

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

April 1, 2004
3:22 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
Representative Mary Kapsner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 425

"An Act relating to funding for school districts operating secondary school boarding programs, to funding for school districts from which boarding students come, and to inoperative school districts; and providing for an effective date."

- MOVED CSHB 425(EDU) OUT OF COMMITTEE

HOUSE BILL NO. 427

"An Act relating to guardianships and conservatorships, to the public guardian and the office of public advocacy, to private professional guardians and private professional conservators, to court visitors, court-appointed attorneys, guardians ad litem, and fiduciaries, and to the protection of the person or property of certain individuals, including minors; amending Rules 16(f) and 17(e), Alaska Rules of Probate Procedure; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 239

"An Act directing the Department of Public Safety to establish an Internet-based identification and tracking system relating to controlled substances that are prescribed for human use; and

relating to the manner in which prescriptions for controlled substances may be filled by a pharmacist."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 72

"An Act relating to the qualifications and appointment of members of the Board of Regents of the University of Alaska; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 543

"An Act relating to medical assistance coverage for prescription drugs; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 338

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

- REMOVED FROM AGENDA

PREVIOUS COMMITTEE ACTION

BILL: HB 425

SHORT TITLE: BOARDING SCHOOL FUNDING

SPONSOR(S): REPRESENTATIVE(S) COGHILL

02/04/04	(H)	READ THE FIRST TIME - REFERRALS
02/04/04	(H)	EDU, HES, FIN
03/02/04	(H)	EDU AT 11:00 AM CAPITOL 124
03/02/04	(H)	Heard & Held
03/02/04	(H)	MINUTE(EDU)
03/09/04	(H)	EDU AT 11:00 AM CAPITOL 124
03/09/04	(H)	Moved CSHB 425(EDU) Out of Committee
03/09/04	(H)	MINUTE(EDU)
03/18/04	(H)	EDU RPT CS(EDU) NT 1DP 2NR 3AM
03/18/04	(H)	DP: GARA; NR: OGG, WOLF; AM: SEATON,
03/18/04	(H)	WILSON, GATTO
04/01/04	(H)	HES AT 3:00 PM CAPITOL 106

BILL: HB 427

SHORT TITLE: PROTECTION OF PERSONS AND PROPERTY

SPONSOR(S): REPRESENTATIVE(S) ANDERSON

02/04/04 (H) READ THE FIRST TIME - REFERRALS
02/04/04 (H) HES, JUD
04/01/04 (H) HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

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

POSITION STATEMENT: Testified on HB 425 and answered questions from the members.

FLOYD BROOKS
Nenana, Alaska

POSITION STATEMENT: Testified in support of HB 425.

SANDRA EGLESTON, Counselor
Nenana Student Living Center
Nenana, Alaska

POSITION STATEMENT: Testified in support of HB 425.

RALPH LINDQUIST, Dean of Students
Nenana Student Living Center
Nenana, Alaska

POSITION STATEMENT: Testified in support of HB 425 and answered questions from the members.

LISA BROOKS, Student
Nenana Student Living Center
Nenana, Alaska

POSITION STATEMENT: Testified in support of HB 425 and answered questions from the members.

JOHN GRIMES, Dormitory Staff
Nenana Student Living Center
Nenana, Alaska

POSITION STATEMENT: Testified in support of HB 425 and answered questions from the members.

JIM SMITH, Superintendent
Galena Residential School Program
Galena City School District
Galena, Alaska

POSITION STATEMENT: Testified in support of HB 425 and answered questions from the members.

ALFRED KETZLER, Executive Director
Nenana Native Council
Nenana, Alaska

POSITION STATEMENT: Testified in support of HB 425.

ANN ESMAILKA
Kaltag, Alaska

POSITION STATEMENT: Testified in support of HB 425.

JIM SHINE, Staff
to Representative Tom Anderson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the bill on behalf of Representative Anderson, sponsor of HB 427 and answered questions from the members.

BETTY WELLS, President
Alaska State Association for Guardianship Advocacy (ASAGA)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 427 and answered questions from the members.

JOSH FINK, Director
Office of Public Advocacy
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 427 and answered questions from the members.

JIM PARKER, Attorney
Public Guardian Section
Office of Public Advocacy
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 427.

"B" JARVI, Professional Guardian
Professional Guardian Services Corporation
Fairbanks, Alaska

POSITION STATEMENT: Testified on HB 427.

ACTION NARRATIVE

TAPE 04-26, SIDE A
Number 0001

CHAIR PEGGY WILSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:22 p.m.

Representatives Wilson, Gatto, Wolf, Coghill, and Seaton were present at the call to order. Representatives Cissna and Kapsner arrived as the meeting was in progress.

HB 425-BOARDING SCHOOL FUNDING

Number 0104

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 425, "An Act relating to funding for school districts operating secondary school boarding programs, to funding for school districts from which boarding students come, and to inoperative school districts; and providing for an effective date."

