

HOUSE FINANCE COMMITTEE

April 18, 2017

9:52 a.m.

9:52:38 AM

[Note: Meeting recessed and continued April 18, 2017 at 9:45 a.m. See separate minutes dated April 17, 2017 for detail.]

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 9:52 a.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Les Gara, Vice-Chair  
Representative Jason Grenn  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Dan Ortiz  
Representative Lance Pruitt  
Representative Steve Thompson  
Representative Cathy Tilton  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Robin Stevens, Self, Juneau; Lisa Eigan Lagerquist, Self, Douglas; Margaret Brodie, Director, Division of Health Care Services, Department of Health and Social Services; Representative Matt Claman, Sponsor; Lizzie Kubitz, Staff, Representative Matt Claman; Senator Bert Stedman, Sponsor; Wyn Menefee, Chief of Operations, Division of Mining, Land and Water, Department of Natural Resources; Senator Mia Costello.

PRESENT VIA TELECONFERENCE

Barry Christensen, Alaska Pharmacists Association, Ketchikan; Robin Smith, Self, Anchorage; Sara Clark, Self, Anchorage; Larry Edwards, self, Sitka; Rebecca Knight, Self, Petersburg; Charles Wood, Mitkof Highway Homeowners Association, Petersburg; Dennis Watson, Mayor, City of Craig, Craig; Owen Graham, Alaska Forest Association, Ketchikan; David Landis, Mayor, Ketchikan Gateway Borough, Ketchikan; Mary Nanuwak, Self, Bethel.

SUMMARY

HB 25 INSURANCE COVERAGE FOR CONTRACEPTIVES

HB 25 was HEARD and HELD in committee for further consideration.

SB 88 AK MENTAL HEALTH TRUST LAND EXCHANGE

CSHB 88(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (DNR)

Co-Chair Foster reviewed the agenda for the morning.

#hb25

HOUSE BILL NO. 25

"An Act relating to insurance coverage for contraceptives and related services; relating to medical assistance coverage for contraceptives and related services; and providing for an effective date."

[9:53:39 AM](#)

Co-Chair Foster OPENED Public Testimony.

[9:54:17 AM](#)

ROBIN STEVENS, SELF, JUNEAU, supported HB 25. She shared that she took birth control pills for 22 years due to her inability to find a doctor who would perform a tubal ligation. She explained that her insurance only allowed her 3 days to refill her birth control prescription before beginning the next month's dosage. She believed that the women most in need of birth control had the most barriers to access due to lack of transportation, or inability to

take leave from work. She felt that avoiding pregnancy should not be difficult. She urged members to remove the barriers to birth control. She stated that a year's worth of birth control was much less expensive and safer than the cost of childbirth. She did not "subscribe to the theory that it took two to tango and would never put her reproductive future in the hands of her sexual partner."

Representative Guttenberg asked whether she could not get her prescription refilled until she was out of birth control. Ms. Stevens replied in the affirmative. Ms. Stevens reported that birth control prescriptions were on a 28-day cycle. Her insurance through the Affordable Healthcare Act (ACA or Obama Care) specified that she could only obtain a refill every 25 days.

Vice-Chair Gara asked how long her prescription lasted or whether she periodically had to coordinate through her doctor and the pharmacy. Ms. Stevens stated that typically a prescription was written for a period of 15 months.

[9:58:42 AM](#)

Representative Wilson asked about her insurance policy and whether it was private or a federal program. She wondered whether she was subject to a private insurers rule or federal law. Ms. Stevens had been able to access private insurance due to the ACA. Representative Wilson asked whether the 25-day rule was the insurers or a federal guideline. Ms. Stevens indicated that her health care provider had mentioned that the insurer established the rule. Representative Wilson asked why the tubal ligation procedure was not authorized. Ms. Stevens answered that she was not able to find a doctor to perform the surgery because she might change her mind.

[10:00:12 AM](#)

LISA EIGAN LAGERQUIST, SELF, DOUGLAS, spoke in support of HB 25. She provided information about her personal use of birth control. She thought it was very important that other contraceptive options were covered besides "The Pill." She spoke about the inconvenience of having to get a monthly prescription refilled. She thought that anything that could be done to help people choose "intended pregnancies" was imperative. She emphasized that anyone that wanted birth

control should have access to it. She urged support for the bill.

