

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

April 20, 2004  
2:15 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. 543

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

- MOVED CSHB 543(HES) OUT OF COMMITTEE

HOUSE BILL NO. 176

"An Act providing that certain obligors can receive credit against their child support obligation for certain types of noncash child support; and providing for an effective date."

- MOVED CSHB 176(HES) OUT OF COMMITTEE

SENATE BILL NO. 373

"An Act relating to residency and internship permits issued by the State Medical Board; and providing for an effective date."

- MOVED SB 373 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 179(FIN)

"An Act relating to criminal history records and background checks; allowing persons to teach in the public schools for up to five months without a teaching certificate if the person has applied for a certificate and the application has not been acted upon by the Department of Education and Early Development due to a delay in receiving criminal history records; allowing teacher

certification for certain persons based on a criminal history background check without fingerprints; and providing for an effective date."

- MOVED HCS CSSB179(HES) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 543

SHORT TITLE: MEDICAID AND PRESCRIPTION DRUGS

SPONSOR(S): HEALTH, EDUCATION & SOCIAL SERVICES

03/25/04	(H)	READ THE FIRST TIME - REFERRALS
03/25/04	(H)	HES
04/01/04	(H)	HES AT 3:00 PM CAPITOL 106
04/01/04	(H)	Scheduled But Not Heard
04/06/04	(H)	HES AT 3:00 PM CAPITOL 106
04/06/04	(H)	Scheduled But Not Heard
04/13/04	(H)	HES AT 2:00 PM CAPITOL 106
04/13/04	(H)	Heard & Held
04/13/04	(H)	MINUTE(HES)
04/20/04	(H)	HES AT 2:00 PM CAPITOL 106

BILL: HB 176

SHORT TITLE: NONCASH CHILD SUPPORT

SPONSOR(S): REPRESENTATIVE(S) COGHILL

03/07/03	(H)	READ THE FIRST TIME - REFERRALS
03/07/03	(H)	HES, JUD
04/13/04	(H)	HES AT 2:00 PM CAPITOL 106
04/13/04	(H)	Scheduled But Not Heard
04/20/04	(H)	HES AT 2:00 PM CAPITOL 106

BILL: SB 373

SHORT TITLE: PHYSICIAN INTERNS AND RESIDENTS

SPONSOR(S): HEALTH, EDUCATION & SOCIAL SERVICES

03/19/04	(S)	READ THE FIRST TIME - REFERRALS
03/19/04	(S)	HES
03/22/04	(S)	HES AT 1:30 PM BUTROVICH 205
03/22/04	(S)	Moved SB 373 Out of Committee
03/22/04	(S)	MINUTE(HES)
03/24/04	(S)	HES RPT 4DP 1NR
03/24/04	(S)	DP: DYSON, GREEN, WILKEN, DAVIS;
03/24/04	(S)	NR: GUESS
03/26/04	(S)	TRANSMITTED TO (H)
03/26/04	(S)	VERSION: SB 373

03/29/04 (H) READ THE FIRST TIME - REFERRALS  
 03/29/04 (H) HES  
 04/06/04 (H) HES AT 3:00 PM CAPITOL 106  
 04/06/04 (H) Scheduled But Not Heard  
 04/20/04 (H) HES AT 2:00 PM CAPITOL 106

BILL: SB 179

SHORT TITLE: CRIMINAL BACKGROUND CHECKS/TEACHERS

SPONSOR(S): SENATOR(S) THERRIAULT

04/08/03 (S) READ THE FIRST TIME - REFERRALS  
 04/08/03 (S) HES, FIN  
 04/16/03 (S) HES AT 1:30 PM BUTROVICH 205  
 04/16/03 (S) Moved CSSB 179(HES) Out of Committee  
 04/16/03 (S) MINUTE(HES)  
 05/10/03 (S) HES RPT CS 2DP 1NR NEW TITLE  
 05/10/03 (S) DP: DYSON, WILKEN; NR: DAVIS  
 05/13/03 (H) FIN AT 8:00 AM SENATE FINANCE 532  
 05/13/03 (S) <Above Item Removed from Agenda>  
 05/13/03 (S) MINUTE(FIN)  
 03/08/04 (S) FIN RPT CS 5DP 2NR NEW TITLE  
 03/08/04 (S) DP: GREEN, WILKEN, DYSON, BUNDE,  
 03/08/04 (S) STEVENS B; NR: HOFFMAN, OLSON  
 03/08/04 (S) FIN AT 9:00 AM SENATE FINANCE 532  
 03/08/04 (S) Moved CSSB 179(FIN) Out of Committee  
 03/08/04 (S) MINUTE(FIN)  
 03/15/04 (S) TRANSMITTED TO (H)  
 03/15/04 (S) VERSION: CSSB 179(FIN)  
 03/16/04 (H) READ THE FIRST TIME - REFERRALS  
 03/16/04 (H) EDU, HES, JUD  
 03/23/04 (H) EDU AT 11:00 AM CAPITOL 124  
 03/23/04 (H) Moved Out of Committee  
 03/23/04 (H) MINUTE(EDU)  
 03/24/04 (H) EDU RPT 4DP 1NR 1AM  
 03/24/04 (H) DP: WILSON, OGG, SEATON, GATTO;  
 03/24/04 (H) NR: KAPSNER; AM: WOLF  
 04/20/04 (H) HES AT 2:00 PM CAPITOL 106

**WITNESS REGISTER**

RYNNIEVA MOSS, Staff  
 to Representative John Coghill  
 Alaska State Legislature  
 Juneau, Alaska

POSITION STATEMENT: Presented HB 176 for Representative  
 Coghill, sponsor of HB 176 and answered questions from the  
 members.

DIANE WENDLANDT, Chief Assistant Attorney General  
Statewide Section Supervisor  
Civil Division

Department of Law  
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 176 and answered questions from the members.

JOHN MALLONEE, Acting Director  
Child Support Enforcement Division  
Department of Revenue

Anchorage, Alaska

POSITION STATEMENT: Testified on HB 176 and answered questions from the members.

ZACK WARWICK, Staff  
to Senator Gene Therriault  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented SB 179 for Senator Therriault, sponsor of SB 179.

DAVID SCHADE, Director  
Division of Statewide Services  
Department of Public Safety  
Anchorage, Alaska

POSITION STATEMENT: Testified on SB 179.

