

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON EDUCATION**

February 17, 2004

11:03 a.m.

**MEMBERS PRESENT**

Representative Carl Gatto, Chair  
Representative Paul Seaton, Vice Chair  
Representative Dan Ogg  
Representative Peggy Wilson  
Representative Kelly Wolf  
Representative Les Gara  
Representative Mary Kapsner

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 471

"An Act relating to the funding of public education; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 338

"An Act relating to attendance at public school; and providing for an effective date."

- MOVED HB 338 OUT OF COMMITTEE

HOUSE BILL NO. 353

"An Act relating to jury duty; and amending Rule 15(k), Alaska Rules of Administration."

- MOVED HB 353 OUT OF COMMITTEE

HOUSE BILL NO. 390

"An Act relating to the required number of days in a school year."

- MOVED HB 390(EDU) OUT OF COMMITTEE

HOUSE BILL NO. 437

"An Act requiring the Department of Education and Early Development to gather and report information about the school attendance status of every child who is a resident of the state who has been admitted to kindergarten or is of school age."

- BILL HEARING POSTPONED

HOUSE BILL NO. 405

"An Act relating to reports on school and school district performance; and relating to accountability of public schools and school districts; and providing for an effective date."

- BILL HEARING POSTPONED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 471

SHORT TITLE: INCREASE AMT OF BASE STUDENT ALLOCATION  
REPRESENTATIVE(S): EDUCATION

02/16/04 (H) READ THE FIRST TIME - REFERRALS  
02/16/04 (H) EDU, HES, FIN  
02/17/04 (H) EDU AT 11:00 AM CAPITOL 124

BILL: HB 338

SHORT TITLE: ENTRY INTO SCHOOL  
REPRESENTATIVE(S): MCGUIRE

01/12/04 (H) PREFILE RELEASED 1/2/04  
01/12/04 (H) READ THE FIRST TIME - REFERRALS  
01/12/04 (H) EDU, HES  
02/17/04 (H) EDU AT 11:00 AM CAPITOL 124

BILL: HB 353

SHORT TITLE: JURY DUTY EXEMPTION FOR CERTAIN TEACHERS  
REPRESENTATIVE(S): KAPSNER

01/12/04 (H) PREFILE RELEASED 1/2/04  
01/12/04 (H) READ THE FIRST TIME - REFERRALS  
01/12/04 (H) EDU, HES, JUD  
02/17/04 (H) EDU AT 11:00 AM CAPITOL 124

BILL: HB 390

SHORT TITLE: LENGTH OF SCHOOL TERM  
REPRESENTATIVE(S): GATTO

01/20/04 (H) READ THE FIRST TIME - REFERRALS

01/20/04 (H) EDU, HES, FIN  
02/17/04 (H) EDU AT 11:00 AM CAPITOL 124

**WITNESS REGISTER**

EDDIE JEANS, Finance Manager  
School Finance and Facilities Section  
Department of Education and Early Development  
Juneau, Alaska

POSITION STATEMENT: Testified on HB 471 and answered questions from the committee.

JOHN ALCANTRA, Government Relations Director  
NEA Alaska  
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 471.

RON RUCKER, President  
Classified Employees Association  
Wasilla, Alaska

POSITION STATEMENT: Testified on HB 471.

KRIS MOORE  
Valley Voices for Children  
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 471.

JENNIE HAMMOND  
Nikiski, Alaska

POSITION STATEMENT: Testified in support of HB 471.

MELODY DOUGLAS, Chief Financial Officer  
Kenai Peninsula School District  
Soldotna, Alaska

POSITION STATEMENT: Testified in support of HB 471.

ANDI STORY, Board Member  
Juneau School District  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 471.

REPRESENTATIVE LESIL McGUIRE  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 338.

HEATH HILYARD, Staff

to Representative Lesil McGuire  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Answered questions from the members on HB  
338.

KEVIN SWEENEY, Legislative Liaison  
Office of the Commissioner  
Department of Education and Early Development  
Juneau, Alaska

POSITION STATEMENT: Answered questions from the members on HB  
338.

#### **ACTION NARRATIVE**

#### **TAPE 04-10, SIDE A**

Number 0001

**CHAIR CARL GATTO** called the House Special Committee on Education meeting to order at 11:03 a.m. Representatives Gatto, Wilson, Gara, Kapsner, Seaton, and Ogg were present at the call to order. Representative Wolf arrived as the meeting was in progress.

#### HB 471-INCREASE AMT OF BASE STUDENT ALLOCATION

Number 0070

CHAIR GATTO announced that the first order of business would be HOUSE BILL NO. 471, "An Act relating to the funding of public education; and providing for an effective date." He asked if Representative Ogg, Chair of the Subcommittee on Education Funding, would provide the committee with the subcommittee's recommendations.

Number 0099

REPRESENTATIVE OGG told the members that it was an honor to serve on the subcommittee with Representatives Seaton and Gara. They did an excellent job in working with this complex and difficult subject, he said. Representative Ogg commented that the subcommittee listened to public testimony during two meetings. The testimony of school districts around the state was expressing how the districts' needs had not been met was very persuasive, he said.

Number 0212

REPRESENTATIVE OGG explained that after taking testimony the subcommittee spent time discussing how to address education funding. He reminded the members that in the last [subcommittee] meeting a bill that dealt with Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS) increases was referred to the [full committee of the] House Special Committee on Education. Representative Ogg said that it was the consensus of the subcommittee to deal with PERS and TRS [funding] as a separate issue. At one point it was believed that PERS and TRS should be included in the formula funding [bill]; however, in looking at the numbers it became a differentiation [issue] between the actual costs under the TRS and PERS programs and formula funding. The subcommittee decided to deal only with formula funding, he clarified.

REPRESENTATIVE OGG asked the members to look at HB 471 which is the vehicle the subcommittee believes best addresses [education] funding for FY 05. The number in the bill reflects an increase of \$95. He added that the subcommittee does not recommend that number based on testimony taken and a lot of discussion. Representative Ogg told the members that the amount the subcommittee recommends is an increase of \$210, to the total of \$4,379. The subcommittee recommends an amendment be made to reflect those figures, he said.