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BARRY CHRISTENSEN, ALASKA PHARMACISTS ASSOCIATION, KETCHIKAN (via teleconference), spoke in favor of the legislation on behalf of the organization. The association believed that the bill was good public policy. He explained that insurance plans typically restrict all prescriptions to 30 or 90 days. He indicated that vacation overrides were only available on some plans and were "fairly problematic." The insurers required very specific information about dates of travel and limited the supply to the length of travel. Additionally, ferry workers whose job time on the boat was extended were denied overrides if the pharmacist mentioned the refill was necessary for work and not a vacation. He referenced previous testimony regarding "refill parameters" and delineated that typically 75 percent of a prescription had to be used before refills were allowed but some plans' parameters were more restrictive.

10:05:26 AM

Representative Guttenberg mentioned that prior discussions focused on who mandated quantities of prescriptions; the federal government or private insurers. He asked Mr. Christiansen to speak to prescription drug managers and their role. Mr. Christiansen explained that pharmacies contracted with prescription benefit managers (PBM) and the PBM's contracted with the group or individual insurer. Every prescription at the "point of sale" was based upon the insurance plans' parameters. He indicated that all the pharmacists' conversations regarding prescriptions were with the PBMs. Representative Guttenberg asked how much control the PBMs had over the actions of the pharmacists. He remarked that the PBMs were determining what the pharmacists could do. MR. Christiansen agreed with the statement. He related that except for self-paid prescriptions, which were rare, every decision regarding prescriptions was "dictated" by the PBM's. Everyday his staff spent "numerous, numerous hours" on the phone and the computer with PBM's trying to get people their medications. He characterized the situation as "challenging."

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Representative Ortiz thanked Mr. Christiansen for all his contributions to the field. He asked whether birth control refill prescriptions typically required doctor's visits. Mr. Christiansen responded that typically providers authorized refills for 11 months after the initial one-month prescription and shorter prescriptions were most often easily refilled. He deduced that if HB 25 passed, the pharmacists would likely have to inform the providers that 12-month prescriptions were allowable. Representative Ortiz asked whether in Mr. Christiansen's experience, issues around access to birth control were more problematic in rural areas rather than urban areas, and if HB 25 was more beneficial for rural residents. Mr. Christiansen answered in the affirmative. He relayed that his pharmacy served outlying rural areas and he could see how the legislation would help residents in rural areas.

Co-Chair Foster asked Mr. Christiansen to expand on his answer regarding the difficulties with prescription access in rural villages. He spoke to the challenges in small villages regarding healthcare delivery and access to prescriptions. He wondered whether there was a higher number of pregnancies in rural villages due to a lack of services and if he knew of any attempts to address the challenges. Mr. Christiansen responded that he did not have information or insight specific to the representative's district but offered to ask pharmacists from his area to address the questions. He related that in the rural areas he served around Ketchikan the difficulty was in rural residents receiving medications in general and that birth control was typically prescribed for longer periods of time. He understood that other parts of Alaska might face some unique challenges that he was unable to address.

[10:14:37 AM](#)

ROBIN SMITH, SELF, ANCHORAGE (via teleconference), spoke in favor of HB 25. She spoke of the higher out-of-pocket medical costs that women encountered versus men due to contraceptive coverage. She relayed that birth control coverage was expanded and co-payments were eliminated through the ACA. She was concerned about potential changes in the Affordable Care Act which currently covered contraception due to the current administration and Congress in Washington. She advocated providing a variety of birth control including vasectomy. She thought that the ability to choose pregnancy empowered women and their

families and provided the best outcomes for the child. She voiced that increased access to contraceptives was the "key" to reducing the number of unwanted pregnancies in Alaska. She spoke to the high number of spousal and child abuse in the state. She argued that one avoided pregnancy would help to pay for a significant amount of birth control for many others. She relayed her personal experience regarding the inconvenience of attaining her birth control prescriptions. She responded to Representative Wilson's questions regarding the impact of HB 25. She agreed that one "key limitation" of state plans was their inability to affect nationwide or self-insured scope of coverage. She suggested that if enough states adopted changes the action would potentially set off a ripple effect across the entire insurance industry. She urged members to support HB 25.

[10:20:27 AM](#)

SARA CLARK, SELF, ANCHORAGE (via teleconference), spoke in support of HB 25. She thought it was important to support women having control of their reproductive health. She asked members to vote in favor of HB 25.

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Co-Chair Foster CLOSED Public Testimony.

Representative Wilson asked whether the Department of Health and Social Services (DHSS) had found anything in statute that prevented Medicaid from filling 12-month birth control prescriptions.

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MARGARET BRODIE, DIRECTOR, DIVISION OF HEALTH CARE SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, responded in the affirmative and noted that AS 47.47.065 outlined the regulation. She read the following language from the statute:

... by regulations adopted by the commissioner in conformity with applicable federal regulations.