Kathryn Monfreda, Chief  
Criminal Records  
Division of Statewide Services  
Department of Public Safety  
Anchorage, Alaska

POSITION STATEMENT: Testified on SB 179.

CYNDY CURRAN, Teacher Education and Certification  
Teaching and Learning Support  
Department of Education and Early Development  
Juneau, Alaska

POSITION STATEMENT: Testified on SB 179 and answered questions from the members.

SENATOR GENE THERRIAULT  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: As sponsor, testified on SB 179 and answered questions from the members.

PAULA HARRISON, Director  
Human Resources Department  
Matanuska-Susitna Borough School District  
Palmer, Alaska

POSITION STATEMENT: Testified on SB 179 and answered questions from the members.

**ACTION NARRATIVE**

**TAPE 04-33, SIDE A**

Number 0001

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at 2:15 p.m. Representatives Wilson, Gatto, Wolf, Coghill, and Seaton were present at the call to order. Representative Cissna arrived as the meeting was in progress. Representative Kapsner was excused.

HB 543-MEDICAID AND PRESCRIPTION DRUGS

Number 0144

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 543, "An Act relating to medical assistance coverage for prescription drugs; and providing for an effective date."

CHAIR WILSON reminded the members that HB 543 has been heard twice before; therefore there will be no public testimony today.

Number 0221

REPRESENTATIVE Coghill moved to adopt HB 543, version H, as the working document. There being no objection, version H was before the committee.

Number 0292

CHAIR WILSON moved to adopt Amendment 1, [labeled 23-LS1835\H.1, Mischel, 4/8/04] which reads as follows:

Page 3, lines 27 - 30:

Delete: "a preferred drug list adopted by the Department of Health and Social Services before the effective date of this Act may be implemented until the effective date of regulations adopted under this Act or until six months after the effective date of this Act, whichever date occurs first"

Insert: "a preferred drug list initiated by the Department of Health and Social Services before the effective date of this Act must be reviewed for consistency with regulations adopted under this Act and may not be implemented before the effective date of the regulations adopted under this Act, except that a prescription drug list initiated before the effective date of this Act may be implemented for prescription drug coverage under the senior care program established under ch. 3, SLA 2004, until the effective date of regulations adopted under this Act or until six months after the effective date of this Act, whichever date first occurs"

CHAIR WILSON began discussion on Amendment 1 by explaining that by deleting current language and inserting new language it would require that the prescription drug list (PDL) be reviewed for consistency with regulations that are adopted by the Department of Health and Social Services. She added that the PDL for the senior care program which was initiated prior to this legislation is exempt. Chair Wilson reiterated that it is not her intention to negate what has already been done, but to ensure that the PDL still be reviewed. The review must take place within six months or by the effective date of the regulations, whichever date is first, she summarized.

Number 0426

REPRESENTATIVE CISSNA objected.

CHAIR WILSON stated that she believes it is essential to have regulations in place so that if there are changes to be made there is a guarantee that those changes must go through the administrative procedures process.

REPRESENTATIVE CISSNA said she is objecting because HB 543 is a very complicated bill and she needs more time to figure out how this amendment affects the PDL.

CHAIR WILSON told the members that Alaska is one of 33 states that has a PDL, and is included in that list because of the Senior Care program. All of the states who have PDLs, except Ohio, have implemented it through regulation to ensure that there is clarity in the parameters of the PDL.

REPRESENTATIVE CISSNA asked for the source of the list of states with PDLs. She said she would like to know what the programs are like because she suspects they may be very different from each other.

CHAIR WILSON agreed that each state is different. She said she believes this is important because it is essential that the department follow through with a consistent regulated process. It is the legislature's duty to ensure this is done, Chair Wilson emphasized.

Number 0561

REPRESENTATIVE CISSNA shared that last year she went to a meeting in Chicago conducted by the National Conference of State Legislatures (NCSL). One of the workshops focused on PDLs and the experiences of other states, she said. There is a huge lobby effort from the pharmaceutical companies and doctors because it brings down a lot of expenditures to the pharmaceutical companies. The prices of pharmaceuticals are going up faster than any other sector in the health care market. Representative Cissna told the members that this is one reasonable way to bring the costs down. She agreed with Chair Wilson on the importance of oversight in this process. She said her only concern is that this requirement may make it difficult for the department get at this as soon as is needed.

Number 0683

CHAIR WILSON commented that the amendment was given to the members at the last meeting.

Number 0695

REPRESENTATIVE SEATON said that he is trying to figure out what the effect of this would be. He said he understands this amendment would allow for the PDL to go forward under the Senior Care program. However, it would prevent that PDL from being applied to any other Medicaid program until regulations could be adopted and a new drug list constructed in compliance with those

regulations. What is the fiscal impact of that change, he asked.

CHAIR WILSON replied that the department makes and changes regulations in other areas all the time. That cost is normally absorbed in the department's budget. She told the members that there is a fiscal note in this case and believes it was included to stop the bill.

REPRESENTATIVE SEATON clarified that he is not speaking about the fiscal note with respect to creating regulations. The way this is set out means the PDL, the savings that were anticipated cannot go into effect until regulations, and a new PDL is in place.

CHAIR WILSON responded that lot depends on how quickly the department works to implement the regulations and PDL. She added that it will not be \$20 million.

REPRESENTATIVE SEATON asked if there is a revised fiscal note.

CHAIR WILSON replied that there is a zero fiscal note.

Number 0850

A roll call vote was taken. Representatives Wolf, Seaton, Wilson, and Gatto voted in favor of Amendment 1. Representatives Cissna voted against it. Therefore, Amendment 1 passed by a vote of 4-1.

Number 0932

CHAIR WILSON moved Amendment 2, which reads as follows:

Page 4, line 2:  
Delete "January 1"  
Insert "March 1"

CHAIR WILSON explained that this amendment delays the date of implementation of a PDL on mental health drugs. She reminded the members of discussions concerning the importance of making sure the PDL is working and the process is in place. The department told the members that its plan was to wait a year before working on mental health drugs. This date would be about a year from now, while the legislature is in session and can observe any changes, she added.

Number 0989

REPRESENTATIVE SEATON objected for purposes of discussion. There is a six-month period for the department to adopt and implement regulations. This amendment would create an additional two-month delay, he commented. He told the members that he does not see the point in delaying the implementation another two months unless it is the legislature's intention to overturn the regulations the department adopts. If that is the case, then all the work the department had done would be negated, and it would have to start over again and which would mean another one-year delay would occur.

