

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

April 15, 2015

8:05 a.m.

MEMBERS PRESENT

Senator Bill Stoltze, Chair
Senator John Coghill, Vice Chair
Senator Charlie Huggins
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Lesil McGuire

COMMITTEE CALENDAR

SENATE BILL NO. 89

"An Act relating to a parent's right to direct the education of a child; and relating to questionnaires administered in schools."

- MOVED CSSB 89(STA) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 1

"An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

- MOVED CSSSSB 1(STA) OUT OF COMMITTEE

HOUSE BILL NO. 142

"An Act establishing Elders' Day."

- MOVED HB 142 OUT OF COMMITTEE

SENATE BILL NO. 74

"An Act relating to permanent fund dividends; relating to a medical assistance reform program; establishing a personal health savings account program for medical assistance recipients; relating to the duties of the Department of Health and Social Services; establishing medical assistance demonstration projects; and relating to a study by the Department of Health and Social Services."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 89

SHORT TITLE: PARENT RIGHTS: EDUCATION; SCHOOL ABSENCE

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 AT 8:00 AM BUTROVICH 205

BILL: SB 1

SHORT TITLE: REGULATION OF SMOKING

SPONSOR(s): SENATOR(s) MICCICHE

01/21/15 (S) PREFILE RELEASED 1/9/15
01/21/15 (S) READ THE FIRST TIME - REFERRALS
01/21/15 (S) HSS, STA, FIN
01/30/15 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
01/30/15 (S) HSS, STA, FIN
02/11/15 (S) HSS AT 1:30 PM BUTROVICH 205
02/11/15 (S) Heard & Held
02/11/15 (S) MINUTE(HSS)
03/11/15 (S) HSS AT 1:30 PM BUTROVICH 205
03/11/15 (S) Moved CSSSB 1(HSS) Out of Committee
03/11/15 (S) MINUTE(HSS)
03/13/15 (S) HSS RPT CS 2DP 3NR SAME TITLE
03/13/15 (S) DP: GIESSEL, ELLIS

03/13/15 (S) NR: STEDMAN, KELLY, STOLTZE
 04/02/15 (S) STA AT 9:00 AM BUTROVICH 205
 04/02/15 (S) Heard & Held
 04/02/15 (S) MINUTE(STA)
 04/09/15 (S) STA AT 9:00 AM BUTROVICH 205
 04/09/15 (S) Heard & Held
 04/09/15 (S) MINUTE(STA)
 04/15/15 (S) STA AT 8:00 AM BUTROVICH 205

BILL: HB 142

SHORT TITLE: ESTABLISH ELDERS' DAY
 SPONSOR(S): REPRESENTATIVE(S) FOSTER

03/09/15 (H) READ THE FIRST TIME - REFERRALS
 03/09/15 (H) STA
 03/24/15 (H) STA AT 8:00 AM CAPITOL 106
 03/24/15 (H) Moved HB 142 Out of Committee
 03/24/15 (H) MINUTE(STA)
 03/25/15 (H) STA RPT 7DP
 03/25/15 (H) DP: TALERICO, STUTES, KELLER,
 GRUENBERG, VAZQUEZ, KREISS-TOMKINS,
 LYNN
 03/27/15 (H) TRANSMITTED TO (S)
 03/27/15 (H) VERSION: HB 142
 03/30/15 (S) READ THE FIRST TIME - REFERRALS
 03/30/15 (S) STA
 04/15/15 (S) STA AT 8:00 AM BUTROVICH 205

BILL: SB 74

SHORT TITLE: MEDICAID REFORM/PFD/HSAS/ER USE/STUDIES
 SPONSOR(S): SENATOR(S) KELLY

03/13/15 (S) READ THE FIRST TIME - REFERRALS
 03/13/15 (S) HSS, STA, FIN
 03/13/15 (S) HSS AT 1:30 PM BUTROVICH 205
 03/13/15 (S) -- MEETING CANCELED --
 03/23/15 (S) HSS AT 1:30 PM BUTROVICH 205
 03/23/15 (S) Heard & Held
 03/23/15 (S) MINUTE(HSS)
 04/01/15 (S) HSS AT 1:30 PM BUTROVICH 205
 04/01/15 (S) Heard & Held
 04/01/15 (S) MINUTE(HSS)
 04/02/15 (S) STA AT 9:00 AM BUTROVICH 205
 04/02/15 (S) <Pending Referral>
 04/03/15 (S) HSS AT 1:30 PM BUTROVICH 205
 04/03/15 (S) -- MEETING CANCELED --
 04/08/15 (S) HSS AT 1:30 PM BUTROVICH 205

04/08/15	(S)	Heard & Held
04/08/15	(S)	MINUTE(HSS)
04/10/15	(S)	HSS AT 1:30 PM BUTROVICH 205
04/10/15	(S)	Moved CSSB 74(HSS) Out of Committee
04/10/15	(S)	MINUTE(HSS)
04/11/15	(S)	HSS RPT CS 3DP 1NR NEW TITLE
04/11/15	(S)	DP: GIESSEL, ELLIS, STOLTZE
04/11/15	(S)	NR: STEDMAN
04/13/15	(S)	STA AT 8:00 AM BUTROVICH 205
04/13/15	(S)	Heard & Held
04/13/15	(S)	MINUTE(STA)
04/14/15	(S)	STA AT 8:00 AM BUTROVICH 205
04/14/15	(S)	Scheduled but Not Heard
04/15/15	(S)	STA AT 8:00 AM BUTROVICH 205

WITNESS REGISTER

SENATOR MIKE DUNLEAVY
 Alaska State Legislature
 Juneau, Alaska
POSITION STATEMENT: Prime sponsor SB 89.

BETHANY MARCUM, Staff
 Senator Mike Dunleavy
 Alaska State Legislature
 Juneau, Alaska
POSITION STATEMENT: Answered questions regarding SB 89.

SUSAN MCCAULEY, Director
 Division of Teaching & Learning Support
 Alaska Department of Education & Early Development
 Juneau, Alaska
POSITION STATEMENT: Addressed concerns with SB 89.

BRANDON BREFCZYNSKI, Staff
 Senator Bill Stoltze
 Alaska State Legislature
 Juneau, Alaska
POSITION STATEMENT: Addressed the Committee Substitute for SB 1.

SENATOR PETER MICCICHE
 Alaska State Legislature
 Juneau, Alaska
POSITION STATEMENT: Prime sponsor of SB 1.

ANDREA WATTS, Staff
 Representative Neil Foster

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided an overview of HB 142.

DENISE DANIELLO, Executive Director
Alaska Commission on Aging
Alaska Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Supports HB 142.

HEATHER SHADDUCK, Staff
Senator Pete Kelly
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed the changes made to SB 74.

VALERIE DAVIDSON, Commissioner
Alaska Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Addressed concerns for SB 74.

JON SHERWOOD, Deputy Commissioner
Medicaid & Health Care Policy
Alaska Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Addressed questions regarding SB 74.

BECKY HULTBERG, President/CEO
Alaska State Hospital and Nursing Home Association
Juneau, Alaska

POSITION STATEMENT: Addressed concerns for SB 74.

JEREMY PRICE, State Director
Americans for Prosperity-Alaska
Anchorage, Alaska

POSITION STATEMENT: Supports SB 74.

ACTION NARRATIVE

8:05:05 AM

CHAIR BILL STOLTZE called the Senate State Affairs Standing Committee meeting to order at 8:05 a.m. Present at the call to order were Senators Wielechowski, Coghill, Huggins, and Chair Stoltze.

