

SENATE FINANCE COMMITTEE
April 16, 2018
1:34 p.m.

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CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Peter Micciche
Senator Donny Olson
Senator Gary Stevens
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Representative Les Gara, Sponsor; Michelle Sydeman, Staff, Representative Les Gara; Christy Lawton, Director, Office of Children's Services; Representative Adam Wool, Sponsor; Rob Earl, Staff, Representative Adam Wool; Rich Etheridge, Fire Chief, Juneau; David Teal, Director, Legislative Finance Division; Representative Justin Parish, Sponsor; Robert Edwardson, Staff to Representative Parish; Mike Barnhill, Deputy Commissioner, Department of Revenue; Alexei Painter, Analyst, Legislative Finance Division.

PRESENT VIA TELECONFERENCE

Margaret Brodie, Director, Division of Healthcare Services, Anchorage; Jeff Tucker, President, Alaska Fire Chiefs Association, Kenai; Brittany Smart, Fairbanks North Star Borough/Mayor's Office, Fairbanks; Brian Bjorquist, Attorney Generals Office, Anchorage.

SUMMARY

CSHB 151 (FIN)

DHSS;CINA; FOSTER CARE; CHILD PROTECTION

CSHB 151 (FIN) was HEARD and HELD in committee for further consideration.

CSHB 176 (FIN)

EMER. MEDICAL TRANSPORT SERVICE PAYMENTS

CSHB 176 (FIN) was HEARD and HELD in committee for further consideration.

CSHB 213 (FIN) (efd fld)

PUBLIC SCHOOL TRUST FUND

CSHB 213 (FIN) (efd fld) was HEARD and HELD in committee for further consideration.

#hb151

CS FOR HOUSE BILL NO. 151 (FIN)

"An Act relating to the duties of the Department of Health and Social Services; relating to training and workload standards for employees of the Department of Health and Social Services and providing immunity from damages related to those standards; relating to foster care home licensing; relating to civil and criminal history background checks for foster care licensing and payments; relating to placement of a child in need of aid; relating to the rights and responsibilities of foster parents; requiring the Department of Health and Social Services to provide information to a child or person released from the department's custody; and providing for an effective date."

[1:36:46 PM](#)

REPRESENTATIVE LES GARA, SPONSOR, introduced himself. He explained that the bill would result in fewer children in foster care and for shorter periods of time. He said that the bill provided average caseload standards, training standards, and was a model that had worked well in other states.

MICHELLE SYDEMAN, STAFF, REPRESENTATIVE LES GARA, introduced herself.

[1:37:05 PM](#)

Co-Chair MacKinnon thanked Vice-Chair Gara for his work on behalf of children in the foster care system.

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Representative Gara explained the Sectional Analysis (copy on file):

Section 1 provides that the short title of the bill is the Children Deserve a Loving Home Act.

Section 2 amends legislative findings related to children to add a finding that the department should enable a child's contact with previous out-of-home caregivers if it is appropriate and in the best interests of the child.

Sections 3 - 5 amend AS 47.05.310(c), (i), and (k) to conform to a new subsection added in section 6 of this Act.

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Representative Gara continued with the Sectional Analysis:

Section 6 allows the Department of Health and Social Services (the department) to issue or renew a foster home license or provide foster care payments to an entity, individual service provider, or person if the applicant or a person who resides in the home is barred from licensure or payments because of a barrier condition under AS 47.05.3 IO(c), (i)(2), or (i)(3) if (1) a person in the home is an adult family member or family friend of a child in the custody or supervision of the state, (2) the department finds that placing the child with the entity, individual service provider, or person is in the best interests of the child, and (3) the conduct that is the basis of the barrier occurred at least ten years before the date the department receives the application for licensure

or renewal or makes a payment to the entity, individual service provider, or person.

Section 7 amends requirements relating to the transfer of a child from one placement to another to require a supervisor at the department to certify in writing whether the department has conducted a search for an appropriate placement with an adult family member or family friend.

Section 8 provides that a foster parent has the right and responsibility to use a reasonable and prudent parent standard to make decisions relating to a child in foster care, and requires the department to provide foster parents with training relating to the reasonable and prudent parent standard.

Section 9 requires the department to engage a child in an out-of-home placement who is 14 years of age or older in the development or revision of a case plan, permanency goal, or alternative permanency plan for the child and allows the child to select up to two adults, in addition to the child's foster parents or department employees who are supervising the care of the child, to participate in the development of the plan.

Section 10 amends AS 4 7.10.093(a) to conform to new AS 47.17.030(g) added in section 18 of this Act.

Section 11 amends confidentiality provisions to require a state or municipal agency or employee to disclose appropriate confidential information regarding a case to the sibling of a child who is the subject of the case if it is in the best interests of the child to maintain contact with the sibling.

Section 12 requires a supervisor at the department, when the department takes emergency custody of a child, to certify in writing whether the department has conducted a search for an appropriate placement with an adult family member or family friend.

Section 13 requires the department to search for an appropriate placement with an adult family member or friend when the child is removed from the parent's

home. The section also requires a supervisor at the department to certify in writing whether the department has conducted the search.

Section 14 amends AS 14.14. 1 00(i) to provide that when a child can remain safely at home with an adult family member or guardian who lives with the child, the child may not be placed with an out-of-home care provider.