Number 0170

REPRESENTATIVE JOHN COGHILL, Alaska State Legislature, testified as sponsor of HB 425. He told the members that boarding schools in Alaska have historically caused some pain, but there are also boarding schools that have proven to be very valuable. For instance, the Mt. Edgecumbe boarding school has shown itself to be a great asset to Alaska. Currently students who do not have daily access to a high school education are allowed to receive a stipend and round trip airfare to a location where an education is available. Representative Coghill said that HB 425 expands that offering by providing that students may travel to a boarding school and receive a stipend even if there is daily access to a high school education in the communities where the students live.

Number 0302

REPRESENTATIVE COGHILL said that there is a cost to this offering. In an effort to contain the cost, HB 425 provides for a pilot program to be offered only to boarding schools which are already in operation. There is a sunset provision in the bill of July 1, 2009. Another cost saving provision is that this legislation only applies to boarding schools which offer a full year of education of 180 days of operation. He pointed to the revised fiscal note dated 3/10/04 which reflects the cost to be \$1,179 million to fund the boarding schools presently in operation. Representative Coghill explained that this fiscal note shows a savings from the original fiscal note of \$227,000.

Number 0425

REPRESENTATIVE COGHILL said that he believes boarding schools offer a flexibility that is valuable to Alaska. He told the members that in his hometown of Nenana there were some economic reasons for opening a boarding school. He explained that the community had a large school with a dwindling population. The community put forth a significant amount of capital to make the boarding program work by taking out a loan and putting up a building.

REPRESENTATIVE COGHILL told the members that currently a school that has enrollment which falls below ten students has to close because it would no longer qualify for state funding. In HB 425 if the enrollment in a school drops below the ten-student minimum because a student opted to attend a boarding school the school would be held harmless from closure, he explained. For example, the school in Circle could be in trouble if student enrollment drops and he does not want that to happen. He suggested that the Department of Education and Early Development's representative can go into more detail about that point.

REPRESENTATIVE COGHILL said that he believes this is an important option for students who wish to attend boarding schools for a variety of reasons, whether it is course offerings in math and science, or family and social issues. He pointed out that Galena has done a good job of offering a variety of vocational classes; Nenana has a cultural emphasis, and Mt. Edgecumbe's emphasis is on academics.

Number 0634

REPRESENTATIVE COGHILL told the members that each of the schools has its own acceptance criteria, and most have waiting lists.

Number 0685

CHAIR WILSON announced that Representatives Cissna and Kapsner joined the meeting.

CHAIR WILSON asked for clarification on a portion of the sponsor statement which reads as follows:

The hold harmless section of this bill allows a student's district of residence to count a student for the ADM count even though the student is attending a secondary boarding school. This avoids the

possibility of paying the base allocation twice for the same student.

CHAIR WILSON asked if this means that the boarding school does not count the students, but the school the students came from counts them.

Number 0730

EDDIE JEANS, Finance Manager, School Finance and Facilities Section, Department of Education and Early Development, testified on HB 425 and answered questions for the members. The hold harmless provision simply states that if a community that has a small student population loses a couple of students who elect to attend a boarding school, that could mean that the school would fall below the state's threshold of ten students and be forced to close, he explained. With the hold harmless provision the department would hold that school harmless from closure due to the drop in ADM and fund the school for ten students, Mr. Jeans said. He reminded the members that in the previous committee there was discussion about the fact that the department provides a base level of funding for 10 to 20 students. Mr. Jeans summarized that the hold harmless provision simply extends the range to 8 or 9 to 20 students for a base level of funding if one of the students elects to attend a boarding school.

Number 0797

CHAIR WILSON asked if funding follows the student or stays with the district where the student formerly attended.

MR. JEANS explained that the state would pay the boarding school both through the foundation program and through the boarding stipend to cover the residential component. He said that basically all that is being done is extending that base number of students down for the community that has a small student population. He said the state is not paying for the same child twice. It is a safety net for that community [that loses students to boarding schools], he added.

CHAIR WILSON questioned whether this isn't paying twice for the same student.

MR. JEANS replied that the state is not paying twice unless there is speculation that a student leaves the school in his/her home community and the enrollment falls to eight or nine

students. In that case that school would not be funded as a separate school, it would be added to a larger school in the same district. He reiterated that he does not see this as paying for a student twice; it is just holding the school harmless [from closure] while students go to a boarding program.

CHAIR WILSON asked if there were 15 student and two left to attend a boarding school would there be a change in the funding level.

MR. JEANS responded that there would be no change in the funding level. In this case, the school would still be in the 10 to 20 student range, so the hold harmless provision would not be necessary.

Number 0924

REPRESENTATIVE CISSNA commented that the loss of a few critical students could put the state right back in the situation before the Molly Hootch [case]. She told the members that back in the 1970s she was present during a discussion in Minto on the Molly Hootch case. Representative Cissna explained that she worked with some of the kids who were taken away from their homes before they were ready and some horrifying things happened to them. She stated that there are a lot of kids who are dead now because of those programs. She asked how this legislation does not lead to another horrifying episode.