Number 0317

REPRESENTATIVE OGG recommended another amendment which would change the wording on page 1, line 6, where the words "beginning on July 1, 2005," would be inserted after the words "on July 1 of each year," he said.

REPRESENTATIVE OGG explained that the subcommittee came up with the \$210 figure based on testimony given [during subcommittee hearings]. The subcommittee used the figure provided by the Superintendent of the Anchorage School District who offered that a \$388 increase would make the Anchorage School District whole. The testimony from around the state came in very close to that figure, he added. Some a little less, and very few were a little more, but nothing over \$400. The amount each school district will get is based on their actual costs, he said. The way the subcommittee arrived at the \$210 increase was by funding the PER [and TRS] requirement through a separate bill. The amount given to the subcommittee by the Department of Education and Early Development for [TRS and PERS] funding was \$35,000,000, which would equal \$178 from that \$388 [figure

provided by the Anchorage School District], giving the amount for education funding of \$210. Representative Ogg thanked the other members of the subcommittee saying that it was not an easy task.

Number 0460

CHAIR GATTO told the members that there will be amendments to the bill which will require a new fiscal note from the department. It will be provided by next Thursday's meeting, he said.

Number 0523

REPRESENTATIVE OGG moved to have HB 471, 23-LS1645\D, before the committee as the working document. There being no objection, HB 471, version D, was before the House Special Committee on Education.

REPRESENTATIVE OGG moved to amend HB 471 as follows [adopted as Amendment 1]:

On page 1, line 6  
Delete "\$4,263"  
Insert "\$4,379"

There being no objection, Amendment 1 was adopted.

CHAIR GATTO reiterated Representative Ogg's comments that this bill reflects a \$210 increase [in education funding]. He told the members it is important to note that this bill does not address the TRS and PERS shortfall, so another bill will come before the committee to deal with that issue. He said that it is his understanding that [the figure for education funding] plus the bill that will handle the PERS and TRS increase is the figure which was given to [the committee] as that which was spent on education in FY 04. He told the members that most of the school districts are saying that if funding is provided at this level it would be satisfactory and the districts will not be faced with the drastic cuts that have been proposed.

Number 0702

REPRESENTATIVE OGG moved Amendment 2 as follows:

On page 1, line 6  
After the word "year,"

Insert the words "beginning July 1, 2005,"

CHAIR GATTO pointed out that the budget being proposed is the 2005 budget. If this amendment were effective July 1, 2005, then there would be an increase in the formula plus the percentage increase. He asked Mr. Jeans to clarify [the impact of Amendment 2].

Number 0764

EDDIE JEANS, Finance Manager, School Finance and Facilities Section, Department of Education and Early Development, testified on HB 471 and answered questions from the committee. He explained that by changing the date to July 1, 2005 [the legislation] would effect the 2006 school year.

REPRESENTATIVE OGG commented that the date he is inserting is not the effective date [of the law]. He clarified that this change would mean that the 2 percent increase would not take effect until the 2006 budget.

Number 0819

CHAIR GATTO asked if there were any objections to Amendment 2. There being no objection, Amendment 2 was adopted.

REPRESENTATIVE GARA advised the members that a third amendment is being copied for the committee's consideration. He added that he will provide the minority's report on the subcommittee at the same time [that he presents his amendment].

Number 0893

JOHN ALCANTRA, Government Relations Director, NEA-Alaska, testified on HB 471. He told the members that he represents almost 13,000 members on NEA-Alaska. Mr. Alcantra thanked the committee for their efforts, particularly for those amendments that brought education funding up to \$4,379. He told the committee it is important to note that revenue sources that were published two months ago for the Constitutional Budget Reserve (CBR) draw for the current fiscal year was less than half that which was forecasted. It came in at \$195.7 million, leaving \$204.3 million in abeyance of the \$400 million that had been discussed for a CBR draw, he said. Mr. Alcantra stated that he understands that the \$35.8 million in TRS and PERS shortfall will be dealt with in a different bill. He reiterated his appreciation to the committee for their efforts, but added that

he concurs with other legislators' statements that this [funding] does not address the past losses through inflation and it will not address the adequate funding issues in the future.

Number 1180

RON RUCKER, President, Classified Employees Association, testified on HB 471. He explained that the Classified Employees Association's members are the support staff for the Matanuska-Susitna School District. When he looked at the original version of HB 471 he believed it to be totally inadequate. The [amendments] are a step in the right direction; however, it is important to note that this increase still does not make the district whole, he said. Mr. Rucker commented that he's come up with some quick numbers which reflects that the district will have a \$2 million shortfall. He said he believes that will be the case even with separate funding for the PERS/TRS shortfall. At this rate the public school system will not be around very long, he commented. He said that the district is no longer cutting fat or meat; it is cutting the bone that supports public education. Mr. Rucker summarized his comments by saying that education needs to be funded adequately because education [of the youth] is the future of this state.

Number 1167

CHAIR GATTO asked Mr. Rucker to provide him with a name of an individual who can confirm that the Matanuska-Susitna School District will have a \$2 million shortfall.

MR. RUCKER responded that he did a rough estimate; based on the \$8 million in cuts Mr. Doyle [Chief School Administrator, Matanuska-Susitna Borough School District] said there would be. He said that if [there were originally] \$8 million in cuts, of that \$8 million, \$3 million is for PERS and TRS, that leaves \$5 million [in cuts] on the table. Roughly 14,000 students times a \$210 increase [in base student allocations] would mean an increase of approximately \$2.9 million. That leaves [the district] approximately \$2 million short of the \$5 million shortfall, he said. The increase does not make this district whole, he stated. He pointed out that the district does not have the option of contributing additional local money that Anchorage or other communities have because the borough assembly is currently funding to the maximum amount [allowable by law]. He commented that this has been the case for a number of years. There is nowhere else to go but to cut programs and raise fees to residents and students.

CHAIR GATTO asked Mr. Rucker if he is aware of the funding formula and how that works with the base student allocation. He asked Mr. Jeans to comment on the impact of the base student allocation.