Section 15 requires the department to provide contact information to siblings who are in separate placements if it is in the best interests of the children to maintain contact.

Section 16 requires the department to implement workload standards and a training program for department employees and to provide a report to the legislature if the department is not able to meet certain standards. Section 16 also provides that the department is immune from suit if the department is unable to meet workload standards under certain circumstances. Section 16 requires the division of the department with responsibility over the custody of children to provide an annual report to the legislature on employee recruitment and retention.

Section 17 adds a new subsection requiring the department to assist an adult family member in obtaining a foster care license, including any necessary variances, if placing the child with the adult family member is in the best interests of the child.

Section 18 adds a new subsection providing that when the department or a local government health or social services agency completes certain investigations and identifies an appropriate community organization that will provide support services to families, that the department or a local government health or social services agency shall refer the child's parent or guardian to the community organization upon consent of the child's parent or guardian. Section 18 also provides for confidentiality of information received by the community organization under the new subsection.

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Representative Gara continued to address the Sectional Analysis:

Section 19 requires the department, for a person who is 16 years of age or older, to provide the person, or assist the person with obtaining, the person's birth certificate, social security card, health insurance information, medical records, driver's license or identification card, and certificate of degree of Indian or Alaska Native blood, if applicable, when the person is released from state custody under AS 47.10.

Section 20 requires the department, to the extent feasible, to approve or deny a foster care home license, including a request for a variance, not more than 45 days after the date the department receives the application for a foster care home license.

Section 21 provides secs. 2, 7 • 9, 11 - 15, 17, and 19 of the Act applies to a child in the custody or under the supervision of the department under AS 47.10 on or after the effective dates of secs. 2, 7 - 9, 11 - 15, 17, and 19 of the Act. Section 19 also provides that secs. 3 - 6 and 20 of the Act apply to applications for a license, license renewal, certification, certification renewal, or payment received by the department on or after the effective dates of secs. 3 - 6 and 20 of the Act. Section 22 allows the department to adopt regulations necessary to implement the changes made by the Act. The regulations may not take effect until the effective date of the section of the Act implemented by the regulation.

Section 23 requires the department to implement the changes made by secs. 7 - 9 and 12 - 14 not later than 90 days after the effective date of those sections. Those sections relate to searches for appropriate placements with family members, foster parent decision-making, involving children 14 or older in case plans, and allowing a child to remain in the child's home with an adult family member. Section 23 also requires the department to implement the changes made by secs. 2 - 6, 11, 15, 17, 19, and 20, and some of the changes made by sec. 16, not later than one

year after the effective date of those sections. Those sections relate to legislative findings, barriers to foster care licensing and payments, sharing case information with siblings, providing sibling contact information in certain situations, department training and reports, assisting family members in obtaining foster care licenses, providing identification information to children 16 or older when released from department custody, and approval of foster care licenses within 45 days of receiving an application.

Section 23 further requires the department to implement the rest of the changes made by sec. 16 of the Act not later than two years after the effective date of that section. Those changes relate to employee workload standards.

Section 24 provides that sec. 22 of the Act takes effect immediately.

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Ms. Sydeman relayed that the bill would give 1 year for the department to implement searches for placement with appropriate family members, to train staff on how to involve children 14 and older on the development of case plans, to implement the policy of allowing a child to remain in a home with an adult family member that was not a parent, and to bring training up to the new standard of 6 weeks of training. She said that there was a 3-year implementation period for several of the more difficult parts of the bill. She thought that the Senate Health and Social Services committee had ultimately adopted a 2-year training period for caseload standards; to get to the average standard of 13 families per worker, 6 within the first 6 months and 12 within the first year.

[1:49:16 PM](#)

Representative Gara added that the 90-day effective date sections were for Sections 7 through 9 and 12 through 14.

Co-Chair MacKinnon requested further clarification.

Representative Gara responded that Sections 7 referred to the supervisor certifying in writing that a family search and been done. Section 8 referred to the prudent parent

standard that would allow for children to participate in extracurricular activities without the consent of the Office of Children's Services (OCS). Section 9 would allow for the engagement of children 14 years and older in their case plan and permanent placement planning goals. Sections 12 and 13 referred to OCS signoff on family friend foster home placement. Section 14 was a provision that said that if there was a family member in the home that could keep the child safe then the child would not be removed from the home.

[1:51:02 PM](#)

CHRISTY LAWTON, DIRECTOR, OFFICE OF CHILDREN'S SERVICES, (OCS) introduced herself.

Co-Chair MacKinnon asked whether the department supported the bill and the transitional dates therein.

Ms. Lawton replied that the department supported the legislation. She revealed that the department had worked with the bill sponsor on the transitional dates and believed that they could be implemented without delay.

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Co-Chair MacKinnon asked whether there was a mechanism in the bill that required the department to report back to the legislature on the progress of the transitions.

Ms. Lawton responded that the bill required that an annual report be submitted to the legislature.

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Co-Chair MacKinnon asked whether the department would be able to submit a report in 90 days that would let the legislature know that the department that trained supervisors of the updated requirements.

Ms. Lawton replied in the affirmative.

[1:52:30 PM](#)

Senator Micciche expressed concern about Section 6 and the barrier crimes. He worried that people who had committed

crimes against children might be eligible to become foster parents.