Number 1040

REPRESENTATIVE COGHILL agreed that Alaska has had an interesting history of boarding schools. An important difference is that those boarding schools were mandated. The current boarding school programs are permissive and students must apply to be admitted. These schools normally enjoy a lot of parental support, a demonstrated need, and a willingness to address personal, cultural, and economic issues. Representative Coghill emphasized that the boarding schools currently operating are totally different from those operated prior to Molly Hootch. He added that currently students have to stand in line to be admitted to one of these boarding schools, and that is the reason he put a limit on the number of boarding schools that could participate in the program. He said it is not so much that he wanted to limit the number of boarding schools, but that the state's ability to pay for it is limited. Representative Coghill said he wants see how the current boarding schools continue to do with this program, and believes it to be a good

educational option. He advised the committee that this pilot program is only offered to about 300 student.

MR. JEANS emphasized that none of the students in these programs are required to leave their homes. This bill provides the school districts which offer full year boarding home programs some revenue to help offset the residential costs of operating those programs. This is an optional educational experience, he added. The hold harmless provision is a safety net for the community in which a student may elect to leave in order to participate in one of the boarding school programs, he said. Mr. Jeans told the members that currently there are no schools that would require this safety net because it has not effected a school that small. He said he thinks what Representative Coghill is trying to provide boarding schools with some revenue to help with the residential costs of these programs. At the same time, he is trying to be sensitive to the small communities that could have a couple of secondary students who may take advantage of the program, so he is trying to ensure through the hold harmless provision that a small school would not have to close while the state is looking at the boarding home programs, Mr. Jeans said.

Number 1255

REPRESENTATIVE GATTO posed a hypothetical question of a school that has 17 students. At that number the school is funded at a fixed rate whether there are 16 students or 17 students. If a student decides to go to a boarding school in Nenana the school he/she leaves suffers no loss in funding which relates to the hold harmless portion of this bill. This bill provides for a stipend to be paid for the residential expenses to the boarding school. He asked if the base student allocation follows the student.

Number 1340

MR. JEANS replied that very example is happening now. The base student allocation goes to the school in which the student is enrolled. For example, Nenana is serving 96 students who do not reside in Nenana. However, Nenana is currently generating funding for those students through the foundation-funding program, he said. He went on to say that some of these students may come from communities that fall within the range of 10 to 20 students, and some may come from Fairbanks. He emphasized that these programs are up and operating and the department is providing foundation funding for these kids' educational

component. However, the state is not providing funding for the residential component of the program. This bill simply provides some residential support [through a stipend].

REPRESENTATIVE GATTO pointed out that if the student attended a school in Fairbanks, then the school district in Fairbanks would lose funding through the base student allocation because he/she is no longer enrolled there.

MR. JEANS responded that he is correct.

Number 1370

FLOYD BROOKS testified in support of HB 425. He told the members that he has three daughters who attend the Nenana Living Center. The educational opportunity there is excellent and has given them a safe place to live and work. In addition the school has provided extracurricular activities that might not otherwise be available such as the snowboarders club, trips to Fairbanks, and whitewater rafting in Denali National Park and Preserve. Mr. Brooks said the staff at the center are great and have the kids' best interest at heart. He told the members that academic failure is not an option for these kids. This Nenana Living Center option has also allowed him the opportunity to seek employment out of town which would not otherwise be possible. He pointed out that it only costs \$9,000 for students to attend the Nenana Living Center where many of the small villages cost as much as \$27,000 per student. In summary, Mr. Brooks told the members that this is a case where everyone wins.

Number 1489

CHAIR WILSON asked Mr. Brooks what village he lives in.

MR. BROOKS responded that he lives in Nenana, but has been working in Fort Yukon. He added that the Nenana Living Center has provided a safe place for his daughters to learn.

Number 1552

SANDRA EGLESTON read the following testimony [original punctuation provided although some formatting changes have been made]:

I am calling in support of HB 425 which would provide funding for districts operating secondary school boarding programs. I was hired by the Nenana School

District as a counselor for the living center when it opened in the fall of 2001. It is my understanding that prior to 2001 the district recognized a need in the state to offer school alternatives to rural students. As Representative Coghill mentioned the community was also concerned about the dwindling number of local students. Since Nenana had (and has) a large school facility, as well as a dedicated and professional staff, the school board with the community's support made the decision to build a dorm and then fill their classrooms with students from around the state -- which is exactly what has happened for the past three years.

This year the students of NSLC represented 27 different villages. The first year there was some advertisement about the opening of the new facility; but since then the only advertisement has been by word of mouth. Yet each fall there have been some good applicants who have had to be denied acceptance because of lack of space. The NSLC is running at full capacity while there is an ever-growing waiting list of student applicants. I think this is a fact that indicates the need of boarding school programs in the state.

Number 1604

Recently I happened to tune into NPR's Talk of Alaska radio show which that day was titled, "A Mt. Edgecumbe Reunion." Several generations of Edgecumbe graduates called in to talk about their positive experiences at the boarding school. As I listened to it I was amazed to listen to the similarities of these people's comments and what I have witnessed at NSLC the past three years. The callers' varied reasons for going to Edgecumbe paralleled what has been written in NSLC student applications: Students and families want the safety, structure and stability which dorm living offers; they seek a quality education with qualified teachers and a variety of class offerings; they hope for opportunities to participate in extra-curricular activities; families want for their children a foundation of accepting responsibility and developing coping skills as they live away from home; dorm living offers a transition from village life to the "bigger world"; it is a step to further prepare those students

with ambitions to go on to college or vocational school. The Edgecumbe graduates spoke about the many positive aspects they appreciated: the strong positive influence they felt in their lives as teenagers; the lifelong friendships they developed; the sense of family and community felt within the boarding school; how conflicts were resolved and friendships prevailed over any initial tribal friction. Again, these comments are very similar to what is heard from NSLC parents and students. One speaker spoke of the sense of urgency she and other students as well as staff members felt in '82 when they were writing letters to legislators and testifying in an attempt to keep the doors of Edgecumbe open. And here we are calling you today. She spoke of the great sense of loss and defeat when the Edgecumbe doors closed in '83 for those several years. And that is something that I am hoping can be averted here in NSLC.

