

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

January 31, 2018

1:30 p.m.

MEMBERS PRESENT

Senator David Wilson, Chair
Senator Natasha von Imhof, Vice Chair
Senator Cathy Giessel
Senator Peter Micciche
Senator Tom Begich

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

PRESENTATION: GOVERNOR'S COUNCIL ON DISABILITIES AND SPECIAL EDUCATION

- HEARD

SENATE BILL NO. 128

"An Act establishing the marijuana education and treatment fund; and relating to the duties of the Department of Health and Social Services to administer a comprehensive marijuana use education and treatment program."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 128

SHORT TITLE: MARIJUANA EDU/TREATMENT FUND/PROGRAM

SPONSOR(S): SENATOR(S) GIESSEL

01/16/18	(S)	PREFILE RELEASED 1/8/18
01/16/18	(S)	READ THE FIRST TIME - REFERRALS
01/16/18	(S)	HSS, FIN
01/31/18	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

PATRICK REINHART, Executive Director

Governor's Council on Disabilities and Special Education
Anchorage, Alaska

POSITION STATEMENT: Presented on the Governor's Council on Disabilities and Special Education.

MAGGIE WINSTON, Chair
Governor's Council on Disabilities and Special Education
Kenai, Alaska

POSITION STATEMENT: Presented on the Governor's Council on Disabilities and Special Education.

JEANNE GERHARDT-CYRUS, Chair
FASD Working Group
Governor's Council on Disabilities and Special Education
Kiana, Alaska

POSITION STATEMENT: Presented on the Governor's Council on Disabilities and Special Education.

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

POSITION STATEMENT: Presented the sectional analysis of SB 128.

JAY BUTLER, M.D., Chief Medical Officer/Director
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Presented information on SB 128.

TREVOR STORRS, Executive Director
Alaska Children's Trust
Anchorage, Alaska

POSITION STATEMENT: Suggested changes to SB 128.

ACTION NARRATIVE

[1:30:26 PM](#)

CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Giessel, von Imhof, Begich, and Micciche, and Chair Wilson.

PRESENTATION: GOVERNOR'S COUNCIL ON DISABILITIES AND SPECIAL EDUCATION

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CHAIR WILSON announced the presentation by the Governor's Council on Disabilities and Special Education.

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PATRICK REINHART, Executive Director, Governor's Council on Disabilities and Special Education, presented on the Governor's Council on Disabilities and Special Education. He said the council addresses three federal responsibilities and two state ones in one group with a 25-member board:

- Developmental Disabilities Council (large amount of federal funding is received for this purpose)
- Interagency Coordinating Council for Infants and Toddlers with Disabilities (required by the federal Individuals with Disabilities Education Act (IDEA))
- Beneficiary Advisory Board to the Alaska Mental Health Trust Authority
- Special Education Advisory Panel (also an IDEA requirement)
- Governing Body of the Special Education Service Agency

MR. REINHART said the council just completed its five-year plan. Its priorities are:

- Empowered to live and thrive in communities
- Competitively employed in integrated setting
- Skills for education success and independence
- Receive appropriate services and support
- Improved quality of life

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MAGGIE WINSTON, Chair, Governor's Council on Disabilities and Special Education, presented on the Governor's Council on Disabilities and Special Education. She shared the council's vision statement:

Alaskans share a vision of a flexible system in which each person directs their own supports, based on their strengths and abilities, toward a meaningful life in their home, their job and their community. Our vision includes supported families, professional staff and services available throughout the state now and into the future.

MS. WINSTON said she was disabled at 21 by a rare neurological disorder. At the time she had twin one-year-olds. She was able

to navigate the system to acquire a Medicaid waiver to stay in her own home to receive services. She got her own home through Rural CAP (Rural Alaska Community Action Program). She went to college and will be working on a master's in psychology. All of this was and is possible because of services she receives in her own home. She has a job as a systems advocate with the Soldotna Independent Living Center. The state budget is tight, but it is essential that these services are available in the community and in people's homes. Otherwise, the option would be an institutional setting.