Ms. Lawton replied that the challenge with the barrier crimes sometimes came up with grandparents that may have had previous criminal or child protection history. She said that the bill allowed for an evaluation on a case by case basis, it did not require that a license be granted, but allowed for the person to demonstrate how they had changed their behavior.

[1:53:42 PM](#)

Senator Micciche asked whether a person who had a history of sexual abuse of a minor or physical abuse of a minor would be allowed to foster a child after the 10-year statute of limitations elapsed.

Ms. Lawton replied that no acceptations would be made for perpetrators of sexual abuse. She said that in the case of physical abuse the facts of the case would be examined. She reiterated that each case would be examined on a case by case basis.

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Senator Micciche asked whether there should be a limitation in written into statute that addressed sexual abuse.

Ms. Lawton believed that the language in the bill was written sufficiently. She said that process for reviewing such cases was multi-layered. She did not believe that a person who should not be licensed would slip through the cracks.

[1:55:15 PM](#)

Senator von Imhof thought that there were aspects of the bill that could be dealt with in regulation. She wondered why a statute was required.

Ms. Lawton replied that a statute would offer stability and the assurance that the changes would not be undone easily in the future.

[1:56:16 PM](#)

Senator von Imhof related that if the proposals in the bill were best practices, it seemed unlikely that they would be challenged in the future.

Ms. Lawton replied that having the language in statute would give additional strength and authority to the tasks and activities of the department and would help to ensure correct implementation and retention.

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Senator von Imhof understood that the bill would limit the number of cases per worker, with the intent of making caseloads manageable. She asked if there was a transition plan for current workers to give some of their cases to new workers.

Ms. Lawton replied that the department would need to be thoughtful about how new staff was incorporated to provide relief for existing staff. She said that there had been an increased effort put into having less entries than exits in the system. She believed that if the department could get more children safely exiting foster care, and reduce the number coming in, that would help to safely lower existing worker caseloads. She said that the department was working to refer more services over to the Tribal Child Welfare Compact, which was working on relative searches, helping with family contact, and conducting safety assessments in relative's home for placement. She stressed that the department was working on many ways to bridge the transition.

[2:00:19 PM](#)

Co-Chair MacKinnon asked how many current case workers were employed by the state and what was the vacancy factor.

Ms. Lawton responded that there were currently 219 authorized, case carrying workers. In 2017, the turnover of those caseworkers was at 49 percent.

[2:01:10 PM](#)

Co-Chair MacKinnon asked how many vacancies the department currently had.

Ms. Lawton replied that the department had 64 open caseworker positions.

Co-Chair MacKinnon questioned whether a reduction in caseloads could result in the openings being filled without hiring additional workers.

Ms. Lawton responded that even if the openings were filled, additional caseworkers would be needed to meet the standards laid out in the bill.

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Co-Chair MacKinnon asked whether there were reasons, other than caseload numbers, that had led to the high turnover rate within the division.

Ms. Lawton shared that an annual staff survey had cited caseloads as the number one reason for leaving a position; after that, compensation, lack of sufficient supervision, and the ability to affect real change in communities were other reasons that people left the agency.

[2:04:12 PM](#)

Co-Chair MacKinnon announced that the bill would be held in committee for further review.

[2:04:21 PM](#)

Representative Gara related that the bill was modeled on child welfare practices in New Jersey, which were common in other child welfare agencies. He said that the practice of hiring 20 percent more caseworkers than initially necessary was in anticipation of high turnover rates. He said that neglecting to hire the positions in the fiscal note would result in caseloads of 30 cases per worker. He understood that it seemed counterintuitive, but that it necessary to solve the problem of burnout.

[2:06:04 PM](#)=

Co-Chair MacKinnon felt that there were too many positions on the fiscal note. She felt that the number deserved further scrutiny.

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Senator Stevens asked whether the bill would address the issue of foster children being placed in many homes over time.

[2:07:10 PM](#)

Representative Gara said that more kinship or family homes would be sought; additionally, less caseloads per worker would lead to better outcomes for long-term placement of children.

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Senator Micciche understood that the bill would grant the authorization for the agency to over-hire but that the expectation of proportion of spend was similar to the current spend.

[2:09:11 PM](#)

Representative Gara reiterated that the extra positions would be needed to reduce the caseloads so that when new people were hired they would face a less staggering caseload. He noted that of the 21 positions, 12 were case carrying workers and 9 were support and administrative staff.

Senator Micciche supported that additional positions. He wondered whether the same amount of positions would be necessary in the future once the caseload levels decreased.

[2:11:02 PM](#)

Representative Gara said that he hoped that turnover could be reduced enough that fewer positions could be a reality.

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Senator von Imhof thought that increasing caseworkers would not solve all of the problems faced by the division. She lamented that the bill did not address changes that could

be made by the department to address efficiencies. She recommended that the money from the unfilled but fully funded PCNs could be used to fund an audit of the department.

[2:15:23 PM](#)

Co-Chair MacKinnon said that she would be looking into whether there were funds associated with the vacant positions.

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Vice-Chair Bishop spoke of the successes of New Jersey. He hoped that OCS might hire some people to handle an overflow of casework and then lay off those employees once the workload had decreased.