CHAIR WILSON told the members she feels strongly about this amendment. The separation of powers for checks and balances is essential. She stated that she wants the legislature to be in session when these changes occur so there is an awareness of the impact of these changes.

Number 1093

REPRESENTATIVE GATTO questioned the purpose of singling out psychotropic drugs for special treatment. He said he believes that any class of drugs deserves special treatment. Representative Gatto said he would like to hear some justification for this.

Number 1112

CHAIR WILSON explained that there has been testimony about the history of mental health treatment. At one time API was full to capacity and now the new facility is much smaller. Over the years drugs have been developed that allow individuals with mental illness to lead productive lives. She said she believes changing medication on these people could end up costing the state more money because of additional hospitalization. Chair Wilson pointed out that many of the states have chosen not to put mental health drugs on the PDL at all. There have been cases where individuals were taken off of drugs and suicides occurred. She cautioned that there needs to be great care with respect to these drugs. Chair Wilson clarified that she is not saying don't include these drugs on the PDL, but to proceed slowly and carefully.

REPRESENTATIVE SEATON asked how this would proceed. He asked if it would be a case where individual patient's drug treatments would be monitored to see how they react to treatment.

Representative Seaton reiterated that the bill sets out a program where the department must adopt regulations, and there is a delay to ensure implementation is working. He questioned what the legislature would be monitoring because he does not see it reviewing individual drugs for inclusion in the PDL.

CHAIR WILSON responded that mental health patients are far more fragile than other patients. She said she believes it is important to proceed in a smooth and careful way. The department told the committee that it planned to wait one year before reviewing psychotropic drugs. However, she said she found out that the department was referring to the fiscal year, not the calendar year. At the next meeting the PDL Committee is planning on taking up these drugs with the intention of putting the PDL in place starting July 1. That is not the impression the committee was left with originally, she stated.

REPRESENTATIVE SEATON maintained his objection.

Number 1322

REPRESENTATIVE COGHILL told the members that he believes there is already increased scrutiny on psychotropic drugs. He pointed out that there will be a new session in January when the legislature can review the progress. Representative Coghill said he is concerned about the cost-containment issue related to the delay.

Number 1434

REPRESENTATIVE WILSON replied that she believes it is important that the legislature already be in session when the changes take effect.

Number 1439

REPRESENTATIVE COGHILL said he does not think this date change will make any difference and opposes the amendment.

A roll call vote was taken. Representative Wilson voted in favor of Amendment 2. Representatives Gatto, Wolf, Coghill, Seaton, and Cissna voted against it. Therefore, Amendment 2 failed to be adopted by a vote of 1-5.

Number 1491

REPRESENTATIVE SEATON REPRESENTATIVE moved Amendment 3, as follows:

On Page 2  
Delete: Lines [2] and 4

CHAIR WILSON objected for discussion purposes.

REPRESENTATIVE SEATON explained that this section relates to the regulations that will be adopted and he believes this subsection is inappropriate because this appeal refers to "person" which could mean a company, not just an individual. He told the members that he has spoken with some of the industry members and agreed that it would not be their intention to have each drug manufacturer appeal each decision which would then slow down the construction of the PDL. Appeals for patients are already covered in subsection (4), he added. Representative Seaton commented that he believes it was just a drafting error and should be eliminated.

CHAIR WILSON withdrew her objection. There being no further objection, Amendment 3 was adopted.

Number 1588

REPRESENTATIVE SEATON directed the members' attention to page 2, line 9. He asked if the Alaska Care program only uses the terms "medically necessary." He questioned whether the terms "dispense as written" would add confusion. Using the terms dispense as written does not allude to the fact that there is any medical necessity in dispensing a particular drug, he pointed out.

Number 1623

REPRESENTATIVE SEATON moved Amendment 4, as follows:

Page 2, line 9, After "prescription the phrase"  
Delete "dispense as written,"

Page 2, line 10, After "medically necessary"  
Delete ", or other wording with similar import"

REPRESENTATIVE SEATON told the members that he believes this change will eliminate any confusion for doctors when writing prescriptions.

There being no objection, Amendment 4 was adopted.

Number 1696

REPRESENTATIVE SEATON moved to report HB 543, as amended, 23-LS1835\H, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 543(HES) was reported out of the House Health, Education and Social Services Standing Committee.

HB 176-NONCASH CHILD SUPPORT

Number 1733

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 176, "An Act providing that certain obligors can receive credit against their child support obligation for certain types of noncash child support; and providing for an effective date."

Number 1757

RYNNIEVA MOSS, Staff to Representative John Coghill, Alaska State Legislature, presented HB 176 for Representative Coghill, sponsor of HB 176, and answered questions from the members. She explained that this bill has come a long way. In October of 2001 while attending a child in need of aid (CINA) workshop she met an incredible woman by the name of Faith Peters from Tanana. During that meeting Faith told her of the problems associated with CINA, and problems associated with villages and alcoholism. Faith told her of fathers in the villages that would cut an entire winter's worth of firewood, and fill the freezer with moose meat, but would not get any credit for contributing to the support of their children. Ms. Moss shared that Faith believes there is a self-esteem problem that could be addressed if the legislature were to change the law to enable noncash contributions to be used with respect to child support obligations. Representative Coghill, the Department of Revenue, and the Attorney General's Office have worked collectively to provide language which would allow the noncash contributions to be considered, she said.

MS. MOSS told the members she has a committee substitute that she would like to present which is version H. This morning the Attorney General's Office agreed to two amendments which she will also present for the committee's consideration, she added. Ms. Moss said she believes if a father or mother has a noncash

way of contributing to his/her children's support then credit should be accepted for it.

Number 1821

MS. MOSS read the sectional analysis into the record as follows:

Section 1. This section amends AS 25.27.020(b), "Duties and responsibilities of the agency", to allow the Child Support Division to apply noncash contributions of the noncustodial parent to his or her child support obligation if the following conditions exist:

1. the custodial parent has agreed to the arrangement
2. the noncash contributions can be for basic food, housing, and heat.
3. the agency may by regulation give credit for other types of noncash contributions because something may come up that has not been thought of.
4. with the adoption of the amendment the obligor would be required to show clear convincing evidence of the noncash contribution.
5. the custodial parent or guardian cannot be receiving assistance under the Alaska Temporary Assistance Program (ATAP) or the American Indian Welfare Reform Act.