She said she is in a large battle with the division about her services. She had been receiving 24-hour services in her home but that has been cut to 35 hours a week. If she doesn't receive services at home, then she will be in a nursing home where she cannot be a mom and have a job. They are asking for support for the shared vision of developmental disabilities services to be received in an integrated community setting.

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SENATOR MICCICHE asked whether the council has tried to educate legislators about the codes or specific services used for disabilities. Legislators are intending to keep the Department of Health and Social Services' (DHSS) budget flat, but he believes government is here to help people who simply cannot afford to provide that care themselves.

MR. REINHART said the council gets involved when the Department of Education and Early Development and DHSS issue regulations or policies related to services. A Medicaid ad hoc committee provides comments. Changes are happening rapidly, probably because of SB 74. The council could provide the council's comments on various services.

SENATOR MICCICHE said waiting for regulations from the departments is late for the legislature. The legislature is the appropriating body and they need to prioritize spending. They have never questioned the cost of Medicaid for the disabled and associated services. He suggested that perhaps Mr. Reinhart could be available for the subcommittee process

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MR. REINHART presented a graph, "Moving Forward Together: Alaska's Developmental Disabilities System," to illustrate the state's evolving system. In 1997 Harborview Developmental Center closed. The cost for delivering services in communities is about a third of what it would cost if Harborview were open today. The

waivers are worthwhile. They are the most important thing in the whole developmental disabilities (DD) system. They allow people to live independently in the community. The vision is toward more meaningful lives, more employment, more opportunities to be involved in communities.

MR. REINHART thanked Senator Micciche for planning to originate the Developmental Disabilities Shared Vision Bill so that the lens of home-based services will always be in statute.

MR. REINHART said shared this definition of Supported Decision Making (SDM):

Supported Decision Making (SDM) can be best defined as: relationships, practices, arrangements, and agreements of more or less formality and intensity that are designed to assist an individual with a disability to make and communicate to others, decisions about the individual's life.

Alaska has an overabundance of full guardianships. The council wants a mechanism for something less severe with more individual input. Supported Decision Making is a new movement. It may take some burden from the the Office of Public Advocacy

MR. REINHART said the council is working with Representative Millett on a Supported Decision Making Bill modeled after similar legislation in Texas, Delaware, and other states. It is a civil rights issue. It allows people to decide what issues they want help with and what issues they don't.

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JEANNE GERHARDT-CYRUS, Chair, FASD Working Group, Governor's Council on Disabilities and Special Education, presented on the Governor's Council on Disabilities and Special Education. She shared that she is a parent of multiple children with prenatal exposure to alcohol. She said the Fetal Alcohol Spectrum Disorders' (FASDs) work group finalized their vision:

The prevalence of Fetal Alcohol Spectrum Disorders (FASDs) is reduced and individuals who experience FASDs and their caregivers are empowered to reach their unique and full potential. Through education, prevention, and provision of quality, relevant supports and services, Alaska is a FASDs-informed state.

MS. GERHARDT-CYRUS said many people do not know that the majority of people with prenatal exposure to alcohol do not qualify for developmental disabilities services.

MS. GERHARDT-CYRUS shared the work group's goals from its 5-year plan.

1. Raise awareness of FASDs, a range of neurodevelopmental (brain-based) disabilities that can affect any person exposed to alcohol before birth.
2. Reduce the incidence of alcohol-exposed pregnancies.
3. Address the stigma associated with FASDs by educating Alaskans to understand the complexities of the disability in a way that honors the strengths of those impacted, to promote an inclusive, accepting culture.
4. Reduce the co-occurrence of childhood trauma and FASDs by increasing supports for high-risk families, building resilience, and improving access to treatment for early childhood trauma.
5. Define and promote FASDs-informed care in Alaska.
6. Advocate for fully funded appropriate services, supports and education for individuals and families with FASDs to increase self-advocacy, prevent crises, and reduce adverse outcomes, such as substance misuse, incarceration, and suicide.

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SENATOR BEGICH said he served on the juvenile justice advisory committee and asked what kind of coordination the council does with the Division of Juvenile Justice (DJJ). He said the estimates of youth affected by FAS in the system vary from 20 to 60 percent.

MS. GERHARDT-CYRUS recognized Shannon Cross for her work in DJJ. The work group has representation from many groups, although she could not recall at the moment whether anyone from DJJ is on the work group.

