

SENATE FINANCE COMMITTEE

May 1, 2018

2:06 p.m.

2:06:07 PM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 2:06 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

Liz Harpold, Staff, Representative Dan Ortiz; Diana Rhodes, Staff, Representative Geran Tarr; Laura Stidolph, Staff, Representative Adam Wool; Juli Lucky, Staff, Senator Anna MacKinnon; Representative Les Gara, Sponsor; Shawnda O'Brien, Assistant Commissioner, Finance and Management Services, Department of Health and Social Services.

PRESENT VIA TELECONFERENCE

Robert Klein, Chair, Alcohol Beverage Control Board, Anchorage; Erika McConnell, Director, Alcohol and Marijuana Control Office, Anchorage; Brandon S. Spanos, Deputy Director, Tax Division, Department of Revenue, Anchorage; Carol Beecher, Director, Child Support Services Division, Anchorage; Christy Lawton, Director, Office of Children's Services, Anchorage.

SUMMARY

HB 56            COMMERCIAL FISHING LOANS

HB 56 was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from the Department of Commerce, Community and Economic Development.

HB 150 PAY, ALLOWANCES, BENEFITS FOR MILITIA MEM

HB 150 was REPORTED out of committee with a "do pass" recommendation and with one indeterminate fiscal note: FN 2(MVA).

CSHB 151(FIN)

DHSS;CINA; FOSTER CARE; CHILD PROTECTION

SCS CSHB 151(FIN) was REPORTED out of committee with a "do pass" recommendation and with two fiscal impact notes: FN 11 (DHS) and FN 12(DHS).

CSHB 217(FIN)

LOCAL FOOD GOV PROCUREMENT; FARM TOURS

CSHB 217(FIN) was REPORTED out of committee with a "do pass" recommendation and with one fiscal impact note: FN 3(DNR).

CSHB 219(JUD)

CRIM HIST CHECK: ST EMPLOYEES/CONTRACTORS

CSHB 219(JUD) was REPORTED out of committee with a "do pass" recommendation and with one new zero impact statement from the Governor's Office and Various Departments; two new fiscal impact notes from the Department of Revenue, and one previously published zero fiscal note: FN 8 (LWD).

CSHB 299(FIN)

ABC BOARD: EXTEND; DIRECTOR; DECISIONS

SCS CSHB 299(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN 2(CED).

#hb56

HOUSE BILL NO. 56

"An Act relating to limitations on certain commercial fishing loans made by the Department of Commerce, Community, and Economic Development."

[2:08:29 PM](#)

LIZ HARPOLD, STAFF, REPRESENTATIVE DAN ORTIZ, stated that the bill raised the loan balances Alaskan fishermen were allowed to borrow for certain loan funds. She stated that it did not change the aggregate amount that could be borrowed from the fund.

Vice-Chair Bishop announced that there would be a new zero fiscal note. He stated that the legislation would not need new regulations.

Vice-Chair Bishop MOVED to REPORT HB 56 from committee with individual recommendations and accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 56 was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from the Department of Commerce, Community and Economic Development.

Co-Chair MacKinnon acknowledged that the House members were currently meeting on the floor and all the bills on the meeting agenda were previously heard in committee when the sponsors were present.

[2:10:29 PM](#)

AT EASE

[2:12:03 PM](#)

RECONVENED

#hb150

HOUSE BILL NO. 150

"An Act relating to pay, allowances, and benefits for members of the organized militia."

[2:13:27 PM](#)

Vice-Chair Bishop MOVED to REPORT HB 150 from committee with accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 150 was REPORTED out of committee with a "do pass" recommendation and with one indeterminate fiscal note: FN 2 (MVA).

[2:13:44 PM](#)

AT EASE

[2:15:27 PM](#)

RECONVENED

#hb217

CS FOR HOUSE BILL NO. 217(FIN)

"An Act relating to civil liability for risks inherent in farm touring; relating to the state and municipal procurement preferences for agricultural products harvested in the state and fisheries products harvested or processed in the state; relating to merchandise sold and certain fees charged or collected by the Department of Natural Resources; and providing for an effective date."

[2:16:26 PM](#)

DIANA RHODES, STAFF, REPRESENTATIVE GERAN TARR, provided a brief description of the bill from the sponsor statement as follows:

House Bill 217 seeks to create more opportunities for small scale producers, strengthen our local food systems, and grow our local economies.