Just as Mt. Edgecumbe is fulfilling a need in the state, the NSLC is fulfilling a need in the state. Families from all around the state are seeking educational alternatives for their children. The NSLC, as well as Galena, offers an option in the interior part of Alaska. For the first two years the school district fully funded the NSLC. Now, in order to continue to keep the NSLC doors open, financial support is needed from the state. HB 425, if passed, would provide that funding. Thank you for taking time to hear testimony today.

Number 1811

RALPH LINDQUIST, Dean of Students, Nenana Student Living Center, testified in support of HB 425 and answered questions from the members. He echoed Mr. Jean's comments that the Nenana boarding school is not the same kind of boarding school that was in place 30 years ago. The school is an option. Nenana does not go into the villages trying to enroll students. People are seeking Nenana, he said. Of the students who are enrolled this year and who are eligible to come back next year, 80 percent have already enrolled. Mr. Lindquist commented that March 31st is the deadline for enrollment and acceptance letters will be sent around the 1st of April. There are 200 applicants presently on file and it will be necessary to pick and choose 75 of them because that is all the school has room for next year. It would

be a shame to not only tell the 125 kids that there isn't room for them, but to also tell the other 75 that they won't be accepted because of lack of funding.

MR. LINDQUIST explained that when the kids in town are having parent/teacher conferences during the first and third quarters the school sends six teams out to the villages to meet with parents. One team just returned from St. Mary and Mountain Village and the number of requests for enrollment is scary as our demand keeps going up and the number of slots open keeps going down, he said. Mr. Lindquist explained that the Nenana community does not ever wish to be larger than 100 students.

MR. LINDQUIST commented that Representative Coghill said that Nenana would provide for 100 students, but it will really only have room for 75. At that number it will generate about \$4,450 per student if HB 425 passes as written. He said with 75 kids that is about \$338,000 which is probably less than the top dollar amount the bill is looking at.

MR. LINDQUIST told the members that in the first year, 2001-2002 Nenana received zero funding for the operations of the Nenana Student Living Center, for 2002-2003 it again received zero funds, but in 2002-2003 the center received a one-time grant of \$500,000.

Number 1894

MR. LINDQUIST said that according to a report published by Senator Wilkens if the 75 students who attended Nenana Student Living Center had stayed in their home communities, it would have cost the state of Alaska an additional \$350,000. In summary he said, Nenana is providing an excellent education and doing it for less money than it would cost to educate the student's in their home village.

Number 1915

CHAIR WILSON asked if she understands correctly that community of Nenana built the boarding school and hoped that the money would follow.

MR. LINDQUIST replied that he was not at Nenana when this took place. He thought perhaps Representative Coghill might have some background on that. Mr. Lindquist explained that he had been an educator in a K-12 facility and decided to take some time off. He then got involved in this project and has found it

totally consuming. The staff and the school district is so supportive of this program that ways have been found to fund it.

Number 1967

LISA BROOKS, student, Nenana Student Living Center, testified in support of HB 425 and answered questions from the members. She explained that she and her two sisters attend the Nenana Student Living Center. Originally she lived in Nenana and living at the center has given her the opportunity to improve her grades. Ms. Brooks said she is currently an honor student which is something she had never achieved before. She said the staff members really care about the students, and the activities are great. Ms. Brooks added that she is a member of the snowboarding club. There are a wide variety of course offerings such as EMT, culinary arts, and construction classes, she said.

Number 2038

CHAIR WILSON asked if Ms. Brooks lives at home or in the boarding school.

MS. BROOKS responded that she lives at the living center. She said that when her dad got a job in Fort Yukon she had the choice of going to Fort Yukon or staying in Nenana and attending the Nenana Student Living Center. She commented that she is happy she stayed in Nenana.

Number 2064

JOHN GRIMES, Dormitory Parents, Nenana Student Living Center, testified in support of HB 425 and answered questions from the members. He shared that he and his wife came to Alaska in 1994 from Dallas, Texas, with their six children. Because of the work he had done with teenagers he believed this boarding school would be a good thing for the community and the students who enrolled. He spoke at a community hearing and was asked to serve on the steering committee to move forward with the process.

Number 2141

MR. GRIMES commented that earlier the question was asked about the plan for funding when the boarding school program was first explored. He said that the community believed that "if you build it, the money will come." The reality is that the money was not there and it was a rude awakening. Ralph Lindquist,

Dean of Students, should be credited with getting the living center on a good solid foundation, he said.