SENATOR VON IMHOF asked about the law that put pregnancy tests in bars.

MS. GERHARDT-CYRUS said she did not know much about the effects, although she had heard it was successful in some cases.

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SENATOR GIESSEL said there had been a report on that bill, perhaps two years ago. Five women had sent notes thanking DHSS for the pregnancy tests and stating their behavior had changed as a result of the tests.

MS. GERHARDT-CYRUS said that showed that the women had some knowledge about the effects of prenatal alcohol exposure.

She said that five work groups will meet quarterly to develop action plans. Most of the work group is composed of volunteers.

MR. REINHART said the Governor's Council also includes an ad hoc autism group that accomplished these goals:

- Last year the group was focused on the fact that the state was losing the only neurodevelopmental specialist. Now there will be a pediatric neurodevelopmental specialist at Providence and at Alaska Native Health Tribal Consortium.
- Rural outreach clinics traveled to 11 different communities.
- Alaska ECHO Autism is an opportunity for providers from around the state to video teleconference with experts from across the country.

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MR. REINHART said the legislature approved Applied Behavioral Analysis (ABA) as a treatment for people with difficult behaviors. Paying for ABA has been an issue so the Division of Behavioral Health drafted regulations. The ad hoc group's comments are noted in the information below.

- Early Periodic Screening Detection and Treatment (EPSDT) requires Medicaid autism treatment coverage for children under 21
- Final regulations in March or April
- 8.2 Million fiscal note
- Council gave these comments:
 - Needs supervision coverage
 - Remove "fail first" requirement
 - Rates are low
 - Recommended working with Alaska Association for Behavior Analysis (AKABA)

SENATOR VON IMHOF asked whether the \$8.2 million fiscal note would be an additional cost to the state.

MR. REINHART said that was the fiscal note then, but he doesn't know the present fiscal note.

SENATOR VON IMHOF asked if the amount would come from undesignated general funds.

MR. REINHART said it would be Medicaid funding, so half and half.

SENATOR VON IMHOF said that former Senator Bill Stoltze had spoken about an autistic charter school. She asked whether the council had considered something like this.

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MR. REINHART said the Alaska Mental Health Trust invested some funding into a pilot school in Anchorage that has four very young students with challenging behaviors that is in its first month of operation.

SENATOR MICCICHE asked whether the state is getting the 100 percent Medicaid match from IHS [Indian Health Service] for services for the Alaska Native Community.

MR REINHART said he did not know.

MR. REINHART said the council is focusing on universal development screening.

Goal: to develop and implement a sustainable, cost effective, efficient method of universal screening

- One in four children ages 0-5 years is at risk for a developmental delay
- Only 32 percent of Alaskan parents report having any standardized developmental screening
- Council convened a Universal Screening Task Force Midwest Academy with multiple partners
 - o Public and Tribal Health
 - o Head Start
 - o Child Care
- House efforts in one place (Help Me Grow)
 - o Streamline data collection
 - o Maximize impact

MR. REINHART gave an update on ABLE accounts. ABLE accounts allow people to save money in special accounts, similar to college 529 savings accounts, for disability-related expenses. Currently Alaska has 94 ABLE accounts with \$395,771 in funds. He thanked Senator Giessel for helping to get the ABLE bill passed. ABLE accounts enable people to help themselves and to get out of poverty. It is a vicious cycle to be dependent on benefits all the time. With federal tax changes, college 529 accounts can be changed to ABLE accounts.

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MR. REINHART said Alaska is an Employment First state, which focuses on programs providing services to focus on work, and gave the following update:

- Repeal of subminimum wage in Alaska (DOLWD)
- Transition handbook launched (DHSS)
- MOU with Employment First Philosophy (DHSS & DOLWD)
- Employment First Job Fair entering 4th year (DHSS & DOLWD)
- Business Employment Services Team (BEST) continued joint employer engagement efforts (DOLWD & DHSS)
- Increased focus on transition through Jobz Clubs, Transition Camps, and summer work experiences (DOLWD & DEED)
- Regulation changes-including employment first language of "employment and work in competitive, integrated settings" (DHSS)

SENATOR MICCICHE asked if someone is disabled, is there a limit on income in order not to lose services.