1. Authorizes receipt authority for the Dept. of Natural Resources (Division of Agriculture) - to collect a fee for promotional merchandise related to the Alaska Grown logo;
2. Encourages "farm touring," which is defined in statute and provides protection from civil liability;
3. Encourages the State of Alaska, municipalities and schools to buy more Alaska Grown agricultural and fisheries products, by providing more flexibility in procurement rules.

Co-Chair MacKinnon related that she had previously sponsored many bills related to procurement. She noted that

the bill raised procurement from 7 percent to not more than 15 percent.

Vice-Chair Bishop reviewed the fiscal note. He conveyed the fiscal impact note information for the Department of Natural Resources (DNR), FN3(DNR) allocated to Agricultural Development in the amount of \$5 thousand in Designated General Funds (DGF) and gaining estimated revenue of \$10 thousand per year based on the amount of Alaska Grown marketing materials distributed in previous years. He read from page 2 of the fiscal note:

The bill allowed DNR to sell merchandise and charge fees associated with the Alaska Grown trademark. The department will continue to manage the Alaska Grown program through existing staff. Additional merchandise will be purchased through program receipts for inventory replacement.

[2:19:03 PM](#)

Vice-Chair Bishop MOVED to REPORT CSHB 217(FIN) from committee with individual recommendation and accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 217(FIN) was REPORTED out of committee with a "do pass" recommendation and with one fiscal impact note: FN 3(DNR).

[2:19:30 PM](#)

AT EASE

[2:21:38 PM](#)

RECONVENED

#hb299

CS FOR HOUSE BILL NO. 299(FIN)

"An Act relating to the authority of the director of the Alcoholic Beverage Control Board; extending the termination date of the Alcoholic Beverage Control Board; relating to the application of precedent to decisions of the Alcoholic Beverage Control Board; and providing for an effective date."

[2:22:30 PM](#)

LAURA STIDOLPH, STAFF, REPRESENTATIVE ADAM WOOL, explained the bill. She indicated that HB 299 extended the sunset date for the Alcoholic Beverage Control (ABC) Board to June 30, 2022. Legislative Audit reviewed the activities of the ABC Board and determined the board was effectively serving the public by controlling the manufacture, barter, possession, and sale of alcoholic beverages in the state. She noted that two changes were made to the original bill in previous committees. She elucidated that one change related to the authority of the director of the Alcoholic Control Board, which prohibited the director from voting on a matter before the board. The other change repealed the statute related to the application of precedent for decisions made by the ABC Board.

[2:23:32 PM](#)

Senator Stevens MOVED to ADOPT Amendment 1, 30-LS1281\U.4, Bruce, 4/14/18, (copy on file):

Page 1, line 1, following "Act":

Insert "relating to terms of office for members of the Alcoholic Beverage Control Board;"

Page 1, following line 5:

Insert a new bill section to read:

"\*Section. 1. AS 04.06.030 is amended by adding a new subsection to read:

(d) A member who has served all or part of three successive terms on the board may not be reappointed to the board unless three years have elapsed since the person has last served on the board."

Page 1, line 6:

Delete "Section 1"

Insert "Sec. 2"

Renumber the following bill sections accordingly.

Page 1, line 14:

Delete "Section 2"

Insert "Section 3"

Co-Chair MacKinnon OBJECTED for discussion.

Senator Stevens explained the amendment. He stated that it changed the terms of office on the Alcoholic Beverage Control Board. He pointed to subsection (d) and read the following:

(d) A member who has served all or part of three successive terms on the board may not be reappointed to the board unless three years have elapsed since the person has last served on the board.

Senator Stevens indicated that the provision "mirrored" the regulation for the Marijuana Control Board and the Regulatory Commission of Alaska (RCA), which operated under a similar limit. He believed that term limits were a "healthier" situation for boards and the amendment was not directed toward any specific board member.

[2:24:24 PM](#)

AT EASE

[2:24:33 PM](#)

RECONVENED

[2:24:55 PM](#)

Co-Chair MacKinnon requested feedback from the ABC board regarding the amendment.