Number 1886

REPRESENTATIVE SEATON asked Ms. Moss to elaborate the rationale on the final condition.

MS. MOSS explained that if a recipient of these programs were to receive cash, that amount would be applied to the individual's income; however, it is impossible to put a value on noncash contributions related to income in determining qualifications for ATAP. She added that it would add quite a fiscal note.

Number 1916

REPRESENTATIVE CISSNA commented that there would be a problem placing a value on particular items. For instance, a fish would be worth a different amount depending on the time of year, the part of the state, or the market systems. She suggested that the parents agree on the value of the items, rather than the division doing so.

MS. MOSS said that the department wants the parents to agree on the value of the item.

Number 1961

REPRESENTATIVE COGHILL asked for Ms. Moss to clarify that these items would be credited for child support enforcement purposes, but not for income qualification for welfare purposes.

MS. MOSS replied that is correct.

Number 1981

DIANE WENDLANDT, Chief Assistant Attorney General, Statewide Section Supervisor, Civil Division, Department of Law, testified on HB 176 and answered questions from the members. She told the members there was concern about having state agencies setting value on noncash contributions.

REPRESENTATIVE COGHILL directed attention to page 2, lines 14 and 15, and asked Ms. Wendlandt to speak to the reason this bill would not apply to those receiving public assistance or welfare.

MS.WENDLANDT responded that there are two problems. First, in order to qualify for public assistance an individual must identify all sources of income. A noncash contribution must be included as income, she emphasized. The second problem is that when a parent applies for public assistance he/she assigns his/her right to child support to the state. This is done so that the state can recover money it pays to support the children. This system would not work under these assistance programs, she pointed out.

REPRESENTATIVE SEATON referred to page 1, lines 12 and 13, which reads as follows:

**Notwithstanding the definition of "support order" in AS 25.27.900, the agency shall reduce the amount of money an obligor must pay ...**

REPRESENTATIVE SEATON posed a hypothetical question of a father who was making [child support] payments, while [the mother and children] are on public assistance. He said he surmises that the father's contributions would not count as a noncash payment. He asked for clarification in this case.

MS. WENDLANDT replied that he is correct. The noncash contributions are treated the same as a direct payment. In the hypothetical example Representative Seaton posed, once the mother and children go on public assistance, the mother has assigned her right to support to the state. She does not have the right to agree to an alternative payment or accept child support since that now belongs to the state, Ms. Wendlandt explained. In Representative Seaton's scenario if the father brought moose meat to the mother at a time when she is on public assistance, there would be no credit given by Child Support Enforcement Division (CSED) against the obligor child support.

Number 2144

CHAIR WILSON clarified that even if a father goes to the trouble of getting a moose, cutting it up, packaging it, and then brings it to the home, he will still not get any credit toward his CSED obligation.

MS. WENDLANDT agreed that is correct. She pointed out that once a family goes on public assistance a warning letter is sent to the obligor that all child support payments must be made through CSED. She emphasized that this should not come as a surprise.

CHAIR WILSON commented that she does not see the value in the bill.

MS. MOSS clarified that this bill applies to individuals who are not on public assistance. Once an individual goes on public assistance the individual gives up his/her right to negotiate because the state is supporting the family, she explained. In most of these cases it is a minimum support order of \$50 per month, she added.

CHAIR WILSON said in other words, this bill is for the woman not on welfare who is receiving payments directly from the father. If they agree that a cord of wood is worth \$50, then he could pay her \$50 less for child support.

MS. MOSS replied that is correct. She continued to read from the sectional analysis as follows:

Section 2 amends AS 25.27.060, "Order of support", to add a provision defining support order and to allow the agency or the court to reduce the cash payment of court or administrative support to reflect the payment of a noncash contribution.

Section 3 adjusts the uncodified law language that only noncash contributions made on or after the effective date of HB 176 being adopted.

MS. MOSS told the members that Section 3 is being added to ensure that parents do not come to CSED and say "last week he gave me a cord of wood." Noncash contributions would not apply until the effective date of the bill. She explained that an uncodified law is used for legislative intent, and also for a transitional provision for legislation with a short existence. Most legislation that is for five years or less is usually put in uncodified law, she added.

Number 2287

REPRESENTATIVE CISSNA asked if interest is accruing on child support payments that are not paid.

MS. MOSS replied that is correct. She directed any further questions to John Mallonee, Acting Director of the Child Support Enforcement Division, Department of Revenue.

**TAPE 04-B, SIDE \*33**

REPRESENTATIVE CISSNA asked if there is an incentive to noncustodial parents to continue being part of the family and encourage contributions to its support. She said there should be some accommodation for noncash payments.

MS. MOSS said that she and Representative Coghill agree with Representative Cissna, but have not been able to work out a way to accomplish it yet.

Number 2273

JOHN MALLONEE, Acting Director, Child Support Enforcement Division, Department of Revenue, testified on HB 176 and answered questions from the members. He responded that he understands what is being said, but unfortunately when dealing with any type of assistance; the state has already paid out a given amount of money for those children for that month. He pointed out that whatever funds are paid back to the state goes into the general fund.

Number 2252

REPRESENTATIVE COGHILL shared that many years ago when his father was in business with the Union Oil Company his dad received payments in furs from the village people. One time the company was very insistent [about payment] so his dad sent the company a mounted lynx. The company did not know what to do with it, he said, and he's pretty sure CSED would not know what to do with a hindquarter of a moose.

REPRESENTATIVE SEATON noted that what is really being discussed is the valuation of items such as firewood. He suggested that perhaps the state could reduce support for the following month in lieu of noncash payments.

REPRESENTATIVE COGHILL clarified that what Mr. Mallonee is saying is that the state is already paying for the support of the children. To try to credit anything for child support would mean it would have to go back to the state to reduce what has already been spent for welfare. He questioned whether it is wise to enter into that kind of accounting policy. Representative Coghill commented that if a man or woman does something to benefit his/her children whether the person gets credit or not will likely not stop him/her from doing it. He said there are times when receiving that credit is appropriate and he is looking for the best way to do that.

Number 2186

REPRESENTATIVE CISSNA said she believes incentives matter on economic and public policy. She asked how much impact there would be on the fiscal note if the noncash payment slowed down or stopped the interest. Representative Cissna told the members that even families that are split apart need strengthening.