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Senator Olson thought that an audit would cost hundreds of thousands of dollars. He agreed it could be valuable but expressed concern that the issues that the bill addressed would only get worse if the legislature waited for an audit to be conducted.

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Co-Chair MacKinnon understood that the suggested audit was meant to occur in conjunction with implementation of the bill. She thought that an audit of OCS could be illuminating.

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Vice-Chair Bishop thought that it was a matter of exploring best practices.

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Senator Micciche suggested that senators review the comprehensive audit of the department that had already been conducted. He did not believe that an audit of OCS was necessary. He believed that the challenges faced by OCS were obvious and did not require further study.

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Co-Chair MacKinnon announced that amendments were due the following day by 5pm.

CSHB 151(FIN) was HEARD and HELD in committee for further consideration.

#hb176

CS FOR HOUSE BILL NO. 176(FIN)

"An Act relating to medical assistance reimbursement for emergency medical transportation services; and providing for an effective date."

2:20:47 PM

REPRESENTATIVE ADAM WOOL, SPONSOR, introduced himself.

ROB EARL, STAFF, REPRESENTATIVE ADAM WOOL, introduced himself.

2:21:00 PM

Representative Wool explained that the bill would set up a mechanism that the Department of Health and Social Services (DHSS) could use to gain access to federal funds that could then be dispersed to municipalities to further reimburse them for medical transport, both ground and air. He relayed that, currently, emergency medical services (EMS) were only compensated for a fraction of the costs associated with transporting a Medicaid beneficiary. The bill requests that the federal government amend Alaska's Medicaid plan to include supplemental reimbursements for medical transport. He said that the Title 19 Social Security Act allowed for a certain reimbursement for states. Tribal transports would be reimbursed at 100 percent. He noted other states that had enacted similar programs. He stated that in 2017, Alaska had 21,000 claims for ground transport, averaging \$800, unreimbursed by Medicaid, for each transport. Based on those numbers, the state could receive roughly \$8.5 million to recoup some of the transport costs. He furthered that there had been 281 claims in air transport in 2017, averaging \$17,000 for each incident. Based on those numbers the state could receive \$2 million in unreimbursed costs. He stated that the number of transports was increasing in the state due to the opioid crisis. He cited the document "HB 176 Flow Chart" (copy on file).

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Mr. Earl looked at the document titled, "Flow Chart" (copy on file). The chart illustrated the flow of funds for medical transport:

Explanation - Based on Hypothetical \$1000 Transport Cost The Provider is reimbursed \$400 under regular state Medicaid for a \$1000 transport. This leaves a \$600 UCC. Under HB 176, the Provider then sends \$300 to DHSS (Supplemental) and CMS matches with the \$300 federal share. DHSS then sends \$600 back to the Provider. The Provider recoups \$700 of the \$1000 Transport Cost (\$400 Regular State Medicaid + \$300 Federal Share). Administrative fees (expected to be nominal) will be deducted from the reimbursement to the Provider.

[2:27:00 PM](#)

Vice-Chair Bishop asked what would happen in the hypothetical scenario if the bill were not to pass.

Mr. Earl replied that the provider would get the \$400, but that the bill would offer significant help.

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Vice-Chair Bishop said that the non-reimbursable rate of transport was reaching crucial levels in his district.

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Co-Chair MacKinnon queried how the department would process the \$800 piece of paperwork.

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Representative Wool looked at the fiscal note, which reflected that one person would need to be hired to process the paperwork. The cost would be passed on to the federal government in the overall cost of the uncompensated portion of the transportation bill. The 50/50 split for the administrative cost was between the federal government and municipalities.

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Vice-Chair Bishop understood that the position started at Range 18, or \$97,000 annually.

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Co-Chair MacKinnon asked whether the state would need to apply for a waiver.

Representative Wool replied that a negotiated new contract would need to be approved by the Center for Medicaid Services (CMS); approval was expected.

[2:30:02 PM](#)

Co-Chair MacKinnon asked whether the program involved a waiver or a contract.

Representative Wool deferred to the department for confirmation.

[2:30:44 PM](#)

MARGARET BRODIE, DIRECTOR, DIVISION OF HEALTHCARE SERVICES, ANCHORAGE (via teleconference), shared that the bill would not require a waiver but would require a state plan amendment.

[2:31:05 PM](#)

Co-Chair MacKinnon asked how long the state plan amendment process would take.

Ms. Brodie replied that the state plan was amended on a regular basis; the entire process could take 30 days to 9 months.

Co-Chair MacKinnon asked whether the state had been certified for its Medicaid system.

Ms. Brodie responded that the system had yet to be certified.

[2:31:48 PM](#)

Co-Chair MacKinnon asked where the state was in the certification process.

Ms. Brodie said that the department had received an email from CMS and was in the process of setting up a teleconference to discuss issues that had been raised. She said that some of the issues raised by CMS were optional and not mandatory for certification.

Co-Chair MacKinnon asked whether the state had covered all of the critical outstanding issues.

Ms. Brodie relayed that the one issue outstanding was that of the National Correct Coding Initiative Editing Sequence. The issue should be cleared up by the end of April 2018.

[2:33:10 PM](#)

Co-Chair MacKinnon understood that there were other issues still unresolved.

Ms. Brodie asserted that there were no critical defects in the system. She added that the defects that were relevant did not impact claims payments.