SB 89-PARENT RIGHTS: EDUCATION; SCHOOL ABSENCE

8:06:11 AM

CHAIR STOLTZE announced the consideration of SB 89. [The work draft CS for SB 89, version 29-LS0735\G was adopted on 4/14/15.] Noting that public testimony was closed, he asked if any committee members had amendments to offer.

8:06:51 AM

SENATOR COGHILL moved to report the committee substitute (CS) for SB 89 from committee with individual recommendations and attached fiscal note.

CHAIR STOLTZE objected for discussion purposes.

SENATOR WIELECHOWSKI stated that he was not expecting the bill to move during the current committee meeting. He said the bill is a pretty significant change to Alaska's law and there are some pretty significant problems with the bill. He said he was wondering if the committee could hear from the Department of Education.

CHAIR STOLTZE said the committee will hear from the Department of Education.

8:07:51 AM

SENATOR MIKE DUNLEAVY, Alaska State Legislature, Juneau, Alaska, sponsor of SB 89, introduced himself.

SENATOR WIELECHOWSKI asked the following:

On page 2, lines 13-17, there is a requirement for parental notification of not less than 2 weeks, but not more than 6 weeks before any activity, class, or program that includes content involving human reproduction or sexual matters.

He asked if a penalty is involved if a teacher or school does not follow the strict notification timeline.

SENATOR DUNLEAVY replied that currently there are no penalties in the bill. He specified that following the timeline is "expected" to be followed once the bill is passed into law.

SENATOR WIELECHOWSKI inquired if a teacher is prohibited from answering a student's question on date rape without first receiving a permission slip.

SENATOR DUNLEAVY specified that the bill is an attempt at being reasonable, meaning there will always be questions that come up in the classroom with the teacher. He replied no, there would not be a situation where a child asks a question and the teacher says, "Hold that thought, we'll get back to you in two weeks."

CHAIR STOLTZE welcomed him to depart from Senator Dunleavy to Superintendent Dunleavy and noted he is probably aware of existing reporting requirements.

8:10:00 AM

SENATOR WIELECHOWSKI said language on page 2, lines 18-20, states that parents can remove children for any reason for religious holidays as defined by the parent. He asked if the parent needs to notify the school district as to what religious holiday they would be following.

SENATOR DUNLEAVY answered that parents would notify the school so that absence is understood and allowed.

SENATOR WIELECHOWSKI asked if a pagan holiday would be allowed as a religious holiday.

SENATOR DUNLEAVY answered that the religious holiday is the parent's choice.

SENATOR WIELECHOWSKI addressed page 2, lines 21-22 as follows:

The school district must provide the parent with an opportunity to review the content of an activity, class, performance standard, or program.

He asked if the proviso gives parents the opportunity to review tests before being administered.

SENATOR DUNLEAVY answered no. He detailed that there will be no avenue to read an assessment and breach security.

SENATOR WIELECHOWSKI remarked that the way he reads the language is that parents would have the opportunity to review tests. He asked if clarifying language should be considered that excludes tests.

SENATOR DUNLEAVY answered that there is no wording regarding testing.

SENATOR WIELECHOWSKI asked where "performance standard" is noted if that included tests.

SENATOR DUNLEAVY answered no. He specified that "performance standard" would include publicly listed standards for each of the courses.

SENATOR WIELECHOWSKI asked how long the parent has to review.

SENATOR DUNLEAVY replied that the period of time for a parent to review has not been stipulated in the bill. He said the school board could decide on the local level.

SENATOR WIELECHOWSKI asked if guidance should be provided on the length of time a parent has to review.

SENATOR DUNLEAVY replied that the bill allows the school district to decide.

[8:12:59 AM](#)

SENATOR WIELECHOWSKI addressed page 3, Section 3, the Alaska Association of School Boards (AASB) testified against the provision. He asked if Senator Dunleavy considered AASB's concerns.

SENATOR DUNLEAVY answered yes. He specified that the belief is the concerns of parents outweigh AASB's concerns.

SENATOR WIELECHOWSKI said he contacted AASB the previous day and asked for information on what sort of survey questionnaires are being asked. He disclosed that AASB agreed to provide the information and asked that the committee not move the bill out prior to receiving the information.

CHAIR STOLTZE noted that mail has been received on the issue.

SENATOR DUNLEAVY remarked that he was the president of the Mat-Su schoolboard and was familiar with AASB's purpose in terms of what it advocates for.

SENATOR WIELECHOWSKI asked what the rationale was behind Section 3, page 3.

[8:14:54 AM](#)

SENATOR DUNLEAVY responded that after discussions with many parents that any type of questionnaire should get permission from parents before their children are surveyed. He summarized

that parents should be informed so that they can make informed decisions.

SENATOR WIELECHOWSKI addressed page 4, Section 6, and noted that the section was new where school districts may require physical examinations of teachers as a condition of employment. He asked if Senator Dunleavy could provide background information on the proviso.

[8:16:02 AM](#)

BETHANY MARCUM, Staff, Senator Dunleavy, Alaska State Legislature, Juneau, Alaska, answered that there is no state requirement for school districts to conduct physical exams for teachers. She detailed that should a school district decide to require a physical exam, the section allows the school district to require the examination. She added that the school district would not be required to pay for the physical exams.

SENATOR WIELECHOWSKI asked to clarify that the purpose of the section is not to allow school districts to discriminate against those who may have physical disabilities.

MS. MARCUM answered that school districts requested to have their burden reduced regarding state requirements like physical exams.

SENATOR WIELECHOWSKI addressed Section 7 and said the section states the following:

A school district may not permit an abortion services provider or an employee or volunteer of an abortion services provider to offer, sponsor, furnish course materials, or provide instruction relating to human sexuality or sexually transmitted diseases.

He asked if the school district is required to perform a background check to ensure that people who are volunteering in the classroom or offering instruction are not volunteers for abortion services providers.

SENATOR DUNLEAVY answered no.

SENATOR WIELECHOWSKI asked if there is a penalty if a volunteer of an abortion services provider is allowed to teach one of the classes.

SENATOR DUNLEAVY answered that there is no penalty to the school district if unknowingly there was an individual in an official capacity that taught the class. He detailed that there are no background checks to determine if somebody was related to an abortion service provider.

SENATOR WIELECHOWSKI asked if the proviso would apply to those who have financially contributed to abortion services providers.

SENATOR DUNLEAVY answered that the intent of the bill is not to do what Senator Wielechowski described.

SENATOR WIELECHOWSKI asked if a parental classroom volunteer who happens to be a volunteer at an abortion services provider would be banned from the classroom.

[8:18:24 AM](#)

SENATOR DUNLEAVY answered that the intent of the bill would not ban the individual that Senator Wielechowski described.

SENATOR WIELECHOWSKI asked if a school nurse who happened to be a volunteer for an abortion services provider would be able to provide instruction relating to human sexuality.

SENATOR DUNLEAVY answered that the school nurse's capacity would be that of an employee and not as an individual acting as a representative or activity presenter on behalf of an abortion service provider. He specified that the bill would not preclude the individual in being employed by the school district.

SENATOR WIELECHOWSKI noted that the bill does not have a penalty or require a background check. He asked to verify that a school district that repeatedly allows a volunteer from an abortion services provider to offer a class would not face a penalty or punishment.

SENATOR DUNLEAVY answered as follows:

I think in a court proceeding they would say that is a leading question. If there is an individual that is hired in an official capacity, has been vetted by the school district, whether they would be a nurse or classroom, and their primary purpose or function is to teach the content and adopt the curriculum of the school district or to perform the duties as adopted by the school district, this bill would offer no penalties for that individual.

CHAIR STOLTZE stated that his hope is the questions will be not to affirm a statement but to really ask a question.