MR. GRIMES said that he had no intention of being involved with the school, but he and his wife were asked to be dormitory parents. For the first two years they were in the girls wing and it was an incredible experience. Mr. Grimes told the members that the third year they decided it was time for a change and have been in the boys' wing. He said that he just returned from a week in Kongiganak where there were parent conferences. It was a great trip and students are very excited about going to Nenana. He said he believes what he and his wife bring to the school is their experience raising seven kids, only one of which is still at home. Mr. Grimes told the members that these kids come there scared, without direction in what to do in life, and the staff just helps to guide them and do whatever can be done. This is an incredible program and urged the members to support HB 425. In closing he said he does not want to look these guys in the eyes and tell them they can't come back. That would be the toughest hall meeting he could have with these guys, he said.

Number 2243

CHAIR WILSON asked if his children live with him at the dormitory.

MR. GRIMES replied that all but one child is grown and gone from home. Nathaniel is ten and lives in the dorm and goes to Nenana school, he has 17 big brothers and 40 or 50 big sisters. He commented that he has the typical little brother syndrome where he gets on the older boy's nerves, the older boys put him in his place, and everything's fine. He said Nathaniel loves it, we love it, and believes the students do too.

Number 2308

JIM SMITH, Superintendent, Galena Residential School Program, Galena City School District, testified in support of HB 425 and answered questions from the members. In response to Representative Gatto's question, Mr. Smith responded that Galena shares several programs with Nenana. Some of the funding that the boarding schools have enjoyed have come from federal assistance through Senator Stevens. Currently Galena is in the first year of support from an Alaska Natives grant which is funding five staff members at the Galena dormitory, two staff members at the Nenana dormitory, and three staff members at Mt.

Edgecumbe. He explained that all of that funding is directed toward training for the ASSETS program which was brought to the school by the Alaska Association of School Boards.

MR. SMITH told the members that Galena does not operate with dormitory parents as Nenana does; it has a dormitory staff. The dormitory houses 85 students at the former airbase. There is a director with 12 dormitory staff, three of which are hall managers, two floor managers, and six residential advisers. The model Galena uses is close to what one would expect to see in a college. He agreed with much of the previous testimony the members have heard with respect to the return rate of students. This year it was 100 percent, and there is a waiting list for next year. The school has prioritized the waiting list to give preference to siblings who are currently enrolled.

REPRESENTATIVE GATTO pointed out that in addition to the boarding school program Galena also has the Interior Distance Education of Alaska (IDEA) program. He asked if the two programs are involved in any way.

TAPE 04-26, SIDE B

Number 2380

MR. SMITH explained that the residential students are in a separate program on the base. He said that students are bused between the two city schools and the base for the vocational program. Students who are enrolled in the IDEA correspondence school program do come to Galena for two weeks when the students spend time in different vocational programs. For example, there is a pre-flight school where IDEA students come to Galena, stay at the dormitory, and take part in some of the introductory pilot training classes. The same is true of the mechanics course that is offered. However, Mr. Smith emphasized that the students in the residential program do not use the correspondence program.

Number 2324

ALFRED KETZLER, Executive Director, Nenana Native Council, testified in support of HB 425. He told the members that Nenana has a long history of boarding schools dating back to the turn of the century when the Episcopal Church ran a boarding school through the 1950s. Then again in the late 1960s the local church ran a boarding school program which continued through 1974, when it was taken over by the housing authority out of

Fairbanks until the 1980s. Mr. Ketzler explained that there was a period of time after that when no boarding home in Nenana existed. The community began working together again on the boarding home concept because Nenana had a large school and plenty of room for students.

MR. KETZLER shared that the local tribe has just announced that it will be breaking ground in June on a recreational youth education center. It will be a multi-purpose center, but will be primarily used to create additional opportunities for activities for the students who come to Nenana from all over the state. He said that he believes this is a very strong indication of the tribe's support of the boarding home program.

Number 2216

ANN ESMAILKA, parent of a student at Nenana Student Living Center, testified in support of HB 425. She told the members that she is very pleased with the way the boarding school is operated. The educational opportunities are challenging and there are also more recreational activities available to the students than what is provided in the village.

Number 2163

REPRESENTATIVE GATTO asked Mr. Jeans for clarification on the statement that the base student allocation follows the student. The base student allocation in Nenana is based on the number of students for that district, and not on the base student allocation provided to the home district of the student.

Number 2144

MR. JEANS replied that is correct.

REPRESENTATIVE GATTO commented that since that is true, there is a net savings to the state when a student transfers to a boarding home program, even though there is a net cost in funding the boarding school. He said he believes it is probably not "a wash," but certainly not as lopsided as it might seem to be.

CHAIR WILSON said that at Mt. Edgecumbe the students get an excellent education. She asked what the funding level is at Mt. Edgecumbe.

MR. JEANS replied that Mt. Edgecumbe receives a little over \$14,000 [per student] for the instructional and residential components.

CHAIR WILSON commented that it is important to look at the costs of these programs and what is being accomplished.

REPRESENTATIVE COGHILL told the members that he included a sunset provision in the bill deliberately to ensure that the legislature will take a close look at boarding school programs.

