer, sponsor, furnish in any manner any course of materials or instruction relating to human

sexuality or STDs if such person or entity is a provider of abortion services." The State of Louisiana's 2014 language is, "no employer or representative acting on behalf of an organization or any other entity that performs elective abortion shall engage in any of the following activities presenting or otherwise delivering any instruction or program on health (indisc.) including but not limited to human sexuality or family planning ..." and so forth, he advised. To his knowledge neither of the statutes have been challenged or overturned. He then quoted United States Supreme Court Associate Justice Stephen Breyer in his book titled Active Liberty, "We must be ever on our guard lest we erect our prejudices into legal principles." He reiterated that he does not see the legal principles of bill of attainder addressed in those memorandums from the (ACLU) and Legislative Legal and Research Services.

[4:26:25 PM](#)

NANCY BIENVENUE, RN, Alaska Family Council, Board Member, discussed abortions. { said that she is a nurse, former CEO of CareNet Pregnancy Center of the Tanana Valley, and is an Alaska Family Council board member. She asked the committee to explore the Planned Parenthood website wherein nothing is found about adoption or parenting as options for an unplanned teen pregnancy. It is recognized that an unplanned teen pregnancy has three options, parenting, adoption, or abortion. Planned Parenthood discusses how safe and accessible an abortion is and how it can be an answer to the problem. The website Abortion Facts.com describes in detail the abortion issues that go deep and how it can impact the emotional and physical health of a woman or teen who chooses abortion in their current and future life, and she said she speaks from experience. She proposed that it is not the number of parents coming forward, but it is the general health of Alaska's teen-agers and what they are learning and receiving in high school. Planned Parenthood basically marketing their services of contraception and abortion in classrooms, she remarked. She then referred to a book titled Blood Money: [Getting Rich Off a Woman's Right to Choose], written by Carol Everett in the early 1970s.

CHAIR SEATON advised Ms. Bienvenue to confine her testimony to Alaska and what is being taught in Alaska's schools, and that she only has a few seconds left of testimony.

MS. BIENVENUE related that in Alaska, other than Planned Parenthood, another alternative is the Step Up Now to Healthy

Relationships program in Fairbanks. Planned Parenthood is not invited into the Fairbanks schools ...

[4:31:42 PM](#)

REPRESENTATIVE TARR asked whether she was currently practicing as a nurse and whether she is associated with any organizations that oppose abortion.

MS. BIENVENUE responded that she is currently a register nurse and is on the board of Alaska Family Council that promotes family values.

REPRESENTATIVE TARR surmised that she is not associated with any other organizations.

MS. BIENVENUE answered that she volunteers for CareNet Pregnancy Center of the Tanana Valley as well.

REPRESENTATIVE WOOL referred to her testimony regarding the Planned Parenthood website and clarified that he does have pages printed from the Planned Parenthood website dedicated to an entire adoption section.

CHAIR SEATON advised that more time will be given to invited testifiers.

[4:33:15 PM](#)

ALISON CURRY, Staff, Planned Parenthood, Great Northwest and Hawaiian Islands, said she is a resident of Juneau, and that she prepared some public health statistics as well as information on the goals of comprehensive sexual health education and its effectiveness, with sources cited, if the committee members would like copies. Ms. Curry read from a prepared statement as follows:

So, we have a public health crisis here in Alaska. Alaska leads the nation in chlamydia rates with 15 - 19 year olds contracting chlamydia at a rate more than three times the state average, and young women ages 15 - 24 years old, more than twice as likely as men to contract a chlamydial infection. Alaska's teen pregnancy rate is higher than the national average and the state pays for the majority of pregnancy costs for teen births. Our child sexual abuse rate is six times the national average. Our communities need us to face these troubling facts. As a health care provider for

more than 7,500 people in Alaska annually, Planned Parenthood is heavily invested in the health and wellness of Alaska residents. We are also the state's largest non-profit provider of sexual health education and serve more than 2,000 students annually. Our education programs are not only accepted and solicited in Alaska and states across the country, but they are proven to be effective as well. A 2014 study in the Journal of School Health examined one of Planned Parenthood's prevention programs. The results showed that 16 percent fewer boys, and 15 percent fewer girls had sex in the schools that used Planned Parenthood education program versus schools that did not. And the program is now designated as an evidence based teen pregnancy prevention program through the Center for Disease Control's Office of Adolescent Health available for schools across the country.