Representative Wilson asked if there were any state regulations that prevented a 12-month prescription from being written through Medicaid. Ms. Brodie responded in the

negative. Representative Wilson referred to Page 5, lines 28 through 29:

(13) a group health insurance policy covering employees of a participating governmental unit is subject to the requirements of AS 21.42.427.

Representative Wilson inquired whether the University's and the largest state union's plans were covered under the provision. Ms. Brodie was unable to answer the question.

Representative Wilson reiterated the question and wondered whether the following bill language from page 6, lines 6 through 8 also applied:

A self-insured group medical plan covering active state employees provided under this section is subject to the requirements of AS 21.42.427.

REPRESENTATIVE MATT CLAMAN, SPONSOR, responded that he was unfamiliar with the various health plans for the University and was unable to provide the answer. He offered that if the plan was a union trust type of health insurance plan, the federal Employee Retirement Income Security Act (ERISA) exempted union trusts from state regulations and therefore state law could not impact a union health trust administered plan.

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Representative Wilson deduced that the general union plan [General Government Unit (GGU)] was most likely exempt from the legislation. She remarked that the state paid for the plan, but did not manage it. She believed that the fiscal note should be updated because according to Ms. Brodie's testimony the state could administer 12 month contraceptive prescriptions for Medicaid. She asked Ms. Brodie for the reasons why the state had not done so, especially since the fiscal note identified savings in the Medicaid program under the bill. Representative Claman offered to provide the additional information.

Co-Chair Seaton suggested that the legislature could only act through statute. However, the legislature could advise the administration through a resolution. He remarked that the only way the legislature could override a regulation was through statute.

Representative Wilson pointed out that there was no statute. She confirmed with Ms. Brodie that DHSS had not written a regulation either. She declared that under current regulation or statute there was nothing that prevented 12 month prescriptions under Medicaid and the Alaska Care plans with or without the bill.

Representative Guttenberg asked that in the absence of state statute, regulations, or a plan directive, prescription parameters were left up to the PBM's to contain insurer's costs. Ms. Brodie confirmed that the reason the limit was in place for most plans and Medicaid was cost containment. She commented that Medicaid recipients revolved in and out of the program and the state did not want to pay for ineligible prescriptions.

[10:30:37 AM](#)

Vice-Chair Gara wanted to ensure that the bill remained in statute for as long as possible. He mentioned a prior discussion that the bill would only remain effective if the ACA remained intact. He asked whether the provisions would remain in statute regardless of changes to the ACA. Representative Claman cited page 3, lines 5 and 6, Subsection (1) and noted that the bill referenced the ACA as amended. He thought if the ACA was completely repealed, Alaska statute could possibly be affected. He did not see any likelihood of repeal of the ACA. He thought that the language in the bill "was more than adequate" to ensure that HB 25 would continue in the state. Vice-Chair Gara did not want to "play Vegas odds with the bill." He wondered whether the contraceptive provisions in the bill would remain if Congress removed the ACA provisions regarding contraceptive care. Representative Claman did not believe that the bill was "dependent upon" the ACA and informed the committee that the ACA references in the bill were specific to religious exemptions. He believed that the bill would continue to be applied even if the ACA was repealed. He discerned that the ACA religious exemptions were so broad that creating religious exemptions in state statute may cause problems, especially if the exemption was narrower than the ACA's. He felt that the endeavor to craft statutes based on what possibly could happen with the ACA created confusion.

[10:34:57 AM](#)

Vice-Chair Gara asked whether the 12-month requirement would remain regardless of the ACA. Representative Claman answered in the affirmative. He clarified that the 12 month requirement only applied if the provider wrote a 12 month prescription. Vice-Chair Gara understood the "hazards" if the state developed its own religious exemption. He reported that relying on the current religious exemption under ACA would disappear in state stature if the ACA was repealed. He wondered why the bill did not specify that the provisions were relying on the current ACA religious exemption in 2017. He suggested inserting language such as: "under the ACA religious exemption as written as of January 1, 2017." Representative Claman would not object to the amendment. Vice-Chair Gara asked whether the language would be added on page 3, line 6 of the bill. Representative Claman recommended that the language broadly applied to Subsection (g) on page 2, lines 31 through page 3, line 10.

[10:37:22 AM](#)

Representative Wilson interpreted the bill language on page 2, line 3 that the bill did not prohibit a 15 month prescription from being filled.

LIZZIE KUBITZ, STAFF, REPRESENTATIVE MATT CLAMAN, responded that there was a federal law limiting the period of a prescription to 12 months. Representative Wilson was not concerned about the federal law and was only concerned about the interpretation of the bill's provision. Ms. Kubitz responded that she was correct. Representative Wilson read page 1, lines 6 through 8 of the bill:

Sec. 21.42.427. Coverage for contraceptives. (a) A health care insurer that offers, issues for delivery, delivers, or renews in the state a health care insurance plan in the group or individual market shall...