MR. REINHART said there are income requirements for most services. Up to \$15,000 a year can be put into ABLE accounts. Some programs are just about providing services for a specific disability.

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SENATOR MICCICHE said that in Finance, a question came up about income limits and penalizing people for earning too much.

MR. REINHART said their goal is that people look for opportunities to be employed and be part of society. The council has a web-based tool, Benefits 101, that people can use to

determine how income might affect services. It is very complicated. The council has been investing money to train people in this area of benefit calculations.

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SENATOR BEGICH asked what take away he wanted to leave the committee with as members work through the subcommittee budget process.

MR. REINHART said that "home and community-based services is good bang for the buck." That is the most important issue.

SENATOR VON IMHOF asked how Alaska compared to other states.

MR. REINHART said Alaska ranks well in state comparisons of home-and-community-based services. Alaska was one of the first to get rid of a developmental disability institution. He would share those comparisons with the committee.

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SENATOR VON IMHOF said reports over time would be helpful.

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At ease.

SB 128-MARIJUANA EDU/TREATMENT FUND/PROGRAM

[2:17:23 PM](#)

CHAIR WILSON announced the consideration of SB 128 with his intention to hear and hold the bill.

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SENATOR GIESSEL, Alaska State Legislature, sponsor of SB 128, said she knew many people would question the need for another fund. "Well, frankly, Mr. Chairman, I blame the hippies from my generation of the 60s and 70s who raised kids who were led to believe that this Schedule I, hallucinogenic drug was harmless," she said. These people voted to put this drug on the street corners and it is now readily available. The state needs to deal with that. "Those old hippies' grandchildren are at risk," she said, as she sees them in school-based clinics.

She said these kids deal with jaw-dropping things. She does screening for depression, suicidal ideation, and drug use. She needs better tools to talk to them about marijuana use. She does not run across kids who smoke because the smoking education fund has worked.

She said government should be involved because government "is taking a tax on this tapeworm that is sucking life out of people." This bill takes some of this money to the Division of Public Health to create materials for students and adults. Grants will be available to private sector non-profits to go forth on education and treatment programs funded by taxes collected.

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SENATOR GIESSEL said the bill is being offered at the request of DHSS. The fund mirrors the Tobacco Use Education and Cessation Fund. The bill counters the message that legal means safe and harmless, a belief that many schoolkids are led to believe, and the message that this is a money-maker for staff coffers.

She said the bill allows DHSS to collect data on the use of marijuana, the public attitude and knowledge about this drug and how to protect the cognitive abilities and health of our youth through education, mostly about side effects. This will be done through grants to local organizations. The bill does not specify organizations because the government should not pick winners or losers. Many groups are ready to do this work.

[2:24:48 PM](#)

JANE CONWAY, Staff, Senator Giessel, Alaska State Legislature, Juneau, Alaska, presented the sectional analysis of SB 128.

Section 1 AS 43.61.010(d) is technical and conforming language that clarifies which fund is being referenced in this section that is about the recidivism reduction fund. Since we are establishing another fund, the Marijuana Education and Treatment Fund in another subsection to follow, Legislative Legal wanted to correctly name which fund is being addressed to prevent any confusion.

Section 2 AS 43.61.010 is a new subsection that creates the Marijuana Education and Treatment Fund within the general fund. After receiving tax collected from marijuana sales, the Dept. of Administration shall separately account for and deposit 25% of those proceeds into the Fund, and the legislature may appropriate those monies for the purpose of funding DHSS programs for marijuana use education and treatment. This section specifies that the money in this fund does not lapse.

MS. CONWAY noted that Section 3 has minor fixes from Legislative Legal.

Section 3 AS 44.29.020(a) contains two minor fixes from Leg Legal that adds the word "the" to (11) of this section, and also the word "to" to item (14). It also adds to this section that DHSS will administer the marijuana education and treatment program by grant or contract out this program to other organizations in Alaska. This section outlines 5 components of the program that must be included: 1. A community-based marijuana misuse prevention component 2. Marijuana public education geared toward prevention of youth initiation of marijuana use, education re: the effects of marijuana use and education re: marijuana laws 3. Survey of youth and adults concerning knowledge, awareness, attitude and use of marijuana products 4. Monitoring of the public's health relating to consequences of marijuana use 5. Provide for substance abuse screening, brief intervention, referral and treatment

SENATOR VON IMHOF said the sponsor statement has an estimate of \$9 million to be collected in taxes. She asked if a contingency plan is in place if less than 9 million is collected.