Number 1293

MR. JEANS responded that as Chair Gatto pointed out, there are a number of adjustments that occur in the foundation program. There is an adjustment for school size, district cost factors, and 20 percent [additional] funding for special needs [students]. The numbers will be higher than a straight per student times a dollar amount. He summarized that there will be a different number on the fiscal note going to Matanuska-Susitna Borough School District than the number Mr. Rucker mentioned.

Number 1340

KRIS MOORE, Valley Voices for Children (VVFC), testified on HB 471. She offered her thanks for the work the committee is doing. She said she believes the amendments show that the state is moving in the right direction. She told the members that VVFC would be happy to help in seeing that this legislation passes. She said that she understands that [a separate bill addressing] the TRS and PERS funding issue will be coming to the committee; however, she does not see this as an education funding issue, but a revenue issue.

Number 1453

CHAIR GATTO announced for the record that Representative Wolf joined the meeting some time ago.

Number 1474

JENNIE HAMMOND testified in support of the amendments to HB 471. She told the committee that last night she attended a work session on the budget by the Kenai Peninsula School District. She warned that this increase will still not fully fund education in the Kenai Peninsula School District. The district is looking at reducing special education, she said. Ms. Hammond asked if the committee would create a task force for special education to look at the issue. She also asked the members to look at the idea of giving tax cuts on gas to companies that deal with the district. That might ensure that the companies do not pass the additional costs to the district, she said.

Number 1565

REPRESENTATIVE SEATON asked Ms. Hammond if she recalls what base student allocation figure was used at those meetings.

MS. HAMMOND responded that the figure used in the meeting to adequately fund education was \$4,570 for FY 04.

Number 1605

REPRESENTATIVE GARA noted that both Kenai and Matanuska-Susitna testifiers have said that roughly \$4,570 would be necessary to adequately fund to FY 04 [level], and ensure that no additional teachers would be fired. It is important to note that [the increased] funding does not make up for all the teachers who were fired the year before. Representative Gara noted that Kenai said that going into this year it was necessary to layoff 10 percent of their teachers. The \$4,570 would [still] leave Kenai at the point where it has lost 10 percent of the teachers. He said the point is well taken that this increase does not make districts whole.

Number 1666

MELODY DOUGLAS, Chief Financial Officer, Kenai Peninsula School District, testified in support of HB 471. She echoed the appreciation expressed by others in amending HB 471 to include increases in education funding. Ms. Douglas said that this is movement in the right direction. She said she realizes that the PERS and TRS funding is not included, but the way she calculates this, the figure will come in around \$4,557, which would [still] leave the district \$13 off the base unit for what would hold the district to the FY 04 standards. Ms. Douglas commented that she really appreciates the language for the 2 percent increase in funding for next year; however, she said she is very concerned that the cost of inflation may exceed that [amount]. She concluded her testimony by offering to assist the members in any way possible as the bill proceeds through the legislative process.

Number 1744

ANDI STORY, Board Member, Juneau School District, testified in support of HB 471. She told the members that she is the parent of three children in the Juneau School District. Ms. Story told the members that her family has been in Alaska for 17 years, but

when her daughter was small, they lived in San Diego and had the opportunity to move back to Juneau to work on their business. When her first daughter started kindergarten in 1990, she was one of 21 students in the class; when her second daughter started, she was in a class of 29. It is important to understand that as the education system fails to provide a quality education, it is more difficult to attract people to Alaska. She said she does appreciate the work of the committee. Ms. Story commented that in the work session she is attending tonight there will be discussions which will focus on what to cut.

Number 1877

CHAIR GATTO announced that HB 471 would be held until Thursday's meeting.

The committee took an at-ease from 11:36 a.m. to 11:37 a.m.

HB 471-INCREASE AMT OF BASE STUDENT ALLOCATION

[Contains discussion of HB 477]

CHAIR GATTO announced that the committee would return to discussions about HB 471. He told the members that Representative Gara would provide a minority report on the subcommittee on education funding.

Number 1907

REPRESENTATIVE GARA asked if the chair wishes to take up Amendment 3 today.

CHAIR GATTO responded that he would like to hold off on Amendment 3 until Thursday.

Number 1977

REPRESENTATIVE GARA said that he appreciates all the efforts of the subcommittee members and those who took the time to testify. The bill before the members goes a long way to repair the damage to the schools over the last many years, he said. Comments that were heard today from the Matanuska-Susitna Borough School District and testimony heard in subcommittee actually went further than what the bill offers. For example, Kenai Peninsula School District indicated that it would need a base student allocation of \$4,570, if the PER and TRS was rolled into the [base student allocation], just to be held harmless to last

year's level, he said. Matanuska-Susitna Borough School District needed the same amount of money to be at the same level as last year, he added. Representative Gara reminded the members that the school districts were very clear that last year education funding was cut and the funding fell behind on inflation [proofing]. These actions caused severe impacts which required the districts to layoff substantial numbers of teachers. Representative Gara pointed out that HB 471 only mitigates this year's damage and does nothing to repair the damage from last year's [budget cuts].

Number 2010

REPRESENTATIVE GARA told the members that he and Representative Kapsner have filed HB 477 in an attempt to go the second step in repairing some of last year's damage. As the members will recall, he said, last year the legislature eliminated community schools funding, cut what goes into pupil transportation, cut the program that helped school districts pay for the extra costs of educating foster children, and cut the kindergarten program for four-year olds. Representative Gara said he believes it is time to start repairing the damage. He explained that his plan would include an increase in the base student allocation to \$4,600 per student, which would include rolling the PERS and TRS amount [into the bill]. The reason that is important is that the amount then becomes part of the base student allocation and it will not be necessary to go over the PERS and TRS issue again next year. The numbers are not that far off, he commented, the number in HB 477 recommends is \$4,600, while the number the subcommittee is recommending is the equivalent of \$4,557 per student. Representative Gara pointed out that the difference is \$8 million and 160 teachers. He summarized that for not a lot more money [the legislature] could go a long way to solve this problem. Representative Gara applauded the subcommittee's action in addressing inflation by increasing the base student allocation into the future by 2 percent annually. He pointed out that inflation may exceed 2 percent so a better way of addressing this issue would be to acknowledge the damage that has taken place over the last decade, and to repair that damage into the future by increases to the base student allocation with inflation [proofing], plus another 2 percent until class sizes come down to a level that is acceptable. Representative Gara reiterated his appreciation for the work the committee did and acknowledged that [HB 471] is a good bill, but noted that there is much to be done to repair past damage [to public education].