Representative Wilson noted the use of the word "shall." She asked whether the bill only applied as listed above to entities that provided contraceptive coverage. Ms. Kubitz responded affirmatively.

HB 25 was HEARD and HELD in committee for further consideration.

#sb88

CS FOR SENATE BILL NO. 88 (RES)

"An Act authorizing a land exchange with the federal government in which certain Alaska mental health trust land is exchanged for certain national forest land and relating to the costs of the exchange; and providing for an effective date."

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AT EASE

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SENATOR BERT STEDMAN, SPONSOR, He explained that the concept had "been in the works for decades." He emphasized that the bill was a land exchange for approximately 20 thousand acres of Forest Service land for roughly 18 thousand acres of Alaska Mental Health Trust Authority (AMHTA) property. He reported that much of the AMHTA parcels bordered many communities in Southeast Alaska. He elucidated that many parcels were of high value for standing timber, view sheds, and trails and recreation. The conflict was how to mitigate the impact of the trust harvesting large volumes of timber very near communities. He noted that the land exchange process was underway and the lands were selected. He spoke to the parcels of land in northern Southeast Alaska. He described some of the parcels and their locations. He mentioned a parcel of land in the "backdrop" of Sitka near Mt. Verstovia that contained a high volume of old growth timber but was in the direct view shed of the community. The community's concern regarding the view shed and recreational use lead to the parcel's inclusion in the exchange. He highlighted that a parcel on Mitkof Highway in Petersburg was targeted for the exchange. The community expressed concern over impacts from landslides.

REPRESENTATIVE DAN ORTIZ, COMPANION BILL SPONSOR, noted that the bill had companion legislation in the House as well as on the federal level. He understood that action had to be taken at the state level before the federal bill could be acted upon. He was proud to be moving the legislation for the House and viewed the bill as a "triple" win situation for the tourism industry, AMHTA, and the timber industry. He mentioned a parcel near Ketchikan located on "Deer Mountain" and explained that the land was

the primary view shed for the community and used for hiking and other recreational opportunities. The parcel offered benefits to the tourism industry. He indicated that the timber industry supported the exchange due to gaining access to federal land via the exchange. He strongly supported the legislation.

10:50:20 AM

Senator Stedman relayed that the state had one sawmill left, and had lost 2 pulp mills and other sawmills. The remaining sawmill sitting on Prince of Wales Island consumed 60 percent of the electricity on the electrical grid. If the state lost the sawmill, the loss would have a large negative rippling effect through the local economy. He communicated that the large sawmill supplied the timber or "saw logs" to the smaller sawmills. He noted the difficulty in the "fiber supply" that created difficulty in securing capital to modernize or upgrade sawmill facilities if the future timber supply was unknown. He voiced that the legislation was a "time sensitive issue." In addition, the legislation ensured "viable timber access for the industry." The state had been carrying the "brunt of the burden" for lack of timber supply by the federal government. The land exchange would afford a direction to move very quickly on some timber sales and moved the timber industry to more viable logging land on Prince of Wales Island. He suggested that concentrating the timber industry on the southern end of Southeast Alaska where the timber quality was superior was beneficial because the infrastructure already existed and was closer to the sawmill. He conveyed that there was significant support for the legislation from all of the involved entities due to the long public process and engagement on the issue.

10:55:28 AM

Co-Chair Foster indicated that there would be a PowerPoint presentation by the Alaska Mental Trust Authority.

Representative Pruitt appreciated the bill. He asked whether passage of the bill helped the bill move through Congress. Senator Stedman responded in the affirmative. He pointed out that the bill mirrored the federal bill and passage paved the way for the Alaskan delegation to garner support for the bill.

Representative Pruitt asked if the land exchange areas were located in areas away from the population and did not interfere with the view shed or recreation and made it more likely that the AMHTA could develop the land and further help its beneficiaries. Senator Stedman answered in the affirmative and noted that the exchanged land located in the center of Prince of Wales was a highly active logging area. He indicated that the AMHTA were acting as good stewards of the land in participating in the exchange which benefitted the communities but still offered the trust marketable land to help its beneficiaries. Additionally the exchange offered the Forest Service more recreational land.