[2:25:06 PM](#)

ROBERT KLEIN, CHAIR, ALCOHOL BEVERAGE CONTROL BOARD, ANCHORAGE (via teleconference), voiced that he supported all the provisions in HB 299 with the exception of the Section 3 repeal of AS.4.11.537. regarding Application of Precedent. He explained that the board was required to meet in each judicial district once per year. He believed that the geographic differences in the state were significant and that by not allowing the board to apply Title 4 to the unique situations in various communities and only adhere to precedent was not serving the public's interest well. He noted the problems related to alcohol sales and consumption in Bethel as an example of a unique situation the board would need to address soon.

Co-Chair MacKinnon asked Mr. Klein to speak to the amendment. Mr. Klein disagreed with the term limit amendment and commented that he had served on the ABC board under 5 or 6 governors and felt that he offered a unique historical perspective. He wondered how the amendment served the public's interest. Co-Chair MacKinnon remarked that she valued his perspective and service on the board.

[2:28:33 PM](#)

Co-Chair MacKinnon asked Ms. Stidolph whether the bill sponsor supported the amendment. Ms. Stidolph replied that Representative Wool supported the amendment.

Co-Chair MacKinnon WITHDREW the OBJECTION. There being NO OBJECTION, Amendment 1 was ADOPTED.

[2:29:41 PM](#)

Co-Chair MacKinnon offered that she had heard legislators relate concerns over how the Alcohol and Marijuana Control Office (AMCO) was interacting with individual business establishments and that the application of rules shifted and changed with every change in board leadership. She advised Mr. Klein of the "consternation" among legislators about the ABC board especially related to the issue of precedent. She informed Mr. Klein about a legal opinion related to the Application of Precedent and noted that three areas of concern were identified. She elaborated that one related to equal protection and due process concerns. The second item addressed the effect of repealing AS 04.11.537. She read from the Memorandum from Legal Services dated April 30, 2018 (copy on file):

Equal protection and due process concerns. You asked whether AS 04.11.537 is unique to the ABC Board and whether AS 04.11.537 raises any constitutional problems. It appears that no similar provision exists in the statutes for any other board, including the Marijuana Control Board under AS 17.38. It is my opinion that this language could present due process and equal protection problems by allowing the ABC Board to treat similarly situated licensees differently and potentially give different punishments for similar violations.

Effect of repealing AS 04.11.537. You also asked, if AS 04.11.537 were repealed, would the ABC Board have the flexibility to consider differences in location and changes in a community over time when issuing a decision on a license. In short, repealing AS 04.11.537 would not require the ABC Board to conform a current decision to a past action that presents different facts, such as factual differences that result from long periods of time or geographic location. However, if AS 04.11.537 were repealed, the ABC Board would need to distinguish a current decision from a past action that presents similar facts. You may wish to inquire with other boards in the state to determine what types of information these boards consider when conforming to or distinguishing a current decision from a past action.

Application of AS 08.01.075(f). You asked whether the provision in AS 04.11.537 is contrary to the directive in AS 08.01.075(f), which requires a board to "seek consistency" in imposing a disciplinary sanction. The ABC Board is not subject to the requirements of AS 08.01.075(f), which only applies to the boards listed under AS 08.01.010. However, requiring a board to seek consistency under AS 08.01.075(f) reflects due process and equal protection principles and is ultimately a different policy from AS 04.11.537, which does not require consistency.

If I may be of further assistance, please advise.

[2:33:20 PM](#)

Co-Chair MacKinnon determined that the legislature was asking for the consistent application of rules on behalf of those being regulated. She requested a final comment from Mr. Klein. Mr. Klein understood the legal opinion and comments made by Co-Chair MacKinnon. He replied that the board endeavored to devise the best solution for a particular community. He related that when the board held the forthcoming meeting in Bethel it wanted to hear how the issue affected the city and villages that surrounded Bethel. The board would hear testimony from village elders. He maintained that restricting the board to precedent encumbered the actions of the board and he was not supportive of the repeal.

Co-Chair MacKinnon related that she asked legislative legal whether AS 04.11.537. was unique to the ABC Board and whether the statute raised any constitutional problems. She read the response from memo previously cited:

You requested an opinion regarding AS 04.11.537, which provides that the Alcoholic Beverage Control Board (ABC Board) is not required to conform to or distinguish a decision of the board from any action taken in the past on similar facts. Below is a brief response to your questions.

