

**ALASKA STATE LEGISLATURE  
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES  
STANDING COMMITTEE**

March 2, 2004  
3:07 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Carl Gatto, Vice Chair  
Representative John Coghill  
Representative Paul Seaton  
Representative Kelly Wolf  
Representative Sharon Cissna

**MEMBERS ABSENT**

Representative Mary Kapsner

**COMMITTEE CALENDAR**

HOUSE BILL NO. 471

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

- MOVED CSHB 471(EDU) OUT OF COMMITTEE

HOUSE BILL NO. 511

"An Act relating to the certificate of need program for health care facilities; 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."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 471

SHORT TITLE: INCREASE AMT OF BASE STUDENT ALLOCATION

SPONSOR(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  
 02/17/04 (H) Heard & Held  
 02/17/04 (H) MINUTE(EDU)  
 02/19/04 (H) EDU AT 11:00 AM CAPITOL 124  
 02/19/04 (H) Moved CSHB 471(EDU) Out of Committee  
 02/19/04 (H) MINUTE(EDU)  
 02/23/04 (H) EDU RPT CS(EDU) 7DP  
 02/23/04 (H) DP: WILSON, SEATON, WOLF, GARA,  
 02/23/04 (H) KAPSNER, OGG, GATTO  
 03/02/04 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 511

SHORT TITLE: CERTIFICATE OF NEED PROGRAM

SPONSOR(S): REPRESENTATIVE(S) SAMUELS

02/16/04 (H) READ THE FIRST TIME - REFERRALS  
 02/16/04 (H) HES, FIN  
 03/02/04 (H) HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

KRIS MOORE, Member  
 Valley Voices for Children (VVFC)  
 Wasilla, Alaska  
 POSITION STATEMENT: Testified on HB 471.

DEBRA GERMANO, School Board Member  
 Kenai Peninsula Borough School District  
 Homer, Alaska  
 POSITION STATEMENT: Testified on HB 471.

TIM STEELE, School Board Member  
 Anchorage School District  
 Anchorage, Alaska  
 POSITION STATEMENT: Testified on HB 471.

JENNIE HAMMOND  
 Nikiski, Alaska  
 POSITION STATEMENT: Testified on HB 471.

MELODY DOUGLAS, Chief Financial Officer  
 Kenai Peninsula School District  
 Soldotna, Alaska  
 POSITION STATEMENT: Testified on HB 471.

AMY LUJAN, Business Manager  
 Nome Public School District

Nome, Alaska

POSITION STATEMENT: Testified on HB 471.

MARY FRANCIS, Ph.D., Executive Director  
Council of School Administrators  
Juneau, Alaska

POSITION STATEMENT: Testified on HB 471.

MARY HAKALA, Coordinator  
Alaska Kids Count  
Juneau, Alaska

POSITION STATEMENT: Testified on HB 471.

CARL ROSE, Executive Director  
Association of Alaska School Boards  
Juneau, Alaska

POSITION STATEMENT: Testified on HB 471.

CATHERINE REARDON  
Juneau, Alaska

POSITION STATEMENT: Testified on HB 471.

REPRESENTATIVE RALPH SAMUELS  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 511.

LISA WOLF, Director of Planning  
Providence Health System  
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 511.

ROBERT BRIDGES, M.D.  
Medical Director  
Alaska Open Imaging Center  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 511.

SAM KORSMO, Chief Operating Officer  
Alaska Open Imaging Center  
Wasilla, Alaska

POSITION STATEMENT: Testified in opposition to HB 511 and answered questions from the members.

DAVID MCGUIRE, M.D.  
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 511.

MIKE POWERS, Hospital Administrator  
Fairbanks Memorial Hospital  
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 511.

CHARLIE FRANZ, Administrator  
South Peninsula Hospital;  
Chairman of the Board  
Alaska State Hospital Association,  
Homer, Alaska

POSITION STATEMENT: Testified in support of HB 511 and answered questions from the members.

STEVE GONZALES, Owner  
Gonzales Marketing  
Chugiak, Alaska

POSITION STATEMENT: Testified on HB 511.

BRIAN SLOCUM, Administrator  
Tanana Valley Clinic  
Fairbanks, Alaska

POSITION STATEMENT: Testified on HB 511 and answered questions from the members.

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 members.

#### **ACTION NARRATIVE**

#### **TAPE 04-16, SIDE A**

Number 0001

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at 3:07 p.m. Representatives Wilson, Gatto, Coghill, and Seaton were present at the call to order. Representatives Wolf and Cissna arrived as the meeting was in progress.

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

Number 0050

CHAIR WILSON 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."

CHAIR WILSON announced for the record that Representative Wolf has joined the meeting.

Number 0100

REPRESENTATIVE GATTO moved to adopt CSHB 471, version 23-LS1645\I, as the working document. There being no objection, version I is before the committee as the working document.

REPRESENTATIVE GATTO summarized the CSHB 471 increases the base student allocation from \$4,169 to \$4,379 this year, and provides for a 2 percent annual increase beginning July 1, 2005. He told the members that as Chair of the House Special Committee on Education, he appointed three members to a subcommittee on education funding. The subcommittee took public testimony and asked each individual school district what its shortfall would be and what funding would be necessary to return the districts' funding levels to that of the previous year. The conclusion was that there needed to be a \$210 increase [to the base student allocation] to keep the districts at the previous year's level of funding. Representative Gatto pointed out that this figure does not include the PERS/TRS shortfall. It was decided to address that issue in a separate bill, he commented.

Number 0281

REPRESENTATIVE COGHILL asked whether there would be public testimony before or after the presentation of amendments. He told the members that he plans to propose an amendment that removes the language which provides for a 2 percent increase in funding annually.

CHAIR WILSON announced that the committee will hear public testimony before the amendments are presented.

Number 0359

KRIS MOORE, Member, Valley Voices for Children (VVFC), and parent of four children in the Matanuska-Susitna Borough School District, testified in support of HB 471. She said that basic needs are not being met and that the quality of education is suffering. She urged the committee to not only address the cuts

from this year, but also repair the damage done to the education system in prior years.