[11:00:05 AM](#)

Vice-Chair Gara worried that with land exchanges statutory easements to and along rivers were lost. He wanted to ensure that any land transferred to the federal government would be accessible through an easement. He wanted to maintain the public's access to its own lands. Senator Stedman expounded that Southeast Alaskans were sensitive about access to fish streams for sport and commercial uses and they were protected. Vice-Chair Gara wondered where he could identify the easement protections in the bill. Senator Stedman deferred the answer to the Department of Natural Resources (DNR) presenter. He emphasized that the state did not restrict waterway access. Vice-Chair Gara wanted to confirm that his concerns were addressed.

[11:03:23 AM](#)

WYN MENEFFEE, CHIEF OF OPERATIONS, DIVISION OF MINING, LAND AND WATER, DEPARTMENT OF NATURAL RESOURCES, introduced the PowerPoint Presentation: "SB 88 - Alaska Mental Health Trust Land Exchange with the USFS." He turned to slide 2: "The Alaska Mental Health Trust":

- A perpetual trust using its resources to ensure a comprehensive integrated mental health program in Alaska.
- Funding programs that serve Alaska's most vulnerable populations for the past two decades.
- Providing programs for mental illnesses, developmental disabilities, Alzheimer's disease and related dementias, traumatic brain injuries & substance abuse disorders.

Mr. Menefee elaborated that the trust spent approximately \$20 million annually on programs, projects, activities, initiatives, and advocacy and helped fund state agencies, and non-profits through grants. The funds were not state general funds (GF) in part from its land revenue.

[11:05:21 AM](#)

Mr. Menefee scrolled to slide 3: "The Trust Land Office":

Manages the Trust owned land and resources to generate revenue, used by the Trust to improve the lives of the beneficiaries.

Our Mission: to protect & enhance the value of Alaska Mental Health Trust lands.

Mr. Menefee expanded that the trust land contained multiple asset classes that included mining and subdivisions. He advanced to slide 4: "Trust Management Principles":

1. Maximize long-term revenue & productivity from trust land
2. Protect corpus
3. Encourage diverse revenue-producing uses of trust land
4. Manage trust land prudently, efficiently & with accountability to the trust and its beneficiaries

Mr. Menefee relayed that the trust expected to gain \$40 to \$60 million in revenue over the next 20 years as a result of the exchange. He furthered that the exchange would improve the lives of its beneficiaries. He continued to the map on slide 5: "Land Distribution." He reviewed that the Alaska Territorial government had to select its survey lands from areas located next to communities. He delineated that currently, with the populous growing there were concerns with how the state managed the land; preserving scenic view sheds, water sheds, safety, etc. The trust made decisions in the best interest of its beneficiaries but paid attention to communities' concerns. The trust viewed the exchange as a way to solve 2 things: addressing community concerns and increasing trust revenue.

[11:08:51 AM](#)

Mr. Menefee provided details on slide 6: "Land Exchange Details":

18,258 acres of Trust lands adjacent to the communities of Ketchikan, Wrangell, Petersburg, Sitka & Juneau would be transferred to the USFS

20,580 acres of remote land on Prince of Wales Island & Shelter Cove would be transferred to the Trust for development and timber harvest

Equal value exchange

Phase I complete in 1 year and Phase II in 2 years

Mr. Menefee reported that the acreages were not finalized. The land exchanged was of equal value and surveys and appraisals were required. Ultimately, the acreages will adjust according to the equal value of appraisals. He notified the committee that not all of the AMHTA land next to communities was included in the exchange and was retained for future development of subdivisions and other types of use. He spoke of the different phases of the exchange. The first phase included exchanges in Naukati and Ketchikan with the remainder in phase two. The first phase accelerated timber production and sales. He discussed the maps on slide 7 titled: "Trust Land to be Exchanged in Southeast Alaska" and "National Forest Service Land to be Exchanged." He pointed to the areas on the map on the left that depicted trust lands in red traded for forest service land on the map on the right portrayed in green. He noted that a packet of maps (copy on file) were included in the member's bill packets.

[11:11:34 AM](#)

Mr. Menefee continued to slide 8: "Land Exchange Benefits":

Consolidates Trust land ownership

Replaces lands adjacent to communities with lands that are more conducive to revenue production such as from timber harvest

Protects timber and tourism industries

Protects jobs and economies in SE Alaska

Protects viewsheds, watersheds, and certain old growth timber stands

Mr. Menefee conveyed that the trust was statutorily obligated to profit off of the land. In the face of community opposition to developing some of the adjacent lands the equal value exchange offered the trust similarly valuable land while protecting the communities' interests. He emphasized that the timber industry was a "multi-layer industry" and a vibrant timber industry had a positive multiplier effect throughout the region that also benefited the trust.