Equal protection and due process concerns. You asked whether AS 04.11.537 is unique to the ABC Board and whether AS 04.11.537 raises any constitutional problems. It appears that no similar provision exists in the statutes for any other board, including the Marijuana Control Board under AS 17.38. It is my opinion that this language could present due process and equal protection problems by allowing the ABC Board to treat similarly situated licensees differently and potentially give different punishments for similar violations.

Co-Chair MacKinnon offered that meting out different penalties for similar violations was the reason for the provision in Section 3. She asked for final comments. Mr. Klein responded that every action the ABC Board took was subject to judicial review. He thought the "test [of judicial review] would be applied if the board was causing harm." He reiterated that the provision prohibited the board from making situationally appropriate and beneficial decisions. He was certain the board would continue to experience situations that were never encountered previously, and it was the board's duty to craft a proper solution.

Vice-Chair Bishop MOVED to REPORT SCS CSHB 299(FIN) out of committee with individual recommendations and accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SCS CSHB 299(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN 2(CED).

#hb219

CS FOR HOUSE BILL NO. 219(JUD)

"An Act relating to background investigation requirements for state employees whose job duties require access to certain federal tax information; relating to current or prospective contractors with the state with access to certain federal tax information; establishing state personnel procedures required for employee access to certain federal tax information; and providing for an effective date."

[2:39:27 PM](#)

Co-Chair MacKinnon recounted that the bill was previously heard on April 23, 2018.

BRANDON S. SPANOS, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, ANCHORAGE (via teleconference), remarked that the bill established procedures to safeguard the confidentiality of federal tax information as required by the Internal Revenue Service (IRS). The bill authorized agencies that received federal tax information to require fingerprinting procedures and national background criminal history checks for current and prospective employees. Passage of the bill brought the state into compliance with the federal mandate, which ensured continued access to federal tax information.

Co-Chair MacKinnon remarked that there were issues with the two fiscal notes from the Department of Revenue (DOR). She inquired whether the DOR fiscal notes allocated to the Division of Child Support Services and the Tax Division needed regulation updates. Mr. Spanos answered in the negative and noted that new fiscal notes were forthcoming.

[2:41:16 PM](#)

CAROL BEECHER, DIRECTOR, CHILD SUPPORT SERVICES DIVISION, ANCHORAGE (via teleconference), responded in the negative to the question regarding the need for regulation changes.

Vice-Chair Bishop related that the zero fiscal notes were reviewed during a previous meeting and that the two new DOR fiscal notes were forthcoming.

[2:42:11 PM](#)

Vice-Chair Bishop MOVED to REPORT CSHB 219(JUD) from committee with individual recommendations and accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 219(JUD) was REPORTED out of committee with a "do pass" recommendation and with one new zero impact statement from the Governor's Office and Various Departments; two new fiscal impact notes from the Department of Revenue, and one previously published zero fiscal note: FN 8 (LWD).

[2:42:38 PM](#)

AT EASE

[2:44:40 PM](#)

RECONVENED

#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."

[2:45:05 PM](#)

Vice-Chair Bishop MOVED to ADOPT the committee substitute for CSHB 151(FIN), Work Draft 30-LS0451\P (Laffen, 5/1/18).

Co-Chair MacKinnon OBJECTED for discussion.

[2:45:24 PM](#)

JULI LUCKY, STAFF, SENATOR ANNA MACKINNON, explained the committee substitute (CS). She indicated that the committee had expressed concerns and wanted to hold the Department of Health and Social Services (DHSS) accountable to ensure that the provisions in the bill would improve the system.

The changes in the CS were advanced to address the concerns. She read from the document titled "Explanation of Changes SCS for CS for HB 151 version: 30-LS0451\P" (copy on file) and the intent language:

Adds Section 2, which requires an audit to begin within one year and requires the Office of Children's Services to cooperate in completing the audit as a condition of accepting additional funding provided for in this bill. See page 2, lines 4-9.

LEGISLATIVE INTENT. It is the intent of the legislature that the division of the Department of Health and Social Services with responsibility over the custody of children, in accepting the additional resources made available to the division under this Act, be subject to and agree to cooperate with a special audit conducted under AS 24.20.281, as approved by the Legislative Budget and Audit Committee, to begin within one year after the effective date of secs. 1 - 22 and 24 of this Act.

