

ALASKA STATE LEGISLATURE
SENATE HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE

April 8, 2002
2:06 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

SENATE BILL NO. 311

"An Act relating to the public school trust fund, the Alaska children's trust, and the Alaska heritage endowment fund; and providing for an effective date."

MOVED CSSB 311(HES) OUT OF COMMITTEE

SENATE BILL NO. 346

"An Act relating to statewide school district correspondence study and state supported home schooling programs."

HEARD AND HELD

PREVIOUS SENATE COMMITTEE ACTION

SB 311 - No previous committee action.

SB 346 - See HESS minutes dated 3/15/02 and 3/18/02.

WITNESS REGISTER

Mr. Zach Warwick
Staff to Senator Therriault
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Presented SB 311 for the sponsor.

Mr. Neil Slotnick
Deputy Commissioner
Department of Revenue
PO Box 110400

Juneau, AK 99811-0400

POSITION STATEMENT: Explained the intent of SB 311.

Mr. John Jenks
Treasury Division
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400

POSITION STATEMENT: Answered questions about SB 311.

Ms. Shari Paul
Project Coordinator
Alaska Children's Trust
Department of Education &
Early Development
801 W 10th St.
Juneau, AK 99801-1894

POSITION STATEMENT: Answered questions about SB 311.

Ms. Whitney Highland
Staff to Senator Leman
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Testified for the sponsor of SB 346.

ACTION NARRATIVE

TAPE 02-26, SIDE A

Number 001

CHAIRWOMAN LYDA GREEN called the Senate Health, Education & Social Services Committee meeting to order at 2:06 p.m. Senators Wilken, Ward, Davis and Green were present. The committee took up SB 311.

#SB 311

SB 311-STATE TRUST FUND MONIES

MR. ZACH WARWICK, staff to Senator Therriault, sponsor of SB 311, gave the following testimony. SB 311 was introduced after Senator Therriault met with Department of Revenue staff who came up with the suggestions in the bill. SB 311 will give greater flexibility to the commissioner of the Department of Revenue in investing the principal of the public school trust fund, the Alaska children's trust, and the Alaska heritage endowment fund.

When the trust funds were set up, the statute was written so that any money appropriated would come from the net income account of

the fund. However, when investing in securities that appreciate in value rather than produce an income, it is impossible to appropriate any income. As a result, the funds are invested in CDs and bonds.

SB 311 will allow investments to be made in higher yield securities. Current statutory language provides no incentive to invest in securities that receive higher yields. SB 311 will allow appropriations to be made based on the market value. It directs the commissioner to invest assets in instruments that yield at least five percent, to inflation proof the funds, and to report the market value of the funds to the legislature annually, as well as the money appropriated from the fund. Basically, SB 311 will create a more productive group of funds that can be better used by the trust boards.

CHAIRWOMAN GREEN asked if SB 311 applies to two funds.

MR. WARWICK said it applies to three: the public school trust fund, the Alaska children's trust fund and the Alaska heritage endowment fund.

CHAIRWOMAN GREEN asked about the Alaska heritage endowment fund.

MR. WARWICK said it is a fund for public museums.

CHAIRWOMAN GREEN asked if SB 311 will allow a more competitive and aggressive investment scheme.

MR. WARWICK said that is correct.

SENATOR DAVIS asked how much money is in the public school trust fund.

MR. NEIL SLOTNICK, Deputy Commissioner of the Department of Revenue, said SB 311 is important to DOR because it creates a new and better system for managing funds. He emphasized that SB 311 does not create new trusts or change the status of any of the trusts created in statute.

MR. SLOTNICK explained that this issue grew from Senator Phillips' effort last year to establish the Arctic Winter Games endowment. Senator Phillips worked with DOR to create an optimal set of instructions to manage an endowment, using modern portfolio theory to provide a set of instructions so that the portfolio is managed on the basis of total return. The instructions also provide for automatic inflation proofing. He asked Mr. Jenks to elaborate.