Number 2162

CHAIR GATTO commented that Representative Gara's reference to the funding being "not that far off" is music to his ears, because there have been many times that the members have been very far apart.

[HB 471 was held in committee.]

HB 338-ENTRY INTO SCHOOL

Number 2175

CHAIR GATTO announced that the next order of business would be HOUSE BILL NO. 338, "An Act relating to attendance at public school; and providing for an effective date."

REPRESENTATIVE LESIL McGUIRE, Alaska State Legislature, testified as the sponsor of HB 338. She told the members that HB 338 is a simple bill which is being introduced to help address a problem a constituent brought to her attention and the Department of Education and Early Development with a minor technical change. The bill does two things, she said. Currently state law stipulates that a child under school age may be admitted only by a vote of the entire school board. This law makes the process of admitting an under age child cumbersome. She explained that this bill would not change anything in the statutes of standards by which admittance into school is permitted. The law would still require that a child can demonstrate "minimum standards prescribed by the board evidencing that the child has the mental, physical, and emotional capacity...", she added. This bill would provide that the chief school administrator can make that decision, thereby relieving the administrative burden.

Number 2267

REPRESENTATIVE McGUIRE explained that the next change the bill would implement is the date by which children may enter kindergarten. This bill provides that children who reach the age of five years old before September 1st may be enrolled in kindergarten. Currently the law provides an August 15 cutoff date. Representative McGuire commented that what this change does is provide for Alaska to keep pace with changes occurring in the rest of the United States. There are 19 other states that use September 1st as the cutoff date. Part of the reason for this change is that there are a lot of military families who have come into Alaska and the different cutoff date is confusing

for them. Representative McGuire pointed out that the fiscal note is indeterminant because it is impossible for the Department of Education and Early Development to predict [the change in the number of] students. There may be a little bit of a fiscal note, she added.

Number 2354

REPRESENTATIVE MCGUIRE asked the members to consider whether or not Alaska should join eight other states in having the compulsory age be five years old. She suggested it is something to think about, but does not want it to be an issue that would hold up the bill's [movement from committee]. She said she thought this would be particularly helpful to lower income families [who have day care issues].

REPRESENTATIVE MCGUIRE shared a personal experience where her brother, who is a traumatic brain injury survivor, has two children with someone with whom he is not married. These are two beautiful children, she stated. One of the children, Zoë, turned five years of age, and the mentality in some low-income families, is that it is not important to take your children to school until it is required by state law. They live in Russian Jack and her brother spent a lot time driving [his daughter] across town to get her to school when he could. However, the child's mother did not feel compelled [to get her to school]. Now she is six years old and in school every day. There are checks and balances once school attendance becomes compulsory, she said. A child growing up in a middle to upper class family [is in an environment where] the impetus is to be educated. There is a pressure that is built in. These are the people who want the start date to be pushed forward so that when their child turns five [years of age] on August 17, they can start school and get going, so there is no need to be concerned for those kids, she said. Representative McGuire pondered whether it might be helpful to create more of an impetus for other families that might not have that built in emphasis.

Number 2477

REPRESENTATIVE GATTO responded that he has some concerns about [requiring] a five-year old [to attend school]. He said that his comments may be viewed as a sexist, but he does not believe boys should start school earlier than six [years old]. He told the members that there are good reasons for that opinion because the biological rate of maturity [for boys is different than girls]. It may be okay for girls, and there may be individual

differences. Chair Gatto stated that he has a problem with the word "compulsory." To provide that it be an elective option would be tolerable, he said. He told the committee he would like to look at the states that have compulsory attendance at five years of age and see what the end result is.

Number 2535

REPRESENTATIVE McGUIRE asked the members to look at Patricia McRae's letter. She is the Executive Director of Elementary Education and supports the idea of changing the entry date of children starting kindergarten to September 1st. Representative McGuire summarized her comments by saying that there has not been any opposition to this bill.

Number 2575

CHAIR GATTO asked if superintendents are considered a subsection under school administrators.

REPRESENTATIVE McGUIRE responded that it is her understanding that the language is interchangeable.

CHAIR GATTO commented that there is a letter of support for HB 338 from Robert Doyle, the Chief School Administrator from the Matanuska-Susitna Borough School District.

CHAIR GATTO asked for [definitive] clarification on the language [related to superintendents and school administrators].

Number 2617

HEATH HILYARD, Staff to Representative Lesil McGuire, Alaska State Legislature, answered questions from the members on HB 338. Mr. Hilyard responded that Legislative Legal and Research Services drafted the language and it is his understanding that this is the existing statutory language. He emphasized that the sponsor did not ask for any specific change in the language.

Number 2629

REPRESENTATIVE OGG said for the record that it is important to note that there is a spectrum of [cutoff] dates. Alaska has an August 15th date, while some schools in other states have its [cutoff] at October 16th. Other than conformity to other states' cutoff dates, he asked if there is a specific reason for selecting September 1st.

REPRESENTATIVE McGUIRE replied that the main reason for selecting September 1st is to comply with the mid-range of states. A few states do have October 16th as the cutoff date, she commented, but not that many [states]. Representative McGuire told members that she believes the September 1st date as the least controversial and most predominant date [used by states]. However, she said, she would be amenable to an amendment to change the date. She emphasized that her primary purpose in introducing this bill is to get kids into school as soon as possible.

REPRESENTATIVE OGG commented that he has no problem with the date. He agreed with Representative McGuire that the earlier that children get into school the better.

Number 2697

REPRESENTATIVE WILSON shared that her daughter's birthday is September 30th and the state that she lived in [at the time of her entry into kindergarten] required children to be five years old by September 30th, so she just made it in. There was the consideration that if her daughter was in school there would not be the expense of day care. To this day, she said, she wishes that she had held her out another year because she was the very youngest person in her class. Representative Wilson said her daughter experienced problems along the way and she believes that if she had been held out another year [those problems might have been avoided].