Adds additional content to be provided if a staffing report is needed under AS 47.14.112(b), which is added by this bill. See page 12, line 22 through page 13, line 5.

Adds additional content to be provided in the existing annual report required under AS 18.05.020. See page 13, line 18 through page 14, line 9.

Ms. Lucky elaborated that the second provision added additional items to the staffing report that was required if case limits were not met. She read the following additional items from the CS as noted above:

- (1) the number of employees who vacated positions during the 28 reporting period;
- (2) the number of funded positions that are vacant;
- (3) a description of efforts made to recruit and retain employees;
- (4) if the department determines additional employee positions are necessary to meet the standards, the number and cost of the additional positions;

- (5) if the department determines additional funding is necessary to meet the standards, the amount and purpose of the additional funding; and
- (6) the effects on a child and the child's family of the department's inability to meet the standards.

Ms. Lucky commented on the third change that required additional content to the annual report. She read the additional items from the CS:

- (1) the number of frontline social workers employed by the division, the annual average turnover rate of the workers, and the average caseload of the workers on January 1 and July 1 of that year;
- (2) the number of children removed from their homes;
- (3) the achievement of success measured by the following:

- (A) rate of family reunification;
- (B) average length of time children spent in custody of the department;
- (C) rate of placement with an adult family member or family friend;
- (D) number of children placed in a permanent living arrangement with a guardian or biological or adoptive parent;
- (E) number of children released from the department's custody;

(4) if the department has met or exceeded the caseload standards under this chapter and, if the standards were exceeded, the number of caseworker positions in the division that could be eliminated and the amount of funding that could be reduced while continuing to meet but not routinely exceed the caseload standards;

(5) the performance of the department on federal benchmarks focused on the safety, well-being, and permanent placements of foster children compared with the previous five years.

[2:49:47 PM](#)

Senator Olson queried how the sponsor of the bill felt about the changes in the CS. Co-Chair MacKinnon stated that the sponsor would be available to speak to the changes.

Ms. Lucky remarked that she had been working closely with the sponsor, committee members, the Legislative Budget and Audit Committee (LBA), and DHSS to ensure the changes were acceptable, enforceable, and did not impact the fiscal note.

Senator Olson asked whether Representative Gara favored the changes in the bill.

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REPRESENTATIVE LES GARA, SPONSOR, replied in the affirmative. He believed the new provisions made the bill stronger.

Co-Chair MacKinnon WITHDREW the OBJECTION. There being NO further OBJECTION, the proposed committee substitute was adopted.

2:51:20 PM

Co-Chair MacKinnon asked Representative Gara to describe what the bill accomplished and how the bill improved outcomes for foster children. She shared that she and Senator von Imhof met with Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit to figure out how to structure an audit "to understand the dynamic situation that children in foster care were facing," how the state was responding to their needs, and how efficiently DHSS was functioning. In addition, she met with Senator Steadman, Chair of LBA to determine if the funding source was available. The bill was held in committee until the members could ascertain whether the department was able to accomplish the goals of the bill.

Representative Gara communicated that the state had the worst rates of child abuse, neglect, and sexual abuse in the country. The state had numerous youths in the foster care system. He delineated that evidence supported establishing rational caseload limits for workers who provided support for the children and families in the system. A direct link existed between caseworker turnover and failure within the system for children and families. The goal of the bill was not to put the foster care system out of business but to get children out of foster care. When crafting the legislation, he followed the best model in the country, which was from the state of New Jersey. He

noted that New Jersey had been court ordered to fix its foster care system and the Alaska legislature was acting on its own accord. He recounted that the bill established nationally recognized case limits that reduced turnover. Reduced staff turnover ensured that caseworkers had a relationship with the families and children they worked with. In addition, new case workers would receive a minimum of six weeks of training and would carry no more than six cases/families in the first three months, and 12 families in the first six months. For other case workers, the bill established a statewide average caseload of no more than 13 families per worker. He furthered that the bill remedied internal practices within the Office of Children Services (OCS) and adopted the "Prudent Parent Standard" that was adopted by 13 other states. He explained that the standard allowed foster parents to travel with the foster child without special permission. He offered that OCS would work with families on issues like variances for building codes to help families obtain a foster care license quickly. Another provision empowered foster youth, beginning at age 14, to participate in their case plan, which strengthened the ability for siblings to stay together or in contact. The bill recognized that youth without family connections needed to maintain contact with positive prior foster families and required OCS to help sustain the relationships. The bill also strengthened the requirement to search for relatives before placing a child with foster parents, recognizing that placements with family are often the best and most loving option for youth and could become permanent. He pointed out that some minor provisions like guaranteeing that foster children left foster care with all their basic documents necessary in life such as birth certificates, were included in the bill.