MR. JOHN JENKS, chief investment officer for the Treasury Division, DOR, informed members that SB 311 will improve flexibility and align the investment process with the long term nature of these trust funds. It separates the investment decision from the accounting decision. Under current statute, the type of income, whether it be dividend or interest income or a stock that increases in value, determines what happens to the income. That results in an inefficient investment mix of stocks and bonds with a lower long-term return. To not have to distinguish between the type of income each produces will significantly improve the flexibility and efficiency of the investment process. SB 311 also incorporates a market value payout method that is spread out over a three year rolling monthly average of the market value. That method provides a relatively stable and predictable revenue stream, which will enable better planning for long term programs. SB 311 also contains an explicit inflation-proof mandate.

CHAIRWOMAN GREEN asked if DOR did something similar to this about three or four years ago with the permanent fund.

MR. JENKS said there are a couple of places where this process comes in. It has not been used with the permanent fund but it was talked about extensively when the legislature provided instructions on a portion of the constitutional budget reserve fund. He added that a slight variation of this method is used for power cost equalization.

MR. SLOTNICK responded to a question posed by Senator Davis earlier and said the public school fund contains about \$275 million.

CHAIRWOMAN GREEN asked why the phrase "programs and" was changed to the word "project" on page 5.

MR. SLOTNICK indicated the Alaska children's trust supports the bill but requested that word change. He believed it has to do with federal language that specifically describes what a program or project is that limits the way the children's trust can administer its grants. Using the generic term "project" will make it easier for the children's trust.

SENATOR WARD asked if a larger dollar amount can be invested if principal and income is combined.

MR. JENKS said the same dollar amount will be invested but it will be invested more efficiently by getting rid of the distinction between the principal and income parts of the fund

and by removing the constraint on the type of earnings the investments make. DOR expects that over time, the funds will earn about .65 percent more if SB 311 is enacted.

SENATOR WARD asked if the principal could be invested in a lower risk instrument than the income or whether they can both be invested in the same types of investment.

MR. JENKS said right now they are invested differently. When DOR constructs the investment policy for the principal of these funds, it must keep in mind these investments are expected to produce either capital gains or dividends and interest. The current statutory language instructs DOR to create an ever-increasing stream of income so that when DOR creates the investment policies for the principal, it has constructed a logic that says it should inflation proof the fund. DOR tries to create an investment policy that will produce capital gains in one form or another equal to the expected inflation rate plus a bit more to grow the principal ever so slightly in real terms. After that, DOR makes investments that maximize current income: dividends and interest payments on bonds. The interest payments and dividends are transferred into a separate fund because the [statute] currently requires DOR to keep track of principal and income separately.

Each year, the legislature makes appropriations from that income to the various programs. Because the income fund is likely to be appropriated in the near term, it is invested more conservatively. DOR is also fairly conservative with the principal because it believes if it invests for more capital gains than just barely enough to offset inflation, a current beneficiary could claim DOR is making an investment for the future while its statutory charge is to get the maximum current income. DOR ends up investing more conservatively in total to meet the first charge. Right now that policy allows the trusts to earn about 7.25 percent over time. If SB 311 passes, the funds are expected to earn almost 8 percent, resulting in more money for the programs.

2:22 p.m.

SENATOR WILKEN asked if SB 311 contains the same concept that is being promoted for the permanent fund, except that SB 311 uses a three-year instead of a five-year average.

MR. JENKS said he does not believe there are any other fundamental differences.

SENATOR WILKEN asked if inflation proofing is based on the assumption that the returns will be greater than five percent.

MR. JENKS said that is correct and, under the current statute, DOR is constrained to 7.25 percent. He added that DOR and the Permanent Fund Corporation use the same consulting firm to get capital market assumptions and estimates.

SENATOR WILKEN asked if DOR expects the public school trust fund to increase if SB 311 is enacted.

MR. JENKS said over time all three funds are expected to produce more income for the programs. The amount they produce now is about \$2 million per year.

SENATOR WILKEN asked if the public school trust fund will be jeopardized in any way because changes will be made to a constitutionally protected fund. He added, "Does this change now make it just like any other fund that doesn't have that constitutional protection as being in place at the time the Constitution was assigned?"

MR. JENKS said no, there would be no such effect. The management would not affect in any way the fund's designation as a constitutionally protected trust fund.

CHAIRWOMAN GREEN reiterated her concern about changing the word "program" to "project."