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Co-Chair MacKinnon expressed appreciation for the work done by Ms. Brodie and her team.

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JEFF TUCKER, PRESIDENT, ALASKA FIRE CHIEFS ASSOCIATION, KENAI (via teleconference), spoke in support of the bill. He noted that there was zero cost to the state to implement the program. [Mr. Tucker has a letter of support on file.]

[2:37:38 PM](#)

Co-Chair MacKinnon asked whether he was comfortable with the 50/50 split between municipalities and the federal government.

Mr. Tucker replied in the affirmative.

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Co-Chair MacKinnon understood that claims would be paid one per year.

Mr. Tucker said that the payment timing would be set up in the plan; the processing of the claims could be set up monthly, quarterly, or annually.

[2:39:15 PM](#)

Senator Micciche warned that EMS organizations might over invest, and the federal government could discontinue the program.

Mr. Tucker believed that any federal program carried the same risk. He noted that the program had existed for over 30 years.

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Co-Chair MacKinnon noted that the State of Alaska was picking up approximately 60 percent of all healthcare costs, at a 30 percent higher fixed cost for medical services than the rest of the nation. She asked whether the bill would provide another federal dollar that would drive costs up further.

Mr. Tucker replied that he did not know whether the legislation would drive up the cost.

[2:42:25 PM](#)

Senator Micciche lamented that medical procedures under Medicaid were high. he was concerned that they would increase for transport related services under the bill.

Mr. Tucker did not believe so. He stated that most transport was provided by local municipalities or volunteer organizations and were non-profit or publicly funded. He believed that the bill would result in the fully realized cost of services already being provided.

[2:44:48 PM](#)

RICH ETHERIDGE, FIRE CHIEF, JUNEAU, spoke in strong support of the legislation. He relayed that the call volume for emergency transportation was increasing rapidly and without staffing increases. He understood that the program would offset the costs that were already being incurred.

[2:47:47 PM](#)

Vice-Chair Bishop understood that the intent of the legislation was to help municipalities collect on expenses already incurred and not to buy new equipment.

Mr. Etheridge replied in the affirmative. He said that a few more personnel would be needed to drive the ambulances that were already part of the fleet.

[2:48:21 PM](#)

Co-Chair MacKinnon spoke again of the high cost of healthcare in Alaska. She felt that Medicaid reimbursements led to the increase in costs in the private sector.

Mr. Etheridge could not speak to the private sector. He replied that local municipalities were required to justify any cost increases.

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Co-Chair MacKinnon said that it was easier to raise a fee that was being reimbursed by the federal government and the state. She asserted that the more services provided by the state and federal governments, the higher the private sector cost to receive the services.

[2:50:27 PM](#)

Senator Micciche warned that the smaller districts needed to remember that the program was not guaranteed into the future.

[2:51:33 PM](#)

Co-Chair MacKinnon asked whether the opioid crisis had contributed to an increase in emergency transportation calls.

Mr. Etheridge replied that there had been a 16 percent increase from 2016 to 2017. In 2018 there had already been a 12 percent increase in the call volume. Medicaid cases constituted 25 percent of the calls received.

[2:52:20 PM](#)

Co-Chair MacKinnon asked whether EMS directed indigent patients to DHSS to sign up for Medicaid.

Mr. Etheridge replied in the negative. He said that hospital employees helped people to obtain services. He said that the fire department generally ended up absorbing the costs.

[2:53:05 PM](#)

BRITTANY SMART, FAIRBANKS NORTH STAR BOROUGH/MAYOR'S OFFICE, FAIRBANKS (via teleconference), testified that the borough supported the legislation. She shared that the borough charged \$1000 per ambulance transport, plus mileage charges; however, the average Medicaid reimbursement was only \$455 per patient. During 2016, approximately 30 percent of the patients transported by borough EMS providers were Medicaid beneficiaries, accruing more than \$430,000 in uncompensated costs.

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Co-Chair MacKinnon CLOSED public testimony.

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DAVID TEAL, DIRECTOR, LEGISLATIVE FINANCE DIVISION, explained the fiscal notes. He used the \$1000 hypothetical example illustrated on the flow chart. He said that the administrative costs were projected at approximately \$110,000, per year. He noted that local municipalities would be reimbursed - the state would receive nothing and would be charged nothing.

[2:58:16 PM](#)

Co-Chair MacKinnon said that the fiscal note under discussion was note #3(copy on file). She furthered that the second note under discussion was #4(copy on file).

Mr. Teal said that the funding sources on the fiscal notes gave the illusion that the bill would cost the state \$22 million, but that it was a net zero fiscal note. He stressed that the fiscal notes reflected a zero cost to the state.

[3:00:44 PM](#)

Vice-Chair Bishop interjected that the bill was budget neutral.

[3:01:07 PM](#)

Senator Micciche asked whether the vision was that the department would change municipalities or medical transportation service providers a few dollars per transport to recoup costs.

[3:01:36 PM](#)

Mr. Teal said that the state position would be paid for with interagency receipts that came from what EMS paid to the state. The state commission would be paid by municipalities.

[3:02:13 PM](#)

Senator Micciche thought that the full cost would be reimbursed, and the state would be compensated for costs.

Mr. Teal replied in the affirmative. He reiterated that the state would not be fronting money; the municipality would pay and then the federal government would be matching those funds.