REPRESENTATIVE COGHILL said he sees a couple of problems with respect to this. One is that there are arrearages that have accumulated over time. The other problem is that the department would be in the position of determining the value of the noncash contribution instead of the obligee and obligor. He said he is trying to keep the state out of the valuation process because it will likely be valued for less. There are people outside the welfare system who have been able to significantly add to the benefit of their children. Representative Coghill suggested that the committee continue to work on this point and find a better mechanism to improve the system.

Number 2125

REPRESENTATIVE COGHILL moved to adopt CSHB 176, 23-LS0704\H, Mischel, 4/13/04, as the working document. There being no objection, version H was before the House Health, Education and Social Services Standing Committee as the working document.

REPRESENTATIVE COGHILL moved Amendment 1 as follows [original punctuation provided]:

Page 2, line 1:  
Delete: "the agency and"

Page 2, line 3-4:  
Delete: "from information developed by other state agencies and by an agreement with"

Page 2, line 3, before "the obligor"  
Insert and

Page 2, line 13:  
Delete "and its use by the obligee or the obligee custodian"

MS. MOSS explained that Amendment 1 removes language that would require the state's involvement in the agreement and leaves the decision between the two parents.

Number 2054

MS. WENDLANDT told the members that CSED does not want to be in the business of valuing [noncash payments]. The simplest way to accomplish that is to leave it between the parents to agree. This amendment would do that.

Number 2049

REPRESENTATIVE SEATON objected for purposes of discussion. He said he believes the second portion of the amendment that refers to page 2, lines 3 and 4, should read page 2, lines 2 and 3.

REPRESENTATIVE COGHILL agreed.

MS. MOSS referred to the fourth portion of the amendment, on page 2, line 13, and told the members that this language was removed because the Department of Law pointed out that it is a little hard to prove that someone ate the moose after its been eaten.

CHAIR WILSON asked what would happen if the wife takes the meat and then later denies that she received it.

MS. MOSS replied that a written agreement would have to be in place prior to the meat being in her possession.

Number 1984

REPRESENTATIVE SEATON removed his objection. There being no further objection, Amendment 1 was adopted by the House Health, Education and Social Services Standing Committee.

Number 1947

REPRESENTATIVE CISSNA asked if the agreement between the parents protect them if things turn badly.

MS. MOSS responded that she does not see any protection, but suggested Ms. Wendlandt might have something to add.

MS. WENDLANDT told the members that as a general rule under Alaska law agreements with respect to child support can be terminated by either parent unilaterally. If things go bad and one parent no longer wants to receive noncash contributions then CSED would honor that request and terminate the agreement.

Number 1870

REPRESENTATIVE COGHILL moved Amendment 2, which reads as follows [original punctuation provided]:

Page 2, line 21:  
Delete "agency and in"  
Replace: "by"

Page 2, line 22, after the word "agreement":  
Delete: "with"  
Replace "between"

Page 2, lines 22-23  
Delete: "from the information developed by other state agencies,"  
Replace: "and the obligor"

MS. MOSS told the members that this amendment removes the state from the agreement and leaves it between the two parents.

Number 1839

REPRESENTATIVE GATTO objected. He commented that he needs additional time to review the changes.

REPRESENTATIVE GATTO removed his objection. There being no further objection, Amendment 2 was adopted by the House Health, Education and Social Services Standing Committee.

Number 1801

REPRESENTATIVE COGHILL moved to report CSHB 176, version H, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 176(HES) was reported out of the House Health, Education and Social Services Standing Committee.

The committee took an at-ease from 3:15 p.m. to 4:30 p.m.

**TAPE 04-34, SIDE A**

SB 373-PHYSICIAN INTERNS AND RESIDENTS

Number 0050

CHAIR WILSON announced that the next order of business would be SENATE BILL NO. 373, "An Act relating to residency and internship permits issued by the State Medical Board; and providing for an effective date."

Number 0060

REPRESENTATIVE SEATON moved to report SB 373, version D, out of committee with individual recommendations and the accompanying fiscal notes.

There being no objection, SB 373 was reported out of the House Health, Education and Social Services Standing Committee.

SB 179-CRIMINAL BACKGROUND CHECKS/TEACHERS

Number 0098

CHAIR WILSON announced that the next order of business would be CS FOR SENATE BILL NO. 179(FIN), "An Act relating to criminal history records and background checks; allowing persons to teach

in the public schools for up to five months without a teaching certificate if the person has applied for a certificate and the application has not been acted upon by the Department of Education and Early Development due to a delay in receiving criminal history records; allowing teacher certification for certain persons based on a criminal history background check without fingerprints; and providing for an effective date."

Number 0139

ZACK WARWICK, Staff to Senator Gene Therriault, Alaska State Legislature, presented SB 179 for Senator Therriault, sponsor of SB 179.

REPRESENTATIVE WOLF asked what version is before the committee.

MR. WARWICK said that the version before the committee is version V; however, he understands that the committee also wants to consider a blank CS, version W, which is also before the members. He pointed out that version V is the CS which passed out of the House Special Committee on Education.

CHAIR WILSON asked for Mr. Warwick to review the differences between the two versions.

Number 0246

MR. WARWICK explained that the bill was introduced to provide teachers who do not have fingerprints an avenue to get background checks so that they could continue to teach without having to go through the fingerprinting process every three months. He told the members that a lot of teachers have worn out their fingerprints over time and do not have the ability to give adequate fingerprints. There are currently 42 people in Alaska that consistently experience this problem. Mr. Warwick added that last year the Department of Law and the Department of Public Safety pointed out that Alaska's statutes were not in compliance with federal law regarding criminal background checks in all professions including the Alaska Bar Association, liquor licenses, or teachers. That conforming language is the majority of the bill that is before the committee, he stated.

MR. WARWICK said that in addition to the federal noncompliance issue, Representative Gatto brought a situation to Senator Therriault's attention that exists in the Matanuska-Susitna Borough School District with respect to teachers who were not

getting their criminal background checks returned in a timely manner. He explained that teachers have submitted their fingerprints and have not received the background check back within the three-month period required, so they were required to resubmit their fingerprints. In some cases these teachers were laid off, rehired as substitute teachers, and lost their benefits and pay, he added. There was the hope that the timeframe could be changed from three to five months. There was opposition to that change from legislators and some staff at the Department of Education and Early Development so it was decided to leave the three month timeframe, but allow the department the authorization to grant another 60-day extension if the delay in returning the fingerprint was due to a backlog at the U.S. Department of Justice.