Number 2759

REPRESENTATIVE WILSON summarized that while she understands Representative McGuire's purpose in sponsoring the bill, she has mixed feelings about it because of those experiences. She stated that she will not vote against the bill.

CHAIR GATTO pointed out that the language does say, "may" [rather than shall].

REPRESENTATIVE McGUIRE told the committee that she appreciates Representative Wilson's comments. She reiterated Chair Gatto's point that the language in the bill is clearly a "may" [option], not a "shall" [requirement].

Number 2806

REPRESENTATIVE WOLF agreed that the language which keeps the age of entrance into school as an option [not a requirement] is good. He shared that both of his children were kept out of school until the age of six because he and his wife felt it was most appropriate for their children. He said that while he will not vote against the bill, he will be giving no recommendation [on the bill].

REPRESENTATIVE MCGUIRE commented that there are some states that do not have a compulsory start date until the age of eight years old. There is an interesting balance between the two [requirements], she added.

REPRESENTATIVE WOLF said that this choice should be a personal one. He shared that he has a special needs child that is now 23 years old, who started school at the age of three. Representative Wolf told the committee that he also has two small children who went through Head Start. One daughter is an "A" student who is reading at 4th grade level while in 2nd grade. He reiterated that both of the younger children did not start school until six years of age.

Number 2897

REPRESENTATIVE GARA asked what is the compulsory start [age] for first grade.

Number 2933

REPRESENTATIVE MCGUIRE replied that she believes [the compulsory start age] is six years of age.

MR. HILYARD confirmed that the members are looking at version H of the bill.

REPRESENTATIVE GARA responded that he is looking at version D.

MR. HILYARD pointed to version H that makes a change for a compulsory date for [entrance] to first grade, which now says August 15th for the year the child turns six [years old], but will change to September 1st.

[While no motion was made to adopt version H, it was treated as the working document.]

**TAPE 04-10, SIDE B**

Number 2955

REPRESENTATIVE GARA followed up on a comment made by Representative Ogg that the date chosen should be the "ideal date." He said that perhaps September 1st is the ideal date, or maybe it should be October 16th, which would allow for as many [children] as possible to enter school early. He asked what Representative McGuire's views are on putting the date back to October 16th. It would still be an option for people to wait an extra year if they chose to.

REPRESENTATIVE MCGUIRE responded that she looked at materials from National Conference of State Legislatures (NCSL) and something from Dr. Deborah Stipek from Stanford University. She said she does not have any problem changing the date to October 16th because there is still a "may" option in the bill. She said that Representative Wilson's comment about the high cost of child care being an issue, leads her to consider that moving the date back might benefit financially strapped families.

REPRESENTATIVE GARA told the members that he would not offer an amendment, but asked Representative McGuire to think about this question as the bill goes through the process. Representative Gara said that the earlier admission date is attractive to him because the funds are not available to fully fund Head Start, and maybe this bill would help a months worth of kids get into school when it may not be otherwise possible.

Number 2815

CHAIR GATTO pointed out that a great reference on this issue would be school nurses who have screened kids over and over again. Often times a parent will believe that their child is gifted and should be entered into school at the age of 4; however, once the nurse has screened the child, it will be found that the child really does not qualify for early entrance into school.

Number 2777

REPRESENTATIVE MCGUIRE told the members, in follow-up to Representative Gara's comment, that she will contact a couple of kindergarten teachers in her district to get their views on the issue.

Number 2757

REPRESENTATIVE KAPSNER posed a hypothetical example where the cutoff date is October 16th, and a child's birthday is on [October] 14th. If that child is in a low-income family which qualifies for a federal subsidy for day care, if the family decides not to place the child in kindergarten would this change [in law] disqualify the family from getting the federal subsidy [for day care assistance], she asked.

REPRESENTATIVE McGUIRE responded that she does not know.

REPRESENTATIVE WILSON told the member that at this time [the federal government] does not look at that issue [with respect to federally subsidized day care]. She commented that the idea of pushing the date back too far should be viewed with caution because the reality is that teachers have more students in their classrooms than in the past. The more immature the children in the classroom are, the more difficult for the other children to learn, and the teachers' to teach, she said.

CHAIR GATTO commented that it would be especially difficult if a child who qualifies is not yet potty trained.

Number 2627

REPRESENTATIVE SEATON noted that the letter [dated January 21, 2004, from Robert Doyle, Chief School Administrator, Matanuska-Susitna Borough School District] points out that the September 1st school cutoff date is more closely aligned with the beginning of the school year.

REPRESENTATIVE McGUIRE replied that's correct.

REPRESENTATIVE SEATON told the members that he is concerned with two portions of the bill.

On page 1, lines 4 and 5

A child who is six year of age on or before September 1 [AUGUST 15] following the beginning of the school year, ...

On page 2, line 3

[A] child who is five year of age on or before September 1 [AUGUST 15] following the beginning of the school year...

REPRESENTATIVE SEATON noted that [the language could be a problem because] some districts may start school before

September 1st. Representative Seaton said he is not sure of the effect of these definitional [changes].

REPRESENTATIVE McGUIRE commented that Representative Seaton points out a need for an amendment. She said that when drafting the bill, the language was just fitted into existing statute. She suggested striking the words "following the beginning of a school year" [on page 1, line 5 and again on page 2, lines 4 and 5.] She said that she believes the existing language in the bill could cause confusion. The Anchorage School District is moving toward starting school after Labor Day, but if rural parts of Alaska are starting sooner, that could serve as a source of confusion.

Number 2518

CHAIR GATTO agreed with Representative McGuire's point. For example, a parent could enroll a child in Bethel prior to September 1st for the sole purpose of defeating the intent of the legislation. Then later move to Anchorage on September 2nd as a transfer and then say the child is already enrolled.

MR. HILYARD pointed out that is precisely one of the situations that the bill would remedy. There are cases where people enroll their children in other states, for a week or less for the sole purpose of circumventing the law, he said. The new date is more of a national standard so individuals do not feel the need to do that, he added.