[2:57:39 PM](#)

Co-Chair MacKinnon asked whether Representative Gara wanted to add further comments regarding reductions in the caseworker turnover rate as a goal of the training standards. Representative Gara reported that the evidence in New Jersey showed that reduced turnover rate decreased the time children spent in foster care. The caseworkers had more time to find family members, get children back in the custody of their parents when appropriate, or find permanent homes. The overall limits, training, and decreased caseload in the first three months largely contributed to treating children with dignity and minimized

trauma. He pointed out that lowered caseloads within the first three months was recognized as a gold standard and the federal government paid 75 percent of the costs under the standard.

Senator Stevens thought that the legislation was important. He referenced OCS's failure to find foster children's family members and wondered how the bill ensured that the provision would be followed. Representative Gara answered that the decreased case loads would enable the caseworker more time to identify family members. He elucidated that the process was difficult and required working with the ex-custodial parents. The bill provided a supervisor check list that ensured the search was thoroughly undertaken.

[3:00:50 PM](#)

Co-Chair MacKinnon related that one of the challenges the committee explored was how to distinguish between goals and standards versus limits. She understood limits differently than Representative Gara. She noted that the bill contained limits on new hires during training, but also established standards for caseloads, training, prudent parent standards, etc., and thought that standards offered DHSS flexibility in implementation versus limits. She determined that standards were easier to report about and evaluate. She observed that the bill was adopting standards and not limits. She asked whether the sponsor agreed with her interpretation. Representative Gara was in complete agreement with Co-Chair MacKinnon's statements and offered that the 13 caseload limit was an average and not a limit.

[3:02:32 PM](#)

Co-Chair MacKinnon cited the Legal Memo dated May 1, 2018 regarding DHSS workload standards (copy on file) related to the new committee substitute. She reported that the bill would need a title change. She read from the legal opinion regarding workload standards:

... The report must explain the reasons the department was unable to meet the standards and include specified information. The draft includes no other consequences or penalties for failure to meet the workload standards.

Co-Chair MacKinnon emphasized that she wanted the opinion on the record to point out that the legislature was responsible for providing the resources and tools for youth placed in foster care and ensure they get the best possible care.

[3:04:06 PM](#)

Vice-Chair Bishop reviewed the DHSS fiscal impact note, FN 12 (DHS), allocated to Children's Services Training. He noted that the total expenditure was \$145.6 thousand; \$62.6 thousand from federal receipts and \$83 thousand in Undesignated General Funds (UGF).

Co-Chair MacKinnon indicated that the other fiscal impact note, FN11 (DHS), was for DHSS, allocated to Front Line Social Workers.

[3:05:25 PM](#)

CHRISTY LAWTON, DIRECTOR, OFFICE OF CHILDREN'S SERVICES, ANCHORAGE (via teleconference), spoke to the fiscal note. She reported that the fiscal note was allocated to Front Line Social Workers in the amount of \$1.970 million for FY 2019 was funded at 75 percent. The amount increased to \$2.35 million in FY 2020 and the outyears. Federal Receipts covered \$799 thousand and the remaining \$1.551 million was GF. She elucidated that the department worked diligently to develop a methodology for the fiscal note numbers. The department relied on prior reports on workloads from the contracted experts, Hornby Zeller Associates, Inc. The reports contained staffing formulas for best case scenarios based on the "national lens of child welfare." Without any national agreed upon data available, the department used the reports to help build the fiscal notes. In addition, the department recognized the 31 new positions received in FY 2018 that reduced the HB 151 fiscal note.