8:20:32 AM

SENATOR WIELECHOWSKI noted that some hospitals offer abortion services in emergencies, primarily in the case of the life of the mother. He asked if the bill's definition of abortion services provider includes the hospitals that he described.

SENATOR DUNLEAVY answered that the hypothetical hospitals that Senator Wielechowski alluded to could possibly be covered by the bill.

SENATOR WIELECHOWSKI asked if the Alaska Regional Hospital or the Veterans Affairs (VA) Hospital performs emergency abortions, would volunteers from Alaska Regional or VA hospitals be permitted to provide instruction.

CHAIR STOLTZE asked to verify that the instruction pertains to sexuality.

SENATOR DUNLEAVY answered that a person would not be allowed if the individual has a direct association with an abortion provider and their purpose is to educate children on human reproduction and human sexuality.

8:22:17 AM

SENATOR WIELECHOWSKI stated that he has heard concerns that performance standard reviews could be affected if more than 5 percent of parents opt out of testing.

SENATOR DUNLEAVY presumed that Senator Wielechowski was alluding to federal funding where sanctions are possible if assessments are less than 95 percent.

SENATOR WIELECHOWSKI asked what the potential sanctions are.

SENATOR DUNLEAVY answered that there could be a loss of federal funding through Title 1 of the Elementary and Secondary Education Act (ESEA).

SENATOR WIELECHOWSKI asked if a loss of funding would occur on a school, district, or statewide level if 5 percent of parents from a particular school decided to opt-out their children from testing.

SENATOR DUNLEAVY replied that Senator Wielechowski's question cannot be answered because to his knowledge, the loss of funding through sanctions has not been tested.

[8:24:21 AM](#)

SENATOR WIELECHOWSKI asked how much federal funding does the state receive for education.

SENATOR DUNLEAVY answered that based upon the types of programs, federal funding ranges from \$60 million to \$220 million. He specified that federal funding is in the \$60 million range for the state's instructional or title grants.

SENATOR WIELECHOWSKI asked if the state could be losing funding.

SENATOR DUNLEAVY replied that since the advent of the No Child Left Behind Act of 2001, a state could lose everything, but the sanction has not been tested. He noted that the recent iteration of ESEA by the U.S. Department of Education was a unilateral change that was done without Congress and its constitutionality has been questioned.

CHAIR STOLTZE asked that a representative from the Department of Education & Early Development address the committee.

[8:26:19 AM](#)

SUSAN MCCAULEY, Director, Division of Teaching & Learning Support, Alaska Department of Education & Early Development, Juneau, Alaska, revealed that there is a potential loss of funding for all title programs where a state law permits students to opt out of federally and state mandated assessments. She specified that the U.S. Department of Education is concerned that participation under the mandated 95 percent threshold may mask student performance. He disclosed that total funding for Alaska's title programs is \$96.8 million.

SENATOR WIELECHOWSKI asked if Ms. McCauley had other concerns with any other parts of the legislation or did she support the legislation.

CHAIR STOLTZE inquired if Ms. McCauley's statement addressed a concern or some issues.

[8:28:34 AM](#)

MS. MCCAULEY replied that the department's primary concern is with the potential federal funding implications from state legislation that permits opting out. She asserted that her

statement does not question a parent's right to advocate what they feel is best.

SENATOR WIELECHOWSKI asked if there are other implications from the bill that the committee should be made aware of.

MS. MCCAULEY remarked that the state's accountability system for student learning is based largely on the result of the state assessments. She detailed that the state assessments drive improvement plans for schools and districts. She asserted that a domino-effect could occur if participation falls under 95 percent where the state does not receive a good indication of how schools and districts are doing.

[8:30:23 AM](#)

CHAIR STOLTZE asked if asserting parental rights is the piece of the puzzle that collapses everything.

MS. MCCAULEY answered that she would not characterize the opt-out implications the way Chair Stoltze did. She explained that student learning growth from year to year and current mechanisms of school accountability are largely based on student performance on state mandated assessments.

CHAIR STOLTZE noted that the conversations he has had with educators is that testing is one of the most wasted activities in their classrooms.

SENATOR WIELECHOWSKI asked if the testing is mandated by state or federal law.

MS. MCCAULEY answered that that assessments are mandated by both.

SENATOR WIELECHOWSKI asked to verify that state law could be changed to say "no testing."

MS. MCCAULEY answered yes.

SENATOR WIELECHOWSKI remarked that the committee could consider the "no testing" option. He asked to verify that the state could decide not to test and say that it does not want the federal government's \$96.8 million.

[8:32:23 AM](#)

MS. MCCAULEY answered that current federal law requires assessments to be administered to all students. She concurred

with Senator Dunleavy that potential consequences are a bit untested.

CHAIR STOLTZE commented that the state will have to look at all of its relationships with the federal government. He asked if the department is looking at the cost-benefit from federal enticement.

MS. MCCAULEY replied that a daily tension exists in the line between funds that hopefully do good things for students, particularly students with challenges, and the state's system of education done in a manner that the state wants to do.

[8:34:38 AM](#)

SENATOR WIELECHOWSKI asked if Ms. McCauley is concerned with the requirement on page 2 to provide parent notification not less than two weeks, but not more than six weeks prior to discussions on human reproduction or sexual matters. He remarked that showing the movie "Gone with the Wind" where people are kissing could be defined as human reproduction or a sexual matter.

MS. MCCAULEY replied that school districts are probably better equipped to respond to how parent notification timelines have impact on their processes. She noted that many districts have chosen to have parent notification processes in place because notification is considered to be a good practice for educational topics that parents may wish to not have their children participate in. She said the districts that do not have notification processes in place will consider the new requirement burdensome, for others the requirement won't be different from current practices.

[8:36:18 AM](#)

SENATOR WIELECHOWSKI asked if the current law allows parents to withdraw their children from classes, programs, or activities.

MS. MCCAULEY replied that currently there is no state law that requires or prohibits parents from withdrawing their children. She noted that some districts do allow parents to withdraw their children.

SENATOR WIELECHOWSKI stated that to his understanding, school districts currently allow parents to withdraw their kids for issues that they are concerned with. He asked if a problem exists that the Legislature needs to fix.

MS. MCCAULEY stated that she is not informed in a manner that can answer Senator Wielechowski's question. She reiterated that there are districts that have processes that would comply with the language in the bill.

SENATOR HUGGINS said he is proud to disclose that he had three children that graduated from Alaska school systems. He opined that the most important component for success of a child is parental involvement. He asked where Ms. McCauley would rank parental involvement on her scale as a professional.

MS. MCCAULEY answered that she agreed with Senator Huggins that parent involvement has an enormous impact on student learning, achievement, and success.

CHAIR STOLTZE asked where Ms. McCauley would rank parent involvement on her scale.

MS. MCCAULEY answered that parental involvement would be right at the top.

SENATOR HUGGINS commended the bill sponsor for introducing legislation that will reinforce the bonding between the system, teacher, parent, and student.

CHAIR STOLTZE announced that he will remove his objection. He asked if any committee member would like to reassert an objection.

[8:40:41 AM](#)

CHAIR STOLTZE announced that hearing no objections, CSSB 89(STA) moved out of the Senate State Affairs Standing Committee.

[8:40:45 AM](#)

At ease.

SB 1-REGULATION OF SMOKING

[8:43:05 AM](#)

CHAIR STOLTZE announced the consideration of SB 1. He declared that public testimony for SB 1 is closed.

[8:43:50 AM](#)

SENATOR COGHILL moved to adopt the CS for Sponsor Substitute (SS) for SB 1, version 29-LS0003\S as the working document.

CHAIR STOLTZE objected for discussion purposes.