A comprehensive review of sexual health education programs found that of the 48 programs included in this study, two-thirds had positive impacts on health and behavioral outcomes. Specifically, over 60 percent of the programs reduced unprotected sex and over 40 percent delayed the initiation of sex, reduced the number of sexual partners, and increased condom and contraceptive use. A Journal of Adolescent Health study of health and behavioral outcomes in teens ages 15 - 19 found that teens who received comprehensive sexual health education were 50 percent less likely to experience pregnancy than those who received abstinence only education. According to the CDC, STD and HIV prevention programs have been found to be particularly effective when they are delivered by trained instructors, are age appropriate, and include components on skill building, support of healthy behaviors in school environments, and involve parents, youth serving organizations, and health organizations, and Planned Parenthood education programs are built upon these principles.

Additionally, the Alaska Department of Health and Social Services includes Planned Parenthood's programs as effective local interventions to improve outcomes related to sexual and reproductive health. The department notes "The best way for a community to select an intervention is to choose one of the best -- choose one that best reflects local values,

opportunities, and budget." So, removing Planned Parenthood as an option for communities runs contrary to what our own state's public health's experts recommend.

The sexual health education that our students receive in public schools today is clearly not cutting it. As the bill sponsor stated, Alaska does not currently have any state standards for sexual health education. And in the 2013-2014 school year less than one-quarter of Alaska schools taught all of the recommended HIV, STD, and pregnancy prevention topics in required courses. Only students in three states had access -- had less access to this information.

Planned Parenthood is a valuable and trusted community partner that is helping fill the gap in our public schools to give students the accurate information they need to make smart decisions about their health. We are proud of our curriculum because we know that it works. We have now met twice with the bill sponsor, Senator Dunleavy and his staff, we've met with the chair of this committee, and have made ourselves available to meet with any office that requests to meet -- who requests a meeting to answer questions about our curriculum. Planned Parenthood is committed to improving the health of Alaskans and access to sexual health education is one important step to making this happen, but we cannot do this alone. So, instead of creating more barriers to education and limited district's options for local programing, we should be working together to ensure that our youth have the resources and information needed to lead healthy and productive lives, and SB 89 does the opposite. So I respectfully ask that you oppose this bill.

[4:38:47 PM](#)

REPRESENTATIVE TALERICO referred to her statement that Alaska has 2,000 students and opined it is 56 school districts. He asked how many different school districts are ...

MS. CURRY responded that she does not have the number of school districts, but Planned Parenthood is in approximately 30 schools.

REPRESENTATIVE VAZQUEZ offered that Alaska has 54 school districts, and approximately 128,000 students statewide.

4:39:16 PM

CHAIR SEATON asked whether Representative Vazquez is suggesting that 2,000 shouldn't be educated.

REPRESENTATIVE VAZQUEZ responded that she was not suggesting anything, she was stating a fact.

REPRESENTATIVE TARR said without getting into too much detail about the kind of education materials offered, they do include messaging about abstinence and delay of sexual activity, and adoption for people who would ask questions. She asked Ms. Curry to comment.

MS. CURRY advised that one of their curriculum lessons is on abstinence and birth control, and all of its education is taught that abstinence is a value. Adoption is not part of the curriculum and abortion is not part of the curriculum. She referred to the comments made by the previous testifier, and thanked Representative Wool for pointing out that adoption is on Planned Parenthood's website. She pointed out that everything in the previous testifier's testimony has absolutely nothing to do with Planned Parenthood's curriculum and nothing to do with this bill.

4:40:47 PM

REPRESENTATIVE WOOL asked her to explain the mechanism when entering a school, whether it is an invitation from a teacher, school district, principal, school district, or all of the above.

MS. CURRY replied that it is a combination of all of the above. Planned Parenthood does not enter a school unless it is invited and that could be by a school administrator, or a teacher. Planned Parenthood follows all schools policies and protocols for entering into the classroom. She pointed out that a teacher is always in the classroom when a Planned Parenthood educator is present for the entire lesson. The inviter has an opportunity to review and choose lesson plans and tailor each curriculum for their particular class, so what happens in each class varies school by school, district by district to meet the needs of those communities.

REPRESENTATIVE WOOL surmised that there are three and one-half educators on her staff.

MS. CURRY responded yes.

REPRESENTATIVE WOOL said that including all of the literature, curriculum, and material that's been introduced into different classrooms throughout the state, what percentage is done by a Planned Parenthood staff member and which percentage is material Ms. Curry provides to a classroom or school.

MS. CURRY answered that she does not have a percentage number for him, but through direct education Planned Parenthood reaches approximately 2,000 students a year with an educator being in the classroom. As far as additional resources being shared, the issue of public health nurses came up during an earlier testimony, and Planned Parenthood is often the first stop for resources for public health nurses who are the primary sexual health educators in rural Alaska. But, as far as quantifying how many students they are reaching with Planned Parenthood materials, she did not have the answer, she said.