SENATOR GIESSEL deferred the question to the division.

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SENATOR BEGICH disclosed a conflict of interest as he works with Portland State University as a trainer and consultant on the Reclaiming Futures Project, which deals with the substance abuse screener referenced on page 3. lines 24 and 25. He could financially benefit from the bill if Portland State University were to win a grant.

[2:28:40 PM](#)

JAY BUTLER, M.D., Chief Medical Officer/Director, Department of Health and Social Services (DHSS), presented information on SB 128. He responded to Senator Imhoff's question by stating that the health education component could be very plastic, depending on the assessments of the situation, and he asked for flexibility to focus on "what is rather than what I think it is going to be."

DR. BUTLER said the Marijuana Education and Treatment Fund would be similar to the Tobacco Use Education and Cessation fund in terms of how tax revenues are used. Twenty-five percent of the marijuana excise tax would go to the fund. Currently 50 percent goes to the recidivism fund and 50 percent to the general fund. The bill would divide the 50 percent that goes to the general fund between the general fund and the marijuana education fund.

He said the overarching goal is statewide coordination between youth prevention, public health and safety, and youth prevention. About 10 percent of marijuana users will be diagnosed with cannabis use disorder, which is similar to alcohol-use rates. The risk is two-fold when regular marijuana use begins in the teen years, so an emphasis is to delay use of marijuana in youth. The top public health and safety risk is driving under the influence of marijuana.

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DR. BUTLER outlined the five parts to a comprehensive program:

- Community-based marijuana misuse prevention, with a focus on youth prevention
- Assessment of knowledge and awareness of laws, and use of marijuana products
- Monitoring of population health impact related to marijuana use and legalization
- Marijuana education
- Substance abuse screening, brief intervention, referral, and treatment (SBIRT)

He said community-based marijuana misuse prevention is about local efforts to prevent misuse before it starts by mitigating risk factors and enhancing existing programs for public health and education to address substance misuse prevention.

He said that the Youth Risk Behavior Survey showed that kids in afterschool programs report a lower frequency of marijuana use and initiation.

SENATOR MICCICHE said he has been on the board of the Boys and Girls Club for 25 years. He asked what model programs would cost. He wondered if the bill should have a cap on proposed allocations if marijuana revenues continue to increase.

DR. BUTLER responded that may be a Finance Committee question. He said that a robust afterschool program may need a larger

proportion than exists now. The projections for total marijuana tax revenue is \$10 million a year.

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SENATOR MICCICHE said he still hears from people who think marijuana sales will save the state from its fiscal gap, but he understands that revenue is not expected to grow significantly.

SENATOR BEGICH asked what model programs and robustness mean to the department.

DR. BUTLER said robust programs have data to show less use. He noted the interest shown to the Iceland model, in which teen substance use has declined dramatically over the last 20 years. The press has simplified the solution to afterschool and sports programs. There also has been a shift in social norms of what is good parenting, as well as regulation. Curfew hours are enforced and alcohol store hours are limited.

SENATOR BEGICH said he wanted to focus on afterschool programs. He asked if DHSS would have strict requirements for efficient programs. He does not want to divert money to programs that have no effect.

DR. BUTLER said that would be a Request for Proposals requirement.

CHAIR WILSON said he thought the initial percentage of allocations by DHSS was lower than 25 percent and asked why it is higher now.

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DR. BUTLER said that the proposal is not small. The proposal is not as ambitious as in some states, such as Colorado, which has a yearly expert panel on the effect of legalization. DHSS wants to maximize the ability to provide a good public health model to regulate legal, retail marijuana.