[3:04:09 PM](#)

Vice-Chair Bishop said that the plan was all contingent on the federal government.

[3:04:17 PM](#)

Co-Chair MacKinnon asked for the location in the bill that said that the state would not be fronting the money and would not reimburse prior to receiving the federal funds.

Ms. Brodie replied that she did not know where in the bill the language was located.

[3:05:13 PM](#)

Co-Chair MacKinnon believed that such a safeguard should be written into the bill.

Representative Wool agreed.

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Co-Chair MacKinnon expressed concern that the state was covering much of the cost of Medicaid in the state at the expense of driving up private sector costs.

Ms. Brodie replied that the bill was for government entities exclusively and would not include private sector transportation.

[3:07:32 PM](#)

Co-Chair MacKinnon felt that there had been conflicting information given during the meeting. She believed that the inclusion of Tribal entities meant that private entities had to be included in the bill.

Ms. Brodie replied that tribal entities were considered government entities.

[3:08:13 PM](#)

Senator Micciche cited Page 2, line 10. He asked whether there was no one enrolled at the department who was a medical assistance provider that was a private entity. He said that he was unaware of any air transportation providers that were not private entities.

Ms. Brodie replied that there were private entities that provided transport and that one of those entities was partially owned by a Tribal entity.

[3:09:04 PM](#)

Senator Olson informed the committee that the North Slope Borough had a leer jet and a king air aircraft for air transport.

[3:09:33 PM](#)

Co-Chair MacKinnon relayed that the bill would be reviewed again for consistency.

Ms. Brodie stated that there would not be a change in the rate paid to private providers.

[3:10:28 PM](#)

Representative Wool referred to an earlier asked question. He believed that answer could be found on Page 1, lines 8 through 13:

Except as provided in (b) of this section, the amount of the supplemental reimbursement paid to a provider must be equal to the amount of federal financial participation that the department receives for the nonfederal matching funds paid by the provider through intergovernmental transfers or certified public expenditures, less any administrative fee described in (d) or (e) of this section.

[3:10:45 PM](#)

Co-Chair MacKinnon added that answers to questions about the private section could be found on Page 2, lines 8 through 14:

(c) An emergency medical transportation service provider is eligible to participate in the program if the provider

(1) is enrolled with the department as a medical assistance provider;

(2) voluntarily enters into an agreement with the department to participate in the program;

(3) is owned or operated by the state, a political subdivision of the state, or a federally recognized tribe or tribal organization;

[3:10:48 PM](#)

Representative Wool offered to walk through a Sectional Analysis.

[3:11:15 PM](#)

Co-Chair MacKinnon determined that it would be unnecessary.

[3:12:10 PM](#)

Co-Chair MacKinnon announced that concerns and amendments were due to her office by 5pm the following day.

CSHB 176(FIN) was HEARD and HELD in committee for further consideration.

#hb213

CS FOR HOUSE BILL NO. 213(FIN) (efd fld)

"An Act relating to the investment, appropriation, and administration of the public school trust fund."

[3:12:54 PM](#)

REPRESENTATIVE JUSTIN PARISH, SPONSOR, introduced the legislation. He explained that the bill would help the public school trust fund to operate at the industry standard. He lamented that failure to modernize the trust had resulted in years of lost income.

[3:13:45 PM](#)

AT EASE

[3:14:25 PM](#)

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Representative Parish looked at a graph title, "CSHB 213(FIN), Public School Trust, Actual vs. POMV 6/30 Balances" (copy on file). The document contained a bar graph that provided the numbers in thousands. the POMV assumed a 70/30 equity/fixed income asset allocation from July 1, 1978 - with a 4.75 percent payout of trailing 5 year market average. He relayed that the bill would allow the use of equity growth as a form of income, which would have a higher yielded income. He remarked that the fund was dedicated to education. He thought that the bill would

allow for more consistency and predictability by using the POMV draw on the fund and preserving the inflation adjusted value.

[3:16:28 PM](#)

Co-Chair MacKinnon solicited questions from the committee. She believed that the fund management plan in the bill was unique.

[3:16:54 PM](#)

ROBERT EDWARDSON, STAFF TO REPRESENTATIVE PARISH, discussed the Sectional Analysis (copy on file):

Section 1. (page 1, line 4): Amends AS 37.10.071(d) to reflect the repeal of AS 37.14.110(c) in section 5 of the bill. Current AS 37.14.110(c) maintains the distinction between principal and income, and the purpose of this bill is to convert the public school trust fund to an endowment fund structure that does not require maintaining the distinction between principal and income.

Section 2. (page, line 7): AS 37.14.160 is amended to add section 5 to the duties to direct the commissioner to determine the average monthly balance for the public school trust fund based on the monthly average market value of the fund for the five years preceding the previous fiscal year.

[3:18:52 PM](#)

Mr. Edwardson continued to discuss the Sectional Analysis:

Section 3. (page 2, line 21-26): Adds new section, AS 37.14.165 relating to the use of the public school trust fund allowing the legislature to appropriate 4.75 percent of the amount determined by the commissioner under new AS 37.14.160 (enacted by section 2 of the bill). Appropriations must be for the purpose of funding support for state public schools or for reimbursing the costs of administration of the fund.