[4:43:24 PM](#)

LACY MORAN, Alaska Education Manager, Planned Parenthood, Great Northwest and Hawaiian Islands, said she is a resident of Anchorage, she is testifying in opposition to SB 89. She then read her written testimony as follow:

Planned Parenthood, as you've heard, similar to what Alison just testified, Planned Parenthood is a -- been a trusted provider of education materials and resources in the State of Alaska for over 20 years. We reach approximately 2,000 students each year in classroom instruction, and as a member of the education team I have provided education presentations, resources and materials to several communities using medically accurate, age appropriate, and culturally sensitive, lessons. Our curriculum focuses on healthy relationships, consent, pregnancy and STD prevention. And to clarify, we do not teach abortion or pregnancy options. All of our programs are thoroughly vetted and reviewed for medical accuracy, and we work with schools and districts to ensure that the lessons align with their district's curriculum standards. Additionally, these lessons have been approved by the Office of Adolescent Health

for both medical accuracy and age appropriate standards. Our presentations are given at no cost to schools, and to community organizations, and we really value being a free educational resource during tight budget constraints.

Parents have the opportunity to opt their student out of education presentations, or to review the curricula with school or Planned Parenthood staff before or during the presentations. We have always valued the involvement of parents and caregivers, and encourage the opportunity for conversations on sexual health to continue at home. In fact, we have partnered with schools and community organizations to offer parent workshops so that these conversations will continue outside of the classroom.

A couple of other clarifications based on further -- previous questions. We do provide -- We currently provide sexual health education in approximately 30 schools, and that is talking about direct instruction. And I also want to clarify that we did provide opportunity for Senator Dunleavy, the bill sponsor, as well as several others to review the lessons and curriculum that we are talking about today.

Aside from being invited in to provide education presentations in the classroom, we have a thriving teen council peer education program both in Anchorage and Juneau. Teen council is an opportunity for teens to become trained on sexuality topics outside of the school time and assist in classroom presentations. Outside of classroom presentations, we are a resource to several schools, districts, community organizations, and public health nursing staff that desire access to comprehensive and medically accurate sexual health information. Additionally, we provide professional development and training to school staff and public health nursing so that Alaska's capacity to tackle sexual health issues is increased. All of this will be in jeopardy if Senate Bill 89 passes. Our education department consists of trained sexual health educators, and to clarify we do have three full time staff, one part-time staff, as well as myself, the education manager. All educators have a Bachelor's Degree and many have their Masters and teaching credentials. Once hired, educators go through a

rigorous training period on curricula, classroom management, and a yearlong certificate program on sexual health. We pride ourselves on being the experts in the field of sexual health, which lends itself well to being a resource in the academic world.

Finally, I want to reiterate that Planned Parenthood is committed to health and wellbeing of Alaskans. With high rates of STDs, unintended pregnancies, domestic and sexual assault, we strive to provide education that will positively impact Alaska for generations to come. Thank you again for your time and I'd be happy to take any questions.

[4:47:38 PM](#)

REPRESENTATIVE TALERICO asked which districts the 30 schools are in.

MS. MORAN responded that the Planned Parenthood educators are based in Juneau, Anchorage, and Kenai Peninsula, and it services the surrounding districts. It has worked in the Mat-Su Valley, and offers resources to several school districts across the state. It is important to clarify that while public instruction is part of the resource and materials it offers to schools, districts, and public health nurses across the state. Planned Parenthood is represented statewide but only has 3.5 staff members so the districts are limited, she advised.

[4:48:50 PM](#)

JANE McMILLAN GINTER said she has been a resident of Juneau for 31 years and that her family benefitted greatly from a Planned Parenthood workshop sponsored by her church, Northern Light United Church, for parents and children. She offered that she met with the Planned Parenthood folks beforehand and the church decided what it wanted covered, and the parents were on board. She stressed that this workshop changed her family's life because it helped with the communication, especially between her daughter (age 12 at the time) and herself. As a parent she wasn't sure how to approach sexuality and the workshop completely opened her eyes as a way of communicating with her daughter and son, and they have continued to communicate. She opined that the Planned Parenthood workshop made their relationship very strong, and that they still talk about the workshop to this day and how important it was to their family. She related that she is opposed to SB 89 and encouraged everyone

to vote against it, and that she supports everything Planned Parenthood does.