[8:44:13 AM](#)

BRANDON BREFCZYNSKI, Staff, Senator Bill Stoltze, Alaska State Legislature, Juneau, Alaska, provided an overview of the CS for SB 1 as follows:

Section 1, page 4, line 7, the word "shall" was changed to "may" adopt regulations.

Section 1, page 4, lines 18 and 25, there is a change for the notice of prohibition, all "Smoking Prohibited by Law" signs are reducing the maximum penalty from \$100 to \$50.

AS 18.35.316, powers and duties of the commissioner from the previous CS has been deleted.

Section 2, page 5, line 27, AS 18.35.336, violations and civil penalties from the previous CS has been deleted and amended to reflect existing statute. AS 18.35.340(a), civil complaints and penalties which requires the commissioner to develop and maintain a procedure for processing reports of violations and conforming changes have also been added to this section.

Section 3, page 6, line 1, is reinstating existing statute and adding conforming changes.

Sections 4-7, pages 6-7, they are all reinstating existing statutes and adding conforming language.

Sections 8-11, page 7, are reinstating existing statutes and adding conforming changes. For clarity, the previous CS, the HSS version, had all of the statutes eliminated, so we are putting them back in the State Affairs CS.

[8:46:31 AM](#)

SENATOR PETER MICCICHE, Alaska State Legislature, Juneau, Alaska, said the bill exists and has survived as something designed to protect Alaskans from the effects of secondhand smoke while they are at the workplace. He asserted that the bill reinforces the fact that the law is largely self-enforcing and not designed to be heavy-handed or punitive.

SENATOR WIELECHOWSKI asked what was specifically changed in the provisions.

MR. BREFCZYNSKI explained the changes from the Health & Social Services (HSS) version as follows:

- Removed the new penalties and fines.
- Changed from the Department of Health and Social Services (DHSS) to the Department of Environmental Conservation (DEC) where it exists currently.
- Removed the powers and duties of the commissioner's section which does not exist in current statute, which included the power to adopt regulations which DEC does not currently have.
- Reinstated all of the existing penalties, fines, and enforcement abilities of the Department of Public Safety and the DEC.

SENATOR WIELECHOWSKI asked for an explanation of the rationale behind putting enforcement back with DEC.

CHAIR STOLTZE answered that moving enforcement back with DEC is consistent with the intent of the sponsor. He said there was a lot of enforcement uncertainty with HSS and pointed out that the bill is largely a clean air issue that falls under DEC's purview. He noted that current enforcement in smoking prohibition areas has mostly been through self-regulation with very few citations issued. He summarized that the change to the bill accomplishes the sponsor's goal of creating the statewide ban without bringing in a lot more government.

[8:50:03 AM](#)

CHAIR STOLTZE removed his objection to adopting the CS. He disclosed that Senator McGuire had expressed an interest in addressing the issue with e-cigarettes. He revealed that the number one issue of correspondence during the session came from individuals who wished to use e-cigarettes as their less un-safe option to smoke as a cessation tool. He summarized that the discussion continues on e-cigarettes. He asked if Senator Micciche had any comments on e-cigarettes.

SENATOR MICCICHE replied no. He said the bill has a ways to go and all issues are being evaluated. He stated that the bill is about protecting Alaskan workers while trying to find the best way to do that while impacting the public and businesses as little as possible. He asserted that he is still listening to the public.

[8:51:49 AM](#)

CHAIR STOLTZE asked if there were any amendments. He requested that Mr. Brefczynski address the bill's fiscal notes.

MR. BREFCZYNSKI specified the fiscal notes as follows:

- Department of Transportation & Public Facilities (DOT&PF)-Alaska Marine Highway System: \$2,400 for FY16, \$1,000 thereafter.
- DOT&PF-International Airports: zero fiscal note.
- DOT&PF-State Equipment Fleet: \$1,500.
- DOT&PF-Administration Support: \$10,600 for FY16, \$1,100 thereafter.
- Department of Commerce, Community, and Economic Development: zero fiscal note.
- Alaska Court System: zero fiscal note.
- DHSS-Division of Public Health: zero fiscal note.
- DEC-Division of Environmental Health: zero fiscal note.

CHAIR STOLTZE noted that he questioned some of the fiscal notes and said commentary will be left for the next committee.

SENATOR MICCICHE detailed that the fiscal notes are largely for signage and the goal is to find a donor so that there is no cost to the state.

[8:53:55 AM](#)

SENATOR COGHILL moved to report SB 1, version S, with individual recommendations and the attached fiscal notes.

[8:54:12 AM](#)

CHAIR STOLTZE announced that hearing no objections, CSSSSB 1(STA) moves out of the Senate State Affairs Standing Committee.]

[8:54:14 AM](#)

At ease

HB 142-ESTABLISH ELDERS' DAY

[8:56:09 AM](#)

CHAIR STOLTZE announced the consideration of HB 142.

[8:57:20 AM](#)

ANDREA WATTS, Staff, Representative Neil Foster, Alaska State Legislature, Juneau, Alaska, provided an overview of HB 142 as follows:

House Bill 142 is an act that establishes Elders' Day. Elders of all cultural and ethnic backgrounds hold a special place in the hearts of Alaskans. Elders' knowledge and experiences provide a link from the past to the present, a link that connects us to our ancestors. Elders also serve a vital role as teachers and mentors, guiding younger generations through the many facets of life. Celebrating and honoring our elders on winter solstice, a time of change and optimism, not only recognizes the value of those who came before us, but the significance of the lessons and knowledge they selflessly leave behind for us to take into the future.

CHAIR STOLTZE asked if there is a specific date for winter solstice.

MS. WATTS explained that depending on the year, winter solstice varies from December 21-22.

CHAIR STOLTZE asked if winter solstice has any religious connotations.

MS. WATTS answered that there may have been connotations in the past, but the bill just recognizes the change of time and seasons.

SENATOR WIELECHOWSKI asked for a definition of elders.

MS. WATTS answered that elder denotes respect and dignity. He specified that elder is a word that really exemplifies a person who is honored in their community. She said an elder could be a teacher, grandparent, coach, or military veteran. She summarized that a person honored as an elder really is in the eye of the beholder.

SENATOR WIELECHOWSKI asked if there is an age when a person becomes an elder.

MS. WATTS answered no.

CHAIR STOLTZE asked if the statutes might have to be tightened to determine what "venerable" is.

MS. WATTS replied that "venerable" is determined by an individual's perception of the elder.

[8:59:33 AM](#)

DENISE DANIELLO, Executive Director, Alaska Commission on Aging, Alaska Department of Health and Social Services, Juneau, Alaska, read a statement of support as follows:

Alaska's elders, regardless of their culture, ethnic heritage, or where they live, are valuable members of our society; their wealth of knowledge, wisdom, and vast experiences should be honored and shared to enrich everyone's life. Older people have lived long, they have successes as well as mistakes and they have learned from these life experiences; for this reason, Alaska's elders, tradition bearers, pioneer, and mentors who link the past with the present can help future generations by offering their wisdom and guidance to keep life moving forward in a positive direction. Just because this is a concisely stated piece of legislation, please don't undervalue its significance. We feel that Alaska's older people are truly a renewable resource and each one of us has the responsibility to honor and respect our elders, this is something that our parents have taught us over many generations. The renowned Tlingit elder, Dr. Walter Soboleff, has reminded us to take care of the old person that we will become, so we think this is sage advice and appreciate your hearing of this bill today.

CHAIR STOLTZE asked where her perception was derived that elders were undervalued.

MS. DANIELLO replied that she did not mean to say that any committee member undervalues elders.

[9:02:00 AM](#)

SENATOR COGHILL moved to report HB 142 [29-LS0456\W] from committee with individual recommendations and attached zero fiscal note.