Number 0361

MR. WARWICK explained that the difference between version W and version U is that version U has a 60-day extension provision in Section 8. He said he understands that there is some opposition to this provision because some people believe teachers should not be in the classroom without a fingerprint background check. He told the members that he has letters of support for the 60-day extension from the Fairbanks North Star Borough School District and the Anchorage School District.

REPRESENTATIVE WOLF asked how many teachers have not been able to receive their fingerprint background checks [in a timely manner].

MR. WARWICK replied the Department of Education and Early Development reports that during a nine month time period there were 42 teachers who had to resubmit three sets of prints. This bill would allow a name-based or social security number background check to be done on them to ensure that there is no criminal history.

REPRESENTATIVE WOLF asked for clarification that version U was approved by the House Special Committee on Education which allows the 60-day extension.

MR. WARWICK replied that is correct.

REPRESENTATIVE WOLF replied that he is one of the members in the House Special Committee on Education who had concerns about this provision. He commented that even though the number is low,

only 42 persons in the entire education field, all it takes is one predator.

Number 0555

MR. WARWICK pointed out that this bill does provide for a name based [or social security number] background check. Currently, these teachers are in the school with no background check because it is possible for them to resubmit their prints every three months. He suggested that review of a person's work history is a good way to verify that a person is suitable to work around children.

CHAIR WILSON asked for Mr. Warwick to explain if this bill would prohibit a teacher from being in the school until some kind of background check is completed.

MR. WARWICK responded that he is not completely sure of her question. Version V has the federal conforming language, the 60-day extension, and the section that allows individuals who roll three sets of prints to get a background check based upon their name. The Department of Public Safety has the technical ability to deem whether the fingerprints are just poor quality, smudged, or no ridges for fingerprints. Mr. Warwick added that staff from the Department of Public Safety is on-line to testify to this fact.

MR. WARWICK explained that version W removes the 60-day extension if the U.S. Department of Justice has a backlog and cannot get the background checks back within that three-month period.

CHAIR WILSON asked if teachers are required to have a background check before working in the classroom.

MR. WARWICK replied that is better answered by the Department of Education and Early Development.

Number 0692

CHAIR WILSON commented that she has serious concerns that individuals could be in schools before it is ascertained that he/she is safe to be around children.

REPRESENTATIVE SEATON asked Mr. Warwick to clarify that this background check which is being referred to is the one required

by the Department of Education and Early Development before issuing a teaching certificate.

MR. WARWICK agreed that is correct.

Number 0724

REPRESENTATIVE SEATON commented that he does not have a version U in his packet.

MR. WARWICK corrected his earlier statement by saying that it was version V that passed out of the House Special Committee on Education, not version U.

Number 0771

DAVID SCHADE, Director, Division of Statewide Services, Department of Public Safety, testified on SB 179. He introduced Kathryn Monfreda, Chief, Criminal Records, and suggested she provide the committee with some background information. Mr. Schade told the members that he would be available to answer questions.

Kathryn Monfreda, Chief, Criminal Records, Division of Statewide Services, Department of Public Safety, testified on SB 179. She asked for clarification on Chair Wilson's question about the process.

CHAIR WILSON asked for clarification as to when the background check occurs. She questioned whether the background check would occur after a school district hires a teacher or when he/she applies for a teaching certificate.

Number 0847

CYNDY CURRAN, Teacher Education and Certification, Teaching and Learning Support, Department of Education and Early Development, testified on SB 179 and answered questions from the members. She explained that when a teacher comes to the state of Alaska he/she submits an application for certification. As part of that application two sets of fingerprint cards are required which are sent to the Department of Public Safety for a background check. The Department of Education and Early Development waits for that background check to come back. If the background check comes back clear, then the department issues a teaching certificate. In the past it has taken up to

four months, the process has now been streamlined, so it no longer takes that long, she added.

MS. CURRAN explained that when a teacher goes to an individual school district and is hired that district, in many cases, will also do a background check. Ms. Curran emphasized that she cannot speak for every district because she is not sure every district does a background check. She explained that if fingerprints are returned [because it is unreadable] then the department sends the applicant another set of fingerprint cards to be redone.

CHAIR WILSON asked if background checks are returned separately from fingerprint results or are the two returned together.

MS. CURRAN replied that if nothing was found in the background check the department receives a notice which says no record was found for the individual. She explained that the FBI will occasionally return fingerprint cards which will be accompanied by a letter detailing the problem and requesting a second fingerprint card.

CHAIR WILSON asked if the fingerprint check and background check are two different things.

MS. CURRAN responded that the fingerprints are used for the background check. When the department receives clearance for an individual it is based on the fingerprint check.

Number 1048

CHAIR WILSON clarified that a teacher applicant's background check cannot proceed without a readable fingerprint card. This bill would provide that if a background check is not completed in a timely way, then the department could give a teacher applicant an additional 60 days.

MS. CURRAN responded that she is looking at version H and is aware of the fact that the committee is considering a different version. The version she is looking at provides that the department may issue a 60-day extension which would allow the applicant to teach another 60 days. The department has been issuing a conditional certificate to allow teachers to remain in the classroom, but only when the fingerprint cards have been resubmitted.

CHAIR WILSON commented that if a teacher applicant does not have readable fingerprints and only a name based background check is done, if the person is not who he/she says he/she is there could be a problem.

MS. CURRAN responded that Kathryn Monfreda would be better qualified to answer that question.

REPRESENTATIVE SEATON asked for clarification that what is being discussed is not employment background checks.

MS. CURRAN replied that is correct.

REPRESENTATIVE SEATON stated that the background checks that school districts do when hiring teachers is totally independent of this background check. He emphasized that these fingerprint background checks are done by the department as it relates to the issuance of a permanent teaching certificate for the state of Alaska. It certifies that the person has the appropriate educational background, and et cetera for teaching in Alaska.

MS. CURRAN agreed with Representative Seaton statement.

REPRESENTATIVE SEATON asked if the school districts are notified that the temporary teaching certificate does not include a completed background check.

MS. CURRAN said that is correct. The temporary teaching certificate is a different color than the permanent certificate, and it lists the conditions of the certificate on it.

Number 1199

CHAIR WILSON pointed out that not all school districts do a background check before hiring teachers.

MS. CURRAN responded that she could not speak for the districts since each one has its own hiring policy; however, she said she has seen teachers hired without background checks.

REPRESENTATIVE CISSNA noted that this bill only applies to teachers. Version W appears to apply to more than teachers. She asked if teaching positions are the only ones in school districts where this kind of emergency provision applies.