Number 0559

DEBRA GERMANO, School Board Member, Kenai Peninsula Borough School District, testified in support of education funding. She told the members that she is disappointed to hear about a suggested amendment which would take funds away from education funding. Ms. Germano commented that while she appreciates the efforts of the committee, the only thing the proposed level of education funding does is provide for education to almost remain at the present level. She explained that last year the Kenai Peninsula Borough School District lost 56 teachers and 14 custodians. Ms. Germano shared that at a school board meeting she attended the previous night she heard about more people leaving the community because of the uncertainty in the direction of public education. She said she believes this is a big contributor in declining enrollment that is being experienced in school districts. Ms. Germano urged the members to do more than provide for a \$210 increase and support a cost of living increase.

Number 0718

REPRESENTATIVE GATTO commented that he understands the disappointment that education funding has decreased for several years. He pointed out that the retirement shortfall has been separated from the base student allocation. He said he agrees that \$210 is not enough, but it does prevent further deterioration from the previous year.

MS. GERMANO responded that she appreciates the efforts of the members. In the Kenai Peninsula Borough School District there are losses of programs, she said. For instance, the district does not have a foreign language program or a gifted program any more.

Number 0859

REPRESENTATIVE WOLF agreed with Ms. Germano that the Kenai Peninsula Borough School District has been dealing with this issue for a long time, and now the issue has spread to other parts of the state and is now being addressed.

Number 0904

REPRESENTATIVE SEATON told Ms. Germano that he is concerned that the 2 percent increase in the base student allocation could be viewed as "the deal." Basically, this could mean the \$86 increase in following years could be considered both the maximum and minimum amount of an escalator by the legislature. He said he believes that could present problems for the district. He asked if Ms. Germano has any comments on the 2 percent escalator.

MS. GERMANO replied that the 2 percent increase is only a beginning, but at least it is something the districts can plan on when developing a budget.

Number 0943

TIM STEELE, School Board Member, Anchorage School District, testified on HB 471. He told the members he appreciates the work done in funding education; however, there have been serious cuts in Anchorage including 332 jobs and cuts to programs and activities. He agreed with Debra Germano's comments that Kenai's school district has been hurting for a long time. Anchorage School District has also had cuts, but since it is a much larger district, it has been possible to absorb some of those cuts.

MR. STEELE said now the district, like everyone else, is feeling the pain, and the pain is a result of a failure to fund cost of living allowances (COLA) for decades. Since 1999 the district has lost \$253 in purchasing power, he explained. The \$210 increase almost gets the district to where it was last year, which was almost to point the year before. There is a cumulative effect, he said. Mr. Steele told the members that districts need a significant increase to the funding formula this year to make progress toward adequacy. The 2 percent increase would be progress toward sustainability. Without it the districts will be much worse off in five years.

MR. STEELE told the members that last night there was a school board meeting which focused on a six-year plan. There was overriding gloom that dominated the discussion that the goals could not be met. He stated that he wants to get back to focusing on educating kids and spend less time begging for money.

Number 1166

JENNIE HAMMOND testified on HB 471. She told the members that the quality of education provided to students in Kenai is going down, and that failure is not based on the lack of professionalism of the teachers, but due to the lack of funding being received from the state. Ms. Hammond said she does not believe \$4,600 per student is a small price to pay compared to what is being done to the children.

CHAIR WILSON agreed with Ms. Hammond. She shared that she has had parents who were educated in the same school district their children are attending now, and who have come to her with concerns that there were better course offerings and better educational opportunities afforded to them many years ago. Chair Wilson stated that she believes that is a sad statement.

Number 1249

MELODY DOUGLAS, Chief Financial Officer, Kenai Peninsula School District, testified in support of HB 471. She commended the members in taking the lead in providing increased education funding. She said that the increase of \$210 in the base student allocation is significant and does not want to take away from that, but echoed the earlier comments by Kenai residents.

MS. DOUGLAS told the members she opposes the proposed amendment that would remove the 2 percent incremental increase in funding. She said that while she understands why it might be removed, an incremental increase of 2 percent annually is an important place to start. Ms. Douglas told the members that Kenai is experiencing significant facilities increases, such as utilities costs. She urged the members to keep the 2 percent annual increases in education funding.

Number 1363

AMY LUJAN, Business Manager, Nome Public School District, testified on HB 471. She stated that she is supportive of increases of the base student allocation so that the district can maintain parity with the current year. This would be especially true if PERS/TRS is addressed in a separate bill. Ms. Lujan explained that while this helps, it does not help with the programs that have been cut over the past two years. For example, there are fewer junior and senior course offerings, larger class sizes which is problematic at the elementary level, no school nurse, no social worker, and no assistant principal at the elementary level, fewer aides, growing deferred maintenance needs, and no professional development. Ms. Lujan said she

appreciates the increase in the base student allocation and urged the members to maintain the 2 percent annual increase as a starting point.

Number 1449

MARY FRANCIS, Ph.D., Executive Director, Council of School Administrators, testified on HB 471. She provided the following statement:

The school administrators are strongly in support of an increased base student allocation. We prefer that the amount be sufficient to include the increased TRS/PERS costs, so that this ongoing cost of doing business doesn't have to be fought for each year. Provided, of course, that the districts have an eroding funding floor would be equally taken care of with the other districts. We also think including the TRS/PERS costs in the formula will then allow those communities with taxing powers to contribute more to schools, should they choose to do so.

That said, it is our wish that the base student funding also be adequate to provide a comprehensive educational program for all kids. As a school administrator of over 20 years, I've watched the steady erosion of educational programs. Starting in 1986, when a 10% across the board reduction was imposed, school districts have reduced services to balance budgets year after year. Watching the schoolhouse crumble is not what I thought I'd spend my career doing!