Number 2069

REPRESENTATIVE KAPSNER moved to report HB 425, Version H, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, House Health, Education and Social Services Standing Committee reported CSHB 425(EDU) out of committee.

HB 427-PROTECTION OF PERSONS AND PROPERTY
Number 1998

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 427, "An Act relating to guardianships and conservatorships, to the public guardian and the office of public advocacy, to private professional guardians and private professional conservators, to court visitors, court-appointed attorneys, guardians ad litem, and fiduciaries, and to the protection of the person or property of certain individuals, including minors; amending Rules 16(f) and 17(e), Alaska Rules of Probate Procedure; and providing for an effective date."

Number 1960

JIM SHINE, Staff to Representative Tom Anderson, Alaska State Legislature, presented the bill on behalf of Representative Anderson, sponsor of HB 427. He provided the following sponsor statement:

HB 427 will go a long way towards preventing exploitation and mistreatment of vulnerable and incapacitated adults receiving the services of a private guardian or conservator. It was drafted with input from the Alaska State Association for Guardianship and Advocacy, also known as ASAGA, the Office of Public Advocacy, Adult Protective Services,

the Long-Term Care Ombudsman's office, the Disability Law Center, and the Senior Advocacy Coalition.

In Alaska, professional guardians (both private and public) and family guardians provide services to approximately 2,500 disabled, vulnerable adults.

Under current law, private guardians and conservators - individuals with the responsibility to make housing, legal and medical decisions for the disabled, infirm, mentally ill, and seniors - are completely unregulated by the State. Many other states regulate their private guardians appropriately so. Vulnerable and incapacitated adults are easy prey for those wishing to exploit their resources.

This legislation would grant the State regulatory authority over private guardians and conservators and establish minimum qualifications and standards. The State oversight and standards for such a sensitive and critical job will help ensure that vulnerable and incapacitated adults receive the care they deserve.

HB 427 would ensure those individuals or organizations wishing to serve as private guardians or conservators meet certain criteria, and register with the State. Specifically, this legislation requires private guardians to be certified by the National Guardianship Foundation and have at least 2 years of professional experience working with clients, or a degree in human services, social work, psychology, sociology, gerontology, special education, or a closely related field. HB 427 will also require guardians to have experience in financial management or a degree in accounting. Critically, this legislation prohibits private guardians from registering with the State and practicing until a State and national criminal background check is performed.

Finally, HB 427 allows the Division of Occupational Licensing to revoke a private guardian's license if he or she has been found to have abandoned, exploited, abused, or neglected his or her ward, or has become unfit due to professional incompetence. In short, through regulatory oversight and the establishment of professional and academic standards, this legislation

will help ensure disabled adults are not exploited by those entrusted to manage their affairs.

Number 1882

REPRESENTATIVE GATTO moved to adopt CSHB 427, 23-LS1627\D, Bannister, 4/1/04, before the committee as the working document. There being no objection, CSHB 427, Version D, was before the House Health, Education and Social Services Standing Committee.

MR. SHINE responded that he will defer to Betty Wells who has been working with the drafter on the bill. He commented that it is his understanding that Version D has taken away most of the registration requirements and placed the responsibility with the Division of Occupational Licensing.

Number 1854

REPRESENTATIVE SEATON asked if the committee could be advised of the differences between Version A and Version D.

Number 1806

BETTY WELLS, President, Alaska State Association for Guardianship Advocacy (ASAGA); testified in support of HB 427 and answered questions from the members. She provided the following statement:

In terms of what you have in front of you, the first ten pages are the sections [Sec. 13.26.]500 through [Section 13.26.]590 from the earlier draft and took the statutory regulations pretty much verbatim out of 500 through 590 and put that into Occupational Licensing. So the first ten pages of the committee substitute were in the old draft, they were just in the back. In addition to doing that it also added some new language with requirements for licensure in terms of age of the person, education, experience, and provides for a temporary license and those are in 08.26.030 and 040, on page two of the committee substitute. That is the major change from the draft to the committee substitute.

CHAIR WILSON commented that this is an effort to pull all of [licensing requirements] together.

MS. WELLS replied that the requirements were in the guardianships statutes in AS 13.26. They were moved out of the registration for private professional guardians and pulled together and moved to the statutes for occupational licensing which is in AS 08.01. After conferring with the Division of Occupational Licensing it was decided that there was greater comfort in monitoring this program by calling it a license, she said. It has gone from a registration to a license under the Division of Occupational Licensing, she added.

MS. WELLS told the members that the other language in the bill is clarifying current statutory language and practice. She reiterated that the vital changes are in the first ten pages of the committee substitute which regulates private guardians. Ms. Wells explained that currently Alaska has no regulations in place. A couple of years ago there was an incident with a private agency and it eventually went bankrupt. There is still fallout from that, and this event made ASAGA realize that it could no longer be thought that Alaskans are protected, she said.

MS. WELLS said that Alaska is not alone in the effort to protect vulnerable adults. She shared that there have been recent news articles in the Detroit Free Press and out of Queens, New York expressing the need for wide spread reform.

Number 1712

MS. WELLS reiterated Mr. Shine's comments that this was a collaborative effort which took place over the last six years.

Number 1682

REPRESENTATIVE WOLF asked Ms. Wells if she is a guardian.