CHAIR STOLTZE announced that without objection, HB 142 moves out of Senate State Affairs Standing Committee.

[9:02:18 AM](#)

At ease.

SB 74-MEDICAID REFORM/PFD/HSAS/ER USE/STUDIES

9:03:57 AM

CHAIR STOLTZE announced the consideration of SB 74.

9:04:07 AM

SENATOR COGHILL moved that the committee adopt the CS for SB 74, [version 29-LS0692\F], as the working document.

CHAIR STOLTZE objected for discussion purposes.

9:04:28 AM

HEATHER SHADDUCK, Staff, Senator Pete Kelly, Alaska State Legislature, Juneau, Alaska, reviewed the changes made to SB 74 as follows:

Section 1, page 1, line 10 through page 2, line 3:

- This sections allows DHSS to enter into a contract through the competitive bidding process under the State Procurement Code for durable medical equipment or specific medical services provided in the Medicaid program.

MS. SHADDUCK detailed that the new Section 1 has no impact on the current used durable medical equipment bill that is running through both bodies. She continued to address the changes as follows:

Section 2, page 2, lines 4-16:

- Subsection (a) directs the department to establish a computerized income, asset, and identity eligibility verification system for the purpose of verifying eligibility, eliminating duplication of public assistance payments, and deterring waste and fraud in the public assistance programs.
- Subsection (b) directs the department to enter into a competitively bid contract with a third-party vendor for the eligibility verification system. The department may also contract with a third-party vendor to provide information to facilitate reviews of recipient eligibility conducted by the department.

Section 4 (Section 2 in Version S):

- Page 4, line 14-22, (8) redesigning the payment process, changes specifically list payment reforms that should be included:
 - (A) premium payments for centers of excellence;
 - (B) penalties for hospital-acquired infections, readmissions, and outcome failures;
 - (C) bundled payments for specific episodes of care; and
 - (D) global payments for contracted payer, primary care managers, and case managers for a recipient or for care related to a specific diagnosis

- Page 6, lines 7-8, adds new (14) to the annual report related to Medicaid reform. DHSS will also report on the cost, in state and federal funds, for providing options services under AS 47.07.030(b), the Medicaid program.

Section 5, page 6, lines 14-19:

- Requires the Legislature to approve any new additional groups added to the Medicaid program on or after March 23, 2010.

Section 12 - (Section 9 in Version S):

- At the request of Legislative Legal, made technical fixes to the conditional effect language in Subsections (a) through (e) by replacing "that section" with the specific provision reference of the bill.

Conforming changes were made to renumber sections and references to specific sections.

[9:08:17 AM](#)

SENATOR WIELECHOWSKI asked what the rationale was behind the date: March 23, 2010, in Section 5, page 6.

MS. SHADDUCK answered that the intent was to have the Legislature approve additional groups prior to Medicaid expansion. She noted that the date is an official reference to when the Affordable Care Act (ACA) went into effect.

SENATOR WIELECHOWSKI asked if any legal opinions were sought out as to whether the section potentially violates federal law.

MS. SHADDUCK answered no.

SENATOR WIELECHOWSKI noted that Legislative Legal Services advised his office that the section potentially violates federal law. He added that his office will seek out further documentation.

MS. SHADDUCK related that the U.S. Supreme Court rule will cover any groups that are optional under ACA. She said she will talk to Legislative Legal Services to get some legal opinions.

SENATOR WIELECHOWSKI stated that he would like to hear from the Department of Health and Social Services (DHSS).

9:10:56 AM

VALERIE DAVIDSON, Commissioner, Alaska Department of Health and Social Services, Juneau, Alaska, stated that she will comment on sections that the department has concerns over as follows:

Section 2, the department actually has a new computerized public assistance system: Alaska's Resource for Integrated Eligibility Services (ARIES). ARIES pretty much meets all of the requirements except the only feature it does not have is an income, asset and identity eligibility verification system. We are anticipating that this section would really require a plug-in feature for the existing system and not require us to go out and develop an entirely new system which could cost millions, but a plug-in would be a lot more affordable and efficient; if that is the intent of the CS, then we are a lot more comfortable with that, we anticipate a fiscal note for this and that will be forthcoming from our vendor.

Page 4, Section 8, lines 14-21, we are fine with these, the only question we had was on line 19, whether we might consider changing "and" to "or" because the bundle payments and global payments may conflict; if on the other hand this was to develop a payment process that includes these options, then that is something certainly a little bit easier to live with, but we want to make sure that by having "and," those don't present the opportunity to conflict with each other.

Page 6, Section 5, this section appears to require the department to seek the approval from the Legislature for any mandatory coverage for Medicaid. The way that Medicaid is administered, there are mandatory services and there are optional services. Mandatory services are exactly that, they are mandatory. The department's position is it's highly unusual for the department to be required to seek the advanced approval of the Legislature to comply with federal law. Mandatory groups do actually get added. We have a couple of examples and quite frankly, we don't want to be in a position of jeopardizing our entire Medicaid program simply because we were not required with a mandatory provision of federal law.

She stated that Deputy Commissioner Sherwood will provide examples of where some mandatory groups have been added.

[9:15:32 AM](#)

JON SHERWOOD, Deputy Commissioner, Medicaid & Health Care Policy, Alaska Department of Health and Social Services, Juneau, Alaska, explained that mandatory groups do not get added often and typically are part of larger structural changes to the Medicaid program's barter healthcare system. He detailed that examples include special Medicare beneficiaries which are mandatory groups created to provide assistance to low income Medicare recipients with their co-payments, premiums, or deductible expenses. He said another example of a mandatory group that was added by the ACA was for children who age-out of state foster care, a mandatory coverage group that would be impacted by the provision.

[9:17:37 AM](#)

CHAIR STOLTZE said the committee was not dealing with Medicare expansion, but noted that there was a lot of intertwined connectivity. He asked if Section 5 is a deal breaker.

COMMISSIONER DAVIDSON declared that the department opposes Section 5.

CHAIR STOLTZE asked if the department vigorously opposes Section 5.

COMMISSIONER DAVIDSON answered yes.

SENATOR COGHILL opined that Section 5 appears to say if Congress is going to unilaterally change the state's budget that the Legislature should have a say.

[9:19:09 AM](#)

MR. SHERWOOD answered that the department typically has to submit a new plan amendment for a new federal mandate in order to assure implementation. He added that the Legislature would become aware of the new mandate through the budget process if increased expenditures are required. He revealed that there is no direct approval for a federal mandate and state statutes instruct compliance with the federal law, both for eligibility categories and services.

SENATOR COGHILL commented that he is willing to take the chance with the provision because Medicaid has always been called a state-federal partnership. He remarked that unilateral action can quickly overrule the state and create difficulties. He remarked that he would want to find out prior to a bill being sent to the Legislature and the mandate is already set into motion. He opined that more Medicaid mandates will occur as Medicare starts to wonder more frequently into the Medicaid wrap-around services.

CHAIR STOLTZE remarked that he has the same concerns about the state's appropriations and financial responsibilities where Alaska is on the hook in its relationship with the federal government.

[9:21:54 AM](#)

SENATOR HUGGINS asked if illegal aliens have access to Medicare or Medicaid via presidential executive orders.

MR. SHERWOOD answered that the general rule for Medicaid is a person must be a U.S. citizen or a legal permanent resident that has been present in the U.S. for at least five years. He noted that one exception applies to emergency services.

[9:24:12 AM](#)

CHAIR STOLTZE noted that his office received an e-mail prior to the committee meeting from Mr. Tony Newman, Legislative Special Assistant for DHSS. He asked if Mr. Newman's e-mail should be included as the department's position.

COMMISSIONER DAVIDSON answered yes.