Recently I heard that a philanthropic organization is planning to provide funding for the arts in public schools. This is terrific news! But how sad is it that a critical component of educating the "whole child" is now dependent on someone's generosity? Isn't it the State's responsibility to provide a comprehensive educational program? Shall we next turn to the National Basketball League to fund extracurricular programs? Shall we turn to Microsoft to fund workplace preparation programs? Vocational programs, the arts and music, are some of the many programs falling by the wayside as school districts prepare budgets on inadequate funding.

Alaska's students deserve a quality comprehensive educational program. Please help get us back on course by supporting a substantial increase to the base student allocation.

Thank you for your time.

Number 1559

REPRESENTATIVE WOLF asked why the state should not ask Microsoft to contribute. Alaska owns \$240 million worth of stock in that company.

Number 1591

MARY HAKALA, Coordinator, Alaska Kids Count, testified on HB 471. She told the members that Alaska Kids Count is a non-partisan group of parents, grandparents, educators, and community members who have joined together to advocate for schools and safeguard children's education. She told the members that about a month ago a few of us got together to start the initiative, and now there are over 400 in a statewide e-mail network. She pointed out that the growth reflects the level of concern out there. The group works along side Valley Voices for Children, other parent groups, and PTAs, she added. She asked the members to remember that each time a Representative hears from one of them, it often reflects the perspective of many people. It is tough for a parent to approach the legislature; it is not a common day experience for most people.

MS. HAKALA explained that the group she represents are the volunteers in the school, the ones who set up bake sales, help with the valentine parties, and increasingly raise funds. For example, in Juneau it is the PTA that funds the art supplies, and field biology, which is a long way from what it use to do. She emphasized that this funding is for core subjects. Ms. Hakala reiterated that the current funding is adequate and the additional cuts are unacceptable. She said that this bill is a step forward in the right direction, but believes that much more is needed.

MS. HAKALA commented that between the PERS/TRS solution and this bill would be about \$78 million. She urged the members to invest \$100 million in education.

Number 1719

CARL ROSE, Executive Director, Association of Alaska School Boards, testified on HB 471. He told the members that this past weekend he had the opportunity to revisit the Molly Hootch decision made 30 years ago which provided that people were allowed to educate their children at home, rather than sending them away to boarding schools. Much of the discussion that surrounded the gathering he attended focused on the kinds of education options available given the shortage of funding. He added that the people in attendance do not want to go back to the pre-Molly Hootch days. Mr. Rose explained that although the people support boarding schools as an option for many of the students, it was clear there was no support for mandated boarding schools.

MR. ROSE told the members that in rural areas of Alaska there have been tremendous reductions in services across the state due to the lack of funding. He pointed out that six state senators represent the entire landmass of Alaska with the exception of the Railbelt, and 28 representatives represent the Railbelt proper, while the other 12 represent the rest of the state. Mr. Rose told the members there is a tremendous crisis with the lack of capacity to deal with the issues being presented.

Number 1831

MR. ROSE explained that the decision for Molly Hootch and Bullock vs. Lind was largely due to what many people felt was a preponderance of evidence that suggested that the state was operating two systems of education that were not equal. He told the members that he believes that can be said about the state today. He urged the members to look at the state of rural education and how the state addresses the needs of those children. There is serious need for increased investments. He added that there is a serious need for water and sewer and other amenities that many of us take for granted. Mr. Rose stated that everyone is covered by the same constitution. That is just a backdrop to what is involved, he added.

MR. ROSE told the members that for the last 17 years he has been involved in managing the decline of public education. Every year education has been provided with less money. Now that shortages in funding is being felt in the Railbelt, there is an awareness of the problem in the state. He urged the members to look at the entire system with a sense of conscience of what is being done for and to our kids. He summarized his comments by saying "if we do not model what we teach, then we are teaching something else." Mr. Rose suggested that if it is being said

that educating our youth is our highest priority, then it is important to take every step to do that.

Number 1907

MR. ROSE said the association supports this bill. He understands the hard work that was involved in producing the increase in funding, and urged the members to support the 2 percent annual increase as well. It is a good place to start, he commented. Mr. Rose told the members that everywhere that he goes he hears people say they are willing to pay for better education for their children. He said even though his children finished their education, he would be willing to pay a tax to educate children for the future of the state of Alaska.

Number 1911

REPRESENTATIVE GATTO commented that the total base student allocation in the bill is \$4,379 or close to \$4,400. The 2 percent annual increase would mean an additional \$88 more next year. Neither he nor Mr. Rose will be satisfied with \$88 next year, he said. Representative Gatto said he understands that there could be some thought that next year someone could say that education funding has already been addressed with a 2 percent increase, and would question why there would be a request for more funds. Representative Gatto asked Mr. Rose to comment on this.

MR. ROSE replied that he believes 2 percent is a starting point. Often there are supplementals that will add funds later as needs are identified. He suggested that since all the testimony has addressed the loss in buying power, there is no addressing that unless there is a step increase in funds. He reiterated that he is willing to start at 2 percent, but guaranteed the members that 2 percent will be inadequate this year, and it will be inadequate next year as well.

REPRESENTATIVE SEATON pointed out that this bill states that there will be a 2 percent increase, not that an increase will start at 2 percent. He asked Mr. Rose if he is really in support of the language that says funding will be increased by 2 percent.

MR. ROSE responded that he is supportive of that language because he has never known the legislative body to be limited by what a previous legislature had passed. The language giving 2 percent is better than nothing. He encouraged the members to

work for progress. The door is not closed on this subject, he added.

Number 2020

CATHERINE REARDON testified as a parent of a kindergartener and a four-year old. She asked for a significant increase in the base student allocation and an annual inflation factor to address the loss in purchasing power. She told the members that she believes strongly that it is important to put money in the education system that can allow it to help all the children of the state. She said her testimony represents many parents who find it difficult to testify. Most parents would be willing to pay taxes to fund education. She stated that she finds education more important than the permanent fund dividend.

MS. REARDON told the members that the Juneau School District, like many other school districts, has been looking at ways to cut its budget. The Charter School where her daughter attends will be cut to the statutory minimum which really brings into question the existence of the school. This is an example of what is happening statewide, she said.