MS. WELLS replied no. She told the members that she is a court visitor in the Third Judicial District in Anchorage. Ms. Wells explained that she has been working with adult guardian investigations for about 15 years.

REPRESENTATIVE WOLF asked Ms. Wells if she has a family member or a personal friend that is a guardian.

MS. WELLS responded that she does not. She emphasized that she works with guardians. Ms. Wells explained that she is a registered guardian with the National Guardianship Foundation through her work and has served as a guardian on a contract

basis through the Office of Public Advocacy at different times. She stated she primarily works as a court investigator.

Number 1622

REPRESENTATIVE GATTO commented that the bill is 28 pages long, and the sectional analysis has 33 parts. He asked if Ms. Wells would provide a summarizing statement.

MS. WELLS reiterated that the first ten pages of the committee substitute is new legislation which is being proposed to regulate private agencies. Currently there is no legislation in place. For example, a person could have a felony conviction for embezzlement and if a judge were conned into appointing that person he/she could serve as a guardian. She explained that the new legislation takes the responsibility away from the judges and places the licensing requirement with the Division of Occupational Licensing. The rest of the bill is basically clarification and clean up language of the conservatorship and guardianship statutes. She stated that ASAGA believes it is essential to put trust back in the system. Ms. Wells told the members that Alaska is far ahead of many states with respect to the rights that are guaranteed to vulnerable adults.

Number 1491

REPRESENTATIVE GATTO asked what was the composition of the group who developed what constituted good regulations.

Number 1479

MS. WELLS responded that there was a study done by the McDowell Research Group in 1997 which was funded through the Division of Senior Services in Anchorage. The McDowell Study made six major recommendations. The groups that has been working on this since 1997 are the Disability Law Center, private attorneys, public guardians, private guardianship agencies, court officials, family guardians, Adult Protective Services, and the Long-Term Care Ombudsman.

REPRESENTATIVE CISSNA asked if the group looked at what other states have done.

MS. WELLS replied that currently Washington and Arizona require that a private professional guardian be licensed or registered with the state and be certified by the National Guardianship Foundation. As of January 1, 2003 Florida requires all

professional guardians be licensed and seek ongoing education. California is now working on state specific certification that will work with national certification. She said she believes these states are ahead of Alaska. Ms. Wells explained that there are states out there that do not offer respondents rights of having an attorney or a court hearing. She summarized that Alaska has been ahead in some of the recommendations that have been made nationally, but HB 427 is an important bill.

Number 1308

JOSH FINK, Director, Office of Public Advocacy (OPA), testified in support of HB 427 and answered questions from the members. He told the members that he believes this bill is critical because there is a need to regulate the professional industry that has such immense power over vulnerable and incapacitated adults. The state regulates hairdressers, but it does not regulate people who make decisions about others medical care, housing, or legal decisions. He reminded the members of an incident that happened many years ago where a private guardian went bankrupt. He commented that the office is still dealing with the consequences of that event.

MR. FINK said he believes it is important to ensure the integrity of this industry with the public and the courts. He explained the OPA is currently the guardian of last resort. When looking for a guardian the family is considered first and then private organizations are suppose to be considered before going to OPA. However, increasingly the courts do not have any level of confidence in the private guardians out there so OPA is being appointed more and more. Mr. Fink said he would like to encourage the development of more private professional guardians and conservators. It would be better for private professionals to cover that void than government agencies, he added. He said he does not believe that there will be an industry developed with the level of confidence needed in the private sector until there are state regulations in place.

Number 1188

REPRESENTATIVE WOLF asked Mr. Fink if he, any member of his family, or a personal friend are guardians.

MR. FINK replied that there a number of public guardians in the agency. He commented that Jim Parker, Supervisor, Public Guardians Section, of OPA, and Steve Young, lead public guardian, are sitting in on this meeting. Mr. Fink added that

he is also acquainted with "B" Jarvi in Fairbanks who is a private guardian.

REPRESENTATIVE WOLF asked if these individuals have gone through the process and have answered the questions necessary to be a guardian for a vulnerable adult.

MR. FINK commented that Sharon Wells was instrumental in crafting the legislation. He said OPA's public guardians, including Steve Young and Jim Parker worked on the bill also. The Private Guardian Services Corporation (PGSC) where "B" Jarvi is associated has been a member of ASAGA, but recently, he said it withdrew from the group.

Number 1087

REPRESENTATIVE SEATON referred to page 16, lines 7 through 11 and read the following new language:

When appointing a relative or a friend of the incapacitated person as the guardian of an incapacitated person, the court shall require that the proposed guardian complete one hour of mandatory education on the basics of a guardianship before the appointment or within 30 days after the appointment.

REPRESENTATIVE SEATON asked if the one-hour course exists now or is a requirement that will be formulated after the passage of this legislation.

Number 1036

MR. FINK responded that the OPA currently provides training to families on how to provide guardianship services. That training is made available to communities and there are a number of people who offer classes. He added that OPA also has books, videos, and written material which has been put in public libraries. He added that currently OPA has distributed material to the courthouse as well. In summary this is not a class that needs to be created, the material is already available, Mr. Fink said.