REPRESENTATIVE SEATON asked if the department sees a problem with an amendment which would strike the phrases "following the beginning of the school year".

Number 2469

KEVIN SWEENEY, Legislative Liaison, Office of the Commissioner, Department of Education and Early Development, answered questions from the members on HB 338. In response to Representative Seaton's question he replied that he would look into it and get back to the committee.

Number 2460

REPRESENTATIVE WILSON commented that she is shocked that there are parents who have enough money to go to another state, enroll their child [in school], and then come back to Alaska, just so the child could go to school that year.

Number 2440

REPRESENTATIVE McGUIRE responded that what is really being referred to is military families who are already living in the lower 48 states and are preparing to move to Alaska. She commented that it is possible that a family could be visiting grandparents somewhere and enroll the child out of state.

MR. SWEENEY spoke to the discussed amendment [where the language "following the beginning of the school year" would be deleted]. He told the members that the language would not have any impact because the beginning of the school year officially, according to statute, begins July 1st. The change in language would not be a problem, he reiterated.

CHAIR GATTO noted for the record that the fiscal note is in determinant at this time.

Number 2384

REPRESENTATIVE SEATON moved to report CSHB 338, 23-LS1258\H, Mischel, 1/21/04, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 338(EDU) was reported out of the House Special Committee on Education.

HB 353-JURY DUTY EXEMPTION FOR CERTAIN TEACHERS

Number 2350

CHAIR GATTO announced that the next order of business would be HOUSE BILL NO. 353, "An Act relating to jury duty; and amending Rule 15(k), Alaska Rules of Administration."

Number 2353

REPRESENTATIVE MARY KAPSNER, Alaska State Legislature, testified as the sponsor of HB 353. She explained that HB 353 precludes teachers from having to serve as part of a jury pool if the school where they work is not meeting adequate yearly progress (AYP). It has been a concern over the years, particularly in rural Alaska, but the concern is greater with the implementation of the No Child Left Behind Act and the exit exams that seniors will be required to pass, she added. For example, the Lower Kuskokwim School District is in the 4th Judicial Court, but the Bethel Court has a lot of pressure on it, she said. The jury

pool includes a 30-mile radius of Bethel which in turn puts a lot of pressure on the teachers in many of the outlying villages. She pointed out that the jury is not really a jury of their peers, because most of the teachers come from outside and are new to the region. Another problem is that there is a major shortage of substitute teachers in the region. This is especially true in villages. There just aren't a lot of certified teachers hanging around the villages waiting to be called in case a teacher is sick or has been called for jury duty, she commented. Representative Kapsner referred to e-mails that she has received from teachers from the Lower Kuskokwim School District who discuss these particular [problems] and how that effects the classrooms.

Number 2247

REPRESENTATIVE KAPSNER shared an e-mail from one constituent, Felecia Griffith-Kleven, who said that when a teacher is out the best that can be done is to bring in a high school graduate who is not otherwise employed. Representative Kapsner told the members that students are the ones who suffer from the interruption of their learning because sometimes teachers do not have time to prepare lesson plans for the substitute teacher. Another facet of the issue is that during the winter months, planes can only fly during daylight hours so as a result it is often not possible for the teachers to fly back before the school day ends.

Number 2171

REPRESENTATIVE KAPSNER added that one concern that was expressed is what [other job classification] is next. Would policemen, firemen, or Village Public Safety Officers (VPSOs) be exempted from serving on jury duty. She pointed out that there is such stress on the education system right now that it is a real hardship to be pulling teachers out. For example, one school has 11 teachers and 5 were called out for jury duty which can last as long as 3 months, she said. Representative Kapsner relayed that the Lower Kuskokwim School District said that from September 1st through December 15th of 2003, payroll records show a total of 107.5 days that teachers were out of the classroom performing jury duty. This is a significant toll on a school system, she added.

Number 2136

REPRESENTATIVE WILSON agreed with Representative Kapsner on the [seriousness of the problem]. She shared that in the last two years she has been called to jury duty every three months. Representative Wilson said it is important to think about what would be best for kids. She stated that this bill is best for kids.

REPRESENTATIVE KAPSNER explained that the requirements for substitute teachers is almost non-existent. Only a high school diploma is needed now, she commented. When she went to school in the Lower Kuskokwim School District most of the substitute teachers were cab drivers because it would be possible for them to make more money [substitute teaching] than driving cab, Representative Kapsner said. Another substitute teacher that she recalls was the wife of the minister who had English as her second language. There was no effort to teach, she just brought her knitting and did babysitting.

CHAIR GATTO asked what the average number of teachers is in the 27 villages that are listed.

REPRESENTATIVE KAPSNER replied that there probably would be at least two teachers in each village. In Platinum, for example, she told the members that her dad taught every grade and every subject in high school and another teacher taught every grade and subject in elementary school. A larger village could have 10 or 11 teachers.

CHAIR GATTO said that an important point to be made is that in a small village with two teachers, if one is gone [for jury duty], then half the teachers are gone, possibly for three months. He asked the members to imagine any district that said half their teachers are gone. Chair Gatto told the members that he supports this legislation.

Number 2013

REPRESENTATIVE WILSON explained that many of the schools in the small villages are not on the list of those who failed to make adequate yearly progress because [of privacy concerns] in that the school is so small a child could be identified. She questioned whether the language should be changed in a way that will ensure that these small schools are considered under this legislation. Representative Wilson told the members she supports this bill.

REPRESENTATIVE KAPSNER agreed with Representative Wilson's point. She noted that Eddie Jeans is indicating his agreement with Representative Wilson's suggestion as well.

REPRESENTATIVE OGG expressed his concern with Representative Kapsner statements about a particular area of the state, with a particular circumstance. He pointed out that during testimony taken last fall with respect to schools that are not making AYP, it was found that metropolitan schools were found to be the ones with the more serious problems. Representative Ogg questioned whether there could be a different way of approaching this problem. He suggested that the language would say something like, "jury duty would not be required if not on the road system connected to the court house." He told the members that he believes that would be a better approach than affecting a whole class of teachers in the state of Alaska. Representative Ogg stated that he feels strongly that no matter what someone's profession is, he/she should have an opportunity to serve on juries. That is what makes the jury system work.

