

ALASKA STATE LEGISLATURE
SENATE HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE

February 5, 2001

1:32 p.m.

MEMBERS PRESENT

Senator Lyda Green, Chair
Senator Loren Leman, Vice Chair
Senator Gary Wilken
Senator Jerry Ward
Senator Bettye Davis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 19(RES)

"An Act repealing the termination date of changes made by ch. 87, SLA 1997, and ch. 132, SLA 1998, regarding child support enforcement and related programs; repealing the nonseverability provision of ch. 132, SLA 1998; repealing uncodified laws relating to ch. 87, SLA 1997, and ch. 132, SLA 1998; and providing for an effective date."

MOVED CSSB 19(HES) OUT OF COMMITTEE

SENATE BILL NO. 2

"An Act relating to reimbursement of municipal bonds for school construction; and providing for an effective date."

MOVED SB 2 OUT OF COMMITTEE

SENATE BILL NO. 11

"An Act relating to the legal age for attending school; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SB 2 - No previous action.

SB 11 - No previous action.

SB 19 - See Resources minutes dated 1/24/01 and HESS minutes dated 1/29/01.

WITNESS REGISTER

SENATE HES COMMITTEE

-1-

February 5, 2001

Ms. Juli Lucky
Aide to Senator Halford
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Explained a proposed amendment to SB 19

Ms. Diane Wendlandt
Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Confirmed that Senator Halford's amendment to SB 19 would not interfere with CSED's ability to comply with federal requirements

Ms. Barbara Miklos, Director
Child Support Enforcement Division
Department of Revenue
550 W 7th Ave., Suite 310
Anchorage, AK 99501

POSITION STATEMENT: Not opposed to Senator Halford's amendment to SB 19

Julia Tenison
Chugiak, AK

POSITION STATEMENT: Expressed concern about the constitutionality of SB 19

Mary Jackson
Aide to Senator Torgerson
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Testified for the sponsor of SB 2

Debbie Ossiander
Anchorage School Board
PO Box 670772
Chugiak, AK 99567

POSITION STATEMENT: Supports SB 2

Eddie Jeans
School Finance and Facilities Section
Department of Education &
Early Development
801 W 10th St.
Juneau, AK 99801-1894

POSITION STATEMENT: Answered questions about SB 2

Senator Gene Therriault
Alaska State Capitol

Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of SB 11

Holly Morris
Staff to Senator Therriault
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Answered questions about SB 11

Loyola McManus
Alaska Association of Elementary Principals
927 Wood Way
Fairbanks, AK 99709
POSITION STATEMENT: Supports SB 41 and SB 11

Mr. Vernon Marshall
Executive Director, NEA-Alaska
114 2nd Street
Juneau, AK 99801
POSITION STATEMENT: Supports SB 11

Mr. Darrol Hargraves
Executive Director
Alaska Council of School Administrators
326 4th, Suite 404
Juneau, AK 99801
POSITION STATEMENT: Supports SB 11

Mr. David Pfrimmer
North Pole Elementary School
250 Snowman Lane
North Pole, AK 99705
POSITION STATEMENT: Supports SB 11

ACTION NARRATIVE

TAPE 01-8, SIDE A
Number 001

CHAIR LYDA GREEN called the Senate Health, Education & Social Services Committee meeting to order at 1:32 p.m. Present were Senators Wilken, Ward, Davis and Green. The first order of business to come before the committee was SB 19.

#SB19

SB 19-CHILD SUPPORT ENFORCEMENT/SOC SEC. #

SENATOR WARD moved to adopt the proposed CSSB 19(HES), labeled as Version L, for the purpose of discussion. There being no

objection, the motion carried.