MS. SHARI PAUL, project coordinator for the Alaska Children's Trust, informed members that the intent of the children's trust was to provide communities with a way to prevent child abuse and neglect. However, the Trust has found over years of awarding grants to communities, more interest from major organizations looking for supplemental funds to continue operating. The statute says the children's trust should fund community-initiated projects. It has been pushing hard to communicate in its grant applications that communities need to come together to present and create projects that address the problem of child neglect. The children's trust requested the language change in SB 311 to clarify the intent of the statute and what the trust is actually doing: funding projects, not programs that keep agencies afloat.

CHAIRWOMAN GREEN asked Ms. Paul to describe her definition of "program."

MS. PAUL said the words "project" and "program" are often used interchangeably but she wants to make sure everything published

by the children's trust says it funds community-initiated projects.

CHAIRWOMAN GREEN asked for an example of a program.

MS. PAUL said the children's trust funds a parenting education program at the Anchorage Center for Families. She repeated that the terms are intermixed all of the time but the children's trust wants to be consistent in its publications.

CHAIRWOMAN GREEN asked for an example of a project.

MS. PAUL said the children's trust funded a child abuse prevention project within the youth program at the Nome Community Center. Part of the project entails getting youth mentors to accompany other youth to work on April child abuse prevention month activities. That is a specific project within an overall program called YES - Youth Empowered to Serve program. The children's trust funded a small portion of that program to do a prevention project.

CHAIRWOMAN GREEN asked where APRN would fall.

MS. PAUL said the children's trust no longer funds APRN but APRN funded public service announcements that provided parenting messages.

CHAIRWOMAN GREEN said she can see a scenario in which one group could have a project in 17 communities and the children's trust is funding the "genesis" group, or group that drove the project. She said she wants to be sure that the legislature will not be allowing the children's trust to grant seven \$50,000 projects that, under the definition of a program, would be one \$50,000 project. She repeated her concern that changing the definition could allow one group to get a bigger share than it would get under the current system.

MS. PAUL said an organization or a community can only receive up to \$30,000. The board lowered the ceiling to \$30,000 three years ago because it had a limited amount of money to award.

CHAIRWOMAN GREEN referred to language on page 7, line 18, and asked for clarification.

MS. PAUL replied, "It says may not exceed \$50,000 so the board three years ago said well, if we funded - we only had approximately \$260,000 to award and we weren't able to award that many grants so the board made a unanimous agreement to lower that

- may not exceed \$30,000. Well no, it still may not exceed \$50,000 but it's \$30,000."

CHAIRWOMAN GREEN asked if next year's board could fund each project at \$50,000 if it has more money.

MS. PAUL said it could but it will fund only one award per agency or community. For instance, if the Anchorage Center for Families applied three times, the Board would look at funding structures and geographic distribution so it would not award three grants.

CHAIRWOMAN GREEN gave the example of the Boys and Girls Club that does a special project on child abuse in many communities throughout the state. She asked if the group in each community would qualify for a grant.

MS. PAUL said yes, if they applied separately.

CHAIRWOMAN GREEN asked if the language change from "program" to "project" would make any difference.

MS. PAUL said that will help clarify that the children's trust is just funding a specific project, not a whole program in itself. For example it will not be funding the Boys and Girls Club, but a small portion of it.

CHAIRWOMAN GREEN said she is saying the program would be the Boys and Girls Club and the location would be the individual projects. She said she wants to be sure the children's trust is not funding seven distinct projects within one entity. She asked whether the trust has language that pertains to that scenario.

MS. PAUL said that is not the trust's intent. The intent is to support projects.

CHAIRWOMAN GREEN announced that SB 311 needs more work so the committee will set it aside and perhaps revisit it on Wednesday. She also reminded members that the committee will hold a discussion on the ATAP legislation at that time. She noted that Sandy Hoback and Ted Abrams (ph) are in Juneau to visit with members to answer any questions.

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SENATOR WARD asked if the North Slope Borough has reported back to the committee on the interviews held with parents in Kivalina.

CHAIRWOMAN GREEN replied the continuation of the Kivalina hearing is scheduled on Friday.

#SB 346

SB 346-SCHOOL DISTRICT CORRESPONDENCE STUDY

SENATOR LEMAN, sponsor of SB 346, reminded members that SB 346 is legislation that deals with regulations by the Department of Education and Early Development (DOEED) that pertain to statewide correspondence schools. He noted that members have heard a lot about the issue, so asked that it be reported from committee if the Chairwoman is ready.