REPRESENTATIVE KAPSNER said she appreciates Representative Ogg's concerns. She offered to list the schools in Anchorage that are not meeting adequate yearly progress.

CHAIR GATTO asked if that is pertinent.

REPRESENTATIVE KAPSNER replied that she believes it is because these are schools that are on the road system within driving distance of the [court house], but said she does not believe that their substitute teacher pool is any more qualified to meet the concerns of AYP [than those in small communities].

CHAIR GATTO commented that this is public information and asked Representative Kapsner to proceed.

Number 1818

REPRESENTATIVE KAPSNER listed the following schools in Anchorage that are not meeting AYP: Bowman Elementary, Campbell Elementary, Central Middle School of Science, Chinook Elementary, Chugiak Elementary, Chugiak High School, Clark Middle School, College Gate Elementary, and Creekside Park Elementary. There are probably 50 schools in Anchorage that are not meeting AYP, she stated. Representative Kapsner told the members that she believes the kids in Fairview deserve to have a teacher there to teach them, just as much as the [kids in] Nunapitchuk.

Number 1801

REPRESENTATIVE GARA said that he agrees with the approach of the bill, and in fact, would be alarmed if the bill said that it only applies to certain parts of the state. He said he believes it is important to keep this bill non-discriminatory.

REPRESENTATIVE SEATON told the members that he believes that AYP is important, and there should not be a gap in schools being identified because of the number of students. He said he would like to see this bill amended to address both issues.

CHAIR GATTO commented that there is quite a bit of time when school is not in session, and asked if that is addressed in the bill.

REPRESENTATIVE KAPSNER responded that probably 98 percent of the teachers leave during the summer.

CHAIR GATTO said he is unfamiliar with the process of identifying persons for jury duty. For instance, couldn't a teacher serve on jury duty elsewhere in the state [during summer months when school is not in session]. He asked if jury duty is assigned by where a person resides.

REPRESENTATIVE KAPSNER replied that persons get called for jury duty depending on where he/she lists [their permanent] address for the permanent fund dividend check. In response to Representative Ogg's earlier comments, she said the point is that "highly qualified" teachers should not be taken out of the classroom. Substitute teachers do not qualify as highly qualified teachers, she added.

Number 1613

REPRESENTATIVE WILSON explained that when a person is called to jury duty, there is adequate advance notice so the individual can explain his/her circumstances.

Number 1600

REPRESENTATIVE SEATON offered the following conceptual amendment:

On page 1, line 7  
After the word "progress"

Insert the words "or a school that was exempt from classification."

REPRESENTATIVE SEATON explained that this additional language would ensure the inclusion of schools that failed to meet AYP or those that were of such a size that they were exempt from classification.

REPRESENTATIVE KAPSNER responded that she believes this amendment needs to be in writing and have the department and the [Legislative Legal and Research Services] look at it. Representative Kapsner pointed out that once AYP is met, this legislation would be a moot. At that point, teachers would not be exempt [from jury duty], she said.

REPRESENTATIVE WILSON said that her primary concern is what is best for kids. In schools where there are no highly qualified substitute teachers to help the kids get the education that is needed, she told the members she believes the teacher should be in the classroom as much as possible. Representative Wilson questioned how the bill could be changed to address those concerns. In summary she said that what is best for kids is for the teacher to stay in the classroom.

REPRESENTATIVE OGG commented that he has heard testimony that the effort to have "highly qualified" teachers in rural areas is very difficult. He said he believes this bill is too broad and would be more comfortable with a bill that just addresses a specific issue. For instance, if the court system in Bethel is bringing in people to serve on jury duty from villages that are not on the road system, that jury pool would be difficult to fill. He suggested language that would address teachers in rural areas, not on a road system, that are called to [serve on jury duty] be exempt. Representative Ogg said that tying exemption from jury duty to schools' classification on AYP appears to be too broad a stroke. He said he is uncomfortable with the way the bill is written.

Number 1322

CHAIR GATTO asked if there is a perimeter beyond which an individual would not have to serve on jury duty.

REPRESENTATIVE KAPSNER replied that in Bethel's case there is a 30-mile radius. There are seven or eight villages within that radius in the Bethel area. She explained that there are no communities in the Bethel region that are linked by roads. In

the winter it is possible to travel by ice road, but not a lot of people new to the region, such as teachers, have cars.

REPRESENTATIVE SEATON told the members that he does not believe this is only a rural issue. In schools that failed to meet APY, it is especially important that there is continuity of teachers in the classroom. He stated he does not care what the location, teachers should not be pulled out of classrooms, especially in schools that are not meeting AYP. This committee's concern has to be for the schools that are failing, not what the jury pool is doing, he said. This bill will probably go to the House Judiciary Standing Committee where the members there may or may not like it. He emphasized the importance of members to focus on the education of kids, and making sure kids and schools have every opportunity to succeed.

REPRESENTATIVE GARA pointed out that this bill has two more committees of referrals where Representative Ogg's concerns could be addressed. He asked if the sponsor would confer with the individual who has the question [before the next committee hears the bill], and asked that the bill be passed out of committee today.

REPRESENTATIVE WILSON commented that the next committee of referral is the House Health, Education and Social Services Standing Committee, of which she is chair. She asked Representative Kapsner to talk with the Department of Education and Early Development and others to address questions raised in committee [today] before the bill comes before the House Health, Education and Social Services Standing Committee. She said she believes this is a good bill and has merit.

REPRESENTATIVE SEATON told the members that he will withdraw his conceptual amendment if the sponsor will work with the department to include the language for consideration in the House Health, Education and Social Services Standing Committee. In response to Representative Kapsner affirmative response, Representative Seaton withdrew his conceptual amendment.

Number 1036

REPRESENTATIVE GARA moved to report HB 353, Version A, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 353 was reported out of the House Special Committee on Education.

HB 390-LENGTH OF SCHOOL TERM

[Contains discussion of SB 239.]

Number 0977

CHAIR GATTO announced that the final order of business would be HOUSE BILL NO. 390, "An Act relating to the required number of days in a school year."