CHAIR GREEN explained that the findings and intent section in SB 19 was removed in the committee substitute. In addition, the sunset provisions on the sections requiring that social security numbers be provided by applicants for various licenses, court documents, and to the Bureau of Vital Statistics, were reinstated. The five year sunset provision was also renewed on the provisions allowing the Child Support Enforcement Division (CSED) to enter into agreements with financial institutions for financial data matching. She noted the provisions in the bill that were left as is (with no sunset provision) were those that would be detrimental to the state, CSED, or the people involved. One example is that the fine for incorrect employer reporting will remain at \$10 instead of \$1,000. She noted Senator Halford has asked the committee to consider an amendment.

MS. JULI LUCKY, staff to Senator Halford, explained that Senator Halford has had concerns about the CSED legislation that passed in 1997 and 1998. One concern was the new hire reporting requirement. Small employers who hire people sporadically might not be aware of the new hire requirement, therefore Senator Halford wants to provide protection from liability for those employers for the wages that should have been withheld. That protection would not apply to employers who have been served with withholding orders. She noted the statute would be clarified by adding, to the new hire reporting section, the phrase, "Violation of this subsection does not give rise to a private cause of action."

CHAIR GREEN asked for an explanation of "private cause of action."

MS. LUCKY explained that the employer could not be sued by a private party, therefore the person who is owed the money could not sue the employer. She clarified that a private cause of action is not between CSED and the employer.

MS. DIANE WENDLANDT, Assistant Attorney General, Department of Law, said her understanding of the amendment is that it will address private liability to a custodial parent or someone else who is owed child support and might attempt to hold an employer liable, outside of statutory penalties, which are already in place. The federal law requires certain statutory penalties, which will not be affected by the amendment.

MS. BARBARA MIKLOS, Director of CSED, testified via teleconference and said that as long as CSED remains in compliance with the welfare reform requirements, she doesn't think the amendment will do any harm.

MS. WENDLANDT said she doesn't believe the amendment will place CSED out of compliance.

CHAIR GREEN announced her intention to pass the bill from committee today. She noted she spent a lot of time going over all of the provisions of the bill to create the new draft.

SENATOR LEMAN moved to adopt Senator Halford's amendment (Version L.1). There being no objection, the amendment was adopted.

SENATOR LEMAN moved to report CSSB 19(HES) as amended from the Senate HESS Committee with individual recommendations and its accompanying fiscal notes. There being no objection, the motion carried.

Number 774

MS. JULIA TENISON, testifying via teleconference from Chugiak, said she would like to comment on the legislation to repeal the law requiring the collection of social security numbers for CSED.

CHAIR GREEN explained that when the original legislation was passed in 1978 and 1998, many sections contained a three year sunset provision. CSED submitted legislation [SB 19] to remove all sunset provisions, therefore none of the provisions would have been up for review. The committee has removed three provisions from the bill so that they will come back for review in five years.

MS. LUCKY noted that she was contacted by Ms. Tenison because she had some problems receiving a driver's license due to the social security number requirement. Ms. Tenison does not have a social security number and has received several tickets for driving without a license. Ms. Tenison is familiar with the legislation and has done exhaustive research on the legislation that was passed in 1997 and 1998.

MS. TENISON informed committee members that she has a case pending before the Court of Appeals.

CHAIR GREEN asked if her situation is related to child support enforcement.

MS. TENISON replied, "Only to the extent that the legislation passed and the name of child support enforcement has reached out and touched my life."

CHAIR GREEN said the CSED director was asked at the last meeting

about the impact on drivers' licenses. She thought that issue would have to be taken up with the Division of Motor Vehicles (DMV).

MS. WENDLANDT said her understanding is that there was some confusion on the part of DMV but it has been cleared up. Apparently, DMV thought if a person did not have a social security number, he or she had to obtain one to get a driver's license. That is not CSED's position. At this point, if a person does not have a social security number, he or she does not have to obtain one to get a driver's license.

Number 1052

MS. MIKLOS confirmed Ms. Wendlandt's statement and said she talked to the director of DMV a few weeks ago. The director assured her that she sent a letter to all field offices informing them that if a person has never had a social security number, that person must sign an affidavit saying so. She was not sure whether Ms. Tenison has gone back to DMV since that time.