CHAIRWOMAN GREEN noted that a committee substitute (CS) needs to be adopted.

SENATOR LEMAN moved to adopt the Senate HESS CS to SB 346.

SENATOR DAVIS asked if a new CS is before the committee.

CHAIRWOMAN GREEN informed members that she was referring to Version C, which was distributed to members at the last hearing.

SENATOR DAVIS asked what changes have been made in Version C.

CHAIRWOMAN GREEN said that since the last hearing there has been a meeting of the minds between the correspondence school and DOEED. She said she wants to be sure this legislation keeps moving.

MS. WHITNEY HIGHLAND, staff to Senator Leman, informed members that the changes considered at the last hearing pertained to whether a subsection of SB 346 should be placed in another section of statute. She spoke with Mike Ford, legislative counsel, who indicated that language should remain as is - placed in the section of statute that deals with the duties of local school districts and not the state school board. Therefore, no change was made to Version C.

SENATOR DAVIS said she was pleased this bill was put on hold while the state board had an opportunity to review the proposed regulations. She said from everything she has read, it appears the state board has already addressed the problem that SB 346 was designed to fix. The state board has put the revised regulations out for public review so she questioned what the purpose of SB 346 is at this date. She expressed concern that it is premature and that legislators should allow the process to complete its course before changing the statute. She noted the people who requested SB 346 are the same people who are now saying that the revised regulations have met their needs.

SENATOR LEMAN said SB 346 was originally introduced to respond to DOEED's overreach during the regulatory process. Regarding the purpose for the bill now, DOEED has proposed revising its regulations in response to concerns expressed by many parents across Alaska but the revisions will not be finalized until June. He anticipates that this legislature will be adjourned by that time. Consequently, the purpose of SB 346 is to give direction to a department that has shown it needs it. He said he is very pleased with the changes made by DOEED, but the purpose of the legislature is to give direction to the departments.

SENATOR DAVIS said the Administrative Regulation Review Committee addresses problems with the regulatory process and that committee has reviewed the process and is waiting for the outcome. She asked why this issue cannot be addressed by the next legislature if the problem is not resolved by the revised regulations. She said she doesn't believe the legislature should be second-guessing what DOEED is going to do and repeated that the same parents who came to Senator Leman are now saying they are satisfied with the process. She advised that the proposed regulations will not be changed while they are under review and DOEED and the parents are happy with the changes. She noted that legislators are policymakers but she does not see the need to take any action at this time.

SENATOR LEMAN said he disagrees and that it is his opinion that because this legislation was introduced, DOEED came to the table and listened and responded.

SENATOR WILKEN said he too thought this issue was being worked out at the table. He asked that a representative from DOEED comment on Version C.

MS. TERRI CAMPBELL, legislative liaison for DOEED, said she was not aware that SB 346 would be heard today so was not prepared to comment.

SENATOR WILKEN said he was surprised that Version C was before the committee without Dr. McLain being present.

MS. HIGHLAND informed members that the IDEA program is the only home school study program that has come out in support of the new regulations. Hundreds of other home school parents and the Cyber Links program are not satisfied with the new regulations.

SENATOR DAVIS removed her objection to the motion to adopt Version C for the purpose of discussion.

CHAIRWOMAN GREEN asked if the committee discussed adding the phrase "state-funded" to line 7, page 2. No one responded.

SENATOR LEMAN moved CSSB 346(HES) from committee with individual recommendations.

SENATOR DAVIS objected.

SENATOR WILKEN asked if members want to hear from Dr. McLain before this bill leaves the committee.

CHAIRWOMAN GREEN announced the committee would take a brief at-ease.

The committee reconvened and Chairwoman Green announced that the committee would take SB 346 up again on Wednesday. She asked members to make sure any of their concerns are "ironed" out and back to her because she intends to move the legislation out of committee on Wednesday.

SENATOR WILKEN asked Ms. Highland to bring members a list of other people's concerns.

CHAIRWOMAN GREEN informed members that the Administrative Regulation Review Committee has asked her to move this legislation forward. She then announced that the committee will hear the ATAP legislation on Wednesday and adjourned the meeting at 2:47 p.m.

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