[11:14:19 AM](#)

Mr. Menefee advanced to slide 9: "Why Now":

Result of 10 years of planning and public input

Extensive negotiations with USFS

Addressing concerns from conservation groups and other interests

Timber industry, a key revenue generator for the Trust, is at risk because of low timber supply

USFS timber supplies have dwindled

Mr. Menefee reported that the discussions began 10 years ago with "Tongass Round Table" meetings with 35 entities participating comprised of communities, conservation groups, United States Forest Service (USFS), etc. The round table group defined the parameters of the exchange and the exchange participants remained "true" to the constraints when developing the exchange. The trust engaged in extensive conversations with the USFS during the process. He indicated that one of the latest replacements took place near Sitka with the recent exchange of Katlian Bay for No Name Bay. He remarked that the precise package in SB 88 was contained in the federal bill. He discussed that the timber industry was the key revenue generator for the trust. The USFS evolved its policies on allowable harvest levels and mandated a transition to sustainable young growth harvest; both policies had an adverse effect on getting timber to market. He detailed that the USFS did not anticipate getting timber to market for five years and were the

largest timber supplier in Southeast Alaska. Other entities were currently counted on for the timber supply; i.e., the state's Division of Forestry, AMHTA, and the University of Alaska. He offered that a reliable timber supply depended upon the trust's land exchange. A disruption in the timber supply would severely impact the industry's ability to restart production when supply increased.

11:16:57 AM

Mr. Menefee pointed to the example on slide 10: "USFS Forest Plan." He highlighted that the slide contained the "Tongass National Forest Land Use Map" and the small areas shaded in green was the only portion available for timber supply. The remaining brown and tan areas were not designated for development. The USFS "definitely reduced" the available land for timber and increased recreational uses. He mentioned the importance of the trust land acting as a "bridge" for timber supply during the transition time to sustainable young growth production. He restated the devastating effects of a timber industry shutdown due to lack of supply. He communicated the urgent need for the legislation to get passed in the current year. He reviewed slide 11: "Federal Legislation":

- S. 131 introduced by Senator Murkowski and Sullivan in January 2017
- HR. 513 introduced by Representative Young in January 2017
- Language compatible with SB 88
- Directs the USFS to complete the exchange

11:19:25 AM

Mr. Menefee noted that the Alaskan delegation believed the federal bill would pass in the early summer of 2017. He moved to the list of the many supporters of the exchange on slides 12 and slide 13 titled: "Thank You to Our Supporters." He emphasized that the exchange generated positive revenue for the trust at no cost to the state. He reiterated all of the benefits of the exchange for all parties. He referenced Vice-Chair Gara's question concerning easement protection and provided clarification. He elaborated that a "disposal" of trust land did not include a "to and along easement." The trust had to protect the financial interest of its lands. He cited a court ruling, "Lassen versus Arizona" [United States Supreme

Court, January 1967] that required states to pay for statutory easements on trust lands. Therefore, the state abided by the ruling and easements were not included by the trust unless the easement was already in existence. He communicated that the trust land that the state owned allowed for public use. In addition, stipulations maintained public road use on the lands. Certain areas were excluded due to conservation concerns and conservation easements were included in places like the limestone and karst areas on Prince of Wales Island to protect the underground fish streams. The trust was "cognizant of protecting habitat."

Vice-Chair Gara related that the state was statutorily mandated to maintain to and along easements when it disposed of land. He asked where the trust exemption was included in statute. Mr. Menefee stated that the exemption was not included in statute. He elucidated that due to the legalities of including easements without financial compensation the Department of Law (DOL) advised the trust that the to and along easements were not applicable unless the state were to pay for the easements. Vice-Chair Gara did not understand the compensation aspect since the trust land was awarded by the state.

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Mr. Menefee recounted that the original trust lands were awarded to the trust by the federal government. Mismanagement of the lands occurred, which resulted in a lawsuit that was settled in 1994. He reported that the settlement specified that the land was to be used for the beneficiaries' financial benefit. Another condition of the settlement required that the state replaced the original land awarded the trust. He pointed to "the enabling act, the settlement, and HB 201 in 1994" [HB 201 Mental Health Trust Amendments - Chapter 5 FSSLA 94 - 06/23/1994] that directed the matter of easements. Vice-Chair Gara was "disappointed" and stated that the statute mandated the state maintain to and along easements when it was in the public's interest. He felt that it was inconceivable that periodic access to fishing streams was not in the public's interest. He asked whether the trust maintained the to and along easements in the land transferred to the USFS. Mr. Menefee answered in the negative. He elaborated that only "existing encumbrances at the date of the enactment of the bill" were included.