MR. WARWICK replied that the language Representative Cissna is referring to is language inserted in the bill to bring the state

into compliance with federal law. He referred to a letter [dated April 11, 2003] in the members' packet from the U.S. Department of Justice which says that the state will lose its authorization to receive federal background checks on any occupation in the state unless the state comes into compliance with federal law.

MR. WARWICK told the members that no one in other occupations has come to Senator Therriault about a problem with unreadable prints. He said that the Department of Public Safety told him that teachers and nurses have the two highest occupations for wearing out fingerprints. One comment that was made is that women have softer fingers so the ridges on the fingers wear out easier, he added. He suggested that the people at the Department of Public Safety may be able to offer more on that point.

REPRESENTATIVE CISSNA surmised that other occupations in the school system would not warrant this kind of allowance.

MR. WARWICK responded that not all school districts allow for every employee to get a background check. Teachers are required at the state level. Some schools such as Valdez requires janitors to get a background check, he added. Some of the village schools do not require anything.

Number 1406

REPRESENTATIVE SEATON suggested that the members focus on the fact that obtaining a teacher certificate is not a hiring policy. He commented that it might be a good idea to put a bill in requiring every school districts to go through certain hiring procedures before putting employees around children. He told the members he believes that it would be a mistake to substitute obtaining a teaching certificate for a hiring mechanism. Representative Seaton said that he believes this bill makes sense by allowing the background check on the applicant's name when the fingerprints are not readable. He emphasized that this bill would not remove the school districts responsibility to do background checks. All it does is allow for a background check for a teacher applicant to get a permanent certificate [with a name-based background check when fingerprints are unreadable]. He asked if version W and version V could be reviewed one more time.

Number 1481

CHAIR WILSON said as she understands it, version V has Section 8 in it, version W does not.

REPRESENTATIVE SEATON questioned if that is the only difference between the two versions.

MR. WARWICK said yes.

CHAIR WILSON restated that in version V, Section 8 allows the department to give a 60-day [extension on a temporary teaching certificate], and version W does not. She told the members that she would prefer that no teacher would ever go back to the school system without a complete background check. Version W is a compromise, she said.

Number 1540

MR. WARWICK told the members that the sponsor of the bill is in favor of version V, but does not know how strongly he opposes version W. He explained that Senator Therriault's constituent came to him with the problem of having no fingerprints and asked for an alternative route in obtaining the necessary background check. Senator Therriault is also very concerned that the U.S. Department of Justice continues to allow Alaska to get federal background checks. He supports Representative Gatto's amendment to the bill and believes it has merit.

CHAIR WILSON commented that the original bill did not include [the 60-day extension].

MR. WARWICK replied that was not discussed.

CHAIR WILSON restated the differences between the two versions of SB 179. She explained that the only difference between version V and version W is that version V offers the department the extra 60 days on top of the three months that a teacher can be in the classroom without receiving a background check.

Number 1620

MR. WARWICK clarified Chair Wilson's statement that version V does not give teachers an extra 60 days [to be in the classroom without a background check], it allows the Department of Education and Early Development the discretion to extend the temporary teaching certificate an extra 60 days if there is a backlog at the U.S. Department of Justice.

CHAIR WILSON asked Senator Therriault if he would have a problem if the committee adopted version [W] without the 60-day extension.

Number 1641

SENATOR GENE THERRIAULT, Alaska State Legislature, as sponsor, testified on SB 179 and answered questions from the members. He responded that the bill is intended to make this a workable system. If the U.S. Department of Justice gets a backlog will the state have the same problem because there is no ability for the department to extend temporary certificates, he questioned. Senator Therriault told the members that it was his thought that if the commissioner of the Department of Education and Early Development controlled this extension then that would be adequate oversight. This is a fail-safe for things that are out of our control, he commented.

Number 1672

REPRESENTATIVE SEATON reminded the members of communications from the Anchorage School District and the North Star Borough School District which said it could take between 110 days and 120 days [to receive background checks]. Given that length of time, it would appear that giving the department the ability to extend to the average time it is taking the school district to receive these background checks makes sense. Pulling teachers from the classroom because the Federal Bureau of Investigations (FBI) is backlogged seems disruptive, he commented. Representative Seaton said he assumes the department will use the extension judiciously and only in circumstances where it could not get the background checks back. Representative Seaton said he believes it would be better to have version V go forward.

Number 1751

CHAIR WILSON asked if it accurate to say that there are 42 people in the state that have not been able to get fingerprints.

MS. CURRAN replied that is approximately correct.

CHAIR WILSON asked how many of those 42 people have repeatedly submitted fingerprints, but are unable to obtain background checks because the prints are unreadable.

MS. CURRAN responded that there are probably at least a dozen who are on their fifth submission of fingerprints.

CHAIR WILSON asked what will happen to those 12 people.

MS. CURRAN explained that the Department of Education and Early Development currently has a regulation in place that allows for a name-based criminal history background check if a statement is received from a physician saying that the person has a physical disability or a permanent skin condition that makes their prints unreadable. She told the members that those 12 people are now in the process of following through with that provision. The provision just went into effect on [April] 16th.

CHAIR WILSON inquired about the status of the other 30 people.

MS. CURRAN replied that she is not sure. There are varying degrees of fingerprint resubmissions. The FBI has stringent rules on what is necessary for resubmissions. She explained that the department is not privy to know if the U.S. Department of Justice is backlogged.

CHAIR WILSON asked for clarification that Ms. Curran doesn't know if the FBI is backlogged or if some of these people just signed up last week and the results have not been returned yet.

Number 1872

MS. CURRAN replied that the group of people she is talking about are those who are between having to be reprinted between three to six or seven times for whatever reason. There are a variety of reasons why fingerprints background checks are not coming back. For some of these people it is because it is impossible to get fingerprints, some because whoever is doing their prints is not doing a good job.

Number 1901

REPRESENTATIVE GATTO told the members that he believes this bill is indirectly about children. When elementary kids have had a teacher in the classroom for several months and that teacher is pulled for any reason that affects the quality of education for those children. He said if a thorough background check has been done on a teacher and the only thing that is not complete is the fingerprint back ground check, isn't that sufficient reason to say there should be a 60-day extension. Representative Gatto said he believes the answer is yes. He bases that answer on the

evidence presented by the Matanuska-Susitna Borough School District which shows that in the course of eight years all of the background checks done have been entirely satisfactory, not once in eight years has the fingerprint background check shown to them anything other than its original decision that this teacher was okay to employ. Representative Gatto said he does not like to think of the number of teachers that might have been pulled from a classroom for lack of a fingerprint. These kids in first and second grade grow to love their teachers so anything that interferes with that relationship better have a solid basis. He said he does not see the solid basis and suggested that it is a good idea to extend the rule because the human resource directors are doing a good job.