CHAIR GATTO, Alaska State Legislature, sponsor of HB 390, told the members that if this bill could be spoken of in a single word, it would be "flexibility." He told the members that the Anchorage Police Department went from a 40-hour week, using five, eight-hour days, and moved to four, ten-hour days. It was a change that was welcomed by the police and has been successful. In looking at the schools, HB 390 allows school districts to look at school terms in a more flexible manner. Chair Gatto told the members that current law requires 180 days of school; however, if approved by the Commissioner of the Department of Education and Early Development, school districts would be allowed to adjust their school terms within statute to meet the needs of their students, teachers, families, and location. He said that rather than focusing on the number of days, the focus would be on the amount of attendance. Recently, an Anchorage charter school proposed a plan to the Anchorage School Board for something less than 180 days. This plan was approved in concept, but is now on hold pending the passage of this legislation, he said. The increased flexibility provides for a stronger focus on academic performance instead of just accounting for seat time.

Number 0835

CHAIR GATTO said that while allowing for a four-day week is not the specific intent of HB 390, passage would provide for meaningful dialogue on this and other plans. This bill would specifically effect boarding and residential students by allowing them a flexible schedule. Year round schools could also be introduced, he remarked. This bill is supported by the superintendents of the Anchorage School District and the Matanuska-Susitna Borough School District.

Number 0833

REPRESENTATIVE OGG moved to report HB 390, 23-LS1522\A out of committee with individual recommendations, and the accompanying fiscal notes.

REPRESENTATIVE SEATON objected to the motion for purposes of discussion.

REPRESENTATIVE WILSON shared that her niece and niece's husband, who are teachers in Colorado, work a four-day workweek. The response from teachers and the administration has been very positive. The district likes it because of the flexibility [in hours] and it has been shown to save money.

CHAIR GATTO pointed out that this bill does not mandate or require anything, it only allows for flexibility. There have been some studies on the savings of a four-day school week and the savings have been shown to be much less than anticipated. He remembers from personal experience that when his son is traveling with the basketball team, there will be a missed school day, usually Friday. He said that is what he believes is behind some of the drive for the bill. If a school is on the road system, they can travel early, or if it is necessary to fly, it provides for a make up if the plane is late getting in. There are many reasons the school districts would love this flexibility, he commented, but it is not a requirement.

Number 0661

MR. SWEENEY told the members that the Department of Education and Early Development testified on the senate version of this bill. There were a couple of suggestions that could make the bill a bit stronger, but over all the department agrees with the intent of the bill in allowing some flexibility in school districts to look at innovative ideas in calendaring. There are still some checks and balances in that the school board must approve the plan and the commissioner of the Department of Education and Early Development must also approve the plan.

MR. SWEENEY referred to the new version of SB 239 [the companion bill to HB 390, offered in the senate]. The department wanted to have some sort of minimum proposed. The problem, he said, is that while it says the approximate educational equivalent in a 180-day term, it does not define that it has to be 180 days worth of hours. The commissioner was concerned that there would be a huge range of interpretations on the equivalent of 180 days worth of education. Mr. Sweeney told the members that the department came up with 144 days, because if a district went to a four-day workweek schedule, four-fifths of 180 is 144 days.

MR. SWEENEY commented that there was some confusion with respect to school employee wages as discussed in one section of the bill. It was determined that the drafter who wrote the bill for the senate version thought that this bill dealt with contracts and used language to make it more uniform. There was a lot of confusion about that language and the department did not know how that impacted current contracts and contract negotiations. Upon looking at this point further, it was determined it would be better to leave that up to the [individual] contracts as they are negotiated. He emphasized that the removal of this language would not impact the districts' ability to come up with innovative scheduling plans.

Number 0436

CHAIR GATTO agreed with Mr. Sweeney's comments. He told the members that he would support amending the bill to remove that language and have the bill's language agree with the senate version.

REPRESENTATIVE SEATON asked for clarification of the language on page 1, subsection (4)(A) of [SB 239, the senate version of HB 390], which reads as follows:

(A) the school board has submitted an acceptable plan  
...

Number 0311

MR. SWEENEY replied that the way he and the commissioner envision this working is that the school district would come up with a plan at the beginning of the school year. The district would layout the new calendar, which doesn't meet the 180-day requirement the district use to have, and show what will be done to meet the same education equivalent of the old school year. He pointed out that the school board would have to approve the plan before it is sent to the commissioner, and the commissioner would have to approve it as well.

REPRESENTATIVE SEATON commented that the language in the senate version does not reflect that the new calendar would have to be acceptable to the commissioner of [the Department of Education and Early Development].

MR. SWEENEY pointed to HB 390, page 2, lines 3 and 4, where it says "the school board adopts a different school term for a school if the commissioner finds that the school board..." He

summarized that the school board must submit a plan of no less than 144 days, and the commissioner must find that the students are still going to get the equivalent of 180 days of education.

CHAIR GATTO told the members that he would entertain amendments to HB 390 that would incorporate the changes suggested by the Department of Education and Early Development, and which were made to the senate bill [SB 239].

Number 0203

REPRESENTATIVE WILSON clarified that the text in brackets on page 2, lines 3 and 4 was deleted. She moved Amendment 1 as follows:

Page 2, lines 3  
After the words "school term"  
Insert "of not less than 144 days"

There being no objection, Amendment 1 was adopted.

REPRESENTATIVE WILSON moved Amendment 2 which she explained would allow for the completion of the previous sentence on line 4. The amendment is as follows:

On page 2, line 5  
Delete "(A)"

[Due to technical difficulties, the following was not taped but was reconstructed from the recording secretary's log notes.]

There being no objection, Amendment 2 was adopted.

REPRESENTATIVE WILSON moved Amendment 3 as follows:

On page 2, delete lines 8 through 10

There being no objection, Amendment 3 was adopted.

REPRESENTATIVE SEATON removed his objection.

REPRESENTATIVE OGG moved to report HB 390, 23-LS1522\A, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 390(EDU) was reported out of the House Special Committee on Education.

## **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Education meeting was adjourned at 12:45 p.m.