SENATOR WIELECHOWSKI asked if Commissioner Davidson supported SB 74.

COMMISSIONER DAVIDSON answered that DHSS has no position on the bill, but opposes Section 5. She added that the department believes that reform and expansion go hand-in-hand. She said the department would like to see a Medicaid expansion provision in the bill.

SENATOR HUGGINS asked to verify that the department has no position on the bill.

COMMISSIONER DAVIDSON reiterated that the department has not taken an overall position on the bill, but the department does oppose Section 5.

SENATOR HUGGINS commented that he see reform as an avenue to have a conversation about expansion. He remarked that expansion is not part of the bill and he's a bit disappointed. He thanked Commissioner Davidson for stating her position.

[9:26:34 AM](#)

SENATOR WIELECHOWSKI noted that the Governor has introduced his own bill to reform and expand Medicaid. He asked that Commissioner Davidson describe some of the reform efforts in the Governor's bill and how much the state would save.

COMMISSIONER DAVIDSON answered that SB 74 and the Governor's bill are closely aligned in terms of reform efforts. She noted that some of the provisions in the Governor's bill includes specific language on the following:

- Use an 1115 Waiver to negotiate with the Centers for Medicare & Medicaid Services (CMS) that will allow the state to take advantage of 100 percent federal match.
- Work with the tribal health system to enhance their ability to provide care for beneficiaries.
- Engage with an independent third party to make recommendations and report at the beginning of the next session for a provider-tax.

She detailed that in order to implement the provider-tax, separate legislation would be required. She disclosed that Alaska is the only state without a provider-tax. She explained that most states typically impose a provider-tax on hospitals and nursing homes.

COMMISSIONER DAVIDSON set forth that Medicaid expansion and reform is healthy for Alaskans and detailed as follows:

- Increases access to healthcare coverage.
- Saves the state \$107 million over the first 6 years.
- Saves resources that the state is currently paying for with 100 percent from the General Fund.
- Good for the economy by infusing over \$1 billion in new resources into Alaska.
- Acts as a catalyst for reform.

She reiterated that reform and expansion go hand-in-hand. She voiced that reform is a constant process that happens all of the time. She asserted that DHSS has already undertaken reform efforts based on current and prior administrations. She remarked that since reform efforts have been undertaken, the state should do expansion.

[9:30:26 AM](#)

CHAIR STOLTZE noted that he had asked at the previous committee meeting that Commissioner Davidson provide a projection on departmental letterhead, absent expansion, for the anticipated growth in Medicaid up to 2030.

COMMISSIONER DAVIDSON answered that Medicaid's growth projections are expected to range from \$4.5 billion to over \$6 billion by 2032. She disclosed that the projections do not take into account the reform efforts that the department is undertaking. She said DHSS recognizes that the Medicaid program in its current form is not sustainable and there's no choice but to reform.

[9:32:30 AM](#)

CHAIR STOLTZE asked if there is an aversion to providing the committee with a projection document as part of the record. He said a Medicaid growth projection from DHSS is an important part of the record.

COMMISSIONER DAVIDSON replied that DHSS will provide the document to the committee.

CHAIR STOLTZE noted that his request will give Commissioner Davidson an opportunity to provide her own numbers in contrast to the projections that she has challenged.

SENATOR WIELECHOWSKI asked how much uncompensated care there is in Alaska, who pays for the uncompensated care, and how much uncompensated care is expected to be covered by the federal government if Medicaid was expanded.

CHAIR STOLTZE pointed out that the committee does not have an expansion bill. He said the expansion bill was not referred to the committee.

COMMISSIONER DAVIDSON answered that according to the Alaska State Hospital and Nursing Home Association (ASHNHA), Alaska hospitals provide over \$100 million in uncompensated care annually. She noted that Arizona saw a 30 percent reduction in uncompensated care during its first 6 months of expansion and added that ASHNHA has testified that they projected a 30 percent drop in their uncompensated care. She said with regard to who pays for uncompensated care, everyone does because a hospital has to increase what they charge to recoup their loss.

[9:34:36 AM](#)

CHAIR STOLTZE noted that the Governor has said that expansion is reform. He asked if there has been an evolution by the administration that just spending more money is not reform.

COMMISSIONER DAVIDSON replied that she does not recall the Governor making the statement that expansion is reform. She reiterated that expansion and reform actually goes hand-in-hand. She opined that if the Governor's position was that expansion is reform, then he would probably have introduced a bill that was just on expansion, but he instead chose to do a bill that is both expansion and reform.

CHAIR STOLTZE commented that there may have been an evolution by the Governor.

SENATOR HUGGINS said there are studies that indicate "ObamaCare" has had little or no effect on uncompensated care or emergency room usage.

[9:36:46 AM](#)

COMMISSIONER DAVIDSON replied that the states in the study may have benefited from a bill similar to Governor Walker's that requires identifying someone that over utilizes the emergency room department.

SENATOR WIELECHOWSKI noted that Commissioner Davidson mentioned the total savings on the Governor's reform bill of \$107 million.

He said he thought the total savings over 6 years was \$330 million.

[9:38:27 AM](#)

COMMISSIONER DAVIDSON specified that the savings for the state's general fund would be \$107.8 million in the first 6 years.

CHAIR STOLTZE pointed out that an expansion bill is in another committee. He asked that questions be general and not too involved in the expansion bill.

SENATOR WIELECHOWSKI asked why the state should expand now versus waiting until reforms kick in.

[9:40:05 AM](#)

COMMISSIONER DAVIDSON asserted that reforms had already kicked in. She detailed that the reforms began in the prior administration in addition to the reforms that were undertaken in December, including benefits from the super-utilizer program. She revealed that the ACA's enhanced federal match of 100 percent for Medicaid expansion only lasts through 2016. She detailed that the state has already missed \$146 million or \$400,000 per day from the federal match opportunity. She specified that federal match over the coming calendar years as follows:

- 2017: 95 percent
- 2018: 94 percent
- 2019: 93 percent
- 2020 and beyond: 90 percent.

She noted that 93 percent federal match is the same for the state's aviation or runway improvements and 90 percent is the same match for transportation and road improvements. She summarized that the state has an opportunity to make Alaskans as healthy and productive as possible using 100 percent federal funds in the first year.

[9:42:28 AM](#)

She addressed recent testimony from two different providers: PeaceHealth Hospital from Ketchikan and Central Peninsula Hospital from Soldotna. She detailed that PeaceHealth received an innovation grant from the Centers for Medicare & Medicaid Services (CMS) and spent \$700,000 to be able to lose \$1.5 million in order to improve health outcomes for their population. Central Peninsula said they had interest in pursuing a Medicaid demonstration project described in the Governor's

bill that would change the way Medicaid is reimbursed. She specified that Central Peninsula preferred to use the resources from Medicaid expansion because they would not realize the savings and make much progress. She said similar to PeaceHealth, Central Peninsula intends to spend money to lose money.

[9:45:43 AM](#)

BECKY HULTBERG, President/CEO, Alaska State Hospital and Nursing Home Association (ASHNHA), Juneau, Alaska, provided general comments on SB 74 as follows:

We've had a really good dialog this session about reform and I think that is healthy and it's also step one of what needs to be an ongoing dialog. We agree with the sponsor and the department that Medicaid costs are growing at an unsustainable rate.