[4:51:32 PM](#)

SARAH GINTER offered similar testimony as her mother, Jane Ginter. She pointed out that the Planned Parenthood educator covered topics ranging from puberty to consent, from birth control to marriage, with a special focus on the importance of communication within families on these big topics. There was no propaganda and the focus was never on abortion. While discussing sex education might have been a bit embarrassing at times for her a middle schooler, she and her mother are still talking about this many years later. She related that it was the catalyst to a new healthy relationship with her parents and that she could only imagine what her life could have been like without this relationship, or without access to this crucial information. The key to prevention is medically accurate, unbiased sexual health information which the highly trained educators at Planned Parenthood excel at delivering. Everyone has a right for knowledge about these topics, especially when that knowledge can alter the course of lives for the better. Sexual health education is crucial to the wellbeing and safety of Alaskan youth, and she asked, in the best interests of Alaskan youth, families, and communities to please oppose SB 89.

[4:53:16 PM](#)

CHRISTINA NIEMI, League of Women Voters, Alaska, advised that the League of Women Voters strongly opposes SB 89, SB 191, and HB 352, based on the long established League of Women Voters of the United States position on reproductive choices, as follows:

The League of Women Voters-US, believes that the public policy in pluralistic society must affirm the constitutional right to privacy of the individual to make reproductive choices.

MS. NIEMI added that the League of Women Voters' position on health care supports a basic level of care that provides pre-natal and reproductive health. This basic care for reproductive health can have far reaching positive effects, including healthier babies, stronger and more financially stable families, and pre-natal and reproductive care can also save public monies. The Guttmacher Institute reports that in 2010, Title X supported reproductive health services resulted in a net savings in Alaska of \$17.9 million due to the prevention of unintended or closely

spaced pregnancies, low birth rate babies, STD transmission, and cervical cancer cases, she offered. To ban the use of a Title X funded reproductive health facility from teaching young men and women simply because in some cases they also provide, with private funding, abortion services is unwise, she stressed. Those who oppose the teachings provided by Title X funded reproductive health workers should experience the classes taught by them, and that those parents who are uncomfortable with the science based approach to sex education can always opt out, she further stressed. She urged the committee to vote no on SB 89.

[4:56:11 PM](#)

MELISSA ENGEL, Pastor, Douglas Community United Methodist Church, said she is the pastor and director of the Douglas Community United Methodist Church Cooperative Youth Group for young people grades 6 - 12, in Douglas and Juneau. She related that she is against SB 89 because it endangers young people, especially those living on the margins, from receiving fact based sexuality education. As the youth pastor, she contracts with Planned Parenthood with whom this bill is calling an abortion provider, but it is the health care provider for so many men, women, and children. She offered that she views SB 89 as an attack on Planned Parenthood, a partner in her ministry. She had teens from Planned Parenthood's teen council come in and talk with their peers in the cooperative youth ministry here about healthy relationships, and they had conversations that wouldn't have happened with her. She said she wished she had the education and opportunities teens have through the puberty workshops and comprehensive medically accurate sex education that Planned Parenthood provides in school, rather than the lack of sex education she received when shown a fear based video and given an abstinence vow to sign in the sixth grade in a public school. Fifteen years later, through her role as a spiritual leader she has been trained in the "Our Whole Lives" curriculum which is a comprehensive medically accurate sex education that is age appropriate, that also has a supplement that speaks to one's religious and spiritual values. Come to find out, she stated, during her recent training and through her naiveté due to the lack of decent sexuality education, she realized that she was not abstinent before marriage as she had believed. There are three types of sex, she learned, but there is the myth out there that if it's not vaginal, it doesn't count and she had to reconcile that. She expressed that she would argue and know for a fact through the education base of Planned Parenthood in Juneau, that abstinence is one of the vital choices someone can make and that it is taught. Alaskans should care about the

dangers of SB 89 because deeming sex education as one of those things that a parent has to opt into rather than opt out of is barring students from science based factual education, especially the students living on the margins whose parents might not even see the permission slip. She pointed out that Alaska's young people have the most access to sound education at school, knowledge about the beautifully created human bodies is power, and it helps them to make informed decisions about their bodies and relationships. Speaking as a pastor, she said she knows beyond a doubt that God loves us and deems us worthy. Whatever choice a young person makes about their body and their health, let's support them in being informed, and teachers able to invite those informed resources such as Planned Parenthood into the classrooms. She asked and urged the committee to oppose SB 89.

[4:59:21 PM](#)

[SB 89 was held over.]

[4:59:40 PM](#)

REPRESENTATIVE TARR said she had noticed a lot of young people in the audience and offered that if they are unable to attend the hearing on Tuesday on SB 89, they submit written comments to be part of the record.

CHAIR SEATON agreed, and he noted that the committee will accept all written testimony.

[5:00:11 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 5:00 p.m.