REPRESENTATIVE GATTO commented that it would be nice to index education funding as the permanent fund is indexed. He asked if Ms. Reardon knows what it takes to inflation proof the permanent fund.

MS. REARDON replied 3 to 3.5 percent.

REPRESENTATIVE GATTO asked if Ms. Reardon would be happy with only a 2 percent increase per year.

MS. REARDON responded that she would guess that the inflation costs for some things in education, such as PERS/TRS, have a higher escalation in inflation. Inflation goes up and down. While it is low at this time, next year it could be higher. Ms. Reardon said she would be more comfortable with indexing than 2 percent, but appreciates what has been done.

CHAIR WILSON announced that public testimony is now closed.

Number 2233

REPRESENTATIVE COGHILL moved to adopt Amendment 1, [original punctuation provided] which read as follows:

Page 1, Line 6:

Delete: "However, the department shall, on July 1 of each year, beginning July 1, 2005 increase the base student allocation by two percent"

Number 2241

REPRESENTATIVE GATTO objected.

Number 2245

REPRESENTATIVE COGHILL told the members that there are two sides to the question of a 2 percent annual increase to education funding. Is this a sufficient amount, he asked. He said he believes the answer is "no", so the starting point should always be the formula. This is a very complex formula. When discussing adequate funding it is clear that the issue must be addressed and funded by the legislature every year, Representative Coghill added.

REPRESENTATIVE COGHILL said that he believes there are other important issues that must be addressed as well. For example, he told the members he believes public safety rises to the same level of importance as education, and there are no escalating clauses in legislation for funding that. Representative Coghill acknowledged that he has a bill that requests more funding for education and is working to find more funds.

REPRESENTATIVE COGHILL agreed that Mr. Rose makes a good point that it is an interesting time where there is declining income and increased expenses. He told the members that there is a bigger debate going on and that is to use some of the permanent fund to fund state government. He told the members that he would not support indexing education funding and is not even a big fan of inflation proofing the permanent fund even though it is statutorily required. The growth factor is market driven and an income that is revenue driven from royalty oil and lease sales. He added that he would rather see the [funds for inflation proofing] be placed in education funding. If indexing were included for education funding, it could then be included in every budget because each one is important. Representative Coghill summarized that since he has been in the legislature, the education funding issue has risen to the top every year. This amount is not enough for education funding, he stated, and is surprised that there is not an amendment to increase the funding. The question is where can the money be found.

**TAPE 04-16, SIDE B**

Number 2364

REPRESENTATIVE COGHILL explained that this is just one more layer the House Finance Committee must go over to determine what is adequate educational funding. He told the members if it is believed that the amount for the base student allocation should be higher, then raise the amount. He stated no one is fooled that the 2 percent annual increase will do anything.

Number 2351

CHAIR WILSON announced for the record that Representative Cissna joined the meeting some time ago.

CHAIR WILSON commented that she has been in the legislature for four years and has been fighting for increased education funding all that time. The schools in her district have been experiencing serious shortfalls in funding long before the larger schools districts felt the pain, she said. Chair Wilson told the members that she agrees with what has been said about the 2 percent increase being only a start. The schools have been expected to provide everything that is requested of them even though there has been a steady erosion in funding. She stated that she believes the inclusion of a 2 percent increase may be viewed by some as a conclusive solution to the funding shortage.

Number 2291

REPRESENTATIVE GATTO said that every year about this time the school districts try to issue contracts and right now the schools do not know how much money will be funded for education. The districts expect that it will be less than what was received last year. He said he hopes this 2 percent increase will provide the districts with the assurance that it will not be necessary to issue so many pink slips. This kind of assurance for the previous year's allocation, plus a 2 percent increase, may make it easier for the districts' to issue teaching contracts, plan on insurance and utility increases, and plan for maintenance costs. Representative Gatto told the members that he hopes the percentage will be 4 percent, but at least it will be 2 percent under Alaska statute rather than nothing. He agreed with Mr. Rose's statement that over the last seven years all that has been done is to "manage the decline." The \$210

increase is only arresting the decline and is not repairing the damage. He summarized his comments by saying that the 2 percent annual increase provides the districts with some hope that there will not be further decline.

Number 2207

REPRESENTATIVE SEATON told the members that he is concerned about the 2 percent increase language in the bill for two reasons. The first is that it may be a magnet for drawing negative votes for the bill because there are a number of people who are opposed to inflation proofing any budgets. So this language would provide a good excuse for some members not to support the bill, he said. The second concern is that the language says "by 2 percent." He told the member that if this amendment fails, he will be offering an amendment that would say "by at least 2 percent" so that the mind set is changed that the increase will be 2 percent.

REPRESENTATIVE SEATON said he would like to get some clarification from the administration on the effect of this language on the base student allocation. The committee has been told that fully funding education means meeting the base student allocation. Representative Seaton questioned whether this change would mean that fully funding education means meeting the base student allocation last year or the previous year, plus 2 percent.

Number 2140

EDDIE JEANS, Finance Manager, School Finance and Facilities Section, Department of Education and Early Development, testified on HB 471 and answered questions from the members. He responded that the department's interpretation of the 2 percent provision would be to build that 2 percent into the budget which would be submitted to the legislature in December. That would be the full funding amount, he said.

REPRESENTATIVE GATTO said he believes that if steps and columns didn't change, there were no raises, no insurance increases, and no PERS/TRS shortfall then education funding could probably manage with the 2 percent annual increase. He asked if Mr. Jeans would agree with that statement.

Number 2110

MR. JEANS replied that he could not answer that questions. He added that he did look at the Anchorage Consumer Price Index (CPI) over the last five years, and over that period the CPI has averaged about 2 percent. Mr. Jeans commented that 2 percent seems like a reasonable number at this point.

CHAIR WILSON said she is sure that for some schools that 2 percent would not be enough.