Section 4. (page 2, line 27 - page 3, line 8): AS 37.14.170 is amended to focus the investment of the

trust fund on increasing returns from capital appreciation as opposed to increasing net income from the generation of cash dividends and interest. This permits the commissioner to invest for long term capital appreciation by adjusting the asset allocation of the trust fund to weight it more heavily to equities as opposed to cash-generating fixed income securities.

Section 5. (page 3, line 9): AS 37.14.110(c) and AS 37.14.140 are repealed. AS 37.14.110(c) is discussed above at section 1. Current AS 37.14.140 provides for expenditure of net income only. This is replaced by AS 37.14.165 (section 3 of the bill), which permits expenditure of 4.75 percent of the average market value of the fund.

[3:20:13 PM](#)

Senator Micciche asked whether the actual rate of return had been assumed in the data set on the previously discussed document.

Representative Parish deferred the question to Mr. Barnhill.

[3:21:19 PM](#)

MIKE BARNHILL, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, said that the key element of the fund management could be found in existing state law, AS 37.14.110(c), which required retention of the deposits to principal and the capital gains and losses. He provided a brief history of the fund and its comparison to the Permanent Fund. He said that the education fund had grown slowly because it had not been fully exposed to equity markets. He shared that the chart showed what would have happened if the fund had been invested from the beginning like an endowment. He said that the department supported the bill and believed that it was time to treat the fund more like an endowment so that it could take on a larger exposure to equities and grow at a faster rate over long periods of time.

[3:24:04 PM](#)

Co-Chair MacKinnon understood that the fund was a dedicated fund, which was rare. She asked whether there were any

problems with this approach to the fund, based on its historical use.

Mr. Barnhill believed that there were no legal issues. He shared that the fund was a pre-statehood dedicated fund formed in 1915 by the federal government as a land grant fund for public education. He relayed that in the mid-1970s, with the anticipation of substantial oil and gas revenues, the legislature made the decision that the fund would be more robust if the land were removed and replaced with a dedication of one-half percent receipts from the management of state lands.

[3:26:51 PM](#)

BRIAN BJORQUIST, ATTORNEY GENERALS OFFICE, ANCHORAGE (via teleconference), relayed that the department did not believe that there was a dedicated fund problem with the legislation.

[3:28:07 PM](#)

Co-Chair MacKinnon asked what would happen if the fund lost money and had to pay out part of its principal.

Mr. BJORQUIST replied that the dedicated fund component meant that the trust and the monies in it were dedicated to supporting public schools, regardless of the amounts paid out or what happened with increases or decreases of the fund. He added that there was no requirement that there be no invasion of principal, restrictions applied to one section of land, only 30 percent of the value of the trust. He said that the bill would modernize the trust management of the fund. He did not believe that there were any legal problems with the bill and that it did not violate the dedicated fund clause.

[3:29:55 PM](#)

Co-Chair MacKinnon referred to a letter from the department from February 6, 2018. She asked whether the department maintained the position taken in the letter.

Mr. BJORQUIST replied in the affirmative.

[3:30:11 PM](#)

Senator von Imhof asked whether the model on the graph assumed a certain return or used historical returns based on a theoretical mix of assets.

Mr. Barnhill replied that the graph was modeled on a 70 percent equity, 30 percent fixed income asset allocation represented by the Russel 3000 Index when it began, prior to the Russel 3000, the S&P 500 Index had been used. He said the Lehman Aggregate Index, now called the Bloomberg Barclays Index, had been used for the 30 percent fixed income asset allocation.

[3:31:06 PM](#)

Senator von Imhof asked who would manage the fund in its new format.

Mr. Barnhill replied that the department would continue to manage the fund.

[3:31:29 PM](#)

Senator von Imhof asked whether there would be any cooperation with the Alaska Permanent Fund Corporation (APFC).

Mr. Barnhill responded that the fund would be kept separate from APFC.

[3:31:48 PM](#)

Co-Chair MacKinnon noted that the department was outpacing APFC in some areas.

Mr. Barnhill stated that the relative performance between APFC and the Treasury Division vacillated over time.

[3:32:23 PM](#)

Senator von Imhof queried the future proforma return expectation.

Mr. Barnhill relayed that under current practices a 6.6 percent return was expected.

[3:33:46 PM](#)

AT EASE

[3:35:31 PM](#)

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[3:35:34 PM](#)

Co-Chair MacKinnon explained that a chart containing forward looking assumptions was being distributed to the committee. [This document is posted under the "documents" tab for HFIN meeting 2/28/18]

[3:35:51 PM](#)

Mr. Barnhill related that the chart had been developed in the other body in an effort to understand what the different trailing averages looked like under a 4.75 percent POMV. He noted that the impact on the balance on the fund in terms of its ability to keep up with inflation using the current Callan Capital market assumptions. He said that the modeling was done on the current balance, as opposed to the principal balance or the inflation adjusted balance. He said that because the Callan assumptions were pessimistic over the next 10 years at 6.5 percent, if the objective was to maintain the inflation adjusted value of the current balance, that would be difficult under any of the methodologies. He said that at some point the 10 year plus bull market would come to an end and the 8 percent that was hoped for would not be a reality. He lamented that it would be difficult to maintain the inflation adjusted value of the current balance under a POMV methodology, a variety of percentages, over the next 10 years. He believed that things would improve over a longer horizon of 20 to 30 years. He stated that as an endowment the objective was to maintain the inflation adjusted value of deposits to principal. He said that the total balance of the fund is north of \$650 million. The notional value of those is \$310 million and had been tracked since 1978. He said that taking the deposits to principal and adjusting them for inflation using the consumer price index, the current approximate inflation adjusted value of the fund was closer to \$513 million. He furthered that if the objective for managing the endowment was to maintain over all periods of time the inflation adjusted value of the principal deposit it did not matter which trailing average was used. At a 4.75 percent distribution, under the current Callan Capital market assumptions, inflation adjusted value of the

deposits to principal would be successful over the 10-year horizon and into the future.