MS. TENISON said she has not. She pointed out her concern about this law is that when she went to DMV, the office manager was enforcing this legislation and handed her a copy of a direct quote from the statute. Ms. Tenison was denied reissue of her driver's license. Nothing in the law itself allows for correcting a big error in the law after the fact. That is why she is in court and does not have a driver's license. She stated the legislature created a situation that needs to be looked at seriously, especially the findings and purposes section, because the law is unreasonable and unconstitutional. She believes the constitutional issues surrounding this law are very serious and should not be pushed aside.

Regarding DMV, MS. TENISON said she has not been contacted about the change in policy.

CHAIR GREEN asked Ms. Lucky to contact the director of DMV and put her in contact with Ms. Tenison.

MS. LUCKY agreed and informed committee members that Ms. Tenison's main concern is about the constitutionality of collecting social security numbers.

Number 1187

CHAIR GREEN informed Ms. Tenison that most people in the room would have fully agreed with Ms. Tenison 10 to 15 years ago when the

federal government forbade the use of social security numbers for identification. Now the federal government has reversed that decision and allows social security numbers to be required. The new federal directive has changed the constitutionality question.

MS. TENISON responded that the federal law does not mandate anything - it says states need to do things if they want to continue to get money. Section 7 of the Privacy Act of 1974 (PL 93-579) says a person cannot be required to give his or her social security number. She said she has done enough research to know the law has not actually changed, even though the federal government may say it has.

CHAIR GREEN said she would look into that.

MS. TENISON said if the committee is interested, Senator Halford's office might be able to provide a copy of the legal research she has done on the constitutional issues for her case before the Court of Appeals.

CHAIR GREEN thanked Ms. Tenison, Ms. Lucky, and Ms. Wendlandt and announced the committee would take up SB 2.

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Number 1315

#SB 2

SB 2-MUNICIPAL SCHOOL BOND REIMBURSEMENT

MS. MARY JACKSON, aide to Senator Torgerson, sponsor of SB 2, explained the measure as follows. HB 281, which passed last year, was a bonding package that included a number of projects, including school bonds. The timeframe for that bonding package is from 1998 to 2004. SB 2 predominantly affects the Anchorage School District. SB 2 exempts Anchorage from the requirement to adhere to some of the ballot proposition language currently in statute and corrects an unintended glitch in HB 281.

CHAIR GREEN asked if the Mat-Su Borough ever fell within the troublesome part of HB 281.

MS. JACKSON replied Mat-Su was included in HB 281 and was the reason the bill was retroactive to 1998. Her understanding is that the Mat-Su Borough has taken full advantage of all of the bonds so it does not have to come back under this program. She explained that Anchorage put a vote before the voters for 100 percent reimbursement, instead of a 70-30 split.

CHAIR GREEN asked if all other language is the same.

MS. JACKSON said it is. She pointed out the first revision to the law is on page 4 and that Section 1 is in existing law.

CHAIR GREEN asked what cost is associated with SB 2.

MS. JACKSON said the fiscal note is zero because it applies to a previous bond.

CHAIR GREEN took public testimony.

MS. DEBBIE OSSIANDER, Anchorage School Board, stated strong support for SB 2. She explained that technical language problems prohibited Anchorage from taking full advantage of HB 281. Anchorage voters approved \$77.9 million worth of school bonds. At the time no one knew whether any state reimbursement for those bonds was a possibility. Passage of SB 2 will enable Anchorage to follow suit with other districts and take advantage of previously apportioned money.

CHAIR GREEN asked Ms. Ossiander if Anchorage was included in the conversation about HB 281 last year.

MS. OSSIANDER said it was and that Anchorage lobbied for debt reimbursement. Unfortunately, at the time, Anchorage did not know what percentage of debt reimbursement was possible. At the advice of bond counsel, language was put forth to the voters saying that Anchorage would attempt to go for debt reimbursement but, if not available, 100 percent would be paid locally.

SENATOR WARD asked how much money is involved.