Representative Grenn thanked the bill sponsors and characterized the legislation as "inspiring." He referred to slide 6 and remembered that the amount of acreage listed would change based on valuations. He asked what type of land was sought after by the trust. Mr. Menefee responded that the lands listed on the slides were the only lands that were included in the exchange. He delineated that the adjustments were required within the demarcated land to ensure the exchange was of equal value. He exemplified that if there was more value to USFS land than trust land the exchange "shaved off" some federal land to make the exchange equal and visa versa. An equalization process was delineated in both state and federal bills.

Co-Chair Foster acknowledged the presence of Senator Mia Costello.

Representative Pruitt asked what type of tree growth was included in the trust's land from the USFS. Mr. Menefee responded that the land included a 50 percent to 50 percent mix of young and old growth trees and the young growth were in different stages of age from 25 to 50 years. He added that some of the young growth stands were already pre-thinned and some logging roads remained intact. The initial harvest would be comprised of old growth and over time the timber would transition to sustainable new growth. Representative Pruitt deduced that the exchange created more of a sustainable harvest opportunity in the long-term. Mr. Menefee agreed with the statement.

[11:29:42 AM](#)

Co-Chair Seaton mentioned that a few years prior there was legislation that lengthened the time of valuation surveys. He wondered whether the bill passed and inquired about the time frame of the valuations. Mr. Menefee noted that Co-Chair Seaton was thinking of the land exchange bill that lengthened the time of the appraisals, which previously expired in one year. He explained that "dynamic administrative problems" had occurred with administrative exchanges under AS 38.50 and the one year time period. He clarified that SB 88 was not subject to AS 38.50, therefore, time restraints did not apply to the land exchange.

Co-Chair Foster OPENED Public Testimony.

11:31:53 AM

LARRY EDWARDS, SELF, SITKA (via teleconference), spoke in favor of amending SB 88. He submitted a proposed amendment to the committee and recommended its inclusion in the bill. He explained that the amendment proposed a federal buyout versus a land exchange and provided a different kind of beneficial resolution for all parties. He claimed that the Alaska Forest Resources and Practices Act allowed clear cut logging of unlimited size. He referenced the organization called "Greater Southeast Alaska Conservation Community (GSACC)" which had provided testimony (copy on file) that included photographs of recent clear-cut logging of 4000 acres of trust land in the center of Revllagiedo Island. He reported that the land exchange included an additional nine square mile parcel adjacent to the clear cut land. In addition, the parcels on Prince of Wales Island designated for the trust amounted to 19 square miles in three large blocks. He voiced that none of the previous committees that heard SB 88 considered the impacts of logging on such a large scale in those locations. He believed that the legislature was "obligated" to analyze the impacts of logging the areas. He believed that a buyout was a "far better solution." He contended that much of the community testimony for HB 55 was not included in SB 88 and noted that some of residents of Prince of Wales Island were distressed over the proposed exchange. He thanked the committee and urged members to reconsider the bill in its present form.

11:35:34 AM

REBECCA KNIGHT, SELF, PETERSBURG (via teleconference), spoke in opposition of SB 88. She shared that she was a member of a long-time fishing family. She completely understood the needs of AMHTA beneficiaries having a relative who was a beneficiary. She believed that the bill was "a timber industry bill using the beneficiaries as a prop to get timber legislation passed." She opposed the legislation for a variety of reasons and believed the exchange was a "travesty." She asserted that a federal buyout of AMHTA land was a "far better alternative." She recommended that the committee change the bill to a federal buyout with the lands deeded to the Tongass National Forest and the proceeds going to the trust. She noted that the Petersburg Assembly supported the buyout option and stated that AMHTA supported a buyout option as well. She

maintained that much of the bill's support was based on a threat by the AMHTA to immediately log its lands if the federal legislation was not adopted by January 15, 2017. She believed a buyout option would help beneficiaries, avoid impacts to Ketchikan and Petersburg landowners, and avoid landscape impacts. She voiced that the Alaska Forest Resources and Practices Act was antiquated and would continue to allow clear-cutting of up to several thousand acres on multiple parcels of exchange land. She wondered why experienced Department of Fish and Game (DFG) biologists were not consulted on the exchange. She listed the benefits of a buyout versus a land exchange. She opined that "the lands could be purchased for a few tens of millions of dollars at a fair market value..."

Co-Chair Seaton remarked that the opposition letter that Mr. Edwards referred to as well as Ms. Knights were included in the member's bill packets.

[11:40:20 AM](#)

CHARLES WOOD, MITKOF HIGHWAY HOMEOWNERS ASSOCIATION, PETERSBURG (via teleconference), spoke in support of SB 88. He related that the association was a group of 95 homeowners that resided below the slide prone slopes of Mitkof Highway. He reported that there had been 9 landslides on the slopes and 5 had occurred since December 2005. He believed that logging the slopes of the slide area would further accelerate the landslide potential. The group of residents had been living with stress because of potential landslides and their efforts in opposition to the trust's logging plans cost the association over \$135,000. He asked for the committee's support of SB 88 to avert trust logging on landslide prone slopes above residential areas.