REPRESENTATIVE SEATON explained to the members that based on Mr. Jeans' response to questions, he will not be offering the amendment he mentioned earlier because the 2 percent can be built into the formula. He said that if he changed the language to "at least 2 percent" he does not believe it would be possible for the department to build it into the formula.

REPRESENTATIVE COGHILL questioned how this will affect the hiring practices that Representative Gatto mentioned. He said that he was under the assumption that hiring decisions were based on student count. The committee has discussed forward funding of education and there has always been a snag because the student count needed to be taken into consideration, he recalled.

CHAIR WILSON said that it has always been very difficult for schools to know how many teachers to hire because of the uncertainty of funding. Tenured teachers must be notified by March 15 if there is a possibility of a layoff. She explained that for many of the schools where funding has been severely cut all that remains are tenured teachers.

REPRESENTATIVE COGHILL said that he does not believe that the 2 percent annual increase would make a difference in determining how many teachers may be retained.

Number 2000

CHAIR WILSON clarified that the schools also must determine if there will be the same number of students. If there are fewer students, the schools will receive less money. She commented that when the schools do not have enough money to provide good educational opportunities, people move away.

MR. JEANS commented that the members know the budgeting process is a difficult one. He explained that school districts base there budgets on the base student dollar amount in statute. The districts assume that is what will be received. He said most

districts will not budget based on a higher dollar amount because that is the element that is unknown. If there is a 2 percent increase automatically built into the foundation program the school districts will budget for it, expect it, and pressure will be put on the legislature to fund it, Mr. Jeans said. He added that the foundation program has been fully funded since 1987. There was a huge decline in oil revenue that year and the state took a 10 percent cut across the board including the foundation program. He clarified that was after the budgets were approved and appropriated by the legislature.

Number 1961

MR. JEANS told the members that the 2 percent annual increase would help the school districts determine how many pink slips need to be issued. For example, if a school district knew today that it could count on \$4,010 then pink slips would need to be issued because it could not assume there would be more funding. If there is a 2 percent increase, then it is likely that fewer pink slips would be issued, he said.

REPRESENTATIVE WOLF said he agrees with Representative Gatto's statement. He explained that he had the opportunity to work with the superintendent of schools while decisions were being made about the issuance of pink slips. Representative Wolf commented that the 2 percent increase could make a big difference in some people's lives.

REPRESENTATIVE COGHILL commented that he does not disagree with Representative Wolf's statement. He said, however, that if the base student allocation were set at an adequate level then school districts could plan appropriately. Representative Coghill pointed out that there could be an argument that if an annual percentage increase is placed in statute for the foundation formula, then there are other areas of the budget where annual budgeting processes also impact people's jobs. He commented that if this is something the legislature really wants to do, then perhaps there should be a 2 percent escalator on the budget bill as a whole.

REPRESENTATIVE COGHILL stated that he believes the better way to approach the problem is to look at the formula to see what the real number is and if it really works. Every two years there is an election process where the people of Alaska tell us what they want. He commented that he rides the breaks on education funding even though he has a bill which asks for more funding. Representative Coghill commented that he will likely get slapped

around for that. In summary, he said that if the funding is not accurate it is because the people who elect legislators do not reflect that increased funding is necessary.

Number 1800

REPRESENTATIVE GATTO commented that as the chair of the House Special Committee on Education if he could be king for a day and come up with a number that meets the needs for education, there would be no need for a 2 percent escalator. He stated that there was a great deal of time and effort from committee members this year to come up with an additional \$210, exclusive of the PERS/TRS shortfall which is addressed in a separate bill. Representative Gatto explained that the committee came up with the right number which does nothing more than stop the decline. It is for this reason that he is opposing the amendment, he said.

A roll call vote was taken. Representative Coghill voted in favor of Amendment 1. Representatives Wilson, Wolf, Seaton, Cissna, and Gatto voted against it. Therefore, Amendment 1 failed to be adopted by a vote of 1-5.

REPRESENTATIVES SEATON proposed that a memorandum be drawn up to accompany the bill which would say that the House Health, Education and Social Services Standing Committee recognizes the need to identify sources of available funds to cover the increase in education funding. It would go on to say that the committee has identified the remaining authorized CBR draw for 2004 and the Alaska Permanent Fund earnings as sources that can be used for the education funding increase.

REPRESENTATIVE COGHILL objected for purposes of discussion and clarification.

REPRESENTATIVE SEATON read the following text which he suggests be included in a memorandum which would accompany HB 471:

The House Health, Education and Social Services Standing Committee recognizes the need to identify sources of available funds for this increase in education funding. We identify the remaining authorized CBR draw for 2004 and the permanent fund earnings reserve as sources that can be used for this educational funding increase.

REPRESENTATIVE SEATON added that the language is conceptual and would not object to the language being slightly modified.

CHAIR WILSON commented that this language was developed in the House Special Committee on Education, but did not come with the bill in error.

Number 1657

REPRESENTATIVE GATTO explained that the letter should accompany the bill when it goes to the House Finance Committee so that the members there are not faced with a bill that has a \$42.3 million fiscal note without identifying some available funding sources. He clarified that the letter was written by the House Special Committee on Education to accompany the bill, but not be a part of the bill.

CHAIR WILSON asked what the committee wishes with respect to the letter to accompany the bill.

REPRESENTATIVE COGHILL said that he maintains his objection because it narrows down the sources of funding from last year's CBR draw. He said he is open to a suggestion.

REPRESENTATIVE SEATON clarified that the only reason this letter specifies the CBR draw and the permanent fund earnings is due to the fact that these are the only funds currently available to this legislature that can be appropriated. He said that future tax sources require another bill to pass which may or may not pass. He said that he believes it is important for the committee to say that this education funding is important enough to us that sources have been identified to fund this bill.

REPRESENTATIVE COGHILL suggested that the language including the CBR draw for 2004 be removed and just have the permanent fund earnings reserve in the letter. He commented that House Health, Education and Social Services Standing Committee is not going to be advising the House Finance Committee of any new revenue sources. He commented that if the committee really wants to be daring why not insert an income tax as a source of revenue.