MR. EDDY JEANS, school finance manager for the Department of Education and Early Development (DOEED), said SB 2 only affects the Anchorage School District and possibly one project in the Northwest Arctic Borough. Under HB 281, the legislature passed a lengthy debt reimbursement list. Unfortunately, this will continue to be a problem in the future as municipalities continue to get voter approval for projects when the debt reimbursement program has no authorization for those projects. DOEED will not review and approve projects for a debt reimbursement program if there is no authorization. That is exactly what happened in Anchorage. There was no authorization on the books but Anchorage decided to go to the voters for approval. Key elements were not on the ballot that were required by the legislation, such as the amount of reimbursement from the State, the estimated total cost of the project, the estimated interest, and the estimated annual cost of operation and maintenance. DOEED will not review ballot language

if it does not have authorization on the books so Anchorage got ahead of DOEED.

CHAIR GREEN asked if the Mat-Su Borough came back to DOEED after it held its election.

MR. JEANS said it did.

CHAIR GREEN asked if it was assumed that Anchorage would qualify when HB 281 was enacted.

MR. JEANS said that he could make that assurance.

SENATOR DAVIS asked Ms. Ossiander for the projects those bonds will cover.

MS. OSSIANDER replied SB 2 applies to the bonds that were passed on April 4, 2000. The projects include:

- Phase 1 Bartlett High School
- Phase 2 and 3 Chugiak High School
- Phase 1 East High School
- Phase 1 Service High School
- Phase 1 Wendler Middle School
- The Denali Elementary replacement project
- District wide renewal/replacement ADA code grades, roof replacements, Girdwood roof replacement, electrical upgrades and traffic safety work.

CHAIR GREEN noted an absence of any reference to charter schools.

MS. OSSIANDER said that is true.

CHAIR GREEN asked what it would take to get a charter school on the list.

MS. OSSIANDER said it would take a bit of a philosophical shift for the Board. Currently, the Board assumes that charter schools would deal with their own building needs.

There being no further testimony on SB 2, SENATOR LEMAN moved SB 2 from committee with individual recommendations and a zero fiscal note, if there is one. There being no objection, the motion carried.

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#SB 11

SB 11-COMPULSORY SCHOOL AGE

CHAIR GREEN asked Senator Therriault to present SB 11.

SENATOR GENE THERRIAULT, sponsor of SB 11, explained that SB 11 was requested by a public school principal in his district. SB 11 simply amends the current statute that says that every child must begin formal schooling by the age of 7. SB 11 changes the start date from age 7 to age 6. It does not impact Section (b) of that statute, which says the child does not have to be in public school to meet those requirements. A child could be home schooled or attend an alternative school.

CHAIR GREEN asked if the current statute contains exceptions.

SENATOR THERRIAULT said the statute contains a long laundry list of exceptions. He pointed out that if a child or family has an emergency situation, such as an illness, Section b(8) provides for an exemption granted by the district. SB 11 will not impact that section. SB 11 also provides for optional kindergarten attendance so that a parent could place a six year old child in kindergarten or first grade.

CHAIR GREEN asked if SB 11 has any application to the qualifying date for entry to school. She felt it is important for people to understand what this bill does not do.

SENATOR THERRIAULT explained that when a child turns six, the child would have to be enrolled in school.

CHAIR GREEN asked what would happen to a child who turned six in February.

SENATOR THERRIAULT said the child would enter school the following school year.

CHAIR GREEN pointed out a child must be five by August 15 for entry to school in Alaska.

Number 2001

SENATOR THERRIAULT explained that the issue he is trying to get at with SB 11 deals with a small number of people who enroll their children in the public education system before age 7 but do not make the children attend, since attendance is not mandatory until age 7. Teachers must expend a lot of time and energy to keep those children up to speed with the rest of the class or not advance them at the end of the school year in the student's first year of

attendance. Most agree there is some stigma associated with being held back. He believes in providing some flexibility for parents but once a child is enrolled in first grade, the parent should ensure that the child attends regularly.