[3:07:20 PM](#)

Co-Chair MacKinnon related that there was concern over the 21 new positions requested in the fiscal note. She shared that she had met with DHSS regarding the fiscal note. She had requested information regarding the department's vacancy rate and asked for the current figure. Ms. Lawton replied that a current vacancy rate estimate was 48 positions. Co-Chair MacKinnon voiced that often money was

not appropriated for new positions due to a vacancy factor. She asked how many positions within the vacancy factor did not have funding attached to them.

3:09:21 PM

SHAWNDA O'BRIEN, ASSISTANT COMMISSIONER, FINANCE AND MANAGEMENT SERVICES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, stated that DHSS had performed assessments or "true up" over the last several years on the budget numbers and positions and eliminated or reduced the positions that were not funded. She delineated that funding positions and the vacancy factor created confusion. The vacancy factor was applied to the cost of the positions and "the number was reflective of how the positions were funded." Often the position costs exceeded the funding appropriated. The vacancy factor was a "tool imposed by OMB to account for things like turnover." Therefore, positions were never fully funded under the assumption that turnover and vacancies will happen. She furthered that the department did not hold most positions vacant, especially in the case of front line social workers and continued to recruit the positions because historically, the vacancy exceeded the vacancy factor.

3:10:59 PM

Senator von Imhof relayed that every department had vacancy factors and a mechanism had not been developed other than undertaking a payroll analysis that measured payroll against the budget appropriated for a fiscal year. She surmised that OCS currently had 219 positions and the department typically had between 48 to 65 positions vacant. She deduced that not all the OCS positions were filled during a fiscal year. She asked whether all the 219 positions were fully funded and if extra funding for positions was discovered during the true up. She thought the excess might be spent on other things within the department, "which was not necessarily a bad thing but it's just important to know" the details. Ms. O'Brien provided a real example. She explained that in FY 2017 the 219 positions for front line social workers cost \$50 million. The positions were funded using federal funds and GF. The amount approved was \$47.9 million. She emphasized that the department rarely received the total amount for the positions. She indicated that for larger budgetary components like the front line social workers DHSS never

received the total amount necessary to keep the total amount of positions fully staffed throughout the year. Throughout the FY 17 fiscal year she discovered that the department was collecting more federal funds than spending GF. The department requested increased federal spending authority by \$6.5 million to continue to collect the federal receipts the department claimed to expend. The department expended the excess GF to offset foster care special needs and the base rate because the expenditures for the components increased due to increased caseloads. Rather than increase the supplemental request for FY 2017 the department used the excess general funds in the front line social worker component to offset the need.

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Co-Chair MacKinnon asked that if the committee reduced the vacancy factor would the department need the 21 new positions. Ms. O'Brien surmised that Co-Chair MacKinnon was asking if all the positions were filled "rather than have the vacancies." She recounted that Ms. Lawton believed that the division "would have adequate staffing if the positions did not turnover and was able to retain staff."

Co-Chair MacKinnon relayed that Senator von Imhof's staff explained the vacancy factor to her in context of the fiscal note. She characterized the situation as a "surge program." She provided the example of a department vacancy rate of 49 percent and the division's 219 caseworkers with a 49 percent turnover rate. She stated that the three factors together meant the department could never "catch up." The division was losing too many employees; therefore, the fiscal note represented a "surge" in spending to raise the number of social workers in order to implement the best practice provisions in the bill. The result would reduce the turnover rate in the long term decreasing the need for personnel if the caseloads were managed at a lower level.

Vice-Chair Bishop appreciated the clarity Co-Chair MacKinnon provided. He believed that the state could not afford a 50 percent increase in OCS cases in the next 4 years. The current increase of social workers was necessary to "stem the tide" of future cases.

Co-Chair MacKinnon relayed that she received the information regarding the vacancy rate: 46 caseworkers and two supervisory positions were currently vacant.

[3:18:54 PM](#)

Vice-Chair Bishop MOVED to REPORT SCS CSHB 151(FIN) from committee with individual recommendations and accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

SCS CSHB 151(FIN) was REPORTED out of committee with a "do pass" recommendation and with two fiscal impact notes: FN 11 (DHS) and FN 12(DHS).

[3:19:22 PM](#)

AT EASE

[3:21:48 PM](#)

RECONVENED

Co-Chair MacKinnon discussed committee business.

#

ADJOURNMENT

[3:24:27 PM](#)

The meeting was adjourned at 3:24 p.m.