Number 1985

CHAIR WILSON explained that the reason she feels strongly that fingerprint background checks are so important is that in the Wrangell School District someone who should not have been there was found. She commented that she has only lived in Wrangell six years. When the person was completing his/her application the person said that he/she had not committed any felonies, but it was a lie. This person had been convicted of harming a child, she said. It probably does not happen very often, but if it happens one time that is too much, Chair Wilson stated.

Number 2031

REPRESENTATIVE SEATON commented the Representative Gatto may have missed earlier testimony. He reiterated that this bill has nothing to do with hiring practices. It is strictly about the background checks associated with teaching certificates. The hiring practices of districts are their responsibility, he emphasized. Janitors and administrators are not covered under this bill. If some districts do not have the staff or are not capable of handling the background checks then perhaps it would be appropriate to consolidate some districts to ensure these hiring practices are addressed. Representative Seaton summarized that this bill, which deals with teaching certificates, does not address the hiring practices of districts related to all the employees in the schools. He said he maintains that he believes the 60-day extension is warranted.

MS. CURRAN clarified that administrators and special service providers are also required to have certificates and background checks.

Number 2120

PAULA HARRISON, Director, Human Resources Department, Matanuska-Susitna Borough School District, testified on SB 179 and answered questions from the members. She told the members that she is the person who contacted Representative Gatto about the problem Matanuska-Susitna Borough School District was experiencing.

REPRESENTATIVE GATTO asked if she would comment on hiring practices, certifications, and other issues that a fairly large district must face. He further asked her to comment on the value of this extension.

Number 2151

MS. HARRISON commented that the extension would be of tremendous value. She explained that when hiring a teacher it is not just a matter of doing fingerprints and providing information to the department for teachers to get their certificates. Before any teacher is hired a very thorough background check is done on the applicant. She told the members that the district has done terminations prior to the fingerprint background checks coming back based on the information obtain in the district's background check.

Number 2193

MS. HARRISON told the members that the big issue is that the fingerprint and background checks are just not coming back in a timely manner. That really creates an issue for districts in placing teachers in classrooms. Ms. Harrison shared that the Matanuska-Susitna Borough School District requires a fingerprint background check of every single employee in the district. The fingerprint cards are sent out daily from the district, however, she knows that elsewhere when there is a shortage of staff some of the fingerprint cards may be batched and sent to the FBI. That may be the cause of some of the backlog, she added.

CHAIR WILSON agreed that Matanuska-Susitna Borough School District does an excellent job of screening; unfortunately, not all school districts do.

CHAIR WILSON announced that she will be holding the bill in committee.

MR. WARWICK reminded the members that if this bill does not pass the legislature this year [because of the lack of federal compliance], there is a possibility that Alaska will no longer receive criminal background checks on anyone. He commented that there is one more committee of referral.

CHAIR WILSON said she would agree with passing version W from committee, but it does not appear to have support.

REPRESENTATIVE SEATON said he believes it makes sense to give the Department of Education and Early Development the flexibility to do the 60-day extension [as in version V]; however, if it is a question of not having any FBI criminal background checks for Alaska, then he said he would support version W.

REPRESENTATIVE CISSNA commented that something is better than nothing in this case.

CHAIR WILSON reiterated that version V has a 60-day extension and version W does not.

Number 2351

REPRESENTATIVE SEATON asked if version W provides for the fingerprints to be submitted, then resubmit them in another 90 days.

MS. HARRISON replied that after the first 90 days, the districts can no longer keep teachers in the classroom.

**TAPE 04-34, SIDE B**

Number 2358

MS. HARRISON pointed out that after 90 days the temporary teaching certificate is no longer in effect. Many times it is the case that the fingerprint background check has not come back. There have been several times when the Department of Education and Early Development had not received the fingerprint background check back, but Matanuska-Susitna Borough School District had already gotten it back. She said she would appreciate the department having the flexibility.

CHAIR WILSON asked Ms. Curran to comment on the department's regulation related to those individuals who could not get fingerprints.

MS. CURRAN replied that the department is working on regulations that would provide a name-based background check.

MS. HARRISON told the committee of one employee that worked for the district for three years without certification because she could not provide fingerprints. She said she had to rewrite the job description so that it did not require certification to hire this individual. She said she hopes that the department could be afforded that flexibility.

REPRESENTATIVE WOLF commented that without a background check it is not known what an individual has done. The Department of Education and Early Development has testified that if there is a medical reason for inability to provide fingerprints the state will waive that requirement and do a name-based background check.

MS. HARRISON pointed out that has not happened and the person is still in a PERS position three years later.

Number 2247

MS. CURRAN commented that this regulation went into effect on April 16, 2004, and individuals who are having trouble with their fingerprints have been notified.

REPRESENTATIVE SEATON asked if the bill is passed will it supercede the new regulation.

MS. CURRAN commented that the department is currently working under that regulation, but believes the statute will supercede the department's regulation. The bill does provide for a name-based background check, she added.

REPRESENTATIVE SEATON clarified that would occur only after two failures of fingerprint submissions.

MS. CURRAN said that is correct.

REPRESENTATIVE SEATON commented that if the fingerprints did not come back within the 90 days, the department does not have any flexibility other than to remove the teacher from the classroom.

MS. CURRAN replied that the district would remove the teacher from the classroom.

Number 2165

REPRESENTATIVE SEATON moved to adopt HCS CSSB 179, 23-LS0938\W, Luckhaupt, 4/16/04, as the working document. There being no objection, HCS CSSB 179, version W is before the House Health, Education and Social Services Standing Committee as the working document.

REPRESENTATIVE SEATON moved to report HCS CSSB 179, 23-LS0938\W, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 179 was reported out of the House Health, Education and Social Services Standing Committee.

REPRESENTATIVE SEATON made a motion to move a conceptual resolution to change the title of HCS CSSB179, version W. There being no objection, the conceptual resolution was passed by the House Health, Education and Social Services Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 5:35 p.m.