SENATOR LEMAN said he agrees with the problem but not with the fix. He suggested making the enrollment date the mandatory age so that students are compelled to attend. He asked Senator Therriault if he considered any other options.

SENATOR THERRIAULT said he did not because the number of children who fall into this category is very small. He received statistical information that shows that in 1995, 96 percent of five and six years of age were enrolled in formal education, with the exception of children who are home schooled. If home school students are included, the percentage is about 98 percent, therefore only two out of 100 children fall in this category.

SENATOR LEMAN said he believes this will only apply to a very small number of people but those people probably care about government intervention in their lives. He would be more inclined to support a fix that solves the problem without overreaching.

SENATOR THERRIAULT said SB 11 does not impact the number of years a child must be in the education system. It just requires that when one starts, he or she has to stick with it.

SENATOR LEMAN maintained that he does not read the bill to say one has to stick with it once one starts.

CHAIR GREEN pointed to line 8, which reads, "shall maintain the child in attendance, except as provided in (b)." She asked if current statute requires parents to have their children in school except for illness or emergency.

SENATOR THERRIAULT said he could not speak to each district's policy. He said he tried to draft the bill narrowly so that it gets at the issue yet maintains flexibility for parents.

SENATOR DAVIS indicated that she signed on as a co-sponsor to SB 11 because she believes it is high time that the State lower the mandatory age to attend school. Most states require children to attend school at age 5. In Alaska, some students enter school at age 7 without having attended kindergarten or first grade. She said children mature earlier now and many do not have parents who will pay for them to attend preschool and get an early start. This way, those children would not be left at home and would be able to attend school because it would be mandatory. She said she would

prefer to require mandatory school enrollment at age five.

SENATOR THERRIAULT pointed out the fiscal note is indeterminate because the expected number of students that SB 11 will impact is very small.

TAPE 01-8, SIDE B

SENATOR WARD asked when and why age 7 was put in statute.

MS. HOLLY MORRIS, staff to Senator Therriault, informed the committee that the ages 7 to 16 are in the statute from the Alaska Compiled Laws of the Territory, 1949. The legislative librarians found the law goes back to 1913. The statute has never been reviewed between then and now.

MS. LOYOLA MCMANUS, representing the Alaska Association of Elementary School Principals (AAESP), testified from Fairbanks. She believes SB 11 addresses two issues: children who begin school at age 7 are at a disadvantage because those children are one to two years behind his or her peers. Those children are at risk of being physically, emotionally and socially out of sync with their classmates. Given that the general practice in Alaska is that 6 year olds are in school, SB 11 would provide a more appropriate and uniform starting point for all children. Second, SB 11 addresses truancy and enforcement. At the elementary level, truancy is often a family problem. If a district wants to use the court system to address school attendance, it could not do so for a six year old. This sends a message to families that early education is not important. In 1998, AAESP passed a resolution supporting early childhood education and mandatory kindergarten in Alaska. AAESP feels that in light of research on brain growth and development, and longitudinal studies on early education experiences, this is a desirable goal. SB 41, by Senator Davis, addresses that concern. She commended Senators Therriault and Davis for their efforts.

MR. DAVID PFRIMMER, principal of North Pole Elementary School, gave the following example of the problem, one student missed 75 days of kindergarten and then 45 or 50 days of first grade. The school district attempted to withdraw the child but was unable to because the child was not 7. The child missed 40 days the following year and at that time the district was able to take the case to court. With the new truancy law and DFYS intervention, the district was able to get the child back to school. By that time, the child was far behind academically, socially, and emotionally. He has met children who started school at age 7 who are one to two years behind the rest of their age group and must attend kindergarten. He noted that students can begin school in first grade but

kindergarten has become more academic so first grade can be difficult without it.

MS. OSSIANDER, Anchorage School Board, stated support for SB 11. Education research shows the benefit of early education and more parents are asking for a full-day kindergarten. She noted with the new move toward accountability of schools, grade 3 is a benchmark grade. Children who begin school at age 7 will have a lot of catching up to do. Children are expected to be reading at the end of first grade.