Number 1011

REPRESENTATIVE KAPSNER asked if any faith-based groups are doing this kind of work.

MR. FINK replied not to his knowledge.

REPRESENTATIVE KAPSNER asked if guardian ad litem for adults with disabilities is pretty much the same as guardian ad litem for children in need of aid cases (CINA).

MR. FINK responded that the two are different. The guardian ad litem in a child's case represents the best interest of the child. When the problems are resolved, the guardian ad litem is no longer involved. When there is an adult with a public or private guardian typically most disabled adults have life-long disabilities and the guardian would be a long-term guardian and would be looking out for the best interest of the client.

REPRESENTATIVE KAPSNER commented that in CINA cases the guardian ad litem are appointed, and asked if it works the same way with guardians.

MR. FINK replied there are two different processes. In CINA cases typically the state will remove a child from the home, and start the court process. However, with guardianship case a petitioner could be a family member, a friend, or a co-worker. It still requires going to court, but there are different laws that apply, he said.

Number 0850

REPRESENTATIVE KAPSNER referred to Section 7 in the sectional analysis where it says:

Section 7. Deletes an option for a guardian to request that a visitor be appointed to prepare and submit a report. Requires a court to appoint a visitor every three years to file a report reviewing the guardianship.

REPRESENTATIVE KAPSNER commented that she is unfamiliar with the terminology and asked what the term "visitor" means in this case.

Number 0850

MS. WELLS replied that the current language indicates that a visitor would be appointed to do a report. The intent of the statute is that a visitor would be appointed to do a report reviewing guardianship every three years. The guardian has to do a report every year, and then every three years a visitor has

to do a report for the courts. This is just clarifying language, she commented.

REPRESENTATIVE KAPSNER reiterated that she does not know what "visitor" means in this context.

MS. WELLS responded that in this bill a visitor is an investigator. The visitor provides notice to the person and talks to the petitioner, the person, the doctor, and relatives. The visitor provides a report to the court prior to a guardian being appointed. Then every three years the visitor provides a review of the guardianship to the court. This language just clarifies that a review is done every three years, not every year, she said.

Number 0750

JIM PARKER, Attorney, Public Guardian Section, Office of Public Advocacy, testified on HB 427. He told the members that the Office of Public Advocacy is the agency of last resort. It provides guardianship services to disabled adults who do not have family or friends available to serve. When a private organization went bankrupt a few years ago it left a lot of people in bad shape, he said. It is important that it does not happen again. He said he believes that HB 427 will not make it too onerous or difficult for those who are willing to serve, Mr. Parker commented. There needs to be a good balance that will protect vulnerable Alaskans.

Number 0636

"B" JARVI, Professional Guardian, Professional Guardian Services Corporation, testified on HB 427. She told the members that private professional guardians are not notified that cases are available from the court visitor, the court itself, or the OPA contract attorney. Ms. Jarvi said she has been told that it is the decision of the head court visitor to omit notifying professional guardians of cases available. Ms. Jarvi told the members that since she is not in court it is a bit hard for the courts to determine whether the services provided are trustworthy or not.

MS. JARVI said she has been told that the latest data reflects that professional private guardians only have ten percent of the cases, which means the OGA who regulates the private guardian industry is also the main competitor. She told the members that when she does hear of a case and goes into court she is

confronted by the OPA contract attorney who is paid by the hour by the OPA, a court visitor who is paid by the OPA, and members of the staff of the OPA fighting for the case. She told the members there is a stacked deck against professional private guardians.

MS. JARVI testified that she has no problem with certification of professional or private guardians and believes it to be a good idea for everyone. However, she said she believes that the guardians in the state OPA should also meet the same criteria and court visitors should also have standards imposed upon them with respect to professional liability. She added that there should also be background checks required of OPA staff, court visitors, and contractors.

Number 0399

MS. JARVI explained that OPA is currently setting fees for her business at \$40 per hour, as opposed to what it actually costs to provide this service. She explained that she cannot compete at that rate and still cover the overhead costs. Ms. Jarvi reiterated that she is glad to meet any standards and criteria provided that there is a level playing field and the same criteria applies to everyone else. She explained that there is a lot of conflict between the private guardians and OPA because it has the option of regulating the private guardians. Someone has to regulate the industry, but by far the large number of complaints are against OPA, not the private guardians, because no one is regulating OPA, she pointed out. Ms. Jarvi commented that she believes Alaska statute provides very good protection. She reiterated the unfairness of the agency regulating and reviewing its competition.

MS. JARVI stated that this bill is a self-serving bill to increase staffing and the role of OPA. Under statute OPA is required to look for alternate guardians and conservators. This is not happening, Ms. Jarvi told the members.

MS. JARVI shared an experience where she had a respondent nominate her as guardian, go to court, only to have the OPA attorney steer the case to OPA. Even though he is suppose to represent the respondent, he also is the guardian ad litem and projects his wishes as if it were the respondents, she said.

TAPE 04-27, SIDE A

Number 0038

MS. JARVI emphasized the importance of having a level playing field. She urged the members to ensure that the OPA does not compete with the private sector. The system needs to be fixed, she said.

Number 0107

CHAIR WILSON announced that HB 427 would 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.