REPRESENTATIVE SEATON explained that the reason he is suggesting this letter and the language in it is due to the fact that the committee was told that if it put forth a bill that included increased funding, the House Finance Committee would like those sources of funding to be identified. This letter would reflect the members' commitment to education funding, he added.

Number 1490

REPRESENTATIVE COGHILL commented that while he is the majority leader, nine times out of ten he is in the minority. He told the members he maintains his objection. Representative Coghill said he believes the committee chair's statement before the House Finance Committee would be adequate, unless the committee wants to promote a head tax or income tax.

A roll call vote was taken. Representatives Wilson, Seaton, Cissna, and Gatto voted in favor of including the letter of intent with HB 471. Representatives Coghill and Wolf voted against it. Therefore, the letter of intent was included with HB 471 by a vote of 4-2.

Number 1399

REPRESENTATIVE GATTO moved to report CSHB 471(EDU), 23-LS1645\I, out of committee with individual recommendations, the accompanying fiscal notes, and an accompanying letter of intent. There being no objection, CSHB 471(EDU) was reported out of House Health, Education and Social Services Standing Committee.

HB 511-CERTIFICATE OF NEED PROGRAM

Number 1300

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 511, "An Act relating to the certificate of need program for health care facilities; and providing for an effective date."

Number 1310

REPRESENTATIVE RALPH SAMUELS, Alaska State Legislature, testified as sponsor of HB 511. He told the members that HB 511 closes some loopholes in the certificate of need (CON) language in the statutes and it allows the state to use CON as a management tool for residential psychiatric facilities. This bill would enable the state to address the problem of the large number of youths who are in facilities outside of Alaska, would ensure that there are the right number of beds, and that Medicaid costs are kept under control.

Number 1219

LISA WOLF, Director of Planning, Providence Health System, testified in support of HB 511. She told the members that she has been involved in the CON law for over 20 years, has written over 20 CON applications, and has been involved in the review process on far more than that. The CON law was established to ensure that the state of Alaska and individual communities are not financially burdened with excess health care equipment and facilities. The premise is that having more than the community needs would increase the cost of care, as providers would need to increase charges to cover the additional expenses that would not be covered by adequate volume [of patients]. The CON law was designed to ensure a high quality of care by ensuring that there would be adequate volume so that the practitioners would be proficient in performing the procedure or exam.

Number 1050

MS. WOLF told the members that in recent years there have been studies done in other states to see if the CON law was actually achieving its purpose. For example, one study compared the cost and quality of heart procedures done in a state which had a CON law with the cost and quality of another state which had eliminated the law a few years earlier. It was found that the clinical outcome was better in the state with the CON law, than the non-CON state. The outcome was linked to higher volumes in facilities with CON approval.

MS. WOLF explained that leasing has become a common way of getting around the CON process. If a health care facility or provider wants to add a piece of equipment that costs over \$1 million, a CON is required. However, if the equipment is leased the \$1 million threshold is not reached and the entire CON process is avoided. Often when this happens the local providers and the state are unaware of the overall impact to the community or the state as a whole, she said. Ms. Wolf added that this also makes it difficult for the state to make an adequate review on a CON application. The question is then whether the state rewards those who go around the CON process or potentially adds unneeded services by approving CONs.

MS. WOLF Summarized that the CON process levels the playing field for all providers and provides the oversight that is needed. She encouraged the members to support HB 511.

Number 0940

ROBERT BRIDGES, M.D., Medical Director, Alaska Open Imaging Center (AOIC), testified in opposition to HB 511. He told the members that it has imaging centers in Wasilla, Soldotna, and Anchorage. Dr. Bridges emphasized that presently Alaska Open Imaging Center is the only independent diagnostic testing facility in Alaska. He told the members that he graduated from the University of Washington School of Medicine in 1980 and has degrees in chemistry and nuclear engineering, and has been awarded medical specialties in diagnostic radiology and nuclear medicine.

DR. BRIDGES said that for over two years the Alaska Open Imaging Center has provided quality, affordable health care for Alaskans. He told the members of the advances in medical technology the center has brought to Alaska. While others have talked about advances, the center has brought that vision into reality. The center has given patients a choice and has provided these services efficiently and at a lower cost than other providers. Dr. Bridges emphasized that this is a story of success, not of elitist medical groups or large medical conglomerates, but Alaskans who are technologists and hospital employees who saw the need for a new and better form of health care. The market place determines the center's success. he commented. It is earned by taking personalized care of every patient, one at a time. Since opening its doors the center has taken care of Medicare and Medicaid patients, and patients who have been abandoned by the hospitals because the patient's problems seemed too complicated or too time consuming.

DR. BRIDGES summarized his comments that HB 511 is not about health care, but about health control. This bill stifles competition and does not confront the challenges of cost and quality medicine. The bill favors those with offices of lawyers and lobbyists with large bank accounts to ensure they get what they want, he stated.

Number 0785

DR. BRIDGES commented that the bill strikes on one of the true major cost challenges in medicine today, and that is the abuse of unfettered and uncontrolled self-referral which has created over-utilization of services nationwide by up to 250 percent in some specialties. He said he believes this over regulation is an abuse of the people's time and resources. Dr. Bridges asked the members to give AOIC the freedom to grow.

Number 0720

SAM KORSMO, Chief Operating Officer, Alaska Open Imaging Center, testified in opposition to HB 511. He told the members that several years ago it embarked on a venture to provide the largest independent radiology businesses in Alaska. There are 36 employees, 3 doctors, and an array of technological advances that have set new levels in quality. Mr. Korsmo said that the business has prospered and grown based on core values of service. The physicians there place care and compassion for the patients' benefit first and foremost. He explained that AOIC has brought a large array of new technology to Alaska including the open MRI, virtual colonoscopy and cardiac scoring for the comfort of patients.