Number 2083

MR. VERNON MARSHALL, Executive Director of NEA-Alaska, said NEA supports SB 11 for many of the reasons stated. NEA believes it is critical that children receive educational instruction before age 7 because they will be expected to have reached a proficient level of reading, writing and math for the third grade benchmark exam. He agrees that most six year olds are in first grade programs - SB 11 will establish compulsory attendance at age six. That standardization makes good educational sense. He thought most home school parents are attempting to educate their children at age six anyway.

CHAIR GREEN asked if state law addresses truancy.

MR. MARSHALL replied there is compulsory attendance by law for ages 7 to 16 and some would argue that allows for enforcement but Alaska does not have aggressive truancy laws. In general, the school year is 180 to 185 days but there is no minimum number of days of attendance for children.

CHAIR GREEN asked if other states mandate the number of days of attendance.

MR. MARSHALL said some states do.

CHAIR GREEN said they must have exemptions.

MR. MARSHALL said those laws are very similar to Alaska's law.

Number 1950

SENATOR LEMAN asked Mr. Marshall to expand on his statement that most home school parents are attempting to educate their children. He asked if Mr. Marshall believes the same is true of the teachers in the NEA or whether he believes they are actually educating them.

MR. MARSHALL said one has to make the attempt to educate and everyone is doing that. Home school parents have the same goal. Sometimes those attempts are successful, sometimes they are not.

SENATOR LEMAN questioned whether Mr. Marshall was being pejorative about home schooling.

MR. MARSHALL clarified that he should have said "an aggressive attempt." NEA wants students to succeed and will make the attempt to get them over the bars that are now in place.

SENATOR LEMAN said he believes that most parents feel the same way about their children.

SENATOR WARD asked if NEA has a list of the age requirements for school attendance in the other states.

MR. MARSHALL said he could provide that information.

Number 1827

MR. DARROL HARGRAVES, Executive Director of the Alaska Council of School Administrators, said the Council agrees with most of the arguments made in favor of SB 11 today. He feels the compulsory age should be lowered to age 6 because many states have detected that early education is important. He cautioned that an evaluation process be put in place to consider exceptional children. School districts have evaluation processes in place to examine children emotionally, intellectually, physically, and socially to determine whether a child is ready for kindergarten. Some children may not be able to handle all of the information they are expected to learn by grade 3. He maintained that Alaska's compulsory attendance laws do not have the teeth in them to make them meaningful. In organized areas, districts can ask the police for assistance, but many children in Alaska are truant. Compulsory attendance means that a district has a policy, but districts are unable to get help from the state troopers because they are too busy.

SENATOR WARD asked if the states with a lower age requirement have a mandatory kindergarten provision.

MR. HARGRAVES said some states made changes in the 1960s and 1970s based on research that showed that children are maturing faster. Research on brain development has improved. That is the argument he has heard other states make.

SENATOR WARD asked if those states also mandate kindergarten.

MR. HARGRAVES said he was not certain. He said that most states encourage kindergarten attendance.

Number 1620

MR. EDDY JEANS, school finance manager of DOEED, pointed out that AS 14.30.030 says the governing body of a school district, including an REAA, shall establish procedures to prevent and reduce truancy. Therefore each school district must set its own policy and procedures. He believes the compulsory education law has 12 exemptions so any parent who wants to keep a child out of school will find a way. He felt Senator Therriault's concern is valid. DOEED funds the students who are enrolled.

CHAIR GREEN said she is unresolved on this issue. She pointed out that when SB 98 was before the legislature in 1995-1996, the legislature attempted to tie school attendance to public assistance but it could not be done. She asked Senator Therriault to work with Senator Lemman on a resolution to the problem and announced that SB 11 will be held over. She announced that the committee will hear SB 40 and SB 64 on Wednesday and it will take up the exit exam the following week. She then adjourned the meeting at 3:15 p.m.
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