He said the second component is assessment and monitoring of the following:

- Assessment of trends in knowledge, awareness, attitudes, and behaviors to address misperceptions and knowledge gaps
- Monitoring health status and use trends to identify any health or health system effects of legalization
- Some questions that require answers:

- Do youth perceive marijuana as a less harmful substance due to legalization?
- Do youth and adults see driving under the influence of marijuana as dangerous?
- How has marijuana legalization affected Alaskans' health and safety?

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DR. BUTLER said the last question may take time to answer.

SENATOR VON IMHOF asked if DHSS is working with Colorado and Oregon to compare data, such as the rate of car accident under the influence.

DR. BUTLER said states have frequent phone contact and meetings, when possible, with surveillance gurus from the Centers for Disease Control about how to do these assessments in standardized ways. States look to each other for leadership.

SENATOR GIESSEL said she has been very interested in the subject of marijuana-impaired driving and in a meeting a month ago, the Anchorage Police Department said they had documented 25 fatal car accidents attributable to marijuana-impaired driving. She suggested he be in contact with them to get the data.

DR. BUTLER said marijuana education seemed to be a big void after legalization. Materials will be designed to communicate messages to

1. help prevent youth initiation of marijuana use
2. educate the public about the health effects of marijuana use
3. educate the public about marijuana laws

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DR. BUTLER said part of the education is needed for health care professionals. Health care professionals may think back to their hippie days when a joint was "half oregano." Now, high-tech horticulture produces marijuana breeds with much higher levels of THC. There are also a wide variety of products: vape solutions, concentrates, edibles, topicals, etc.

He said providers need tools for substance abuse screening, brief intervention, referral, and treatment (SBIRT). Use during pregnancy is a concern. The health effects are unknown. Some providers recommend it for morning sickness.

He said data on youth use shows that it has been stable over the past ten years.

He said adults can help reduce youth marijuana use. Youth with supportive teachers, parent communication, community connections, and afterschool programs report less marijuana use.

DR. BUTLER said Alaska can join with Oregon, Washington, Colorado, and California to direct tax funding towards a very rational way to regulate retail marijuana to reduce the public health risk with a minimum of regulation.

[2:54:36 PM](#)

SENATOR BEGICH asked if any increase had been shown in adult use and why does the Alaska Youth Risk Behavior Survey show a higher use among youth.

DR. BUTLER said the adult trend data for Alaska has been stable at around 15-16 percent. He speculated that legalization could increase availability and reduce the perception of harm among youth.

SENATOR BEGICH said he hoped DHSS would produce yearly reports about trend data so the legislature could track whether education programs are effective.

SENATOR GIESSEL asked if he knew of the Office of Opioids and Substance Abuse referenced by the Governor's Council on Disabilities.

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MR BUTLER said it is actually the Office of Substance Misuse and Addiction Prevention, which was created using existing funds and positions from the Division of Public Health and the Division of Behavioral Health. The office plays a coordinating role with a focus on opioids and marijuana and prevention.

CHAIR WILSON asked how the fund is similar to and different than the tobacco programs in the state.

DR. BUTLER said it is not significantly different, but sustainability is one issue. A big proportion of the tobacco prevention fund came from the master settlement, and those funds are starting to decline. Marijuana retail sales would be a sustainable source of funding for the Marijuana Education Fund.

[3:00:37 PM](#)

CHAIR WILSON opened public testimony on SB 128.

[3:00:51 PM](#)

TREVOR STORRS, Executive Director, Alaska Children's Trust, suggested changes to SB 128. He said that when Alaska became the third state to legalize recreational marijuana use, it came with opportunities and challenges. The first priority is to protect Alaska's youth because marijuana use in youth affects their brain development. Four out of ten high school students have used marijuana. Alaska needs specific youth prevention that promotes protective factors. The proposal in the House utilizes the Alaska Children's Trust and its program the Alaska Afterschool Network to focus on youth use prevention. The Alaska Children's Trust has a proven grant-making system with a greater investment in services.

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MR STORR said connecting the funds to the Alaska Children's Trust ensures higher standards and the highest possible outcomes for youth. He encouraged the Senate to follow the House in directing another 25 percent to afterschool programs.

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CHAIR WILSON closed public testimony on SB 128 and held the bill in committee.

[3:05:10 PM](#)

There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee at 3:05.