MR. KORSMO urged the committee to ensure that any changes to the CON laws be warranted. The mission statement on CON was to promote responsive health facilities, service development, rational planning and cost containment; and to ensure that these services would be of good quality, acceptable to the public, promote access, choice, and meet the public's needs while preventing excessive unnecessary duplicative facilities and services. Mr. Korsmo told the members that AOIC has met all of the CON mission statement goals and has done it better and more cost effectively than any other provider could do in the last three years. There has been more duplication of AOIC's model by other providers than any other period before, he said. The mentality of "staying up with the Jones" has created a burden which has been thrown on the backs of patients and families, he added.

Number 0555

MR. KORSMO asked the members to reconsider the language which defines a health care facility on page 3, line 21, which says:

**independent diagnostic testing facility, secure residential psychiatric treatment center,**

MR. KORSMO told the members that currently AOIC is one of the few if not the only, independent diagnostic testing facilities in Alaska. He suggested that this definition is directed only at AOIC. Mr. Korsmo urged the members to eliminate the CON process and allow free market forces to provide a better health care system.

Number 0508

CHAIR WILSON asked if this bill will affect AOIC now.

MR. KORSMO said yes. The bill will impact AOIC if it chooses to upgrade equipment or expand services. It would be required to request a CON.

CHAIR WILSON asked if the cost of services are lower than that which is provided at a hospital.

MR. KORSMO said yes.

Number 0449

REPRESENTATIVE GATTO expressed concern for the consumer. While it is clear that a patient could go to AOIC and get services provided for less money, a week later that same patient may require services that are only provided at the hospital, he said. Because the hospital has lost business it will now charge the patient more money to compensate and the consumer ends up paying more. Representative Gatto questioned whether the consumer will get a better deal with the services AOIC is providing or not.

MR. KORSMO said yes.

REPRESENTATIVE GATTO clarified that what Mr. Korsmo is saying is that the hospital will not have to change its rates even though AOIC is taking some of the business away from it. The hospitals have said that the most important patients are the ones who can pay. He added that he would bet that AOIC is not taking too many patients who do not have the ability to pay. He asked Mr. Korsmo to comment.

MR. KORSMO told the members that AOIC takes all patients. It has an equal percentage of those that cannot pay as the hospital. It also takes Medicare and Medicaid patients, he added.

Number 0330

REPRESENTATIVE COGHILL asked Mr. Korsmo what is an independent diagnostic testing facility.

Number 0306

MR. KORSMO replied that AOIC was formed by a group of individuals who have come together to build an imaging center company.

REPRESENTATIVE COGHILL asked for clarification on the term "independent".

MR. KORSMO responded that independent was the designation under which it applied [for a license].

Number 0192

DAVID McGUIRE, M.D., testified on HB 511. He told the members that he has testified on more than one occasion that he believes the CON law does not work; and he added that he has not changed his opinion. However, in the current application he said he believes it is worse than it was intended to be. He explained that the reason leasing has become an issue is due to the fact that one large institution was granted the ability to install radiology and oncology treatment facilities that cost as much as \$10 million and were not able to circumvent the CON process by the precise language that is before the members. Specifically, what was said is that as health care providers it was leasing the equipment and space, while someone else owned it and therefore it was not necessary to comply with a CON. Dr. McGuire told the members that no matter how one views a CON, the process should be the same for everyone. It should not be a situation where some get special treatment over others which was the end result, he added.

DR. McGUIRE commented that it was requested a number of years ago to allow a facility to move to another site without having to go through the CON process again. The department chose to include language that is only clear to itself, that effectively limited the options of the site from which this facility was moved. He said he believes that if there is any limitation on anyone, it should be on the person with the CON. Dr. McGuire told the members the CON allows a facility to move once, but not twice. It does not deal directly with the facility from which the CON moved. Dr. McGuire summarized that there could be many battles about whether or not the CON process works; however, it should be fair to everyone.

**TAPE 04-17, SIDE A**

Number 0029

REPRESENTATIVE GATTO told the members that he served on the Valley Hospital board during the time the hospital was trying to get a CON. It took well over a year to do it. He asked if Dr. McGuire would agree that if fairness is to prevail all providers should be subject to the same rules.

DR. MCGUIRE agreed that all providers should have to go through the same process. He told the members that is the way it use to be before the hospital got an oncology department.

Number 0133

MIKE POWERS, Hospital Administrator, Fairbanks Memorial Hospital, testified in support of HB 511. He told the members that he agrees with Dr. McGuire's comments that HB 511 addresses some weakness in the current CON law. Mr. Powers took exception to some comments in that he believes the CON process is very valuable to communities. The weaknesses in the CON statute provides tremendous exposure to community hospitals.

MR. POWERS said that there are three areas that need to be clarified.

One is the matter of the freestanding diagnostic imaging centers. He pointed out that the bill recognizes that there should be a level playing field for all. Two, the (indisc.)... Three, the issue of the cost of leases for space [needs to be addressed].

MR. POWERS told the members it is his opinion that the department will ensure that the CON law is applied equally. It won't be possible to avoid CON review by leasing space and it does require that everyone plays by the rules. He explained that he believes it is important that the diagnostic imaging centers be subject to CON because without it, it tears at the fabric of those services that do not pay for themselves, such as burns, mental health, neo-natal care, emergency visits, chronic inebriants, Medicare, et cetera. Mr. Powers urged the members to pass HB 511 because it is an important step in leveling the playing field.

Number 0255

CHARLIE FRANZ, Administrator, South Peninsula Hospital, and Chairman of the Board, Alaska State Hospital Association, testified in support of HB 511 and answered questions from the members. He told the members that both the South Peninsula

Hospital and the hospital association strongly supports HB 511 and the changes that are proposed. The changes will provide a level playing field for community hospitals and entrepreneurs such as the independent testing facilities whose representatives testified earlier. Mr. Franz emphasize that it is important the members think about the community hospitals as a resource for the communities. He suggested that those who are familiar with the fishing industry in Alaska think of the analogy between the CON bill and the limited entry permits. There are resources that need to be used appropriately. Fishing and health care are probably the only two business in the state where there is an effort to provide quality services or products, in a cost effective manner, and then someone else decides how much will be paid for that service or product. He pointed out that it is not like the free market place and he does not believe that is an appropriate way to consider health care. Mr. Franz encourage the members to support HB 511 because it is a good bill. It does not cost the state anything and protects community resources, he added.