In my past job I sat in this building and said healthcare costs are growing at an unsustainable rate and that is still the case; but, I think to understand why healthcare costs are growing at an unsustainable rate, we have to look at how we pay for healthcare and what we pay for, I'm going to take a bit of a step back and talk about that because it is essential to reform and how reform can actually move forward and make change. Our healthcare payment system right now incentivizes the wrong things. We work within what is called a fee-for-service system which basically means providers get a fee for each service that they provide. Providers are thus financially rewarded based on the volume of care provided, not necessarily the value of that care, value meaning that the quality and cost of that care are both considered. So we know that nationally the trend in healthcare is toward paying for value, toward paying for quality outcomes, and toward incentivizing providers for reduced cost in getting those outcomes; but this is a really huge shift in how care is delivered and how payment is made, it is going to take time, it's going to be disruptive, and systematic change will not happen until those financial incentives change. Portions of this bill do begin to address that question of payment reform. Some payers are already making this transformation, Medicare is moving toward value-based purchasing, pretty aggressively; so this is coming, the question for us is how we are going to respond in this environment. Providers are working to make this

transition in a pretty challenging economic environment and I just want to take a minute because again, I think this is essential to reform.

[9:48:12 AM](#)

MS. HULTBERG continued her overview as follows:

Hospitals are a unique industry sector in many ways. One of the most significant ways that our industry is unique is that we are legally required to give our services away for free, that's because the federal Emergency Medical Treatment and Labor Act (EMTALA), requires hospitals to take care of patients that are present at the emergency room whether they can pay or not; this uncompensated care amounts to over \$100 million per year and that's a conservative estimate for Alaska hospitals, some hospitals have testified that it is between 10 and 20 percent of their charges.

Alaska hospitals' other area of financial pressure is Alaska hospitals are facing very significant financial pressures from the Medicare program. Alaska Hospitals will see \$600 million in Medicare reductions in a 15 year time horizon; that started in 2010, it goes out to 2024. There are another \$300 million of cuts under consideration, which could bring the total cuts to Alaska hospitals to almost \$900 million, that's a lot of money coming out of the system.

The cuts have come through a couple of ways and I want to address that and I think part of this refers to something Senator Huggins has spoken about regarding Medicare crowd-out. Some of those cuts did come as a result of ACA, between \$250 million and \$300 million of those cuts came about because of the act. The assumption was that if uncompensated care goes down, which it should, if people have coverage through the exchanges or through Medicaid expansion, the hospitals could absorb Medicare cuts. In states that have not expanded Medicaid, those uncompensated care reductions have been much, much less. The concern for non-Medicaid expansion-states is that the hospitals are going to take those cuts regardless. Now I want to point out that while some of the cuts originated in ACA, they are now not really linked to it because Republican budget proposals have kept the cuts, even as they propose repealing the ACA, so we have to

assume those cuts are here to stay and they are an economic reality that our industry is now learning to deal with.

So in this economic environment it is kind of hard to talk about reform because what do you want out of reform? The goal of reform is bending the cost curve and reducing the cost of healthcare. So in an environment where we are taking money out of the system, we are saying now we need to take more out of the system, that's a really challenging conversation to have with any industry.

[9:50:42 AM](#)

MS. HULTBERG continued her overview as follows:

But we are here supporting reform for a couple of reasons. First, we know it's the right thing to do and it's absolutely what we have to do as an industry to survive. Secondly, because we have this opportunity with the carrot of Medicaid expansion to put some money back into the system to help us reform as we are taking money out and so I think that's why understanding that this bill is related to reform that from a hospital perspective it's hard to have the reform conversation without having the expansion conversation. Couple quick reasons, Medicaid reform is not a point in time event, it's an ongoing process and again, I want to thank this committee and the Legislature for really considering these issues this year. We will be successful in reform and we are having these conversations every year, so I think it has been a good dialog, but we shouldn't necessarily wait for reform because we will never arrive, the industry is too dynamic, it is too complex, and it is changing too fast to ever say that we have really arrived at reform. Second, innovation and change require capital. For any business to fundamentally change its business model, and that's what is being required in healthcare right now, that is not something that can be done without an investment and it is certainly not something that is easy to do when you are taking money out of that system, which is what is happening right now. So if we are going to succeed at reform, we are going to have to find a way to invest to change how care is delivered, and we're going to have payers who are willing to have the

conversations about how do we pay for value instead of paying for volume, those two things have to go hand-in-hand.

As the commissioner mentioned, PeaceHealth-Ketchikan talked about how they have been successful at reform, they have been successful at coordinating care; they received a \$3 million innovation grant to fund their project, the result of that project has been better quality outcomes and reduced revenue at the hospital. So you have to ask the question, under our current system, if they are to reform without a grant, they will be spending money to lose money to improve care; there are not many businesses that choose that path.

So how do we as a state help to drive reform in that economic environment? The answer is we have to help, especially our smaller facilities that do not have financial capacity, identify resources that they can invest in reform and then we have to have the conversation about how we pay for value so that we can sustain that reform; that's really where Medicaid expansion comes in because the reduction in uncompensated care improves margins, which then allows for the risk capital for innovation. From our standpoint, this is an issue on many levels, it is from a hospital perspective an important issue about providing care for the vulnerable in our community, it's an economic issue, and it's a fiscal issue; but, it's also very much an issue about how we are going to sustain the business model of the hospital that provides care in the community and that's, I think, for us a really important conversation. Our hospitals cannot pick up their practices and move, they are here, they are integral parts of the community and often they are the backbone of a community. So the question for us and why we are here saying we want to reform is that we know we must reform to remain viable, but the landscape looks really challenging. According to the National Rural Health Association, 48 Critical Access Hospitals (CAH) have closed their doors. CAH are hospitals below 25 beds, 48 have closed their doors since 2010, and an estimated 300 more are at risk. As we look at this era of disruptive change, we have to figure out how we navigate it and navigate it in an environment of reduced resources; we believe reform is critical to that conversation but we also

believe that expansion is critical to that conversation.

So Mr. Chairman, those are just my general comments about the bill. I am happy to answer any specific questions about the legislation. I think we believe, again, reform and expansion should go hand-in-hand, but we do appreciate the efforts of the bill's sponsor to address this difficult question of reform.

[9:55:23 AM](#)

CHAIR STOLTZE pointed out that the President said ACA was going to be established to cover people with better healthcare and spend less money. He asked if Ms. Hultberg was actually shocked that the things the President said are a little upside down.

MS. HULTBERG replied that the healthcare industry was going through changes before ACA and noted that the economic environment for healthcare was difficult before the ACA. She disclosed that businesses were driving their own change. She added that commercial payers are the best payers for hospitals. She opined that ACA accelerated change, but it was not the driving force necessarily for some of the changes that were currently being seen. She disclosed that the American Hospital Association supported ACA and was willing to work with the administration because of the increased coverage covered by the act. She summarized that the state has to figure out how to navigate the current business landscape in order to maintain hospitals, provide quality care, and ensure continuity of services regardless of what an individual thinks might happen in the future or what happened in the past.

CHAIR STOLTZE opined that "reform" is a broad and nebulous term. He said the terms "cost control," "cost containment," and "sustainability" narrows the discussion in making a sustainable program. He remarked that the approximate \$ 6 billion projection by 2032 would be a pretty healthy chunk of the state's budget with Permanent Fund earnings used well before federal mandates are met. He reiterated that the term "reform" leaves a lot of the other discussions off of the table because everybody is a reformer.

[9:58:41 AM](#)

MS. HULTBERG affirmed Chair Stoltze's point and related that Medicaid reform can be divided into three "buckets" as follows:

1. Programmatic Reform: making reforms in the existing program.
2. Benefit Redesign: looking at what other states have done to things like benefit plans and co-payments.
3. Payment Reform: making sure the state is paying for the outcomes it wants.

CHAIR STOLTZE stated that he is a little concerned about the sentiment, "Pass the bill and we'll work on it." He said he wants to make sure the committee understands how the bill is going to affect the state and the providers. He opined about seeing an awakening of the providers realizing that expansion is not just a free check.