[3:40:14 PM](#)

Co-Chair MacKinnon said that she had been measuring the fund by the Power Cost Equalization Fund. She stated that with that fund, the state had lowered the expected rate of return and decreased the risk. She understood that under the bill the asset allocation would be changed, possibly increasing the risk factor.

Mr. Barnhill felt that the distribution point for the PCE fund had been fairly aggressive. He said that the bill contained a modest 4.75 percent distribution point. He added that the 4.75 to 5 percent distribution range was standard in managing endowments around the country. He believed that the department would be successful in managing the fund going forward while protecting the inflation adjusted value.

[3:40:44 PM](#)

Co-Chair MacKinnon asked whether the 4.75 percent suggested in the legislation was the effective draw.

Mr. Barnhill said that taking 4.75 percent of the trailing 5-year average would almost always produce a percentage draw of that year balance of less than 4.75 percent. He reiterated that the objective was to maintain the inflation adjusted value over long periods of time. He shared that the department had requested in the bill that rather than have a static 4.75 percent, that the words, "not more than 4.75 percent" be included in the language. He explained that this would correct annually if for whatever reason it was prudent to spend less than 4.75 percent in a particular year.

[3:41:26 PM](#)

Co-Chair MacKinnon agreed that the department was attempting to maintain the value. She felt that it had been hard to determine a calculation on this particular fund over the past few years working with the department. She wondered why the legislature would give the department more flexibility. She wondered how the Office of Management and Budget Director arrived at the calculation of money

available for education out of the fund over the past decade. She said that a solid mathematical formula had not been determined.

Mr. Barnhill did not think that the cash flow should be volatile. He said that going to a static 4.75 percent of market value should make the cash flow more predictable and stable. He offered reasons for why the department would suggest going below 4.75 percent.

[3:46:56 PM](#)

ALEXEI PAINTER, ANALYST, LEGISLATIVE FINANCE DIVISION, discussed the fiscal notes. The first note was from the Department of Education and Early Development (DEED), K-12 Aid to School Districts. He stated that the true impact of the bill would be the increase of the amount of trust funds used. He asserted that the fiscal notes could be confusing due to the way that the Governor's FY 19 budget was written. The fiscal note reflected an increase of general funds of \$1 million, and a decrease of Public School Trust Funds of \$1 million, the actual affect of which would be to make an additional \$17 million realizable. He said that if the bill passed, the fund change that would be built in would be an increase of \$17 million of trust funds and a decrease of the same amount of undesignated general fund. The second note was for DEED, Mount Edgecumbe Boarding School and showed that the school was no affected by the legislation.

Co-Chair MacKinnon asked if the first note reflected \$1.2 billion in total operating cost.

Mr. Painter replied in the affirmative. He explained that the bill would impact the source of the funding for the K-12 formula and the easiest way to show that was to show all of the funding in the Governor's request and then show the change in the funding. He clarified that not all the funding would be affected by the bill.

[3:49:39 PM](#)

Co-Chair MacKinnon asked whether the fiscal note would be incorporated in to the budget.

Mr. Painter replied that the fund source would change and the numbers appropriation of Public School Trust Funds

would increase, thereby decreasing the fund capitalization of unrestricted general funds by the same amount. It would not change the amount that would go to the foundation formula. He reiterated that the note lacked clarity.

[3:50:24 PM](#)

Co-Chair MacKinnon thought that there was a chance that education was being double funded.

Mr. Painter said that the \$1.2 billion was included in the Governor's request. The appropriation requested in the left column of the note showed the change in the fund source. He revealed that the fiscal note could not be adopted into the budget because the budget adopted by the body did not match the Governor's request on the fund source.

[3:51:15 PM](#)

Senator von Imhof asked why a fiscal note that showed the difference going from the current statutory income from the fund to a potential new POMV.

Mr. Painter replied that the Governor's budget had built in a fiscal note similar to the one before the committee into the base budget that did not reflect current statute or the legislation before the committee. He shared that the note reflected a version of a different bill, that used a different calculation; and unorthodox move by the Governor, that created an unusual fiscal note.

[3:52:07 PM](#)

Co-Chair MacKinnon offered assurances that an appropriate bill would be crafted by the committee, and would travel with the bill, should the legislation pass out of committee.

[3:52:30 PM](#)

Co-Chair MacKinnon OPENED public testimony.

Co-Chair MacKinnon CLOSED public testimony.

[3:53:14 PM](#)

Co-Chair MacKinnon announced that amendments were due by 5pm the following day. She discussed additional housekeeping.

CSHB 213(FIN)(efd fld) was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

3:53:55 PM

The meeting was adjourned at 3:53 p.m.