Number 0414

REPRESENTATIVE GATTO commented that [Valley Hospital Association] merged with Triad and is in the process of building a much larger hospital, up to 70 beds, in another location. He asked Mr. Franz how this bill would affect the hospital that is going to be constructed and in general how it affect the hospital in the valley.

MR. FRANZ responded that the new hospital would have to go through the CON process, just as it does now. However, he said, there would be an impact on the competitor across the street, Open Imaging Center would have to go through the CON process before adding services or upgrading its equipment.

Number 0481

CHAIR GATTO asked if he understands correctly that Mr. Franz is saying that Open Imaging Center has a grandfather right, but the new hospital does not because it is expanding and moving to a new location.

MR. FRANZ replied that if HB 511 is not enacted, Valley Hospital will be at a serious disadvantage when Open Imaging Center decides to add a new service and does not have to go through the CON process. It will allow Open Imaging Center to cherry-pick services away from the hospital.

Number 0547

STEVE GONZALES, Owner, Gonzales Marketing, testified on HB 511. He told the members that in addition to representing Alaska Open Imaging Center, he is a supporter of consumer rights. He commented that he does not agree with comments by the non-profit's that this bill levels the playing field. As a consumer, when a non-profit provides a service that is not required by the public or cannot be paid for by the public, then it is leveled on the shoulders of the consumers who pay taxes. Mr. Gonzales pointed out that Alaska Open Imaging Center has based its services on the needs of the community; and therefore, either thrives or does not based on how that service is provided and how it competes with other providers. The stockholders carry the burden, not taxpayers. He asked the members to recognized that this bill is being pushed forward as a competitive impediment by non-profit hospitals who compete with this particular service. Mr. Gonzales said he believes that consumers should not be forced to pay higher and higher medical bills and hundreds of dollars for minimal treatment because this is a grandfathered organization. He urged the members not to buy the smoke screen that is being put forth here because this bill is simply a competitive strategy to eliminate Alaska Open Imaging Center.

Number 0670

BRIAN SLOCUM, Administrator, Tanana Valley Clinic, testified on HB 511 and answered questions from the members. He explained that Tanana Valley Clinic was established in 1959 and currently has about 35 providers, employs about 225 people, and one-third of its patients are Medicare or Medicaid recipients, or have no insurance. In 2003 the clinic provided just under \$7 million worth of unreimbursed care to community members. He added that while the clinic is a private business, it does serve a community need and offers some community benefit.

MR. SLOCUM spoke against the inclusion of diagnostic facilities and a blanket prohibition of using leases for space and equipment. He opposes the carving out of another area of health care delivery as the exclusive realm of hospitals. A couple of years ago there was debate about ambulatory surgical centers and it was determined that ambulatory surgical centers would be subject to CON. He said he understands that is a "dead issue" at this point; however, he is concerned that once again the hospital industry is asking the legislature to take a portion of

the services delivered to patients and make it exclusively available to hospitals. If the members do not agree with him on this point, he asked if it would be possible to work on the definition of some of these terms.

Number 0825

MR. SLOCUM said for instance, that today was the first time he had heard the definition of "independent diagnostic testing facility." As HB 511 is drafted it does not refer to a Medicare or state definition of independent diagnostic testing facility. He commented that it might be wise to tie it to a very specific definition. Mr. Slocum said his fear is that if it is not clearly articulated, then it would fall to the CON office in the Department of Health and Social Services to make that determination without guidance from the legislature. He said he believes that clinics such as Tanana Valley Clinic, because it is not affiliated with a hospital, could be defined an independent diagnostic testing facility. For example, the clinic has a laboratory and some imaging facilities scattered on four different floors of the five-story building where it is located. It is inconvenient and there will be a time when the clinic will want to try to consolidate all these services in one space. There isn't space in the existing building, so the clinic has purchased a lot across the street, and it has been thought that the clinic would put all these testing facilities in one building. This current lack of clarity in the definition may require the clinic to go through the CON process just to move existing services to a better building, he said.

Number 0918

MR. SLOCUM said he is concerned with the leasing portion of this bill. He told the members that he finds it highly ironic that some of the organizations that are supporting this bill are the very organizations who used that loophole to build its \$10 million facility. Once an organization has its own facility then it wants to "slam the door in the face of others." He said he doubted that those who are urging the support of this bill have thought through all the implications. For example, currently medical space in Fairbanks rents for \$2.50 per square foot per month for fully serviced space. That means that if there were 2,500 square feet of medical space that someone wanted to lease for ten years with two five year options to renew, the total of those payments for 20 years would be \$1.5 million. Even using the net present value calculation to bring that back to today's dollars, that would be over \$1 million and

would required a company to go through the CON process just to rent the space.

MR. SLOCUM explained that the old law does not require the addition of adding the value of telephones and computers. The new language suggests strongly that the value of the space and any equipment required to operate the facility be included. He told the members that he believes that language is too broad and urged the elimination of the "lease of space" language. If not, then any minor project for clinics like Tanana Valley will trigger that CON process and it will result in the inability for the clinic to ever go forward. Mr. Slocum summarized that he does not believe this was the intent of the sponsor or other groups who support the bill.

Number 1056

REPRESENTATIVE GATTO asked how much it would cost the clinic to obtain a CON on the most minimal of expenditures.

MR. SLOCUM responded that he does not know, because it would depend on whether or not the CON request was contested or how much information the department requested. He told the members that a couple of years ago when the clinic was exploring the idea of building an ambulatory surgery center, it was determined that it would require a change to the law, and it cost the clinic over \$100,000 in direct costs. In response to Representative Gatto's question, he responded that the CON process took 18 months.

Number 1114

CHAIR WILSON announced the HB 511 will be held in committee.

**ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 5:00 p.m.