SENATOR WIELECHOWSKI commented that ASHNHA has a lot of non-profits who are providing care and not making a profit off of it because the government requires that care be provided for anyone that walks in the door. He said providers are losing \$100 million per year in uncompensated care and asked if it is fair to say that the Legislature has the ability to help ASHNHA members recover a significant portion from uncompensated care by expanding Medicaid.

MS. HULTBERG answered yes. She asserted that expansion will help ASHNHA help the state invest in the kind of care redesign and reform that assists in lowering the cost curve over the long term which is a real win for everyone.

SENATOR WIELECHOWSKI stated that the current healthcare business model is not good. He remarked that the healthcare system continues to need significant improvement and he was glad to see the committee addressing reform. He asked if any ASHNHA organizations will go out of business if they continue to provide \$100 million-plus in uncompensated care.

[10:01:42 AM](#)

MS. HULTBERG revealed that hospital finances are a significant spectrum where some facilities are very profitable and some are on the margin. She remarked that she is concerned about ASHNHA's Critical Access Hospitals as the economic environment becomes increasingly difficult.

SENATOR WIELECHOWSKI commented that he would hate to see hospitals shutdown and Alaskans lose access to medical care because ASHNHA organizations are providing \$100 million in uncompensated care. He asserted that the Legislature not taking

the opportunity to fix the problem in the next week would be extremely unfortunate for Alaskans.

10:02:30 AM

SENATOR COGHILL said a whole range of delivery services for Medicaid must be looked at, not just hospitals. He asked if ASHNHA organizations are using telemedicine.

MS. HULTBERG replied that telemedicine is really exploding in the Lower 48 and has a lot of promise in Alaska. She said Alaska's tribal system is very sophisticated in its use of telemedicine. She admitted that Alaska is behind the rest of the country in the adoption of telemedicine due to barriers that she is not equipped to address.

SENATOR COGHILL stated that prior to adding more people, a connection must be made between hospitals with expertise and some of the needs in other communities. He noted that not just the hospitals are feeling the weight of change, but people who have delivered services that have not been paid because of system changes, like elder care or child care. He asserted that due to not changing behavior, profit and nonprofit deliverers who do not get paid may not be capable of adding a new population.

10:05:32 AM

CHAIR STOLTZE remarked that there are two bills, one that is the Governor's bill and the other referred to as the "reform cost containment" bill. He specified that the "reform cost containment" bill was directed by the legislative process, a deliberative consideration by three committees with public testimony and multiple hearings. He said Governor Walker made a pretty public demand that his bill have a less deliberative process of only two committees. He asserted that the Legislature put more due diligence on the "reform cost containment" bill than on the Governor's bill. He remarked that the Governor made a pretty public "request slash demand" and the Legislature yielded to the invasion from another branch of government out of respect and courtesy. He said the "reform cost containment" bill process has been more deliberative on cost containment and reform than on the expansion. He noted that several admissions have been made to hurrying it up on expansion, but the committee does not deal with expansion and only has one vehicle that has a very deliberative legislative process.

SENATOR HUGGINS asked to verify that nonprofit hospitals have a mechanism to distribute some of their revenue back into the community.

[10:07:15 AM](#)

MS. HULTBERG answered that there are specific requirements to maintain not-for-profit status that a facility provides a certain amount of community benefit. She detailed that community benefit can include uncompensated care and other subsidized services where the facility knows that they are never going to make break-even, but the services are considered a community benefit.

SENATOR HUGGINS asked to establish that the dollars for providing community benefits come out of the non-profit system.

MS. HULTBERG answered that the assumption is that the community benefit dollars would have been paid in taxes so the benefit is going back into the community in a different way, recognizing that taxes also are a benefit to the community.

SENATOR HUGGINS asked how big the pot was for larger hospitals.

MS. HULTBERG answered that the pot was in the hundreds of thousands of dollars.

CHAIR STOLTZE pointed out that the largest taxpayers in two of the largest municipalities are private hospitals: Alaska Regional of Anchorage and Mat-Su Regional in the Mat-Su Borough.

MS. HULTBERG agreed that the two noted hospitals are very large taxpayers and there is a community benefit associated with being a large taxpayer as well.

CHAIR STOLTZE disclosed that Mr. Price had comments from the private sector.

[10:09:42 AM](#)

JEREMY PRICE, State Director, Americans for Prosperity-Alaska, Anchorage, Alaska, explained that Americans for Prosperity is an organization devoted to economic freedom. He detailed that Americans for Prosperity define economic freedom as policies that help small businesses and individuals be successful by keeping the cost of government and taxes low. He said Americans for Prosperity supports SB 74 and considers the bill as a great piece of legislation that takes a valiant approach to reforming the cost of Medicaid. He asserted that reform is the first part

of the equation that must be figured out first. He noted reports that Medicaid spending will continue to increase even without expansion. He asserted that should Alaska expand Medicaid, the federal government may reduce their payment share after the state is on the hook.

10:14:08 AM

CHAIR STOLTZE noted that Commissioner Davidson mentioned in a previous committee meeting that she wanted to meet and hear from all of the stakeholders' voices. He opined that Mr. Price's testimony represents the interests in a lot of folks in the legislators' districts. He said unfortunately there has not been a willingness from some stakeholders to voice their opinion. He stated that there are a lot of voices in the Medicaid debate, not just the recipients, but the folks that are paying the bills.

MR. PRICE pointed out that private practice physicians are coming out in support of reform, but against expansion. He opined that private practice physicians have said that ACA is killing their businesses and Medicaid patients are treated as a charitable contribution to their communities. He said private practice physicians are out there, but they are afraid of testifying against the bill because of intimidation, retaliation, losing customers, and taking on the Governor.

CHAIR STOLTZE announced that he will recess to a call of the chair to leave flexibility open to continue the discussion on a major piece of legislation. He asked that Senator Kelly attend the next committee meeting to address the bill's close out. He inquired if Ms. Shadduck had any closing remarks.

10:17:20 AM

MS. SHADDUCK declared that she wanted to point out a few provisions that are absolutely unique to Senator Kelly's bill. She opined that SB 74 has a bigger focus on fraud, extensive legislative reporting requirements, payment reform, and fiscal notes that reflect costs that are not shown in the Governor's bill. She pointed out that Commissioner Davidson and Ms. Hultberg both said payment reform is absolutely something that should be done by changing from a fee-for-service to an incentive based service. She detailed that SB 74 has a fiscal note that reflects incentive based service reform. She revealed that the Medicaid managed care case management demonstration program is unique to Senator Kelly's bill. She said extensive studies have shown that doing managed care or case management in the Medicaid program saves money and noted that SB 74 is projected to show up to 20 percent in savings; however, DHSS has

shown no savings in their fiscal note and are not comfortable with submitting an indeterminate fiscal note.

CHAIR STOLTZE pointed out that Senator Kelly will have a voice on the fiscal note conversation in the Senate Finance Committee.

MS. SHADDUCK disclosed that DHSS was excited that SB 74 adds some positions for fraud prevention and addresses cost containment; however, the costs only show up on Senator Kelly's bill.

CHAIR STOLTZE acknowledged the assistance of Senator Coghill, Representative Vazquez, and legislative staff members for providing ideas that made it into the bill. He noted that Representative Vazquez has experience from the Department of Law with fraud investigations and brought relevant issues to the discussion. He stated that SB 74 was a collaborative effort, but the substance of the bill was yielded to the sponsor.

[10:20:37 AM](#)

CHAIR STOLTZE announced that the committee will stand in recess to the call of the chair. [The committee did not reconvene and SB 74 was held in committee.]