[11:41:57 AM](#)

DENNIS WATSON, MAYOR, CITY OF CRAIG, CRAIG (via teleconference), spoke in favor of SB 88. He relayed that he participated in commercial salmon fisheries for 43 years. He believed that the bill would help to pave the way for a stable revenue stream for the beneficiaries of the Alaska Mental Health Trust. He noted the benefits of a stable timber supply for the timber industry, the region, and for Craig. He thanked the committee.

[11:44:21 AM](#)

OWEN GRAHAM, ALASKA FOREST ASSOCIATION, KETCHIKAN (via teleconference), spoke in favor of SB 88. He read from a prepared statement:

The Alaska Forest Association supports the land exchange between the Alaska Mental Health Trust and the US Forest Service. It is vital to our timber industry that the State enact SB 88 this legislative session.

The Alaska Forest Association (AFA) is a non-profit business association that was formed in 1957 to represent the interests of the timber industry in Alaska. The AFA currently manages a pension program, a group health insurance program, a scholarship program for the timber industry and sponsors the Sustainable Forestry Initiative program for Alaska.

The Forest Service manages more than 90% of the commercial timberland in Southeast Alaska and that federal agency has failed to provide sufficient timber to keep our manufacturing facilities operating. We have lost two pulp mills, several large sawmills over the last 20+ years, and we have only a single mid-size sawmill remaining. Now that last sawmill is at risk of closure because the Forest Service has mismanaged its timber sale program again and has provided a timber sale schedule that indicates there will be very little federal timber available to our last sawmill until at least 2020. The State Division of Forestry has continued to supply timber for our industry, but the State manages only 2% of the commercial timberland in the region. The State alone cannot supply our last surviving sawmill.

If the Alaska Mental Health Trust exchange is completed this legislative session, our last midsize sawmill should be able to utilize timber from that exchange to keep the mill operating until 2020 when the Forest Service projects it will again be able to supply timber.

This value-for-value exchange has a lot of support within the region because in addition to helping preserve our remaining timber manufacturing jobs, the exchange will enable the Alaska Mental Health Trust to

avoid harvesting land adjacent to Ketchikan and Petersburg that the local communities want preserved.

[11:46:38 AM](#)

DAVID LANDIS, MAYOR, KETCHIKAN GATEWAY BOROUGH, KETCHIKAN (via teleconference), spoke in support of SB 88. He noted his familiarity with the local issues. He relayed that the people of the community of Ketchikan had repeatedly supported a land exchange. He listed the many benefits of the land exchange. He offered that the land exchange benefited the timber industry, the residents of the Ketchikan Gateway Borough, and the AMHTA beneficiaries. He noted the protection of Deer Mountain.

[11:49:29 AM](#)

MARY NANUWAK, SELF, BETHEL (via teleconference), spoke in opposition of SB 88. She thought that the lands had been ruined but the parties were proceeding with the land exchange regardless. She opined that the trust and DNR claimed that they "protected everything" when they do not engage in protections. She believed that the state only acted in the interest of the beneficiaries when they had "something to gain." She disagreed with a notion that rural people were not informed and warned that rural residents were aware of many things happening in the state. She requested that the state refrain from "undoing everything," which was a waste of money and time.

[11:52:42 AM](#)

Co-Chair Foster CLOSED Public Testimony.

Representative Pruitt suggested moving the bill. He thought any amendments would "totally and dynamically change the goal of the bill." He characterized a vote on moving the bill as an "up or down" vote. He opined that the federal purchase option took a win for the timber industry out of the bill.

Co-Chair Foster asked whether members had any proposed amendments.

[11:54:09 AM](#)

AT EASE

11:56:11 AM

RECONVENED

Vice-Chair Gara stated his "surprise" that the trust did not maintain to and along easements on its land. He questioned the legal authority and asked for an "objective" follow-up answer from Mr. Menefee. Mr. Menefee confirmed that his office and DOL would provide a follow up answer.

Vice-Chair Gara reviewed the zero fiscal note from the Department of Natural Resources FN 1 (DNR).

Representative Pruitt MOVED to REPORT CSHB 88(FIN) out of committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, CSHB 88(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (DNR)

Co-Chair Foster reviewed the agenda for the afternoon meeting.

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ADJOURNMENT

11:59:44 AM

The meeting was adjourned at 11:59 a.m.